Needs assessment

for implementation of the

WHO Framework Convention on Tobacco Control in Burundi

Convention Secretariat

September 2013

Executive summary

The World Health Organization Framework Convention on Tobacco Control (WHO FCTC) is the first international health treaty negotiated under the auspices of WHO and was adopted in 2003. It has since become one of the most widely and rapidly embraced treaties in the history of the United Nations, with 177 Parties to date. Burundi ratified the WHO FCTC on 22 November 2005. The Convention entered into force for Burundi on 20 February 2006.

An assessment of the needs for implementation of the WHO FCTC in Burundi was conducted jointly by the Government of Burundi and the Convention Secretariat from April to July 2013, including an initial analysis of the status of implementation, and the challenges and potential needs deriving from the country's most recent implementation report and other sources of information. An international team led by the Convention Secretariat, which included representatives of the WHO Regional Office for Africa, the WHO Country Office in Burundi, the World Bank and the United Nations Development Programme (UNDP), conducted a mission in Burundi together with representatives of the Government from 13 to 17 May 2013. The assessment involved relevant ministries and agencies of Burundi and several nongovernmental organizations working on tobacco control (see Annex I).

This needs assessment report presents an article-by-article analysis of progress made in Burundi in implementation; the gaps that exist; and the subsequent possible action that can be taken to fill those gaps. The key elements that need to be put in place to enable Burundi to fully meet its obligations under the Convention are summarized below. Further details are contained in the report itself.

First, the WHO FCTC is an international treaty and therefore international law. Having ratified this treaty, Burundi is obliged to implement its provisions through national laws, regulations or other measures. It is therefore important to identify all obligations in the substantive articles of the Convention, link them with the relevant ministries and agencies, obtain the required resources and seek support internationally where appropriate.

Second, the Convention requires Parties to develop, implement, periodically update and review comprehensive multisectoral national tobacco control strategies, plans and programmes in accordance with the Convention. The National Strategic Plan on Noncommunicable Diseases (NCDs) 2011–2015 identifies tobacco control as a priority and includes tobacco control

programmes and activities, as does the 2013 annual NCD plan. However, the National Strategy for Poverty Reduction for 2012–2015 does not address implementation of the Convention, despite the fact that tobacco use contributes to poverty.

Third, there is no comprehensive multisectoral national tobacco control strategy or action plan. It is therefore recommended that Burundi develop such a plan with the involvement of all relevant stakeholders with clear mandates and responsibilities, and that the plan be officially adopted and launched.

Fourth, the Convention requires a national multisectoral coordinating mechanism to be established and financed to coordinate its implementation. The Director of the national NCD programme acts as the national tobacco control focal point. However, there is no full time staff dedicated to tobacco control within the programme. There is also no budget line in the Ministry of Public Health and the Fight against AIDS dedicated to tobacco control and implementation of the Convention, including a coordination mechanism. Other relevant ministries and agencies have not been actively involved in implementation of the Convention so far. As Burundi is a Party to the Convention, the whole Government has obligations under the Convention, with relevant ministries and agencies having responsibility for implementation under their mandates. Given that there is currently no official national coordination mechanism, it is recommended that Burundi establish a multisectoral national tobacco control committee and allocate dedicated staff and budget to it.

Fifth, under Article 5.2(b) of the WHO FCTC, Parties have an obligation to develop and adopt national tobacco control legislation to enable full implementation of the Convention. Burundi has not adopted any relevant national legislation since it became a Party to the Convention in 2006. The current directives are not legally binding and do not have full legal force. A comprehensive tobacco control bill has been drafted, which provides for implementation of most of the provisions of the WHO FCTC, but it has not been enacted. The international team met both the Permanent Secretary of Justice and the Honourable Deputy Speaker of the National Assembly of Burundi. The Honourable Deputy Speaker pledged her full support to the passage of the legislation once the bill is submitted. The Permanent Secretary made it clear that there is no constitutional obstacle to the adoption of comprehensive tobacco control legislation. It is therefore recommended that the bill be approved by the Council of Ministers and submitted to the National Assembly as soon as possible. It is also recommended that the Ministry of Public Health and the Fight against AIDS and the Ministry of Justice and Attorney General take the lead in affirming the existence of a sound constitutional basis for the adoption of such legislation. Furthermore, in order to be fully compliant with the Convention, there is a need to improve certain provisions in the draft bill and such necessary provisions are indicated in Annex II to the present report.

Sixth, increasing tobacco taxation is one of the most effective demand reduction measures to reduce tobacco consumption. The Government of Burundi recognizes the importance of price and tax measures to support the objectives of the convention. There was positive movement in tax policy in 2012. The Ministry supports the use of taxes on tobacco both for achieving better health outcomes and increasing revenue. It is therefore recommended that Burundi increase tobacco tax rates on a regular basis to take into account both increases in consumer prices and household incomes to decrease the affordability of tobacco products.

Seventh, Burundi has conducted a number of education, communication and awareness-raising activities on the harmful effects of tobacco use and exposure to tobacco smoke among the population at large and key target groups, such as health, community and social workers, media professionals, educators and decision-makers. Health professionals receive the relevant training during their pre-service training. However, public access to wide range of information on the tobacco industry is not yet provided or promoted in a systematic way. There is a lack of sufficient financial support to enable the resource-demanding activities required to meet the obligations under Article 12 to be carried out. It was agreed that it would be important to involve the Ministry of Telecommunication, Information, Communication and Relations with Parliament (MTICRP) to coordinate and involve in an effective way the national radio and TV agency (Radio and Television Nationale du Burundi – RTNB). It is therefore recommended that the Ministry of Public Health and the Fight against AIDS work together with the MTICRP, as well as other ministries and civil society organizations, to mobilize more resources and further develop and implement evidence-based education, communication, public awareness and training programmes. Free air time should be provided by RTNB for the broadcasting of anti-tobacco use messages.

Eighth, the Conference of the Parties has adopted seven guidelines, for the implementation of Articles 5.3, 8, 9 and 10, 11, 12, 13, and 14. The aim of these guidelines is to assist Parties in meeting their legal obligations under the respective articles of the Convention. The guidelines draw on the best available scientific evidence and experience of Parties. Burundi is strongly encouraged to follow these guidelines in order to fully implement the Convention.

Ninth, the United Nations Development Assistance Framework (UNDAF) is the strategic programme framework jointly agreed between the Government and the UN system outlining priorities in national development. The current UNDAF covers 2012 to 2016 and supporting implementation of the WHO FCTC is not identified as a priority. The international team met the acting United Nations Resident Coordinator and discussed whether implementation of the Convention could be included in future programme activities during the mid-term review due to take place in 2014. Government's support and leadership will be instrumental.

Tenth, addressing the issues raised in this report, including in particular, the treaty provisions with time-bound provisions (Articles 11 and 13, as well as the recommendations contained in Article 8 and the corresponding implementation guidelines), will make a substantial contribution to meeting the obligations under the WHO FCTC and improvement of the health status and quality of life in Burundi. Burundi has missed the deadlines for implementation of these three time-bound articles, and thus adopting comprehensive tobacco control legislation needs to be prioritized.

The needs identified in this report represent priority areas that require immediate attention. As soon as Burundi addresses these areas, the Convention Secretariat, in cooperation with WHO and relevant international partners, will be available and committed to supporting the process. The Convention Secretariat likewise is committed to providing and facilitating technical assistance particularly in the following areas, upon request of the Ministry of Public Health and the Fight against AIDS: (1) support to amending the draft tobacco control bill to ensure that it is fully compliant with the obligations under the Convention; (2) support to developing the national tobacco control strategy/action plan; (3) support to developing a media strategy and materials for state radio and television; (4) support and facilitation of a stakeholder workshop that will consider the present report, the national tobacco control strategy or action plan, and the establishment of a national coordination mechanism.

The full report, which follows this summary, can also be the basis for any proposal(s) that may be presented to relevant international partners to support Burundi in meeting its obligations under the Convention.

This joint needs assessment mission was financially supported by the European Union.[1]

[1] This publication has been produced with the assistance of the European Union. The contents are the sole responsibility of the Convention Secretariat, WHO Framework Convention of Tobacco Control, and can in no way be taken to reflect the views of the European Union.

Introduction

The WHO FCTC is the first international treaty negotiated under the auspices of WHO. Burundi ratified the WHO FCTC on 22 November 2005. The Convention entered into force for Burundi on 20 February 2006.

The Convention recognizes the need to generate global action so that all countries are able to implement its provisions effectively. Article 21 of the WHO FCTC requires Parties to regularly submit to the Conference of Parties (COP) reports on their implementation of the Convention, including any challenges they may face in this regard. Article 26 of the Convention recognizes the importance that financial resources play in achieving the objectives of the treaty. The COP further requested that detailed needs assessments be undertaken at country level, especially in developing countries and countries with economies in transition, to ensure that lower-resource Parties receive the necessary support to fully meet their obligations under the treaty.

