

Chair's text of a framework convention on tobacco control  
Second Intergovernmental Negotiating Body  
April 30-May 5, 2001  
(Suggested text by US Delegation inserted)

**A. Preamble**

(to be formulated at a later session of the Intergovernmental Negotiating Body)

**B. Definitions**

(to be formulated at a later session of the Intergovernmental Negotiating Body)

**C. Objective**

The ultimate objective of this Convention and of the related protocols is to provide a framework for integrated tobacco-control measures to be implemented through the engagement of the Parties in order continually and substantially to reduce the prevalence of tobacco use and thus protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke.

**D. Guiding principles**

In their actions to achieve the objective of this Convention and to implement its provisions, the Parties shall be guided *inter alia* by the principles set out below:

1. Reducing the current impact, and halting the growth, of tobacco consumption 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.
2. Every person should be fully informed about the addictive and lethal nature of tobacco consumption, and non-smokers should be adequately protected from exposure to tobacco smoke.

( Suggested text by US Delegation)

Every person should be informed about the addictive and lethal nature of tobacco consumption, and non-smokers should be adequately protected from exposure to tobacco smoke.

3. The importance of technical cooperation in helping to establish and implement effective tobacco-control programmes in Parties in which public health resources are limited should be recognized.

4. The importance of financial assistance to aid the economic transition of tobacco growers and workers that may be displaced as a future consequence of successful tobacco-control programmes should be recognized.

( Suggested text by US Delegation)

The importance of government assistance to aid the transition of tobacco growers and workers that may be displaced as a future consequence of successful tobacco control programmes should be recognized.

5. Tobacco-control measures should not constitute a means of arbitrary or unjustifiable discrimination in international trade.

6. The tobacco industry should be held responsible for the harm its products cause to public health and the environment, with each Party determining the scope of such responsibility within its jurisdiction.

7. The participation of all elements of civil society is essential in achieving the objective of this Convention.

8. The provisions of this Convention should be recognized as minimum standards, and Parties are encouraged to implement measures beyond those required by the Convention.

( Suggested text by US Delegation)

The legally binding provisions of this Convention should be recognized as minimum obligations, and Parties are encouraged to implement measures beyond those required by the Convention.

### ***E. General Obligations***

1. Each Party shall develop, implement, periodically update and enforce, where appropriate, comprehensive, multisectoral, national tobacco-control strategies, policies, legislation and other measures, such as standards, in accordance with the provisions of this Convention and, as relevant, its protocols.

2. To this end each Party shall, to the extent possible within the means at its disposal and its capabilities:

(a) establish or, where it already exists, reinforce, and adequately finance a national coordinating mechanism for tobacco control, with inputs from relevant government and civil society sources;

(b) adopt legislative, executive and administrative measures and cooperate with other Parties in harmonizing appropriate policies;

(c) reduce tobacco consumption and exposure to tobacco smoke in accordance with the provisions of this Convention and, as relevant, its protocols.

3. The Parties shall undertake to adopt legislative, executive and administrative measures to regulate and to prohibit the export of tobacco products that do not conform to the exporting country's own domestic standards.

(Suggested text by US Delegation)

Delete

4. The Parties shall cooperate in the formulation of agreed measures, procedures and standards for the implementation of this Convention.

5. The Parties shall cooperate with competent international bodies in order to implement effectively this Convention and the protocols to which they are parties.

(Suggested text by US Delegation)

The Parties shall cooperate to assure that mutual goals on tobacco control are reinforced.

6. The provisions of the Convention shall in no way affect the right of Parties to adopt domestic measures in addition to those referred to above, nor shall they affect measures already taken by a Party, provided that such measures are compatible with its obligations under this Convention and the protocols to which it is a party.

7. The provisions of the Convention shall in no way affect the right of Parties to enter into bilateral or multilateral agreements, including regional or subregional agreements, on issues relevant or additional to this Convention, provided that such agreements are compatible therewith. Copies of such agreements shall be communicated to the secretariat of the Convention by the Parties concerned.

(Suggested text by US Delegation)

Delete

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

1. The Parties recognize that price measures are an effective mechanism to reduce tobacco consumption, and that progressive harmonization of tobacco product prices is an important means of discouraging illicit traffic in tobacco products.

