



F C T C

WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL

FCTC/COP/4/REC/3

**CONFERENCE OF THE PARTIES
TO THE WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL**

FOURTH SESSION

PUNTA DEL ESTE, URUGUAY, 15–20 NOVEMBER 2010

SUMMARY RECORDS OF COMMITTEES

**GENEVA
2011**



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PREFACE

The fourth session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control was held in Punta del Este, Uruguay, from 15 to 20 November 2010. The proceedings are issued in three volumes containing, in addition to other relevant material:

Decisions and ancillary documents – document FCTC/COP/4/REC/1

Verbatim records of plenary meetings – document FCTC/COP/4/REC/2

Summary records of committees – document FCTC/COP/4/REC/3

The documentation, including the list of participants, is accessible on the following web site:
<http://www.who.int/fctc/>

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**SUMMARY RECORDS OF
COMMITTEE MEETINGS**

COMMITTEE A

FIRST MEETING

Wednesday, 17 November 2010, at 13:00

Acting Chair: Ms LANNAN (Convention Secretariat)
Chair: Dr NUNTAVARN VICHIT-VADAKAN (Thailand)

OPENING OF THE COMMITTEE

The ACTING CHAIR declared open the first meeting of Committee A.

Election of officers

The ACTING CHAIR announced that Dr Nuntavarn Vichit-Vadakan (Thailand) had been nominated for the post of Chair of Committee A.

Decision: Committee A elected Dr Nuntavarn Vichit-Vadakan (Thailand) as Chair.¹

The ACTING CHAIR announced that Mr O.O. Salagaj (Russian Federation) and Dr J.A. Segnon Agueh (Benin) had been nominated for the two posts of Vice-Chair.

Decision: Committee A elected Mr O.O. Salagaj (Russian Federation) and Dr J.A. Segnon Agueh (Benin) as Vice-Chairs.²

Dr Nuntavarn Vichit-Vadakan (Thailand) took the Chair.

The meeting rose at 13:05.

¹ Decision FCTC/COP4(4).

² Decision FCTC/COP4(4).

SECOND MEETING

Wednesday, 17 November 2010, at 15:05

Chair: Dr NUNTAVARN VICHIT-VADAKAN (Thailand)

TREATY INSTRUMENTS AND TECHNICAL MATTERS: Item 5 of the Agenda

Guidelines for implementation of Articles 9 and 10 of the Convention: “Regulation of the contents of tobacco products” and “Regulation of tobacco product disclosures”: Item 5.2 of the Agenda (Documents FCTC/COP/4/6 and FCTC/COP/4/INF.DOC./2)

The CHAIR invited the Committee to consider the draft guidelines for the implementation of Articles 9 and 10 of the WHO Framework Convention on Tobacco Control contained in document FCTC/COP/4/6. The WHO Tobacco Free Initiative had submitted a report on work in progress on Articles 9 and 10 (FCTC/COP/4/INF.DOC./2) and an informal working paper on validation of methods, available in English only.

Mr CHOINIÈRE (Canada), speaking in his capacity as a Key Facilitator of the working group on the guidelines on implementation of Articles 9 and 10 of the Convention and illustrating his remarks with slides, introduced the draft partial guidelines on Articles 9 and 10 (FCTC/COP/4/6). The main challenges faced by the working group had been the complexity of the issue of content and emissions of tobacco products, the lack of country experience and the setting of acceptable limits on the information that the tobacco industry should disclose to governments and the general public. Another problem was the lack of valid methods for measuring tobacco content and emissions: some countries had developed such methods, but they had not been internationally validated. The WHO Tobacco Free Initiative and the WHO Tobacco Laboratory Network (TobLabNet) were helping to develop validation methods that might be used as reference methods.

The draft guidelines, in which some sections had been left blank to allow for further work, covered use of terms; practical considerations; proposals for the regulation of the form and content of tobacco products, their attractiveness and the disclosure to government authorities of ingredients and certain product characteristics; disclosure of other information, including sales data; and guidance on compliance and enforcement.

Ms PEETSO (Estonia), speaking in her capacity as a Key Facilitator of the working group representing the European Union, continued the introduction of the guidelines. She said that people took up smoking because of the attractive features of the habit; they then became physically addicted to tobacco and, in due course, suffered the health effects of that addiction. Regulators could seek to control the toxicity of tobacco products (e.g. the carcinogenic or inflammatory substances they contained) and their addictiveness, and that was the way Article 9 had generally been interpreted in the past. However, it was also feasible to regulate the attractiveness of tobacco products – an aspect in which the tobacco industry invested enormous resources. Research had shown that vulnerable groups, such as young people, were particularly likely to start smoking if the tobacco products contained sweeteners or other substances which improved the taste, smell or colour of the product, or substances such as vitamins, minerals or stimulants which purported to make the product healthier. A number of countries, including Australia, Canada, France and the United States of America, had introduced

legislation to regulate the attractiveness of tobacco products, a subject that was also dealt with in the guidelines on Article 13 of the Convention.

The guidelines defined the concept of “attractiveness” and proposed bans or restrictions on the use of ingredients designed to make a tobacco product more attractive. They also took into account the work done by the Tobacco Free Initiative on the validation of methods for testing and measuring toxicity and addictiveness, although much more work was needed before the guidelines on those issues could be considered definitive.

The working group called upon the Conference of the Parties to confirm its mandate in three areas which were not explicitly included in its original terms of reference. It proposed that sales and marketing data should be included in the facts that the tobacco industry should be required to disclose to governments, so that Parties could identify the most popular tobacco products and the main groups of consumers. It further proposed to consider the regulation of cigarette ignition propensity (the likelihood that a burning cigarette would ignite bedclothes or soft furnishings, for example) and electronic nicotine delivery systems (“e-cigarettes”), even though the latter did not technically constitute tobacco products. It would continue its work on the toxicity and addictiveness of tobacco products, the guidance on constituents and emissions to be provided for governments, and the disclosure of information on tobacco products to the general public, including the issue of confidentiality. The section of the guidelines dealing with the regulation of product characteristics would also require further refinement.

Mr KRASOVSKIJ (Ukraine) asked whether any distinction was made, in public health terms, between fruit-flavoured or other sweet-tasting additives and other types of additive. Did the guidelines recommend a ban on the former?

Mr CHOINIÈRE (Canada), speaking in his capacity as a Key Facilitator of the working group, said that the concept of a “characterizing flavour” (as in the description “a menthol cigarette”, for example) had been defined in the United States Family Smoking Prevention and Tobacco Control Act of 2009. Australian legislators had also referred to the concept of an “overt fruit or candy flavour”. The working group had endeavoured to use wording which would be as widely applicable as possible.

Dr NZEYIMANA (Rwanda) said that it would be premature to adopt the sections of the draft guidelines which had been agreed upon by the working group, including the section on tobacco additives, since future discussions on the remaining sections might well lead to further changes.

Mr CHOINIÈRE (Canada), speaking in his capacity as a Key Facilitator of the working group, said that, while a great deal of experience had been accumulated at country level, there was very little evidence about the regulation of the addictiveness or toxicity of tobacco products which could be used as a basis for the guidelines. It might take 20 years for enough experience to be accumulated to enable the entire set of guidelines to be finalized. It seemed more useful to adopt as much as possible straight away and return to other aspects as more evidence became available.

Mr BEZEID DEIDA (Mauritania) said that he shared the concerns of the representative of Rwanda. Moreover, a number of recommendations used the phrase “restrict or prohibit”, which was contradictory: if a substance was found to be harmful, its use should be prohibited altogether, not merely restricted.

Mr CHOINIÈRE (Canada), speaking in his capacity as a Key Facilitator of the working group, said that the working group had based its draft on the guidelines adopted in respect of other articles, such as Article 13, which provided for either a comprehensive ban, if the Party concerned considered such a step appropriate to its situation, or restrictions, if a comprehensive ban was not possible. The latter approach had been adopted in countries such as Australia, France and the United States of America. The guidelines were recommendations only and were not mandatory: moreover, Parties were equally at liberty to take no action at all.

Ms PEETSO (Estonia), speaking in her capacity as a Key Facilitator of the working group representing the European Union, noted that a number of factors needed to be taken into consideration. For example, the draft guidelines provided for a ban or restrictions based on the attractiveness of the product, which was not related to its addictiveness or toxicity.

Mr NJOKU (Nigeria) asked for clarification on the use of the term “constituent”: although the sections on constituents (sections 3.1.3 and 3.1.4 of the draft guidelines) remained to be drafted, the term “constituent” (and, in one version of the draft, the term “ingredient”) had already been defined, but in a way that might allow contaminants arising from agricultural processes or ingredients that had migrated from packaging to be classified as legitimate constituents.

Ms PEETSO (Estonia), speaking in her capacity as a Key Facilitator of the working group representing the European Union, said that careful attention would be given to the comment made by the representative of Nigeria.

Mr SUN Jin (China) asked for more information about the origin and rationale of the concept of “attractiveness”. Had the working group considered the legal aspects of the concept? To what extent had the working group considered country experiences? What comments had been received on the draft guidelines? What amendments had Parties proposed, and had the working group adopted them? The current discussions had focused on Article 13: he asked to what extent the focus would be on Articles 9 and 10.

Mr CHOINIÈRE (Canada), speaking in his capacity as a Key Facilitator of the working group, said that the focus of the working group was on Articles 9 and 10 but that there was some overlap between Articles 9, 10, 11 and 13. For example, Article 11 covered the disclosure of the constituents of tobacco products on packaging, which had elements in common with Article 10, and Article 13 dealt with promotion and advertising, which was relevant to the regulation of product content and packaging. The working group had wished to leave as few ambiguous issues as possible.

Ms PEETSO (Estonia), speaking in her capacity as a Key Facilitator of the working group representing the European Union, said that 18 comments had been received from Parties following the circulation of the draft guidelines. The working group had analysed them all carefully and amended the draft where appropriate.

Mr CHOINIÈRE (Canada), speaking in his capacity as a Key Facilitator of the working group, said that representatives from Australia and the United States of America, for example, might wish to report on their countries’ experiences with regard to legislation on the attractiveness of tobacco products, while a representative of the European Union might wish to do the same with regard to experiences in France. Over the previous 10 years, in his own country, Canada, young people aged 15–17 years had begun to smoke flavoured little cigars in large numbers. Other flavoured tobacco products had also increased in popularity. The Government, concerned at the new trend in view of the already huge problem of cigarette smoking, had responded vigorously. It was hoped that the recent legislation banning certain flavoured products would encourage the decline in smoking among young people in Canada, although its effects might be difficult to distinguish from the existing trend.

Mr NDAO (Senegal) said that, while he welcomed the efforts of the working group, he found it difficult to understand the rationale behind the guidelines. It seemed illogical to ban certain ingredients in tobacco products while continuing to permit the inclusion of the most dangerous ingredient of all – the one which caused addiction and death. He understood why flavourings such as chocolate and strawberry should be banned in the interests of protecting young people: however, it was proposed to ban other ingredients even though there was no proof that they were harmful. He shared the doubts of the representative of China about the concept of “attractiveness”. Could an ingredient be legally

banned merely on those grounds? It seemed prudent to wait for sufficient evidence to be accumulated about the adverse effects of specific ingredients before imposing a ban.

Ms PEETSO (Estonia), speaking in her capacity as a Key Facilitator of the working group representing the European Union, said that toxicity could be measured at an individual or a population level. It was true that additional ingredients did not influence the toxicity of the tobacco product: however, countries which had introduced a ban on such ingredients had shown a reduction in harm at a population level sufficient to justify the ban, simply because, without those ingredients, fewer people started smoking.

Ms ISAZA MERCHAN (Colombia) said that the draft guidelines covered two different issues: firstly, bans or restrictions on “American blend” cigarettes, for which additives were an essential element of the manufacturing process, and secondly, the public-health concerns associated with the use of additives in cigarettes and other tobacco products to increase their appeal, particularly to young people. When considering the concept of “palatability”, it was important to distinguish additives that restored the palatability lost during drying and manufacturing from those that added new characteristics to the product and made it more attractive.

The phrase “[Parties] should restrict or prohibit” should be amended to enable Parties to adopt other measures, more suited to their own situation. More discussion on the content of the guidelines was required, even if it meant continuing the debate beyond the current session of the Conference of the Parties.

Mr CHOINIÈRE (Canada), speaking in his capacity as a Key Facilitator of the working group, said that many misleading media reports had stated that additives were essential for the manufacture of “American-blend” cigarettes. However, cigarettes of that type, with no flavourings or other additives, had been on sale in Canada since July 2010. He had samples with him if representatives wished to see them. Therefore, what the industry claimed that it could do appeared to be at odds with what it was able to do.

Ms PEETSO (Estonia), speaking in her capacity as a Key Facilitator representing the European Union, said that the guidelines recommended a ban only on certain additives, not on all the additives required for the manufacture of tobacco products.

Dr YEARWOOD (Trinidad and Tobago) asked whether the manufacturer’s intention to increase the palatability of a product by using a certain additive would be sufficient, in itself, to justify a ban or restriction, or whether it would be necessary to prove that the additive had actually had the intended effect.

Mr CHOINIÈRE (Canada), speaking in his capacity as a Key Facilitator of the working group, said that the working group had made no assumptions about the manufacturers’ intentions. Regardless of their intent, the group had to give proper guidance on Articles 9 and 10.

Ms PEETSO (Estonia), speaking in her capacity as a Key Facilitator representing the European Union, said that the following information would enable Parties to ban or restrict additives which appeared to contribute to the popularity of those products: information on the contents of tobacco products recommended for disclosure in the draft guidelines on Article 9, combined with the sales information recommended for disclosure in the draft guidelines on Article 10 – relating, for example, to products popular with young people.

Professor PRAKIT VATHESATOGKIT (Thailand) suggested that, in the recommendations relating to subparagraphs (i) and (ii) of section 3.1.2.2 of the draft guidelines, the lists of examples (i.e. the phrases “such as sugars and sweeteners, flavouring substances, and spices and herbs” and “such as inks and pigments”, respectively) should be deleted, as they might be interpreted as the only

substances to which a ban or restriction should apply. The proposal to prohibit substances such as sugar in tobacco products had given rise to considerable debate in his country. Would the deletion of those phrases change the meaning of the subparagraphs concerned?

Mr CHOINIÈRE (Canada), speaking in his capacity as a Key Facilitator of the working group, said that the purpose of the guidelines was to provide detailed guidance for Parties and thus needed to be specific. The working group had included the phrases concerned for specific reasons, which he would explain if representatives so wished.

Mr NJOKU (Nigeria), referring also to subparagraphs (i) and (ii) of section 3.1.2.2, asked what the working group understood by the term “sugars”. Tobacco manufacturers sometimes used carbohydrates which were subsequently converted to sugars. Inspectors monitoring the use of sugar in a manufacturing facility might, therefore, not gain an accurate idea of the sugar content of the product concerned.

Subparagraph (ii) provided for the use of inks or pigments in tax-related markings or health warnings and messages, which was surely illogical if such substances were otherwise banned because of their potential health risks. Some inks contained aromatic compounds which might prove toxic when burnt.

Mr CHOINIÈRE (Canada), speaking in his capacity as a Key Facilitator of the working group, said that tobacco industry documents revealed that both simple and complex sugars were used to reduce the harshness of cigarette smoke. They did not actually make the tobacco smoke taste sweet. The working group had understood the term “sugars” in a general sense, rather than as referring to specific types of sugar, such as glucose. Substances such as honey and chocolate liquor were not used in tobacco manufacturing for their characteristic flavour.

The adverse health effects of tobacco use derived overwhelmingly from the tobacco itself; the effects of inks or pigments used for tax markings or health warnings were likely to be insignificant in comparison.

The CHAIR said that the draft guidelines must take into account the potential negative health effects, however small, of measures which were, or might become, required under the Convention. The draft protocol to the Convention on illicit trade in tobacco products, for example, provided for the possibility of marking individual cigarettes with a unique identifier, which would require the use of ink or pigment.

Dr SALARU (Republic of Moldova) said that his country supported the draft guidelines, despite external pressure on his Government not to do so. He noted that most of the recommendations applied to cigarette-like tobacco products, and emphasized that other tobacco products must be covered too in order to avoid loopholes, as had happened with the European Union’s Tobacco Products Directive of 2001.

In section 2.5 of the draft guidelines, it was recommended that laboratories used by Parties for determining compliance with regulation measures should be accredited governmental or independent laboratories. However, in a small country such as his own, governmental laboratories did not have the necessary capacity, and the only other laboratories were owned by tobacco manufacturers. Where could those countries obtain information about independent reference laboratories in other countries?

He asked whether the working group intended to make use of the European Union’s experience in issuing guideline values for contents and emissions in cigarettes. However, it was also important to provide similar values for non-cigarette products, which would be required before any action could be taken against non-standard products.

Ms PEETSO (Estonia), speaking in her capacity as a Key Facilitator representing the European Union, said that the draft guidelines had concentrated on regulation of ingredients of cigarette-like products because that was the area where the most country experience and evidence were available.

However, it was recommended in section 3.1.2.3 that Parties should collect relevant information on the ingredients of all other tobacco products and introduce regulatory measures if required. Details of independent laboratories were available from TobLabNet.

Dr LABEEB (Egypt), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, said that the draft guidelines contained effective regulations. They should be applied to tobacco itself, detailing the toxic components it contained before burning, and to other elements of the product, such as cigarette papers and filters. Flavourings were often added to increase the attractiveness of the product, particularly in the case of tobacco used in narghiles (water pipes). It was important to reduce the attractiveness of the product and ban or restrict the addition of substances that made it appear healthier, including artificial colourings.

The sugars or sweeteners added to many tobacco products, which included benzaldehyde, cocoa and honey, could become toxic when burned along with the tobacco, and had been shown to have long-term adverse health effects. They made it more pleasant to inhale the smoke and might therefore make people think the smoke was less harmful whereas, in fact, they merely made it possible to absorb more of the harmful substances. The Parties in the WHO Eastern Mediterranean Region were in favour of measures to restrict the addition of substances intended to increase the attractiveness of tobacco products.

Dr LEWIS-FULLER (Jamaica) congratulated the working group on its efforts. Many Parties had been ambivalent about producing guidelines that might appear to condone the use of toxic tobacco products, but they could now appreciate their usefulness. As countries accumulated experience of implementing the guidelines, it would become clearer whether the latter were, in fact, contributing to the acceptability of tobacco products. Those who opposed the purposes of the Convention would be keeping watch for any loopholes that might enable them to seek legal counter-measures: after all, colourings and flavourings were permitted in other products.

Turning to the text of the draft guidelines, she said that the term “cigarette” should be defined if the term derived from it, “cigarette-like”, was to be used. The definition of a “design feature” should be made clearer, since it was not clear whether the example given – the addition of ventilation holes around the cigarette filter which decreased yields of machine-measured nicotine – was an asset or a disadvantage from a public-health point of view.

Many Parties were considering how to proceed concerning the disclosure of product contents on packaging. It was a subject that was relevant to Article 11 of the Convention and one on which guidance would be welcome. The trend was for the information to be included so that people could make an informed choice.

On the subject of financing (section 2.3 of the draft guidelines), the licensing of retailers or the levying of surveillance fees was not a practical option in the Caribbean region, where many cigarette vendors were itinerants selling cigarettes singly, with no fixed address for the collection of taxes or fees.

She was not convinced by the recommendation in subparagraph (v) of section 3.1.1.2, that manufacturers and importers should be required to provide a statement setting out the purpose of the inclusion of an ingredient. Surely that placed them on a par with pharmaceutical companies, which were required to submit research proving the efficacy of a new drug before the drug could be registered? There was no appropriate regulatory authority in her own country, only authorities dealing with food and with illegal and controlled substances, and it would be very expensive to set up a new one.

Finally, the provisions governing tobacco surveillance programmes in Article 20.2 of the Convention were sufficient to enable Parties to collect marketing data related to tobacco products. There was no need to include a similar provision in the draft guidelines.

Dr KUARTEI (Palau) said that the Committee must consider the possibility that some of the additives in question might actually have beneficial effects, although his country’s position was that they did not have any positive effects from a public-health point of view. The Conference of the

Parties must make it clear to the tobacco industry that it was aware of the tactics used by the latter to lure young people into tobacco addiction.

The process of adopting guidelines was necessarily a flexible one, and they should be amended as necessary in the light of subsequent developments. The draft guidelines should be adopted in their current form, but should not be implemented until more of the sections had been finalized.

Dr CUISON-MAGLAYA (Philippines) said that, while her country fully supported regulation of tobacco-industry activities, the criterion of attractiveness, as used in the draft guidelines, was ambiguous and too broad to be useful. An objective standard was required if the guidelines were not to lead to the adoption of domestic legislation that was very different from that which Parties had intended. When the guidelines were implemented, Parties would need access to all the evidence accumulated by countries that had already adopted relevant legislation.

She supported the provision on disclosure of information about the contents of tobacco products, since it was the right of everyone to know what they were consuming, particularly when the substance had implications for their health. However, it was also important to respect the intellectual property rights of tobacco manufacturers under the World Trade Organization's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), particularly if the manufacturers indicated that the information concerned was confidential. Government authorities should obtain the necessary information about contents and emissions while applying stringent procedures to ensure that the necessary safeguards to protect confidential information were in place.

Finally, the phrase "prohibit or restrict" in the draft guidelines went beyond the scope of the Convention, and should be replaced by "regulate".

Mr ZHAN Yanyang (China) expressed his support for the draft guidelines. They dealt with a very technical area of the Convention, and the recommended action must be made very clear if Parties were to act consistently. Unfortunately, however, the current draft contained scope for confusion, since the working group had been unable to finalize the wording. A great deal of work remained to be done before the draft guidelines could be adopted. The working group should continue its discussions, taking into account the comments made at the current session, and report back to the next session of the Conference of the Parties.

Mr DE SOUZA-GOMES (Brazil) said that he fully supported the draft guidelines, which constituted a balanced, flexible and evidence-based document. However, specific references to domestic legislation would be required in order to ensure the effective implementation of the guidelines. Brazil had suggested similar amendments in respect of Articles 5.3, 8 and 11, which had met with general support. Therefore, he suggested that the phrase "in accordance with their national law" should be added at the end of the first sentence of section 3.1.2, entitled "Ingredients (Regulation)". Other Parties had already indicated that they were willing to accept the amendment.

Mr MASOMHE (United Republic of Tanzania), while commending the working group on its efforts, said that much basic terminology had not been adequately defined: this would make it more difficult to implement Articles 9 and 10. For instance, the definition of the term "tobacco industry" omitted a number of important stakeholders. The concept of "attractiveness" also required further clarification. The working group should continue its work on the draft and finalize the entire set of guidelines so that Parties could implement them more effectively.

Mr BEZEID DEIDA (Mauritania) said that considerable emphasis had been placed on the concept of "attractiveness" in the draft guidelines. However, attractiveness was not a feature intrinsic to the tobacco product itself, but rather a subjective perception on the part of the user. Therefore, it did not seem an appropriate criterion for regulation. Furthermore, he was unable to see the connection between attractiveness, addiction and toxicity. The draft was valuable, but incomplete, requiring further definition of terms and a detailed specification of the role to be played by Parties. The working

group should continue its discussions on the draft and submit a more complete version to a future session of the Conference of the Parties.

Ms MELKON (Bolivarian Republic of Venezuela) commended the working group on its excellent work on two vital articles of the Convention. The draft guidelines had two aims: firstly, to prevent the tobacco industry from encouraging people to consume tobacco products which were harmful to their health and, secondly, to prevent the use of additives which made tobacco products more palatable.

Like the representatives of Egypt and the Republic of Moldova, she considered that guidelines should be provided for all tobacco products, not just cigarettes. For example, a smokeless tobacco product called chimo was widely used in her country and produced by 40 registered manufacturers yet it would not be covered under any domestic legislation introduced on the basis of the current draft guidelines. The more specific the recommendations, the more opportunity there would be for tobacco manufacturers to evade them. To give another example, the tobacco industry actively encouraged women to take up smoking: the guidelines as currently drafted would not prohibit the addition of substances that women were likely to associate with cosmetics or with desirable characteristics such as being slimmer or having fewer wrinkles.

Although it might seem logical to be as specific as possible in drafting the guidelines, it would be safer to use more general language in order to prevent the tobacco industry from finding loopholes in the regulations. Misleading statements on cigarette packaging should also be prohibited.

Finally, she wished to raise the issue of the financing of regional reference laboratories for the analysis of tobacco products, which her country would find very expensive to set up. Perhaps a direct financing mechanism could be created.

Mr CHOINIÈRE (Canada), speaking in his capacity as a Key Facilitator of the working group, and replying to a question from Ms EKEMAN (Turkey), said that there was no specific level of flavourings or other ingredients that would definitely mask the inherent harshness of tobacco smoke. The level at which harshness was detected varied from individual to individual.

Ms EKEMAN (Turkey) thanked the representative of Canada for his reply and commended the working group on the draft guidelines. She suggested that an annex should be added listing the available scientific evidence about attractiveness, in order to increase the credibility of the recommendations. In section 1.2.1.2, on addictiveness, she suggested the addition of the wording: “Levels of nicotine should be restricted for both blends and emissions since it is scientifically proven that levels of nicotine in tobacco products creates addiction”.

The term “cigarette-like products” did not appear in the Convention. She suggested that it should be replaced throughout the draft guidelines with the more comprehensive term “tobacco products”, which would also cover nicotine delivery methods such as water-pipes, which were widely used in her own country. Eighty per cent of water pipes in Turkey used flavoured tobacco.

With reference to section 3.1.2.2, entitled “Cigarette-like tobacco products”, she saw no need to distinguish between additives required for the manufacturing process and those added later to increase the product’s palatability. In subparagraphs (ii)–(iv), the phrase “either restrict or prohibit” should be replaced by “prohibit”. In subparagraph (i) of section 3.3.1.2, the phrase “and manufacturers and importers should get permission regarding changes to the design features” should be added in order to establish a surveillance mechanism.

Dr SAHIB (Iraq) said that the debate on Articles 9 and 10 and the explanations provided had done a great deal to clarify a confusing issue. He wondered whether it would be feasible to take samples from all batches of tobacco products manufactured in a country and send them to a laboratory for analysis, even in countries which had a laboratory with sufficient capacity. Moreover, tobacco products were known to contain thousands of carcinogenic substances: when they had been analysed and those substances had been identified, how could a Government justify allowing them to be sold on its territory?

Dr DAUDI (Observer, Malawi)¹ said that, while his country fully supported the objectives of the Convention, tobacco production was a central element of its economy, accounting for 60% of foreign exchange. Over 700 000 households depended on tobacco production for their livelihoods. His country was concerned that the recommendations in the draft guidelines went beyond what was necessary for the protection of public health and posed risks to trade, employment, the economy and the well-being of the population. He called upon the working group to conduct a balanced and evidence-based review of the draft guidelines which would take into account the concerns of all stakeholders. Some concepts, including “attractiveness” and “other types of tobacco”, were ambiguous and required clear definition if misunderstandings were to be avoided.

Mr CHOINIÈRE (Canada), speaking in his capacity as a Key Facilitator of the working group and replying to a question from Ms MADRAZO REYNOSO (Mexico), said that the working group had not retained Mexico’s proposal to use the term “regulate” in the draft because it had thought it more useful to provide more specific guidance by using the term “prohibit”.

Dr KOMLAN (Togo) thanked the working group for its work on the draft guidelines, which he believed should be adopted as they stood. The draft guidelines were based on evidence, country experience and awareness of the practices of the tobacco industry. They provided useful recommendations on the regulation of ingredients of tobacco products to reduce their attractiveness and on the disclosure of relevant information to governments.

Ms EMMERLING (European Union) said that the Conference of the Parties should make every effort to adopt the draft guidelines at the current session, rather than postponing adoption as some other representatives had suggested. Members of her delegation were willing to participate in any drafting group that might be needed to further that end.

She proposed the following amendments. In section 3.1.2, entitled “Ingredients (Regulation)”, she suggested the addition of the following two paragraphs:

“Parties can introduce the measures outlined in this section, taking into account the national circumstances and priorities.

“Parties should consider scientific evidence, other evidence and experience of others when determining new regulation on ingredients and they should aim to implement the most effective measures that they can achieve.”

In section 3.1.2.2, entitled “Cigarette-like tobacco products”, she suggested the addition of the following wording at the end of the recommendation: “unless these ingredients are indispensable for the manufacturing of tobacco products and are not linked to attractiveness”.

In section 4.10, entitled “Seizure and forfeiture”, she suggested the addition of the phrase “and destroyed under supervision” after “forfeited”.

Mr MBUYU MUTEBA YAMBELE (Democratic Republic of the Congo) commended the working group on its excellent work. Tobacco was deadly not only because of the nicotine which caused addiction, but also because of the thousands of chemicals present in tobacco which came from the fertilizers and pesticides used in tobacco-growing, and which were even more toxic when the tobacco was burnt. Tobacco use caused an estimated six million deaths per year. Since the imposition of restrictions on tobacco advertising, the industry had encouraged word-of-mouth publicity among tobacco users. It was therefore essential to regulate features such as the addition of flavourings and sweeteners which made tobacco products more attractive. However, the issue was a crucial one for the

¹ Participating by virtue of Rule 29 of the Rules of Procedure of the Conference of the Parties to the WHO Framework Convention on Tobacco Control.

industry, and it was therefore essential to ensure that the position of the Conference of the Parties was credible in every respect. As soon as the necessary scientifically validated and statistically supported evidence was available, Parties should set up a brand validation procedure for all brands of cigarettes. The procedure should require completion of a form listing the nicotine content, the other natural constituents and the type and quantity of any additives. As far as he was aware, a list of ingredients prohibited by various national legal systems was already available, and penalties could be imposed if they were used. Such measures protected both smokers and non-smokers exposed to second-hand smoke. Fees could be charged for brand and marketing authorizations and manufacturing, import and export licences, which would help to make them self-financing. The draft guidelines, amended to address the concerns he had raised, should be adopted at the current session.

Mr MBEWE (Zambia) expressed his support for the aims of Articles 9 and 10. There was no justification for the use of flavourings or other substances designed to make tobacco more attractive to young people. However, a distinction should be made between “characterizing flavours”, that appealed to the young, and flavours that were traditionally used and necessary for the production of widely-used products. More scientific research should be undertaken in order to establish a clear distinction between the two. He endorsed the comments of the representatives of the Philippines and China.

Dr MAINA (Kenya) said that he wished to raise a number of procedural matters. Firstly, it was customary for representatives of regional groups to speak before individual Parties. Likewise, all Parties should have the opportunity to speak before an observer was given the floor. Lastly, it was undesirable for the Committee to meet with tobacco-industry representatives also in the room.

The draft guidelines had been five years in the making, but they covered a complex subject which was critical to the health of young people and women, in particular. The areas which remained to be dealt with were clearly indicated. Low-income Parties would need a great deal of technical support for their implementation, and all Parties would need to collaborate closely with neighbouring countries in customs and other matters. It was therefore regrettable that section 5 of the draft guidelines, on international cooperation, did not contain more recommendations for the transfer of technology and the sharing of expertise. His country had participated in drafting the guidelines and was convinced that they were genuinely aimed at the regulation of tobacco product manufacture and the disclosure of relevant information and not intended to target tobacco-growers or promote one type of tobacco over another. Therefore, he urged Parties to adopt the draft guidelines during the current session.

Dr BRISTOL (Saint Lucia) said that he fully supported the draft guidelines, which usefully supplemented those adopted in respect of Article 13. His country had contributed to their development through its submissions, and he urged the working group to continue its work on the remaining sections.

The guidelines would help small Parties, in particular, to implement the Convention and would counter the unwelcome interference of the tobacco industry. The strength of the industry’s opposition to any tobacco-control activities, such as the regulation of additives, was a measure of the potential impact of such activities in the fight against tobacco-related disease. Indeed, the tobacco industry had attempted to influence his Government by means of non-binding and ill-conceived documents relating to Articles 9 and 10.

He welcomed the many items on the agenda of the current session that called for increased cooperation and synergy between the Convention and other international treaties, particularly those dealing with international trade, which the Caribbean region could use in its implementation of the Convention at a regional level. The Convention’s great strength was its capacity to address cross-border tobacco control issues, such as smuggling, cross-border advertising and the multinational tobacco industry.

The CHAIR, summing up the debate, said that all Parties appeared to acknowledge the usefulness of the draft guidelines. Some speakers had pointed out areas where revisions or more detailed provisions were needed, such as the section on use of terms.

The Committee was due to discuss a number of other articles of the Convention in the short time at its disposal. She suggested that a small drafting group, limited to four representatives from each region, should meet informally to seek agreement on the points which had been raised.

Responding to a point raised by Mr DESIRAJU (India), speaking on behalf of Parties in the WHO South-East Asia Region, she apologized for the procedural errors pointed out by the representative of Kenya and invited representatives of the regional groups to give their views on the draft guidelines.

Mr BONITO (Timor-Leste), speaking on behalf of Parties in the WHO South-East Asia Region, proposed that the Committee should approve the draft guidelines, with the amendment to section 3.1.2.2, subparagraph (i) proposed by the representative of Thailand.

Mr ZHAN Yanyang (China) said that, since there had been no time for regional consultations, the WHO Western Pacific Region could not put forward a regional position regarding approval of the guidelines. Representatives of all countries should be given time to speak.

Ms EMMERLING (European Union) said that the Parties in the European Union agreed to the convening of a drafting group. However, they would prefer to send six representatives from their region, rather than four.

Mr HOSHINO (Japan) said that, because of the small size and the distribution of expertise in his delegation, it would be very difficult for it to participate in a drafting group. His delegation had some specific concerns about the text, and the differences of opinion which had been expressed: the definition of "attractiveness", for instance, seemed too wide-ranging to be satisfactorily resolved in a small group. The debate should be continued in the full Committee.

The CHAIR said that the drafting group would meet in the evening and not in parallel with the Committee. It would not approve the guidelines, but would attempt to resolve differences between Parties and hear additional scientific evidence where required. The Key Facilitators and other members of the working group would be present, and interpretation into all six working languages would be provided.

Responding to a query from Ms MAYSHAR (Israel), she said that the Key Facilitators would consider all the comments expressed by Parties during the meeting, and circulate a new document the next day. The drafting group would meet on the following evening.

Mr ZHAN Yanyang (China) said that, although Parties were united in their commitment to tobacco control, there were fundamental differences in their views on the draft guidelines. The differences related to vital issues concerning the social and economic development of certain countries and they would not be resolved by a drafting group in one evening.

Mr SOUZA-GOMES (Brazil), speaking on behalf of the Parties in the WHO Region of the Americas, said that the draft guidelines should be adopted during the current session. He supported the Chair's proposal to convene a drafting group and suggested that its meetings should be open to observers from nongovernmental organizations.

Mr BONITO (Timor-Leste), speaking on behalf of the Parties in the WHO South-East Asia Region, said that the proposal to convene a drafting group was acceptable, and suggested that it should be open-ended rather than limited in size.

Dr LEÓN CHEMPÉN (Peru), speaking on behalf of the Parties in the WHO Region of the Americas, said that the drafting group should be open-ended. Parties could decide on the optimum number of members from each region in the regional meetings they were due to hold the next day.

Dr HOZA (Central African Republic) said that he had expected the Committee to reach a certain number of conclusions and for Parties to comment on them before the text was entrusted to a drafting group.

The CHAIR said that the new drafting group would be open to all representatives, as Parties had requested. She took it that the Committee wished to form the drafting group.

It was so agreed.

Mr Allen (New Zealand) was appointed as the Chair of the informal drafting group.

Ms ROA (Panama) said that the draft guidelines should be adopted during the current session. The international community must act to counter the constant innovations introduced by the tobacco industry to make tobacco products more attractive.

She supported the amendments proposed by the representative of the European Union. It should be made clear in the draft guidelines that references to “sugars” denoted added sugars, not those naturally present in the tobacco leaf. In order to achieve consistency, the draft should refer to “tobacco products” throughout.

It should be understood that the guidelines could be amended even after their adoption in the light of subsequent advances in scientific knowledge and technology that would make it possible to measure contents and emissions for more effective tobacco control.

Mr VALIZADEH (Islamic Republic of Iran) expressed his support for the draft guidelines. With reference to the section on toxicity, he called upon the working group to define more precisely the harmful substances contained in tobacco, with reference to the scientific evidence available to WHO. The Conference of the Parties should immediately provide Parties with access to the International Organization for Standardization standard methods for analysing chemical substances, even if the draft guidelines were not adopted at the current session. WHO should support the establishment of reliable reference laboratories, especially in developing countries.

In respect of section 1.2.1.1 of the draft guidelines, dealing with attractiveness, a further recommendation could be included calling for tobacco products to be produced in a standard format. Some brands were still manufactured in a “slim” format and presented in slim, attractive packaging. He supported the comments made by the representatives of Egypt and Turkey.

(For continuation of the discussion, see summary record of the third meeting.)

The meeting rose at 18:05.

THIRD MEETING

Thursday, 18 November 2010, at 15:05

Chair: Dr NUNTAVARN VICHIT-VADAKAN (Thailand)

TREATY INSTRUMENTS AND TECHNICAL MATTERS: Item 5 of the Agenda (continued)

Guidelines for implementation of Articles 9 and 10 of the Convention: “Regulation of the contents of tobacco products” and “Regulation of tobacco product disclosures”: Item 5.2 of the Agenda (Documents FCTC/COP/4/6 Rev.1 and FCTC/COP/4/INF.DOC./2) (continued)

The CHAIR announced that an open-ended drafting group chaired by New Zealand would meet that evening to work on unresolved matters relating to the draft guidelines for implementation of Articles 9 and 10 of the Convention. A document (FCTC/COP/4/6 Rev.1) reflecting the amendments proposed by Parties had been distributed and would serve as a basis for the discussion. She therefore suggested that the Committee suspend its consideration of agenda item 5.2.

Mr SUN Jin (China) said that he believed that many Parties were expecting to have a discussion on the item during the present meeting and that a vigorous exchange of views could provide meaningful input for the drafting group.

The CHAIR, noting that Parties would have the opportunity to express their views during the drafting group meeting, said that she would give the floor to any delegations that felt they needed to speak immediately, but requested them to keep their remarks brief.

Dr SEGNON AGUEH (Benin) said that the use of flavouring agents, sweeteners and other additives was an attempt by the tobacco industry to undermine efforts under the Convention to reduce consumption by tricking consumers, especially women and youth, into believing that those substances rendered tobacco less detrimental to their health. She therefore supported the adoption of the draft guidelines for implementation of Article 9 of the Convention and encouraged the Conference of the Parties to consider calling for an outright ban on all additive use.

Dr GWINJI (Observer, Zimbabwe)¹ said that he believed that it would be premature for the Conference of the Parties to reach a decision on the draft guidelines for implementation of Articles 9 and 10 before the working group had conducted the inclusive and transparent consultations required to complete its work. The group should focus in particular on how Parties would be affected by the guidelines and on their rights and obligations under Articles 2.8 and 12.3 of the Agreement on Technical Barriers to Trade.

¹ Participating by virtue of Rule 29 of the Rules of Procedure of the Conference of the Parties to the WHO Framework Convention on Tobacco Control.