At its first session (February 2006), the COP called upon developed country Parties to provide technical and financial support to developing country Parties and Parties with economies in transition (decision FCTC/COP1 (13)). The COP also called upon the developing country Parties and Parties with economies in transition to conduct needs assessments in light of their total obligations related to the implementation of all provisions of the Convention and to communicate their prioritized needs to development partners. The Convention Secretariat was further requested to assist Parties, upon request, with the conduct of needs assessments, to advise them on existing mechanisms of funding and technical assistance, and to provide information to development partners on the needs identified.

At its second session (July 2007), the COP requested the Convention Secretariat (in decision FCTC/COP2(10)) to actively seek extrabudgetary contributions specifically for the purpose of assisting Parties in need to carry out needs assessments and develop project and programme proposals for financial assistance from all available funding sources.

At its third, fourth and fifth sessions (held in November of 2008, 2010 and 2012), the COP adopted the workplans and budgets for the bienniums 2010–2011, 2012–2013 and 2014–2015, respectively. The workplans, inter alia, re-emphasized the importance of assisting developing country Parties and Parties with economies in transition, strengthening coordination with international organizations, and aligning tobacco control policies at country level to promote

implementation of the Convention. Needs assessments, combined with the promotion of access to available resources, the promotion of treaty tools at country level, the transfer of expertise and technology, international cooperation and South–South cooperation were outlined as major components of this work.

The assessment of needs is necessary to identify the objectives to be accomplished under the WHO FCTC, resources available to a Party for implementation, and any gaps in that regard. Such assessment should, therefore, be comprehensive and based on all substantive articles of the WHO FCTC with a view to establishing a baseline of needs. The needs assessment is also expected to serve as a basis for assistance in programme and project development, particularly to lower-resource countries, as part of efforts to promote and accelerate access to relevant internationally available resources.

The needs assessments are carried out in three phases:

(a) initial analysis of the status, challenges and potential needs deriving from the latest implementation report of the Party and other sources of information;

(b) visit of an international team to the country for a joint review with government representatives of both the health and other relevant sectors; and

(c) follow-up with country representatives to obtain further details and clarifications, review additional materials jointly identified, and develop and finalize the needs assessment report in cooperation with the national focal point for tobacco control.

With the above objectives and process in view, a joint assessment of the needs concerning implementation of the WHO FCTC was conducted by the Government of Burundi and the Convention Secretariat, including a mission to Burundi by an international team of experts from the Convention Secretariat, the WHO Regional Office for Africa, WHO Country Office in Burundi, the World Bank and the United Nations Development Programme (UNDP) from 13 to 17 May 2013. The detailed assessment involved relevant ministries and agencies of Burundi. The following report is based on the findings of the joint needs assessment exercise carried out as described above.

This report contains a detailed overview of the status of implementation of substantive articles of the treaty. The report identifies gaps and areas where further actions are needed to ensure full compliance with the requirements of the treaty, also taking into account the guidance provided by implementation guidelines adopted by the COP where relevant. This is followed by specific recommendations concerning each particular area.

Status of implementation, gaps and recommendations

This core section of the report follows the structure of the Convention. It outlines the requirements of each of the substantive articles of the Convention, reviews the stage of implementation of each article, outlines achievements and identifies the gaps between the requirements of the treaty and the level of implementation by Burundi. Finally, it provides recommendations on how the gaps identified could be addressed, with a view to supporting the country in meeting its obligations under the Convention.

Relationship between this Convention and other agreements and legal instruments (Article 2)

Article 2.1 of the Convention, in order to better protect human health, encourages Parties *"to implement measures beyond those required by this Convention and its protocols, and nothing in these instruments shall prevent a Party from imposing stricter requirements that are consistent with their provisions and are in accordance with international law".*

Currently, no measures have been implemented in Burundi that go beyond those provided for by the Convention.

It is therefore recommended that the Government, while working on meeting the obligations under the Convention, also identify areas in which measures going beyond the minimum requirements of the Convention can be implemented.

Article 2.2 clarifies that the Convention does not affect *"the right of Parties to enter into bilateral or multilateral agreements … on issues relevant or additional to the Convention and its protocols, provided that such agreements are compatible with their obligations under the Convention and its protocols. The Parties concerned shall communicate such agreements to the Conference of the Parties through the Secretariat".*

No such information has been provided so far by Burundi. The Ministry of External Relations and International Cooperation, in consultation with the relevant line ministries, should identify these agreements and report them as appropriate.

Gap – There is a lack of awareness of the obligation under this Article and the proactive role that all relevant ministries need to play in the reporting process.

It is recommended that relevant ministries and agencies review any agreements in their jurisdictions that may fall under the scope of Article 2.2 of the Convention. Furthermore, if such agreements have been identified, it is recommended that the Government communicate them to the Secretariat either as part of their next WHO FCTC implementation report or independently.

Guiding Principles (Article 4)

The Preamble of the Convention emphasizes *"the special contribution of nongovernmental organizations and other members of civil society not affiliated with the tobacco industry, including health professional bodies, women's, youth, environmental and consumer groups, and academic and health care institutions, to tobacco control efforts nationally and internationally and the vital importance of their participation in national and international tobacco control efforts"*.

Article 4.7 recognizes that "*the participation of civil society is essential in achieving the objective of the Convention and its protocols".*

Nongovernmental organizations (NGOs) play an important role in advancing tobacco control programmes and policies.

There are a number of NGOs in Burundi working on health issues including tobacco control. Some NGOs which are active in tobacco control participated in the stakeholder that took place meeting during the visit of the international team. They included: the Consumers Association of Burundi (Association Burundaise des Consommateurs (ABUCO)), the Scouts Association of Burundi, the Burundian Association for the Fight against Tobacco (Association Burundaise de lute contre tabagisme (ABULUTA)), the Medical Students Association of Burundi (Association Burundiase des Etudiants en Médecine (ABEM)), and Word and Action for the Awakening of Consciousness and the Evolution of Attitudes (Parole et action pour la réveille des consciences et l'evolution de mentalities (PARCEM)). They mainly conduct research, raise public awareness and engage in educational activities related to tobacco control. ABULUTA is a member of the Framework Convention Alliance and has conducted unpublished research on the status of implementation of the Convention in 2012. However, the findings of this research have not been published due to the lack of a budget.

Thus, although there are several NGOs in Burundi that carry out activities related to tobacco control. However, this Article of the Convention has not been addressed in the draft tobacco control bill that has not yet been enacted.

Gap – There appears to be no sustained involvement of civil society organizations in tobacco control. Most are not yet active in supporting implementation of the Convention and the awareness of their potential contribution is yet to be raised.

It is therefore recommended that the Government mobilize more civil society organizations to support implementation of the Convention, particularly at the provincial and community levels, to improve outreach to the general public. It is further recommended that the draft tobacco control bill be amended such that a representative of an NGO working on tobacco control is represented in the multisectoral national coordination mechanism or the National Committee for Tobacco Control as stipulated by Article 33 of the draft bill.

General obligations (Article 5)

Article 5.1 calls upon Parties to *"develop, implement, periodically update and review comprehensive multisectoral national tobacco control strategies, plans and programmes in accordance with this Convention"*.

The Noncommunicable Diseases (NCD) department was created in the Ministry of Public Health and the Fight against AIDS in 2009. The National Strategic Plan on NCDs 2011–2015 is being implemented. The tobacco control programme and activities are included in this Plan. The 2013 Annual NCD plan is also being implemented and includes tobacco control.

While the National Strategic Plan on NCDs 2011–2015 identified tobacco control as a priority, the National Strategy for Poverty Reduction for 2012–2015 does not include implementation of the Convention, although tobacco use contributes to poverty.

Gap – There is no comprehensive multisectoral national tobacco control strategy or action plan.

It is therefore recommended that Burundi consider including implementation of the Convention in its next National Strategy for Poverty Reduction or other national development plan. It is also recommended that Burundi develop a comprehensive multisectoral national tobacco control strategy/action plan with the active involvement of all relevant stakeholders, using this needs assessment report as a reference, and to ensure that the Strategic Plan addresses all substantive articles of the Convention in a comprehensive way. It is further recommended that Burundi organize a high-level workshop with relevant stakeholders, including representatives from all relevant Government agencies, to launch and disseminate both the needs assessment report and the national tobacco control strategy/action plan once they are finalized and officially approved.

The Convention Secretariat is committed to facilitating provision of expertise and technical support for the development and implementation of the national tobacco control strategy/action plan upon request from the Ministry of Public Health and the Fight against AIDS.

Article 5.2(a) calls on Parties to *"establish or reinforce and finance a national coordinating mechanism or focal points for tobacco control"*.

The relevant focal point was first assigned in 1999 before Burundi ratified the Convention. The NCD Department was created in the Ministry of Public Health and the Fight against AIDS in 2009 and its Director serves as the national tobacco control focal point. There are more than 20 members of staff in the Department. Tobacco control is part of the routine work of the Department that works to control NCD risk factors.

Given that Burundi is a Party to the WHO FCTC, the whole Government of Burundi has obligations under the Convention, with relevant ministries and agencies having responsibility for implementation under their mandates.

