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PROVISIONAL SUMMARY RECORD OF THE THIRD MEETING

International Conference Centre, Geneva
Wednesday, 2 May 2001, at 15:00

Chair: Dr HATAI CHITANONDH (Thailand)

CONTENTS

	Page
Drafting and negotiation of the WHO framework convention on tobacco control (continued)	
G. Non-price measures to reduce the demand for tobacco (continued).....	2
H. Demand reduction measures concerning tobacco dependence and cessation	14

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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A/FC/INB2/WG1/SR/3

WORKING GROUP I**THIRD MEETING**

Wednesday, 2 May 2001, at 15:00

Chairman: Dr HATAI CHITANONDIH (Thailand)

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

G. Non-price measures to reduce the demand for tobacco (continued)**Paragraph G.1 (continued)**

The CHAIR invited delegates to continue their consideration of paragraph G.1(e) (Education, training and public awareness).

Dr MOOSA (Maldives), speaking on behalf of the countries of WHO's South-East Asia Region proposed that the word "electronic" should be inserted before "and audiovisual media" in subparagraph G.1(e)(i).

Dr RANAWEERA (Sri Lanka) endorsed the proposal made by the delegate of the Maldives. Speaking on behalf of the same regional grouping and on the same subparagraph he proposed the insertion of the words "in any form" after "tobacco consumption". Also "tobacco cessation" should replace "smoking cessation", since the benefits of the former applied to both smoking and non-smoking forms of tobacco consumption.

Dr LI Xinhua (China), referring to subparagraph G.1(e)(iv), said that government officials should set a good example for the public and be involved in effective and appropriate training programmes on tobacco control. Moreover, a clear definition of governments' sphere of competence was required. His delegation would submit written proposals covering those two points.

Dr KACZAMAR (Argentina) proposed that in the first sentence of paragraph G.1(e), the word "facilitation" should be replaced by "promotion", so as to highlight greater commitment by States Parties. She would submit a proposal in writing with respect to the phrase in G.1(c)(ii): "and about the benefits of smoking cessation and tobacco-free lifestyles".

Professor LYNCH (Canada) said she agreed with the delegate speaking on behalf of the European Union that the term "counter advertising" used in paragraph G.1(e) required clarification. While she endorsed the intent of subparagraph G.1(c)(i), she was not satisfied with the current wording. It was unrealistic to expect States Parties to ensure universal access to programmes on the health risks of tobacco consumption and exposure to tobacco smoke. Activities in that area should be as broad and accessible as possible and not confined to the use of specific media. She would submit a written amendment in that connection.

Similarly, the goals set in subparagraph G.1(c)(ii) would be more easily achieved and measured if the words "take steps to" were inserted before "ensure".

A/FC/TC/INB2/WG1 SR 3

With respect to subparagraph G.1(e)(iii), she said that documentary disclosures on the tobacco industry's marketing practices and public affairs management activities were crucial to the effective oversight and regulation of the tobacco industry. However, the intent of the subparagraph needed to be clarified, by the addition of the phrase: "which it is permissible to disclose under domestic law". She expressed support for subparagraph G.1(e)(vi), stressing the importance of nongovernmental organizations in mobilizing support for government tobacco control activities.

Mr KAFFEL (New Zealand) said that his country agreed on the importance of strengthening education, training and public awareness initiatives and believed that emphasis must be placed on measures to discourage smoking. Knowledge must be matched with action. Referring to subparagraph G.1(e)(ii), he drew attention to the phrase "vulnerable groups". He suggested that it should be added to the list of definitions and should encompass indigenous peoples. It was essential that the convention should recognize the importance of education, training and public-awareness initiatives for indigenous peoples too. Likewise he suggested that the phrase "concerned persons" at the end of subparagraph G.1(e)(iv) required clarification and should also be added to the list of definitions. Referring to subparagraph G.1(e)(vi), he expressed support for the participation of nongovernmental organizations in the development of tobacco control strategies.

Mr SHRESTHA (Nepal), speaking on behalf of countries in the South-East Asia Region, said that it was not clear from the text of subparagraph G.1(e)(v) what was intended by "promotion and prevention measures for tobacco control". The text also failed to recognize the needs of young people outside formal education. He therefore proposed that the subparagraph should be re-worded: "develop and implement effective and appropriate educational interventions for promoting tobacco control in students at various levels of education as well as other young persons."

Ms LLORENTE DIAZ (Cuba) said that as it stood subparagraph G.1(e)(iii) was rather ambiguous and might be construed as promoting good production methods for the tobacco industry, which was not the case. She therefore proposed that it should be reformulated: "facilitate public access to information on the tobacco industry that is publicly available and useful to national tobacco control programmes".

Dr VARABHORN BHUMISWASDI (Thailand) expressed support for the intent of the amendment introduced by the delegate of Nepal to subparagraph G.1(e)(v), and proposed the insertion after "students" of the words "and young people". The smoking habit was easily acquired but difficult to give up on account of nicotine addiction.

Dr ZARIHAH (Malaysia) expressed support for the Chair's text for paragraph G.1(e), subject to the addition of two further subparagraphs, which should read:

- (vii) recoup the costs for education, training programmes and public awareness campaigns from earmarked tobacco taxes;
- (viii) ensure that the tobacco industry does not participate in any of the education, training and public awareness activities."

Mr MOON (Republic of Korea) said that the term "tobacco industry" as used in subparagraph G.1(e)(iii) was too broad in meaning. Since the disclosure of information on tobacco product ingredients and advertising and promotion were covered in other paragraphs of the convention, he proposed that the subparagraph should either be deleted, or clarified by a suitable amendment.

Dr ROA (Panama) proposed that paragraph G.1(e) should be reworded to indicate that the Parties shall undertake to facilitate and strengthen "the development of educational training and public awareness programmes and activities, including the use of mass media, the implementation of

A/FCTC/INB2/WG1/SR/3

educational methods appropriate to the population targeted by those messages and mechanisms for assessing the impact of such activities". She further proposed that subparagraph G.1(e)(v) should be amended to read: "develop and implement effective and appropriate educational measures for health promotion, prevention control and treatment of active and passive tobacco consumption and nicotine addiction. Such measures shall be aimed at young people, students at various levels of education, and the general public as a whole". She also proposed the inclusion of an additional subparagraph G.1(e)(vii), which should read: "involve parents in the development of educational activities for the promotion of smoke-free lifestyles and for the prevention and control of tobacco consumption, passive exposure to tobacco and nicotine addiction."

Ms TRAN THU THUY (Viet Nam) said that, while she basically endorsed the intent of paragraph G.1(e), too much emphasis was laid on young persons; attention should also be paid to preventing smoking among adults, whom young people usually tried to emulate.

Ms TKACHENKO (Russian Federation) said that she was not satisfied with the text of the introductory paragraph to G.1(e), at least in the Russian translation, and in particular with reference to the words "campaigns, including counter-advertising". The basic intent of the paragraph should be the introduction of educational programmes, for it was only through such targeted programmes that attitudes towards smoking, especially among young people, could be changed. Moreover such programme should also be developed at international level through cooperation and exchange of experiences, she would provide a written text on those points.

Ms ROVIROSA PRIEGO (Mexico) shared the concern expressed by the delegate of Cuba and others about ambiguity in subparagraph G.1(e)(iii). She would welcome some clarification as to exactly what type of information on the tobacco industry was being sought.

Dr CARIS (Chile), referring to introductory paragraph G.1(e), stated his preference for "programmes" in place of "campaigns", since the latter implied something short term rather than long term. He proposed that subparagraph G.1(e)(v) should be broadened in scope: "develop and implement effective and appropriate promotion, prevention and training measures for tobacco control designed for the entire population especially children and young people". He also proposed the inclusion of an additional subparagraph G.1(e)(vii), which should read: "develop qualitative and quantitative evaluations of the promotion and prevention so as to promote those which are successful in tobacco control programmes." With reference to subparagraph G.1(e)(vi), he underlined the important role of nongovernmental organizations in raising public awareness on the need for tobacco control. He would be submitting a textual proposal in connection with the need to involve those organizations in the development of strategies in that area.

Professor GOJA (Uruguay) was generally supportive of the paragraph, but proposed that under subparagraph G.1(e)(ii) the phrase "smoking cessation" should be replaced by "giving up tobacco consumption", which was a harder habit to break.

Mr DILEMRE (Turkey) proposed that subparagraph G.1(e)(iii) should be qualified by adding text to the effect that information on the tobacco industry could be collected in accordance with each State Party's commercial law.

Mr BAHARVAND (Islamic Republic of Iran), referring to subparagraph G.1(e)(v), suggested that in the context of activities targeted at students, the phrase "training programmes" might be more appropriate than "prevention measures".

WCTC/INB2/WG1 SR 3

Mr VUILLÉME (Switzerland), referring to subparagraph G.1(e)(i) said that information on the risks of passive smoking should be provided to the population as a whole and attention should not be focused solely on children, young people, and vulnerable groups. He therefore proposed that the first part of the subparagraph should be reworded: "ensure that the public is fully informed about the health risks ...".

Dr FARIAS ALBURQUEQUE (Peru) agreed with previous speakers that in paragraph G.1(e) the word "campaigns" should be replaced by the word "programmes", which he understood as being broader in scope and longer in duration. He proposed the insertion at the end of subparagraph G.1(e)(i) of the words: "aimed particularly at avoiding the taking-up of consumption" in line with Peru's basic education programme.

Mr GRBEŠA (Croatia) said that, although he had no specific proposal to put forward, he would stress that various programmes referred to in G.1(e) must be based on scientific studies and manuals which were recognized as being specialized in the appropriate field.

Mr ESPINOZA FARFÁN (Guatemala) said it was of vital importance for tobacco control to facilitate and strengthen education, training and public-awareness programmes targeted at the general public on the health risks of tobacco consumption and exposure to tobacco smoke. In that connection, he expressed support for the initiative described by the delegate of New Zealand, to facilitate access to such programmes for indigenous peoples.

Mr HAMAD (Sudan), referring to subparagraph G.1(e)(ii), said that it was important to ensure coordination between the different health programmes on which tobacco consumption had a bearing, including programmes on cancer, diabetes, and cardiovascular and respiratory diseases.

Dr GRACIELA DE CACERES (Paraguay) said that the working group might consider defining the term "promotion" as used in subparagraph G.1(e)(v). In her view, the term "health promotion" would be more apt in the context. The concept had changed considerably since its inception, and currently meant enabling people in the case in point, children and young people, to assume responsibility for their health.

Paragraph G.2 (Advertising, promotion and sponsorship)

Dr REDDY (India) speaking on behalf of the South-East Asia Region, said that children were especially vulnerable and should be shielded from the nefarious influence of tobacco advertising. He advocated a comprehensive ban on advertising both because it could be guaranteed that children would not be exposed to advertisements intended for adults and because all available data indicated that partial bans were ineffective in controlling tobacco consumption. He therefore proposed that paragraphs G.2(a) and G.2(b) be merged and reworded thus: "prohibiting all forms of tobacco advertising, both direct and indirect, including through sub-brands, promotion and sponsorship including incentives such as gifts, coupons, rebates, competitions and frequent-purchaser programmes; with the aim of reducing the appeal of tobacco products to all segments of society". He further suggested that paragraphs G.2(c) through to G.2(f) be deleted, although the principles contained in them could be included in the proposed protocol. He believed that the amendment he had put forward would minimize the loopholes that could be exploited by the tobacco industry to target children through purportedly adult advertising. He did not believe that children could be protected by using selective strategies.

Ms MAYSHAR (Israel) suggested that, for practical and legal reasons, the words "targeted at" should be replaced with "likely to influence" in paragraph G.2(a). In regard to adult advertising, she

A/FC/TC/INB2/WG1/SR/3

believed that the strictest possible restrictions on advertising, including a total ban wherever feasible, should be imposed.

In regard to the issue of constitutional law, she put forward the view that the need to protect public health should prevail over any potential infringement of freedom of commercial speech and proposed that the Guiding principles should include language to that effect. The list of types of promotions at the end of paragraph G.2(b) was potentially limiting. She suggested that it be deleted, as a detailed list could be more appropriately included in a protocol on advertising. Her delegation proposed the following: "imposing strictest possible restrictions on, and ban as feasible, all forms of direct and indirect tobacco advertising, promotion and sponsorship:". Turning to paragraph G.2(e), she said that it would be preferable to specify disclosure of expenditures related to both "direct and indirect advertising" promotion.

In addition to specifying the phasing out of sponsorship of sporting events, general language of "other events" should be used rather than the provision limiting cultural events. She indicated that her delegation would submit a text of proposed amendments.

Dr NJALSSON (Iceland) was strongly in favour of a ban on advertising, promotion and sponsorship, considering that step to be a successful tobacco control intervention. He suggested that any reference to age in paragraph G.2 should be deleted as young adults and children would inevitably be exposed to advertising directed towards the adult market and, indeed, might find it particularly appealing.

Noting the global nature of the tobacco trade, he pointed out that the Internet provided a way for the tobacco industry to avoid national advertising bans. He therefore proposed the addition of a new paragraph G.2(g) to read: "banning any direct or indirect Internet advertising for tobacco products or tobacco-related items, such as logos". The proposed amendments would be submitted in writing.

* Mr SANDAGE (United States of America) said that his delegation supported, to the extent permitted under the domestic law of each Member State, the elimination of those messages in the advertising, sponsorship and promotion of tobacco that had particular appeal for children and adolescents. In particular, he supported banning outside advertising of tobacco products, that was focused on or targeted at children, such as that which lay within a specified distance of places providing services to children, such as schools and libraries.

He also supported the requirements for health warnings on any tobacco product advertising. Any print advertising that was accessible to children should be in black and white. He supported a prohibition on false, misleading and unsubstantiated claims in any tobacco product advertising. There should be provisions obligating Parties to require tobacco companies to report annual advertising, marketing and promotional expenses and annual sales to the public in the aggregate. However, his delegation could not accept proposals to ban all forms of tobacco advertising as that would be contrary to his country's Constitution. Nevertheless, significant progress had been made in the United States of America due in part to the extensive restrictions imposed on television and radio advertising. In addition, counter-advertising campaigns, supported by many of the States and by nongovernmental organizations had proved effective counterbalances to industry advertising. He indicated that he would submit proposed amendments to the paragraph in writing. Any remaining specific obligations could be held for the negotiation of a protocol in the area of tobacco advertising, promotion and sponsorship as outlined in paragraph G.3.

Dr MBAIONG (Chad) gave his strong support to the banning of advertising, promotion and sponsorship targeted at persons under the age of 18 in regard to the sale and use of tobacco. He proposed that paragraphs G.2(a) and G.2(b) be merged. He would submit a text giving a proposed amendment. He suggested that the phrase "and make those figures available to the public" was redundant and could therefore be deleted from paragraph G.2(c).

Dr SORICCHI LI (Argentina) said that in the Spanish version of paragraph G.2(b) the words "menores" should be deleted to bring the paragraph in line with the other language versions. She endorsed the view that the list of incentives in paragraph G.2(b) should be deleted. While restricting advertising was an extremely effective measure for reducing the demand for tobacco products, some Member States including Argentina, would not be able to impose a complete ban on advertising for legally traded products as it would be contrary to their constitutions. She proposed that, should the paragraphs be retained as they stood in the final text of the convention, a clause exempting those States that were unable to comply with that provision, should be included. Such States would be expected to restrict advertising so far as was legally possible.

Ms KERR (Australia) said that Australia recognized the pervasive nature of tobacco advertising globally and the long-lasting impact that it could have in particular because it encouraged uptake by young people and could act as a barrier to cessation by sustaining established smoking behaviour. Australia's comprehensive *Tobacco Advertising Prohibition Act* had recently been strengthened by an amendment to phase out by 2006, tobacco advertising and sponsorship at international sporting events hosted by the country.

She joined with previous speakers in indicating concerns about the feasibility and practicality of prohibiting advertising targeted at people under the age of 18. She suggested that the reference to targeting persons 18 and under be deleted from paragraph G.2(a) and that paragraphs G.2(a) and (b) be merged to result in a single but strong obligation. In principle, Australia would support a provision that obliged parties to progressively phase out all forms of direct and indirect advertising, promotion and sponsorship. The definition of advertising and promotion was a major issue that required attention. The phase-out obligations could include timeframes by either specifying an end date to the phase-out and/or obliging parties to report progress periodically.

