



Decisions of the third session of the FCTC Conference of the Parties

The Conference of the Parties (COP) to the WHO Framework Convention on Tobacco Control (FCTC) held its third session (COP-3) in Durban, South Africa from 17-22 November 2008. COP-3 made a number of very important decisions, including the adoption of three sets of guidelines for implementation of key provisions of the Convention, arrangements for ongoing work on a protocol and further sets of guidelines and recommendations, work to assist developing country Parties and Parties with economies in transition in implementing the Convention, and revision and review of the reporting instrument. The decisions are available online at http://www.who.int/gb/fctc/PDF/cop3/FCTC_COP3_DIV3-en.pdf.

Adoption of guidelines for implementation of Article 5.3

COP-3 adopted guidelines for implementation of Article 5.3 (protection of public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry). The guidelines aim to assist Parties in meeting their obligations under Article 5.3, and 'to ensure that efforts to protect tobacco control from commercial and other vested interests of the tobacco industry are comprehensive and effective'. Recognising that there is 'a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests', the guidelines provide detailed recommendations on measures that Parties should take, including, among others:

- limiting interactions with the tobacco industry to only those strictly necessary to enable effective regulation of the industry and its products, and ensuring that any necessary interactions are conducted transparently;
- not accepting, supporting or endorsing partnerships or non-enforceable agreements with the tobacco industry, or voluntary industry codes of conduct;
- protecting against conflicts of interest for those involved in setting and implementing tobacco control policies, including by prohibiting acceptance of any payments, gifts or services from the industry, prohibiting or requiring full disclosure of political donations by the industry, and prohibiting industry representation in relevant bodies or groups;
- ensuring transparency of tobacco industry operations and activities, including by requiring disclosure of, and providing public access to, a wide range of information on these operations and activities; and
- paying particular attention to monitoring, enforcement, and international cooperation to ensure effective implementation.

Adoption of guidelines for implementation of Article 11

COP-3 adopted guidelines for implementation of Article 11 (packaging and labelling of tobacco products). The guidelines aim to assist Parties in meeting their obligations under Article 11, and 'to propose measures that Parties can use to increase the effectiveness of their packaging and labelling measures'. Recognizing that Parties are to be guided by the principle that 'every person should be informed of the health consequences, addictive nature and mortal threat posed by tobacco consumption

and exposure to tobacco smoke', the guidelines provide detailed recommendations on Parties' packaging and labelling measures, including:

- warnings and messages should be located on *both* the front and back of packages, with the front the most visible for most packages;
- as much of the principal display areas as possible should be covered;
- full colour pictorial warnings should be required;
- clear requirements for rotation should be specified;
- a range of warnings and messages should be required and periodically updated;
- display of any terms, figures or other signs that might mislead consumers, including figures for emission yields and terms such as "light", "low tar", "mild", "ultra" and "extra", should be prohibited;
- plain packaging should be considered to increase noticeability and effectiveness of warnings and prevent tobacco companies from using packaging to mislead consumers;
- particular attention should be given to comprehensive legislative drafting, enforcement, monitoring and evaluation, and international cooperation to ensure effective implementation.

COP-3 also decided to request the Convention Secretariat to undertake additional activities to facilitate implementation of Article 11, including: making studies, research and other relevant reference material accessible via a website; inviting WHO's Tobacco Free Initiative to establish and maintain an international database of pictorial health warnings and messages; encouraging the use of the international database; and facilitating, upon request, the granting of licenses between Parties, where required for the use of pictorial health warnings and messages.

Adoption of guidelines for implementation of Article 13

COP-3 adopted guidelines for implementation of Article 13 (tobacco advertising, promotion and sponsorship). The guidelines aim to assist Parties in meeting their obligations under Article 13, providing guidance on the best ways to implement Article 13 'in order to eliminate tobacco advertising, promotion and sponsorship effectively at both domestic and international levels'. Recognizing that a comprehensive ban under the terms of the Convention 'applies to *all* forms of *commercial communication, recommendation or action* and all forms of *contribution* to any event, activity or individual with the *aim, effect, or likely effect* of promoting a tobacco product or tobacco use either *directly or indirectly*', the guidelines provide detailed guidance on introducing and enforcing a ban, including:

- the ban should be comprehensive in scope, including, but not limited to, the indicative list of forms of advertising, promotion and sponsorship listed in the Appendix to the guidelines – these include display of products at points of sale, advertising and promotion through product packaging, advertising and promotion on products themselves, vending machines, internet sales, brand stretching and brand sharing, and 'corporate social responsibility' donations and activities;
- the ban should cover cross-border advertising, promotion and sponsorship originating from or entering a Party's territory;
- particular attention should be given to ensuring measures are applied to responsible entities throughout the marketing chain, monitoring and enforcement, promoting and strengthening public awareness, and international cooperation to ensure effective implementation.