Based on the draft tobacco control bill, establishing a National Committee for Tobacco Control is critical and required. The composition and procedures of the Committee are defined by decree with some executive tasks in implementing the tobacco control policy through the National Strategic Plan, in enhancing information, education and communication campaigns regarding the adverse effects of tobacco use on health and the benefits of smoking cessation, in developing and implementing training programmes and applied research, and in providing support and protection for the actors involved in tobacco control.

However, the provisions relating to the Committee need to be strengthened in the draft bill in relation to eligibility for appointment and disqualification, funding, disclosure of conflicts of interests, interactions with the tobacco industry, staffing, and the conduct of proceedings, among others in line with Article 5 of the Convention.

Gaps –

- There are no full-time members of staff dedicated to the tobacco control programme and there is also no specific budget line in the Ministry of Public Health and the Fight against AIDS dedicated to tobacco control and implementation of the Convention, including the required coordination mechanism.

- There is no official national coordination mechanism.

- Other relevant ministries and agencies have not been actively involved in implementation of the Convention.

It is therefore recommended that dedicated staff and a budget line be allocated to tobacco control in the NCD Department. It is also recommended that Burundi establish a multisectoral national coordination mechanism with a clear mandate and responsibilities for all relevant ministries and stakeholders. While the Ministry of Public Health and the Fight against AIDS should take the lead in implementing the Convention, other relevant ministries should also designate focal points and allocate staff time and a budget to implementation of the Convention.

In support of the Government's efforts to establish a multisectoral national coordination mechanism, the Convention Secretariat is committed to sharing international experiences and providing technical assistance upon the request of the Government.

Article 5.2(b) calls on Parties *to "adopt and implement effective legislative, executive, administrative and/or other measures, and cooperate, as appropriate, with other Parties in developing appropriate policies, for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke".*

Burundi has not adopted comprehensive national tobacco control legislation since it became a Party to the Convention in 2006. However, some Ministerial Directives have been adopted by the Minister of Public Health and the Fight against AIDS to regulate some aspects of tobacco control, such as on the health information to be carried on tobacco products and a ban on sales of cigarettes to children in some public places. The draft tobacco control bill has been in progress for about three years. It provides for the implementation of most provisions of the Convention. These include provisions on packaging and labelling, advertising, promotion and sponsorship, regulation of access to tobacco products, a ban on smoking in public places, the creation of a multisectoral tobacco control committee and allocation of a budget for its functioning, the inclusion of funding for tobacco control, and, most importantly, a provision on liability of the tobacco industry for tobacco-related harms, as well as an extensive sanction regime.

There is a misconception that comprehensive national tobacco control legislation might be inconsistent with the Constitution of Burundi. The international team met the Permanent Secretary of Justice who strongly supports the enactment of such legislation. He also made it clear that there is no constitutional obstacle to its adoption. In addition, Burundi ratified the Convention without any reservations, which means that all obligations, including the development of legislation, are applicable.

The international team also met the Honourable Deputy Speaker of the National Assembly of Burundi, who pledged her support to the passage of the legislation once the bill is submitted for action by the National Assembly.

The international team gave detailed comments on the bill during the mission (see Annex II). Further details are also included in the sections on the relevant articles below.

Gaps –

- National tobacco control legislation has been adopted as a decree promulgated by the Council of Ministers and will not pass on National Assembly.
- The draft bill is not fully compliant with the Convention in a number of areas.
- The existing directives are not legally binding and do not have full legal force because no sanctions result from non-compliance with the directives.

It is therefore recommended that the draft national tobacco control legislation be adopted in a timely manner after approval by the Council of the Ministers. In this regard, the Council of Ministers should be briefed about the obligations of Burundi under the Convention, in order to encourage the Council to approve and submit the bill to the National Assembly. The Ministry of Public Health and the Fight against AIDS, as well as the Ministry of Justice and the Attorney General, should take the lead in affirming the existence of a sound constitutional basis for the adoption of comprehensive national tobacco control legislation. Furthermore, in order to be fully compliant with the Convention, there is a need to improve certain provisions in the draft bill; the necessary amendments are indicated in Annex II of the present report.

In support of the Government's effort to enact national tobacco control legislation, the Convention Secretariat is committed to facilitating technical assistance in making the bill fully compliant with the Convention and its guidelines, upon the request of the Government.

Article 5.3 stipulates that in setting *"public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry"*.

The guidelines for implementation of Article 5.3 recommend that "*all branches of government ... should not endorse, support, form partnerships with or participate in activities of the tobacco industry described as socially responsible"*.

Burundi has a code of conduct for public officials. This could be further utilized to implement Article 5.3 of the Convention and its guidelines.

Gaps –

- There is no law or policy that explicitly requires public officials to comply with the requirements of Article 5.3 and its guidelines.
- There is a lack of awareness of Article 5.3 of the Convention and its guidelines among public officials.

It is therefore recommended that the Ministry of Public Health and the Fight against AIDS promote and raise awareness within the Government of the obligations and recommendations under Article 5.3 and its guidelines, in relation to tobacco control legislation. It is also recommended that specific reference be made to Article 5.3 in the code of conduct for public officials and in the national tobacco control legislation.

Article 5.4 calls on Parties to *"cooperate in the formulation of measures, procedures and guidelines for the implementation of the Convention and the protocols to which they are Parties"*.

Burundi participated in all five sessions of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products and has attended all sessions of the COP since the

Convention entered into force for Burundi (COPs 2–5). This is in line with Burundi's obligations under Article 5.4.

Further cooperation and participation in such intergovernmental processes, particularly in working groups and other intersessional bodies, will facilitate Burundi's implementation of the Convention, the Protocol, and other instruments adopted by the COP.

Article 5.5 calls on Parties to *"cooperate, as appropriate, with competent international and regional intergovernmental organizations and other bodies to achieve the objectives of the Convention and the protocols to which they are Parties"*.

Burundi has been cooperating with WHO in tobacco control activities.

One of the local NGOs, the Burundian Association for the Fight against Tobacco, is a member of the Framework Convention Alliance.

Further details on international cooperation are given under Article 22.

Article 5.6 calls on Parties to *"within means and resources at their disposal, cooperate to raise financial resources for effective implementation of the Convention through bilateral and multilateral funding mechanisms"*.

Burundi has allocated funding within the overall NCD budget towards implementation of the Convention. Burundi has also received technical support from WHO for implementation of the Convention. This is in line with Burundi's obligations under Article 5.6. Additional efforts to mobilize financial resources to undertake tobacco control measures and implement the Convention are encouraged.

Price and tax measures (Article 6)

In Article 6.1, the Parties recognize that *"price and tax measures are an effective and important means of reducing tobacco consumption by various segments of the population, in particular young persons"*.

Article 6.2(a) stipulates that each Party should take account of its national health objectives concerning tobacco control in implementing *"tax policies and, where appropriate, price policies, on tobacco products so as to contribute to the health objectives aimed at reducing tobacco consumption"*.

Taxes are levied on domestic and imported cigarettes and other tobacco products. Taxes include ad valorem excise duties, import taxes and value added tax, along with an East African Community (EAC) levy.[2]

Current system

Burundi's system is in line with the majority of countries in the WHO African Region with an ad valorem tax and a value added tax (VAT) system. Of the 23 countries for which there are data, 21 levy excise taxes on tobacco, of which 13 have ad valorem taxes only, 6 have specific taxes only and 2 have both. In addition, 18 out of the 23 countries for which there are data have a VAT or other sales tax.[3]

Specifically, Burundi has a single excise ad valorem tax rate for all cigarettes, whether domestically produced or imported. This rate was raised from 83% to 120%, effective July 2012. The ad valorem rate had been 100% in 2008. There is a difference in the tax base for imported and domestic cigarettes. Imported cigarettes are taxed on their cost, insurance and freight (CIF) price plus the import duty of 25%, while domestically produced cigarettes are taxed on their ex-factory price. For example, if the ex-factory price is the same as the CIF import price, the import excise tax base will be higher by 25% than the amount of the import tariff. The EAC administrative tax is 0.5%.

[2] The EAC is a a customs union of Burundi, Kenya, Rwanda, the United Republic of Tanzania and Uganda.

[3] *2012 global progress report on implementation of the WHO Framework Convention on Tobacco Control*. Geneva, World Health Organization, 2012.

As per EAC guidelines, **all imports of tobacco products into Burundi are taxed,** including those from other member countries of the EAC.

Finally, **an 18% VAT** is applied to the retail sales price on all cigarettes.

Prices of domestically produced cigarettes are low. The price of the most popular brand in Burundi in 2012 was 800 Burundian Francs (BIF) or US$ 0.50 at the 2012 exchange rate, somewhat below that of the price of the most popular brand in neighboring countries, which in 2011 was US$ 0.6.

There is a large difference in the prices of imported and domestically produced cigarettes. An informal estimate of the average price of imported cigarettes from the Ministry of Economy, Finance and Economic Development is BIF 5000 or US$ 3.14 at the end of 2012 exchange rate, making them as much as 500% more expensive than domestic cigarettes and providing a huge incentive for downward substitution in case of any tax reform. Table 1 uses the price of the most popular domestic brand in 2012 along with an estimated average price of imported cigarettes, converted to US dollars, to calculate tariffs and taxes and tax incidence at those prices. It also provides an estimate of wholesale distribution and retail margins. Although there is a single ad valorem rate, the use of different bases for domestic and imported cigarettes makes the effective rates very different, as shown in Table 1. With an ad valorem excise tax on CIF values and ex-factory prices, there is the potential for undervaluation to minimize taxes. A specific tax both is easier to administer and is less prone to tax avoidance, since it depends only on the number of cigarettes. It has the additional advantage of increasing the price of cheaper cigarettes proportionally more, which limits shifting to cheaper cigarettes as prices increase.

