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*Provisional Report of Korean  
Government Position for the Framework  
Convention on Tobacco Control held by  
World Health Organization*

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Korea Institute for Health and Social Affairs

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# Chapter I . Introduction

Tobacco use is the leading cause of preventable death, disease and disability in the world today. At present, 4 million people a year die from a tobacco-related disease. However, if appropriate action is taken, the benefits to be reaped in terms of prevented death and disease, and enhanced quality of life for millions of people worldwide, will be enormous.

The process of formulating treaties for the Framework Convention on Tobacco Control can most conveniently be analysed in terms of four stages: initiation, formulation of the text, adoption, and entry into force. The first stage of the proposed WHO framework convention on tobacco control started with resolution World Health Assembly (WHA) 48.11 of 12 May 1995, in which the Health Assembly for the first time mentioned the possibility of an international convention on tobacco control. It was completed by adoption on 24 May 1999 of resolution WHA52.18, by which the Health Assembly decided to embark on the preparation of the draft text of a framework convention on tobacco control. It established a detailed procedure for doing so, set out in paragraph 1 of the resolution and in the Annex thereto which constitutes an outline of expected activities. The procedure established by the Health Assembly divides the second treaty-making stage into two substages. First, a working group on the WHO framework convention on tobacco control is to prepare proposed draft elements of the convention, completing its work by submission of a report to the Fifty-third World Health Assembly in May 2000. Second, an intergovernmental negotiating body is to draft and negotiate the proposed framework convention and possible related protocols, for submission to the Fifty-sixth World Health Assembly in May 2003.

Dr Gro Harlem Brundtland, Director-General of WHO,

opened the First meeting of the Intergovernmental Negotiating Body with an overview of the impact of tobacco on death and disease in 2000. The problem extended beyond the bounds of public health, and beyond national frontiers. WHO now led the United Nations Ad Hoc Interagency Task Force on Tobacco Control. Dr Brundtland hoped that the current meeting, the first in which WHO was exercising its constitutional mandate to negotiate a legally binding treaty, would change the course of public health.

Three rounds of negotiations of the Framework Convention on Tobacco Control have been held to date. The fourth round will be held in March 2002 from the 18th to the 24th in Geneva, Switzerland. Already much progress has been made and the next round will see a new, and much slimmer, draft text being used as the negotiating text. Many NGOs will again attend the negotiations and will be working to promote the FCTC in their home country between now and then.

## **I . Chair's text for INB2**

### **A. Preamble**

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

### **B. Definitions**

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

### **C. Objective**

The ultimate objective of this Convention and of the related protocols is to provide a framework for integrated tobacco-control

measures to be implemented through the engagement of the Parties in order continually and substantially to reduce the prevalence of tobacco use and thus protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke.

#### **D. Guiding principles**

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

1. Reducing the current impact, and halting the growth, of tobacco consumption is crucial in protecting the health of individuals, as well as national and global public health, and requires comprehensive multisectoral national actions and coordinated international responses.
2. Every person should be fully informed about the addictive and lethal nature of tobacco consumption, and non-smokers should be adequately protected from exposure to tobacco smoke.
3. The importance of technical cooperation in helping to establish and implement effective tobacco-control programmes in Parties in which public health resources are limited should be recognized.
4. The importance of financial assistance to aid the economic transition of tobacco growers and workers that may be displaced as a future consequence of successful tobacco-control programmes should be recognized.
5. Tobacco-control measures should not constitute a means of arbitrary or unjustifiable discrimination in international trade.
6. The tobacco industry should be held responsible for the harm its products cause to public health and the environment, with



each Party determining the scope of such responsibility within its jurisdiction.<sup>1)</sup>

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

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

### **E. General obligations**

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

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

- (a) establish or, where it already exists, reinforce, and adequately finance a national coordinating mechanism for tobacco control, with inputs from relevant government and civil society sources;
- (b) adopt legislative, executive and administrative measures and cooperate with other Parties in harmonizing appropriate policies;
- (c) reduce tobacco consumption and exposure to tobacco smoke in accordance with the provisions of this Convention and, as relevant, its protocols.

3. The Parties shall undertake to adopt legislative, executive and administrative measures to regulate and to prohibit the export of

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

tobacco products that do not conform to the exporting country's own domestic standards.

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

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

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

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

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

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

2. Each Party shall, to the extent possible within the means at its disposal and its capabilities, adopt legislative, executive and administrative measures, and cooperate with other Parties in

harmonizing appropriate tax policies, in order to reduce tobacco consumption and exposure to tobacco smoke. Such measures and policies shall include the following:

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

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

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

##### *Passive smoking*

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

##### *Regulation of contents of tobacco products*

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

*Regulation of tobacco-product disclosures*

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

*Packaging and labelling*

(d) adoption of appropriate measures to ensure that:

- ① the terms low tar, light, ultra light, mild or any other similar term that has the aim or the direct or indirect effect of conveying the impression that a particular tobacco product is less harmful than others are not used on any unit packet or package of tobacco products;
- ② tobacco packaging and labelling does not otherwise promote a tobacco product by any means that are false, misleading or deceptive or that are likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;
- ③ each unit packet or package of tobacco products carries the statement and product information specified in Article [Measures Related to the Supply of Tobacco];
- ④ each unit packet or package of tobacco products carries a general health warning, including a picture or pictogram illustrating the harmful consequences of tobacco consumption, in accordance with Annex [INSERT]; these warnings shall:
  - ① clearly indicate the prohibition of sales of tobacco products to persons under the age of 18;
  - ② provide clear information about the toxic contents of the tobacco product, specifically tar, nicotine and carbon monoxide, including actual measurements of

smoke yields;

- ③ appear in the principal language or languages of the country in whose territory the product is placed on the market.

