



FCTC

WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL

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

Ninth session

Geneva, Switzerland, 8–13 November 2021

FCTC/COP/9/21

Report of the Ninth Session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control

Geneva, Switzerland, 8–13 November 2021

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1. OPENING OF THE SESSION

1. The Ninth Session of the Conference of the Parties (COP9) to the WHO Framework Convention on Tobacco Control (WHO FCTC), scheduled to take place from 8 to 13 November, was held virtually from 8 to 12 November 2021. Representatives of 162 Parties to the Convention took part. Also present were representatives of six States Non-Parties, as well as four international intergovernmental organizations (IGOs) and 16 nongovernmental organizations (NGOs) accredited as observers.¹

2. The session was opened by the President of the Conference of the Parties (COP), H.E. Mr Esmail Baghaei Hamaneh (Islamic Republic of Iran), who noted that, despite having been postponed by a year, COP9 must still be held virtually, owing to the ongoing coronavirus 2019 (COVID-19) pandemic. A set of special procedures for the conduct of a virtual session had been prepared (document FCTC/COP/9/3), based on those applied for the successful conduct of two virtual World Health Assembly sessions and a variety of other significant World Health Organization (WHO) meetings. COP9 would consider an abridged agenda and defer some items to the Tenth Session of the Conference of the Parties (COP10), while on other items reports would be delivered, but substantive discussions and decision-making on those items would be postponed to COP10. This would permit sufficient time for their discussion, guarantee the integrity of those decisions and prevent any potential interference from the tobacco industry. Every effort would be made to ensure that technical issues did not prevent anyone from participating in the session at any point; no one would be robbed of their voice. The Islamic Republic of Iran would propose a declaration on the WHO FCTC and recovery from the COVID-19 pandemic, which had been prepared in consultation with all Parties and would be presented to COP9 for adoption at the end of the session. The adoption of the special procedures for COP9 (item 1.3 of the agenda) would be required to be the first item considered to allow the conduct of business of the session to commence.

3. Dr Adriana Blanco Marquizo, Head of the Secretariat of the WHO FCTC (Convention Secretariat), welcomed all participants and noted that COP9, on the theme of tobacco control during a global health emergency, was indeed taking place in extraordinary circumstances. While it was deeply unfortunate that participants were still unable to meet in person, she trusted that all would harness their spirit of cooperation and mutual understanding to ensure a successful and productive virtual session. The COVID-19 pandemic had arrived in the middle of a panoply of other global health issues, in which tobacco use was a major cause of concern. Smokers had been shown to face greater risks from COVID-19, as had people with pre-existing conditions like noncommunicable diseases (NCDs), many of them linked to tobacco use or exposure to second-hand smoke. Building back better from the COVID-19 crisis should include tobacco control; increasing taxes on tobacco products could be a means of gaining domestic revenue to invest in public health and pandemic recovery. Thus far, the tobacco industry had taken advantage of the situation through so-called “corporate social responsibility” measures. The industry’s narrative was branding WHO FCTC as unfit for purpose and suggesting that there were rifts in the tobacco control community. Divisive rhetoric driven by the industry to spread discord must not be allowed to prevail; the tobacco control community had much more common ground than differences of view.

4. A link to the two statements can be found on the Convention website.²

¹ For the list of participants, see document FCTC/COP/9/DIV/1.

² <https://fctc.who.int/newsroom/speeches>.

1.1 Adoption of the agenda and organization of work

Documents FCTC/COP/9/1 and FCTC/COP/9/1(annotated)

5. The provisional agenda had been prepared by the Convention Secretariat in consultation with the Bureau of the COP, in accordance with Rule 6 of the Rules of Procedure of the COP. In the context of the restrictions imposed in response to the COVID-19 pandemic, the Bureau had approved arrangements for COP9 to be held virtually, using videoconferencing technology.

6. At its first plenary session, on 8 November,¹ COP9 began the consideration of an abridged version of the provisional agenda, whereby a number of items would be deferred for consideration by COP10. In addition, reports under some agenda items would be provided for the information of the Parties but, owing to the limited time available for the virtual session and the substantive discussions expected, in addition to concerns regarding possible tobacco industry interference, the Bureau recommended that consideration of those items should be postponed to COP10. On an exceptional basis, it was proposed that the agenda should be adopted through a formal decision, a draft of which had been previously circulated to Parties.

7. While the majority of Parties approved of the draft decision as presented, several Parties put forward amendments with the stated aim of increasing the clarity of the text. In particular, it was proposed that operative paragraph 1(b) should be amended to add the words “and decisions on”, so that the amended text would read: “to note the reports provided for the information of the Parties under certain agenda items, and to defer discussion of and decisions on those items to COP10”. While there was general agreement that all substantive discussion and decisions should be deferred to COP10, opinions were divided on whether it was necessary to refer specifically to the deferral of decisions.

8. Similarly, it was suggested that operative paragraph 1(c) should be amended to add the words “established by” in subparagraph (i), and the words “and in consultation with States Parties, as appropriate” in subparagraph (ii), so that the amended text would read: “(c) for the avoidance of doubt, to preserve the existing status of the following matters until COP10:

(i) to defer to COP10 the report by the Bureau with respect to the Working Group on the Implementation of Articles 9 and 10 of the WHO FCTC until COP10, with the understanding that the mandate of the Working Group remains suspended until established by COP10; and

(ii) to extend the duration of the mandate of the Expert Group to examine the reasons for low implementation of Articles 9 and 10 of the Convention, and related partial guidelines, as articulated in decision FCTC/COP8(21), and maintaining the terms of reference contained therein, under the guidance of the Bureau and in consultation with States Parties, as appropriate, all with a view to discussing an updated report at COP10.”

9. A Party was of the view that, if the Working Group on the Implementation of Articles 9 and 10 of the Convention were to remain suspended, it would not need to be established again at COP10. However, a few Parties expressed a view that the Working Group on Articles 9 and 10 should resume its work as of COP 10. Furthermore, consultation with Parties was ensured by the composition of the Bureau, where each of the WHO regions was represented by one Bureau member. On the other hand, the view was expressed that, if the mandate of the Expert Group were to be extended and its terms of

¹ In order to enable the COP9 to proceed, agenda item 1.3 on the adoption of special procedures for the conduct of COP9 was considered before items 1.1 and 1.2.

reference maintained, it would not be necessary to seek guidance from the Bureau and engage in consultation with States Parties. One Party pointed out that consultations should be done with all Parties, also suggesting that the word “States” be deleted.

10. Lastly, it was proposed that operative paragraph 2 should be amended to add the words “by – among others – taking into account inputs from Parties and evolving scientific information in accordance with Article 5.3 of the WHO FCTC,” so that the amended text would read: “REQUESTS the Convention Secretariat to update, and to invite the World Health Organization to update, as necessary, by – among others – taking into account inputs from Parties and evolving scientific information in accordance with Article 5.3 of the WHO FCTC, any report on which discussions are deferred to the COP10, to ensure that COP10 is provided with the most current information possible for its deliberations.” There, too, it was suggested that updating a report necessarily entailed taking account of evolving scientific information and that the proposed amendment was accordingly superfluous. Some Parties, however, advocated omitting the phrase regarding inputs from Parties but including a reference to Article 5.3 of the Convention in connection with evolving scientific information, in order to guard against the use of “pseudoscience”.

11. The discussion continued at the second plenary meeting, on 8 November. A large number of Parties, including those intervening on behalf of their region, supported the original text of the entire draft decision, including subparagraph 1(c)(i), on the grounds that it had been extensively discussed and agreed by the Bureau and supported in regional consultations, and that further amendments or additions risked causing confusion. However, some Parties expressed a preference for keeping the stipulation that both discussion of and decisions on the items in question should be explicitly deferred until COP10.

12. At the third plenary meeting, on 9 November, the President, in consultation with the Bureau, submitted a compromise text for consideration. It aimed to take account of the concerns expressed, while recognizing that a majority of Parties had favoured the original wording. The compromise text incorporated the amendments to operative paragraphs 1(b) and 1(c)(ii). At the same time, the amendments suggested to operative paragraph 2 had been withdrawn by the delegations concerned. General support was expressed for the President’s proposed text, in the interests of consensus.

13. In the course of the lengthy discussion, the President clarified that only comments made via live or video interventions on the videoconference platform and not those made in the “chat” function on the platform could be reflected in the official records of the Conference. Participants emphasized the need to ensure that the views of Parties, in particular, were duly taken into account, despite the difficult circumstances inherent in holding meetings entirely online.

14. The Conference adopted decision FCTC/COP9(2) at its third plenary meeting.

15. The agenda will be reproduced in Annex 1 to the present report and the list of documents will be included in Annex 2 in the full and final version (after Parties’ comments are incorporated) of the COP9 report.

16. The Conference agreed that Committee A would be entrusted with work on agenda items 4 and 5, while Committee B would consider agenda item 6. The remaining agenda items would be dealt with in plenary meetings.

17. The following representatives were elected to serve as officers of Committees A and B, pursuant to Rule 24quinquies of the Rules of Procedure of the COP (Decision FCTC/COP9(4)):

Committee A:

- Dr Graciela Gamarra (Paraguay), Chairperson
- Dr Sungkyu Lee (Republic of Korea) and Dr Svetlana Nicolaescu (Republic of Moldova), Vice-Chairpersons

Committee B:

- Mr Ferdinand Mangongo (Gabon), Chairperson
- Dr Samadhi Rajapaksa (Sri Lanka) and Mr Alaa Abdel-Rahman (Egypt), Vice-Chairpersons

1.2 Credentials of participants

Document FCTC/COP/9/2

18. In accordance with Rule 19 of the Rules of Procedure, at its fourth plenary meeting, on 10 November, the Conference considered the report on the credentials of participants contained in document FCTC/COP9/2, prepared by the Convention Secretariat further to examination by the Bureau of the credentials submitted by the Parties. Following an update by the Vice-President on credentials received following the publication of document FCTC/COP/9/2, as well as in relation to the delegations that were provisionally entitled to participate in the meeting, pending the submission of their full and complete credentials, the COP adopted the relevant decision (FCTC/COP9(5), Credentials of participants) at its fourth plenary meeting.

19. Following the closure of this agenda item during the fourth plenary meeting, the President exceptionally permitted one Party to provide a regional statement in relation to this agenda item. At the fifth plenary meeting on 11 November, a Party delivered a regional statement on behalf of 23 States Parties from the Region of the Americas, in which they urged Parties to the Convention to remain vigilant towards tobacco industry strategies and tactics intended to interfere in the setting and implementation of their public health policies with respect to tobacco control. A number of NGO observers delivered position statements urging all Parties to consider recommendations 4.9 and 8.3 of the Guidelines for Implementation of Article 5.3 of the WHO FCTC when designating members of their delegations, in accordance with decision FCTC/COP8(12). Two other Parties said that, while they complied rigorously with decision FCTC/COP8(12), they did not agree that Parties should be obliged to submit a formal declaration that they had no conflicts of interest vis-à-vis the tobacco industry.

1.3 Special procedures for the conduct of the Ninth Session of the Conference of the Parties to the WHO FCTC

Document FCTC/COP/9/3

20. At the first plenary meeting, the President introduced document FCTC/COP/9/3, which outlined the special procedures for the conduct of a virtual COP9. As noted above, the item was considered first to enable the conduct of the meeting. The special procedures for COP9 were the result of extensive consultations with all Parties to the Convention, under the guidance of the Bureau, over a period of more than six months. The document drew heavily on, and was closely aligned to, the procedures used to conduct the virtual Seventy-third and Seventy-fourth sessions of the World Health Assembly,

four virtual meetings of the Executive Board, and meetings of the Programme, Budget and Administration Committee of the Executive Board (PBAC).

21. One Party objected strongly to two aspects of the special procedures as presented to COP9. First, the Party referred to how the “presence” of Parties would be defined in a virtual meeting in light of Rule 34 of the Rules of Procedure of the Conference of the Parties, which states: “A majority of the States Parties shall constitute a quorum for the conduct of business at plenary meetings of the Conference of the Parties. The presence of two thirds of the States Parties shall be required for any decision to be taken.” That Party was of the view that merely counting connections to the online platform during the meeting would be insufficient. Delegates could potentially leave a connection open, when they were not in fact present. It was therefore proposed that it would be preferable to count “hands raised” to ensure the legitimacy of any decisions taken. It was the view of the Party that the provision on quorum in paragraph 3 of the special procedures – as currently drafted – could constitute a written admission that Rule 34 would not be applied to the letter by COP9, which could give the tobacco industry cause to claim that any decisions taken by COP9 were not legitimate. Secondly, the Party was of the view that on decision-making, the special procedures did not provide sufficient assurance that technical issues would not impede participation. Despite those concerns having been raised in writing several times in exchanges with the Secretariat over recent weeks, the Party was of the view that the responses provided by the Convention Secretariat did not address the concerns raised.

22. A representative of the Office of the WHO Legal Counsel pointed out that similar special procedures were used for the World Health Assembly, the Executive Board, PBAC and the WHO regional committees and they had assisted the WHO Secretariat in ensuring the smooth and successful running of virtual sessions in the exceptional circumstances imposed by the COVID-19 pandemic. They also constituted good practice for several peer organizations that had requested advice from WHO for that purpose. The special procedures were not intended to amend or replace the rules of procedure of the governing bodies, but simply to enable the session to proceed in a virtual mode. The connection of delegates to the virtual meeting platform was considered sufficient to constitute their presence at the meeting and to count towards a quorum. As to whether physical presence next to a connection should be verified, it was noted that it was the responsibility of States to work in a spirit of honesty and transparency; presence was a matter of trust and respect for the procedures. In all virtual meetings, the WHO Secretariat worked closely with the information technology (IT) support staff to ensure that connectivity issues never prevented delegations from participating in decision-making processes.

23. In addressing the concern regarding decision-making, the Senior Legal Officer of the Convention Secretariat noted that document FCTC/COP/9/INF.DOC./3, specifically referenced in document FCTC/COP/9/3, provided a detailed description of how decision-making and procedural issues would be dealt with using the virtual system, adding assurances to those already made by the President regarding how technical problems would be overcome. In terms of the quorum concern, in an in-person session, a quorum would be counted by the Convention Secretariat in the background while the session continued. Using IT to count the connections in the virtual setting, verified by the legal officers, was the digital equivalent of that procedure. However, with around 2000 delegates registered for COP9 in four separate categories and with multiple delegates registered for each Party, for “raised hands” on the virtual platform to be counted, the meeting would have to be stopped, which would cause unnecessary disruption to the work of the COP. In addition to the governing bodies of the WHO, recent virtual sessions of the Conferences of the Parties to the Basel, Rotterdam and Stockholm conventions, all closely analogous to the WHO FCTC, had all used the quorum assessment procedure in line with that proposed at COP9. The Senior Legal Officer was concerned that the above-mentioned Party was calling into question the legitimacy of the decisions taken by all of those governing bodies that had used the same procedure to assess a quorum in a virtual setting.

24. In the ensuing discussion, the concerned Party reiterated its reservations. Many other Parties, while understanding those concerns, agreed that the special procedures were appropriate for the conduct of the current session, in the exceptional circumstances of the COVID-19 pandemic, which was still looming large. It was clearly understood that the special procedures would not replace or amend the Rules of Procedure of the COP, and that they were simply an exceptional measure to enable the virtual session of COP9 to be held. The above-mentioned Party, clarifying that it was not calling into question the legitimacy of the decisions taken by other governing bodies that had used the same approach to counting quorum in a virtual setting, reiterated its concern regarding the particular sensitivities of the COP owing to potential interference from the tobacco industry. The Party maintained its disagreement with the legal explanation provided by the Convention Secretariat, reiterating its view that paragraph 3 of the special procedures was inconsistent with Rule 34 of the Rules of Procedure of the COP. However, not wishing to obstruct consensus, the Party agreed to proceed with the adoption of the special procedures, despite maintaining its reservations, which it requested be noted on the record.¹ In addition, in relation to decision-making, the Party requested assurances from the Chair that Parties could raise points of order and that proper action would be taken to ensure the participation of the Parties in the decision-making process.

25. With the assurances of the President that technical problems would not prevent Parties from participating in decision-making and reiteration by the President and the Convention Secretariat that the special procedures were in compliance with the Rules of Procedure of the COP, the COP noted the report contained in document FCTC/COP/9/3 and adopted the decision included in the Annex (FCTC/COP9(1), Special procedures for the conduct of the Ninth Session of the Conference of the Parties).

26. Following the practice introduced at the Eighth Session of the Conference of the Parties (COP8), and recommendations by the Bureau in consultation with the Parties, a Party made a proposal in relation to webcasting. The COP agreed that the opening ceremony and the closing plenary session (closing ceremony) would be webcast. In line with Rule 32 of the Rules of Procedure of the Conference of the Parties, as amended by COP8 in 2018, the COP also decided that accredited media could attend the open sessions of COP9.

2. APPLICATIONS FOR THE STATUS OF OBSERVER TO THE CONFERENCE OF THE PARTIES

Document FCTC/COP/9/4

27. The Conference was asked to consider applications for observer status from five nongovernmental organizations (NGOs): Action on Smoking and Health (ASH); the African Tobacco Control Alliance (ATCA); the Smoke Free Partnership (SFP); the Tobacco Control Research Group (TCRG); and Vital Strategies Inc.

28. Support was expressed for those five applications by representatives speaking on behalf of the African and South-East Asia regions.

29. Applications had also been received from seven other organizations: ASH Finland; the Common Market for Eastern and Southern Africa (COMESA); the International Network of Nicotine Consumer

¹ In addition to this report, the statement made by the Party will be reproduced in full in the verbatim records of the meeting.