(Suggested text by US Delegation)

The Parties recognize that price and tax measures are effective mechanisms for reducing tobacco consumption

2. Each Party shall, to the extent possible within the means at its disposal and its capabilities, adopt legislative, executive and administrative measures, and cooperate with other Parties in harmonizing appropriate tax policies, in order to reduce tobacco consumption and exposure to tobacco smoke. Such measures and policies shall include the following:

- (a) prohibition of tax-free and duty-free sales of tobacco products;
- (b) imposition of taxes on tobacco products so as to achieve a stable and continuous reduction in tobacco consumption;
- (c) adoption of other price and tax measures that may be recommended by the Conference of the Parties.

(Suggested text by US Delegation)

Each party should, taking into account the means at its disposal and its capabilities, adopt measures, and cooperate with other Parties in developing appropriate tax policies, in order to reduce tobacco consumption and exposure to tobacco smoke.

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

1. Each Party shall, to the extent possible within the means at its disposal and its capabilities, adopt legislative, executive and administrative measures, and cooperate with other Parties in harmonizing appropriate non-price policies, in order to reduce tobacco consumption and exposure to tobacco smoke. Such measures and policies shall include the following:

*(Passive smoking)*

- (a) implementation of legislation and other effective measures at the appropriate governmental level that provide for systematic protection from exposure to tobacco smoke in indoor workplaces, enclosed public places, and public transport, with particular attention to special risk groups such as children and

pregnant women;

(Suggested text by US Delegation)

- (a) implementation of legislation and other effective measures at the appropriate governmental level:
  - (i) prohibiting smoking in places providing services to children, such as schools, libraries and day care, health care and early childhood development settings;
  - (ii) prohibiting smoking in the indoor premeises of government agencies and authorities and comparable public bodies intended for the public and clients;
  - (iii) promoting effective education campaigns on the subject of smoke-free homes and othe environments, with special attention to the health effects of the most vulnerable, such as children and pregnant women;
  - (iv) state should be encouraged to enforce second-hand smoke restrictions through innovative actions.

G 1. Each Party shall, to the extent possible within the means at its disposal and its capabilities, adopt legislative, executive and administrative measures, and cooperate with other Parties in harmonizing appropriate non-price policies, in order to reduce tobacco consumption and exposure to tobacco smoke. Such measures and policies shall include the following:

*(Regulation of contents of tobacco products)*

- (b) adoption of standards for the regulation of the contents of tobacco products, including standards for testing and measuring, designing, manufacturing and processing such products, and cooperation in the development and harmonization of such standards under the auspices of the World Health Organization;

(Suggested text by US Delegation)

(b) cooperation under the auspices of the World Health Organization in the development of general model standards or procedures for the regulation of the contents of tobacco products; and establishment of domestic regulatory agencies that are science- and health-based and have enforcement authority.

G 1. Each Party shall, to the extent possible within the means at its disposal and its capabilities, adopt legislative, executive and administrative measures, and cooperate with other Parties in harmonizing appropriate non-price policies, in order to reduce tobacco consumption and exposure to tobacco smoke. Such measures and policies shall include the following:

*(Regulation of tobacco-product disclosures)*

- (c) implementation and taking of necessary steps to enforce measures for tobacco-product disclosures by all manufacturers, including all ingredients and additives, and major constituents of tobacco smoke, and promotion of availability of such information to the public. Each Party shall apply these measures to all tobacco products manufactured or sold under its jurisdiction;

(Suggested text by US Delegation)

(c) adoption of measures for tobacco-product disclosures, consistent with each Party's domestic laws, by manufacturers, including to regulate the disclosure of toxic ingredients and additives, and major constituents of both tobacco products and tobacco smoke, and promotion of availability of such information to the public. Each party shall apply these measures to all tobacco products manufactured, distributed, or sold within its jurisdiction.