*Education, training and public awareness*

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

- (a) develop and assure universal access to effective and comprehensive educational and public awareness programmes on the health risks of tobacco consumption and exposure to tobacco smoke, that include the use of various print and audiovisual media;
- (b) ensure that the general public and, notably, children, young persons, and vulnerable groups are fully informed about the health risks of tobacco consumption and exposure to tobacco smoke, and about the benefits of smoking cessation and tobacco-free lifestyles;
- (c) facilitate public access to information on the tobacco industry;
- (d) develop and implement effective and appropriate training programmes on tobacco control for health professionals, educators and other concerned persons;
- (e) develop and implement effective and appropriate promotion and prevention measures for tobacco control designed for students at various levels of education;
- (f) endeavour to promote the participation of public agencies and nongovernmental organizations in the development of strategies for tobacco control.

*Advertising, promotion and sponsorship*

2. In addition to obligations related to other non-price measures specified in Article [INSERT], all Parties shall commit themselves specifically to:

- (a) prohibiting all forms of direct and indirect tobacco advertising, promotion and sponsorship targeted at persons under the age of 18;
- (b) imposing strict restrictions on all forms of direct and indirect tobacco advertising, promotion and sponsorship targeted at persons 18 years of age and older, including incentives such as gifts, coupons, rebates, competitions and frequent-purchaser programmes, with the aim of reducing the appeal of tobacco products to all segments of society;
- (c) requiring that tobacco companies disclose all expenditures on advertising and promotion and make those figures available to the public;
- (d) adopting national measures and imposing appropriate regulatory restrictions to ensure that tobacco advertising, promotion and sponsorship does not promote a tobacco product by any means that are false, misleading or deceptive or that are likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;
- (e) adopting measures and imposing appropriate regulatory restrictions in order progressively to phase out tobacco sponsorship of sporting and cultural events;
- (f) adopting national measures and cooperating in order to phase out cross-border advertising, promotion and sponsorship, including, inter alia, tobacco advertising, promotion and sponsorship on cable and satellite television, the Internet, newspapers, magazines and other printed media.

3. The Conference of the Parties shall initiate the preparation of a

protocol setting out appropriate rules and procedures in the area of tobacco advertising, promotion and sponsorship.<sup>1</sup>

4. The Conference of the Parties shall initiate the preparation of a protocol setting out appropriate rules and procedures in the areas of regulation of the contents of tobacco products, tobacco-product disclosures, and packaging and labelling of tobacco products.<sup>2)</sup>

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

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

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

- (a) implementation of promotional and educational campaigns aimed at encouraging cessation of tobacco use;
- (b) integration of treatment of tobacco dependence and routine advice on cessation of tobacco use into all national health programmes, plans and strategies, including primary care programmes, reproductive health programmes such as safe motherhood, and tuberculosis control programmes. Support for such actions shall be provided by health professionals, including physicians, health practitioners, nurses, pharmacists, community workers and social workers, based on primary care in rural and urban areas;
- (c) establishment, as a priority in health centres, of programmes for diagnosis, medical advice and treatment of tobacco dependence.

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

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

### *Illicit trade in tobacco products*

1. The Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling and counterfeiting, is an essential component of tobacco control.
2. The Parties agree that measures to this end shall be transparent, non-discriminatory and implemented in accordance with their international obligations.
3. Each Party shall adopt appropriate measures to ensure that all unit packets or packages of tobacco products and any outside packaging of tobacco products for retail or wholesale use that are sold or manufactured under its jurisdiction:
  - (a) carry a statement indicating the name of the manufacturer, the country of origin, and the product batch-number, including the date of production and expiry;
  - (b) carry the statement: Sales only allowed in [the country where the product is to be placed on the market].
4. Each Party shall adopt appropriate measures to ensure that the packaging information specified in paragraph 3 above shall appear in the principal language or languages of the country in whose territory the product is placed on the market.
5. Each Party shall undertake the following legislative, executive, and administrative measures in order to prevent and combat illicit trade in tobacco products:
  - (a) monitoring and collection of data on cross-border trade in tobacco products, including illicit trade;
  - (b) enactment and/or strengthening of criminal legislation, with appropriate penalties, that prohibits the production of, and trade in counterfeit and contraband cigarettes and other such tobacco products, and taking of appropriate steps to



enforce such prohibition;

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

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

7. The Conference of the Parties shall initiate the preparation of a protocol setting out appropriate rules and procedures for the elimination of all forms of illicit trade in tobacco products.<sup>3)</sup>

Elimination of sales to and by young persons

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

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

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

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

11. Each Party shall implement appropriate legal and other

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

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

12. Each Party shall take appropriate legal and other measures to ensure that no criminal penalties are imposed against persons under the age of 18 for buying and selling tobacco products.

### *Licensing*

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

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

### *Government support for tobacco manufacturing and agriculture*

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

## **J. Compensation and liability**

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

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

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

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

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

- (a) initiate and cooperate, directly or through competent international bodies, in the conduct of research and of scientific assessments, as detailed in Annex [INSERT];
- (b) promote and encourage research that contributes to reducing tobacco consumption and harm from tobacco use, particularly in developing countries, taking fully into account the recommendations of the Conference of the Parties.