Organisations (INNCO); the New Nicotine Alliance (NNA) UK; Parlement Africain de la société civile; Science for Democracy; and Think Tank Africa WorldWide Group. The Bureau had recommended that the applications should be rejected, in line with the criteria set out in the Annex to decision FCTC/COP8(1) and the Rules of Procedure of the COP.

30. The Conference decided to grant observer status to five NGOs and deny observer status to seven organizations, in keeping with the above recommendations by the Bureau and as contained in document FCTC/COP9/4, adopting decision FCTC/COP9(3) to that effect at its third plenary meeting.

3. GLOBAL PROGRESS IN IMPLEMENTATION OF THE WHO FCTC

Document FCTC/COP/9/5

31. Given the virtual format of COP9, the Bureau, at its fourth meeting held in April 2021, decided that the *2021 Global Progress Report on Implementation of the WHO Framework Convention on Tobacco Control* would be presented to COP9 for information, and that the report would not be followed by a general debate. Delegations were invited to submit recorded video statements on the report. The video statements received prior to the end of the session are available on the WHO FCTC website.¹

4. TREATY INSTRUMENTS AND TECHNICAL MATTERS

4.1 Implementation of Articles 9 and 10 of the WHO FCTC (Regulation of contents and disclosure of tobacco products: reports by the expert group, and by WHO and the Convention Secretariat)

Documents FCTC/COP/9/6, FCTC/COP/9/7 and FCTC/COP/9/8

32. At its Eighth Session, the COP adopted decision FCTC/COP8(21), requesting the Convention Secretariat to, among other things, establish an Expert Group to examine the reasons for low implementation of Articles 9 and 10 of the Convention and related partial guidelines and to prepare a report to be submitted to COP9. The report of the Expert Group was contained in document FCTC/COP/9/6. The report presented a summary, and detailed notes of the deliberations during the Expert Group's meeting were made available on the Convention Secretariat website. Decision FCTC/COP8(21) also requested the Convention Secretariat to convene a meeting on cigarette ventilation. Document FCTC/COP/9/7 contained a report by the Convention Secretariat summarizing the findings of that meeting. Document FCTC/COP/9/8 contained a progress report by WHO on a variety of technical matters related to Articles 9 and 10 of the WHO FCTC. It responded to requests made by the COP at its Seventh and Eighth Sessions related to decisions FCTC/COP7(9), FCTC/COP7(14), FCTC/COP8(21) and FCTC/COP8(22).

33. In accordance with decision FCTC/COP/9(2), substantive discussion of, and decisions on, the reports under this agenda item were deferred to COP10. In Committee A, some Parties made some general comments regarding the reports on implementation of Articles 9 and 10 of the WHO FCTC.

¹ <https://fctc.who.int/who-fctc/governance/conference-of-the-parties/ninth-session-of-the-conference-of-the-parties/cop9-provisional-agenda-item-3-gpr-video-statements>.

34. Representatives reaffirmed the decision to defer substantive discussion on the reports, noting that the issues raised therein were complex and did not lend themselves to discussion in a virtual setting. Nevertheless, they stressed the need for continued work during the intersessional period between COP9 and COP10, particularly in the face of the tobacco industry's relentless efforts to promote and increase the use of tobacco products. Further research – especially on design features of tobacco products and on novel and emerging products – was considered essential to strengthen the evidence base and inform countries' decision- and policy-making concerning regulation of tobacco products. Continued support for capacity-building to assist countries in testing and measuring the contents of electronic nicotine delivery systems (ENDS), electronic non-nicotine delivery systems (ENNDS) and other products was also a critical need. Other suggestions for work in the intersessional period included the identification of a potential Knowledge Hub for Articles 9 and 10 of the WHO FCTC.

35. Representatives endorsed the extension of the duration of the Expert Group's mandate until COP10 and the maintenance of its terms of reference, and noted the need to ensure appropriate technical expertise among its members. Parties commended the technical support they had received from the Convention Secretariat and WHO, and voiced appreciation for the work of the WHO Study Group on Tobacco Product Regulation (TobReg) and the WHO Tobacco Laboratory Network (TobLabNet), with one representative expressing the view that, while matters related to regulation and disclosure of tobacco products should remain on the COP agendas, technical work on issues such as contents and emissions of tobacco and nicotine products should continue to be carried out by WHO and its various entities and centres specifically designed for that purpose. Several Parties also expressed their support for the continuation of the Working Group on Articles 9 and 10 of the WHO FCTC.

36. Committee A noted the reports contained in documents FCTC/COP/9/6, FCTC/COP/9/7 and FCTC/COP/9/8 and looked forward to a substantive discussion on the issues addressed in those reports at COP10.

4.2 Novel and emerging tobacco products

Documents FCTC/COP/9/9 and FCTC/COP/9/10

37. At its Eighth Session, the COP adopted decision FCTC/COP8(22), requesting the Convention Secretariat to invite the WHO Secretariat to prepare a comprehensive report to be submitted to COP9 on research and evidence on novel and emerging tobacco products, in particular heated tobacco products. The report contained in document FCTC/COP/9/9, which was prepared in response to that request, summarized the eighth report of the WHO Study Group on Tobacco Product Regulation, published in 2021, and the outcomes of the Heated Tobacco Product Expert Meeting, held in February 2020, both of which also responded to decision FCTC/COP8(22). That decision also requested the Convention Secretariat to examine the challenges that novel and emerging tobacco products posed for the comprehensive application of the WHO FCTC, in particular those articles and guidelines referring to definitions and terminology and to tobacco smoke, and to provide information on the adequate classification of such products, such as heated tobacco products, to support regulatory efforts. The report contained in document FCTC/COP/9/10 was prepared in response to that request.

38. Committee A held a general discussion on the reports. In accordance with decision FCTC/COP/9(2), substantive discussion of, and decisions on, the reports under this agenda item were deferred to COP10. In Committee A, some Parties made some general comments regarding the reports on novel and emerging tobacco products.

39. Some representatives expressed their views on the need to regulate novel and emerging products, in particular heated tobacco products, which were being misleadingly marketed as less harmful and as aids for smoking cessation. They stated that such products were also being heavily marketed to young people, which was of great concern. Some delegations noted that regulations must be based on scientific evidence, and again highlighted the need for ongoing research during the intersessional period between COP9 and COP10. Such research was needed both to serve as a basis for the formulation of regulations and to counter the misinformation being put out by the tobacco industry. Some representatives also called on Parties to collaborate in sharing research findings and information on their efforts to regulate such products.

40. A Party suggested that consideration should be given to expanding the definition of “tobacco products” in paragraph 1(f) of the Convention to include novel and emerging products and that the matter should be discussed at COP10. Some delegations also suggested that the Convention Secretariat and the WHO Secretariat should be asked to develop an analysis to assist Parties in understanding the potential implications for tobacco control policies of the new classification of tobacco products administered by the World Customs Organization from 2022. The Convention Secretariat was requested and WHO was invited to update, as necessary, any report on which discussions are deferred to the COP10, to ensure that COP10 is provided with the most current information possible for its deliberations, as per decision FCTC/COP9(2).

41. Committee A noted the reports contained in documents FCTC/COP/9/9 and FCTC/COP/9/10.

5. REPORTING, IMPLEMENTATION ASSISTANCE AND INTERNATIONAL COOPERATION

5.1 Implementation Review Mechanism

Document FCTC/COP/9/11

42. The report contained in document FCTC/COP/9/11 described the pilot project exercise for an Implementation Review Mechanism for the implementation of the WHO FCTC carried out in accordance with decision FCTC/COP8(16) and Specific Objective 3.1.2 of the *Global Strategy to Accelerate Tobacco Control: Advancing Sustainable Development Through the Implementation of the WHO FCTC 2019–2025*.

43. In accordance with decision FCTC/COP/9(2), substantive discussion of, and the decision on, the report presented under this agenda item was deferred to COP10. Some Parties in Committee A made some general comments regarding the report.

44. Representatives welcomed the Implementation Review Mechanism as an important tool for identifying gaps and bottlenecks in the implementation of the Convention, facilitating support to Parties and sharing lessons learned, but emphasized that participation in review exercises should be voluntary. A representative of a Party that had participated in the pilot project noted that the exercise had yielded useful feedback and helped to highlight areas requiring greater focus. It was pointed out that the proposed Workplan and Budget for 2022–2023 (document FCTC/COP/9/13) included line 3.1.2.1, “Develop and operate an Implementation Review Mechanism (IRM) for the WHO FCTC (if approved by COP9)”, yet no draft decision on the implementation of the mechanism had been proposed for approval by the COP. The Convention Secretariat was therefore asked to clarify the expected roll-out

date for the review mechanism. Representatives looked forward to further discussion at COP10 on how to implement the review mechanism.

45. The Convention Secretariat clarified that line 3.1.2.1 had been removed from the revised version of the Workplan and Budget for 2022–2023 submitted to Committee B for consideration. Since the COP had decided, in decision FCTC/COP9(2), to defer any substantive discussions and decisions on this item to COP10, no action would be taken with respect to the review mechanism at COP9 and the matter would be taken up at COP10.

46. Committee A noted the report contained in document FCTC/COP/9/11.

6. BUDGETARY AND INSTITUTIONAL MATTERS

6.1 Performance and progress reports

(a) Performance report for the 2018–2019 Workplan and Budget

(b) Interim performance report for the 2020–2021 Workplan and Budget

Document FCTC/COP/9/12

47. Representatives noted with appreciation the work done by the Convention Secretariat in supporting various Parties in executing tobacco control measures and actions relative to Sustainable Development Goal (SDG) Target 3.a. In particular, they welcomed the work of the Knowledge Hubs, drawing attention to the first virtual signing ceremony when the Oswaldo Cruz Foundation (Fiocruz) in Brazil had been designated as the eighth Knowledge Hub for Articles 17 and 18 of the Convention in July 2020. Speakers also took note of the advances made in terms of international cooperation, notably with specialized agencies of the United Nations System and in the context of the WHO Global Coordination Mechanism on the Prevention and Control of Noncommunicable Diseases, as well as South–South and Triangular cooperation. They noted with satisfaction that the WHO Hosting Terms for the Convention Secretariat had been promulgated by the WHO Director-General in 2019. They appreciated the work done to advance the FCTC 2030 project and the role played by the project in strengthening tobacco control efforts in low- and middle-income countries.

48. Representatives welcomed the efforts made to reduce arrears of Assessed Contributions, noting that for the biennium 2018–2019 almost 97% of Assessed Contributions had been collected. While Parties were thanked for their Extra-budgetary Contributions to the WHO FCTC, some concern was expressed at the relatively low level of funding from Assessed Contributions compared with Extra-budgetary Contributions. Noting that the 2018–2019 performance report made reference to a surplus in Assessed Contributions, speakers called for further consideration to be given, ahead of COP10, to an appropriate mechanism for ensuring that those contributions were appropriately used to advance implementation of the Convention. Support was expressed for the recommendation to mandate the Convention Secretariat to set aside a part of any potential balance of Assessed Contributions, with the aim of establishing a contingency fund to act as a reserve in the event of any unmitigated risks. Such a fund would need to have a transparent mechanism to ensure accountability.

49. The Convention Secretariat was asked to clarify how the fact that many of its activities were currently virtual would impact the level of expenditure in the 2020–2021 biennium. In addition, the Convention Secretariat should consider ways of restoring the pre-COVID-19 situation whereby

performance and progress were assessed for the two years prior to a COP, to avoid the need for interim performance reports.

50. In response, the Convention Secretariat noted with gratitude the generous financial support to the FCTC 2030 project provided by certain Parties. It had been possible to reprogramme some Extra-budgetary Contributions for use in subsequent biennia or on activities that did not entail travel costs. Nonetheless, certain costs were incurred even when missions and activities were carried out in a virtual environment, such as interpretation costs. Work was being done within the Convention Secretariat on strengthening Knowledge Hubs and improving the way in which they operated. It was hoped that more virtual ceremonies and events could be organized in the future, since digital communication generated considerable political support. The provision of interim reports had been required in all previous COPs and would be required even if the next sessions of the COP happened in the first year of the biennium. The Convention Secretariat would work with Parties during the coming intersessional period on a proposal to make use of the balance of Assessed Contributions, so that it could be considered at COP10.

51. Committee B took note of the progress and performance reports prepared by the Convention Secretariat.

6.2 Proposed Workplan and Budget for the financial period 2022–2023

Documents FCTC/COP/9/13 and FCTC/COP/9/INF.DOC./1

52. Committee B was invited to consider the report and the Workplan and Budget for the financial period 2022–2023, as contained in Annexes 1, 2 and 3 of document FCTC/COP/9/13, and to note the detailed description of activities, the rationale and assumptions made in calculating the cost of various activities, and the efforts by the Convention Secretariat to achieve greater efficiency and savings, as contained in the explanatory note in document FCTC/COP/9/INF.DOC./1.

53. Representatives of the Parties noted the efforts that would be made by the Convention Secretariat to achieve greater efficiency and savings, as described in the explanatory note, as well as the fact that the budget for the financial period 2022–2023 contained no proposal for an adjustment in Assessed Contributions. The Convention Secretariat was encouraged to allocate funds, as proposed in the discussion of agenda item 6.1, to activities as determined by the Parties. It was noted that the total budget for the period 2022–2023, amounting to US\$ 19.1 million, represented an overall decrease of 12.75% compared with the Workplan and Budget for the previous period. The Secretariat was urged to consider ways of restoring the pre-COVID-19 situation, namely preparing a budget for the second and third year after a COP, in order to have sufficient time after the approval of the budget for obtaining Extra-budgetary Contributions. Representatives of a number of Parties called for assurances that every effort would be made to maintain the status quo with regard to the level of extra-budgetary funding. Several Parties took the floor to welcome the alignment between the proposed Workplan and Budget and the Global Strategy.

54. One Party, speaking on behalf of a regional grouping, requested further details of the proposed shift of 10% of one D2 position and 10% of three P5 positions to the Workplan and Budget to be considered by the Meeting of the Parties (MOP) to the Protocol to Eliminate Illicit Trade in Tobacco Products. Furthermore, the Secretariat was asked to explain the nature of the distributions of 50% from Assessed Contributions and 20% from Extra-budgetary Contributions to fund a P5 position and the justification for the increase in fixed-term staff financed with Assessed Contributions, as well as the sharp decline among additional staff. The Secretariat should be entrusted with more flexibility on the utilization funds allocated for each of the lines of the workplan. The regional grouping was hesitant

about establishing new Knowledge Hubs, believing that financial resources could be channelled into other activities instead. Further savings could be made within strategic objective 2.2. The Secretariat was invited to clarify the importance of budget line 2.1.5.1, “Continue implementation of the corporate communications strategy”, and to state whether a decision to launch an implementation review mechanism was expected at COP9. The regional grouping would reserve its comments on the creation and extension of any working groups until Committee A had concluded its deliberations. Lastly, noting that the Convention Secretariat had been mandated to explore how to improve the reporting system of the WHO FCTC and to report on the issue to COP10, the regional grouping invited the Convention Secretariat to state under which budget line that work would be conducted.

55. The representative of one Party called for consideration to be given to making provision for a data-sharing platform where Parties could share information on the contents of novel and emerging tobacco products. It also expressed support for the establishment of a Knowledge Hub dedicated to product regulation, as proposed by the Expert Group on Implementation of Articles 9 and 10 of the WHO FCTC.

56. Representatives of other Parties expressed support for the expansion of knowledge hubs and called for the workplan to focus on three objectives: accelerating activities and interventions; promoting alliances with international organizations; and building on achievements. In view of the fact that 46% of the funding for the Workplan and Budget for the financial period 2022–2023 was to come from Assessed Contributions, while 54% was to be raised in extra-budgetary resources, emphasis was placed on identifying new sources of income and securing sustainable financing. Building on the lessons learned from the COVID-19 pandemic, thought should be given to using digital resources for conducting workshops, consultations and other activities.

57. Parties expressed support for the draft decision on the adoption of the Workplan and Budget for the financial period 2022–2023, shared with Parties in advance of the meeting in the restricted access website, in view of the fact that both were fully aligned with the Global Strategy.

58. Responding to comments, the Convention Secretariat said that budget line 1.2.2.2 was related to the specific objective of strengthening the role of knowledge hubs in assisting Parties, as mandated in the Global Strategy, and that the extra-budgetary funds concerned would be deployed only as needed for establishing such hubs. As to the activities proposed under strategic objective 2.2, they were intended to increase synergies, above all in connection with work conducted in collaboration with intergovernmental organizations, including WHO, and with civil society, as potential and current observers to the COP. Budget line 2.1.5.1 – also derived from the Global Strategy 2025 – was intended to harness the limited resources available for enhancing the Convention’s visibility by harmonizing communication efforts, avoiding duplication and maximizing leverage with partners to strengthen those efforts through, for example, campaigns and various forms of communication tools. Budget line 3.1.2.1, relating to the Implementation Review Mechanism, had been removed considering that the substantive discussion in relation to the item was deferred to COP10, as had the budget lines on intersessional working groups; only one expert group was now catered for. Budget lines 3.2.5.3 and 3.2.5.4, relating to reporting, would cover the improvements to be made before the Tenth Session of the COP with a view to enhancing and harmonizing all reporting activities.

59. As noted during the discussion, Extra-budgetary Contributions accounted for a large part of the budget, especially for development assistance, and a number of Parties had already made commitments for the coming biennium. The Convention Secretariat was also intensifying its resource mobilization efforts through an innovative investment fund model and the implementation of decision FCTC/COP7(25) on its fundraising efforts and collaborative work, including by building on

those efforts, strengthening its donor relations and management system, and working to attract new donors. As to the financing of travel and per diem for certain countries, the current policy would remain unchanged for the Tenth Session of the COP.

60. Lastly, the activities in relation to support to the implementation of Articles 9 and 10 of the WHO FCTC could be included as part of the technical assistance provided under budget line 1.1.1.3. The Convention Secretariat's ongoing work to strengthen its online database system under budget line 2.2.2.1 would also facilitate the development of a new data-sharing system, in line with the needs of Parties, during the coming biennium.

