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ON TOBACCO CONTROL
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WORKING GROUP 1

PROVISIONAL SUMMARY RECORD OF THE FOURTH MEETING

International Conference Centre, Geneva
Thursday, 3 May 2001, at 10:15

Chair: Professor J.-F. GIRARD (France)

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Note

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

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A/FCTC/INB2/WG1/SR/4

WORKING GROUP 1

FOURTH MEETING

Thursday, 3 May 2001, at 10:15

Chair: Professor J.-F. GIRARD (France)

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)

The CHAIR said that the working group had to complete consideration of part of Article I and part of Article K of the Chair's text (A/FCTC/INB2/2). He called for comments on paragraphs 1.8-12.

I. Measures related to the supply of tobacco

Paragraphs 8 to 12 (Elimination of sales to and by young persons)

Dr REDDY (India), speaking on behalf of the Member States of WHO's South-East Asia Region, said that, given the difficulties of restricting access to tobacco-vending machines by persons under the age of 18, it would be better if such machines were totally prohibited. The presence of tobacco-vending machines would in any event be at variance with the intent of subsequent provisions in which the sale of tobacco products to minors was declared to be a punishable offence. He therefore proposed that the word "all" be inserted after "prohibit" in subparagraph 8(b) and that the words "in locations accessible to any person under the age of 18" in the same paragraph be deleted. The paragraph would then read: "(b) prohibit all tobacco-vending machines."

Ms DJAMALUDDIN (Indonesia) said that, although the reduction of tobacco consumption by young persons was an important target, there was no credible evidence that the measures set out in paragraph 8 would have a significant impact on youth smoking. Furthermore, it would not be feasible to implement such a regulation in a large developing country like Indonesia, where the cost would outweigh the benefits. The provision in question had no place in the convention, but it should be left to individual countries to incorporate them in their own legislation. Her delegation therefore proposed that subparagraph 8(a) be deleted.

Ms BALOCH (Pakistan) said that, while in theory it would be possible to enact legislation prohibiting tobacco sales to persons under the age of 18, it would be very difficult for subparagraph 8(a) to be implemented in poor States with large and scattered populations particularly since many people could show no formal identity papers. Pakistan therefore proposed that the second sentence of paragraph 8 be amended to read: "To this end, each Party shall, within the means at its disposal and its capabilities in accordance with its national law ...".

Dr SODNOMPIL (Mongolia) said that his delegation fully supported the opening text but proposed that subparagraph 8(b) should be amended to the effect that all tobacco-vending machines should be prohibited for persons of all ages.

Dr REN Minghui (China) emphasized the difficulty of prohibiting access to tobacco-vending machines in public locations by people under the age of 18. Experience had shown that such machines

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were a very important means of access to tobacco by young persons so that prohibiting the machines would be an effective method of tobacco control among young people. China therefore suggested that subparagraph 8(b) be amended to the effect that countries and regions which had no tobacco-vending machines should prohibit their installation and that in countries and regions which already had tobacco-vending machines, measures should be taken gradually to eliminate them.

Dr ARRIAGA WEISS (Mexico) said that, since the provisions of subparagraph 8 would be very useful in efforts to prevent tobacco consumption by persons under the age of 18, his delegation supported the essence and spirit of the paragraph, but wished to make an addition to the text in line with its own national legislation and regulations, in order to prevent access to tobacco products in centres frequented by young people below the age of 18 where such products were distributed free of charge. A written proposal for a new subparagraph 8(c) would be submitted to the Secretariat.

Mr SHRESTHA (Nepal) said that his delegation also considered that it would be very difficult to control access to tobacco-vending machines by persons under 18 and consequently supported the proposal made by India on behalf of the Member States of the WHO South-East Asia Region.

Dr WINAI SWASDIVORN (Thailand) supported the India proposal to prohibit all tobacco vending machines, since they not only supplied cigarettes but also acted as advertising machines.

Ms KERR (Australia) said that sellers should be required to take all reasonable steps to ensure that buyers of tobacco products were aged 18 and over. Paragraph 8(a) as it stood would require purchasers, even those clearly over the age of 18, to provide proof of age, regardless of age. Her delegation therefore proposed that subparagraph 8(a) be amended to read: "(a) require that all sellers of tobacco products take all reasonable steps to ensure that buyers are 18 and over".

Dr AL-LAWATI (Oman) said that his delegation agreed with earlier speakers concerning the difficulties of controlling accessibility to tobacco-vending machines by persons under the age of 18 and in particular concurred with the view that all reference to age limits should be deleted. Paragraph 8(b) should simply read: "prohibit tobacco-vending machines".

Mr ADSETT (Canada) said that his delegation supported the intention of paragraph 8 but believed that the "sale" or "sales" should be broader throughout the convention. It therefore suggested that it be replaced by the expression "furnish" which meant to sell, lend, assign, give, send or barter or deposit with another person for the performance of a service. A consequential amendment would be required in the opening text where the word "sales" should be replaced by "furnishing" and in subparagraph 8(a) where the word "sellers" should be replaced by "furnishers". A written proposal would be submitted.

Ms LLORENTE DIAZ (Cuba) said that the elimination of sales to and by young persons was one of the most important objectives of the convention, together with the measures on advertising. Although her delegation supported the essence of paragraphs 8-12, in order to be consistent with international instruments already in force, such as the Convention on the Rights of the Child which defined a child as a person below the age of 18, and to leave open the possibility of other definitions being included in national legislation, Cuba proposed that the words "persons under the age of 18" be replaced by the word "minors" throughout the convention.

Dr PALOMO ESCOBAR (El Salvador) said his delegation fully supported paragraph 8, as it was consistent with the situation in El Salvador where a high percentage of adult smokers sent their children out to buy cigarettes, a practice which undoubtedly induced and promoted tobacco consumption among young people. Moreover, young persons of 15 or even children of 12 or younger

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could freely buy any brand of cigarettes they wished but could not legally buy any alcoholic beverages. While subparagraph 8(b) was somewhat controversial, he agreed with the delegates of Thailand and India that it would be difficult to control access to some places by young persons below the age of 18, and therefore endorsed the idea that tobacco-vending machines should be totally prohibited, bearing in mind also that the intent of the convention was to reduce accessibility to tobacco.

His delegation also endorsed the Cuban proposal that the word "minors" should replace the phrase "persons under the age of 18", since adulthood was attained at different ages in different countries. A written proposal would be submitted to the Secretariat.

Dr HAMAD (Sudan) said that his delegation supported the proposal to prohibit all tobacco-vending machines outright. Only persons over the age of 18 should be able to buy or sell cigarettes, particularly in view of the extent to which children were exploited in many developing countries by being forced to sell cigarettes.

Dr ILKHAMOV (Uzbekistan) emphasized the importance of paragraph 8, since only stringent measures would end the sale of tobacco products to young persons. His delegation supported the opening text as it stood, but wished to insert at the end of subparagraph 8(a) the phrase "and prohibit the sale of tobacco products to persons who have not reached the age of 18".

It also wished to replace subparagraph 8(b) by a new text reading: "(b) prohibit the retail sale of tobacco products through vending machines".

* Dr NOVOTNY (United States of America) said that the elimination of sales of tobacco products to youth was a high priority topic in his country which sought to restrict young people's access to such products to the greatest extent possible. In conjunction with other components of a tobacco-control programme, limited access could help prevent youth from starting to use tobacco. To that end, his delegation was in favour of stronger provisions concerning age verification for purchasers and in respect of vending machines. Specifically, sellers of tobacco products should be required to verify the age of the purchasers, rather than simply requesting evidence of age. His delegation agreed with the speakers who considered that there should be a total ban on tobacco-vending machines rather than having restricted areas to which persons under the age of 18 did not have access. A written amendment would be submitted to that effect.

Dr SILVA GOLDFARB (Brazil) said that her delegation was in favour of a total ban on vending machines and considered that tobacco sales should be prohibited in supermarkets, mini-markets, convenience shops and similar establishments, in order to minimize access to tobacco products by minors. Brazil's national commission had recently prepared draft regulations on that subject.

Dr BOVET (Seychelles), speaking on behalf of WHO's African Region, supported the view expressed by many delegations that the phrase "in locations accessible to any person under the age of 18" should be deleted, as it would be difficult to implement any measure that was not an outright ban.

His delegation also proposed a new subparagraph 8(c) aimed at providing relevant information on the health hazards of cigarettes to prospective consumers, including young people. That text would read: "(c) post signs at the point of sale that carry a health warning and indicate that the sale of cigarettes to children under the age of 18 is prohibited."

Ms BILLIUM (Sweden), speaking on behalf of the European Union and its Member States and on behalf of the associated countries Bulgaria, Czech Republic, Hungary, Poland and Romania, said that one of the most important aspects of an effective tobacco-control policy was to prevent children

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and young people from starting to use tobacco. The provisions of paragraph 8 were consequently important.

The Member States of the European Union and the associated countries strongly supported efforts to restrict access by young people to tobacco products. In most cases, the requirements proposed in the text appeared to be adequate, although some elements would be ineffective if set at the international level, in view of the wide variation in situations and approaches at the national level. To accommodate such different situations, the European Community and associated countries wished to amend the wording in respect of the elimination of sales to and by young people, to emphasize the appropriate national measures for restricting tobacco sales as determined in national law. Examples of such measures would also be included, namely, the requirement that all sellers of tobacco products should establish that purchasers had reached the age for purchase set, where appropriate, by national law and the prohibition of tobacco-vending machines in locations accessible to under-age purchasers or the regulation of access to such machines, to equivalent effect. The prohibition of Internet sales of tobacco products was even more important, given the increasing use of information technology, especially by the young, and its potential for tax evasion.

Furthermore, if an age limit was appropriate for the purchase of tobacco products, the same limit should apply in respect of tobacco sales. As elsewhere in the text, it would be inappropriate to include provisions on penalties, as those were essentially matters to be decided at the national level.

Measures should also be established to prohibit sales of individual cigarettes or of "kiddy packs" of less than 20, since that was often a marketing ploy to encourage under-age smokers by providing seemingly cheaper access to the product. An exception might be made in the case of vending-machine sales, however, where smaller packets were sometimes used to avoid changing the sale price of the product in the machine.

A full written text of paragraphs 8 to 12, amended along those lines, would be submitted.

Professor GOJA (Uruguay) said that, although her country already had legislation prohibiting the sale of tobacco products to persons under the age of 18, the law was difficult to implement and measures needed to be taken to ensure that the regulations were enforced. Her delegation therefore preferred the text as it stood.

Mr LIPAND (Estonia) said that experience in his country had shown that it was not possible in practice to set up tobacco-vending machines in places that were inaccessible to under-age persons. His delegation would therefore prefer subparagraph 8(b) to read: "prohibit the sale of tobacco products from automatic vending machines".

Mr PAVELSONS (Latvia), speaking on behalf of the delegation of Estonia, Latvia and Lithuania, said that the Baltic States generally supported the text of paragraphs 8-12 put forward by the delegate of Sweden, but considered that the word "restrict" in the opening sentence of paragraph 8 made for an unduly broad formulation and proposed that that word be replaced by "prohibit."

Mr OGANOV (Russian Federation) emphasized the importance of paragraph 8 in the tobacco control strategy. His delegation supported the opening text of paragraph 8 but considered that the existing text of subparagraph 8(a) gave the impression that the identity documents of all young persons would have to be checked. The paragraph should therefore be amended to the effect that a check was needed in cases of doubt. Paragraph 8(b) would ideally prohibit all tobacco-vending machines, a measure that it would clearly be difficult to implement in practice. His delegation therefore supported the Mongolian suggestion that all possible measures should be taken for the gradual elimination of tobacco-vending machines.

Mr CULLEN (Argentina) expressed support for the total prohibition of tobacco-vending machines but agreed that it would be difficult to ensure that all locations were inaccessible to minors.

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His delegation did not share the reservations expressed concerning the difficulty of confirming the age of those wishing to buy cigarettes. The solution was a simple one: sales should be refused in cases of doubt.

Mr MOON (Republic of Korea) said that his delegation supported paragraph 8 but suggested that the text should be amended to read: "Each Party shall take appropriate measures to prohibit tobacco sales to young persons. To this end, each Party shall: ...".

Dr ALBADDALL (Saudi Arabia) said that, although tobacco-vending machines did not exist in Saudi Arabia, there were vending machines for food products and soft drinks that had attracted a criminal element. His delegation fully supported paragraph 8 as it stood but proposed that subparagraph 8(b) be deleted and that subparagraph 8(a) be amended to convey the idea of total prohibition of the creation of premises for the sale of tobacco products. An alternative solution would be to create shops for the sale of tobacco products that would only be open to people over the age of 18.

With regard to the number of cigarettes a packet should contain, he suggested that the number should be set at exactly 20, since packets containing less than 20 cigarettes would attract young people with limited means and those containing more would encourage all categories of smokers.

Mr EMMANUEL (Saint Lucia) said that the convention must empower young people to make the decision not to consume tobacco products, but that subparagraph 8(a) seemed to be protecting young people by placing the onus on the seller, whereas the onus should be on both the seller and the buyer. He therefore proposed the addition of the following wording at the end of the first sentence: "and shall adopt appropriate measures to prohibit persons under the age of 18 from purchasing tobacco products", and continuing "All sellers of tobacco products request that each tobacco purchaser provide appropriate evidence of having reached the age of 18."

Consideration must be given to preventing countries that did not have vending machines from introducing such machines and to the gradual removal of vending machines where they existed.

