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ON TOBACCO CONTROL
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WORKING GROUP 1

PROVISIONAL SUMMARY RECORD OF THE SECOND MEETING

International Conference Centre, Geneva
Tuesday, 1 May 2001, at 19:40

Chair: Dr HATAI CHITANONDH (Thailand)

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Note

This summary record is **provisional** only. The summaries of statements have not yet been approved by the speakers, and the text should not be quoted.

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WORKING GROUP 1

SECOND MEETING

Tuesday, 1 May 2001, at 19:40

Chair: Dr HATAI CHITANONDI (Thailand)

DRAFTING AND NEGOTIATION OF THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL: Item 4 of the Agenda (Documents A/FCTC/INB2/DIV/1, A/FCTC/INB2/2 and A/FCTC/INB2/3) (continued)

The CHAIR drew attention to document A/FCTC/INB2/WG1/Conf.Paper No.1 which set out the amendments to Article G, paragraphs G.1 and G.1(a)-(b) of the Chair's text of the framework convention proposed at the first meeting of Working Group 1. He requested that any corrigenda be submitted in writing to the Secretariat for reflection in a subsequent addendum. He reminded participants that any amendments proposed should be submitted in writing no later than 30 minutes after the end of each meeting.

* Dr NOVOTNY (United States of America) pointed out that the text proposed by the United States relating to environmental tobacco smoke set out in document A/FCTC/INB2/WG1/Conf.Paper No. 1 had not been placed within square brackets as requested. He indicated, however, that the brackets could be removed and that the United States would produce an additional substantive text on that very important issue.

Ms LAMBERT (South Africa) said that the two references to "Text proposed by Kenya" in the same document should be followed by "(co-sponsored by Member States of the WHO Africa Region)". African delegates who spoke did so on behalf of all Member States of that Region and she wished that to be reflected in any subsequent conference papers.

Dr SILVA GOLDFARB (Brazil) drew attention to the fact that her delegation's proposal to move paragraph G.1(b) to Article K had not been included in the conference paper.

G. Non-price measures to reduce the demand for tobacco

Paragraph G.1

Paragraph G.1(c) (Regulation of tobacco-product disclosures)

Dr WINAI SWASDIVORN (Thailand), speaking on behalf of the Member States of WHO's South-East Asia Region proposed the insertion of "by brand" after "all manufacturers". She would submit a text.

Mr TAKAKURA (Japan) did not have a textual proposal but said that the inclusion in the convention of tobacco-product disclosures could be a very important tool in regard to public education. However, it would be necessary to clarify the feasibility of actual procedures for implementation, the type of wording to be used and the technical definition of such terms as "all ingredients and additives" and "major constituents". Without a clear common understanding of the meaning of such terms, implementation of the provision would be very difficult.

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Mr SHRESTHA (Nepal) supported the amendment proposed by the delegate of Thailand.

Ms KERR (Australia) supported the principle of full disclosure by tobacco manufacturers along with promoting the public availability of the disclosures. The title of the obligation would be more accurate if it read "Regulation of tobacco-product content disclosures".

Professor LYNCH (Canada) supported the intention of the proposal and felt that the language of the article should include reference to approved testing and measuring methods to be used in obtaining accurate estimations of tobacco contents and constituents of smoke. The provision of information to the public was best regulated by domestic law governing trade secrets and privacy. In addition, "within its territory" would better describe the intent of the text and the scope of an obligation of that nature than the present wording "under its jurisdiction". It would also be consistent with other provisions such as that in subparagraph G.1(d)(iv)(3) which referred to "territory". She therefore proposed that paragraph G.1(c) be amended to read "implementation and taking of necessary steps to enforce measures for tobacco-product disclosures by all manufacturers, utilizing where appropriate approved test methods, including all ingredients and additives, and major constituents of smokeless tobacco and tobacco smoke. Parties shall, consistent with domestic law, ensure that this information is made available to the public. Each Party shall apply these measures to all tobacco products manufactured or sold within its territory".

Ms MORALES AYLLÓN (Bolivia) said that the messages on cigarette packages did not all have the same import and she advocated that in relation to "promotion of availability of such information to the public" emphasis should be placed on the damage that tobacco could cause. She would submit additional wording to that effect.

* Dr NOVOTNY (United States of America) said he would prefer the paragraph under consideration to be hortatory rather than mandatory. The mandatory information disclosures in the provision as currently drafted would raise constitutional issues for his country and the public disclosure of confidential trade secret information would raise proprietary issues. He proposed that the text should be amended to include the words: "regulate the disclosure of the toxic ingredients and additives and major constituents of both tobacco products and tobacco smoke". The disclosure requirement in the existing text would apply to products manufactured solely for export. As formulated, it raised a concern that United States government agencies could be responsible for regulatory or law-enforcement duties for products not used by United States citizens or that other countries or parties could have standing to sue in the United States judicial system to enforce requirements that applied to products sold only in other countries. An exception for products sold solely for export would address the issue. Alternatively, language restricting the requirements to tobacco products manufactured, distributed or sold within the United States could also address the issue. He would submit appropriate text to that effect.

Dr FARÍAS ALBURQUEQUE (Peru) endorsed the paragraph in principle and suggested an amendment, which had much in common with that made by the delegate of Bolivia: the last sentence should be replaced by "This information shall appear both on the packets offered for sale and in tobacco advertising". He would submit a text in writing.

Mr MBUYO MUTEBWA (Democratic Republic of the Congo) said that he wished to propose amendments which would combine paragraphs G.1(c) and (d) and which would require a new heading "(Information, labelling, packaging and language)". He would submit the text in writing.

Ms SHI (Republic of Korea) said that the disclosure of all ingredients and additives of tobacco products presented technical problems. It was desirable that the Conference of the Parties designate the

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specific toxic component and mandate their disclosure. She would submit an appropriate amendment in writing.

Dr AL-LAWATI (Oman) said that disclosure should be to the general public, not only to governments. Furthermore, parties should share disclosure information. All the costs incurred in generating and disseminating such information should perhaps be borne by the tobacco industry on the principle that the polluter pays. He would submit written proposals.

Paragraph G.1(d) (Packaging and labelling)

Mr ODOKO (Japan) suggested that subparagraph G.1(d)(i) should be deleted since the terms mentioned related to registered trade names which, in accordance with the register of trade names, were authorized for exclusive use under the relevant national and internal laws. That matter was dealt with under the auspices of WTO. Furthermore, paragraph 5 of Article D, Guiding principles, in the chair's text stated that tobacco-control measures should not constitute a means of arbitrary or unjustifiable discrimination in international trade.

Mr RAJALA (European Community), said that the regulation of misleading descriptors was an issue that had recently been considered of prime importance in avoiding smokers being given a wrong picture of the health effects of particular products. Research had demonstrated the importance of such descriptors in consumer choice, where smokers often selected a "light" or "mild" product rather than attempting to stop smoking altogether. Such products were no less dangerous because they encouraged deeper inhalation to achieve the same nicotine dose. Misleading descriptors were already regulated for other consumer products, so it would be logical to do likewise for tobacco, given the enormous health damage caused by smoking. The European Community and its 15 Member States suggested a more general wording for the provision, in order to cover a full range of possible descriptors and to avoid possible linguistic problems when the convention was implemented, and would submit a text.

Ms MAYSHAR (Israel) suggested deletion of the word "similar" in subparagraph G.1(d)(i), which might narrow the scope of the proposed prohibition. In addition, in order to remove any doubt, she proposed that any term implying that a tobacco product was less harmful than others should not be used on tobacco products themselves or on unit packets or packages.

Dr WINAI SWASDIVORN (Thailand), speaking on behalf of the Member States of the South-East Asia Region, said that support for the text of subparagraph G.1(d)(i) had already been expressed at the Jakarta consultation and he would therefore like to retain the text as it stood.

Dr SEKABARAGA (Rwanda) said that the import of the text underlay the entire anti-tobacco campaign since manufacturers used those terms precisely to mislead smokers. All possible action should therefore be considered to combat the deception. If the text were deleted, manufacturers could continue to make misleading statements. His delegation and – he thought – other African countries therefore urged that the text be retained to show manufacturers that they must not mislead smokers.

Mr LAGOS PIZZATI (El Salvador) agreed with the comments made by the delegate of Israel in relation to the use of terms conveying the impression that a particular product was less harmful than others. Efforts should be directed at indicating that tobacco was harmful whatever its composition, as scientific research had shown. He suggested that subparagraphs G.1(d)(i) and (ii) be merged since both related to false and misleading information that might give the impression that tobacco was not harmful to health. He would submit a text on the matter.

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Dr TIMOTCHEVA (Bulgaria) said that she supported the suggestion made by the representative of the European Commission that the subparagraph should be expressed in more general terms and should also include such items as trademarks, pictograms and any other signs that might suggest that any particular product was less harmful than others.

Professor LYNCH (Canada) said that, like the delegate of the European Commission, her country was very concerned about the potential of specific words to lead consumers to assume erroneously that some products were safer than others. In that regard, Canada was currently reviewing the use and impact of such terms as "light" and "mild" and consumer response to them. In the context of a multilateral agreement, she expressed concern that the wording of the article as proposed would prove too limited. The terms cited were only a few of those that could be used for similar effect and focusing on them could lead to the industry moving rapidly to other terms and methods not defined in the text. She would therefore prefer more general wording and looked forward to seeing the proposal to be submitted by the representative of the European Commission.

Dr FARIAS ALBURQUEQUE (Peru) said that, on the basis of Peru's experience in relation to other products such as food stuffs where the terms "light" and "ultra light" were also used in marketing, he would prefer to retain the text as it stood, although it could be altered slightly by deletion of the word "similar" to avoid the use of words that manufacturers could claim were not similar to "light" and "ultra light".

Mr LISKIA (Papua New Guinea), while expressing full agreement with the intention of the subparagraph, endorsed the proposal to delete misleading terms such "light" or "mild" and suggested that the subparagraph be retained, with minor amendments to ensure its general publication.

Dr LEWIS-FULLER (Jamaica) fully supported the measures set out in the subparagraph and proposed inserting "or more beneficial" after the phrase "less harmful".

Dr AL-LAWATI (Oman) considered that the text should not only cover the prohibition of terms such as "low tar", "light", etc. but should include package messages that discouraged smoking. He would submit a proposed text to the Secretariat.

Dr ALMULLA (Qatar), stressing that all tobacco products were harmful whether they were "low tar" or "light" was in favour of retaining subparagraph G.1(d)(i) as it stood.

Mr GBOMOR (Sierra Leone) said that, whereas WHO's main concern was health, that of the tobacco industry was profit, and it was clear that tobacco control policies were being undermined through deceptive messages implying that certain brands of cigarettes were better than others. He stressed the importance, especially for the African countries, of retaining subparagraph G.1(d)(i). The paragraph should remain as it stood, especially as the phrase "or any other similar term" precluded the use of misleading terms as a whole.

Mrs SINIRLIOGLU (Turkey) supported the proposal by the representative of the European Community to use wording of a more general nature in the subparagraph.

* Dr NOVOTNY (United States of America) expressed a clear preference for negotiating specific commitment on packaging and labelling in a separate protocol, as the provisions in paragraph G.1(d) were too prescriptive for inclusion in the framework convention. He therefore supported the proposal made by the representative of the European Community. It would be better to consider the various provisions concerning labelling that appeared in the Chair's text as a whole, in order to avoid overlapping and repetition. He would submit a revised text in support of prohibiting false, misleading

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or deceptive claims, for inclusion in the framework convention itself. He was not in favour, however, of including over-specific terms such as "low tar" and "light", which could raise serious constitutional issues related to free speech in the United States.

Dr SILVA GOLDFARB (Brazil), referring to subparagraphs G.1(d)(i) and (iv) said that Brazil already had regulations ensuring that health warning messages appeared on tobacco product packaging, including indications that there were no safe levels of consumption of substances such as tar, nicotine and carbon monoxide. The use of terms such as "mild" and "light" was also prohibited. She therefore supported subparagraph G.1(d)(i) and suggested that subparagraph G.1(d)(iv) be amended to read "each unit packet or package of tobacco products carries some different relative health warnings and/or a general health warning", the rest of the paragraph remaining unchanged.

Professor SIMUNIC (Croatia), fully endorsing the views of the delegate of the European Community, proposed that the subparagraph should refer to the adoption of measures prohibiting the direct or indirect use on tobacco product packaging of any term which gave the impression that a particular tobacco product was less harmful than others. Further relevant details should be set out in an additional protocol.

Ms BALOCH (Pakistan) requested clarification as to whether the legal obligations set out in the text referred to exporters, importers or local producers. Depending on that clarification she might suggest a stronger wording covering exports and local production.

Professor GOJA (Uruguay) said that, while supporting the provision on the whole, she would prefer clear and unequivocal terminology which ensured that no terms used in packaging implied that one tobacco product was less harmful than another.

Dr ANDEN (Philippines) strongly supported the inclusion of a general provision in the convention concerning measures to regulate the use of terms which were intended to mislead smokers and potential smokers. There were no safe cigarettes. She supported the proposal by the delegate of the United States to place more explicit provisions in a separate protocol but considered that a general provision should appear in the Chair's text.

Dr ZARIHAH (Malaysia), supporting the previous speaker's view, said that the convention text should refer to the regulation of the use of terms such as "low tar", with more specific details being set out in a separate protocol.

Dr STAMPS (Zimbabwe) said that his delegation considered that the question of "light" or "safer" cigarettes had no place in the convention, which must make it clear that tobacco smoking remained tobacco smoking, regardless of tar or nicotine levels. He supported the views of the delegate of the Philippines.

The CHAIR invited the working group to consider subparagraph G.1(d)(ii).

* Dr NOVOTNY (United States of America) proposed the deletion of the last part of subparagraph G.1(d)(ii) from the phrase "or that are likely to create" to the end of the sentence, which he considered redundant given the general provisions.

Dr SORICCHETTI (Argentina), expressing support for the elimination of misleading descriptions on tobacco products, was in favour of a more general description in subparagraph G.1(d)(i), with greater detail in a separate protocol, and considered that subparagraph G.1(d)(ii) should be combined with subparagraph G.1(d)(i) or else deleted, in the interests of avoiding repetition.

The CHAIR invited consideration of subparagraph G.1(d)(iii).

Dr STAMPS (Zimbabwe) stressed that each unit packet or package of tobacco products, especially packets of cigarette sticks, must not only carry the health information specified but also must be tamper-proof on account of their sale by children to sustain the incomes of poor families.