3. The Parties shall facilitate the exchange of information, taking into account the special needs of developing countries. To this end, the Parties, in accordance with their national legislation and without prejudice to their obligations under other applicable

international agreements, shall, within the framework of the Conference of the Parties and bilaterally, promote and cooperate in the full, open and prompt exchange of scientific, technical, socioeconomic, commercial and legal information, as well as information regarding practices of the tobacco industry, relevant to this convention. Each Party shall, in accordance with the means at its disposal and its capabilities:

- (a) compile and maintain a database of national and subnational laws and regulations on tobacco control and enforcement, and cooperate in the development of complementary programmes for national, regional and global tobacco control;
- (b) compile and maintain a base of data from national surveillance programmes in accordance with Article [INSERT] above.

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

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

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

- (a) facilitation of the development, transfer and acquisition of technology related to tobacco control by other Parties;
- (b) provision of technical, scientific, legal and other expertise to establish and strengthen national tobacco-control programmes, policies and measures aiming at, inter alia:
  - Ⓐ building a strong legislative foundation as well as technical programmes, and assisting in the treatment of tobacco dependence;
  - Ⓑ assisting tobacco workers in the development of

- alternate livelihoods;
- ③ assisting tobacco growers in shifting agricultural production to alternate crops in an economically viable manner;
- ④ carrying out other activities to achieve the objective of this convention and its protocols;
- (c) support for the establishment and maintenance of training programmes for appropriate personnel as provided in Article [INSERT];
- (d) supply of necessary equipment for tobacco-control programmes and activities.

2. The Conference of the Parties shall determine how to establish a mechanism to promote and facilitate scientific, technical and legal cooperation.

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

1. A Conference of the Parties is hereby established. The first session of the Conference shall be convened by the Director-General of the World Health Organization not later than one year after the entry into force of this convention. Thereafter, ordinary sessions of the Conference shall be held every year [and convened in conjunction with the World Health Assembly] unless otherwise decided by the Conference.

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

3. [The rules of procedure of the Conference of the Parties and of any subsidiary body shall be the Rules of Procedure of the

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

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

- (a) periodically examine the obligations of the Parties and the institutional arrangements under the convention, in the light of its objective, the experience gained in its implementation, and the evolution of scientific and technological knowledge, as well as prevailing socioeconomic conditions;
- (b) promote and facilitate the exchange of information pursuant to Article [Surveillance, Research and Exchange of Information];
- [(c) facilitate, at the request of two or more Parties, the coordination of measures adopted by them relevant to the implementation of this Convention and any applicable protocols;]
- (d) promote and guide the development and periodic refinement of comparable methodologies, in addition to those provided for in Article [Surveillance, Research and Exchange of Information] and Annexes [INSERT], relevant to the implementation of the Convention and its protocols;
- [(e) promote, in accordance with Articles [INSERT] as appropriate, the harmonization of appropriate strategies, plans, programmes, policies, legislation and other measures;]
- (f) promote programmes to assist Parties in implementing their obligations pursuant to Articles [INSERT];
- (g) assess the implementation of the provisions of this Convention and its protocols by the Parties, on the basis

of information made available in accordance with Article [Reporting and Implementation];

- (h) consider and adopt regular reports on the implementation of the Convention and its protocols and arrange for their distribution;
- (i) make recommendations to the Parties, the World Health Organization, other United Nations bodies and other international organizations and bodies on any matters necessary for the implementation of the Convention and its protocols;
- (j) seek to mobilize financial resources to support secretariat services pursuant to Article [Secretariat] and to support the implementation of the Convention and its protocols in accordance with Articles [Financial Resources; Reporting and Implementation];
- [(k) establish such subsidiary bodies as it deems necessary for the implementation of the Convention, review their reports, and provide guidance to them;]
- (l) seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent intergovernmental and nongovernmental organizations and bodies as a means of monitoring activities under the convention and its protocols;
- (m) exercise such other functions as are required for achieving the objective of the convention, as well as all other functions assigned to it thereunder.

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

## **N. Secretariat**

1. The secretariat of this Convention shall be provided by the World Health Organization.
2. The functions of the secretariat shall be:
  - (a) to make arrangements for sessions of the Conference of the Parties and its subsidiary bodies and to provide them with services as required;
  - (b) to compile and transmit reports submitted to it pursuant to this Convention and any of its protocols;
  - (c) to facilitate support to the Parties, particularly developing-country Parties, on request, in the compilation and communication of information required in accordance with the provisions of this Convention;
  - (d) to prepare reports on its activities under this Convention and any of its protocols and submit them to the Conference of the Parties;
  - (e) to ensure, under the overall guidance of the Conference of the Parties, the necessary coordination with other relevant international bodies;
  - (f) to enter, under the overall guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its functions;
  - (g) to perform the other secretariat functions specified in this Convention and in any of its protocols and such other functions as may be determined by the Conference of the Parties.

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

1. The Conference of the Parties may call upon the World Health Organization to provide technical cooperation in achieving the objective of this Convention or in connection with questions falling within its mandate arising out of the application of the



Convention and its protocols. The Organization shall accord such support in accordance with its programmes and within the limits of its resources.

