Needs assessment for implementation of the WHO Framework Convention on Tobacco Control in the Federated States of Micronesia

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 176 Parties to date. The Federated States of Micronesia (hereinafter FSM) ratified the WHO FCTC on 18 March 2005 and the Convention entered into force for FSM on 16 June 2005.

A needs assessment exercise concerning implementation of the WHO FCTC was conducted jointly by the Government of FSM and the Convention Secretariat from April to November 2012, including an 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 and the WHO Country Liaison Office for Northern Micronesia to FSM from 21 to 29 November 2012. The assessment involved relevant departments, agencies and representatives of the four states of FSM.

FSM is a constitutional federation of four states, Chuuk, Kosrae, Pohnpei and Yap. As a result, governance requires considerable consultation and coordination between the national and state jurisdictions.

This needs assessment report presents an article-by-article analysis of the progress made by the country in implementation, any 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 FSM 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, FSM 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. Combatting tobacco use is recognized as a priority in reducing adverse impacts on national development outcomes in the Strategic Development Plan (2004–2023). A Strategic Plan of Action on tobacco control was developed that covered the period 2006–2010. Additionally, FSM has developed a National Strategic Plan for the Prevention and Control of Noncommunicable Diseases (2013–2017), currently awaiting final endorsement. The Plan of Action has the objective of reducing tobacco use by 5% by 2017. This includes the implementation of certain key articles of the Convention including increased tax, reduction of exposure to tobacco smoke, introducing health warnings and reduced access to tobacco, and promotion of tobacco free sports. However the strategies are not comprehensive enough to include all treaty obligations and it is not a multisectoral action plan with clear responsibilities

established for different sectors. It is recommended that FSM include the main tobacco control strategies in the NCD Strategic Plan as a first step and then develop a comprehensive multisectoral national strategy/action plan on implementation of the WHO FCTC at a later stage. The NCD Strategic Plan does mention the National Tobacco Control Plan several times.

Third, the Convention requires a national tobacco control focal point and a national multisectoral coordinating mechanism to be established and financed to coordinate its implementation. FSM established a national tobacco control focal point in 2003. National and state tobacco control coalitions are quite active in supporting implementation of the Convention and undertake some coordination. However, other departments and sectors at the national level have not been involved and a formal multisectoral national coordinating mechanism with a clear mandate established for each stakeholder along with an operating budget has not been established. Existing coordination mechanisms provide an opportunity for the development of such coordination that will require participation by national and state governments. It is recommended that FSM review current coordination, broadening stakeholder involvement and ensuring the implementation of this enhanced coordination at national and state level.

Fourth, responsibility in FSM for legislation and regulations resides in different areas at national and state levels. A review of existing and proposed tobacco control legislation at the national and state level was conducted in 2010. There is no comprehensive tobacco control legislation in line with the Convention at national level but there have been significant developments at the state level. It is recommended that coordination for legislation and regulations between national and state levels be further strengthened to enable FSM to fully comply with all the obligations under the Convention.

Fifth, tax and price measures to reduce tobacco consumption are implemented in FSM; however, tobacco products are still quite affordable. It is recommended that new legislation/measures to increase annual or biannual tobacco taxation after 2015 be developed soon. Effective taxes on tobacco products that lead to higher real consumer prices (i.e. inflation-adjusted) are desirable, particularly for protecting young people from initiating or continuing tobacco consumption. FSM is currently reviewing significant reform to its tax policy. It is recommended that any review and implementation of new tax policy and other fiscal measures should ensure that revenue from tobacco products should be progressively increased in real terms. As part of the tax reform, FSM could also consider, while bearing in mind Article 26.2 of the WHO FCTC, and in accordance with its national law, dedicating revenue, to tobacco control programmes and other public health programmes.

Sixth, although there is legislation at national and state levels in relation to clean air, measures to ensure 100% smoke-free in indoor public places, work places and public transport have not been implemented in FSM. FSM currently has no legislation or regulations to require health warnings at the national level. Although some states require health warnings, they are either too general or difficult to implement at the state level. Well-designed health warnings and messages on tobacco product packages have been shown to be a cost-effective means to increase public awareness of the health effects of tobacco use and to reduce tobacco consumption. Pictorial health warnings are more effective and can reach more people, particularly those with low literacy. It is recommended that FSM adopt and implement legislation requiring pictorial or plain

packaging health warnings on tobacco product packages in line with Article 11 of the WHO FCTC and the associated implementation guidelines. Current legislation at the national and state levels does not completely ban tobacco advertising, promotion and sponsorship. Addressing the treaty provisions and guidelines with implementation deadlines (Articles 8, 11 and 13 and corresponding implementation guidelines) will make a substantial contribution to meeting the obligations under the WHO FCTC and to improving health status and quality of life in FSM.

Seventh, 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 next UNDAF (2013–2017) is at its final stage of approval but does not include support to implementation of the WHO FCTC. It is therefore recommended that the Department of Health and Social Affairs and the Department of Foreign Affairs immediately follow up with the UN Joint Presence to propose inclusion of the support in meeting its obligations under the Convention within the next UNDAF.

Eighth, the Conference of the Parties has adopted seven guidelines, on implementation of Articles 5.3, 8, 9 and 10, 11, 12, 13, and 14, and a set of guiding principles and recommendations for implementation of Article 6 of the WHO FCTC (*Price and tax measures to reduce the demand for tobacco*). The aim of these guidelines and recommendations 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 the experience of Parties. FSM is strongly encouraged to follow these guidelines in order to fully implement the Convention.

Ninth, the fifth session of the Conference of the Parties, held in November 2012, adopted the Protocol to Eliminate Illicit Trade in Tobacco Products and this treaty will be open for signature in January 2013 by all Parties to the WHO FCTC at World Health Organization Headquarters in Geneva from 10 to 11 January 2013, and thereafter at United Nations Headquarters in New York until 9 January 2014. It is recommended that FSM become an early signatory to this treaty, followed by ratification.

The needs identified in this report represent priority areas that require immediate attention. As FSM addresses these areas, the Convention Secretariat will be available and committed to providing technical support and sharing experiences from other Parties upon the request of the Government, and 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 FSM 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. FSM ratified the WHO FCTC on 18 March 2005. The Convention entered into force for FSM on 16 June 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, 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.

[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 FSM and the Convention Secretariat, including a mission to FSM by an international team of experts from 21–29 November 2012. The detailed assessment involved relevant ministries and agencies of FSM. 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, taking into account the guidance provided by implementation guidelines adopted by the COP where relevant. Specific recommendations are then made 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 substantive article 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 FSM. 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"*.

