Needs assessment for implementation of the WHO Framework Convention on Tobacco Control in Cook Islands

Convention Secretariat

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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 175 Parties to date. Cook Islands ratified the WHO FCTC on 14 May 2004 and was among the first 40 countries to do so. The Convention entered into force for Cook Islands on 27 February 2005.

A needs assessment exercise for implementation of the WHO FCTC was conducted jointly by the Government of Cook Islands and the Convention Secretariat from February to June 2012, including the initial analysis of the status, challenges and potential needs deriving from the country's most recent implementation report and other sources of information, and the mission of an international team from the Convention Secretariat to Cook Islands from 5 to 9 March 2012. The assessment involved relevant ministries and agencies of Cook Islands (see Annex). This needs assessment report presents an article-by-article analysis of the progress the country has made in implementation; the gaps that may 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 Cook Islands to 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, Cook Islands is obliged to implement its provisions through national laws, regulations or other measures. There is therefore a need to analyse this report, identify all obligations in the substantive articles of the Convention, link them with the relevant 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. Cook Islands developed a Tobacco Control Action Plan in 2004. The National Strategy and Action Plan to Prevent and Control Non Communicable Diseases (NCDs) (2009–2014) highlights the importance of the WHO FCTC and identifies tobacco use as one of the risk factors for NCDs. However, it does not include comprehensive tobacco control strategies and action plans to enable the country to meet all the obligations under the Convention. The Plan also indicated that a separate National Tobacco Control Strategy (2009) should be developed, which is still in draft form to date. The joint needs assessment report will serve as a baseline to develop the national strategy or action plan. It is recommended that the Ministry of Health (MOH) take the lead and involve all key stakeholders to develop a multisectoral national tobacco control strategy or action plan.

Third, a national tobacco control focal point is established and fully functional within the Health Promotion Unit of the MOH. The Convention requires a national multisectoral coordinating mechanism to be established to coordinate its implementation. While the MOH has been taking the lead in coordinating tobacco control activities and working closely with some ministries, there is currently no formal national multisectoral coordinating mechanism. Awareness of the Convention and the responsibilities of

different Government agencies to meet the obligations under the Convention remains relatively low. Mandates and responsibilities of different agencies should be clearly defined. The Government needs to allocate an adequate budget to implementation of the Convention and enforcement of the Tobacco Products Control Act 2007 (the Act) in order to meet its international obligations under the Convention. It is recommended that Cook Islands establish and finance a multilateral national coordinating mechanism to coordinate all stakeholders' efforts in meeting the obligations under the Convention.

Fourth, Cook Islands enacted tobacco control legislation in 1987. After the Convention entered into force for Cook Islands, the Act and Tobacco Control Products Regulations 2008 (the Regulations) were developed in a timely manner. This is a major achievement in implementation of the Convention. While the Act and the Regulations are quite comprehensive, there is a need to review and update them according to the Convention and the guidelines adopted by the Conference of the Parties. The MOH has already included revision of the Act and the Regulations in its legislation plan. Meanwhile it is also important that the Act and the Regulations should be enforced. Non-compliance and breaches of the Act and the Regulations should be prosecuted. To make enforcement easier, it would be worthwhile to give the police or health inspectors more enforcement power, such the ability to give on-the-spot fines.

Fifth, 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 next UNDAF (2013–2017) has been finalized. However, it does not include implementation of the WHO FCTC. The international team met the UN Resident Coordinator (UNRC) and also officials of the Ministry of Foreign Affairs and Migration and brought this to their attention. It is therefore recommended that the MOH follow this up with the Ministry of Foreign Affairs and the UNRC to ensure that supporting implementation of the Convention is included in the UNDAF (2014–2019).

Sixth, addressing the issues raised in this report, including particular attention given to treaty provisions with a deadline (Articles 8, 11 and 13 and 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 Cook Islands.

The needs identified in this report represent priority areas that require immediate attention. As Cook Islands addresses these areas, the Convention Secretariat is available and committed to supporting the process of engaging potential partners and identifying internationally available resources for implementation of the Convention.

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

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Introduction

The WHO FCTC is the first international treaty negotiated under the auspices of WHO. Cook Islands ratified the WHO FCTC on 14 May 2004 and was among the first 40 countries to do so. The Convention entered into force for Cook Islands on 27 February 2005.

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)).[1] 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))[2] 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 and fourth sessions (November 2008 and November 2010), the COP adopted the workplans and budgets for the bienniums 2010–2011 and 2012–2013, 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 the 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.

[1] See COP/1/2006/CD, *Decisions and ancillary documents*, available at: http://apps.who.int/gb/fctc/E/E_cop1.htm.
[2] See COP/2/2007/CD, *Decisions and ancillary documents*, available at: http://apps.who.int/gb/fctc/E/E_cop2.htm.

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 government focal point(s).

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 Cook Islands and the Convention Secretariat, including a mission to Cook Islands by an international team of experts from 5 to 9 March 2012. The detailed assessment involved relevant ministries and agencies of Cook Islands. The following report is based on the findings of the joint needs assessment exercise 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 that 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 level of implementation by Cook Islands. 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".*

Cook Islands implemented a measure in Section 17 of the Tobacco Products Control Act 2007 (the Act) that prohibited the sale of tobacco products in health care facilities and any educational facility serving people under 18 years of age. This measure goes beyond the requirements of the Convention.