Mr ZHAO Jian (China) said that China agreed that restrictions should be imposed on tobacco advertising in accordance with the national legislations of different countries. Although he supported the text of paragraph G.2(a), he pointed out that it might be difficult to determine whether advertising, promotion or sponsorship was targeted at persons under the age of 18. He endorsed paragraph G.2(b) in principle, but wanted the list of incentives to be deleted. The convention should reflect the principle of restricting advertising while remaining concise in its descriptions; a detailed list could be included in a related protocol. Lastly, he proposed that paragraph G.2(c) be deleted as it infringed the rights of the tobacco companies. In addition, and from a practical standpoint, it would not be possible to check whether the figures were accurate, and he questioned the advisability of WHO associating itself with the publication of figures that might be misleading. He intended to submit his proposals in writing.

Mr MOON (Republic of Korea) questioned the extent to which it would be necessary and meaningful to require disclosure of advertising expenditure figures item by item as there were general means of measuring tobacco advertisement, promotion and sponsorship already provided for in the convention. However, he supported the aim of protecting young persons. He could accept paragraph G.2(c) if it were amended to read "requiring that tobacco companies disclose total expenditures as an aggregate on advertising and promotion make those figures available to the public".

Dr ARMADA (Venezuela) endorsed the view that advertising, promotion and sponsorship of tobacco products should be extensively restricted. He supported the banning of any type of publicity directed towards persons under the age of 18 or to which they had access. He also supported a convention that prohibited any form of indirect advertising and the distribution of free tobacco products in the guise of advertising or promotion. It was important to establish concrete deadlines for restrictions such as those set down in G.2(e), to be imposed.

AFFECTING/WG1/SR/3

Dr YELHOROU (Ukraine) supported the provisions in paragraph G.2 relating to the promotion of tobacco. However, paragraphs G.2(c) and (e) required further drafting. Paragraph G.2(c) overlapped with subparagraph G.1(e)(iii), and the provision in paragraph G.2(e) was too general. Lastly, he proposed that the words "with the exclusion of professional printed publications" should be inserted at the end of paragraph G.2(f).

Dr AL-LAWATI (Oman) remarked that it would be difficult to differentiate between advertising, promotion and sponsorship targeted at those over and under 18 years of age. Paragraphs G.2(a) and (b) should therefore be merged and he would submit a proposal in writing to that end. Furthermore, paragraph G.2(e) could be suppressed as it served no useful purpose.

Mr KATENE (New Zealand) expressed support for stringent and comprehensive restrictions on tobacco advertising, promotion and sponsorship given the potential for global health gains. New Zealand was exposed to off-shore tobacco sponsorship activities through television, advertising in off-shore magazines, and the promotion of smoking through films and television, hence the need for a global approach.

Referring to paragraphs G.2(a) and (b), he said that it was important to look further than advertising aimed at your people. In his experience, restrictions on tobacco advertising and promotion targeting persons under the age of 18 were neither realistic nor feasible. Any promotion of tobacco would have an effect on young people but since tobacco companies denied that they promoted their products to young people, proof would be very difficult to find. A total ban had proved workable in New Zealand with a near perfect compliance rate and he believed that the experience of his country could be used as an international yardstick. He therefore proposed that "targeted at persons under the age of 18" should be deleted from paragraph G.2(a) and suggested the merging of paragraphs G.2(a) and (b). He would provide text to that effect.

Dr URDAL (Norway) said that prohibition of all forms of tobacco advertising had proved to be effective in reducing tobacco consumption in several countries. Repeated research had shown that advertising targeted at adults had a strong impact on children. She therefore endorsed the view, that the last part of paragraph G.2(a) referring to persons under the age of 18 should be deleted and that paragraphs G.2(a) and (b) should be merged. It was important to avoid sending conflicting messages to youth and adults. She further proposed that a time limit should be added to paragraphs G.2(e) and (f) by inserting "within five years after the convention has entered into force" at the end of each paragraph in order to strengthen the obligations contained in those paragraphs.

Professor LYNCH (Canada) said that paragraph G.2 was an extremely important component of the convention. Canada supported strong restrictions on the advertising of tobacco products and prohibited sponsorship promotion. Restrictions should ensure that advertising did not appeal to youth in any way. They should also protect youth, as much as possible, from exposure to any advertising. For instance, in Canada, roadside billboards were not allowed.

Canada supported the intent of paragraphs G.2(a), (b) and (c) but believed it could be better reflected by grouping the actions of concern in order to strengthen and clarify the provisions. The concepts of all forms of direct and indirect advertising could be better encompassed by the single term of "promotion" which should be defined in Article B, Definitions. The issue in regard to sponsorship lay in the effect of the promotion of that sponsorship; the fact that the tobacco industry could use sponsorship as a tool to promote its products was problematic.

She proposed that the current wording of paragraphs G.2(a), (b) and (c) should be deleted and replaced with a new paragraph G.2(a) to read as follows:

- (i) prohibiting incentives for the purchase of tobacco products such as gifts, coupons, rebates, competitions, frequent-purchaser programmes, prizes, etc.;

- (ii) prohibiting promotion of tobacco products by means of lifestyle and advertising or advertising that could be reasonably construed as appealing to young persons;
- (iii) prohibiting the promotion of tobacco products by way of sponsorship promotion;
- (iv) strictly restricting all other forms of tobacco promotion.

In regard to paragraph G.2(e), she agreed with previous speakers that the relevant information to be disclosed was the aggregate amount of advertising or promotion expenditure for all tobacco products. In addition, countries might be constrained, on legal grounds, regarding the limits of that which could be disclosed. She therefore proposed that the paragraph should be replaced by: "requiring that tobacco companies disclose aggregate advertising and promotion expenditure data and make those figures available to the public consistent with domestic laws".

She was in agreement with the wording of paragraph G.2(d).

She agreed with the intent of paragraph G.2(f). However, in her experience, current, cross-border advertising problems could be exacerbated by a spill-over effect of weak domestic regulation. Proposed solutions should not inappropriately shift the burden for controlling tobacco advertising from countries with weak regulation to those that already had strong regulations. She therefore proposed that the paragraph should be amended by replacing "adopting national measures and cooperating in order to phase out" with "adopting strict national measures and cooperating in order to reduce the extent of".

Ms BILLUM (Sweden), speaking on behalf of the 15 Member States of the European Union and on behalf of Bulgaria, Slovakia and Slovenia, said that the provisions on advertising, sponsorship and promotion would form one of the most important parts of the convention. She stressed the importance of finding a model for the text of the convention that could be accepted by most contracting parties. It might be that certain extensive obligations, such as a total ban on advertising, which would cause problems to a certain number of States, could be dealt with in another way. The essential point was that the convention should place advertising and promotion under control and subject to restrictions. The more detailed rules could be developed in a protocol.

She proposed that several of the elements in the draft text should be combined into a more concise form. The paragraph could refer to appropriate restriction on all forms of advertising, marketing, promotion and sponsorship of tobacco products including a ban on cross-border advertising. The convention would be without prejudice to stricter national rules, with the aim, in particular, of reducing the appeal of those products to children and adolescents. The reference to an age limit, and the examples suggested of promotion carriers such as frequent-purchaser programmes were perhaps unnecessarily detailed, and did not adequately take into account the very different circumstances which the convention sought to cover. She proposed that paragraphs G.2(a), (b), (e) and (f) should be replaced by "imposing appropriate restrictions on all forms of advertising, marketing, promotion and sponsorship of tobacco products, including a ban on cross-border advertising and without prejudice to stricter national rules, with the aim in particular of reducing the appeal of these products to children and adolescents".

Turning to paragraph G.2(c), she preferred to leave the question of declaration of publicity and advertising expenditure by the tobacco industry until a later stage. She had not heard any convincing arguments to justify its inclusion thus far. The obligation to make declarations might, however, be useful in cases where the restriction on advertising was only partial.

Dr AL MULLA (Qatar) expressed opposition to all forms of tobacco advertising and favoured the merging of paragraphs G.2(a) and (b). He would submit a text to that effect. He attached great importance to paragraph G.2(c). Paragraph G.2(c) required strengthening to ensure the elimination of tobacco sponsorship of sporting and cultural events.

Mr TADEVOSYAN (Armenia) said that it was meaningless to single out advertising targeted at those under 18: the phrase "targeted at persons under the age of 18" in paragraph G.2(a) should

A/FC/TC/INB2/WG1/SR/3

therefore be deleted. The arts, especially cinema and television, wielded enormous influence in the sphere of tobacco advertising. Ministries of culture of the States Parties should pay due regard to this. Film stars, sportsmen, fashion models and other celebrities should be enlisted in the campaign against smoking. Provisions to that effect should be included in the text and he would submit a proposal in writing.

Mr PAVILSONS (Latvia), speaking on behalf of three Baltic States, Estonia, Latvia and Lithuania, expressed general support for the proposals put forward by the delegate of Sweden, as a formulation that could be accepted by most delegations. The wording of paragraphs G.2(a) and (b) should, however, be strengthened by a greater emphasis on efforts to attain a total prohibition of all forms of advertising, promotion and sponsorship related to tobacco products whatever the age group targeted. Proposed wording would be submitted to the Secretariat.

Ms ROVIROSA PRIEGO (Mexico) expressed strong support for the provisions set out in paragraph G.2. However, the thrust of the provisions would be clearer if the word "non-price" were deleted from the first sentence as well as from the title of article G and the first sentence of paragraph G.1. There was no point in referring to a category of measure that was not covered. Similarly, in paragraph G.2(b), given the difficulty of defining a "frequent purchaser", it would be desirable to delete the word.

Dr FARÍAS ALBURQUEQUE (Peru) said that, despite his country's ban on tobacco publicity targeted at those under 18 and on any radio or television advertising over the past five years, tobacco companies had found other ways of achieving their purpose by, for example, associating themselves with other products or blurring various lines of demarcation. He therefore welcomed the great step forward represented by paragraph G.2; the provisions which it contained were among the most significant of the whole convention, since they held out the possibility of a total ban on tobacco advertising. He would be submitting a proposal to strengthen the wording of paragraph G.2(a).

Dr PÁVA (Hungary) said that advertising targeted at one section of the population easily reached others. She therefore proposed that the convention should strengthen the right of all the parties to introduce stricter national rules, in accordance with the proposal made by the delegate of Sweden. Her delegation had already submitted a text to that effect.

Dr ANDÉN (Philippines) said that, being against all direct tobacco advertising, her delegation would favour the deletion of the words "targeted at persons under the age of 18" in paragraph G.2(a) and endorsed the merger of paragraphs G.2(a) and (b). It would submit a text to that effect.

Ms DJAMALUDDIN (Indonesia) said that it was simply impossible to prohibit tobacco advertising targeted specifically at those under 18. In any case, the aim should be to reduce tobacco consumption throughout the population. Tobacco was harmful to human health and that consideration should take precedence over matters of trade. She therefore disagreed with the Chair's text for paragraph G.2. The prohibition should be total and, indeed, global. Domestic law alone would not have a significant impact. She conceded, however, that a period of transition might be necessary.

Mr GBOMOR (Sierra Leone), speaking on behalf of the Member States of WHO's African Region, said that advertising, promotion and sponsorship influenced all age groups, encouraging adolescents to take up smoking and adults to continue. The ultimate aim of the convention and indeed of any tobacco control programme was that adults should stop smoking. He therefore suggested a merger of paragraphs G.2(a) and (b), the amended text to read "prohibiting all forms of direct and indirect tobacco advertising, promotion and sponsorship, including incentives such as gifts, coupons, rebates, competitions and frequent-purchaser programmes, with the aim of reducing the appeal of

WCTC/NB2-WG1 SR.3

tobacco products to all segments of society". Paragraph G.2(e), which would become paragraph G.2(b), should be amended to read "enact legislation that shall require tobacco companies to disclose all expenditures on advertising and promotion while promotion and advertising are being phased out".

Mr CASTRILLON (Ecuador) said that the word "prohibiting" should be avoided, as it required precision as to what was being prohibited. Paragraph G.2(a) should therefore be deleted in its entirety. In paragraph G.2(b) the words "gifts, coupons, rebates, competitions and frequent-purchaser programmes" should be deleted, with a view to making the provision more comprehensive and universally applicable.

Dr AL-HAJJAWI (Jordan) said that in paragraph G.2(e), "progressively" should be deleted. Moreover, the restrictions on tobacco sponsorship should not be limited to sporting and cultural events but should extend to religious and national celebrations. He would submit a text to that effect.

Dr JIRÓN ROMERO (Nicaragua) said that the requirement in paragraph G.2(c) that tobacco companies disclose all expenditures on advertising and promotion were not acceptable to his delegation, since costs incurred by enterprises in his country were strictly confidential and the state had no power to require their disclosure.

Mr LIPAND (Estonia) said that the formulation "tobacco advertising" should be put on the list of definitions, since a ban even on direct advertising did not prevent tobacco companies from showing brand names and trademarks, which amounted to advertising. Moreover, "tobacco advertising" had a different meaning in different languages. He would submit a text of his proposal.

Mr VUILLÈME (Switzerland) said that it was worth repeating that advertising targeted at adults could also appeal to the young. Moreover, experience in various countries had shown that reducing advertising targeted at the young did not lead to a corresponding reduction in the number of those taking up smoking. The Internet in any case played havoc with notions of age limits: young people could access virtually any site. In common with others, his delegation would therefore favour the deletion of any mention of age in the context of restrictions on advertising.

Mr CASTILLO SANTANA (Cuba) endorsed the view that there should be no reference to specific ages in paragraphs G.2(a) and (b). He would submit written proposals to that effect.

Mr HAROON (United Kingdom of Great Britain and Northern Ireland) said that, owing to national and cultural variations, it was right that the convention should refer to "appropriate" restrictions without prescribing their precise form. His Government believed that a comprehensive ban on advertising could significantly reduce smoking and was therefore bringing forward legislation to that effect, with certain limited exceptions. It was estimated that in the long term, the ban would reduce consumption – and tobacco-related deaths – by 2.5%, which would translate into 3000 lives saved every year. The proposed legislation would cover advertisements in the press, advertising on the Internet within the United Kingdom's jurisdiction, sponsorship and brand sharing. National bans, however, could not be a complete answer; the more countries that adopted restrictions on transnational promotion of tobacco products, the more effective each country's restrictions would be.

Dr GRACIELA DE CACERES (Paraguay) said that, while it had been agreed that education was effective in reducing smoking, it was not enough. It was crucial that the convention should highlight the cost-effectiveness of a full ban on tobacco advertising. For developing countries, in particular, it was important to have a legal framework in place containing a clear demonstration of that cost-effectiveness, because the vast expenditure of establishing a ban would otherwise come under attack. Cross-border advertising, which vitiated individual countries' efforts, should also be covered.

A/E/C/T/C/INB2/WG1/SR3

Deadlines for introducing prohibition should be realistic but should show a real political will to achieve a total ban.

Dr VARABHORN BIRUNISWASDI (Thailand), after endorsing the view that advertising targeted at those under 18 could not be banned in isolation, drew particular attention to the importance of paragraph G.2(f) which covered cross-border advertising. Her Government had imposed a comprehensive ban on tobacco advertising in 1992, but it could not protect its young people from marketing directed at them from abroad.

Dr OCTABA (Slovakia), recalling that his delegation had endorsed the statement made by the delegate of Sweden, supported the strict restrictions on advertising contained in the convention. Indeed, in April 2001, his Government had enacted legislation prohibiting all forms of tobacco advertising in all the media in Slovakia.

Dr LEWIS-FULLER (Jamaica) agreed with others that paragraphs G.2(a) and (b) were not compatible as drafted and should be combined to read "prohibiting all forms of direct and indirect tobacco advertising, promotion, sponsorship and incentives of any kind, with the aim of reducing the appeal of tobacco products to all segments of society".

The sums spent on advertising and marketing were already disclosed in company financial statements in some countries. What was needed, however, was to know how that expenditure was made. Paragraph G.2(c) should therefore be amended to read: "requiring that tobacco companies disclose all expenditures on advertising, marketing and promotion, giving a detailed breakdown of such expenditures and making those figures available to the public".

Paragraph G.2(d) added little and should be deleted. Paragraph G.2(e) could also be deleted, since its content had already been incorporated into the merged paragraphs G.2(a) and 2(b).

Paragraph G.2(f) should be reformulated to signal that strong international support and cooperation was needed for measures designed to curtail cross-border advertising. A timeframe should also be included. The paragraph should be amended to read: "formulating and adopting international/global, regional and national measures and cooperation in order to phase out cross-border advertising, marketing, promotion, sponsorship and incentives of any kind, including *inter alia*, tobacco advertising, promotion and sponsorship on cable and satellite television, the Internet, newspapers, magazines and other private media."

Ms LAMBERT (South Africa) said that her delegation endorsed the position of the African Region concerning advertising expressed by the delegate of Sierra Leone. It made no sense to attempt a distinction in the effects of advertising according to a person's age. Advertising could assume insidious forms and target any age group; for example, football jerseys bearing a tobacco advertisement and sized for small children were widely available in her country. Such indirect promotion of tobacco products could be combated only through a total ban on all possible forms of advertising.