G 1. Each Party shall, to the extent possible within the means at its disposal and its capabilities, adopt legislative, executive and administrative measures, and cooperate with other Parties in harmonizing appropriate non-price policies, in order to reduce tobacco consumption and exposure to tobacco smoke. Such measures and policies shall include the following:

*(Packaging and labelling)*

- (d) adoption of appropriate measures to ensure that:

- (i) the terms “low tar”, “light”, “ultra light”, “mild” or any other similar term that has the aim or the direct or indirect effect of conveying the impression that a particular tobacco product is less harmful than others are not used on any unit packet or package of tobacco products;

- (ii) tobacco packaging and labelling does not otherwise promote a tobacco product by any means that are false, misleading or deceptive or that are likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;

- (iii) each unit packet or package of tobacco products carries the statement and product information specified in Article [Measures Related to the Supply of Tobacco];

(iv) each unit packet or package of tobacco products carries a general health warning, including a picture or pictogram illustrating the harmful consequences of tobacco consumption, in accordance with Annex [INSERT]; these warnings shall:

- (1) clearly indicate the prohibition of sales of tobacco products to persons under the age of 18;
- (2) provide clear information about the toxic contents of the tobacco product, specifically tar, nicotine and carbon monoxide, including actual measurements of smoke yields;
- (3) appear in the principal language or languages of the country in whose territory the product is placed on the market.

(Suggested text by US Delegation)

(d) adoption of appropriate measures, consistent with each Party's domestic law, to encourage clear, conspicuous and prominent health warnings for labels on packages of tobacco products and to prohibit false, misleading, unsubstantiated, and deceptive claims.

G 1. Each Party shall, to the extent possible within the means at its disposal and its capabilities, adopt legislative, executive and administrative measures, and cooperate with other Parties in harmonizing appropriate non-price policies, in order to reduce tobacco consumption and exposure to tobacco smoke. Such measures and policies shall include the following:

*(Education, training and public awareness)*

(e) facilitation and strengthening of education, training, and public awareness campaigns, including counter-advertising. To this end, each Party shall, as appropriate:

- (i) develop and assure universal access to effective and comprehensive educational and public awareness programmes on the health risks of tobacco consumption and exposure to tobacco smoke, that include the use of various print and audiovisual media;
- (ii) ensure that the general public and, notably, children, young persons, and vulnerable groups are fully informed about the health risks of tobacco consumption and exposure to tobacco smoke, and about the benefits of smoking cessation and tobacco-free lifestyles;
- (iii) facilitate public access to information on the tobacco industry;
- (iv) develop and implement effective and appropriate training programmes on tobacco control for health professionals, educators and other concerned

persons;

(v) develop and implement effective and appropriate promotion and prevention measures for tobacco control designed for students at various levels of education;

(vi) endeavour to promote the participation of public agencies and nongovernmental organizations in the development of strategies for tobacco control.

(Suggested text by US Delegation)

(i) develop effective and comprehensive educational and public awareness programmes on the health risks of tobacco consumption and exposure to tobacco smoke, that include the use of various print and audiovisual media;

(ii) ensure that the general public and, notably, children, young persons, and vulnerable groups are informed about the health risks of tobacco consumption and exposure to tobacco smoke, and about the benefits of smoking cessation and tobacco-free lifestyles;

(v) delete;

(vi)

(vii) promote effective campaigns on smoke-free homes and other environments, with special attention to the health effects of the most vulnerable, such as children and pregnant women;

(viii) encourage countries to monitor the effectiveness of public awareness programmes.

*(Advertising, promotion and sponsorship)*

2. In addition to obligations related to other non-price measures specified in Article [INSERT], all

Parties shall commit themselves specifically to:

(a) prohibiting all forms of direct and indirect tobacco advertising, promotion and sponsorship targeted at persons under the age of 18;

(b) imposing strict restrictions on all forms of direct and indirect tobacco advertising, promotion and sponsorship targeted at persons 18 years of age and older, including incentives such as gifts, coupons, rebates, competitions and frequent-purchaser programmes, with the aim of reducing the appeal of tobacco products to all segments of society;

- (c) requiring that tobacco companies disclose all expenditures on advertising and promotion and make those figures available to the public;
- (d) adopting national measures and imposing appropriate regulatory restrictions to ensure that tobacco advertising, promotion and sponsorship does not promote a tobacco product by any means that are false, misleading or deceptive or that are likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;
- (e) adopting measures and imposing appropriate regulatory restrictions in order progressively to phase out tobacco sponsorship of sporting and cultural events;
- (f) adopting national measures and cooperating in order to phase out cross-border advertising, promotion and sponsorship, including, *inter alia*, tobacco advertising, promotion and sponsorship on cable and satellite television, the Internet, newspapers, magazines and other printed media.

