



WORLD HEALTH ORGANIZATION

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

**A/FCTC/INB2/JM/SR/1
19 June 2001**

PROVISIONAL SUMMARY RECORD OF THE JOINT MEETING OF THE WORKING GROUPS

International Conference Centre, Geneva
Friday, 4 May 2001, at 11:00

Chair: Mr C. L. NUNES AMORIM (Brazil)



CONTENTS

	Page
Drafting and negotiation of the WHO framework convention on tobacco control	2

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/JM/SR/1

Dr LEWIS-FULLER (Jamaica) also strongly supported the call by the delegate of Lesotho for gender equality and gender balance in the Bureau and especially among the Chairs, Co-Chairs and other officers.

Turning to the consolidated text, she asked what action should be taken if a delegation's proposed amendments had not been included.

The CHAIR replied that although the textual process had been complicated, pains had been taken to ensure that all the amendments proposed had been included in the conference papers. If any delegation found that its amendments had not been included or had been inaccurately reproduced, it should send in a written notification before the start of the third session for a corrigendum to be issued.

Ms BALOCH (Pakistan) asked whether it would be possible at the next session for simultaneous editing to be arranged instead of delegations submitting proposals at the end of the meeting and waiting for the conference papers to be issued.

The CHAIR said that it should be easy at the next session for the Secretariat to edit as the meetings progressed. The third session was expected to be more dynamic and not to focus on an aggregation of texts.

Ms MACMILLAN (New Zealand) said that the composite document was extremely useful despite being difficult to follow. As it would undoubtedly be read in conjunction with other articles within the Chair's text, she suggested that in future specific alternatives to particular paragraphs should in some way be numbered to indicate precisely where they belonged.

Dr SANGARA (Malawi) said that he found the system of single and multiple brackets confusing, as was the system of bold and normal typeface, and he wondered whether it might be possible in future to draw a line through the text of proposed deletions.

Dr BETTCHER (Tobacco Free Initiative), replying to points raised, said that it would be possible to accommodate a numbering system in the textual process, as suggested by the delegate of New Zealand but it would not be so easy to draw a line through text proposed for deletion.

Mr SZASZ (Tobacco Free Initiative) explained that, although Working Paper No.1 had been difficult to produce, it followed the standard practice for treaty-making. A problem was that many amendments had been made to individual sections of the text. He added that the text in the working paper was not meant to be read, but merely to provide an inventory of the proposals which had been made. He was unsure of the areas in which improvements could be made to its presentation. Admittedly, some differentiation could be made between the type of brackets used for additions and deletions. Moreover, alternative proposals could be signified by the use of the word "or". However, the use of lines through the text to indicate proposed deletions might not be practical, since many of them also included the addition of some text. In that respect, the use of different types of brackets was probably the best solution.

He recalled that the working paper had been produced under considerable pressure and might therefore incorporate errors. Where such errors were found, they should be pointed out to the Secretariat within one week so that the necessary corrections could be included in the final documents, which were due to be produced towards the end of June 2001. Another possible source of errors was the fact that some proposed changes had been submitted in handwritten form.

Finally, he noted that because of its nature, the proposed format of the text did not reflect whether the amendments proposed had been supported by many States, or just one. It would be necessary to consult the provisional summary records and the other conference papers to gain an idea of the support for each individual amendment.

A/FCTC/INBZ/JM/SR/1

The CHAIR asked delegates with practical suggestions for improving the presentation of the text to submit them to the Secretariat. He recalled that the current proposed text had no legal status of its own and was merely intended to facilitate consideration of the proposed amendments. Several of the Co-Chairs had not been particularly happy with the proposed format. However, unless the regional groups requested otherwise, it might be difficult to improve on the proposed editorial presentation, in view of the danger of overstepping their respective roles. He proposed that the Co-Chairs should meet before the next session of the Intergovernmental Negotiating Body to make editorial suggestions. In that respect, the process of developing the Chair's text was still in progress and the third Negotiating Body session would be an extension of the second.