Dr ESPINOZA MURRA (Honduras) said that his delegation would submit a proposal concerning subparagraphs G.2(a) and (b), which should be modelled differently from the Chair's text.

Dr RANAWEERA (Sri Lanka) said that his delegation supported the call for a total ban on advertising. It endorsed the proposals made by the Indian delegation, since retention of subparagraphs 2(a) and 2(b) as they stood would still leave opportunities for manipulative advertising. He hoped that the tobacco industry would not be in a position to celebrate at the end of the negotiations on the framework convention.

A/ECTC/INB2/WG1/SR.3

Dr CASTILLO CAMINERO (Dominican Republic) said that his delegation fully agreed with the delegations of Peru and South Africa regarding a total ban on advertising, which he considered to be one of the most, if not the most, important part of the convention. He would submit a proposal in that regard.

Mr BAHIBAY (Turkey) recalled that, at the Intergovernmental Negotiating Body's first session, his delegation had spoken in favour of a total ban, which it still thought the only feasible way of achieving the desired aim. It also supported the Swedish delegation's proposals on the banning of cross-border advertising.

Dr BENAVIDES COTES (Colombia) said that her delegation was in favour of restrictions on tobacco advertising promotion and marketing; her country already applied restrictions in that regard, for example on television broadcasting times. With regard to subparagraph G.2(e), her delegation preferred retention of the Chair's text. Subparagraph G.2(f) should include a reference to radio broadcasting, and her delegation would submit a text in that regard.

Ms ALEXIS-THOMAS (Trinidad and Tobago) supported the Jamaican and other delegations that advocated a total advertising ban. But to achieve such a ban would require the establishment of effective mechanisms to ensure that new forms of advertising could not be developed.

Dr SEKABARAGA (Rwanda) said that his delegation supported the position of the South-East Asia and African regions for a total ban on advertising, without any age stipulation. Counter-advertising for public health, and specifically tobacco control could be greatly enhanced if governmental and nongovernmental organizations were given the requisite authority and resources.

Dr HAMAD (Sudan) was concerned lest the wording of the Chair's text should give the impression that all the efforts proposed were intended only to protect people under the age of 18; any reference to an age limit should be deleted. His delegation supported the Canadian delegation's proposal as well as the statements by the delegations of Australia, New Zealand and other parties in that connection.

Dr ZARIHAH (Malaysia) said that the tobacco industry in her country insisted that its various measures, in the media and elsewhere, were not a contravention of the relevant domestic anti-tobacco legislation but merely matters of trademark diversification. Problems in that regard might be avoided if the word "indirect" could be clearly defined.

Mr EMMANUEL (Saint Lucia) said that his delegation supported the prohibition of all tobacco advertising and sponsorship, direct and indirect, and endorsed the Jamaican delegation's proposal about a timeframe for a global ban on advertising.

Dr MUGA (Kenya) said that the tobacco industry had consistently targeted the developing countries in particular. For that reason, his delegation was in favour of a total ban on advertising and supported the statements made by the delegations of Sierra Leone and South Africa. In that regard, he hoped a suitable accommodation could be reached with states whose position was not the same, with a view to reducing the impact of advertising, especially on developing countries.

Mr OIYOKO (Japan) said his delegation agreed that it was impractical to differentiate between age groups. While the possibility of a total ban on advertising should certainly be considered, a number of constitutional problems could be foreseen; in that regard, his delegation would be interested to see the proposals made on behalf of the European Community, and its Member States and by the United States of America.

A/ECTC/INB2/WG1/SR/3

Paragraphs G.3 and G.4

Ms MAYSIAR (Israel) said that her delegation would prefer the text in paragraph 3 and 4 to reflect more definite action regarding a protocol and proposed that, in both paragraphs, the words "initiate the preparation of" should be replaced by "adopt".

Professor LYNCH (Canada) said that a protocol should be prepared only after the framework convention had been established. Therefore, paragraphs 3 and 4 should be drafted as a general clause, moved to Section F and discussed under that Section.

Mr CASTILLO SANTANA (Cuba) agreed that it was too early to consider preparation of a protocol and suggested that paragraphs 3 and 4 should be placed in square brackets until the all-important contents of paragraph 2 had been decided upon. All the comments could be taken into account and considered by a later plenary meeting.

Mr TAKAKURA (Japan) said he shared the Canadian delegation's view but thought that any reference to a protocol should appear in the Preamble.

Ms KERR (Australia) supported the Canadian delegation's proposal to move paragraphs 3 and 4 to section F.

H. Demand reduction measures concerning tobacco dependence and cessation

Dr URDAL (Norway) proposed that in subparagraphs H.2(a) and (b) the word "campaigns" should be replaced by "programmes and intervention", in line with the proposal relating to subparagraph G.1(c). She also proposed to include the word "teachers" in subparagraph H.2(b) and to add a new subparagraph H.2(b bis), reading: "inclusion of research-based knowledge of tobacco prevention and cessation methods based on best practice in basic and postgraduate education of health personnel and teachers".

Dr VARABHORN BHUMISWASDI (Thailand) said that her delegation wished to replace the term "tobacco dependence" in both paragraphs of section H by "nicotine addiction".

Mr TADEVOSYAN (Armenia) said that the text outlined a variety of plans and strategies, which included tobacco control measures, but he suggested that reference be made in subparagraph H.2(b) to WHO recommended forms of treatment with habit-breaking drugs that were being developed and becoming available.

Dr SILVA GOLDFARB (Brazil) said that Section H should reflect measures based on local and worldwide scientific evidence and take into account the economic, social and cultural characteristics of each Party. Accordingly, her delegation would submit a proposed new title.

Ms ÖDMAN (Sweden), speaking on behalf of the European Union, Bulgaria, the Czech Republic, Latvia, Romania, Slovakia and Slovenia, supported the text of Section H, which stressed integration of cessation into health programmes and the training of health professionals, since much could be done by means of routine advice from doctors and other trained personnel. The framework convention should stress not only prevention but also means of overcoming addiction. She suggested that the phrase "all national health programmes" in subparagraph H.2(b) should be reworded as "different national health programmes", since the latter should be seen as examples rather than as an exhaustive list.

A/FCTC/INB2/WG1 SR3

Dr SORICCHIUTI (Argentina) said that the scope of the text should be wider. She was concerned that the reference to national plans and strategies might lead to insufficient regard for or exclusion of strategies at other jurisdictional levels, such as states within a federal system.

Dr ARRIAGA WEISS (Mexico) considered that the enumeration of health programmes in subparagraph H.2(b) was too detailed; only primary health care programmes should be mentioned. His delegation would submit a proposed amendment accordingly; the latter would also refer, in connection with subparagraph H.2(c), to the importance of dentists and health centres in providing auxiliary medical advice and treatment of tobacco dependence.

Ms WELLS (Australia) said that her delegation proposed that subparagraphs H.2(b) and (c) should be combined to read "integration of routine advice on cessation of tobacco use and treatment of tobacco dependence into health programmes in all health care settings and involving all health professionals".

Professor LYNCH (Canada) said that her delegation appreciated the intention of Section H but would like to see definitions of the terms "integration" and "treatment". It also suggested that paragraph H.1 should be amended to read: "each Party shall take evidence-based measures to treat tobacco dependence and to promote cessation of tobacco use". Her delegation supported the proposals to replace the word "campaigns" by "programmes and intervention" in subparagraph H.2(a) and to include a reference in subparagraph H.2(b) to teachers, other professionals and para-professionals.

Professor GOJA (Uruguay), agreeing with the general tenor of section H, suggested that the pharmaceutical industry be added to the list of bodies providing support in paragraph H.2(b), in order to reduce the cost of treatment for tobacco dependence for countries such as her own.

Dr CARIS (Chile) said that health professionals would require continuous training in relation to tobacco dependence and cessation, and that should be mentioned in paragraph H.2(b). The framework convention should refer to measures designed to foster scientific progress and allow information on new forms of treatment to be disseminated for incorporation into national programmes. Chile had private and public health care systems, and the treatment of tobacco dependence should be available in both. Thus, the words "all national health programmes" should be broadened to include the private sector.

Dr ROA (Panama) proposed replacing the words "tobacco dependence" in the title of section H by "nicotine addiction". She also proposed replacing "campaigns" by "programmes" in paragraph H.2(a). In subparagraph H.2(c), she proposed inserting "hospitals and rehabilitation centres" after the words "health centres", and "tobacco-free lifestyles" after the words "tobacco dependence". She asked WHO to establish technical and financial cooperation for studying cost-effective methods for the treatment of nicotine addiction. Attention should be drawn to the problem of nicotine addiction, and she urged WHO to set up mechanisms for negotiating with pharmaceutical companies to lower the prices of nicotine-replacement drugs and rehabilitation programmes.

Mr KATENE (New Zealand) said that his delegation would propose wording to ensure that methods for tobacco cessation were appropriate to the needs of vulnerable groups. He supported Canada's call for measures based on best practices and the suggestion to replace the words "tobacco dependence" by "nicotine addiction".

Mr TAKAKURA (Japan) endorsed the intention of section H but he considered that simplified, consolidated language should be used rather than the enumerative approach, which omitted certain

A/FC/INB2/WG1/SR/3

areas, such as local programmes, on which great emphasis was placed in Japan, and medical institutions other than health centres.

Mrs THAN THU THUY (Viet Nam), voicing her support for section H, said that her country had recently adopted a tobacco control policy which reflected many aspects of the framework convention, including support for smoking cessation, training of health professionals with regard to appropriate, affordable methods for each target group and involving individuals, families and communities in encouraging smokers to stop.

Dr GILANEM (Egypt) submitted a written proposal for an amendment to paragraph H.2 with a view to expanding the role of health centres in the diagnosis of tobacco dependence and providing treatment and advice.

Dr KIENENE (Kiribati) suggested that the term "health centres" in paragraph H.2(c) was restrictive and that it be replaced by "health facilities".

Dr KIIMA (Kenya) said that tobacco companies advertised with impunity in the African Region, and he therefore supported section H. However, he suggested that the examples listed after the word "strategies" in paragraph H.2(b) be deleted. Immediate action was necessary, since children made up half the population of Africa and many became tobacco-dependent.

Dr HAMAD (Sudan) also queried whether specific programmes needed to be mentioned in paragraph H.2(b).

Dr PALOMO ESCOBAR (El Salvador) agreed with previous speakers that the word "programmes" be substituted for "campaigns" in subparagraph H.2(a) and that subparagraphs H.2(a) and (b) be merged. He suggested that a new subparagraph be added, referring to training of health professionals to implement programmes for treating tobacco dependence and for tobacco cessation.

Mrs LLORENTE DIAZ (Cuba) queried the reference to "all" national health programmes, plans and strategies in subparagraph H.2(b). Tobacco dependence should certainly be part of national strategies, but some health care programmes covered diseases unrelated to tobacco use.

Dr SILVA GOLDFARB (Brazil) said her delegation agreed with Canada's proposal. Moreover, in subparagraph H.2(b), she suggested that the words "counselling and" be added after the word "routine". Counselling was a valuable strategy in developing countries; moreover, studies in which pharmacological therapy had been shown to be effective could not rule out an effect of counselling.

Ms TKACHENKO (Russian Federation) suggested addition of the words "based on international experience" after the word "measures" in paragraph H.1. In the second sentence of subparagraph H.2(b) she suggested inserting "through a government policy creating optimum conditions for work on preventing tobacco use and the treatment of tobacco dependence and by" after the words "shall be provided".

Dr AL MULLA (Qatar) said that his delegation wished to add a reference to "cultural programmes" in paragraph H.2(a). He agreed that subparagraphs (b) and (c) should be merged and simplified. All medical centres should be involved in treatment of tobacco dependence.

Professor WARNER (World Bank), referring to paragraph G.2, said that the Bank's study published as *Curbing the Epidemic*, called for a comprehensive ban on all forms of advertising, promotion and sponsorship. Limited bans had little effect on tobacco consumption in view of the

A/ECTC/INB2/WG1 SR/3

industry's creativity in finding new means to promote its products. A comprehensive ban might reduce tobacco consumption by about 7% in the developed countries studied, which would be a great achievement in public health terms. In the United States of America, the figures referred to in subparagraph G.2(c) had been collected on a brand-by-brand basis for years, and total expenditure by type of advertising and promote had been published. Those data had been extremely useful to the public health community and to the Federal Trade Commission in actions against tobacco companies for violations of advertising restrictions. In 1999, the tobacco industry had spent US\$ 8000 million on advertising and promotion, despite the restrictions.

Ms WYKLE-ROSENBERG (Infact), speaking at the invitation of the CHAIR to subparagraph G.1(e), reported that some transnational tobacco companies, in an endeavour to convince governments that they did not wish young people to smoke, had introduced youth smoking prevention programmes, including advertisements, on popular television channels. Such advertising had proved ineffective and might even have the opposite effect. Given their obvious conflict of interest, tobacco companies should not be involved in programmes for smoking prevention, as they might even reinforce the messages in tobacco advertising.

Dr HIRSCH (International Nongovernmental Coalition against Tobacco), speaking at the invitation of the CHAIR to paragraph G.2, called for a total ban on all forms of advertising, sponsorship and promotion. The countries of the African Region and numerous other developed and developing countries shared that view. If the convention were to take account of all real or imagined constitutional constraints, it would be toothless or limited to restrictions on cross-border advertising directed at children. The States Parties must find a form of wording that met the need for a total ban, while allowing countries to respect the limits of their constitutions.

Ms MOLINARI (International Union against Tuberculosis and Lung Disease), speaking at the invitation of the CHAIR to paragraph G.2, said that tobacco advertising killed millions of people. The World Bank had stated that a ban on advertising would reduce consumption by 7%. That was a modest figure in relative terms, but it meant the saving of 70 million lives, on the basis of the estimate of one thousand million tobacco-related deaths in the century.

Mrs WILKENFELD (International Union against Cancer), speaking at the invitation of the CHAIR to paragraph G.2, on behalf of her organization and the World Heart Federation, said that a ban on advertising targeted at persons under the age of 18 would not work. Although tobacco companies claimed not to address advertisements to that age group, it was impossible to define the age group that an advertisement appealed to. The ubiquity of advertising convinced people of all ages that tobacco was part of normal adult life. There was even a danger that the current text would be worse than ineffective, since it would have the authority of an international treaty and would effectively block measures that would work. The only effective measure was a total ban on advertising, sponsorship and promotion of tobacco products.

Mr COLLISHAW (Commonwealth Medical Association), speaking at the invitation of the CHAIR to paragraphs G.2 to G.4, welcomed the support for a total ban on advertising, particularly the united stand of the countries of the African Region. The distinction between advertising targeted at young people and at adults was meaningless in the context of public health. The framework convention should commit and authorize States Parties to ban all forms of advertising and promotion within the limits imposed by their constitutions. It should also contain provisions to prevent the flow of tobacco advertising across national borders.

Dr RAMSTRÖM (International Council on Alcohol and Addictions), speaking at the invitation of the CHAIR to paragraph H.2, was pleased to note the clear focus on dependence in paragraph H.2.

A/FCTC/INB2/WG1/SR3

Nevertheless, health professionals needed training in treating dependence. He proposed that a new subparagraph be added, reading: "establishing in curricula for basic and continued training of health professionals strong elements of methodology for interventions aimed at prevention and treatment of tobacco dependence". He had used the term tobacco dependence, in preference to nicotine addiction, since it corresponded to the terminology in WHO's *International Classification of Diseases*, reflecting the fact that tobacco dependence consisted of both pharmacological and psychological components.

The meeting rose at 18:00.

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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/2
19 June 2001

WORKING GROUP 2

PROVISIONAL SUMMARY RECORD OF THE SECOND MEETING

International Conference Centre, Geneva
Wednesday, 2 May 2001, at 10:00

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

CONTENTS

	Page
Drafting and negotiation of the WHO framework convention on tobacco control (continued)	
I. Measures related to the supply of tobacco (continued)	2
K. Surveillance, research and exchange of information	16

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.

A/FCTC/INB2/WG2/SR/2

WORKING GROUP 2

SECOND MEETING

Wednesday, 2 May 2001, at 10:00

Chair: Mr E. AISTON (Canada)

later: Dr T. 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) (continued)

I. **Measures related to the supply of tobacco (continued)**

Illicit trade in tobacco products

Paragraph I.1

Mr MURDOCK (Canada) said that he fully supported the paragraph, but, with a view to ensuring a comprehensive convention, he wished to propose two additions to the text. First, following the words "illicit trade in tobacco products", the words "and raw leaf tobacco" should be inserted. Failure to include raw leaf tobacco in that paragraph would provide those involved in the illicit tobacco trade with a readily available supply of legal tobacco, thereby creating opportunities for illicit use. Secondly, the words "illicit manufacturing" should be inserted after the word "smuggling". While smuggling currently dominated the illicit tobacco trade at international level, Canadian experience had shown that illicit manufacturing was also a considerable problem. He would subsequently submit a proposed definition of "illicit manufacturing".

