

**Needs Assessment  
for implementation of the  
WHO Framework Convention on  
Tobacco Control  
in Lesotho**

**Convention Secretariat  
March 2010**

## Executive Summary

The WHO Framework Convention on Tobacco Control (WHO FCTC) is the first public health treaty negotiated under the auspices of WHO. It is also one of the fastest ratified treaties and currently has 168<sup>1</sup> Parties. The ratification of the WHO FCTC commits the Government of the Kingdom of Lesotho to meet the obligations to the treaty.

A needs assessment exercise for implementation of the WHO FCTC was conducted jointly by the Government of the Kingdom of Lesotho and the Convention Secretariat on 6-9 October 2009. The detailed assessment involved various relevant ministries and agencies of the Kingdom of Lesotho with support from the WHO-TFI (see Annex I). The need assessment report therefore offers an article by article analysis of the obligations that Lesotho has to the Convention; the progress the country has made in implementation; the gaps that may exist and the subsequent possible actions that can fill those gaps.

The key elements which need to be put in place to enable Lesotho meet its obligations to the Convention are summarized below and the details are found in the needs assessment report.

First, the WHO FCTC is an international treaty and therefore international law. Lesotho, having ratified this treaty on 14<sup>th</sup> January 2005, is obligated to implement the provisions of the FCTC through national law, regulation or other measures. There is currently no formal policy or legislation on tobacco control that is guiding the implementation of the Convention in Lesotho. Drafting of a national law and national policy is therefore urgent and critical.

Second, there is a focal point based in the Ministry of Health and Social Welfare and an *ad hoc* inter-sectoral network of tobacco control advocates, including civil society, facilitated by the Ministry. This network has no formal authority or mandate from the government to coordinate implementation of the Convention. There is thus an urgent need to establish a multisectoral national coordinating mechanism with a mandate from the government to coordinate implementation of the Convention. This mechanism will also offer a good platform for increased understanding of treaty obligations in the whole government.

Third, the WHO FCTC is a comprehensive treaty whose implementation requires the involvement of many sectors for formulation of comprehensive national legislation, regulation and other measures including setting up an infrastructure for enforcement. All these different activities require well prepared personnel. At present, the staff of the Ministry of Health and Social Welfare working in tobacco control are dedicating only part of their time for implementation of the Convention as they have to cover other duties within the Ministry. It is recommended that staff in the Ministry is made available to work full-time for the implementation of the Convention. Other staff from within the Ministry can support this work on a part-time basis and more staff time can be realized

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<sup>1</sup> March 2010

from other ministries and agencies of government who have a role in the implementation of the Convention.

Fourth, the Convention also calls on Parties to provide in their budgets, financial resources for implementation of the Convention. These resources should be availed by the relevant ministries and government agencies. The Ministry of Health and Social Welfare is currently supporting tobacco control activities under the budget of the Department of Health Education. There is however no specific budget line for tobacco control. The information on allocation of budgets of the other relevant ministries that contribute to the implementation of the Convention is not yet complete. The Ministry of Health and Social Welfare is therefore urged to not only have a dedicated budget line for implementation of the Convention but also coordinate with other arms of government to ensure that they avail funds within their budgets to support implementation of the relevant provisions of the Convention.

Fifth, potential partners who are currently active in the country should be engaged to contribute towards implementation of the Convention and these include UN organizations, World Bank, the EU, the African Development Bank, Irish Aid, and DFID among others. The results of the need assessment can contribute to this task. The Convention Secretariat is available to support the process of engaging potential partners and identifying internationally available resources for implementation of the Convention.

According to findings of this report several articles will also need attention for promoting the implementation. Particular attention may need to be placed on the obligations with a clear deadline after the entry into force of the Convention for Lesotho (on 14 April 2005): Article 8 (*Protection from exposure to tobacco smoke*) within 5 years as called for in the guidelines (April 2010); Article 11 (*Packaging and labelling of tobacco products*) within 3 years (April 2008); Article 13 (*Tobacco advertising, promotion and sponsorship*) within 5 years (April 2010) and Article 21 (*Reporting and exchange of information*) where the second (5 year) implementation report is due in April 2010.