(Suggested text by US Delegation)

2. Each Party shall, to the extent possible within the means at its disposal and its capabilities, adopt legislative, executive and administrative measures in order to reduce tobacco consumption and exposure to tobacco smoke. In addition to obligations related to other non-price measures specified in Article (INSERT), all Parties shall commit themselves specifically to:

- (a) eliminating, to the extent permitted under domestic law, tobacco advertising, promotion and sponsorship that has a special appeal to children and adolescents;
- (b) banning outdoor advertising of tobacco products, to the extent that such advertising is targeted or focused on children, such as within a specified distance of places providing services to children such as schools, libraries, and day care, health care and early childhood development settings;
- (c) where print advertising is permitted and is accessible to children, limiting it to black/white type format;
- (d) requiring that tobacco companies report all annual expenditures on advertising, marketing, and promotion in the aggregate and make those figures available to the public;
- (e) adopting national measures and imposing, appropriate regulatory restrictions to ensure that tobacco advertising, promotion and sponsorship does not promote a tobacco product by any means that are false, misleading, unsubstantiated, or otherwise deceptive;

(f) requiring health warnings in any tobacco product advertising.

3. The Conference of the Parties shall initiate the preparation of a protocol setting out appropriate rules and procedures in the area of tobacco advertising, promotion and sponsorship.

4. The Conference of the Parties shall initiate the preparation of a protocol setting out appropriate rules and procedures in the areas of regulation of the contents of tobacco products, tobacco-product disclosures, and packaging and labeling of tobacco products.

***H. Demand reduction measures concerning tobacco dependence and cessation***

1. Each Party shall take all practical and effective measures to treat tobacco dependence and to promote cessation of tobacco use.

2. Taking into account national circumstances and priorities, each Party shall undertake the following measures:

(a) implementation of promotional and educational campaigns aimed at encouraging cessation of tobacco use;

(b) integration of treatment of tobacco dependence and routine advice on cessation of tobacco use into all national health programmes, plans and strategies, including primary care programmes, reproductive health programmes such as “safe motherhood”, and tuberculosis control programmes. Support for such actions shall be provided by health professionals, including physicians, health practitioners, nurses, pharmacists, community workers and social workers, based on primary care in rural and urban areas;

(c) establishment, as a priority in health centres, of programmes for diagnosis, medical advice and treatment of tobacco dependence.

(Suggested text by US Delegation)

2. Taking into account national circumstances and priorities, each Party should undertake the following measures:

(b) integration of treatment of tobacco dependence and routine advice on cessation of tobacco use and support by health professionals, including physicians, health practitioners, nurses, pharmacists, community workers and social workers, based on all health sector programmes this could include, but should not be limited to, the integration of treatment for tobacco dependence into prenatal and neonatal health programmes such as "safe motherhood" programmes;

## ***I. Measures related to the supply of tobacco***

### *(Illicit trade in tobacco products)*

1. The Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling and counterfeiting, is an essential component of tobacco control.
2. The Parties agree that measures to this end shall be transparent, non-discriminatory and implemented in accordance with their international obligations.
3. Each Party shall adopt appropriate measures to ensure that all unit packets or packages of tobacco products and any outside packaging of tobacco products for retail or wholesale use that are sold or manufactured under its jurisdiction:
  - (a) carry a statement indicating the name of the manufacturer, the country of origin, and the product batch-number, including the date of production and expiry;
  - (b) carry the statement: “Sales only allowed in [the country where the product is to be placed on the market].”

### **(Suggested text by US Delegation)**

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

### **(Suggested text by US Delegation)**

### **Delete paragraph**

5. Each Party shall undertake the following legislative, executive, and administrative measures in order to prevent and combat illicit trade in tobacco products:
  - (a) monitoring and collection of data on cross-border trade in tobacco products, including illicit trade;
  - (b) enactment and/or strengthening of criminal legislation, with appropriate penalties, that prohibits the production of, and trade in counterfeit and contraband cigarettes and other such tobacco products, and taking of appropriate steps to enforce such prohibition;

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

(Suggested text by US Delegation)

Delete paragraph

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

(Suggested text by US Delegation)

Delete paragraph 6.

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

*(Elimination of sales to and by young persons)*

8. Each Party shall prohibit tobacco sales to persons under the age of 18. To this end, each Party shall:

- (a) require that all sellers of tobacco products request that each tobacco purchaser provide appropriate evidence of having reached the age of 18;
- (b) prohibit tobacco vending-machines in locations accessible to any person under the age of 18.