Although the total taxes account for 42.9% of the average retail sales price for imports, and 54.0% on the most-sold brand, the margin on distribution and retailing is higher: at 56.4% on imports, on average, and 62.2% for the most popular domestic brand. This indicates that there is room for an increase in tobacco taxes.

Table 1. Estimates of tax and tariff collection, incidence, and distribution margins, given retail sale prices[4]

	Average import	Average domestic
Assumed CIF value / pack (dollars)	0.29	0.09
Import duties/ pack (dollars)	0.07	Not applicable
Excise	0.79	0.19
VAT per pack (dollars)	0.479	0.0763
Margin for wholesale and retail distribution / pack (%)	56.4	62.2
Excise tax on retail sales price / pack (%)	25.4	38.7
Retail sales prices (dollars)	3.14	0.50
Tax and tariff incidence on retail sales price / pack (%)	**42.9%**	**54.0%**

Burundi no longer grows tobacco on commercial scale; no tobacco has been exported since 2008. According to statistics produced by the Food and Agriculture Organization of the United Nations (FAO), the area under tobacco cultivation was between 1500 and 1700 hectares during the period 2006–2011. The Ministry of Agriculture and Livestock does not promote tobacco leaf production. The Burundi Tobacco Company (BTC) has provided tobacco farmers with subsides for planting and selling in the past, but no longer does so. Both, the Ministry of Economy, Finance and Economic Development and the Revenue Office stated that the tobacco grown at this low level of production is used by farmers to make hand-rolled cigarettes using paper or leaves for personal or family use. These cigarettes are untaxed.

[4] The retail price of the domestic brand is of the most popular brand in 2012. The estimate of the average import price at the end of 2012 is from the Revenue Office; both are converted to US dollars at the exchange rate as at the end of 2012.

BTC is the sole tobacco manufacturer in Burundi. The tobacco used for production is entirely imported: tobacco leaf imports have increased from less than 100 tons per year before 2006 to more than 500 tons per year in 2009 and 2010 (FAO statistics). BTC exports cigarettes, and these exports have declined slightly from over 10 million packs in 2009 to just below 9 million packs in 2012. The largest export market by far is Uganda, followed by Rwanda. Imports of tobacco products have increased since 2009. The value of imported cigarettes is more than doubled by 2012. Imports of cigars and other tobacco products have also increased in the last two years. These figures include sales in duty-free shops.

Representatives of the Ministry of Economy, Finance and Economic Development expressed support for tobacco taxation for both revenue and health reasons, but also expressed concern that higher taxes may increase illicit trade. However, the fact that despite the low tax level illicit trade maybe as high as 80% suggests that lack of control on taxes is at the root of tax evasion. Moreover, the current situation weakens the effectiveness of the Government's tax policy to reduce tobacco use, and also deprives the Government of much-needed revenue.

Gaps –

- The taxation and prices of tobacco products in Burundi are still too low.
- There is an imbalance in effective tax rates due to the base price being different for domestic and imported tobacco products.
- Most of the cigarettes consumed in Burundi are not actually taxed, leading to revenue loss.

It is therefore recommended that the Ministry of Economy, Finance and Economic Development consider gradually moving towards a common tax base for imported and domestic cigarettes to limit incentives to shift to cheaper domestic products. A better alternative, that would also limit the undervaluation problem, would be to switch to a specific tax system. It is recommended that such a system unify taxes on imports and domestic cigarettes gradually, for example, over five years. A specific rate of around US$ 0.70 on imports and US$ 0.2 on domestic production would be a nearly equivalent amount to give the same revenue. It is also recommended that tax rates be increased on a regular, at least annual, basis to take into account both increases in consumer prices and household incomes (to decrease the affordability of tobacco products). Tobacco products other than cigarettes should be taxed in a comparable way to limit substitution among products.

In support of the Government's effort to implement effective tax and price measures to reduce tobacco consumption, the Convention Secretariat is committed to facilitating the provision of expertise and technical support, such as from the World Bank and WHO, upon request from the Government.

Article 6.2 (b) requires Parties to prohibit or restrict, *"as appropriate, sales to and/or importations by international travellers of tax- and duty-free tobacco products"*.

There are currently no limits on imports of duty free cigarettes.

Burundi has not met the obligation under Article 6.2 (b).of the Convention.

It this therefore recommended that Burundi prohibit or restrict sales to and/or importations by international travellers of tax- and duty-free tobacco products. A limit on the amount of cigarettes that can be purchased by diplomats should also be considered, establishing a mechanism of consumer identification for purchases of duty-free products.

Article 6.3 requires that Parties shall *"provide rates of taxation for tobacco products ... in their periodic reports to the Conference of the Parties, in accordance with Article 21"*.

Burundi has provided this information in its two-year but not its five-year report so has therefore not fully met the obligations under Article 6.3.

It is therefore recommended that the Ministry of Public Health and Fight against AIDS work closely with the Ministry of Economy, Finance and Economic Development and the Revenue Office in preparing the next implementation report and in order to provide rates of taxation for tobacco products.

Protection from exposure to tobacco smoke (Article 8)

Article 8.2 requires Parties to *"adopt and implement in areas of existing national jurisdiction as determined by national law and actively promote at other jurisdictional levels the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor work places, public transport, indoor public places and, as appropriate, other public places*."

The Article 8 guidelines emphasize that "*there is no safe level of exposure to tobacco smoke*" and call on each Party to *"strive to provide universal protection within five years of the WHO Framework Convention's entry into force for that Party"*.

The 2008 year Global Youth Tobacco Survey (GYTS) indicated that 40.4% of boys aged 13–15 years and 49.2% of girls aged 13–15 years had been exposed to tobacco smoke in public places. However, there was no smoking in churches, restaurants, work offices and schools. This positive change in behaviour and social norms was due to education, public awareness raising and advocacy.

A ministerial directive prohibits consumption of tobacco in some public places and buses. Smoking on public transport is banned by the Ministry of Transport, Public Area Construction and Equipment.

Article 29 of the draft tobacco control bill, when enacted, will prohibit smoking in some public places, and exposing others to tobacco smoke. A specific fine for violations of this requirement is also specified in the draft bill.

Furthermore, tobacco consumption in public places is banned under Article 30 of the draft bill, which gives a broad definition of public places as places used or visited by the public including schools, hospitals, theatres, cinemas, cultural centres, sports facilities, parks, libraries, elevators, markets, taxis, public/private offices, airports, restaurants and bus stops. The Article obliges the managers or those in charge of the public places or public transport to install warnings signs and to designate the appropriate spaces for smokers. A specific fine for violations of this obligation under the bill is being considered.

However, consumption of cigarettes and other tobacco products should completely ban smoking in indoor public places, work places, public transport and, as appropriate, other places, without allowing indoor smoking areas. There should be an open clause to allow the Ministry of Public Health and the Fight against AIDS to ban smoking in any other appropriate places if needed.

Gaps:

- The five-year deadline of 20 February 2011 as recommended by the guidelines for implementation of Article 8 of the Convention, to provide for universal protection, has not been met.
- The Ministerial Directive is not enforceable due to the lack of penalties and sanctions.
- The draft bill does not ban smoking in all indoor public places and work places.
- The draft bill allows smoking areas in indoor public places and work places but it is not clear whether the smoking areas must not be indoors.

It is therefore recommended that tobacco consumption be banned in all indoor public places, work places and public transport and any other appropriate places designated by the Ministry of Public Health and the Fight against AIDS. It is also recommended that the bill be amended to be fully compliant with Article 8 and its Guidelines. It is further recommended that smoking rooms or areas be banned in indoor public places, work places and, as appropriate, other places defined by the Ministry of Public Health and the Fight against AIDS.

Regulation of the contents of tobacco products (Article 9) and

Regulation of tobacco product disclosures (Article 10)

Article 9 requires Parties to *"adopt and implement effective legislative, executive and administrative or other measures"* for the testing and measuring of the contents and emissions of tobacco products.

Currently, there is no policy or legislative measure related to this article of the Convention. However, Article 10 of the draft tobacco control bill states that each product must be tested by a competent agency jointly designated by the Ministry of Public Health and the Fight against AIDS and the Ministry of Commerce, Industry and Tourism, before authorization of importation or distribution on the market is granted.

The National Reference Laboratory of Burundi has declared that it has capacity to undertake the necessary tests. However, this needs to be confirmed.

Burundi has not yet met the obligations under Article 9.

Gaps:

- There are no national regulations and standards concerning contents and emissions of tobacco products, including the banning of additives, in accordance with the partial guidelines for the implementation of Articles 9 and 10 adopted by the COP.
- The draft tobacco control bill does not specify a designated laboratory for testing tobacco products.