Mr RI Si Hong (Democratic People's Republic of Korea) expressed general support for the intention of paragraph 8, but agreed that subparagraph 8(b) should provide for a total ban on tobacco-vending machines. Tobacco sellers should be adults older than 18 years.

Dr RANAWEERA (Sri Lanka) strongly supported the submission made by India on behalf of the countries of the South-East Asia Region, because virtually all locations in his country were accessible to persons under 18. Paragraph 8(b) should be amended so as to prohibit all tobacco-vending machines, regardless of their location.

Dr CASTILLO (Dominican Republic) said that in his country, as in other Latin American countries, it was difficult to control sales and purchases of tobacco products by minors. The existing legislation was not fully applied and in many places problems were encountered in ensuring proper compliance with the law.

There were some tobacco- and cigarette-vending machines in his country to which minors had access, though they were small in number. He therefore proposed that the first sentence of paragraph 8 should read: "Each State shall prohibit tobacco sales to minors." In subparagraph 8(a), the words "of having reached the age of 18" should be replaced by "that they have reached the age of majority" and subparagraph 8(b) should read "prohibit tobacco-vending machines throughout the national territory".

Ms MORALES (Bolivia) expressed full support for paragraph 8 and for the suggestions made by the Mexican delegation. Her delegation also proposed the addition of a new subparagraph 8(c) stating that the importation of cigarette-vending machines in countries that did not yet have them

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should be prohibited. There should be cooperation with the International Customs Council and other related bodies. Once machines had been imported and licences granted, it would be very difficult to impose restrictions and countries that did not yet have automatic vending machines should be warned of that danger. Unfortunately there were still no regulations on the subject in her country, but there was still time to put the suggestion into practice. On her return from the meeting, she would do her utmost to raise those issues with the legislative bodies.

Dr ZENKEVICH (Belarus) said that his delegation did not think it was a good idea to request sellers to check the identification documents of all purchasers, and therefore proposed that wording should be added to the effect that, if sellers doubted whether the purchaser had reached the age of 18, they would be entitled to demand an identification document. With regard to subparagraph 8(b), Belarus supported the proposal of a number of delegations that tobacco-vending machines should be totally prohibited.

Mr KIENENE (Kiribati) said that his delegation supported paragraph 8, but considered that 8(a) needed to be refined. As a number of speakers had pointed out, it was impossible to request every tobacco purchaser to provide identification, especially in a developing country where not everyone carried an identity document. Kiribati therefore proposed that the words "request that each tobacco purchaser provide appropriate evidence of having reached the age of 18" be replaced by: "take all necessary steps to ensure that all buyers are 18 years and over and to display in their premises a clear message or warning to that effect". With regard to subparagraph 8(b), Kiribati supported a complete ban on vending machines.

Dr AL MULLA (Qatar) said that, in view of the difficulty of controlling tobacco-vending machines, it would be preferable to prohibit them totally.

Mr GRBEŠA (Croatia) said that his delegation supported paragraphs 8 and 8(a) and associated himself with delegates who considered that subparagraph 8(b) should provide for a total ban on vending machines. That was in line with the Croatian law on the limitation of the consumption of tobacco products, which had been adopted at the end of 1999.

Mr MBUYU MUTEBA (Democratic Republic of the Congo) supported the proposal to eliminate automatic vending machines that had been presented by the Seychelles' delegation on behalf of the African Region. There were hardly any automatic vending machines in his country and there was not yet any appropriate legislation. Tobacco products were sold in kiosks, private houses and in the open air, often by minors. Control through suppliers was indeed possible, but that would encourage smuggling. His delegation proposed the addition of a new subparagraph 8(c) providing for the penalization of the supplier or owner of the brand if persons under 18 years of age were found in possession of, or selling, tobacco. That seemed to be the only possible procedure.

Ms DE PALMA (Guatemala) said that it would be unrealistic to demand that a purchaser should present evidence of his or her age since any adolescent wishing to obtain cigarettes could use false documents. The problem in her country was that cigarettes were sold everywhere, on the streets and even in pharmacies and markets. She believed that subparagraph 8(b) should impose a ban on all vending machines, and that a further subparagraph should be added providing for the control of distributors. That was because the number of vending machines in her country was limited, and there was need to stop cigarettes being sold by anyone anywhere.

Ms RUPNIK POTOKAR (Slovenia) supported the proposal by the delegate of Sweden. The issue of vending machines had been solved in Slovenia in 1996, when an Act on restricting the use of

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tobacco products had been adopted and had entered into force. The Act prohibited the sale of tobacco products from automatic vending machines.

Mr VASHILEV (Moldova) said that his country attached great importance to the question of controlling tobacco sales to minors. However, with regard to subparagraph 8(b), he pointed out that tobacco-vending machines were better than uncontrolled street trade. He therefore considered that the original wording should be retained.

Ms SINIRLIOGLU (Turkey) said that, in the view of the Turkish delegation, the elimination of sales to and by young persons was a crucial part of the convention. With regard to subparagraph 8(a), she supported the proposal of the United States of America that sellers of tobacco products should require rather than request all purchasers to provide evidence of having reached the age of 18.

With regard to subparagraph (b), she associated herself with the Indian and other delegations on the need for a total ban on vending machines, because of the practical difficulties of restricting access to such machines.

Mr TADEVOSYAN (Armenia) said that he supported paragraph 8 but found it strange that the working group should be discussing prohibition without dealing with the question of where sales should be prohibited. The convention should specify that tobacco products should not be sold in restaurants, educational establishments, discos, cinemas, etc., and should specify that access by minors to places where tobacco products are on sale should be restricted. It was also necessary to specify that vending machines could be installed only in certain shops to which young people had no access.

Mr KATENE (New Zealand) said that he fully supported the elimination of sales to and by young persons. The first sentence of paragraph 8 could be considerably strengthened by the addition of the words "and supply" after the word "sales".

If such a regulation were introduced, it would not be necessary to prove that a sale or profit had been made but only that cigarettes had been given to persons under the age of 18. In that way, persons over the age of 18 would be discouraged from purchasing cigarettes for persons under that age.

Mrs YAGDOROVA (Tajikistan) said that she too supported paragraph 8, but was not sure that the requirement of subparagraph (a) for proof of age would be realistic. As to subparagraph (b), there were no vending machines in her country but there was a flourishing street trade, as well as a trade in schools and colleges. She proposed that subparagraph (b) should also prohibit street trade in tobacco products. She suggested that paragraphs 8 and 9 should be combined.

Mr LISKIA (Papua New Guinea) said that paragraph 8 was a vital means of controlling tobacco sales to young persons and adolescents. He fully supported proposals made by earlier speakers, particularly the delegates of Canada and New Zealand, for the use of terminology other than "sellers", because in Papua New Guinea many young persons shared tobacco products with others.

He also supported the proposal by Australia and the United States of America that subparagraph (a) be amended to require tobacco sellers to take all reasonable steps to ensure that buyers of tobacco products were over minority age, as well as the proposal for the total prohibition of tobacco-vending machines. Currently, there were no such machines in Papua New Guinea, but their presence would not be desirable. He suggested that in subparagraph (b) the words "in locations accessible to any persons under the age of 18" should be deleted. Lastly, he endorsed the proposal that the provision should also cover street trade.

Dr ROA (Panama) said that her delegation supported proposals for the total prohibition of tobacco-vending machines. However, a time limit should be set for the withdrawal of such machines from the market once Parties had ratified the convention.

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Dr CARIS (Chile) proposed that the words "and gifts" should be added after the word "sales" in paragraph 8. A new subparagraph 8(c) should be added, to the effect that each Party should prohibit any promotion and gifts of tobacco products to persons under the age of 18 within its territory.

Dr AL-HAJJAWI (Jordan) said that in Jordan contraband cigarettes were sold everywhere by street vendors, who did not know the age of the buyers. Fortunately, there were no tobacco vending machines, but such machines might be introduced in the future. He therefore suggested that subparagraph (b) should prohibit the introduction of tobacco vending machines, as well as street trade in tobacco products.

Dr GHANEM (Egypt) suggested that subparagraph (a) should include a requirement that vendors should prominently display notices in their premises stating that it was prohibited to sell cigarettes to persons under 18 years of age. That would make it possible to enforce the prohibition.

Ms DJAMALUDDIN (Indonesia) said that her delegation's position was that subparagraph (a) should be deleted. However, it supported the proposal that subparagraph (b) should prohibit all tobacco-vending machines.

Ms TRAN Thu Thuy (Viet Nam) proposed that paragraphs 8 and 9 should be combined and that the word "everywhere" should be added after "machines" in subparagraph 8(b). Paragraph 10 should be deleted, because it would be very difficult to put into practice in Viet Nam.

Mr TAKAKURA (Japan) said he supported paragraph 8 in principle, with some reservations regarding language. He would like time to study the various proposals made, since any restrictions on economic activity required careful examination. Japan already had a law that prohibited smoking by persons under the age of 20, and retailers who sold tobacco products to persons under that age knowing that they were for the buyer's own consumption were penalized. Japan also had a licensing system for retailers under which the location of shops and vending machines were controlled.

Ms VILIAME (Fiji) suggested that subparagraph (a) be amended so as to make implementation more practical, particularly for small countries. After the words "tobacco products", the text would read: "demand on reasonable grounds that a tobacco purchaser provide appropriate evidence of having reached the age of 18".

Mrs BOBYLIOVA (Ukraine) said her delegation fully supported the prohibition of sales of tobacco products to persons under the age of 18. Subparagraph 8(a) should be made more specific by an addition to the effect that the seller should bear responsibility for selling tobacco products to minors. There should also be a new subparagraph prohibiting the free distribution of tobacco products to minors.

Mrs KONDAJ (Albania) said that she agreed fully with the thrust of paragraph 8. The rights of children should be defended, they should be protected from tobacco use, and their education should be safeguarded. Many children in her country aged between 9 and 15 years of age were selling cigarettes on the streets. They were orphans or children of divorced parents and poor families who had left school to work, and nothing was being done to help them. It was the obligation of governments to establish national regulations in conformity with international standards in order to protect children, reduce tobacco use and promote public health.

Ms TKACHENKO (Russian Federation) said he could support paragraphs 9 and 10, but thought that paragraph 12 should be deleted. Paragraph 11 should be reworded to the effect that each Party should take all necessary legislative measures with respect to sellers and distributors who violated

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measures prohibiting sales of tobacco products to persons under the age of 18. The term "distributor" should be defined, as well as the term "free distribution of tobacco products".

Dr REDDY (India), speaking on behalf of Member States of the South-East Asian Region, proposed that paragraphs 11 and 12 should be subsumed in a redrafted paragraph 10 which would read: "Each Party shall, to the extent possible within the means at its disposal and its capabilities, implement appropriate legal and other measures to verify compliance with paragraphs 8 to 10 above. Such measures shall include penalties against sellers and distributors for the violation of measures prohibiting sales of tobacco to and by persons under the age of 18, and to this end each Party shall take appropriate legal and other measures to ensure that no criminal penalties are imposed against persons under the age of 18 for buying and selling tobacco products." He feared that prohibiting the sale of cigarettes in packets of less than 20 might cause manufacturing problems for countries where cigarettes were traditionally sold in packets of 10.

Ms MAYSHAR (Israel), referring to paragraph 10, proposed the deletion of the words "to the extent possible within the means at its disposal and its capabilities". In addition, she considered that prohibition should cover the distribution, as well as the sale, of cigarettes individually or in packets of fewer than 20. She would prefer paragraph 12 to be deleted, since it should be for national authorities to decide on penalties in accordance with their own definition of the age of criminal liability.

Professor AUNG (Myanmar), speaking on behalf of the South-East Asia Region, proposed the deletion of paragraph 10, which would be very difficult to implement. He further proposed that paragraphs 11 and 12 be merged.

Dr BOVET (Seychelles), speaking on behalf of Member States of the African Region, suggested that the words "to the extent possible within the means at its disposal and its capabilities" be deleted from paragraph 10. He believed that the convention should set out guiding principles for controlling tobacco use in a concise and meaningful way.

Dr HAMAD (Sudan) proposed the addition of a new paragraph under Article I that would also prohibit the manufacture and sale of sweets in a form that resembled tobacco products.

Mr CASTILLO SANTANA (Cuba) said that in paragraph 10 he would like the words "to the extent possible within the means at its disposal and its capabilities" to be retained within square brackets. He proposed the addition of the words "in accordance with national legislation" in paragraph 11, and proposed that "persons under the age of 18" be replaced by "minors" in both paragraph 11 and paragraph 12.

Mr MOON (Republic of Korea) suggested that paragraph 9 should be strengthened by being amended to read "Each Party shall prohibit any kind of supply of tobacco products to and by persons under the age of 18." In the heading to paragraphs 8-12 the word "sales" should be replaced by the word "supply", and since paragraph 9 in its amended form was now the principle paragraph it should be placed before paragraph 8. In paragraph 10 he proposed the replacement of the word "sale" by the word "supply" and in paragraph 11 the replacement of "sellers and distributors" by "providers" and of "sales" by "supply".

Dr SANNER (Norway) proposed that paragraph 10 should be strengthened by placing the words "to the extent possible within the means at its disposal and its capabilities," between square brackets. He also supported the suggestion by Sudan regarding prohibiting the manufacture of sweets in a form that resembled tobacco products.