Ms LLORENTE DÍAZ (Cuba) was grateful for the effort made in a very short time, but trusted that endeavours would be made to improve the presentation of the text as much as possible. In the working paper's present form, it would be very difficult for delegates to understand. She therefore hoped for improvement in such areas as the symbols used, which at present were confusing, with a view to facilitating the difficult task already faced by delegations for the next session.

The CHAIR thanked the speakers for the confidence expressed in the officers. Clearly, new symbols would have to be used and better explanations provided of their meaning, for example in a longer cover page. However, as he had already indicated, there was a limit to how far the Secretariat and the Co-Chairs could go without overstepping their role with regard to the substance of the convention.

Ms DJAMALUDDIN (Indonesia) expressed appreciation of the production of a model text within such a limited time. However, she emphasized the difficulties of working with a text presented in such a manner. Persons who had not been present at the meeting would have no possibility of understanding what was being discussed. She therefore asked for a more user-friendly model to be developed.

Mr OGANOV (Russian Federation) asked whether a new version of the Chair's text of the proposed convention would be prepared for the next session on the basis of the proposals put forward during the current session.

The CHAIR understood the grounds for requesting a new, clean text to be prepared for the next session. However, the whole process of proposing amendments might start all over again if a uniform text were prepared. In any case, that would only be possible if the Negotiating Body were to give the Chair a mandate to do so. In his view, there was no alternative to a painstaking examination of all the suggested changes, although it might be possible to facilitate the task by using different types of brackets to clarify the text.

Ms BALOCH (Pakistan) was opposed to any proposal for a cleaner version. It was up to governments to negotiate among themselves and to decide what they wanted to include in the text. They could not delegate that work to the Chair or Co-Chairs.

Mr BAHARVAND (Islamic Republic of Iran) observed that the same weight should be given to all the proposed amendments, whether they were suggested by one or by 50 delegations.

The CHAIR pointed out that the working paper was not intended to be a complete picture of the session, but was a record of the amendments put forward. He agreed that a proposal made by a single delegation would be treated in the same way as a proposal supported by a large number of delegations. At the present stage, there was no way of assessing how much support there was for any given amendment.

A/FCTC/INB2/JM/SR/1

Dr LEWIS-FULLER (Jamaica) suggested that it would be helpful to print the original paragraph of the Chair's text next to the relevant paragraph of the working paper containing the suggested amendments, so that the two versions could be compared. In order to move towards reaching consensus, she further suggested that the various regional groups should meet to agree on a draft. That consolidated text would then be fed back into the system, so as to shorten the deliberation process.

The CHAIR agreed that it saved time when the regional groups spoke with one voice. However, it was up to the groups themselves to reach such a decision. He saw no problem in the Jamaican proposal to issue a composite text reproducing the various paragraphs of the Chair's draft together with the edited text containing the suggested amendments.

In the absence of further comments, he declared the joint meeting closed.

The meeting rose at 12:30.

= = =



WORLD HEALTH ORGANIZATION

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

A/FCTC/INB2/PL/SR/2
13 June 2001

PROVISIONAL SUMMARY RECORD OF THE SECOND MEETING

International Conference Centre, Geneva
Friday, 4 May 2001, at 15:00

Chair: Mr C.L. NUNES AMORIM (Brazil)

CONTENTS

	Page
1. Drafting and negotiation of the WHO framework convention on tobacco control (continued)	2
2. Next session of the Intergovernmental Negotiating Body	5
3. Closure of the session	6

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/CTC/ANB2/PL/SR/2

SECOND PLENARY MEETING

Friday, 4 May 2001, at 15:00

Chair: Mr C.L. NUNES AMORIM (Brazil)

1. DRAFTING AND NEGOTIATION OF THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL: Item 4 of the Agenda (continued)

The CHAIR invited the Co-Chairs to submit the reports of the working groups.