Ms DJAMALUDDIN (Indonesia) referring to subparagraph G.1(d)(iv) recommended the adoption of appropriate, cost-effective measures, including health warnings on each unit package and the prohibition of sales of tobacco products to persons under the age of 18. She therefore strongly supported the proposal to retain all the main elements set out in the Chair's text, but had no objection to an additional protocol covering those issues.

Mr MBUYU MUTEBA (Democratic Republic of the Congo) suggested a rewording of subparagraph G.1(d)(iii) and would submit a revised text.

Mr CASTILLO SANTANA (Cuba) said that his delegation would submit an amendment to subparagraph G.1(d)(iv), with the view to including the word "universal" (*"universal"* in Spanish) before the word "pictogram" so as to produce a single pictogram which would be clearly understandable and acceptable in all countries. His delegation also proposed rewording subparagraph G.1(d)(iv)(1) using the definition of minor as set out in the United Nations Convention on the Rights of the Child, as the age of maturity varied from one national legislation to another.

Professor LYNCH (Canada) described recently introduced pictorial health warnings on cigarette packages in her country as an effective way of conveying health information to all consumers on a repetitive basis. Her delegation strongly supported the aim of the proposed text but suggested that the effectiveness of the proposed health warning would be enhanced by the addition of relevant health information on the package. She also considered that the wording and contents of the health warning and health information should be developed domestically. Without the proposed annex to the text it was difficult to know whether the article was complete or whether the annex could be deleted in favour of a more detailed text. Until that point was settled she suggested the following amendment: the inclusion of the phrase "and health information" after the words "health warning" and the placing of square brackets around the phrase "in accordance with Annex [INSERT]".

Mr EMMANUEL (Saint Lucia) warned against putting out messages which were not in keeping with the objectives of the framework convention on tobacco control. Subparagraph G.1(d)(iv) mentioned, for example, a general health warning. One such warning read: "Smoking by pregnant women may result in fetal injury, premature birth and low birth weight". That might nevertheless be misleading since it could convey the message that tobacco use did no harm to men.

He therefore proposed that the general health message should be specified by WHO and should be a universal message in order to leave no doubt as to what the public should know. Subparagraph G.1(d)(iv) should therefore be reworded: "each unit packet or package of tobacco products carries a general health warning (as specified by WHO), including a picture or pictogram illustrating the harmful consequences of tobacco consumption, and exposure to second-hand smoke, in accordance with Annex [INSERT]; these warnings shall:".

Mr OGANOV (Russian Federation) observed that subparagraph G.1(d)(iv) contained two affirmations, one being a warning of the harm caused by tobacco use and the second the desirability of including a pictogram. His delegation considered that the warning should obviously be compulsory but the pictogram could be an optional supplement. It would consequently be submitting a small amendment in writing.

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Dr SORICCHETTI (Argentina) said her delegation agreed with the spirit of subparagraph G.1(d)(iv) but felt that the general health warning and the pictogram should be on a rotating or alternating basis. When a warning or message remained unchanged over a certain period of time, it tended to go unnoticed. That warning should be approved by the national health authorities.

Mr TAKAKURA (Japan) said that his delegation was in full agreement with the spirit of the subparagraph under discussion but wished to request that part of the text be placed in square brackets: [including a picture or pictogram illustrating the harmful consequences of tobacco consumption, in accordance with Annex [INSERT]].

His delegation wished to evaluate the concrete content of the Annex, not yet on the table, before reaching its overall judgement on the issue.

Mr GBOMOR (Sierra Leone), speaking on behalf of the African Region, said that the Member States concerned considered subparagraph G.1(d)(iv) to be very important in view of the deceptive practices of tobacco companies. The right approach was therefore needed to ensure that national tobacco control policies were not undermined.

The subparagraph should therefore be amplified: "each unit packet or package of tobacco products carries clearly visible and legible general health warning messages and health information messages, including a picture or pictogram ...". His delegation would submit a written proposal.

Subparagraph G.1(iv)(1) should also be amplified, since tobacco companies could use the services of minors to sell tobacco products, thus: "(1) clearly indicate the prohibition of sales of tobacco products to and by persons under the age of 18".

Dr REDDY (India) said that, while generally welcoming the provisions under review, his delegation wished to propose some additions to improve their clarity and coverage. In subparagraph G.1(iv)(2) the words "where applicable" should be added after "actual measurements of smoke yields", since several categories of tobacco products were consumed in non-smoking forms in India and elsewhere.

His delegation also suggested the addition of a new subparagraph G.1(iv)(3) with subsequent numbers changing accordingly: "in case of admixed products containing tobacco, clearly indicate the percentage of tobacco and its toxic contents". The amendment was required because some manufacturers had been adding tobacco to several other products orally used, such as betel nut powder and sometimes even tooth powders, in order to exploit the addictive nature of tobacco and increase sales of their principally non-tobacco products. The full proposals would be submitted in writing.

Dr LEWIS-FULLER (Jamaica), echoing the comments of the delegate of Zimbabwe, spoke of the widespread practice in some Caribbean countries of selling one or a few cigarettes from open packets. Even heavy smokers might therefore never see the packet so that the value of messages on such packets would be lost. She wondered what remedial action was possible since attempts to make the sale of whole packets compulsory had proved ineffective, with continuing under-the-counter and roadside sales of single cigarettes.

She agreed with the previous speaker on the need for a new subparagraph G.1(d)(iv)(3) for non-tobacco products, and suggested that the present G.1(iv)(3) and (4) could be merged as suggested by the delegate of Argentina since they basically expressed the same sentiments, becoming a new subparagraph G.1(d)(iv)(4).

Dr FARSHAD (Islamic Republic of Iran) expressed the view that religious and historical messages should also be included. His delegation therefore proposed the following amendment to subparagraph G.1(d)(iv): "each unit packet or package of tobacco products carries a general health warning and a message discouraging smoking; these warnings and messages shall:".

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Professor GOJA (Uruguay) said that her delegation, while generally endorsing the substance of subparagraph G.1(d)(iv), agreed with the proposed use of rotating or alternating health warnings since, in addition to making them more effective, it would ensure that the messages reached different communities of smokers.

Dr ZARIHAIH (Malaysia) said that her delegation strongly supported the provisions of subparagraph G.1(d)(iv) but wished to amplify subparagraph G.1(d)(iv)(2) thus: "provide clear information about the toxic contents of the tobacco product and tobacco smoke, specifically tar, nicotine and carbon monoxide, including actual measurements of smoke yields".

With respect to the clarity of messages her delegation considered that a new subparagraph G.1(d)(iv)(4) should indicate that such messages should cover at least 30% of the front of each unit pack or package of tobacco products.

Mr JU Yuanshan (China) said that his delegation was, in principle, in favour of subparagraph G.1(d)(iv) but suggested that the words "including a picture or pictogram illustrating the harmful consequences of tobacco consumption" should be deleted from subparagraph G.1(d)(iv).

Speaking of the need to respect domestic laws and customary practices regarding the question of pictures or pictograms, he observed that Chinese legislation made it compulsory to include a health warning covering 10% of the area of packages.

Mr KATENE (New Zealand) said that his delegation supported the principle that as much material as possible on packaging and labelling should be in the framework convention on tobacco control, both in the main text and further developed in a separate protocol.

It also strongly supported the development of internationally effective tobacco packaging and labelling and noted with interest the recently legislated graphic health warnings currently in use in Canada.

His delegation considered subparagraph G.1(d)(iv)(1) to be of questionable value: there was too much of a focus on youth; the product was harmful to people of all ages; limiting a product's use to people over 18 merely made it more attractive; the message would also detract from the rest of the health warnings on the packet; and it would unnecessarily take up valuable space. For all those reasons subparagraph G.1(d)(iv)(1) should be deleted.

Dr STAMPS (Zimbabwe) said that, contrary to the view just expressed, the African community knew that the handling of tobacco products by persons under 18 was a major mechanism for promoting tobacco use by the young, especially young women and girls. His delegation therefore strongly supported the amendment agreed to by the African community, which required that the sale of tobacco products to and by persons under the age of 18 should be totally prohibited.

In subparagraph G.1(d)(iv)(3), his delegation supported the comments made by the delegates of India and Malaysia, but would want also to ensure that people using only indigenous languages should be properly informed. Such warnings should appear in the principal language or languages and indigenous languages of the country in whose territory the product was placed on the market.

Ms MAYSHAR (Israel) said her delegation felt it important, with respect to subparagraph G.1(d)(iv), that both unit packets and packages of tobacco products should carry a health warning. It therefore proposed replacing the word "or" by "and".

Her delegation felt that the health warning should be specific. The word "general" should therefore be removed from subparagraph G.1(d)(iv) adding a requirement to provide a specific warning regarding various health risks. Her delegation agreed with that of New Zealand and suggested deleting the prohibition of sales to minors since it could have the opposite effect to that intended, as evidenced by the fact that some tobacco companies voluntarily used that labelling.

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* Dr NOVOTNY (United States of America), referring to subparagraph G.1(d)(iii) said that his delegation would prefer to have the matter handled in a protocol. Great care was needed to ensure that product information and labelling provisions in the smuggling sections were coordinated with the aspects currently under consideration.

With respect to subparagraph G.1(d)(iv), although his delegation supported a requirement for clear, conspicuous and prominent health warnings, it opposed any requirement for specific language or disclosures in the warnings, since each country must decide which approach would work best for its own population. Messages should indeed be crafted for the target and cultural audience. He suggested the addition of the words "and may include" before the reference to pictograms. His delegation would also support additional provisions encouraging States to require information on cessation and other health information packages.

Dr GRACIELA DE CÁCERES (Paraguay) said that subparagraph G.1(d)(iv) appeared to be a key provision for supervision of children and young people, whom it was crucially important to protect. Sales to and by persons under 18 should be prohibited since in Latin America children aged four or five could be found selling single cigarettes in buses and elsewhere. There was a real problem of smoking-related illnesses in children, with some 70% of 18-year-olds smoking in Latin America.

Universal principles had to be worked out, she concluded, adding that the assistance of the international community was needed for the purpose.

Dr CARIS (Chile) supported the proposal that the health warnings in subparagraph G.1(d)(iv) should be carried on a rotating basis, with the removal of the word "general". He further suggested that all information on the packet or package should be authorized by the health authority. In that way, it would be possible to limit the deceptive advertising of tobacco companies which presumably could not be permitted by a national health authority. There should be a provision that cigarettes could only be sold in packets, to avoid the sale of single sticks. Subparagraph G.1(d)(iv)(2) should also clearly cover inclusion in the different warnings of the dangers of both smoking and of passive smoking.

Dr HETLAND (Norway) said that there was reason to believe that the warning on tobacco products that they should not be used by persons under 18 years old, provided by the tobacco industry, was considered to increase tobacco product sales to minors. In other words, such a warning might be counter-productive. He therefore agreed with the delegates of New Zealand and Israel that subparagraph G.1(d)(iv)(1) should be deleted. The prohibition of sales to minors would have to be clearly stated in section I(8).

Mr LISKIA (Papua New Guinea) said that his country supported subparagraph G.1(d)(iv) of the Chair's text and particularly with its reference to a picture or pictogram illustrating the harmful consequences of tobacco consumption, as used in Canada. The low literacy rate in his country made the use of such pictures beneficial. In his view a general health warning alone, as was the case in his country's current legislation, had proved to be ineffective. His country also supported the proposed amendment to subparagraph G.1(d)(iv)(1) regarding the prohibition of sales of tobacco products "to and by" persons under the age of 18. Lastly, he regretted the omission of reference to the sale of single tobacco sticks, which was a big problem in his country. He wondered how that issue could be covered by the convention.

Ms VILIAMI (Fiji) expressed her agreement with the delegate of Papua New Guinea regarding the problem raised by illiteracy and supported the suggestion that the health warning should include pictures to enable illiterate smokers and potential smokers to better understand the dangers.

Professor LYNCH (Canada) expressed agreement with the delegates of New Zealand, Norway and Israel that subparagraph G.1(d)(iv)(1) should be deleted. Regarding the next subparagraph,

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Section G.1(d)(iv)(2), her country supported the intention but considered the text to be incomplete since it referred only to the toxic contents of the tobacco products whereas consumers also needed to be informed about the toxicity of what was inhaled. The wording should reflect both the contents of smokeless tobacco and the constituents of smoked tobacco. The characteristics of each were different: monitoring of emissions should be specific to the nature of the product and the mode of use. She suggested the following wording: "provide clear information about the toxic contents of smokeless tobacco, specifically nitrosamines, nicotine and lead, and the toxic emissions in the smoke of tobacco products, specifically tar, nicotine and carbon monoxide, including measurements of smoke yields." In regard to subparagraph G.1(iv)(3), the Chair's text appeared to introduce an unintended ambiguity. The health warning obligations generally required States Parties to ensure that such warnings were included on tobacco products sold in their territories but the words "language or languages of the country in whose territory the product is placed on the market" appeared to require the exporting country to provide health warnings in the language or languages of the importing State. That was more properly the legal responsibility of the importing State. She therefore proposed the wording: "appear in its principal language or languages when the product is sold on its market", the word "its" referring to "each Party" in the first sentence of paragraph G.1.

Dr HAMAD (Sudan), referring to subparagraph G.1(d)(iv)(2) suggested that the wording be amended to improve clarity. It would be better to refer to the fact that when tobacco products were burnt, toxic products such as carbon monoxide that threatened human health were released into the air.

Mr MANETOALI (Solomon Islands) said that his country imported most of its cigarettes from developed countries and that the health warnings were printed mainly in English, which only a few nationals could read. For that reason, the words "general health warning" in subparagraph G.1(d)(iv) should cover health warnings in the official language or languages of the country where the tobacco products were sold.

Mr ESPINOZA FARFÁN (Guatemala) stressed the importance of giving consumers clear information on the content of toxic substances in tobacco products. Packets and packaging should display warnings that smoking led to cancer and cardiovascular diseases. Such warnings were important as many consumers in Guatemala did not understand the implications of terms such as nicotine or tar. He also supported the use of pictograms owing to the high rate of illiteracy in his country.

Mr RAJALA (European Community) said that the European Community and its Member States would comment on age limits later, during the discussion of Article I of the Chair's text. Its comments earlier on the setting of agreed international standards on smoke yields applied in the present case. The European Community would propose amendments to the text in that regard.

Mr CASTILLO SANTANA (Cuba) said that if a new text for subparagraph G.1(d)(iv) were proposed including the phrase "on a rotating basis", that phrase should be placed in square brackets. His country did not favour such specific health warnings within the convention. It was the responsibility of each government, in terms of its resources and possibilities, to decide the kind of health warning needed.