It is therefore recommended that Cook Islands continue to actively identify other areas in which it can implement measures beyond those required by the Convention in order to meet specific needs in the national context.

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".*

Cook Islands enters into other bilateral and multilateral agreements through the Ministry of Foreign Affairs and Immigration (MFAI). This process is undertaken with guidance from and in collaboration with the line ministries and involves consultation with all relevant stakeholders on the proposed action, the benefits and costs of such a development and the administrative, policy and legal rights and obligations that will result from it.

Some of these agreements, such as the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Pacific Islands Countries Trade Agreement, and potentially others, are likely to have an influence on the implementation of the Convention in the country. The Ministry of Internal Affairs and the MFAI indicated their willingness to share relevant information related to implementation of the WHO FCTC.

Gap – Currently no other agreements that might have an influence on implementation of the Convention have been reported.

It is therefore recommended that the MFAI and relevant ministries review any agreements in their jurisdictions that may fall under the scope of Article 2.2 of the Convention. Furthermore, if such agreements are identified, it is requested that Cook Islands communicate these to the Convention 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".*

There are a number of relevant nongovernmental organizations in Cook Islands. Several of these have previously been active members of Cook Islands Tobacco Control Working Group. The following were identified as having considerable influence and interest in supporting implementation of the Convention in the country: Cook Islands National Council of Women, Cook Islands Family Welfare Association, Cook Islands Chamber of Commerce and the Rotainga Men's Group. Two other groups were identified as having potential for collaboration: The Religious Advisory Council and the Te Kainga Association that covers mental health and wellbeing. There is an opportunity to expand the network of organizations involved to ensure a greater role for civil society in supporting implementation of the Convention. Civil society has limited funding mechanisms to assist with tobacco control activities. Where funds are available members of civil society expressed their willing to assist the MOH.

Gap – There appears to be no sustained involvement by civil society organizations in tobacco control. Most civil society organizations 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 MOH facilitate a process for regularly consulting, cooperating and forming effective partnerships with relevant civil society organizations in implementation of the Convention.

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"*.

Cook Islands developed a Tobacco Control Action Plan in 2004 for the period 2004–2008 with the intention that it should be evaluated, amended and updated. Unfortunately, this was not accomplished. A National Tobacco Control Strategy (2009) is still in draft form.

The National Strategy and Action Plan to Prevent and Control Non-Communicable Disease (2009–2014) (the Plan) highlights tobacco use as a key risk factor for NCDs and the importance of implementing the WHO FCTC to reduce NCDs. The Plan aims to reduce the incidence of NCDs by 30% by 2015. The Plan includes revision of the Act in line with the obligations under the Convention as one strategy and also addresses certain supply reduction measures in the Convention. However, it does not include comprehensive tobacco control strategies and action plans to enable the country to meet all the obligations under the Convention.

Gap – There is no current national tobacco control action plan.

It is therefore recommended that a multisectoral strategy and plan of action for implementation of the Convention be developed and implemented. The needs assessment report can serve as a base and a reference document in developing such a strategy and action plan.

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

A national focal point for tobacco control has been established within the Health Promotion Unit of the MOH.

While the MOH has a lead role in implementing the Convention, other ministries also have equal responsibilities requiring focal points for implementation of the Convention. The Convention also requires a national coordinating mechanism to be established. The Tobacco Control Working Group (TCWG) was set up by the MOH with the participation of civil society organizations. The Health Promotion Manager and Tobacco Focal Point of the MOH served as support staff. The TCWG was active for several years and stopped functioning in 2010 due to limited funding. Currently, there is a need to designate focal points in Government agencies or allocate staff time to implement the Convention and establish a formal national coordination mechanism. Many Government agencies and nongovernmental organizations that participated in the needs assessment exercise show great interest in coordinating the country's joint efforts in implementing the Convention. The international team also had the opportunity to brief the Cabinet and the Head of the Ministries on the needs assessment mission. One of the key recommendations given to these key policy-makers is to establish a national coordination mechanism. Once it is established, the Government will need to allocate a sufficient budget to enable it to function. Other relevant ministries should also allocate staff time and resources in implementing the Convention, together with the MOH. In support of the Government's effort to establish the national coordinating mechanism, the Convention Secretariat is committed to facilitating exchanges of expertise and experiences from other Parties.

Gap – Cook Islands has not established and financed a multisectoral coordinating mechanism with a clear mandate to implement the Convention.

It is therefore recommended that the national coordinating mechanism involving all key stakeholders be established with clear mandate and funding to meet the obligations under the Convention. While the MOH should take the lead in implementing the Convention, other relevant ministries should also designate focal points and allocate staff time and budget to support implementation of the Convention.