Professor GIRARD (France), Co-Chair of Working Group 1, said that four meetings had been required to consider Articles G and H, together with part of Article I (Elimination of sales to and by young persons) and paragraph 2 of Article K, which dealt with research to provide back-up for the draft convention. Working Group 1 had also considered the guiding principles contained in Article D, paragraphs 1 and 2 and the general obligations contained in Article E, paragraphs 1 and 2. Many delegations had spoken and a large number of proposals had been put forward. The Group's task had been greatly simplified by the quality of the Chair's text.

Mr AISTON (Canada), Co-Chair of Working Group 2, said that a wide variety of views had been expressed and a large number of proposals put forward within the Working Group, which had dealt with parts of Articles F, I and K on the questions of surveillance, exchange of information, price and tax measures to reduce the demand for tobacco, government support for tobacco manufacturing and agriculture, illicit trade in tobacco products and licensing.

Mr FARRELL (New Zealand), Co-Chair of Working Group 3, after drawing attention to the reports contained in the Group's Conference Papers, said that it had been agreed that substantial discussions on compensation and liability (Article J), development of the convention (Article S) and final clauses (Article T) would be postponed until the third session of the Intergovernmental Negotiating Body, at which time all three items would be treated similarly. Delegations had also agreed that for those three articles regional or other country groups, as well as individual country delegations, would submit textual proposals or comments, which would then be circulated to delegations. It had been agreed that texts for discussion should be submitted not less than 60 days before the opening of the third session.

The CHAIR thanked the Co-Chairs for their reports. No further comment was required from him, since all delegations had participated in the working groups and, moreover, any remarks he made might inadvertently ascribe particular importance to one topic at the expense of others.

He invited the meeting to take note of the reports of the working groups.

It was so agreed.

Mr NOVOTNY (United States of America) thanked the Chair, the Working Group Co-Chairs and the Bureau for facilitating discussion on the Chair's text. His delegation had been prepared to offer texts for a number of possible protocols, and would await the Chair's guidance about when they could be submitted for discussion. He emphasized that his delegation's position on many related issues would become clear only in relation to its proposals on the protocols, which would in turn affect a number of provisions in the Chair's text. He hoped that that situation had not led to erroneous conclusions about his country's overall approach, which remained strongly supportive of a treaty and protocols.

A/CTC/INB2/PL/SR/2

The CHAIR, replying to a question from Dr WINAI SWASDIVORN (Thailand), said that although he and the Working Group Co-Chairs might be carrying out some inter-sessional editorial work on the existing draft text, there was no intention to produce any separate texts before the Negotiating Body's next session.

Mr CASTILLO SANTANA (Cuba), noting that some outstanding matters had not yet been discussed, pointed out that any countries, regions or groups that wished to hold discussions on such matters before the next session had every right to do so. Any resultant proposals should be tabled at the next session on an equal footing with others.

Ms KERR (Australia) said that her delegation shared with many others the desire to achieve a strong, effective convention. To that end, its preparations for the next session would focus not only on substantive obligations but on the convention's structure: it was important that a full debate be held on that issue at the next session. In particular, Australia would be considering the proposed guiding principles. Although those already set out provided a useful framework for negotiations, the problem was that, if they were retained in the convention as discrete provisions, questions would arise about their possible effect on the interpretation of operative provisions. There was also the question whether guiding principles would achieve anything that could not be achieved equally effectively by a combination of the preamble, statement of objectives and specific obligations, and the question of how such principles had been set forth in similar international agreements. Other delegations should take such matters into consideration before the next session, so that an informed discussion could be held.

Another major issue was whether protocols could be useful in setting out technical details for implementing or elaborating the obligations under the convention, or whether the first task should be to consider whether a single, integrated text would suffice, bearing in mind that the practice relating to many instruments was to make protocols optional rather than binding on all Parties. Both those issues would need to be fully discussed at the next session.