Addressing the issues raised in this report will make a substantial contribution to meeting their obligations to the WHO FCTC and improvement of the health status in Lesotho.

The final report of this joint needs assessment, which follows this summary, can also be the basis for proposal(s) that may be presented to relevant partners to support Lesotho to meet its obligations to the Convention.

## **Introduction**

The WHO Framework Convention on Tobacco Control (WHO FCTC) is the first and only international public health treaty negotiated under the auspices of the World Health Organization. Lesotho ratified the Convention on 14<sup>th</sup> January 2005 and the treaty entered into force for them on 14 April 2005.

The Convention recognizes the need to generate global action so that all countries are able to respond effectively in the implementation of the provisions of the Convention. Article 21 of the Convention calls on Parties to periodically submit to the Conference of Parties implementation reports, including any difficulties they may face during implementation of the treaty. Article 26 of the Convention recognizes the importance that financial resources play in achieving the objectives of the treaty. The Conference of the Parties (COP) further directed that detailed needs assessment be done at country level, especially in developing countries and countries with economies in transition, to ensure that lower resource Parties are supported to fully meet their obligations under the treaty.

The initiation of this process dates back to the first session of the COP (February 2006), when it called upon developed country Parties to provide technical and financial support to developing country Parties and Parties with economies in transition (decision FCTC/COP1(13)). The COP also called upon the developing country Parties and Parties with economies in transition to conduct needs assessment in light of their total obligations related to the implementation of all provisions of the Convention and 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 asked the Convention Secretariat (decision FCTC/COP2(10)) to actively seek extrabudgetary contributions specifically for the purpose of assisting Parties in need to carry out needs assessments and develop project and programme proposals for financial assistance from all available funding sources.

At its third session (November 2008), the COP adopted the workplan and budget for the current biennium of 2010–11. The workplan, inter alia, stressed the importance of assisting developing country Parties and Parties with economies in transition, strengthening coordination with international organizations, and aligning tobacco control policies at country level to promote the implementation of the Convention. Needs assessments, combined with the promotion of access to available resources, the promotion of treaty tools at country level, the transfer of expertise and technology, and south-to-south cooperation were outlined as major components of this work.

The assessment of needs is necessary to identify the objectives to be accomplished under the WHO FCTC and resources available to a Party for the implementation and any gaps thereof. The assessment should therefore be comprehensive and based on all substantive articles of WHO FCTC with a view to establishing a baseline of needs that a Party

requires to fulfill its obligations under the Convention. The needs assessment is also expected to serve as a basis for assistance in programme and project development for meeting the obligations under the Convention, particularly to lower resource countries with the view to promoting and accelerating access to internationally available resources for implementation of the Convention.

To be comprehensive, the needs assessment is carried out in three phases: (a) initial analysis of the status, challenges and potential needs deriving from the implementation report of the Party and other available sources of information; (b) visit of an international team to the country for a joint review with government representatives representing both the health and other relevant sectors; and (c) follow up with country representatives for further details and clarifications, review of additional materials jointly identified, and the development and finalization of 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 the implementation of the WHO FCTC was conducted by the Government of the Kingdom of Lesotho and the Convention Secretariat, with the participation of WHO/TFI and the WHO Representative to Lesotho, from 6 to 9 October 2009. The detailed assessment involved various relevant ministries and agencies of the Government of Lesotho (Annex 1). The following report is, therefore, based on the findings of the joint needs assessment exercise.

The report contains a detailed overview of the status of implementation of substantive articles of the WHO FCTC and also identifies gaps therein and areas where further actions are needed to ensure full compliance with the requirements of the treaty. This is followed by specific recommendations concerning that particular area. The Executive Summary provides an overview of the joint needs assessment exercise and an outline of key findings and recommendations.