The CHAIR, in the absence of any further comment, took it that the Committee wished to endorse the proposal to convene a meeting of the open-ended drafting group and to suspend its deliberations on agenda item 5.2.

It was so agreed.

(For continuation of the discussion, see summary record of the fifth meeting, section 1.)

Guidelines for implementation of Article 12 of the Convention: “Education, communication, training and public awareness”: Item 5.3 of the Agenda (Document FCTC/COP/4/7)

Ms HAGLUND (Sweden) and Dr OTTO (Palau), speaking in their capacity as Key Facilitators of the working group on guidelines for the implementation of Article 12, introduced the draft guidelines contained in document FCTC/COP/4/7, noting that the drafting process had involved extensive consultation and feedback from all Parties. The aim throughout had been to produce guidelines that were cost-effective, universally applicable, affordable for all, and based on best practices and that were general in nature yet detailed enough to assist Parties in meeting their obligations under Article 12 of the Convention. The working group had also sought to propose a set of measures whose guiding principles were rooted in globally accepted human rights treaties and framed around protection from threats to fundamental freedoms and the exercise of the right to life, health and education, and to ensure that education, communication, training and public awareness-raising activities remained free of the influence of the vested interests of the tobacco industry.

In view of the complexity and scope of Article 12, the working group had stressed the need to adopt a comprehensive, multisectoral approach involving a wide range of disciplines and communities and drawing on sound research-based evidence and best practices. While examples of the latter could be found in every region, most resources still came from higher-income countries. International collaboration and exchange would be needed in order to help Parties to identify other examples and adapt them to local, national and regional needs. Strong implementation of the Convention would require changes in social, environmental and cultural norms, as well as in perceptions of the acceptability of tobacco consumption, exposure to tobacco smoke and aspects of the growing, manufacturing, marketing and sale of tobacco and tobacco products. It would also require the allocation of adequate resources to education, communication and training in order to ensure a high level of public awareness, which called, in turn, for the active participation of civil society.

To illustrate the roles of, and connections between, the various constituent parts of Article 12, the working group had developed a model depicting the Article as a building, with sound and sustainable tobacco-control infrastructure representing its foundations; education, communication, training and public awareness-raising programmes as its four pillars; and the ensuing social change leading to tobacco-use prevention and cessation as its roof. The resulting guidelines set out how to build the infrastructure, to run effective programmes, to secure the participation of civil society, to ensure access to information on the tobacco industry and to strengthen international cooperation for the exchange of information and best practices. A list of useful resources had been compiled drawing on input from civil society and other partners, and the Key Facilitators recommended that it be placed on the Convention Secretariat’s web site and kept regularly updated. Other proposals, including one for the development of an international database in relation to the guidelines for the implementation of Article 12, were presented in paragraph 3 of a draft decision, which read:

The Conference of the Parties,

Taking into account Article 12 (*Education, communication, training and public awareness*) of the WHO Framework Convention on Tobacco Control (WHO FCTC);

Recalling its decision FCTC/COP2(14) to establish a working group to elaborate guidelines on the implementation of Article 12 of the WHO FCTC and its decision FCTC/COP3(11) requesting the working group to continue its work and to submit draft guidelines to the Conference of the Parties for consideration at its fourth session;

Emphasizing that the aim of these guidelines is to assist Parties to meet their obligations under Article 12 of the WHO FCTC and that they are not intended to increase Parties' obligations under this article,

1. ADOPTS the guidelines for implementation of Article 12 of the WHO FCTC contained in the Annex to this decision;
2. URGES Parties to follow the guidelines when implementing policies in line with Article 12 of the WHO FCTC;
3. REQUESTS the Convention Secretariat:
 - (1) to identify options for the development of an international database in relation to the guidelines for implementation of Article 12 of the WHO FCTC, preferably as a part of an overarching database of good practices, instruments and measures to support the implementation of all guidelines adopted by the Conference of the Parties. To ensure synergy and efficiency, such a database would build upon the existing database of Parties' implementation reports and also take into account other information available from relevant international sources. Support and collaboration should be sought from Parties and competent international organizations, particularly from WHO through its Tobacco Free Initiative and other relevant departments;
 - (2) to organize reviews of the effectiveness of the guidelines for implementation of Article 12 of the WHO FCTC at intervals that do not exceed five years and to propose their revision by the Conference of the Parties when necessary;
 - (3) to ensure that the principal provisions of these guidelines are reflected in the reporting system of the WHO FCTC;
 - (4) to implement, under the guidance of the Bureau of the Conference to the Parties, further measures for increasing awareness and raising the profile of the WHO FCTC as an effective tobacco control strategy, including through international advocates who can act as ambassadors for the WHO FCTC;
 - (5) to inform the Conference of the Parties at its fifth session on progress made in implementation of this decision.

Ms STEENBRUGGHE (Belgium), speaking on behalf of the Parties in the European Union, said that the draft guidelines should be adopted in their current form. The working group had achieved its mandated objectives of providing Parties with the comprehensive guidance needed to implement Article 12 of the Convention, and the Conference of the Parties would, in adopting them without delay, send a strong signal to the world.

Mr PRASAD (India), speaking on behalf of the Parties in the WHO South-East Asia Region, said that the draft guidelines were comprehensive and an important step forward. They should be adopted without change. The draft decision should request the Convention Secretariat to make the list of useful resources compiled by the Key Facilitators available to Parties as soon as possible via its web site, together with a list of governmental and nongovernmental organizations that could assist Parties

in planning and implementing public education and training activities, and should also call for a review of the guidelines within a specific period of time, preferably before the sixth session of the Conference of the Parties.

Dr LEÓN CHEMPÉN (Peru), speaking on behalf of the Parties in the WHO Region of the Americas, said that one important aspect of the draft guidelines was that they would bolster the protection of fundamental human rights and freedoms. They should be adopted without change.

Dr SEGNON AGUEH (Benin), speaking on behalf of the Parties in the WHO African Region, said that she supported the adoption of the draft guidelines and the recommendation to publish the list of useful resources compiled by the Key Facilitators on the WHO FCTC web site.

Mr KRASOVSKIJ (Ukraine), supported by Dr BAZARCHYAN (Armenia), suggested that the draft guidelines should be adopted without discussion.

Dr ANDEN (Philippines) said that she supported the adoption of the draft guidelines. She especially appreciated their emphasis on the role of civil society organizations in helping governments to implement Article 12, given their capacity for low-cost, high-impact, media advocacy, which could play a key part in tobacco control in low-resource settings.

Mr SUN Jin (China) said that the draft guidelines had been fully discussed and revised, taking all Parties' views into account, and China therefore supported their adoption.

Dr KOMLAN (Togo) said that the draft guidelines should be adopted in the interests of advancing the global fight against tobacco. Togo and other Parties in the WHO African Region were working to disseminate information and raise awareness of tobacco control issues, but they had limited means. He therefore requested the Conference of the Parties to take into consideration the resource constraints that developing countries faced in implementing Article 12 of the Convention.

Ms NABLI (Tunisia) said that anti-tobacco communication, education and awareness-raising should begin in early childhood with a view to enabling very young children to develop the psychosocial skills needed in order to make the right choices and to refrain from smoking. They would thus be in a position to combat tobacco use and other high-risk behaviours and to encourage their families, friends and others to do likewise.

Mr ADDY (Chad), Dr DIARRA (Mali), Mr MALOBOKA (Namibia), Ms NIKITINA (Russian Federation), Dr ALEPENDAVA (Solomon Islands), Mrs ALIK (Federated States of Micronesia), Mr TAKAHASHI (Japan), Mr DLAMINI (Swaziland), Dr RIVERA (Colombia) and Ms NÆSHEIM (Norway) expressed their support for the adoption of the draft guidelines .

Mr HAZLEWOOD (Canada), said that the draft guidelines should be adopted, but added that it was unclear how the international database recommended by the Key Facilitators was to be developed. He suggested that the matter might be considered by Committee B. The information to be used to populate the database should be extracted from national implementation reports so as to avoid imposing any additional reporting requirements on Parties.

Ms HAGLUND (Sweden), speaking in her capacity as a Key Facilitator, pointed out that subparagraph 3(1) of the draft decision requested the Convention Secretariat to identify options for the development of the database, including with respect to financing.

Ms STEENBRUGGHE (Belgium), speaking on behalf of the European Union, said that in order to reflect the comment made by the representative of Sweden, the words “and the financing” should be added to subparagraph 3(1) of the draft decision, which would then read: “To identify options for the

development and the financing of an international database”. The language in the draft decision should be clear, concise and consistent with other decisions adopted by the Conference of the Parties, and to that end, subparagraphs 3(2) and 3(5) should, following the model of subparagraph 2(7) of decision FCTC/COP3(10), be replaced with a paragraph reading: “Decides to consider at its sixth session whether to initiate a review of these guidelines”. With regard to subparagraph 3(3), the idea of reflecting provisions of the guidelines in the reporting system of the Convention did not apply exclusively to the guidelines for the implementation of Article 12; it concerned all guidelines and might best be dealt with in the discussion on the reporting system under agenda item 6.2. Similarly, the proposal in subparagraph 3(4) that people should act as ambassadors for the WHO FCTC should not be confined to a decision on Article 12, but considered in the wider context of the Convention as a whole.

Ms HAGLUND (Sweden), speaking in her capacity as a Key Facilitator, said that she supported the suggestions made by the representative of Belgium.

Mr SUN Jin (China) said that it might be premature to review of the guidelines during the sixth session of the Conference of the Parties and suggested that there should be a period of five years before the first review.

Dr OTTO (Palau), speaking in his capacity as a Key Facilitator, pointed out that under the draft decision as amended, the Conference of the Parties would decide during its sixth session whether to conduct a review; but the review would not necessarily be conducted at that time.

Dr TSETSEGDARY (Mongolia) said that her country supported the adoption of the draft guidelines and suggested that the Committee approve them without further discussion.

Ms DARDÓN (Guatemala) welcomed the Parties’ favourable reaction to the draft guidelines on Article 12 and suggested that a working group should be set up to produce equally clear guidelines with respect to Article 6 of the Convention.

The CHAIR asked the representative of Guatemala to repeat her request when Article 6 came up for discussion under agenda item 5.7. On behalf of the Committee, she thanked the working group for its work. In the absence of any further comment, she took it that the Committee wished to recommend to the Conference of the Parties that it adopt the draft guidelines contained in the Annex to document FCTC/COP/4/7 as they stood, together with the draft decision, as amended.

The draft decision on guidelines for implementation of Article 12 of the Convention, as amended, was approved.¹

Guidelines for implementation of Article 14 of the Convention: “Demand reduction measures concerning tobacco dependence and cessation”: Item 5.4 of the Agenda (Document FCTC/COP/4/8)

Ms LORENZO (Uruguay), speaking in her capacity as a Key Facilitator of the working group on guidelines for the implementation of Article 14, introduced the draft guidelines contained in document FCTC/COP/4/8. The main underlying considerations in drafting the guidelines had been that tobacco use was highly addictive, as demonstrated by the scientific evidence; that the impact of tobacco dependence treatment measures must be maximized by implementing them synergistically with other tobacco control measures, as well as in conjunction with interventions covered by other articles of the Convention; that tobacco cessation and tobacco dependence treatment strategies should be based on the best available scientific evidence of effectiveness; that treatment should be widely

¹ Adopted by the Conference of the Parties as decision FCTC/COP4(7).

accessible and affordable; that the active participation of civil society was critical; that health systems played a central role in promoting tobacco cessation and tobacco dependence treatment; and that the development of strategies for the implementation of Article 14 must be protected from the interests of the tobacco industry and all other commercial and vested interests. Key elements included the recommendations that Parties should conduct a national situation analysis; that they should use existing resources and infrastructure, such as primary health care systems, as much as possible, in order to develop widely accessible and low-cost treatments as rapidly as possible; and that they should ensure the provision of at least brief advice on tobacco cessation to all tobacco users. The guidelines acknowledged that resources were finite and called on Parties to prioritize their actions carefully, taking into account national circumstances.

The Key Facilitators proposed that the Committee should consider approving the following draft decision with a view to the adoption of the guidelines by the Conference:

The Conference of the Parties,

Taking into account Article 14 (*Demand reduction measures concerning tobacco dependence and cessation*) of the WHO Framework Convention on Tobacco Control (WHO FCTC);

Recalling its decision FCTC/COP3(15) to establish a working group to elaborate guidelines on the implementation of Article 14 of the WHO FCTC and to present a progress report or, if possible, draft guidelines for consideration by the Conference of the Parties at its fourth session;

Emphasizing that the aim of these guidelines is to assist Parties in fulfilling their obligations under Article 14 of the WHO FCTC,

1. ADOPTS the guidelines for implementation of Article 14 of the WHO FCTC contained in the Annex to this decision;
2. URGES Parties to use these guidelines and collaborate internationally in this area;
3. REQUESTS the Convention Secretariat:
 - (1) to maintain a database of information sources related to these guidelines, based on the information presented by the Parties through their implementation reports and other international sources, as appropriate;
 - (2) to reflect the content of these guidelines in the reporting system of the WHO FCTC and refer to the implementation of these guidelines in its regular reports on global progress in the implementation of the Convention.

Mr GIRI (Nepal), speaking on behalf of the Parties in the WHO South-East Asia Region, said that the draft guidelines should be adopted without change.

Mrs AKIWUMI SIRIBOE (Ghana), speaking on behalf of the Parties in the WHO African Region, said that the draft guidelines for implementation of Article 14 of the Convention provided the necessary framework to assist Parties in meeting their responsibility to support tobacco users wishing to quit, and she supported their adoption without amendment.

Ms STEENBRUGGHE (Belgium) said that the Parties in the European Union were ready to adopt the draft guidelines as they stood immediately. However, the draft decision should, like the draft decision on the guidelines for implementation of Article 12, be revised with a view to improving its clarity and its consistency with other decisions. In particular, paragraph 3(2), which concerned

reporting, should be removed, for the same reasons she had cited in her comments on the previous draft decision.

Dr LEÓN CHEMPÉN (Peru), speaking on behalf of the Parties in the WHO Region of the Americas, expressed support for the draft guidelines, which, once adopted, would provide countries such as hers with clear and comprehensive recommendations for promoting tobacco cessation at the primary health care level. Noting that the Conference would be adopting the English version of the guidelines, she requested that the Spanish version should be reviewed in order to ensure that the translation was accurate.

Ms NIKITINA (Russian Federation) said that her Government fully endorsed the draft guidelines and the draft decision and would implement all of the various measures identified to reduce demand for, and dependence on, tobacco.

Dr BAZARCHYAN (Armenia) said that the draft guidelines would be useful to all Parties, regardless of their current stage of progress in implementing the Convention, and expressed support for their adoption without change.

Dr ABOU AL ZAHAB (Syrian Arab Republic), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, supported the draft guidelines but drew attention to several points. First, private health insurance companies were refusing to reimburse the treatment of diseases caused by tobacco use, which was a major problem given the increasing numbers of such firms. However, pharmaceutical companies producing cessation-related medications could contribute to tobacco control efforts. An analysis of the prevalence of tobacco use and of tobacco dependence should be undertaken by all Parties as a basis for drawing up comprehensive national tobacco control plans. Finally, the training of health workers should be extended to paramedical personnel, many of whom were themselves tobacco users. The proposed amendments would be submitted in writing to the Convention Secretariat.

Dr TAKAGI (Japan), noting that the Convention referred only to the addictive nature of tobacco, enquired why paragraph 7 of the draft guidelines used the term “highly addictive”. He also requested clarification regarding the type of medical notes alluded to in paragraph 37 of the draft guidelines, pointing out that it would not be appropriate to note tobacco use in, for example, a vaccination record.

Dr RAW (United Kingdom of Great Britain and Northern Ireland), responding in his capacity as a Key Facilitator, said that the guidelines were meant to be implemented by Parties taking into account their national circumstances and priorities. Obviously, medical records systems differed from country to country, and Parties were free to interpret and apply paragraph 37 in the light of their national situation. With regard to paragraph 7, he saw no reason why tobacco could not be described as “highly addictive” in the draft guidelines, although the Convention itself merely called it “addictive”, since it was a function of the guidelines to interpret and expand on the language of the Convention. The description of tobacco as “highly addictive” represented an evidence-based opinion of the working group.

Ms EVISON (New Zealand) offered to share her Government’s experience in running cost-neutral programmes that had, in under a year, led to the training of about a tenth of the country’s health-care workforce, and resulted in more than two thirds of patients hospitalized for any cause being questioned on their tobacco use and offered advice on cessation. She expressed support for the draft guidelines as they stood.

Dr ARIFFIN OMAR (Malaysia) said that his country acknowledged the need to support tobacco users who wished to quit and to make effective cessation services more accessible and affordable. All

categories of health-care workers should be involved in such services and the relevant knowledge and skills in dealing with tobacco dependence must be incorporated into their basic training. He expressed support for the adoption of the draft guidelines.

Mr NOSA (Niue), speaking on behalf of the Pacific island Parties, said that they fully supported the adoption of the draft guidelines.

Dr ANDEN (Philippines), expressing support for the adoption of the draft guidelines, endorsed in particular the policy-centred, stepwise, approach starting with low-cost interventions aimed at reaching large numbers of people and working up, resources permitting, to more intensive interventions.

Mr MBUYU MUTEBA YAMBELE (Democratic Republic of the Congo) said that the working group had provided a response to concerns that had arisen in his country following awareness-raising campaigns that had generated increased demand for cessation treatment, which could not be met for want of the necessary resources, including trained doctors and nurses. Furthermore, tobacco addiction was not yet widely regarded as a disease, which had made it hard to integrate such treatment into the national health system. The draft guidelines would help his Government to put in place a treatment system, and it was ready to adopt them.

Dr NURUTDINOVA (Kazakhstan) recommended that the draft guidelines be adopted without change.

Dr LEWIS-FULLER (Jamaica) said that her Government agreed in principle with the draft guidelines and would support their adoption. She wondered, however, whether the definition of “tobacco user” as “a person who uses any tobacco product” might need to be broadened somewhat, given that the Convention defined “tobacco products” as being entirely or partly made of leaf tobacco, and the tobacco industry was now innovating new products containing no leaf tobacco and having no visible connection to it.

Dr RAW (United Kingdom of Great Britain and Northern Ireland), speaking in his capacity as a Key Facilitator, stressed that the working group had made a deliberate decision to focus the guidelines on cessation of tobacco use and to leave other forms of nicotine consumption to be dealt with under guidelines or instruments relating to other articles of the Convention.

The CHAIR suggested that the text could indicate that other products would be dealt with elsewhere and pointed out that the Committee would have an opportunity to discuss the control and prevention of smokeless tobacco and electronic cigarettes under agenda item 5.8.

Mr DLAMINI (Swaziland) said that effective measures to promote cessation of tobacco use and treatment for tobacco dependence were not only cost effective but also had a highly positive health impact owing to the resulting reductions in mortality. The draft guidelines should be approved without delay as their adoption would pave the way for comprehensive policies aimed at providing smokers in his country and others with the help they needed to quit.

Mr UM Seiha (Cambodia) said that he supported adoption of the draft guidelines without change.

Dr DIARRA (Mali) said that the draft guidelines were highly relevant to the situation in his country, where there was growing demand for tobacco cessation treatment, especially among young people, but the question of how health workers would meet that demand remained unresolved. The guidelines would help his Government to formulate policies that would give young people the support they needed to quit smoking.

Dr SEGNON AGUEH (Benin) said that the adoption of the draft guidelines would help to increase the availability of tobacco cessation products and facilitate the integration of tobacco dependence treatment into primary health care systems in Benin and elsewhere. They should be adopted without change.

Mr SUN Jin (China) said that he supported the adoption of the draft guidelines, but suggested that in the third bullet point under “Actions that increase the likelihood of quit attempts succeeding” in paragraph 60 of the draft guidelines, the words “medications are” should be replaced with “cessation treatment is”. While some aspects of cessation treatment could be provided at low or no cost, it would be hard to make medications available free of or at an affordable cost in countries where their purchase was not reimbursed.

Dr RAW (United Kingdom of Great Britain and Northern Ireland), speaking in his capacity as a Key Facilitator, said that replacing “medication” with “cessation treatment” would alter the meaning and scope of the bullet point in question, which the working group had intended to deal specifically with medications, not with other aspects of cessation treatment, such as behavioural support.

Mr XU Xiaochao (China) asked whether the beginning of the sentence could be amended to read: “Endeavour to ensure that effective medications”.

The CHAIR invited other delegations to comment on the proposed change, noting that it would weaken the text and that the guidelines were recommendations not requirements.

Mr ABU DAMES (Jordan) said that cessation treatment was very expensive and could not always easily be provided at an affordable cost. Furthermore, success in treatment relied on the authorities making information available to tobacco users, as well as on the training of health workers. Such training was vital in the WHO Eastern Mediterranean Region and he requested support in that area from the Convention Secretariat.

Dr NDYANABANGI (Uganda) said that the draft guidelines were comprehensive and flexible enough to give developing and developed countries alike sufficient latitude in their implementation. Indeed, some were already being implemented by some Parties. There appeared to be consensus on their content and she therefore urged the Committee to approve them without further discussion.

Ms STEENBRUGGHE (Belgium), speaking on behalf of the European Union, said that the European Union had similar concerns to those expressed by the representative of China over the short-term prospects for making medications available free of charge or at an affordable cost. However, the guidelines should be regarded as a “gold standard” that gave Parties the flexibility to implement them on their own terms. They could therefore be adopted without the amendment proposed by China.

Mr DE SOUZA-GOMES (Brazil), supporting the comments by the representatives of Uganda and Belgium on behalf of the European Union, said that the Committee should approve the draft guidelines without further delay.

Mr XU Xiaochao (China) said that in a spirit of compromise and flexibility his delegation would withdraw its requested amendment and support the adoption of the guidelines in their current form.

The CHAIR thanked the representative of China and asked the representative of the Syrian Arab Republic whether, in a similar spirit of compromise, he would be willing to reconsider the written amendments that he was preparing to submit on behalf of the Parties in the WHO Eastern Mediterranean Region.

Dr ALMUNIF (Saudi Arabia), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, said that the draft guidelines should be adopted, with the understanding that they could subsequently be adapted to national situations.

Dr ABOU AL ZAHAB (Syrian Arab Republic) said that the aim of the amendments he had proposed had been to overcome possible obstacles to implementation of Article 14 in his own country, and that, as pointed out by the representative of Saudi Arabia, adaptations could be made at the national level. He therefore agreed to join the consensus on the adoption of the guidelines.

Ms ARNOTT (Framework Convention Alliance on Tobacco Control), speaking at the invitation of the CHAIR, noted with satisfaction that the working group had included representatives of low-, middle- and high-income countries and had, in keeping with the spirit of paragraph 1 of Article 14 of the Convention, taken into account the varying levels of development and economic circumstances of Parties to the Convention. She urged the Conference of the Parties to adopt the draft guidelines unchanged.

The CHAIR, commending the work of the working group, said that in the absence of any further comments she took it that the Committee wished to recommend to the Conference of the Parties that it adopt both the draft guidelines for implementation of Article 14 of the Convention and the draft decision.

The draft decision on guidelines for implementation of Article 14 of the Convention was approved.¹

Economically sustainable alternatives to tobacco growing (in relation to Articles 17 and 18 of the Convention): progress report of the working group: Item 5.5 of the Agenda (Document FCTC/COP/4/9)

The CHAIR, introducing the item, noted that document FCTC/COP/4/9 was a progress report and drew attention to the request in paragraph 15 for clarification from the Conference of the Parties as to whether the working group should include individual sellers, as referred to in Article 17 of the Convention, in the scope of its work.

Mr FIGUEIRA DE MELO (Brazil), speaking in his capacity as a Key Facilitator of the working group on economically sustainable alternatives to tobacco growing, said that obtaining economically sustainable alternatives to tobacco growing was very important to countries and populations that had been cultivating the crop for decades if not centuries. It formed the core of the Convention, and Articles 17 and 18 could not be considered in isolation from the message contained in Article 4.6. There was debate in many countries about the fate of tobacco growers and whether it was fair that they should, for the good of public health, be deprived of their livelihood. One of the main tasks of the working group had been to develop a scientific methodology for assessing the feasibility and results of diversification policies. Scientific research on the subject was crucial to the successful implementation of the Convention. That was why it was recommended that the Conference of the Parties should extend the working group's mandate.

Mr REGALADO PINEDA (Mexico), speaking in his capacity as a Key Facilitator, said that the working group should continue to focus on the core issue of tobacco growers and workers, as called for in the Convention, and that the matter of individual sellers should be considered, if there were time, at a later stage.

¹ Adopted by the Conference of the Parties as decision FCTC/COP4(8).

Mr DESIRAJU (India), speaking in his capacity as a Key Facilitator, drew attention to a draft decision proposed by Brazil, India, Mexico and Turkey, Key Facilitators of the working group, which read:

The Conference of the Parties,

Recalling the report of the study group on economically sustainable alternatives to tobacco growing to the Conference of the Parties at its third session;¹

Recalling its decision FCTC/COP3(16) establishing a working group on economically sustainable alternatives to tobacco growing in relation to Articles 17 and 18 of the WHO Framework Convention on Tobacco Control;

Noting the report of the working group to the Conference of the Parties at its fourth session on the progress of its work,²

1. DECIDES:

(1) to request the working group established by decision FCTC/COP/3(16) to continue its work and to submit a working report to the Conference of the Parties at its fifth session, that will include, inter alia, policy options and recommendations for implementation of economically sustainable alternatives to tobacco growing in relation to Articles 17 and 18;

(2) to invite Parties, by 31 January 2011, to confirm to the Convention Secretariat their intention to continue as members of the working group or their intention to join the working group;³

2. ALSO DECIDES:

(1) to request the Convention Secretariat to provide assistance and to make the necessary arrangements, including budgetary arrangements, for the working group to complete its work and to ensure, in consultation with the Bureau, that Parties have access to the draft text (for example via a protected web site) and can provide comments, before the circulation of policy options and recommendations to the Conference of the Parties;

(2) to adopt the timeline set out below:

¹ Document FCTC/COP/3/11.

² Document FCTC/COP/4/9.

³ Current membership of the working group is as follows:

– Key Facilitators: Brazil, Greece, India, Mexico and Turkey;

– Partners: Bangladesh, Ghana, Iran (Islamic Republic of), Lao People's Democratic Republic, Mali, Philippines,

Syrian Arab Republic, Thailand, Turkey, United Republic of Tanzania.

Draft report made available by the Secretariat for comments by the Parties	At least six months before the fifth session of the Conference of the Parties
Submission of the final draft report by the working group to the Secretariat	At least three months before the opening day of the fifth session of the Conference of the Parties
Circulation to the Conference of the Parties	At least 60 days before the opening day of the fifth session of the Conference of the Parties in accordance with Rule 8 of the Rules of Procedure of the Conference of the Parties

Mr MASOMHE (United Republic of Tanzania), speaking on behalf of the Parties in the WHO African Region, said that he supported the guiding principles and strategies developed by the working group for the implementation of Articles 17 and 18 of the Convention. It was important, however, to consider the need for resources for research and financial assistance to support tobacco growers willing to switch to alternative crops. The working group should conduct wider consultation because the implementation of Articles 17 and 18 called for interdisciplinary technical input in areas ranging from agriculture to economics, and from those with entrepreneurial knowledge. He supported the recommendations contained in paragraph 14 of the group's report, namely that its membership should be reviewed with a view to enabling more Parties to contribute to its work and that its mandate should be extended in order to enable it to complete its work and submit a final report to the Conference of the Parties at its fifth session.

Mr DESIRAJU (India), speaking on behalf of the Parties in the WHO South-East Asia Region, said the draft decision should be adopted and that the membership of the working group should be expanded to include more Parties with extensive tobacco growing regions. He understood that funding had been made available for a third meeting of the working group in the 2010–2011 biennium, but suggested that a fourth might be necessary in 2012, in the run-up to the fifth session of the Conference of the Parties. On the question of individual sellers, he said that even if theirs were not "primary needs" like those of tobacco workers and growers, they too depended on tobacco for their livelihoods. Although workers and growers were the primary focus of Article 17 of the Convention, individual sellers were also mentioned in that Article. Clearly, therefore, they should be included in the scope of the working group's work. It could be left to the Key Facilitators to determine how, exactly, the issue should be addressed.

Ms EMMERLING (European Union) said that she agreed with the recommendations to extend the mandate of the working group and to review its membership, and supported the adoption of the draft decision. However, the group should have some flexibility as to whether policy options and recommendations were submitted to the fifth session of the Conference of the Parties or included in a subsequent report. The word "will" should therefore be replaced with "may" in the phrase "that will include, inter alia, policy options and recommendations" in subparagraph 1(1) of the draft decision. Regarding the budgetary and other assistance to be provided for the group to continue its work, the matter would be considered in Committee B. While awaiting the outcome of the discussions, subparagraph 2(1) should be amended to read: "to request the Convention Secretariat to make the necessary arrangements for the working group to complete its work and to ensure that Parties have access to the draft text". In the interests of producing a clear and straightforward decision, subparagraph 2(2) should perhaps be removed. Lastly, the European Union had been, and confirmed its intention to continue as, a Partner of the working group and, hence, should be added to the list in footnote 2.

With regard to the progress report, she regretted that the proposed policy options and recommendations in the Annex to document FCTC/COP/4/9 had not included information on the

economic situation in the tobacco sector, especially with regard to the situation of small-scale farmers, as such information was crucial to efforts to promote economically viable alternatives. Guiding principle 2 called for the involvement of representatives of tobacco workers and growers at every stage of policy development and implementation, yet they were not involved in the activities of the working group. They should be, since they were likely to be affected by the group's work. Their participation should be in accordance with Article 5.3 of the Convention and the relevant guidelines. Referring to paragraph 6.6 of the Annex to the report, she said that reducing the area under tobacco ran counter to the spirit of Article 17, which was to promote alternatives to tobacco growing. With regard to the list of strategies for developing alternative crops and livelihoods, the focus should be on those of practical relevance, especially strategies 4.2, 4.8 and 4.9. On the question of the inclusion of individual sellers in the scope of the working group, she requested clarification of the concept. She would submit more detailed comments on the progress report in writing.

The CHAIR suggested that the Committee should focus on the draft decision. Any comments on the progress report could be submitted to the Convention Secretariat or the Key Facilitators.

Mr KHAN (Pakistan), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, welcomed the recommendation to the Conference of the Parties that the membership of the working group should be reviewed.

Dr LEÓN CHEMPÉN (Peru), speaking on behalf of the Parties in the WHO Region of the Americas, said that those Parties agreed with the recommendation to extend the mandate of the working group and supported the adoption of the draft decision without change. The only exception was Canada, and the representative of Canada had an amendment to propose.

Mr CHOINIÈRE (Canada) said that he supported the comment made by the representative of the European Union regarding paragraph 6.6 of the Annex to document FCTC/COP/4/9. He suggested that the phrase "but will exclude policy options and recommendations that deal with the reduction of the area under tobacco cultivation" should be added at the end of subparagraph 1(1) of the draft decision, after the words "in relation to Articles 17 and 18". He also supported the amendment to subparagraph 1(1) proposed by the representative of the European Union.

Dr SAHIB (Iraq) observed that the tobacco industry was always seeking new ways around the Convention, such as the production of electronic cigarettes. If restrictions were placed on tobacco growing, it would doubtless seek alternatives such as synthetic tobacco, some of which might be more toxic than real tobacco. It was a vicious circle that the working group and the Conference of the Parties must redouble their efforts to break.

Mr LU Zhikun (China) expressed support for the recommendation that the working group should continue its work and agreement with the suggestion by the representative of the European Union that tobacco growers should be involved in that work. He said that the identification of alternative crops should be based on scientific evidence and that in the development of programmes and policies, targets from previous sessions of the Conference should be taken into account.

Dr DIARRA (Mali) said that the working group should continue to seek a reduction in tobacco growing in favour of economically viable alternative crops. Agriculture ministries should be involved in the work of the group, because it was those ministries that would take the lead in bringing about a shift from tobacco growing to the cultivation of economically viable alternative crops.

Mrs AKAKANDELWA SITWALA (Zambia) said that she supported the recommendation to extend the mandate of the working group. She confirmed that it was the intention of Zambia to continue to participate in its work. More must be done to identify economically sustainable alternatives to tobacco growing. She supported the comments made by the representatives of the

European Union and the United Republic of Tanzania with regard to broadening participation in the working group to include tobacco growers and others.

Dr NZEYIMANA (Rwanda), emphasizing the importance of identifying economically viable alternative crops for low-income countries whose economies relied heavily on tobacco growing, said that the mandate of the working group should be extended. She urged the Committee to approve the draft decision without delay.

Mr MBUYU MUTEBA YAMBELE (Democratic Republic of the Congo) said that he supported the extension of the mandate of the working group and the suggestion that ministries of agriculture should be involved in that work, with a view to forging partnerships with the agriculture sector in the implementation of the Convention.

The CHAIR suggested that the Committee should suspend its consideration of agenda item 5.5 and resume the discussion at its next meeting. Parties wishing to propose amendments to the draft decision should submit them to the Convention Secretariat so that a revised version could be prepared. Any suggestions regarding the future of the working group should also be submitted to the Convention Secretariat, which would forward them to the Conference of the Parties for incorporation into the terms of reference for the next phase of the working group's work, should the Conference decide to extend its mandate.

It was so agreed.

(For continuation of the discussion, see summary record of the fourth meeting, section 1.)

The meeting rose at 18:10.

FOURTH MEETING

Thursday, 18 November 2010, at 18:55

Chair: Dr NUNTAVARN VICHIT-VADAKAN (Thailand)

1. TREATY INSTRUMENTS AND TECHNICAL MATTERS: Item 5 of the Agenda (continued)

Economically sustainable alternatives to tobacco growing (in relation to Articles 17 and 18 of the Convention): progress report of the working group: Item 5.5 of the Agenda (Document FCTC/COP/4/9) (continued)

The CHAIR suggested that the Committee should continue its consideration of the progress report contained in document FCTC/COP/4/9 and of the draft decision that had been introduced at the previous meeting on behalf of the Key Facilitators of the working group on Articles 17 and 18 of the WHO Framework Convention on Tobacco Control, to which amendments had been proposed. A decision by the Committee would be needed, and subsequently put to the plenary, on whether the working group should continue its work and on its terms of reference.

Ms EMMERLING (European Union) recalled that she had asked for clarification of the term “individual sellers” which appeared in paragraph 15 of document FCTC/COP/4/9.

Mr REGALADO PINEDA (Mexico), speaking in his capacity as a Key Facilitator of the working group on Articles 17 and 18, said that the term “individual sellers” referred to intermediaries in the supply chain between small-scale tobacco leaf producers and distributors. There was a concern that, in some countries, including Mexico, individual sellers did not receive government support or the opportunity to diversify when tobacco growers switched to alternative crops.

Dr NDYANABANGI (Uganda) said that she fully supported the proposal that the working group should continue its work. As a tobacco-growing country, Uganda was keen to receive guidance on its efforts to introduce economically sustainable alternatives for its tobacco growers. Uganda was also willing to participate in the group.

Mr DLAMINI (Swaziland) said that he accepted the proposals to extend the working group’s mandate and to expand its membership. He supported approval of the draft decision, which he hoped would lead to completion of the guidelines as soon as possible. He would forward proposed textual changes to the draft decision to the Key Facilitators.

Mr MALOBOKA (Namibia) said that that work on Articles 17 and 18 should continue.

The CHAIR said that, if she saw no objection, she would take it that the Committee wished to recommend to the Conference of the Parties that the working group be requested to continue its work.

It was so agreed.

Returning to the text of the draft decision, the CHAIR recalled that there had been a proposal by the representative of Canada to add the phrase “but will exclude policy options and recommendations that deal with the reduction of the area under tobacco cultivation” to the end of subparagraph 1(1).

Mr HAZLEWOOD (Canada) said that the amendment was prompted by a concern that the working group might be going beyond the scope of Articles 17 and 18, but in the light of reassurances received from the group, he was willing to withdraw it.

The CHAIR invited the Committee to consider the amendments put forward on behalf of the European Union at the previous meeting: that the word “will” be replaced with “may” in subparagraph 1(1); and that the phrases “to provide assistance and to”, “including budgetary arrangements” and “in consultation with the Bureau” in subparagraph 2(1) be placed in square brackets until it had been ascertained that the budgetary resources necessary for the working group to continue its work were available.

Mr FIGUEIRA DE MELO (Brazil), speaking on behalf of the Key Facilitators, said that guidelines on Articles 17 and 18 would be key to implementation of the Convention. The treaty was very young, but it would need to mature quickly in order to deal with the centuries-old activity of tobacco growing, which was central to the economies of many countries that were striving to develop. The working group had been mandated to develop a methodology, to research feasible alternatives and to come up with policy options and recommendations to promote diversification. Guaranteed budgetary support would be essential to that process. The proposal to place such a key factor as a budget in square brackets might well lead to it being seen as non-essential, which would in turn undermine efforts to improve public health encapsulated in the Convention. Therefore, he appealed to the representative of the European Union to reconsider the proposed amendments before the draft decision was submitted to the plenary for consideration.

Ms EMMERLING (European Union) said that she shared the concerns outlined by the representative of Brazil and supported the proposal that the working group should continue its work. However, it would be advisable to maintain the square brackets around the words “to provide assistance and to” and “including budgetary arrangements” in subparagraph 2(1) until Committee B had completed the budgetary negotiations and the necessary resources had been allocated. The words “in consultation with the Bureau” should be deleted. A similar amendment might be required for the draft decision on Articles 9 and 10 of the Convention.

The CHAIR said that she could inform the Chair of Committee B that Committee A had approved the continuation of the working group.

Mr DE SOUZA-GOMES (Brazil) said that if the resources already existed then there was no reason to keep the square brackets. Moreover, many Parties supported the proposal to expand the working groups, which would necessitate a larger budget. A possible compromise solution might be to amend subparagraph 2(1) to read: “to request the Convention Secretariat to provide assistance and to make all the necessary arrangements for the working group to complete its work”.

Ms EMMERLING (European Union) said that the language as it stood would be acceptable once the budget had been agreed. In the meantime, it would be preferable not to seek a compromise solution.

The CHAIR said that if the Committee had adopted the compromise wording suggested by the representative of Brazil, it would have been clear to Committee B that additional funding was required in order for the working group to continue its work. In the absence of such wording, she would undertake to consult with the Chair of Committee B to request that this topic should be given equal consideration to other items in budgetary discussions. In the absence of any objection, she would take

it that the Committee agreed to suspend the discussion of agenda item 5.5 pending the outcome of the discussions in Committee B.

It was so agreed.

Measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship (in relation to recommendations of the former working group on Article 13 of the Convention): Item 5.6 of the Agenda (Document FCTC/COP/4/10)

The CHAIR drew the attention of the Committee to the report on the implications of the recommendations of the working group on possible key elements of a protocol on cross-border advertising, promotion and sponsorship contained in document FCTC/COP/4/10 and to decision FCTC/COP3(14) set out in the Annex thereto.

Mr MALOBOKA (Namibia), speaking on behalf of the Parties in the WHO African Region, said that it was well-documented that advertising, promotion and sponsorship led to an increase in tobacco use and that comprehensive bans led to a decrease. Therefore, he supported the recommendations of the working group and the proposal to establish an expert group on the terms set out in subparagraph 2(7) of the decision.