FSM does not currently have measures which go beyond those provided by the Convention.

It is 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"*.

FSM has entered into bilateral and multilateral agreements with United Nations Committee on the Elimination of Discrimination Against Women (CEDAW), with the Pacific Islands Forum Secretariat in the Pacific Island Countries Trade Agreement (PICTA) and with the Forum Island Countries and Australia and New Zealand in the Pacific Agreement on Closer Economic Relations (PACER Plus). FSM also participates in the Micronesian Chiefs Executive Summit (MCES).

FSM has an Agreement on International Cooperation with the European Community and a Compact of Free Association with the United States of America. FSM also has an agreement with the International Organization on Migration and the Food and Agriculture Organization of the United Nations (FAO).

Some of these agreements, such as PICTA, are likely to have an influence on implementation of the Convention in FSM. The Department of Foreign Affairs indicated their willingness to review and later report on relevant agreements related to implementation of the WHO FCTC.

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

It is therefore recommended that the Department of Foreign Affairs and other relevant departments 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 FSM report these to the Conference of the Parties through the Convention Secretariat at any time or as part of its next WHO FCTC implementation report, which is due in 2014.

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 FSM. There are national and state tobacco-free coalitions for tobacco control that involve civil society. These national and state coalitions have been very actively involved in implementing the Convention, developing national and state tobacco control legislation, raising public awareness and providing cessation services. Senators, representatives from other sectors, women's councils in the various states, faith-based organizations and traditional leaders also participate in the coalitions. Faith-based organizations are likely to provide considerable support to implementation of the Convention due to their wide reach within the population of FSM. The national government has been providing funds to support the coalitions.

FSM has met the obligations under Article 4.7.

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 Strategic Development Plan (2004–2023) identifies tobacco use, including smoking and betel nut chewing, as major contributors to noncommunicable disease in FSM. The Plan calls for FSM to include legal interventions to prevent their use and spread in order to improve national development outcomes.

A Strategic Plan of Action (2006–2010) was developed for the elimination of tobacco use in FSM. The Plan of Action included the following activities: improve data collection and surveillance; strengthen tobacco control infrastructure; increase community tobacco control capacity; increase prevention efforts to denormalize tobacco use; increase availability of cessation services; increase the tax on tobacco products; and regulate the tobacco industry. FSM is in the process of developing a new Strategic Plan of Action (2013–2017).

FSM has developed a National Strategic Plan for the Prevention and Control of Non-Communicable Diseases (NCDs) in FSM (2013–2017), currently awaiting final endorsement. The Plan of Action has the objective of reducing tobacco use by 5% by 2017. The proposed Strategic Plan for Prevention and Control of NCDs (2013–2017) contains strategies that cover some of the articles of the Convention including; Article 6 (*Price and tax measures to reduce the demand for tobacco*); Article 8 (*Protection from exposure to tobacco smoke*); Article 11 (*Packaging and labelling of tobacco products*), Article 12 (*Education, communication, training and public awareness*); Article 13 (*Tobacco advertising, promotion and sponsorship*), Article 14 (*Demand reduction measures concerning tobacco dependence and cessation*), Article 15 (*Illicit trade in tobacco products*), Article 16 (*Sales to and by minors*) and Article 20 (*Research, surveillance and exchange of information*). Some of the activities included in the current strategy are not very comprehensive yet and other obligations under the Convention, such as Articles 5, 9 and 10, 17 and 18, and 26, are not included.

Gaps –

1. The current plans and policies do not cover all key treaty obligations.
2. Those tobacco control measures in the NCD Plan are not comprehensive enough to fully implement the Convention.
3. The development and implementation of the current plans and policies are mainly within the health sector and other relevant sectors have not been involved and mobilized. Responsibilities and resources from different sectors have not been identified.

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 basis and a reference document in developing such a strategy and action plan. It is also recommended that, as a first step, the National Strategic Plan for the Prevention and Control of NCDs (2013–2017) include more key treaty obligations and involve other sectors in the policy development and implementation process.

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 was established within the Department of Health and Social Affairs in 2003. All four states also have a tobacco control programme with dedicated Focal Points. A process for national coordination has been put in place. The Tobacco Control Programme collaborates with the cancer control programme, the diabetes programme, the noncommunicable disease programme and the mental health and substance abuse programme. Other than the operation cost and in-kind contribution from the government, the tobacco control programme receives funding from a number of sources. A federal grant provides core funding from the US Centers for Disease Control and Prevention (CDC), with $211 000 for each year from 2009 to 2013. The American Reinvestment Recovery Act provides $100 000 in total for the period 2010 to 2012 covering three areas: tobacco legislation, physical activity and nutrition. Funding of $114 000 is also provided for the Behavioural Risk Factor Surveillance System for each year from 2011–2013.

Gaps –

1. While coordination within health sector and between the national and state levels is in place, a multisectoral coordinating mechanism has yet to be formally established or enhanced within the existing mechanism. Involvement by other sectors in implementation of the Convention remains rather limited.
2. Other relevant departments have not allocated resources and identified contact persons for implementation of the Convention.

It is therefore recommended that a national coordinating mechanism involving all key stakeholders be formally established or enhanced within the existing mechanism, with a clear mandate to meet the obligations under the Convention. Representatives of relevant departments, states and civil society organizations should be included in the multisectoral coordinating mechanism and clear responsibilities among the stakeholders should be defined. While the Department of Health and Social Affairs should take the lead in implementing the Convention, other relevant departments should also identify contact persons and allocate resources 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"*.

Knowledge of the Convention at the national level of government, other than among those directly working in tobacco control and related areas, is quite limited. There is a clear need to cooperate more widely to ensure appropriate legislation is developed in both national and state jurisdictions. A review of national and state legislation was conducted in 2010. There is currently national legislation covering tax revenues earned from the importation of tobacco products and their distribution in Public Law No 13-60 of 10 December 2004. Kosrae and Yap States have legislation for an additional tax. In 1989 FSM enacted Public Law No 6-9 that prohibits smoking in all national government offices. Bill C.B. No 16-118 to establish a standard for packaging and labelling of tobacco products was introduced in 2010 but this has not been enacted. Pohnpei State has legislation requiring a minimal health warning and Kosrae State an even less specific warning requirement. More comprehensive legislation has been introduced in the other states but has not been fully implemented. In addition, some legislation in these states is still not fully compliant with the obligations under the Convention. A brief summary of legislation at the national and state level is attached in Annex 2.[1]

Gaps –

1. There is no comprehensive tobacco control legislation in line with obligations under the Convention at the national level.
2. Some of the state legislation is compliant with the Convention but loopholes still exist.