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Ms KATENE (New Zealand) considered the elimination of sales to and by young persons to be crucial. However, even though in her country many tobacco retailers had been prosecuted for sales to persons under the age of 18, young people still reported having little difficulty in purchasing cigarettes. She therefore proposed the addition of a new paragraph in Article 1, reading "Each Party shall take appropriate measures to place tobacco products for sale at retail level largely out of sight of the consumer." That should make it more difficult for young people to buy their first packet of cigarettes, and should reduce impulse buying.

Professor LYNCH (Canada) pointed out that her suggestion that the terms "sales" and "selling" should be replaced by "furnishing" applied throughout Article 1. She considered that paragraph 9 should be deleted, as it could limit employment opportunities for young people in establishments such as convenience stores. She was concerned that paragraph 12 in its current formulation could be interpreted as an incentive to organized crime by encouraging the use of young people to facilitate criminal offences related to the illicit tobacco trade. On the assumption that the intention was to avoid penalizing young persons addicted to tobacco, she suggested that paragraph 12 be reworded as follows: "Each Party shall ensure that no criminal penalties are imposed against persons under 18 for buying tobacco products for personal use".

Ms KERR (Australia) concurred with other delegates that the phrase "to the extent possible within the means at its disposal and its capabilities" weakened paragraph 10 and should be deleted. She proposed that paragraph 8(a) be amended to read "require that all sellers of tobacco products take all reasonable steps to ensure that buyers are 18 and over". With regard to paragraph 12, she supported the concept of not criminalizing under-age purchasers of tobacco for personal consumption. However, the paragraph did not address the issue of under-age buyers of tobacco products whose purpose was to sell on or supply tobacco to other young persons under 18. She therefore proposed a reformulation worded: "Each Party shall ensure that no criminal penalties are imposed against persons under the age of 18 for buying and/or possessing tobacco products for personal consumption".

Ms ALEXIS-THOMAS (Trinidad and Tobago) pointed out that even though it was illegal to sell tobacco products to young persons under 16 in her country, a recent survey had revealed that one in three adolescents between 13 and 15 were able to buy cigarettes. With regard to paragraphs 9, 10 and 11, she would welcome the introduction of a licensing system governing sales. She proposed the addition of a new heading entitled "Licensing", to be followed by two new paragraphs, the first reading "Each Party shall take appropriate and other measures to ensure that the holders of licences for tobacco products are over the age of 18", and the second reading "Each Party shall ensure that part of the licensing system includes: (i) prohibition of the sale of cigarettes individually or in packets of fewer than 20 cigarettes (ii) penalties for sales to persons under 18."

Mrs YAGDAROVA (Tajikistan) expressed support for paragraphs 10, 11 and 12, as well as for the comments of the delegates of Cuba and the United States of America.

Dr ILKHAMOV (Uzbekistan), referring to paragraph 10, proposed the insertion of "and free distribution" between "sale" and "of". With regard to paragraph 11, she supported the Chair's text as it stood.

Dr REN Minghui (China) proposed that paragraphs 9 and 11 should be combined to read as follows: "Each Party shall take appropriate measures to prevent wholesalers and retailers of tobacco products from selling or distributing tobacco products to young persons under 18 and shall impose penalties on those who violate this regulation.". She also proposed the deletion of paragraph 12.

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Dr AL-LAWATI (Oman) proposed the deletion of "to the extent possible within the means at its disposal and its capabilities" from paragraph 10. He also supported New Zealand's suggestion for the addition of a new paragraph under Article I.

Ms DJAMALUDDIN (Indonesia) endorsed India's comments on the impracticability of prohibiting sales at the retail level of cigarettes individually or in packets of fewer than 20 in developing countries. She therefore proposed the deletion of paragraph 10.

K. Surveillance, research and exchange of information

Mr MAKONO (Zambia), speaking on behalf of the African Region, said that paragraph K.2 was of particular concern to African countries. He proposed the addition of two new subparagraphs, to read "(c) promote and encourage research activities designed to accelerate diversification of alternative crops, especially in developing countries;" and "(d) promote research activities on behaviour and attitudes."

Dr ARRIAGA WEISS (Mexico) also considered that Article K was important because it would lead to a better understanding of tobacco use. In his view, subparagraph K.2(b) should contain some reference to research into the economic and social impact of tobacco consumption, and he proposed the insertion of the words "and its economic and social impact" after the words "tobacco use".

Ms BELSIS LLORATE (Cuba) said that in principle Cuba supported paragraph K.2, and particularly subparagraph (a), although she wished to reserve the right to make proposals when the Annex came to be discussed.

Ms MORALES AYLLÓN (Bolivia) proposed the deletion of the words "as far as possible" in the first sentence of paragraph K.2.

Dr FARSHAD (Islamic Republic of Iran), also referring to the opening of paragraph K.2, proposed that the words "particularly in the areas of youth, women and passive smoking" should be added after the words "for the purpose of this convention".

Dr ROA (Panama) endorsed the principles contained in paragraph K.2(a) and (b), but considered that an addition should be made to the effect that the Parties would undertake research on the impact of educational and other preventive measures for the control and reduction of tobacco consumption and passive smoking.

Ms BALOCH (Pakistan) proposed that the first sentence of paragraph K.2 should be reformulated to read "The Parties undertake to develop and promote national research programmes and to contribute, as far as possible, to international research activities for the purpose of this convention."

* Dr NOVOTNY (United States of America) noted that the United States had already submitted a proposal in Working Group 2 for amendment of the opening text of paragraph K.2. However, he wished to express support for subparagraphs K.2(a) and (b) as they stood.

Mrs MBONGWE (Botswana) said she supported the amendments put forward by Zambia. She proposed the deletion of the words "in accordance with the means at its disposal and its capabilities" from the second sentence of paragraph K.2.

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Mr OGANOV (Russian Federation) pointed out that paragraph K.2 was mainly concerned with research on the effects of tobacco use on health. He therefore proposed the insertion, either in subparagraph 2(b) or as a separate subparagraph, of a formulation worded: "encourage and provide resources for scientific research devoted to the assessment of the effectiveness of communal and individual programmes which are intended to reduce tobacco consumption."

Dr CARIS (Chile) concurred with other delegates that the words "as far as possible" should be deleted from the first sentence of paragraph K.2. and supported the suggestion made by Panama. She proposed the addition in subparagraph 2(a) of a reference to cooperation at international level which would enable countries to compare the results of their research. She also proposed the addition of "and training in research" after the word "research" in subparagraph 2(b).

Ms KERR (Australia) reiterated the suggestion already made by Australia in Working Group 2 that subparagraph 2(b) might be more appropriately dealt with in that working group.

Mr GRBEŠA (Croatia), referring to paragraph 2(b), proposed the addition of the words "and countries with economies in transition" after "developing countries".

Dr MALAKAI'AKE (Tonga) supported the proposal put forward by Zambia. Research should be carried out to discover the reasons why people smoked, with a view to developing effective methods of preventing tobacco use.

Ms GOJA (Uruguay) proposed the deletion of the words "in accordance with the means at its disposal and its capabilities" in the second sentence of paragraph K.1.

Dr HAMAD (Sudan) supported the proposal made by Zambia in respect of paragraph K.2.

Dr CASTILLO (Dominican Republic), speaking as the delegate of a tobacco-producing country, proposed the addition of a new subparagraph (c) which would read "promote and stimulate research and technical and financial assistance for the development of alternative crops in tobacco-producing countries and for the assessment of the profitability of the new crops."

Dr REDDY (India) expressed support for the proposal made by the delegate of Pakistan.

The CHAIR, in closing the discussion, noted the broad support for the principle set out in paragraph K.2 and the proposals put forward for its amendment, particularly with regard to research into alternative crops.

D. Guiding principles

Paragraphs D.1 and D.2

The CHAIR, introducing the discussion of paragraphs D.1 and 2, recalled that it had been agreed to consider those two paragraphs after a review of the more detailed provisions proposed later in the text.

Ms MAYSIIAR (Israel) proposed the insertion of the words "of the tobacco epidemic and the phasing out" before "of tobacco consumption" in paragraph D.1. The intention was to ensure that the convention's first guiding principle was the recognition of the existence of the tobacco epidemic and the need to combat it until it was ultimately phased out.

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Moreover, in view of the likelihood that the implementation of many of the measures called for in the convention would be challenged in the Parties' courts on constitutional grounds, she believed that it was essential to add a statement to the guiding principles on the balance of the competing interests of the protection of public health and commercial interests. She therefore proposed the addition of a new paragraph 2, which would read as follows: "The devastating effect of the use of tobacco products on public health requires the implementation of stringent measures, as set forth in this convention, designed to diminish tobacco use as far as feasible, and these measures, of necessity, should prevail over commercial interests and rights."

Dr REDDY (India), speaking on behalf of the Member States of the WHO South-East Asia Region, said that both national actions and international responses had to be comprehensive, multisectoral and coordinated, since national actions had to be coordinated between various ministries, and international responses had to be multisectoral across health, trade, agriculture, the media and law enforcement. He therefore suggested that the last part of paragraph D.1 should read: "and requires comprehensive multisectoral and coordinated national actions and international responses".

Mr RAJALA (European Community), speaking on behalf of the European Community and its Member States, as well as the associated States Bulgaria, the Czech Republic, Latvia, Poland, Romania, Slovakia and Slovenia, expressed appreciation of the new approach to the general principles taken in the Chair's text. He would propose changes to emphasize the meaning of some of the principles. With regard to paragraph D.2, language that was excessively general should be avoided. For example, the term "every person" could be expressed more specifically by referring to "members of the general public, at-risk target groups and individuals". An amendment would be submitted in writing.

Dr THINLEY (Bhutan) endorsed the proposal made by the Indian delegate on behalf of the Member States of the South-East Asia Region.

Dr ILKHAMOV (Uzbekistan) expressed support for the first part of paragraph D.1 and for paragraph D.2, but proposed the addition of the words "taking into account national interests" at the end of paragraph D.1.

Ms BALOCH (Pakistan) noted that while paragraph D.1, referred to halting the growth of tobacco consumption, it made no mention of halting tobacco production and trade. She therefore proposed that paragraph D.1 should read as follows: "Reducing the current impact, and halting the growth of tobacco consumption, production and trade including international trade, is crucial in protecting the health of individuals, as well as national and global public health, and requires comprehensive multisectoral actions and coordinated international responses".

Professor LYNCH (Canada) supported the Chair's text of paragraph D.1. With regard to paragraph D.2, it would be difficult to ensure that every person was fully informed of the harmful nature of tobacco consumption. However, it was not necessary to attain the ideal standard of total public awareness in order to achieve the objectives of the convention. She therefore proposed that the paragraph should read as follows: "Everyone should be provided access to information to become aware of the addictive and lethal nature of tobacco consumption, and non-smokers should be adequately protected from exposure to tobacco smoke."

Mr CASTILLO SANTANA (Cuba) expressed support for the basic principles set out in paragraphs D.1 and D.2. With reference to proposals made by previous speakers that paragraph D.1 should refer to other aspects of tobacco production and trade, in addition to tobacco consumption he recalled his delegation's earlier statement that Article D contained the guiding principles of the

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convention, which should be focused on the themes of health, combating tobacco consumption and the illnesses related to tobacco use. References to grade and other aspects should not be included in the guiding principles of a convention with health objectives.

Dr ARRIAGA WEISS (Mexico) also endorsed the Chair's text of paragraphs D.1 and D.2. However, paragraph D.2 should be made more precise by referring to the "lethal consequences", rather than the "lethal nature", of tobacco consumption.

Dr SANNER (Norway) emphasized that environmental tobacco smoke (ETS) was the third most important cause of premature death. In the light of the severity of the problem, he proposed to sharpen the focus of the convention on the detrimental effects of ETS by introducing a new paragraph in the guiding principles. The new paragraph, to be inserted after paragraph D.1, would read: "Every person has the right to smoke-free air and hence adequate protection from exposure to environmental tobacco smoke."

References to the effects of ETS in the Chair's text were focused only on non-smokers. However, recent data suggested that ETS might be even more harmful for smokers than for non-smokers. It had been reported that smokers exposed to ETS either at home or at work spent more days away from work and more days in bed than smokers not exposed to ETS. Moreover, ETS enhanced the risk of lung cancer among smokers, as demonstrated in several studies. Paragraph D.2 should therefore include information on the hazards of environmental tobacco smoke. He proposed that it should read be amended follows: "Every person should be fully informed about the addictive and lethal nature of tobacco consumption and about the hazards of exposure to environmental tobacco smoke".

Ms ALEXIS-THOMAS (Trinidad and Tobago) proposed the inclusion of references to preventing the initiation of tobacco use and exposure to second-hand smoke in paragraph D.1. The paragraph would therefore read as follows: "Preventing the initiation of tobacco use, reducing the current impact, and halting the growth, of tobacco consumption and exposure to second-hand smoke, is crucial in protecting the health of individuals, as well as national and global public health, and requires comprehensive multisectoral national actions and coordinated international responses."

Dr CARIS (Chile) noted speakers' frequent references to young persons and proposed the addition of the words "young persons and" before the words "non-smokers" in paragraph D.2.

Dr DE CÁCERES (Paraguay) agreed that references to the production and sale of tobacco should not be included in paragraph D.1; their mention would be inconsistent with other parts of the convention that sought to promote other uses of tobacco. The problem was not the cultivation of tobacco, but its use and people's consequent dependence; the idea of the text was to halt the growth in tobacco consumption for tobacco-dependent persons. No opening should be left for the question of the production and sale of other tobacco products – for example, for pharmaceutical purposes – to be used to block the article.