Mr MOHAMED (Maldives), speaking on behalf of the Parties in the WHO South-East Asia Region, supported the recommendations presented in document FCTC/COP/4/10, including the establishment of an expert group.

Mr HOSHINO (Japan) said that decisions concerning the establishment of the expert group and the dedicated web site should not be taken until Committee A had coordinated with Committee B on the budgetary implications.

Ms SCHWERDTFEGER (Convention Secretariat) said that the estimated cost of establishing an expert group and of the two meetings appeared on line 2.4 of the proposed workplan and budget for 2012–2013,¹ although of course Committee B might amend the figures proposed.

Ms EMMERLING (European Union) said that the guidelines adopted by the Conference of the Parties at its third session on implementation of Article 13 did not focus on the cross-border dimension of advertising, promotion and sponsorship. She added that the European Union was keen to finalize the guidelines on Articles 9, 10, 12 and 14, as well as the draft protocol to eliminate illicit trade in tobacco products, before any work began on a protocol on cross-border advertising, promotion and sponsorship, as proposed by the working group. The focus should be on full implementation of Article 13, in line with other priorities in the Convention. If other Parties decided that the work on the cross-border dimension should continue, then that would be acceptable, provided that careful consideration was given to the budgetary implications and that the funding was available.

Ms PAINE (Canada) supported the views expressed by the representative of the European Union. The introduction of bans by each Party would help to curb cross-border advertising. Difficulties that arose as a result of having trading partners that were not Parties to the Convention could be reduced by including them in efforts to help curb cross-border advertising.

Dr KUARTEI (Palau) supported the views expressed on behalf of the Parties in the WHO African Region and the WHO South-East Asia Region. In view of their limited experience and

¹ See Annex 1 of document FCTC/COP/4/21.

resources, many developing country Parties would require the assistance of developed countries in tackling cross-border advertising.

The CHAIR said that prioritization of activities was required. She suggested that the Committee should approve the recommendations contained in document FCTC/COP/4/10 and submit the document to the plenary, with the comments made by the representative of the European Union contained in an addendum. It was the responsibility of the Conference of the Parties to decide on activities in the light of any budgetary constraints. In the absence of any objection, she took it that the Committee wished to accept her suggestion.

It was so agreed.

(For continuation of the discussion, see summary record of the sixth meeting, section 1.)

Technical report on price and tax policies (in relation to Article 6 of the Convention): Item 5.7 of the Agenda (Document FCTC/COP/4/11).

The CHAIR, introducing the item, drew attention to the technical report by WHO's Tobacco Free Initiative contained in document FCTC/COP/4/11.

Ms PERUCIC (WHO Secretariat, Tobacco Free Initiative) said that the report set out the public-health grounds for the taxation of tobacco products. It gave an overview of the different types of taxes imposed in different countries; the objectives of tobacco taxation, such as revenue generation and protecting public health; the counter-arguments, such as concerns that they were regressive and had a negative impact on employment and inflation; and the issue of illicit trade. It also examined the use of tax revenues, including earmarking them for tobacco control and health promotion. Finally, the report concluded that tax policies are important measures to reduce the affordability and, hence, consumption of tobacco products; that the aim of tax increases is to raise prices and minimize price gaps between brands, thus reducing opportunities to switch to cheaper brands; and finally, that it is important for governments to consider using of a share of revenues from tobacco tax increases to fund health promotion and tobacco control.

The CHAIR invited the Committee to respond to the request in paragraph 43 of the report to provide further guidance, and drew attention to a draft decision on the establishment of a working group to elaborate guidelines for implementation of Article 6 of the Convention, which read:

Technical report on price and tax policies (in relation to Article 6 of the Convention)

Draft decision proposed by Cambodia, Cook Islands, Micronesia (Federated States of), Mongolia, Niue, Palau, Samoa, Solomon Islands, Tuvalu and Vanuatu

The Conference of the Parties,

Recalling its decision FCTC/COP3(8), which invited WHO's Tobacco Free Initiative, through the Convention Secretariat, to develop a comprehensive technical report relating to price and tax policies, based on expert advice;

Noting the report on price and tax policies (in relation to Article 6 of the Convention) prepared by WHO's Tobacco Free Initiative and presented by the Convention Secretariat for consideration by the Conference of the Parties at its fourth session,¹

DECIDES:

(1) to establish a working group for the elaboration of guidelines for implementation of Article 6 (*Price and tax measures to reduce the demand for tobacco*) of the WHO Framework Convention on Tobacco Control, which shall present a progress report or, if possible, draft guidelines for consideration by the Conference of the Parties at its fifth session;

(2) to request the working group to take into account the report prepared by WHO's Tobacco Free Initiative and presented by the Convention Secretariat for consideration by the Conference of the Parties at its fourth session;

(3) to request the Convention Secretariat to invite relevant intergovernmental and nongovernmental organizations with specific expertise in this area to actively participate in and contribute to the work of the working group;

(4) to establish initial membership of the working group as follows:

Key facilitators:

Partners:

(5) to set 31 January 2011 as the deadline for other Parties to announce to the Convention Secretariat their participation as partners in the working group;

(6) to request the Convention Secretariat to provide assistance and make the necessary arrangements, including budgetary arrangements, for the working group to complete its work and to ensure, in consultation with the Bureau, that Parties have access to the draft text (for example, via a protected web site) and can provide comments before the circulation of the draft guidelines to the Conference of the Parties;

(7) to adopt the timeline set out below:

Draft report made available by the Secretariat for comments by the Parties	At least six months before the fifth session of the Conference of the Parties
Submission of the final draft report by the working group to the Secretariat	At least three months before the opening day of the fifth session of the Conference of the Parties
Circulation to the Conference of the Parties	At least 60 days before the opening day of the fifth session of the Conference of the Parties in accordance with Rule 8 of the Rules of Procedure of the Conference of the Parties

Ms MATSAU (South Africa), speaking on behalf of the Parties in the WHO African Region, said that Article 6 of the Convention could help to bring about a rapid and significant reduction in tobacco use and prevent the initiation of young people. Tobacco taxation was the strongest tool in a government's tobacco-control arsenal. Tobacco-product taxes could influence prices, which were the key determinant of tobacco-use prevalence in low- and middle-income countries and among vulnerable population groups, such as young and poor people. Beyond their traditional function of revenue generation, more and more governments were beginning to see the public-health benefits of

¹ Document FCTC/COP/4/11.

such taxes. She therefore supported the establishment of a working group to elaborate guidelines for the implementation of Article 6, which would serve as a forum for considering best practices on tax and price policy. With the draft protocol to eliminate illicit trade in tobacco products nearing completion, it was an ideal time to begin that work.

Mr MOHAMED (Maldives), speaking on behalf of the Parties in the WHO South-East Asia Region, supported the statement made on behalf of the Parties in the WHO African Region. The tobacco-control efforts of the many “low-resource” countries in the Region had been hampered by fluctuating revenues and limited means. Nevertheless, some noteworthy successes had been achieved through the policy of earmarking taxes. He said that he supported the proposal to establish a working group to develop guidelines for implementation of Article 6 of the Convention.

Mr DIOUF (Senegal) said that he supported the statement made on behalf of the Parties in the WHO African Region and emphasized the importance of Article 6 of the Convention in tobacco-control activities. Taxation had always been regarded in Senegal as a social and economic policy tool whose purpose, as stipulated in its tax legislation, was to generate greater revenues and to protect public health by reducing tobacco consumption. However, tax revenues in developing countries such as Senegal were used for general state spending and the porosity of the borders enabled tobacco users to switch to illicit products in the event of a tax increase. Another aspect to be considered was the harmonization of the tax legislation in the Member States of the West African Economic and Monetary Union. Senegal supported the establishment of a working group to examine the matter further.

Ms EMMERLING (European Union) said that price and tax measures, as stipulated in Article 6 of the Convention, were an effective means of reducing demand for tobacco within a comprehensive tobacco-control policy, and they should be adopted without prejudice to a Party’s sovereign right to determine and establish its own taxation policies. The European Union was required to ensure a high level of health protection in its policies and activities; a requirement referred to, along with the Convention itself, in its legislation on taxation of manufactured tobacco. The European Union had the highest cigarette tax levels in the world and applied a mix of specific and *ad valorem* taxes. While it already used minimum tax levels on all tobacco products to reduce tobacco consumption, its legislation did not prescribe a specific use for the revenues generated.

Given the many challenges facing the Conference of the Parties and the difficult budgetary situation in a number of the Parties to the Convention, the European Union did not support the establishment of a working group to elaborate guidelines on Article 6.

Mr HOSHINO (Japan) said that, while he recognized the importance of price and tax policies in tobacco control, Parties should have the sovereign right to determine and establish their own policies, as explicitly stated in Article 6.2 of the Convention. There were already too many working groups and establishing another would have serious budgetary implications. He therefore did not support the wording of the draft decision.

Mr LU Zhikun (China) said that the report provided a good basis for discussions on price and tax policies, which were linked to a Party’s sovereign rights. It was a sensitive area requiring prudence of the kind that the Conference of the Parties had shown at its third session. China, like the European Union and Japan, did not support the proposal to establish a working group.

Dr ARIFFIN OMAR (Malaysia) said that measures such as frequent increases in tobacco-product taxes, a minimum price for cigarettes and a ban on cut-price offers had proved to be an effective means of curbing tobacco consumption in Malaysia, especially among young people. He reiterated the importance of establishing a protocol to eliminate illicit trade in tobacco products, given the frequently alleged links between that trade and higher taxes. His delegation supported the proposal to establish a working group to develop guidelines for implementation of Article 6.

Dr CAVALCANTE (Brazil) said that the report of WHO's Tobacco Free Initiative would be useful in helping governments to plan their implementation of Article 6, which was crucial to achieving the objectives of the Convention. Brazil had recently been contacted by finance ministry officials from a number of other countries seeking to learn about its tax policies and the legislation it had introduced in order to combat illicit trade. Tobacco control would be bolstered by greater integration of the economic and health sectors. Disseminating the content of the report would help to raise awareness of Article 6 among tax administration agencies. The Convention Secretariat and the Tobacco Free Initiative might also develop a working relationship with the Inter-American Centre of Tax Administration, which was a forum for sharing experience and best practices.

Dr LEWIS-FULLER (Jamaica) shared the views expressed by the representative of South Africa and others on the positive effects of tobacco-product taxes on the economy and public health. Policing Jamaica, the policy of introducing annual tax increases since 2003 had led to a decrease in consumption; it had generated enough revenue to make significant amounts of funding available for health services and it had helped to keep inflation in check. Fears raised by the tobacco industry that the policy would lead to the collapse of the economy had proved unfounded. However, the positive effects were at risk of being eroded by the large quantities of cheap bidis flooding the Jamaican market, much of which had entered the country illegally. She appealed to Parties facing similar situations to share their experiences.

Dr KUARTEI (Palau) said that taxation policy was the sole responsibility of sovereign States. The public-health debate must achieve a balance between price and tax policies on the one hand and measures to combat illicit trade on the other, since the absence of that balance would result in tobacco users seeking to obtain their supplies on the black market. He said that he supported the comments made by the representatives of Jamaica, Malaysia, the Maldives and South Africa.

Mr MBUYU MUTEBA YAMBELE (Democratic Republic of the Congo) said that although his country had increased taxes, guidelines on how to allocate the revenues generated to tobacco-control measures would be useful. The Government of the Democratic Republic of the Congo had planned a meeting of health, finance and other concerned ministries in order to harmonize efforts to implement the Convention, but those plans had been stalled by a lack of funding. Speedy completion of the guidelines would benefit global tobacco-control efforts.

Mr LOM (Observer, United States of America)¹ said that the report of WHO's Tobacco Free Initiative did not adequately discuss the trade-off between revenue generation and consumption levels after taxes were increased, since in the long run, an increase in the rate of tax would lead to a decline in revenues as consumption fell. It was important to improve ways of estimating consumption because under-reporting could affect estimates of tax evasion, which were crucial to the relevance of tobacco-control policy decisions: the right policy for small-scale tax evasion was not necessarily right for large-scale evasion. It was a major challenge, and any models that the Parties and the Tobacco Free Initiative might wish to share would be appreciated. Meanwhile, simple and transparent tax structures might, as stated in paragraph 20 of the report, reduce opportunities for tax avoidance and tax evasion but would not necessarily remove the incentive, especially when taxes were high.

He said that paragraph 21 of the report recommended the application of a single rate of specific taxation to all types and brands of tobacco products. It might not be appropriate to do so, however, without prior knowledge of the relevant cross-price elasticities. Some Parties would opt for a single-rate tax because it was easier to administer, but more thought should be given to the economic value of

¹ Participating by virtue of Rule 29 of the Rules of Procedure of the Conference of the Parties to the WHO Framework Convention on Tobacco Control.

ad valorem taxes. Such taxes would not alter the relative prices of different tobacco products, which was a key factor in determining which goods were purchased, but would alter the relative prices of tobacco products versus non-tobacco products. Meanwhile, paragraph 24 stated that nominal tax increases were not adequate to achieve public-health objectives, which, if the goal was to reduce consumption, was another strong argument in favour of *ad valorem* taxes in countries where tax increases were infrequent.

The statement in paragraph 25 that increases in the real retail price of tobacco products must be greater than increases in real incomes primarily applied to low- and middle-income countries. Those products could conceivably switch from being normal goods to inferior goods in such countries, as suggested by surveys of cigarette consumption in low- and middle-income households in the United States of America.

Finally, paragraph 30 recommended that tobacco farmers be helped to switch to alternative crops. That would require research to determine the next best profit-maximizing crop, taking into account local soil types and climatic conditions; the minimum cost to the taxpayer of subsidizing the switch; and the mechanisms to put in place to prevent fraudulent claims for subsidies from farmers not growing tobacco.

Mr GELVEZ BUSTAMANTE (Bolivarian Republic of Venezuela) outlined the policy implemented in his country of increasing the share of tax in the retail price of cigarettes. This policy included safeguards to prevent double taxation, thereby preventing the tobacco industry from capitalizing on miscalculations and obstructing application. Such measures had led to a decrease in consumption without affecting the revenues collected, and guidelines were needed to standardize the appropriate procedures. Guidelines should also be elaborated to ensure implementation of Article 6 of the Convention. Meanwhile, revenue generated from taxes on all tobacco production in general had remained high while tobacco sales had fallen, further indicating a fall in consumption.

Mr THOMPSON (Observer, Framework Convention Alliance on Tobacco Control)¹ said that it would be important to set up a working group to elaborate guidelines on implementation of Article 6. The working group would not seek to set tax levels for individual Parties, but it should be understood that tax policy was widely underused in many parts of the world in tobacco control because finance ministries were unaware of the strong link between raising taxes and prices and reducing the deaths resulting from tobacco consumption. Because of heavy tobacco industry lobbying, many finance ministries also believed incorrectly that significantly raising tobacco taxes would lead to a drop in revenue although it was difficult to find an example of a country where that had been the case. The working group would serve to foster exchanges of expertise and experience and would help low- and middle-income countries in particular to improve their use of the essential public health and revenue-generating tool of tobacco taxation.

The CHAIR, noting the broad support for the establishment of a working group on Article 6, suggested that the Committee approve the draft decision and submit it to the plenary, together with a note reflecting the concerns of those opposed to the proposal on the grounds that there were other priorities and budgetary constraints to consider; even though a budget allocation for the group had already been put forward in Committee B. It would then be left to the plenary to examine the proposal, alongside all the others on the table, and to decide which of them to prioritize in the light of any budgetary constraints.

¹ Participating by virtue of Rule 31 of the Rules of Procedure of the Conference of the Parties to the WHO Framework Convention on Tobacco Control.

Mr HOSHINO (Japan) recalled that some Parties had also expressed concern that a working group might encroach on their sovereign right to determine their own tax policies.

Dr ARIFFIN OMAR (Malaysia), expressing support for the comments by the representative of South Africa, said that he did not see how the question of sovereign rights related to the establishment of a working group.

Ms EMMERLING (European Union) reiterated her earlier comment that it was not the right time to establish a working group on Article 6, given the budgetary difficulties in several Member States and the fact that the main priority at present was to concentrate on finalizing the draft protocol to eliminate illicit trade in tobacco products. It might be possible to consider the proposal at a later stage.

Ms MATSAU (South Africa) said that some Parties, including South Africa, felt strongly that a working group should be created since they could not implement Article 6 of the Convention without further guidance. Membership of the working group could be voluntary and therefore those Parties that were opposed to it would not be obliged to join.

Mr DE SOUZA-GOMES (Brazil) said that although some Parties had opposed the creation of a working group owing to budgetary constraints, such a group would be extremely important for developing countries. The majority view of the Parties must also be respected. Arguing that the resources were lacking for such critical work would undermine implementation of the Convention. Therefore, he said that he supported the comments made by the representative of South Africa.

Mr DIOUF (Senegal) said that he supported the comments made by the representative of South Africa. Tax revenues played a key role in enabling countries such as Senegal to address their public health and other social concerns, and a working group on Article 6 would be essential to successful implementation of the measures prescribed.

Dr JÁCOME (Ecuador) said that it was hard for developing countries to obtain reliable evidence of what was stated in the report by WHO's Tobacco Free Initiative. The guidelines were needed to protect the lives and health of the people most in need and, hence, to achieve the fundamental objective of the Conference of the Parties. He therefore supported the establishment of the working group.

Dr HOZA (Central African Republic) said that a small number of Parties were indifferent to the instrumental role of taxation in combating tobacco consumption, but that developing countries continued to regard it as a key tool whose value was not to be underestimated.

Dr DIARRA (Mali) said that he also supported the establishment of a working group. Its work would give Parties the opportunity to develop their tax systems without in any way encroaching on their right to act in accordance with national policy.

Ms HERRERA (Bolivarian Republic of Venezuela) said that she supported the establishment of a working group.

The CHAIR invited the representative of the European Union to respond to the view of many Parties that tax measures were an important part of tobacco-control efforts, and that the cost of setting up the working group would be far outweighed by the benefits. Approving the proposal would allow it to be examined in plenary alongside all the others and, in the event of budgetary constraints, the Conference of the Parties could make an informed decision as to which to prioritize; to reject it in Committee would be to minimize its importance in the eyes of many Parties.

Ms EMMERLING (European Union) said that the question was whether to set up a working group on Article 6 and not whether the European Union would take part. By the close of proceedings, the Committee might have discussed three other potential groups: on Articles 9 and 10, Article 13, and on Articles 17 and 18; in addition to which, there was the draft protocol to consider. It was not possible to do everything at once. Hence the Conference of the Parties should not deal with the proposed draft decision at the current session, which did not exclude the possibility of doing so at a subsequent session. Nevertheless, in the light of the feelings expressed by other speakers, consultations would take place among the 27 Parties to the Convention in the European Union, and the results of those consultations would be reported to the Committee in the morning. In the meantime, she requested that the agenda item be left open.

The CHAIR, noting the request by the representative of the European Union, suggested that the Committee should suspend its consideration of agenda item 5.7 until the following morning, and that the representatives China and Japan might also reconsider their positions.

It was so agreed.

(For continuation of the discussion, see summary record of the fifth meeting, section 1.)

2. REPORTING, IMPLEMENTATION ASSISTANCE AND INTERNATIONAL COOPERATION: Item 6 of the Agenda

Reports of the Parties and global progress report on implementation of the Convention: Item 6.1 of the Agenda (Documents FCTC/COP/4/14 and FCTC/COP/4/14 Add.1)

Dr SZILAGYI (Convention Secretariat) introduced document FCTC/COP/4/14, Reports of the Parties and global progress in implementation of the Convention: key findings. The full version of the report could be found on the WHO FCTC web site.¹ It was a summary report based on data drawn from Parties' implementation reports: 135 Parties had provided at least one implementation report, and 30 Parties had provided five-year reports. The structure of the document followed that of the Convention itself as well as the reporting instrument.

Regarding implementation of the time-bound requirements of the Convention (measures with a timeline specified in the treaty itself or in the implementation guidelines) only 19 Parties had imposed a comprehensive ban on tobacco use in public places in compliance with Article 8 (Protection from exposure to tobacco smoke), which had a five-year timeline. It had one of the lowest implementation rates of any article, if the comprehensive implementation of all the required measures was taken into account. With respect to Article 11, which had a three-year timeline, a relatively large number of Parties had reported requiring health warnings on tobacco-product packaging, rotation of warnings, and large, clear, visible and legible warnings, although far fewer had regulations regarding the minimum size of principal display areas and the inclusion of pictures or pictograms. As regards Article 13, which had a five-year timeline, less than two thirds of the reporting Parties had introduced a comprehensive advertising ban; only half had included cross-border advertising in the ban; and less than one third of the bans described in the two-year reports had actually qualified as comprehensive according to the revised definition of the term.

Concerning the measures for international cooperation and mutual assistance under Articles 22 and 26, their potential had remained underutilized by many Parties. Transfers of knowledge and technology were crucial to help Parties at a less advanced stage of implementation to strengthen their tobacco-control policies. Parties at a more advanced stage were therefore urged to make a stronger effort to implement those measures in the coming years.

¹ See: http://www.who.int/fctc/reporting/summary_analysis/en/index.html

The section of the report on prevalence of tobacco use had been compiled by WHO's Tobacco Free Initiative. The analysis contained therein used not only the raw data from the Party reports but also weighted averages and comparable estimates, which allowed for comparisons of the findings from different Regions.

Analysis of the reports had shown a high rate of implementation of at least some of the measures under Articles 8, 10, 11, 12 and 16, even at the two-year stage. Data from the five-year reports attested to improvements in implementation rates across the two reporting cycles for selected measures under Article 6, 8, 14 and 15. There had been a slight shift in priorities since submission of the two-year reports, as described in paragraph 113. Gaps between needs and available resources were still a major concern, irrespective of what stage the Parties had reached in their implementation of the Convention.

The quality, completeness and comparability of the data had improved since the revision of the Group 1 questions and the adoption of the Group 2 questions. Furthermore, reporting rates for the two-year reports had increased substantially since the third session of the Conference of the Parties and the five-year rate, while still low, was rapidly on the rise; an additional three Parties had submitted their second report in the previous week. However, many of the expected reports had yet to arrive. Parties were strongly urged to check their assigned deadline in the table in the Annex to the document and, if they were overdue, to submit them as soon as possible.

Mr BOERS (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that he noted the relatively large number of reports received and the improvement in implementation rates revealed in the comparative analysis of data provided by the 30 Parties that had submitted both a two-year and a five-year report. However, many Parties had yet to introduce a comprehensive ban on advertising, promotion and sponsorship, that only half of the bans in place included cross-border advertising, and that less than one in five Parties had adopted policies to provide universal protection from exposure to second-hand tobacco smoke within the five-year deadline stipulated in the guidelines for implementation of Article 8. The continuing work of reporting was an essential tool for monitoring implementation of the Convention, and he encouraged the Convention Secretariat to harmonize the reporting instrument with the WHO Global Tobacco Control Report, as recommended in paragraph 5 of document FCTC/COP/4/15, given the benefits in terms of greater consistency and reduced budgets for reporting.

Dr SEGNON AGUEH (Benin) noted the fact that, as mentioned in the report, there were encouraging rates of implementation on some areas of the Convention.

The CHAIR said that she joined the Convention Secretariat in encouraging Parties to submit their reports in accordance with the timeline set out in the Annex to document FCTC/COP/4/14.

The meeting rose at 21:00.

FIFTH MEETING

Friday, 19 November 2010, at 19:40

Chair: Dr NUNTAVARN VICHIT-VADAKAN (Thailand)

1. TREATY INSTRUMENTS AND TECHNICAL MATTERS: Item 5 of the Agenda (continued)

Guidelines for implementation of Articles 9 and 10 of the Convention: “Regulation of the contents of tobacco products” and “Regulation of tobacco product disclosures”: Item 5.2 of the Agenda (Documents FCTC/COP/4/6 Rev.1 and FCTC/COP/4/INF.DOC./2) (continued from the third meeting)

Mr ALLEN (New Zealand), speaking as chair of the open-ended drafting group formed by the Committee to work on the draft guidelines on Articles 9 and 10, said that the group had succeeded in reaching consensus on all the edited sections of the draft guidelines. Parties’ views differed, however, as to the readiness of the guidelines for adoption: several Parties had indicated strong support for adopting them immediately, whereas others were of the view that it would be premature to do so.

The CHAIR thanked the representative of New Zealand and invited the Committee to consider a draft decision submitted by the European Union and Canada, Key Facilitators of the working group on implementation of Articles 9 and 10 of the Convention, which read:

The Conference of the Parties,

Taking into account Article 7 (Non-price measures to reduce the demand for tobacco), Article 9 (Regulation of the contents of tobacco products) and Article 10 (Regulation of tobacco product disclosures) of the WHO Framework Convention on Tobacco Control (WHO FCTC);

Recalling its decision FCTC/COP1(15) to establish a working group to elaborate guidelines for implementation of Article 9 (Regulation of the contents of tobacco products) and Article 10 (Regulation of tobacco product disclosures) of the WHO FCTC, and its decision FCTC/COP2(14) to extend the work of the working group to include product characteristics, such as design features, to the extent that they affect the objectives of the WHO FCTC;

Recalling its decision FCTC/COP3(9) mandating the working group to continue to monitor the areas set out in its first progress report (document A/FCTC/COP/2/8) which include dependence liability and toxicology, to continue to examine the challenges and potential approaches to setting up a global data repository, to continue its work elaborating guidelines in a step-by-step process, and to submit a first set of draft guidelines to the Conference of the Parties for consideration at its fourth session;

Emphasizing that the aim of the guideline is to assist Parties in meeting their obligations under Articles 9 and 10 of the WHO FCTC and to provide guidance for implementation of these Articles,

1. ADOPTS the partial guidelines for implementation of Article 9 (Regulation of the contents of tobacco products) and Article 10 (Regulation of tobacco product disclosures) of the WHO FCTC contained in the Annex to this decision;
2. WELCOMES the report of the WHO's Tobacco Free Initiative to the Conference of the Parties (document FCTC/COP/4/INF.DOC./2);
3. REQUESTS the Convention Secretariat:
 - (a) to invite WHO's Tobacco Free Initiative to continue the validation of the analytical chemical methods for testing and measuring the cigarette contents and emissions in accordance with the progress report (document FCTC/COP/3/6) and to inform the Conference of the Parties through the Convention Secretariat on a regular basis of the progress made;
 - (b) to make accessible, via a web site, the studies, research and other reference material used in the development of the guidelines for implementation of Articles 9 and 10 of the WHO FCTC;
4. DECIDES to mandate the working group to:
 - (a) continue its work in elaborating guidelines in a step-by-step process, and to submit a second set of draft guidelines to the Conference of the Parties for consideration at its fifth session;
 - (b) continue to monitor areas such as dependence liability and toxicology;
 - (c) examine the regulation of cigarette ignition propensity, as a product characteristic;
5. INVITES Parties, by 31 January 2011, to confirm to the Convention Secretariat their intention to continue as members of the working group or their intention to join the working group;¹
6. ALSO DECIDES, in accordance with decision FCTC/COP3(9):
 - (a) to request the Convention Secretariat to (provide assistance and) make the necessary arrangements (including budgetary arrangements) for the working group to continue its work, and to ensure, in consultation with the Bureau, that Parties have access to the draft text (for example, via a protected web site) and can provide comments before the circulation of the draft guidelines to the Conference of the Parties;
 - (b) to adopt the timeline set out below:

¹ Current membership of the working group is as follows:

– Key Facilitators: Canada, European Union, Norway
– Partners: Algeria, Australia, Brazil, Bulgaria, China, Congo, Denmark, Finland, Ghana, Hungary, India, Jordan, Kenya, Mali, Mexico, Netherlands, Singapore, Thailand, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland.

Draft report made available by the Secretariat for comments by the Parties	At least six months before the opening day of the fifth session of the Conference of the Parties
Submission of the final draft report by the working group to the Secretariat	At least three months before the opening day of the fifth session of the Conference of the Parties
Circulation to the Conference of the Parties	At least 60 days before the opening day of the fifth session of the Conference of the Parties in accordance with Rule 8 of the Rules of Procedure of the Conference of the Parties

Mr XU Xiaochao (China), rising to a point of order, said that, as consensus on the draft guidelines had not been reached within the working group on Articles 9 and 10, the text produced by the drafting group could not be considered a consensus text. He questioned whether it was appropriate for such a text to be submitted for consideration by the Committee.

Mr ALLEN (New Zealand), speaking as chair of the open-ended drafting group, pointed out that he had not said that the text was a consensus text. Consensus had been reached on the parts of the text that had been edited in the light of submissions from Parties, but opinions among the Parties remained divided on whether or not the guidelines were ready for adoption.

The CHAIR said that the text, although not a consensus text, had nonetheless been discussed and agreed upon. She recalled that the drafting group had been asked to try to reach agreement on all the bracketed text, so that it could then be put to the Committee for consideration and approval. She also noted that the draft decision called for several actions in addition to adoption of the partial guidelines.

Mr XU Xiaochao (China) said that the text as a whole had not been agreed upon and that it would therefore be premature for the Committee to discuss it or approve the draft decision.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel), speaking at the request of the CHAIR, asked whether it was because the representative of China did not feel the draft guidelines themselves were ready for adoption that he objected to the Committee's approving the draft decision and thereby recommending to the Conference of the Parties that it adopt the partial guidelines.

Mr XU Xiaochao (China) said that he objected on procedural grounds. The Committee should first consider the outcome of the drafting group's work. Until there was an agreed text, it would be premature to consider the draft decision.

The CHAIR said she would like to hear the perspectives of other Parties on the outcome of the drafting group's work and opened the floor for comment.

Ms ROA (Panama) said that the drafting group had made significant progress and that most delegations had agreed with the text produced. Noting that the Rules of Procedure of the Conference of the Parties provided that decisions could be taken by consensus or by voting, she proposed that the matter be put to a roll-call vote in accordance with Rule 51 of the Rules of Procedure.

Ms EKEMAN (Turkey) said that, while the text could not yet be considered a consensus text, it had been agreed to by a majority of delegations.

Ms LORENZO (Uruguay) said that it was clear that there was considerable support for the draft guidelines, and she therefore seconded the proposal made by the representative of Panama that the Committee proceed to a vote.

Mr COTTERELL (Australia), noting that Australia had been part of the working group that had prepared the draft guidelines, said that his Government had some misgivings about them because they were open to numerous potential legal interpretations, but that it was prepared to support the text produced by the drafting group.

Mr AL JEHANI (Saudi Arabia), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, said that the drafting group had achieved the best possible outcome.

Dr MOUSSA (Niger) said that no text could be totally perfect and he supported the adoption of the draft guidelines.

Ms EMMERLING (European Union) said that a great deal of time and work had gone into negotiating the draft guidelines. The resultant text was one that the majority of Parties could agree upon and that the European Union supported.

Dr HOZA (Central African Republic) said that although the text was not perfect, it did represent progress and he supported it.

Mr MOHAMED (Maldives), speaking on behalf of Parties in the WHO South-East Asian Region, said that he supported the majority view regarding the draft guidelines. Exhaustive efforts had been made to reach consensus, but if ultimately that proved impossible, he would support the idea of putting the matter to a vote.

Dr LÉON CHEMPÉN (Peru), speaking on behalf of the Parties in the WHO Region of the Americas, expressed support for the work done by the drafting group, which had led to near consensus, and for the draft guidelines.

Dr DIARRA (Mali) said that although it had not been possible to reach consensus, the majority of Parties, including Mali, supported the draft guidelines.

Mr CHOINIÈRE (Canada) said that he supported the views expressed by the representative of Peru on behalf of the WHO Region of the Americas.

Mr MBUYU MUTEBA YAMBELE (Democratic Republic of Congo) said that the text was testimony to the tremendous effort made by the drafting group. The draft guidelines were crucial to the implementation of the Convention and he supported their approval.

Dr NSABIYUMVA (Burundi), acknowledging that some Parties in the WHO African Region had reservations about the draft guidelines, said that he supported their adoption.

Mr HOSHINO (Japan) observed that although Parties might have slightly different perspectives, all shared the final objective of effective control of tobacco. He believed that it was important that the draft guidelines be adopted by consensus, as had been the case with all previous guidelines adopted by the Conference of the Parties. Every effort should be made to find common ground so that the Conference could adopt a text that was agreeable to all Parties, including China.

The CHAIR said that she shared the sentiments expressed by the representative of Japan – a vote should be the last resort. Parties would need to continue to work collectively on other aspects of the Convention, and it was important to preserve the tradition of reaching decisions by consensus. Any

immediate gain that might come from winning a vote would be offset by the risk that Parties would become polarized, making it harder to reach agreement in future.

Dr BAZARCHYAN (Armenia) said that he supported the draft guidelines.

Mr XU Xiaochao (China) said that his delegation shared the same objective as other delegations: it supported the purpose of and ideas contained in the draft guidelines, and it believed that it was important to work on the basis of consensus. However, no consensus had been reached. The text produced by the drafting group had not been agreed to by all Parties and was therefore not a consensus text. If the matter were put to a vote, obviously the majority would prevail, but the outcome would not represent consensus. Moreover, taking a decision by means of a vote would mark a fundamental change in the way in which the fight against tobacco had been conducted up to that point. He called upon the Committee to continue to work by consensus and to respect the views put forward by all Parties, bearing in mind that all shared the same objectives.

The CHAIR said that in order to ensure that correct procedure was followed, she would propose that the Committee discuss the text put forward by the drafting group with a view to reaching consensus so that the draft guidelines could then be adopted.

Mr XU Xiaochao (China) said that he objected to the Chair's proposal, which might have been a valid solution had a vote not been proposed. The proposal to settle the matter by means of a vote had breached the rule of consensus and the Committee could not now legitimate something that was illegitimate.

The CHAIR, recalling that work on the draft guidelines had been under way since 2006, said that she believed that the Committee was close to consensus and should therefore proceed to discuss the text that had come out of the drafting group. She invited other delegations to respond to her proposal.

Mr XU Xiaochao (China) said that the Chair had referred repeatedly to "the text", but in fact there was no text agreed by consensus. He did not think it necessary for the Chair to push so hard for an outcome, and urged her to consider other options.

Ms ROA (Panama) said that, while it was true that decisions adopted by the Conference of the Parties were generally reached by consensus, and she did not object to the Chair's proposal that the Committee should continue striving to achieve consensus, it was her understanding that the Rules of Procedure provided for voting if consensus could not be reached. She would appreciate clarification from the Office of the Legal Counsel of the provisions of rules 49 to 51 of the Rules of Procedure and their applicability to the current situation.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) said that it was important first to understand what was meant by "consensus". Consensus meant that a decision was taken without a vote; it did not mean that there was unanimity. Indeed, numerous delegations might not be entirely satisfied with a particular text or course of action, but there could be a collective desire not to let the best be the enemy of the good and an agreement to take a decision without a vote, notwithstanding the concerns or objections of some delegations. Rule 50 of the Rules of Procedure stated that every effort should be made to reach agreement by consensus, the aim being to avoid polarization. The Rules also established that voting must occur, as a last resort, if all efforts to reach consensus had been exhausted.

Dr NDYANABANGI (Uganda) said that the Committee should not devote further time to trying to reach consensus. A majority of Parties appeared to favour adoption of the text produced by the drafting group, and she appealed, with respect and humility, to the Parties that still had objections to some aspects of that text to allow the partial guidelines to be adopted during the current session of the

Conference of the Parties. It was important to bear in mind that the draft guidelines were only guidelines: they were not laws, and Parties would not be required to implement them. They could also be revised and expanded if necessary after adoption.

The CHAIR invited the representative of China to explain his objection to using the text produced by the drafting group. She believed that it was possible to adopt the draft guidelines by consensus even if there was not consensus on the text itself.

Mr SOLOMON (WHO Secretariat, Office of the Legal Counsel) confirmed that the Chair's view was correct.

Mr XU Xiaochao (China), affirming that his Government took all treaties very seriously and implemented all guidelines, said that he was not opposed to the content of the text or to the guidelines. His concern was that the drafting group had not achieved consensus, as had been its mandate. His desire was to have the Conference of the Parties respect the tradition of adopting guidelines by consensus. Guidelines adopted by consensus would be better respected, whereas guidelines that were adopted prematurely without consensus could have a negative impact on tobacco control efforts.

The CHAIR said that she shared the view expressed by the representative of China on the importance of consensus, but did not understand the objection to the Committee's using the text from the drafting group as a basis for discussion aimed at achieving consensus, so that the draft guidelines could then be approved.

Ms EMMERLING (European Union) said that she supported the Chair's proposal. She also preferred consensus and would make every effort to reach it. To that end, she urged delegations that were dissatisfied with the text to indicate the changes that would make the draft guidelines acceptable to them.

Mr AL JEHANI (Saudi Arabia) said that the Parties in the WHO Eastern Mediterranean Region also agreed with the Chair's proposal.

The CHAIR said that she took it the Committee wished to proceed as she had proposed and use the text produced by the drafting group as a basis for discussion. It was her impression that a majority of Parties would support the adoption of that text. Stressing that the guidelines incorporated a great deal of flexibility and would allow Parties to make them more stringent or less stringent in accordance with their national circumstances, she proposed that the Committee suspend its deliberations briefly to allow Parties to consult informally with a view to achieving consensus.

It was so agreed.

The meeting was suspended at 20:50 and resumed at 21:00

Mr HOSHINO (Japan) said that some very fruitful informal discussions with the representative of China and others had produced a proposal that addressed the concerns of the Chinese delegation and that would allow the Committee to move forward. Accordingly, he proposed three amendments: first, to insert the word "partial" before "guidelines" in the title of the draft decision; second, to insert a new preambular paragraph at the end of the preamble, which would read: "Mindful of the provisional nature of the guidelines and the need for periodical reassessment in light of the scientific evidence and country experience"; and third, to amend operative paragraph 4(a) by adding the words "on addictiveness and toxicity" after the words "draft guidelines" and the words "future sessions of" before the words "the Conference of the Parties".

Mr CHOINIÈRE (Canada) suggested that the words “a second set of” could be removed from paragraph 4(a) in the light of the proposed amendments.

Ms ISAZA MERCHAN (Colombia) said that the draft guidelines required more work before they could be adopted. She proposed that the word “adopts” in paragraph 1 of the draft decision should be replaced by the word “welcomes”, and that the words “taking into account the progress achieved” should be added at the end of paragraph 4(a).

The CHAIR said that there appeared to be overwhelming agreement on the text put forward by the representative of Japan and, begging the indulgence of the representative of Colombia, she suggested that the Committee should proceed to approve the decision with the amendments proposed by Japan.

Ms ISAZA MERCHAN (Colombia) asked whether the Chair intended to submit her proposal to the floor. She believed that her proposed amendment was not incompatible with those proposed by the representative of Japan.

The CHAIR said that replacing “adopts” with “welcomes” would constitute an important change. Assuring the representative of Colombia that her concerns would be noted in the record, she said that unless she saw any objection, she would take it that the Committee wished to approve the draft decision with the amendments proposed by the representative of Japan.