COP-3 also decided to take note of the recommendations on measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship and the recommendations on possible key elements of a protocol on cross-border

advertising, promotion and sponsorship. The COP decided to further consider the recommendations on measures that would contribute to the elimination of cross-border advertising, promotion and sponsorship at COP-4, and requested the Convention Secretariat to assess the implications of the recommendations and propose options for further work, and to report to COP-4.

Elaboration of a protocol on illicit trade in tobacco products

COP-3 decided to continue the work of the Intergovernmental Negotiating Body (INB) on the elaboration of a protocol on illicit trade in tobacco products, setting 28 June – 5 July 2009, Geneva as the date and venue for its third session (INB-3).

COP-3 acknowledged the INB's requests for intersessional activities to take place prior to INB-3, including coordination with the Secretariats of other relevant treaties, particularly the UN Convention against Transnational Organized Crime, and undertaking of expert reviews on: the relationship between the proposed protocol and related international instruments; the feasibility and effectiveness of an international tracking and tracing system, particularly for lower-resource countries; requirements for customer identification and verification; security and preventive measures; the treatment of internet sales of tobacco products; the relationship between illicit trade and duty-free sales of tobacco products; and the scope of the protocol, particularly in relation to manufacturing equipment and key inputs used in the manufacture of tobacco products. COP-3 agreed with the INB's proposal that regional consultation meetings be held prior to INB-3.

COP-3 decided that the INB may decide to hold a fourth session in 2010 – with the date and venue to be decided by the Bureau of the COP – if necessary, for the purpose of submitting the text of a draft protocol to COP-4.

COP-3 adopted a budget for the above activities, encouraging Parties to provide extrabudgetary contributions to enable all of the activities to be carried out, and requested the Convention Secretariat to make the necessary arrangements for the performance of the INB's work and to facilitate the participation of low-income and lower-middle income Parties.

Elaboration of guidelines for implementation of Article 12

COP-3 decided to mandate the working group on Article 12 (education, communication, training and public awareness) to continue its work and to submit draft guidelines to COP-4. The budget adopted by the COP provides for a meeting of the working group, and work by the Key Facilitators – Germany, Palau, Sweden and Turkey – and the Convention Secretariat, to take place in the intersessional period.

Elaboration of guidelines for implementation of Article 14

COP-3 decided to establish a working group to elaborate draft guidelines for implementation of Article 14 (demand reduction measures concerning tobacco dependence and cessation) for submission to COP-4. The initial membership of the working group includes the Islamic Republic of Iran and Uruguay as Key Facilitators. The budget adopted by the COP provides for two meetings of the working group, and work by the Key Facilitators and the Convention Secretariat, to take place in the intersessional period.

The decision requested the working group to take into account the report on tobacco dependence and cessation presented to COP-3 by the Convention Secretariat, and requested the Convention Secretariat to invite relevant intergovernmental and nongovernmental organizations with specific expertise in the area to actively participate and contribute to the work of the working group.

Continuation of work on Articles 9 and 10

COP-3 decided to mandate the working group on Articles 9 and 10 (regulation of the contents of tobacco products and of tobacco product disclosures) to continue its work, elaborating guidelines in a step-by-step process, and to submit a first set of draft guidelines to COP-4. The working group was also mandated to continue its monitoring work and its examination of the challenges and potential approaches to setting up a global data repository. The budget adopted by the COP provides for a meeting of the working group, and work by the Key Facilitators – Canada, the EC and Norway – and the Convention Secretariat, to take place in the intersessional period.

COP-3 also requested the Convention Secretariat to invite WHO's Tobacco Free Initiative to undertake a range of work relating to Articles 9 and 10, including elaboration of a report on best practices and legal issues relating to product disclosures for consideration by COP-4, and validation within five years of analytical chemical methods for testing and measuring certain cigarette contents and emissions.