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".*

Cook Islands' initial legislation was passed in 1987 prior to the development of the Convention. The Act was enacted by the Parliament of Cook Islands on 28 June 2007 and was effective from June 2008. The Tobacco Product Control Regulations 2008 (the Regulations) became effective in 2009. This is a major achievement in implementing the Convention. The Act and the Regulations are quite comprehensive but there is a need to review and update them according to the Convention and the guidelines adopted by the Conference of the Parties (COP). The revised Act and Regulations should include: the requirement for unit packets and packages to carry the marking of origin and final destination of tobacco products; a complete ban on tobacco advertising, promotion and sponsorship to include point of sale display and cross-border advertising, promotion and sponsorship; and the introduction of effective disclosure to the public of information about the toxic constituents of tobacco products and the emissions that they may produce. The international team gave detailed comments on the Act and the Regulations to the national tobacco control focal point and the Compliance Officer during the mission. Further details are also included in the sections on the relevant Articles below.[1] The MOH has included a revision of the Act in its legislative plan.

The Act and the Regulations need to be enforced. Measures in this regard include but are not limited to the following: ensuring that the testing report is submitted on time; recovering the cost from the tobacco industry of implementing the measures related to product regulations; and prosecuting breaches of smoke-free policy. To this end, Cook Islands recently held an enforcement workshop to enhance future enforcement efforts and compliance with the Act and the Regulations.

Gaps –

1. *The Act and the Regulations are not fully compliant with the Convention in a number of areas.*
2. *Lack of enforcement of the Act and the Regulations remains a challenge.*

It is therefore recommended that the MOH review the Act and the Regulations and update them in line with the Convention. It is also recommended that enforcement be effective and that sufficient human and financial resources be allocated to enforcement. Health inspectors and other law enforcement officers should be sensitized and trained. To make enforcement easier, it would be worthwhile to give the police and health inspectors more enforcement powers, such as the ability to give on-the-spot fines.

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".*

[1] Articles 8, 9, 10, 11, 13, and 15.

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".*

The Act in its section 12 puts in place strong measures in line with Article 5.3 and its guidelines: "it shall be unlawful for a seller to make any payment or to provide any assistance (financial or otherwise), either directly or indirectly, to any person (whether in the Cook Islands or otherwise) who holds or seeks public office, to any member of (or candidate for election to) Parliament, any islands council or any vaka council or to any political party."

However, Cook Islands' code of conduct for public officials does not include the requirement to act in line with Article 5.3 of the Convention and its guidelines.

Gaps –

1. There is a lack of awareness of Article 5.3 of the Convention and its guidelines among public officials.
2. There is no regulation to ban those activities described as "socially responsible" by the tobacco industry.

It is therefore recommended that Cook Islands develop policy and disseminate information in line with Article 5.3 and its guidelines and link this to the general requirements under the Code of Conduct for all public officials. It is also recommended that Government agencies refrain from seeking or receiving sponsorship for their programmes from tobacco product importers.

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".*

Cook Islands has participated in the working groups on Articles 6, 11 and 13 established by the Conference of the Parties and served as a Bureau member of the fifth session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products in 2012. Cook Islands has therefore met the obligation under Article 5.4. Further cooperation and participation in intergovernmental processes in this regard will be highly appreciated.

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".*

There are a number of examples of cooperation between Cook Islands and the WHO Regional Office for the Western Pacific, the WHO Samoa Office (which is based in Samoa but covers Cook Islands) and the Secretariat of the Pacific Community (SPC). The members of the mission met the UN Resident Coordinator (UNRC) in Samoa covering Cook Islands among other countries in the area. 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"*.

Cook Islands has sought and received funding from bilateral and international agencies including WHO and SPC. Further opportunities for expanded support to tobacco control measures and implementation of the Convention are encouraged. Cook Islands has met its obligations under Article 5.6. However, further funding is needed to more effectively implement national tobacco control priorities and enforce the Act and the Regulations as outlined in this report.

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"*.

Cook Islands has two tax measures on tobacco products. The first is an import tax on tobacco and the second a 10% value added tax at point-of-sale. Over the last 12 years the import tax was raised on two occasions (in 2000 and 2008). The increase in 2008 was from 162 New Zealand Dollars ($) per 1000 cigarettes to $279.40 (an increase of 172%) and for loose tobacco ("roll your own") and cigars from $49 per kg to $349.35 per kg (an increase of 700%). The main purpose of this increase in tobacco tax has been to reduce tobacco consumption in order to achieve better health outcomes.

Cook Islands has in general met its obligations under Article 6.2(a) with further action needed as described below.

It is therefore recommended that the Government increase taxation and duty for tobacco and tobacco products on a regular and progressively higher basis and take inflation into account to ensure a real increase in price in order to further reduce tobacco consumption. It is recommended that the same level of customs duty be applied to all tobacco products. It is also recommended that the MOH and the Ministry of Finance and Economic Management work closely together in implementing Article 6 of the Convention.

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 provision of expertise and technical support 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"*.

Cook Islands customs regulations allows duty-free tobacco products to be purchased by those entering the country with the limits set at 200 cigarettes, or 250 grams of loose tobacco, or up to 50 cigars, or a mixture of not more than 250 grams in total. There is high demand among travellers for these products and the number of tourists is quite high compared to the local population. The importation licence fee is as low as $366 per year, and this licence covers importation of a wide range of goods, rather than tobacco only.