[1] Pertaining to Articles 8, 11, 13 and 16 of the WHO FCTC.

3. The need for collaboration is particularly highlighted for: Article 6 (*Price and tax Measures*), Article 11 (*Packaging and labelling*), Article 13 (*Advertising, promotion and sponsorship*), Article 15 (*Illicit trade*) and Article 16 (*Sales to and by minors*).

It is therefore recommended that FSM urgently review its current national and state tobacco control legislation to clearly define which obligations under the Convention should be covered by the national and state governments, and develop or amend the legislation to ensure full compliance with the Convention. It is further recommended that the Department of Health and Social Affairs convene a meeting with national and state attorney generals and the State Department of Health Services to coordinate the development of legislation that will enable FSM to fully comply with the obligations of the Convention.

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"*.

There is some evidence that tobacco importers do undertake programmes that are aimed at providing an image of corporate social responsibility. FSM has not implemented a code of conduct for civil servants that would provide protection from commercial or other vested interests of the tobacco importers. The Department of Health and Social Affairs is working with the Office of the Attorney General to develop legislation to implement Article 5.3 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 FSM develop policy and disseminate information in line with Article 5.3 and its guidelines and link this to the general requirements under a code of conduct for all public officials including elected officials. It is also recommended that the legislation process on Article 5.3 be expedited.

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

FSM served as a Bureau member of the Intergovernmental Negotiating Body on Illicit Trade in Tobacco Products and actively participated in the COP.

FSM has therefore met the obligation under Article 5.4.

It is recommended that FSM continue to participate in intergovernmental processes in the future implementation of the Convention and its protocols.

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"*.

The Department of Health and Social Affairs collaborates with WHO, CDC, Asian Development Bank, and Japan International Cooperation Agency (JICA). There are areas of potential cooperation between FSM and the Oceania Customs Organisation and the Pacific Forum particularly in relation to the PICTA by supporting the implementation of the Convention and its protocols.

FSM has met its obligations under Article 5.5.

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"*.

FSM has sought and received funding for tobacco control measures from bilateral and international agencies including CDC, the Secretariat of the Pacific Community (SPC) and WHO.

FSM has met its obligations under Article 5.6.

However, further opportunities exist for expanded cooperation with international and regional intergovernmental organizations to support tobacco control measures and contribute to implementation of the Convention.

In support of the Government's effort to implement the general obligations of the Convention, such as developing a national action plan, legislation and establishing a multisectoral coordination mechanism, the Convention Secretariat is committed to facilitating the exchange of international experiences and provision of technical support upon request from the Government.

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"*.

A set of guiding principles and recommendations for implementation of Article 6 of the WHO FCTC was adopted by the COP at its fifth session (COP5) in November 2012 (as decision FCTC/COP5(7)).[1]

FSM implemented legislation in 2004 that taxes cigarettes via an import duty at the rate of $0.025 per cigarette. There is a tax rate increase of $0.005 per cigarette every two years (on 1 January in 2007, 2009, 2011, 2013 and 2015). For tobacco other than cigarettes the import levy is 50% *ad valorem.* While this has meant some increase in prices for tobacco products, their cost is still low, ranging from $2.00 to $3.50 for a pack of 20 cigarettes. Import duty on cigarettes and tobacco products is the highest of all imported goods. The tax measure was implemented to contribute to health objectives. Of the revenue collected, 50% is allocated to the states, while 25% of net taxes collected from imported cigarettes are earmarked for scholarships to postgraduate schools. Chuuk, Kosrae and Yap States have further sales taxes on tobacco products at differing levels. Chuuk increased the tobacco sales tax from 10% to 100% in 2012. A summary is provided in Annex 2.

FSM is currently undertaking a review of taxation with the aim of establishing a Unified Revenue Authority. While such an approach may provide a more equitable distribution of revenue, efforts should be made to ensure that this reform will not lead to lowering of current import duties on tobacco.

FSM has in general met its obligations under Article 6.2(a), with further action needed.

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 also recommended that new legislation be adopted to increase annual or biannual tobacco taxation before 2015. The review and implementation of any new tax policy under a Unified Revenue Authority should ensure a progressive increase in real terms of the real price of tobacco products. As part of the tax reform, FSM could also consider, while bearing in mind Article 26.2 of the WHO FCTC and in accordance with its national law, dedicating revenue to tobacco control programmes and other public health programmes. It is further recommended that the Department of Health and Social Affairs and the Department of Finance and Administration work closely together in implementing Article 6 and its guiding principles and recommendations.

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"*.

FSM currently allows duty-free importation of 200 cigarettes or one pound (0.45 kg) of tobacco, or 20 cigars. In 2011 there were over $5 million worth of duty-free sales in FSM.

[1] All COP5 decisions are available at: http://apps.who.int/gb/fctc/E/E_cop5.htm

FSM 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"*.

FSM has provided this information in its three implementation 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 calls on each Party to *"strive to provide universal protection within five years of the WHO Framework Convention's entry into force for that Party"*.

FSM has implemented legislation (FSMC Title 41) that prohibits smoking in National Government offices including those rented or leased by the Government. There is no national legislation that ensures protection from exposure to tobacco smoke in all the places required by Article 8.2. For example, smoking is not banned on national public transport and official Government vehicles.

Each state has legislation that provides various levels of protection from exposure to tobacco smoke. Chuuk and Kosrae States have clean air acts that implements a 100% ban on smoking in indoor public places and workplaces and that therefore meet the obligation under Article 8 and its guidelines. Pohnpei and Yap States have legislated partial bans. A summary of state legislation in this area is contained in Annex 2.

The 2007 Global Youth Tobacco Survey (GYTS) indicated that 61% of young people aged 13–15 years have been exposed to tobacco smoke in their homes and 71% in public places. This high percentage of young people exposed to tobacco smoke indicates that much work remains to be done in implementing Article 8 and its guidelines. In addition only one third of young people thought there should be a ban on smoking in public places and only 37% thought that exposure to tobacco smoke is harmful. The impact of recent legislation in reducing exposure to tobacco smoke is yet to be determined.

The five-year deadline to provide for universal protection, as recommended by the guidelines for implementation of Article 8 of the Convention (June 2010 in the case of FSM) has not been met.

Gaps –

1. The national level legislation is not comprehensive.
2. There is lack of enforcement at national level.
3. Law enforcement officers at national level have not received formal training in tobacco control legislation.
4. There is considerable variation in legislation between states.
5. The clean air acts in Pohnpei State and Yap State remain partial bans on smoking, particularly in workplaces.