Ms QU Meiyu (China) stressed the importance of the elimination of illicit trade in tobacco products. She therefore proposed adding the words "in particular" between "including" and "smuggling".

* Dr NOVOTNY (United States of America) said that his Government supported strong measures to eliminate smuggling. The most effective way to achieve the desired result was through a protocol on the subject: the framework would address smuggling in general terms, while the specific mechanisms for eliminating it would be contained in the protocol. The United States was aware of the concerns of other delegations that the framework should not be too general, thereby conveying an impression of weakness. He therefore proposed that the framework and protocol should be negotiated concurrently, with appropriate guarantees to ensure consistency between the two. Such an approach would send a clear signal of WHO's resolve on that issue.

One tool used by his Government in combating smuggling was licensing, which might be appropriate for inclusion in the protocol. However, a focus on licensing at retail level might be misplaced, and could create problems. First, in federal states such as his own, such licensing could raise issues of national and subnational competencies in jurisdictional issues, and his Government would not wish to sign an agreement that might be successfully challenged in its courts. Secondly, there were practical concerns at different levels in the tobacco distribution chain, which involved a wide variety of retailers, ranging from department stores to street vendors. The resources required to

AFCTC/INB2/WG2/SR/2

enforce licensing regimes might prove to be astronomical, and it would be advisable to focus on the higher levels of the distribution chain, where numbers were fewer and there was less diversity. He would be submitting a text for a protocol, together with amendments to the Chair's text. The battle to eliminate illicit trade would be long and difficult, but a strong protocol might help to turn it in WTO's favour.

Dr TATA (India) expressed his agreement with paragraph I.1. He asked for definitions of the words "smuggling" and "counterfeiting".

Ms LAMBERT (South Africa), speaking on behalf of the African Region, said that she was in favour of the strongest possible measures to combat illicit trade in tobacco products. She did not wish to propose any amendments to Article I.

Ms KERR (Australia) said that it was important that the convention should contain strong measures to curb illicit trade in tobacco products, since such measures were an important component of an integrated tobacco control programme. While she supported the intent of paragraph I.1, she considered that as currently expressed it was simply a statement of principle which did not impose any obligation on the Parties. She suggested that it would be more effective for the text to be incorporated in the preamble to the convention.

Mr OGANOV (Russian Federation) proposed that after the words "smuggling and counterfeiting" the words "and the improvement and harmonization of national legislation to control the illegal trade in tobacco products" should be inserted.

Mr RAJALA (European Community), speaking on behalf of the European Community and its Member States, said that he supported the inclusion of provisions on illicit trade. He had no specific comments on paragraph I.1.

Paragraph I.2

Dr TATA (India) said that the prevention of smuggling constituted a top priority for many nations. It was not only a threat to public health, but also caused considerable loss of revenue, and consequently it was a national as much as an international obligation. He therefore proposed the insertion of the words "national and" before the words "international obligations".

Mr ATWOOD (Australia) agreed that measures to curb illicit trade in tobacco products should be non-discriminatory and transparent. However, it was not clear what would be the advantage of requiring that such measures should be implemented in accordance with each Party's international obligations.

Dr AUNG (Myanmar) supported the amendment proposed by the delegate of India.

Dr LEWIS-FULLER (Jamaica) considered that the wording of the paragraph was unduly general and not sufficiently specific. She was not clear as to the meaning of the terms "non-discriminatory" and "international obligations". If the latter related to WTO regulations, they would have to be analysed to ascertain how they might be reconciled with the convention's objectives. On the other hand, she was certainly in favour of discriminating against the tobacco trade.

A/FACTC/INB2/WG2/SR/2

Paragraph 1.3

Dr ILKHANOV (Uzbekistan) suggested that in the first sentence after the words "ensure that", the text should be amended to read "... the outside packaging of all unit packets or packages of tobacco products for retail or wholesale use is produced in conformity with national legislation on consumer information in force in the country in which the tobacco product is sold". Subparagraphs (a) and (b) should be deleted.

Professor GRANGAUD (Algeria), speaking on behalf of Member States of the African Region, proposed that after the words "under its jurisdiction" the words "are hermetically sealed. They should also:" should be added. He further proposed the addition of a subparagraph (c), to read "carry a general health warning, as stipulated in Article G.1(d)(iv)".

Dr ZENKEVICH (Belarus) objected to the words "under its jurisdiction" in paragraph 3. He suggested that they be replaced by the words "in areas subject to its national legislation".

Mr MOON (Republic of Korea) said he supported paragraph 3 in principle, and welcomed the inclusion of a requirement for a statement indicating the name of the manufacturer and country of origin on packages of tobacco products. However, with respect to the other requirements, more careful consideration of technical problems, such as the limited space available on some packaging was needed. He suggested that after the word "jurisdiction" the words "carry a statement indicating the name of the manufacturer and the country of origin, and any other statement decided by the Conference of the Parties" should be added.

Mr RAJALA (European Community), speaking on behalf of the European Community and its Member States, said that the convention should include rules for the marking of tobacco packs so as to enable the origin of the product to be identified, and to ensure that it could be traced and the time and place of manufacture determined. That could be accomplished by means of some form of batch numbering. The form of words would have to be flexible enough to ensure that illicit trade in tobacco products was made more difficult, and that the objective of the provision was achieved. It would consequently be superfluous to require that products could only be placed for sale on a particular market. He proposed that subparagraphs (a) and (b) should be replaced by the following text: "... carry a marking in any appropriate manner in order to enable the origin of the product to be identified, to ensure traceability and to enable the place and time of manufacture to be determined such as through the use of approved batch numbering or equivalent".

Mrs SHAHAR-BEN AMI (Israel), while endorsing paragraph 3, expressed concern regarding subparagraph (b), since the advantages of labelling for the purposes of discouraging illicit trade might be outweighed by the possible prestige attributed to it. Furthermore, it should be borne in mind that those engaged in illicit trade would probably also be able to counterfeit such labelling. She proposed that the subparagraph be deleted.

Ms ROVIROSA PRIEGO (Mexico) supported the inclusion of subparagraph (a), but had reservations as to subparagraph (b), since in her view manufacturers did not have any responsibility for regulating the ultimate consumption of their products.

Dr AL-LAWATI (Oman) proposed that subparagraph (a) be amended to read: "... indicating the names of the manufacturer and the importer in the importing country ... etc."

Mr MURDOCK (Canada) supported the opening text of paragraph 3. Canada's experience had been that overt markings assisted in preventing the diversion of tobacco products while in transit.

AFCTC/INB2/WG2/SR/2

made it easier for authorities and consumers to identify contraband tobacco products, and further deterred the open display of contraband tobacco products in a retail setting. In the interests of ensuring that all tobacco destined for consumption was readily identified as legitimate, he proposed that the words "and raw leaf tobacco" be inserted before the words "for retail or wholesale use". He also proposed the replacement of the words "under its jurisdiction" by the words "in its territory", which more clearly indicated the scope of the obligation, as well as being more appropriate for a legal requirement.

Dr AL-HAJJAWI (Jordan) endorsed the amendment proposed by the delegate of Algeria to subparagraph (b).

Mr CULLEN (Argentina) said that he shared the concerns expressed in regard to subparagraph (b), which could be difficult to implement. For instance, with regard to duty free sales, it would be absurd if every person buying a cigarette pack at an airport had to indicate the country to which it was to be taken. The subparagraph would have to be considered in conjunction with other provisions concerning duty-free sales.

Dr SILVA GOLDFARB (Brazil) said that she was in favour of a comprehensive convention, as well as a separate protocol on illicit trade in tobacco products. She suggested that as each country had its own geopolitical, administrative and subnational structures, subparagraph (b) should be amended to read: "carry the statement: 'Sales only allowed [in the country, subnational, regional or federal unit where the product is to be placed on the market].'"

Paragraph I.4

Mr RAJALA (European Community), speaking on behalf of the European Community and its Member States, said he considered that provision should be made for packaging information to be presented either in the form of a written text or some other approved form, in order to cover cases where batch numbers were used instead of a written text.

Ms LLORENTE DIAZ (Cuba) proposed that the reference to languages be inserted in paragraph 3(b) which would then read: "carry the statement: 'Sales only allowed [in the country where the product is to be placed on the market], ensuring that the information appears in the principal language or languages of the country in which the product is placed on the market.'" Paragraph 4 could then be deleted.

Paragraph I.5

Mr REDDY (India) speaking on behalf of the Member States of the South-East Asia Region, said that the use of the expression "criminal legislation" in subparagraph (b) was unnecessarily restrictive. While some of the offences were undoubtedly covered by criminal legislation, others, particularly those relating to production, could be dealt with under other laws. He therefore proposed that the word "criminal" should be deleted.

Mr RAJALA (European Community) speaking on behalf of the European Community and its Member States, said that it was not appropriate for the draft convention to refer to criminal legislation or to appropriate penalties, since these were matters of national competence. In order to avoid possible misinterpretations, he proposed that subparagraph (b) should read: "prohibition of production of counterfeit tobacco products, trade in contraband tobacco products, and taking of appropriate steps to enforce such prohibition;"

A/CTC/INB2/WG2/SR/2

Referring to subparagraph (c), he pointed out that some jurisdictions had provisions permitting contraband tobacco products to be placed on the market after payment of the relevant taxes. The paragraph might therefore be reworded to cover that possibility, which did not in itself pose a public health problem. He proposed the wording "appropriate steps to ensure that all confiscated counterfeit cigarettes and other tobacco products are destroyed and that contraband tobacco products are either destroyed or are placed on the market according to national legislation".

Mr BEN SALEM (Tunisia) said that subparagraph (b) would be inadequate to combat illicit trade in tobacco products in its present form. He proposed that the words "including the prohibition of counterfeiting and initiating the external packaging of such products" be added.

Mr MURDOCK (Canada) recalled that at the previous session his delegation had proposed that "measure" should be defined as "any law, regulation, procedure, requirement or practice of a legislative, executive, or administrative nature". He therefore suggested the deletion of the words "legislative, executive and administrative" from the opening text of paragraph 1.5, and the addition of the words "and raw leaf tobacco" at the end.

Mr CHAVES SELL (Costa Rica) said that the use of the word "counterfeit" in subparagraphs (b) and (c) might appear to be intended to protect the interests of the industry rather than the interests of governments. He therefore proposed that the word "counterfeit" be deleted.

Ms VILLAMIZAR (Venezuela) proposed the addition at the end of subparagraph (a) of the phrase: "and exchanging information among customs and tax authorities concerned with the trade". That would help reduce contraband by facilitating the monitoring of merchandise from its point of origin to its destination.

Dr HAMAD (Sudan) said that subparagraph (b) as it stood was too weak. He proposed that it should be amended to read: "enactment and strengthening of strict criminal legislation with deterrent penalties and prohibiting the production of and trade in counterfeit and contraband cigarettes and other such tobacco products, and taking of appropriate steps to enforce such prohibition".

Ms MAYSHAR (Israel) said she fully supported subparagraph (c), which reflected a provision already applied in Israel in respect of the destruction of confiscated tobacco products. It was unseemly for governments to be in the position of marketing such products.

Dr SEKABARAGA (Rwanda) agreed with the delegation of Israel in respect of subparagraph (c). Subparagraph (b) needed to be more strongly worded if it was to halt or prevent illegal activity.

Dr ABOU-ALZAHAB (Syrian Arab Republic) endorsed that view.

Mrs TRAN THU THUY (Viet Nam) suggested that subparagraph (b) should be amended to read: "taking strict measures to prevent and handle the production and consumption of fake tobacco products and fake cigarette brands".

Ms WELLS (Australia) said that she could support the substance of the provision, on the understanding that it would not require public disclosure of sensitive law enforcement information or activities. Australia had adopted a national illicit tobacco strategy that contained a range of measures to deal with the problems associated with the growing, dealing, distribution and sale of illicit tobacco. In her view it was unnecessary for the convention to prescribe that measures should take legislative, executive and administrative forms, since methods of implementation could vary across jurisdictions.

A/FCTC/INB2/WG2 SR/2

She therefore proposed that the words "the following legislative, executive and administrative ..." be deleted.

Mr DILEMRE (Turkey) associated his delegation with the proposal made by the delegate of the European Community in respect of subparagraph (c).

Ms DJAMALUDDIN (Indonesia) speaking on behalf of the Member States of the South-East Asia Region, supported the Chair's text for subparagraph (c).

Mr MURDOCK (Canada) said he fully supported the intent of subparagraph (a), but considered its scope should be expanded to ensure that an accurate picture of the entire tobacco market was obtained. He therefore proposed that the subparagraph should be amended to read: "establishing data-collection mechanisms to ensure that information on the production and subsequent distribution of all tobacco products and raw leaf tobacco, including imports and exports, is collected and analysed".

He also supported the obligation in subparagraph (b). Canada's experience had shown that criminal provisions, complemented by a strong regulatory regime, were valuable tools in combating the contraband tobacco market. A combination of criminal offences and regulatory measures with effective penalties and sanctions acted as a general deterrent. In addition, civil remedies were often less costly than criminal prosecutions. To ensure that that obligation had the maximum impact on the illicit tobacco trade, the text should make specific reference to regulatory measures. He therefore proposed that the subparagraph should be amended to read: "enacting criminal legislation and other measures, with appropriate penalties and civil remedies, to prohibit the illicit tobacco trade, including illicit manufacturing, smuggling, counterfeiting and contraband".

Lastly, while Canada also supported the intent of the obligation in subparagraph (c), it considered that its effect would be enhanced if Parties were compelled to adopt measures providing enforcement and regulatory bodies with the express authority to confiscate contraband tobacco products. He proposed that the text should be amended to read: "by adopting measures to enable authorities to seize as forfeit contraband tobacco products, including raw leaf tobacco, and other offence-related property, such as tobacco manufacturing equipment and conveyances and to ensure that forfeited tobacco products are destroyed".

Ms BALOCH (Pakistan) asked who would benefit from the civil remedies referred to by the Canadian delegation.

Mr MURDOCK (Canada) replied that his delegation's proposal was based on the assumption that civil remedies would benefit the State rather than the manufacturers. However, the issue would require further discussion.

The CHAIR suggested that the delegations of Canada and Pakistan should pursue that discussion on an informal basis with any other interested delegations.

Dr SILVA GOLDFARB (Brazil) proposed that subparagraph (c) should be amended to read: "appropriate steps to ensure that all confiscated counterfeit and contraband cigarettes and other such tobacco products are destroyed using non-polluting methods".

* Dr NOVOTNY (United States of America) said that the provision contained in subparagraph (c) was too broad. Cigarettes seized in the United States as contraband were sold, and the proceeds paid into a Treasury forfeiture fund in order to provide funding for law enforcement activity aimed at reducing, or eliminating, smuggling and diversion crimes. Since the cigarettes were sold on the condition that they were placed in lawful distribution channels, their sale would not run counter to the objectives of the convention. He proposed that subparagraph (c) should be deleted.

A/FTC/INB2/WG2.SR/2

Professor GOJA (Uruguay) said that a major campaign against contraband, including tobacco products, had been initiated in Uruguay. However, whereas legislation in her country contained provisions for the destruction of illicit drugs, it had no provision for the destruction of tobacco products which were sold legally. It would consequently be extremely difficult for Uruguay to implement subparagraph 1.5(e).

Ms QU MEIYU (China) proposed that subparagraph (e) be deleted.

Dr CASTILLO (Dominican Republic), referring to the destruction of counterfeit tobacco products, said that it was important to bear in mind the possibility of counterfeiters adding substances other than those normally found in the products in order to encourage addiction. Such products should not be sold under any provision or agreement.

Dr ABOU-ALZAHAB (Syrian Arab Republic), referring to subparagraph (e), said that, in view of the divergence of views on the destruction of cigarettes, the decision would best be left to each country. The convention should, however, state which non-polluting methods of destruction should be used.

Paragraph 1.6

Mr RAJALA (European Community) speaking on behalf of the European Community and its Member States, said that it would be not appropriate to refer to investigations, judicial prosecutions and legal proceedings relating to illicit traffic in tobacco products, in the framework convention. Many of those matters were covered in other international agreements and fora, and it was doubtful whether there was anything to be gained by including them in paragraph 1.6.