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

## **P. Reporting and implementation**

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

- (a) information on tobacco control institutions, strategies, plans, programmes, policies, legislation and other measures initiated or implemented in accordance with the provisions of Articles [INSERT], together with information on enforcement, where appropriate;
- (b) information on steps to carry out actions taken in accordance with Article [Financial Resources];
- (c) information on the economic, social and other consequences of various response strategies adopted to implement this convention and its protocols;
- (d) information on measures, in addition to those described above, that the Party has taken to implement the provisions of this convention and their effectiveness in meeting its objective;
- (e) description of measures planned by the Party to implement this convention.

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

the differentiated timetable set by this paragraph.

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

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

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

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

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

2. A voluntary mechanism for the provision of financial resources on a grant or concessional basis, including the transfer of

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

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

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

## **R. Settlement of disputes**

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

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

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

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

5. Unless the parties agree otherwise:

- (a) If the dispute is between two parties, each party shall appoint one member of the commission, and the two members so appointed shall appoint a third, who shall serve as chair. If within three months of the appointment of the first member the second member has not been appointed, or within three months of the appointment of the second member the third has not been appointed, such appointment shall be made by [INSERT] at the request of either party.
- (b) If the dispute is between more than two parties, the parties shall agree on three members of the commission and designate one of these as chair. If within three months of the first request for the establishment of the commission no such agreement shall have been reached, the members of the commission shall be appointed and the chair designated by [INSERT] at the request of any party.

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

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

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

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

### **T. Final Clauses**

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

## **Chapter II. Proposals of South Korea for INB3**

### **1. Proposal of South Korea**

#### **A. Basic Position of the Korean government**

- The Korean government agrees in principle on the preparation of the FCTC by WHO considering its basic tenet of the FCTC concurrence with the tobacco control policy of the Korean government and the serious harms of smoking to public health.
- However, the Korean government holds that the actual tobacco control policies require careful approaches respecting national position because of the different circumstance of each country.

#### **B. Objective**

< Position of the Korean government >

- no objection

#### **C. Guiding Principle**

< Position of the Korean government >

- Paragraph D-6 is closely related with <J. Compensation and Liability>, which is being discussed by the expert group and thus needs to be judged in consideration of the discussion outcomes.

#### **D. General Obligation**

< Position of the Korean government >

- Since the specific circumstance of each country needs to be considered in the implementation of tobacco control policies requires, the following phrase underlined shall be inserted in E-1. "Each Party, taking into account its specific circumstance, shall develop, implement, periodically update and enforce, where appropriate, comprehensive, multisectoral, national tobacco-control strategies, policies, legislation and other measures, such as standards, in accordance with the provisions of this Convention and, as relevant, its protocols."

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

< Position of the Korean government >

- We recommend revision of F-1 as follows;
  - The parties recognize that price and tax measures can be an effective mechanism to reduce tobacco consumption, and that they must be combined with effective measures to combat illicit trafficking in tobacco products.
- It is impossible to harmonize tobacco price disregard of specific circumstance of each country.
  - F-2-(a),(b),(c) should be deleted, and the concerned matters should be discussed in the protocol.
- The Korean government agrees in principle on the usefulness of the tobacco pricing policy as a control measure of tobacco demand.
- However, since the selection and implementation of tax policies should reflect the specific circumstance of each country (in Korea taxfree tobaccos need to be supplied for conscripted soldiers and policeman due to the compulsory

conscription system), careful approaches are necessary.

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

### *Passive smoking*

< Position of the Korean government >

- The Korean government recommends the following revision
  - implementation of legislation and other effective measures at the appropriate government level that provide for systematic protection from exposure to tobacco smoke in indoor work places, enclosed public parties and public transport, and prohibition of smoking in areas frequented by special risk group such as children and pregnant women.
- In consideration of the serious harm of indirect smoking, 'absolute no smoking' shall be enforced in the particular places where pregnant women and children gather. The specific 'absolute no smoking' zones need be decided in the protocol.

### *Regulation of contents of tobacco products*

< Position of the Korean government >

- Deleting "designing, manufacturing and processing such products"
  - We agree on the adoption of the examination and estimation standards for controlling the ingredients of tobacco products, but hold that the adoption of the same standards for "designing, manufacturing and processing such products" infringe upon the freedom of corporate activities.



### *Regulation of tobacco-product disclosures*

#### < Position of the Korean government >

- We recommend the following revision
  - (c) implementation and taking ... disclosure by all manufacturers, including toxic ingredients, and additives, ... such information to the public. The Conference of the Parties or a subsidiary body mandated by the Conference shall specify the toxic ingredients, additives of tobacco products and major constituents of tobacco smoke which shall be subject to disclosure. Each Party shall apply these measures to all.....
  - Since the disclosing of all ingredients and additives of tobacco products presents technical problems, it is desirable that the Conference of the Parties designate the specific toxic components and mandate their disclosure.

### *Packaging and labelling*

#### < Position of the Korean government >

- We propose deletion of the terms <"low tar", "light", "ultra light", "mild" or any other similar terms> in (d)(i).
  - The specific prohibition phrases on the tobacco packaging should be decided in the Protocol.
  - Non-use of those terms in (d)(i) may not be accepted because the terms "Mild" and "Light" are internationally registered brand names. Therefore, we do not strongly disagree to (d)(i), and we need further discussion reviewing other countries' proposals.
- In consideration of our above-presented position to delegate the specifying of toxic components subject to disclosure to the Conference of the Parties or a subsidiary body mandated by the Conference, the phrase "specifically tar, nicotine and carbon monoxide" in (d)(iv)(2) should be deleted.