*(Suggested text by US Delegation)*

- (a) require that all sellers of tobacco products verify that each tobacco purchaser has reached the age of 18;*
- (b) prohibit all tobacco vending-machines*

9. Each Party shall take appropriate measures to prohibit the sale of tobacco products by persons under the age of 18.

10. Each Party shall, to the extent possible within the means at its disposal and its capabilities, prohibit the sale of cigarettes individually or in packets of fewer than 20 cigarettes.

*(Suggested text by US Delegation)*

*10. Each Party shall, to the extent possible within the means at its disposal and its capabilities prohibit the sale and free distribution of cigarettes individually or in packets of fewer than 20 cigarettes.*

11. Each Party shall implement appropriate legal and other measures to verify compliance with paragraphs 8 to 10 above. Such measures shall include appropriate penalties against sellers and distributors for the violation of measures prohibiting sales of tobacco products to persons under the age of 18.

12. 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.

*(Licensing)*

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

(Suggested text by US Delegation)

Delete paragraph

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

(Suggested text by US Delegation)

Delete paragraph

*(Government support for tobacco manufacturing and agriculture)*

15. Each Party shall gradually eliminate subsidies for tobacco growing and manufacturing of tobacco products and, in accordance with the means at its disposal and its capabilities, promote alternative economic activities for tobacco workers and growers.

(Suggested text by US Delegation)

Delete paragraph

***J. Compensation and liability***

[Chair's note: As announced during the first session of the Intergovernmental Negotiating Body, WHO is convening a panel of legal experts to make recommendations to the Negotiating Body on the nature and scope of potential liability and compensation provisions.]

***K. Surveillance, research and exchange of information***

1. The Parties shall establish joint or complementary programmes for national, regional and global surveillance of the magnitude, patterns, determinants and consequences of tobacco consumption. To the extent possible, the Parties shall integrate tobacco surveillance programmes into national, regional and global health surveillance programmes. To this end, each Party shall, in accordance with the means at its disposal and its capabilities:

- (a) establish, progressively and as appropriate, a national system for the epidemiological surveillance of tobacco consumption, periodically updating economic and health indicators so as to monitor the evolution of the problem and the impact of tobacco consumption control;
- (c) cooperate with international bodies, including the World Health Organization, in regional and global tobacco surveillance and exchange of information on the indicators specified in Annex [INSERT].

(Suggested text by US Delegation)

1. The Parties should establish joint or complementary information sharing programmes for national, regional and global surveillance of the magnitude, patterns, determinants and consequences of tobacco consumption. Taking into account the means at their disposal and their capabilities, the Parties should cooperate in their national tobacco surveillance programmes so that data is comparable and can be analysed at the regional and global level, as appropriate. To this end, each Party should:

- (a) establish, progressively and as appropriate, a national system for the epidemiological surveillance of tobacco consumption, periodically updating economic and health indicators so as to monitor the evolution of the problem and the impact of tobacco control measures;
  - (b) cooperate with international bodies, including the World Health Organization, in regional and global tobacco surveillance and exchange of information on the indicators specified in Annex [INSERT].
2. The Parties undertake to develop, promote and coordinate as far as possible national, regional and global research programmes for the purpose of this convention. To this end, each Party shall, in accordance with the means at its disposal and its capabilities:

(a) initiate and cooperate, directly or through competent international bodies, in the conduct of research and of scientific assessments, as detailed in Annex [INSERT];

(b) promote and encourage research that contributes to reducing tobacco consumption and harm from tobacco use, particularly in developing countries, taking fully into account the recommendations of the Conference of the Parties.

(Suggested text by US Delegation)

2. The Parties undertake to develop, promote and coordinate as far as possible national, regional and global research programmes for the purpose of this convention. To this end, each Party shall, taking into account the means at its disposal and its capabilities.

3. The Parties shall facilitate the exchange of information, taking into account the special needs of developing countries. To this end, the Parties, in accordance with their national legislation and without prejudice to their obligations under other applicable international agreements, shall, within the framework of the Conference of the Parties and bilaterally, promote and cooperate in the full, open and prompt 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, in accordance with the means at its disposal and its capabilities:

(a) compile and maintain a database of national and subnational laws and regulations on tobacco control and enforcement, and cooperate in the development of complementary programmes for national, regional and global tobacco control;

(b) compile and maintain a base of data from national surveillance programmes in accordance with Article [INSERT] above.