## **Article 2: Relationship between this Convention with other agreements and legal instruments**

*Article 2.1 - encourages Parties to the Convention to impose more strict requirements that go beyond those of the WHO FCTC and its protocols, and that are in conformity with international law.*

### **Status**

No information was found on requirements that go beyond those provided for in the Convention.

### **Principle action required**

The government should provide for in the laws, more strict provisions than those in the Convention.

Action is by the Government of Lesotho and principally the Ministry of Health and Social Welfare.

*Article 2.2 - clarifies that the Convention does not affect the right of Parties to enter into bilateral or multi-lateral agreements provided such agreements are compatible with their obligations under the Convention and its protocols, and such agreements shall be communicated to the COP through the Secretariat.*

### **Status**

No agreements by Lesotho have been reported to the COP through the Convention Secretariat.

### **Gaps vs. FCTC obligation**

The Government of Lesotho has entered into agreements that may have an impact on their implementation of the Convention including the Southern African Customs Union (SACU) whose members are Botswana, Lesotho, Namibia, South Africa and Swaziland, and have not yet reported these to the COP.

### **Principal action required**

The relevant ministries including the Ministry of Foreign Affairs and International Relations, the Lesotho Revenue Authority and the Ministry of Trade and Industry, Cooperatives and Marketing should identify the relevant agreements and report them to the COP through the Convention Secretariat.

Action is by the Government of Lesotho and principally the Ministry of Health and Social Welfare and the Ministry of Foreign Affairs and International Relations.

## **Article 5: General Obligations**

*Article 5.1 requires each Party to develop, implement and periodically update a comprehensive, multi-sectoral national tobacco control strategies, plans, and programmes*

### **Status**

There is a workplan of the health education division of the Ministry of Health and Social Welfare which mainly targets awareness raising and training on health effects of tobacco control for the business community, parliamentarians, police and schools.

### **Gaps vs. FCTC obligation**

There is no national multi-sectoral strategy, plan or programme on tobacco control.

### **Principal action required**

To draft a national strategy/policy which is in accordance with the WHO FCTC and its protocols.

Action is by the Government of Lesotho and principally the Ministry of Health and Social Welfare.

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

### **Status**

1. There is a focal point based in the Ministry of Health and Social Welfare;
2. There is also an ad hoc inter-sectoral network facilitated by the Ministry of Health and Social Welfare to coordinate the implementation of the Convention.

### **Gaps vs. FCTC obligation**

This network does not have formal authority or mandate from the government.

### **Principal action required:**

To urgently initiate establishment of a national coordinating mechanism with a formal mandate from the government to coordinate implementation of the Convention.

Action is principally by the Ministry of Health and Social Welfare.

## **Human resources**

### **Status**

Presently one full time personnel is available at the Ministry of Health and Social Welfare who is working on the implementation of the Convention.

### **Gaps vs. FCTC obligation**

Inadequate staffing levels vis-à-vis the need to meet obligations to the Convention.

Principal action required:

That staff in the Ministry are made available to work full-time for the implementation of the Convention. Other staff from within the Ministry of Health and Social Welfare can support this work on a part-time basis. More staff time can be realized from other ministries and agencies of government who have a role in the implementation of the Convention.

Action is principally by the Ministry of Health and Social Welfare.

**Budget**

Status

The Ministry of Health and Social Welfare is currently supporting tobacco control activities under the budget of the Department of Health Education.

Gaps vs. FCTC obligation

The information on allocation in the budgets of the other relevant ministries that contribute to the implementation of the Convention is not yet complete. In the budget of the Ministry of Health and Social Welfare there is no specific budget line for tobacco control.

Principal action required

The Ministry of Health and Social Welfare should:

- Establish within its budget, a dedicated line for implementation of the Convention.
- Urge the other relevant ministries to provide in their budgets, funds to support implementation of the relevant provisions of the Convention as their responsibility towards meeting obligations of the treaty.
- Collate the sums in the various Ministry budgets to estimate the total government financing of implementation of the Convention.

*Article 5.2. (b) Calls on Parties to adopt and implement effective national law and cooperate with other parties in developing policies*

Status

There is in place an anti-smoking Decree of the Prime Minister (2001) which is still valid.