Ms KERR (Australia) said that many of the principles contained in the guiding principles were of an aspirational and contextual nature, and it was difficult to see how they differed from preambular statements. She therefore suggested that consideration be given to placing the guiding principles, with appropriate modification, in the preamble. She proposed that the whole text of the guiding principles be placed in square brackets pending discussion of the preamble.

Dr ANDEN (Philippines) proposed that paragraph D.1 should be reworded to read: "It should be the paramount concern of this convention to protect the health of all peoples, and thereby reduce

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the current impact, and halt the growth of tobacco consumption through comprehensive multisectoral national actions and coordinated international responses”.

Dr FARÍAS ALBUQUERQUE (Peru), on behalf of the Minister of Education of his country, called for a change in paragraph D.2 to recognize the role of education in promoting the development of elements that protect and build resistance against the use of tobacco.

Mrs THIBELI (Lesotho), speaking on behalf of the Member States of the African Region, emphasized the importance of ensuring that the convention contained strong guiding principles. In that regard, she proposed that, in paragraph D.1, the words “in protecting” should be replaced by the words “for promoting”. Paragraph D.2 should be amended to read: “The entire population should be fully informed about the addictive, harmful and lethal nature of tobacco consumption”. Finally, prominence should be given to non-smokers by making the latter part of the text in paragraph D.2 into a new paragraph D.3, which would read: “Non-smokers should be adequately protected from involuntary exposure to tobacco smoke”.

Ms ELLUL (Malta), expressing support for the Chair’s text of Article D, emphasized the serious health implications for non-smokers of exposure to environmental tobacco smoke. She therefore proposed that the phrase concerning non-smokers in paragraph D.2 should read as follows: “non-smokers should be fully protected from exposure to tobacco smoke”. That proposal was made in the awareness that there was no safe level of exposure to the carcinogens present in environmental tobacco smoke.

Mr KATENE (New Zealand) proposed an additional guiding principle on the importance of tobacco control research and development. The experience of New Zealand showed that current tobacco control methods, although effective, needed to be strengthened and further diversified to accelerate the reduction of tobacco use. He also expressed support for the Norwegian proposal for a separate guiding principle on the right of individuals to smoke-free air.

Ms TKACHENKO (Russian Federation) pointed to a contradiction between the two sections of paragraph D.2, which appeared to imply that being informed somehow protected non-smokers. She proposed that the present text should be divided into two paragraphs. The first would deal with informing the population about the potential danger of smoking and breathing tobacco smoke through mass media programmes, school programmes, clear warning notices, and so forth. The second of the paragraphs should then cover the protection of non-smokers through the use of legislative and other measures.

Mr BAHARVAND (Islamic Republic of Iran) agreed with previous speakers that the concept of the protection of non-smokers should be redrafted and placed in a separate new paragraph D.3.

Dr ROA (Panama) proposed the addition of a new guiding principle related to paragraph G.1(e), which would read as follows: “In view of the duty and right of individuals and families to care for their health through the adoption of healthy lifestyles and environments, it is necessary for the Parties to carry out systematic educational and information activities aimed at the whole of the population”.

Dr LEWIS-FULLER (Jamaica) supported the Trinidad and Tobago delegate in emphasizing the importance of prevention. She proposed the inclusion of a new paragraph D.1, so as to place prevention first and foremost before any other principles. The new paragraph would read: “Taking all necessary action to prevent the consumption of all tobacco products, their promotion, development and trade in order to prevent the burden of disease, disability and death caused by tobacco use, and in keeping with public health principles.”

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Mr EMMANUEL (Saint Lucia) expressed support for paragraph D.2, but proposed the addition of the words "and exposure to tobacco smoke" after the word "consumption".

Dr SILVA GOLDFARB (Brazil), with a view to reaffirming the importance of the environmental damage caused by tobacco, proposed that paragraph D.2 should be reworded as follows: "Every person should be fully informed about the environmental damages caused by tobacco production, the addictive and lethal nature of its consumption, and non-smokers should be adequately protected from exposure to tobacco smoke."

Dr KIENENE (Kiribati), while endorsing the wording of paragraph D.2, proposed the replacement of the word "lethal" by "harmful". He associated the term "lethal" with weapons of a biological or nuclear nature. He expressed support for the amendment proposed by the delegate of Chile to include a reference to young persons, who required special consideration. While adult non-smokers could walk away from tobacco smoke, young persons could not.

Mr MBUYU MUTEBA (Democratic Republic of the Congo), endorsing the statement made by the delegate of Lesotho on behalf of the African Region, suggested that in the French text of the proposed new paragraph 3 the word "*correctement*" should be replaced by "*suffisamment*".

The CHAIR pointed out that such adverbs had no force in law: it was enough simply to say "be protected".

Mr MOON (Republic of Korea) stressed the importance of controlling smoking among young people and proposed that a new paragraph be inserted after paragraph D.2, to read as follows: "The importance of efforts and various measures to control tobacco smoking of young persons should be recognized."

E. General obligations

Paragraphs E.1 and E.2

Mr BEN SALEM (Tunisia) said that the word used in the Arabic text for "obligations" in the heading was inaccurate; he asked for the wording to be aligned with the other language versions.

Mr ODOKO (Japan), referring to paragraph E.2, said that the use of the phrase "to the extent possible within the means at its disposal and its capabilities" had been criticized when it had appeared in other parts of the text and there had been suggestions to delete it. He considered the phrase to be unclear, but expressed his appreciation for the underlying idea, which left room for Member States to introduce measures based on their particular circumstances at their discretion, without thereby violating the obligations of the convention. Such circumstances had to be taken into account when introducing measures to regulate tobacco production and marketing, which meant that Member States could not implement the regulations in a uniform manner. To sum up, the convention should make allowance for different States to achieve the same objective by diverse means.

Dr REDDY (India), speaking on behalf of the Member States of the South-East Asia Region, expressed support for paragraphs E.1 and E.2(a). However, he considered that paragraph E.2(b) was too vague, since it did not define what was meant by "appropriate policies". He proposed that subparagraphs 2(b) and 2(c) be merged to read as follows: "adopt legislative, executive and administrative measures and cooperate with other Parties in harmonizing appropriate policies for reducing tobacco consumption and exposure to tobacco smoke". Subparagraph 2(c) of the Chair's text would then be redundant.

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Dr THINLEY (Bhutan) supported the drafting proposal made by the delegate of India on behalf of the South-East Asia Region.

Ms BILLUM (Sweden), speaking on behalf of the European Union and the associated States Bulgaria, the Czech Republic, Poland, Romania, Slovakia and Slovenia, said that she would submit a series of proposed amendments to Article E, which she regarded as important. Some of them concerned paragraph 2. In her view, questions concerning the financing of national mechanisms for tobacco control were of a different character and should not be raised in an article on general obligations, but should be dealt with in the section of the convention dealing with financial resources. She also proposed that the word "harmonizing" be replaced by "developing" in subparagraph 2(b). She would submit a revised draft text in writing.

Ms ROVIROSA PRIEGO (Mexico) suggested the following amended version of paragraph E.1. in order to be consistent with the phrase "where appropriate", and to avoid an attempt to be exhaustive: "Each Party shall develop, implement, periodically update and enforce, where appropriate, national strategies, policies, legislation or other measures for the control of tobacco use, in accordance with the provisions of this convention and, as relevant, its protocols".

Mr CASTILLO SANTANA (Cuba) agreed that in paragraphs E.1 and E.2(a) the phrase "tobacco control" should be amended to "control of tobacco use". With regard to paragraph E.2(c), he suggested the deletion of the words "and, as relevant, its protocols"; there was no need at the present stage to refer to possible future protocols.

Dr ZENKEVICH (Belarus) considered the concept of a "national coordinating mechanism", referred to in paragraph E.2(a), to be rather broad and complex. Some States might feel under an obligation to set up a special mechanism. To make the text clearer, he proposed replacing "national coordinating mechanism" by "national measures".

Ms KERR (Australia) commented on the structure of Article E. She suggested that the general obligations could be streamlined by separating out the types of obligations. That would involve some reorganization of domestic and international obligations, as well as of issues relating to implementation of the convention.

Professor LYNCH (Canada) said that in paragraph E.1 the words "such as standards" might be understood to be included in "other measures". She consequently proposed the deletion of the words "such as standards", and drew attention to the need to define the term "standards" wherever it was used in the text.

Referring to paragraph E.2, she proposed that, as suggested in the discussions on other sections, the words "to the extent possible within the means at its disposal and its capabilities" should be deleted. In subparagraph 2(c), she proposed the insertion of the words "the prevalence of tobacco use," before "tobacco consumption". She would submit the proposals in writing.

Mr MAKONO (Zambia), speaking on behalf of the Member States of the African Region, proposed that in the first part of paragraph E.2 the words "to the extent possible within the means at its disposal and its capabilities" should be deleted. He proposed the following alternative text: "To this end each Party shall, subject but not limited to the financial mechanisms contained herein, undertake to:". He further proposed that subparagraph 2(b) should be replaced by the following text: "adopt legislative, executive and administrative measures and cooperate with other Parties in harmonizing appropriate policies upwards to the highest standard".

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* Dr NOVOTNY (United States of America) observed that paragraph E.1 suggested a commitment to standards developed in accordance with the provisions of the convention and its protocols. His and other delegations had expressed support for a convention that facilitated model national standards rather than instituted international standards.

He proposed a modification to subparagraph 2(a), as it seemed to contain a commitment to future funding and actions of organizations for which some national governments might not be responsible. The amended text would read: "establish or, where it already exists, reinforce a national coordinating mechanism for tobacco control and provide an opportunity for public input". He would submit the text of both amendments in writing.

Mr MOON (Republic of Korea) proposed the insertion of the words "taking into account its specific circumstances" after "Each Party".

Mr CULLEN (Argentina) said that paragraph E.2 concerned the implementation of the provisions of paragraph E.1 and was consequently redundant, especially since section E dealt with general obligations. Subparagraph 2(c) was particularly inappropriate, in that it stipulated the reduction of tobacco consumption as an obligation. However, the convention could only require that Member States adopt adequate policies; it could not impose an obligation for the policies to succeed.

Ms ELOVAINIO (Finland) supported the statement by the delegate of Sweden on behalf of the European Union. Finland stressed the importance of a comprehensive, multisectoral antismoking policy involving the whole of society, not only the public health sector. That was the only way to create sufficient power and synergy for the work. She was convinced that the results achieved in Finland during the past 25 years demonstrated that a systematic, comprehensive policy could be effective. A sharp decrease in the incidence of and mortality from tobacco-related major diseases had been observed in her country.

Dr PALOMO ESCOBAR (El Salvador) supported the Mexican delegate's proposal to delete the words "comprehensive, multisectoral" and "such as standards" in paragraph E.1. He proposed the addition of the words "and regularly evaluate" in the line reading "Each Party shall develop, implement, periodically update and enforce".

Dr SILVA GOLDFARB (Brazil) considered that the term "national coordinating mechanism" in paragraph E.2(a) required clarification. She agreed that it was possible for nongovernmental organizations to facilitate implementation in countries where there was no government involvement. However, in Brazil's experience, programmes could not be successful if there were no government commitment to support them. She therefore proposed the insertion of the words "coordinated by a government organism, preferentially by the Health Ministry" after the word "control".

Ms MORALES AYLLÓN (Bolivia) supported the wording of paragraph E.1. She proposed that subparagraphs 2(a) and 2(b) should be amended to read as follows:

- (a) establish in the near future and/or, where it already exists, reinforce with adequate financing a national coordinating mechanism for tobacco control, with inputs from relevant government, civil society and funding agency resources;
- (b) adopt legislative, executive and administrative measures and cooperate with other Parties in developing and harmonizing appropriate policies for health promotion that encourage healthy lifestyles and habits.

She further supported the deletion of the words "and, as relevant, its protocols" in subparagraph 2(c).

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Mr CASILLO SANTANA (Cuba) expressed his displeasure that one of the most important sections of the convention, on general obligations, was being discussed in haste, when the room was almost empty. He did not wish the negotiations to become an endurance race, with victory to the strongest. Small delegations were particularly vulnerable. He therefore asked the Chair to be fair to everyone.

The CHAIR said that he understood and shared the Cuban delegate's view.

Professor WARNER (World Bank), speaking at the invitation of the CHAIR, referred to paragraph 8. The World Bank applauded the spirit of the paragraph, which made a strong statement about the dangers of smoking and governments' concern about the issue. Nevertheless, he would not want delegates to be optimistic that such measures would in fact substantially reduce tobacco use by young people. In many high-income countries, where such restrictions had existed for some time, research had shown them to be relatively ineffectual. They could readily be circumvented by informal networks of distribution. Furthermore, in the few instances in which they had proved successful, enormous resources had been required for enforcement.

It was noteworthy that youth access restrictions were supported by the tobacco industry, often with its own programmes. Many veterans in the tobacco control field were convinced that industry supported such programmes because it was convinced that the measures were ineffectual. In contrast, any policy measures strongly opposed by the tobacco industry, such as tax increases and advertising bans, were likely to be effective. The World Bank had also noted that in low-income countries, the necessary systems, infrastructure and resources for implementing such restrictions and enforcing them were much less widely available than in the high-income countries.

The meeting rose at 13:20.