(Suggested text by US Delegation)

3. Each Party should endeavor to foster, in accordance with its national laws and regulations practices, and international obligations, and taking particular account of the needs of developing countries, to promote and facilitate the exchange of information relevant to this convention;

4. Information to be exchanged pursuant to Article [INSERT] above shall be provided to the Conference of the Parties.

### ***L. Scientific, technical and legal cooperation***

1. Each Party shall cooperate, in accordance with its national laws, regulations, practices and international obligations, and taking particular account of the needs of developing countries, in promoting, directly or through the secretariat of the Convention or other competent international bodies, the following:

- (a) facilitation of the development, transfer and acquisition of technology related to tobacco control by other Parties;
- (b) provision of technical, scientific, legal and other expertise to establish and strengthen national tobacco-control programmes, policies and measures aiming at, *inter alia*:
  - (i) building a strong legislative foundation as well as technical programmes, and assisting in the treatment of tobacco dependence;
  - (ii) assisting tobacco workers in the development of alternate livelihoods;
  - (iii) assisting tobacco growers in shifting agricultural production to alternate crops in an economically viable manner;
  - (iv) carrying out other activities to achieve the objective of this convention and its protocols;
- (d) support for the establishment and maintenance of training programmes for appropriate personnel as provided in Article [INSERT];
- (e) supply of necessary equipment for tobacco-control programmes and activities.

### **(Suggested text by US Delegation)**

1. Each Party shall be encouraged to cooperate, in accordance with its national laws, regulations, practices and international obligations, and taking into account the needs of developing countries, to promote scientific, technical, and legal cooperation to establish and strengthen national tobacco-control programmes, policies and measures;
2. The Conference of the Parties shall determine how to establish a mechanism to promote and facilitate scientific, technical and legal cooperation.

### ***M. Conference of the Parties***

1. A Conference of the Parties is hereby established. The first session of the Conference shall be convened by the Director-General of the World Health Organization not later than one year after the entry into force of this convention. Thereafter, ordinary sessions of the Conference

shall be held every year [and convened in conjunction with the World Health Assembly] unless otherwise decided by the Conference.

(Suggested text by US Delegation)

1. A Conference of the Parties is hereby established. The first session of the Conference shall be convened by [INSERT] not later than.....[no change].

2. Extraordinary sessions of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the secretariat of the Convention, it is supported by at least one-third of the Parties.

3. [The rules of procedure of the Conference of the Parties and of any subsidiary body shall be the Rules of Procedure of the World Health Assembly.] The Conference shall agree upon and adopt by [simple majority vote][two-thirds majority vote] [rules of procedure and] financial rules for itself and for any subsidiary body it may establish.

4. The Conference of the Parties shall keep under regular review the implementation of this convention and its protocols and take the decisions necessary to promote the effective implementation of these instruments [and may adopt protocols, annexes and amendments to the convention, its protocols and annexes in accordance with Article [Development of the convention]]. To this end, it shall:

(a) periodically examine the obligations of the Parties and the institutional arrangements under the convention, in the light of its objective, the experience gained in its implementation, and the evolution of scientific and technological knowledge, as well as prevailing socioeconomic conditions;

(b) promote and facilitate the exchange of information pursuant to Article [Surveillance, Research and Exchange of Information];

[(c) facilitate, at the request of two or more Parties, the coordination of measures adopted by them relevant to the implementation of this Convention and any applicable protocols;]

(d) promote and guide the development and periodic refinement of comparable methodologies, in addition to those provided for in Article [Surveillance, Research and Exchange of Information] and Annexes [INSERT], relevant to the implementation of the Convention and its protocols;

[(e) promote, in accordance with Articles [INSERT] as appropriate, the harmonization of appropriate strategies, plans, programmes, policies, legislation and other measures;]

(f) promote programmes to assist Parties in implementing their obligations pursuant to Articles [INSERT];

(g) assess the implementation of the provisions of this Convention and its protocols by the Parties, on the basis of information made available in accordance with Article [Reporting and Implementation];

(h) consider and adopt regular reports on the implementation of the Convention and its protocols and arrange for their distribution;

(i) make recommendations to the Parties, the World Health Organization, other United Nations bodies and other international organizations and bodies on any matters necessary for the implementation of the Convention and its protocols;

(j) seek to mobilize financial resources to support secretariat services pursuant to Article [Secretariat] and to support the implementation of the Convention and its protocols in accordance with Articles [Financial Resources; Reporting and Implementation];

[(k) establish such subsidiary bodies as it deems necessary for the implementation of the Convention, review their reports, and provide guidance to them;]

(l) seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent intergovernmental and nongovernmental organizations and bodies as a means of monitoring activities under the convention and its protocols;

(m) exercise such other functions as are required for achieving the objective of the convention, as well as all other functions assigned to it thereunder.