Cook Islands has met the requirements of the Convention in relation to Article 6.2(b). However it is recommended that consideration be given to further prohibiting or restricting, as appropriate, duty-free allowances of tobacco products by international travellers.

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"*.

Cook Islands has provided this information in its two-year and five-year reports and has therefore met the obligations under Article 6.3.

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 workplaces, 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"*.

Cook Islands has implemented legislation (sections 28–36 of the Act) that ensures protection from exposure to tobacco smoke in the places required by Article 8.2. Smoking is prohibited in all Government buildings, health care facilities, educational facilities, public transport including government vehicles, and restaurants and indoor workplaces. The ban also includes pubs and bars, but not nightclubs. The ban covers enclosed and partially enclosed places.

The definition of a "public place", under the Act, is *"any place (including any ship, aircraft or other vehicle or conveyance used for the purposes of public transport) to which members of the general public or class of general public ordinarily have access by express or implied invitation or licence, whether by payment or otherwise and includes any building, structure or facility which is either owned or occupied by the Crown"*. Cook Islands is to be congratulated on this broad definition, which is in line with the Article 12 guidelines.

The 2008 Global Youth Tobacco Survey (GYTS) indicated that 70.3% of boys and 76.8% of girls have been exposed to tobacco smoke in public places. This high percentage of young people aged 13–15 years who have been exposed to tobacco smoke indicated that much work remained to be done in implementing Article 8 and its

guidelines. With the enforcement of the Act and the Regulations the situation might be seen to have improved in the future GYTS.

Enforcement measures need to be enhanced, and this is currently being implemented as a priority by the MOH. An awareness campaign to inform the public about the smoke-free requirement in the Act is urgently needed, and the enforcement procedure also needs to be simplified to make it easier to implement. No case has yet been prosecuted due to lack of human and financial resources for law enforcement in the MOH. An enforcement training workshop was conducted in February 2012 with support from WHO and SPC. Health inspectors were trained in monitoring and enforcement.

The five year deadline of 27 February 2010 as required by the guidelines for implementation of Article 8 of the Convention, to provide for universal protection, has been met.

While there are no major gaps in relation to the obligations under the Convention, ***it is recommended that Cook Islands further raise awareness about the harm from exposure to tobacco smoke and put in place measures to ensure that the current Act and Regulations are enforced.***

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.

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"*.

Sections 19–21 of the Act and Sections 6–9 of the Regulations stipulate that manufactured cigarettes must be tested at least once each year and that the testing report must be submitted annually to the Secretary of Health. The respective ISO testing standards for tar, nicotine and carbon monoxide have been specified for such testing. Testing must be carried out at a laboratory nominated by the Sectary of Health. The Act also requires that the costs of testing and measuring be met by the manufacturers or importers. One report was received from one manufacturer in 2010.

The Act and the Regulations require the tobacco importer to disclose the following information: (1) the weight of tobacco and all additives used in the manufacture of each such product; (2) the quantity of each brand, and of each brand variant of each such brand; and (3) the recommended price of each brand, and each brand variant, of each such brand sold by the manufacturer or importer during the previous calendar year. This has been done by one of the two importers. No disclosure of this information to the public has been made in Cook Islands.

In terms of legislation and regulations, Cook Islands has put in place measures to implement Articles 9 and 10.

Gaps –

1. The Regulations limit the scope of constituents to harmful constituents, namely tar, nicotine and carbon monoxide.
2. The competent authority has not designated a laboratory for the testing of tobacco products.
3. The testing, submitting of reports and disclosing of contents and emissions of tobacco products have not been vigorously enforced.
4. 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 Cook Islands enforce the current Act and Regulations, which have already laid solid foundations for implementing Articles 9 and 10 and their guidelines. It is also recommended that licensing fees for imported tobacco products and retailing of tobacco products, tobacco monitoring fees and other relevant fees for compliance enforcement should be collected and used to finance the enforcement of the Act and the Regulations.

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 measures for which a deadline of three years from the date of entry into force of the Convention for the Party (27 February 2008 in the case of Cook Islands) applies are given in **Table 1**, below.

Sections 22, 23, 24, 25, 26, 27 of the Act and sections 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 of the Regulations refer to measures covered by Article 11 of the treaty.[1]

Table 1. Comparison of the treaty requirements and level of compliance with these requirements in Cook Islands, 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	OBLIGATION MET	Section 27 of the Act is in line with this requirement.