The draft decision, as amended, was approved.¹

Technical report on price and tax policies (in relation to Article 6 of the Convention): Item 5.7 of the Agenda (Document FCTC/COP/4/11) (continued from the fourth meeting, section 1)

The CHAIR recalled that discussion of the draft decision relating to the item had been suspended the previous day, pending consultations by the Parties in the European Union. She also noted that the representatives of Japan and China had indicated that they had reservations on the matter.

Ms EMMERLING (European Union) said that the Parties in the European Union could now agree to the establishment of a working group on tobacco taxation. Following further consultations, the European Union would apply to be either a Key Facilitator or a Partner, and was keen to share its ample experience on tobacco taxation. She proposed the following amendments to the draft decision: a new paragraph should be added at the end of the preamble that would read: “Recalling Article 6.2 of the WHO FCTC, which recognizes the sovereign right of the Parties to determine and establish their tax policies”; the words “composed of fiscal and health experts” should be added after the words “working group” in paragraph 1; the words “or Key Facilitators” should be inserted in paragraph 5 after the words “as partners”; and in paragraph 6 the words “to provide assistance and” and “including budgetary arrangements” should be enclosed in brackets pending a positive outcome of discussions in Committee B.

Mr XU Xiaochao (China) and Mr HOSHINO (Japan) said that they supported the statement made by the previous speaker.

¹ Adopted by the Conference of the Parties as decision FCTC/COP4(10).

Mr LOM (Observer, United States of America)¹ suggested that the Committee might amend paragraph 2 of the draft decision so as to include in the documentation to be submitted to the working group the comments made by Parties and non-Party States in the course of the Committee's discussions on the item, including his delegation's written statement. That information would assist the working group because it identified areas in which elaboration was required. He also asked the Committee to consider amending paragraph 3 with the addition of the words "subject-matter experts of non-Party States, and" after the word "invite". In his view, such experts should be tax specialists rather than health professionals or diplomats.

The CHAIR said that, in the absence of any objection, she took it that the Committee wished to approve the draft decision with the amendments proposed by the representatives of the European Union and the United States of America.

The draft decision, as amended, was approved.²

(For continuation of the discussion, see summary record of the sixth meeting, section 3.)

Control and prevention of smokeless tobacco products and electronic cigarettes: Item 5.8 of the Agenda (Document FCTC/COP/4/12)

The CHAIR noted that the report contained in document FCTC/COP/4/12 addressed two distinct issues on which the working group on Articles 9 and 10 of the Convention had requested guidance from the Conference of the Parties: smokeless tobacco products and electronic cigarettes. In particular, the working group had sought guidance on whether electronic cigarettes should be considered tobacco products.

Ms SCHWERDTFEGER (Convention Secretariat) recalled that WHO had convened a Regulatory Consultation on the Safety of Electronic Nicotine Delivery Systems in May 2010, in which Parties had exchanged experiences in order to shed light on the question of how electronic cigarettes should be regulated. The WHO Study Group on Tobacco Product Regulation had looked at smokeless tobacco products and electronic cigarettes and had made recommendations in respect of each.

Mr OPPERHUIZEN (Invited expert) explained that electronic cigarettes or "e-cigarettes" were electronic nicotine delivery systems, which were battery-powered devices designed to deliver nicotine to the lungs. Although normally designed to deliver tobacco-derived substances, in particular nicotine, the devices could also be used for other purposes, such as cocaine inhalation. One option would therefore be to regulate the device itself, on the basis that it delivered an active pharmacological ingredient.

WHO had been requested to provide guidance on the matter and had therefore convened a regulatory consultation for the purpose of sharing the experiences of national regulators and raising awareness of safety concerns; the recommendations made by the regulatory consultation could be found in paragraph 29 of the report. The consultation had revealed that countries regulated e-cigarettes in at least four different ways: under consumer product regulations, as intoxicants or narcotics, as medical devices and under tobacco laws.

The CHAIR said that two separate draft decisions were proposed. Under the first, on electronic cigarettes, which had been proposed by several Parties and had not yet been circulated in writing, the

¹ Participating by virtue of Rule 29 of the Rules of Procedure of the Conference of the Parties to the WHO Framework Convention on Tobacco Control.

² Adopted by the Conference of the Parties as decision FCTC/COP4(13).

Conference of the Parties would encourage Parties to determine the most effective means of regulating electronic nicotine delivery systems, including e-cigarettes, through the collaboration of the regulatory authorities of medical and tobacco products, and would also encourage Parties to take into account the recommendations made by the WHO Study Group on Tobacco Product Regulation and by the Regulatory Consultation on the Safety of Electronic Nicotine Delivery Systems.

Following requests from Ms EMMERLING (European Union) and Mr HOSHINO (Japan), the draft decision was projected on a screen.

Ms EMMERLING (European Union) proposed that the first paragraph should end with a full stop after the words “including e-cigarettes”, as it should be up to each Party to determine the most effective means of regulation.

Mr CHOINIÈRE (Canada) asked why the draft decision had been proposed, given that electronic nicotine delivery systems were not a tobacco product.

Dr SIRIWAT TIPTARADOL (Thailand) asked the Secretariat to clarify whether the nicotine delivered by electronic delivery systems was a tobacco product. If such delivery systems were to be given consideration, then other non-electronic nicotine delivery systems should also be included.

Ms MAYSHAR (Israel) said that although such devices were unquestionably a problem from a health standpoint, if they were not tobacco products, it was not clear whether they could be subject to regulation under the Convention.

The CHAIR drew attention to Article 5 of the Convention (*General obligations*), which in paragraph 2(b) required Parties to adopt measures and cooperate with other Parties in developing appropriate policies for preventing and reducing nicotine addiction.

Mr ZHOU Baidong (China) proposed the addition of a paragraph reading: “to include e-cigarettes and nicotine delivery systems in the definition of tobacco products”.

The CHAIR asked the representative of China to reconsider his proposal. Differing views as to whether electronic nicotine delivery systems should be included in the definition of tobacco products would lead to a lengthy debate, for which there was insufficient time during the current session.

Mr ZHOU Baidong (China) suggested that the draft decision might merely encourage Parties to include such devices in the definition of tobacco products.

Mr NJOKU (Nigeria) said that it would be inappropriate to define nicotine delivery systems as tobacco products, since nicotine was not necessarily derived from tobacco.

Ms MAYSHAR (Israel) said that she opposed the amendment proposed by the representative of China, which in her view would weaken regulation of nicotine delivery systems. In her country, for example, electronic cigarettes were regulated as medical devices, which meant that they had to meet very strict requirements in order to be registered and used, whereas tobacco products were freely available. The regulation of e-cigarettes as tobacco products was therefore not something to be encouraged.

Mr HOSHINO (Japan) said that the question of whether e-cigarettes should be included in the definition of tobacco products should not be decided during the current session, as the Committee had not had time to consider the matter fully. He did not support the inclusion in the draft decision of the paragraph proposed by the representative of China.

Mr DESIRAJU (India) proposed the inclusion of a paragraph that would request the Secretariat to examine whether e-cigarettes and electronic nicotine delivery systems came within the purview of the Convention or could be included in the definition of tobacco products. In that way, Parties could be provided with detailed information on the issues involved prior to discussion of the matter at some future date.

Mr OPPERHUIZEN (Invited expert), speaking at the request of the CHAIR, said that when the WHO Study Group on Tobacco Product Regulation had reviewed the subject in 2009 it had recognized that some of the electronic nicotine delivery systems on the market did not contain nicotine derived from tobacco products.

The CHAIR suggested that the draft decision might request the Convention Secretariat to work with WHO's Tobacco Free Initiative to produce a technical report exploring the subject of electronic nicotine delivery systems as they related to the Convention and to the protection of public health.

Dr PRAKIT VATHESATOGKIT (Thailand) said that he had no objection to that proposal, but that the report should also cover non-electronic nicotine delivery systems.

Mr ZHAO Baidong (China) said that he supported the Chair's proposal.

Ms EMMERLING (European Union) said that she would need to consult the Parties in the European Union, but that they would probably also support the Chair's proposal.

The CHAIR said that she would work with members of WHO's Tobacco Free Initiative to produce a text that could be distributed at the next meeting. She therefore proposed that the Committee defer consideration of the draft decision until then. She further proposed that the Committee take a similar approach with regard to a draft decision on smokeless tobacco, requesting the Convention Secretariat and the Tobacco Free Initiative to prepare a report on the issue.

It was so agreed.

(For continuation of the discussion, see summary record of the sixth meeting, section 1.)

Implementation of Article 19 of the Convention: "Liability": Item 5.9 of the Agenda (Document FCTC/COP/4/13)

Dr KUARTEI (Palau), introducing the agenda item, explained that his Government had proposed that an item relating to implementation of Article 19 be included on the agenda of the fourth session of the Conference of the Parties because the issue of liability was crucial for achievement of the objectives of the Convention. In order to be able to protect their peoples from the devastating harm of tobacco, Parties must not only enact tobacco-control laws but must also ensure that they were enforced and that the tobacco industry was held liable when it broke the law.

Article 19 recognized that liability actions could be an important tobacco-control strategy. Successful legal action could force the tobacco industry to change its behaviour, compensate injured individuals and damaged health-care systems, and serve an educative function, informing the public of the harms of tobacco and the industry's tactics. However, many Parties faced obstacles to successful litigation against the industry, which had developed sophisticated techniques to derail action against it and to defeat attempts to hold it accountable for the damage caused by its poisonous products. Countries such as those in his Region needed the support of those with experience of successful approaches to liability litigation. The Conference of the Parties had an important role to play in facilitating such support.

His Government therefore proposed that the Conference should decide at the current session to begin consideration of how it could assist in the effective implementation of Article 19 and, to that end, should request the Convention Secretariat to prepare for consideration during the fifth session of the Conference of the Parties a detailed, comprehensive report that reviewed relevant experiences with respect to liability and provided recommendations on appropriate means by which the Conference of the Parties could support Parties in implementing Article 19. Palau stood ready to participate in that work, together with the Convention Secretariat and others with relevant expertise and capacity, including WHO's Tobacco Free Initiative and representatives of other interested Parties.

MS MADRAZO REYNOSO (Mexico), speaking also on behalf of Brazil, Chile, Ecuador, Jamaica, Nicaragua, Panama, Paraguay, Peru, Saint Lucia, Uruguay and Venezuela (Bolivarian Republic of), observed that the Secretariat's report showed how little progress had been made in the implementation of Article 19. The Conference of the Parties should take action to assist Parties in that regard, and she therefore supported the proposal put forward by the representative of Palau. The report to be prepared should include information on the progress made by Parties to date in implementing Article 19 and on the measures taken by the Secretariat to support their efforts; on legal proceedings undertaken in countries around the world to control tobacco, including civil and criminal proceedings filed by individuals, corporations and governments; and on the obstacles faced by Parties and the measures they had taken to overcome them. Such a report would enable Parties to learn from others' experiences. The report should also include a set of recommendations to guide future action by Parties.

Mr HOSHINO (Japan) suggested that, as the Committee had not had the opportunity to engage in a substantive discussion of the matter, it would be more appropriate for it simply to take note of the report and then to discuss the issue at the fifth session of the Conference of the Parties, rather than proceeding to adopt a decision at the current session. His delegation opposed as a matter of principle any decision that would entail further budgetary implications.

Ms ALIK (Federated States of Micronesia) said that Parties needed support in countering the obstacles put up by the tobacco industry to thwart their efforts to implement the Convention, and the preparation of a detailed report to be considered at the fifth session of the Conference would be an appropriate initial step towards ensuring that they received such support. She therefore endorsed the proposal by the representative of Palau.

The CHAIR observed that the potential value of the proposed report could well outweigh the investment it entailed. Moreover, the financial implications of preparing the report would be minimal because WHO's Tobacco Free Initiative had its own budget. She asked whether the Committee would be willing to agree to the idea of requesting the Convention Secretariat to work with the Tobacco Free Initiative and with interested Parties in order to produce a comprehensive report for submission to the fifth session of the Conference. If so, a draft decision could be prepared for the Committee's review at its sixth meeting.

Ms STEENBRUGGHE (Belgium), speaking on behalf of the European Union, said that she could agree in principle with the Chair's suggestion, with the understanding that the budgetary implications of the proposal must be reviewed in order to ensure that its costs could be covered.

Ms MADRAZO REYNOSO (Mexico) reaffirmed her support for the proposal put forward by the representative of Palau.

The CHAIR said that in the absence of any further comment, she would take it that the Committee agreed to the preparation of a draft decision.

It was so agreed.

(For continuation of the discussion, see summary record of the sixth meeting, section 1.)

2. REPORTING, IMPLEMENTATION ASSISTANCE AND INTERNATIONAL COOPERATION: Item 6 of the Agenda (continued)

Standardization and harmonization of data and data collection initiatives: Item 6.2 of the Agenda (Document FCTC/COP/4/15)

Dr SZILAGYI (Invited expert) said that the report contained in document FCTC/COP/4/15 was a product of collaboration between the Convention Secretariat and WHO's Tobacco Free Initiative. The most important part of the report was the proposal for harmonization of international data collection initiatives, which called for amendments to the Convention reporting system with a view to aligning the two major tobacco-related data collection instruments: the reporting system of the Convention and the survey of the WHO Global Tobacco Control Report, between which there was a high degree of overlap. The harmonized data would be analysed from different perspectives by the Convention Secretariat and the Tobacco Free Initiative in order to produce the global progress report on implementation of the Convention and to also meet tobacco-control monitoring and surveillance needs of WHO.

He drew attention to a number of recommended steps designed to facilitate harmonization, which included aligning Parties' reporting cycle with the cycle of sessions of the Conference of the Parties, with effect from 2012. Other proposals included amending reporting instruments with a view to creating a single data collection instrument. Details of the proposed amendments were set out in paragraph 81 and annex 2 of the report. In order to ensure that the reporting instrument reflected the content of guidelines adopted by the Conference of the Parties, the Convention Secretariat proposed to develop specific modules, about which information was presented in paragraph 83 of the report. Paragraph 79 highlighted the need to consider the development of common definitions and indicators for use in data collection, for which purpose the Convention Secretariat proposed to convene an expert group meeting that would formulate recommendations for consideration by the Conference of the Parties at its fifth session.

The CHAIR drew the Committee's attention to a draft decision proposed by Jordan, Palau, Serbia and Thailand, entitled "Update and harmonization of reporting arrangements under the WHO Framework Convention on Tobacco Control", which read:

The Conference of the Parties,

Recalling decision FCTC/COP1(14), which provided the basis for the reporting arrangements under the WHO Framework Convention on Tobacco Control (WHO FCTC), as well as decisions FCTC/COP2(9) and FCTC/COP3(17) concerning further development of the reporting instrument;

Also recalling decision FCTC/COP3(17) requesting the Convention Secretariat, under the guidance of the Bureau, and with the assistance of competent authorities within WHO and international partners, to provide a report on measures concerning standardization and harmonization of data and data collection initiatives;

Noting the report of the Convention Secretariat on "Standardization and harmonization of data and data collection initiatives" as contained in document FCTC/COP/4/15 and the conclusions and recommendations thereon;

Also noting the report of the Convention Secretariat on “Reports of the Parties and global progress in implementation of the Convention: key findings”, as contained in document FCTC/COP/4/14,

DECIDES:

- (1) to replace the existing cycle of submission of Parties’ implementation reports, which is linked to the date of the entry into force of the WHO FCTC for each individual Party, with a new standardized cycle of two-year implementation reports synchronized with the biennial cycle of the regular sessions of the Conference of the Parties. In order to put this decision into effect:
 - (a) to request the Parties to submit their reports on implementation of the WHO FCTC at regular two-year intervals, with a submission date of not later than six months before the next regular session of the Conference of the Parties;
 - (i) to request the Convention Secretariat to inform Parties of the submission procedures and deadline not later than 12 months before such a deadline;
 - (ii) to also request the Convention Secretariat to submit global progress reports on implementation of the WHO FCTC, based on the reports of the Parties submitted that deadline, for the consideration of each regular session of the Conference of the Parties;
 - (iii) to put the above arrangements into effect starting from 2012, with the first reports of Parties according to the new cycle to be submitted at least six months before the fifth session of the Conference of the Parties, which is due to take place in that year, and every second year thereafter. In the transition period between the fourth and fifth sessions of the Conference of the Parties, Parties submitting their implementation reports in 2011 according to the existing cycle will not be required to report again in 2012.
- (2) to adopt the phase 2 (Group 2 questions) of the reporting instrument, as amended in accordance with Annex 2 of document FCTC/COP/4/15, as the single reporting instrument for Parties’ biennial reports to the Conference of the Parties, and to request the Convention Secretariat to make available the instrument on the WHO FCTC web site, along with the step-by-step instructions adjusted accordingly, within three months of the close of the fourth session of the Conference of the Parties;
- (3) to invite WHO to use the data received through Parties’ implementation reports as a principal source of information for relevant surveillance and monitoring activities, avoiding the use of a parallel international system for regular collection of data concerning tobacco control;
- (4) to request the Convention Secretariat, under the guidance of the Bureau of the Conference of the Parties and in cooperation with competent authorities within WHO, in particular the Tobacco Free Initiative, as well as relevant intergovernmental and nongovernmental organizations with specific expertise in this area, to prepare and submit a report for consideration by the fifth session of the Conference of the Parties containing:
 - (a) recommendations for taking into account, in the reporting instrument of the WHO FCTC, the key measures contained in the guidelines adopted by the Conference of the Parties;
 - (b) further recommendations for the standardization of definitions and indicators deriving from specific articles of the WHO FCTC and the guidelines adopted by the Conference of the Parties, and for the promotion of their use by the Parties in their national data collection initiatives, as outlined in the report contained in document FCTC/COP/4/15.

Ms ALIK (Federated States of Micronesia) expressed support for the draft decision, which would contribute to the achievement of the objectives of the reporting system, namely to enable Parties to learn from one another's experience in implementation, and to enable the Conference of the Parties to fulfil its function of regular review of progress in implementation. However, further action was needed to ensure that the Conference of the Parties could properly carry out its review function. The time had come to consider the establishment of a dedicated implementation review body, similar to those that had been established to assist in reviewing the implementation of other treaties. Such bodies were typically established within a few years of a treaty's entry into force and were small, geographically representative committees that met periodically to consider reported implementation difficulties or failures and to assist the Conferences of the Parties in responding effectively.

She therefore proposed the addition to paragraph 4 of the draft decision of a third subparagraph (c), which would read: "recommendations to better facilitate regular review of progress in implementation of the WHO FCTC, including an examination of possible implementation review mechanisms and procedures, drawing on relevant precedents from other international treaties".

Ms STEENBRUGGHE (Belgium), speaking on behalf of the European Union, said that she supported the draft decision as originally written. While she understood the importance of ensuring close monitoring of the implementation of the Convention and the various sets of guidelines, she questioned the potential added value of a new intergovernmental body, particularly as it was unclear exactly what such a body would do. She therefore would be reluctant to amend the draft decision as proposed.

Mr HOSHINO (Japan) said that he shared the concerns of the representative of Belgium regarding the establishment of an intergovernmental review body.

The CHAIR said that there did not appear to be consensus on the proposal put forward by the representative of the Federated States of Micronesia. She suggested that the Parties concerned should meet informally to discuss the matter and that the Committee should resume its discussion of the draft decision at its next meeting.

It was so agreed.

(For continuation of the discussion, see summary record of the sixth meeting, section 2.)

The meeting rose at 22:40.

SIXTH MEETING

Saturday, 20 November 2010, at 10:10

Chair: Dr NUNTAVARN VICHIT-VADAKAN (Thailand)

1. TREATY INSTRUMENTS AND TECHNICAL MATTERS: Item 5 of the Agenda (continued)

Measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship (in relation to recommendations of the former working group on Article 13 of the Convention): Item 5.6 of the Agenda (document FCTC/COP/4/10) (continued from the fourth meeting, section 1)

The CHAIR invited the Committee to consider a draft decision on measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship of tobacco products, which read:

The Conference of the Parties,

Recalling its decisions FCTC/COP2(8), FCTC/COP3(12), FCTC/COP3(13) and FCTC/COP3(14);

Taking note of the report of the Convention Secretariat contained in document FCTC/COP/4/10,

DECIDES: subject to the prioritization of work by the Conference of the Parties,

- (1) to establish an expert group on cross-border advertising, promotion and sponsorship according to the recommendations contained in document FCTC/COP/4/10, comprising a maximum of 15 members;
- (2) to mandate the expert group to:
 - (a) keep the Conference of the Parties up-to-date on relevant developments in technology in cross-border tobacco advertising, promotion and sponsorship, and in best practices for responding to cross-border tobacco advertising, promotion and sponsorship;
 - (b) monitor and review the guidelines for implementation of Article 13 of the Convention and the arrangements established to facilitate international cooperation between Parties with respect to cross-border tobacco advertising, promotion and sponsorship; and
 - (c) report to the Conference of the Parties, through the Convention Secretariat, on the performance of its functions;

drawing on, inter alia, the experience of the former expert group on cross-border advertising, promotion and sponsorship established by the Conference of the Parties at its first session;¹

- (3) to request the Convention Secretariat:
 - (a) to invite Parties to nominate members to the expert group, in a manner to be decided by the Bureau of the Conference of the Parties, taking into account appropriate regional and technical representation;
 - (b) to make the necessary arrangements, including budgetary arrangements, for the performance of the work of the expert group.

The draft decision was approved.²

Control and prevention of smokeless tobacco products and electronic cigarettes: Item 5.8 of the agenda (Document FCTC/COP/4/12) (continued from the fifth meeting, section 1)

The CHAIR invited the Committee to consider a draft decision on control and prevention of smokeless tobacco products and electronic cigarettes, which read:

The Conference of the Parties,

Taking note of the report by the Convention Secretariat on smokeless tobacco products and electronic cigarettes contained in document FCTC/COP/4/12,

DECIDES: to request the Convention Secretariat to prepare jointly with WHO's Tobacco Free Initiative a comprehensive report on the matter of smokeless tobacco products and nicotine delivery systems including electronic cigarettes for consideration at the fifth session of the Conference of the Parties.

Ms EMMERLING (European Union) expressed support for the draft decision, with the addition of the phrase "based on the experience of Parties" after "comprehensive report".

Mr DESIRAJU (India) said that he supported the amendment proposed by the previous speaker.

The draft decision, as amended, was approved.³

Implementation of Article 19 of the Convention: "Liability": Item 5.9 of the Agenda (Document FCTC/COP/4/13) (continued from the fifth meeting, section 1)

The CHAIR invited the Committee to consider a draft decision on implementation of Article 19 of the Convention: "Liability", which read:

¹ Decision FCTC/COP1(16).

² Adopted by the Conference of the Parties as decision FCTC/COP(12).

³ Adopted by the Conference of the Parties as decision FCTC/COP4(14).

The Conference of the Parties,

Taking note of the report by the Convention Secretariat on liability in document FCTC/COP/4/13,

DECIDES: to request the Convention Secretariat to prepare jointly with WHO's Tobacco Free Initiative a comprehensive report on the matter of liability in the context of Article 19 of the WHO Framework Convention on Tobacco Control, for consideration at the fifth session of the Conference of the Parties.

Dr KUARTEI (Palau) said that he understood that the comprehensive report to which the draft decision referred would review relevant experiences in legal action and common challenges encountered. The report was intended to help the Conference of the Parties at its next session to consider how Parties might best be supported in their activities in relation to Article 19. He therefore suggested that the draft decision might be amended by adding the phrase “including recommendations on appropriate means by which the Conference of the Parties could support Parties in their activities in accordance with this Article” after the words “Framework Convention on Tobacco Control”.

Mr CHOINIÈRE (Canada) said that he could support the amendment suggested by the representative of Palau, but would prefer the term “recommendations” to be replaced by “mechanisms”.

Dr KUARTEI (Palau) said that he could accept that suggestion.

Ms MADRAZO REYNOSO (Mexico), speaking also on behalf of Brazil, Chile, Ecuador, Jamaica, Nicaragua, Panama, Paraguay, Peru, Saint Lucia, Uruguay and Venezuela (Bolivarian republic of), expressed support for the draft decision and the amendment put forward by the representative of Palau.

The draft decision, as amended, was approved.¹

2. REPORTING, IMPLEMENTATION ASSISTANCE AND INTERNATIONAL COOPERATION: Item 6 of the Agenda (continued from the fifth meeting, section 2)

Standardization and harmonization of data and data collection initiatives: Item 6.2 of the Agenda (Document FCTC/COP/4/15) (continued from the fifth meeting, section 2)

The CHAIR drew attention to a revised version of the draft decision concerning update and harmonization of reporting arrangements under the Convention, which incorporated amendments proposed by the Federated States of Micronesia and which read:

The Conference of the Parties,

Recalling decision FCTC/COP1(14), which provided the basis for the reporting arrangements under the WHO Framework Convention on Tobacco Control (WHO FCTC), as well as decisions FCTC/COP2(9) and FCTC/COP3(17) concerning further development of the reporting instrument;

¹ Adopted by the Conference of the Parties as decision FCTC/COP4(15).

Also recalling decision FCTC/COP3(17) requesting the Convention Secretariat, under the guidance of the Bureau, and with the assistance of competent authorities within WHO and international partners, to provide a report on measures concerning standardization and harmonization of data and data collection initiatives;

Noting the report of the Convention Secretariat on “Standardization and harmonization of data and data collection initiatives” as contained in document FCTC/COP/4/15 and the conclusions and recommendations thereon;

Also noting the report of the Convention Secretariat on “Reports of the Parties and global progress in implementation of the Convention: key findings”, as contained in document FCTC/COP/4/14,

DECIDES:

- (1) to replace the existing cycle of submission of Parties’ implementation reports, which is linked to the date of the entry into force of the WHO FCTC for each individual Party, with a new standardized cycle of two-year implementation reports synchronized with the biennial cycle of the regular sessions of the Conference of the Parties. In order to put this decision into effect:
 - (a) to request the Parties to submit their reports on implementation of the WHO FCTC at regular two-year intervals, with a submission date of not later than six months before the next regular session of the Conference of the Parties;
 - (i) to request the Convention Secretariat to inform Parties of the submission procedures and deadline not later than 12 months before such a deadline;
 - (ii) to also request the Convention Secretariat to submit global progress reports on implementation of the WHO FCTC, based on the reports of the Parties submitted that deadline, for the consideration of each regular session of the Conference of the Parties;
 - (iii) to put the above arrangements into effect starting from 2012, with the first reports of Parties according to the new cycle to be submitted at least six months before the fifth session of the Conference of the Parties, which is due to take place in that year, and every second year thereafter. In the transition period between the fourth and fifth sessions of the Conference of the Parties, Parties submitting their implementation reports in 2011 according to the existing cycle will not be required to report again in 2012;
- (2) to adopt the phase 2 (Group 2 questions) of the reporting instrument, as amended in accordance with Annex 2 of document FCTC/COP/4/15, as the single reporting instrument for Parties’ biennial reports to the Conference of the Parties, and to request the Convention Secretariat to make available the instrument on the WHO FCTC web site, along with the step-by-step instructions adjusted accordingly, within three months of the close of the fourth session of the Conference of the Parties;
- (3) to invite WHO to use the data received through Parties’ implementation reports as a principal source of information for relevant surveillance and monitoring activities, avoiding the use of a parallel international system for regular collection of data concerning tobacco control;
- (4) to request the Convention Secretariat, under the guidance of the Bureau of the Conference of the Parties and in cooperation with competent authorities within WHO, in particular the Tobacco Free Initiative, as well as relevant intergovernmental and nongovernmental organizations with specific expertise in this area, to prepare and submit a report for consideration by the fifth session of the Conference of the Parties containing:

- (a) recommendations for taking into account, in the reporting instrument of the WHO FCTC, the key measures contained in the guidelines adopted by the Conference of the Parties;
- (b) further recommendations for the standardization of definitions and indicators deriving from specific articles of the WHO FCTC and the guidelines adopted by the Conference of the Parties, and for the promotion of their use by the Parties in their national data collection initiatives, as outlined in the report contained in document FCTC/COP/4/15;
- (c) recommendations to better facilitate regular review of progress in implementation of the WHO FCTC.

The draft decision, as amended, was approved.¹

3. TREATY INSTRUMENTS AND TECHNICAL MATTERS: Item 5 of the Agenda (resumed)

Technical report on price and tax policies (in relation to Article 6 of the Convention): Item 5.7 of the Agenda (Document FCTC/COP/4/11) (continued from the fifth meeting, section 1)

The CHAIR recalled that a draft decision on the technical report on price and tax policies had been approved at an earlier meeting² and forwarded to the Conference of the Parties for adoption.³ However, the Key Facilitators and partners of the working group remained to be identified.

Ms EMMERLING (European Union) pointed out that a new preambular paragraph proposed by her delegation during the fifth meeting had been omitted from the draft decision. That paragraph read: “Recalling Article 6.2 of the WHO Framework Convention on Tobacco Control, which recognizes the sovereign right of Parties to determine and establish their taxation policies”. Also, in order to allow more leeway in timing, particularly as funding for some working groups was not yet assured, the reference to the fifth session of the Conference of the Parties should be deleted from paragraph 1, and paragraphs 6 and 7 should be deleted and replaced with a single paragraph reading: “to make the necessary arrangements, including budgetary arrangements, for the performance of work of the working group”, which had been the formulation used in the decision concerning the expert group on cross-border advertising.⁴

Dr HOSHINO (Japan) said that he supported the amendments proposed by the previous speaker.

Mr LOM (Observer, United States of America)⁵ asked that the text of the draft decision under discussion be projected on screen.

Dr TSETSEGDARY (Mongolia), noting that her country had been one of the proponents of the draft decision and emphasizing the importance of price and tax policies as the single most effective

¹ Adopted by the Conference of the Parties as decision FCTC/COP4(16).

² See summary record of the fifth meeting, section 1.

³ Adopted by the Conference of the Parties as decision FCTC/COP4(13).

⁴ Adopted by the Conference of the Parties as decision FCTC/COP4/(12).

⁵ Participating by virtue of Rule 29 of the Rules of Procedure of the Conference of the Parties to the WHO Framework Convention on Tobacco Control.

tobacco-control measure that countries could apply, urged Parties to support the original version of the draft decision.

Mr CHOINIÈRE (Canada) said that he supported the amendments proposed by the representative of the European Union.

Dr PRAKIT VATHESATOGKIT (Thailand), speaking on behalf of the Parties in the WHO South-East Asia Region, said that Thailand was willing to act as a Key Facilitator of the working group on Article 6.

Ms EMMERLING (European Union) said that the European Union would participate in the working group as either a Key Facilitator or a Partner, but had not yet decided which.

Mr FIGUEIRA de MELO (Brazil), Mr HOZA (Central African Republic), Mr ADDY (Chad), Ms LIKIBI-BOHO (Congo), Mr FAIREKA (Cook Islands), Ms ALI-HIGO (Djibouti), Dr LABEEB (Egypt), Ms AVOTRI (Ghana), Ms DARDÓN (Guatemala), Mr DESIRAJU (India), Dr LEWIS-FULLER (Jamaica), Dr AL HABASHREH (Jordan), Dr MAINA (Kenya), Mr MOHAMED (Maldives), Mr MALOBOKA (Namibia), Mr NJOKU (Nigeria), Dr KUARTEI (Palau), Mr GAONA (Paraguay), Ms CUISON-MAGLAYA (Philippines), Mr DIOUF (Senegal), Mr DLAMINI (Swaziland), Dr BASSAM ABOU ALHAZAB (Syrian Arab Republic), Ms NABLI (Tunisia), Ms EKEMAN (Turkey), Dr NDYANABANGI (Uganda), Mr MASOMHE (United Republic of Tanzania) and Mr MAYEYA (Zambia) said that their countries wished to be Partners in the working group.

The CHAIR said that other Parties wishing to act as Partners or Key Facilitators should inform the Convention Secretariat, and invited the Committee to consider the amendments proposed by the representative of the European Union.

Dr KUARTEI (Palau) noted that no date was being specified for the submission of the working group's report and said that, in the light of budgetary constraints, it was important for Parties to know whether the work of the working group would, in fact, be undertaken.

Ms EMMERLING (European Union) said that the wording she had suggesting was consistent with that used in the draft decision concerning cross-border advertising, which had just been approved. She had proposed that wording precisely because the same budgetary constraints existed for the working group on that issue.

The CHAIR said that more information on the budget for working groups would be provided in the report of Committee B, shortly to be submitted to the plenary.

Ms LANNAN (Convention Secretariat) said that there had been no provision for a working group on Article 6 in the 2012–2013 workplan and budget submitted for consideration by Committee B.

Mr SUN Jin (China) agreed that it was preferable to use the same language as in the draft decision concerning cross-border advertising.

Dr TSETSEGDARY (Mongolia) stressed the importance of the activities to be undertaken by the working group for low-income countries such as her own.

Mr MOHAMED (Maldives), supporting the comment made by the previous speaker, said that the decisions taken by the Committee would have a bearing on the budget discussions in Committee B. Given the importance of price and tax measures for low-resource countries, he urged Parties to

prioritize the start of the work on the development of guidelines for implementation of Article 6 of the Convention.

The CHAIR said that in the absence of any objection, she would take it that the Committee was in agreement with the amendments to the draft decision proposed by the representative of the European Union.

It was so agreed.

4. CLOSURE

After the customary exchange of courtesies, the CHAIR declared the work of the Committee completed.

The meeting rose at 11:05.

COMMITTEE B

FIRST MEETING

Wednesday, 17 November 2010, at 13:00

Acting Chair: Mr TRIVEDI (Convention Secretariat)

Chair: Mr YI XIANLIANG (China)

OPENING OF THE COMMITTEE

The ACTING CHAIR declared open the first meeting of Committee B.

Election of officers

The ACTING CHAIR (Secretary of the Committee) announced that Mr Yi Xianliang (China) had been nominated for the post of Chair of Committee B.

Decision: Committee B elected Mr Yi Xianliang (China) as Chair.¹

The ACTING CHAIR (Secretary of the Committee) announced that Mr L.L. Viegas (Brazil) and Mr R.Y. Ibrahim (Sudan) had been nominated for the two posts of Vice-Chair.

Decision: Committee B elected Mr L.L. Viegas (Brazil) and Mr R.Y. Ibrahim (Sudan) as Vice-Chairs.²

Mr Yi Xianliang (China) took the Chair.

The CHAIR said that the Committee had a great deal of work to do in only two-and-a-half days, and appealed to representatives to speak briefly and to the point. He hoped to avoid night meetings.

The meeting rose at 13:05.

¹ Decision FCTC/COP4(4).

² Decision FCTC/COP4(4).

SECOND MEETING

Wednesday, 17 November 2010, at 15:05

Chair: Mr YI XIANLIANG (China)

BUDGETARY AND INSTITUTIONAL MATTERS: Item 7 of the Agenda

Proposed workplan and budget for the financial period 2012–2013: Item 7.3 of the Agenda (Documents FCTC/COP/4/21 and FCTC/COP/4/INF.DOC./4)

The CHAIR invited representatives to consider item 7.3 of the agenda, entitled “Proposed workplan and budget for the financial period 2012–2013”. After Parties had made their initial comments, an informal, open-ended contact group should be set up to discuss the issues which had arisen in greater detail.

Ms EVISON (New Zealand) pointed out that a working group on the protocol on illicit trade in tobacco products was already scheduled to meet that evening. Many delegations were small in number and could not attend parallel meetings.

Mr REGALADO PINEDA (Mexico) agreed with the representative of New Zealand. If some representatives were unable to attend the meetings, they would simply raise the same issues again later, thus duplicating the Committee’s work.

Ms KIPTUI (Kenya) and Dr MOCHIZUKI-KOBAYASHI (Japan) expressed their opposition to the idea of convening a contact group.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, expressed his support for the creation of an open-ended contact group in the interests of expediting the Committee’s work.

Mr COLMENARES (Bolivarian Republic of Venezuela) agreed with the representatives of Mexico and New Zealand that it was not advisable to set up a separate contact group, which might speed up the Committee’s work, but would not promote equal participation by all representatives.

Mr VIEGAS (Brazil) suggested that the decision should be made at the end of the meeting, in the light of the intervening discussion.

Ms HERNANDEZ (Canada) said that Committee B could not make final decisions about the budget until Committee A had made some progress in its discussions on the substantive programme of activities.

The CHAIR said that while it was of course desirable to decide on a programme of activities and then adopt the budget required to finance it, in practice the overall level of the budget was unlikely to be very different from the figures already before the Committee. It was up to Committee A to decide on the areas in which more, or fewer, activities should be conducted using that budget. He

therefore suggested that representatives should familiarize themselves with the budget proposal and express their views: the item would then be left open for further discussion later in the session.

Dr NIKOGOSIAN (Head, Convention Secretariat), introducing agenda item 7.3, invited representatives to consider the proposed workplan and budget for the financial period 2012–2013 contained in document FCTC/COP/4/21, and related information, including cost breakdowns, contained in document FCTC/COP/4/INF.DOC./4. Dr Nikogosian clarified the fact that like the workplan and budget for the biennium 2010–2011, the proposals were structured by type of activity, except that international coordination had been separated from general administration and management to make six main areas of work against five as in the case of the 2010–2011 workplan and budget.

Similarly the budget was based on two main sources of funding, voluntary assessed contributions and extrabudgetary contributions. An innovation in the budget for 2012–2013 was that the proposed work was presented according to the funding source. Since some Parties had indicated that they would not look favourably upon a request for an increase in voluntary assessed contributions, the proposed workplan and budget provided two funding options. Under the first option, voluntary assessed contributions would be maintained at the current level of US\$ 8.8 million, although Parties' individual contributions would change because of adjustments to the WHO scale of assessments. That option would finance statutory activities under the Convention and allow current activities to continue. The second option, under which voluntary assessed contributions would be increased to US\$ 9.9 million, would provide, in addition, for new treaty administration activities that the Conference of the Parties may approve. In both options, the additional figure for extrabudgetary funding stood at US\$ 4.7 million. Annex 2 of document FCTC/COP/4/21 gave a provisional figure for the voluntary assessed contributions of each Party under the two options. The total proposed budget for the two options thus amounted to US\$ 13.5 million and US\$ 14.6 million, respectively.

The draft workplan and budget made no provision for further activities related to the protocol on illicit trade in tobacco products, because Parties planned to conclude the negotiations in 2011, before the draft workplan came into force, and because detailed implementation planning would not be possible until the protocol had been finalized.

The CHAIR noted that the first option would maintain the budget at the same level as in the current biennium.

Dr NIKOGOSIAN (Head, Convention Secretariat), replying to a question from Ms SY (adviser to Dr Cuison-Maglaya, Philippines), confirmed that if the Conference of the Parties decided to introduce some of the new activities it had discussed, such as the convening of new working groups (see section 2.3 of the proposed workplan and budget) and the expert group on cross-border advertising (see section 2.4), and communications and advocacy activities (see section 6.2), Parties would need to increase their voluntary assessed contributions, as laid out in the second option. The proposed budget and workplan made no allowance for inflation, so it would be a challenge even to maintain the current level of activities if Parties chose the first option.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that even the first option represented a 5.1% increase in absolute terms compared with the 2010–2011 budget – US\$ 13.5 million compared with US\$ 12.8 million in 2010–2011. The second option represented a 13.8% increase. The Member States of the European Union were facing great financial constraints in their own budgets. Moreover, they were aware of the need to make resources available for further work on the draft protocol on illicit trade in tobacco products. He called upon the Convention Secretariat to review the budget proposals and submit to the Conference a new draft based on zero nominal growth.