[5. The United Nations, specialized agencies of the United Nations, regional economic integration organizations not parties to the convention, nongovernmental organizations qualified in matters covered by the convention, as well as any State not party to this Convention, may be represented by observers at meetings of the Conference of the Parties, subject to the relevant Rules of Procedure and decisions of the Conference of the Parties.]

#### ***N. Secretariat***

1. The secretariat of this Convention shall be provided by the World Health Organization.

(Suggested text by US Delegation)

1. The secretariat of this Convention shall be provided by [INSERT].

#### ***2. The functions of the secretariat shall be:***

(a) to make arrangements for sessions of the Conference of the Parties and its subsidiary bodies and to provide them with services as required;

(b) to compile and transmit reports submitted to it pursuant to this Convention and any of its protocols;

(c) to facilitate support to the Parties, particularly developing-country Parties, on request, in the compilation and communication of information required in accordance with the provisions of this Convention;

(d) to prepare reports on its activities under this Convention and any of its protocols and submit them to the Conference of the Parties;

(e) to ensure, under the overall guidance of the Conference of the Parties, the necessary coordination with other relevant international bodies;

(f) to enter, under the overall guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its functions;

(g) to perform the other secretariat functions specified in this Convention and in any of its protocols and such other functions as may be determined by the Conference of the Parties.

### ***O. Support by the World Health Organization***

1. The Conference of the Parties may call upon the World Health Organization to provide technical cooperation in achieving the objective of this Convention or in connection with questions falling within its mandate arising out of the application of the Convention and its protocols. The Organization shall accord such support in accordance with its programmes and within the limits of its resources.

2. The World Health Organization may, on its own initiative, make proposals to the Conference of the Parties.

### ***P. Reporting and implementation***

***1. In accordance with guidelines agreed upon by the Conference of the Parties, each Party shall submit to the Conference the following data:***

(a) information on tobacco control institutions, strategies, plans, programmes, policies, legislation and other measures initiated or implemented in accordance with the provisions of Articles [INSERT], together with information on enforcement, where appropriate;

(b) information on steps to carry out actions taken in accordance with Article [Financial Resources];

(c) information on the economic, social and other consequences of various response strategies adopted to implement this convention and its protocols;

(d) information on measures, in addition to those described above, that the Party has taken to implement the provisions of this convention and their effectiveness in meeting its objective;

(e) description of measures planned by the Party to implement this convention.

2. Each developed-country Party and each other Party included in Annex [INSERT] shall make its initial report within six months of the entry into force for that Party of this Convention. Each Party not so listed shall make its initial report within two years of the entry into force for that Party of the Convention. The frequency of subsequent communications by all Parties shall be determined by the Conference of the Parties, taking into account the differentiated timetable set by this paragraph.

3. To assist the Conference of the Parties in the monitoring, assessment and review of the effective implementation of this Convention, the Conference may establish a subsidiary body which shall report regularly to the Conference. The guidelines for participation in this body, as well as its monitoring functions, will be determined by the Conference.

(Suggested text by US Delegation)

3. The Conference may establish subsidiary bodies which shall report regularly to the Conference. The guidelines for participation in these bodies, as well as their functions, will be determined by the Conference.

4. In order to provide timely advice in the implementation of this Convention, the Conference of the Parties may, as it deems necessary, appoint, taking into account the rules and practices of the World Health Organization, ad hoc panels to provide it with information and advice on specific issues regarding the current state of fields of science and technology relevant to the objective of the Convention. The members of these panels shall be appointed by the Conference on the recommendation of the Director-General of the World Health Organization, and shall serve in their personal capacity. The Conference shall decide on the terms of reference and the modalities of work of these panels.

(Suggested text by US Delegation)

In order to provide timely advice in the implementation of this convention, the Conference of the Parties may, as it deems necessary, appoint ad hoc panels to provide it with information and advice on specific issues regarding the current state of fields of science and technology relevant to the objectives of the convention. The members of these panels shall be appointed by the Conference, and shall serve in their personal capacity. The Conference shall decide on the terms of reference and the modalities of work of these panels.