It is recommended that FSM review current national and state legislation, and adopt and implement effective legislation to ensure 100% protection from exposure to tobacco smoke in all indoor workplaces, public transport, indoor public places and other public places. It is further recommended that the legislation in Pohnpei State and Yap State be amended to come into line with Article 8 and its guidelines. It is also recommended that current smoke free legislation be more effectively implemented through effective public awareness and appropriate law enforcement training.

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.

Gap – There is a lack of legislation or regulations to meet the obligation under the Convention for regulation of the contents of tobacco products.

It is recommended that the Department of Health and Social Affairs regulate the contents of tobacco products. Relevant legislation and regulations should be developed which include testing and measurement of the contents and emissions of tobacco products. In doing so, the Government may refer to the partial guidelines for implementation of the Articles 9 and 10 adopted at COP4 and COP5. The next step is to assess and review testing and laboratory capacity. This will help to inform a subsequent decision as to whether FSM should develop its own testing capacity or utilize laboratories in the region through bilateral arrangements. Tobacco importers should bear all the costs of such testing requirements.[1]

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"*.

FSM currently does not require tobacco importers to disclose to the governmental authorities information about the contents and emissions of tobacco products.

[1] As recommended in the partial guidelines for implementation of Articles 9 and 10 (see page 36 of *Guidelines for implementation,* 2011 edition. Geneva, World Health Organization, 2011. Available at: http://www.who.int/fctc/protocol/guidelines/adopted/guidel_2011/en/index.html).

Gap – There is a lack of legislation regulating disclosure of information about the contents and emissions of tobacco products to governmental authorities,

It is therefore recommended that the Department of Health and Social Affairs take action to promote the development and adoption of legislation or regulations that require tobacco importers to disclose to governmental authorities information about the contents and emissions of tobacco products. The Government should then further adopt effective measures to disclose information to the public about the toxic constituents of tobacco products and the emissions that they produce.

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, in this case three years from the date of entry into force of the Convention for the Party concerned. The deadline for FSM was 16 June 2008, which was not met.

FSM has no national legislation or regulations to implement Article 11 and its guidelines. Some tobacco packaging and labelling in FSM contains small warnings inserted on the side of packs by the manufacturers. Legislation in Chuuk and Pohnpei States requires health warnings but the requirements are weak and general and do not have implementing regulation. It is very important for the packaging and labelling of tobacco products to be addressed at the national level. Article 15.2 should also be taken into consideration when developing labelling and packaging legislation and regulations.

Table 1. Comparison of the treaty requirements and level of compliance with these requirements in FSM, 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	Some packs contain descriptors such as "gold" which implies value associated with the product.
1(b)	each unit packet and package of tobacco products and any outside	NOT YET IMPLEMENTED	

	packaging and labelling of such products also carry health warnings describing the harmful effects of tobacco use, and may include other appropriate messages.		
1(b)(i)	[The warning] shall be approved by the competent national authority.	NOT YET IMPLEMENTED	
1(b)(ii)	[The warnings] shall be rotating.	NOT YET IMPLEMENTED	
1(b)(iii)	[The warning] shall be large, clear, visible and legible.	NOT YET IMPLEMENTED	
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	
1(b)(v)	[The warning] may be in the form of or include pictures or pictograms	NOT YET IMPLEMENTED	
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	
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	

FSM has not met it obligations under the time-bound obligation of Article 11 of the Convention.

It is therefore recommended that legislation and regulation in line with Article 11 and its guidelines be urgently introduced by the national jurisdiction. Pictorial health warnings covering more than 50% of both the front and back main display areas are recommended because of their proven effectiveness compared with textual health warnings. FSM might also further consider introducing plain packaging as recommended by the guidelines on Article 12. When introducing pictorial health warnings, it is recommended that FSM conduct pre-marketing testing among the intended target groups to ensure their effectiveness and take into consideration both smoked and smokeless tobacco use in the country.

In support of the Government's effort, and upon request of the Government, the Convention Secretariat will facilitate the process of obtaining licences to use pictorial health warnings from other Parties

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."

Education, communication, training and public awareness efforts in FSM have targeted adults, the general public, children and young people, and pregnant women, and taken into account differences of age, gender, educational background, cultural background and socioeconomic status among the targeted populations. The educational and public awareness programmes cover the health risks of tobacco consumption, the health risks of exposure to tobacco smoke, the benefits of cessation of tobacco use and tobacco-free lifestyles, the adverse economic consequences of tobacco production and consumption, and the adverse environmental consequences of tobacco consumption. Government agencies, nongovernmental organizations and private organizations have been working together on education, communication, training and public awareness activities. Training or sensitization and awareness programmes on tobacco control have addressed health workers, community workers, social workers, traditional leaders, media professionals, educators, decision-makers and administrators. World No Tobacco Day is annually observed at the national level as an opportunity to raise awareness and educate the public.

All four states have conducted tobacco control education in schools, health-care facilities (notably dispensaries), the media (including radio and television) and in the production of

printed information, communication and education materials. Public television and radio channels sometimes donate free air time to the broadcasting of tobacco control spots or messages. Some states have implemented peer education training in schools. In Yap State there has been face-to-face communication and awareness raising and education by traditional leaders. Information, education and communication materials have been developed in all states, with pretesting and evaluation of their impact. In several states there has been training with law enforcement and public health officers. Training and education on tobacco control issues is also included in health worker training programmes. A training workshop on enforcement was conducted in Chuuk in November 2012 for Government officials and Tobacco Free Coalition members, with support from WHO.

While considerable work has been undertaken in education, training and public awareness, there is a need for the Department of Health and Social Affairs 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]

While there has been an emphasis on face-to-face outreach programmes, it is important to consider population-level approaches through mass media. There are four public radio channels covering almost 60% of the population and one public television channel, which covers less than 40% of the population in Pohnpei State and a lower percentage in other states. The Government is making efforts to expand mass media coverage with the potential to reach a larger proportion of the population.

The Department of Education has so far had little involvement in educating students on the health risk of tobacco consumption and exposure to tobacco smoke. The 2007 GYTS shows high prevalence of smoking and chewing of betel nut with tobacco, and high exposure to tobacco smoke; 46.3% of students currently use any tobacco product, 28.3% currently smoke cigarettes, and 37.0% currently use other tobacco products; 41.4% had been taught in class about the dangers of smoking, 32.0% had discussed the reasons why people their age smoke, and 47.1% had been taught in class the effects of tobacco use during the past year. Only one third of young people believe that exposure to tobacco smoke is harmful. The planned new GYTS and the Behavioural Risk Factor Surveillance System will provide updated information.