Ms EVISON (New Zealand) said that, owing to the world financial crisis, it might not be possible for Parties to maintain even their current funding for activities under the Convention. In her

own country, salaries had increased only marginally or not at all in recent years. Major restrictions had been placed on duty travel in her own department. New Zealand might be unable to participate in the additional activities proposed by the Conference of the Parties, even if they were adopted. The Convention Secretariat could, however, explore innovative ways of using new technology for working groups or workshops.

Dr EFRAÍN PORTILLO (Honduras) said that a number of additional issues should be addressed in the proposed workplan and budget. Developing country Parties, in particular, needed support in many areas of tobacco control. For example, in the Latin American region, tobacco companies had brought lawsuits against the Governments of Guatemala and the host country of the current session, Uruguay. Other countries might also face lawsuits and he asked that provision for that type of situation should be made in the proposed budget. Developing country Parties needed support in raising awareness among children and young people, especially those from low-income groups. Independent research on the chemicals and other constituents present in cigarettes was also needed, since the information available in his region came mainly from tobacco manufacturers. The only laboratories capable of analysing tobacco products were likewise owned by the manufacturers, and his Government could not afford to set up its own establishment.

Mr VIEGAS (Brazil) noted that, in the financial implementation report for the biennium 2008–2009, travel costs had been the second largest item of expenditure. Were Convention Secretariat staff likely to continue travelling so frequently? Had they investigated alternatives, such as videoconferencing or virtual workshops?

Dr NIKOGOSIAN (Head, Convention Secretariat) said that, in fact, most of the travel costs in question were incurred by Parties travelling to working groups or other meetings. The figure was unlikely to decrease unless the Conference of the Parties changed its policy of providing travel cost assistance to low-income Parties. Staff duty travel was kept to an absolute minimum, and would be reduced even further wherever possible.

The CHAIR noted that the provision of travel cost assistance to low-income Parties derived from policy decisions by the World Health Assembly and, ultimately, from the Fifth Committee of the United Nations General Assembly. Nevertheless, savings should be made where possible in future.

Mr ZHAO Baidong (China) said that he shared the concern of other Parties at the increase in the absolute level of the proposed budget. A budget of zero nominal growth would be preferable.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, suggested that the Convention Secretariat should make sure that its policy on providing travel cost assistance to low-income Parties was consistent with the general practice at WHO and within the rest of the United Nations system, for instance by checking the relevant World Health Assembly resolutions. In the United Nations, he believed, such assistance was confined to the least developed countries. Travel costs and subsistence allowances should not represent the main financial burden on Parties of the work related to the Convention. The travel costs associated with holding a meeting in a particular city should be taken into account in the meeting planning process.

Mr IBRAHIM (Sudan) asked about the basis on which the budget proposals had been drawn up and funds allocated to various activities. More funding should be allocated to activities in developing countries, which were disproportionately exposed to the harmful effects of the tobacco epidemic. His own country, for example, would benefit greatly from extra funding for education campaigns or research into the carcinogenic effects of tobacco use.

Dr MOCHIZUKI-KOBAYASHI (Japan) said that, in view of the global economic crisis, the Convention Secretariat should propose a zero growth budget for the coming biennium. Some of the

stated priorities should be redefined. She asked for an explanation of the reference to the “projected increase in salary costs” within WHO, referred to in the proposed workplan and budget (paragraph 3, footnote 3).

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the first option in the proposed workplan and budget represented zero growth. The second option represented an increase of approximately 11%. In fact, the increase proposed for extrabudgetary funding was much larger. As the momentum of implementation of the Convention increased, the Convention Secretariat was devoting more effort to country assistance and international cooperation, which were mainly financed from extrabudgetary contributions and used to assist developing country Parties and Parties with economies in transition. The number of those Parties had increased, and the deadlines for them to fulfil their obligations under the Convention were fast approaching, so they required additional support. The Convention Secretariat did not generally finance tobacco control activities directly: its role was to help Parties to identify their needs for tobacco control activities and apply to other development partners for funding. Endorsement by the Conference of the Parties of the proposed level of extrabudgetary funding would not commit Parties themselves to any extra expenditure, but would lend credibility to the Convention Secretariat’s applications to other donors.

Turning to the issue of assistance with travel costs, he said that the policy of the Conference of the Parties, which was to pay travel costs plus per diem allowance for a relatively large number of low-income Parties, was considerably more generous than that of WHO, which was to pay travel costs only for Member States belonging to the group of least developed countries. The policy had first been adopted during the negotiations on the Convention, and had continued since then without change.

Replying to the questions raised by the representative of Japan, he said that he had been advised by the WHO Secretariat to include the 4% projected increase in standard salary costs, which WHO itself used in its budgeting. He did not intend to recruit more staff: indeed, the Convention Secretariat was very small compared with the secretariats of other treaty bodies.

Activities had been classified by their type of funding – existing and statutory activities and potential new activities, which would be funded from voluntary assessed contributions, and other activities, to be funded from extrabudgetary contributions – and he had not attempted to set priorities among them otherwise. However, he could see some potential for priority-setting in the area of country assistance and international cooperation. He would welcome informal discussions on the matter with the representative of Japan.

Ms PAINE (Canada) noted that it seemed likely that the Conference of the Parties would decide to convene a fifth session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products. If that session took place in the biennium 2012–2013, she would like the assurance of the Head of the Convention Secretariat that it would be covered by the proposed budget under discussion and accorded high priority.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the protocol on illicit trade would certainly be accorded the highest priority. There were three stages in the adoption and implementation of the protocol: the negotiation stage, which might be completed before the beginning of the biennium 2012–2013; the stage of ratification leading to the protocol’s entry into force, which was likely to last around two years; and the implementation stage, when the protocol would have its own governing body, the Meeting of the Parties, which would adopt its own budget. The Convention Secretariat had issued an information document with estimates of the potential costs at the various stages (see document FCTC/COP/4/INF.DOC./1, paragraphs 27–30). It was unlikely that the protocol would enter into force during the biennium 2012–2013, so there should not be any implementation costs at that stage.

Mr LINDGREN (Norway) asked whether the costs involved in preparing for the entry into force of the protocol during the biennium 2012–2013 were likely to be so small that they could be disregarded during the current budget discussion.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that, while relatively small, the costs would not be negligible. It was a reasonable assumption that the draft protocol would be adopted in late 2012, which was halfway through the biennium. A certain amount of support would then be required for the ratification process, especially in low-income countries. However, there would be no administration costs, since the protocol would not yet be in force. It was up to the Conference of the Parties to decide on the degree of support it wished to provide for the ratification stage. If that support was confined to one workshop in each region, the total cost would be approximately US\$ 750 000. If country missions and expert papers were required in addition, the cost would be higher.

The CHAIR said that, while it was impossible to predict exactly the costs that would arise in connection with the draft protocol over the biennium 2012–2013, it was important to consider the various possibilities, which might have an influence on the negotiations and the timetable for adoption.

Dr ISLAM (Bangladesh) pointed out that approximately one third of the current budget for the biennium 2010–2011 was intended to be covered by extrabudgetary contributions. However, in the coming biennium, extrabudgetary funding would be unpredictable because of the challenges facing the global economy. Developing country Parties and Parties with economies in transition would be most seriously affected, because any cuts were likely to be made in activities to assist them in implementing the Convention. Such activities included the following: support for the fulfillment of reporting obligations; needs assessment and promotion of access to resources and assistance; compilation and communication of information on treaty matters; advice on treaty measures requiring completion by a certain deadline; promotion of South-South cooperation; cooperation with international and regional intergovernmental organizations. Neither of the options intended to be financed from voluntary assessed contributions would provide funding for those implementation activities.

Parties must take responsibility for ensuring that tobacco control was included in the general development assistance framework. The Conference of the Parties should adopt a decision that would allow the Convention Secretariat to explore the potential of the high-level meeting of the United Nations General Assembly on the prevention and control of noncommunicable diseases in September 2011 and of the revised Millennium Development Goals, both of which might serve to focus attention on tobacco-control activities under the Convention.

The CHAIR agreed that it was important to consider the balance between voluntary assessed contributions and extrabudgetary contributions. However, development assistance was not a budget issue. The relationship between tobacco control and development should be considered under another topic such as cooperation with the United Nations system or bilateral and multilateral cooperation.

Summing up the debate on agenda item 7.3, he said that some representatives had argued that the budget should show zero growth or only a very small increase; others had stated that high-priority activities should be identified and sufficient resources provided to implement them. An informal contact group might still be needed to find a compromise between those differing points of view, but the Committee would return to that question later. In the mean time, agenda item 7.3 would remain open.

Performance report for the 2008–2009 workplan and budget: Item 7.1 of the Agenda (Documents FCTC/COP/4/19, FCTC/COP/4/19 Add.1 and FCTC/COP/4/INF.DOC./5)

Dr NIKOGOSIAN (Head, Convention Secretariat), introducing the agenda item, invited the Committee to consider the performance report for the 2008–2009 workplan and budget (document FCTC/COP/4/19) and the updated list of voluntary assessed contributions for 2006–2007 and 2008–2009 received by 31 October 2010 (document FCTC/COP/4/19 Add.1).

The first document described the implementation of the workplan for the biennium 2008–2009, giving details of activities, meetings, processes and outcomes in relation to the five areas of work laid out in the workplan. All activities covered by voluntary assessed contributions – sessions of the Conference of the Parties, reporting system under the Convention and support to Parties in fulfilling this obligation, reports of the Convention Secretariat, coordination with other relevant bodies and administrative arrangements, and elaboration of guidelines and protocols and other activities – had been implemented. Some country assistance activities had not been fully implemented, because only limited extrabudgetary funding had been available. Nevertheless, the Convention Secretariat, in its first full year of operation, had succeeded in creating capacity for country assistance and collaborative mechanisms with WHO's Tobacco Free Initiative and other WHO entities, which would be expanded when the necessary extrabudgetary funding became available.

The performance report included a section on lessons learnt and feedback from Parties, which would be taken into account in future planning.

Some activities included in the 2009–2010 workplan had been implemented in the previous biennium in order to maintain the schedule laid down by the Conference of the Parties: for instance, working groups had their first meetings in order to start drawing up draft guidelines on various articles of the Convention. The same need for early implementation of part of the workplan was likely to occur in future bienniums.

The performance report also contained a financial overview of overall implementation of the workplan, expenditure by type of activity and area of work, encumbrances (i.e. orders which the Convention Secretariat had yet to deliver) and status of collection of voluntary assessed contributions, an update of which was contained in document FCTC/COP/4/19 Add.1. As at 31 October 2010, the level of unpaid contributions for the bienniums 2006–2007 and 2008–2009 stood at over US\$ 1 million. In addition, late payment of contributions by many Parties made it difficult for the Convention Secretariat to operate efficiently, particularly because the WHO financial authorities, which had previously shown some flexibility provided that a Party had committed itself to making a contribution, had warned the Convention Secretariat that it would, in future, be allowed to disburse only those funds which had already been received. An update of the consolidated status of collection of voluntary assessed contributions for the financial periods 2006–2007, 2008–2009 and 2010–2011, as at 31 October 2010, was contained in document FCTC/COP/4/INF.DOC./5.

The surplus carried over from the biennium 2008–2009 stood at around US\$ 700 000, after the deduction of US\$ 517 503 in programme support costs payable to WHO from the previous biennium; the amount had decreased markedly since the biennium 2006–2007, when it had been approximately US\$ 2 million.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, welcomed the growing number of Parties to the Convention, the increase in the number of reports submitted and the growing involvement of various governmental sectors in implementation activities. He called for greater synergy between the activities of the Convention Secretariat and relevant WHO departments. He also asked why the Convention Secretariat and the WHO Tobacco Free Initiative, which were both based at WHO headquarters in Geneva, had needed to hold a coordination meeting in Tunisia in November 2009.

International development partners should be involved in the implementation of the Convention, in particular through the United Nations Development Assistance Framework (UNDAF) programme at country level. However, the Convention Secretariat should not be directly involved in operational

activities and urged the Secretariat to avoid duplication with WHO structures at country and regional level.

He noted with concern that 72 Parties, or over one third of the total number, still owed voluntary contributions for the bienniums 2006–2007 and/or 2008–2009. Many of them had never paid any contribution at all. Although the payment record of the Member States of the European Union was not perfect, they would endeavour to settle their remaining arrears as quickly as possible. He encouraged other Parties to do the same.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the meeting in Tunisia had also involved representatives from countries and WHO regional offices. The Convention Secretariat was a treaty body, with only 15 staff members: there was no question of setting up parallel organizations at country level. Convention Secretariat staff worked with existing WHO or United Nations offices, encouraging or facilitating countries' involvement in various programmes, but the staff of the Secretariat left coordination of the activities themselves to the relevant WHO country office.

Mr VIEGAS (Brazil) commended the Convention Secretariat on the high quality of the performance report. The section on lessons learnt would be particularly valuable for strengthening monitoring and governance of the Convention. In respect of paragraph 16, he asked how the Convention Secretariat intended to promote cooperation with relevant multilateral organizations or initiatives, particularly the Ad Hoc Inter-Agency Task Force on Tobacco Control. His country had been the subject of a pilot assessment of national capacity for the implementation of the MPOWER policy package for tobacco control, and it would be useful to integrate the results of that assessment with activities under the Convention. Referring to paragraph 18, he asked for the Secretariat to clarify its position on harmonization of its activities with those of WHO's Tobacco Free Initiative. Brazil had always paid its voluntary assessed contributions promptly, and called upon all other Parties to do the same.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that international cooperation was covered by three provisions of the Convention: Article 23.5(g) on the role of the Conference of the Parties, Article 24.3(e) on the role of the Convention Secretariat and Article 25 on relations between the Conference of the Parties and intergovernmental organizations. The Convention Secretariat had prepared a report on cooperation with international organizations and bodies for strengthening implementation of the Convention (document FCTC/COP/4/17). There were three groups of potential partners: international and regional intergovernmental organizations which were accredited as observers to the Conference of the Parties; United Nations bodies, especially the Ad Hoc Inter-Agency Task Force on Tobacco Control; and other international and regional organizations. The Convention Secretariat sought guidance from the Conference of the Parties about the type of cooperation it should pursue with those partners. If the Conference of the Parties so wished, it would prepare a matrix of potential areas of cooperation with international organizations and bodies for submission to the Conference of the Parties at its fifth session.

The needs assessments conducted by the Convention Secretariat covered all the articles of the Convention, and were conducted at the request of the Party concerned. They were different in scope from the capacity assessments conducted by WHO's Tobacco Free Initiative, which had limited scope and covered a limited number of countries. The two bodies had already discussed ways of coordinating the needs assessments in line with decisions of the Conference of the Parties. If the Government of Brazil wished to carry out a needs assessment in addition to the capacity assessment which had already taken place, the Convention Secretariat would be happy to assist.

Mr ZHAO Baidong (China) commended the Convention Secretariat and urged it to keep up good work as more States acceded to the Convention.

Ms HERNANDEZ (Canada) acknowledged the value of needs assessment, but emphasized the importance of harmonizing the work of the Convention Secretariat and WHO's Tobacco Free

Initiative, particularly during a period of economic difficulty when cost-saving was a priority. It was not cost-effective to conduct two assessments in the same country.

The CHAIR said that it was certainly important for all international bodies to save costs where possible.

Mr IBRAHIM (Sudan) suggested that a formal statement of thanks should be made to Parties that had made particularly high voluntary contributions to the budget, such as Japan.

Mr SATPATHY (India) congratulated the Convention Secretariat on its excellent report, the conclusions of which had been taken into account in the preparation of the draft workplan and budget for 2012–2013. The report stressed the value of stronger international cooperation at bilateral and multilateral level and support for needs assessments to assist Parties in fulfilling their treaty obligations. However, in the draft workplan and budget, country assistance activities were due to be financed almost exclusively from extrabudgetary resources, which were not predictable in times of economic crisis. Greater efforts should be made to ensure that core activities of the Convention were financed from voluntary assessed contributions. He asked the Convention Secretariat what extrabudgetary contributions had been pledged to date. Such information might reassure developing country Parties that activities to assist them in implementing their obligations under the Convention would be funded.

He expressed concern at the tendency towards “horizontal” proliferation of treaty provisions – i.e. the adoption of guidelines and protocols alongside the core treaty – in preference to efforts to promote the full and universal implementation of the core instrument. In 2008–2009, around US\$ 3 million had been spent on working groups and the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products. It would be helpful if the Convention Secretariat could prepare an analysis showing the cost of ancillary activities and their impact on the implementation of the Convention itself.

He called upon the Convention Secretariat to identify areas of potential synergy between its work and that of United Nations agencies, in order to save both money and effort, and to prepare a cost analysis that would show the value of conducting joint activities.

The CHAIR acknowledged the importance of multisectoral or cross-sectoral activities, but noted that the Conference of the Parties could not make decisions involving financial implications for other bodies without first consulting them. Synergy was also important at an institutional level: almost every United Nations body was addressing the issue of climate change, for example, and it was important to avoid duplication of institutional structures, particularly at the international level.

Mr LINDGREN (Norway) commended the Convention Secretariat's well prepared and informative report. Cost control in the biennium 2008–2009 had been good, despite the implementation of some activities even before the biennium had begun and the shortfall in the payment of voluntary assessed contributions. The percentage of Parties that had submitted their initial implementation reports had also increased gratifyingly, from 63% in 2008 to 88% in June 2010. However, the amount spent on travel, both duty travel by Convention Secretariat staff and assistance with travel costs for low-income Parties, had been too high. He supported the comments made by Brazil and the European Union in that regard during the discussion on the draft workplan and budget.

The shortfall in the payment of voluntary assessed contributions was a matter for great concern. By acceding to the Convention, Parties entered into a collective commitment involving both rights and obligations. The Conference of the Parties must address the issue, and he looked forward to hearing the suggestions of other Parties.

There were encouraging signs of increased collaboration between the Convention Secretariat and WHO's Tobacco Free Initiative, but more remained to be done. He looked forward to the debate on the issue later in the session.

Ms DU PREEZ (Namibia) thanked the Convention Secretariat for its detailed answers to Parties' questions. As stated at one of the lunchtime briefings, the needs assessment missions had been very useful in creating links between governments and the Convention Secretariat and identifying key country contacts.

In order to improve the rate of payment of voluntary assessed contributions, she suggested that information on Parties' payment records should be included in the database of available resources created by the Convention Secretariat, and shared at working group and expert meetings and during the reporting procedure. Furthermore, needs assessment might focus on how governments could be assisted in making payments. The issue of payment could also be included as an official item on the agenda of the Conference of the Parties.

Mr DUKPA (Bhutan) said that the most important thing was for the objectives of the Convention to be accomplished in a transparent, objective and equitable manner. The exact percentage of the budget spent on a particular programme was of lesser importance. He asked whether the Convention Secretariat had explored all the possibilities for obtaining funding from charitable and other public foundations although, of course there could be no question of seeking funding from any foundation owned by the tobacco industry.

The CHAIR echoed the importance of obtaining financial, political and moral support from all available sources for the implementation of the Convention, which was a small, relatively new instrument.

Dr NIKOGOSIAN (Head, Convention Secretariat), replying to the comments made by the representative of Canada, said that the Convention Secretariat had coordinated its activities with those of WHO's Tobacco Free Initiative from the start. The Conference of the Parties had consistently reiterated the importance of support for Parties in the areas of needs assessment, availability of financial resources and mechanisms of assistance.

Interim performance report for the 2010–2011 workplan and budget: Item 7.2 of the Agenda (Documents FCTC/COP/4/20, FCTC/COP/4/20 Add.1, FCTC/COP/4/20 Add.2 and FCTC/COP/4/INF.DOC./5)

The CHAIR invited the Committee to consider the interim performance report for the current biennium.

Dr NIKOGOSIAN (Head, Convention Secretariat), introducing the agenda item, said that the interim performance report, contained in document FCTC/COP/4/20, covered only the first six months of the current biennium, to 1 July 2010, because it had been necessary to prepare it in time for the current session of the Conference of the Parties, which fell at the end of the first year of the biennium. A financial update, showing the situation as of 31 October 2010, was presented in document FCTC/COP/4/20 Add.1. The report followed the same format as the previous one, based on the model used by WHO. Progress on tasks was rated according to three categories: "achieved", "on course" or "requiring action to overcome risks". Some activities had fallen into the last category, not because of operational risks but because of the uncertainty of extrabudgetary funding. Annex 1 gave detailed information about the status of financial implementation as at 30 June 2010, including overall implementation and distribution of available funds, expenditure and activity costs.

The first area of work, the convening of the current session of the Conference of the Parties, had been successfully completed, along with the scheduled meetings of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products and various working groups. Tasks relating to Parties' reporting obligations had generally been completed, but there were still some problems with country-specific assistance, where some Parties had not yet submitted their reports, or had submitted them very late. It would be feasible to provide further assistance on a regional basis. Most queries were dealt with by telephone or e-mail, but it was difficult to provide country-specific assistance

without visiting the country concerned, for instance to help the ministry of health to obtain the information it required from other ministries. After discussions with WHO's Tobacco Free Initiative and representatives from the regional offices, it had been decided that they could provide some of the assistance required.

A comprehensive database of Party reports had been created, containing information on implementation of each article of the Convention by Parties, which would facilitate the exchange of information.

The Conference of the Parties had made the provision of assistance to low-income Parties in the needs assessment process a clear priority. The 2010–2011 workplan provided for 25 needs assessments, of which seven had been completed. More details of those seven assessments had been provided at a lunchtime seminar held earlier in the session. The database of available resources for implementation of the Convention, which showed Parties where they could apply for funding, was now available on the WHO web site. The Convention Secretariat did not fund activities directly: instead, it helped countries to identify their priority needs and put them in touch with relevant development partners.

The Convention Secretariat had presented a report on South-South cooperation (FCTC/COP/4/18) to the current session of the Conference of the Parties. Some Parties, and the Director-General of WHO had called for an increase in such cooperation. The Convention Secretariat sought the guidance of the Conference of the Parties on the best way to promote it in future.

The Convention Secretariat likewise sought the guidance of the Conference of the Parties on the best way of organizing cooperation with international and regional organizations, with the aim of avoiding duplication and capitalizing on the potential and expertise of other organizations. It would not commit itself to operational activities, however, but would facilitate the making of contacts and explore the potential for cooperation in implementation assistance to Parties.

The area of general administration and management had posed considerable challenges over the three-year existence of the Convention Secretariat. It was the first treaty body within WHO, and had been expected to deliver results right from the beginning. The problems associated with WHO's changeover to the new Global Management System had posed an additional challenge. However, the core capacity of the Convention Secretariat was now in place. Cooperation with WHO's Tobacco Free Initiative had been significantly strengthened; a short report on that subject was contained in document FCTC/COP/4/20 and more details could be found in the report on the activities of the Convention Secretariat (document FCTC/COP/4/3).

The figures on financial implementation contained in the main report covered only the period until 1 July 2010; updated figures valid to 31 October 2010 were contained in document FCTC/COP/4/20 Add.1. Nineteen more Parties had paid some or all of their voluntary assessed contributions during that four-month period (see document FCTC/COP/4/20 Add.2), and it seemed likely that most Parties would have paid by December 2011 although, of course, funds had to be disbursed long before then to allow planned activities to take place. Fundraising activities had recently been increased and there was a very good chance that much more extrabudgetary funding for country assistance activities would be available in 2011.

Ms PAINE (Canada) expressed concern about the large amount of voluntary assessed contributions that remained unpaid. The voluntary nature of the contributions should not be interpreted in a way that might excuse a lack of compliance with Parties' financial obligations under the Convention. She called upon all Parties to pay their contributions and further encouraged the Conference of the Parties to review its stated priorities for the period 2010–2012 in the light of the funds available. The main priority should be the draft protocol on illicit trade in tobacco products.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that, although the European Union had urged its Member States which were Parties to the Convention to pay their voluntary assessed contributions on time, some of them were still in arrears. The European Union would welcome creative suggestions from other Parties that might help to

resolve the problem. The increase in the number of Parties paying their contributions in recent months was an encouraging development, and he hoped that it would continue.

The main concern of the European Union was the finalization of the protocol on illicit trade in tobacco products. A working group was due to meet that evening, and he hoped that it would identify the least expensive way of continuing the negotiations while ensuring that the momentum gained thus far was not lost. If negotiations were to be held in 2011, they should be financed from the 2010–2011 budget. The balance of available funds in June 2010 had stood at over US\$ 5 million (see document FCTC/COP/4/20, Annex 2, Table 1), which surely allowed some potential to fund meetings of the Intergovernmental Negotiating Body. He urged the Convention Secretariat to identify other areas of the budget where the necessary savings could be made. The Conference of the Parties might need to rethink its priorities.

He supported the principles according to which the Convention Secretariat worked at country level, which Dr Nikogosian had just explained. It was essential to cooperate with multilateral and bilateral development partners in order to implement the Convention as widely as possible.

The CHAIR said that the suggestion that some of the available funds from the 2010–2011 budget should be used for meetings of the Intergovernmental Negotiating Body was a substantive one, and invited comments from Parties and the Convention Secretariat.

Mr IBRAHIM (Sudan) agreed that the Convention Secretariat should seek to reduce costs, especially travel costs, in order to focus on developing infrastructure and providing more assistance to developing countries, particularly in the coming year. However, training and research should not be neglected. Local-level partnerships in developing countries were valuable because they helped to cut costs,.

Ms HERNANDEZ (Canada) echoed the remarks of the representative of New Zealand relating to the cost-saving potential of new technology. Such technology had been used to good effect in discussions within the Region of the Americas on the draft protocol on illicit trade in tobacco products. It had not been easy for all Parties to obtain the necessary technology, but it was definitely an area that the Convention Secretariat should explore more thoroughly.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the Convention Secretariat would certainly look carefully into the use of new technology for meetings and other contacts, although it might present a challenge for low-income countries.

Mr SATPATHY (India) said that a budget of US\$ 2 600 000, to be funded largely by extrabudgetary resources, had been allocated for assistance to Parties for the biennium 2010–2011, but that only US\$ 170 000 had been disbursed in the period covered by the interim performance report. Assistance to Parties was a core activity of the Convention, and the Conference of the Parties must ensure that adequate funding was provided.

The CHAIR said that it was important to distinguish the financial burden associated with activities under the Convention from that associated with the implementation of protocols, particularly since the two might not have the same set of parties. For example, in the field of climate change, some States were party to the United Nations Framework Convention on Climate Change but not to the Kyoto Protocol.

Dr OTTO (Palau) said that the Conference of the Parties must decide on its priorities and state them clearly. For example, the representative of India appeared to think that the draft protocol on illicit trade should not be accorded priority over core activities under the Convention, such as assistance to low-income Parties, but the draft protocol had been designated as a priority and it was too late to change that decision now. He was not convinced of the need to set up a contact group on the budget at the current session, but it would be useful to establish an intersessional group to work on creative and

innovative methods of fundraising, which could communicate by electronic means. One idea which had been raised was that of a tax on the profits made by tobacco companies, often from trade in developing countries, which could be used for activities which benefited those countries.

Ms SY (adviser to Dr Cuison-Maglaya, Philippines) asked whether the sum of US\$ 5 million was really available to spend. She had understood that there was no surplus. She said that she supported the suggestion of the representative of Palau that innovative fundraising methods should be sought. Indeed, the idea of levying an international tax to raise funds for development had appeared in the Landau report, commissioned by French President Jacques Chirac in 2003, but the same principle could be applied to levying a tax on the profits made by tobacco companies. The Conference of the Parties should not be involved in financing work on the draft protocol on illicit trade in tobacco products because, once adopted, it would not be binding on all the Parties.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that it was important to distinguish the cost of the negotiations to draw up a protocol to the Convention, which should involve all Parties and therefore be financed by the Conference of the Parties, from the cost of activities under the protocol when it had been adopted, which would be financed only by the parties to the protocol. The Conference of the Parties would need to address the issue of financing further negotiations on the draft protocol on illicit trade during the current session.

On the issue of available funds, he pointed out that the figure of US\$ 4.4 million contained in Table 1 of document FCTC/COP/20 Add.1 represented that part of the budget which had not yet been disbursed as at 31 October 2010. Yet, that did not mean those funds were not spoken for. Staff salaries and the costs of the current session had to be paid. The Convention Secretariat should, nevertheless, seek to identify any surplus that might remain.

Mr SATPATHY (India) said that he had not wanted to imply that the protocol on illicit trade was of lower priority, merely that negotiations on the protocol should not take funds away from vital functions such as assistance to countries or technical cooperation.

Mr ADAM (Chad) agreed with the representatives of Sudan and Bangladesh that Parties must not lose sight of the difficulties encountered by developing countries in their implementation of the Convention. Often, ministries of health did not have the necessary resources in their own budgets. More resources should accordingly be allocated to developing country Parties.

(For continuation of the discussion, see summary record of the seventh meeting, section 1.)

Proposed workplan and budget for the financial period 2012–2013: Item 7.3 of the Agenda (Documents FCTC/COP/4/21 and FCTC/COP/4/INF.DOC./4) (resumed)

Ms HERNANDEZ (Canada) formally requested the Convention Secretariat to prepare a new version of the proposed workplan and budget, reflecting expected expenditure on the negotiations on the protocol on illicit trade in tobacco products and any activities preceding the protocol's entry into force. She further requested a "side-by-side" proposed workplan and budget, comparing the planned activities of the Convention Secretariat with activities of WHO's Tobacco Free Initiative relating to the implementation of the Convention in the biennium 2012–2013.

Mr VIEGAS (Brazil) supported the proposal by the representative of Canada. In a time of economic crisis during which resources were scant, it was important to achieve maximum synergy between the work of the Convention Secretariat and that of the WHO Tobacco Free Initiative.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the information requested by the representative of Canada was already available. An informal document containing a side-by-side workplan for the Convention Secretariat and WHO's Tobacco Free Initiative was due to be discussed

the following day. The Tobacco Free Initiative would be unable to provide reliable budget estimates beyond the biennium 2010–2011 until the World Health Assembly had approved the budget for the following biennium. The Tobacco Free Initiative already had a shortfall of US\$ 12 million, out of a budget for 2010–2011 of over US\$ 40 million.

Information relating to the draft protocol on illicit trade was contained in two information documents submitted to the current session of the Conference of the Parties: paragraph 28 of document FCTC/COP/4/INF.DOC./3 gave the estimated costs of the various options for continuing the negotiations in 2011, and document FCTC/COP/4/INF.DOC./1, paragraph 28, gave the estimated costs of assistance to Parties in the period preceding the entry into force of the protocol. That information could be incorporated into a revised draft work plan and budget for 2012–2013 for submission at the current session, if Parties so wished. The figures provided would also give some idea of the likely costs in the event that the negotiation process, and thus the entry into force of the protocol, were delayed beyond the biennium 2010–2011.

Replying to questions raised by Mr GOFFIN (alternate to Mr Courard, Belgium) and Ms PAINE (Canada), he drew the attention of representatives to the tables in document FCTC/COP/4/20 Add.1, which contained information updated to 31 October 2010. Table 1 showed total available funds of approximately US\$ 10.6 million, of which US\$ 6.2 million had already been disbursed by that date. Approximately US\$ 850 000 remained to be paid for the current session of the Conference of the Parties. There were no plans to employ more staff in the Convention Secretariat, but the salaries of existing staff had to be paid for the rest of the biennium, at a cost of approximately US\$ 3.3 million. The remaining sum of approximately US\$ 200 000 would be spent on country assistance activities and operational management activities.

The CHAIR, summing up, noted that the Committee needed to recommend action to the plenary in respect of the proposed workplan and budget for the biennium 2012–2013 (see document FCTC/COP/4/21, paragraphs 8 and 9). He asked the Convention Secretariat to draw up an appropriate draft resolution. He still believed that an informal contact group would be required, and suggested that the Committee should take a final decision at the beginning of the next meeting.

(For continuation of the discussion, see summary record of the third meeting, section 2.)

The meeting rose at 18:15.

THIRD MEETING

Thursday, 18 November 2010, at 15:05

Chair: Mr YI XIANLIANG (China)

1. REPORTING, IMPLEMENTATION ASSISTANCE AND INTERNATIONAL COOPERATION: Item 6 of the Agenda

Financial resources and mechanisms of assistance: Item 6.3 of the Agenda (Document FCTC/COP/4/16)

The CHAIR invited the Committee to consider item 6.3 of the agenda entitled "Financial resources and mechanisms of assistance".

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the report contained in document FCC/COP/4/16, which had been prepared in accordance with decision FCTC/COP2(10), sought to systematize the mechanisms of assistance and highlight the links between them. It was more substantial than the previous report, in view of the experience accumulated by the Convention Secretariat, in particular over the previous two years. The mechanisms of assistance referred to in the report included analysis of needs, resources and assistance in Parties' reports; needs assessment missions; a database of available resources; intercountry exchanges of experience; and the promotion of the transfer of expertise and technology. He said that there had been strong and growing cooperation in those areas between the Secretariat, WHO's Tobacco Free Initiative and other existing WHO structures at all levels. The future involvement of the United Nations system, through the United Nations Development Assistance Framework and the "delivering as one" process, would enhance efforts to strengthen mechanisms of assistance. He noted in particular the close link between financial resources and mechanisms of assistance, and collaboration with relevant international partners and bodies.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that tobacco was an important social determinant of health and a major contributor to the noncommunicable disease burden. The European Union attached great importance to the Convention, and was providing, through the Convention Secretariat, its pictorial health warnings and messages on cigarette packages free of charge to other Parties. It was also willing to share its legal and technical expertise with countries that requested such support. Tobacco control activities under the Convention were, in principle, eligible for support under the European Development Fund, which must be requested by the country concerned. Taking into account the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action, the European Union was also considering more sector-wide approaches and budget support in its development approach.

Resources were certainly an important consideration with regard to tobacco control, but strong political will and national ownership were crucial to ensuring that programmes were implemented sustainably. Needs assessments would help to promote understanding of the issues and the development of multisectoral activities, but would not be successful without national commitment to prevention, even if that meant taking unpopular measures. Other important elements were governments' commitment to countering interference from parties with vested interests, good

governance and the fight against corruption, and the support of civil society. WHO's Tobacco Free Initiative, as well as WHO regional and country offices, had an important role to play in the implementation of the Convention. In particular, consideration should be given to incorporating implementation of the Convention into the "One UN" reform process by including it under the United Nations Development Assistance Framework. The views of the Tobacco Free Initiative on implementation activities at country level would be welcome.

Dr HATAI CHITANONDH (Thailand), speaking on behalf of the Parties in the WHO South-East Asia Region, called for greater global efforts to help obtain much needed resources to assist low- and middle-income countries in implementing the Convention. Many activities relating to the Convention that were due to be covered by extrabudgetary funds in the next biennium should be included under core funding arrangements.

Dr MOUSSA (Niger) said that financial resources, technical assistance, strong political will and international cooperation were needed to facilitate the implementation of the Convention, particularly in low-income Parties and Parties with economies in transition. The database of available resources and the international database of pictorial health warnings and messages were welcome innovations. The fact that only eight Parties had received support for needs assessment was disappointing and suggested that local partners should be involved in that activity. To facilitate the implementation of the Convention, Parties should integrate tobacco control activities into their national health development plans. Those Parties that had not yet paid their voluntary contributions should do so as soon as possible. Implementation of the Convention should also be included under the United Nations Development Assistance Framework and in countries' joint assistance strategies.

Ms KIPTUI (Kenya) said that she supported the comments made by the representatives of Thailand and Niger. At its first session the Conference of the Parties had acknowledged that mechanisms of assistance had to be found to facilitate the implementation of the Convention, particularly in developing countries. Since then, many developing countries had adopted comprehensive legislation to give effect to the provisions of the Convention, but had not received any support in implementing that legislation. She suggested that an intersessional working group should be set up with a view to evaluating the performance of existing mechanisms of assistance and making recommendations to the fifth session of the Conference of the Parties on ways to ensure the effectiveness of those mechanisms.

Mr ADAM (Chad) said that many Parties in Africa had adopted tobacco-control legislation, but had yet to receive assistance in implementing the Convention. Moreover, implementation assistance activities in the workplan for 2010–2011 were, to a large extent, based on extrabudgetary resources, which might not be forthcoming. He urged all Parties to make the provision of implementation assistance a priority, and supported the suggestion made by the representative of Kenya to establish a working group to identify ways of improving access to financial resources for the implementation of the Convention.

Mr VIEGAS (Brazil) drew attention to a draft decision on financial resources, mechanisms of assistance and international cooperation, submitted by his country, which read:

The Conference of the Parties,

Noting the reports of the Secretariat on financial resources and mechanisms of assistance¹ and cooperation with international organizations and bodies for strengthening implementation of the WHO Convention on Tobacco Control (WHO FCTC);²

Noting also the report of the United Nations Secretary-General to the 2010 substantive session of the Economic and Social Council and in particular the action points on implementation of the Convention under the United Nations Development Assistance Frameworks (UNDAFs);

Reaffirming that implementation of the Convention under the UNDAFs is a *strategic approach* ensuring long term and sustainable implementation, monitoring and evaluation of implementation progress for developing country Parties and Parties with economies in transition, and that it *encourages* developing country Parties and Parties with economies in transition to utilize the opportunities for assistance under the UNDAFs;

Recalling the measures under the Convention including objectives, guiding principles and general obligations, demand and supply side measures for tobacco control, sustainability and protection of the environment, scientific and technical cooperation, communication of information and institutional arrangements and financial resources, and in this regard;

Recalling, in particular, Articles 23(g), 24(e), 25 and 26 of the WHO FCTC, highlighting the importance of international cooperation in implementation of the Convention;

Further recalling earlier decisions of the Conference of the Parties³ to strengthen the financial resources and mechanisms of assistance to developing country Parties and Parties with economies in transition;

Taking note of the fact that the summary reports of implementation of the WHO FCTC by the Parties reveal that lack of resources is one of the most important obstacles to implementation of the Convention;

Recognizing the importance of financial resources, mechanisms of assistance and international cooperation in implementation of the Convention and taking note of the Secretariat database on available resources;

Reaffirming the importance of international cooperation and potential contribution of the United Nations system, particularly through the UNDAFs and the role of other relevant international, regional and subregional organizations, financial institutions and other potential development partners in assisting the Parties in implementation of the Convention,

¹ Document FCTC/COP/4/16.

² Document FCTC/COP/4/17.

³ Decisions FCTC/COP/1(13), FCTC/COP/2(10).