61. The Convention Secretariat noted that, by way of their biennial reports made available on the Coordination Platform, Parties were already sharing information on their implementation of Articles 9 and 10 of the Convention and could also use that platform to share additional information. Concerning human resources, the Convention Secretariat proposed to change the percentage of positions paid by the COP to 70% and by the MOP to 30% in a distribution that would include the Head of the Convention Secretariat and three P5 posts, with 50% of the cost of one further P5 post covered by COP Assessed Contributions, 20% by COP Extra-budgetary Contributions and 30% by MOP Assessed Contributions. With regard to the reduction in posts, the Convention Secretariat had thoroughly analysed the proposed workplans to be considered by the COP and the MOP, as detailed in document FCTC/COP/9/INF.DOC/1, and believed that the overall number of staff would be sufficient to carry out both of those workplans. Some posts previously covered by Extra-budgetary Contributions were no longer reflected while others previously covered by such contributions in the COP workplan and budget would be more appropriately covered by the MOP, given their focus on supporting the implementation of the Protocol.

62. Welcoming the support expressed for the proposed Workplan and Budget, the Head of the Convention Secretariat said that the document was the outcome of extensive consultations during the intersessional period. Her objective was to achieve maximum transparency by providing a full explanation of all activities conducted in the previous biennium, as well as of those proposed for the coming biennium, while also allowing for some flexibility to cater for the needs of all Parties. A further objective was to achieve sustainable financing, including through active and innovative fundraising and a stronger communication strategy for raising awareness of the work under way. In that context, however, it would inevitably be necessary in the foreseeable future to consider the feasibility of continuing to maintain the zero nominal growth of the Assessed Contributions.

63. With regard to the distribution of staff costs, possibly the most reliable and visible indicator of the volume of work undertaken by the Convention Secretariat in relation to the Convention and the Protocol was the number of Parties to each treaty. On that basis, it was considered fair for the COP to cover 70% and the MOP 30% of those costs as a means of achieving the efficiencies requested by Parties and of avoiding duplication of work. It was a matter of adjusting posts while continuing to provide employment security for staff. Lastly, she called upon Parties to follow the example of the governments of Australia, Norway and the United Kingdom of Great Britain and Northern Ireland, in funding the flagship FCTC 2030 project – which was growing in momentum – to support low- and middle-income countries so as to achieve the Sustainable Development Goals by accelerating the implementation of the WHO FCTC.

64. In response to an expression of support by one representative for the establishment of a knowledge hub on Articles 9 and 10 of the WHO FCTC, she said that, on the basis of existing decisions and mandates, work on the subject would be carried out during the intersessional period.

65. An observer to the COP expressed support for the proposed Workplan and Budget as well as appreciation to the Convention Secretariat for its efforts to advance its work in difficult circumstances, noting in particular its important commitment to ensuring the participation of low- and middle-income countries in COP sessions.

66. Committee B approved the draft decision, which was transmitted to the COP for adoption in the first report of Committee B (document FCTC/COP/9/B/R/1).

67. At its fifth plenary meeting, the COP adopted decision FCTC/COP9(7).

6.3 Payment of the assessed contributions and measures to reduce Parties in arrears

Document FCTC/COP/9/14

68. Committee B was invited to take note of the report contained in document FCTC/COP/9/14, which provided information on the progress made in the payment of Assessed Contributions and the current status of Parties in arrears, and to consider for adoption the draft decision set out in the annex to the document, as recommended by the COP Bureau.

69. The Convention Secretariat, providing an update on the status of payment of Assessed Contributions, named Colombia, Mongolia, Nicaragua, Oman, Timor-Leste, Saudi Arabia, Suriname and Uganda as Parties that had recently settled their dues and should therefore no longer be considered in arrears. In response to a question from the representative of Algeria, the Convention Secretariat confirmed that payment covering that Party's arrears had been received. The table on the status of payment was updated on a monthly basis and could be consulted on the WHO FCTC website. One representative, speaking on behalf of a region, was concerned to note that, in addition to the amount of the arrears themselves, one half of the countries in arrears were from that region and expressed appreciation to the Convention Secretariat for its efforts to assist those experiencing financial difficulties as a result of the COVID-19 pandemic.

70. In the ensuing discussion, numerous representatives highlighted the importance of full and timely payment of Assessed Contributions to ensure adequate resources for implementation of the Workplan and Budget adopted by the COP, with several others emphasizing that the impact of the pandemic on public health and national economies had created an exceptional circumstance to be taken into account. One representative, speaking on behalf of a regional grouping, nonetheless suggested that the draft decision should contain no reference to the pandemic.

71. Various representatives expressed overall support for the draft decision, although with the proviso, in some cases, that payment plans and maximum timelines be more precisely determined. Others questioned the need for the blanket suspension of measures, expressing the view that such measures should be applied on a case-by-case basis, suggested to be in line with relevant COP decisions and the practice in other organizations, such as WHO and the Pan American Health Organization.

72. The Convention Secretariat explained that the Bureau's recommendations set out in the draft decision were in accordance with the process established by decision FCTC/COP7(23), that would be re-evaluated at COP10. It was added that the draft decision suspended the first set of measures provided for in the decision taken at the Seventh Session of the Conference of the Parties (COP7) (concerning eligibility for becoming or nominating a member of the Bureau of the COP or to chair any subsidiary body or working group) and suspended until COP10 the application of the second measure provided for therein, concerning suspension of the right to vote. Furthermore, the pandemic was considered to

constitute an “exceptional circumstance justifying different measures”, as provided for in that same decision. Any decision as to the further suspension of measures would be taken at COP10. It was also recalled that any measures imposed under relevant COP decisions lapsed with immediate effect once a Party was no longer in arrears.

73. With respect to operative paragraph 1 of the draft decision, one representative, speaking on behalf of a regional grouping of countries, suggested that Parties should be urged to pay their contributions in full “by the last trimester of the biennium” or “by the beginning of the last trimester of the biennium”. Other representatives pointed out, however, that some Parties, constrained by their national budget systems, had no option but to pay their Assessed Contributions on an annual basis. After some discussion, it was generally accepted that the wording “as soon as possible” would allow for that and other scenarios, without diminishing emphasis on the need for prompt payment. The Convention Secretariat recalled, however, that operative paragraph 1 was identical to that set out in decision FCTC/COP8(9), which had been adopted by consensus, as was required in the case of budget-related decisions.

74. In the light of that comment and the Convention Secretariat’s subsequent assurance that the original wording of operative paragraph 1 allowed for the payment of Assessed Contributions in two annual instalments, in line with current practice, the Committee agreed that the paragraph should remain intact.

75. Representatives of several Parties suggested amendments to operative paragraph 2 with the intention of clarifying the time-bound nature of the decision and emphasizing that, however long the COVID-19 pandemic might last, it was the initial phase thereof that had affected Parties’ ability to pay their Assessed Contributions. While there was some discussion of how best to reflect those elements in the draft text, there was general agreement within the Committee on the substance of the various proposals. A proposal was made to word the paragraph so that it would read: “DECIDES, for the Ninth Session of the COP, in accordance with decision FCTC/COP7(23), Paragraph 3(c) and (d), in light of the exceptional circumstances created by the outbreak of the COVID-19 pandemic, and to remain in effect until COP10: (a) not to apply measures as may be recommended by the Bureau in accordance with paragraph 3(b) of decision FCTC/COP7(23); (b) to suspend application of paragraph 3 of decision FCTC/COP8(9)”. On the understanding that the phrase “and to remain in effect until COP10” applied to both subparagraphs (a) and (b) of operative paragraph 2, Committee B agreed to the proposal.

76. With regard to operative paragraph 3, one representative highlighted the need to ensure that invoices were sent to WHO FCTC Focal Points, as well as to permanent missions, to facilitate prompt payment of Assessed Contributions. The Head of the Convention Secretariat assured him that the Secretariat would make every effort to that end.

77. Committee B approved the draft decision, as amended, which was transmitted to the COP for adoption in the first report of Committee B (document FCTC/COP/9/B/R/1). At its fifth plenary meeting, the COP adopted decision FCTC/COP9(8).

6.4 Convention Secretariat’s fundraising strategies: Investment fund concept

Documents FCTC/COP/9/15 and FCTC/COP/9/INF.DOC./2

78. The COP considered a report, contained in document FCTC/COP/9/15, prepared by the Convention Secretariat pursuant to decision FCTC/COP8(5). The report summarized developments relating to the proposed creation of an Investment Fund to support implementation of the WHO FCTC,

as part of the Convention Secretariat's fundraising strategies, and provided recommendations for the establishment and operation of such a fund. Supplementary information, in the form of questions and answers, was presented in document FCTC/COP/9/INF.DOC./2. Regional and bilateral consultations between the Convention Secretariat and Parties held in preparation for COP9 had informed the development of the proposals. From those consultations, it had emerged clearly that the Investment Fund was intended to be an innovative financing mechanism to supplement existing funding sources and that participation in the WHO FCTC Investment Fund would be voluntary. The Conference was invited to provide further guidance on the matter and consider adopting the draft decision annexed to the report in order to launch the Investment Fund.

79. Representatives of numerous Parties and several WHO regional groupings expressed broad support for the concept of an Investment Fund for implementation of the WHO FCTC and for the specific proposals relating to its establishment and operation set out in Annex 1 to document FCTC/COP/9/15. In particular, they emphasized the need to ensure sustainable and predictable funding to support implementation of the Convention at the global and national level, while ensuring full compliance with Article 5.3 of the Convention and transparency in the management of the proposed Investment Fund. In that respect, the proposed establishment of an Oversight Committee for the Investment Fund was especially welcomed, though several representatives suggested that its composition should be expanded to include two Parties from each WHO region and representatives of appropriate civil society organizations as observers, in line with Article 4.7 of the Convention. A representative of a regional economic integration organization Party sounded a note of caution: investment funds, by their nature, were subject to the volatility of the financial markets and changes in the political environment, and thus might not be sustainable and predictable. In addition, it may create a competing interest with other sources of funding, such as Assessed Contributions and Extra-budgetary Contributions. It was also emphasized that expertise would be required to ensure appropriate Fund management, and that care should be taken in relation to compliance with Article 5.3 of the Convention. Every effort should be made to mitigate the inherent risks. Some Parties, echoing those concerns, enquired about the possible consequences of the Investment Fund being declared insolvent or liquidated. Regarding the Oversight Committee, simply increasing the number of members would not be sufficient since specific and relevant skills and expertise were needed.

80. A number of Parties expressed the strong view that the proposed Investment Fund should complement existing sources of funding, not detract from them. The Convention Secretariat should continue to make every effort to collect Assessed Contributions, mobilize extra-budgetary funding and explore other innovative financing options, in line with objective 3.2.3 of the Global Strategy. The need to ensure that the Investment Fund was entirely protected from the commercial and other vested interests of the tobacco industry was also strongly emphasized: rigorous and continual oversight would be essential to prevent any connection, however inadvertent. Parties sought clarification from the Convention Secretariat as to how potential conflicts of interest would be monitored. The Investment Fund would require transparent and robust governance, with rigorous monitoring and evaluation; one representative said that it should be clearly delineated from other activities, including monitoring schemes.

81. Several Parties, while emphasizing their support for the overall concept of the proposed Investment Fund, highlighted fiscal pressures that would prevent them from contributing to it. Some Parties suggested that taxation revenue from tobacco products should be utilized to support tobacco control activities, thereby effectively transferring some of the financial burden of tobacco control measures to the tobacco industry itself. The financial support that the Investment Fund could provide would help to address the negative health effects of tobacco use and tackle inequitable health outcomes. Low- and middle-income countries, in particular, would benefit from support for domestic tobacco

control measures. In that regard, the importance of the FCTC 2030 project was underlined and appreciation was expressed to its donors – Australia, Norway and the United Kingdom of Great Britain and Northern Ireland; other high-income countries were encouraged to provide Extra-budgetary Contributions to ensure that the project could continue.

82. A representative of a State non-Party, while expressing support for the proposed creation of an Investment Fund, suggested that consideration be given to allocating existing unspent funds to the provision of improved technical support for Parties in their tobacco control activities. Representatives of two NGOs with observer status likewise expressed support for the proposed Investment Fund; one welcomed efforts to ensure transparency and involve civil society in the Investment Fund's oversight mechanisms, while the other endorsed calls for tobacco taxation revenue to be used to support implementation of the Convention.

83. In response to the comments made and various specific questions asked, the Convention Secretariat said that the Oversight Committee and the Bureau of the COP would be responsible for verifying that potential donors to the Investment Fund met the requirements of Article 5.3 of the Convention and the WHO Framework of Engagement with Non-State Actors (FENSA). The proposed arrangements for the Investment Fund would enable it to benefit from the World Bank's investment expertise and ensure that assets were allocated appropriately and in line with the Convention's objective and principles. Transparency and oversight would be built into the Investment Fund's structure, as would appropriate checks and balances to manage and mitigate risk, giving the Conference the assurances of due diligence it needed. If the Investment Fund was held by the World Bank, insolvency would entail no risk for the COP. Investments would be made taking a long-term view to allow for cyclical market fluctuations, prioritizing low-risk and moderate growth. If, during the initial period, there is low or negative revenue, interest will not be available for use by the COP. Funds will be available only once interest has been earned on the invested capital. If administrative costs could not be covered from interest gained during the first year of the Investment Fund's existence, some of the capital would be used for that purpose, but only with the provision that it would be replaced immediately once the Investment Fund began to show positive returns. Any such decision would be for the Bureau of the COP and, as appropriate, the Oversight Committee. He also added that past trends indicate that it is not likely that investment markets would be depressed for more than two consecutive years, since they usually rebound after a depression.

84. Assessed Contributions would remain the paramount source of funding for the implementation of the workplan and budget adopted by the COP, and the Convention Secretariat would continue to collect Assessed Contributions assiduously, seek Extra-budgetary Contributions wherever possible and explore innovative sources of funding. The aim was to finance the Investment Fund from non-traditional sources. The World Bank sometimes held surplus money from completed projects in other areas; one possibility would be to reach agreement with the countries that owned the surpluses on reallocating those resources to the Investment Fund, rather than leaving them dormant. Such arrangements had already been successfully utilized by other organizations. Other potential funding sources were also being explored, but the COP's decision to establish the Investment Fund would be needed before specific arrangements could be made.

85. The Convention Secretariat said that efforts would continue with a view to mobilizing resources to support the FCTC 2030 project, as the flagship development assistance programme of the Convention Secretariat to support Parties to achieve SDG Target 3.a on strengthening implementation of the WHO FCTC of the SDGs. The more funds could be made available, the more low- and middle-income countries could be helped.

86. A representative of a Party, speaking on behalf of a regional grouping, proposed a number of amendments to the draft decision on the WHO FCTC Investment Fund and the description of the policy, governance and operational arrangements of the Investment Fund contained in Annex 1 of document FCTC/COP/9/15. In paragraph 2 of that annex, the clause “Contributions to the Fund shall be voluntary” should be inserted between the first and second sentences. The first bullet point in paragraph 5 of that annex should be amended so that the text would read: “Additionally, the COP will decide on the allocation of the Fund’s revenue to activities in the COP workplan and budget, subject to availability of funds.”

87. To accommodate the proposals advanced by Parties, it was suggested that operative paragraph 2(d) of the draft decision could be amended, replacing the words “comprised of one Party” to instead read “comprised of up to two Parties”, and add the words “and, as observers, two representatives of NGO observers to the COP,” so that the amended text would read: “to facilitate the establishment of an Oversight Committee, comprised of up to two Parties from each WHO region and, as observers, two representatives of NGO observers to the COP, to provide support to the COP and its Bureau in the governance of the Fund;”. While it was desirable to increase the membership of the Oversight Committee and to expand it to include civil society representatives, some WHO regions with fewer Parties might find it difficult to designate two members, and it might be preferable to avoid a strict requirement that could potentially interfere with the functioning of the Oversight Committee.

88. A representative of a Party proposed amendments to operative paragraphs 2(c) and 2(d) of the draft decision. Paragraph 2(c) would add the words “and under the guidance of the Bureau” so that the paragraph would read: “to make the necessary arrangements, in consultation with WHO and the World Bank as the Fund Trustee, and under the guidance of the Bureau, for the finalization and implementation of specific policies ...”. Paragraph 2(d) would add the words “under the guidance of the Bureau” and “and terms of reference for” so that it would read: “to facilitate, under the guidance of the Bureau, the establishment of and terms of reference for an Oversight Committee ...”. A representative of another Party subsequently proposed that the phrase in operative paragraph 2(d) should instead be amended to read: “... the establishment of an Oversight Committee and its terms of reference ...”.

89. A representative of another Party proposed that the text in the second bullet point of paragraph 5 of Annex 1 of document FCTC/COP/9/15 should be amended, replacing the words “provide guidance” with the word “guide”, replacing the words “on implementing” with the words “in establishing”, and adding the words “governance and” after the words “the policy” to so that the amended text would read: “The COP Bureau will guide the Convention Secretariat in establishing the policy, governance and operational arrangements of the Fund ...”. Similarly, the word “governance” should be inserted between “policy” and “and operational” in the third bullet point of that paragraph. Information on the role of the COP, the Oversight Committee and the Convention Secretariat contained in paragraphs 17, 18 and 19, respectively, of document FCTC/COP/9/INF.DOC./2 should also be included in Annex 1 of document FCTC/COP/9/15.