5. Starting at its first session, the Conference of the Parties shall arrange for the provision to developing-country Parties of technical support, on request, in compiling and communicating information under this Article. Such support may be provided by other Parties, by competent international organizations and by the secretariat, as appropriate.

(Suggested text by US Delegation)

5. Existing text "...by competent international organizations or by the Secretariat within its existing resources, as appropriate".

### ***Q. Financial resources***

1. Each Party undertakes to provide financial support and incentives in respect of its national activities intended to achieve the objective of this Convention, in accordance with its national plans, priorities and programmes.

(Suggested text by US Delegation)

1. Each Party undertakes to provide financial support and incentives in respect of its national activities intended to achieve the objective of this Convention, in accordance with its national plans, priorities and programmes.

2. A voluntary mechanism for the provision of financial resources on a grant or concessional basis, including the transfer of technology, is hereby established to function under the guidance of, and be accountable to, the Conference of the Parties. Its operation shall be entrusted to the World Health Organization. Pursuant to the objective of this Convention, the Conference shall determine the policy, strategy and programme priorities, as well as detailed criteria and guidelines for eligibility for, access to, and use of, the financial resources, including regular monitoring and evaluation of such use. The Conference shall decide on the arrangements to give effect to this provision after consultation with the World Health Organization.

(Suggested text by US Delegation)

2. The Parties recognize the important role that bilateral, regional and other channels can play in achieving the objective of this Convention. They shall consider providing, in accordance with their capabilities and national law, voluntary funding through such channels for comprehensive tobacco-control programmes in support of this objective, taking into account the needs of developing countries.

3. The Parties recognize the important role that bilateral, regional and other channels can play in achieving the objective of this Convention. They shall consider providing, in accordance with their capabilities and national law, voluntary funding through such channels for comprehensive tobacco-control programmes in support of this objective, taking into account the needs of developing countries.

[4. The Parties recognize that developed-country Parties that export manufactured tobacco products, or have branches of international tobacco companies exporting tobacco products from third countries, have a special responsibility to provide technical support to developing-country Parties to strengthen their national tobacco control programmes.]

(Suggested text by US Delegation)

4. Delete

### ***R. Settlement of disputes***

1. If a dispute arises between two or more Parties concerning the interpretation or application of this Convention or any of its protocols, those Parties shall consult among themselves with a view to resolving the dispute by negotiation.

2. If the parties to the dispute cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by, a third party.

3. Failure to reach agreement by negotiation or mediation shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depository that, for a dispute not resolved in accordance with paragraph 1 or 2 above, it accepts, as compulsory, arbitration in accordance with procedures to be adopted by the Conference of the Parties.

4. [If all the parties to the dispute have not, in accordance with paragraph 3 above, accepted arbitration, the dispute shall, unless the parties otherwise agree, be submitted to conciliation. A conciliation commission shall be established as set out in paragraph 5 below at the request of one or more parties to the dispute.

(Suggested text by US Delegation)

#### 4. Delete

5. Unless the parties agree otherwise:

(a) If the dispute is between two parties, each party shall appoint one member of the commission, and the two members so appointed shall appoint a third, who shall serve as chair. If within three months of the appointment of the first member the second member has not been appointed, or within three months of the appointment of the second member the third has not been appointed, such appointment shall be made by [INSERT] at the request of either party.

(b) If the dispute is between more than two parties, the parties shall agree on three members of the commission and designate one of these as chair. If within three months of the first request for the establishment of the commission no such agreement shall have been reached, the members of the commission shall be appointed and the chair designated by [INSERT] at the request of any party.

(Suggested text by US Delegation)

#### 5. Delete

6. Unless the parties agree otherwise, all matters concerning the conciliation shall be determined by the commission, acting by simple majority. The commission shall render a recommendatory award, which the parties shall consider in good faith.]

(Suggested text by US Delegation)

#### 6. Delete

7. The provisions of this Article shall apply with respect to any protocol, unless otherwise provided therein.

***S. Development of the Convention***

[To be formulated at a later session of the Intergovernmental Negotiating Body]

***T. Final Clauses***

[To be formulated at a later session of the Intergovernmental Negotiating Body]

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