DECIDES:

- (1) to urge all Parties, particularly developed country Parties to include support to the implementation of the Convention as an eligible area of bilateral assistance programmes;
- (2) to urge Parties to share their technical, legal and scientific expertise and technologies in implementing the WHO FCTC and to assess and share their needs in light of their total obligations under the Convention;
- (3) to call upon relevant international, regional and subregional organizations, international financial institutions and other partners to build capacity and allocate resources in supporting of global implementation of the Convention, particularly the needs identified in developing country Parties and Parties with economic in transition;

FURTHER DECIDES to request the Convention Secretariat:

- (1) to continue to actively work in accordance with Article 24.3(e) of the WHO FCTC and in particular, in line with paragraph 22 of the report on cooperation with international organizations and bodies,¹ and in particular with the United Nations agencies responsible for implementation of UNDAFs and coordination of the delivery of assistance, for strengthening implementation of the Convention at country level; and to present a report on progress made in this area to the next regular session of the Conference of the Parties;
- (2) to take the necessary action to coordinate with the relevant United Nations agencies, funds and programmes to assist developing country Parties and Parties with economies in transition to utilize the opportunities for assistance under the UNDAFs;
- (3) to make the database on available resources, established in line with the decision of the Conference of the Parties, available to the Parties and update the available information in the database on continuous basis and actively identify and facilitate access to resources, upon request by the Parties;
- (4) to actively work to raise necessary extrabudgetary resources to implement the required activities, as contained in the workplan to facilitate assistance to Parties in implementation of the Convention.

The draft decision sought to draw the attention of the Parties to the Convention, the Convention Secretariat and the international community to the need to establish regular, sustainable mechanisms aimed at ensuring full implementation of the Convention. It invited Parties to seek the assistance of multilateral agencies, in particular through the United Nations Development Assistance Framework, and of other Parties in order to promote the sharing of expertise and the transfer of technology. It also urged Parties to work with United Nations agencies to find sustainable financial instruments to support the establishment or continuation of national, regional and international tobacco-control programmes.

Mr REGALADO PINEDA (Mexico) said that, in the interests of cost-effectiveness, it would be preferable to establish an ad hoc group to consider the issue of mechanisms of assistance and make recommendations to the fifth session of the Conference of the Parties.

Mr IBRAHIM (Sudan) said that developing countries continued to face serious difficulties in securing the funds necessary for implementation of the Convention. Many development agencies did not consider tobacco control to be a priority, and Sudan would support all efforts aimed at ensuring that developing countries had the resources necessary to carry out implementation activities.

Ms DU PREEZ (Namibia) expressed support for the views expressed by the representative of Kenya and welcomed the draft decision submitted by Brazil. There were clear disparities in the implementation of the Convention, and Parties in the WHO African Region in particular were lagging

¹ Document FCTC/COP/4/17.

behind. She hoped that the needs of Parties would finally be met and that a decision would be taken to enable the full implementation of the Convention.

Ms BREBNER (Samoa), noting that the challenge for most developing countries was to sustain the momentum achieved thus far in implementing the provisions of the Convention, expressed support for the suggestion made by the representative of Kenya.

Mr CHOCANO BURGA (Peru) said that, while considerable efforts had been made to implement the Convention and promote cooperation, there was room for improvement. The Convention Secretariat could play an important role by encouraging Parties to assist each other in developing national legislation and action plans. Needs assessments were particularly useful in helping countries to develop programmes of action and cooperation. He commended the Secretariat's efforts to establish ties with other international bodies and United Nations system agencies, including the Economic and Social Council and the United Nations Development Programme, in order to raise the profile of the Convention and establish synergies. With regard to the suggestion to establish a working group, he said that it might be more cost effective and efficient to mandate the Bureau to review the issue and make recommendations to the fifth session of the Conference of the Parties. He said that he supported the draft decision submitted by Brazil.

Mr LINDGREN (Norway) said that the need for different types of implementation assistance was substantial, and drew attention to the benefits that Parties could derive from collaborating with the Convention Secretariat and utilizing its expertise. The cooperation between WHO's Tobacco Free Initiative and country offices with respect to needs assessment was welcome, but care should be taken to avoid duplication of efforts at country level. He agreed that it was important for developing countries themselves to give priority to tobacco control in their national development programmes and when seeking funding. He welcomed the creation of a database on available resources, which he hoped would serve as a useful tool for Parties, and hoped that the Secretariat's mandate to seek extrabudgetary funding for the 2012–2013 budget would be maintained. He said that he supported the draft decision submitted by Brazil and said that the European Union would like to cosponsor it.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, questioned the need to set up a working group, since mechanisms of assistance were already available, including the European Development Fund, which provided assistance to the African, Caribbean and Pacific countries, and the United Nations Development Assistance Framework. He expressed support for the draft decision submitted by Brazil.

Mr SATPATHY (India) reiterated the need to maintain a balance between the horizontal expansion of the Convention and its vertical integration, and to ensure that it was implemented fully in all countries. As efforts relating to needs assessment, development assistance and implementation mechanisms were to be financed through extrabudgetary funding, which were not assured, he urged donor countries to earmark their extrabudgetary contributions for such activities. Some aspects of needs assessment and support for the development of proposals should be financed through core budget allocations. He requested the Convention Secretariat to describe the various fundraising activities it had undertaken and the challenges and opportunities faced. Recalling Article 22 of the Convention, he said that countries with strong regulatory frameworks should ensure that companies operating within their legal jurisdiction applied the same standards concerning product disclosures and information when selling products to countries with weaker regulatory systems. Profits made by the tobacco industry from sales in developing countries and countries in transition should be taxed and a portion of that revenue earmarked for implementation of the Convention. He called for enhanced cooperation to assist developing countries in facing legal challenges from the tobacco industry. Full implementation of Article 22 in terms of development and needs assistance would help countries to meet their onerous reporting obligations.

Ms KIPTUI (Kenya), recalling the comments of the representative of Norway that developing countries should prioritize tobacco control when seeking funding, said that the funding agenda for developing countries, particularly in Africa, was currently focused on HIV/AIDS, tuberculosis and malaria. She therefore urged development partners to give priority to tobacco control in their funding for developing countries. To that end, the Conference of the Parties should mandate the Convention Secretariat to continue to promote the Convention within the United Nations system, in particular through the United Nations Development Assistance Framework. The forthcoming United Nations summit on noncommunicable diseases would provide a good opportunity for the Conference of the Parties to place implementation of the Convention on the development agenda by highlighting the importance of funding for tobacco control in developing countries.

Dr ISLAM (Bangladesh) said that needs assessments constituted the starting point in the implementation of the Convention. Once needs had been assessed, funding must be secured to fill the gaps identified, but that challenging process had not been sufficiently addressed in the Secretariat's report. Endorsing the comments of the representative of India, he said that there was an urgent need to strengthen implementation assistance. A clear picture of available financial resources should be obtained, and ways of attracting such resources identified. Bangladesh called upon all Parties to cooperate with a view to making progress in that regard.

The CHAIR suggested that the proposal by Kenya to establish a working group should be incorporated into the draft decision submitted by Brazil. A revised text would be circulated for discussion at a later meeting. In the interests of cost-effectiveness, the working group might meet either during the fifth session of the Conference of the Parties or the fifth session of the Intergovernmental Negotiating Body.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that the working group should meet during the fifth session of the Conference of the Parties

Dr MOCHIZUKI-KOBAYASHI (Japan), said that he supported the statement made by Belgium on behalf of the European Union, and added that the working group should not constitute an additional financial burden.

Mr NEVES SILVA (Brazil) said that he agreed that the working group should meet when another body was in session. The initial work might take place in regional groups; electronic exchange of documents would help to reduce costs.

Dr ASQUETA (Uruguay) expressed support for the proposal put forward by Brazil and the suggestion made by the representative of Kenya with regard to the summit on noncommunicable diseases, which was in line with the sixth and seventh paragraphs of the Punta del Este Declaration on the Implementation of the WHO Convention on Tobacco Control, contained in decision FCTC/COP4(5).

Dr ROMO ARELLANO (Ecuador) supported the suggestion made by Brazil and drew attention to the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action, which set out guidelines for international cooperation.

Ms KIPTUI (Kenya) said that, in establishing funding mechanisms, it was important to link tobacco control to other areas likely to receive significant funding in the future, including noncommunicable diseases, particularly as tobacco was a leading risk factor for such diseases. Her suggestion that the Conference of the Parties should make a statement regarding tobacco control at the forthcoming summit on noncommunicable diseases was consistent with the seventh operative paragraph of the Punta del Este Declaration on the Implementation of the WHO Convention on Tobacco Control, contained in decision FCTC/COP4(5).

Dr AL TARKAIT (Kuwait) pointed out that a shortage of financial resources was not the only reason why the Convention might not be properly implemented. Efforts to promote the Convention should also be strengthened.

Dr YEARWOOD (Trinidad and Tobago) said that she agreed that the issue of tobacco control should be raised at the summit on noncommunicable diseases. It was important to include tobacco and other risk factors for chronic noncommunicable diseases in the Millennium Development Goals.

Mr AG MOUHAMEDOUN (Mali) said that although he was not opposed to the establishment of a working group, it would be preferable if the objective of assisting developing countries in implementing the Convention could be achieved without setting up such a group.

Mr LINDGREN (Norway), supported by Dr KUARTEI (Palau), said that the suggestion by the representative of Kenya was already covered by the seventh paragraph of the Punte del Este Declaration.

Mr SATPATHY (India), referring to the draft decision, suggested that wording along the following lines “and earmark extrabudgetary resources for specific implementation activities” should be added at the end of the fourth paragraph of the section beginning with the words “FURTHER DECIDES”. An assessment of the various implementation mechanisms should be undertaken by the Convention Secretariat, and, on the basis of that report, a decision taken at the fifth session of the Conference of the Parties on whether or not to establish a working group. Accordingly, in the draft decision, reference to that report should be included in the first paragraph of the section beginning with “FURTHER DECIDES”. He agreed that the concerns expressed by the representative of Kenya were addressed in the Punte del Este Declaration.

The CHAIR invited participants to submit to the Secretariat in writing any amendments to the draft decision. A revised text would be prepared for discussion at a subsequent meeting.

It was so agreed.

(For continuation of the discussion, see summary record of the fifth meeting, section 1.)

Cooperation with international organizations and bodies for strengthening implementation of the Convention: Item 6.4 of the Agenda (Document FCTC/COP/4/17)

Dr HATAI CHITANONDH (Thailand), speaking on behalf of the Parties in the WHO South-East Asia Region, said that guidelines on control of foreign direct investment by tobacco companies should be developed, as such investment had been detrimental to tobacco-control efforts, particularly in low- and middle-income countries.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that Parties needed to shift their focus from the development of guidelines to implementation of the Convention at country level, in particular through the integration of tobacco control into existing development policies. In order to strengthen national ownership, countries themselves should be taking the lead in tobacco-control activities. Steps should be taken to mainstream the implementation of the Convention into the United Nations Development Assistance Framework and ensure that the Convention Secretariat participated in the Ad Hoc Interagency Task Force on Tobacco Control. The United Nations Development Programme also had a role to play in coordinating the implementation of the Convention. He would welcome further information on the respective roles of the Convention Secretariat and WHO's Tobacco Free Initiative in their collaboration with other international and regional organizations. Did cooperation agreements already exist and, if so, what role had the Convention Secretariat played in drafting them? The Convention remained a WHO initiative, and the

European Union would view unfavorably any efforts to make the Convention Secretariat more independent of WHO.

The CHAIR invited representatives to consider how to establish synergies between the Convention Secretariat and WHO's Tobacco Free Initiative.

Ms HERNANDEZ (Canada) said that cooperation with international organizations was vital to the effective implementation of the Convention. While Canada welcomed the progress made in that regard by the Convention Secretariat, there was a potential for closer cooperation, in particular with international trade organizations. Canada had accordingly submitted a draft decision to that end. Its aim was to strengthen cooperation with the World Trade Organization (WTO) and foster common understanding of trade-related tobacco control issues, and it read:

The Conference of the Parties,

Having considered the report by the Convention Secretariat on cooperation with international organization and bodies for strengthening implementation of the Convention (document FCTC/COP/4/17);

Welcoming progress made in establishing cooperative relations with international organizations towards implementation of the Convention, particularly activities related to achievement of the Millennium Development Goals and other aspects of the global development agenda;

Recalling that the Fifty-ninth World Health Assembly noted the need for all relevant ministries, including those of health, trade, commerce, finance and foreign affairs, to work together constructively in order to ensure that the interests of trade and health are appropriately balanced and coordinated, and requested the Director-General to continue collaborating with the competent international organizations in order to support policy coherence between trade and health sectors at regional and global levels (resolution WHA59.26);

Recalling the joint 2002 study by WHO and the WTO Secretariat on WTO agreements and public health¹ recognizes that health and trade policy-makers can benefit from closer cooperation to ensure coherence between their different areas of responsibilities;

Mindful that closer cooperation with the WTO specifically on tobacco-control issues would support Parties to the WHO FCTC in implementing the Convention;

Recalling that WHO has observer status in the WTO Technical Barriers to Trade Committee and that it has ad hoc observer status in the TRIPS and GATS Councils;

1. REQUESTS the Convention Secretariat to invite WHO to develop, in consultation with the Convention Secretariat and appropriate international organizations or bodies, a comprehensive report for presentation to the fifth session of the Conference of the Parties that explores options for cooperation with the WTO on trade-related tobacco-control issues as a means of strengthening implementation of the Convention, and that makes recommendations on the feasibility of implementing the identified options;

¹ *WTO agreements and public health: a joint study by the WHO and the WTO Secretariat*. Geneva, World Trade Organization/World Health Organization, 2002.

2. REQUESTS the Convention Secretariat to:
 - (1) cooperate with the WTO Secretariat with the aim of promoting a common understanding of trade-related tobacco control issues;
 - (2) seek observer status in the WTO Technical Barriers to Trade Committee and the Council for Trade-Related Aspects of Intellectual Property Rights, and be available as appropriate to provide technical advice to these bodies regarding the WHO FCTC and tobacco-control measures in general;
 - (3) continue to monitor trade disputes regarding WHO FCTC-related tobacco control measures and other trade-related issues of relevance to the implementation of the Convention and, where appropriate, seek standing before international panels or tribunals responsible for resolving any such disputes; and
 - (4) report on these activities at the fifth session of the Conference of the Parties.

The CHAIR said that, as cooperation with international organizations was closely linked with financial resources and mechanisms of assistance, it might be preferable to have a single draft decision that addressed both items.

Ms HERNANDEZ (Canada) said that she did not see how the draft decision submitted by Canada under agenda item 6.4 could be combined with the draft decision submitted by Brazil under agenda item 6.3. There should be separate draft decisions on what were two different agenda items.

Mr ADAM (Chad) said that it was often difficult for developing countries, in particular countries in Africa, to integrate tobacco control into their national development agendas, which were generally focused on combating poverty. He therefore urged the Convention Secretariat to strengthen cooperation with donor organizations, including the United Nations Development Programme, and to raise awareness of the importance of including tobacco control within the fight against poverty.

Ms EMMERLING (European Union) said that she agreed that it would be preferable to have two separate draft decisions on the two different agenda items. Duplication of work must be avoided, and she asked whether the Convention Secretariat could participate as an observer in the World Trade Organization (WTO), by virtue of WHO's status as an observer in the Committee on Technical Barriers to Trade and an ad hoc observer in the Council for Trade-Related Aspects of Intellectual Property Rights. Highlighting the importance of cooperation among Parties, she said that the draft decision submitted by Canada could be amended to request the Parties to the Convention to inform the Convention Secretariat of trade disputes linked to the implementation of the Convention and to call on the Parties to provide mutual assistance in the event of such a dispute.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the Convention Secretariat could probably attend WTO meetings as an observer by virtue of being part of WHO in administrative terms. However, in so doing, it would be unable to represent the Conference of the Parties or the treaty, since the WHO Secretariat did not represent the treaty. An attempt should be made to establish a direct link and to enable the Convention Secretariat to represent the treaty and the Conference of the Parties by means of having observer status in the WTO.

The CHAIR, noting that different international organizations had different functions in the area of tobacco control, asked whether the Committee wished to have a general decision on international cooperation or whether it wished to single out cooperation with WTO.

Mr SATPATHY (India) said that he would be cautious about a decision highlighting specific arrangements with particular institutions. Treaty bodies and international organizations should remain within their areas of competence and authority. The primary focus of the Convention was public health and tobacco control, not the harmonization of trade-related measures with WTO. Referring to paragraph 2.3 of the draft decision, he said that the Convention Secretariat was not mandated to

monitor trade disputes, and suggested that the WTO Secretariat might instead be requested to share relevant information with the Convention Secretariat.

Mr DUKPA (Bhutan) said that cooperation with international organizations was beneficial only if public health and tobacco-control resources could be pooled effectively, for example through the United Nations Ad Hoc Interagency Task Force on Tobacco Control. Otherwise, the Convention Secretariat should focus on its own mandate.

Dr ISLAM (Bangladesh) said that he supported international cooperation, but strongly opposed any attempt in the name of such cooperation to undermine tobacco-control issues. In that connection, Bangladesh fully supported the suggestion by the representative of Thailand with regard to development of guidelines on control of foreign direct investment by tobacco companies.

Dr ROMO ARELLANO (Ecuador), noting that health was a cross-cutting issue, welcomed the efforts made by WHO and the Convention Secretariat to establish links with other organizations in the United Nations system. A report should be presented to the fifth session of the Conference of the Parties outlining the extent to which countries had been able to take advantage of cooperation with international organizations in their activities to implement the Convention.

Ms HERNANDEZ (Canada) said that the draft decision proposed by Canada built on the Punta del Este Declaration and aimed to ensure that Parties to the Convention could receive information from the WHO Secretariat regarding trade issues under consideration at WTO. Canada hoped to focus the efforts of the Conference of the Parties on trade-related aspects of tobacco control, since that was an area in which many Parties were facing challenges. Changes could be made to the text to address the concerns expressed regarding duplication of efforts and the competencies of the various parties involved.

Ms WIMMER (European Union) said that the main objective was to ensure that the Conference of the Parties was fully informed of trade-related issues and to strengthen the link between the Convention and the WTO. Seeking observer status for the Convention Secretariat was not the only way to achieve that objective, and she was confident that common ground could be found by exploiting existing structures. Further information on the organizations with which observer status had already been sought would be welcome.

Ms SY (adviser to Dr Cuison-Maglaya, Philippines), supporting the views expressed by the representative of Thailand, asked whether it would be possible, in the context of mechanisms to promote international cooperation, to assist Parties in dealing with difficulties faced in connection with foreign direct investment and free trade agreements.

The CHAIR invited interested Parties to consult informally on the question of cooperation between the Convention Secretariat and the WTO, which was a sensitive issue, and to consider whether, in view of the importance of mobilizing financial resources for implementation of the Convention, some elements of the draft decision concerning international cooperation might be included in the draft decision concerning financial resources and mechanisms of assistance. Any proposals in that regard should be submitted to the Secretariat in writing for discussion at a subsequent meeting.

Ms HERNANDEZ (Canada), supported by Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that, as cooperation with international organizations and financial resources and mechanisms of assistance were separate items on the agenda, separate decisions were called for. Paragraph 23 of document FCTC/COP/4/17 invited the Conference of the Parties to provide further guidance in the area of cooperation with international organizations and bodies. Such guidance should include a specific reference to cooperation with the WTO.

The CHAIR agreed that separate decisions were needed on the two different agenda items.

Mr RATA (Observer, World Trade Organization)¹ said that the principles of the WTO supported public policy goals. The WTO Secretariat appreciated the opportunity to cooperate with the Convention Secretariat and would continue to do so in any way that the Conference of the Parties deemed appropriate. It was eager to participate in joint discussions on the technical and factual aspects of WTO agreements, but debate on policy issues was limited to WTO members. He confirmed that WHO had observer status in the WTO Committee on Technical Barriers to Trade.

Mr ZEBALLOS (Observer, International Labour Organization)¹ said that the ILO would continue to collaborate with the Convention Secretariat under the United Nations Development Assistance Framework. For such collaboration to be effective, the Conference of the Parties should provide a clear definition of the operational mechanisms and modalities through which the ILO could support implementation of the Convention at multilateral and national levels. Without a clear demand and mandate from its constituents, it was difficult for the ILO to channel its assistance. Parties to the Convention should take steps to engage with ministries of labour as a means of raising awareness of their needs within the ILO. A formal and official request from the Convention Secretariat would also assist the ILO in planning resource allocation.

(For continuation of the discussion, see summary record of the sixth meeting, section 2.)

2. BUDGETARY AND INSTITUTIONAL MATTERS: ITEM 7 OF THE AGENDA (continued from the second meeting)

Proposed workplan and budget for the financial period 2012–2013: Item 7.3 of the Agenda (Documents FCTC/COP/4/21 and FCTC/COP/4/INF.DOC./4) (continued from the second meeting)

The CHAIR said that the most important issue for discussion by Committee B was the budget for the next biennium. Although a fifth session of the Intergovernmental Negotiating Body was likely to be held, no special financial arrangements existed for that session to be held before 2012. He therefore suggested, given the limited time still available to the Committee, that an informal open-ended contact group to be chaired by the Vice-Chair of Committee B, Mr Viegas of Brazil, should be set up to facilitate a general exchange of views on budget issues including whether the resources necessary for the next session of the Intergovernmental Negotiating Body should be covered in the budget of the next biennium, and if so, whether they should come from core budget resources or extrabudgetary funding, and the level of the percentage increase in the budget.

Ms HERNANDEZ (Canada) said that she was not in favour of setting up an informal group. The budget for the next biennium was a core aspect of the work of Committee B and should be discussed by the Committee itself. Canada had asked for information from the Convention Secretariat concerning the budget of WHO's Tobacco Free Initiative, which would make it possible to identify complementarities and synergies between the Tobacco Free Initiative and the Convention Secretariat and help the Conference of the Parties to identify priorities.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that coordination between WHO's Tobacco Free Initiative and the Convention Secretariat would be discussed in depth under agenda

¹ Participating by virtue of Rule 30 of the Rules of Procedure of the Conference of the Parties to the WHO Convention on Tobacco Control.

item 7.9. In order to avoid any duplication of work between the two bodies, the Convention Secretariat was focusing strictly on the activities that it had been mandated to undertake by the Convention and by the Conference of the Parties. A white paper had just been issued outlining the contribution of WHO's Tobacco Free Initiative to the workplan of the Conference of the Parties. Document FCTC/COP/4/27 Corr.1 provided further information concerning coordination and cooperation between the Convention Secretariat and the Tobacco Free Initiative. Noting that some activities planned for the current biennium might be at risk given the budgetary cap, he said that the workplan for the Tobacco Free Initiative for the next biennium could be developed only after the programme budget was adopted by the World Health Assembly in May.

Dr BETTCHER (WHO Secretariat) said that in the interests of developing synergies, WHO's Tobacco Free Initiative had integrated the implementation of the Convention and its contribution to the workplan of the Conference of the Parties into its planning process for the regions, all the regional offices and WHO. The white paper that had just been issued explained the planning process, described WHO's responsibilities in the implementation of the Convention, and summarized the main areas in which WHO's Tobacco Free Initiative complemented the workplan of the Conference of the Parties' and provided support to the implementation of various provisions of the treaty. A budget line had not been provided for each of those items as the format of the workplan of the Conference of the Parties was very different from that of the budget and workplan of the Tobacco Free Initiative.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that he was not opposed to the establishment of an informal contact group, if it would advance the work of the Committee. At the Committee's next meeting the European Union would be submitting two draft decisions that might have a serious impact on the discussions of the budget for the 2012–2013 biennium.

Dr ASQUETA (Uruguay) said that he supported the views of the representative of Canada and recognized the difficulties involved in augmenting the budget. Nevertheless, the proposal for a zero nominal growth budget in 2012–2013 might mean that the voluntary assessed contributions of some Parties for the next biennium would be lower than for the current biennium. Those Parties might wish to consider making extrabudgetary contributions so that the overall amount of their contributions did not decrease.

The CHAIR, in response to a question from Ms EKEMAN (Turkey), confirmed that the informal open-ended contact group would meet after the close of the present meeting.

Mr PHELELANI KHUMALO (South Africa) said that the Convention Secretariat should provide additional budget information to the Committee at its next meeting, to enable it to engage in a more rigorous and fruitful debate on budget matters.

The CHAIR invited participants to consider the need to strike a balance between contributions and activities, and whether the activities to be undertaken or the budget level were to be determined first.

(For continuation of the discussion, see summary record of the fourth meeting, section 2.)

The meeting rose at 18:05.

FOURTH MEETING

Friday, 19 November 2010, at 10:15

Chair: Mr YI XIANLIANG (China)

1. REPORTING, IMPLEMENTATION ASSISTANCE AND INTERNATIONAL COOPERATION: Item 6 of the Agenda (continued from the third meeting, section 1)

Promoting South–South cooperation for implementation of the Convention: Item 6.5 of the Agenda (Document FCTC/COP/4/18)

Dr OTTO (Palau) expressed appreciation for the assistance that his country had received for its development programmes from various Parties and international partners, including from the Governments of China, Japan, the United States and the European Union. South-South and triangular cooperation should be strengthened, and his delegation was submitting a draft decision on promoting South–South cooperation for implementation of the Convention. The text recognized the importance of such cooperation particularly in view of the fact that the tobacco epidemic disproportionately affected populations in developing countries and was expected to grow in developing countries in the future. It read:

The Conference of the Parties,

Taking note of the report of the Secretariat on South–South cooperation and the implementation of the Convention;¹

Acknowledging the potential of technological, scientific and economic cooperation among the developing countries, particularly with reference to the 30-year report on the promotion of South–South cooperation by United Nations Secretary General,² and the growing significance of triangular cooperation in international development cooperation;

Further acknowledging the role of the Parties, South-South and triangular cooperation networks and institutions as well as existing mechanisms under the United Nations system, in facilitating the implementation of the Convention at country, regional and global levels;

Recognizing the importance attached to the South–South cooperation in its previous sessions,³ particularly in view of the fact that the tobacco epidemic disproportionately affects populations in developing countries, and of its expected growth in developing countries in the future;

¹ Document FCTC/COP/4/18.

² See United Nations General Assembly document A/64/504.

³ See decisions FCTC/COP1(13), FCTC/COP2(10) and FCTC/COP3(19).

Further recognizing the importance of South–South and triangular cooperation in international development assistance mechanisms in general, and in the context of implementation of the Convention in particular,

1. DECIDES to reaffirm the importance of South–South and triangular cooperation in implementation of the Convention and call upon Parties to actively consider promotion of South–South and triangular cooperation for implementation of the Convention;
2. REQUESTS the Convention Secretariat:
 - (1) to actively work in the areas of potential South–South and triangular cooperation and actively engage with the appropriate South–South and triangular institutions and networks as mentioned in paragraphs 27 and 32, respectively, of the Secretariat report on South–South cooperation and the implementation of the Convention;¹
 - (2) to provide, appropriate inputs and information, on opportunities available to the Parties for South–South and triangular cooperation and to promote transfer of technical, scientific and legal expertise and technology in accordance with Articles 22 and 25 of the Convention;
 - (3) to continue its efforts to raise the required extrabudgetary resources for implementation of activities related to the South–South cooperation and prepare a comprehensive report on the work undertaken to promote South–South and triangular cooperation to be presented to the Conference of the Parties at its next regular session.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that the European Union provided the best example of North–North cross-border cooperation and welcomed increased cooperation between developing countries and between the latter and emerging economies, in particular in order to achieve internationally agreed development goals, including the Millennium Development Goals. The European Union recognized the need for a clear conceptual framework for forms of cooperation and a better understanding of such cooperation. He said that the development of national legislation to implement provisions of the Convention was crucial, and noted the relevance of regional cooperation in that regard. That being said, the European Union was reluctant to promote the establishment, under the Secretariat, of regional and subregional knowledge banks, as that function could be fulfilled by the WHO regional offices. It would welcome further information on the types of South–South cooperation that already existed under the Convention, the activities already being undertaken by WHO's Tobacco Free Initiative and regional offices in that regard, and the added value of additional action by the Secretariat.

Mr TRIVEDI (Secretary of the Committee) said that the document before the Committee (FCTC/COP/4/18) had been produced after due consideration of existing networks and mechanisms concerning South–South and triangular cooperation, including the Special Unit for South–South cooperation in UNDP. The experience gained since the third session of the Conference of the Parties had shown that there were a number of areas in the Convention that would benefit from knowledge of regional and subregional practices. However, the development by the Convention Secretariat of regional knowledge banks or of outreach mechanisms had never been foreseen. WHO already had capacity at the regional and subregional levels, and the intention was to supplement the efforts of existing departments and structures and bring a new dimension to the activities undertaken by WHO and other United Nations agencies. WHO's Tobacco Free Initiative had accumulated considerable information that could be used as a knowledge bank and structured according to the regional or subregional context. The objective was to enable best practices to be applied globally, across regions and cultures.

¹ Document FCTC/COP/4/18.

Mr IBRAHIM (Sudan), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, expressed support for the draft decision submitted by Palau.

Ms PAINE (Canada) said that she supported, in principle, the draft decision submitted by Palau but noted that the convening of the meeting of experts to which paragraph 32 (iii) of document FCTC/COP/4/18 referred should be subject to decisions taken by the Conference of the Parties regarding funding and the priorities regarding intersessional groups.

Mr DE SOUZA-GOMES (Brazil) said that his country was a strong supporter of South–South cooperation and that he fully supported the draft decision submitted by Palau, which was in line with the provisions of article 22 of the Convention. He commended the efforts of the Convention Secretariat in addressing the issue.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, welcomed the explanation provided by the Convention Secretariat. He could therefore support the draft decision, but asked for clarification of the term “triangular institutions” in paragraph 2(1).

Dr OTTO (Palau) said that the intention was to strengthen the institutions that already existed in some countries to promote cooperation between partners, including United Nations institutions established for cooperation between partners from developed countries and intergovernmental and other institutions established to promote South–South cooperation, so that countries could obtain assistance to further their development objectives.

The CHAIR agreed that the term “triangular institutions” was not clear and suggested that alternative wording might be found.

Mr SATPATHY (India) said that South–South cooperation, an important element in international development and cooperation, should be seen as a means to generate local resources and share expertise and experiences. It supplemented but did not replace international cooperation. Action to promote South–South cooperation was welcome, as were efforts to raise extrabudgetary resources for such cooperation, and he noted that the use of local experts was often more efficient and cost effective than the use of international experts, particularly in relation to country assessment needs. Important areas for South–South cooperation included the development of national tobacco-control legislation and multisectoral tobacco-control mechanisms, tobacco taxation, packaging and labelling and combating the challenges posed by the tobacco industry. He welcomed the draft decision.

Dr ISLAM (Bangladesh) said that the expansion of tobacco cultivation was posing a serious threat to his country’s food security. South–South cooperation could be an important means of promoting technologies related to crop diversification. He requested the Secretariat to provide resources for South–South cooperation activities in pursuance of the aims of the Convention.

Mr GAO Yanmin (China) expressed support for the draft decision, but noted that the scope of operative paragraph 2(2), which referred to Articles 22 and 25 of the Convention, was too broad and should be limited to the area of tobacco control.

Mr DIOUF (Senegal), speaking on behalf of the Parties in the WHO African Region, said that all actions to strengthen South–South cooperation should be supported and he therefore welcomed the draft decision.

Dr SIRIWAT TIPTARADOL (Thailand) said that his country supported, in principle, the draft decision. Turning to the report of the Convention Secretariat (document FCTC/COP/4/18), he said that the potential areas for South–South cooperation listed in paragraph 27 should include alternatives to tobacco growing. With regard to paragraph 32(ii), he said that the possibility of linking the Special

Unit for South–South Cooperation in the United Nations system with the technical experts of the Convention should also be explored.

The CHAIR agreed that United Nations bodies had an important role to play in promoting implementation of the Convention through strengthened South–South cooperation and in enhancing cooperation between South and North.

Ms BREBNER (Samoa) said that South–South cooperation fostered the transfer and sharing of the skills and expertise necessary to implement the Convention. She supported the draft decision.

Dr PERUGA (WHO Secretariat, Tobacco Free Initiative) said that South–South cooperation, particularly in support of the implementation of the Convention, was a major priority for WHO's Tobacco Free Initiative and for the Organization as a whole. Different mechanisms for South–South cooperation existed, including the collaborating centres already established in several countries; resource centres, the first of which was being set up in Africa; and country cooperation strategies. More informal mechanisms included regional and subregional meetings of focal points for exchanges of experience and best practices, and the facilitation of ad hoc exchanges between countries. The Tobacco Free Initiative would continue to work with the Convention Secretariat to strengthen the existing mechanisms and develop new ones where necessary.

The CHAIR said that, in the absence of any objection, he would take it that the Committee wished to use the draft decision submitted by Palau as the basis for its decision on the item under consideration, on the understanding that the meaning of the term “triangular institutions” would be clarified in the text.

It was so agreed.

(For continuation of the discussion, see summary record of the fifth meeting, section 1.)

2. BUDGETARY AND INSTITUTIONAL MATTERS: Item 7 of the Agenda (continued from the third meeting, section 2)

Proposed workplan and budget for the financial period 2012–2013: Item 7.3 of the Agenda (Documents FCTC/COP/4/21 and FCTC/COP/4/INF.DOC./4) (continued from the third meeting, section 2)

The CHAIR recalled that an informal open-ended contact group had been set up to address the issue of whether the activities to be conducted under the proposed workplan and budget should be determined by the available financial resources, or whether the budget level should be determined by the activities to be undertaken. The decision taken would have implications for the work of Committee A.

Mr VIEGAS (Brazil), speaking in his capacity as Chair of the informal contact group, said that the group had discussed various issues pertaining to the proposed workplan, in particular the financing of the next session of the Intergovernmental Negotiating Body, which would complete the negotiations on a protocol on illicit trade in tobacco products. Parties had expressed the view that the Convention Secretariat should look at the structure of future sessions of the Intergovernmental Negotiating Body and the Conference of the Parties in order to make cost savings consistent with WHO and United Nations norms. It had been pointed out that significant cost savings could be achieved by aligning the cost of travel support and interpretation services during those sessions with WHO travel support policy and United Nations practice in respect of interpretation services. In order to generate additional funding for sessions of the Intergovernmental Negotiating Body, some Parties had suggested that those

Parties whose assessed contributions would be lowered in 2012–2013 under the new scale of contributions should continue to pay their contributions at the 2010–2011 level. A breakdown of costs for one- and two-week sessions of the Intergovernmental Negotiating Body had also been requested, as had a cost-saving scenario should the next session of the Conference of the Parties be held in 2014 rather than in the next biennium.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that, although a breakdown of costs for a one- or two-week session of the Intergovernmental Negotiating Body had been requested, there appeared to be a consensus that the next session of the Intergovernmental Negotiating Body should last for two weeks. The middle weekend should be used for Parties to rest and consult informally since the costs of functioning formally over the weekend were extremely high.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that a document outlining the budgetary implications of various scenarios was being prepared.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, suggested that, in the interests of expediency, the Committee should continue with its agenda pending circulation of the document referred to by the Head of the Convention Secretariat.

Mr PHELELANI KHUMALO (South Africa) requested clarification from the Convention Secretariat of its policies concerning travel support and the current funding regime.

Dr NIKOGOSIAN (Head, Convention Secretariat) recalled that one of the suggestions made by the contact group was to align the travel support policy with the policy followed by WHO, namely to provide an economy class air ticket for representatives of the 49 least developed countries. The policy that had been followed hitherto by the Convention Secretariat was to provide an air ticket and per diem for representatives of not only the least developed countries but also the low- and lower-middle-income countries – some 85–90 Parties. Substantial cost savings could therefore be made if WHO policy were followed.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, noted that the Committee had before it a draft decision, proposed by the European Union, on the issue of travel support.

Mr PHELELANI KHUMALO (South Africa) asked what had been the rationale for the adoption of the current funding regime, and in particular why it had been decided to provide both travel support and per diem for the representatives of up to 90 countries. If the current policy were to be changed by the adoption of the draft decision before the Committee, what would be the implications for countries, other than least developed countries, that would no longer be eligible for travel support?

The CHAIR recalled that current WHO policy was consistent with the objective followed since the early 1990s of facilitating the participation of developing countries, in particular the least developed countries, in United Nations meetings of a social, environmental and cultural nature. That policy should be maintained and strengthened.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the current travel support policy had been inherited from the period of negotiations leading to the adoption of the Convention. The matter had been raised by Parties at the meeting of the informal contact group the previous day, presumably with a view to ensuring the optimum allocation of limited resources.

Dr BETTCHER (WHO Secretariat, Tobacco Free Initiative), outlining developments in travel policy during the negotiation process leading up to the adoption of the Convention, recalled that for the meetings of the pre-negotiation working group in 1999 and 2000, the policy adopted with respect to travel support had been consistent with the model followed by WHO, namely the provision of support for the least developed countries. However, it had been felt that the WHO rules would not provide adequate support to ensure representative participation by poorer countries in the negotiating process, and the Secretariat had been requested to adopt a rule to provide for the inclusion of low- and lower-middle-income countries as defined by the World Bank. World Health Assembly resolution WHA53.16 had established the procedure to be followed in the negotiations. Member States had agreed that greater attention should be paid to securing the participation of delegates from developing countries and that the Secretariat should consider revising its travel policy to that end. The revised practice had been followed at all six sessions of the Intergovernmental Negotiating Body, and for the convening of two intergovernmental working groups that had met following the adoption of the Treaty and prior to its entry into force. It had been continued by the interim Secretariat and the permanent Secretariat.

The CHAIR said that the activities of any international organization, including WHO, depended on the level of core budget and extrabudgetary resources available. Recalling the suggestion by the representative of Kenya that a working group should be established to evaluate the performance of the existing mechanisms of assistance, he said that he would suggest to the Chair of Committee A that, given the limited resources available, any working groups that were to be established by Committee A or Committee B should meet within the context of the Conference of the Parties or the Intergovernmental Negotiating Body, not independently of those bodies.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that the decisions taken with respect to travel policy would have a direct impact on the budget and on meetings of working groups of the Intergovernmental Negotiating Body and the Conference of the Parties. Noting that the rationale for the travel support policy followed by the Secretariat had been to encourage the participation of as many delegations as possible in the negotiation of the final text of the Convention, he pointed out that activities were now being conducted under the Convention and it was necessary to have a legal basis to encourage and support the participation of developing countries in the normal work of the Convention. As such a legal basis did not yet exist, the system of support should be consolidated to facilitate the participation of such countries in accordance with existing WHO and United Nations legislation. Such support currently came from the core regular budget financed through voluntary contributions, but he noted that in other bodies it was sometimes financed from a trust fund rather than from core resources. It was not always easy to reconcile desired activities with the available resources, but the cost structure of activities could be modified to make it easier to set priorities.

The CHAIR agreed that there was room for improvement in the structure of the budget and with regard to the types of activities covered by the budget. However, the question whether activities were to be funded from the regular budget or from other resources, such as a trust fund, was a policy issue.

Mr PRASAD (India) pointed out that Committee B was not subordinate to Committee A, and that, with regard to the question of activities versus resources, Committee B should, in accordance with its mandate, focus on determining the level of financial resources. However, there was also the issue of efficiency versus effectiveness. The measures affecting cost structure proposed by the European Union were efficiency measures, but Committee B also had a broader responsibility to ensure the effectiveness of the activities undertaken. Any cost savings achieved through a decision of the Committee should not redound exclusively to the benefit of the Intergovernmental Negotiating Body, given the importance of core activities under the Convention, such as technical cooperation and development assistance. Moreover, it had yet to be decided whether the next session of the Intergovernmental Negotiating Body was to last one or two weeks, and that decision should be

influenced by consideration of the fact that the length of time that delegations would be absent from their countries was also a cost factor for all Parties.