90. A representative of a Party, speaking on behalf of a regional grouping, further proposed the insertion of a new operative paragraph 2(g) in the draft decision, to read: “to secure management synergies with the investment fund for implementation of the Protocol to Eliminate Illicit Trade in Tobacco Products, if launched by the Meeting of the Parties”. The wording in the third bullet point (“Fund allocation”) of section F of Annex 1 to document FCTC/COP/9/15 should be amended to read: “revenue from the Fund will be dispensed by the World Bank to WHO for the implementation of the WHO FCTC as directed and decided by the COP.” Lastly, the second sentence in paragraph 12 of that annex should be amended to read: “The Convention Secretariat will establish a schedule to monitor that

the administration of the Fund is compliant with these provisions, and report on a regular basis to the COP and its Bureau on the Fund's compliance with the provisions.”

91. At its fourth meeting, on 10 November 2021, Committee B considered a text of the draft decision that had been edited by the Convention Secretariat, reflecting the views articulated during the previous meeting. Wide support was expressed for the text, including in a spirit of flexibility, with some representatives offering suggestions for additional minor editorial improvements. A key point of discussion revolved around whether the number of Parties from regions – and indeed of observers accredited to the COP – that would be represented on the Oversight Committee should be specified as “two”, “up to two” or “no more than two”. Among the stated concerns was that cases in which fewer than two Parties were represented on such a body risked creating not only an imbalance but also a precedent whereby certain regions could be represented in greater number than others, which could have implications in the event of a vote.

92. The Convention Secretariat explained that the phrase “up to two” had been used in the text to allow for smaller regions that might not necessarily have representatives from two Parties with the technical skills required to serve on such a committee. The most important consideration was, in fact, the financial and investment expertise and insight that members of the Oversight Committee would bring, with transparency additionally ensured by the participation of NGOs in the Committee's activities. Despite that clarification, Parties supported the inclusion of “two” Parties per region, rather than “up to two” or “no more than two”.

93. It was further explained by the Convention Secretariat that the repetition of the word “observers” in such close succession in the text was deliberately designed to ensure precision because in one case it refers to observers at the Oversight Committee and in the other observers to the COP. In response to queries about the frequency of reporting, the Convention Secretariat drew attention to paragraph 2(f) of the draft decision, pursuant to which Parties would be required to submit reports to COP10 and subsequent regular COP sessions. One representative equally noted, however, the absence of any requirement for the submission of reports during intersessional periods.

94. A representative of a regional economic integration organization Party, expressed reservations about the costs of the exercise, saying that administration costs must be carefully assessed and monitored, including those incurred in relation to the World Bank and any studies that might be needed. Support was otherwise expressed for the revised version of the draft decision, and its focus on the quality of the Oversight Committee was welcomed.

95. The Convention Secretariat emphasized that terms of reference were to be drafted for the Oversight Committee, which would be tasked, among other things, with confirming that any investment strategy suggested by the World Bank, along with any potential funders that were not Parties to the Convention, were compliant with the terms of Article 5.3 of the WHO FCTC and its Guidelines for implementation.

96. Committee B approved the draft decision, as amended, which was transmitted to the COP for adoption in the second report of Committee B (document FCTC/COP/9/B/R/2). At its fifth plenary meeting, the COP adopted decision FCTC/COP/9(13).

6.5 Review of accreditation of nongovernmental organizations with the status of observer to the Conference of the Parties

Document FCTC/COP/9/16

97. In accordance with the Rules of Procedure of the COP, the process adopted in decision FCTC/COP5(22) and the standard reporting questionnaire adopted in decision FCTC/COP6(23) in relation to the review of accreditation of NGOs observers to the COP, the Convention Secretariat prepared a report, contained in document FCTC/COP/9/16. The report summarized findings from a review of the reports presented by NGOs that are accredited with observer status to the COP on their work. All 21 NGO observers to the COP submitted their reports, as required.

98. Broad support was expressed for the draft decision annexed to the report, which was considered by Committee A at its third meeting. The Committee noted the report and approved the draft decision, which was transmitted to the COP in the first report of Committee A (document FCTC/COP/9/A/R/1) for adoption. At its fifth plenary meeting, the COP took note of the report and adopted decision FCTC/COP9(6).

6.6 Strengthening synergies between the Conference of the Parties and the World Health Assembly: report by the WHO Director-General on resolutions and decisions of the Seventy-second, Seventy-third and Seventy-fourth World Health Assembly

Document FCTC/COP/9/17

99. At its Seventh Session, the COP adopted decision FCTC/COP7(18), inviting the Director-General of WHO to request the WHO to provide regular reports to the COP on resolutions and decisions of the World Health Assembly that were relevant to the implementation of the WHO FCTC.

100. The report submitted by the Director-General of WHO, on resolutions and decisions adopted at the Seventy-second, Seventy-third and Seventy-fourth World Health Assembly and the WHO regional committees, was contained in document FCTC/COP/9/17.

101. Committee A, at its third meeting, commended and duly noted the contents of the report.

6.7 Appointment of the Head of the Convention Secretariat: report by the Bureau

Document FCTC/COP/9/18

102. The President of the COP noted that the report contained the recommendations of the Bureau elected by COP8 and of the Bureau elected by the First Session of the Meeting of the Parties (MOP1) to the Protocol on the process of appointment of the Head of the Secretariat, based on the experience gained and comments received from Parties intersessionally. The COP was invited to give a mandate to the Bureaus elected by COP9 and, respectively, the Second Session of the Meeting of the Parties (MOP2) to present a draft decision with joint recommendations for improving the process of appointment of the Head of the Secretariat, for consideration at COP10, and respectively, the Third Session of the Meeting of the Parties (MOP3).

103. The Vice-President for the Region of the Americas and Rapporteur of the Bureau elected by COP8 clarified that the joint recommendations in the report related to the role of the Bureau of the MOP and

the Regional Coordinators of the COP and the MOP in the process, the criteria for the selection of candidates for the post of Head of the Secretariat of the WHO FCTC, and the temporary absence of the Head of the Secretariat. The overall aims of the recommendations were to increase the transparency of the appointment process, to facilitate the role of the Bureaus and clarify that of the Regional Coordinators, and to, overall, clarify the provisions governing the appointment of the Head of the Secretariat.

104. Parties noted with satisfaction the comprehensive report and were of the view that the recommendations, especially those concerning the definition of the role of Regional Coordinators and the MOP Bureau, constituted a good starting point for further discussion. For the sake of efficiency, one Party advocated the inclusion, in the Rules of Procedure of the COP, of provisions governing a temporary absence of a Head of the Convention Secretariat. Parties noted the report and looked forward to further consideration of the matter at COP10.

105. Committee B approved the draft decision contained in document FCTC/COP/9/18 and transmitted it to the COP for adoption in the Committee's third report (document FCTC/COP/9/B/R/3).

106. At its sixth plenary meeting, on 11 November 2021, the COP adopted decision FCTC/COP9(9) (Appointment of the Head of the Convention Secretariat).

7. DATE AND PLACE OF THE TENTH REGULAR SESSION OF THE CONFERENCE OF THE PARTIES

Document FCTC/COP/9/19

107. In the webcast portion of the seventh and final plenary meeting of the COP, as proposed to the COP and so agreed in order to give visibility to this important item, the representative of Panama conveyed an offer from her Government to host COP10 in Panama in 2023, with the exact dates to be decided by the Bureau in due course. As reported by the Convention Secretariat, the session could not be held in Geneva owing to the unavailability of suitable conference facilities at the required time. A pre-recorded video of invitation from the Minister of Health of Panama was shown.

108. At its seventh plenary meeting, on 12 November, the COP accepted the generous offer of Panama, expressing its appreciation, and adopted decision FCTC/COP9(11).

8. ELECTION OF THE PRESIDENT AND THE VICE-PRESIDENTS OF THE CONFERENCE OF THE PARTIES

Document FCTC/COP/9/20

109. In accordance with Rule 21 of its Rules of Procedure, the COP elected the following officers to constitute the Bureau of the COP for the period between the closure of the Ninth Session and the closure of the Tenth Session of the COP:

President:	Ms Zandile Dhlamini (Eswatini)
Vice-Presidents:	Dr Marcos Dotta (Uruguay)
	Mr Roland Driece (Netherlands)
	Mr Jack Quinane (Australia)

Dr Samadhi Rajapaksa (Sri Lanka)
Dr Jawad Al-Lawati (Oman)

110. In accordance with Rule 24.2 of the Rules of Procedure, lots were drawn to determine the order in which the Vice-Presidents would serve in the event that the President was unable to do so. A lot was also drawn to determine which Vice-President would act as Rapporteur.

111. The order presented in the above list is the order in which the lots were drawn. Of the five Vice-Presidents, Dr Samadhi Rajapaksa should act as Rapporteur.

112. At its seventh plenary meeting, on 12 November, the COP adopted decision FCTC/COP9(12), reflecting the above agreements.

113. Following regional consultations, the following Parties were designated to act as Regional Coordinators:

Cameroon for the African Region
Canada for the Region of the Americas
Pakistan for the Eastern Mediterranean Region
Turkey for the European Region
Thailand for the South-East Asia Region
Malaysia for the Western Pacific Region

9. ADOPTION OF THE PROVISIONAL REPORT OF THE NINTH SESSION OF THE CONFERENCE OF THE PARTIES

Document FCTC/COP/9/21

114. The provisional report before the Conference contained a summary of the proceedings and conclusions on each agenda item as of the afternoon of Wednesday, 10 November 2021. The complete provisional report, including the remaining proceedings, would be made available to the Parties for any corrections for a period of 15 days after its circulation in all official languages, in accordance with Rule 62 of the Rules of Procedure.

115. The representative of one Party recalled that in decision FCTC/COP/9(2), the COP had decided to defer any substantive discussion of and decisions on certain items to COP10 and that the Chair of Committee A had subsequently urged delegates to refrain from making substantive comments when that committee had considered agenda items 4.1 and 4.2. The Party, in light of that decision, expressed concern that comments by Parties on those items had been included in the provisional report, and proposed that the report be amended to reflect the decision not to include any substantive discussion of items 4.1 and 4.2. Furthermore, the Party reiterated that, as indicated in the first plenary, it was not persuaded that the special procedures for the conduct of COP9 were in full compliance with the Rules of Procedure of the COP, and that it also disagreed with the proposition that ensuring the appropriate presence of a delegation to establish a quorum was the responsibility of States. For those reasons, the Party requested that the phrase “and reiterated confirmation by the President and the Convention Secretariat that the special procedures were in full compliance with the Rules of Procedure” should be deleted from the section related to agenda item 1.3 the provisional report.

116. The representatives of two other Parties proposed that, in line with the decision to defer substantive discussion of certain items to COP10, that the second, third and fourth paragraphs relating to item 4.2 (originally numbered as 36–38) of the provisional report should be deleted, while the representative of another Party suggested that the beginning of one of the quoted paragraphs should be amended to read “Representatives noted the need to regulate novel and emerging products”.

117. The representative of one Party, speaking on behalf of a regional grouping, stated that no major technical problems had deprived delegates of the possibility of participating in COP9 and that the reports must be true to what was said during the meetings. There was a difference between substantive and general discussions; that distinction had been pointed out in the sections of the provisional report on agenda items 4.1 and 4.2.

118. With regard to the section related to agenda item 1.3 of the provisional report, the President observed that the Bureau had repeatedly clarified that the special procedures adopted for COP9 would not replace the Rules of Procedure of the COP. Committee A had complied with the COP decision not to adopt any decisions or hold substantive discussions, but Parties were entitled to make general statements. Statements could not be removed from the provisional report unless they were retracted by the Parties who had made them.

119. The Senior Legal Officer of the Convention Secretariat suggested that the contentious paragraph (former paragraph 37) could begin “Representatives expressed their views on ...” and noted that the report of the Conference would be accompanied by a verbatim record. Representatives of several Parties supported the change in wording suggested by the Convention Secretariat.

120. At its seventh plenary meeting, on 12 November 2021, the COP adopted the provisional report, subject to its finalization by the Convention Secretariat, with the change agreed in the plenary in respect of the opening phrase of former paragraph 37, and with the understanding that Parties would be able to share corrections they wished to make on the full provisional report within a 15-day period from the moment it was circulated to Parties in all official languages. The Convention Secretariat indicated that the full provisional report would already contain the agreed change, and that it would take into account any corrections requested by Parties within the 15-day period, in line with Rule 62 of the Rules of Procedure of the COP, in finalizing the report.

10. CLOSURE OF THE SESSION

121. At its fourth plenary meeting, the COP considered document FCTC/COP/9/CONF.1/Rev.1, containing a draft declaration on WHO FCTC and recovery from the COVID-19 pandemic, sponsored by the Islamic Republic of Iran and cosponsored by Armenia, Bahrain, India, Iraq, Kuwait, Oman, Pakistan, Panama, Qatar, Saudi Arabia, Sudan, Syrian Arab Republic, Thailand and the United Arab Emirates.

122. The sponsoring Party introduced the draft declaration, which was intended to acknowledge the unprecedented circumstances in which Parties were currently implementing the Convention. It embodied the spirit of previous COP decisions, reaffirming Parties’ resolve to work together to strengthen tobacco control, while focusing on current challenges and reflecting on how to build back better after the pandemic, including by increasing taxes on tobacco products to provide revenue for post-pandemic recovery. The draft had been the subject of an extensive and comprehensive consultation process over several months.

123. In the ensuing discussion, all Parties expressed their gratitude to the Islamic Republic of Iran for its efforts in preparing the draft declaration, and agreed on the importance, particularly in the current circumstances, of issuing a strong, clear and united statement endorsed by all Parties to the Convention. Some Parties were concerned about the reference to “trade” in relation to tobacco industry interference in the draft declaration. Another concern expressed by some Parties was that the draft declaration might address sensitive substantive matters, in particular issues related to Articles 9 and 10 of the Convention, which had not been discussed or decided by COP9, having been deferred to COP10. It was suggested that it would therefore be premature to make statements of commitment on those matters at present.

124. Most Parties, on the other hand, including those speaking on behalf of their respective regions, expressed their full support for the draft declaration, which took a comprehensive approach to the measures needed to strengthen tobacco control during the COVID-19 pandemic. While they understood concerns regarding substantive discussions deferred to COP10, those matters were of crucial importance in the pandemic context; discussions could be deferred, but COVID-19 could not. The pandemic continued to ravage societies, economies and health systems, and must be addressed as a matter of urgency. A strong declaration was therefore essential.

125. At its fifth plenary meeting, the COP continued its exchange of views on the draft declaration, with most Parties, including those speaking on behalf of their regions, expressing a preference for the original draft of the declaration.

126. At its sixth plenary meeting, the COP was presented with a revised version of the draft declaration (FCTC/COP9/P/CONF./1Rev.2), in an effort at compromise. During the discussion that followed, the following additional Parties expressed their desire to cosponsor the declaration: Australia, Chile, Egypt, Kenya, Lebanon, Mexico, Paraguay, Uruguay and the Bolivarian Republic of Venezuela. The concerns raised by Parties in the course of the discussions had been addressed by removing reference to the increased risk of infection of tobacco users, as well as the subparagraph referring to “trade” in the operative part of the text, but substantively similar to a remaining subparagraph. The compromise text received the full support of all Parties, who welcomed the efforts to seek consensus and work in a spirit of collaboration.

127. During the closure of the session and following reiteration of full support by the Parties, the COP proceeded by adopting the Declaration on WHO FCTC and recovery from the COVID-19 pandemic. The COP adopted decision FCTC/COP9(10) at its seventh plenary meeting, on 12 November.

128. Further, a Party speaking on behalf of the European Union, announced that the Ministry of Health of Italy would be donating €130 000 towards activities in support of the implementation of Articles 9 and 10 of the Convention, as well as towards the strengthening of existing Knowledge Hubs and the establishment of further hubs.