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WORLD HEALTH ORGANIZATION

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

A/FC/TC/INB2/WG2/SR/3
14 June 2001

WORKING GROUP 2

PROVISIONAL SUMMARY RECORD OF THE THIRD MEETING

International Conference Centre, Geneva
Thursday, 3 May 2001, at 19:35

Chair: Dr T.J. STAMPS (Zimbabwe)

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Note

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

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

A/FCTC/INB2/WG2/SR/3

WORKING GROUP 2

THIRD MEETING

Thursday, 3 May 2001, at 19:35

Chair: Dr T.J. STAMPS (Zimbabwe)

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

K. Surveillance, research and exchange of information (continued)

Paragraph K.1 (continued)

Ms BALOCH (Pakistan) said it seemed that the word "surveillance" in paragraph K.1 was not being interpreted in the same way by all delegates. She therefore proposed that definitions should be formulated for "surveillance" and "monitoring", the latter word having been proposed by some delegations. She was not otherwise changing her position on the provision as stated at the previous meeting.

Dr YANG Gonghuan (China) expressed support for paragraph K.1 because her delegation considered surveillance to be a necessary means of monitoring implementation of the convention. National, regional and global machinery was consequently needed but, owing to the differing levels of development from one country to another, global machinery should include only basic indicators. In that connection, and since common definitions were required for the specific proposals, China would make a submission in due course.

Dr ZENKEVICH (Belarus), referring only to the Russian text, said his delegation would like the word "*epidnadzor*", an abbreviation for "epidemiological surveillance", to be written out in full both in the heading and elsewhere. He also requested that any other abbreviations be avoided.

Dr LEWIS-FULLER (Jamaica) suggested an amplification of subparagraph 1(a) with the insertion of "and its sequelae" after "epidemiological surveillance of tobacco consumption", to cover monitoring of the undesirable health effects of consumption.

Dr ROA (Panama) expressed support for the epidemiological surveillance also of tobacco-related diseases. It would also be fitting to include a provision indicating the need to establish surveillance with more or less homogeneous indicators permitting a genuine analysis of the current world situation.

Dr SEKABARAGA (Rwanda) emphasized the fact that the provisions in Article K related to the establishment of national systems by the Parties to the Convention. Provisions should also be formulated with a view to action by the Conference of the Parties or the convention secretariat to set up a surveillance system incorporating those national systems.

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Ms BALOCH (Pakistan) proposed the insertion in subparagraph 1(a) of "if required" after "tobacco consumption", and "national" before "economic and health indicators". She further proposed the deletion of subparagraph 1(b) since arbitrary international indicators developed by WHO or any other body were not appropriate.

Paragraph K.3

Professor GRANGAUD (Algeria), speaking on behalf of the Member States of the WHO African Region, supported paragraph K.3 since the exchange of information between countries of one and the same subregion was very important. He proposed the deletion of "in accordance with the means at its disposal and its capabilities" in the third sentence of paragraph K.3, as had been proposed on several occasions during the session.

Mr MURDOCK (Canada) supported the obligation but proposed that the introductory sentences be amended, for the sake of clarification and simplicity, to read: "The Parties shall, in accordance with their domestic legislation and taking into account the special needs of developing countries, facilitate through the Secretariat of the Convention the exchange of scientific, technical, socioeconomic, commercial and legal information, as well as information regarding practices of the tobacco industry relevant to this Convention. Each Party shall:".

With respect to subparagraph 3(a), Canada proposed replacement of the words "national and subnational" with "domestic". In subparagraph 3(b) "database" should replace "base of data"; the obligation also required clarification as it was important to indicate the appropriate contents of the database to be compiled and maintained.

Mr BAHARVAND (Islamic Republic of Iran) proposed the insertion of "and cultivation" after "practices of the tobacco industry" in the second sentence of paragraph K.3.

Mr CASTILLO SANTANA (Cuba) expressed general agreement with the drafting of paragraph K.3 and proposed the insertion in the second sentence of "where appropriate" after "national legislation", and "publicly available" after "legal information". He further proposed the insertion of a new paragraph, between the present paragraphs K.3 and K.4, along the following lines: "Regional and international health bodies shall provide technical and financial support to the developing countries in the field of information in meeting their obligations regarding the exchange of information, especially in compiling and maintaining a database". A written proposal to that effect would be submitted.

Ms BALOCH (Pakistan) proposed the insertion of "relevant" before "international agreements" in the second sentence of paragraph K.3. In subparagraph 3(a) "and subnational" should be deleted and "with the mutual consent of all concerned" should be inserted after "cooperate". Subparagraph 3(b) should be deleted.

Mr ALAYUTDINOV (Russian Federation) proposed the addition in the first sentence of paragraph K.3, of "as well as countries requiring such information" after "developing countries".

Dr REDDY (India) observed that, as far as the Conference of the Parties was concerned, nations were clearly bound by their obligations. It was, however, questionable whether that should be extended to the bilateral domain, as implied in the second sentence of paragraph K.3. He therefore proposed the deletion of "and bilaterally" from that sentence.

* Mr HOHMAN (United States of America), agreeing with some of the views just expressed by the delegate of India, said that while he attached considerable importance to exchanging information

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relevant to the convention, and certainly with due regard to the needs of developing countries, the current text was somewhat complicated. He would be submitting a simpler formulation in writing.

D. Guiding principles

Paragraph D.4

Dr REDDY (India), speaking on behalf of the Member States of WHO's South-East Asia Region, said that, in its present form, paragraph D.4 did not include the mechanisms for financial assistance, did not identify the special needs of the developing countries and linked such financial assistance to a future displacement of tobacco growers and workers. The countries he represented believed that assistance to persons engaged in farming and manufacture of tobacco was no feeble rehabilitation exercise to be undertaken at an undetermined future time, but an urgent priority to ensure their prompt redeployment. As the demand for tobacco fell more rapidly in the developed than in the developing countries and the international market was aggressively captured by tobacco transnationals, the large tobacco-crop surpluses were increasingly finding an internal market in the developing countries. That was another reason for reducing tobacco production rapidly through a wide variety of market support mechanisms for alternate farming and industrial activities. Furthermore, the environmental degradation caused by tobacco farming and processing could not be allowed to continue until a future date when tobacco farming would ultimately have to respond to the market mechanisms of reduced demand. It was necessary to intervene proactively to limit the health and environmental consequences of continued tobacco production and usage. The mechanisms for international financial assistance, such as the creation of a global fund, also needed to be clearly indicated to ensure that the promise of financial assistance materialized. He therefore proposed that paragraph D.4 should read: "The importance of financial assistance, including the creation of a global fund mechanism, to enable and aid the economic transition of persons engaged in tobacco farming and manufacture of tobacco products, in the developing countries, should be recognized".

Mr COSTI SANTAROSA (Brazil) expressing broad agreement with the proposal presented by the delegate of India, suggested the insertion of "assuring" after "importance of".

Mr CASTILLO SANTANA (Cuba) proposed that the paragraph should be amended to provide a text that was more flexible and general in scope, which should read "The importance of financial assistance to meet the adverse social and economic consequences for tobacco growers and workers that may occur in the future as a consequence of successful tobacco-control programmes should be recognized."

Mr SHRESTHA (Nepal) expressed support for the amendment to paragraph D.4 proposed by India. The importance of financial assistance was especially pertinent for the least developed countries to help them meet the commitments and obligations laid down by the convention. He therefore proposed that the words "especially in the least developed countries" should be added after the words "in developing countries" in the amendment to paragraph D.4 proposed by India.

Professor GRANGAUD (Algeria), speaking on behalf of the Member States of the WHO African Region, approved the spirit of paragraph D.4 but considered it insufficient merely to recognize the importance of assistance. Both financial and technical assistance should be addressed. He would submit a proposal for the amendment of the paragraph.

* Mr HOHMAN (United States of America) said that paragraph D.4 should be more general in scope. Where smooth transition to alternative activities was not possible, governments should be able to give the support and assistance needed to help growers make the transition. The Chair's text as it

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stood implied that financial assistance itself constituted a guiding principle. In his country's view, the guiding principle should be the recognition that governments could and should assist growers whenever transition threatened their well-being. He would submit a text to that effect.

Dr RAO (Panama) proposed the addition at the end of the paragraph of a reference to financial resources for the development of public health activities. If provision were not made for public health educational and other activities, the measures provided for under the convention would be ineffective.

Mr VARELA (Argentina) stressed the importance of paragraph D.4 which, as it stood, reflected a number of concerns of his country, and was similar to a proposal submitted by it at the first session of the Intergovernmental Negotiating Body. Nevertheless, Argentina considered that the amendments proposed by India, Cuba and Brazil enriched the text. It was very important to emphasize the principle laid down in that paragraph and ensure that it was reflected in the convention both under guiding principles and in the articles dealing with operational matters.

Mr BEN SALEM (Tunisia) said that the paragraph needed to be clarified in order to show the source of financial assistance. It would make a great difference, especially for countries with limited resources, whether it came from the budget of the country concerned or the international community. Financial assistance should be provided to encourage tobacco growers and workers to seek alternative activities as well as to help migrants or displaced workers.

Ms QU Meiyu (China) agreed with previous speakers that financial assistance should be provided by the international community. A reference to the importance of international financial assistance should therefore be added to paragraph D.4. A reference to technical assistance and cooperation should also be included. Her country would submit a written amendment to that effect.

Mr MBUYU MUTEBA (Democratic Republic of the Congo) said that reference had been made to the need for redeployment of tobacco growers and workers. Many other people, especially young people, earned their living from trading in tobacco products, so action was also needed to steer them to other activities. While he supported the statement made on behalf of the Member States of the African Region, he suggested the creation of a fund to guarantee financial assistance to facilitate the economic transition of tobacco growers and workers displaced as a result of tobacco control programmes as well as the financing of programmes to assist young people to move into other economic sectors. He would submit an amendment to that effect.

Dr LEWIS-FULLER (Jamaica) also expressed concern about the need to support economic transition in the tobacco industry. However, tobacco growers would not be the only ones affected. Countries would be faced with political economic, social and cultural challenges as the tobacco industry declined. It was imperative that they be helped to meet such challenges. Her country was committed to the eventual eradication of tobacco but recognized the need to be practical in dealing with the various consequences of a declining industry. She therefore suggested that paragraph D.4 be amended to read: "It is imperative that the necessary financial and technical support be provided to assist with the political, social, economic and cultural transition brought about by the decline in all aspects of the tobacco industry." She would submit the text in writing.

Mr RAMALLO (Venezuela) suggested that the words "national and international" should be inserted before "financial assistance".

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Paragraph D.5

Mr RAJALA (European Community), speaking on behalf of the Member States of the European Community and also the Czech Republic, Poland and Romania, said that the guiding principle in paragraph D.5 was highly significant and referred to interaction between the provisions of the tobacco convention under consideration and other international treaties, in particular but not exclusively those within the ambit of WTO. The European Community considered that paragraph D.5 should be worded with great care and uphold the priority of public health protection whenever tobacco control measures provided for by the convention were examined for compatibility with other international instruments. Tobacco control measures should not constitute a means of arbitrary and unjustifiable discrimination in international trade between countries where the same conditions applied. He would submit a text relating to those concerns.

Dr WINAI SWASDIVORN (Thailand) said that Thailand was experiencing a technical barrier to trade through WTO owing to its tobacco measures on such subjects as ingredient disclosure, health warnings and labelling. The current wording of paragraph D.5 was based on the language used in Article XX General Exceptions of the General Agreement on Tariffs and Trade (GATT) and its bullet point (b). It subjected tobacco to the same trade agreements and rules as other products and placed the burden of proof on governments to prove that tobacco control measures were justifiable and not arbitrary. Such language would greatly reduce the effectiveness of the framework convention and, in the case of tobacco, a most harmful product, such conditions were unacceptable. Thailand proposed a different wording for paragraph D.5 that ensured that tobacco control measures were not undermined by international trade agreements. It would empower the Parties to the convention to adopt tobacco control measures and put an end to practices by governments to promote tobacco product exports and tobacco use. The paragraph should read:

5. The Parties agree to take all necessary measures to ensure that no person acting on their behalf shall attempt to
 - (a) remove, weaken, undermine or otherwise interfere with tobacco control measures in force or under consideration in another State;
 - (b) promote tobacco exports or tobacco use in another State;

Thailand also proposed two additional paragraphs to read "In the event of a conflict between this Convention or any of its protocols and any other international agreement, this Convention and its protocols shall prevail." and "It is scientifically certain that tobacco causes many diseases that result in needless disability and early death. Lack of full scientific certainty regarding the efficacy of specific tobacco control measures shall not be used as a reason for postponing measures to control tobacco or for challenging such measures taken by other States." She would submit the proposed amendments in writing.

Mr PAVELSONS (Latvia), speaking on behalf of the three Baltic States, Estonia, Latvia and Lithuania, said that those States considered that paragraph D.5 placed too great a restriction on the application of tobacco control measures since the words "arbitrary and unjustifiable discrimination" were open to broad interpretation. The wording proposed by the European Community, on the other hand, would ensure that public health protection prevailed over other norms in international law. The Baltic States therefore supported the proposal put forward by the European Community.

Dr AL-LAWATI (Oman) associated himself with the views expressed by the European Community and Thailand. As it stood, the Guiding principle in paragraph D.5 continued to subject tobacco to the same agreements and rules as any other commodity. Moreover it required governments to prove that tobacco control measures were justifiable. That greatly impeded such measures and was

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therefore unacceptable from a public health point of view. It was also unacceptable that the text should subordinate the framework convention to other standard-setting conventions or treaties. The paragraph needed to be rewritten and he would submit a text to that effect.