It is recommended that the Ministry of Public Health and the Fight against AIDS implement Article 9 and 10 and the respective guidelines. Relevant legislation and regulations should be developed to include testing and measurement of the contents and emissions of tobacco products in order to implement the guidelines on Articles 9 and 10. It is recommended that the details of the substantive requirements, procedures as well as enforcement of Article 10 of the bill be specified. It is also recommended that the Ministry of Public Health and the Fight against AIDS assess the arrangements for testing, either by developing their own testing capacity or utilizing capable laboratories in the region through bilateral arrangements. The tobacco company should bear all the costs of such testing requirements.

Article 10 requires each Party to *"adopt and implement effective legislative, executive, administrative or other measures requiring manufacturers and importers of tobacco products to disclose to governmental authorities information about the contents and emissions of tobacco products. Each Party shall further adopt and implement effective measures for public disclosure of information about the toxic constituents of the tobacco products and the emissions that they may produce"*.

Currently, there is no policy or legislative measure related to this Article of the Convention. However in the draft bill addresses this obligation under its Article 9, requiring manufacturers and importers of tobacco products to communicate to the relevant authorities any information about contents and emissions of tobacco products. As for the enforcement of this obligation, a fine for violations of this Article is stipulated in Article 45 of the draft bill.

Gaps –

- The partial guidelines for Articles 9 and 10 adopted by the COP have not been fully utilized to regulate disclosures of tobacco products.
- There is no requirement for the tobacco industry to submit reports and disclosure of the contents and emissions of tobacco products to the Ministry of Public Health and the Fight against AIDS.
- There are no measures for public disclosure of information about the toxic constituents of tobacco products and the emissions that they may produce.

It is therefore recommended that Burundi include in the tobacco control bill a provision stipulating that the tobacco industry is required to disclose to the Government information concerning the contents and emissions of tobacco products. It is further recommended that Burundi enable public access to information submitted by the tobacco industry.

Packaging and labelling of tobacco products (Article 11)

Article 11 requires each Party *"within a period of three years after entry into force of the Convention for the Party to adopt and implement ... effective measures"* on packaging and labelling of tobacco products.

This is one of the articles of the Convention that contains a deadline for implementation of specific measures. The deadline of 20 February 2009 for Burundi has not been met.

Currently, there is no policy or legislative measure related to this Article.

Table 1. Comparison of the treaty requirements and level of compliance with these requirements in Burundi, concerning measures under Article 11.

Paragraph in Art. 11	Content	Level of compliance	Comments and identified gaps
1(a)	tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, including any term, descriptor, trademark, figurative or any other sign that directly or indirectly creates the false impression that a particular tobacco product is less harmful than other tobacco products. These may include terms such as "low tar", "light", "ultra-light", or "mild".	NOT YET IMPLEMENTED	Articles 13 and 14 of the draft bill address this obligation. Article 14 of the draft bill prohibits any packaging and labelling of tobacco products that contributes to their promotion by any means that may create an erroneous impression about their characteristics, health effects and hazards, including descriptive terms, trademarks, figurative or any other signs which directly or indirectly give the impression that a tobacco product is less harmful than another. Article 13 of the bill requires that displays and labelling do not use terms that may give a

			false impression, such as “low tar”, “light”, “ultra-light” or “sweet”.
1(b)	each unit packet and package of tobacco products and any outside packaging and labelling of such products also carry health warnings describing the harmful effects of tobacco use, and may include other appropriate messages.	NOT YET IMPLEMENTED	Article 12 of the draft bill bans any packaging of tobacco products which is not in accordance with the bill. Packets and packages and all forms of outer packaging of tobacco products sold in Burundi must include health warnings.
1(b)(i)	[The warning] shall be approved by the competent national authority.	NOT YET IMPLEMENTED	The draft bill requires the approval of the Ministry of Public Health and the Fight against AIDS.
1(b)(ii)	[The warnings] shall be rotating.	NOT YET IMPLEMENTED	Not in the draft bill yet.
1(b)(iii)	[The warning] shall be large, clear, visible and legible.	NOT YET IMPLEMENTED	Article 12 of the draft bill requires health warning in indelible and legible characters.
1(b)(iv)	[The warning] should be 50% or more of the principal display areas but shall be no less than 30% of the principal display areas.	NOT YET IMPLEMENTED	Article 12 of the draft bill requires at least 50% of the display area to be covered by warnings.
1(b)(v)	[The warning] may be in the form of or include pictures or pictograms	NOT YET IMPLEMENTED	Article 12 of the draft bill requires the health warnings to be in the form of pictures or pictograms..
2	Each unit packet and package of tobacco products and any outside packaging and labelling of such products shall, in addition to the warnings specified in paragraph 1(b) of this Article, contain information on relevant constituents and emissions of tobacco products as defined by national authorities.	NOT YET IMPLEMENTED	Article 11 of the draft bill addresses this obligation but it needs to be amended. Furthermore, the details of the list of substances as well as the conditions for determining those substances and their components determined by the Ministry of Public Health and the Fight against AIDS through the adoption of regulations must be mentioned on the package.

3	Each Party shall require that the warnings and other textual information specified in paragraphs 1(b) and paragraph 2 of this Article will appear on each unit packet and package of tobacco products and any outside packaging and labelling of such products in its principal language or languages.	NOT YET IMPLEMENTED	Article 12 of the draft bill requires health warnings and messages in the four languages of Kirundi, Swahili, French and English.

Fines should be considered for violations of Articles 12 and 14 of the draft bill for enforcement purposes.

The articles in the draft bill related to packaging and labelling of tobacco products require further refinement through the adoption of a comprehensive set of regulations; as the provision regarding displays of substances and additives and the enforcement of packaging and labelling rules are addressed while any inclusion of emission levels requires additional regulations.

Gaps -

- Burundi has missed the deadlines in implementing Article 11 and its guidelines.
- Article 11 of the draft bill requires that the average nicotine content and average amounts of tar and other substances that may be released by smoking must be mentioned in the conditions of use

It is therefore recommended that Burundi adopt the draft bill in a timely manner to enable implementation of Article 11 of the WHO FCTC and the guidelines for its implementation. It is also recommended that Article 11 of the bill be amended to require the display of relevant

qualitative statements on each unit packet or package about the constituents and emissions of the tobacco products. However, in line with Article 11 of the WHO FCTC, Burundi should not require quantitative or qualitative statements about tobacco constituents and emissions to be included that might imply that one brand is less harmful than another, such as tar, nicotine and carbon monoxide figures.

Education, communication, training and public awareness (Article 12)

Article 12 requires that *"each Party shall adopt and implement effective legislative, executive, administrative or other measures to promote"education, communication and public awareness about the health, economic and environmental consequences of tobacco consumption and exposure to tobacco smoke, the benefits of tobacco cessation and tobacco-free lifestyles as well as training to all concerned professionals and persons and public access to information on the tobacco industry.*

Burundi has conducted several education, communication and awareness-raising activities on the harmful effects of tobacco use and exposure to tobacco smoke, among the population at large and key target groups, such as health, community and social workers, media professionals, educators and decision-makers. Education, information and communication materials are usually pretested. Health professionals receive the relevant training during their pre-service training.

During the mission of the international team, it was agreed that it would be important to involve the Ministry of Telecommunications, Information Communication and Relations with Parliament (MTICRP) in coordinating with the national radio and TV agency (Radio and Television Nationale du Burundi – RTNB) to ensure its supportive and proactive contribution to tobacco control advocacy campaigns.

In Article 32 of the bill, the issue of strengthening information, education and communication activities concerning the dangers associated with tobacco consumption and the benefits of cessation is addressed as one of the functions of the National Committee for Tobacco Control.

Gaps –

- There is not sufficient financial support to enable the resource-demanding activities required to meet the obligations under Article 12 to be carried out.

- There is no free air time allocated to the broadcasting of tobacco control campaign messages.

- There is no systematic collection of information on the tobacco industry and no public access to such information.

- There is a lack of systematic evaluation of the effectiveness of education, communication and training activities.

- There is a lack of in-service tobacco control and cessation training for health professionals and educators.

It is therefore recommended that the Ministry of Public Health and the Fight against AIDS work together with the MTICRP, the Ministry of Primary and Secondary Education, Professional Training and Literacy, the Ministry of Higher Education and Scientific Research, and other ministries and civil society organizations to develop a plan, mobilize more resources and further develop and implement evidence-based education, communication, public awareness and training programmes. Free air time should be provided by national radio and television stations for the broadcasting of messages aimed at preventing tobacco use. International cooperation may be useful to ensure that rigorous, systematic and objective methods are used in designing and implementing these programmes.

In support of the Government's efforts to implement Article 12 and the guidelines for its implementation, the Convention Secretariat is committed to facilitating provision of expertise and technical support upon request from the Government.

Tobacco advertising, promotion and sponsorship (Article 13)

Article 13.1 of the Convention notes that the Parties "*recognize that a comprehensive ban on advertising, promoting and sponsorship would reduce the consumption of tobacco products*".