Mr SEKOBÉ (South Africa), speaking on behalf of the Member States of the African Region, expressed support for the text as it stood, in view of the need for cooperation between national and international agencies in promoting investigations to ensure that illicit trade was not conducted.

Mr PAVELSONS (Latvia), speaking on behalf of the Baltic States of Estonia, Latvia and Lithuania, supported the proposal made on behalf of the European Community and its Member States. In addition, he proposed that special emphasis should be placed on cooperation at regional and subregional levels as the most effective means for combating smuggling and the illicit trade of tobacco products. An exact formulation would be submitted.

Ms WELLS (Australia) expressed support for paragraph 6 and welcomed the focus on international cooperation. Illicit trade involved a range of cross-border issues for which such cooperation and coordination were essential. Her country would not, however, be in a position to finalize its views on paragraph 6 until the text of the proposed annex was considered.

Ms ROVIROSA PRIEGO (Mexico) agreed with the spirit of paragraph 6 in view of the importance of international cooperation in combating the scourge of illicit trade. Exchange of information was also needed to anticipate illegal cross-border flow of those products and gain insight into national and international smuggling operations. Regional cooperation should therefore be given particular emphasis.

Ms DJAMALUDDIN (Indonesia), speaking on behalf of the Member States of the South-East Asia Region, emphasized the importance of retaining paragraph 6, as the strength of the framework convention would lie in its provisions on cross-border issues.

A/FCTC/INB2/WG2 SR/2

Mr LISKIA (Papua New Guinea) fully supported paragraph 6 as amended by insertion of the word "regional" before "and international agencies". While it was true that the issues could be dealt with under other international conventions, the provisions contained in paragraph 6 should also be part of the framework convention.

Dr ZATONSKI (Poland) expressed support for paragraph 6 and the statement of the delegate from the European Community. Interregional collaboration was particularly important to a country like Poland which was surrounded by many other countries.

Mrs SHAHAR-BEN AMI (Israel) agreed in principle with the position of the European Community that paragraph 6 should be retained. She suggested, however, that it would be more readily applicable with insertion of the phrase "In accordance with their national legislation and their commitments under international treaties" at the beginning of the paragraph.

Ms MORALES AYLLÓN (Bolivia) agreed with the spirit of paragraph 6 but suggested that the last sentence be amended to read: "The Parties shall further cooperate to promote the full exchange and wide dissemination of information ..." in order to counteract the effects of large-scale advertising of tobacco products. To that end the judgements and results of judicial proceedings should also be widely advertised.

Paragraph I.7

Mr ODOKO (Japan) said that his delegation was reluctant to accept provisions that created a legal obligation requiring governments to initiate the preparation of protocols. The intention of the Intergovernmental Negotiating Body to formulate a protocol on a particular issue should be incorporated in non-legally binding form, such as a resolution, summary record or recommendation and not in the framework convention.

Professor GRANGAUD (Algeria), speaking on behalf of the countries in the African Region, said that the paragraph and the footnote were acceptable as drafted. He was supported by Dr NGABA (Central African Republic).

Mr LOM (United States of America) supported adoption of the paragraph and the footnote. He reiterated the usefulness of protocols on specific matters in the present case addressing the elimination of smuggling. His remarks were supported by Dr NGABA (Central African Republic).

Ms QU Meiyu (China) asked whether the proposed protocol would be specific or comprehensive in its scope. She would prefer a general, comprehensive protocol covering all subjects within the purview of the convention rather than a number of protocols on separate subjects. Stronger measures against illicit trade should be specified in the framework convention.

Mr ATWOOD (Australia) said that inclusion of the paragraph would raise an important structural issue, namely, the relationship between the convention and any proposed protocols. He reiterated the view of his delegation that the end-product of the negotiations should be a single international instrument setting out an integrated, comprehensive programme to address tobacco control at national, regional and global levels. The effectiveness of the multifaceted approach of the framework convention might be weakened if its provisions were distributed among a number of protocols, particularly if accession to them were optional. He therefore proposed that paragraph I.7 be placed in square brackets.

A/E/C/T/C/INB2/WG2/SR/2

Dr FARSIAD (Islamic Republic of Iran) proposed insertion of a new paragraph 1.8 to read: "Each Party shall prohibit international delivery or sending of tobacco products, and mail order sales and Internet sales, unless the delivery or sending is within the tobacco trade."

Mr RAJALA (European Community), speaking on behalf of the European Community and its Member States, supported the proposal for a separate protocol on smuggling, owing to the special importance of the question. Negotiations on the protocol could begin before the end of the negotiations on the framework convention. He would submit a proposal to that effect in writing.

Mr CASTILLO SANTANA (Cuba) looked forward to studying the proposal that would be submitted by the European Community. Nevertheless, his delegation, a small one from a developing country, had some reservations about the advisability of negotiating two highly important legally-binding texts simultaneously.

* Mr LOM (United States of America) said that, if there were concurrent negotiations, there should be mechanisms to ensure consistence and avoid conflict between the two texts. He would submit a written proposal to that effect.

Ms QU Meiyu (China) pointed out that the question of simultaneous negotiation of the framework convention and protocols needed further study.

Mr MURDOCK (Canada) said that his delegation considered that an effective means of discouraging participation in illicit tobacco trade was to deprive traders of their proceeds. He therefore proposed the addition of the following text to paragraph 1.5: "adopting measures to enable the confiscation of proceeds derived from the commission of criminal offences related to the illicit tobacco trade".

The existence of free-trade zones exacerbated the difficulties of controlling the distribution and movement of duty-free and tax-free tobacco products. Control of the international movement of tobacco products and effective monitoring and auditing of tobacco products entering and leaving free-trade zones would help to prevent diversion to the contraband market. He therefore proposed insertion of the following text in paragraph 1.5: "adopting measures to monitor, document and control the distribution and movement of duty-free and tax-free tobacco products, including raw leaf tobacco".

The CHAIR, reviewing the discussion on Article I, paragraphs 1-7, noted the proposal that raw leaf tobacco be included as an item of illicit trade. He assumed that delegations that had proposed definitions would provide appropriate wording. There had been some discussion about the inclusion of references to national texts, obligations and law. The question of discrimination against tobacco had been raised, but the importance of maintaining the public health focus of the convention had been stressed.

With respect to paragraph 1.3, there had been considerable discussion about the packaging of tobacco products and the various approaches to the labelling and sealing of packages, particularly of the difficulty of applying them in national contexts. It had been proposed that the wording of references to the origin and identity of products should be reviewed by the Conference of the Parties.

A new text had been proposed for paragraph 1.4; there had also been proposals to delete the paragraph or to merge it with subparagraph 1.3(b).

Paragraph 1.5 had elicited a full discussion on the advantages and disadvantages of criminalizing illicit trade in tobacco products. Questions had been raised regarding the definitions of the terms "counterfeit" and "contraband". Proposals had been made to the effect that, rather than destroying tobacco products, they should be sold and the proceeds used for other purposes. It had been urged that any method of destruction should be non-polluting. Discussion of paragraph 6 had centred on whether investigative procedures should form part of section I.

A/FTC/INB2/WG2.SR/2

Paragraph I.7 had raised the issue of the relationship of protocols to the framework convention, the relative strengths of the convention and protocols and the timing of negotiations on protocols.

A new paragraph I.8 had been proposed to prohibit the sale of tobacco products by mail order or through the Internet. He looked forward to receiving the text of that proposal. New items had been proposed to deal with confiscation of contraband goods and restrictions on duty-free and tax-free sales of tobacco products.

Dr Stamps took the chair.

Paragraphs I.13 and I.14 (Licensing)

Mr KATENE (New Zealand) said that his country considered that an effective licensing system was important. However, it did not license its thousands of retailers, as it considered that that was not essential for tobacco control; his country did support the licensing of manufacturers, distributors and importers as part of a real effort to curb illicit trade in tobacco products. He would provide a text to that effect.

Dr URDAL (Norway) expressed the support of the Norwegian delegation for the proposals contained in I.13 and I.14. Licensing was an important tool for preventing tobacco sales to children. In Norway, 40% of 13- and 14-year-old children succeeded in buying cigarettes, despite the legal limit of 18 years. Although the Norwegian Government had cooperated with retail organizations over the previous two years, there had been no reduction in sales to minors. He acknowledged the need to establish legislative and administrative measures to license all tobacco retailers.

Ms DJAMALUDDIN (Indonesia) said that establishing a licensing system for retailers was unrealistic, particularly in a large developing country such as Indonesia. If such a system were introduced in her country, it would be necessary to license more than one million retailers in more than 300 autonomous local government areas. That would only impose an insurmountable administrative burden, with no benefit. She therefore proposed that the concept be eliminated from the framework convention.

She acknowledged that licensing was an important tool but said that it would be more realistic and effective to focus on higher levels of the distribution chain, such as manufacturers, importers, exporters and the wholesale trade.

Ms BILLUM (Sweden), speaking on behalf of the European Union and its Member States, said that the Union recognized that a licensing system for tobacco retailers was only one mechanism for curbing illicit trade and traffic and preventing sales of tobacco products to children; there were other ways of exercising efficient control over tobacco retailers, for example, by a tax registration system or by reinforcing administrative measures to identify and regulate the retail trade and to verify access to wholesale suppliers. What was important was that there be effective control and that compliance with legal requirements could be verified. The framework convention should not contain detailed provisions concerning the content of national legislation on the retail trade: that should be left for each State Party to decide, according to local circumstances.

The European Union therefore proposed new wording for paragraphs I.13 and I.14, as follows:

(Licensing or registration)

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

14. Each Party shall, to the extent possible within the means at its disposal and its capabilities, adopt legislative, executive and administrative measures to exercise efficient

A/FCCT/INB2/WG2/SR/2

control over all tobacco retailers, for example by means of a licensing or tax registration system, or provide other means to identify and regulate the retail trade in these products

The CHAIR noted the intent to eliminate detail in one direction, although it was added in another direction.

Mr MURDOCK (Canada) said that his delegation recognized that licensing was an important mechanism for curbing the illicit trade in tobacco products, as it would allow governing authorities to impose conditions and limitations on licencees. To ensure effectiveness, any licensing regime should be broad and inclusive.

Ms LAMBERT (South Africa), speaking on behalf of the African Region, said that licensing was an essential tool both in the prevention of sales of tobacco products to persons under the age of 18, and in curbing the illicit trade in tobacco products. She proposed that paragraph I.13 be amended to read: "The Parties recognize that an effective licensing system for wholesalers and retailers of tobacco products is an important mechanism to curb illicit trade in tobacco products and to prevent the sales and supply of tobacco products to young persons under the age of 18."

Ms BILLUM (Sweden), speaking on a point of order, said that any remarks made by the Chair regarding individual interventions should be of a neutral nature.

Dr TATA (India) observed that paragraphs I.13 and I.14 relating to the licensing of retailers would be unimplementable in his country and in other large developing countries. Furthermore, implementation of a licensing system would lead to the creation of a new, costly bureaucracy with no effect on tobacco sales. Decisions on measures to control tobacco use were best left to individual countries, which were better placed to assess the feasibility and cost-effectiveness of such measures. He therefore recommended that paragraphs I.13 and I.14 be deleted.

Ms ROVIROSA PRIEGO (Mexico) considered that paragraphs I.13 and I.14 were covered by Article 11 of the General Agreement on Tariffs and Trade, since they imposed restrictions on cigarette imports.

Dr WINAI SWASDIVORN (Thailand) supported retention of paragraph I.13 as it stood, as he was of the opinion that licensing prevented retailers from selling tobacco products to persons under 18 years of age.

Dr AL-HAJJAWI (Jordan) said that there were many retailers of tobacco products in his country. Young people commonly bought cigarettes singly. He proposed that paragraph I.13 would be strengthened by addition of a phrase prohibiting the sale of single units, and he would submit text to that effect. The CHAIR pointed out that the issue was covered in paragraph I.10.

Dr ENYIME (Cameroon) endorsed the position of the African Region that any licensing system should apply to manufacturers, wholesalers and major importers, as in most countries of the Region, cigarettes were sold by street vendors as part of the fight against poverty. Licensing would thus be extremely difficult to apply. The strategy should be to curb the availability of tobacco products by introducing a licensing system for manufacturers and importers.

Ms QU Meiyu (China) said that although licensing was proving to be effective in China, there were still many illicit producers and distributors. The Chinese authorities were doing their best to eliminate those practices. She noted that the wording in paragraph I.14 "... to licence all tobacco-product retailers" could be interpreted as including illicit operators. The phrase should be clarified.

A/ECTC/TNB2/WG2 SR/2

Ms ALEXIS-THOMAS (Trinidad and Tobago) said her delegation supported the principles contained in paragraphs I.13 and I.14 but considered that their scope should be broadened. She proposed that paragraph I.13 should be divided into paragraphs I.13 and I.14. The first would read: "The Parties recognize that an effective licensing system for manufacturers, importers, exporters, distributors and retailers of tobacco products is an important mechanism to curb illicit trade in tobacco products." The new paragraph I.14 would read: "The Parties recognize that an effective licensing system is an important mechanism to prevent sales of tobacco products to persons under the age of 18 years". That had proved to be an effective mechanism in her country. A new paragraph I.15 would read: "Each Party shall adopt legislative, executive and administrative measures to license manufacturers, importers, exporters, distributors and retailers of tobacco products." If the licence included a requirement to ask for proof of age, the number of young people buying cigarettes would be reduced.

Dr ARMADA (Venezuela) expressed support for a licensing and registration system for tobacco-product retailers, which was an effective means both of limiting sales to children and of preventing smuggling. It would also be appropriate to extend the system to include distributors and importers. The money raised from payment of licences by retailers could be used for both tobacco control and to encourage community participation.

Mr EMMANUEL (Saint Lucia) asked that the term "young person" be defined. On the assumption that a young person was someone under the age of 18, he proposed that the word "children" be deleted from paragraph I.13.

The objectives contained in paragraph I.13 would be easier to achieve when complemented by the provisions for strong education, training and public awareness campaigns outlined in subparagraph G.1(e).

Dr SEKABARAGA (Rwanda) endorsed the textual proposals put forward by South Africa on behalf of the African Region. However, in addition to introducing a licensing system, education campaigns should be mounted to inform small retailers and street vendors, who were responsible for most tobacco sales in his country, of the dangers of tobacco use to public health.

* Mr LOM (United States of America) said that he believed that licensing should properly be addressed in the smuggling protocol. Although licensing had proved to be an effective tool for combating smuggling in the United States, implementing a licensing regime at the retail level could present legal problems; moreover, for countries with federal systems of government like the United States, such implementation could lead to a conflict between national and subnational competencies, particularly in the area of smuggling. In practical terms, licensing was more effective and less costly to implement if introduced at the level of distributors and manufacturers, as they were far less numerous than retailers.

Dr ESPINOZA FARFÁN (Guatemala) said that developing countries would only be able to undertake the complex task of implementing a licensing system if the international community was prepared to provide scientific and technical cooperation and the transfer of technology.

Dr ILKHAMOV (Uzbekistan) stressed the importance of licensing both in curbing sales of tobacco products to young persons under 18 years of age and in combating smuggling. His delegation nevertheless considered that paragraph I.14 needed to be strengthened and proposed the deletion of the phrase "to the extent possible within the means at its disposal and its capabilities" and the insertion of the words "wholesalers and" between "tobacco-product" and "retailers".

A/FCTC/INB2/WG2/SR.2

Dr ABOU-AL ZAHAB (Syrian Arab Republic) said that it was essential for both wholesalers and retailers, as well as tobacco growers, manufacturers, importers and all individuals and entities involved in the tobacco industry, to be subject to licensing. Furthermore, the convention did not contain any provisions relating to health and safety parameters for tobacco growers and manufacturers.

Mr LISKIA (Papua New Guinea) recognized that an effective licensing system would be an important tool for curbing illicit trade in tobacco products and for preventing their sale to young people. His delegation therefore strongly supported the inclusion of provisions on licensing in the convention and supported the proposals of earlier speakers, especially the delegates of South Africa and the Syrian Arab Republic.

Dr AL-LAWATI (Oman), referring to paragraph I.13, proposed the insertion of the words "wholesalers and" between "for" and "retailers". The terms "retailers" and "wholesalers" should also be clearly defined. Oman also proposed the deletion of the phrase "to the extent possible within the means at its disposal and its capabilities" from paragraph I.14.

Dr ZARIHAH (Malaysia) said that her delegation concurred with speakers who had advocated the retention of paragraphs I.13 and I.14 on licensing but proposed that the phrase "to the extent possible within the means at its disposal and its capabilities" be deleted from paragraph I.14 and that the words "manufacturers, wholesalers, importers, exporters and warehouse operators" be inserted between "tobacco-product" and "retailers" in that clause.