Dr TATA (India), speaking on behalf of the Member States of the South-East Asia Region said that some provisions in the proposed convention concerned matters covered by other conventions with the result that action taken in pursuance of the obligations of the present convention might be treated as a breach of obligations under others. To avoid confusion he proposed that paragraph D.5 should be amended to read: "Tobacco-control measures taken to protect human health should not be deemed as constituting a means of arbitrary or unjustifiable discrimination in international trade." He would submit his proposal in writing.

Dr ALBDAH (Saudi Arabia) said that the paragraph had serious implications and should be deleted. In his view, the convention should not contain a provision to make it compatible with any other international commitments. No other international convention should have precedence over the framework convention on tobacco control.

Dr URDAL (Norway) also proposed that paragraph D.5 should be deleted because it was unclear and might cause contradictory interpretations. It might imply that some tobacco control measures taken by countries could be considered unjustifiable and imposed too high a burden of proof on countries in defending tobacco control measures.

* Ms GASH (United States of America) said that there existed no inherent conflict between trade and health policies, which were not mutually exclusive, and no trade-off was necessary between the rules of the international trading system and a health-based framework convention committing countries to strong tobacco control measures. Such a conflict should not be invented in order to weaken the general principles of WTO or create exceptions to its rules on the grounds that the objectives and purposes of the framework convention could not be fully accomplished without doing so. The present convention focused on measures against tobacco as a category of product and the intent of the guiding principle set out in paragraph D.5 was to ensure that measures applied to that end did not discriminate between countries where the same conditions prevailed. It was an important distinction: tobacco was only one of many legally traded products classified as harmful to human health yet covered by WTO. Such products were often heavily regulated domestically to minimize their adverse effects on human health; in her country's view, that could be done domestically and under the convention in ways consistent with WTO rules, which provided ample scope to pursue health policies, including those relating to tobacco products. Indeed, contrary to popular misconception, WTO recognized the rights of governments to establish levels of protection for human health that were higher than those in international standards. Health-based measures were therefore consistent with WTO affirmative obligations and did not need to rely on the creation of exceptions for their legitimacy. WTO even recognized the need in certain circumstances to impose health-based measures that would otherwise be contrary to its rules. Such provisions allowed for legitimate health-based measures while guarding against protectionist abuse. The United States thus supported the intent of paragraph D.5 and considered its position to be fully consistent with its support for a strong framework convention on tobacco control.

Ms QU Meiyu (China) said that, since the purpose of the convention was to preserve public health, the reference to trading problems was not, in her country's view, in accordance with the aims of the convention. She therefore proposed that the paragraph be deleted or amended entirely and she would submit a text to that end.

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Mr BAHARVAND (Islamic Republic of Iran) said that paragraph D.5 should be deleted. Priority should be given to public health and he would submit a written proposal on the question.

Ms KRACHENKO (Russian Federation) said that paragraph D.5 reflected an unjustified concern about the tobacco industry, which was not consistent with the purposes of the convention. It would therefore be preferable if the text were amended to read "Tobacco-control measures should take into account the rules of international trade."

Dr JOHNS (South Africa), speaking on behalf of the Member States of the African Region, said that for reasons already outlined, paragraph D.5 should be reworded along the lines suggested by the delegate of the European Community, and he would be submitting a text in that connection. The African Region proposed some additional paragraphs to be incorporated in Article D, and he requested guidance as to how they could be introduced.

The CHAIR said that any delegation could submit, in writing, proposals for additional paragraphs to be included in Article D.

Dr LEWIS-FULLER (Jamaica) said that, notwithstanding the explanation provided by the delegate of the United States of America, she remained confused about paragraph D.5. As it currently stood, the paragraph appeared to water down the whole principle of the convention, which was to give precedence to tobacco control in the international arena. Paragraph D.5 should therefore be deleted or reworded to indicate that tobacco-control measures should not be unduly constrained or discriminated against by international laws.

Professor GOJA (Uruguay) said that paragraph D.5 should be reworded with a view to ensuring that the right to human health and life prevailed over commercial interests. Tobacco and its products had a number of health, economic, social and environmental consequences, and could not be treated in the same way as other traded goods.

Ms BALOCH (Pakistan) said that, for the purposes of transparency, it would be useful to ascertain the source of paragraph D.5 and its background. It was disconcerting that one of the guiding principles of the convention appeared to run counter to the purposes of the convention.

Dr BETTCHER (Tobacco Free Initiative) replied that similar treaty language was contained in a number of multilateral environmental agreements, including the Rio Declaration on Environment and Development, the United Nations Framework Convention on Climatic Change, and protocols to the Convention on Long-Range Transboundary Air Pollution. Various textual proposals on paragraph D.5 had been put forward at the first session of the Intergovernmental Negotiating Body, and on the basis of the discussions that had taken place, the Chair of the Intergovernmental Negotiating Body had prepared the compromise draft wording currently under consideration.

Ms BALOCH (Pakistan) asked whether similar language had occurred in relation to the guiding principles of the instruments to which he had referred.

Dr BETTCHER (Tobacco Free Initiative) said that the similar wording had occurred in different parts of the aforementioned instruments, including in sections on guiding principles, substantive obligations and preambular paragraphs.

Mr ADSETT (Canada) said that the discussions should be guided by the need to craft a strong convention that focused on the public health aspects of tobacco control, and to ensure that the obligations to be assumed by the Parties could be implemented by all in conformity with international

obligations. The issues raised in paragraph D.5 were also mentioned in paragraph 1.2, and both paragraphs should be considered further. He therefore suggested that paragraph D.5 should be placed in brackets.

Dr RANAWEERA (Sri Lanka) said that the point under consideration was of the utmost importance and could make or break the convention in the long term. Endorsing the view of those speakers who considered that the tobacco-control measures undertaken in implementation of the convention should not be undermined by other international trade agreements, he expressed support for the amendment to paragraph D.5 proposed by the delegate of India.

Paragraph D.7

Mr RAJALA (European Community), speaking on behalf of the European Community, its Member States and the associated countries, the Czech Republic, Poland and Romania, said that it should be emphasized that successful implementation of the convention would necessitate the active participation of nongovernmental organizations – that fact should be reflected in the convention. He would be submitting a text in that regard.

Professor GRANGAUD (Algeria), speaking on behalf of the countries of the African Region, said that while he supported paragraph D.7, the wording should reflect the fact that tobacco manufacturers were not to be included in the elements of civil society to which the paragraph referred. Also, the word “objective” should be replaced by “goal”. In fact, that amendment was related to the title of Article C, which had not yet been discussed, but which should likewise be amended. He would be submitting his proposals in writing.

Ms BALOCH (Pakistan) said that, although she fully supported the content of paragraph D.7, she was concerned that the guiding principles were basically a summary of the convention. Furthermore, she had some difficulty in distinguishing between Article D, Guiding principles and Article E, General obligations, and requested clarification of the distinction to be drawn between those two articles and of the implications of the guiding principles.

The CHAIR said that, as he understood the matter, the most important distinction to be drawn between Articles D and E was that Article D referred to guiding principles in the abstract, while Article E to the Parties.

Mr SZASZ (Tobacco Free Initiative) explained that Article E set out the general obligations incumbent on the Parties to the Convention, whereas Article D set out the principles on the basis of which the entire convention was drafted, and was intended to guide States in negotiating and adopting the convention. There was a progression in the text from the title through the preamble, definitions and objective to the guiding principles, which indicated with increasing detail the reasons why the convention was written as it was. The guiding principles helped to provide a framework for interpreting the convention and the general and specific obligations incumbent on the Parties.

Ms BALOCH (Pakistan) said that, in the light of that useful explanation, paragraph D.7 should not be considered as a guiding principle and should be placed within brackets. She would be submitting her suggestion in writing.

Mr BAHARVAND (Islamic Republic of Iran) said that it would be impossible to achieve the objectives of the convention without the participation of civil society and nongovernmental organizations since tobacco control could not be achieved by governments alone. Paragraph D.7 should be retained, and might even be worded more strongly.

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Mr MBUYU MUTEBBA (Democratic Republic of the Congo) endorsed the comments of the delegate of Pakistan and agreed that the guiding principles constituted the terms of reference whereas the obligations constituted the commitments of the Parties. Responsible participation by all - namely the State, the tobacco-producing companies and civil society - was essential in achieving the objectives of the convention, and he would be submitting a proposal text along those lines.

Mr ESPINOZA FARFÁN (Guatemala) supported the paragraph and, for the purpose of strengthening the text, suggested replacing the word "elements" by "members" and "objective" by "objectives".

Mr ADSETT (Canada) said that he was grateful for the elaboration on the paragraph provided by the Secretariat. He echoed the comments made by Iran and favoured strongly the retention of paragraph D.7 since experience had illustrated that civil society had a crucial role to play.

Dr CARIS (Chile) endorsed some of the views of the previous speaker and considered that the participation of all members of civil society, especially nongovernmental organizations was essential for the success of the convention. The participants of the international organizations would also be needed and should be mentioned.

Dr ARRIAGA WEISS (Mexico) considered it important to maintain the paragraph, especially since it reflected a proposal made by his delegation at the first session of the Intergovernmental Negotiating Body. He pointed out that in various parts of the Chair's text the elements of civil society and nongovernmental organizations were requested to support efforts towards education and prevention as well as activities related to the treatment of tobacco-related problems. For example, the convention explicitly requested nongovernmental organizations to participate in tobacco-control strategies. The paragraph should therefore be retained as a guiding principle in Article D.

Dr BELLO DE KEMPER (Dominican Republic) supported the retention of the paragraph. Nongovernmental organizations played a fundamental role in society, for example in the issue of environmental protection, and their participation would also be important in the context of the framework convention under consideration.

Mr VARELA (Argentina) also acknowledged the importance played by civil society in tobacco control and considered it an essential element in achieving the objectives of the convention. Nevertheless, discussions in the working group and the Secretariat's replies on the differences between guiding principles and general obligations had led him to conclude that paragraph D.7 did not constitute one of the former, although it should be retained in the convention. The most appropriate place for it was probably as a general obligation requiring the Parties to encourage and take into account all elements of civil society as essential players in achieving the objectives of the convention. He would submit a text in that regard.

Dr DÜRLER (Switzerland) said that he also was of the view that civil society, particularly the nongovernmental organizations, had a key role to play in the implementation of the convention. It was therefore essential that the paragraph be retained, and even strengthened. He would submit a text to that effect.

Mr EMMANUEL (Saint Lucia) expressed support for the spirit of the guiding principle and proposed that the word "active" be inserted before "participation" and that the word "objective" be placed in square brackets. An appropriate text would be provided.

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Ms BALUCH (Pakistan) supported the Argentine proposal that paragraph D.7 should constitute a general obligation under which States would be required to ensure the participation of civil society for implementing the convention or achieving its objectives. The Constitution of her country contained principles of policy, used when an interpretation of that instrument was needed, which were somewhat similar to the guiding principles under discussion, and she therefore considered that paragraph D.7 was out of place among the guiding principles, since it did not fulfil such a function.

Dr JOHNS (South Africa) presented the main threads of the additional proposals that the Member States of the African Region wanted to make under "Guiding principles". Those States considered that the issue of economic transition went beyond that reflected earlier in paragraph D.4 and wanted to see it broadened to include such considerations as access to markets and the provision of appropriate technology. The second proposal dealt in a general sense with the issue of political will and commitment at the highest possible level within Member States in order to make the convention a success. The next proposal dealt with the need to monitor the tobacco industry in order to assess the effectiveness of action taken in terms of the convention. The fourth additional proposal related to the development of a framework whereby intersectoral consultative bodies could coordinate the task of various governmental and nongovernmental organizations. Textual proposals amplifying the outline he had given would be submitted in due course.

Dr PALOMO ESCOBAR (El Salvador) endorsed the views expressed by the delegates of Argentina and Pakistan that participation by all sectors of civil society in achieving the objective of the convention was of such great importance that the text should constitute a general obligation rather than a guiding principle. An amendment to that effect would be submitted.

E. General obligations

The CHAIR called for comments on paragraph E.3.

Ms ROVIROSA PRIEGO (Mexico) said that her delegation was in favour of the deletion of paragraph E.3 since it was incompatible with Mexico's commitments, especially in the framework of WTO and of its domestic legislation relating to foreign trade.

Mr RAJALA (European Community), speaking on behalf of the European Community and its Member States as well as the associated countries of Bulgaria, the Czech Republic, Poland, Romania, Slovakia and Slovenia, which associated themselves with the statement, considered that the provision was important and that the existing text was not entirely adequate and could even be counter-productive. He therefore suggested that the choice of available standards should be widened. For example, the manufacturing countries' domestic standards could be applied to their exports, or the importing countries' domestic standards, or indeed, the future standards to be established under the convention. The key requirement, however, should be that the choice of the standard to be applied should be the one giving the highest level of public health protection. In European Community legislation, for example, in the absence of internationally agreed rules, Member States' own product rules were applied to exports. That could change, however, if the convention established higher standards. A text addressing those concerns would be provided.

Mr DILEMRE (Turkey) said that there were currently some difficulties in determining global and uniform standards for international trade in tobacco products. Exports of tobacco or tobacco products could be processed in accordance with the standards of importing or exporting countries if there were no contrary provisions. The need for cooperation among countries to work on commonly accepted standards relating to tobacco products, as referred to in paragraph E.4, seemed to be an important issue for the next few years. Taking into account existing differences and willingness to

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cooperate among countries, Turkey believed that imposing any restriction at the present stage would be unnecessarily binding and premature and therefore suggested the total deletion of paragraph E.3.