[1] The guidelines for implementation of Article 11 of the Convention provide guidance to Parties in implementing the requirements under Article 11. See http://www.who.int/fctc/protocol/guidelines/adopted/article_11/

	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".		
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.	OBLIGATION MET	Packets and packages of tobacco products currently have at least six rotating health warnings with both picture and text included.
1(b)(i)	[The warning] shall be approved by the competent national authority.	OBLIGATION MET	The warning is approved by the MOH in line with the Regulations.
1(b)(ii)	[The warnings] shall be rotating.	OBLIGATION MET	The packs have at least six rotating warnings.
1(b)(iii)	[The warning] shall be large, clear, visible and legible.	OBLIGATION MET	Specific size, font and format is specified in the Regulations.
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.	OBLIGATION MET	Section 13 of the Regulations requires health messages and other information to occupy at least 50% of each principle display surface. As the majority of cigarettes are imported from New Zealand, the warnings currently cover 30% of the front face and 90% of the back of the pack. Schedule 1 of the Regulations states that "It shall be sufficient compliance with these Regulations that health messages and other information take the exact form, in any case required at the time by the laws relating to the sale of tobacco products in either Australia or New Zealand".
1(b)(v)	[The warning] may be in the form of or include pictures or pictograms	OBLIGATION MET	The warnings contain pictures or pictograms for the topic warning and text
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.	OBLIGATION MET	The packets and package contain information on the relevant constituent and emissions as defined in the regulations.
3	Each Party shall require that the	OBLIGATION MET	The packets and package

	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.		contain the warnings in both English and Cook Islands Maori. The regulations indicate that "It shall be sufficient compliance with these regulations that health messages and other information take the exact form, in any case, required at that time by the laws relating to sale of tobacco products in either Australia or New Zealand".

Cook Islands has met the obligations under Article 11 of the Convention.

It is therefore recommended that the government continue to assess the effectiveness of the current imported pictorial health warnings and consider adopting measures to introduce plain packaging in the future.

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:*

(a) broad access to effective and comprehensive educational and public awareness programmes on health risks including the addictive characteristics of tobacco consumption and exposure to tobacco smoke;

(b) *public awareness about the health risks of tobacco consumption, exposure to tobacco smoke, and about the benefits of the cessation of tobacco use and tobacco-free lifestyles as specified in Article 14;*

(c) *public access, in accordance with national law, to a wide range of information on the tobacco industry as relevant to the objective of this Convention;*

(d) effective and appropriate training or sensitization and awareness programmes on tobacco control addressed to persons such as health workers, community workers, social workers, media professionals, educators, decision-makers, administrators and other concerned persons;

(e) awareness and participation of public and private nongovernmental organizations not affiliated with the tobacco industry in developing and implementing intersectoral programmes and strategies for tobacco control; and

(f) public awareness of and access to information regarding the adverse health, economic, and environmental consequences of tobacco production and consumption."

The MOH has an annual plan for promoting and strengthening public awareness of tobacco control issues. This plan covers the health risks of tobacco consumption, exposure to tobacco and tobacco smoke, the benefits of cessation of tobacco use and the adverse economic and environmental consequences of tobacco production and

consumption. There is currently one full-time staff member designated to work on this plan with assistance from others as part of a focus on health promotion and prevention and control of NCDs. Campaigns have focused on awareness of the harmful effects of active smoking and second-hand tobacco smoke. Civil society organisations are involved on some occasions but there is no systematic collaboration.

A training workshop on cessation was conducted in 2007, and another in 2011 for 26 health workers including five from outer islands. A seminar for senior Government officials was conducted. An enforcement training workshop was also conducted in February 2012 with support from WHO and SPC.

While considerable work has been undertaken in education, training and public awareness, there is a need for the MOH to focus on evidence-based research in promoting and strengthening public awareness of tobacco control issues. This would require rigorous pre-testing, monitoring and evaluation to enhance effectiveness of current efforts. This would also require measurable objectives, practices and undertakings to be established, consistent with Article 12 and its guidelines, for all those involved in education, communication and training. Some international cooperation may be required to ensure that rigorous, systematic and objective methods are used in designing and implementing these programmes.[1]

The cost of implementing mass media and other broad media awareness and marketing programmes is beyond the current budget available in Cook Islands. Population-level approaches will require significantly increased resources if they are to be effective in Cook Islands. Additionally, funding is required to support mass media both to enhance awareness and to encourage tobacco cessation.

Gaps –

1. There are limited effective and appropriate training, sensitization and awareness programmes on tobacco control in the population at large and especially in key target groups, such as health, community and social workers, media professionals, educators, decision-makers, etc.
2. There is limited evidence-based research being conducted with regard to education, communication and training programmes aimed at raising awareness of tobacco control issues.
3. Currently other ministries and partners have not been sufficiently mobilized to join efforts in implementing Article 12 of the Convention.
4. There is a lack of pre-service and in-service tobacco control training for health professionals.
5. Public access to wide range of information on the tobacco industry is not yet promoted in a systematic way.
6. There is no sufficient financial support to carry out the resource-demanding activities required to meeting the obligations under Article 12.

[1] Further information is available in the guidelines for implementation of Article 12, especially pages 71–76 and 82–87 (as published in *WHO Framework Convention on Tobacco Control. Guidelines for implementation. 2011 edition.* Geneva, World Health Organization, 2011).

It is therefore recommended that the MOH work together with other ministries and civil society organizations to mobilize more resources and further develop and implement evidence-based education, communication, public awareness and training programmes. It is also recommended that the MOH work together with the Ministry of Education to ensure that health professionals obtain adequate pre-service and in-service training on tobacco control and that the necessary training be provided to teachers and students.

Tobacco advertising, promotion and sponsorship (Article 13)

Article 13.1 requires recognition by Parties 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"*.