Gaps vs. FCTC obligation

There is currently no formal policy or legislation on tobacco control that is guiding the implementation of the Convention in Lesotho.

Principal action required

Drafting of a Tobacco Control law for presentation to the Parliament and a policy for presentation to the Cabinet for approval. This is urgent.

Action is by the Government of Lesotho and principally the Ministry of Health and Social Welfare and the Ministry of Foreign Affairs and International Relations.

*Article 5.3. calls on Parties to protect their national public health policies on tobacco control from the commercial and other vested interests of the tobacco industry*

Status and Gaps vs. FCTC obligation

At present there is no formal policy for such protection.

Principal action required

Developing such a policy to adequately cover the obligation under this provision and the relevant guidelines as adopted by COP3.

Action is principally by the Ministry of Health and Social Welfare to initiate action within the Government of Lesotho

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

Status

Lesotho has been participating in the working groups and subsidiary bodies of the COP.

Principle action required

Broaden the involvement of other relevant agencies and departments of government in national level consultations before and during international negotiations.

*Article 5.5 calls on Parties to cooperate with competent international and regional intergovernmental organizations to achieve the objectives of the Convention and the protocols*

Status

Regular assistance from WHO through WR Lesotho for tobacco control activities.

Gaps vs. FCTC obligation

Potential partners who are currently active in the country have not yet been engaged to contribute directly towards implementation of the Convention. These include other UN agencies, World Bank, the European Community, the African Development Bank, Irish Aid, and DFID among others.

Principal action required

Identifying potential partners and internationally available resources for implementation of the Convention.

Action is by the Government of Lesotho, supported by the Convention Secretariat as necessary.

## **Article 6: Taxation on Tobacco**

*Article 6.2 affirms that without prejudice to the sovereign rights of the Parties to determine and establish their taxation policies, each Party should take into account of its national health objectives concerning tobacco control and adopt or maintain measure which may include:*

*6.2 (a) Implementation tax policies, price policies on tobacco products so as to contribute to the health objectives aimed at reducing tobacco consumption*

### **Status**

The responsible Government agency for taxation is the Ministry of Finance through the Lesotho Revenue Authority (LRA). It is not clear if the tax increases are done for public health reasons, fiscal ones or both. The cheapest cigarettes cost 3 Maloti (LSL)<sup>2</sup>. Information on *ad valorem* tax shows that it varies by country where the tobacco is imported from. Rates of import duties from outside SACU is 45% on imported cigarettes and tobacco

Value Added Tax (VAT) is at 15% but only for tobacco while the excise rate is 7.7 LSL per pack of 20 sticks of cigarettes. However no duties are levied on tobacco imported from the Southern African Development Community (SADC)<sup>3</sup> region.

### **Gaps vs. FCTC obligation**

There is not yet a clear government policy that taxation of tobacco products is applied to contribute to health objectives.

### **Principal action required**

Initiating a process to establish a clear government policy that taxation of tobacco products will be done to also contribute to health objectives. There is also need to collect and collate existing evidence showing that higher taxes on tobacco products results in higher revenues for governments even as it contributes to a reduction in consumption and therefore health effects. To this end, nomination of a focal point by the Ministry of Finance, in consultation with the LRA, is a critical step.

Action is principally by the Ministry of Finance and the Ministry of Health and Social Welfare.

*6.2. (b) Prohibiting or restricting sales to and/or importations by international travellers of tax- and duty free tobacco products*

### **Status**

Restrictions on tobacco products are being applied according to SACU customs tariffs not only on duty free shops but also on tobacco imported by tourists, immigrants and

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<sup>2</sup> 1 US dollar = about 7.5 LSL

<sup>3</sup> Current SADC Member States: Angola, Botswana, the Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe.

returning Lesotho residents. SACU Customs legislation is therefore in place, only national legislation is lacking.

#### Gaps vs. FCTC obligation

There is currently no national legislation or regulation that addresses this obligation.