Ms SUII (Republic of Korea) said that, in subparagraph G.1(d)(iv)(2), the words "specifically tar, nicotine and carbon monoxide" should be deleted since such phrases on tobacco packets should be decided in a protocol. Her government also suggested that the words "low tar", "light", "ultra light", "mild" or any other similar term in subparagraph G.1(d)(i) should also be deleted.

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Mrs BOBYLKOVA (Ukraine) supported the proposed measures on packaging and labelling and the need for clear warnings on packets regarding the health risks arising from the toxic constituents of tobacco products. In subparagraph (iv)(2), however, use of the words "including actual measurements of smoke yields" required further study in view of the difficulty of measuring yields for specific packets.

Dr ANDIEN (Philippines) expressed her country's general support for subparagraph (iv) but agreed with New Zealand and other countries that subparagraph (iv)(1) should be deleted. At the end of subparagraph (iv)(2), the words "and indicate the hazardous effects of each toxic content" should be added. She also suggested the addition of a new subparagraph (iv)(4) to read "appear prominently in big bold letters on the upper portion of the front panel of the tobacco package (or carton) and occupy not less than 25% of such front panel".

Dr STAMPS (Zimbabwe) was strongly opposed to the omission of a prohibition of sales of tobacco products to persons under the age of 18. That was the way retail tobacconists throughout the world induced young people to smoke tobacco and cigarettes. Zimbabwe reiterated its position that the sale to or buying by persons under the age of 18 of any tobacco product should be prohibited.

Mr SHRESTHA (Nepal), referring to the comments by the delegates of Jamaica and Papua New Guinea concerning the sale of single cigarettes, suggested that a health warning could be displayed at the place of sale. He therefore proposed the addition of a new subparagraph (v) worded as follows: "(v) health warnings as mentioned in subparagraph (iv) shall be displayed clearly in places where tobacco and tobacco products are sold".

Dr BETTCHER (Tobacco Free Initiative) said that the delegate of Pakistan had raised an interesting and complex issue in relation to article G.1(d)(i), which appeared to be relevant to the whole of paragraph G.1(d) on packaging and labelling. Which State was responsible for complying with the provisions of the convention in the case of imported tobacco products – the exporting or the importing State? He tended to agree with the delegate of Pakistan that there might be some ambiguity concerning some of the obligations of exporting and importing States as defined in the present draft. In other convention contexts, such as the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1989), it had been recognized that exporting and importing States should share responsibility.

Ms BALOCH (Pakistan) asked the Chair to ensure that the ambiguity concerned and the Secretariat's opinion be reflected in the report of the Working Group and reported to the plenary.

Mr MBUYU MUTEBA (Democratic Republic of the Congo) said that the problem was avoidable to the extent that countries adopted national legislation to implement measures required under the convention and introduced them into the certification system imposed on all imports. Labelling would have to be in the languages of the country of consumption. If not, the products would be sent back. The only problem concerned smuggling, in which case the goods could be confiscated by the importing State.

Paragraph G.1(e) (Education, training and public awareness)

Dr CHITANONDIH (Thailand), Co-Chair, invited the Working Group to consider paragraph G.1(e) as a whole.

Dr MUGA (Kenya), speaking on behalf of the Member States of the African Region, stressed the importance of paragraph G.1(e), especially in developing countries with low literacy rates and

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inadequate access to proper information. Some smokers were even unable to interpret pictograms. He therefore emphasized the importance of providing education, training and public awareness at various levels – in schools and in clinics and among women's groups, for example – to counter the misleading information provided by the tobacco industry and its efforts to recruit new smokers. The countries of the African Region therefore proposed a new introductory text for paragraph (e) and a new subparagraph (i) concerning a political declaration and commitment on the dangers of tobacco and measures taken by political leaders at all levels. The present subparagraph (i) would become (ii) and the present subparagraph (ii) would be deleted. There were also amendments to subparagraph (iii) and a new subparagraph (vii), all of which he would submit in writing.

Ms BILLUM (Sweden), speaking on behalf of the European Union, said that the Chair's text provided a good basis for the discussion of education, training and public awareness. Such preventive actions should be directed towards priority groups, including pregnant women and children.

In paragraph G.1(e), it would be preferable not to refer to "counter-advertising", since that term would become devoid of meaning if restrictions were placed on tobacco advertising and promotion, as proposed elsewhere in the text. She would submit a text in that respect.

Lastly, while subparagraph (e)(iii) concerning the facilitation of access to information on the tobacco industry was useful, it might be more appropriate to specify the type of information to be covered. The regular company reports required under national law might constitute a basis for essential information on the activities of the industry. Mention might also be made of the product information to be provided by companies such as details of additives. In view of the volume of such information, it might be disseminated by means of information technology. A text addressing those ideas would be submitted.

Dr HETLAND (Norway) said that the word "campaigns" in the first line of paragraph G.1(e) implied that public awareness of tobacco could be changed by means of short-term measure. He suggested replacing it by the phrase "programmes/interventions", which implied long-term commitment, including an evaluation of the results achieved.

Ms KERR (Australia) said that paragraph G.1(e) should be made clearer and any unnecessary duplication should be removed. For example, subparagraph (iii) should be deleted as it was arguable whether facilitating public access to information on the tobacco industry would reduce the demand for tobacco, and it was not clear how the relevant measures would be applied. She would submit a text in that regard.

* Dr NOVOTNY (United States of America) supported the facilitation and strengthening of education, training and public awareness campaigns on the health risks of tobacco consumption and exposure to second-hand smoke. Experience had shown that such programmes could have a real effect on individual behaviour and public support for tobacco control. In his Government's view, any discussion of education and public awareness should include the promotion of effective education campaigns on the subject of smoke-free homes and other environments, and special attention should be given to health effects on the most vulnerable such as children and pregnant women: he would be submitting a text in that regard.

An important component of tobacco control programmes was the monitoring of their effectiveness, and a provision encouraging countries to take steps in that regard should be incorporated in the framework convention.

Lastly, subparagraph (e)(v) might already be covered under the "comprehensive educational programmes" referred to in subparagraph (e)(i) and could be deleted. Its inclusion might pose problems for his country because of its federal structure.

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Mr EMMANUEL (Saint Lucia) said that the words "the media" should be inserted in subparagraph (e)(vi) after "public agencies". The media played a very important role in education, and countries in the Caribbean subscribed to the Caribbean Charter For Health Promotion, which encouraged the development of a strong alliance with the public sector, with an emphasis on the media.

Ms ROVIROSA PRIEGO (Mexico) said that education, training and public awareness campaigns were important prevention measures against nicotine addiction. In subparagraph (e)(ii) a reference should be added to "nicotine addiction". She would submit that and a linguistic amendment in writing.

The CHAIR said that, in view of the late hour, he would now give the floor to other organizations, including nongovernmental organizations; the remaining countries that wished to speak on paragraph G.1(e) and its subparagraphs could do so at the next meeting of the working group.

Professor WARNER (World Bank), referring to subparagraph (d)(iv), said that warnings to date had been largely ineffective in influencing demand for cigarettes; in some cases they had even proven counterproductive by affording protection to United States tobacco companies in liability lawsuits. As the delegate of the Philippines had said, the size and prominence of the warnings were crucial, and he suggested that the words "an effective" should be inserted before "general health warning".

He was concerned at the very specific content of subparagraphs (d)(iv)(1) and (2). As individual needs of countries would vary, it might be preferable to give countries the opportunity to decide at their own discretion what to include in the labelling.

Dr STAMPS (Zimbabwe), speaking on a point of order, said that he was greatly concerned about the fact that international and nongovernmental organizations were being permitted to speak before Member States. Those organizations had their own agendas; they had no obligations to the Convention or to any Party to the Convention, and should be permitted to speak only at the end of the discussion of an issue when all Member States had had their say.

Mr TOPPING (Legal Counsel) recalled that, at the first session of the Intergovernmental Negotiating Body, it had been decided to give nongovernmental organizations an opportunity to speak at the end of each meeting in accordance with paragraph 6.1(i) of the Principles Governing Relations between the World Health Organization and Nongovernmental Organizations. The Chair had been acting in accordance with that decision, which had been extended to include an intergovernmental organization.

Ms BALOCH (Pakistan), speaking on a point of order, requested the Legal Counsel to read out paragraph 6.1(i) of the Principles Governing Relations between the World Health Organization and Nongovernmental Organizations. Any point of order should be followed by a ruling from the Chair, not merely by an explanation from the Legal Counsel.

Mr TOPPING (Legal Counsel) said that the relevant part of paragraph 6.1(i) of the Principle Governing Relations between the World Health Organization and Nongovernmental Organizations read as follows: ... a nongovernmental organization "at the invitation of the chairman of the meeting or on his acceding to a request from the organization, shall be entitled to make a statement of an expository nature ...". While he had previously given an opinion, it was up to the Chair to agree or disagree.

The CHAIR said that he concurred with the Legal Counsel's opinion and wished to proceed if there was no further objection.

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Dr STAMPS (Zimbabwe), speaking on a point of order, said that he strongly objected to nongovernmental organizations being given the floor at the present juncture, but would reluctantly go along with the Chair's decision.

The CHAIR, referring to section 2 of the provisional summary record of the ninth meeting of the first session of the Intergovernmental Negotiating Body (document A/FC/INB1/3, page 155), pointed out by way of further clarification that it had been agreed that "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. Nongovernmental organizations might be invited by the Chair ... to make presentations in order to clarify issues of relevance to the discussions".

Mr VUILLÈME (Switzerland) suggested that nongovernmental organizations should be permitted to speak only on issues that had already been addressed by the working group, i.e., up to and including paragraph G.1(d)(iv)(3).

Ms BALOCH (Pakistan) expressed concern at the way the Principles Governing Relations between the World Health Organization and Nongovernmental Organizations were being interpreted. Such organizations could be invited to speak, but a delegate had objected strongly to their being given precedence over a Member State. She therefore urged the Chair to reconsider this ruling.

The CHAIR reiterated that nongovernmental organizations and international organizations could intervene on an issue only after it had been discussed by the working group.

Dr STAMPS (Zimbabwe) said that he had particularly objected to the fact that one organization had already been permitted to speak on an issue that was still current in the working group.

Mrs WILKENFELD (International Union against Cancer), speaking at the invitation of the CHAIR, said that there was an overwhelming scientific consensus that the introduction of low tar and nicotine products and their uptake by smokers had not reduced morbidity and mortality from tobacco use, and had stopped millions of people from giving up with the false promise of reduced risk. It was therefore essential that terms such as "light", "low" and "mild" and other terms that implied reduced risk were banned, and that statements on packaging clearly indicated the risks of smoking. No credence should be accorded to tar and nicotine yields produced using the flawed ISO method, nor should such numbers be required or permitted to appear on packaging.

Dr RAMSTRÖM (International Council on Alcohol and Addictions), speaking at the invitation of the CHAIR, referred to paragraph G.1(d)(iv)(2) of the Chair's text. He emphasized that printing figures on cigarette packages to indicate measured yields of nicotine or tar was not only meaningless, but also directly misleading. While those figures purported to inform the consumer how much of the different substances were being taken in, they actually provided nothing more than the amount yielded to a smoking machine operated according to a specific protocol. However, human smokers adopted different smoking protocols that influenced the amounts taken in, and it would be appropriate to indicate on the cigarette package that nicotine intake would vary within a specified range depending on the way in which the cigarette was smoked. The smoker would then no longer be under the false impression that everything was determined by the cigarette.

With regard to health-damaging smoke constituents such as tar or carbon monoxide, the characteristics of the cigarette were more important, since the intake of tar was associated with the amount of tar that came with each milligram of the nicotine intake determined by the smoker. It might therefore be appropriate to indicate on the package the amount of tar and carbon monoxide taken in

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with each milligram of nicotine. Such information might help the consumer to find a brand that minimized the amount of health-damaging substances.

Mr COLLISHAW (Commonwealth Medical Association) speaking at the invitation of the CHAIR, welcomed the proposal to end the use of deceptive packaging descriptors such as "light" and "mild", which would constitute a significant advance in consumer health protection. Many smokers remained confused and misled by such terms, and he thanked all those who had supported the measure, in particular the European Union for its leadership and the priority it had attached to correcting such misleading labelling.

The meeting rose at 22:15.

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WORLD HEALTH ORGANIZATION

INTERGOVERNMENTAL NEGOTIATING BODY
ON THE WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL
Second session

A/FCTC/INB2/WG2/SR/1
15 June 2001

WORKING GROUP 2

PROVISIONAL SUMMARY RECORD OF THE FIRST MEETING

International Conference Centre, Geneva
Tuesday, 1 May 2001, at 10:10

Chair: Professor E. AISTON (Canada)
later: Dr T.J. STAMPS (Zimbabwe)

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Note

This summary record is **provisional** only. The summaries of statements have not yet been approved by the speakers, and the text should not be quoted.

Corrections should be sent to Responsible Officer, Governing Bodies, World Health Organization, 1211 Geneva 27, Switzerland, or faxed to +4122 791 3995, Attn: Responsible Officer, before 27 July 2001.

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WORKING GROUP 2

FIRST MEETING

Tuesday, 1 May 2001, at 10:10

Chair: Professor E. AUSTON (Canada)

later: Dr T.J. STAMPS (Zimbabwe)

DRAFTING AND NEGOTIATION OF THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL: Item 4 of the Agenda (Documents A/FCTC/INB2/DIV/1, A/FCTC/INB2/DIV/6, A/FCTC/INB2/2 and A/FCTC/INB2/3)

Opening of the meeting

The CHAIR opened the meeting, indicating that the working procedures developed by Working Group 1 the previous day would serve as a guide for Working Group 2. Participants should note that textual changes to the text (A/FCTC/INB2/2) proposed by the Chair of the session should be submitted in writing, on the forms provided, no later than 30 minutes after the end of the meeting.

He suggested the following order of work: price and tax measures to reduce the demand for tobacco (paragraphs F.1 and F.2(a),(c)); price and tax measures to reduce the demand for tobacco (paragraph F.2(b)); government support for tobacco manufacturing and agriculture (paragraph I.15); illicit trade in tobacco products (paragraphs I.1-7); licensing (paragraphs I.13-14); surveillance (paragraph K.1); and exchange of information (paragraph K.3).

The order of work was approved.

F. Price and tax measures to reduce the demand for tobacco

Paragraph F.1

Ms LAMBERT (South Africa), speaking on behalf of Member States of the African Region proposed that the word "measures" in the first line of paragraph F.1 be replaced by "increases", since it was the increase in the price of tobacco that reduced demand for it and the term "measures" was therefore too vague.

She also proposed that the word "upward" be inserted before "harmonization" and that the words "product prices" be replaced by "excise taxes". In that connection, where several countries shared common borders, more effective action could be taken to reduce demand for tobacco by harmonizing excise taxes at the regional and subregional levels.