Part II of the Act and Part I of the Regulations introduced a fairly comprehensive ban on tobacco advertising, promotion and sponsorship in Cook Islands. The purpose of this part of the Act is to eliminate, so far as is practical, the advertising and promotion of tobacco products in and from the Cook Islands in order to minimize the effect of such advertising and promotion on persons both within the country and overseas. Advertising, direct and indirect marketing such as brand stretching and brand sharing, and sponsorship are prohibited. International experiences have shown that only a complete ban on all types of tobacco advertising, promotion and sponsorship works.

There are some exemptions/loopholes that weaken the Act and are not fully in line with Article 13 and its guidelines. These are identified as gaps below.

Gaps –

1. Point-of-sale displays of tobacco products are allowed and logo, design elements and a depiction of the packaging of tobacco products are allowed in the price notice (section 7(b) of the Act and section 4 (e) of the Regulations).
2. Internet sales, which inherently involve advertising and promotion, are allowed (section 7(e) of the Act).
3. Section 11 of the Act allows a seller of tobacco products to make contributions or give financial or other assistance to any event, activity, person, organization, institution or other entity provided any corresponding attribution, association or identification with the seller or any tobacco product or brand is limited to private correspondence.

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

Currently Cook Islands 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"*.

Cook Islands has not yet implemented any measures to ban cross-border tobacco advertising, promotion and sponsorship entering into its territory. On the contrary, section 7(f) of the Act allows tobacco product advertisements contained in imported newspapers, books, magazines or in radio or television transmissions, unless the principal purpose is promotion of tobacco products targeted primarily at a Cook Islands audience.

It is therefore recommended that Cook Islands revise its Act and Regulations 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"*.

Cook Islands indicated that the capacity to develop separate national guidelines is not available and has adapted the New Zealand Smoking Cessation Guidelines known as the ABC recommendations on cessation.[1]

It is therefore recommended that Cook Islands adapt the New Zealand Smoking Cessation Guidelines to its own situation and also make full use of the Guidelines for implementation of Article 14 of the Convention adopted by the COP at its fourth session in such a process.

Article 14.2 stipulates that *"towards this end, each Party shall endeavour to:*

(a) design and implement effective programmes aimed at promoting the cessation of tobacco use, in such locations as educational institutions, health care facilities, workplaces and sporting environments;

(b) include diagnosis and treatment of tobacco dependence and counselling services on cessation of tobacco use in national health and education programmes, plans and

[1] New Zealand Smoking Cessation Guidelines, Ministry of Health, August 2007. Available at: http://www.health.govt.nz/publication/new-zealand-smoking-cessation-guidelines

strategies, with the participation of health workers, community workers and social workers as appropriate;

(c) establish in health care facilities and rehabilitation centres programmes for diagnosing, counselling, preventing and treating tobacco dependence; and

(d) collaborate with other Parties to facilitate accessibility and affordability for treatment of tobacco dependence including pharmaceutical products pursuant to Article 22. Such products and their constituents may include medicines, products used to administer medicines and diagnostics when appropriate".

With support from WHO, training for a limited number of health care workers on smoking cessation was undertaken with the New Zealand Heart Foundation. Some health care workers offer brief advice to patients or clients but this is not routinely implemented. Cook Islands currently has limited resources and very limited capacity to implement Article 14. There are no national medical or dental training schools. The cost of nicotine replacement and other pharmaceutical approaches is high. There is no systematic brief advice given within the health care system, no quit line available and no mass media aimed at encouraging quit attempts or smoking cessation.

Gaps –

1. There is no comprehensive and integrated programme concerning tobacco dependence and cessation in Cook Islands.
2. A limited number of health workers at primary health care level have been trained and mobilized to provide cessation counselling and brief cessation advice but this is not routinely implemented.
3. There is no national quit line for tobacco cessation.
4. Pharmaceutical products for treatment of tobacco dependence are not freely available in the public health service.

It is therefore recommended that 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. All health care workers should be trained to record tobacco use, give brief advice and encourage quit attempts. These services should be integrated into the national health and education systems.

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 subregional, regional and global agreements, are essential components of tobacco control"*.

Cook Islands has not encountered smuggling of cigarettes or tobacco products for some years. The current Customs Law was enacted in 1913 and is currently under revision with

release due on 1 July 2012. Customs allowances for tobacco are up to 200 cigarettes, 250 grams of tobacco or 50 cigars.

An overview of the measures 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 Cook Islands.

Paragraph in Art. 15	Content	Level of compliance	Comments and 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.	NOT YET IMPLEMENTED	All cigarettes are imported, mostly from New Zealand.
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	Section 23 (4) of the Act requires a statement "intended for sale in Cook Islands". This is not currently implemented as packs do not currently indicate origin or intended sale 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	
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 MET	Cook Islands is a member of the World Customs Organization and of the Oceania Customs Organization and cooperates in the monitoring and reporting on illicit trade including tobacco products.
4(b)	enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband cigarettes.	OBLIGATION MET	Cook Islands law has suitable penalties.
4(c)	take appropriate steps to ensure that all confiscated	OBLIGATION MET	There is no local tobacco manufacturing in the country.

	manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using environmentally-friendly methods where feasible, or disposed of in accordance with national law.		The Customs has not encountered illicit trade in tobacco products for quite some years.
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	Customs have procedures for seizing, storing and disposing of held goods.
4(e)	adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.	OBLIGATION MET	
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.	OBLIGATION MET	
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 MET	Cook Islands is a member of the World Customs Organisation and the Oceania Customs Organization and shares information and reports with these, respectively, international and regional agencies.
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	

<u>*Gap*</u> – There is currently no indication of origin and destination for tobacco products.