129. Following the customary exchange of courtesies, the President declared the Ninth Session of the COP closed.

ANNEX 1

AGENDA

1. Opening of the session

1.1 Adoption of the agenda and organization of work

Documents FCTC/COP/9/1 and FCTC/COP/9/1(annotated)

1.2 Credentials of participants

Document FCTC/COP/9/2

1.3 Special procedures for the conduct of the Ninth Session of the Conference of the Parties to the WHO FCTC

Document FCTC/COP/9/3

2. Applications for the status of observer to the Conference of the Parties

Document FCTC/COP/9/4

3. Global progress in implementation of the WHO FCTC

Document FCTC/COP/9/5

4. Treaty instruments and technical matters

4.1 Implementation of Articles 9 and 10 of the WHO FCTC (Regulation of contents and disclosure of tobacco products: reports by the expert group, and by WHO and the Convention Secretariat)

Documents FCTC/COP/9/6, FCTC/COP/9/7 and FCTC/COP/9/8

4.2 Novel and emerging tobacco products

Documents FCTC/COP/9/9 and FCTC/COP/9/10

5. Reporting, implementation assistance and international cooperation

5.1 Implementation Review Mechanism

Document FCTC/COP/9/11

6. Budgetary and institutional matters

6.1 Performance and progress reports

Document FCTC/COP/9/12

- (a) Performance report for the 2018–2019 Workplan and Budget

- (b) Interim performance report for the 2020–2021 Workplan and Budget
- 6.2 Proposed Workplan and Budget for the financial period 2022–2023
Documents FCTC/COP/9/13 and FCTC/COP/9/INF.DOC./1
- 6.3 Payment of the assessed contributions and measures to reduce Parties in arrears
Document FCTC/COP/9/14
- 6.4 Convention Secretariat’s fundraising strategies: Investment fund concept
Document FCTC/COP/9/15 and FCTC/COP/9/INF.DOC./2
- 6.5 Review of accreditation of nongovernmental organizations with the status of observer to the Conference of the Parties
Document FCTC/COP/9/16
- 6.6 Strengthening synergies between the Conference of the Parties and the World Health Assembly: report by the WHO Director-General on resolutions and decisions of the Seventy-second, Seventy-third and Seventy-fourth World Health Assembly
Document FCTC/COP/9/17
- 6.7 Appointment of the Head of the Convention Secretariat: report by the Bureau
Document FCTC/COP/9/18
- 7. Date and place of the Tenth Regular Session of the Conference of the Parties**
Document FCTC/COP/9/19
- 8. Election of the President and the Vice-Presidents of the Conference of the Parties**
Document FCTC/COP/9/20
- 9. Adoption of the provisional report of the Ninth Session of the Conference of the Parties**
Document FCTC/COP/9/21
- 10. Closure of the session**

ANNEX 2

LIST OF DOCUMENTS

MAIN DOCUMENTS

FCTC/COP/9/1	Provisional agenda
FCTC/COP/9/1(annotated)	Provisional agenda (annotated)
FCTC/COP/9/2	Credentials of participants
FCTC/COP/9/3	Special procedures for the conduct of the Ninth Session of the Conference of the Parties to the WHO FCTC
FCTC/COP/9/4	Applications for the status of observer to the Conference of the Parties
FCTC/COP/9/5	Global progress in implementation of the WHO FCTC
FCTC/COP/9/6	Implementation of Articles 9 and 10 of the WHO FCTC (Regulation of contents and disclosure of tobacco products)
FCTC/COP/9/7	Report on the cigarette ventilation meeting
FCTC/COP/9/8	Progress report on technical matters related to Articles 9 and 10 of the WHO FCTC (Regulation of contents and disclosure of tobacco products, including waterpipe, smokeless tobacco and heated tobacco products)
FCTC/COP/9/9	Comprehensive report on research and evidence on novel and emerging tobacco products, in particular heated tobacco products, in response to paragraphs 2(a)–(d) of decision FCTC/COP8(22)
FCTC/COP/9/10	Challenges posed by and classification of novel and emerging tobacco products
FCTC/COP/9/11	Implementation Review Mechanism
FCTC/COP/9/12	Performance and progress reports
FCTC/COP/9/13	Proposed Workplan and Budget for the financial period 2022–2023
FCTC/COP/9/14	Payment of the assessed contributions and measures to reduce Parties in arrears
FCTC/COP/9/15	Convention Secretariat’s fundraising strategies: proposed Investment Fund

FCTC/COP/9/16	Review of accreditation of nongovernmental organizations with the status of observer to the Conference of the Parties
FCTC/COP/9/17	Strengthening synergies between the Conference of the Parties and the World Health Assembly
FCTC/COP/9/18	Appointment of the Head of the Convention Secretariat
FCTC/COP/9/19	Date and place of the Tenth Regular Session of the Conference of the Parties
FCTC/COP/9/20	Election of the President and the Vice-Presidents of the Conference of the Parties
FCTC/COP/9/21	Adoption of the provisional report of the Ninth Session of the Conference of the Parties

INFORMATION DOCUMENTS

FCTC/COP/9/INF.DOC./1	Proposed Workplan and Budget for the financial period 2022–2023
FCTC/COP/9/INF.DOC./2	WHO Framework Convention on Tobacco Control Investment Fund: general questions and answers
FCTC/COP/9/INF.DOC./3	Decision-making and procedural issues on the virtual system

DIVERSE DOCUMENTS

FCTC/COP/9/DIV/1	List of participants
FCTC/COP/9/DIV/2/Rev.1	Guide for Participants to the Ninth session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control and to the Second session of the Meeting of the Parties to the Protocol to Eliminate Illicit Trade in Tobacco Products

ANNEX 3

DECISIONS

FCTC/COP8(1)	Special procedures for the conduct of the Ninth session of the Conference of Parties (COP9)
FCTC/COP8(2)	Adoption of the agenda
FCTC/COP8(3)	Applications for the status of observer to the Conference of Parties
FCTC/COP8(4)	Election of the Officers of Committees A and B
FCTC/COP8(5)	Credentials of participants
FCTC/COP8(6)	Review of accreditation of nongovernmental organization with the status of observers to the Con
FCTC/COP8(7)	Workplan and Budget for the financial period 2022–2023
FCTC/COP8(8)	Assessed Contributions
FCTC/COP8(9)	Appointment of the Head of the Convention Secretariat
FCTC/COP8(10)	Declaration on WHO FCTC and recovery from the COVID-19 pandemic
FCTC/COP8(11)	Date and place of the Tenth Regular Session of the
FCTC/COP8(12)	Election of the President and the Vice-Presidents of the Conference of the Parties
FCTC/COP8(13)	WHO FCTC Investment Fund

FCTC/COP9(1) Special Procedures for the conduct of the Ninth session of the Conference of the Parties (COP9)

The Conference of the Parties,

Having considered the report on special procedures submitted and contained in document FCTC/COP/9/3,

DECIDES to adopt the special procedures set out in the Annex to this decision to regulate the conduct of virtual meetings of the Ninth Session of the Conference of the Parties (COP9).

(First Plenary meeting, 8 November 2021)

ANNEX

**SPECIAL PROCEDURES TO REGULATE THE
CONDUCT OF VIRTUAL COP9**

RULES OF PROCEDURE OF THE COP

1. The Rules of Procedure of the COP shall continue to apply in full, except to the extent that they are inconsistent with these special procedures, in which case the COP decision to adopt these special procedures shall operate as a decision to suspend the relevant Rules of Procedure to the extent necessary.¹

ATTENDANCE

2. Attendance by Parties, States and regional economic integration organizations that are not Parties, the Secretariat, intergovernmental and nongovernmental organizations accredited by the COP pursuant to Rules 30 and 31, accredited media and members of the public² shall be through secured access to videoconference or other electronic means allowing representatives to hear other participants and to address, as appropriate, the meeting remotely.

QUORUM

¹ This will affect notably the relevant provisions of the following Rules of Procedure of COP:

- Rules 18 and 20 (credentials);
- Rule 51 and Rules 54–56 (voting by show of hands and secret ballot); and
- Rule 66 (insofar as these special procedures may not be regarded as amendments, but only as exceptional suspensions or additions to the Rules of Procedure, subject to consensus by the COP).

² Considering the virtual format of the meeting, the accreditation of members of the public will be suspended. Members of the public will access public meetings as decided suitable to be webcast live by the COP.

3. It is understood that virtual attendance of Parties shall be taken into account when calculating the presence of a quorum.

ADDRESSING THE COP

4. Parties, States and regional economic integration organizations that are not Parties, the Secretariat, and intergovernmental and nongovernmental organizations accredited by the COP pursuant to Rules 30 and 31, shall be provided with the opportunity to take the floor.

5. Parties, States and regional economic integration organizations that are not Parties shall also have the opportunity, if they so wish, to submit individual pre-recorded video statements of no more than three minutes, and regional and group statements of no more than four minutes. Intergovernmental and nongovernmental organizations accredited by the COP pursuant to Rules 30 and 31 may also submit pre-recorded video statements of no more than two minutes, and respectively, one minute. Pre-recorded video statements should be submitted by a given deadline communicated by the Convention Secretariat in advance of the opening of the session. The video statements submitted will be broadcast in lieu of a live intervention.¹

6. Any Party wishing to raise a point of order or exercise a right of reply in relation to either an oral or a pre-recorded video statement made at the COP should signal their intention to do so. It is understood that, in accordance with well-established practice, any right of reply to either an oral or a pre-recorded video statement shall be exercised at the end of the relevant meeting.

7. Video statements in the language of submission shall form part of the official records of the session.

REGISTRATION AND CREDENTIALS

8. Online registration will follow the usual practice. Additional information is provided in a related note verbale.

9. Given the need to grant virtual access to the meeting with due regard for timely and secure conduct of business, as well as Article 5.3 of the WHO FCTC, all credentials and lists of representatives shall be submitted electronically to the Convention Secretariat through the online registration system, if possible, no later than 15 days before the opening of the COP9. Additional information is provided in the related note verbale.

10. The Bureau, having examined, before the opening of the COP, whether credentials are in conformity with the requirements of the Rules of Procedure of the COP, shall report to the COP accordingly during the opening with a view to the COP making a decision.

11. If a Party wishes to modify the composition of its delegation, any subsequent change shall also be submitted to the Convention Secretariat. This may take the form either of supplemental credentials

¹ With respect to the item *Global Progress in implementation of the WHO FCTC*, it is proposed that pre-recorded video statements are not played in session but posted on the WHO FCTC website.

or of new credentials indicating the revised composition of the full delegation. In line with past practice, changes to the composition of a delegation will not normally require a decision of the COP.

DECISION-MAKING

12. As already provided for by the Rules of Procedure, in accordance with Rule 50, decisions on budgetary and financial matters shall be taken by consensus and in conformity with the financial rules referred to in Article 23.4 of the Convention. For all other decisions, the COP shall make every effort to reach agreement by consensus.

13. If all efforts to reach consensus on decisions referred to in paragraph 12 have been exhausted and no agreement has been reached, the COP shall proceed as a last resort as follows:

(a) in the event that a vote is required, voting shall take place by roll call conducted through the virtual system; and

(b) during a roll-call vote, should any delegate fail to cast a vote for any reason during the roll call, that delegate shall be called upon a second time after the conclusion of the initial roll call. Should the delegate fail to cast a vote on the second call, the delegation concerned shall be recorded as absent.

ELECTION OF THE OFFICERS OF THE BUREAUS OF THE COP

14. In accordance with practice of the COP, by which members of the Bureau of COP are elected by acclamation, following nominations made by the six World Health Organization (WHO) regions, the President shall propose to the COP to proceed on an agreed list of candidates reflecting the nominations made by the six regions.

EXCEPTIONAL MEASURES

15. The procedures set out above are adopted for the purpose of COP9 only as exceptional measures to enable the work of the COP to continue during the extraordinary situation arising from the COVID-19 pandemic, and they should not be considered as setting a precedent for future sessions of the COP.

FCTC/COP9(2) Adoption of the agenda

The Conference of the Parties (COP),

Noting the provisional agenda contained in documents FCTC/COP9/1 and FCTC/COP/9/1(annotated) prepared by the Convention Secretariat in consultation with the Bureau of the COP, in accordance with Rule 6 of the Rules of Procedure of the COP;

Considering restrictions made necessary as a result of the COVID-19 pandemic,

1. **DECIDES** to adopt the provisional agenda contained in document FCTC/COP9/1, as further articulated in document FCTC/COP/9/1(annotated), including the recommendations of the Bureau, as follows:

- (a) to defer for consideration at the Tenth session of the COP (COP10) those items identified for such deferral;
- (b) to note the reports provided for the information of the Parties under certain agenda items, and to defer discussion of and decisions on those items to COP10; and
- (c) for the avoidance of doubt, to preserve the existing status of the following matters until COP10:
 - (i) to defer to COP10 the report by the Bureau with respect to the Working Group on the implementation of Articles 9 and 10 of the WHO FCTC until COP10, with the understanding that the mandate of the Working Group remains suspended until COP10; and
 - (ii) to extend the duration of the mandate of the Expert Group to examine the reasons for low implementation of Articles 9 and 10 of the Convention, and related partial guidelines, as articulated in decision FCTC/COP8(21), and maintaining the terms of reference contained therein, under the guidance of the Bureau, and in consultation with Parties, as appropriate, all with a view to discussing an updated report at COP10.

REQUESTS the Convention Secretariat to update, and to invite the World Health Organization to update, as necessary, any report on which discussions are deferred to the COP10, to ensure that COP10 is provided with the most current information possible for its deliberations.

(Third Plenary meeting, 9 November 2021)

FCTC/COP9(3) Applications for the status of observer to the Conference of the Parties

The Conference of the Parties (COP),

Having considered the applications for observer status submitted and contained in document FCTC/COP/9/4,

1. DECIDES, in accordance with Rules 30 and 31 of its Rules of Procedure:
 - (a) to grant observer status to:
 - Action on Smoking and Health (ASH)
 - African Tobacco Control Alliance (ATCA)
 - Smoke Free Partnership (SFP)
 - Tobacco Control Research Group (TCRG)
 - Vital Strategies Inc.;
 - (b) to reject the application for observer status of the following organizations:
 - ASH Finland

- Common Market for Eastern and Southern Africa (COMESA)
- International Network of Nicotine Consumer Organisations (INNCO)
- New Nicotine Alliance (NNA) UK
- Parlement Africain de la société civile
- Science for Democracy
- Think Tank Africa WorldWide Group.

(Third Plenary meeting, 9 November 2021)

FCTC/COP9(4) Election of the Officers of Committees A and B

The following officers were elected to Committees A and B, pursuant to Rule 24quinquies of the Rules of Procedure of the Conference of the Parties:

Committee A:	Chairperson	Dr Graciela Gamarra (Paraguay)
	Vice-Chairpersons	Dr Sungkyu Lee (Republic of Korea) Dr Svetlana Nicolaescu (Republic of Moldova)
Committee B:	Chairperson	Mr Ferdinand Mangongo (Gabon)
	Vice-Chairpersons	Dr Samadhi Rajapaksa (Sri Lanka)
		Mr Alaa Abdel-Rahman (Egypt)

(Fourth Plenary meeting, 10 November 2021)

FCTC/COP9(5) Credentials of participants

The Conference of the Parties (COP),

RECOGNIZES the validity of the credentials of the representatives of the following Parties:

Algeria, Andorra, Angola, Antigua and Barbuda, Armenia, Australia, Austria, Bahrain, Belarus, Belgium, Belize, Benin, Bolivia (Plurinational State of), Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cabo Verde, Cambodia, Cameroon, Canada, Chad, Chile, China, Colombia, Congo, Cook Islands, Costa Rica, Côte D'Ivoire, Croatia, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Dominica, Ecuador, Egypt, El Salvador, Estonia, Eswatini, European Union, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea-Bissau, Guyana, Honduras, Hungary, Iceland, India, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Kiribati, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libya, Lithuania, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Mongolia, Montenegro, Mozambique, Namibia, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, North Macedonia, Norway, Oman, Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Samoa, San Marino, Sao Tome and Principe, Senegal, Serbia, Seychelles, Sierra Leone, Singapore,

Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Sweden, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Zambia and Zimbabwe.

The representatives of the following Parties were entitled to participate provisionally in the session with all rights in the Conference, pending arrival of their formal credentials:

Albania, Azerbaijan, Bahamas, Bangladesh, Bhutan, Central African Republic, Marshall Islands, Nepal, Saudi Arabia and Tuvalu.

(Fourth Plenary meeting, 10 November 2021)

FCTC/COP9(6) Review of accreditation of nongovernmental organizations with the status of observers to the Conference of the Parties

The Conference of the Parties,

Recalling the 17th and 18th preambular paragraphs and Article 5.3 of the WHO Framework Convention on Tobacco Control (WHO FCTC);

Recalling also decisions FCTC/COP2(6), FCTC/COP4(23), FCTC/COP5(22), FCTC/COP/6(23), FCTC/COP7(16) and FCTC/COP8(3);

Having considered the proposals contained in document FCTC/COP/9/15,

DECIDES, in accordance with Rule 31.3 of its Rules of Procedure:

to maintain observer status of the following 21 nongovernmental organizations:

- American Cancer Society;
- Campaign for Tobacco-Free Kids;
- Cancer Research UK;
- Corporate Accountability International;
- European Network for Smoking and Tobacco Prevention;
- FDI World Dental Federation;
- Framework Convention Alliance on Tobacco Control;
- InterAmerican Heart Foundation;
- International Alliance of Women;

- International Council of Nurses;
- International Network of Women Against Tobacco;
- International Pharmaceutical Federation;
- International Pharmaceutical Students Federation;
- International Union Against Tuberculosis and Lung Disease;
- Southeast Asia Tobacco Control Alliance;
- Tobacco Free Portfolios;
- Union for International Cancer Control;
- Vision Mondiale de la Santé;
- World Federation of Public Health Associations;
- World Heart Federation; and
- World Medical Association.

(Fifth Plenary meeting, 11 November 2021)

FCTC/COP9(7) Workplan and Budget for the financial period 2022–2023

The Conference of the Parties (COP),

Reaffirming decision FCTC/COP1(9) on the adoption of the Financial Rules of the Conference of the Parties to the WHO Framework Convention on Tobacco Control (WHO FCTC),

Recalling decision FCTC/COP8(10) on the Workplan and Budget for the financial period 2020–2021,

Having considered the Workplan and Budget for the financial period 2022–2023 submitted by the Convention Secretariat contained in document FCTC/COP/9/13,

Having considered also the performance and progress reports contained in document FCTC/COP/9/12,

DECIDES:

- (a) to adopt the Workplan and Budget for the financial period 2022–2023 as is indicated in Annex 1 to the present decision;

- (b) to establish the total amount of Assessed Contributions of Parties for the financial period 2022–2023 at US\$ 8 801 093;
- (c) to request the Convention Secretariat, in coordination with the Bureau, to communicate the scale of assessment of Assessed Contributions for 2022–2023 to Parties based on the corresponding WHO scale of assessment for 2022–2023 and taking into account the difference of membership of WHO and that of the Convention;
- (d) to finance the travel and per diem of least-developed countries from Assessed Contributions until and including the Tenth Session of the COP;
- (e) to finance, moreover, travel for low- and lower-middle-income countries from Assessed Contributions and to cover the cost of the corresponding per diem with resources available in the extra-budgetary funds until and including the Tenth Session of the COP;
- (f) to authorize the Convention Secretariat to request the payment of Assessed Contributions, including from countries that may have become a Party to the Convention between the Ninth and Tenth sessions of the COP, in line with the scale of assessment as indicated in paragraph (c) of the present decision;
- (g) to request the Head of the Convention Secretariat to implement the workplan and budget adopted by the COP, and to submit to the COP at its Tenth Session:
 - (i) an interim performance report on the Workplan and Budget for the financial period 2022–2023;
 - (ii) a final performance report on the Workplan and Budget for the financial period 2020–2021;
- (h) to authorize the Convention Secretariat to seek and receive voluntary Extra-budgetary Contributions for activities in line with the workplan;
- (i) to request the Convention Secretariat to informally consult Parties prior to presenting the budget and workplan to the next session of the COP;
- (j) to call on the Head of the Convention Secretariat to regularly update the Bureau on the status of budgets and workplans agreed upon by the COP;
- (k) to encourage Parties to provide Extra-budgetary Contributions for meeting the objectives of the workplan;
- (l) to invite the Meeting of the Parties (MOP) to the Protocol to Eliminate Illicit Trade in Tobacco Products to cover the proportion of the shared core staff costs, including those of the Head of the Convention, in its respective workplan and budget;
- (m) to request the MOP to consider adopting a workplan and budget consistent with the shared staff costs as identified in the 2022–2023 Workplan and Budget of the COP.