Dr TATA (India) said that, although price increases indeed represented an important step in controlling tobacco consumption, the term "price harmonization" used in the Chair's text was not only vague but also slightly ambiguous and subject to misinterpretation. If it meant "price equalization" it would be an impractical suggestion, since the prices of the various commodities were based on a variety of factors, including currency differentials, the purchasing power of the population and other economic factors. Product pricing was a commercial decision which could only be influenced by the State through taxation. Although the equalization of tobacco prices through taxation would reduce transborder illicit trade, it would be impractical to aspire to global equalization of tobacco prices for that purpose. Should such an equalization occur, it would only create a mechanism whereby tobacco

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products would flow from developed to developing countries. Moreover, the aspect of cooperation in combating the illicit trade in tobacco products was covered by Article I. India therefore proposed the following wording for paragraph F.1: "The Parties recognize that price increases are an effective mechanism to reduce tobacco consumption and recommend a policy of progressively increasing taxation of tobacco products intended to stimulate and sustain a steady decline in tobacco consumption."

Mr RAJALA (European Community), speaking also on behalf of the Member States of the Community, supported the proposal to include in the convention a section on price and tax measures to reduce the demand for tobacco. Nevertheless, the approach adopted in the proposed text of paragraph F.1 could be misleading and could lead to difficulties of application. In particular, the reference to the progressive harmonization of tobacco product prices was not a feasible objective for the proposed convention, in view of the considerable differences in the economic levels of future Contracting Parties. It would be preferable to state that the Parties recognized price measures to be an effective mechanism for reducing tobacco consumption among various sectors of the population, although such measures should be accompanied by effective interventions to combat illicit trafficking in tobacco products. The relevant changes would be submitted in writing.

Dr FARSHAD (Islamic Republic of Iran) believed that two important points should be included in the proposed convention with regard to price and tax measures to reduce the demand for tobacco. In the first place, there should be a real increase in tobacco prices. Secondly, the problem of tax-free and duty-free shops should be addressed. He therefore proposed that the second part of paragraph F.1 should read as follows: "... and that progressive real increases in the price of tobacco products and prohibition of tax-free and duty-free tobacco products will contribute to a reduction in disease caused by tobacco use."

Dr AL-LAWATI (Oman) drew attention to the Arabic translation of the word "effective" and called for a review of the Arabic version of the Chair's text. He endorsed the changes proposed by the previous speaker and said that Oman would submit similar changes in writing.

Mr ODOKO (Japan) said that his country reserved its position on paragraph F.1 for the reasons which he would put forward during the discussion of paragraph F.2.

Dr ABOU-ALZAHAB (Syrian Arab Republic) proposed that the word "recognize" be replaced by "decide" and that the words "among children and young people" be inserted after "tobacco consumption". The reason for that amendment was that increased prices had a greater impact on tobacco consumption among children and young persons.

Ms SÁNCHEZ-REYES (Nicaragua) emphasized that the prices of tobacco products were established by the industry itself and that, in the case of Nicaragua, legal provisions only existed for regulating the prices of pharmaceutical products and, in the event of emergencies, of basic products. She therefore expressed certain reservations concerning the proposed text of paragraph F.1.

* Dr NOVOTNY (United States of America) said that his Government viewed the issue along the same lines as the European Community with regard to the practical difficulties relating to the goal of harmonizing taxes. The United States generally supported goals aimed at setting tax levels liable to reduce consumption of tobacco products, as well as the goal of imposing taxes on all tobacco products. Action to further those objectives, combined with robust measures to curb smuggling and other illicit activities, offered a better approach to the issue. Written amendments consistent with those goals would be submitted to the Secretariat.

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Ms NOFTLE (Canada) said that her country supported the underlying principles reflected in the proposed text of Article F in the belief that price and tax increases could complement an effective health policy strategy aimed at reducing tobacco consumption and prevalence. Canada nevertheless considered that all aspects of the design of specific prices and tax measures rested with individual Member States and therefore proposed the deletion of any reference to the progressive harmonization of tobacco product prices, so that paragraph F.1 should read as follows: "The Parties recognize that price and tax measures can be an effective component of a comprehensive effort to reduce tobacco consumption."

Ms KERR (Australia) supported the Canadian proposal.

Mr CULLEN (Argentina), while recognizing the importance of Article F, said that in order to achieve its objective, reference should be made to the need to harmonize or coordinate prices at the regional and subregional levels, since a point of great concern was how to combat smuggling, which was closely related to price-fixing at the national level. A reference to regional or subregional harmonization might therefore be included in either of the first two paragraphs of Article F, or more detailed provisions on price harmonization might be set out in an additional protocol or in practical guidelines.

Dr HATAI CHITANONDH (Thailand) said that emphasis should be placed on price measures as one of the most efficient mechanisms of reducing tobacco consumption and supported proposals to delete references to the progressive harmonization of tobacco product prices and to the illicit traffic in tobacco products.

Mrs ROVIROSA PRIEGO (Mexico) said that, although her delegation agreed with earlier speakers that price measures were effective mechanisms in reducing tobacco consumption, it considered that the progressive harmonization of tobacco product prices was a responsibility that rested with the State and therefore supported proposals to delete that reference from the draft text.

Ms QU Meiyu (China) noted that paragraph F.1 involved the idea of recognizing the importance of price measures but mentioned no concrete measures. Her delegation agreed with the representative of the European Community that price measures were effective mechanisms, but considered that countries with different levels of economic development and consumption would need specific consideration.

Mrs BOBYLIOVA (Ukraine) said that her delegation supported a policy of a gradual increase in prices as a sound strategy for curbing tobacco consumption, but believed that the objective of the progressive harmonization of tobacco product prices needed deeper analysis and study. In that context, the convention should take national interests and legislation into account.

Ms TRAN THU THUY (Viet Nam) said that her country endorsed the use of price and tax measures to reduce the demand for tobacco. Since tobacco was a harmful product, the consumption of which should not to be encouraged, taxes imposed on tobacco products should be at a high level. Moreover, governments should regulate the prices of tobacco products so as to prevent dumping practices.

Dr CASTILLO (Dominican Republic) agreed with the delegate of Mexico that the concept of harmonization should be deleted from paragraph F.1. Although increasing the price of cigarettes was definitely a means of curbing tobacco consumption, the wide differences in economic and social conditions between the highly industrialized countries and developing countries made it necessary for

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sovereign governments to determine the level of taxation and the appropriate price structure for tobacco products, taking their needs and objectives into account.

Professor AUNG (Myanmar) said that, while his delegation recognized that price measures were an effective mechanism for reducing tobacco consumption, it supported the deletion of the reference to the progressive harmonization of tobacco product prices, since it would be difficult to implement such harmonization between countries at different levels of social and economic development.

Dr ROA (Panama) proposed that paragraph F.1 should read as follows: "The Parties recognize that increasing prices is an effective means of reducing tobacco consumption and recommend a progressive increase in taxes in accordance with the framework of national legislations. The Parties undertake to develop effective measures of regional and subregional coordination for the control of illicit traffic in these products."

Mr LISKIA (Papua New Guinea) agreed that price and tax increases were an effective mechanism for reducing tobacco consumption and supported the text proposed by the delegates of Australia and Canada.

Dr AL MULLA (Qatar) also agreed that price and tax increases were among the most effective means of reducing tobacco consumption. His delegation therefore believed that the word "harmonization" should be replaced by the term "increase the price of tobacco products".

Mr TADEVOSYAN (Armenia) said that his delegation regarded tax measures as important mechanisms for promoting public health and reducing demand for tobacco products and therefore strongly supported paragraph F.1.

Dr ZENKEVICH (Belarus) drew attention to a certain contradiction in the last part of paragraph F.1. His delegation considered that increasing the prices and taxes on tobacco would not in practice discourage illicit traffic in tobacco products, but indeed would tend to encourage it, and therefore proposed that the paragraph should end with the words "to reduce tobacco consumption".

Mr NJALSSON (Iceland) proposed that paragraph F.1 should read as follows: "The Parties recognize that progressive price increase of tobacco products is an effective mechanism to reduce tobacco consumption."

Dr MUGA (Kenya) said that his delegation recognized price and tax measures as important mechanisms in reducing the demand for tobacco and therefore supported the wording proposed by the delegate of South Africa on behalf of the African Region.

Dr FARIÁS ALBURQUEQUE (Peru) said that, since price and tax measures to reduce the demand for tobacco had both public health and economic aspects, the text of paragraph F.1 should be clarified to include the concept of contributing to a reduction in diseases related to tobacco consumption. The text should also recognize that the harmonization of prices at the subregional, regional and international levels would contribute to the prevention of the illicit traffic in tobacco products.

Dr ANDEN (Philippines) pointed out that the text of paragraph F.1 should recognize both price and tax measures as an effective mechanism to reduce tobacco consumption. Moreover, the concept of the progressive harmonization of tobacco product prices needed further clarification.

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Dr TIMTCHIEVA (Bulgaria) agreed with the representatives of the European Community and the United States of America that the progressive harmonization of tobacco product prices would be a very difficult objective to achieve. Her delegation therefore supported the deletion of the second part of the paragraph.

Mr OGANOV (Russian Federation) agreed with speakers who considered it inappropriate to refer to the progressive harmonization of tobacco product prices in view of the different levels of economic development of the various countries, which would make the implementation of the paragraph very difficult for many countries.

Dr DE CÁCERES (Paraguay) emphasized that the underlying issue in paragraph F.1 was the cost-benefit effects of increasing the prices of tobacco products, and that such increases would not lead to financial losses for governments. National governments sought the common good, in which economic aspects took on great importance. She referred to World Bank reports which demonstrated that price increases led to gains, rather than losses, in public revenue, in the short and medium term. Where national legislation was not appropriate, measures should be taken to strengthen it at the subregional and regional levels with a view to reducing the illicit traffic in tobacco products resulting from price increases.

Mr MBUYU MUTEBA (Democratic Republic of the Congo) endorsed the statement made by the delegate of South Africa on behalf of the African Group and expressed the view that the harmonization of prices was beneficial, as it might help to curb illicit frontier traffic. Although increased tobacco prices represented an important source of revenue for many countries, including his own, where substantial income was also derived from the taxation of tobacco products, such price increases might also have a negative impact by encouraging illicit trafficking, which was all the easier in the Democratic Republic of the Congo with its nine neighbouring States and some 7000 kilometres of frontiers. In conclusion, the term "progressive harmonization" was too vague and his delegation therefore proposed that the word "progressive" be deleted.

Dr PALOMO ESCOBAR (El Salvador) said that his delegation agreed with speakers who had suggested that the first part of the paragraph should refer specifically to price increases, rather than merely to price measures. With regard to the second part, while a progressive increase in taxes might indeed serve to reduce tobacco consumption, it would not necessarily be conducive to discouraging illicit traffic, but might even have the opposite effect. The working group should therefore consider whether the phrase in question should not be deleted.

Dr HAMAD (Sudan) proposed that the second part of the paragraph should be deleted, in view of the difficulty of implementing the harmonization of tobacco prices because of national differences.

Mr MANETOALI (Solomon Islands) said that his delegation shared the view of speakers who considered that price and tax measures would help to reduce tobacco consumption, but believed that progressive harmonization of tobacco product prices was not feasible in practice.

Dr SOVINOVÁ (Czech Republic) proposed that the second part of paragraph F.1 be reworded as follows: "The Parties recognize that price measures are an effective mechanism to reduce tobacco consumption for various sections of the population and that they must be combined with effective measures to combat illicit traffic in tobacco products."

The CHAIR, summing up the debate on paragraph F.1, said that there had been a general consensus on the importance of price measures, although they needed to be modulated in some areas. References had also been made to the potential of such price measures to generate unintended illicit

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activity. There was overall agreement that harmonization was impractical, owing to social and economic discrepancies and to the prerogatives of national governments in that respect. The proposals to delete the second half of paragraph F.1 would be taken into account, together with the requirement for upward rather than downward harmonization. Some speakers had referred to specific groups that would benefit from price measures and from a reduction in tobacco consumption.

Paragraph F.2

Ms BALOCH (Pakistan) said that, since tax policies were an essential prerogative of States, it was difficult to harmonize regulations between States with different economic and political systems. Her delegation therefore proposed the deletion of the phrase "and cooperate with other Parties" in paragraph 2.

Mr RAJALA (European Community), speaking on behalf of the European Community and its Member States, advocated the same approach as that adopted for paragraph 1, and proposed that the convention should concentrate on encouraging a fiscal policy, taking account of public health imperatives both at the national level and in the negotiation of international instruments. The convention should also provide a mechanism for exchanging information on the taxation of tobacco products, methods of calculation and the impact of tax on consumption, thereby providing a valuable tool for justifying such measures on a factual basis. The convention should also cover the exchange of available information on the impact of tax and duty-free sales, also including details of links between such sales and transit and illicit traffic.

With regard to the prohibition of duty-free and tax-free sales, it would be recalled that such sales had already been phased out in the European Community for travellers in its territory, although they were still allowed for third-country travel and for certain categories, such as diplomats. A worldwide prohibition would require careful analysis of existing international agreements which would have to be taken into account. Although it would not be possible to find a solution for such problems in the context of the current negotiations, it would be useful to include a paragraph on information exchange on the impact of tax-free and duty-free sales of tobacco products, including their links with transit and illicit traffic. The adoption of other unspecified tax measures seemed to be excessive and hardly conducive to transparency. The European Community would be submitting a text to cover those points.

Dr ZARIHAH (Malaysia) said that his delegation agreed with the general view, already expressed with regard to paragraph 1, that increased taxation was an effective way of reducing tobacco consumption. He proposed the deletion of the phrase "to the extent possible within the means at its disposal and its capabilities". He further suggested that the word "harmonizing" should also be deleted, as it was ambiguous: if it were retained, a time-frame (perhaps two years from the entry into force of the convention) should be set, for the reasons discussed in connection with paragraph 1.

Dr TATA (India) said he agreed with speakers who maintained that tax laws were a sovereign right of nations and were not subject to regulation by international agreements, but only by national authorities. India therefore recommended that paragraph 2 be reworded to read as follows: Each Party shall adopt legislative and administrative measures for developing and implementing appropriate national tax policies, in order to reduce tobacco consumption and exposure to tobacco smoke. Such measures and policies shall include prohibition of tax-free and duty-free sales of tobacco products. Subparagraphs (b) and (c) would then become redundant and could be deleted.

Mr OIIOKO (Japan) said that if tax measures were to be introduced to reduce demand for tobacco, the measures referred to in paragraph 2 would have to be implemented effectively. Such measures would entail adjustment of the tax rate every year, which was not a realistic proposition.