Gaps –

1. Other departments, such as the Department of Transportation, Communication & Infrastructure and the Department of Education, have not been sufficiently mobilized to join efforts in implementing Article 12 of the Convention.

[1] Further information is available in the guidelines for implementation of Article 12 (especially pages 71–76 and 82–87 of *Guidelines for implementation,* 2011 edition. Geneva, World Health Organization, 2011. Available at: http://www.who.int/fctc/protocol/guidelines/adopted/guidel_2011/en/index.html).

2. Action plans for implementation of education, communication and training activities within a comprehensive tobacco control programme involving other sectors have not been developed.
3. There is limited evidence-based research being conducted with regard to education, communication and training programmes aimed at raising awareness of tobacco control issues.
4. The public does not have access to a wide range of information on the tobacco industry.
5. Sufficient financial support is not available to carry out the resource-demanding activities required to meet the obligations under Article 12.

It is therefore recommended that the Department of Health and Social Affairs work together with the Department of Transportation, Communication & Infrastructure, the Department of Education and other relevant departments and agencies to develop a comprehensive action plan for implementation of Article 12 and the guidelines for its implementation, including education, communication and training plans. It is also recommended that the Department of Health and Social Affairs work together with other departments 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 for public awareness on television and radio channels should be further encouraged through coordination with the Department of Transportation, Communication & Infrastructure. It is further recommended that the Department of Health and Social Affairs work together with the Department of Education to ensure that health professionals obtain adequate pre-service and in-service training on tobacco control and that the necessary training is provided to teachers and students not only on active smoking but also the effects of exposure to tobacco smoke.

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"*.

FSM has no national legislation but is largely covered by state-based legislation that bans advertising, promotion and sponsorship. A matrix of that legislation is provided in Annex 2. Chuuk, Pohnpei and Yap States have broad bans on advertising and promotion, while Kosrae State does not. The existing legislation does not ban sponsorship. It would be important to broaden and revise the policy and legislation in order to exclude this loophole.

There is no legislation or regulation that bans display of tobacco products at points of sale. There were indications from the participants in the joint needs assessment that the tobacco industry had recently been running promotions and incentives involving prizes or benefits from the returning of empty packs.

The 2007 GYTS showed that 69.6% of students had seen cigarette advertising on billboards in the past 30 days, that 63.2% had seen cigarette advertising in newspapers or magazines in the past 30 days, that 25.1% had an object with a cigarette brand logo, and that 21.7% had been offered free cigarettes by a tobacco company representative. The Department of Health and Social Affairs has indicated that there is evidence of significant behavioural change in recent years. The proposed new GYTS will provide updated information.

Gaps –

1. Point-of-sale displays of tobacco products are still allowed.
2. Sponsorship and corporate "socially responsible" activities are not banned in all states.
3. Internet sales, which inherently involve advertising and promotion, are allowed;

It is recommended that FSM adopt and implement legislation that will completely ban all advertising, promotion and sponsorship, including point-of-sale tobacco displays, Internet tobacco sales, and contributions from the tobacco industry and importers in the form of "socially responsible" activities in line with Article 13 and its guidelines.

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

Currently FSM 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"*.

FSM has not yet implemented any measures to ban cross-border tobacco advertising, promotion and sponsorship entering into its territory.

It is therefore recommended that FSM collaborate to adopt and implement legislation and regulations to ensure a complete ban on cross-border tobacco advertising, promotion and sponsorship entering into and originating from its territory. It is further recommended that national legislation address the banning of cross-border tobacco advertising, promotion and sponsorship in consultation with the states.

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"*.

FSM has not adapted or developed comprehensive and integrated guidelines for cessation and treatment of tobacco use.

It is therefore recommended that FSM make full use of the guidelines for the 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. These guidelines should include two major components: a national cessation strategy and national treatment guidelines.

In support of the Government's efforts in developing these guidelines, the Convention Secretariat is committed to sharing international experience and other Parties' national guidelines with the Department of Health and Social Affairs upon request from the Government.

Article 14.2 stipulates that to achieve the end outlined in Article 14.1, *"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 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".

FSM has established a programme concerning tobacco dependence treatment and cessation at both the national and state levels. These programmes promote cessation of tobacco use and include media campaigns emphasizing the importance of quitting, programmes specially designed for young girls and women, and pregnant women. Local events such as World No Tobacco Day are also used to raise public awareness about the need to quit. At the primary health-care level, brief advice on cessation is provided by doctors, dentists and community health workers. Patients are referred to a mental health specialist for further counselling and treatment. There is routine collection of information on smoking and the chewing of betel nut with tobacco within the health and medical system.

FSM has very limited funding available for dealing with tobacco dependence and assisting in cessation. Nicotine replacement therapy and medicines to treat tobacco dependence are not available. There are free quit lines in Chuuk, Kosrae and Pohnpei States. There has been training in Guam for Government and non-Government staff from all states in the Basic Tobacco Intervention programme.

The 2007 GYTS shows that 86.5% school-attending smokers aged 13–15 years wanted to quit, and that 83.2% had tried to stop smoking during the past year. Schools have the potential to provide brief advice on cessation to students.

Gaps –

1. A limited number of health workers at primary health-care level have been trained and mobilized to provide cessation counselling and brief cessation advice.
2. Schools are not fully utilized to provide brief advice on cessation to students
3. A quit line for tobacco cessation is only available in three States.
4. Pharmaceutical products for treatment of tobacco dependence are not available in the budget of the public health service.

It is therefore recommended that national and state programmes and services on diagnosis and treatment of tobacco dependence, and counselling services on cessation of tobacco use, be further strengthened. It is also recommended that all states strengthen their cessation and counselling services. Community-based counselling and cessation programmes should be a principal approach. All health-care workers should be trained to give brief advice and encourage quit attempts. These services should be integrated into the national and state health and education systems. It is further recommended that FSM fully utilize mass communication and education programmes for encouraging tobacco cessation, promoting support for tobacco cessation, and encouraging tobacco users to draw on this support.

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"*.

FSM has not been aware of smuggling of cigarettes of tobacco products for some years. The current Customs Act of 1996 controls smuggling, including that of illicit tobacco products.

The Protocol to Eliminate Illicit Trade in Tobacco Products adopted at COP5 provides an additional legal instrument to reduce supply. The Protocol will be open for signature by all Parties to the WHO FCTC at WHO Headquarters in Geneva from 10 to 11 January 2013, and thereafter at United Nations Headquarters in New York until 9 January 2014.