Article 13.2 of the Convention requires each Party to: *"in accordance with its constitution or constitutional principles, undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, a comprehensive ban on cross-border advertising, promotion and sponsorship originating from its territory. In this respect, within the period of five years after entry into force of this Convention for that Party, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21"*.

This is one of the articles of the Convention that contains a deadline for implementation of specific measures. The deadline of 20 February 2011 for Burundi has not been met.

There is no national policy or legislation to address this obligation; however, there have been no tobacco advertisements on TV and radio for almost five years. This is due to behaviour change and an emerging social norm against smoking. The international team was informed that the public do not have access to tobacco advertising, promotion and sponsorship in the country.

This issue is addressed in the draft bill in a comprehensive way. Article 19 of the draft bill prohibits any type of sponsorship with the objective or effect of direct or indirect advertising of tobacco products. Article 20 of the draft bill prohibits manufacturers, importers or retailers from providing tobacco products free of charge, providing accessories that display a brand element of a tobacco product, and from directly or indirectly providing or giving a consideration for the purchase of a tobacco product. In addition, Article 23 of the draft bill prohibits all forms of promotional items including plastic bags and other containers.

The provisions of the draft bill on advertising, promotion and sponsorship still require some reinforcement; in particular, those that prohibit brand stretching and reverse brand stretching need to be elaborated. A review of this part of the bill by drafters will ensure that all aspects of tobacco advertisement, promotion and sponsorship in Burundi are effectively regulated.

It is recommended that Burundi adopt the draft bill in order to be fully compliant with Article 13 and its guidelines. It is also recommended that the bill stipulate a ban on point of sale displays of tobacco products and "corporate social responsibility" activities.

Article 13.5 encourages Parties to *"implement measures beyond the obligations set out in paragraph 4"*.

Currently Burundi has not implemented any measures beyond the obligations set out in paragraph 4.

Article 13.7 reaffirms Parties' *"sovereign right to ban those forms of cross-border tobacco advertising, promotion and sponsorship entering their territory and to impose equal penalties as those applicable to domestic advertising, promotion and sponsorship originating from their territory in accordance with their national law".*

Burundi has not fully implemented any measures to ban cross-border tobacco advertising, promotion and sponsorship entering into its territory. However, Article 15 of the draft bill addresses this obligation by prohibiting any manufacturer, importer, supplier, distributor or seller of cigarettes and other tobacco products to carry out any form of advertising including cross-border advertising and promotion, direct and indirect, of any form of tobacco and tobacco products. Article 40 of the bill covers fines for violations.

It is therefore recommended that the draft bill be adapted to ensure a complete ban on tobacco advertising, promotion and sponsorship, including a ban on point-of-sale tobacco displays, Internet tobacco sales, contributions from the tobacco industry and importers in the form of "socially responsible" activities, and a ban on cross-border tobacco advertising, promotion and sponsorship entering into and originating from its territory.

Measures concerning tobacco dependence and cessation (Article 14)

Article 14.1 requires each Party to *"develop and disseminate appropriate, comprehensive and integrated guidelines* [concerning tobacco dependence and cessation] *based on scientific evidence and best practices…* [and] *take effective measures to promote cessation of tobacco use and adequate treatment for tobacco dependence"*.

Burundi does not have guidelines concerning tobacco dependence and cessation.

Gap – Burundi has not developed national guidelines to promote cessation of tobacco use.

It is therefore recommended that Burundi make full use of the guidelines for implementation of Article 14 of the Convention, adopted by COP4, in designing and developing its own comprehensive guidelines concerning tobacco dependence and cessation, taking into account national circumstances and priorities.

Article 14.2 stipulates that to achieve the end outlined in Article 14.1, *each Party shall endeavour to" implement effective tobacco cessation programmes aimed at promoting the cessation of tobacco use, include diagnosis and treatment of tobacco dependence and counselling services on cessation of tobacco use in national health and education programmes, establish in health care facilities and rehabilitation centres programmes for diagnosing, counselling, preventing and treating tobacco dependence, and ensure the accessibility and affordability of treatments for tobacco dependence.*

In Burundi, health professionals are trained during pre-service training on tobacco control. It is mandatory to ask whether a patient uses tobacco or not in medical consultations. Brief cessation advice is provided in primary health care facilities. However, there is no reference clinic for treatment of tobacco dependence and there are no medicines available in Burundi for such treatment.

Gaps –

- There is no comprehensive and integrated programme concerning tobacco dependence and cessation in Burundi.

- There is no national quit line for tobacco cessation.

- Pharmaceutical products for treatment of tobacco dependence are not freely available in the public health service.

It is therefore recommended that: (i) national programmes and services on diagnosis and treatment of tobacco dependence, and counselling services on cessation of tobacco use be established. Community-based counselling and cessation programmes should be a primary approach; (ii) all health care workers be trained to record tobacco use, give brief advice and encourage quit attempts; (iii) Burundi collaborate with other Parties to facilitate accessibility and affordability of pharmaceutical products for treatment of tobacco dependence; (iv) Burundi establish a national toll-free quit line; (vi) curricula on tobacco dependence treatment be enhanced at medical, dental, nursing and pharmacy schools.

Illicit trade in tobacco products (Article 15)

In Article 15 of the Convention the *"Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to sub-regional, regional and global agreements, are essential components of tobacco control"*.

The Protocol to Eliminate Illicit Trade in Tobacco Products adopted at COP5 provides an additional legal instrument to reduce supply. All Parties to the WHO FCTC are eligible to sign and ratify the Protocol. The Protocol has been open for signature and/or ratification since 10 January 2013. Parties may sign it at United Nations Headquarters in New York until 9 January 2014 (thereafter the Protocol will be open for accession). The Government of Burundi has started the process of becoming a signatory of the Protocol.

Burundi is part of the EAC and cooperates with other members on trade issues. Burundi has been a member of the World Customs Organization (WCO) since 1964 and has received training and capacity building support from that organization.

There are two main types of illicit trade in Burundi. The first is small-scale farming of tobacco

for personal use. This dispersed small-scale production is unlikely to be taxable. The second is illegal importation of cigarettes. An informal estimate of the level of illicit trade at the Revenue Office was 80%, with much of the supply coming from duty-free sales purchased in duty-free outlets within the country. Until now, there has not been a careful estimate carried out of the real volume and value of duty-free re-sales. Likewise, there has not yet been an effort to curb the illicit resale of duty-free cigarettes.

There is no formal track and trace system in place. The Revenue Office seems to have the capacity to establish an audit trail for imports, which is common practice in neighboring countries, and which would be of some benefit in this regard. However, experience suggests that in order to reduce illicit trade several other measures are needed. Those measures are listed in Article 15 of the WHO FCTC.

An overview of the measures taken against illicit trade in tobacco products, with identified needs, is given in **Table 2** below.

Table 2. Overview of measures taken against illicit trade in tobacco products in Burundi

Paragraph in Art. 15	Content	Level of compliance	Comments & identified gaps
2	Each Party shall adopt and implement effective legislative, executive, administrative or other measures to ensure that all unit packets and packages of tobacco products and any outside packaging of such products are marked to assist Parties in determining the origin of tobacco products.	OBLIGATION MET	The East African Community Customs Management Act of 2004 controls all forms of illicit trade, smuggling and counterfeiting, including illicit tobacco products. Part X, Section 111(2) of the EAC Customs Management Act states that a certificate of and other documents of origin for goods imported from within EAC is required. However, there is no requirement

			for products to include markings to indicate country of origin.
2(a) and 3	Require that unit packets and packages of tobacco products for retail and wholesale use that are sold on its domestic market carry the statement: *"Sales only* *allowed in (insert name of the country, subnational, regional or federal unit)"* or carry any other effective marking indicating the final destination or which would assist authorities in determining whether the product is legally for sale on the domestic market.	NOT YET IMPLEMENTED	There are markings to indicate final destination.
2(b) and 3	Consider, as appropriate, developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade.	NOT YET IMPLEMENTED	There is no formal tracking and tracing system, but Burundi would be able to establish an audit trail for legal trade. The Ministry of Finance is considering the introduction of tax stamps. All neighbouring countries have introduced tax stamps.
4(a)	Monitor and collect data on cross-border trade in tobacco products, including illicit trade, and exchange information among customs, tax and other authorities, as appropriate, and in accordance with national law and relevant applicable bilateral or multilateral agreements.	OBLIGATION NOT MET.	Although data on cross-border trade in tobacco products is collected and shared with ministries as appropriate and with other EAC members, there is no formal data collection on illicit trade from and through duty-free shops
4(b)	Enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband cigarettes.	OBLIGATION NOT MET	Part XVII – Offenses, Penalties, Forfeiture, Seizure – deals with confiscation for violations. The Revenue Office imposes a fine on illicit products. But not on Tobacco from duty free that is being illegally re-sold
4(c)	Take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using	OBLIGATION MET BUT IMPLEMENTATION TO BE STRENGTHENED	The EAC Customs Management Act provides for the destruction of confiscated tobacco products, but no specification as to method. The confiscated illicit tobacco