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Subparagraph (a) implied that products were taxed in the country in which they were sold and not in the exporting country, which might give rise to problems of double taxation, in both the producing and the marketing countries. His delegation disagreed with subparagraph (c), which implied that the Parties would undertake a legal commitment without knowing what the Conference of the Parties would ultimately recommend. Japan reserved its position on paragraphs F.1 and F.2 until it was convinced that the measures provided for in subparagraph (c) were effectively implemented.

Mr CASTILLO SANTANA (Cuba) was concerned that the provision on price and tax measures would also have an impact on areas other than health, such as tariffs. Such measures might contravene bilateral preferential agreements and entail social and economic consequences for both sides. He therefore proposed deletion of the last phrase of paragraph F.2, and thus of subparagraphs (a), (b) and (c), so that governments would be in a position to adopt the measures they considered appropriate. He noted that the importance of price measures in reducing tobacco consumption was addressed in paragraph F.1.

Dr ISHAGH (Mauritania) considered that the words "within the means at its disposal and its capabilities" in paragraph F.2 should be deleted.

Mr OGANOV (Russian Federation) agreed in general with the wording of paragraph F.2, but considered that it was expressed rather too much in the form of an obligation and that the tone should be softened. The last phrase should be amended to read: "Such measures and policies could include the following:". Subparagraph (a), instead of proposing "prohibition", should be amended to indicate that States should attempt to abolish tax-free and duty-free sales of tobacco products.

* Dr NOVOTNY (United States of America) proposed two basic changes to paragraph F.2, which he would be submitting in writing. His amendments made provision for constitutional issues raised by the relationship between national governments and subnational entities in federal systems, such as that of the United States, and the fact that the harmonizing of tax policies might create price-fixing problems. In regard to subparagraph (a), he considered that measures specifically targeted to prevent smuggling might be more effective. With reference to subparagraph (c), he pointed out that under its Constitution, the United States Government could not cede tax policy to any international body. He therefore proposed deletion of subparagraphs (a), (b) and (c).

Dr ESPINOZA MURRA (Honduras) considered that the subject matter of paragraph F.1 and the first sentence of paragraph F.2 was similar and that they should be combined with amended wording, as follows: "The Parties recognize that price measures are an effective mechanism to reduce tobacco consumption, and legislative, executive and administrative measures should be adopted." The last phrase and the three subparagraphs would follow.

Ms SUH (Republic of Korea) said that her Government agreed in principle that a tobacco pricing policy was a useful measure for controlling tobacco demand. However, since the selection and implementation of tax policies should reflect the specific circumstance of each country, it was necessary to be circumspect. She accordingly proposed deletion of subparagraphs (a), (b) and (c).

Dr AL-HAJJAWI (Jordan) proposed deletion of the words "to the extent possible within the means at its disposal and its capabilities", which would give governments unnecessary flexibility, as well as taking the sting out of the proposed measures.

Ms NOFTLE (Canada) said that, consistent with the proposal of the European Community and with her proposal with regard to paragraph F.1, her Government supported an approach in which each State Party would have the level of flexibility in tax policy appropriate to its circumstances. With

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that context, she proposed that paragraph F.2 be redrafted to encourage States Parties to adopt a comprehensive domestic tax structure and to incorporate an illustrative set of measures that might be considered the elements of such a structure. The Canadian proposal included measures relating to domestic taxation of tobacco products, the imposition of an effective export tax structure, and the narrowing of price differentials in other areas. That proposal would also serve as Canada's position on subparagraphs (a), (b) and (c), as currently drafted. After conclusion of the discussion on paragraph F.2, Canada would propose a new paragraph F.3.

Professor GOJA (Uruguay) proposed deletion of the words "to the extent possible with the means at its disposal and its capabilities". She reserved the option to select a different version of the text once it was available.

Professor GRANGAUD (Algeria), speaking on behalf of the African Region, said that, at the Consultative Meeting held in Johannesburg, the African countries had reached a consensus on deletion of the words "to the extent possible with the means at its disposal and its capabilities".

Dr ABOU-ALZAHAB (Syrian Arab Republic) suggested that reference should be made in paragraph F.2 to the allocation of a certain percentage of taxes on tobacco products to bodies responsible for combating illicit traffic in such products. That would pave the way for imposition of higher taxes on tobacco in the future.

Ms LIN Ling (China) proposed that the words "tax policies" in paragraph F.2 were too restrictive. In order to give States Parties greater flexibility, she suggested that they be changed to read "principles underlying tax policies". She agreed with the wording of subparagraphs (a) and (b), but considered that subparagraph (c) would be superfluous if her first proposed amendment were adopted.

Dr AL-LAWATI (Oman) said that the reference to harmonization was unnecessary and should be deleted, as should the phrase "to the extent possible within the means at its disposal and its capabilities". In subparagraph (b), he proposed that the word "periodically" be inserted after "tobacco products". A written text containing his suggestion would be submitted.

Mr ESPINOZA FARFÁN (Guatemala) agreed that price and tax increases would help to reduce tobacco consumption and exposure to tobacco smoke, as would legislative and administrative measures. Harmonization of tax policies, however, would be a difficult and complex matter. Like other delegates, he was concerned that excessive tax increases would only result in increased smuggling and corruption.

Dr ENYIME (Cameroon) fully supported the need for price and tax measures to reduce tobacco demand and agreed with Canada's suggestions that appropriate tax measures and policies should be developed by individual countries. It might be appropriate in paragraph F.2 to propose that the resources deriving from such fiscal measures be used, at least in part, to defray the cost of disease caused by tobacco products.

Mr BAHARVAND (Islamic Republic of Iran) supported the proposal to delete the phrase "to the extent possible within the means at its disposal and its capabilities". Insertion of the words "to the extent possible" before "cooperate with other Parties" might meet the concerns of those delegations that had emphasized the difficulties of harmonizing tax policies.

In addition, in order to bring paragraph F.2 into line with the title of section F, he proposed that the words "reduce tobacco consumption" should be replaced by the phrase "increase the price of tobacco products with the aim of reducing tobacco consumption".

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Mr RI SI HONG (Democratic People's Republic of Korea) supported the proposals to delete the phrase "to the extent possible within the means at its disposal and its capabilities", and to replace "harmonizing" by "developing", since the development of tax policies was the best way of reducing smuggling and illicit trade. He also agreed that subparagraph (c) should be deleted.

Mr EMMANUEL (Saint Lucia) proposed that paragraphs 1 and 2 of section F should be combined to read: "The Parties recognize that price increases are effective mechanisms to reduce tobacco consumption and exposure to tobacco smoke and that each Party shall, to the extent possible within the means at its disposal and its capabilities, adopt legislative, executive and administrative measures." Subparagraphs (a), (b) and (c) should then be deleted.

Mrs SHAHAR-BEN AMI (Israel) said that her delegation favoured the imposition of price and tax measures to reduce the demand for tobacco products. Those and other trade-related measures were crucial to the achievement of the goals of the framework convention. Elimination of tax-free and duty-free tobacco sales and worldwide increases in tobacco prices could be achieved effectively only through an international instrument. Her delegation therefore accepted the principle expressed in section F. She suggested, however, that subparagraph (b) call for a continuous reduction in tobacco consumption, whether it were stable or irregular. To that end the words "stable and" should be deleted.

Dr SILVA GOLDFARB (Brazil) said that the whole of paragraph F.2 should be retained as it contained important details. In subparagraph (b), she proposed that the words "continuously related to a country's inflation rates" should be inserted after "tobacco products".

Mr KATENE (New Zealand) supported the proposal of the delegate of Canada to redraft the first sentence of paragraph F.2. His country had found from experience that tobacco taxation benefited both revenue and health and was a vital plank in national tobacco control programmes. However, as it was not appropriate to agree to implement as yet unknown taxation initiatives, New Zealand supported deletion of subparagraph (c).

Mrs THIBELI (Lesotho) said that her country reaffirmed the African position that the phrase "to the extent possible within the means at its disposal and its capabilities" should be deleted throughout the text.

Dr CASTILLO (Dominican Republic) proposed that paragraph F.2 should read: "Each Party shall adopt legislative, executive and administrative measures and adopt appropriate tax policies in order to reduce tobacco consumption and exposure to tobacco smoke." Those same provisions were included in an act passed in his country in July 2000.

He supported the World Bank recommendation that packages of tobacco products should be marked as tax and duty free. A system of tax-free sales, provided it was carefully regulated, monitored and applied, should prevent the diversion of tax-free products and significantly reduce smuggling and criminal activities. He also supported the recommendations of customs authorities for automated systems to control the movement of products on which tax had not been paid, to help them monitor shipments and reduce the opportunities for fraud and for diverting untaxed products to the domestic market. Regulators had no evidence of any link between black-market sales and smuggling and the sales of tobacco products through tax-free outlets, as the volume of such sales was very low, accounting for only 1% of world sales. Very few international travellers making duty-free purchases were minors.

Mrs KONDAJ (Albania) proposed that paragraph F.2 should read: "Each Party shall adopt legislative, executive and administrative measures and cooperate with other Parties in harmonizing at the highest level possible appropriate tax policies, in order to reduce tobacco consumption and

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exposure to tobacco smoke. Such measures and policies could include: ...” Subparagraph (a) should then be deleted and subparagraph (b) and (c) retained as drafted.

Professor AUNG (Myanmar) said that, as taxation was the prerogative of sovereign States, subparagraph (c) should be deleted.

Ms ALEXIS-THOMAS (Trinidad and Tobago) proposed that paragraph F.2 should read: “Each Party shall adopt legislative, executive and administrative measures and cooperate with other Parties in implementing appropriate tax policies in order to prevent initiation of tobacco use and to achieve continuous reduction in tobacco consumption and exposure to tobacco smoke.” Subparagraphs (a), (b) and (c) should be deleted and left to the competence of States Parties.

Dr ZARIHAH (Malaysia) was in favour of retaining subparagraphs (a), (b) and (c), with certain amendments. Subparagraph (a) would read: “Prohibition of tax-free and duty-free sales of tobacco products within two years of the entry into force of this convention, without exceptions or allowances to travellers, diplomats and military or government personnel.”

She suggested that a clause on affordability might usefully be included in subparagraph (b), which would then read: “imposition of taxes on tobacco products so as to ensure that tobacco products do not become more affordable over time and thereby to achieve a continuing reduction in tobacco consumption.”

Subparagraph (c) would remain as it stood.

Mr CULLEN (Argentina) agreed with the proposal of delegates of African countries that the phrase “to the extent possible within the means at its disposal and its capabilities” should be deleted. Subparagraph (c) should also be deleted because it referred to measures that were the prerogative of individual States and that might therefore cause difficulties at the ratification stage. In both paragraphs F.1 and F.2, it should be made clear that harmonization should be both regional and subregional.

Mr CASTILLO SANTANA (Cuba) said that if the text was to be acceptable to all, or at least to the great majority of States Parties, it should be based on respect for diversity. He therefore suggested that rather than deleting the phrase “to the extent possible within the means at its disposal and its capabilities”, it should remain in the text in square brackets.

The CHAIR assured the Cuban delegation that the original text would be retained as part of the basic document and that all suggestions would be added in some form or other once there was a clear sense of the way in which the working groups would proceed.

Dr CHAOUKI (Morocco) proposed that the beginning of paragraph F.2 should read: “Each Party shall adopt legislative, executive and administrative measures and cooperate with other Parties in applying appropriate tax policies ...”. The rest of the text would remain unchanged.

Dr DÜRLER (Switzerland) said that his delegation understood that existing legislative provisions guaranteeing tax-free and duty-free sales should be respected and that a general prohibition of such sales of tobacco products, as proposed in subparagraph (a), might contradict provisions in existing treaties of international law. In that connection he shared the concerns expressed by the European Community on behalf of the Member States of the European Union. He considered that subparagraph (c) was too vague and could be deleted.

Mr LISKIA (Papua New Guinea) supported proposals whereby paragraph F.2 would be amended to read: “Each Party shall adopt legislative, executive and administrative measures and cooperate with other Parties in developing and implementing appropriate tax policies in order to

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reduce tobacco consumption and exposure to tobacco smoke." The rest of paragraph E.2 and subparagraph (a) would remain unchanged. The words "stable and" in subparagraphs (b) and (c) would be deleted.

Mr CARIS (Chile) suggested, in an effort to incorporate the various views expressed and to arrive at a simpler text, that the ideas contained in paragraphs E.1 and E.2 should be combined into a single paragraph, which would read:

The Parties recognize that price measures are an effective mechanism to reduce tobacco consumption. Each Party shall adopt legislative and administrative measures to develop appropriate national tax policies for tobacco in order to reduce tobacco consumption and exposure to tobacco smoke. Such measures and policies shall include provisions for tobacco sales and taxes that are consistent with regional and subregional agreements in order to discourage illicit traffic in tobacco products.

Dr ANDEN (Philippines) agreed to the proposed deletion of the phrase "to the extent possible within the means at its disposal and its capabilities" and agreed with the Malaysian and other delegations that subparagraphs (a), (b) and (c) should be retained. She suggested that subparagraph (a) should be implemented within an agreed time-frame.

Mr BAHARVAND (Islamic Republic of Iran) said that his delegation considered that subparagraph (a) was simple and clear and should therefore be retained.

Ms ROVIROSA PRIEGO (Mexico) proposed that, in the light of comments made by previous speakers, subparagraph (a) should be deleted.

Ms BALOCH (Pakistan) suggested that subparagraph (a) should refer to tobacco as well as to tobacco products.

Mr TADEVOSYAN (Armenia) said that in his view the existing wording should be retained, because all countries had tax regulations regarding tobacco products.

Mr DILEMRE (Turkey) supported the view expressed by the delegate of the European Community. Arrangements to provide information on tax-free and duty-free sales of tobacco products could be achieved more easily than the harmonization of tax policies.

Dr TATA (India) reiterated his support for the prohibition of duty-free and tax-free sales of tobacco products. However, subparagraphs (b) and (c) were unnecessary.

Mr BAHARVAND (Islamic Republic of Iran) proposed that the words "stable and" in the first line of subparagraph (b) be deleted. He considered that subparagraph (c) should be retained, and that, in order to give more flexibility to a future Conference of the Parties, the words "in order to reduce tobacco consumption" should be added at the end.

In reply to the argument that tax measures were a prerogative of States, he pointed out that the adoption of a convention was also such a prerogative.

Ms ROVIROSA PRIEGO (Mexico) agreed that it was desirable to give some flexibility to the future Conference of the Parties. She therefore suggested that the word "adoption" at the beginning of subparagraph (c) be replaced by the word "evaluation".