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 FSM

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	Currently no legislation or regulations exist at the national level in this regard.
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, sub-national, 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	
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	Currently only importation of tobacco products are monitored by Customs. There is no tracking and tracing regime in the distribution system.
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.	FULLY COMPLIANT	
4(b)	enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband cigarettes.	PARTIALLY COMPLIANT	There is a Customs Bill, CB-116, Customs and Revenue Border Protection Act 2012, which is currently awaiting passage through the Congress. This will improve surveillance of illicit trade.

4(c)	take appropriate steps to ensure that all confiscated 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.	NOT YET IMPLEMENTED	In most cases, confiscated illicit tobacco products are returned after duties have been paid.
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.	FULLY IMPLEMENTED	FSM has procedures in place for full documentation of seizure, monitoring of storage and disposal of tobacco products that are illicit or forfeited.
4(e)	adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.	NOT YET IMPLEMENTED	Current legislation does not allow such measures to be taken.
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 YET IMPLEMENTED	
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 sub-regional levels to combat illicit trade of tobacco products.	FULLY COMPLIANT	FSM collaborates with regional agencies and other governments in their efforts to combat illicit trade including the Oceania Customs Organization.
7	Each Party shall endeavour 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.	NOT YET IMPLEMENTED	

Gaps –

1. No specific action has been taken to ensure that packaging requires information on the origin and final destination for sale.
2. There is no system in place for the tracking and tracing of tobacco products.
3. There is no regulation on the destruction of confiscated tobacco products.
4. There is a lack of awareness on the use of environmentally friendly methods for disposal of illicit tobacco products.

It is therefore recommended that FSM review the current Customs Law and Regulations and adopt and implement measures in line with Article 15. It is also recommended that the Department of Finance and Administration (Taxation and Customs) and the Office of Environment and Emergency Preparedness work together to implement environmentally friendly methods for disposal of illicit tobacco products. It is further recommended that FSM become an early signatory to the Protocol to Eliminate Illicit Trade in Tobacco Products, followed by ratification.

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"*.

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*".

A summary of relevant state legislation is included in Annex 2. The summary indicates that all states have legislation in place that meets the obligation to ban sales to minors as defined by domestic law. There are no retail stores in which tobacco products are directly accessible to customers.

Under the FSM Federal Grant there is support to the enforcement of the prohibition on sale and/or distribution of cigarettes to minors. There are regular inspections of licensed retail outlets to ensure that no sales to minors take place. In 2011 there were 398 inspections and 18 violations, and in 2012 there have been 279 inspections and 44 violations.

FSM has met the obligations under Article 16.1(a) and (b) of the Convention.

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*".

Gap – No legislation or regulations currently prohibit the manufacture and sale of sweets, snacks, toys or any other objects in the form of tobacco products.

FSM has not met the obligations under Article 16.1(c) of the Convention.

It is recommended that FSM adopt and implement measures that will ensure that the obligations under Article 16.1(c) are fully met.

Article 16.1(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 are no vending machines selling tobacco products in FSM. However, there is no guarantee that such vending machines will not be introduced in the future. Pohnpei State has legislation in place that bans the sale of tobacco products via self-service machines. Chuuk, Kosrae and Yap States do not have legislation or regulations banning their use. The current status of state legislation is summarized in Annex 2.

Gap – No legislation or regulations in this regard exist at the national level or in Chuuk, Kosrae and Yap States.

It is recommended that legislation or regulations banning tobacco vending machines be introduced in the appropriate jurisdictions.

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"*.

Chuuk and Kosrae States prohibit the sale of cigarettes individually or in partial or unsealed packets as outlined in Annex 2.

Gap – Current legislation provides only limited coverage to the prohibition on the sale of cigarettes individually or in small packets.

It is recommended that FSM adopt and implement measures that will meet the obligations under Article 16.

Article 16.7 calls on Parties as appropriate to "*adopt and implement effective legislative, executive, administrative of other measures to prohibit the sales of tobacco products by persons under the age set by domestic law, national law or eighteen.*

Gap – Currently no legislation or regulations at national or state level prohibit the sale of tobacco products by minors.

It is recommended that FSM adopt measures to prohibit the sales of tobacco products by minors.

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"*.

FSM has limited local tobacco growing in Chuuk and Yap States. This is small scale production by families and there is limited local trade in the product. FSM agricultural policy promotes local food production and food security. The Department of Resources and Development is promoting programmes such as coconut rehabilitation and home gardening through training and support to farmers and communities.

Gaps –

1. The Department of Resources and Development is not fully aware of the WHO FCTC and its obligations under article 17 and 18.
2. The same department has not collected any data on the scale of local growing of tobacco.
3. There have been no alternatives promoted among tobacco growers and sellers.

It is recommended that Department of Health and Social Affairs and the Department of Resources and Development work together to adopt and implement measures providing support for economically viable alternative activities. It is also recommended that the Government work together with competent intergovernmental organizations such as FAO in implementing Article 17 of the Convention

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"*.

FSM has not considered the environment and the health of persons currently growing and selling tobacco.

Gap – No measures have been put in place to protect the environment and health of persons in respect of tobacco growing.

It is recommended that Department of Health and Social Affairs, Office of Environment and Emergency Management, and the Department of Resources and Development work together and make joint efforts to meet this treaty obligation.

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 is also no policy or legislative measure related to this Article. The mission was not informed of any court cases in which compensation is being sought in relation to any adverse health effects caused by tobacco use or exposure to tobacco smoke, including any action against the tobacco importers for full or partial reimbursement of medical, social and other relevant costs related to tobacco use.

Article 19 was on the agenda of COP5. An expert group was established to study the matter and propose recommendations to COP6.

Gap – the Government has not implemented Article 19.

It is therefore recommended that FSM in its national context review and promote the options for implementing Article 19 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"*.

FSM has conducted national research in coordination with regional and international bodies including WHO and the CDC. With the support of WHO, FSM has carried out a survey in line with the WHO STEPS approach in all four states and the GYTS in 2007. In addition the Behavioural Risk Factor Surveillance System (BRFSS) is being implemented in Kosrae State in collaboration with CDC.

Two questions related to tobacco use have been included in the 2010 national census (the census is conducted every 10 years). The Household Income and Expenditure Survey is conducted every five years and the next one will be conducted in 2013. Currently expenditure on tobacco products is not included in the survey. Statistics Division of The Office of Statistics, Budget and Economic Management, Overseas Development Assistance and Compact Management (SBOC) is in charge of the National census and surveys.

