



WORLD HEALTH ORGANIZATION

**INTERGOVERNMENTAL NEGOTIATING BODY
ON THE WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL
Fourth session
Agenda item 4**

**A/FCTC/INB4/2(a) Amend.1
22 March 2002**

WHO framework convention on tobacco control

Co-Chairs' working papers:

**Proposed amended text of Articles I.1-7 and I.13-15 prepared by the
Co-Chairs of Working Group 2 based on the discussions of
the first and second formal meetings of Working Group 2
which took place on 19 and 20 March 2002, respectively**

I. Measures related to the reduction of the supply of tobacco

(Illicit trade in tobacco products and raw tobacco materials)

1. The Parties recognize that the elimination of all forms of illicit trade in tobacco products and raw tobacco materials¹ and additives, including smuggling, illicit manufacturing and counterfeiting, and the development of related legislation, as well as subregional, regional and international agreements, are essential components of tobacco control.
2. The Parties agree that measures to this end shall be transparent, well-defined, non-discriminatory and implemented in accordance with their national, regional and international obligations.²
3. Each Party shall [within the means at its disposal and its capabilities and in accordance with its national law] adopt appropriate measures to ensure that all unit packets and packages of tobacco products and raw tobacco materials and any outside packaging of such products and materials for retail or wholesale use that are sold [and/or manufactured] on its domestic market or under its jurisdiction:
 - (a) carry a marking in any appropriate manner in order to identify the origin [and enable the tracking] of the product [including the name of the manufacturer, the country of origin, the product number and the date of production];
 - (b) carry the statement or any other effective marking which would assist authorities in determining whether the product is legally for sale on the market for which it is intended [as a

¹ To be referred to the Ad Hoc Group on Definitions.

² To be cross-referenced against D.5.

final destination]: “Sales only allowed in (*insert name of the country, subnational, regional or federal unit where the product is to be placed on the market*)”.¹

4. Each Party shall adopt appropriate measures to ensure that the packaging information or markings specified in paragraph 3 above shall appear in the principal language or languages of the country [in whose territory the product is placed on the market]/[if the product is placed on its domestic market]/[, presented in written form or by batch marking system, and will follow the requirements of the [exporting/importing] country].

5. Each Party shall[, in accordance with its means and resources and capabilities at its disposal, and in conformity with national law and practice,] undertake the following legislative, executive, administrative and/or other appropriate measures in order to eliminate illicit trade in tobacco products and raw tobacco materials:

(a) to monitor and collect data on cross-border trade in tobacco products and raw tobacco materials, including illicit trade, and exchange information among customs, tax and other appropriate authorities;

(b) to enact and strengthen legislation, with appropriate penalties and remedies, that prohibits production of, and trade in [counterfeit and contraband cigarettes and other such tobacco products]/[illicit products] [unless other alternative measures are available];

(c) to take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using environmentally-friendly methods, or disposed of in accordance with domestic law;

(d) to adopt measures to monitor, document and control the distribution and movement of duty-free and tax-free tobacco products, including raw leaf tobacco;²

(e) to adopt measures to enable the confiscation of proceeds derived from the commission of criminal offences related to the illicit tobacco trade [and use the proceeds for tobacco control programmes].³

6. [In accordance with their domestic law [and their obligations under international [law]/[treaties]],] the Parties shall [within the means at their disposal and national capacity] promote cooperation between national, regional and international agencies [as it relates to investigations, prosecutions and proceedings,] to eliminate illicit trade, in particular smuggling, in tobacco, tobacco products, raw tobacco materials and additives. The Parties shall further cooperate to promote regular exchanges of information to prevent such trade [pursuant to Annex [INSERT] in this Convention]. Special emphasis shall be placed on cooperation at regional and subregional levels as the most effective prerequisite for combating smuggling and illicit trade of tobacco products.

¹ To be cross-referenced against G.1(d).

² To be cross-referenced against F.2.

³ It was proposed to move this subparagraph to Article J.

[7. The Conference of the Parties shall initiate [or take forward] the preparation of a protocol setting out appropriate rules and procedures for the elimination of all forms of illicit trade, in particular smuggling, in tobacco, tobacco products and raw tobacco materials.]¹

(Licensing)

13./14. Each Party shall, in accordance with its constitution and national law, [and within the means at its disposal] adopt effective measures to control or regulate the production and distribution of tobacco products [and raw leaf tobacco] in order to prevent illicit trade. Such measures may include licensing, tax registration or other methods of control or regulation.

(Elimination of tobacco subsidies and creation of government support for other economically viable activities)

[15. [Each Party shall [gradually]/[in an agreed timeframe] eliminate subsidies, including tax exemptions, loans and rebates, for tobacco growing and manufacturing of tobacco products[, consistent with its international obligations].] Each Party shall[, in accordance with the means at its disposal and its capabilities,] promote, as appropriate, other economically viable alternatives for tobacco workers, growers and individual sellers[, and provide technical and financial support for such activities]. [[International] financial and technical support, in particular that provided by the FAO and the World Bank, is required for such a purpose.]]²

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¹ This provision would be omitted if the Intergovernmental Negotiating Body prepares a protocol on this subject to be adopted simultaneously with the Convention.

² Second and third sentences may be referred to Working Group 3.