(Fifth Plenary meeting, 11 November 2021)

ANNEX 1

WORKPLAN AND BUDGET FOR FINANCIAL PERIOD 2022–2023 ACTIVITIES COSTS

STRATEGIC GOALS						
	Activities	Indicators	Target By the end of 2023, unless otherwise noted	Activity cost (in US\$)		
				Assessed Contributions	Extra- budgetary	Total
1	Strategic Goal 1. Accelerating action					
1.1	Strategic Objective 1.1. Give priority to enabling action to accelerate WHO FCTC implementation, including effective forms of technical and financial assistance to support Parties in the identified priority action areas					
1.1.1	Specific Objective 1.1.1. Parties develop, implement and regularly update comprehensive, costed national tobacco control strategies (WHO FCTC Article 5), focusing on multisectoral and cross-cutting policies and articles most important in the national context and with a focus on supporting Parties that are classified as low- and middle-income countries by the Organisation for Economic Co-operation and Development					
1.1.1.1	Provide needs assessment missions upon request	Number of needs assessments performed	At least eight needs assessments conducted	0	320 000	320 000
1.1.1.2	Provide technical assistance to Parties on Article 5.1 (develop costed national tobacco control strategies), upon request	Number of Parties that received technical assistance on Article 5.1	At least eight Parties assisted	0	320 000	320 000
1.1.1.3	Provide technical assistance to Parties on the Articles most important in the national context, upon request	Number of Parties that received technical assistance on other Articles (different from Articles 5, 6 and time-bound measures) according to national priority	At least four Parties assisted	0	160 000	160 000
	Total for 1.1.1			0	800 000	800 000

STRATEGIC GOALS						
	Activities	Indicators	Target By the end of 2023, unless otherwise noted	Activity cost (in US\$)		
				Assessed Contributions	Extra-budgetary	Total
1.1.2	Specific Objective 1.1.2. Parties implement price and tax measures (Article 6)					
1.1.2.1	Provide technical assistance to Parties on Article 6, upon request (including coordination with stakeholders and partners that can provide tobacco taxation advice to Parties)	Number of Parties that received technical assistance on Article 6	At least 20 Parties assisted	0	800 000	800 000
	Total for 1.1.2			0	800 000	800 000
1.1.3	Specific Objective 1.1.3. Parties implement time-bound measures (Articles 8, 11 and 13)					
1.1.3.1	Provide technical assistance to Parties on Articles 8, 11 and 13, upon request	Number of Parties that received technical assistance on Articles 8, 11 and/or 13	At least 30 Parties assisted on implementation of Articles 8, 11 and 13	0	1 200 000	1 200 000
1.1.3.2	Prepare materials (including e-learning tools, toolkits, policy briefs and manuals) to assist in the implementation of the WHO FCTC and maintain existing tools	Number of new materials developed and distributed	At least two new materials developed and available for use by Parties	0	200 000	200 000
1.1.3.3	Organize workshops to address specific challenges identified by Parties in the implementation of the WHO FCTC and to engage in South–South and Triangular cooperation.	Number of Parties that attended the workshops	At least 30% of Parties attended a workshop	0	600 000	600 000
	Total for 1.1.3			0	2 000 000	2 000 000
	Total for 1.1			0	3 600 000	3 600 000

STRATEGIC GOALS						
	Activities	Indicators	Target By the end of 2023, unless otherwise noted	Activity cost (in US\$)		
				Assessed Contributions	Extra- budgetary	Total
1.2	Strategic Objective 1.2. Strengthen systems for regularly capturing and sharing lessons and evidence on new, innovative and successful means of implementing tobacco control measures					
1.2.1	Specific Objective 1.2.1. Improve mechanisms for sharing of expertise through South–South and Triangular cooperation					
1.2.1.1	Assist and facilitate interested partners in South–South and Triangular Cooperation	Number of Parties that have engaged in South–South and Triangular cooperation programmes (either as donor or recipient)	At least 10 Parties engaged in South–South and Triangular cooperation	0	0	0
	Total for 1.2.1			0	0	0
1.2.2	Specific Objective 1.2.2. Strengthen the role of Knowledge Hubs in assisting the Parties					
1.2.2.1	Coordinate the work of the existing Knowledge Hubs and their provision of assistance to Parties in line with COP decisions	Number of Parties that have received assistance from the WHO FCTC Knowledge Hubs	Assistance to at least 80 number of Parties provided	0	140 000	140 000
1.2.2.2	Establish new Knowledge Hubs in line with COP decisions	Number of new Knowledge Hubs established	Depending on requests	0	100 000	100 000
	Total for 1.2.2			0	240 000	240 000
	Total for 1.2			0	240 000	240 000

STRATEGIC GOALS						
	Activities	Indicators	Target By the end of 2023, unless otherwise noted	Activity cost (in US\$)		
				Assessed Contributions	Extra-budgetary	Total
2	Strategic Goal 2. Building international alliances and partnerships across sectors and civil society to contribute to WHO FCTC implementation					
2.1	Strategic Objective 2.1. Mobilize international, intergovernmental and developmental partners to integrate the WHO FCTC into their work, and/or their Sustainable Development Goals (SDGs) responses					
2.1.1	Specific Objective 2.1.1. Establish stronger alignment between, and cooperation with, the World Health Organization (WHO), agencies within the United Nations System, and other relevant international agencies and initiatives					
2.1.1.1	Implement the Convention Secretariat's operational plan on international cooperation	Number of collaborations/memoranda of understanding (MOU) with United Nations agencies	At least two collaborations and/or memorandums of understanding (MOUs) established	10 000	90 000	100 000
2.1.1.2	Produce advocacy materials for WHO country offices to promote the inclusion of WHO FCTC in their Country Cooperation Strategy (CCS)	Number of Parties where WHO country offices included WHO FCTC implementation in their CCS	WHO FCTC implementation included in at least 12 WHO CCSs	0	10 000	10 000
	Total for 2.1.1			10 000	100 000	110 000
2.1.2	Specific Objective 2.1.2. Ensure that the WHO FCTC is fully mainstreamed in the implementation of the 2030 Agenda for Sustainable Development and deliberations in any relevant forum organized under the United Nations umbrella that are relevant to the WHO FCTC					
2.1.2.1	Organize side events during the relevant meetings of United Nations agencies	Number of side events organized	At least four side events organized	10 000	10 000	20 000

STRATEGIC GOALS						
	Activities	Indicators	Target By the end of 2023, unless otherwise noted	Activity cost (in US\$)		
				Assessed Contributions	Extra-budgetary	Total
2.1.2.2	Disseminate the Guide for WHO FCTC Parties on including SDG Target 3.a in Voluntary National Reviews (VNRs)	Number of Parties that include WHO FCTC implementation in their VNRs, in relation to Target 3.a	Increased number of Parties monitoring and reporting on SDG Target 3.a (compared to the previous biennium)	0	100 000	100 000
2.1.2.3	Provide contributions to pertinent resolutions of relevant United Nations agencies	Number of contributions provided for pertinent resolutions of relevant United Nations agencies	Contributions provided to relevant resolutions that the Convention Secretariat is informed of	0	0	0
	Total for 2.1.2			10 000	110 000	120 000
2.1.3	Specific Objective 2.1.3. Develop mutually reinforcing approaches to implementing the Global Action Plan for the Prevention and Control of NCDs 2013–2020 through cooperation the United Nations Interagency Task Force on NCDs, the Global Coordination Mechanism on NCDs, etc.					
2.1.3.1	Participate in the United Nations Interagency Task Force on NCDs (UNIATF) and the Global Coordination Mechanism on NCDs (GCM/NCD)	Number of multisectoral assistance activities to Parties implemented in cooperation with UNIATF and/or GCM/NCD	At least one project developed and implemented	5 000	20 000	25 000
	Total for 2.1.3			5 000	20 000	25 000
2.1.4	Specific Objective 2.1.4. Foster partnerships with government or intergovernmental organizations (IGOs) and institutions					
2.1.4.1	Stimulate applications from IGOs and other relevant institutions for observer status	Number of IGOs and other relevant institutions to which the Convention Secretariat was granted observer status or that have been granted observer status to the WHO FCTC	At least one new observer status requested or applied for	0	0	0
	Total for 2.1.4			0	0	0

STRATEGIC GOALS						
	Activities	Indicators	Target By the end of 2023, unless otherwise noted	Activity cost (in US\$)		
				Assessed Contributions	Extra- budgetary	Total
2.1.5	Specific Objective 2.1.5. Develop a communications plan on the Global Strategy to Accelerate Tobacco Control to also raise the profile and visibility of the Convention					
2.1.5.1	Continue implementation of the Corporate Communications Strategy	Number of new products developed as part of the Corporate Communications Strategy	At least four new products developed	66 975	218 025	285 000
	Total for 2.1.5			66 975	218 025	285 000
	Total for 2.1			91 975	448 025	540 000
2.2	Strategic Objective 2.2. Catalyse and leverage the contributions of external stakeholders, particularly civil society, to achieve the aims of the Convention					
2.2.1	Specific Objective 2.2.1. Enhance civil society participation including through the adoption of best practices of other United Nations organizations, taking into consideration WHO FCTC Article 5.3					
2.2.1.1	Reach out to new nongovernmental organizations (NGOs) to apply for observer status to the COP	Number of new NGOs that apply for observer status	At least one new NGO applies for observer status	0	0	0
2.2.1.2	Participating in key global and regional conferences and events organized by civil society such as World Conference on Tobacco or Health	Number of conferences or events attended and side events/sessions organized by Convention Secretariat	Increased visibility of the WHO FCTC through more meaningful engagement with civil society partners	0	50 000	50 000
2.2.1.3	Organize meetings for NGOs to discuss plans of cooperation	Number of annual plans and reports submitted	All NGOs with observer status to COP submit their annual plans and reports	0	5 000	5 000

STRATEGIC GOALS						
	Activities	Indicators	Target By the end of 2023, unless otherwise noted	Activity cost (in US\$)		
				Assessed Contributions	Extra-budgetary	Total
2.2.1.4	Co-organize or involve NGOs in workshops, training or awareness raising events	Number of NGOs that co-organized or are involved on workshops, training or awareness-raising events	At least 30% of NGOs co-organize or are involved in workshops, training or awareness raising events	0	10 000	10 000
	Total for 2.2.1			0	65 000	65 000
2.2.2	Specific Objective 2.2.2. Establish and operate a Coordination Platform in accordance with recommendations provided by the Working Group on Sustainable Measures (FCTC/COP/7/18)					
2.2.2.1	Operate and maintain the Coordination Platform	Number of page views of the Platform	Increased number of page views (compared with the previous biennium)	0	50 000	50 000
	Total for 2.2.2			0	50 000	50 000
2.2.3	Specific Objective 2.2.3. Promote research that is relevant to WHO FCTC implementation, particularly in priorities set out in the Global Strategy, in accordance with Article 20					
2.2.3.1	Organize virtual meetings with Parties and researchers to identify research gaps (particularly in priorities set out in the Global Strategy)	Number of reports on research gaps with feasibility and cost analysis provided	At least one report developed by end of biennium	0	0	0
	Total for 2.2.3			0	0	0
	Total for 2.2			0	115 000	115 000

STRATEGIC GOALS						
	Activities	Indicators	Target By the end of 2023, unless otherwise noted	Activity cost (in US\$)		
				Assessed Contributions	Extra-budgetary	Total
3	Strategic Goal 3. Protecting the integrity and building on the achievements under the WHO FCTC					
3.1	Strategic Objective 3.1. Improve the governance and administrative mechanisms of the WHO FCTC to ensure that all WHO FCTC-related activities undertaken are prioritized, effective and sustainable, and insulated from any influence by the tobacco industry					
3.1.1	Specific Objective 3.1.1. Align the agendas, workplans and budgets of the COP with the Global Strategy					
3.1.1.1	Align agendas, workplans and budgets of the COP with the Global Strategy	Agenda, workplan plan and budget developed in alignment with the Global Strategy	Agenda, workplan and budget aligned with the Global Strategy presented to COP	0	0	0
	Total for 3.1.1			0	0	0
3.1.3	Specific Objective 3.1.3. Protect COP and other WHO FCTC activities from the commercial and other vested interests of the tobacco industry					
3.1.3.1	Collect and process Declaration of Interest (DOI) forms and perform due diligence, as appropriate	Number of DOI forms requested and processed by the Convention Secretariat	DOI forms requested in COP and any other subsidiary meeting, as appropriate	0	0	0
	Total for 3.1.3			0	0	0
	Total for 3.1			0	0	0
3.2	Strategic Objective 3.2. Support and encourage Parties in their efforts to remove barriers to country-level tobacco control efforts					
3.2.1	Specific Objective 3.2.1. Build political support for tobacco control efforts					
3.2.1.1	High-level engagement by the Head of the Secretariat with Parties to build political support for WHO FCTC implementation	Number of high-level visits and meetings of the Head of Secretariat to build political support for tobacco control efforts	At least four high-level political visits	5 000	15 000	20 000
	Total for 3.2.1			5 000	15 000	20 000

STRATEGIC GOALS						
	Activities	Indicators	Target By the end of 2023, unless otherwise noted	Activity cost (in US\$)		
				Assessed Contributions	Extra- budgetary	Total
3.2.2	Specific Objective 3.2.2. Promote multisectoral collaborative efforts, including increased collaboration with civil society organizations					
3.2.2.1	Provide technical assistance to Parties on Article 5.2 (establishment of national coordinating mechanism) upon request	Number of Parties who received technical assistance on Article 5.2	At least 10 Parties assisted in implementation of Article 5.2	0	400 000	400 000
	Total for 3.2.2			0	400 000	400 000
3.2.3	Specific Objective 3.2.3. Mobilize sustainable resources for tobacco control					
3.2.3.1	Assist Parties to develop investment cases for tobacco control	Number of investment cases developed	At least 16 Parties supported with investment cases developed	0	800 000	800 000
	Total for 3.2.3			0	800 000	800 000
3.2.4	Specific Objective 3.2.4. Implement measures to protect public health policy from interference by the tobacco industry (Article 5.3) and continuously monitor tobacco industry activities at the national and international levels					
3.2.4.1	Provide technical assistance to Parties on Article 5.3 upon request	Number of Parties that received technical assistance on Article 5.3	At least 10 Parties assisted in implementation of Article 5.3	0	400 000	400 000
3.2.4.2	Establish and assist ongoing projects of tobacco industry monitoring at the national level including observatories	Number of tobacco industry monitoring projects established	At least three new tobacco industry monitoring project established	0	50 000	50 000
3.2.4.3	Implement the communications plan for Article 5.3 as per COP decision FCTC/COP8(18)	Number of campaigns raising awareness on tobacco industry interference	At least one campaign launched to raise awareness on tobacco industry interference	0	25 000	25 000

STRATEGIC GOALS						
	Activities	Indicators	Target By the end of 2023, unless otherwise noted	Activity cost (in US\$)		
				Assessed Contributions	Extra-budgetary	Total
3.2.4.4	Promote and follow up on the uptake of the Model Policy for the United Nations System on Preventing Tobacco Industry Interference	Number of United Nations agencies that have developed their own policy in accordance with the Model Policy	At least one more United Nations agency has developed or updated its policy in accordance with the Model Policy	0	0	0
	Total for 3.2.4			0	475 000	475 000
3.2.5	Specific Objective 3.2.5. Monitor policy and programme progress of the key WHO FCTC provisions including estimate of lives saved, costs averted, and other improved health and economic outcomes					
3.2.5.1	Develop a global investment case for tobacco control	Global investment case developed	Global investment case produced and results disseminated	0	200 000	200 000
3.2.5.2	Implement workshops/webinars on reporting	Number of Parties that attended the workshops/webinars	At least 30% of Parties attended the workshops/webinars	0	450 000	250 000

STRATEGIC GOALS						
	Activities	Indicators	Target By the end of 2023, unless otherwise noted	Activity cost (in US\$)		
				Assessed Contributions	Extra-budgetary	Total
3.2.5.3	Conduct the biennial reporting cycle in 2023	Number of reports received, analysed and with feedback provided when necessary	At least 80% of Parties submitted their report and received feedback, if needed	15 000	0	15 000
3.2.5.4	Develop the 2023 Global Progress Report	Global Progress Report 2023 produced	Global Progress Report 2023 published online and disseminated	60 000	0	60 000
			Total for 3.2.5	75 000	650 000	725 000
			Total for 3.2	80 000	2 340 000	2 420 000

4	OPERATIONAL GOALS					
	Activities	Activity cost (in US\$)				
		Assessed Contributions	Extra-budgetary	Total		
4.1	Operational Objective 1. Sustainable Funding – Manage the finances of the Convention to maximize its efficiency and effectiveness and find new revenue streams to support WHO FCTC implementation activities					
4.1.1	Management and administration of the Investment Fund, subject to approval by the COP	0	50 000	50 000		
4.1.2	Implement a fundraising plan as per COP decision FCTC/COP7(25)	5 000	14 000	19 000		
4.1.3	Follow up on collection of Assessed Contributions	0	0	0		