Ms BALOCH (Pakistan) regretted that she could not support the view expressed by the delegate of Iran. She continued to favour deletion of subparagraph (c).

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Dr TATA (India) pointed out that while the Conference of the Parties could recommend principles that should guide national tax policies, any recommendations regarding specific tax measures would infringe national sovereignty. Both subparagraphs should therefore be deleted.

Mr TADEVOSYAN (Armenia) reiterated his proposal that Parties be urged to ensure that tax revenue from sales of tobacco products was used for health, educational and cultural purposes.

Mr RI Si Hong (Democratic People's Republic of Korea) said he maintained his view that subparagraph (c) should be deleted.

Ms NOFTLE (Canada) proposed that, for the sake of clarity, a new paragraph 3 be added, to read: "The provisions of this convention shall not restrict in any manner the authority of a Party to establish and amend its domestic tax policies or laws."

The CHAIR, summarizing the discussion, said that some delegates had referred to national prerogatives regarding tax policy, and some had drawn attention to the link between tax policy and public health. Reference had also been made to the need for exchange of tax information. Suggestions for deletion or retention of wording, or for amendments, would be reflected in the final document, which would also reflect the balance of the discussion. In particular, one Region had suggested that the phrase "to the extent possible within the means at its disposal and its capabilities" should be deleted throughout the text. That proposal would be relayed to the other working groups. Several delegations had referred to the potential negative effects of price increases, while others had urged that tax revenues should be used to benefit those who had to deal with the effects of smoking. All observations would be reflected in the summary produced by the working group.

Professor WARNER (World Bank) said that it was essential that Article F should emphasize the need to link tax increases to an inflation index. He noted that there was evidence to show that price differentials between countries were not in fact the chief cause of tobacco smuggling. Lastly, he endorsed the view that a reference should be included in the text to price increases as a means of preventing initiation of smoking.

Mr COSTI SANTAROSA (Brazil) pointed out that his delegation had already submitted a proposal to the effect that taxes on tobacco products should be linked to rates of inflation.

Ms BALOCH (Pakistan) asked whether the position of one regional group regarding the deletion of the phrase beginning "... to the extent possible" was to be taken as the position of the working group as a whole. She would prefer that phrase to be retained.

The CHAIR said that that would not be the case. The whole range of views expressed would be reflected in the summary.

Dr Stamps took the Chair.

1. Measures related to the supply of tobacco

Paragraph I.15 (Government support for tobacco manufacturing and agriculture)

Mr RYAN (European Community) said that the Community and its Member States attached great importance to the question of tobacco-growing subsidies. Community rules imposed a limitation on production by means of a series of quotas, and a quota buy-back system enabled producers to move

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to other activities. A 2% levy on tobacco-growing subsidies was used to provide information on the health dangers of smoking, and also to carry out research into alternative livelihoods and cultures.

The European Community would therefore like emphasis to be laid in the text on reconversion to alternative activities.

Dr FATA (India) suggested that a definition of the term "subsidy" be included in the paragraph. It might be possible to take as a basis the definition contained in the WTO Agreement on Subsidies and Countervailing Measures, and to adapt it to the needs of the convention. He pointed out that the convention should address not only government subsidies, but also subsidies provided by the tobacco industry to tobacco growers in various forms. The definition should therefore cover tax exemptions and rebates offered on a selective basis.

Mr CULLEN (Argentina) said that the elimination of subsidies was a matter of concern to his delegation, as was the question of how alternative crops were to be introduced and the economic impact on producers alleviated. In its present form, the text did not seem to be in line with the health objectives of the convention, and might encroach on the province of WTO.

Ms LAMBERT (South Africa), speaking on behalf of countries of the African Region, suggested that the paragraph should be amended to read "Each Party shall promote alternative economic activities for tobacco growers and workers". A new paragraph 16 should then be added, reading "Each Party shall gradually eliminate subsidies for tobacco growing and manufacturing of tobacco products".

Dr ABOU-ALZAHAB (Syrian Arab Republic) suggested that a separate protocol on the subject of subsidies should be drafted.

* Dr NOVOTNY (United States of America) pointed out that WTO was currently engaged in negotiations on the subject of subsidies, under an agreed work programme that reflected a carefully crafted balance of interests, and inclusion of subsidies in the framework convention might upset the agreement that had already been achieved. He therefore recommended deletion of the paragraph.

Mr ODOKO (Japan) said that in the light of the situation of tobacco growers and manufacturers in his country he would need to devote further study to the paragraph before he could accept it.

Mr ADSETT (Canada) fully supported the paragraph, and agreed with the delegate of India that it should include a definition of "subsidy".

Dr SILVA GOLDFARB (Brazil) said that as it stood the wording of the heading might be misleading. She suggested that it be replaced by "Eliminating subsidies and creating governmental support for alternative crops".

Dr HAMAD (Sudan) supported the proposal for the establishment of a separate protocol on subsidies for tobacco growers, and suggested that the words "Each Party shall gradually eliminate subsidies" be replaced by the words "Each Party shall take the necessary action to prevent any increase in the tobacco cultivated area and to reduce it gradually".

Mr TADEVOSYAN (Armenia) pointed out that the issue was very important to countries with economies in transition. A large part of his own country's meagre budget came from the tobacco-growing and manufacturing sectors. He suggested that the text should be split into two parts, one part dealing with subsidies and the other with alternative economic activities.

The CHAIR suggested that the delegate of Armenia should consult with the South African delegate with a view to finding an appropriate form of words.

Dr AL-LAWATI (Oman) drew attention to the need to set a deadline for the elimination of subsidies for tobacco growing and manufacturing. He proposed that after the words "tobacco products" the text should be amended to read "within a maximum period of [5] five years from the date of the ratification of this convention, and to promote alternative economic activities taking into account the recommendations of FAO".

Ms SÁNCHEZ REYES (Nicaragua), supported by Ms QU Meiyu (China), endorsed the elimination of subsidies, which encouraged tobacco consumption. However, it was important to refer in paragraph 15 to the need for international technical cooperation in promoting alternative economic activities for tobacco workers and growers.

Ms BALOCH (Pakistan) endorsed the proposal by the delegate of South Africa that paragraph 15 should be divided into two parts. As to the wording, she suggested that paragraph 15 should read "Each Party shall gradually eliminate subsidies for tobacco growing and manufacture of tobacco products". A new paragraph 16 should read "Each Party shall promote, in accordance with the means at its disposal and its capabilities, alternative economic activities for tobacco workers and growers with the financial and technical support of donors and relevant international organizations."

Dr SEKABARAGA (Rwanda) fully supported the proposal put forward by the delegate of South Africa. Given that the cultivation of tobacco was a major source of income for many African countries, the issue of promotion of alternative economic activities for tobacco workers and growers should come before the issue of elimination of subsidies.

Mr DILEMRE (Turkey) noted that the question of tobacco subsidies was already being dealt with in WTO negotiations. Although countries should be free to choose the means by which they controlled tobacco growing, the convention should encourage them to promote alternative economic activities.

Dr CARIS (Chile) endorsed the proposal put forward by the delegate of South Africa. However, she would prefer paragraph 16 to read "Each Party shall, with the support of the international agencies and developed countries, promote alternative economic activities for tobacco workers and growers."

Mr MBUYA MUTEBA (Democratic Republic of the Congo) said that despite his country's desire to curb tobacco consumption, its need for external funding had hitherto made it difficult to oppose investment in the tobacco industry. However, tobacco growing and manufacture represented only a small part of the economy and it should therefore be possible to promote alternative economic activities. He expressed support for the text proposed, but noted that if it was to be successfully implemented, technical cooperation would have to be provided by the international community. He therefore suggested that the phrase "in accordance with the means at its disposal and its capabilities" should be replaced by "as far as possible".

Mr BAHARVAND (Islamic Republic of Iran) proposed that, in the heading, "Reduction of" should be inserted before "Government support". He endorsed the view expressed by Chile, Pakistan and other delegates that international organizations should provide support for the elimination of subsidies. Paragraph 15 should be broken down into several subparagraphs, one of which should refer to the need to curb the future expansion of tobacco manufacturing.

Dr ANDEN (Philippines) agreed with previous speakers that it would be better to deal with the question of providing alternative economic activities for tobacco growers and farmers, especially in

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developing countries, separately from the question of elimination of subsidies on tobacco growing and manufacturing. The paragraph on subsidies could be placed in brackets, pending clarification of its definition and of developments within relevant international organizations, particularly WTO.

Dr CASTILLO (Dominican Republic) agreed that there was need to promote alternative economic activities in producer countries, and that international cooperation was vital to that end. The new paragraph 16 should also mention the need to carry out studies of the marketing and profitability potential of such activities.

Dr RAMALLO (Venezuela) said he would prefer paragraph 15 to be retained as it stood.

Ms LLORENTE DIAZ (Cuba) said her country did not subsidize tobacco growing and she considered that the issue of subsidies lay within the purview of WTO rather than WHO. She was also concerned lest any kind of compromise relating to crop substitution be adopted without taking into account research currently being carried out in Cuba into other possible uses for tobacco products. She therefore proposed that paragraph 15 be deleted.

Ms MORALES AYLLÓN (Bolivia) supported the Brazilian proposal for the amendment of the heading of paragraph 15. However, it was appropriate to retain the wording "gradually eliminate", bearing in mind that the elimination of subsidies for tobacco growing could not be achieved overnight. She proposed the addition of a sentence referring to the need to take into account the economic situation of producing countries, and to safeguard jobs through alternative investment and employment policies for workers.

Mr ESPINOZA FARFÁN (Guatemala) agreed that the paragraph should be divided into two parts. He also supported the view that for the promotion of alternative economic activities to be successful there would have to be international technical and scientific cooperation mechanisms to ensure their profitability.

Professor AUNG (Myanmar) proposed that the words "including tax exemption and rebates" should be inserted between "subsidies" and "for tobacco growing".

Dr ROA (Panama) endorsed the proposals put forward by Brazil and South Africa respectively that the heading should be amended and the paragraph divided into two parts. She proposed that paragraph 16 should read: "Each Party shall promote alternative economic activities for tobacco workers and growers, to which end developed countries, in particular the tobacco producers and cooperation agencies, in so far as they are able, shall support the Parties that so require with technical and financial resources." She wished to make it clear that Panama was not a tobacco-growing country. However, in order to reduce tobacco consumption there was need to control supply, and she considered that paragraph 15 was an important element in the convention.

Dr SILVA GOLDFARB (Brazil) said that paragraph 15 should contain a definition of "subsidy" if one had not been included in Article B. Other mechanisms for providing financial support, such as grants, should also be taken into account.

The CHAIR, in his summing up, noted that several speakers had supported the concept contained in paragraph 15. Brazil, Chile, Guatemala, Iran, Pakistan, South Africa, representing the African Region, and others, had been in favour of dividing the paragraph into two. Emphasis had been placed on crop modification and on the need to ensure alternative economic activities for tobacco growers and workers. The suggestion by Brazil, supported by Iran and other participants, that the heading should be reworded would be examined. Sudan's suggestion that each Party should seek to

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reduce the area devoted to tobacco cultivation would also be examined in the context of the protocol proposed by Syria. Oman had suggested the setting of a deadline for the withdrawal of subsidies, while Armenia had expressed concern as to social implications. There had been general consensus regarding the elimination of subsidies, although some speakers had been of the view that they were a matter for WTO. However, WTO had no mandate to consider the public health implications of the issue.

Professor WARNER (World Bank) pointed out that paragraph 15 was likely to have only a minimal impact on the demand for tobacco products. However, it was an important political component of tobacco control.

Mr BATES (International Union Against Tuberculosis and Lung Disease), speaking at the invitation of the CHAIR, said that there was no justification for an indefinite subsidy for a product that caused economic, welfare and public health harm. The framework convention should require Parties to switch subsidies from growing tobacco to transition and restructuring, with the goal of phasing out support for tobacco growing and developing other economic activities. The amount of subsidies for tobacco growing were enormous and, if redeployed and gradually phased out, could make a substantial difference to public health and economic development. Merely transferring a tiny fraction of the amount to worthwhile activities was no substitute for proper reform, and was unfair to developing countries that grew tobacco without subsidies. A ban on duty-free sales would be an extremely effective anti-smuggling measure.

The meeting rose at 12:50

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WORLD HEALTH ORGANIZATION

INTERGOVERNMENTAL NEGOTIATING BODY
ON THE WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL
Second session

A/FCTC/INB2/WG3/SR/1
18 June 2001

WORKING GROUP 3

PROVISIONAL SUMMARY RECORD OF THE FIRST MEETING

International Conference Centre, Geneva
Tuesday, 1 May 2001, at 15:00

Chair: Mr I. SEDDIK (Egypt)
later: Mr R. FARRELL (New Zealand)

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Note

This summary record is **provisional** only. The summaries of statements have not yet been approved by the speakers, and the text should not be quoted.

Corrections should be sent to Responsible Officer, Governing Bodies, World Health Organization, 1211 Geneva 27, Switzerland, or faxed to +4122 791 3995, Attn: Responsible Officer, before 27 July 2001.

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WORKING GROUP 3

FIRST MEETING

Tuesday, 1 May 2001, at 15:00

Chair: Mr I. SEDDIK (Egypt)
later: Mr R. FARRELL (New Zealand)

DRAFTING AND NEGOTIATION OF THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL: Item 4 of the Agenda (Documents A/FCTC/INB2/2, A/FCTC/INB2/3, A/FCTC/INB2/5, A/FCTC/INB2/DIV/1 and A/FCTC/INB2/DIV/6) (continued)

The CHAIR welcomed delegates to the first meeting of Working Group 3 and reviewed the working arrangements. He announced that Working Group 3 would discuss the following Articles: Conference of the Parties (M), Secretariat (N), Support by the World Health Organization (O), Reporting and implementation (P), Settlement of disputes (R), Compensation and liability (J), Development of the convention (S) and the Final clauses (T) (noting that no provisions for S and T had been drafted in the Chair's text and the text was therefore to be formulated at a later session of the Intergovernmental Negotiating Body) together with aspects of Article D (Guiding principles paragraphs 3, 6 and 8) and of Article E (General obligations paragraphs 4 to 7). He suggested that, under Article B, on Definitions, a list comprising only those terms which warranted further discussion be handed to the Secretariat at the end of the week. The Secretariat would then prepare a draft for consideration at the third session of the Intergovernmental Negotiating Body.