The 2002 STEPS survey in Chuuk indicated that smoking prevalence among people aged 25–64 years was 42% for men and 21% for women. Combined smoking prevalence is 31.6%. It showed that smokeless tobacco was also widely used by men (22.4%) but only by 3% of women. It is also significant that 30% of the population were shown to chew betel nut, often with tobacco, lime and the betel leaf. The chewing of betel nut was highest in the younger aged range, with 67% of men and 28% of women aged 25–34 years reporting use on average 14 times per day. Much of this information is now readily available and provides a basis for continuing research and monitoring of progress in tobacco control.

Gap – There are limited national data on the burden of disease related to tobacco, costs attributable to tobacco use and exposure to tobacco smoke.

It is therefore recommended that SBOC continue to include questions related to tobacco use in future censuses, monitor trends in data and share information widely. It is also recommended that SBOC consider including questions on expenditure on tobacco products in the next Household Income and Expenditure Survey in 2013 and related tobacco use data in other relevant national surveys. It is further recommended that the Department of Health and Social Affairs conduct research addressing the determinants and consequences of tobacco consumption and exposure to tobacco smoke, including data on costs 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*".

FSM has submitted three reports in due time. The two-year (first) report was submitted in June 2007, the five-year (second) report in September 2010, and the third report in April 2012. FSM has met the reporting obligations of Article 21.

As the COP established a new two-year cycle for Parties' implementation reports starting from 2012, with a deadline of submission six months prior to each COP session, it is recommended that the Government start preparing the next report well in advance in 2013/2014 in order to meet the deadline in 2014, and similarly 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 fulfil 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"*.

FSM, with support from WHO, conducted the STEPS survey in Chuuk State in 2006. The STEPS survey was also conducted in Pohnpei State in 2002. More recently, with support from CDC, Kosrae State conducted the Behavioural Risk Factor Surveillance System, which will provide a broad range of information on smoking behaviour. WHO has also been supporting FSM in its implementation of the Convention.

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 and fifth sessions, in decisions FCTC/COP4(17) [1] and FCTC/COP5(14),[2] the COP fully acknowledged 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. In these decisions the COP encourages developing 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 (2008–2012) in FSM does not include support to implementation of the Convention as a priority. The next UNDAF (2013–2017) is being finalized. The international team met the UN Joint Presence and also raised this issue to the Department of Foreign Affairs and Department of Health and Social Affairs. The Government is keen to include appropriate indicators and activities that will support the country in meeting its obligations under the Convention within the next UNDAF.

Gap – Supporting implementation of the Convention has not yet been included as a priority in the next UNDAF (2013–2017).

[1] See FCTC/COP/4/REC/1, *Decisions and ancillary documents*, available at: http://apps.who.int/gb/fctc/E/E_cop4.htm.
[2] All COP5 decisions are available at: http://apps.who.int/gb/fctc/E/E_cop5.htm

It is recommended that the Government actively seek opportunities to expand cooperation with other Parties, competent international organizations and development partners present in the country. It is also recommended that the Department of Health and Social Affairs, the Department of Foreign Affairs and SBOC work together and take immediate action to ensure that support for implementation of the Convention is included in the UNDAF 2013–2017.

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"*.

Currently the National and State Tobacco Control Programmes are funded through a Federal grant from CDC. This funding covers staff costs and supports some implementation activities. The Department of Health and Social Affairs allocates other resources particularly through integrating tobacco control activities into other public health programmes such as NCD, Cancer, Diabetes Prevention and Control and Substance Abuse and Mental Health.

Gaps –

1. There is limited budget in the Department of Health and Social Affairs to implement the Convention.
2. Other relevant departments have not allocated staff time and resources to implement the Convention.

It is therefore recommended that the Department of Health and Social Affairs increase operational funding to implement the Convention. One funding source could be through increasing the tax on tobacco products to support tobacco control programme and other public health programmes. It is also recommended that other relevant departments and government agencies allocate sufficient resources including staff time to implement 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"*.

Some international organizations and development partners are active in FSM. WHO have provided support in public awareness campaigns and conducting GYTS and STEPS. The SPC has provided support in the broader context of NCD prevention and control. The Department of Health and Social Affairs indicated that CDC, JICA and WHO are the main development partners supporting the health sector in FSM. Other development partners have a potential role to play in supporting the country to meet its obligations under the Convention.

Gaps – FSM 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 that the Government 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 *"economically viable alternatives to tobacco production, including crop diversification should be addressed and supported in the context of nationally developed strategies of sustainable development"*.

FSM only has very small scale local growing of tobacco in Chuuk and Yap States and some farmers sell them at the local markets. There is need to better understand the local tobacco growing and address it as part of the national sustainable development strategy.

Gap – currently there are no such projects have been promoted and the Department of Resources and Development was not fully aware of this treaty obligation.

It is recommended that the Department of Health and Social Affairs and the Department of Resources and Development work together in supporting economically viable alternatives to tobacco growing.

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 Department of Health and Social Affairs and the Department of Foreign Affairs are committed to ensuring that FSM will promote implementation of the Convention in the relevant bilateral and multilateral forums.

Gap – Other than WHO and CDC, FSM 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 support to developing countries, including FSM, in meeting their obligations under the Convention.

It is therefore recommended that FSM utilize the potential of Article 26.4 to advocate for moving the Convention higher up the international development agenda. It is also recommended that when other departments, such as the Department of Foreign Affairs, SBOC, the Department of Finance and Administration, and the Department of Resources and Development represent FSM in other regional and global forums, they also proactively urge regional and international organizations and financial institutions to provide financial assistance to developing countries in implementation of the Convention.

ANNEX 1

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

Office of the President

Honourable Mr Alik L Alik, Vice President

Department of Health and Social Affairs

Dr Vita A Skilling, Secretary of Health and Social Affairs
Mr Marcus Samo, Assistant Secretary of Health and Social Affairs
Mrs Shra Alik, Tobacco Control Manager

National Congress

Senator Tony Otto, Chairman, Committee on Health
Senator Joseph Urusumel, Vice-Chairman, Committee on Health, Chairman of the Education Committee
Ms Catherine Allen, Legal Advisor, Committee on Health

Participating Government agencies

Department of Health and Social Affairs
Department of Foreign Affairs
Department of Resources and Development
Department of Finance and Administration
Department of Justice (Attorney General's Office)
Department of Transportation, Communication and Infrastructure
Department of Education
The Office of Statistics, Budget and Economic Management, Overseas Development Assistance and Compact Management (SBOC)
The Office of Environment and Emergency Management

Representatives of the states

Chuuk Attorney General's Office
Chuuk Department of Health Services (Cancer Program)
Kosrae State Legislature
Kosrae Attorney General
Kosrae Department of Health Services (Tobacco Prevention and Control Program)
Pohnpei Department of Health Services (Tobacco Prevention and Control Program)
Yap Department of Health Services (Tobacco Prevention and Control Program)

Convention Secretariat

Ms Guangyuan Liu, Technical Officer
Dr Harley Stanton, Temporary Advisor

WHO Country Liaison Office for Northern Micronesia

Mr Richard Moufa

Nongovernmental organizations

National Tobacco Free Coalition
Chuuk Tobacco Free Coalition
Kosrae Tobacco Free Coalition
Pohnpei Tobacco Free Coalition

In addition, the international team met Mr Okean Ehmes, Country Development Manager, UN Joint Presence for FSM.