Dr NGABA (Central African Republic) strongly supported the proposals put forward by South Africa, as well as the amendment by the European Community on tax registration, which would give some developing countries more effective control over the introduction of certain tobacco products.

Ms WELLS (Australia) said that her country was currently researching the feasibility of licensing and the costs and benefits of a national best practice approach to licensing with a view to identifying a model or models for implementation at national, state and territory levels. Australia recognized that licensing regimes had an important place in controlling sales of tobacco products, particularly to children, and therefore favoured retention of paragraphs I.13 and I.14.

Mr DRAGANOV (Bulgaria) and Dr SOVINOVA (Czech Republic) supported the proposal put forward by the European Community on the need for an effective licensing or tax registration system or some other means of regulating the retail trade in tobacco products.

Dr GBOMOR (Sierra Leone), referring to paragraph I.13, endorsed the amendment proposed by South Africa, despite the initial bureaucratic problems that licensing would create.

Dr ANDEN (Philippines) strongly supported the positions adopted in paragraphs I.13 and I.14 and endorsed the amendment by Malaysia. However, she proposed the addition of "traders" and "all other individuals and entities who engage in business in tobacco and tobacco products" to the list of those to whom licensing would apply in Malaysia's reformulation of the wording. The wording "to the extent possible and within the means at its disposal and within its capabilities" should also be deleted.

Dr ZENKEVICH (Belarus) said that licensing in his country had been effective, since the possibility of retailers losing their licences was an effective deterrent. Although he agreed with the wording in paragraphs I.13 and I.14, he suggested that in the Russian text the term "trader" be replaced by "vendor".

Professor GRANGAUD (Algeria), speaking on behalf of the Africa Region in relation to paragraph I.14, concurred with earlier speakers that "to the extent possible within the means at its disposal and its capabilities," should be deleted and that the words "manufacturers, wholesalers and" should be inserted between "tobacco-product" and "retailers".

Dr AL-HAJJAWI (Jordan) suggested that to be effective the proposed licensing system should also cover the individual sale of cigarettes.

Mr DIONDO (Togo) expressed his delegation's support for the position presented by the delegates of Algeria and South Africa on behalf of the Member States of the African Region. He also supported the position of the European Union, with its emphasis on the value of the registration of actors in the tobacco industry as an effective means of monitoring tobacco products. Togo also appealed for prevention and education campaigns to alert young people in Africa about the dangers of smoking.

Dr MUGA (Kenya) also supported the position outlined by the delegates of Algeria and South Africa. An effective licensing system was indeed an important mechanism to curb tobacco consumption with a view to the overall public good worldwide. With regard to the difficulties involved in giving effort to licensing systems, efforts must be made to find a mechanism which would make the implementation of licensing and registration systems possible. Kenya therefore supported the retention of paragraphs I.13 and I.14.

Mr CASTILLO SANTANA (Cuba) supported the existing wording of paragraphs I.13 and I.14, as contained in the Chair's text.

Dr JIRÓN ROMERO (Nicaragua), noting the broad support for the statement that an effective licensing system for retailers of tobacco products was an important mechanism to curb illicit trade in tobacco products, asked whether the statement was based on a broad analysis of the available evidence. Since public health standards were normally based on such evidence, it would be interesting to have some information on the studies which had been undertaken on the subject.

The CHAIR observed that the delegate of Australia had referred to such studies.

Dr PÁVA (Hungary) said that, while her delegation agreed that an effective licensing system was an important mechanism in curbing the illicit trade in tobacco products, it considered that other measures were also important in exercising control over retailers and therefore supported the statement made by the European Union.

Ms TKACHENKO (Russian Federation) explained that her country had not acquired much legal experience in the licensing of retailers and believed that emphasis should be placed on the licensing of producers and wholesalers of tobacco products. The licensing of retailers would present many difficulties for the Russian Federation, as well as for many other developing and developed countries. Her delegation therefore supported paragraphs I.13 and I.14, which emphasized the importance of licensing retail trade and created the obligation to develop the system.

Mr MBUYU MUTEBA (Democratic Republic of the Congo) endorsed the position of the Member States of the African Region, as presented by the delegate of South Africa, and raised the question of the authority which would be empowered to issue licences to retailers of tobacco products. In his country, the Ministry of Health issued licences for drugs, but for products such as tobacco, licences were currently issued by the Ministry of the Economy. If responsibilities were to be transferred on the grounds of the harmful nature of tobacco and the need to control its health effects,

A/ECTC/INB2/WG2/SR/2

legislative problems might arise in harmonizing the areas of competence of other ministries with the view to entrusting licensing arrangements to the Ministry of Health.

The CHAIR, summarizing the discussion on paragraphs 133 and 134, said that there seemed to be general consensus, with a few exceptions, that some form of licensing, registration or identification of those involved in the tobacco industry would be valuable in dealing with the tobacco epidemic.

* Dr NOVOTNY (United States of America), speaking on a point of order, recalled that it was not appropriate to speak of consensus at the current meeting. The purpose of the meeting was not to identify or establish consensus, but to allow the Member States to make points without rushing to any conclusion. He therefore called upon the Chair not to suggest that consensus had been achieved on anything until there had been an opportunity to negotiate the actual language and elements at a later date.

Ms BILLUM (Sweden), speaking on behalf of the European Union and its Member States, endorsed the comments made by the delegate of the United States of America. It was premature to draw conclusions on a consensus at the current stage of the negotiations.

Mr COLLIN (International Union Against Tuberculosis and Lung Disease), speaking at the invitation of the Chair, emphasized that smuggling currently accounted for one-third of all international trade in tobacco products, amounting to over 350 billion cigarettes a year on the black market. That figure represented a remarkable penetration by organized crime, which justified a serious intergovernmental response. Tobacco-industry documents showed that some tobacco companies had orchestrated smuggling in their own commercial interests and that that had led to serious racketeering litigation against the companies by Canada, Colombia, Ecuador, the European Union and nine of its Member States. The problem was not driven by the differences in tax rates in different countries. Indeed, if all taxation and pricing were to be harmonized globally, there could still be as much smuggling. Smugglers profited by avoiding all taxes, not by exploiting tax differences.

The main problem consisted of a trading system set up to facilitate smuggling and to prevent enforcement and detection. The Chair's text made welcome proposals for identifying the destination market and using markings to facilitate tracking and tracing. A ban on duty-free products would also help. Such important starting points needed to be included in the convention. The real challenge, however, was to hold the manufacturers responsible for ensuring that the products were sold legally and to hold them liable if they were sold on the black market. That would profoundly change the way in which manufacturers did business, in favour of law-abiding and tax-paying sales, rather than working hand in hand with organized crime. While the idea was ambitious, it should be seen as the central goal of a smuggling protocol to the convention.

K. Surveillance, research and exchange of information

* Dr NOVOTNY (United States of America) said that, although his delegation was in favour of State cooperation on national systems of epidemiological surveillance of tobacco consumption, in addition to accord on the surveillance data elements to be collected, agreement was needed also on the definitions of such elements. Regional and local comparisons of State-based data would only be possible if the data elements were comparable. It would therefore be necessary to establish good cooperation on the survey instruments and to ensure that the populations surveyed were representative. His delegation would propose some amendments in support of State-based surveillance definitions to allow cooperation on comparable data collection and aggregation.

Ms MAYSIAR (Israel) drew attention to the proposal made by her delegation at the first session of the Intergovernmental Negotiating Body, to the effect that the word "surveillance" in the

A/CTC/INB2/WG2/SR/2

title of Article K and throughout the text should be replaced by "monitoring", which had a more neutral connotation.

Ms LAMBERT (South Africa), speaking on behalf of the Member States of the African Region, expressed support for surveillance, research and the exchange of information, which would provide valuable scientific evidence on the magnitude, patterns, determinants and consequences of tobacco consumption. Nevertheless, the African States believed that the text should include firm commitments and that the phrase "in accordance with the means at its disposal and capabilities" should therefore be deleted.

Ms BALOCH (Pakistan) said that monitoring and surveillance should be carried out at the national level, not at the regional or global levels, and therefore proposed the deletion of the words "joint or complementary" and of the words "regional and global" throughout paragraph K.1. Exchange of information and experience could take place at conferences of States Parties, but the establishment of joint surveillance or monitoring systems should be avoided.

Ms ROVIROSA PRIEGO (Mexico) said that her country attached great importance to epidemiological surveillance and drew attention to her delegation's statement in the general debate concerning the significance for the implementation of the convention of identifying specific indicators of the health and economic impact of tobacco consumption. Mexico considered that the Intergovernmental Negotiation Body should try to make progress in identifying such indicators.

Dr CARIS (Chile) said that her country was committed to the development of surveillance and monitoring strategies. Chile proposed the deletion of the words "to the extent possible" in the second sentence of paragraph K.1 and of the words "in accordance with the means at its disposal and its capabilities" in the third sentence, since surveillance and monitoring were so important that countries which did not have the capacity or the necessary resources to undertake the appropriate programmes should receive support from international organizations and institutions. Each country should attain a sufficient level of surveillance and monitoring of the situation at the national level and countries where the appropriate means were not available should be assisted by international organizations and developed countries.

Ms ALEXIS-THOMAS (Trinidad and Tobago) supported the proposed text, but suggested that paragraph K.1 should be strengthened by the deletion of the words "in accordance with the means at its disposal and its capabilities". Further, her delegation proposed that the first part of paragraph K.1 should read as follows:

1. The Parties shall establish programmes for national, regional and global surveillance of the magnitude, determinants and consequences of tobacco consumption, including exposure to second hand smoke. To this end, each Party shall:
 - (a) establish and maintain a national system for the epidemiological surveillance of tobacco consumption and exposure to second-hand smoke which must include:
 - (i) periodic update of economic indicators to include loss of productivity;
 - (ii) periodic update of health indicators to include evaluations of public health communication campaigns.

Dr MOGNE (Mozambique) said that endorsing the idea that the Parties should establish joint and complementary surveillance, research and exchange of information programmes, different national situations and the lack of human, technical and material resources in some developing countries must be taken into account. Many countries experienced great problems in the collection of

AFCTC/INB2/WG2/SR/2

data and knowledge gathering and therefore surveillance and research programmes were needed at the national, regional and global levels.

Dr RODRÍGUEZ BALZAR (Venezuela) emphasized the importance of the compilation of information, which provided an essential basis for combating tobacco consumption in all countries, particularly in developing countries, which suffered from major weaknesses in the organization of public health teams. Venezuela therefore proposed the addition of a subparagraph (c), to read as follows: "promote and strengthen, with the support of international organizations, the capacity-building and training of multidisciplinary teams for the progressive development of surveillance, research, intervention and control programmes to combat tobacco consumption".

Mr CULLEN (Argentina) expressed agreement with speakers who had supported the inclusion of a reference to joint programmes at the national, regional and global levels. He drew attention to his delegation's earlier statements concerning the importance of adopting a regional focus and emphasized that such a focus should clearly be maintained in an area as important as that of surveillance, research and the exchange of information.

Ms BILLUM (Sweden), speaking on behalf of the European Union and its Member States, expressed support for the Chair's text of Article K, emphasizing that epidemiological surveillance and monitoring of developments were of the greatest importance as a basis for preparing further strategies to combat tobacco use. Article K would help contracting parties individually and collectively to determine whether the convention was meeting its objectives. In conclusion, the importance of cooperation with international bodies and between countries must be emphasized.

Dr CHAOUKI (Morocco) said that his delegation joined those of Chile and Mozambique in emphasizing the importance of the comparability of epidemiological data relating to tobacco consumption and therefore supported the retention of the words "national, regional and global". Nevertheless, Morocco considered that the phrase "in accordance with the means at its disposal and its capabilities" weakened the text and should be deleted.

Dr DE CÁCERES (Paraguay) endorsed the statements made by earlier speakers from her region. Paraguay was a developing country that was experiencing great difficulties in its public health system and, with technical assistance, was endeavouring to improve its system of surveillance and to restructure its information system. In that regard, it was attempting to incorporate the surveillance of noncommunicable diseases, including those related to tobacco use. Such measures were possible in developing countries when technical assistance was forthcoming and information was exchanged. It was therefore important for surveillance, research and exchange of information to be conducted at the regional and global levels as a means of combining efforts and optimizing resources, particularly within regions with similar socio-cultural and political conditions.

Dr PALOMO ESCOBAR (El Salvador) agreed with speakers who had emphasized the importance of surveillance and research in controlling tobacco use and had urged the deletion of the words "in accordance with the means at its disposal and its capabilities". Developing countries merited the support and technical assistance of international organizations and industrialized countries to ensure that systems of surveillance and research were established in the near future and strengthened as a basis for a real process of surveillance and research, leading to preventive and corrective measures to control tobacco use.

Dr ESPINOZA MURRA (Honduras) said that the words "the magnitude, patterns, determinants and consequences" in paragraph K.1 were ambiguous and should therefore be deleted.

A/ECTC/INB2/WG2/SR.2

Ms MORALES AYLLON (Bolivia) endorsed the statements made by earlier speakers from her region and considered that little could be achieved without international support. Bolivia also supported the proposal of the preceding speaker.

Mr TAKAKURA (Japan) agreed with the speakers who had emphasized the importance of surveillance and research activities and of the inclusion of a provision on that subject in the convention, but drew attention to an apparent ambiguity in the Chair's text since his country had several health surveillance programmes, including those covering infectious diseases, basic nutrition and also tobacco consumption, it was not clear what was meant by the integration of tobacco surveillance programmes into health surveillance programmes. Moreover, Japan would reserve its final position on Article K until it had examined the Annex which remained to be added.

Ms KERR (Australia) said that, although her country supported Article K in principle, it noted some shortcomings in the texts of paragraphs 1 and 3, which were composed of a mixture of obligations and statements of principle, as well as a mix of domestic obligations and matters of regional and international cooperation. Moreover, the various qualifiers and caveats needed to be removed and a simple list developed of the areas which constituted domestic obligations and international cooperation. Consistent with the approach adopted in the Chair's text, Australia considered that all the elements of paragraphs 1-3, including that on research, which was scheduled for discussion in Working Group 1, should be brought together in the same Article. The combination would result in more streamlined and precise obligations that could be implemented without ambiguity and would more clearly delineate domestic and other obligations. In addition, some of the statements currently contained in Article K were aspirational and should be transferred to the Preamble.

Australia proposed that the title of Article K should be changed to "Monitoring, surveillance, research and exchange of information" to reflect the scope of the Article more clearly. In conclusion, paragraph K.4 should be incorporated in Article P.

Ms THIBELI (Lesotho) said that her delegation agreed with the position of the Member States of the African Region, as outlined by the delegates of Algeria and South Africa. Lesotho attached great importance to joint surveillance and monitoring programmes, particularly for the implementation of the current common and joint legal effort to curb tobacco consumption. Countries could not successfully monitor issues of tobacco consumption by themselves. Since regional collaboration on a number of developmental issues had proved to be successful, Lesotho believed that the same applied to the control of tobacco consumption, particularly because of the importance in that context of electronic media, which was not confined by political borders. Her delegation therefore endorsed the concept that surveillance programmes should be undertaken from a national, regional and global perspective.

The meeting rose at 13:10.

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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/2
20 June 2001

WORKING GROUP 3

PROVISIONAL SUMMARY RECORD OF THE SECOND MEETING

International Conference Centre, Geneva
Wednesday, 2 May 2001, at 19:30

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

CONTENTS

	Page
Drafting and negotiation of the WHO framework convention on tobacco control (continued)	
J. Compensation and liability (continued).....	2
N. Secretariat.....	5
O. Support by the World Health Organization.....	6
P. Reporting and implementation.....	8
Q. Financial resources.....	12

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.

A/FCTC/INB2/WG3/SR/2

WORKING GROUP 3

SECOND MEETING

Wednesday, 2 May 2001, at 19:30

Chair: Mr R. FARRELL (New Zealand)

later: Mr I. SEDDIK (Egypt)

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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 said that the textual amendments submitted following the working group's previous discussion of Articles L and M would be reflected in document A/FCTC/INB2/WG3/Conf.Paper No.1. He reminded delegates that textual proposals should be submitted on the appropriate form and handed to the Secretary of Working Group 3 no later than 30 minutes after the end of that evening's meeting.

At the previous meeting, two questions raised had been discussed subsequently between the Chair of the Intergovernmental Negotiating Body and the Co-Chairs of the working groups in order to define a unified approach. The first question concerned procedure with the text. Textual amendments submitted would be reproduced in the form of a Conference Paper, to which delegates could make any relevant corrections. The Co-Chairs and the Secretariat would incorporate those amendments into the Chair's text but without making any judgement on the content of the amendments. Some, but perhaps not all, of the amended Articles would be distributed by the fourth meeting of the working group. The Chair of the Intergovernmental Negotiating Body had indicated that he did not intend to produce a new Chair's text after the present session. The text would henceforth be developed by the delegations through the intergovernmental process.