Mr FARRELL (New Zealand, Co-Chair) said that the two Co-Chairs intended to work closely together and would both be present throughout all meetings. He proposed a sequential reading of the Chair's text, drawing on, where necessary, draft elements from the first session of the Intergovernmental Negotiating Body. The aim was to produce a text that could be considered at the next session of the Intergovernmental Negotiating Body. He requested delegates to submit textual proposals in writing. Intergovernmental and nongovernmental organizations would be invited to make statements at the end of each meeting.

J. Compensation and liability

Mr KEBBON (Sweden) asked for clarification on the preparation of the draft for consideration at the third session of the Intergovernmental Negotiating Body.

Mr FARRELL (New Zealand, Co-Chair) emphasized that, for the preparation of a consolidated document, delegates must hand in written texts. It would take time to prepare that document, perhaps even continuing after the end of the working group session. A draft incorporating the proposed amendments would be distributed as soon as possible.

Mr YI Xianliang (China) said that it was not appropriate to start the discussion on Article J, in respect of which there were no clear provisions. The issue of compensation was delicate. Since the other two working groups had not completed their deliberations, discussion of Article J was premature. He suggested starting with Article I. or M.

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Mr KEBBON (Sweden) asked about the process of compilation and the responsibility for the composite text after the session. Would all three working groups adopt the same approach?

Mr FARRELL (New Zealand, Co-Chair) said that he would report back to the working group after discussing the matter within the Bureau.

Mr SNYDER (Canada) said that he had reservations about some of the texts used in earlier drafts of the convention, which were complex and might have more options than were strictly necessary. In order to achieve a better outcome it might be better to consider some other models in addition.

Mr BAHARVAND (Islamic Republic of Iran) said that he had been present at the meeting of the panel of legal experts convened by WHO in April 2001¹ at the request of the Intergovernmental Negotiating Body at its first session. His delegation's view, expressed at that meeting, was that there was a simple legal issue of recognizing liability where harm had been inflicted. Compensation was one possible consequence of liability, at the discretion of the courts. International law already contained many provisions which were acceptable to all parties and which might apply to the issue of compensation and liability in the convention. It would not be difficult to draft a textual proposal regarding such provisions. The Islamic Republic of Iran would be honoured to host a regional meeting, or meeting of experts, to deal with Article J of the draft convention in order to discuss the issue and would present a textual proposal to be taken up by the Intergovernmental Negotiating Body at its third session.

Professor GIRARD (France) replying to the delegate of Sweden and speaking in his capacity as Co-Chair of Working Group 1, emphasized the aims of transparency and democracy in the proceedings, and said that the method adopted in Working Group 1 had been to distribute a list of amendments as complete as possible, 12 hours after the meeting. Working Group 2, and presumably Working Group 3, would do the same. The future procedure would be agreed at the meeting of the Bureau that evening.

Ms BALOCH (Pakistan) endorsing the comments made by the delegate of China said that it would only complicate the issue to discuss compensation and liability without a text. She was not happy with the output of the panel of legal experts contained in document *A/CTC/INB2/5* and did not want to see that report used as a basis for discussion. She asked which document was to be used and how the working group intended to proceed.

Dr REDDY (India) also endorsed the proposal by the delegate of China and others to defer discussion of Article J, and to proceed to discuss Article L.

Ms LAMBERT (South Africa) supported the suggestion not to discuss compensation and liability without a proper text, and therefore welcomed the suggestion by the Islamic Republic of Iran to convene a further meeting in order to draft an initial text.

Dr AL MULLA (Qatar) also endorsed the proposal by the Islamic Republic of Iran to hold a regional meeting, in order to provide useful background for the discussion. Echoing the comments by the delegates of China and India he preferred to postpone discussion of Article J.

¹ WHO Consultation on potential liability and compensation provisions for the framework convention on tobacco control, 9-10 April 2001, Geneva.

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Professor ZELTNER (Switzerland) shared the view that discussion of Article J should be deferred and endorsed the proposal to hold a special meeting on the subject of compensation and liability. Nevertheless, such a meeting should not be organized at regional level, but should be open to all interested State Parties; Switzerland would be interested. The questions of compensation and liability were crucial to the convention and therefore warranted careful consideration.

* Mr SANDAGE (United States of America) said that he failed to understand why compensation and liability should be treated differently; he did not see the need for a further special meeting on the subject. WHO had already brought together a panel of eminent legal experts from around the world, at considerable expense, which had drawn a number of conclusions, although they might not necessarily be acceptable to all Member States. He had come to the present meeting ready to discuss the matter, but if other delegations wished to defer it, he would have no objection. He would be in favour of holding discussions in an open-ended working group, but not on the basis of conclusions from a regional group.

Mr BAHARVAND (Islamic Republic of Iran) explained that the special meeting in question was a national initiative, although regional experts would be invited to participate. His country was preparing textual proposals to the convention for submission to the third session of the Intergovernmental Negotiating Body, on which all delegations would have the opportunity to comment.

Mr CASTILLO SANTANA (Cuba) said that from the report on the WHO Consultation on potential liability and compensation provisions for the framework convention on tobacco control contained in document A/FCTC/INB2/5 it was clear that the legal experts had not reached any agreement on the issue of compensation and liability, but had merely expressed different points of view on the subject. His delegation had specific views on the matter and reserved the right to outline them at a later stage, if it was decided to defer discussion, given the absence of a suitable text. It would be difficult to consider the matter without first defining the substantive issues at stake.

Mr TVEITAN (Norway) said that preliminary discussions on the matter would need to take place at some point. He therefore supported the proposal by the delegate of the United States of America to hold such discussions forthwith.

Mr VARELA (Argentina) agreed with previous speakers that it was difficult to discuss Article J without an appropriate text. Although the report on the meeting of the panel of legal experts was interesting, clearly it could not form the basis for the working group's discussion. Since several delegations had indicated that they wished to make proposals on the subject, he suggested that they should submit them in writing to the Secretariat, which should distribute them as conference papers as soon as possible. On the basis of those texts, the working group could take up the matter at a subsequent meeting.

Professor ZELTNER (Switzerland), responding to the comments by the delegate of the United States of America, said that the problem with Article J was the absence of a text from the Chair. Discussion and proposal of appropriate amendments could take place only on the basis of such a text. Commenting on the proposal by the delegate of the Islamic Republic of Iran he supported the idea of an open-ended working group, recognizing the need for substantive discussion on the subject of compensation and liability. As to how to get out of the current procedural impasse, the working group had three basic options. First, on the basis of written input provided to the Secretariat, the Chair could prepare proposals over the next few days for discussion at a subsequent meeting. Secondly, the Chair could draft a text on the basis of proposals tabled during the current meeting. Thirdly, discussion on

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the subject could continue outside the framework of the current session, as suggested by the delegate of the Islamic Republic of Iran.

Mr ADSETT (Canada) said that he was in favour of the second option. An exchange of initial views on the subject would be useful, on the understanding that debate would continue beyond the current meeting. With regard to the proposal by the delegate of the Islamic Republic of Iran, like the delegate of Switzerland, he believed that the group entrusted with the task of drafting a text should be open-ended in nature, although regional groups and individual Member States would be welcome to submit proposals.

Ms DJAMALUDDIN (Indonesia) observed that the working group had spent nearly one hour discussing procedural matters. In her view a substantive discussion could only be conducted on the basis of a text from the Chair and there had been plenty of suggestions made as to how that could be prepared. She therefore urged the working group to make headway in its work.

* Mr SANDAGE (United States of America) said that he agreed with most of the comments made by the delegate of Canada. Given the sensitivity of the subject matter it was unreasonable to expect the Chair to draft a text without first hearing the views of Member States. When and where such a debate took place was not important.

The CHAIR said that there seemed to be consensus to defer consideration of Article J pending consultation on the subject with the Chair of the Intergovernmental Negotiating Body. A text from the Chair was required as a basis for discussion and Member States were invited to submit written proposals in that connection.

It was so agreed.

Mr Farrell took the chair.

L. Scientific, technical and legal cooperation

Mr ADSETT (Canada) said that the working group might consider incorporating some or all of the material in Article L under Article Q on Financial resources, given its relevance to that subject.

Mr KEBBON (Sweden), speaking on behalf of the European Union and its Member States, supported the Chair's text for Article L, subject to one amendment: the addition of the phrase "and promoting the cessation of tobacco use" at the end of paragraph L.1(b)(i).

Ms BALOCH (Pakistan) said that given the importance of Article L in the convention its wording ought to be strengthened. She proposed that the phrase "in accordance with its national laws, regulations, practices and international obligations, and taking particular account of the needs of developing countries" should be removed from the introductory sentence of paragraph L.1 and incorporated as a separate clause elsewhere in the Article. Furthermore under subparagraph 1(a) a reference should be included to capacity building in developing countries through scientific and technical cooperation.

Mr VARELA (Argentina) said that, although on the whole he was satisfied with the text of Article L, the phrase "in accordance with its national laws, regulations, practices and international obligations" should be deleted, and the question of the needs of developing countries should be reserved for the end of the paragraph. He underlined the importance of subparagraphs (b)(ii) and (iii) concerning assistance to tobacco workers and growers, who would be affected by a dramatic

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production in the demand for tobacco. He expressed interest in the proposal by the delegate of Canada regarding Article Q, since there was no reference to the financial aspects of cooperation in the article under consideration.

Mr ODOKO (Japan) said that, as currently worded, paragraph 2 implied that a new mechanism to promote and facilitate scientific, technical and legal cooperation would be established. He considered that existing mechanisms should be used for that purpose.

Ms ROVIROSA PRIEGO (Mexico) proposed that in subparagraph 1(c), the words "training programmes for appropriate personnel" should be replaced by "suitable and appropriate training programmes for specific personnel". Under subparagraph 1(d), she proposed the addition after the word "equipment" of the words "and material", in view of the requirements for written and video material to promote control of the use of tobacco. Those proposals would be submitted in writing.

* Mr SANDAGE (United States of America) said that his country had always supported international cooperation in the scientific, technical and legal spheres and would endorse a provision that enabled each State Party to foster, in accordance with its national laws and practices and taking into particular account the needs of developing countries, the promotion of scientific, technical and legal cooperation to establish and strengthen national tobacco control programmes. However, like Japan, the United States was not in favour of setting up a new mechanism for that purpose and intended to submit an amendment along those lines.

Mr ADSETT (Canada), referring to subparagraph 1(b)(i), said that confining the treatment of tobacco dependence to building a strong legislative foundation was too restrictive. To broaden the scope of the provision, he proposed that it should be reworded to read: "building, as appropriate, a strong legislative, regulatory or programmatic foundation for the treatment of tobacco dependence".

Mr CASTILLO SANTANA (Cuba) proposed that paragraph 1(b) and its subparagraphs should be replaced by the following: "provision of technical, scientific, legal and other expertise to establish and strengthen national tobacco-control programmes and policies, create a solid legislative foundation and assist in the treatment of tobacco dependence as well as other activities to achieve the objectives of the convention".

Mr YI Xianliang (China), while broadly supporting the text of the Article, agreed with the Canadian delegate's comments with regard to the reference to a strong legislative foundation in subparagraph 1(b)(i).

Dr HAMAD (Sudan) suggested that subparagraph 1(c) be reworded to read: "support for the establishment of appropriate training programmes for personnel or for those working in the area of tobacco control".

M. Conference of the Parties

Paragraph M.1

Mr YI Xianliang (China) agreed with the substance of the paragraph, but questioned whether it would be necessary to hold a session of the Conference of the Parties every year. Perhaps a session could be held every year for the first three or four years, after which every two years would suffice; subsidiary bodies might meet every year. He would submit a text to indicate his delegation's position.

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Ms BENNETT (Australia) acknowledged the need for a Conference of the Parties but stressed that existing structures within WHO should be used to the fullest extent so that there was no unnecessary duplication of mechanisms.

Dr FARSHAD (Islamic Republic of Iran), speaking on behalf of the Member States of the Eastern Mediterranean Region, said that it might be premature to hold a detailed discussion on the Conference of the Parties as the obligations of the contracting Parties as enshrined in the convention and related protocols had still to be examined. The Conference requirements might change once the substance of the convention had been agreed. He suggested that other matters, such as financial resources, be examined in detail prior to discussion on the Conference.

Mr KEBBON (Sweden), speaking on behalf of the European Union, agreed that the elaboration of and final agreement on a set of provisions relating to institutions and implementation of the framework convention would be difficult until Parties' substantial obligations under the convention had been identified more clearly. Although a general discussion could be held on questions relating to institutions and implementation at the current meeting, the European Union believed that the meeting should focus on making progress on the parts of the convention relating to the substantial obligations.

As to the point raised by the delegate of Australia, the European Union favoured establishing a mechanism that would ensure the effective functioning and implementation of the framework convention without being unnecessarily burdensome and costly. As far as possible, use should be made of existing mechanisms within WHO, thereby allowing all available resources to be devoted to concrete programmes, notably those dedicated to cooperation for implementation of the convention by developing countries.

The European Union supported the proposal that the Conference of the Parties should meet every year unless otherwise decided by the Conference, rather than when called upon by the Director-General. It also supported the proposal that the Conference should be convened in conjunction with the World Health Assembly (WHA), which would save valuable time and resources. He proposed that the text in square brackets be moved to the end of the paragraph so that the convening of the Conference in conjunction with the Health Assembly was not qualified by the phrase "unless otherwise decided by the Conference".

Ms MACMILLAN (New Zealand) agreed that there was a need for a continuing Conference of the Parties, which would play a valuable role in the regular review of the tobacco control programmes set up under it. She was not convinced, however, that an annual meeting would be necessary; she would prefer the wording to remain general, indicating that the first Conference should take a decision on the matter.

Dr AL-LAWATI (Oman) agreed with the delegates of China and New Zealand that it might not be necessary to hold a Conference every year. He also agreed that the first Conference of the Parties should decide on the matter. However, he was not in favour of convening the Conference in conjunction with the World Health Assembly, and proposed that the text in square brackets be deleted.

Mr SNYDER (Canada) agreed with earlier speakers on the importance of defining institutions in a way that would both further the convention and be cost-effective, relying to the extent possible on existing institutions such as WHO. On a legal note, he noted that the Conference of the Parties would be a separate institution and that an agreement between the Conference and the Organization in regard to the sharing of common services would be needed. He concurred with the delegates of China and Oman that the Conference would not necessarily meet every year or in conjunction with the World Health Assembly; those were decisions for the first Conference to take.

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* Mr SANDAGE (United States of America) associated his delegation with the views expressed by the delegates of China, Australia, New Zealand, Oman and Canada. While he supported the convening of a Conference of the Parties, it was not clear that it would be necessary to convene the Conference on an annual basis. The Conference would be voluntarily funded and costs would need to be evaluated before a commitment to meet was given. He asked whether WHO could provide an estimate of the costs of convening such a meeting, before any decisions were taken on the matter.