*Education, training and public awareness*

< Position of the Korean government >

- We propose addition of the following phrase in e-(iii),
  - “...information on the tobacco industry that is publicly available and useful for national tobacco control programmes
  - comprehensive and ambiguous phrases may infringe upon freedom of corporate activities and confidentiality of industry, it is desirable to disclose publicly available information related to national tobacco control policy.

*Advertising, promotion and sponsorship*

< Position of the Korean government >

- Deleting "all" in 2(c), and adding the following phrase;
  - "... expenditures on advertising and promotion, as an aggregate"
  - We do not think it is necessary to disclose all expenditure, and we propose disclosure of aggregate expenditure.

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

< Position of the Korean government >

- Korean government agrees because it concurs with the direction of the anti-smoking policies of the Korean government.

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

### *Illicit trade in tobacco products*

< Position of the Korean government >

- Since it is desirable that the Conference of the Parties decide the specific phrases on the packaging of tobacco products except the name of the producer and the country of production due to the technical problems such as the limited space of the packaging, we recommend the revision of F-3 as the following and the deletion of (a)(b) in F-3.

- Each Party shall adopt appropriate measures to ensure that all unit packets or packages of tobacco products and any outside packaging of tobacco for retail or wholesale use that are sold or manufactured under its jurisdiction carry the statements, including the name of the manufacturer and the country of origin, specified by the decision of the Conference of the Parties.

### *Elimination of sales to and by young persons*

< Position of the Korean government >

- No objection

### *Licensing*

< Position of the Korean government >

- No objection

### *Government support for tobacco manufacturing and agriculture*

< Position of the Korean government >

- We have no objection because the Korean government is not

currently subsidizing tobacco growing farmers and these farmers are trying to shift to other economic activities.

#### **J. Compensation and Liability**

< Position of Korean government >

- We will set our position after we review other countries' proposals and viewpoints discussed during the meeting.

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

< Position of the Korean government >

- No objection

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

< Position of the Korean government >

- no objection

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

< Position of the Korean government >

- It is desirable that the establishment of the Conference of the Parties be promulgated in the current Convention in order to secure the effectiveness of the Convention.
- We respect the majority viewpoint about the specific conference procedures.

#### **N. Secretariat**

< Position of the Korean government >

- no objection

### **O. support by WHO**

< Position of the Korean government >

- no objection

### **P. Reporting and Implementation**

< Position of the Korean government >

- no objection

### **Q. Financial Resource**

< Position of Korean government >

- The main responsibility for budget mobilization in the implementation of tobacco control policies rests with each country adopting such policies.
- However, considering that some developed countries are exporting sizable amounts of tobacco products the developing countries, these tobacco-exporting countries need to consider supporting the anti-smoking policies of the developing countries.
  - The initiation and amount of such support may be decided in consideration of the volume of tobacco export.
  - We propose deletion of (Q)-4, or deletion of the phrase "have a special responsibility in (Q)-4.

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

< Position of Korean government >

- In order to secure the effectiveness of the Convention, we agree to include the procedures for resolving conflicts in the Convention.

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

< Position of Korean government >

- We will set our position after we review other countries' proposals and viewpoints discussed during the meeting.

## **T. Final Clauses**

< Position of Korean government >

- We will set our position after we review other countries' proposals and viewpoints discussed during the meeting. end.

## **Chapter III. Results of INB3 Sessions**

The framework convention was held in Geneva between Nov 22~28 (7days). The detailed results of the meeting are as follows:

### **1. Results of the Framework Convention**

#### **A. Opening of the session and general discussions**

- Reports on activities by the Secretariat
  - There were opening speeches by Mr. Amorim, the chair and Mr. Burndtland, the Secretary-General of WHO on Nov 22 (Thurs).
  - Election of the Chair for INB4
  - The ambassador of Brazil and Mr. Manto Tshabalala-Msinmang, the minister of Health Department, South Africa were recommended as candidates.
  - According to the election method policy of consensus, not voting, the Secretariat called for general opinions of each region on this before the closure of the meeting.
- Discussion on the procedure of the session
  - The Secretariat suggested that they discuss the agenda focusing on co-chairs' working papers by each working-group (WG), and organize an informal drafting meeting to make basic documents for the next session by simplifying the chair's draft.
  - Regarding the above matter, some countries (Pakistan) expressed objection to the characteristics of the informal meeting.

- Suggestions related to the protocol, the chair's draft B (definitions) and the chair's draft D (guiding principles)
  - The representatives of Australia stated that discussions would be required for the protocol, the chair's draft B and D upon the completion of the convention. They proposed the necessity of discussion on the matters of the protocol (1. whether the negotiations on the convention and the protocol related negotiations are conducted at the same time; 2. characteristics of the protocol: whether the protocol would be the detailed regulations for the text or be the new regulations for the parts of the text which are difficult to be agreed), definitions of key terminologies (tobacco, tobacco products, etc.), and the necessity of the basic principles (D). (Australian Statement attached)
  - Regarding the protocol, countries such as USA and Canada agreed that the negotiations of the convention and the protocol should be processed at the same time. However, countries such as China, Indonesia, India and Japan objected it, mentioning that the discussion on the topic might not only delay the negotiations of the convention, but also weaken the characteristics of the convention.
    - ※ USA prepared for a smuggling-related statement, and invited the interest of the participating countries. (USA Statement attached)
  - India proposed that reviewing the annex was urgent, asserting that the regulations of the annex were more urgent than the protocol.