It is therefore recommended that Cook Islands take into account the obligations under Article 15 of the Convention in revising the 1913 Customs Law, with a view to eliminating illicit trade in tobacco products. It is also recommend that the requirement of indicating origin and destination for tobacco products in the Act be implemented.

<u>Sales to and by minors (Article 16)</u>

<u>Article 16</u> 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".

Section 13 of the Act prohibits the sale of tobacco products to a person under 18 years. Cook Islands recently undertook enforcement training with Health Inspectors and undertook monitoring of sales to minors at the same time. The Act is difficult to enforce due to a lack of licensing and identification documents that can be used to determine age.

Cook Islands has met the obligations under Article 16.

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"*. Section 16 of the Act prohibits the sale of tobacco products by self-service vending machines. There are no vending machines currently being used in Cook Islands.

Cook Islands has met the obligations under Article 16.1(d).

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"*.

Cigarettes are only available for sale in packs of 20 or more. There are no single-cigarette sales. Cook Islands has met the obligations under Article 16.3 of the Convention.

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"*.

There is no tobacco growing or local manufacturing in Cook Islands. All tobacco products are imported. There are currently two major importers of tobacco products that import a wide range of goods, including tobacco. It is unlikely that individual sellers will require any substantive support in Cook Islands as they do not rely solely on sales of tobacco products.

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"*.

There is no cultivation of tobacco in Cook Islands. All tobacco and tobacco products are imported.

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"*.

No activities have been implemented in relation to this article of the Convention. There are also no policy or legislative measures related to this article. The mission was not informed of any court cases seeking compensation in relation to any adverse health effects caused by tobacco use, including any action against the tobacco industry (including the tobacco importers) for full or partial reimbursement of medical, social and other relevant costs related to tobacco use.

Article 19 will be included in the agenda of the fifth session of the COP to be held in November 2012.

Gap – the government not yet initiated implementation of Article 19.

It is therefore recommended that Cook Islands review and promote the options of implementing Article 19 in its national context and actively participate in the discussion during the fifth session of the COP and subsequently develop policy as appropriate.

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"*.

In its five-year implementation report, Cook Islands reported that prevalence of tobacco use among the adult population aged 18 to 64 years in 2003–2004 was 46.6% for males, 41.10% for females and 43.9% in total, according to the STEPS survey. There is no prevalence data for smokeless tobacco use, but this is not commonly used.

Youth smoking is also high in Cook Islands. The Global Youth Tobacco Survey (GYTS 2008) among school children aged 13–15 years showed that 28.20% of boys and 31.50% of girls in this age group currently use any form of tobacco products. This was a decrease of 10% compared to the GYTS 2003. GYTS 2008 showed high levels of exposure to tobacco smoke, with 70.3% of boys and 76.8% of girls exposed to tobacco smoke in public places. The 2006 census showed that 29% of the population aged 15 years and older smoked on daily basis; 34% of males and 25% of females. The December 2011 Census is currently being processed.

Gaps –

1. There is limited epidemiological surveillance of tobacco consumption and related social, economic and health indicators.
2. There is a lack of capacity and resources to conduct research.
3. There is a lack of national data on adult tobacco use and burden of disease related to tobacco, direct costs attributable to tobacco use and exposure to tobacco smoke.

It is therefore recommended that the Government of Cook Islands:

1. ***Develop and promote national research capacity in cooperation with competent international and regional organizations;***
2. ***continue to include questions related to tobacco use in future censuses and monitor trend data; and***
3. ***conduct research addressing the determinants and consequences of tobacco consumption and exposure to tobacco smoke including data on mortality and morbidity attributable to tobacco use.***

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*".

Cook Islands has provided all of the required implementation reports on time. The two-year (first) report was submitted on 24 February 2007, the five year (second) report on 23 March 2010, and the third report on 3 February 2012.

Cook Islands has met the obligation under Article 21 of the Convention.

As the COP established a new two year cycle of Parties implementation reports starting from 2012 with a deadline of submission six months prior to each COP session, it is therefore recommended that the government start the preparation of next report well in advance in 2013/2014 to meet the deadline in 2014 and thereafter.

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"*.

With the support of WHO, Cook Islands conducted the STEPS survey in 2003. The Government has received support from WHO and SPC in enforcement training for tobacco control and other activities related to tobacco control. Cook Islands also received support from WHO for the GYTS in 2003 and 2008.