Dr BETTCHER (Coordinator), in reply to a question from Dr AL-LAWATI (Oman), said that all documents prepared for the sessions of the Intergovernmental Negotiating Body had been included on the WHO web site as would all future documentation.

Ms BILLUM (Sweden), speaking on behalf of the European Union and its Member States, said that the contributions had provided a sound basis for further work. Key issues were clearer, and actual negotiations should be able to begin at the next session. She believed that the constructive views expressed augured well for future consensus.

One issue that would require particular attention at the next session was the sequence of negotiations on the body of the convention and its protocols. In that regard, promotion of public health should be seen as the convention's main objective, and if that was to be achieved the momentum gained by the wide participation in the current session must be maintained, and efforts should be made to arouse the widest possible interest on the part of the general public and the media. The countries she represented intended to make the most positive possible contribution to the work of the coming session, and she urged all others to do likewise, with a view to reaching early agreement.

Mr AKRAM (Pakistan) agreed that the current session had been most useful. The next session should address the issues that had not yet been tackled, such as compensation, liability, development of the convention and the final clauses. It was also important not to lose sight of the convention's focus on health, a focus which his delegation would seek to have reflected in the guiding principles. He warned that caution would be required when drafting provisions on issues such as surveillance and taxation, in order to avoid any infringement of State sovereignty or national jurisdiction.

A/FC/INB/PL/SR/2

Mr BAHARVAND (Islamic Republic of Iran) agreed that the convention should focus on health issues. Noting that provisions concerning development of the convention and final clauses were formulated on similar lines in many international conventions, he requested the Secretariat to develop a draft text for Articles S and T, in order to provide a basis for negotiations at the third session.

The CHAIR said that that request had been noted.

Mrs THIBELI (Lesotho) said that Lesotho was committed to ensuring that the negotiating process achieved its desired goal, and pledged her delegation's support to that end.

Mr LIU Tienan (China) expressed his satisfaction that negotiations had gone smoothly, despite some differences of opinion which were inevitable in developing a framework convention whose scope was broader than the mandate of WHO. China would study outstanding issues closely before the third session, with a view to achieving a successful conclusion to the negotiations.

Dr TUUAU-POTOI (Samoa) suggested that, in view of the possibility of a future ratification of the framework convention by the United Nations General Assembly, the Secretariat of the framework convention should remain within WHO in order to ensure that its focus on health was maintained.

Mr SEKOBÉ (South Africa), speaking on behalf of countries in the WHO African Region, said he welcomed the opportunity to address not only the health aspects but also the economic aspects of tobacco use. The dependence of many African countries on tobacco revenues was a relic of the region's colonial past. Securing consensus on the framework convention was not going to be easy because of the many entrenched interests involved, but he was sure that by joint efforts success could be achieved.

Mr SAKA (World Customs Organization), speaking at the invitation of the CHAIR, said that the discussions had highlighted many concerns shared by his organization (WCO) and WHO, in the quest for tobacco control.

The customs community had accumulated considerable experience in combating the crime of cigarette smuggling, and was continuing to combat it with the support of new partners. WCO had launched a number of initiatives, including an enforcement programme, guidelines on measures to be taken by customs services, a strategic plan incorporating administrative, legal and operational measures and a worldwide cigarette smuggling risk assessment project. It maintained a worldwide database on cross-border cigarette smuggling, including harmonized customs tariffs, customs procedures related to the importing and exporting of cigarettes, and a worldwide exchange of information. WCO and WHO had already agreed to discuss mechanisms for further technical cooperation, which should make a significant contribution to the objective of the convention. In that regard, he emphasized the importance of including a reference to "competent international organizations" in Article D.7 and Article M.5 of the convention in order to avoid duplication of work and to harmonize measures to be taken by the international community.