## **B. WG Discussion**

- In this session, there were no agreement on the chair's draft, so a general draft text was prepared by integrating all the proposals from each country, because there were extreme



differences in each country's opinions on the prices and tax strategies (F), tobacco packaging and labelling (G-1-d), tobacco ingredient control (G-1-b), tobacco advertising, public relation, support (G-2), illicit trade (I-1 to 7), governmental subsidies to tobacco farmers (I-15), funds (Q), and so on.

### *(1) Basic Principles (D)*

- Some countries such as China and India proposed the insertion of political aspirations as detailed sections.
- Regarding subsidies to the farmers of tobacco cultivating profession (D-4), developing countries such as India and Nepal asserted the establishment of global funds, while developed countries such as USA and Canada proposed that the topic should be discussed in the section of funds (Q).
- Regarding international trade related regulations (D-5), countries such as USA, Canada and EU expressed objection.

### *(2) General Obligations (E)*

- Countries such as USA, EU and Japan proposed that the terms 'such as standards' and 'harmonizing' should be deleted by considering each country's situations regarding E-1 and 2, and also proposed that the financial subsidies should be discussed in the funds section (Q).
- Some developing countries such as Zambia, Djibouti, and Nigeria emphasized on financial arrangement.
- Regarding E-3, countries such as Thailand pointed out that the agreement standards for importing or exporting countries were ambiguous and too many.

### *(3) Prices and Tax Policies (F)*

- Countries such as USA, Japan, China and EU asserted the

deleting of the gradual harmonization of prices.

- Countries such as African group (AFRO) and Latin American groups proposed that price increase should replace the gradual harmonization.
- Countries such as USA, Japan, EU and Canada all objected F-2 a/b.

#### *(4) Non-Prices Measures (G)*

- Non-Price Policy
  - Countries such as China, Japan and Canada asserted the deleting of the phrases "to the extent possible within the means at its disposal and its capabilities", whereas countries such as Russia, Argentina and Pakistan proposed the necessity of the paragraph.
- Passive Smoking (G-1-a)
  - Countries such as USA, Sudan, Saudi and Yugoslavia proposed the inserting of stronger contents for the paragraph.
  - Some countries (Japan, EU, etc.) pointed out the ambiguousness of the meaning, regarding risk group, systematic protection, etc.
- Tobacco Ingredients Control (G-1b)
  - Countries such as Pakistan, Canada and Iran objected the standards based on the WHO directions, and Japan proposed that ISO regulations, instead of WHO standards, should be complied with.
  - USA objected the term 'harmonization of the standards'.
- Announcing Tobacco Ingredients (G-1-c)
  - Most countries (USA, Japan, China, Canada, etc.) proposed that the ingredients to open should be replaced with toxic

ingredients.

— Tobacco Packaging and labelling (G-1-d)

- Countries such as USA, EU and Japan objected terms such as "low tar, light, mild...", and proposed that they should be replaced with more general terms.
- Regarding G-1-d-iv, countries such as Australia, New Zealand, Syria, India and Vietnam emphasized on the usability of picture or pictogram, but countries such as China, Russia and Japan objected the inserting of the terms due to lack of space and their domestic regulations.

— Education, Training and Recognition of the Public(G-1-e)

- Regarding G-1-e-iii, countries such as USA, Japan, EU, India and Canada asserted that the information for the public should be limited.
- Countries such as China, India and Palau proposed that government officials should be included for tobacco control related education programs, and proposed that a regulation prescribing the necessity of political aspirations should be inserted.
- Countries such as Philippines, PNG and India emphasized on the participation of all sorts of media.
- Countries such as Canada, Philippines and India asserted that advertising should be more extensive than that in school as students in developing countries were frequently absent from school.
- Main developing countries such as Malaysia, Philippines, Iran, Hungary, Djibouti, Saudi Arabia and Turkey proposed that there must be an explicit regulation that a tobacco company cannot attend a program of education or training. However, USA objected this because of its domestic laws.

— Tobacco Advertising, Public Relation, Support (G-2)

- Main developing countries such as India, Philippians,

Vietnam, Congo and Brazil agreed with the total ban of tobacco advertising, whereas countries such as Japan, EU and USA proposed partial ban and weak regulations.

*(5) Reducing Measures of Tobacco Demand (H)*

- Australia and New Zealand proposed that reducing measures of tobacco demand of aborigines should be included.

*(6) Tobacco Supply*

- Smuggling (I-1 ~ 7)
  - Most countries supported the chair's draft, but countries such as EU and USA raised a problem on harmonization
  - Argument on the parts related to international obligations other than domestic measures
  - Regarding I-3, Japan asserted the deleting of I-3-a/b, whereas countries such as EU and USA suggested that I-3-a/b should be integrated to become I-3.
  - Regarding I-5, countries such as Japan, EU, China and USA emphasized that it should be each country's scope of capacity.
  - Regarding I-6, most countries pointed out the ambiguousness of the section, and emphasized the necessity of co-operation with each country. Regarding investigation, prosecution and sue, they wanted their domestic laws to deal with them.
- Sales Ban to Youths (I-8 to 12)
  - In principle, most countries supported the paragraph, but showed differences of opinions regarding sellers and supply.
  - Some countries proposed that the paragraph should be included in the section J because the paragraph is much related to compensation and liability.

– Permission (I 13~14)

- Countries such as Mexico, Thailand, Sri Lanka, Congo and Indonesia emphasized that the retailer permission system would be impossible under their customs, whereas countries such as China and Brazil proposed that the paragraph should remain as it was. EU proposed both permission and registration system.