ANNEX 2 – Brief summary of national and state legislation

Article 6: Price and tax measures to reduce the demand for tobacco					
	National	**Chuuk**	**Kosrae**	**Pohnpei**	**Yap**
Legislation reference	Subsection 221(2) Title 54 of FSM Code. PL 1360	Legislation not provided	D.L. 1-18 and State Law No 9-16		Yap State Code: 103(4)(i)
	Import duty of $0.25 per cigarette, with an increase of $0.005 per cigarette on January 1 of each of the years, 2007, 2009, 2011, 2013 and 2015. On other tobacco products at 50% *ad valorem*	Chuuk State Legislature increased sales tax on tobacco products from 10% to 100% in 2012. Details not provided.	Sales tax on tobacco products as follows: $1 per pack of 20 cigarettes and 2.5 cents per additional 5 cigarettes, 5 cents for cigars and 25 cents per ounce for other tobacco products.		Excise tax on tobacco products as follows: 30 cents per 20 cigarettes, 3 cents per cigar, 6 cents per ounce of tobacco other than cigarettes and cigars.

Article 8: Protection from exposure to tobacco smoke					
	National	**Chuuk**	**Kosrae**	**Pohnpei**	**Yap**
Legislation reference	FSMC Title 41	CSL – 11-12-17 10 Oct 2012	Kosrae State Law 9-149. Section 12:1601 of the Kosrae State Code. Passed 2010	PC 3A-103 & 3A-104	State Law 7-75 - 2010
Areas of application	All government offices whether owned, leased or rented. Where leased or rented applies only to the portion of building that is leased or rented.	Smoking prohibited in all public places including but not limited to: hospitals and dispensaries, classrooms, dining and meeting halls and other areas to which the public has access including licensed premises, places of employment and private clubs.	Smoking prohibited in all enclosed public places including, but not limited to, transport (planes, buses and taxis), shops and retail establishments, educational institutions, halls, indoor sports arenas, restrooms, restaurants, lobby and reception areas. Smoking prohibited in all enclosed places of employment.	Smoking in government buildings belonging to Pohnpei State is prohibited except in designated areas. Further, smoking is prohibited in public places and places of employment except where designated and in fully open places of employment. Smoking is not allowed within 25 feet (7.6 m) of entrances.	Smoking is prohibited in all government buildings and vehicles and in fully or partially enclosed public places and places of employment. Smoking is not allowed within 50 feet (15.2 m) of entrances.

Exemptions and loopholes		**No.**	**No.**	**Exemption:** lesser distance may be requested by application and accepted if it can be shown that no exposure will occur with the reduced distance. The size of the designated smoking area is permitted to be up to 20% of the size of the establishment.	**Exemption:** 1. Not more than 20% of hotel and motel rooms can be designated as smoking areas. 2. Smoking is allowed in retail tobacco stores. 3. Private and semiprivate rooms in nursing homes and long-term care facilities can request smoking rooms. 4. Presumptive distance can be reduced if it can be shown by clear and convincing evidence that smoke will not infiltrate into public areas.
Status of compliance	***100% ban in indoor workplaces***	***100% ban in indoor public places and work places***	***100% ban in indoor public places and work places***	***Partial ban in indoor public places and workplaces***	***Partial ban in indoor public places and work places***

Article 11: Packaging and labelling of tobacco products					
	National	**Chuuk**	**Kosrae**	**Pohnpei**	**Yap**
Legislation reference		CSL – 11-12-17 Section 6		66:PC 1-105	
		Selling and importation: All businesses shall sell or import only cigarettes with warning labels describing the harmful effects clearly on the packs.		Packages carry warnings that substantially follow the findings of the Surgeon General of the United States.	

Article 13: Tobacco advertising, promotion and sponsorship					
	National	**Chuuk**	**Kosrae**	**Pohnpei**	**Yap**
Legislation reference		CSL – 11-12-17 Section 7		66 PC 1-103 & 104	3-80 1994 – Section 1301
		Total ban on tobacco advertising, promotion and sponsorship.	No legislation on tobacco advertising, promotion and sponsorship.	Advertising and promotion is prohibited except for displays of prices of tobacco products.	No advertising of harmful products including cigarettes, cigars, pipe tobacco, chewing tobacco, snuff or other tobacco products.

Exemptions and Loopholes		**Question:** Some question as to whether the sponsorship applies only to sports.		**Exemption:** Advertising from outside the state incidental to the main topic of the print, radio or television communication provided there is no financial gain from the placement.	**Exemption:** Hand-drafted signs that display prices and are not visible from outside the point of sale.
Article 16: Sales to and by minors					
	National	**Chuuk**	**Kosrae**	**Pohnpei**	**Yap**
Legislation reference		CSL – 11-12-17 Section 8. a	State Law 5-54	PC -3-101	Yap Law 3-80 Section 1302
Sales to minors		No sales to minors or pregnant women. Anyone under 18 years of age is a minor.	Providing tobacco or a tobacco containing product or betel nut to a minor under 18 years of age is a category II offense	Prohibition of sales of tobacco or tobacco products to or on behalf of minors under 18 years of age.	No sale or giving of tobacco products to anyone under 17 years of age or younger.
Sales by minors		No legislation.	No legislation.	No legislation.	No legislation.
Article 16.1(d) – Vending machine sales					
Legislation reference				66 PC 3-101	

		No legislation.	No legislation.	Legislation bans sales of any tobacco product by vending machine or other dispensing device to a minor or anyone acting on behalf of a minor.	No legislation.
Article 16.3 - Sale of cigarettes individually or in small packets					
Legislation reference		CSL – 11-12-17 Section 8. b.	State Law 9.72		
Sale of individual cigarettes		Selling of loose cigarettes is prohibited.	Unauthorized sale of tobacco products in partial or unsealed packages is prohibited.	No legislation or regulation.	No legislation or regulation.