The CHAIR said that the decision on the duration of the next session of the Intergovernmental Negotiating Body was a matter for Committee A.

Ms KIPTUI (Kenya) agreed with the representative of India that any savings in the budget should not be earmarked for the Intergovernmental Negotiating Body but for the implementation of the Convention, which should be prioritized. She remained convinced that an intersessional working group should be established to review progress in mobilizing the necessary financial resources to enable all Parties to implement the Convention effectively. However, in a spirit of compromise, and to address the concerns expressed by some delegations regarding the establishment of the proposed working group, she proposed that a more informal intersessional consultation process should be conducted, in the form of a review of resource mobilization and of the performance of the mechanisms of assistance, led by the Secretariat and supported by the Bureau in consultation with WHO's Tobacco Free Initiative and interested Parties, which should result in the submission of a report and recommendations. She hoped that all delegations would accept that proposal and participate in the review process in order to address the critical shortage of resources for implementing the provisions of the Convention.

Dr OTTO (Palau) said that he supported the comments made by the representative of India. If the current travel policy were brought into line with WHO travel policy, it would be very difficult for representatives of the Pacific island Parties to attend Convention meetings, and there could be implications in terms of effectively implementing work related to the Convention.

Mr REGALADO PINEDA (Mexico) said that the plenary had agreed, as a priority, to hold another session of the Intergovernmental Negotiating Body in order to complete the negotiation of the protocol on illicit trade in tobacco products. Funding must therefore be assured for that purpose.

The CHAIR said that account should also be taken by the Committee of the priorities set by Committee A.

Mr PHELELANI KHUMALO (South Africa) said that, in order to make an informed decision, the Committee required more information on issues such as the amount of the projected budget deficit for the next financial year and the priorities to be funded. The objective of securing the participation of countries in the Conference of the Parties remained valid; the solution was not simply to reduce travel support to those countries that had received it in the past. He called for a more structured debate on budget issues.

The CHAIR drew the attention of the representative of South Africa to the proposed workplan and budget (document FCTC/COP/4/21), which contained useful information on priorities. He invited the representative of Belgium to introduce the draft decisions proposed by the European Union on the item under consideration.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that the aim of the draft decision was to reduce the cost of activities, so as potentially to augment the number of priorities that could be agreed upon. He agreed with the representative of India that cost savings should not benefit the Intergovernmental Negotiating Body exclusively, but should be used to increase efficiency across all activities. Responding to the comments made by the representative of Palau, he said that a solid legal basis existed for reverting to the WHO travel support policy. Travel support costs should be financed through core funding of the Convention, not through extrabudgetary contributions.

The European Union had submitted two draft decisions concerning the proposed workplan and budget for the financial period 2012–2013. The first concerned harmonization of travel support available to Parties to the Convention in line with WHO administrative policies for travel support, and read:

The Conference of the Parties,

Recalling the resolution WHA50.1 of the World Health Assembly;

Recalling the current budget constraints and bearing in mind the priority that should be given to the operational work under the WHO Convention on Tobacco Control (WHO FCTC);

Recalling the willingness of the parties to allow all parties to attend WHO FCTC meetings,

DECIDES to harmonize the travel support available to Parties to the WHO FCTC in line with current World Health Organization administrative policies for travel support.

The second draft decision concerned arrears in the payment of financial contributions. It did not seek to punish Parties in arrears, but to provide for the development, on the basis of Article 19 of the Charter of the United Nations, of a mechanism to limit the amount of arrears, such as the suspension of voting rights in the Conference of the Parties, for consideration at the next session of the Conference of the Parties. The text read:

The Conference of the Parties,

Recalling the current budget constraints and bearing in mind the priority that should be given to operational work under the WHO Convention on Tobacco Control;

Deeply concerned by the present situation whereby a very large number of Parties still have outstanding voluntary assessed contributions and that a number of Parties have never paid any of their voluntary assessed contributions;

Taking into account the fact that, according to United Nations practice and in reference to Article 19 of the United Nations Charter, a Party which is in arrears in the payment of its financial contribution can have its voting rights suspended in the Conference of the Parties if its arrears equal or exceed a certain level,

REQUESTS the Convention Secretariat to prepare and present to the fifth session of the Conference of the Parties a report on ways and means to improve payment of voluntary assessed contributions to the Convention taking into account relevant practice in the United Nations system according to Article 19 of the United Nations Charter.

Dr SAN MARTÍN (Paraguay) said that a decision to change the travel support policy for low- and lower-middle-income countries could seriously affect the participation of a large group of countries in activities associated with the Convention. It might also jeopardize the implementation of that instrument in those countries, since the decision would come at a time when the tobacco industry was providing considerable support to a number of countries facing economic difficulties. He therefore did not support the objective of the draft decision on the harmonization of travel support.

Ms HERNANDEZ (Canada) said that she had serious concerns about the liquidity of the Convention Secretariat for the current biennium and supported the draft decision concerning arrears proposed by the European Union. It was important to align the policies of the Convention Secretariat

with those of the World Health Assembly. She recalled Article 7 of the Constitution of the World Health Organization, which read: "If a Member fails to meet its financial obligations to the Organization or in other exceptional circumstances, the Health Assembly may, on such conditions as it thinks proper, suspend the voting privileges and services to which a Member is entitled. The Health Assembly shall have the authority to restore such voting privileges and services". She suggested that a new preambular paragraph should be added, to read: "taking into account Article 7 of the Constitution of the World Health Organization". She encouraged all Parties to pay their voluntary assessed contributions, and noted that the term "voluntary" should not be interpreted to mean that Parties could be excused from complying with their financial obligations.

Mr ADAM (Chad) said that he understood the concerns expressed by the representative of the Belgium regarding the current financial situation. However, the Convention was under threat from the tobacco industry, and the draft decision on the harmonization of travel support could affect the participation of a large number of countries. It would also make them more likely to accept support from the tobacco industry.

Ms DARDON (Guatemala) said that she did not support the draft decision on the harmonization of travel support proposed by the European Union, which could adversely affect the participation of a number of Parties, including many in Central America that were seriously affected by tobacco use and dependence, exposing them in greater measure than before to the influence of the tobacco industry. Parties required support to implement the Convention and should not have such support taken away.

Mr PHELELANI KHUMALO (South Africa) said that he did not support the draft decision concerning arrears in the payment of financial contributions. It would be preferable to ascertain why countries were in arrears rather than to impose sanctions, such as the suspension of voting rights, which could ultimately discourage participation in the Conference of the Parties and weaken the Convention.

Dr ROMO ARELLANO (Ecuador) said that his delegation had a number of concerns regarding the draft decision on travel support proposed by the European Union. The action suggested would seriously limit the participation of many low- and middle-income countries, and would therefore have a detrimental impact on the implementation of the Convention in a number of countries.

Mr LINDGREN (Norway), said that he supported the proposed draft decision on the harmonization of travel support, which was simple and made sense in a period of economic constraint. Moreover, it was consistent with WHO practice and would obviate the need for the development of a general policy for the Conference of the Parties. Concerning the draft decision on arrears, which he also supported, he said that the report requested of the Secretariat, on ways and means to improve payment of voluntary assessed contributions, should include an assessment of office holding rights and services.

Mr DE SOUZA GOMES (Brazil) said that the draft decision on the harmonization of travel support was unacceptable. The action proposed would be counterproductive because it would limit the participation of a number of developing countries with substantial tobacco crops, whose involvement was essential for the full implementation of the Convention. He also opposed the draft decision concerning arrears, and pointed out that there was no legal basis in the Convention for a suspension of voting rights in the event of non-payment of contributions.

Dr MOCHIZUKI-KOBAYASHI (Japan) said that she supported the draft decisions proposed by the European Union with the addition suggested by Canada. While the participation of as many countries as possible was important, resources should, in the light of budgetary constraints, be allocated to the activities of highest priority.

The CHAIR, having requested those delegations that did not support the draft decisions proposed by the European Union but did not wish to take the floor to raise their nameplates in order to save time, noted that the representatives of Senegal and the United Republic of Tanzania were not in favour of the proposals by the European Union.

Dr QOTBA (Qatar), speaking on behalf of the Parties in the WHO Eastern Mediterranean Region, said that she was not in favour of the proposal put forward on behalf of the European Union, which would limit the participation of developing countries.

Mr COLMENARES (Bolivarian Republic of Venezuela) said that he did not support the draft decision on arrears in the payment of financial contributions.

Mr REGALADO PINEDA (Mexico) said that the list of countries eligible for travel support given in Annex 1 to document FCTC/COP/4/DIV/2 should be revised; it was not acceptable to provide support to delegations from emerging economic powers, while ceasing to support Parties traditionally defined as low-income countries.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, pointed out that the draft decisions were being proposed against the background of a financial crisis. He thanked the delegations of Canada, Norway and Japan for their support and said that he could accept the amendment proposed by Canada. Referring to the other comments made, he said that he did not agree with the delegate of Paraguay that the draft decision on travel support would limit implementation of the Convention, because implementation was the responsibility of national governments and could, moreover, be supported by extrabudgetary funding. The concerns expressed by the representative of Chad were unfounded, since Chad was one of the least developed countries and would therefore continue to receive support. Responding to the comment by the representative of Guatemala that the proposed decision would serve to weaken national regulations and attract input from the tobacco industry, he reiterated that implementation of the Convention was a matter for national governments and should not be affected by a decision on travel support. As to the comment by the representative of Ecuador that the decision would adversely affect participation in meetings, he said that under the current policy, support was provided for one representative from each Party. In response to the delegate of Brazil, he said that no legal basis currently existed to draft a decision on arrears; in accordance with the draft decision, the matter would be considered further at the fifth session of the Conference of the Parties. Lastly, he agreed that the list of countries given in the Guide for Participants in the Conference of the Parties (FCTC/COP/4/DIV/2) should be reviewed. Many economies had changed in the 10 years since the process had begun, and some of the 90 countries currently supported had during that period become members of the Group of Twenty. He stressed that the draft decisions related only to voluntary assessed contributions and would not affect implementation through extrabudgetary contributions.

Ms WIMMER (European Union), speaking on behalf of the European Commission, said that she wished to reassure the Committee that the Commission was seeking to support Parties in the implementation of the Convention. Within the context of European Union development aid and a horizontal development programme, the European Commission was currently working with the Convention Secretariat on joint action to strengthen the capacity of developing countries and countries with economies in transition to fulfil their obligations under the Convention, including through the provision of technical assistance to address gaps identified during needs assessment. She hoped that the activity would help to ease budgetary constraints through the provision of an extrabudgetary contribution as early as the following year.

The CHAIR said that the Convention was a young instrument and the first WHO treaty; the broad participation of Parties was necessary for its implementation. To that end, developing countries required financial and technical support. On the issue of travel, he said that the policy of supporting

one representative from each least developed country was not new: a similar policy was followed under other conventions, including the Convention on Biological Diversity and the United Nations Convention on Climate Change. However, while some speakers had expressed a preference to follow WHO rules concerning travel support, most had indicated that they would not support a change in the current policy. As it appeared that no consensus could be reached on the issue, he suggested that past practice should continue to be followed.

Mr DE SOUZA-GOMES (Brazil) said that he supported the comments of the Chair and requested clarification from the Legal Counsel regarding the existence of a legal basis for limiting rights of participation in the event of the non-payment of contributions. He failed to understand the logic of the argument put forward on behalf of the European Union that lower participation would result in better implementation of the Convention. Also, the representative of Belgium should not confuse the Group of Twenty with the Group of 77, of which Brazil, China and more than 120 other countries were members.

Mr ADAM (Chad) said that although his country would not be directly affected by a change in travel support policy, it was inappropriate, at such a crucial stage in the implementation of the Convention, to take a decision that might reduce the momentum. He therefore insisted that the draft decision, which would penalize many countries, should not be adopted. With regard to the payment of financial contributions, he said that it would be more appropriate to develop a strategy to enable countries in arrears to meet their obligations, rather than to implement spending cuts.

The CHAIR said that he took it that there was no consensus on the draft decision concerning travel support, given that it had been opposed by the majority of speakers. With regard to the payment of financial contributions, delegations might wish to explore the possibility of efficiency gains with regard to meetings; for example, to consider holding shorter sessions and whether or not to work over weekends.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union and rising to a point of order, said that he did not agree with the procedural decision of the Chair and insisted that the draft decisions submitted by the European Union should be discussed further during the Committee's fifth meeting that afternoon. He also reiterated his request for a budget simulation to be prepared on the basis of the two draft decisions submitted.

The CHAIR said that the Committee appeared unable to reach a consensus on whether to align travel support policy with that of WHO. While the draft decision could be discussed further at the fifth meeting, he pointed out that the Committee had other important issues to consider.

Mr BURCI (WHO Legal Counsel) said that, unlike other instruments, such as the Constitution of WHO and the Charter of the United Nations, there was no clear legal basis or provision in the Convention to link a decrease or suspension of rights of participation to the non-payment of voluntary assessed contributions.

Mr DE SOUZA-GOMES (Brazil) thanked the Legal Counsel for his clarification and agreed that there was no legal basis for limiting rights of participation since contributions to the budget were voluntary in nature. The draft decision had already been discussed by the Committee, and the majority of speakers had not supported the text. He would question the benefit to be derived from further discussion of the item under consideration at the fifth meeting.

Ms HERNANDEZ (Canada) said that Parties could not discontinue consideration of the item without discussing the Convention Secretariat's lack of liquidity. A more efficient way of managing finances must be found to prevent the Convention Secretariat from having to invoke the Financial Regulations of WHO and adjust priorities given the lack of available funds. The draft decision

concerning arrears submitted by the European Union requested the Secretariat to prepare and present to the fifth session of the Conference of the Parties a report on ways and means to improve payment of voluntary assessed contributions. It was not intended to limit participation, but sought to encourage Parties to meet their commitments.

The CHAIR agreed that all Parties must consider the financial situation of the Convention Secretariat, and that Parties to a treaty were obliged to pay their contributions. Noting that some Parties failed to pay on time because their financial year was different to that of the Convention Secretariat, he said that a mechanism must be put in place to encourage those Parties that continually failed to meet their financial commitments to pay their arrears. He agreed that a draft decision could usefully be adopted on the subject.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, pointed out that there had been some support for the draft decision, and that he was speaking on behalf of 28 Parties. He said that the subject should be considered further later that day. He would welcome clarification of the legal basis for continuing the current practice with regard to travel support, and looked forward to receiving the budget simulation so that Parties could gain a better understanding of the financial implications of any decision taken.

(For continuation of the discussion, see summary record of the fifth meeting, section 2.)

The meeting rose at 13:10.

FIFTH MEETING

Friday, 19 November 2010, at 16:15

Chair: Mr YI XIANLIANG (China)

1. REPORTING, IMPLEMENTATION ASSISTANCE AND INTERNATIONAL COOPERATION: Item 6 of the Agenda (continued from the fourth meeting, section 1)

Promoting South–South cooperation for implementation of the Convention: Item 6.5 of the Agenda (Document FCTC/COP/4/18) (continued from the fourth meeting, section 1)

The CHAIR recalled that the draft decision on promoting South-South cooperation introduced at the fourth meeting had received broad support. Concerning paragraph 2(2), the representative of the European Union had requested clarification of the term “triangular institutions” and the representative of China had stated that it should be clear that the scope of the paragraph was confined to tobacco control. With those comments, he took it that the draft decision was approved.

It was so agreed.

Financial resources and mechanisms of assistance: Item 6.3 of the Agenda (Document FCTC/COP/4/16) (continued from the third meeting, section 1)

The CHAIR invited the Committee to consider the draft decision on financial resources, mechanisms of assistance and international cooperation, which had been amended in the light of the discussions held during the Committee's third meeting.

Draft decision proposed by the delegation of Brazil and Kenya

The Conference of the Parties,

Noting the reports of the Secretariat on financial resources and mechanisms of assistance¹ and cooperation with international organizations and bodies for strengthening implementation of the WHO Framework Convention on Tobacco Control (WHO FCTC);²

Noting also the report of the United Nations Secretary-General to the 2010 substantive session of the Economic and Social Council and in particular the action points on implementation of the Convention under the United Nations Development Assistance Frameworks (UNDAFs);

Reaffirming that implementation of the Convention under the UNDAFs is *a strategic approach* ensuring long-term and sustainable implementation, monitoring and evaluation of

¹ Document FCTC/COP/4/16.

² Document FCTC/COP/4/17.

implementation progress for developing country Parties and Parties with economies in transition, and that it *encourages* developing country Parties and Parties with economies in transition to utilize the opportunities for assistance under the UNDAFs;

Recalling the measures under the Convention including objectives, guiding principles and general obligations, demand and supply side measures for tobacco control sustainability and protection of the environment, scientific and technical cooperation, communication of information and institutional arrangements and financial resources, and in this regard;

Recalling, in particular, Articles 22, 23(e) and (g), 24(e), 25 and 26 of the WHO FCTC, highlighting the importance of international cooperation in implementation of the Convention;

Further recalling earlier decisions of the Conference of the Parties¹ to strengthen the financial resources and mechanisms of assistance to developing country Parties and Parties with economies in transition, including decision FCTC/COP1(13), in which the Conference of the Parties decided, *inter alia*, to strongly encourage all international and regional organizations to support activities related to tobacco control and to acknowledge its role in the achievement of the Millennium Development Goals, especially those related to poverty reduction, gender empowerment, reduction of child mortality, environmental sustainability and global partnership for development;

Taking note of the fact that summary reports of implementation of the WHO FCTC by the Parties reveal that lack of resources is one of the most important obstacles to implementation of the Convention;

Recognizing the importance of financial resources, mechanisms of assistance and international cooperation in implementation of the Convention and taking note of the Secretariat database on available resources;

Reaffirming the importance of international cooperation and potential contribution of the United Nations system, particularly through the UNDAFs and the role of other relevant international, regional and subregional organizations, financial institutions and other potential development partners in assisting the Parties in implementation of the Convention;

Welcoming efforts within the United Nations system to address non-communicable diseases, including resolution A/RES/64/265, in which the United Nations General Assembly decided to convene a high-level meeting of the General Assembly in September 2011, with the participation of Heads of State and Government, on the prevention and control of noncommunicable diseases;

Endorsing the recognition in resolution A/RES/64/265 of the enormous human suffering caused by noncommunicable diseases, such as cardiovascular diseases, cancers, chronic respiratory diseases and diabetes, and the threat they pose to the economies of many States, leading to increasing inequalities between countries and populations, thereby threatening the achievement of internationally agreed development goals, including the Millennium Development Goals;

Considering that resolution A/RES/64/265 underlined the importance for States to continue addressing key risk factors for noncommunicable diseases, including through the

¹ Decisions FCTC/COP1(13) and FCTC/COP2(10).

implementation of the WHO FCTC, and emphasizing the role of tobacco control as a leading strategy to combat noncommunicable diseases,

1. DECIDES to:

- (1) urge all Parties to implement the Convention, recalling that it is their primary responsibility and that Governments of developing countries are in the driving seat of tobacco control activities, which is essential for countries' ownership in accordance with the Paris Declaration on Aid effectiveness and the Accra Agenda for Action;
- (2) urge all Parties, particularly developed country Parties to include support to the implementation of the Convention as an eligible area of bilateral assistance programmes providing this assistance can be eligible to ODA;
- (3) urge Parties to share their technical, legal and scientific expertise and technologies in implementing the WHO FCTC and to assess and share their needs in light of their total obligations under the Convention;
- (4) call upon Parties to support the inclusion of full and rapid implementation of measures required under the WHO FCTC as a key goal of the international community and the inclusion of tobacco control in the successor goals of the internationally agreed development goals and any subsequent global indicators of development;
- (5) call upon relevant international, regional and subregional organizations, international financial institutions and other partners to build capacity and allocate resources in supporting of global implementation of the Convention, particularly the needs identified in developing country Parties and Parties with economies in transition;

2. FURTHER DECIDES to request the Convention Secretariat to:

- (1) continue to actively work in accordance with Article 24.3(e) of the WHO FCTC and in particular, in line with paragraph 22 of the report on cooperation with international organizations and bodies,¹ and in particular with the United Nations agencies responsible for implementation of UNDAFs and coordination of the delivery of assistance, for strengthening implementation of the Convention at country level, and to present a report on progress made in this area to the next regular session of the Conference of Parties. This report would include the assessment of implementation mechanisms at the international, regional and country levels;
- (2) take the necessary action to coordinate with the relevant United Nations agencies, funds and programmes and other development partners to assist developing country Parties and Parties with economies in transition to utilize the opportunities for assistance, including under the UNDAFs;
- (3) actively engage in and contribute to the holding of the high-level meeting of the General Assembly requested in resolution A/RES/64/265, and the special meeting of the Ad Hoc Interagency Task Force on Tobacco Control requested in resolution E/2010/L.26, and to report to the fifth session of the Conference of the Parties on the outcomes of these meetings and any impacts on the mobilization of resources for implementation of the Convention;
- (4) make the database on available resources, established in line with the decision of the Conference of Parties, available to the Parties and update the available information in the database on continuous basis and actively identify and facilitate access to resources upon request by Parties and earmark extra budgetary resources from the Convention budget for specific implementation activities;
- (5) actively work to raise necessary extrabudgetary resources to implement the required activities, as contained in the workplan, to facilitate assistance to Parties in

¹ Document FCTC/COP/4/17.

implementation of the Convention, including, in particular, the conduct of needs assessments in cooperation with WHO's Tobacco Free Initiative and relevant development partners;

(6) undertake, under the guidance of the Bureau and with the assistance of competent authorities within WHO, in particular the Tobacco Free Initiative, as well as Parties particularly interested in the issue and relevant intergovernmental and nongovernmental organizations, a review of progress in the mobilization of resources and the performance of the mechanisms of assistance to support implementation of the Convention, and to submit a report and recommendations based on this review to the fifth session of the Conference of the Parties.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, the world's largest donor of development assistance, said that he approved of the text in its entirety, and requested Brazil to accept the European Union as a cosponsor.

Dr TAKAGI (Japan) said that the word "urge" at the beginning of subparagraphs 1(1), 1(2) and 1(3) of the draft decision was too strong and requested that it be replaced with "call upon". Japan would find it difficult to respond to some of the requirements immediately, especially those in subparagraph 1(2).

Mr DE SOUZA-GOMES (Brazil) acknowledged the flexibility shown by the European Union in informal discussions on the draft decision; he said that Brazil would be honoured to accept the European Union as a cosponsor of the draft decision. He had no objection to the amendments proposed by Japan.

Mr BURCI (WHO Legal Counsel) said that the terms "urge" and "call upon" were roughly equivalent in legal terms but that it was a rather a matter of emphasis since "urge" was a stronger term.

Ms KIPTUI (Kenya) said that she would prefer to keep the word "urge".

The CHAIR suggested that the word "urge" should remain unchanged in subparagraphs 1(1) and 1(3) because the former referred to the obligation that all Parties should implement the Convention and the latter to the sharing of technical, legal and scientific expertise and technologies. The words "call upon" could be used in subparagraph 1(2), which referred to the global and national policy area of Official Development Assistance, the issue with which Japan appeared to have the most difficulty.

Dr TAKAGI (Japan) said that he supported the suggestion made by the Chair.

Ms HERNANDEZ (Canada), drawing attention to the last two lines of subparagraph 2(4), said that it might prove difficult for the Secretariat to earmark extrabudgetary resources for specific implementation activities from the Convention budget when some of those resources might already have been earmarked for other activities by the Party providing them. She therefore suggested that the words "whenever possible", "when appropriate" or "as appropriate" should be inserted before the words "extrabudgetary funding".

Mr DE SOUZA-GOMES (Brazil) agreed that if the text were amended to read "upon request by Parties and, whenever possible, earmark extrabudgetary resources", the concerns raised would be covered and the draft decision could be approved for adoption.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, supported the proposed amendments and suggested that the word "providing" should be amended to

read “provided” in the phrase “providing this assistance can be eligible to ODA” at the end of subparagraph 1(2).

Ms SY (adviser to Dr Cuison-Maglaya, Philippines) suggested that, in view of the need to find additional financial resources to support implementation of the Convention, subparagraph 2(6) should request the Convention Secretariat to undertake a review of “options for innovative funding mechanisms”. In response to the request for clarification of that term from Ms PAINE (Canada), she cited the examples of mechanisms developed by experts working for the Global Fund to Fight AIDS, Tuberculosis and Malaria and UNAIDS.

The CHAIR said that all matters concerning financial resources, including options for innovative funding mechanisms, would be covered in subparagraph 2(6) by the words “progress in the mobilization of resources”. In the absence of any further comments, he took it that the Committee wished to approve the draft decision, as amended.

It was so agreed.

2. BUDGETARY AND INSTITUTIONAL MATTERS (continued from the fourth meeting, section 2)

Proposed workplan and budget for the financial period 2012–2013: Item 7.3 of the Agenda (Documents FCTC/COP/4/21 and FCTC/COP/4/INF.DOC./4) (continued from the fourth meeting, section 2)

The CHAIR said that informal consultations had taken place on the draft decision proposed by the European Union entitled “Arrears in the payment of financial contributions”, and he invited the representative of Brazil to present the resulting proposed amendments.

Mr DE SOUZA-GOMES (Brazil) said that, since the WHO Legal Counsel had stated at the previous meeting of the Committee that there were no grounds for suspending the voting rights of Parties with voluntary assessed contributions outstanding, both the third preambular paragraph of the draft decision and the words “according to Article 19 of the United Nations Charter” in the fourth preambular paragraph should be deleted. In recognition of the need to appeal to Parties in arrears to pay their contributions he suggested the addition of a new operative paragraph that would read: “Urges all Parties, mainly those which are in a position to do so, to comply with their contributions in due time.”

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that the question of arrears affected the cash flow and functioning of the Convention Secretariat. In his view, voluntary assessed contributions were quasi-compulsory, but he understood that they were not compulsory in the same way as the financial contributions referred to under Article 19 of the Charter of the United Nations. That being the case, he could agree to the amendments proposed by the representative of Brazil. The question of arrears of contributions was a matter to which he would wish to return at the fifth session of the Conference of the Parties.

Mr DE SOUZA-GOMES (Brazil), said that he appreciated the flexibility shown by the European Union, and that Brazil was prepared to cosponsor its draft decision.

The CHAIR said that, in the absence of any objection, he would take it that the Committee wished to approve the draft decision, as amended.

It was so agreed.

Ms HERNANDEZ (Canada), speaking on behalf of Canada, Mexico and Panama, requested that the Convention Secretariat establish a procedure for collection of voluntary assessed contributions which involved routinely sending not only an invoice but also a reminder and confirmation of payment to Parties. It would help to ensure that payments were received if the Convention Secretariat kept an up-to-date database of the contact persons for each Party in order to ensure that the invoice was sent to the correct member of staff in each country.

The CHAIR asked the Convention Secretariat to take note of the previous speaker's suggestion.

Dr OTTO (Palau) said that he supported the suggestion made on behalf of Canada, Mexico and Panama. He had been dismayed to see Palau listed as a Party in arrears when the Coalition for a Tobacco Free Palau, aware of the Government's financial difficulties, had taken the initiative of raising the funds to pay its voluntary assessed contributions. He said that he would investigate the matter on his return to Palau.

Ms ALI-HIGO (Djibouti) said that the Convention Secretariat already had a good system for sending payment reminders to Parties in arrears. Several departments in Djibouti had received such reminders but had not paid the contributions as a result of administrative problems.

The CHAIR recalled that there were still another three draft decisions to consider: on the harmonization of travel support, on cooperation with the World Trade Organization, and on the workplan and budget for the next biennium. Beginning with the third, he invited the Head of the Convention Secretariat to present the additional information requested by the Committee on the previous evening.

Dr NIKOGOSIAN (Head, Convention Secretariat) drew attention to a short report prepared at the Committee's request which showed possible cost savings and sources of additional income that could be used for implementation of the Convention. The cost savings had been calculated in accordance with WHO travel support policies, and on the basis that the next session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products would be restricted to regular daytime meetings and regional consultations in the morning, with no extra meetings in the evening or over the weekend; cost savings had been calculated for a one-week and a two-week session. The same principles had been applied to the fifth session of the Conference of the Parties, as well as to meetings of the two existing working groups. The savings would amount to US\$ 1.4 million (in the case of a one-week session) and US\$ 1.65 million (in the case of a two-week session).

As for possible sources of additional income, if Parties due for a reduction in their voluntary assessed contributions in the next biennium agreed to waive their right to the reduction, it would secure an extra US\$ 467 000, after deduction of the World Health Organization's standard 13% programme support costs. A list of the Parties in question and their respective contributions could be distributed if requested.

Responding to a query from Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, as to why the 13% programme support costs needed to be paid to WHO on unexpected additional income, he said that all income was subject to those costs; although it might be possible to request special dispensation.

Dr OTTO (Palau) suggested that the question of whether to apply current WHO policies for travel support should be settled before the resultant cost savings could be factored into the budget. A good number of Parties had raised objections to the proposal at the morning meeting, and the Committee might not necessarily approve the draft decision.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that the Committee was examining in an informal way areas where savings might be made in the

cost structure of sessions of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products and Conference of the Parties. It would be unwise to take a decision on one particular element without an overall picture of the possible options.

The CHAIR said that there was no need to reopen the debate on the draft decision on travel support and that the Committee should concentrate on the document prepared by the Convention Secretariat. Given that the estimated cost difference between a one-week and a two-week session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products was just US\$ 250 000, and in view of the consequences for the protocol if that body failed to complete its work, he said that the option of a two-week session might be preferable.

Dr MOCHIZUKI-KOBAYASHI (Japan) said that Japan could not agree to reconsider its percentage of voluntary assessed contributions as presented in Annex 2 of document FCTC/COP/4/21 without a greater effort from the Convention Secretariat to make more cost savings and find more sources of additional income. In the meantime, all Parties, especially those in arrears, must assume their responsibilities.

Mr SATPATHY (India), supported by Mr LEBEPE (South Africa), requested that the Convention Secretariat provide another column of figures, alongside the cost savings, showing the estimated difference in expenditure between the one-week and the two-week option. It would clearly amount to a great deal more than the estimated US\$ 250 000 in cost savings; in which case he would urge the Committee to consider opting for a one-week session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that a table showing estimated expenditures versus savings could be distributed immediately. He said that the Convention Secretariat, in administrative terms, was part of the World Health Organization and operated within its financial environment. Fluctuating exchange rates had caused major problems in the past, and had been known to create budget gaps; but he was unaware of any particular WHO policy to manage large fluctuations and would need to contact colleagues in the Organization's financial services for further information, if it were required.

In response to a request for clarification from Ms SY (adviser to Dr Cuison-Maglaya Philippines), he confirmed that the cost savings and additional income document was broadly a supplement to the proposed workplan and budget for 2012–2013, and that final decisions would therefore be made on the basis of document FCTC/COP/4/21.

Ms SY (adviser to Dr Cuison-Maglaya, Philippines) said that, in the light of that confirmation, as the representative of Palau had suggested, the Committee should deal first with the draft decision on harmonizing Convention-related travel support with WHO policy.

The CHAIR assured the representatives of Palau and the Philippines that, in the absence of any objections, the Committee would return to the draft decision on travel support after finishing its initial consideration of the estimated savings versus expenditure presented in the table which had just been distributed by the Convention Secretariat.

Ms EVISON (New Zealand) thanked the Convention Secretariat for the additional figures. The latest proposed workplan and budget for 2012–2013 could include one session of the Conference of the Parties, a two-week session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products and two working group meetings, and still have money left over from voluntary assessed contributions, of more than US\$ 1 million. That money could be used in the manner that Parties decided would be most effective to reduce the overall consumption of tobacco in the world.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the Parties in the European Union, asked the Convention Secretariat whether the idea of having no evening meetings also precluded interpretation at the weekend so that the session would consist of ten working days and the weekends could be used for informal consultations. He requested more time to examine the figures and for the Parties in the European Union to consult with their capitals.

Dr NIKOGOSIAN (Head, Convention Secretariat) confirmed that the calculations had been made on the basis of a five-day working week; but they had also included the possibility of holding regional consultations on Sunday evening, the aim being to save time the following Monday morning.

The CHAIR said that, in the absence of any objection, he would take it that the Committee wished to suspend its deliberations in order to allow delegations time to consult.

It was so agreed.

Mr SATPATHY (India) suggested that, in order to further the work of the Committee, colleagues should refrain from any further fine-tuning when considering the figures, and should focus instead on broad parameters such as whether the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products and the Conference of the Parties should be held for one or two weeks.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that, for the sake of simplicity, some of the figures in the document on possible cost savings and additional income had been rounded up or down, and the many Parties due for a reduction of US\$ 100 or less in their voluntary assessed contributions had not been included in the list. The full set of figures would be made available on request.

(For continuation of the discussion, see summary record of the sixth meeting, section 1.)

The meeting rose at 17:30.

SIXTH MEETING

Friday, 19 November 2010, at 20:45

Chair: Mr YI XIANLIANG (China)

1. BUDGETARY AND INSTITUTIONAL MATTERS: (Item 7 of the Agenda) (continued)

Proposed workplan and budget for the financial period 2012–2013: Item 7.3 of the Agenda (Documents FCTC/COP/4/21 and FCTC/COP/4/INF.DOC./4) (continued)

The CHAIR, having noted that interpretation would cease after 40 minutes, said that he wished to propose a solution intended to resolve the important matters raised by the draft decision proposed by the European Union on the harmonization of travel support available to Parties to the Convention in line with current WHO administrative policies for travel support. He invited the Head of the Convention Secretariat to outline the proposal.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that, following the preambular paragraphs recalling previous decisions, it was proposed that the operative part of the draft decision would read:

“The Conference of the Parties,

DECIDES to harmonize the travel support available to Parties to the WHO Framework Convention on Tobacco Control in line with current WHO administrative policies for travel support in favour of least developed countries;

DECIDES to finance the per diem of least developed countries on the same basis until the fifth session of the Conference of the Parties;

DECIDES to continue to finance travel for low- and lower-middle-income countries on the budget financed by voluntary assessed contributions, and to cover the costs of the corresponding per diem with resources available in the extrabudgetary funds until the fifth session of the Conference of the Parties;

REQUESTS the Convention Secretariat to prepare a full report on this issue taking into consideration the severe budgetary constraints for consideration by the fifth session of the Conference of the Parties.”

Mr LEBEPE (South Africa) asked whether the proposed solution would include the fifth session of the Conference of the Parties and suggested that the wording be amended to remove the ambiguity in that regard. He asked what would happen in the event that no resources were available from extrabudgetary funds.

The CHAIR confirmed that the proposals were intended to apply to the next Conference of the Parties. With regard to the availability of resources, he explained that the Convention Secretariat had the competence and the obligation to mobilize resources to support implementation of the Convention,

including the financing of participation by experts and delegates from developing countries, in line with the practice of many other treaty bodies.

Mr LEBEPE (South Africa), thanking the Chair for his clarificatory remarks, proposed that the words “and including” should be inserted after “until” in the relevant paragraphs.

Dr OTTO (Palau), speaking also on behalf of Niue, the Solomon Islands, Tuvalu and the Federated States of Micronesia, supported the comments made by the representative of South Africa. He expressed concern that the budget discussions had focused excessively on ways of controlling and cutting the budget, instead of on innovative ways of finding new resources. He recalled that Palau had made a specific proposal at an earlier meeting regarding the need to tax the profits of the giant tobacco companies so as to make them pay for the problems their products caused for developing countries.

The CHAIR said that although that issue was an important one, the Committee must focus on the specific proposal before it, which related to travel costs. It was a function of the Convention Secretariat to mobilize resources to support implementation of the Treaty, including participation of representatives of developing country Parties in meetings. A sentence to that effect could be incorporated elsewhere.

Ms SY (adviser to Dr Cuison-Maglaya, Philippines) recalled that the Parties were already committed to support implementation of the Framework Convention by promoting the mobilization of resources, and specifically, under Article 26, to establish appropriate financial mechanisms to channel additional financial resources, as needed, to developing country Parties and Parties with economies in transition to assist them in meeting the objectives of the Convention. The draft decision before the Committee ran counter to the principle of providing assistance to developing country Parties, in that it would limit the ability of some developing country Parties to participate in conferences and working groups, making it difficult for them to implement and achieve their objectives under the Convention. Given the unique qualities of the Convention compared with other treaties, special care should be taken to ensure that developing country Parties would have no difficulty in participating.

The CHAIR said that provision was made in the Convention for the Conference of the Parties and the Convention Secretariat to mobilize resources to assist developing countries. However, the budget was a separate issue and he therefore saw no reason for the Committee not to approve the draft decision. He understood the concerns that had been expressed and was sure that they would be kept in mind by all Parties.

The draft decision, as amended, was approved.¹

The CHAIR requested the Convention Secretariat to provide a clean copy of the revised workplan and budget, with figures updated to reflect the decision just approved by the Committee.

Mr TRIVEDI (Convention Secretariat) said that the Committee could be provided with an updated version of the relevant document later that evening.

The CHAIR asked whether the Committee was willing to continue its discussions on the item without interpretation in order to be able to conclude the matter that evening.

It was so agreed.

¹ Adopted by the Conference of the Parties at its tenth plenary meeting as decision FCTC/COP4(21).

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, welcomed the flexibility shown by representatives and suggested that the Committee should examine other proposed savings to see whether they were acceptable.

The CHAIR invited representatives to consider the information contained in Annex 1 of document FCTC/COP4/21, in accordance with the suggestion by the representative of Belgium.

Ms HERNANDEZ (Canada) asked for clarification of how the figures in that document would be affected by the decision adopted.

The CHAIR asked the Convention Secretariat to prepare a document clarifying the savings that would be made by each of the components of the decision adopted.

Mr ROWAN (European Union) said that he was pleased to announce that the European Anti-Fraud Office (OLAF) was in a position to defray half of the cost of a future session of the Intergovernmental Negotiating Body (INB), up to a ceiling of US\$ 1.5 million. However, he emphasized that OLAF would not make any funding contribution to any subsequent session. It was therefore important for the Intergovernmental Negotiating Body to conclude its work in one session, and to that end interpretation should be provided for evening meetings.

Logo of the WHO Framework Convention on Tobacco Control: report of the Secretariat:
Item 7.5 of the Agenda (Document FCTC/COP/4/23)

Dr NIKOGOSIAN (Head, Convention Secretariat), introducing the report of the Convention Secretariat on the logo of the WHO Framework Convention on Tobacco Control (FCTC/COP/4/23), said that the logo had been used widely by the Convention Secretariat since its adoption by the Conference of the Parties. The Convention Secretariat had taken the necessary steps to ensure the proper legal protection of the emblem, abbreviation and name of the Convention through the processes established by the World Intellectual Property Organization. The results of a short questionnaire produced to evaluate the logo had revealed that 80% of respondents considered the design elements to be clear and logical.

Ms MEULENBERGS (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, urged the Convention Secretariat to make extensive use of the logo in order to promote awareness of the Convention.

The CHAIRMAN said that he took it that the sentiments expressed by the representative of Belgium reflected those of the Committee as a whole and that the Committee wished to take note of the report.

It was so agreed.