4 OPERATIONAL GOALS				
	Activities	Activity cost (in US\$)		
		Assessed Contributions	Extra-budgetary	Total
	Total for 4.1	5 000	64 000	69 000
4.2	Operational Objective 2. Operational Effectiveness – Promote optimal operation of the COP and the capacity and ability of the Convention Secretariat to provide support to the COP and to the Parties in their implementation, monitoring and reporting work			
4.2.1	General administration and management			
4.2.1.1	Provide general management and administration to the Convention Secretariat	50 000	0	50 000
4.2.1.2	Conduct strategic planning and team-building retreats for the Convention Secretariat	10 000	0	10 000
	Total for 4.2.1	60 000	0	60 000
4.2.2	Organize the Tenth Session of the Conference of the Parties (COP10)	1 171 163	427 168	1 598 331
4.2.3	Organize pre-COP regional meetings	0	240 000	240 000
4.2.4	Prepare and support the work of the Bureau and convene meetings, including through videoconferences and teleconferences	274 165	0	274 165
4.2.5	Support the work of the Expert Group on Articles 9 & 10 during the intersessional period, if decided by the COP	0	50 000	50 000
	Total for 4.2	1 505 328	717 168	2 222 496
	Total activity cost for all areas of work	1 682 303	7 524 193	9 206 496

ANNEX 2

GROSS STAFF COSTS BREAKDOWN (US\$)¹

Fixed-term staff	<u>Biennial cost</u>
<u>Professional staff</u>	
D2 (one post) (at 70%) ²	577 710
P5 (three posts at 70% and one post at 50%) ³	1 734 390
P4 (two posts)	1 102 500
P3 (two posts at 100% and one post at 50%)	1 118 250
P2 (one post at 50%)	192 675
Subtotal (11 posts)	4 725 525
<u>General category staff</u>	
G6 (one post)	385 350
G5 (three posts)	995 400
Subtotal (four posts)	1 380 750
Total (15 posts)	6 106 275
Additional staff costs (subject to Extra-budgetary funding, secondments)	
<u>Professional staff</u>	
P5 (one post at 20%)	141 330
P3 (two posts at 100% and one post at 50%)	1 118 250
Subtotal (four posts)	1 259 580
<u>General category staff</u>	
G5 (one post)	331 800
Subtotal (one post)	331 800
Total (5 posts)	1 591 380
Total staff cost	7 697 655

¹ Indicative costs for core Convention Secretariat staff based on WHO's latest available standard gross salary costs for 2020–2021; possible changes in 2022–2023 will be reflected once they become available in a revised staff cost breakdown to be communicated to the Parties by a note verbale. As indicated above, current staff contracts are funded through Assessed Contributions; costs for additional proposed staff positions would be financed through Extra-budgetary Contributions. The fulfilment of the staff plan and possible adjustments will depend on the actual availability of funds and the evolving workload. The staff plan does not include possible short-term assignments and secondments that would be based on actual needs and resources available.

² These positions used to be paid 80% by the COP and 20% by the MOP, since the Protocol Parties have reached one third of the Convention Parties, we are proposing to change these percentages to 70%/30%.

³ Same explanation as above.

ANNEX 3

TOTAL PROPOSED BUDGET 2022–2023

	Covered by Assessed Contributions in US\$	Covered by Extra-budgetary funds	Total
1. Activity cost	1 682 303	7 524 193	9 206 496
2. Staff costs	6 106 275	1 591 380	7 697 655
Total direct costs	7 788 578	9 115 573	16 904 151
3. Recovery costs	1 012 515	1 185 024	2 197 539
Grand total	8 801 093	10 300 597	19 101 690

FCTC/COP9(8) Assessed Contributions

The Conference of the Parties (COP),

Reaffirming decision FCTC/COP7(23) and noting the report by the Convention Secretariat contained in document FCTC/COP/9/14,

Noting with concern that 59 Parties to the WHO Framework Convention on Tobacco Control (WHO FCTC) are in arrears, including some Parties registering arrears for one biennium or more,

Welcoming with appreciation the overall spirit of commitment by Parties to meet their financial obligations to support the implementation of the WHO FCTC,

Emphasizing that Assessed Contributions are the mandatory financial contribution of each Party to the WHO FCTC in accordance with the agreed scale of assessment,

Noting the Convention Secretariat's note verbale CSF/NV/20/18 through which, in compliance with decision FCTC/COP7(23), Parties in arrears of payment of Assessed Contributions were invited to pay their Assessed Contributions or to submit their plan for making payments to clear their arrears,

1. URGES the Parties to pay their Assessed Contributions in full, at the beginning of the biennium, in order to ensure adequate resources to implement the workplan and budget adopted by the COP;
2. DECIDES, for the Ninth Session of the COP, in accordance with decision FCTC/COP7(23), Paragraph 3(c) and (d) in light of the exceptional circumstances created by the outbreak of the COVID-19 pandemic, and to remain in effect until the Tenth Session of the COP:
 - (a) not to apply measures as may be recommended by the Bureau in accordance with paragraph 3(b) of decision FCTC/COP7(23);
 - (b) to suspend application of paragraph 3 of decision FCTC/COP8(9);
3. REQUESTS the Convention Secretariat:
 - (a) to communicate this decision to all Parties in arrears in the payment of their Assessed Contributions, as shown in the table of the report FCTC/COP/9/14;
 - (b) to report at each COP session the status of Assessed Contributions;
 - (c) to continue to actively engage Parties in finding ways to make payments, including providing individual invoices and receipts for each Party, as well as clear payment information on the website of the Convention Secretariat, and in enhancing coordination with regional and country offices of World Health Organization, as well as assisting in the formulation of payment plans.

(Fifth Plenary meeting, 11 November 2021)

FCTC/COP9(9) Appointment of the Head of the Convention Secretariat

The Conference of the Parties (COP),

Recalling decisions FCTC/COP1(10) on the establishment of a permanent secretariat of the Convention, FCTC/COP4(6) on the Head of the Convention Secretariat, FCTC/COP5(20) on the role of the Bureau of the COP, FCTC/COP5(21) on the appointment and renewal of the term of office of the Head of the Convention Secretariat, and FCTC/COP6(22) on the process for the appointment, and renewal of the term of office, of the Head of the Convention Secretariat;

Recalling also decision FCTC/COP8(8) establishing a process for the selection and appointment of the Head of the Convention Secretariat and conditions for the renewal of the term of office and mandating the Bureau of the COP to make recommendations to the COP at its Ninth Session on the above-noted appointment process, based on the experience gained and comments received from Parties intersessionally, and on any other matters that should be considered for future appointments;

Noting decision FCTC/MOP1(12) on the appointment of the Head of the Convention Secretariat and renewal of the term of office;

Having considered the report and recommendations of the Bureau of the COP of the WHO Framework Convention on Tobacco Control and the Bureau of the Meeting of the Parties (MOP) to the Protocol to Eliminate Illicit Trade in Tobacco Products on the appointment of the Head of the Convention Secretariat as submitted and contained in document FCTC/COP/9/18,

DECIDES to mandate the Bureau of the COP to further consider document FCTC/COP/9/18 and to agree with the Bureau of the MOP on joint recommendations to improve the appointment process of the Head of the Convention Secretariat, to be reported to the Tenth Session of the Conference of the Parties (COP10).

(Sixth Plenary meeting, 11 November 2021)

FCTC/COP9(10) Declaration on WHO FCTC and recovery from the COVID-19 pandemic

The Conference of the Parties to the WHO Framework Convention on Tobacco Control,

Emphasizing that governments, in the context of the coronavirus disease 2019 (COVID-19) pandemic, face a heavier, more sustained toll from the tobacco epidemic, which already claims 8 million lives every year,

Mindful that tobacco use is a major risk factor for noncommunicable diseases (NCDs) and that both tobacco consumption and NCDs contribute to developing severe COVID-19-related illness, placing an additional burden on health systems,

Noting with concern the increased reports of tobacco industry interference that serve as a barrier to effective implementation of the WHO Framework Convention on Tobacco Control (WHO FCTC) and emphasizing in particular that against the backdrop of the COVID-19 pandemic, unsubstantiated and inappropriate information had been disseminated with regard to the positive impact of tobacco and

nicotine consumption, creating among consumers an illusion of protection and decreased risk of developing COVID-19 and undermining the efforts of national responses to combat the pandemic,

Emphasizing the inherent and irreconcilable conflict between the tobacco industry's interests and public health policy interests, and the need to protect public health policy from the commercial and vested interests of the tobacco industry,

Noticing with increasing concern the recent acquisitions by tobacco transnational corporations of pharmaceutical companies that could complicate and hinder tobacco control implementation,

Expressing concern that, as a consequence of the pandemic, there may be funding shortages and a diversion of resources away from tobacco control initiatives, including those that facilitate implementation of the WHO FCTC,

Expressing also concern that access to and availability of tobacco dependence and cessation services, consistent with Article 14 of the WHO FCTC, have been impacted by public health orders, the diversion of resources, and the potential risk of COVID-19 transmission associated with in-person services,

Acknowledging that the WHO FCTC is an accelerator for the achievement of the Sustainable Development Goals (SDGs) and that comprehensive implementation of the WHO FCTC will play a crucial role in supporting efforts by Parties towards recovery from the global COVID-19 pandemic,

Noting paragraph 33 of the report by the Convention Secretariat entitled the Global Progress Report in implementation of the WHO FCTC, contained in document FCTC/COP/9/5, where it is noted that the COVID-19 pandemic has financially impacted the ability of Parties to follow the Global Strategy to Accelerate Tobacco Control: Advancing Sustainable Development through the Implementation of the WHO FCTC 2019–2025, adding to frequently mentioned barriers, such as interference by the tobacco industry, and recognizing the progress made by the Parties to the WHO FCTC despite the challenges posed by the pandemic,

The Conference of the Parties to the WHO FCTC,

1. RESOLVES to strengthen action to accelerate implementation of the WHO FCTC, including an emphasis on tax measures and the elimination of illicit trade in tobacco products as these efforts can reduce the severity of the pandemic, as well as increase resources required for economic recovery;
2. DECLARES a commitment to demand-reduction measures for tobacco dependence and to increase the availability of cessation measures, consistent with Article 14 of the WHO FCTC, as a means to address risk factors for NCDs, which increase the risk of developing serious illness from the SARS-CoV-2 infection and create worse outcomes from COVID-19, and to protect these public health efforts from the commercial and vested interests of the tobacco industry;
3. EXPRESSES concern that the tobacco industry and those furthering its interests are increasing marketing and public relations efforts to promote novel and emerging tobacco products and are interfering in national public health, fiscal and regulatory policies, including by influencing decision-making processes in regional and international forums;
4. REAFFIRMS its determination to prevent tobacco industry interference from slowing or impeding the development and implementation of tobacco control measures in the interests of public

health, in accordance with the WHO FCTC, consistent with its Article 5.3 and its Guidelines for implementation, as well as in line with the *Global Strategy to Accelerate Tobacco Control: Advancing Sustainable Development through the Implementation of the WHO FCTC 2019–2025*;

5. REITERATES the need for cooperation among Parties, directly or through competent international bodies, consistent with Article 22 of the WHO FCTC, and with the support of the Convention Secretariat and the WHO FCTC Knowledge Hubs, to strengthen their capacity to fulfil the obligations arising from the WHO FCTC and in efforts to counteract tobacco industry interference;

6. CALLS ON the Parties:

(a) to take appropriate measures to prevent tobacco industry interference and involvement in COVID-19-related public health policies and actions, in accordance with Article 5.3 of the WHO FCTC and its Guidelines for implementation;

(b) to include actions to achieve SDG Target 3.a on implementation of WHO FCTC and SDG Target 3.4 on NCDs as an integral component of national recovery from the COVID-19 pandemic, including in national SDG plans;

(c) to the extent possible, explore health system adaptations to support alternative service delivery options, such as e-health and telemedicine consultations, for tobacco dependence and cessation services consistent with Article 14 of the WHO FCTC;

7. REQUESTS the Convention Secretariat to promote awareness and circulate further evidence regarding this Declaration among the Parties and at relevant international forums, and to support Parties in taking action in achieving the implementation of the goals of this Declaration.

(Seventh Plenary meeting, 12 November 2021)

FCTC/COP9(11) Date and place of the Tenth Regular Session of the Conference of the Parties

The Conference of the Parties (COP),

Taking into account Rule 3 of the Rules of Procedure, which provides that the sessions of the COP shall be held at the seat of the Convention Secretariat, unless the COP decides otherwise;

Recalling decision FCTC/COP8(14), establishing as a formal requirement for Parties hosting a regular session of the COP to also host a session of the Meeting of the Parties (MOP) to the Protocol to Eliminate Illicit Trade in Tobacco Products, immediately following the COP, at the same geographic location and under the same circumstances, regardless of whether or not the host Party is also a Party to the Protocol;

Noting that there is no suitable venue available in Geneva and thanking Parties for expressing interest in the call to host the Tenth Session of the Conference of the Parties (COP10) to the WHO Framework Convention on Tobacco Control (COP10) and the Third Session of the Meeting of the Parties (MOP3) to the Protocol to Eliminate Illicit Trade in Tobacco Products;

Considering that the following option has been proposed for convening COP10,

DECIDES that COP10 will be held in Panama, with dates to be confirmed after agreement between the hosting Party and the incoming Bureau, in consultation with the MOP Bureau, and with the support of the Convention Secretariat.

(Seventh Plenary meeting, 12 November 2021)

FCTC/COP9(12) Election of the President and the Vice-Presidents of the Conference of the Parties

The Conference of the Parties (COP), pursuant to Rule 21 of its Rules of Procedure,

1. ELECTS the following officers to constitute the Bureau of the COP:

President: Ms Zandile Dhlamini from Eswatini, for the African Region

Vice-Presidents: Dr Marcos Dotta from Uruguay, for the Region of the America

Mr Roland Driecce from the Netherlands, for the European Region

Mr Jack Quinane from Australia, for the Western Pacific Region

Dr Samadhi Rajapaksa from Sri Lanka, for the South-East Asia Region

Dr Jawad Al Lawati from Oman, for the Eastern Mediterranean Region

2. DECIDES that, of the five Vice-Presidents, the following should act as Rapporteur:

Rapporteur: Dr Samadhi Rajapaksa from Sri Lanka for the South-East Asia Region.

(Seventh Plenary meeting, 12 November 2021)

FCTC/COP9(13) WHO FCTC Investment Fund

The Conference of the Parties (COP):

Recalling Articles 5.6 (General obligations) and 26 (Financial resources) of the WHO Framework Convention on Tobacco Control (WHO FCTC);

Recognizing the importance of financial resources to support the implementation of the WHO FCTC;

Recalling that at its Seventh Session the COP emphasized the need for the Convention Secretariat to raise funds in decision FCTC/COP7(25), and at its Eighth Session the COP requested the Convention Secretariat to further expand upon, and make recommendations for the establishment and operation of a WHO FCTC Investment Fund in decision FCTC/COP8(5);

Acknowledging the report of the Convention Secretariat contained in document FCTC/COP/9/15, and the related document FCTC/COP/9/INF.DOC./2, as referenced in that report, and thankful to Parties that have participated in the consultations leading to the report,

1. DECIDES:

(a) to launch the WHO FCTC Investment Fund as per the policy, governance and operational arrangements contained in the Annex to this decision; and

(b) to designate the World Bank as the Trustee to the WHO FCTC Investment Fund;

2. REQUESTS the Convention Secretariat:

(a) to make the necessary arrangements to launch the Fund in an expedient manner;

(b) to work with the World Health Organization (WHO) to establish the necessary legal and administrative arrangements between the WHO and the World Bank to serve as Trustee to the Fund;

(c) to make the necessary arrangements, in consultation with WHO and the World Bank as the Fund Trustee, under the guidance of the Bureau, for the finalization and implementation of specific policies, as relevant, to operationalize the Fund, including but not limited to financial policies, rules of investment, institutional arrangements, risk management provisions, and administrative and logistical support to the Fund;

(d) to facilitate, under the guidance of the Bureau, the establishment, including the development of the terms of reference, of an Oversight Committee comprised of two Parties from each WHO region, and, as observers, two representatives of nongovernmental organizations accredited as observers to the COP, to provide support to the COP and its Bureau in the governance of the Fund;

(e) to work towards securing investors to the Fund, in accordance with Article 5.3 of the Convention and its Guidelines for implementation, WHO Framework of Engagement with Non-State Actors, and the objective and guiding principles of the Fund;

(f) to submit a report to the Tenth Session, and subsequent regular sessions, of the COP, on the operations of the WHO FCTC Investment Fund; and

(g) to ensure management synergies with the Investment Fund to support implementation of the Protocol to Eliminate Illicit Trade in Tobacco Products, if adopted by the Meeting of the Parties to the Protocol.

(Fifth Plenary meeting, 11 November 2021)

ANNEX

PROPOSED WHO FCTC INVESTMENT FUND: POLICY, GOVERNANCE AND OPERATIONAL ARRANGEMENTS

1. In decision FCTC/COP8(5), the Conference of the Parties (COP) to the WHO Framework Convention on Tobacco Control (WHO FCTC) tasked the Convention Secretariat, in consultation with expert advisers from the World Bank and the World Health Organization (WHO), to further expand on and make recommendations for the establishment and operation of a WHO FCTC Investment Fund and to report to the Ninth Session of the Conference of the Parties (COP9). This annex expands on specific points required by the COP to be reported in order for a decision to be reached on whether to launch the Fund.
2. The Fund will be complementary to existing sources of funding. Contributions to the Fund shall be voluntary. It will provide simplified and predictable funding for allocation to activities in the COP workplan and budget. The Fund will not be intended to serve as a substitute to Assessed Contributions or to replace existing or future extra-budgetary funds provided bilaterally by Parties or other entities.