Professor GRANGAUD (Algeria), speaking on behalf of the countries of the African Region, approved the wording of paragraph E.3 but considered that the provision should be extended to packaging and therefore proposed that the words "and packaging" be inserted after "export".

Dr DE CÁCERES said that it was important to look to the future with regard to tobacco products, since the concept of tobacco control should apply to products for human consumption that were harmful to health but not to products that might be developed as pesticides or for other uses. She suggested that the text be amended to read: "The Parties undertake to adopt in a progressive and sustained manner legislative, executive and administrative measures to regulate and to prohibit the export of tobacco products intended for human consumption and entailing the risk of tobacco addiction, which do not conform to international public health standards."

Dr DÜRLER (Switzerland) proposed the insertion of a new paragraph after paragraph E.3, reading as follows: "The Parties shall adopt and ensure satisfactory implementation of measures to protect public health policy from undue interference by tobacco companies, their subsidiaries and affiliated parties." The proposal would serve as a counterpart to paragraph D.6, which would remain void without a corresponding obligation by the Parties.

Dr URDAL (Norway) said that her delegation supported the position of the European Community and proposed that paragraph E.3 be placed in square brackets.

Mr COSTI SANTAROSA (Brazil) said that his country, which favoured strong public policies of tobacco control, was concerned that provisions such as paragraph E.3 might discourage exporting countries from adopting those policies in the hope of retaining export benefits. It would therefore be advisable to place paragraph E.3 in square brackets for the time being.

K. Surveillance, research and exchange of information (resumed)

The CHAIR invited Working Group 2 to consider paragraph K.4, which had not been assigned to any working group.

Dr REDDY (India) proposed that paragraph K.4 be amended to read as follows: "Information to be exchanged pursuant to Article [INSERT] above shall be determined by and provided to the Conference of the Parties", as the existing wording gave no indication of the nature of the data to be exchanged. A written text would be submitted.

B. Definitions

The CHAIR reminded the meeting that delegations had been invited to submit their representations on the words that required appropriate definition and to provide an approximate definition.

Ms BALOCH (Pakistan) reiterated her delegation's request that the words "surveillance" and "monitoring" be defined.

Mr CASTILLO SANTANA (Cuba) said that, although his delegation had no specific proposal to make at the moment concerning Article B, it would give careful consideration to any proposals put forward and would indicate its conclusions thereon. He reiterated his delegation's concern over

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attempts to redefine the term "developing" and "developed" countries, which were of particularly long standing.

The CHAIR said that all requests concerning definitions would be taken into account by the Secretariat and all definitions could be amended at subsequent sessions of the Intergovernmental Negotiating Body or indeed on other occasions.

Statements by representatives of intergovernmental and nongovernmental organizations

Professor WARNER (World Bank), speaking at the invitation of the CHAIR, referred to paragraph 4 of Article D on guiding principles. He considered that the emphasis on financial assistance to aid the economic transition of tobacco growers and workers was misplaced. As successful tobacco control in developing countries would at first only slow up or stop growth in tobacco use, few, if any, tobacco farmers and workers would be displaced in the vast majority of countries. Tobacco consumption was likely to decline gradually, as it had in the developed countries that had already begun to achieve tobacco control success and normal attrition due to deaths and retirements would thus determine the transition of the work force. Financial assistance might, however, be warranted in the case of the few countries in which tobacco growing was important to employment. His main concern was that the guiding principles did not refer to the very real need for financial assistance that the developing countries would face as they attempted to implement and enforce the often costly provisions of the framework convention and the specific protocols. Technical and financial assistance would be required for carrying out annual, scientifically sound surveys and for establishing and enforcing restrictions on youth access. The guiding principles should, in his view, acknowledge that need for financial assistance to implement and enforce provisions of the framework convention and the protocols, rather than, or in addition to, the concerns reflected in paragraph D.4.

The CHAIR pointed out that the Member States of the African Region had submitted additional wording on that point.

Mr GUPTA (Commonwealth Medical Association), speaking at the invitation of the CHAIR, expressed concern with regard to the guiding principle set out in paragraph D.5, which in his opinion rendered public health profoundly vulnerable. As currently worded, the principle meant that the framework convention would be subordinate to international commercial agreements, including those negotiated through WTO, which could demand that tobacco control measures should be fully justified and should not restrict trade. Those responsible for negotiations both in the Intergovernmental Negotiating Body and in WTO should develop texts that reflected the reality of the existence of a structural conflict between trade liberalization and public health, particularly in the case of tobacco products. The benefits of liberalized trade – increased access to improved and cheaper consumer products – applied in reverse to cigarettes, as public health was harmed when cigarettes were made more efficiently and inexpensively and became more attractive and more readily available. Resolving the conflict between trade liberalization and public health must be a priority of the Intergovernmental Negotiating Body, yet the text given in paragraph D.5 did not resolve that conflict but rather exacerbated it. He therefore commended the wording proposed by the delegation of Thailand.

Ms WYKLE-ROSENBERG (Infact), speaking at the invitation of the CHAIR, expressed support for the negotiators of the framework convention. In April 2001, Infact (Network for Accountability of Tobacco Transnationals), Consumers International, World Vision International and Friends of the Earth International had submitted a joint letter to the Chair of the Intergovernmental Negotiating Body outlining some areas of concern raised by the draft text, in particular the absence of measures to protect national and international public health policies from the undue political influence of tobacco transnationals. The framework convention provided a major opportunity for making the

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political activities of the tobacco transnationals and their front groups transparent, prohibiting inappropriate practices such as gift-giving and sponsoring trips for government officials and establishing a global monitoring mechanism so that those institutions were more accountable to governments and to people. She expressed deep concern at the fact that Philip Morris and other tobacco transnationals continued to interfere in public health policy at the national and international levels, even while the convention was being negotiated. Recent reports, including one from the WHO Committee of Experts on Tobacco Industry Documents, and national and regional studies from the Middle East and Switzerland, indicated that the tobacco transnationals respected no boundaries in seeking to shape public health policy for private gain. The annual revenue of Philip Morris was larger than the gross domestic product of many countries, including the Czech Republic, New Zealand, Pakistan and Peru. Even in the wealthiest countries, the tobacco corporations had an impact on governments' ability to apply tobacco control legislation. A recent Infact survey among health advocates in 31 countries had shown that more than 70% of those countries had no laws requiring tobacco corporations to disclose even the most basic information about their lobbying activities or political contributions. In March 2001, health officials from 21 African countries had issued the Johannesburg Declaration stating their concern about the tobacco industry's efforts to undermine tobacco control policies in Africa and had expressed support for including in the framework convention a global mechanism for monitoring the activities of tobacco transnationals. Infact supported governments that had proposed strengthening the framework convention by addressing the question of the political influence of the tobacco transnationals because it was central to the success of the convention and to the ability of governments to protect the public health of their peoples.

Ms ASSUNTA (Consumers International), speaking at the invitation of the CHAIR, said that her organization wished to stress the importance of preventing the tobacco industry from influencing tobacco control measures, which required a strong surveillance and monitoring system. In many countries the tobacco industry demanded to be consulted on and even to participate in tobacco control measures, a state of affairs which could only result in weakened and ineffective measures. Moreover, the tobacco companies claimed that they had a right to lobby on public health policies. Consumers International strongly believed that as part of the surveillance activities it should be explicitly stated that the industry should be excluded from all tobacco control initiatives and should disclose all politically motivated activities including political contributions. Past records had shown that nongovernmental organizations had been in the forefront of tobacco control activities in many countries particularly through monitoring, investigation and surveillance activities which had been valuable in exposing the tactics of the tobacco industry. She therefore hoped that Consumers International would be involved in monitoring and surveillance activities, with enhanced participation in overall tobacco control initiatives.

Mr BLANKE (International Union against Tuberculosis and Lung Disease), speaking at the invitation of the CHAIR, said that his organization strongly supported the Swiss proposal to reword Article E with a view to increasing the visibility of the tobacco industry's influence in the policy-making process. The recent report by the WHO Committee of Experts on Tobacco Industry Documents had shown the astounding scale and sophistication of the secret channels of influence which the tobacco industry had used to undermine WHO's past work, influences which would surely be used to sabotage the implementation of the framework convention. If the negotiations were to succeed, the framework convention must make fully transparent any tobacco industry influence in the implementation process. He encouraged Member States to include the strongest possible language in the text for that purpose.

Mr HAMMOND (International Union against Cancer), speaking at the invitation of the CHAIR, said that his organization and the World Heart Federation, which he was also representing, appreciated the opportunity to clarify the relationship between the framework convention and other international

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agreements and fully supported the proposal to redraft the Guiding principle set out in paragraph D.5. The nations of the world were negotiating a framework convention on tobacco control because of the unique and lethal nature of that product, which normally killed one half of its long-term users. It should therefore be recognized that normal trade rules designed to promote expanded trade and its benefits did not apply to tobacco. The sovereign right of governments to protect the public health of their people through strong tobacco control measures should be established beyond doubt. The States drafting the framework convention should ensure that the guiding principle in paragraph D.5 was replaced by a text providing that the framework convention took precedence over other international trade agreements; that signatories of the framework convention were given the widest possible latitude to design and execute tobacco control measures tailored to the unique social and cultural sensitivities of their populations; and that States agreed not to challenge the tobacco control measures of other nations or support the export of tobacco products.

The meeting rose at 21:45.

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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/3
14 June 2001

WORKING GROUP 3

PROVISIONAL SUMMARY RECORD OF THE THIRD MEETING

International Conference Centre, Geneva
Thursday, 3 May 2001, at 15:10

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

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Note

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

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

A/FCTC/INB2/WG3/SR/3

WORKING GROUP 3

THIRD MEETING

Thursday, 3 May 2001, at 15:10

Chair: Mr R. FARRELL (New Zealand)

later: Mr I. SEDDIK (Egypt)

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)

Q. Financial resources (continued)

Paragraph Q.1 (continued)

Mr VARELA (Argentina) endorsed the views expressed by the delegation of India on the need to establish a funding mechanism that took into account the specific needs of developing countries that produced tobacco. He looked forward to seeing the amendments put forward by that delegation.

Ms BENNETT (Australia) supported the text of paragraph Q.1 with the amendments suggested by the delegation of Canada. She particularly favoured removal of the words "and incentives" as that would accord with the view that States Parties take seriously their domestic obligations under the convention.

Dr WINAI SWASDIVORN (Thailand) said that his delegation supported the proposal by India that a global fund be established. He believed that such a fund would help to reduce tobacco growing and, at the same time, provide technical support for developing countries.

Mr YI Xianliang (China) pointed out that there two outstanding questions: where the financial resources were to come from and how they were to be used. The paragraph on financial resources would also be the appropriate place to outline how a Secretariat would be established and funded. In principle, he could agree to the text of paragraph Q.1, however, he queried whether deletion of the words "and incentives" might discourage some countries from joining the convention.

Paragraph Q.2

Mr SNYDER (Canada) said that his delegation recognized that financial support for capacity building for developing countries was essential. The convention envisaged a number of significant obligations that many countries would be hard-pressed to fulfil on their own. Canada was prepared to provide financial backing, as it had to other international tobacco control activities. Although a voluntary fund might be the best mechanism, due account needed to be taken of other possible structures.

Although it was possible that there would be a significant relationship between the Conference of the Parties and WHO, the paragraph appeared to draw rather hasty conclusions about the nature of that relationship, and further discussion was required.

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He echoed the interest expressed by the delegation of China in seeking clarification on the source of funding for the core activities of the Secretariat. That was usually assured from assessed contributions to ensure stable and secured funding.

Mr RAJALA (European Community), speaking on behalf of the European Community, its Member States and Bulgaria, the Czech Republic, Poland, Romania, Slovakia and Slovenia, recognized the importance of all forms of cooperation, particularly those between developed and developing countries, such as the financial assistance required to support implementation of the convention. However, the need for establishing a new financial mechanism, as opposed to making use of existing ones, had not yet been sufficiently demonstrated.

Dr SANGALA (Malawi), speaking on behalf of the African Region, proposed that the word "voluntary" be removed from the paragraph. He believed that that amendment would be in keeping with the views of the delegation of Canada.

Mrs DE PALMA (Guatemala) emphasized the importance of economic support from larger countries to developing countries to help them achieve the objectives of the convention. In her country, for instance, tax contributions received from the sale of tobacco products were used to help the poorer sections of society.

Dr TATA (India) reiterated that paragraphs Q.2 to Q.4 were of considerable importance if the ultimate goal of tobacco control was to be achieved. The need for a mechanism to fund alternative farming in developing countries had been discussed extensively at the previous meeting and had met with wide support. The representative of FAO to the Fifty-third World Health Assembly had stressed that crop replacement was a major factor in successful tobacco control. With that support in mind, he proposed to strengthen the wording in those paragraphs in order to reflect the needs of developing countries, in particular those engaged in tobacco production. In place of a voluntary mechanism, there should be a funding mechanism based on sustained and assured sources. The cigarette companies that reaped large profits from exporting their products to developing countries should be made to contribute to the fund through a tax on exports of finished tobacco products. The fund could be supplemented by voluntary contributions or contributions from nongovernmental sources, as might be decided by the Conference of the Parties. The fund could be used to assist the economic transition of tobacco growers and workers in developing countries and for technology transfers for tobacco cessation programmes. His detailed proposals would be submitted in that regard.