2. REPORTING, IMPLEMENTATION ASSISTANCE AND INTERNATIONAL COOPERATION: Item 6 of the Agenda (continued from the fifth meeting, section 1)

Cooperation with international organizations and bodies for strengthening implementation of the Convention: Item 6.4 of the Agenda (Document FCTC/COP/4/17) (continued from the third meeting, section 1)

The CHAIR invited the Committee to resume consideration of the draft decision proposed by Canada on cooperation with the World Trade Organization.

Ms HERNANDEZ (Canada) said that, following consultations with other members of the Committee, she had several amendments to propose that were designed to facilitate adoption of the draft decision: first, to change the title to “Cooperation between the Convention Secretariat and the World Trade Organization”; second, to introduce a new first preambular paragraph that would read: “Recalling the preamble to the WHO Framework Convention on Tobacco Control (WHO FCTC), which states that Parties to the Convention are “determined to give priority to their right to protect public health”; third, in subparagraph 2(1), to replace the words “promoting a common understanding of” with “information sharing on”; fourth, to amend subparagraph 2(2) to read: “monitor trade disputes regarding WHO FCTC-related tobacco-control measures and other trade-related issues of relevance to the implementation of the Convention”; and lastly, to amend subparagraph 2(3) to read: “facilitate information sharing on trade-related issues between Parties to the WHO FCTC, by creating links between Parties having similar problems”. She hoped that adoption of the draft decision would provide the foundation for a dialogue on trade and tobacco.

Ms WIMMER (European Union) thanked the representative of Canada for having accommodated all her delegation’s comments on the draft decision and expressed her full support for the amendments that had been read out.

Dr SIRIWAT TIPTARADOL (Thailand), speaking on behalf of the Parties in the WHO South-East Asia Region, proposed amending the title of the draft decision to read: “Cooperation with international organizations including the World Trade Organization.” He supported the addition to the preamble of text drawn from the Convention, as had been proposed by the representative of Canada. He proposed adding two new operative paragraphs to read:

“2. REQUESTS the Convention Secretariat to invite WTO’s Tobacco Free Initiative to develop in consultation with the Convention Secretariat a report for presentation to the fifth session of the Conference of the Parties that examines the impact of foreign direct investment (FDI) and international law governing FDI on the implementation of the FCTC;

3. REQUESTS the Convention Secretariat to invite WTO’s Tobacco Free Initiative to develop in consultation with the Convention Secretariat a report detailing options to strengthen capacity of Parties with respect to the issues addressed in paragraphs 1 and 2 of this decision”.

Under paragraph 2, which should become paragraph 4, he proposed adding two new subparagraphs:

“(2) continue to monitor trade and investment disputes

(3) facilitate cooperation on trade-related and investment-related issues”.

The CHAIR, referring to the proposed amendment to the title, agreed that the draft decision should not be limited to cooperation with a single organization. However, he had reservations about the introduction of wording relating to investment, which would significantly broaden the scope of the

draft decision. He suggested that the representatives of Canada and Thailand should consult to find a way of combining their respective proposals.

Ms SY (adviser to Dr Cuison-Maglaya, Philippines) said that the inclusion of a reference to investment did not broaden the scope but merely served to ensure that there were no gaps in the draft decision. She cited the example of a suit by a major tobacco company against Uruguay, which was a foreign direct investment issue. She said that she supported the position expressed by the representative of Thailand.

The CHAIR said that addressing the important issue of investment would require direct relations with the tobacco industry, and those were not in place. He suggested that the issue should be addressed separately at the fifth session of the Conference of the Parties.

Ms SY (adviser to Dr Cuison-Maglaya, Philippines) said that foreign trade investment treaties were just as important as World Trade Organization rules and that the two should be addressed simultaneously in order to avoid the creation of a loophole.

Ms PAINE (Canada), explaining the basis for the draft decision, said that the idea had been to start with one organization – the World Trade Organization – that had already expressed a willingness to collaborate with WHO. Steps had been taken to verify the legal and technical feasibility of that collaboration; the same was not true of collaboration with other entities, such as investment boards. She therefore begged the cooperation of the representative of the Philippines and suggested that a proposal regarding cooperation with other relevant organizations could be put to the Conference of the Parties at its fifth session.

The CHAIR invited the Committee to approve the draft decision, incorporating amendments proposed by Canada and Thailand.

The draft decision, as amended, was approved.¹

Mr RATA (World Trade Organization), speaking at the invitation of the CHAIR, reaffirmed the readiness of the Secretariat of his organization to cooperate in any fashion that would be of benefit to the Convention Secretariat. He emphasized that the interface for cooperation would be the rules governing trade between World Trade Organization (WTO) members, in accordance with WTO's role and mandate. He noted also that policy and recommendations were the responsibility of WTO members, not its Secretariat.

¹ Adopted by the Conference of the Parties at its tenth plenary meeting as decision FCTC/COP4(18).

3. BUDGETARY AND INSTITUTIONAL MATTERS: (Item 7 of the Agenda) (resumed)

Coordination between WHO's Tobacco Free Initiative and the Convention Secretariat: Item 7.9 of the Agenda

Mr BURCI (WHO Legal Counsel) explained that he had been asked to deliver a statement in the place of Dr Worning, Executive Director of the Director-General's Office, who had been called back to Geneva on urgent business. The WHO FCTC, which had broken new ground when it had been adopted by the World Health Assembly in 2003 and was one of the most successful treaties in United Nations history, continued to create a powerful precedent as it was implemented across the Member States of the Organization.

Since the Convention's entry into force, WHO had striven to work – as the Conference of the Parties had requested – “synergistically and complementarily” with the Convention Secretariat to ensure effective global implementation of the WHO FCTC. As that process was an evolving one, respective boundaries, roles, and responsibilities were continually being clarified and refined. Since the third session of the Conference of the Parties in 2008, concerted efforts had been made to ensure that the coordinated capacity of WHO and the Convention Secretariat was fully focused on improving cohesive technical delivery at country level. WHO's full commitment to utilizing all its resources for treaty implementation, in coordination with the Convention Secretariat, was evidenced by initiatives undertaken across all three levels of the Organization; the collaborative work was grounded in the alignment of a broad, strategic vision for programmatic action in countries.

The 2008–2013 Action Plan for the Prevention and Control of Noncommunicable Diseases, adopted by the Sixty-first World Health Assembly, had stressed that implementation of the WHO FCTC was key to controlling noncommunicable diseases worldwide. The crystallization of the WHO FCTC as a cornerstone in the global fight against noncommunicable diseases had strengthened the commitment of WHO's Tobacco Free Initiative to cohesive partnership with the Convention Secretariat. However, the multisectoral nature of tobacco as a health issue meant that the Convention Secretariat's engagement with WHO extended across all parts of the Organization, including clusters, regions and WHO country offices. While the fourth session of the Conference of the Parties had specifically called for further debate on collaboration between WHO's Tobacco Free Initiative and the Convention Secretariat, the WHO Director General's Office wished to underscore that there was an “All-of-WHO – Convention Secretariat” engagement.

In regard to collaboration between the Convention Secretariat and the Tobacco Free Initiative specifically, he said that a global retreat of all parts of WHO, including all six regional offices, had marked the scaling up of all WHO resources to strengthen coordination and joint work through a comprehensive plan. Since the end of 2009, the WHO Director-General's Office had convened frequent and regular coordination meetings, which had provided a platform for strategic engagement and coordination at the highest levels of the Organization, ensuring synergistic attunement to the global vision and joint objectives of the WHO Secretariat and the Convention Secretariat.

He noted that two areas for collaborative engagement had been identified at the strategic level: first and foremost, coordinated action at country level; and secondly, harmonization of data collection and reporting. On the first strategic priority of maximizing coordinated activities at country level, WHO had convened the International Working Group for Consultations on National Tobacco Control Programmes in November 2009 in Tunisia, at which the Convention Secretariat had played a key role in reviewing and examining selected experiences and best practices in running effective national tobacco-control programmes. The meeting had explored ways of strengthening WHO's role in supporting the implementation of the workplan referred to earlier. That global consultation had been attended by recognized tobacco-control programme managers from across the globe, regional and country representatives, and both WHO and Convention Secretariat staff. The outcomes of the global consultation had been a number of strategic recommendations for developing and strengthening national tobacco-control programmes to secure successful implementation of comprehensive tobacco-control policies. In addition, the Tobacco Free Initiative had invited the Convention Secretariat to participate in two of its Global Management Group meetings, in January 2009 and March 2010. The

meetings, attended by the Tobacco Free Initiative's Regional Advisers and senior staff at headquarters, had sought to amplify country-level priorities and further solidify the coordinated approaches of the Tobacco Free Initiative and the Convention Secretariat towards country-level delivery of programmatic action. The Director-General of WHO herself had participated in the first of those two meetings.

The second strategic priority was data harmonization concerning the reporting mechanisms of the Convention and the WHO Global Report on the Tobacco Epidemic. The Tobacco Free Initiative and the Convention Secretariat had worked together to examine restructured data collection frameworks. As mandated by the Conference of the Parties, the Convention Secretariat had undertaken work detailing the standardization and harmonization of data and data collection initiatives, in close collaboration with the Tobacco Free Initiative, which had provided a number of strategic inputs for consideration. One substantive outcome of those consultations had been a recognition of the need to streamline the data collection processes for Parties, and the Tobacco Free Initiative and the Convention Secretariat would continue to collaborate to ensure effective data collection procedures and mechanisms for all Parties to the WHO FCTC.

Furthermore, in order better to define the roles of the Tobacco Free Initiative in assisting Parties in the implementation of national policies under the WHO FCTC, both the Tobacco Free Initiative and the Convention Secretariat had agreed to a "Tobacco Free Initiative roles and responsibilities" document which had been presented to the Bureau of the Conference of the Parties in July 2010. There were also multiple examples of collaboration from an operational perspective; one area of work to which the Tobacco Free Initiative had contributed significantly was that of the country-level Convention Secretariat needs assessment exercises. The Convention Secretariat had coordinated a series of in-country needs assessment missions aiming to provide support to Parties by assessing their needs, identifying priorities for the implementation of WHO FCTC, and promoting access to internationally available resources on the basis of identified needs. The Tobacco Free Initiative, employing its experience in technical capacity assessments at country level, had accompanied delegations from the Convention Secretariat on almost every one of those missions. The missions had focused particularly on lower-resource countries with the aim of promoting and accelerating access to internationally available resources, and communicating their prioritized needs to development Partners. Similarly, the Tobacco Free Initiative had continued to make substantial contributions to treaty implementation through the provision of technical assistance for normative development and implementation of demand and supply measures of the Convention. In that regard, the Tobacco Free Initiative had produced a comprehensive technical report relating to price and tax policies (Article 6), and continued to further the international method validations relating to the product regulation provisions of the treaty (Articles 9 and 10). Moreover, the Tobacco Free Initiative continued to work on a broad range of initiatives important to WHO Member States in WHO FCTC implementation and national capacity building; many of those programmes were closely linked to the workplan of the Conference of the Parties and were detailed in the expanded "side-by-side" workplan produced by the Tobacco Free Initiative in consultation with the Convention Secretariat, which could be found in an informal white paper that had been issued on 17 November 2010.

Furthermore, WHO had created a programme manager position in the Tobacco Free Initiative in order to ensure effective technical collaboration with the Convention Secretariat across all levels of the Organization. The position had been found to add significant value to the alignment between the Tobacco Free Initiative and the Convention Secretariat. Finally, while the Tobacco Free Initiative and the Convention Secretariat continued diligently to refine their collaboration, full cohesiveness would only be achieved when there was a similar formalized and demonstrated integrated synergy at the governance levels. In that regard, the Conference of the Parties might wish to explore pragmatic avenues of interaction with the World Health Assembly and the Executive Board. Similarly, an examination of the manner in which the Bureau of the Conference of the Parties, which was regionally constituted, interfaced with WHO Regions, might also lead to further strengthening of the relationship between the work of WHO and all levels of governance of the WHO FCTC. A consistent and pragmatic approach to aligning the needs and priorities of the Conference of the Parties in respect of tobacco control with the public health policy setting agenda of the World Health Assembly might also

involve examination of the elements of tobacco consumption being addressed by WHO, which were not expressly delineated in the WHO FCTC – areas such as integration of tobacco-control measures within strategies addressing the relationship between tuberculosis and tobacco, and links to maternal and child health. As always, WHO was fully committed to supporting Parties' implementation of the WHO FCTC, and to continuing to strengthen the work of WHO and the Conference of the Parties.

The CHAIR, welcoming the statement delivered on behalf of the Director-General's Office, expressed the hope that coordination and synergy between WHO's Tobacco Free Initiative and the Convention Secretariat would be further strengthened in the future.

Proposed workplan and budget for the financial period 2012–2013: Item 7.3 of the Agenda (Documents FCTC/COP/4/21 and FCTC/COP/4/INF.DOC./4) (resumed)

The CHAIR recalled that the Committee had yet to make a final decision on the proposed workplan and budget. The updated information that had been requested was available in English. If the Committee could agree on those figures in principle, the draft decision on the proposed workplan and budget would be ready before the plenary met the following morning. He recalled that the Committee had already reached agreement on a change in travel support policy and on arrangements for the fifth session of the Intergovernmental Negotiating Body.

The meeting was suspended at 21:55 and resumed at 22:25

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the adjusted figures showed a reduction in the cost of holding the fifth session of the Intergovernmental Negotiating Body from roughly US\$ 2.1 million to US\$ 1.95 million. Account had been taken of the proposed decision regarding the change in travel policy and evening meetings had been retained, given that the session was to be cut to one week. However, the principle of no evening meetings would still be applied to the fifth session of the Conference of the Parties, as had been agreed, with resultant savings of US\$ 485 000. He recalled also the pledge by the European Union to cover half of the cost of the fifth session of the Intergovernmental Negotiating Body. The remaining deficit therefore amounted to US\$ 370 000.

The CHAIR recalled that salary costs of US\$ 228 000 must also be accounted for on top of the US\$ 370 000, which meant that the total deficit was approximately US\$ 600 000. Additional voluntary extrabudgetary contributions from Parties could further reduce that figure to US\$ 130 000, which the Convention Secretariat would be asked to cover.

Dr NIKOGOSIAN (Head, Convention Secretariat), responding to requests for clarification from Mr. GOFFIN (alternate to Mr Courard, Belgium) and Dr MOCHIZUKI-KOBAYASHI (Japan), explained that the figure of US\$ 228 000 referred to the projected increase in salary-related costs, which had to be added to the US\$ 370 000 deficit for the Intergovernmental Negotiating Body. It had been suggested that the first US\$ 470 000 of the expected total deficit of roughly US\$ 600 000 could be covered if those Parties whose voluntary assessed contributions were projected to fall were willing to maintain their contributions at their current level by means of extrabudgetary contributions. The remaining deficit of US\$ 130 000 could then be covered by the Convention Secretariat through additional savings.

Dr MOCHIZUKI-KOBAYASHI (Japan) questioned the basis for expecting the deficit to be covered by extrabudgetary contributions from those Parties whose assessed contributions, on the basis of the United Nations scale of assessment, were projected to fall.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that the proposal for such contributions had come from Parties, not from the Convention Secretariat. The contributions in question would

reduce the deficit to an amount that could be covered by additional savings, but the Secretariat would have difficulty in finding more than that amount.

Mr LEBEPE (South Africa) expressed disappointment at the lack of a more complete report explaining the new figures and asked whether they took account of the funds pledged by the European Union.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that the draft decision on the harmonization of travel support had offered the opportunity to obtain a fully-funded budget; the projected deficit was therefore a cause for disappointment. He understood the figure of US\$ 470 000 to represent zero nominal growth in contributions. That was a budget structure that was acceptable to the European Union. Some savings had been made, but not enough. He proposed that the Committee should complete its consideration of the matter at its seventh meeting the following morning.

The CHAIR said that it was customary for the secretariat of an organization to assess the impact of new items on the budget. New activities had been agreed for the Intergovernmental Negotiating Body, while the increase in staff salary costs was in line with the usual practice of international organizations. In response to the comments by the representative of Belgium about the importance that the European Union attached to a zero increase in the budget, he clarified that zero natural growth meant absolutely no increase, whereas zero nominal growth meant taking into account inflation. He asked the representative of Belgium which of the two concepts he had in mind.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that he was talking about zero nominal growth, since there was to be no increase in the level of contributions. A scenario in which the level of contributions declined would constitute negative nominal growth.

The CHAIR said that some growth must be allowed for if new activities were to be introduced. He asked the Convention Secretariat to prepare a new document that would enable the Committee to see the previous figures and the new figures side by side. He believed that there was already a consensus with regard to the appropriation for the Intergovernmental Negotiating Body, and he therefore requested the Secretariat to prepare a draft decision on the budget for the Committee to consider at its seventh meeting.

Mr LEBEPE (South Africa) asked the Chair to clarify the nature of the document the Secretariat was being asked to prepare.

The CHAIR said that the document would be based on the table annexed to document FCTC/COP/4/21, incorporating the budgetary implications of new agreed activities.

Ms HERNANDEZ (Canada) asked for clarification as to which of the options set out in Annex 1 to document FCTC/COP/4/21 was to be taken forward in the new document.

The CHAIR said that the preliminary consensus of the Committee seemed to be in favour of option 1.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that it was his understanding that the Secretariat was to be asked to prepare a draft decision that would set out the main lines of the budget in a consolidated form and that would also refer to a revised version of the table in Annex 1 to document FCTC/COP/4/21. The figures in the table would not be radically different, but would include the adjustments needed for the incorporation of budget items related to the Intergovernmental

Negotiating Body. If the Committee agreed, a reference could also be included to the extrabudgetary contributions that some Parties were willing to make to cover US\$ 470 000 of the projected deficit.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that he agreed, but that the formulation should be changed in order to indicate that certain Parties had agreed to zero nominal growth, thereby effectively maintaining their contributions at the level of the previous biennium.

Mr LEBEPE (South Africa) said that, in order for the Committee to be able to approve a decision on the budget, it first needed to see a report containing a detailed breakdown of expenditure for the previous financial period in relation to proposed expenditure for the period 2012–2013. If the proposed budget was to be made part of a provisional decision on the matter, it would be difficult for his delegation to recommend approval of the figures.

The CHAIR explained that many of the figures were unchanged from the previous budget and it would therefore serve no purpose to reopen discussion of aspects of the budget that had been previously agreed. He agreed that the Committee needed to see detailed figures, which was why the Secretariat had been asked to prepare a new document in time for the following morning's meeting.

Dr TAKAGI (Japan) said that it was unfair to expect only those Parties whose assessed contributions were projected to fall – in line with the scale of assessment and because they were suffering economic hardship – to remedy the shortfall in the budget.

The CHAIR said that the formula used to calculate contributions was not unique to the Conference of the Parties; if the representative of Japan wished to change that formula, the place to do so would be the appropriate committee of the United Nations.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that he understood and shared the concerns expressed by the representative of Japan. It should be made clear in the relevant draft decision that the proposed solution was being adopted on an exceptional basis.

Dr MOCHIZUKI-KOBAYASHI (Japan) said that her delegation did not wish to challenge the existing United Nations formula. Its concern was that Parties should contribute in accordance with the scale of assessment and that the responsibility for voluntary assessed contributions should be shared equally among all Parties.

The CHAIR said that the Committee had no power to change the formula used.

Dr TAKAGI (Japan) said that the cost of the fifth session of the Intergovernmental Negotiating Body should not be borne exclusively by those Parties whose assessed contributions were due to decline in the next biennium in relation to the current biennium. That decline was based on the objective formula decided in the United Nations system. The cost should be borne by all Parties, since they would all benefit from the session.

The CHAIR reassured the representative of Japan that his concerns would be reflected in the official records and on that basis asked his delegation not to stand in the way of an agreement.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that the concerns expressed by the representative of Japan could be addressed by sharing the shortfall across the whole membership in accordance with the scale of assessment, which would allow the budget to be closed. The Convention Secretariat should be asked to prepare a paper with the relevant calculations.

The CHAIR asked whether there was support for the idea of sharing the burden of the deficit among all Parties; he warned that doing so might result in an increase greater than zero in the core budget.

Mr GOFFIN (alternate to Mr Courard, Belgium), speaking on behalf of the European Union, said that a budget had been agreed, there remained only the problem of finding the money to fund it. Instead of asking only a limited number of Parties to make up the deficit of US\$ 600 000, it would seem to be fairer to share the burden among all Parties.

Mr NIKOGOSIAN (Head, Convention Secretariat) said that it would be technically possible to prepare a paper along the lines proposed by the representative of Belgium by the following morning.

Dr MOCHIZUKI-KOBAYASHI (Japan) thanked the representative of Belgium for his proposal, which had her support.

Dr OTTO (Palau) supported the proposal made by the representative of Belgium, and observed that the Convention Secretariat's calculations should be based on each Party's current percentage assessment.

Ms PAINE (Canada) said that it was important to emphasize that the Committee was not being asked to change the existing policy on voluntary contributions. The proposal was to ask Parties to pay a little more in the form of extrabudgetary contributions. She would have to consult with her capital in order to ensure that her country's ability to pay was not compromised by its domestic rules.

The CHAIR agreed that the Committee should not set a precedent in terms of the policy on voluntary contributions.

Dr TAKAGI (Japan) asked for clarification of the contribution rates set out in Annex 2 of document FCTC/COP/4/21.

Dr NIKOGOSIAN (Head, Convention Secretariat) explained that the rates were calculated in accordance with the WHO scale of assessment, which was the same as the United Nations scale of assessment. However, some Member States of WHO were not Parties to the Convention and were therefore left out of the calculation. Consequently, the relevant percentages for Parties were slightly higher.

Mr BERTRAND (Canada) asked whether the intersessional working groups that were to be financed by the European Anti-Fraud Office (OLAF) were included in the budget.

Dr NIKOGOSIAN (Head, Convention Secretariat) explained that the intersessional working groups would meet in 2011 and did not therefore fall within the 2012–2013 biennium.

(For continuation of the discussion, see summary record of the seventh meeting, section 1.)

The meeting rose at 23:35

SEVENTH MEETING

Saturday, 20th November 2010, at 10:00

Chair: Mr YI XIANLIANG (China)

1. BUDGETARY AND INSTITUTIONAL MATTERS: Item 7 of the Agenda (continued)

Review of accreditation of nongovernmental organizations: Item 7.4 of the Agenda (Document FCTC/COP/4/22 Rev.1)

Dr NIKOGOSIAN (Head, Convention Secretariat), having summarized information contained in the Review of accreditation of nongovernmental organizations with observer status to the Conference of the Parties to the WHO Framework Convention on Tobacco Control (contained in document FCTC/COP/4/22 Rev.1), introduced the relevant draft decision, which read:

The Conference of the Parties,

Recalling its decision FCTC/COP3(19) on the workplan and budget for the financial period 2010–2011, requesting the Convention Secretariat to conduct a review of accreditation of nongovernmental organizations with observer status to the Conference of the Parties in accordance with Rule 31.3 of its Rules of Procedure;

Having examined the report of the Convention Secretariat contained in document FCTC/COP/4/22 Rev.1,

1. DECIDES:

(1) to maintain the observer status of the following organizations:

Consumers International, Corporate Accountability International, Council for International Organizations of Medical Sciences, FDI World Dental Federation, Framework Convention Alliance on Tobacco Control, International Alliance of Women, International Association of Rural Medicine and Health, International Association of Logopedics and Phoniatics, International Commission on Occupational Health, International Council of Nurses, International Federation of Medical Students' Associations, International Federation of Pharmaceutical Manufacturers & Associations, International Organization for Standardization, International Pharmaceutical Federation, International Pharmaceutical Students' Federation, International Society of Nurses in Cancer Care, Union for International Cancer Control,¹ International Union Against Tuberculosis and Lung Disease, Medical Women's International Association, World Federation of Public Health Associations, World Heart Federation, World Medical Association, World Organization of Family Doctors, World Self-Medication Industry.

¹ Formerly International Union Against Cancer.

(2) to discontinue the observer status of the following organizations:

Churches' Action for Health, Commonwealth Medical Association, Cystic Fibrosis Worldwide, Inter-American Association of Sanitary and Environmental Engineering, International Association for Maternal and Neonatal Health, International Confederation of Midwives, International Council of Women, International Federation of Business and Professional Women, International Federation of Gynecology and Obstetrics, International Hospital Federation, International League of Dermatological Societies, International Occupational Hygiene Association, International Union for Health Promotion and Education, Rotary International, Soroptimist International, World Association of Girl Guides and Girl Scouts, World Federation of Chiropractic, World Federation of Hemophilia, World Federation of Hydrotherapy and Climatotherapy, World Federation of Societies of Anaesthesiologists, World Federation of United Nations Associations, World Vision International.

(3) to request the following organizations to submit their pending reports on activities that they undertake to support implementation of the Convention by 15 February 2011 and to mandate the Bureau of the Conference of the Parties to examine these reports and decide on maintaining or discontinuing their observer status based on criteria referred to in document FCTC/COP/4/22 Rev.1. The observer status should automatically be considered as discontinued if no such reports are presented:

The Global Forum for Health Research; the International College of Surgeons; the International Council on Alcohol and Addictions; the International Non Governmental Coalition Against Tobacco;

2. ALSO DECIDES to request the Convention Secretariat to develop and propose for adoption by the Conference of the Parties at its fifth session: (a) a standard form to be used and completed by nongovernmental organizations wishing to apply for observer status, in light of the provisions set in Rule 31 of its Rules of the Procedures as well as in decision FCTC/COP2(6); and (b) a formal set of criteria in order to facilitate conducting future such reviews.

Mr GOFFIN (Belgium), speaking on behalf of the European Union, said that he agreed that observer status should be discontinued for the 22 nongovernmental organizations that had either indicated that they did not wish to maintain it or had failed to answer the Secretariat's request. He said that the observer status of the nongovernmental organizations that had not submitted a report on their activities should be continued provided that they had participated in the fourth session of the Conference of the Parties.

Mr BEZEID DEIDA (Mauritania), speaking on behalf of the Parties of the WHO African Region, said that he accepted the Secretariat's recommendations as to the continuation and discontinuation of organizations' observer status. He invited the Secretariat to submit to the Bureau proposals for streamlining of the process of accreditation and review of observer status of nongovernmental organizations, in preparation for consideration by the Conference of the Parties at its fifth session. He said that the WHO African Region remained persuaded of the important role that nongovernmental organizations played in the fight against tobacco and encouraged all Parties to involve them in their decision-making processes.

Dr NIKOGOSIAN (Head, Convention Secretariat), responding to the point raised by the representative of Belgium, said that the organizations in question were not attending the fourth session of the Conference of the Parties; however, the Secretariat proposed that they be offered a short reprieve nonetheless. In response to the representative of Mauritania, he said that he would follow his guidance and produce proposals for streamlining the review and accreditation process.

Mr GOFFIN (Belgium), speaking on behalf of the European Union, said that although supportive of the participation of nongovernmental organizations he found it strange that an organization would request accreditation but fail to attend the Conference. However, he acceded to the Secretariat's proposal.

The draft decision on review of accreditation of nongovernmental organizations with observer status to the Conference of the Parties to the WHO Framework Convention on Tobacco Control was approved.¹

Interim performance report for the 2010–2011 workplan and budget: Item 7.2 of the Agenda (Documents FCTC/COP/4/20, FCTC/COP/4/20 Add.1, FCTC/COP/4/20 Add.2 and FCTC/COP/4/INF.DOC./5) (continued from the second meeting)

The CHAIR said that he took it the Committee wished to take note of the Interim performance report for the 2010–2011 workplan and budget.

It was so agreed.

Proposed workplan and budget for the financial period 2012–2013: Item 7.3 of the Agenda (Documents FCTC/COP/4/21 and FCTC/COP/4/INF.DOC./4) (continued from the sixth meeting, section 3)

The CHAIR drew attention to the new draft decision on the Workplan and budget for the financial period 2012–2013, which had been prepared overnight by the Convention Secretariat and read:

The Conference of the Parties,

Reaffirming its decision FCTC/COP1(9) on the adoption of the Financial Rules of the Conference of the Parties to the WHO Framework Convention on Tobacco Control;

Recalling its decision FCTC/COP3(19) on the budget and workplan for the financial period 2010–2011,

DECIDES:

(1) to adopt the budget for the financial period 2012–2013 as follows:

1. Activity costs, including:	US\$
1.1 Conference of the Parties	1 560 000
1.2 Protocols, guidelines and other possible instruments for the implementation of the Convention	1 960 000
1.3 Reporting arrangements under the Convention	445 000
1.4 Assistance to Parties in implementation of the Convention, with particular focus on developing country Parties and Parties with economies in	2 610 000

¹ Adopted by the Conference of the Parties as decision FCTC/COP4(23).

transition	
1.5 Coordination with international and regional intergovernmental organizations and bodies	451 000
1.6 Administration and management, and other arrangements and activities	220 000
Subtotal	7 246 000
2. Staff cost	5 942 000
3. Programme support cost (13%)	1 714 000
Total	14 902 000

(2) to adopt the workplan for the financial period 2012–2013, as indicated in Annex 1 to this decision, taking into account the decisions taken by the Conference of the Parties at its fourth session;

(3) to adopt the table showing the distribution of voluntary assessed contributions for financial period 2012–2013, as indicated in Annex 2 to this decision;

(4) to authorize the Convention Secretariat to request the payment of voluntary assessed contributions, including from countries that may become a Party to the Convention between the fourth and fifth sessions of the Conference of the Parties, in line with the scale of assessment as indicated in Annex 2;

(5) to request the Head of the Convention Secretariat to implement the Conference of the Parties budget and workplan, and to submit to the Conference of the Parties:

(a) an interim performance report along with a final performance report on the budget workplan and budget for the financial period 2012–2013, at its fifth session; and

(b) a final performance report on the workplan and budget for the financial period 2012–2013, at its sixth session;

(6) to authorize the Convention Secretariat to seek and receive voluntary extrabudgetary contributions for activities in line with the workplan;

(7) to encourage Parties to the Convention to provide extrabudgetary contributions for meeting the objectives of the workplan;

(8) to review progress made in implementation of the workplan and budget for the financial period 2012–2013 at the fifth session of the Conference of the Parties and make revisions, if necessary, in light of the availability of funds that are required for its full implementation;

(9) to call on the Head of the Convention Secretariat to keep the Bureau regularly updated on the status of budget and workplans agreed by the Conference of the Parties.

Mr GOFFIN (Belgium), speaking on behalf of the European Union, requested clarification as to whether the budget included provision for the establishment of a working group on Article 6, which had been approved by Committee A in its fifth meeting.

Dr NIKOGOSIAN (Head, Convention Secretariat) recalled that the Secretariat had been requested to draw up proposals overnight, given the projected budgetary deficit of US\$ 600 000, to try to incorporate a session of the Intergovernmental Negotiating Body; that figure had not included any new working group, and the main concern of Committee B had been the inclusion of the Intergovernmental Negotiating Body. Consequently, the proposed budget did not include costs for the

working group on Article 6; including those costs would add approximately US\$ 235 000 to the budget.

Mr GOFFIN (Belgium), speaking on behalf of the European Union, sought reassurance that, if the proposed budget was adopted as drafted, there was a mechanism that would allow the working group meetings to take place if the necessary funding was later obtained.

Dr NIKOGOSIAN (Head, Convention Secretariat) said that concerning this proposed expert group on cross-border advertising he could see two possible solutions: the first option would be to include the group of experts in the workplan and budget, but with a footnote indicating that it was subject to funds becoming available; the second option would be to adopt the workplan and budget as drafted and adopt a separate decision allowing the Secretariat to convene the group of experts if the funding could be found. He said that his preference was for the first option, although either solution would be acceptable.

Mr NEVES SILVA (Brazil) said that either of those options would be acceptable.

The CHAIR observed that there was still no consensus on the agenda item. It would be in line with past practice for any financial resources that did become available to be saved towards the budget for the subsequent biennium.

Mr NEVES SILVA (Brazil) said that the plenary had approved the establishment of the working group the previous day on the proviso that Committee B could find the resources in the budget. He said that he did not insist on its inclusion in the budget, but requested information on a possible mechanism that would allow the meeting to be convened if funding could be obtained.

The CHAIR requested representatives that agreed with the request made by the representative of Brazil to raise their flags.

Mr LEBEPE (South Africa) said that, unlike the representative of Brazil, he would like to insist that the working group approved by Committee A be included in the budget. With regard to the funding of the Intergovernmental Negotiating Body, he asked for clarification of the discrepancy between the commitment announced by the European Union in the Committee's sixth meeting, of funding up to US\$ 1.5 million, and the figure of US\$ 1.1 million indicated in the table.

Ms SY (Philippines) asked why the inclusion of the Intergovernmental Negotiating Body, for which the mandate was unclear, had been set as a higher priority than the inclusion of the working group on Article 6, whose establishment had been approved by Committee A.

Mr GAO YANMIN (China) drew the attention of the Committee to paragraph 4.2 of the proposed Workplan and budget for the financial period 2012–2013, (contained in Annex 1 to document FCTC/COP/4/21), which indicated a total budget of US\$ 1.9 million for needs assessment and promotion of access to mechanisms of assistance. He said that savings substantial enough to bring the budget into balance could be achieved by reducing the number of needs assessments to be undertaken from “at least 30 Parties” to “at least 15 Parties”.

The CHAIR thanked the representative of China for the new point he had raised, but said that the Committee should first finish addressing the point raised by the representative of Brazil.

Mr GOFFIN (Belgium), speaking on behalf of the European Union, expressed concern that the Committee seemed to be returning to fundamental questions about priorities at such a late point in proceedings. The Bureau could undertake any slight adjustments that were required in order to reconcile what was decided in Committee A and the finances that were available as decided in

Committee B. He said that where Committee A recommended that working groups should be in place, they did so subject to budgetary availability. If a working group was not listed in the workplan and budget, the Secretariat was requested to make the necessary budgetary arrangements without it being specified at what time the working group should take place, as there was no money allocated in the core budget. If any Party particularly wanted the working group to take place it could provide the necessary resources. It was too late to reshuffle the entire budget.

The CHAIR said that he did not believe it was necessary to discuss all the details of the budget. The issue raised by the representative of Brazil was a question of principle: could such activities be accepted by the Committee, given that consensus had already been reached on the budget? The concrete arrangements for such activities were something that the Secretariat had the authority to decide.

Mr SATPATHY (India) said that the issue raised by the representative of Brazil concerned the competence of Committee B, and whether activities would determine resources. Committee B had decided that it should tackle the issue of resources; nevertheless, the Committee should take into account the recommendation of Committee A. He therefore proposed the insertion of a footnote in the budget, under the heading “unbudgeted recommended activities”, which would explain that Committee B took note of the recommendation of Committee A to establish a working group on Article 6 and that the working group would meet if extrabudgetary resources were mobilized. That solution would not affect the budget that had been negotiated, but would provide a solution in the event that funds earmarked for the activity were later found.

He said that developing country Parties had also expressed concerns regarding prioritization. The concern had been to emphasize effectiveness over efficiency and vertical integration over horizontal proliferation; that goal had been largely achieved thanks to support from among developing country Parties and understanding displayed by the European Union. Developing country Parties had not wanted the entire cost of the Intergovernmental Negotiating Body to come from core funding, and that had been achieved. He also noted that money would be liberated in the next budget because the Intergovernmental Negotiating Body was scheduled to have concluded its work by the fifth session of the Conference of the Parties. He suggested that expenditure on the Conference of the Parties might in future be funded in such a way that core funding could be released for activities such as country assessment needs and development and implementation assistance. He urged delegations to consider the limitations of the Committee under the circumstances and allow the budget to be presented as it was.

The CHAIR said that he supported the use of a footnote in the budget as proposed by the representative of India. He reminded the Committee that there would be cost savings associated with the holding of any new working group alongside the Conference of the Parties. He also supported the exhortation to adopt the proposed budget as it was, given that it had been reached by consensus. He said that the point raised by the representative of China would be reflected in the record of the meeting.

Mr LEBEPE (South Africa) said that although he had no intention of delaying the process, the Committee must not compromise the existence of the working group on Article 6 that had been approved in Committee A. He therefore proposed adopting the budget with an amendment referring to the working group on Article 6.

Dr NIKOGOSIAN (Head, Convention Secretariat), responding to a question raised by Dr QOTBA (Qatar) on behalf of the Parties in the Eastern Mediterranean Region, said that the fifth section of the budget included an item about coordination with international organizations and other bodies that did not identify any particular organization.

Mr GOFFIN (Belgium), speaking on behalf of the European Union, recalled that at the close of its sixth meeting, the Committee had agreed to invite the Secretariat to formulate a proposal that would share the deficit of US\$ 600 000 between all Parties in accordance with the scale of assessment. He said that it was very important that a clear distinction be made between normal contributions, based on the scale of assessment, and the extra contributions that had been agreed on an exceptional basis as a means of covering the deficit. He asked that the amounts be displayed in two separate columns in order to ensure clarity on that point for future sessions of the Conference of the Parties. He said that if Parties were particularly keen that a working group should take place they could convene one either during a Conference of the Parties, or using extrabudgetary resources.

Dr NIKOGOSIAN (Head, Convention Secretariat) explained that the Secretariat had first calculated the effect of distributing the entire US\$ 600 000 in accordance with the scale of assessment. The Secretariat had then identified further means of making savings, such as by holding some meetings as teleconferences. In this way some US\$ 250 000 of savings had been identified. The remaining US\$ 350 000 had then been distributed on the basis of the scale of assessment and that figure added to the original assessed contributions. He said that there would be no difficulty in listing the two amounts separately in order to properly reflect the exceptional nature of the arrangement. However, he proposed that in the interests of expediency the amendments to the document should be made after it had been approved.

Mr SEIHA (Cambodia) said that he supported the statements made by the representatives of South Africa and the Philippines.

The CHAIR said that there appeared to be consensus on the solution proposed by India. He also said that that the budget was not simply decided on the basis of activities, it was also the case that some activities were decided on the basis of the budget.

Ms VALDA DE CASTRA (Plurinational State of Bolivia) expressed her support for the position taken by the representative of Brazil.

Ms DARDON (Guatemala) said that she also supported the position taken by the representative of Brazil, but asked what would happen after the fifth session of the Conference of the Parties.

Dr MOCHIZUKI-KOBAYASHI (Japan) said that she supported the proposal put forward on behalf of the European Union, that separate columns be used to reflect the exceptional nature of the arrangement. She noted the intensive efforts that had been made by some delegations to identify substantial savings that could be made in the budget and help finish the debate. However, she said that the exceptional arrangements for covering travel support to low- and middle-income countries could only be accepted for the next biennium and that Japan would not be prepared to accept such an arrangement in future. The matter should be discussed again at the fifth session of the Conference of the Parties.

The CHAIR said that the proposal made by the representative of the European Union would be incorporated into the document.

It was so agreed.

Ms SY (Philippines) said that she support for the idea of using a footnote, which should be formulated in the manner articulated by the representative of India. She thanked the representative of European Union for the suggestion that a meeting of the working group on Article 6 could be held during the Conference of the Parties; similar cost savings could be achieved by running the working group in parallel to the Intergovernmental Negotiating Body.

The draft decision on the proposed workplan and budget for the financial period 2012–2013, as amended, was approved.

2. CLOSURE

After the customary exchange of courtesies, the CHAIR declared the work of the Committee completed.

The meeting rose at 11:25.