A. OBJECTIVES AND GUIDING PRINCIPLES OF THE FUND

3. **Objective:** To establish an Investment Fund (with projected initial capital of US\$ 50 million and an estimated annual return of investment of US\$ 2 million) to provide sustainable funding to the COP to implement the WHO FCTC in alignment with COP-adopted decisions, workplans and budgets.
4. **Guiding principles:** Guided by the objective and guiding principles of the WHO FCTC, the Fund will operate in a transparent and accountable manner, according to best practices of the WHO Corporate Risk Management Policy,¹ the WHO Accountability Framework,² the WHO Framework of Engagement with Non-State Actors (FENSA),³ and the United Nations-supported Principles for Responsible Investment.⁴ Fund-specific principles include:
 - **Preservation of capital:** Policies will only allow the spending of earned revenue subject to the availability of funds. While every effort will be made to preserve the capital, there is an acknowledged risk to the investor's capital, subject to prevailing market conditions; therefore, no guarantees exist for the full return of their capital investment.
 - **Transparency:** Information about decision-making and activities at all levels will be accessible to the COP.
 - **Active and responsible management:** The management of the Fund will be flexible to adapt to shifting market conditions and to COP priorities and respective decisions.

¹ <https://www.who.int/about/finances-accountability/accountability/corporate-risk-management-policy.pdf?ua=1>.

² https://www.who.int/about/who_reform/managerial/accountability-framework.pdf.

³ https://apps.who.int/gb/ebwha/pdf_files/wha69/a69_r10-en.pdf.

⁴ <https://www.unpri.org/>.

- **Leveraging funds:** The Fund will leverage financial investments in the form of interest-free loans from multiple sources, guided by Article 5.3 of the WHO FCTC, WHO FENSA, and in compliance with the WHO Financial Regulations and Financial Rules.
- **Commitment to do no harm:** The Fund shall adhere to Article 5.3 of the WHO FCTC and WHO FENSA, while avoiding and, as necessary, mitigating and addressing other possible economic, social and environmental adverse impacts of investment decisions.
- **Gender-sensitive investing:** The Fund will integrate gender-specific considerations by placing funds into investments that promote gender equality and create positive, gender-sensitive social and financial outcomes.
- **Independent management of the Fund:** Fund investors will not have influence over the investment policies, the allocation of revenues or any decisions of the COP in relation to the Fund.

B. GOVERNANCE AND INSTITUTIONAL ARRANGEMENTS FOR THE FUND, INCLUDING THE RELATIONSHIP TO THE COP, THE BUREAU AND THE CONVENTION SECRETARIAT

5. The Fund is designated to operate as a financial mechanism under Article 26 of the Convention. As such, it functions under the direction of the COP and is supported by the Rules of Procedure of the COP.

- **The COP** will guide the Convention Secretariat in establishing the policy, governance and operational arrangements of the Fund, including all matters related to policies, structure and institutional measures. Additionally, the COP will decide on the allocation of the Fund's revenue to activities in the COP workplan and budget, subject to availability of funds.
- **The COP Bureau** will provide guidance to the Convention Secretariat on implementing the policy, governance and operational arrangements of the Fund, and the allocation of revenue to the workplan and budget as decided by the COP. The Bureau will submit reports, recommendations and, as necessary, draft decisions in relation to the Fund for consideration of the COP.
- **The Convention Secretariat** will establish, implement and monitor all policy and operational arrangements of the Fund, in accordance with decided governance arrangements, under the guidance of the COP and the Bureau, by liaising with the World Bank as the Fund Trustee to provide all necessary information for the COP to carry out its governance responsibilities in relation to the Fund. The Convention Secretariat will report on the performance of the Fund to the COP, to investors and to designated stakeholders.
- **An Oversight Committee** comprised of two Party representatives from each of the six regions and, as observers, two representatives of nongovernmental organizations accredited as observers to the COP, will remain abreast of activities of the Fund on behalf of the COP and will flag concerns and provide intersessional updates to the COP and its Bureau, as appropriate.

C. LEGAL STATUS OF THE FUND AND ITS RULES OF PROCEDURES

6. The Fund will not be a legal entity. It will be a financial mechanism as provided for under Article 26(5) of the WHO FCTC, which will allow the COP to channel financial resources to implement the approved WHO FCTC workplan and budget, subject to availability of funds. The Fund will be an administrative arrangement between the WHO, lending its administrative, fiduciary and legal capacity to the Convention Secretariat to support implementation of COP decisions and the Fund Trustee. To that end, an agreement will be concluded between WHO and the World Bank, similar to existing arrangements between WHO and the World Bank. Fund procedures will adhere to World Bank operational guidelines and agreements with investors.

7. In consultation with, and on the advice of WHO Department of Finance, it is proposed that the Fund will be hosted by the World Bank, recognizing: (a) the efficiencies in commingling the Fund with larger investments managed by the World Bank; (b) the World Bank's experience with the management of third-party funds; and the (c) reduced management and administrative costs. The legal framework will reflect the application of the WHO Financial Regulations and Financial Rules, as adopted by the COP, and the relevant financial and good governance policies of the World Bank.

D. RULES FOR AND FUNCTIONS OF THE FUND HOSTING AGENCY

8. The Fund will be hosted at the World Bank as the Fund Trustee and will abide by WHO rules, the World Bank financial and good governance rules, and by specific policies deriving from provisions of the WHO FCTC, such the Article 5.3, WHO FENSA and decisions of the COP.

9. The Fund Trustee will administer assets of the Fund in accordance with the applicable legal framework and decisions of the COP. This will include:

- managing trading activities in compliance with the Fund's objectives, guiding principles and specific investment strategy;
- conducting analyses on the financial risks of the portfolio according to the risk and tolerance levels established by the COP;
- maintaining financial records and preparing financial/investment statements; and
- reporting to the Convention Secretariat, as scheduled.

E. DEFINITION OF EXPECTED ADMINISTRATIVE COSTS

10. The goal of the Fund is to preserve the capital through sound fiscal and investment policies with low administrative costs. It is estimated that the overall administrative expenses will be approximately 3.75% of the earned revenue. Based on an estimated annual Fund revenue of US\$ 2 million, the projected annual administrative costs are US\$ 75 000.

11. The breakdown of the administrative costs are as follows:

- **External costs** of administering the Fund, including the annual administrative and management fees of the World Bank as the Fund Trustee, projected at US\$ 25 000.

- **The Convention Secretariat's** administrative cost for managing the Fund is estimated at US\$ 50 000 to support short-term contracts for periodic independent third-party evaluations of the Fund's financial performance, or other related activities as approved by the COP.
- **Administrative costs** associated with managing the Fund will be financed by the earned interest from the Fund. In the first year of the Fund, the earned revenue will be set aside as surplus to offset administrative costs in subsequent years that may have low or negative income from the Fund. In the event that the Fund does not generate income in the first year, fees will be paid from the capital of the fund with immediate replenishment to the capital once the Fund is generating earning income.

F. DESCRIPTION OF POSSIBLE OPERATIONAL MODALITIES

- **Financial input:** The Fund will build on unique sources of funding capital in collaboration with the World Bank. The Fund may receive voluntary financial input in the form of time-bound interest-free loans at the discretion of participating Parties to the Convention. It may also receive financial inputs from other public and private sources that meet the requirements of Article 5.3 of the WHO FCTC and principles of WHO FENSA, as decided by the COP, or, in the intersessional period between meeting of the COP, by the Bureau following recommendations by the Oversight Committee. While the optimal value of the Fund is projected at US\$ 50 million, it may be initiated in advance of reaching its goal value, with operations and financial outputs adjusted accordingly.
- **Fund management:** The World Bank as the Fund Trustee will manage the investment funds on behalf of the COP according to prescribed strategies for investment and fund procurement, complying with COP decisions related to the Fund, and applying the provisions of Article 5.3 of the WHO FCTC and FENSA.
- **Fund allocation:** Aligning with the biennial cycle of the COP, revenue from the Fund will be dispensed by the World Bank to WHO for the implementation of the WHO FCTC as directed and decided by the COP. Allocation priorities are set by the COP according to the approved activities in its workplan and budget. The Fund is expected to provide sustainable and predictable funding to supplement existing extra-budgetary funds and Assessed Contributions.
- **Fund oversight:** The Convention Secretariat will monitor the Fund operations, which are managed by the World Bank as the Fund Trustee, to ensure that the Fund operates in accordance with decisions and direction of the COP. The Convention Secretariat will ensure that the COP receives sufficient information (including from the Fund Trustee) to make informed decisions, under the guidance of the Bureau, following recommendations of the Oversight Committee.

G. ENSURING COHERENCE WITH ARTICLE 5.3 OF THE CONVENTION, DECISION FCTC/COP7(25)

12. The Fund's operational and financial policies will explicitly include an expectation of compliance with Article 5.3 of the WHO FCTC to protect it against commercial and other vested interests of the tobacco industry or those who work to further its interests. The Convention Secretariat will establish a schedule to monitor that the administration of the Fund is compliant with these provisions, and report on a regular basis to the COP and its Bureau on the Fund's compliance with the provisions. Furthermore, the provisions of WHO FENSA shall also be applicable.

13. The World Bank as the Fund Trustee has long been committed to tobacco control and has had an explicit global policy on tobacco since the 1990s, guided by a mandatory operational policy that precludes investing in tobacco production, processing or marketing. Incorporating the principles of Article 5.3 of the WHO FCTC will ensure alignment with the World Bank investment strategies.

14. Non-Party investors to the Fund will be assessed by the World Bank as the Fund Trustee to ensure that their investment does not conflict with Article 5.3 of the WHO FCTC or WHO FENSA. If approved, they will be recommended by the World Bank to the Convention Secretariat. After review by the Convention Secretariat, potential non-Party funders would be approved by the COP, or, as decided by the COP, by the Bureau following recommendation by the Oversight Committee. Prior to providing funds, investors will sign the agreement that includes compliance with Article 5.3 of the WHO FCTC.

H. RULES FOR FINANCIAL REPORTING AND FOR CONFLICT RESOLUTION

Financial reporting

15. Financial reports shall be submitted in accordance with provisions contained in the WHO Financial Regulations and Financial Rules, and the Fund's reporting schedule as decided by the COP. Drawing on reports from the World Bank as the Fund Trustee, the Convention Secretariat will report on the Fund's activity to the Bureau and to the Oversight Committee, as well as to the COP, to provide information required for implementation and further planning of the COP workplan and budget.

16. Financial statements will include:

- investments made;
- net revenues of the Fund;
- risk assessment and analysis; and
- management and maintenance fees incurred.

17. Additionally, scheduled reporting will include:

- compliance with applicable financial rules and policies, including Article 5.3 of the WHO FCTC and WHO FENSA;
- inherent risks and any changes to risks or the level of risk;
- prevailing market trends, investments diversification and projections on the Fund's performance; and
- review of the Fund's financial performance relative to other World Bank managed funds.

18. The Convention Secretariat will provide periodic reports to Fund investors on its financial performance and the resulting policy and programme activities supported by the Fund.

Conflict resolution

19. The Fund's administrative, fiduciary and legal framework, as well as operational arrangements, aim to prevent and mitigate potential disputes by Parties and/or investors. Furthermore, the Fund will be managed and invested in accordance with the Fund's investment strategy, risk assessment and direction as established by the COP.

20. For disputes between Parties concerning the interpretation or application of the WHO FCTC, including the establishment and implementation of the Fund in accordance with Article 26.5 of the WHO FCTC, Article 27 on the Settlement of Disputes applies. Common disputes between Parties concerning the use of funds are minimized by recognizing that the use of the funds is decided by the COP in its adoption of the workplan and budget.

21. Any differences of opinion about the management of the Fund by the World Bank will be addressed according to the agreement between WHO and the World Bank in relation to the Fund arrangements, which will include standard contract language used by WHO for the settlement of potential disputes:

Any dispute relating to the interpretation or application of the Agreement shall, unless amicably settled, be subject to conciliation. In the event of failure of the latter, the dispute shall be settled by arbitration. The arbitration shall be conducted in accordance with the modalities to be agreed upon by the parties or, in the absence of agreement, with the rules of arbitration of the International Chamber of Commerce (or the United Nations' Commission on International Trade Law Arbitration Rules (the "UNCITRAL Arbitration Rules")).

22. Disputes brought by investors will be addressed by the World Bank in accordance with standard language used by the World Bank in agreements with all investors. This includes disclaimers that invested funds can increase or decrease in value based on market performance and that information on past performance is not necessarily a prediction of future performance.

I. MONITORING AND EVALUATION

23. The implementation of activities in the COP workplan and budget that are supported by the Fund will be monitored by the COP and its Bureau on the basis of regular reports by the Convention Secretariat. The reports will include analysis of impact, efficiency and effectiveness of the operations of the Fund.

24. The Convention Secretariat will contract periodic independent, third-party evaluations in relation to the functioning of the Fund, funded from the Fund's revenue and subject to the availability of funds. The evaluations will review the Fund's financial performance, including the use of funds in alignment with the WHO FCTC workplan and budget, to provide an objective estimate of its effectiveness and efficiency to support implementation of the WHO FCTC. The independent evaluations will be provided to the Bureau and to the Oversight Committee, and they will be reported to sessions of the COP to inform decision-making and identify lessons learnt.

25. The frequency and types of evaluation will be dictated by the needs of the COP.

J. APPLICABLE FIDUCIARY STANDARDS AND ACCOUNTABILITY MECHANISMS

26. Fiduciary standards of the Fund investment mechanism are assured by having the World Bank serve as the Fund Trustee due to its comparative strengths in financial and risk management. The World Bank as the Fund Trustee will administer the Fund and manage the placement and stewardship of the Fund in the marketplace, with a fiduciary duty to act both legally and ethically in the best interest of WHO, in line with COP decisions, the objectives and guiding principles of the WHO FCTC, and specifically Article 5.3 of the WHO FCTC. Considering that WHO lends its administrative, fiduciary and legal frameworks to the Convention Secretariat, the WHO Regulations and Rules equally apply as relevant, and as agreed with by the World Bank.

27. In relation to allocation and use of revenue, COP decisions apply. The Fund will provide financial resources to respond to priorities identified and approved by the COP, in a process that is transparent to all Parties.

28. The Convention Secretariat will monitor the development and implementation of best practices and fiduciary standards of the Fund, in consultation with WHO and based on the expertise and reports by the World Bank as the Fund Trustee, and report to the COP and its Bureau, as well as the Oversight Committee, as relevant.

K. MECHANISMS FOR WITHDRAWAL FROM OR THE TERMINATION OF THE INVESTMENT FUND

Withdrawal of investor funds

29. The Fund will be built on loans from multiple investors to reduce the impact of an investor who wishes to withdraw funds early. Rates and penalties for withdrawal of funds will form part of the agreement between the World Bank as the Fund Trustee and investors in an effort to discourage investors from withdrawing funds in advance of the timelines established in the agreement.

30. At any time after two years from the date on which an investor enters into agreement with the World Bank as the Fund Trustee, the investor may request early withdrawal from the Fund by giving written notice of not less than six months to the Trustee. The Trustee will duly and promptly inform the Convention Secretariat. Any such withdrawal will be subject to penalties as prescribed by the Fund Trustee in accordance with the agreement between the World Bank as the Fund Trustee and the investor.

31. The original capital received from the investor will be repaid from the Fund, subject to market fluctuation at the time of withdrawal as prescribed by the agreement between the World Bank as the Fund Trustee and the investor.

Termination of the Fund

32. As the Fund is a financial mechanism provided for under Article 26(5) of the WHO FCTC, the COP may decide to terminate the Fund and its associated financial activities, following a recommendation by the Bureau, or as it considers appropriate.

33. Reference to the prerogative of the COP to terminate the Fund will be included in the agreement between WHO and the World Bank in relation to the Fund and in the respective agreement between the World Bank and the investors.

34. The World Bank will terminate the Fund, if and as decided by the COP. The initial amount provided by investors will be returned to them, subject to the terms of agreement. Any surplus funds will be provided to WHO for allocation to implementation of WHO FCTC, in accordance with decisions of the COP.

L. LEGAL, FINANCIAL, GOVERNANCE OR ANY OTHER POTENTIAL SAFEGUARDS FOR THE COP, INCLUDING MATTERS ON LIABILITY

35. The design of the Fund aims to provide a source of sustainable and predictable revenue while reducing the risk of liabilities resulting from unintended consequences and/or performance shortcomings of the Fund. On launching the Fund, and at the direction of the COP, the Convention Secretariat will embed comprehensive risk management strategies, operational policies, and strategic investment policies into the design and operation of the Fund, to be further developed in consultation with WHO and the World Bank.

36. The Convention Secretariat will monitor, under the guidance of the Bureau and following recommendations by the Oversight Committee, the implementation of the policy and operational arrangements of the Fund and its related compliance with the objective, guiding principles and applicable frameworks of the Fund to guard it against potential legal, financial and governance issues.

37. The COP will benefit from regular reporting on the implementation of ongoing risk assessment and sound investment management strategies, as approved for the Fund, and the application of the following safeguards:

(i) Allocation of revenue from the Fund will be based on the actual interest earned and provided to the WHO FCTC, not on projected or anticipated future earned revenue.

(ii) For the initial year and during years of high interest earning, surplus revenue will be reserved to offset years of negative or low return on investment or to cover any unanticipated expenses.

(iii) The experience of the World Bank as the Fund Trustee provides the COP with a global analysis of economic growth and political instability as it relates to any major risks to the Fund investment strategy.

(iv) Finally, the administrative, fiduciary and legal frameworks applicable to the Fund will be applicable in accordance with COP decisions, and with respect to arrangements concluded between WHO and the World Bank, preserving the application of WHO Regulations and Rules as applicable to the Convention Secretariat and adopted by the COP.

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