J. Compensation and liability (continued)

The CHAIR recalled that the second question concerned Article J (Compensation and liability) for which no text as yet existed. Textual proposals would be welcome, including input from any regional or group meetings that might be held by delegations later on the topic. Discussion of that input would need a subsequent meeting, possibly immediately before or during the third session of the Intergovernmental Negotiating Body, and within the framework of Working Group 3. Proposed texts should be forwarded to WHO well in advance of the third session.

Dr BENAVIDES COTES (Colombia), speaking also on behalf of the Group of Countries of Latin America and the Caribbean (GRULAC), said that the Group considered that Article J should not be given different treatment from the other articles but should be discussed at the same level and in the same way as all other aspects of the framework convention, in accordance with the accepted methods of work of the Intergovernmental Negotiating Body.

Dr AL-LAWATI (Oman) expressed concern that texts put forward by delegates following the discussions of the previous day might be biased in favour of their national interests and lead the debate along a different path. He did, however, support the proposal made by the delegate of Iran in the first

meeting. It was also important that deadlines for submission of texts allowed time for incorporation in the Chair's text before the third session of the Intergovernmental Negotiating Body.

Mr VARELA (Argentina), supporting the statement made by the delegate of Colombia on behalf of GRULAC, requested clarification concerning the proposed meeting to be held either before or during the third session of the Intergovernmental Negotiating Body and the justification for treating Article J differently from the other equally controversial articles.

The CHAIR said that the Chair of the Intergovernmental Negotiating Body would give consideration to the timing of the meeting, which would clearly be an integral part of the third session.

Dr HETLAND (Norway) welcomed the Chair's clarifications on procedural matters, which corresponded to his delegation's position on the matter.

Ms BALOCH (Pakistan) said that her delegation considered that Article J should not be given any special treatment and that the discussion should be postponed until a text was available. She supported the Chair's suggestion.

Dr BELLO DE KEMPER (Dominican Republic) considered that any meeting held should take place during and not before the third session of the Intergovernmental Negotiating Body, as it was important to ensure the presence of all Member States.

Ms BENNETT (Australia) supported the proposed process for receiving textual proposals from delegations and acknowledged the need for a clear deadline for submission of texts sufficiently in advance of the opening of the third session of the Intergovernmental Negotiating Body to enable delegations to brief themselves for that meeting. She requested clarification concerning the proposed separate meeting of the working group which, if held before the third session of the Negotiating Body, would still apparently be part of that session.

The CHAIR said that, although it had been proposed to hold such a meeting, there could clearly be no separation between that meeting and the Intergovernmental Negotiating Body process.

Dr AUNG (Myanmar) stressed that the discussion on Article J should be part of the third session of the Intergovernmental Negotiating Body.

Mr CASTILLO SANTANA (Cuba), supporting the statement made on behalf of GRULAC, said that his delegation considered that all Articles should be dealt with in the same manner and in the same place. He expressed concern about a proposed separate meeting. Discussions concerning Article J should remain within the framework of the Intergovernmental Negotiating Body and should be accessible to all delegations, with timely distribution of the relevant documentation.

Mr YI Xianliang (China) noted a certain divergence of views, with proposals on the one hand to hold a special meeting to discuss Article J and on the other hand to request delegations to submit proposals in writing before a certain date. He requested clarification concerning the date of such a meeting and whether that meeting would indeed be an integral part of the third session of the Intergovernmental Negotiating Body.

The CHAIR, noting the concern expressed by several delegations, said that it was his understanding that any discussion on Article J would be integrated in the third session of the Intergovernmental Negotiating Body. He would request the Chair of the Intergovernmental

A/ECTC/INB2/WG3/SR/2

Negotiating Body to set reasonable deadlines for receiving texts so as to enable delegations to consult their governments before the debate.

Mr BAHARVAND (Islamic Republic of Iran) supported the Chair's proposal, provided that discussions were held within the process of the third session of the Intergovernmental Negotiating Body. The question of compensation and liability required in-depth discussion which could make a valuable contribution to public and private international law. He suggested that it was not necessary to establish a new deadline for submission of texts, as proposals could be submitted no later than half an hour after the closing of the meeting of the working group.

The CHAIR said that although amendments could be submitted immediately after the meeting, appropriate arrangements should be made for delegations and groups wishing to provide input for a basic text of Article J.

Dr TATA (India) said that discussion of Article J would be impossible without a basic text and that text could not be produced without discussion. He therefore suggested that delegations submit proposals immediately after the present meeting of the working group; regional meetings might then be held and the results of the discussions forwarded to the Secretariat, which would subsequently be responsible for preparing a draft provision on compensation and liability, for distribution to delegations well in advance of the third session of the Intergovernmental Negotiating Body.

* Mr SANDAGE (United States of America), supporting statements of previous speakers that Article J be treated like all other articles in the framework convention, said that he had difficulty in accepting the suggestion put forward by the delegate of India. He therefore supported the Chairman's suggestion.

Mr AISTON (Canada) endorsed the statement made by the delegate of Colombia on behalf of GRULAC. He recalled that certain clarifications were to be made as to how the questions raised concerning scientific, technical and legal cooperation at the previous day's meeting were to be handled.

Dr BELLO DE KEMPER (Dominican Republic) did not favour the holding of the proposed meeting on Article J before the third session of the Intergovernmental Negotiating Body. The presence of Member States at such a meeting was important, as had been seen at the meeting of legal advisers on the question of liability and compensation following the first session of the Intergovernmental Negotiating Body at which the contributions from the legal experts had proved most useful. Article J should be dealt with as an integral part of the third session of the Intergovernmental Negotiating Body.

Ms BALOCH (Pakistan) said that, on account of the divergence of views between the delegates of India and the United States of America, the Chair of the Intergovernmental Negotiating Body should be requested to present a draft text on compensation and liability in the light of input from Member States on that matter. She had no objections to raise concerning the timing of the proposed meeting on Article J.

Dr AL-LAWATI (Oman) did not accept that all articles had to be treated in the same way: Article J was different from the other articles, as there was no written text upon which to base the discussions.

* Mr SANDAGE (United States of America), in response to the delegate of Pakistan, said that the Chair of the Intergovernmental Negotiating Body was not in a position to prepare a text because there

AFCTC/INB2/WG3/SR/2

had been no substantive debate at the present session. If no such debate were held at the present session, he would be against producing any text.

Dr TATA (India) pointed out that the Chair's text relating to the other articles had been prepared on the basis of Member States' discussions. In the present case, there was no draft text and the Chair would therefore have to prepare a text based on Member States' suggestions, otherwise any further discussion would be impossible.

The CHAIR said that he would convey the views expressed in the meeting to the Chair of the Intergovernmental Negotiating Body for further reflection. He noted that in the discussion the notion of individual contributions from Member States through the Secretariat had not been ruled out and that there was general agreement that the discussion on Article J would have to be part and parcel of the third session of the Intergovernmental Negotiating Body.

N. Secretariat

Ms DJAMALUDDIN (Indonesia), commenting on Articles N and O as being interrelated, observed that the role of WHO and the secretariat of the convention was limited to routine administrative functions, which gave the impression that WHO's work would be over once the framework convention on tobacco control was put into effect. High commitment and more responsibility of WHO should be part of the implementation stage, although not in the operational aspects, which were the responsibility of Member countries.

WHO's stimulating and catalytic role should be part of the framework convention to ensure continuity of commitment and the dynamic of the process, as well as to prevent widening the gap between Member countries. That should be clearly described in the convention and indeed the issue could not be separated from the objective as stated in the Chair's text.

She expressed surprise that the ultimate objective was only to provide a framework convention on tobacco control and not directly to reduce the prevalence of tobacco use. That unclear definition of the objective appeared to give WHO a low-profile role. Her delegation, supported by the other Member countries in the South-East Asia region, therefore proposed to rephrase the ultimate objective in a form of words that would be submitted in writing.

Mr KEBBON (Sweden), speaking on behalf of the European Union, Poland and Turkey, said that the text under consideration well reflected the comments made at the first meeting of the Intergovernmental Negotiating Body. The proposed text stipulated that the secretariat of the convention should be provided by WHO. It was not necessary to specify in any greater detail in the convention how WHO should organize that function.

In line with what had been suggested in connection with the chapter on the Conference of the Parties, the European Union and its Member States, with Poland and Turkey, wanted to make it clear that WHO should make the necessary funds available for the secretariat services. He consequently proposed the addition at the end of paragraph N.1 of the words: ", which should make the necessary funds available".

Ms O'SHEA (Canada) observed that as the Conference of the Parties was a separate entity from WHO, it would be sensible to have an agreement between the two institutions.

* Mr SANDAGE (United States of America) said that, while paragraph 2 adequately set forth the secretariat functions, it was too early to decide, as provided in paragraph 1, that WHO should provide the secretariat of the convention. Since there were good arguments for and against, the option should be kept open until later in the process.

A/ECTC/INB2/WG3/SR/2

Dr SOVINOVA (Czech Republic) said that her country also wanted to be associated with the statement made on behalf of the European Union, Poland and Turkey.

Ms BALOCH (Pakistan), expressing agreement with the delegate of the United States of America about the prematurity of a decision about the secretariat, asked for clarification about the kind of support being sought from WHO in paragraph 1. Would it be a separate secretariat or an organ within WHO?

Dr AUNG (Myanmar) said that, in common with Indonesia, his delegation felt that the technical and administrative support of WHO would still be required in the implementation of the convention and its protocols.

Dr BETTCHER (Tobacco Free Initiative), responding to the delegate of Pakistan, said that his interpretation of paragraph 1 was that the secretariat of the convention would be provided by an organ, as yet undefined, within WHO.

O. Support by the World Health Organization

Ms DIALLO (Senegal), speaking on behalf of the Member States of the African Region, pointed out the dialectic relationship set out in the Article between the Conference of the Parties and WHO, with the possibility not just of WHO providing support to the Conference of the Parties but also of either body taking initiatives to strengthen cooperation in the implementation of the convention. Since that covered the nature and scope of relations between the two structures, the Member States of the African Region suggested that the title of Article O should be "Relations with the World Health Organization", and that the words "and its partners" be inserted after "the World Health Organization" in the first sentence of paragraph O.1.

The CHAIR asked for a written proposal to that effect.

Ms BALOCH (Pakistan) said her delegation was unclear about the double relationship and expressed concerns about possible duplication. If the secretariat of the convention was to be an organ within WHO making all necessary arrangements for implementation of the convention, what kind of extra support would be needed from WHO?

Mr SNYDER (Canada), expressing agreement with the delegates of Pakistan and the United States of America, said that in terms of substance there was a good argument for making full use of the services and expertise of WHO. In terms of process and legalities, however, the Conference of the Parties and WHO were two separate organizations. In the context of the convention, therefore, there would have to be a formal agreement between the two.

Mr BAHARVAND (Islamic Republic of Iran) said that he shared the concerns just expressed by the delegates of Canada and Pakistan. His delegation was unclear about the kind of relationship envisaged with the decision-making organs of WHO and the financial implications. If the secretariat of the convention was to be an organ with WHO, which department would be concerned? He agreed with the delegate of the United States of America that the issue required more thought.

Mr CASTILLO SANTANA (Cuba), seeking clarification on paragraph 2(a) of Article N, said that his delegation felt that it was premature to talk about subsidiary bodies or prescribe their future existence. Since there was no alternative text for that subparagraph, his delegation had taken note of the views expressed and was reserving the right to revert to the issue at a later stage when there was more certainty about where and for what purpose subsidiary bodies were going to be established.

* Mr SANDAGIL (United States of America) said that the whole relationship of the framework convention and its Conference of the Parties with WHO was potentially complicated. The text appeared to assume that the convention would remain somehow yoked or even subsidiary to WHO. Such a decision needed great care since, as his delegation had consistently maintained, the framework convention could only succeed as a member-driven process and not one completely dependent upon WHO. He therefore requested that the paragraphs under Article O be placed in square brackets.

Mr KEBBON (Sweden), speaking on behalf of the European Union and its Member States, in addition to Bulgaria, the Czech Republic, Poland, Romania and Turkey, expressed support for the text as proposed. However, it needed to be made clear that paragraph 2 concerned the provision of technical cooperation in achieving the objective of the convention or in connection with questions falling within its mandate arising out of the application of the convention and its protocols. He therefore proposed insertion of the words "on this matter" after "proposals".

Dr SANGALA (Malawi) agreed with the statement by the delegate of Senegal, but argued that the words "technical and financial" needed to precede "support" in the second sentence of paragraph 1.

Mr VARELA (Argentina) underlined the complexity of the question. First, there was a need to clarify the relationship between the convention and its subsidiary bodies, especially the Conference of the Parties and WHO, bearing in mind that the convention represented an initiative under Article 19 of the Constitution of WHO. The extent to which the Conference of the Parties would be an independent body and its subsequent relationship to WHO were not clear. What was clear was that the convention could not oblige WHO to provide technical cooperation; paragraph 1 stated merely that WHO may be called upon to do so. The text, as several other delegates had observed, needed more careful analysis.

Mr ARENALES FORNO (Guatemala) said that the Conference of the Parties should be able to request technical and scientific cooperation from WHO and other specialized United Nations agencies. That possibility would be of great importance for the implementation and follow up of the framework convention.

Mr OGANOV (Russian Federation) suggested the addition, at the end of paragraph 1 after the word "resources", of the words "and also to assist in the quest for extrabudgetary resources for countries in need".

Dr YACH (Executive Director), responding, said that, since it was first necessary to decide whether WHO would provide the secretariat of the convention, it was premature for the Organization to indicate how it should ensure independence between that function to the Conference of the Parties and its ongoing mandate in tobacco control. Once that decision had been taken by Member States, WHO could seek their advice and guidance on how such independence could be guaranteed. He drew attention to the fact that, within the United Nations system, WHO chaired, at the request of the Secretary-General, the United Nations Ad Hoc Interagency Task Force on Tobacco Control, which brought together FAO, the World Bank, IMF and many other United Nations bodies.

Mr BURCI (Office of the Legal Counsel), in order to clarify some of the institutional issues raised, said that it had become common practice for treaties adopted by the United Nations to set up a Conference of the Parties. It had also become common practice, for conventions adopted by international organizations, to entrust certain secretariat functions to the secretariat of the organization that had sponsored the convention. That was why WHO had been mentioned in Article N. The Conference of the Parties would be institutionally distinct from WHO because it would be established by an international treaty rather than by the Health Assembly. But the Conference of the Parties would

A/E/C/T/C/INB2/WG3/SR/2

not be a fully fledged international organization with a separate international personality. As Canada had noted, an international treaty cannot automatically create obligations for WHO. It would therefore be necessary for the Health Assembly to authorize WHO to perform functions assigned to it by the convention. Under Article X those functions were basically administrative but they might also include recommendations to provide technical assistance to States. He observed that the United Nations General Assembly had authorized the Secretary-General to perform secretariat functions for treaties adopted under the aegis of the United Nations. Such a procedure would give a solid legal basis for WHO to perform secretariat functions for the Conference of the Parties and avoid any contradiction from a policy point of view. With regard to financing, the normal practice would be to use assessed contributions on the Parties to pay for the tasks performed by WHO for the Conference of the Parties, but funding under the regular budget of the sponsoring organization and the sharing of expenses were alternatives that could be considered.

Ms BALOCH (Pakistan), referring to the statement that the Conference of the Parties would be established by the convention and not by the Health Assembly, sought further clarification in regard to Article 19 of the Constitution of WHO which stated: "The Health Assembly shall have authority to adopt conventions or agreements". So the Health Assembly would be required to adopt the present convention. In other words, would the convention be adopted by the Health Assembly or by the States Parties?

Mr BURCI (Office of the Legal Counsel) stated that there was no contradiction. The constitutions of several international organizations enabled their plenary organ to adopt conventions, the purpose being to use an already existing institution for the negotiation and adoption of a convention. The framework convention on tobacco control could be adopted by the Health Assembly – an organ composed of States – and the States themselves would then individually sign, ratify or accede to the convention in accordance with its final clauses. In other words, the States would, through the Health Assembly, adopt the text of the convention in the same way as the United Nations General Assembly adopted conventions.

Mr YI Xianliang (China), noting the statement that the convention would be adopted by the Health Assembly, pointed out that it could be adopted by a special diplomatic conference since the content of the convention in general exceeded the mandate of WHO. The matter should not be prejudged at the present stage of negotiations.