Ms ROVIROSA PRIEGO (Mexico) agreed that a Conference of the Parties should be established as it would be the appropriate mechanism to evaluate the application of the provisions of the convention. As the delegate of Canada had indicated, the Conference of the Parties would be an independent legal entity. The financial implications would need to be considered, and an agreement with WHO on the provision of support services should be explored.

Mr VARELA (Argentina) supported the idea that a Conference of the Parties be established with meetings convened annually. For reasons of economy and practicality, it seemed appropriate to hold the Conference in conjunction with the World Health Assembly. He therefore suggested that the square brackets be removed. He also proposed that the phrase "unless otherwise decided by the Conference" be deleted, since it weakened the first part of the paragraph and amounted to saying that meetings would not be held annually, but whenever the Conference wished.

Mr ODOKO (Japan) did not object to the establishment of a Conference of the Parties once the convention had entered into force. However, the text referred to the convening of the first session not later than one year after the entry into force of the convention. The timing of the first session should be decided in the light of the provisions governing entry into force. There would need to be time for sufficient ratifications and accessions to enable a substantial number of contracting parties to participate.

Dr GHANEM (Egypt) said that he accepted the establishment of a Conference of the Parties. In addition to the reference to annual sessions of the Conference, provision should be made for the convening of extraordinary sessions if circumstances so warranted.

Professor ZELTNER (Switzerland) concurred with the need to establish a Conference of the Parties. However, he agreed with previous speakers that the convening of a session every year was not required. In line with the comments of the United States' delegate, he emphasized that the sessions should be held in a cost-effective manner and it should be clear which body was to make decisions on the financing of the Conference. He asked which body would decide on the financing of the secretariat and for estimates of potential costs. It appeared that the provision of services by the WHO Secretariat to the Conference would be funded by voluntary contributions. He asked for information on the mechanisms for cooperation between WHO and the Conference.

Paragraphs M.2 and M.3

Dr SANGALA (Malawi), supported by Mr BASSE (Senegal), said that, in the view of the Member States of the African Region, the second sentence of paragraph M.3 should be deleted. The Conference of the Parties should have the same rules of procedure as the World Health Assembly.

Mr SNYDER (Canada) said that the Conference of the Parties would be a different institution from the World Health Assembly. Thus, although it might subsequently find that the latter's Rules of Procedure were appropriate, it should not be bound by them from the outset. The rules governing access by nongovernmental organizations, for example, might be different for the two bodies. His

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delegation would favour the deletion of the first sentence and the retention of the second, including the square brackets currently in place.

Mr YI Xianliang (China) agreed that the Conference of the Parties should have its own rules of procedure. The fact was, however, that those of the Health Assembly were the most appropriate and could be adopted at the first session of the Conference. He would submit a text to that effect.

Mr KEBBON (Sweden), speaking on behalf of the European Union, said that the rules of procedure and the financial rules should be adopted by the Conference by a two-thirds majority, not by a simple majority. The Legal Counsel might be invited to consider whether "two-thirds" related to all Parties to the convention or to the Parties present and voting. Given the major differences in function and structure between the convention and the World Health Assembly, the European Union doubted the viability of applying the Health Assembly's Rules of Procedure to the Conference of the Parties. However, they could be used in drafting as a point of departure.

Ms DJONEVA (Bulgaria) supported the European Union's position.

Ms MACMILLAN (New Zealand), supported by Ms BALOCH (Pakistan), said that, since the Conference of the Parties would comprise sovereign Member States, it should adopt its own financial rules and rules of procedure, even though there was room for considerable synergy with the Health Assembly.

Mr VARELA (Argentina) considered that the first sentence of paragraph M.3 should be deleted. No decision need yet be made about the square brackets in the second sentence. As for the point concerning access by nongovernmental organizations to the Conference of the Parties, the solution would be to remove the square brackets round paragraph M.5; as an integral part of the convention, the provisions of that paragraph would take precedence over any rules of procedure, thus safeguarding the role of such organizations.

Ms BENNETT (Australia) agreed with previous speakers that the Conference of the Parties should adopt its own rules of procedure and financial rules, wherever possible by consensus. Her delegation would submit a text containing that concept, while retaining the square brackets for the time being in respect of majority voting when a consensus could not be achieved.

* Mr SANDAGE (United States of America) agreed with the delegates of New Zealand and Sweden concerning the rules of procedure and financial rules, which should be adopted by a two-thirds majority vote.

Ms KULICHENKO (Russian Federation) said that the Conference of the Parties should have its own rules, being a distinct entity. However, she would prefer their adoption to be by a simple majority.

Paragraph M.4

Dr REDDY (India) said that substantive provisions, such as those relating to the implementation of mechanisms to provide financial assistance to developing countries, should be incorporated into the Chair's text as they were developed. Subject to that understanding, he was in general agreement with the provisions of paragraph M.4. Subparagraph (c), however, should be deleted, since the coordination of measures between two or more Parties was the function of the secretariat and should not be imposed on the Conference of the Parties.

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Ms BALUCH (Pakistan) said that, as the delegate of the Islamic Republic of Iran had pointed out, there was much that could not be decided until the obligations of States Parties had been defined. She agreed with the delegate of India that subparagraph (c) should be deleted. Secondly, it was too early to speak of protocols to the convention: square brackets should therefore be placed round the words "and its protocols" in the second line of the paragraph. Lastly, there would be a need for a standing committee or review body to monitor implementation of the convention. She would make a proposal to that effect in due course.

Mr KEBBON (Sweden), speaking on behalf of the European Union, said that while the Conference of the Parties could promote the mobilization of resources to support the implementation of the convention, the task of raising funds for secretariat services should not be borne by the Conference. Rather, funds should be made available under the regular budget of WHO. He therefore proposed that in subparagraph (j) the phrase "to support secretariat services pursuant to Article [Secretariat] and" should be deleted. His other proposed amendments were less crucial. First, in subparagraph (b), "by the most cost-effective and appropriate means" should be inserted after "information". Secondly, in subparagraph (e), "harmonization" should be replaced by "development and evaluation". Thirdly, in subparagraphs (k) and (m), the phrase "and its protocols" should be inserted after the word "convention". Lastly, in subparagraph (m), the phrase "as well as all other functions assigned to it thereunder" should also be deleted, since paragraph 4 should in any case contain an exhaustive list of functions.

Ms DJAMALUDDIN (Indonesia), speaking on behalf of the Member States of the South-East Asia Region, endorsed paragraph M.4 in general but expressed reservations about subparagraph (k). It was a doubtful provision, both in terms of cost effectiveness and because it would be appropriate to empower WHO to carry out monitoring and evaluation functions under the convention.

Mr ADSETT (Canada) questioned whether the Conference of the Parties should examine the obligations of the Parties to the protocols unless the latter specifically requested that. He therefore favoured the deletion of the phrase "and its protocols" in the opening sentence of paragraph M.4 and in subparagraphs (e), (d), (g), (h), (i), (j) and (l). He suggested that phrase in square brackets in the opening sentence of paragraph M.4 should be moved to Article S, where it was more relevant. In subparagraph (g), the current wording did not allow for a broad enough range of sources of information. He therefore suggested that it should be amended to read: "assess the implementation of the provision of this convention by the Parties, on the basis of information made available to it, including that provided by the Parties and in accordance with guidelines to be established by the Conference of the Parties". In the interest of transparency, subparagraph (h) should be amended to read: "consider, adopt and publish regular reports on the implementation of the convention and arrange for the distribution of such reports to all Parties". Finally, in subparagraph (i), "necessary for the implementation of the Convention and its protocols" should be replaced by "related to the implementation of the Convention". He had noted the comments made on subparagraph (j). The mobilization of the necessary financial resources was an important question that would require further consideration at some point.

Mr YI Xianliang (China) suggested, first, that in subparagraph (a), the word "periodically" was too vague: a more specific timeframe should be set out and he would submit a written proposal to that end. Also the word "implementation" should be followed by the words "particularly in developing countries". A similar change should be made to subparagraph (j): "implementation" should be followed by the words "by developing countries". He endorsed the proposal by the delegates of India and Pakistan that subparagraph (c) should be deleted. In subparagraph (e), "strategies, plans" and "legislation" should be deleted. Lastly, he endorsed the views of the delegate of Sweden regarding

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subparagraph (j); in addition to the phrase mentioned by that delegate, he proposed that "in accordance with Articles [Financial Resources: Reporting and Implementation]" should be deleted.

Mr BASSE (Senegal), speaking on behalf of the Member States of the African Region, said that the Conference of the Parties should encourage coordination between Parties and that that was the effect of subparagraph (c). The paragraph should therefore be retained and the square brackets removed. The same applied to subparagraph (e), which should give more prominence to legislation and should therefore be amended by replacing "appropriate strategies, plans, programmes, policies, legislation and other measures" by "legislation and other strategic, planning, programme and policy measures". He would submit written proposals to that effect. Lastly, the square brackets should be removed from subparagraph (k). Part of the mandate for the Conference of the Parties was to ensure the implementation of the convention; for that they might need a subsidiary body, and the provisions should offer the necessary flexibility to allow for that.

Mr ODOKO (Japan) endorsed the earlier concern expressed about the use of "and its protocols" in paragraph M.4. The protocols would be an important part of the convention, whose negotiation and adoption should be open also to Members of WHO that were not Parties to the convention. Amendment of the convention and annexes was a different matter, to be dealt with by the Parties to the convention alone. He expressed strong reservations about the provisions contained in subparagraphs (a) and (g). He was not sure whether the Conference of the Parties should be assigned such a strong regulatory role, and was concerned about subsequent measures it might take after identifying non-compliance.

Dr SEKABARAGA (Rwanda) said that he did not fully agree with the previous speaker since it was essential to monitor compliance by Member States acceding to the convention. If that task was not performed by the Conference of the Parties, it would be necessary to establish a separate regulatory body to do so if the convention was not to become a dead letter. Subparagraphs (a), (g) and (h) used the terms "periodically examine", "assess", and "consider and adopt regular reports on", respectively. It was important to be precise about the periodicity of the assessment in order to encourage compliance with the convention.

Dr GHANEM (Egypt) expressed concern that the provision of information by nongovernmental organizations for monitoring purposes, as indicated in subparagraph (l), might give rise to problems and proposed that the words "and nongovernmental" should be deleted.

Dr HAMAD (Sudan) said that the Conference of the Parties could not possibly carry out all the duties set forth in paragraph M.4 because it would not be in permanent session; a permanent secretariat or executive body would be required for that purpose and to prepare for meetings of the Parties, as proposed earlier by the delegate of Pakistan.

Mr ARRIAGA WEISS (Mexico) stressed the importance of subparagraph (g), which would not only enhance the commitment involved in accession to that instrument but would provide guidelines for any necessary adjustments. With regard to subparagraph (d), the tasks involved would not arise immediately when the Conference of the Parties had been established but would rather develop as indicators were identified that would enable comparisons. A list of indicators would need to be drawn up, as indicated by his delegation at the first plenary meeting.

Mr CASTILLO SANTANA (Cuba) said that it would have been preferable for the discussion on the role of the Conference of the Parties to have taken place at a later stage. He agreed with previous speakers that care should be taken in referring to "protocols" in the provisions of the convention. He supported the deletion of subparagraph (c), or at least the retention of the square brackets.

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Subparagraph (l) should be deleted, as should subparagraph (e) since it dealt with matters contained elsewhere in the text. Having heard various comments on subparagraph (k), he doubted its usefulness and stressed that subsidiary bodies should be established only if essential. UNCTAD should be mentioned in subparagraph (i), because of its role in analysing economic impacts of implementation of the convention especially on the developing countries.

Professor AUNG (Myanmar) proposed that subparagraph (k) should be amended to read "establish a subsidiary body to monitor implementation of the Conference of the Parties".

* Dr NOVOTNY (United States of America) noted that Working Group 3 had the task of considering paragraphs 4 to 7 of Article E, General obligations, and indicated that his delegation would submit a further paragraph along the same lines.

Paragraph M.5

Mr BASSE (Senegal), speaking on behalf of the Member States of the African Region, proposed that the text should remain as it stood.

Mr SNYDER (Canada) supported that proposal and suggested that the square brackets should be removed.

Ms BALOCH (Pakistan) disagreed, stating that it should be up to the Conference of the Parties to draw its own rules of procedure and representation. The paragraph should be deleted.

Dr REN Minghui (China) said that if entities not Parties to the convention were to be listed in order, non-party States should appear first, followed by specialized agencies of the United Nations, regional economic integration organizations – if they were deemed necessary, which he questioned – and then nongovernmental organizations.

Mr SÓLARI (Argentina) supported the deletion of the square brackets; the observer status proposed in the text should be part of the framework convention.

Mr BATIBAY (Turkey) also supported deletion of the square brackets, adding that other relevant, competent international organizations not under the United Nations umbrella, such as Interpol and the World Customs Organization, should be mentioned in the text. He therefore proposed that the words "other competent international organizations" should be inserted after "specialized agencies of the United Nations".

Mr TADEVOSYAN (Armenia) stressed the importance of extending representation to nongovernmental organizations and States not Parties to the convention.

Ms ROVIROSA PRIEGO (Mexico) and Mr ESPINOZA FARFÁN (Guatemala) supported deletion of the square brackets. United Nations organizations, regional economic integration organizations and nongovernmental organizations with relevant experience could make a positive contribution to the meetings of the Conference of the Parties and strengthen the convention.

Mr SZASZ (Tobacco Free Initiative), responding to earlier questions about financial implications, said that financing the costs of international bodies created by treaties adopted by the United Nations were normally either assessed on the Parties concerned or borne by the United Nations regular budget. The core functions of an international organization were almost always financed from assessed contributions, while other activities, such as technical support, might be funded by voluntary

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contributions. In the case of treaty bodies or other separate bodies established by the General Assembly, costs were normally met by the Parties themselves rather than the United Nations as a whole; environmental and disarmament bodies were an example. In the case of human rights bodies, costs were sometimes borne by an assessment on all the parties, sometimes by the United Nations, and sometimes through a sharing arrangement. Because of some past delays in payments, the General Assembly had recently proposed amendments to some human rights instruments in order to transfer all the cost-bearing to the United Nations – simpler arrangement, particularly since most United Nations Members were Parties to the treaties concerned.

Dr BETTCHER (Tobacco Free Initiative), referring to the convening of sessions of the Conference of the Parties, said that the costs would depend on factors such as whether they were held in conjunction with a World Health Assembly, whether special sessions would be required, the number of parties to the convention and whether the United Nations' practice of providing financial support for developing countries would apply for sessions and special sessions.

The meeting rose at 17:50.

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