Mr TVEITAN (Norway), said that paragraph 2 raised important questions related to the financing of the administration of the framework convention but attempted to encompass different aspects. For the convention to be effective, adequate and stable funding of its institutions would be required, especially for the Secretariat to the convention and the Conference of the Parties. For those purposes, an obligatory financial mechanism had to be found and incorporated into the convention, whereas aspects of implementation of the convention and decisions made by the Conference of the Parties could be based on a voluntary mechanism. As the question of financial resources merited further discussion, he proposed that paragraph 2 be enclosed in brackets and placed on the agenda of the following meeting of the Intergovernmental Negotiating Body.

Mr YI Xianliang (China) supported the establishment of a voluntary mechanism for the provision of financial resources, which could be used to fund the secretariat. That could be decided after the nature of the relationship between WHO and the convention had been established.

The wording in regard to the transfer of technology could be strengthened, perhaps by placing it in a separate paragraph. He requested that further time be set aside to discuss that issue. He agreed on

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the importance of establishing a funding mechanism for developing countries, and the relevant wording should be made clear in order to facilitate effective implementation of the convention.

Dr ARMADA (Venezuela) shared the doubts of other delegations about the advisability of establishing a voluntary funding mechanism. He viewed the concept of the transfer of technology in a positive light, but preferred to use the term "development of sustainable technologies", which could be better adapted to the needs of individual regions.

Ms DJAMALUDDIN (Indonesia) supported the proposals for paragraphs 2-4 put forward by the delegate of India. Even if the Intergovernmental Negotiating Body succeeded in formulating a meaningful framework convention, it would be a long time before the ultimate objective of tobacco control was achieved. A guaranteed source of funding would be necessary to enable the implementation of long-term programmes: a voluntary mechanism comprised too high a risk for such an important issue. It was crucial that the convention included a mechanism, perhaps in the form of a multilateral global fund, with eligibility criteria to be discussed. If necessary, a separate protocol could be prepared.

Mrs TRAN THU THUY (Viet Nam) said that paragraph 2 contained some long and complex sentences that were difficult to understand. She requested that the framework convention be rewritten in simpler language that would be easier to follow.

Ms BALOCH (Pakistan) expressed support for India's proposal: a fund with compulsory contributions from the tobacco-manufacturing companies should be established. She proposed deletion of the reference in paragraph 2 to WHO in connection with arrangements for the establishment of the fund; such a statement was somewhat premature.

Mr SHRESTHA (Nepal) endorsed India's remarks and proposed amendments. The establishment of a fund was indeed necessary. However, in view of financial constraints, financial resources must be provided for the least developed countries to allow them to fulfil their obligations under the convention. He therefore proposed that in the amended text proposed by India for paragraph 2 the words "especially for least developed countries" should be added after "for developing countries".

Mr VARELA (Argentina) said the question of financial resources, particularly for cooperation, was crucial to the convention. The funding mechanism set up for that purpose must be functional and predictable, which was unlikely to be the case with the voluntary fund proposed in the Chair's text. The mechanism must be designed to overcome the major obstacles to achieving tobacco control, such as the heavy dependence of regions and countries, above all developing countries, on tobacco production. That should be the focus of the cooperation in question. He endorsed India's proposed amendments.

Dr RANAWEERA (Sri Lanka) expressed strong support for the concept of a multilateral global fund. It would ensure long-term and sustained implementation of the measures laid down in the convention.

Paragraphs Q.3 and Q.4

Ms CALLANGAN-RUECA (Philippines) said she supported the inclusion of paragraph 4, subject to the insertion of the words "and financial" before "support".

Dr SANGALA (Malawi), speaking on behalf of the countries of the African Region, recalled that during the first session of the Intergovernmental Negotiating Body Malawi and other States had underlined the necessity of financial support for diversification programmes in developing countries whose economies were heavily dependent on tobacco growing. Those concerns had been addressed in the convention under Article L (Scientific, technical and legal cooperation), in subparagraphs L.1(b)(ii) and (iii). Once the relevant technical studies had been completed, financial resources would be required to implement such programmes. He therefore proposed the addition of a new paragraph in section Q, which would read: "The Parties recognize that developing countries, especially those whose national economies are dependent on tobacco growing, need support to diversify into other viable options. The Conference of the Parties will therefore through WHO and other United Nations agencies raise financial resources in order to:

- (i) assist tobacco workers in developing alternative livelihoods;
- (ii) assist tobacco growers in shifting to alternative crops or economically viable activities, paying particular attention to the protection of the environment."

In current paragraph Q.4, which would become Q.5, he proposed insertion of the words "and financial" before "support" as well as the phrase "as well as to diversify to other economically viable options" after "tobacco control programmes".

Mr PAVELSONS (Latvia), speaking on behalf of the Baltic States, proposed that paragraph 4 be amended to read: "The Parties recognize that the developed-country Parties that export manufactured tobacco products, or have branches of international tobacco companies exporting or selling tobacco products in third countries, have a special responsibility to provide technical support to developing-country Parties to strengthen their national tobacco-control programmes."

Mr RAJALA (European Community), speaking on behalf of the European Community, its Member States and Bulgaria, the Czech Republic, Poland, Romania, Slovakia and Slovenia, said that while he endorsed the need for cooperation, he harboured doubts about the principle of developed countries which exported manufactured tobacco having a special responsibility to provide technical support to developing countries. The question should be viewed in the broader context of compensation and liability dealt with elsewhere in the convention.

Mr BAHARVAND (Islamic Republic of Iran), noting, in response to the previous speaker, that compensation and liability were two separate matters, proposed that the square brackets around paragraph 4 should be deleted.

Dr GHANEM (Egypt) said that the responsibility for providing technical support to developing country Parties should not be imposed on individual countries but should be channelled through WHO; otherwise, difficult situations might arise.

Dr PIÑON (Cuba) endorsed the view that the square brackets should be removed from paragraph 4. Moreover, support for developing-country Parties should be not only technical but also financial. He would submit a proposal to that effect.

Dr SILVA GOLDFARB (Brazil) said that paragraph 3 should also contain a reference to financial resources to be provided for alternative crops, to help developing countries which depended heavily on their tobacco crops for export. She would submit a proposal to that effect.

Mr Seddik took the chair.

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R. Settlement of disputes

Mr ADSELT (Canada), supported by Mr ODOKO (Japan), said that, as in previous sections, there should be no reference to possible protocols to the convention. The phrase "or any of its protocols" should be deleted from paragraph R.1.

Mr ATWOOD (Australia) said that, while supporting the substance of the section, his delegation considered that the relationship with similar provisions in other treaties ought also to be addressed. It would submit a proposal to that effect.

Mr BAHARVAND (Islamic Republic of Iran) favoured retaining the phrase "or any of its protocols" but, by way of compromise, adding the words "where applicable".

Mr YI Xianliang (China) said that the phrase should be retained throughout the convention, in the interests of consistency. There was no knowing how many protocols there would be or how many would address the settlement of disputes.

* Dr NOVOTNY (United States of America) said that, when his Government signed a treaty, it did so with the intention of observing it. His delegation therefore welcomed the provisions of paragraphs 1-3. Compulsory dispute-settlement mechanisms, however, were not satisfactory; they tended to be expensive and divisive and to produce poor outcomes. His delegation would submit an amendment to that effect.

Ms BALOCH (Pakistan) called for deletion of the reference to protocols, which was premature.

Mrs SHAHAR-BEN AMI (Israel) echoed this proposal, saying that such reference was repetitious, given the provisions of paragraph 7.

Mr CASTILLO SANTANA (Cuba) said that his delegation considered it too soon to select a method of dealing with disputes. Other criteria might arise in the future. In any case, his delegation would, in view of its national legislation, never be in a position to recognize the competence of the International Court of Justice.

Mr YI Xianliang (China) suggested that the word "peacefully" should be inserted after the words "resolve it" in paragraph 3. Peaceful outcomes were surely desirable for all.

Mr BAHARVAND (Islamic Republic of Iran) said his delegation considered that questions of dispute settlement should be postponed until the convention was finalized. He therefore suggested that Article R as a whole should be placed in square brackets and that paragraph R.7 should be deleted. The bodies created by the convention, particularly, the Conference of the Parties, would reach their own decisions on how to proceed.

Mr Farrell took the chair.

D. Guiding principles

The CHAIR invited the working group to consider paragraphs D.3, D.6 and D.8, which were the most relevant to its terms of reference.

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* Dr NOVOTNY (United States of America), referring to paragraph D.8, said that the framework convention should lay down minimum standards and obligations, on which the Parties could build by means of further measures; his delegation would submit a proposed technical amendment in that regard. Moreover, since the paragraph seemed to overlap with paragraph E.6, his delegation would also submit a proposed amendment to the latter paragraph when it was considered.

Mr ARENALES FORNO (Guatemala) said that his delegation approved paragraph D.5. Technology transfer was an important aspect of cooperation among countries, especially with those whose resources were limited.

Dr SANGALA (Malawi) said that his delegation would submit a proposed new paragraph, which, if accepted, would involve renumbering the paragraphs in Section D.

Mr BAHARVAND (Islamic Republic of Iran) said that his delegation agreed with paragraphs 3 and 6. It had no difficulty in principle with paragraph 8 but considered that the wording "measures beyond those required by the convention" could cause confusion about the possible scope of other measures that States Parties might adopt. Perhaps the text could be amended – for example, by substituting "further to" for "beyond".

Ms MACMILLAN (New Zealand) affirmed that the convention's provisions should be seen as minimum standards. Perhaps the previous speaker's concerns could be met by adding the word "domestic" before "measures".

Ms BALOCH (Pakistan) supported that proposal and further proposed the replacement of "beyond" by "in addition to".

Mr Seddik took the chair.

E. General obligations

The CHAIR invited the working group to consider paragraphs E.4-E.7.

* Dr NOVOTNY (United States of America) said that his delegation did not envisage that the framework convention would set international standards that would be binding on the Parties, but rather model standards that Parties could adopt. He therefore proposed that the word "standards" be deleted from paragraph 4.

Dr AUNG (Myanmar), speaking on behalf of the South-East Asia Region, suggested that, in paragraph 5, the word "competent" should be replaced by "appropriate".

Ms BALOCH (Pakistan) said that all references to protocols in section E should be deleted.

Mr BAHARVAND (Islamic Republic of Iran), referring to paragraph 4, proposed deletion of the word "agreed".

* Dr NOVOTNY (United States of America), referring to paragraph 5, said that it was not clear which international bodies were being referred to with regard to implementation of the convention. His delegation would accordingly submit an amendment to replace the paragraph by: "The Parties shall cooperate to ensure that mutual goals on tobacco control are reinforced."

Mr KEBBON (Sweden), speaking on behalf of the European Union, the Czech Republic, Latvia, Poland, Romania, Slovakia and Slovenia, noted that paragraph 6 seemed to depend on the outcome of the discussions, still continuing, on the issues of compensation and liability.

Ms MORALES AYLLÓN (Bolivia) said that paragraph 3 should recognize the importance of financial as well as technical cooperation in establishing tobacco-control programmes and the need to involve young people in research and preventive action. Paragraph 4 should stress the policy of alternative activities, in accordance with regional needs. She would submit texts to that effect.

Dr WINAI SWASDIVORN (Thailand) said that, in paragraph 8, the words "should be recognized as" were not strong enough and should be replaced by the word "are".

Dr ARRIAGA WEISS (Mexico) proposed that the word "technical" be deleted from paragraph 3; no restrictions should be placed on the types of cooperation possible. In paragraph 6, he suggested addition of the words "in accordance with each Party's legislation".

Dr ZENKEVICH (Belarus) suggested that in paragraph 6 the phrase "tobacco industry", which was very vague, should be replaced by the words "tobacco companies".

Mr ADSETT (Canada) concurred, although he preferred the words "tobacco manufacturers". As for the point made by the delegation of Sweden, it might be preferable to place paragraph 6 in square brackets for the time being.

Mr MOON (Republic of Korea) endorsed the views of the delegates of Sweden and Canada concerning paragraph 6.

Mr YI Xianliang (China) said that paragraph 3 should provide for not only technical cooperation but also technology transfer.

Mrs SHAHAR-BEN AMI (Israel) said that in paragraph 6 the words "past, present and future" should be inserted before the word "harm". The first sentence should end at the word "environment", and the next sentence should read: "Each Party should consider adopting appropriate legislative measures regarding the burden of proof in relation to causation and should determine the scope of such responsibility within its jurisdiction."

Mr RAMALLO (Venezuela) supported the proposal that reference to both technology transfer and exchange of information should be included in paragraph 3. In paragraph 4, he suggested that the words "national and international" should be inserted before the words "financial assistance".

Dr SILVA GOLDFARB (Brazil) suggested that the following sentence should be added to paragraph 3: "Local cultural, social, economic, political and technical expertise must be taken into consideration in establishing such cooperation".

Mr CASTILLO SANTANA (Cuba), after endorsing the statements by the delegates of Bolivia and China concerning paragraph 3, on which his delegation would submit a proposal, said that paragraph 6 should be deleted in its entirety. It would be extremely difficult to implement the principle because of the number of imponderables involved. It would have to be determined, for example, at what point an illness had begun or had become established and what level of responsibility was borne by a smoker who had voluntarily taken up the habit.