– Governmental subsidies to tobacco farmers (I-15)

- Countries such as USA, Japan and India mentioned that the paragraph should be discussed in WHO and should be deleted, whereas countries such as Argentina, India and China asserted that the paragraph should remain.

(7) *Surveillance, Research, Information Exchange, and Scientific, Technological and Legal Co-operation (K,L)*

- Regarding section K, countries such as Pakistan and Philippines proposed that the word 'surveillance' should be replaced with 'monitoring'.
- Regarding K-3, countries such as Japan and Russia asserted that each country should co-operate with each other within its own capacity and autonomy.
- Regarding K-1, India proposed that the phrase 'active and passive' should be inserted before 'tobacco consumption'.
- Regarding section L (Scientific, Technological and Legal Cooperation), Canada and China proposed that the paragraph should be more general and comprehensive rather than concrete, asserting that domestic legislation should be sufficient. Japan proposed that the phrases related to the support to developing countries should be deleted or moderated. Some developing countries among SEARO/Latin groups asserted that a concrete statement of supporting

methods should be done.

*(8) Council of each country, the Secretariat (M, N)*

- Most countries supported the role of the Secretariat of WHO.

*(9) Support, report, execution and arbitration of WHO (O, P, R)*

- Regarding report and execution (P)-2, most countries pointed out that the submitting periods of reports were differentiated and the deadlines were too early. For the latter, they proposed 18 months, 12 months and a year.
- Regarding the paragraph on arbitration (R), countries such as Mexico and Switzerland proposed that there should be periods for arbitration upon agreement, but countries such as USA and Argentina asserted the deleting of the paragraphs on obligatory arbitration (4-7).

*(10) Funds (Q)*

- Most developing countries such as India, China, Cuba, Indonesia and Iran proposed the establishment of multilateral global fund regulations, asserting that volunteering funds would not be effective.
- Developed countries such as EU, Japan and USA asserted that fund raising should be voluntary, and objected obligatory financial support and the establishment of global funds. In particular, Japan, USA and Canada asserted the deleting of Q-4.

*(11) Compensation and Liability (J), Development of Convention (S), Final Clauses (T)*

- Most countries such as USA, Japan and Russia proposed that the paragraph J should be discussed later or at the protocol as it was a very sensitive issue. China emphasized that there should be extensive and general regulations in the text, as in

the paragraphs of the protocol.

- Most countries proposed that details should be discussed at the INB4, as the chair's draft on the above paragraphs was not prepared, and relevant proposals by China, Norway and Iran were not sufficiently reviewed.

### **C. Report of Results and Schedules of Next Session**

- On November 28 (Wednesday), the chair Amorim accepted draft texts (attached) prepared by each WG as the basic materials for INB 4.
  - In case of WG1, the co-chairs couldn't prepare draft texts, and so they were decided to be prepared and distributed as soon as possible.
- INB4 was decided to be March 18, 2002 - March 23.
- Regarding Annex, it was proposed that the chair and the Secretariat should prepare the proposal and distribute it to member states 60 days before INB4.
- As for the agenda of simultaneous discussions on the text of convention and the protocol during the INB4 which Australia proposed, a separate session was decided for discussing the standards and contents of the protocol for INB4.
- As the chair of INB4 in this convention could not be elected, it was agreed that the vice-chairs will prepare for meetings in turn, and Mr. Koram, the ambassador of Iran, will play a role as a facilitator to elect the chair.

## **D. Details of Main Activities by Korean Delegates**

### *(1) Participated in WPRO regional meetings (Nov 21 ~ 27 am).*

- Discussed the approval of the chair of INB4.
  - The Secretariat requested the collection of opinions of WPRO.
- Australia announced the above protocol and the definition-related proposal, requesting member states' participation.
  - Proposed the holding of a definition-related informal ad hoc committee one day before INB4.
- Discussed the opening time of INB4.
  - Australia, Cambodia and Malaysia positively proposed April.
- Discussed the procedure to reflect the opinions proposed in WG.

### *(2) Participated in WG Discussion*

- Basic Principles (D)
  - Proposed the establishment of the contents that emphasized the importance of efforts to prevent youth smoking and various measures (D-2-b Revision submitted).
- General Obligations (E)
  - As the execution of tobacco regulation policies require considerations of specific social, economical and cultural environments, the phrase “taking into account its specific circumstances” was inserted to E-1 (E-1 Revision submitted)
- Prices and Tax Policies (F)
  - Agreed with tobacco price increase to suppress the tobacco



demand, but objected gradual harmonization of tobacco prices by considering each country's situation (F-1 Revision submitted). Proposed the deletion of F-2-a/b, by considering special conditions such as compulsory military services and tax-exempted tobacco sales for army, police and war veterans (F-2/a/b Revision submitted).

— Non-Price Measures (G)

- Proposed the execution of 'Non-Smoking' in the special areas where pregnant women or children frequent, by considering the seriousness of passive smoking (G-1-a Revision submitted).
- Regarding the regulations of tobacco ingredients, supported the adopted standards of inspection and measurement to control the ingredients, but objected the standards of design, manufacturing and processing as they infringe the businesses of companies (G-1-b Revision submitted).
- Regarding the ingredient announcement of tobacco products in public, we proposed that the harmful ingredients to announce should be selected by committees of the corresponding countries before announcing in public, because the opening of all the ingredients and additions may involve technical problems (G-1-c Revision submitted).
- Proposed the selection of the term 'emission' of the tobacco ingredients which were supposed to open in public, because the meaning of the term is ambiguous (G-1-b/c Revision submitted).
- Proposed that the opening of the tobacco businesses information should include concrete scopes and contents because the information may be ambiguous (G-1-e-iii Revision submitted).
- Mentioned that regarding tobacco advertising costs, the total amount, rather than concrete details, should be opened (G-2-c Revision submitted).