Continuation of work on Articles 17 and 18

COP-3 decided to establish a working group on economically sustainable alternatives to tobacco growing to replace the study group previously established by the COP. The working group was mandated to perform a range of tasks, including: elaboration of policy options and recommendations for implementation of Articles 17 and 18 (provision of support for economically viable alternatives and protection of the environment and the health of persons); promotion of relevant research and exchange of information and experiences; assessment of existing sources of information; and identification and development of mechanisms and areas of cooperation with relevant intergovernmental and nongovernmental organizations. The COP requested the working group to present a progress report to COP-4, including, if possible, a first set of policy options and recommendations for implementation of Articles 17 and 18.

The initial membership of the working group includes Brazil, India and Mexico as Key Facilitators. The budget adopted by the COP provides for two meetings of the working group, and work by the Key Facilitators and the Convention Secretariat, to take place in the intersessional period. The decision invites the relevant intergovernmental and nongovernmental organizations with specific expertise on the matter to participate in the working group, as per request by the Convention Secretariat.

Development of a technical report on Article 6

COP-3 decided, in relation to Article 6 (price and tax measures to reduce the demand for tobacco), to invite WHO's Tobacco Free Initiative, through the Convention Secretariat, to develop a comprehensive technical report relating to price and tax policies for presentation to COP-4.

Assistance in implementation

COP-3 decided to significantly increase the budget allocation for work by the Convention Secretariat on assistance to Parties in implementing the Convention – to US\$2,600,000, almost four times the US\$665,000 provided in the budget adopted by COP-2. This work, which focuses particularly on developing country Parties and Parties with economies in transition, will include:

- advice on and promotion of access to resources and mechanisms of assistance for implementation, including support in conducting needs

- assessments and developing and submitting funding proposals, and dissemination of a comprehensive database of available resources;
- advice and support in implementation, including through workshops and provision of information, and dissemination of and awareness-raising on FCTC instruments, particularly guidelines;
 - promotion of transfer of technical, scientific and legal expertise and technology under Article 22, including facilitating such transfer in line with guidelines adopted, preparing a report on the promotion of such transfer for consideration by COP-4, and establishing a process to identify and initiate cooperation agreements; and
 - promotion of South-to-South cooperation in exchange of scientific, technical and legal expertise, including conducting a review of existing cooperation, holding an expert meeting to elaborate recommendations on strengthening cooperation, and undertaking pilot demonstration projects.

COP-3 also decided to continue work on assistance to Parties in fulfilling their reporting obligations under the Convention.

Revision of the reporting instrument and review of the reporting arrangements

COP-3 decided to adopt both the revised format for submission of reports on Group 1 questions (due 2 years after entry into force of the Convention for each Party) and the draft format for submission of reports on Group 2 questions (due 5 years after entry into force of the Convention for each Party).

The decision mandates the Bureau to adopt amendments to the Group 2 questions, and mandates the Convention Secretariat to develop – with the involvement of interested Parties and relevant nongovernmental organizations with specific expertise in the area – a set of step-by-step instructions to assist Parties in completing Group 2 reports. The step-by-step instructions are to be made available for use by Parties within six months of the conclusion of COP-3 – by 22 May 2009.

The decision also requests the Convention Secretariat – under the guidance of the Bureau and with the assistance of competent authorities within WHO and relevant intergovernmental and nongovernmental organizations with specific expertise in the area – to provide a report to COP-4 on measures to: improve the comparability of data over time; standardize collected data within and between Parties; develop indicators and definitions for use by data collection initiatives; and further harmonize with other data collection initiatives.

Budget and workplan of the COP

COP-3 decided to adopt a 2010-2011 budget of US\$12.88 million, with total voluntary assessed contributions of US\$8,747,727 and estimated extrabudgetary contributions of US\$4,130,000.

The decision encourages Parties to provide extrabudgetary contributions, and provides for review and, if necessary, revision of the budget and workplan by COP-4 in light of the availability of funds.

The decision requests more efficient coordination between WHO's Tobacco Free Initiative and the Convention Secretariat in order to avoid duplication of efforts and to maximize the use of available resources.

Fourth session of the COP

COP-3 decided that COP-4 will be held in Uruguay in the last quarter of 2010.