Mr Seddik took the chair.

P. Reporting and implementation

The CHAIR invited discussion of the provision of information to the Conference of the Parties (paragraph P.1) and the reports to be submitted to that Conference (paragraph P.2).

Mr NDIAYE (Senegal), speaking for the Member States of the WHO African Region, said that his intervention concerned not paragraphs 1 and 2, but the creation of a new paragraph. A major handicap of the reporting mechanism foreseen in Article P was the lack of provision for the creation or designation by each Party of one or more organisms to be responsible for regular reporting on all aspects of implementation of the convention. The designation of such a structure at the national level would have the double advantage of facilitating coordination at that level but above all of assisting the coordination and harmonization of policies at the national, subregional, regional and international levels. It would also avoid the dilution of responsibilities in regard to the preparation of national reports since the body concerned would be identified in advance. Moreover, allowing the States Parties to create or designate such a structure would introduce an element of flexibility into the

A/FCTC/INB2/WG3/SR/2

convention and avoid the high costs involved in creating new administrative structures. In consequence, the Member States of the African Region proposed a new, additional opening paragraph for Article P that would read: "Each State Party shall create or designate one or more organizations that would be responsible for collecting and communicating information relating to surveillance, research, and the technical, socioeconomic, commercial and legal aspects of tobacco production and tobacco-control programmes and to progress in the implementation of all the provisions of the convention."

Mr YI Xianliang (China) said that his country agreed in principle with the contents of paragraphs 1 and 2 but suggested some minor amendments. In paragraph 1(a) the word "strategies" should be deleted. In paragraph 1(c) the word "strategies" should be amended to "measures". In paragraph 2 the words "and each other Party" should be deleted, as it was not clear what other kind of Party would be involved.

Mr KEBBON (Sweden), speaking on behalf of the European Union and its Member States, the Czech Republic, Poland, Romania and Turkey, said that it was important to have a reporting mechanism to ensure the proper follow up of implementation of the framework convention but which should not become a heavy burden on Parties to the convention. To lighten the reporting obligation, Sweden proposed that in paragraph 1(a) the words "institutions, strategies, plans, programmes," be deleted and the words "as well as measures planned for the implementation of the convention" added after the word "implemented". The words at the end of the same subparagraph "together with information on enforcement, where appropriate" should be deleted. In paragraph 1(c) the words "economic, social and other" should be deleted, as should subparagraphs (d) and (e). With regard to the frequency of reporting (paragraph 2), the European Union and its Member States considered that the provision requiring an initial report within six months of entry into force was too short a deadline. Moreover, a differentiated reporting obligation might not be the best way to ensure effective monitoring of the implementation of the convention's objectives. It would be preferable to revert to the corresponding paragraph in the document A/FCTC/INB1/2 stating "each Party shall make its initial communication within one year of the entry into force of the convention for that Party and, thereafter, every [INSERT]".

Ms BENNETT (Australia) proposed that the reporting obligation currently located in Article K.4 should be relocated to Article P because it concerned reporting to the Conference of the Parties. Her country also associated itself with the changes to paragraph P.2 suggested by Sweden.

Mr ODOKO (Japan) drew attention to an apparent inconsistency: paragraph 2 spoke of the frequency of reporting the information listed in paragraph 1. He therefore proposed a minor change to the first sentence of paragraph 1 which should read "In accordance with guidelines agreed upon by the Conference of the Parties, each Party shall submit to the Conference a report on the implementation of the national programme of tobacco control. The report may include ...".

Mr VARELA (Argentina) raised no objection to the Chair's text in general but, in order to clarify the wording, he suggested an amendment similar to that proposed by Sweden since, in his view, reference to "strategy, plans, programmes, policies" might be confusing because the meaning of those categories could depend on the context; it might be better to simplify the list. Secondly, the inclusion of the words "and other measures" in subparagraph (a) made subparagraph (d) superfluous. Subparagraph (e) could also be deleted if the measures planned by the Party were incorporated into subparagraph (a). He therefore proposed that subparagraph (a) should read: "information on tobacco control institutions, policies, legislation and any other measures ..." and that subparagraphs (d) and (e) be deleted.

A/FC/TC/INB2/WG3/SR/2

Mr SNYDER (Canada) said that he fully endorsed the comments made by the delegate of Sweden concerning the burden of reporting on countries, in particular the proposed amendment to subparagraph (c) in order to make reporting as straightforward as possible for countries and to allow the Parties to determine what protocols and information should be developed as a result of the convention. He suggested deletion of the words "and its protocols" from subparagraph (c) and would be submitting a text in that regard.

Mrs SHAIAR-BEN AMI (Israel) said that her delegation agreed in principle with the text of Article P, but suggested the addition of "including national tobacco control targets" at the end of subparagraph (c). She also proposed a new subparagraph 1(f) reading "information on imported, exported and nationally manufactured tobacco products and data on consumption and smoking rates", since such data would provide an effective tool in tobacco control efforts. Lastly, she suggested extending the timeframe given in paragraph 2 for developed-country Parties to make their initial reports from six months to one year.

Mr CASTILLO SANTANA (Cuba) supported the amendments that had been proposed concerning paragraph 1, and said that in paragraph 2 the words "and each other Party included in Annex" should be deleted. Furthermore, the timeframe provided for "Each Party not so listed" to submit its initial report should be extended from two to four years in view of the new commitments to be entered into under the convention and the time required to implement the provisions at the national level.

Dr ZENKEVICH (Belarus) said that, for the purposes of clarity, subparagraph 1(c) should read "various strategies ..." rather than "various response strategies".

Dr REDDY (India) referring to paragraph 2, asked what criteria were to be used for including other Parties in an annex, and whether inclusion was to be voluntary. In the absence of clear-cut criteria for the inclusion of countries, it would be difficult to set timeframes for the submission of initial reports.

Dr BELLO DE KEMPER (Dominican Republic) upheld the words "economic, social and other consequences" in subparagraph (c); developing countries that produced tobacco and manufacturers of tobacco products should be aware of the consequences associated with the implementation of the convention.

Dr GHANEM (Egypt) said that it was important to be specific about the nature of the consequences referred to in subparagraph (c). The words "social and other" were too broad and should be deleted. Such a lack of definition might enable people to seek additional compensation.

Mr BEN SALEM (Tunisia) asked why subparagraph (b) contained separate provisions for the implementation of the Article on financial resources when those were covered by subparagraph (a).

Ms BALOCH (Pakistan) said that her delegation had some difficulty with the words "entry into force for that Party of this Convention" in paragraph 2. The convention would enter into force on one particular date, and it might therefore be more appropriate to refer to ratification.

Dr ANDEN (Philippines), agreeing in principle with the text of paragraph 1, expressed reservations about subparagraph (c). It would be difficult for her country to comply as no mechanisms currently existed to generate the information requested. Turning to paragraph 2, she endorsed comments of the delegate of India regarding the criteria to be used for including Parties in the annex.

AFCTC/INB2/WG3 SR 2

Mr BURCI (Office of the Legal Counsel), replying to the comments of the delegate of Pakistan, said that the wording about entry into force in paragraph 2 was appropriate. It was only when the convention entered into force for a particular State that the obligation to report arose for that State. Conventions usually entered into force after ratification by a specific number of States; if the term "ratification" were used in the present text, all States that had ratified would be obliged to report before the convention actually entered into force. A separate date of entry into force was established for those States that became Parties to a convention after its entry into force – usually a given time after the deposit of the instrument of ratification or accession.

Dr LEWIS-FULLER (Jamaica) said that she shared the concerns expressed by the delegate of India concerning criteria, and called for clarification of the points he had raised. Paragraph 1 should be amended to include information on constraints or barriers encountered in the implementation of the provisions of the convention and her delegation would be submitting a text in that regard.

Ms BALOCH (Pakistan) said that she had thought that the convention would enter into force for all States at the same time. She had expressed a preference for "ratification" as that term would be more appropriate for those States that had become Parties to the convention some time after it had entered into force.

The CHAIR, recalling that the delegate of Senegal had suggested a new first paragraph, invited comments on paragraphs P.3 to P.5.

* Dr NOVOTNY (United States of America) said that he would be submitting a series of amendments to paragraphs 3-5. As it currently stood, paragraph 3 was too prescriptive; the type of subsidiary body to be established should not be specified. Paragraph 4 should be amended to take into account the complicated relationship between the Conference of the Parties and WHO. He would be submitting texts for those proposed amendments and for a minor change, relating to financing, to paragraph 5. In the light of earlier discussions, he would also be submitting a minor amendment to Article N (Secretariat).

Mr KEBBON (Sweden) speaking on behalf of the Member States of the European Union, the Czech Republic, Poland, Romania and Turkey, suggested that, in order to provide for effective monitoring of the implementation of the convention without establishing an overly complex and costly mechanism, WHO could assist directly the Conference of the Parties, thus obviating the need for a subsidiary body. Accordingly, paragraph 3 could be deleted. Existing procedures should be used for the establishment of ad hoc panels, and "taking into account the rules and practices" in paragraph 4 should be amended to read "according to the rules and practices". Also, the penultimate sentence of paragraph 4 should be deleted.

Mr SNYDER (Canada) said that he supported the views expressed by the delegate of the United States of America concerning paragraphs 3 and 4 and the proposed amendments. As members of the ad hoc panels referred to in paragraph 4 were to serve in their personal capacity, they should provide information only, and accordingly the words "and advice" should be deleted.

Mr ODOKO (Japan) expressed concern that the framework convention might go beyond the mandate given by the Constitution of WHO. The intent of paragraph 4 was to establish a subsidiary body of the Conference of the Parties. In order to prevent it exceeding the mandate of the latter and to avoid other such complexities, he strongly opposed the idea of experts serving in a personal capacity and argued that the body must consist of governmental experts. In that case, no recommendation was needed from the Director-General of WHO as the experts should be appointed by the Parties, in a democratic manner to be decided by the latter.

A/ECTC/INB2/WG3/SR/2

Dr HAMAD (Sudan), observing that the Arabic text of paragraph 5 was unclear, proposed that the beginning of the text be amended to read "The Conference of the Parties, starting at its first session, shall make the necessary arrangements to provide to developing country Parties . . ."

Ms DJAMALUDDIN (Indonesia), speaking on behalf of Member States in the South-East Asia Region, maintained that the establishment of a new subsidiary body would create an additional administrative burden and would not be cost effective. Thus she proposed to delete the reference to such an action in paragraph 5. She further proposed that the task of undertaking such monitoring and reporting functions should be delegated to WHO. She would submit a detailed text to that effect.

Mr BEN SALEM (Tunisia) said that the last part of paragraph 5 was not legally correct. He proposed that it should read "The Conference of the Parties, starting at its first session, shall provide the necessary measures for developing countries, upon request, to have technical support for compilation and communication under this Article." The rest of the paragraph should be deleted since technical support and aid provided by other organizations did not need to be stipulated in the text.

Dr BETTCHER (Tobacco Free Initiative), replying to the question raised by the delegate of India, said that terms such as "developed countries" and "regional economic integration organizations" needed to be defined within the convention. Similarly, the specific criteria for designation as a "developed-country Party" *per se* would have to be addressed in the negotiations. Responding to the comment made by the delegate of Pakistan, he explained that the language used in paragraph P.2 had been based substantially on that in paragraph 5 of Article 12 (communication of information related to implementation) of the framework convention on climate change.

Mr Farrell took the chair.

Mr CASTILLO SANTANA (Cuba) said that a definition of the terms "developed and developing countries" in various contexts, had existed for many years. He wondered why further definition of "developing country" in the current convention was needed.

Dr BETTCHER (Tobacco Free Initiative) replied that the Chair's text had offered no definition of the terms; if this text were eventually adopted by Member States, one would be included in the Annex referred to in paragraph P.2. The criteria for the designation of a country would be a matter for the Member States within the Intergovernmental Negotiating Body.

Q. Financial resources

The CHAIR invited the meeting to broaden its discussion to include Article Q.

Mr RAJALA (European Community), speaking on behalf of the European Community and its Member States, and the associated countries the Czech Republic, Poland and Romania, which had aligned themselves with the statement, supported the clear-cut obligation, as formulated in the Chair's text, for each Party to provide financial support and incentives for national activities in pursuance of the objectives of the convention.

Dr AL-LAWATI (Oman) said that each State Party undertook to provide the necessary financial support for national activities under the convention. He would submit an amendment that would so qualify that support.

* Dr NOVOTNY (United States of America) said that he would propose an amendment that would restructure and condense the existing four paragraphs of Article Q. His Government supported

A/FC/TC/INB2/WG3/SR/2

an undertaking by each Party to provide financial support for its national activities to carry out the objectives of the convention. It also recognized the important role that bilateral, regional and other channels could play in achieving the objectives of the convention. It encouraged Parties to provide voluntary funding through such channels for comprehensive tobacco-control programmes. Because parties would have to make their own decisions about the level of support they would provide through existing mechanisms to assist developing countries or others as they deemed appropriate, his delegation was unable to support paragraph Q.4.

Dr RAO (Panama) requested clarification on the differentiation between developed and developing countries in paragraph Q.4 and on relevant criteria used.

Dr BETTCHER (Tobacco Free Initiative) recalled that differential reporting, as discussed in relation to paragraph P.2, was common in such conventions. The underlying basis appeared to be the capability of particular State Parties to undertake such activities. Special provisions might apply, for example, to developing countries.

Dr GHANEM (Egypt) suggested making an amendment to paragraph P.5 to the effect that countries with tobacco-control programmes of proven success should give assistance to other countries.

Dr TATA (India) repeated his request for clarification about the inclusion of other, non-developed countries, in the annex referred to in paragraph P.2. What would be the criteria for inclusion, who would develop them, and when? Would there be a voluntary mechanism for inclusion or would a decision be made by the Conference of the Parties?

Dr BETTCHER (Tobacco Free Initiative) replied that many different criteria existed, such as World Bank classifications or those based on gross national product, and could be negotiated in various ways. If the wording in the Chair's text were retained, then such definitions and the criteria used would be purely a matter for negotiation by the Member States.

Dr TATA (India) asked whether he was to understand that the criteria would be set by the Conference of the Parties?

Dr BETTCHER (Tobacco Free Initiative) replied that, as the definitions could appear in the convention with classifications of countries included in an annex (as was the case with the Framework Convention on Climate Change), they would be decided on within the Intergovernmental Negotiating Body.

Dr LEWIS-FULLER (Jamaica) said that she shared the concerns of India. It appeared that the Secretariat was not prepared to answer the questions but she emphasized that delegations should be given a more detailed reply. There was a certain arbitrariness about the matter, which she suggested should be re-examined in a structured way.

Returning to Article Q, Mr ADSETT (Canada) said that he supported the important undertaking and obligation to provide financial support set out in paragraph Q.1, but he considered that the term "incentives" was open-ended and unclear; moreover it was unnecessary since the term "financial support" was sufficiently encompassing. With regard for the phrase "achieve the objective of", he remarked that "fulfil its obligations under" constituted more appropriate wording. He would provide the texts to the Secretariat.

A/FACTC/INB2/WG3/SR/2

Mr ODOKO (Japan) said that his comments would have been similar to those made by the delegate of the United States of America. At the present stage of negotiations, he considered that the new mechanisms for the provision of financial resources needed further examination. He found the provisions in paragraph Q.4 difficult to accept.

Mrs BOBYLIOVA (Ukraine), while supporting the aim of paragraph Q.1, suggested an amendment to the effect that the undertaking should be made by countries having the necessary resources. She would provide the text in writing to the Secretariat.

Mr BEN SALEM (Tunisia) said that paragraph Q.4 related to technical support that could be provided by developed countries. As technical support had been dealt with in Article P, he considered that Article Q should restrict itself to financial resources.

Dr TATA (India), speaking also on behalf of the Member States of the South-East Asia Region, made a general statement on a matter that those countries considered to be of the utmost importance in arriving at an effective and comprehensive framework convention acceptable to all countries. Some countries present at the meeting had significant numbers of people employed in tobacco farming and, if progress towards the convention were to be made in a constructive manner, the question of long-term assistance to help them to convert to alternative crops and products must be seriously addressed. Assured and adequate provision of international financial assistance to developing countries was needed in order to hasten that transition. That was essential since the differential decline in tobacco consumption between developing and developed countries was resulting in a large unexported tobacco surplus in the developing countries, which was rapidly expanding the internal market with grave health consequences. One could not simply await the day when the reduced demand would automatically drive down the supply; one must proactively and progressively foster other economically viable channels. That transition required support through research as well as initial market support mechanisms. He proposed substantial changes in paragraphs Q.2 and Q.4, and would submit a detailed text.

The meeting rose at 22:05.

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