	environmentally-friendly methods where feasible, or disposed of in accordance with national law.		products are destroyed in Burundi.
4(d)	Adopt and implement measures to monitor, document and control the storage and distribution of tobacco products held or moving under suspension of taxes or duties within its jurisdiction.	OBLIGATION MET	Implemented under the EAC Customs Management Act.
4(e)	Adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.	OBLIGATION NOT MET	The EAC Customs Management Act provides for the destruction of confiscated tobacco products. Proceeds derived from illicit trade in tobacco products are not confiscated.
5	Information collected pursuant to subparagraphs 4(a) and 4(d) of this Article shall, as appropriate, be provided in aggregate form by the Parties in their periodic reports to the COP, in accordance with Article 21.	NOT IMPLEMENTED	Information on illicit trade in tobacco products was not reported in both the two year and five year implementation reports submitted by Burundi
6	Promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations as it relates to investigations, prosecutions and proceedings, with a view to eliminating illicit trade in tobacco products. Special emphasis shall be placed on cooperation at regional and subregional levels to combat illicit trade of tobacco products.	OBLIGATION PARTIALLY MET	Burundi is a member of the WCO and of the EAC. Members have the legal possibility to cooperate to combat illicit trade.
7	Each Party shall endeavor to adopt and implement further measures including licensing, where appropriate, to control or regulate the production and distribution of tobacco products in order to prevent illicit trade.	OBLIGATION MET	Manufacturing tobacco products in Burundi requires a licence. The Burundi Central Bank issues import licences for tobacco products. No licence is needed for sale of tobacco products in Burundi. The EAC Customs Management Act has put in place some control measures.

Gaps –

1. There is no requirement for products to include markings to indicate final destination.

2. There is no tracking and tracing system.

3. Confiscated products are not destroyed using an environmentally friendly method.

4. There is a lack of coordination among the Revenue Office, the Ministry of Water, Environment, Land and Urban Planning, and the Ministry of Public Health and Fight against AIDS.

It is therefore recommended that Burundi require that products include the statement "Sales only allowed in Burundi" or other effective markings to indicate final destination. It is also recommended that Burundi establish an effective tracking and tracing system to eliminate illicit trade in tobacco products. It is further recommended that Burundi identify environmentally friendly methods for the destruction of all confiscated illicit tobacco products through close cooperation among the Revenue Office, the Ministry of Water, Environment, Land and Urban Planning, and the Ministry of Public Health and Fight against AIDS. It is also recommended that Burundi become an early signatory to the Protocol to Eliminate Illicit Trade in Tobacco Products followed by ratification, and promote international bilateral and multilateral cooperation to curb illicit trade in tobacco products.

Sales to and by minors (Article 16)

Article 16 requires "*measures at the appropriate government level to prohibit the sales of tobacco products to persons under the age set by domestic law, national law or*

eighteen."

Article 16.1.(a) requires Parties to ensure that "*all sellers of tobacco products place a clear and prominent indicator inside their point of sale about the prohibition of tobacco sales to minors and, in case of doubt, [to] request that each tobacco purchaser provide appropriate evidence of having reached full legal age*;".

Currently, there is no policy or legislative measure related to this Article. However, this obligation is addressed in Article 25 of the draft bill, which prohibits the sale to and consumption of tobacco and tobacco products by people aged less than 18 years and pregnant women. In Article 41, a specific fine is provided for violations. However, the prohibition regarding points of sale needs to be clarified and elaborated.

Burundi has not yet met the obligations under Article 16.1(a).

It is therefore recommended that the draft bill be adopted to enable implementation of Article 16 of the Convention. It is also recommended that the Ministry of Public Health and the Fight against AIDS work closely with the Ministry of Interior and Communal Development and other law enforcement agencies to enforce the legislation once it is adopted.

Article 16.1(b) requires Parties to "*ban the sale of tobacco products in any manner by which they are directly accessible, such as store shelves*;".

There is no policy or legislative measure related to this Article.

Currently, cigarettes are accessible from a small wooden boxes (semi-quioske), where sellers in some cases are children.

Article 27 of the draft bill states that points of sale of tobacco products and their required characteristics are defined by a Joint Order of the Ministry of Public Health and the Fight against AIDS and the Ministry of Commerce, Industry and Tourism. The outlets are indicated by signs reminding of the dangers associated with the consumption of tobacco products. The shape of the panels and content of the messages are determined by the Joint Order. Setting up points of sale of tobacco in violation of Articles 27 and 28 incurs a fine under Article 43 of the bill.

Burundi has not met the obligations under Article 16.1(b).

Article 16.1(c) requires Parties to prohibit "*the manufacture and sale of sweets, snacks, toy or any other objects in the form of tobacco products which appeal to minors*".

There is no policy or legislative measure related to this Article. However, under Article 20 of the draft bill manufacturers, importers or retailers may be prohibited from producing, distributing or selling free candy, toys or other objects that resemble tobacco products.

Burundi has not yet met the obligations under Article 16.1(c).

Article16.1(d) calls on each Party to ensure *"that tobacco vending machines under its jurisdiction are not accessible to minors and do not promote the sale of tobacco products to minors"*.

There is no policy or legislative measure related to this Article. Currently there are no tobacco vending machines in Burundi.

However, the sale of tobacco products through vending machines or by any other means allowing direct access to tobacco products is prohibited under Article 26 of the draft bill. Vending machines constitute, by their very presence, a means of advertising and promotion.

It is therefore recommended that the draft bill retain the provision banning tobacco vending machines, in order to prevent their introduction into the country in the future.

Article 16.3 calls on Parties to *"endeavour to prohibit the sale of cigarettes individually or in small packets which increase the affordability of such products to minors"*.

Gaps –

- There is no policy or legislative measure related to this Article.
- There is no provision in the draft bill that addresses this issue.

It is therefore recommended that a provision be introduced into the bill stipulating a ban on sales of cigarettes individually or in small packets.

Provision of support for economically viable alternative activities (Article 17)

Article 17 calls on Parties to promote, as appropriate, *"in cooperation with each other and with competent international and regional intergovernmental organizations… economically viable alternatives for tobacco workers, growers and, as the case may be, individual sellers"*.

Burundi grows and produces tobacco on scattered plots of land and on a small-scale for family use. The BTC is the only tobacco company in Burundi that used to hire farmers to grow tobacco for manufacturing purposes. There is currently no tobacco being grown for commercial purposes. However, both the national strategic plan and the bill will address the need to support farmers in moving to economically viable alternative activities.

The Ministry of Agriculture and Livestock does not promote tobacco growing. At the same time, there are no policies or plans or programmes to provide support to tobacco workers and growers in shifting to economically viable alternative livelihoods.

Article 4 of the draft bill prohibits hand-rolled cigarettes or industrial tobacco product. For traditional culture practiced by farmers, policies and programmes are developed by the Government to replace tobacco growing by other economically profitable products. The penalty against the violation of this article is mentioned under the Article 46 of the bill.

In addition, the State cannot grant any subsidies or promulgate any decree or incentive for cultivation or processing of tobacco based on Article 22 of the draft bill.

Gap – There are no policies, plans or programmes to provide support to tobacco workers and growers in moving to economically viable alternative livelihoods.

It is recommended that the relevant Government agencies be made aware of the obligation under Article 17 to promote economically viable alternatives to tobacco workers and growers. It is also recommended that Burundi promote economically viable alternatives to tobacco growing including mobilization of support by relevant international organizations and development partners.

Protection of the environment and the health of persons (Articles 18)

In Article 18, Parties agree to *"have due regard to the protection of the environment and the health of persons in relation to the environment in respect of tobacco cultivation and manufacture".*

At present, there is no regulation on tobacco cultivation and manufacturing and their impact on the environment.

Tobacco is grown by individual farmers for personal consumption. Tobacco products are manufactured in Burundi by the BTC for local use. During the needs assessment mission, the Ministry of Water, Environment, Land and Urban Planning was briefed about the obligations under Article 18 of the Convention and the Ministry confirmed its willingness to work together with the Ministry of Public Health and the Fight against AIDS in implementing the Convention.

Article 6 of the draft bill considers the tobacco industry civilly liable for damage that its activities cause to people and the environment.

Gap – There is no measure or policy in place to protect the environment and health of persons working in tobacco cultivation and manufacture.

It is therefore recommended that the Ministry of Public Health and the Fight against AIDS, and the Ministry of Water, Environment, Land and Urban Planning work together to implement Article 18 of the Convention.

Liability (Article 19)

Article 19 requires Parties to consider, for the purpose of tobacco control, *"taking legislative action or promoting their existing laws, where necessary, to deal with criminal and civil liability, including compensation where appropriate"*.

There are no policy or legislative measures related to this Article. However, any natural or legal person whose interest is adversely affected by the activities of the tobacco industry can pursue the matter through the competent courts, based on the Article 7 of the bill. Burundi is encouraged to keep this provision in the bill.

Burundi has not met the obligations under Article 19.

Ait is fifth session, the COP established an expert group on liability comprising no more than three experts per WHO region. The expert group will submit a report to the COP at its six session.