- Tobacco Supply
  - Proposed that manufacturers' names and nationalities should be marked in tobacco packaging, and mentioned that other details should be decided by committees of corresponding countries (I-3-a Revision submitted).
  - Proposed that regarding the paragraph of reducing tobacco sales to youths, 'sales' should be replaced with 'supply' without limiting the scope of regulations to sales (I-8~11 Revision submitted).
- Funds (Q)
  - Agreed with the necessity of financial support to the antismoking campaign of developing countries, but proposed that the whole Q-4 should be deleted or 'responsibility' should be substituted with 'consideration' because compulsory regulation, not volunteering support, is not acceptable (Q-4 Revision submitted).

## 2. Observation and Evaluation

### A. Standpoints of Main Countries

- Countries such as USA and EU agreed, in principle, with the purport of the convention, but regarding the strong regulations of tobacco businesses, they attempted to limit the text with the reason for "domestic regulations". In particular, they showed a strong standpoint towards the smuggling related regulations.
- Countries such as New Zealand and Australia have a viewpoint that strong and comprehensive regulations should be inserted in the convention, mostly supporting the chair's draft and the working paper.
- China also agreed with the purport of the convention and

supported the antismoking policy, but avoided the strong obligation of international regulations, emphasizing on the supporting of developed countries for developing countries.

- Japan generally showed negative and doubtful attitudes to the whole convention, by asserting that they should consider domestic regulations and special conditions of each country.
- The SEARO group such as India and Indonesia, and the AFRO group such as Algeria showed a strong standpoint to tobacco regulations. In particular, they emphasized on the tobacco supply related parts such as the restriction on the advertising of tobacco companies, antismoking campaign and education, asserting the financial and technological support of developed countries to make such programs run effectively.

### **B. Prospect of Next Session**

- As there are still differences of opinions in the main paragraphs (F/G) of the convention, it is expected that agreement will not be easily obtained during INB4 and INB5.

### **C. Other Aspects**

- In this session, some regional groups (AFRO, SEARO, Latin American Group, Pacific Islands) collected their opinions from separate regional meetings, and showed comparatively unitary joint standpoints in the main discussions.
- In general, the scale of delegates was expanded. For instance, countries such as Russia, Brazil, Canada, China, Japan and Cuba sent large groups of delegates.
- Some groups of delegates such as USA, Australia and Japan discussed the agenda of the convention intensively by each working group, and often had temporal meetings outside the conference room during break time.

- Regarding the operating system (informal meetings at nights) of this session, countries such as China and Pakistan expressed complaining. Some pointed out that simultaneous meetings limited the participations of small-size groups of delegates.

### **3. Suggestions**

#### **A. Reviewing Instructions**

- Establishing standpoints on the revised draft text
  - Reviewing existing standpoints is required, with regard to the statements of main countries in this session.
  - It is also required to review additional paragraphs and phrases. In particular, regarding the topics to be discussed newly such as compensation and liability (J), development of the convention (S), and final clauses (T), the existing proposals by China, Norway and EU are required to be reviewed. If necessary, it may be desirable to compile our proposal.
- Reviewing Terminologies for Main Discussion
  - There were arguments on the following terminologies, so it is required to review the terminologies.
  - "to the extent possible within the means at its disposal and its capability", "national tobacco program(campaign, strategy)", "legislative, executive, administrative measures"
- Reviewing the protocol, definitions, and Annex
  - Regarding the protocol, it is required to review whether the negotiation of the protocol will be conducted with that of the convention, and to review main items (advertisement, tobacco ingredient control and opening, etc.) that will be included in the protocol, and also to

review characteristics of the protocol.

- As the applied scopes of the convention can be different depending on the main terminologies of the convention (tobacco, tobacco product, public place, etc), it is required to prepare the definitions of the core terminologies by our government.

### **B. Experts Participation Required for International Convention**

- As the draft text was made in this session, discussions of concrete phrases and adjusting work are expected in INB4. Therefore, legal experts who are equipped with knowledge and experiences in international conventions need to be included in the delegate group to deal with the matters more effectively.
- The USA delegate group included a lawyer, who pointed out a contradiction to USA domestic laws on the spot.
- In particular, the paragraphs on compensation and liability that were decided to be discussed in the next session, which are the focus of each country's interest, require legal knowledge definitely.

### **C. Briefings in Relevant Ministries/Departments and Collecting Public Opinions**

- The main paragraphs of the convention (tobacco tax increase, ban to tobacco advertising and vending machines, execution of strictly no smoking zones, support to antismoking campaigns of developing countries, etc.) can have significant influences on our government when the convention is completed. Therefore, before INB4 participation, various opinions need to be collected, and intensive discussions and establishment of detailed standpoints by negotiations are required, by having persons of relevant ministries/departments and civil experts

participate in.

#### **D. Conference Methods of INB4 Delegates**

- As delegates in INB4 are supposed to participate in meetings by each WG (Working Group), it is required to review relevant paragraphs precisely and prepare for clear standpoints.