The United Nations Development Assistance Framework (UNDAF) is the strategic programme framework jointly agreed between governments and the UN system outlining priorities in national development. At its fourth session, in decision FCTC/COP4(17)[1] 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. It encourages developing

[1] See FCTC/COP/4/REC/1, *Decisions and ancillary documents*, available at: http://apps.who.int/gb/fctc/E/E_cop4.htm.

countries to utilize the opportunities for assistance under the UNDAF and requests the Convention Secretariat to actively work with the UN 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 in Cook Islands covers the period 2008–2012 and does not directly include work related to implementation of the Convention. The UN team is finalizing the UNDAF 2013–2017. The international team met Nileema Noble, UNRC for Samoa, Niue, Cook Islands and Tokelau, prior to the Cook Islands mission. The UNRC is in favour working with WHO to support Cook Islands' implementation of the Convention. The international team also met officials of the Ministry of Foreign Affairs and Immigration and the Central Policy and Planning Office of the Prime Minister's Office along with the UN Programme Coordinator to discuss the need to include supporting the country in meeting its obligations under the Convention within the UNDAF and was informed that the UNDAF has already been approved by the Cabinet.

Gaps – To date very few international organizations cooperate with Cook Islands in implementing the Convention; supporting implementation of the Convention has not been included as a priority in the next UNDAF.

It is therefore recommended that the Government of Cook Islands actively seek opportunities to cooperate with other Parties, competent international organizations and development partners present in the country. It is also recommended that the MOH, Ministry of Foreign Affairs and Migration, and the Prime Minister's Office work together to ensure that implementation of the Convention is included in the UNDAF 2014–2019.

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"*.

The MOH has limited funds for project implementation, but continuously implements advocacy programmes in schools and communities. The MOH also attends various workshops and raises awareness of the Convention through radio, newspapers and television. Printed information, education and communication materials are developed and distributed to the public during advocacy sessions. Cessation training has been organized and counselling services are provided. An enforcement training workshop was conducted; however, another one needs to be conducted to ensure that health officers gain more confidence in enforcing the Act. There is also an urgent need to educate the public about the Act and the Regulations and enforce the relevant legislation. There is also a need to strengthen research capacity and establish cessation services within the health system. The Government should therefore allocate more funding to implementation of the Convention, raising awareness of and enforcement of the Act and the Regulations.

Gaps –

1. The funding allocated by the MOH is not sufficient to fully implement the Convention and enforce the Act and the Regulations.
2. Other relevant ministries that have obligations to implement the Convention have not allocated staff time and budget to implementation of the Convention.

It is therefore recommended that the government allocate more budget and staff time to implementation of the Convention and enforcement of the Act and the Regulations.

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"*.

Some international organizations and development partners are active in Cook Islands. WHO has been providing technical assistance in helping the country to implement the Convention, and conduct various surveys on tobacco use. SPC also supports the country in some tobacco control activities. The MOH indicated that Australia, New Zealand, WHO and SPC were the main development partners supporting the health sector in Cook Islands. Some of them have a potential role to play in supporting the country to meet its obligations under the Convention.

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

It is therefore recommended in line with Article 26.3 of the Convention that the Government of Cook Islands 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 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"*.

Cook Islands does not produce tobacco and there is also no local manufacturing of tobacco products. This provision of the Convention is therefore is not applicable to Cook Islands.

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 Foreign Affairs and Immigration and the MOH are committed to ensuring that Cook Islands will promote implementation of the Convention in the relevant bilateral and multilateral forums.

Gap – Other than WHO and SPC, Cook Islands 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 Cook Islands) in meeting their obligations under the Convention.

It is therefore recommended that Cook Islands 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 Finance and Economic Management, Education, etc., representing Cook Islands 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.

ANNEX

List of Government agencies, members of the international team and nongovernmental organizations participating in the joint needs assessment

Participating Government agencies

Prime Minister's Office
Ministry of Health
Ministry of Foreign Affairs and Immigration
Ministry of Finance and Economic Management
Ministry of Internal Affairs and Social Services
Ministry of Education
Ministry of Justice
Crown Law Office
Police Department

Ministry of Health

Honorable Mr Nandi Glassie, Minister of Health and Agriculture
Mr Tupou Faireka, Secretary for Health
Dr Rangiau Fariu, Director of Community Health Services
Ms Edwina Tangaroa, Health Promotion Manager
Ms Maina Tairi Mataio, Health Promotion Officer
Mr Tevita Vakalalabure, Compliance Officer
Ms Ana Silatolu, Director of Funding and Planning
Ms Helen Sinclair, Director of Outer Islands
Dr Voi Solomona, Manager of Clinical Services
Mr Arthur Taripo, Policy Officer
Mr Teariki Maurangi, Secretary to the Minister of Health

Nongovernmental organizations

Te Kainga Mental Health and Wellbeing
Cook Islands National Council of Women
Cook Islands Family Welfare Association
Cook Islands Chamber of Commerce
Religious Advisory Council

Convention Secretariat

Ms Guangyuan Liu
Dr Harley Stanton (Temporary Advisor)

In addition, the international team met Dr Yang Baoping, WHO Representative in Samoa, and Ms Nileema Noble, UN Resident Coordinator for Samoa, Niue, Cook Islands and Tokelau, in Samoa, before the Cook Islands mission.