It is therefore recommended that Burundi review and promote options for implementing Article 19 in its national context, and introduce a provision into the draft tobacco control legislation to deal with criminal and civil liability, including compensation where appropriate. It is also recommended that Burundi contribute to the work of the expert group and take stake in it. It is further recommended that the provision on liability in the draft bill be aligned with

existing civil litigation laws in Burundi to ensure that it can be effectively applied. Further elaboration of rules on the civil liability of the tobacco industry could also be considered.

Research, surveillance and exchange of information (Article 20)

Article 20 requires Parties to *"develop and promote national research and to coordinate research programmes at the regional and international levels in the field of tobacco control"*.

Research studies and surveillance in the field of tobacco control have been conducted in collaboration with international organizations and development partners WHO and the US Centers for Disease Control supported the GYTS. The United States Agency for International Development supports the Demographic Health Survey, which includes questions related to tobacco use. WHO STEPS has started and is currently at the data collection phase: it will subsequently provide adult tobacco use prevalence data, which is currently lacking in Burundi's implementation report. These surveys provide key data for policy and programmatic recommendations. As these studies are part of the global surveillance system, data are comparable and made available publicly. For each survey, financial and technical assistance are provided, as well as training for key personnel on survey methodology, implementation and analysis.

In addition, medical university graduates conducted research on tobacco consumption in primary and secondary schools in Burundi in 2012.

ABULUTA conducted research on the status of implementation of the WHO FCTC in Burundi in March 2012. However, due to financial limitations, the results of this research were not published.

Article 32 of the draft bill also establishes the National Committee for Tobacco Control with responsibility for implementing national tobacco control policies by developing and implementing training programmes and applied research.

Gaps –

- There is a lack of national data on the burden of disease related to tobacco and direct costs attributable to tobacco use and exposure to tobacco smoke.
- There is a lack of evaluation studies on the effectiveness of interventions to reduce tobacco use prevalence.
- There is no research on alternative livelihoods.
- There is a lack of epidemiological surveillance of tobacco consumption and related social, economic and health indicators.
- There is a lack of capacity and resources to conduct research.
- There is a lack of national data on adult tobacco use and exposure to tobacco use.

It is therefore recommended that Burundi conduct research addressing the determinants and consequences of tobacco (both smoked and smokeless) consumption and exposure to tobacco smoke, including data on mortality and morbidity attributable to tobacco use. It is also recommended that Burundi conduct evaluation studies of the effectiveness of interventions to reduce tobacco use prevalence. It is further recommended that Burundi conduct research on alternative livelihoods. The Government is encouraged to utilize research findings and surveillance results in developing the national tobacco control programme and interventions.

Reporting and exchange of information (Article 21)

Article 21 requires each Party to *"submit to the Conference of the Parties, through the Secretariat, periodic reports on its implementation of this Convention*".

Burundi has provided both of the required implementation reports on time. The two-year (first) report was submitted on 27 January 2009 and the five-year (second) report on 22 October 2012. The third report is due in the 2014 reporting period (1 January to 30 April 2014).

Burundi has met its obligations under Article 21 of the Convention.

As the COP established a new two-year cycle of implementation reports starting from 2012 with a deadline of submission six months prior to each COP session, it is recommended that the Government start the preparation of the next report well in advance in 2013 in order to meet the deadline in 2014, and similarly in subsequent reporting cycles.

Cooperation in the scientific, technical, and legal fields and provision of related expertise (Article 22)

Article 22 requires that Parties *"shall cooperate directly or through competent international bodies to strengthen their capacity to fulfill the obligations arising from this Convention, taking into account the needs of developing country Parties and Parties with economies in transition. Such cooperation shall promote the transfer of technical, scientific and legal expertise and technology, as mutually agreed, to establish and strengthen national tobacco control strategies, plans and programmes"*.

The United Nations Development Assistance Framework (UNDAF) is the strategic programme framework jointly agreed between governments and the United Nations system outlining priorities in national development. In decision FCTC/COP4(17), the COP fully acknowledges the importance of implementation of the Convention under the UNDAF as a strategic approach to ensure long-term and sustainable implementation, monitoring and evaluation of progress for developing countries. The decision encourages developing countries to utilize the opportunities for assistance under the UNDAF and requests the Convention Secretariat to actively work with the United Nations agencies responsible for implementation of the UNDAF and coordination of the delivery of assistance, in order to strengthen implementation of the Convention at country level.

The current UNDAF covers 2012 to 2016. The new version of the UNDAF will be launched and implemented in 2014. In both the current and new versions, supporting implementation of the Convention is not identified as a priority. The international team met the WHO Representative (who was also the acting United Nations Resident Coordinator in Burundi) as well as the UNDP Country Director and discussed whether implementation of the Convention could be included in future programme activities during the mid-term review of the UNDAF in 2014. Both of them recognized the opportunities to include the Convention in the mid-term review. The WHO Country Office and UNDP will liaise with the concerned stakeholders to facilitate this effort.

Gaps – Supporting implementation of the Convention has not been included as a priority in the current UNDAF nor in the new UNDAF.

It is therefore recommended that the Ministry of Public Health and the Fight against AIDS actively follow up with the WHO Country Office, the United Nations Resident Coordinator and UNDP to include implementation of the prioritized areas of the Convention under the UNDAF programming activities in 2014 and beyond, and discuss appropriate programming activities during the upcoming mid-term review in 2014. The activities may include priorities identified based on this joint needs assessment report. It is further recommended that the Government of Burundi actively seek opportunities to cooperate with other Parties, competent international organizations and development partners present in the country to support implementation of the Convention.

Financial resources (Article 26)

In Article 26, Parties recognize *"the important role that financial resources play in achieving the objective of this Convention"*. Furthermore, Article 26.2 calls on each Party to *"provide financial support in respect of its national activities intended to achieve the objective of the Convention, in accordance with its national plans, priorities and programmes"*.

Each year, the Ministry of Public Health and the Fight against AIDS allocates a budget to the NCD Department. The tobacco control programme and implementation of the Convention are under the Department and accordingly benefit from the overall budget. However there is no separate budget line for tobacco control.

Since there is no coordination mechanism and plan in place yet, other ministries that have obligations to implement the Convention have not yet allocated any budget and focal point for implementation of the Convention.

Based on the Articles 34 and 35 of the bill, the National Tobacco Control Committee proposes the amount of the budget required per year.

Gaps –

- The funding allocated by the Ministry of Public Health and the Fight against AIDS is not sufficient to fully implement the Convention and enforce the draft tobacco control bill.

- Since there is no coordination mechanism and no plan in place, other relevant ministries that have obligations to implement the Convention are not yet involved. Therefore, there is no allocation of staff or budget to implementation of the Convention.

It is therefore recommended that the Government allocate adequate budget and staff time to implementation of the Convention.

Article 26.3 requires Parties to *"promote, as appropriate, the utilization of bilateral, regional, subregional and other multilateral channels to provide funding for the development and strengthening of multisectoral comprehensive tobacco control programmes of developing country Parties and Parties with economies in transition"*.

Currently, WHO is the only partner for implementation of the Convention in Burundi. UNDP, UNICEF, the FAO and other United Nations agencies present in the country could play a more active role in supporting implementation of the Convention. The World Bank could also play a more active role in supporting development of appropriate tobacco tax policies as well as economically viable alternatives.

Gaps – Burundi has not yet fully utilized the bilateral, regional, subregional and other multilateral channels available to provide funding for the development and strengthening of multi-sectoral comprehensive tobacco control programmes.

It is therefore recommended, in line with Article 26.3 of the Convention, that the Government of Burundi seek assistance from development partners and promote the inclusion of implementation of the Convention in bilateral and multilateral agreements and action plans developed with these agencies.

Article 26.3 specifically points out that those projects promoting *"economically viable alternatives to tobacco production, including crop diversification should be addressed and supported in the context of nationally developed strategies of sustainable development"*.

Gaps –

- The Government has not yet promoted such projects.
- The national strategies of sustainable development have not addressed implementation of the Convention and the specific issues under this Article.

It is therefore recommended that the relevant ministries make efforts to implement Burundi's obligations under Article 26.3 of the Convention.

Article 26.4 stipulates that *"Parties represented in relevant regional and international intergovernmental organizations, and financial and development institutions shall encourage these entities to provide financial assistance for developing country Parties and for Parties with economies in transition to assist them in meeting their obligations under the Convention, without limiting the rights of participation within these organizations"*.

The Ministry of External Relations and International Cooperation, the Ministry for Regional Integration and East African Community Affairs and the Ministry of Public Health and the Fight against AIDS are committed to ensuring that Burundi will promote implementation of the Convention in the relevant bilateral and multilateral forums.

Gap – Other than WHO, Burundi has not to date been successful in mobilizing financial assistance from other Parties, regional and international organizations and financial and development partners that are able to provide aid to developing countries (including Burundi) in meeting their obligations under the Convention.

It is recommended that Burundi utilize the potential of Article 26.4 to advocate for moving the Convention higher up the international development agenda. It is also recommended that other ministries, such as the Ministries of External Relations and International Cooperation, Regional Integration and East African Community Affairs, representing Burundi in other regional and global forums, also proactively urge regional and international organizations and financial institutions to provide financial assistance to developing countries with regard to supporting them in implementation of the Convention.