Mr NAVARRO (Infact), speaking at the invitation of the CHAIR, said Infact was concerned that the impact of the transnational tobacco companies extended beyond the sphere of public health. In addition to the deaths of 4 million people every year, a figure that would double in the next 20 years if current trends continued, there was the environmental damage caused by the use of toxic pesticides and the loss of biodiversity as a consequence of monoculture plantations and of deforestation caused by the use of wood for the curing of tobacco. To make matters worse, the environmental damage and loss of life took place chiefly in impoverished countries of the south, while most of the corporations that benefited from tobacco addiction were based in developed countries of the north.

He held tobacco companies responsible for the deaths caused by tobacco addiction because they took advantage of the psychological vulnerability of young people in order to addict them. He endorsed

A/FC/C/INB2/PL/SR/2

the position held by many governments that a total ban on tobacco advertisement and promotion should be imposed, and that public health should be given priority over trade. Countries should be required to protect public health policy from undue influence by the tobacco transnationals, and the latter should be required to bear the costs associated with tobacco addiction.

In his view the current deliberations on tobacco control were not so much concerned with public health as with the continuing struggle between peoples and the tobacco companies. The question was which side governments would take. He hoped that the decisions taken would be in the interests of humanity and not in the interests of increasing the wealth of the tobacco corporations.

Ms CALLARD (Commonwealth Medical Association), speaking at the invitation of the CHAIR, said that effective measures to protect health through tobacco controls could only be achieved through well-conceived, strategic investment in research, education and country capacity. In particular, the engagement of civil society needed to be ensured. She urged all those countries that had not yet done so to contribute to the development of such controls, and reminded them that there were many international nongovernmental structures in place which could assist in those efforts.

2. NEXT SESSION OF THE INTERGOVERNMENTAL NEGOTIATING BODY: Item 5 of the Agenda

The CHAIR proposed that the next session should take place from 22 to 28 November. The proposed dates had been the subject of extensive consultations owing to a variety of constraints, including the fact that they coincided with some major international health conferences as well as with the month of Ramadan. He therefore thanked delegates, particularly those from the Islamic Member States, for their cooperation.

Dr ZARIHAH (Malaysia) said that holding of the next session during the month of Ramadan should not pose any problems for Islamic delegates, who were in any event required to continue working normally at that time. However, she would request that during the session appropriate catering and prayer facilities should be provided for Islamic delegates to permit them to observe Ramadan, and that information on such facilities be made available to them in advance.

Mr SEDDIK (Egypt) and Dr ALBADAH (Saudi Arabia) endorsed that request.

On that understanding, the dates of the next session were agreed.

3. CLOSURE OF THE SESSION: Item 6 of the Agenda

The SECRETARY apologized for the fact that owing to a clerical error the names of the delegates of Qatar and Tajikistan had been omitted from the list of participants. The revised list of participants would be forwarded to Member States together with other post-session documents.

Dr YACH (Executive Director), speaking on behalf of the Director-General, thanked participants in the Intergovernmental Negotiating Body for their work during the current session, and also thanked WHO and other staff involved. He looked forward to a strong international response to World No-Tobacco Day, scheduled for 31 May 2001, the focus of which would be on passive smoking. He would welcome information on national events planned in that connection to share with other Member States.

A/FCTC/INB2/PL/SR/2

WHO was committed to enhancing capacity-building for tobacco control at national level, including at Headquarters and at regional and country offices.

He welcomed the participation during the current session of two more nongovernmental organizations and one more intergovernmental body, the World Customs Organization, as well as the presence of the World Bank, FAO and WTO. He looked forward to further discussion at the forthcoming World Health Assembly and the third session of the Intergovernmental Negotiating Body.

The CHAIR noted that the current session had been characterized by the broad and active participation of WHO Member States, nongovernmental organizations and intergovernmental bodies, keen press interest, and free and open discussion, all of which should contribute towards a truly effective convention. However, in view of the fact that new issues were continuously being raised, notably regarding protocols and definitions, consideration might need to be given at the next session to ways and means of expediting the work so as to ensure that the deadline for the approval of a definitive text could be met.

Following the customary exchange of courtesies, the CHAIR declared the session closed.

The meeting rose at 16:30.

= = =