#### Principal action required

Drafting of the relevant national legislation, regulations or other measures, using language that reflects the spirit and letter of the Convention including indicating the institution which will apply and enforce such policy.

Action is by the Government of Lesotho and principally the Ministry of Finance, the Lesotho Revenue Authority and Ministry of Health and Social Welfare.

*Article 6.3 urges Parties to provide rates of taxation for tobacco products and trends in tobacco consumption in their periodic reports to the Conference of the Parties, in accordance with Article 21*

#### Status

Lesotho provided information in the first implementation report (2008) on brands of tobacco products, the retail prices for the three most popular brands of domestic and imported tobacco products.

#### Gaps vs. FCTC obligation

In the first periodic report, specification on type of taxes and on trends in tobacco consumption was not provided. There was also no estimation of the total taxes as a percentage of the retail price of a pack of 20 cigarettes.

#### Principal action required

Provision in the next implementation report of both the rates of taxation and the trends in tobacco consumption in Lesotho.

Action is principally by the Ministry of Finance, the Lesotho Revenue Authority, the Department of Statistics and Ministry of Health and Social Welfare.

### **Article 8: Protection from exposure to tobacco smoke**

*Article 8.2 calls on Parties to adopt and implement legislative, executive, administrative and/or other measures providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places, outdoor public places and other public places*

#### Status

There is an Anti-smoking Decree of the Prime Minister (2001) whose objective is protecting the public from exposure to tobacco smoke in public indoor workplaces including a complete ban on smoking in government buildings and health care facilities,

airplanes, ground public transport and restaurants. This decree is still valid. It however does not have the force of law nor does it attract sanctions.

#### Gaps vs. FCTC obligation

Currently there is no legislation addressing protection of the public from exposure to tobacco smoke. The existing Anti- smoking Decree of the Prime Minister (2001) does not, in its current form, meet the obligations under Article 8 and the relevant guidelines.

#### Principal action required:

Urgent drafting of a Tobacco Control law in line with Article 8 and the relevant guidelines for implementation of the Convention, which can be presented to the Parliament and also a tobacco control policy for presentation to the Cabinet for approval. Action is by the Government of Lesotho and principally the Ministry of Health and Social Welfare.

*The Article 8 Guidelines call on Parties to raise awareness among the public and opinion leaders about the risks of second hand smoke*

#### Status

There are various activities that focus on the effects of tobacco use to those who use it and are exposed too. There are also programmes to create smoke-free schools and smoke-free hospitals as well.

#### Gaps vs. FCTC obligation

Lesotho has also not yet secured universal protection as called for in the Article 8 guidelines and the deadline of 14 April 2010, as recommended in the guidelines, is fast approaching.

#### Principal action required:

Provision of universal protection to the public within the 5 years after ratification of the Convention (14 April 2010 for Lesotho). There is also need to strengthen and sustain the information and communication programme on tobacco control to mobilize public support for future legislation that protects the public from exposure to tobacco smoke.

Action is by the Government of Lesotho and principally Ministry of Health and Social Welfare, Ministry of Communication and with support from the civil society.

### **Article 9: Regulation of the contents of tobacco products**

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

#### Status

There is currently no legislation, regulation or other measures addressing this obligation.

#### Gaps vs. FCTC obligation

No relevant legislation, regulation or other measures are in place and there is no relevant infrastructure or information on capacity for testing and measuring the contents of tobacco products.

#### Principle action required

Drafting of the relevant legislation, regulation or other measures, using language that reflects the spirit and letter of the Convention including indicating the institution which will apply and enforce these regulations. There is also need to create capacity in testing and measuring, and also to establish international cooperation with a neighbouring country having this capacity.

Action is by the Government of Lesotho and principally the agency responsible for standards, Ministry of Health and Social Welfare and other relevant Ministries.

### **Article 10: Regulation of tobacco disclosures**

*Article 10 requires Parties to adopt and implement effective legislative, executive and administrative or other measures requiring manufacturers and importers of tobacco products to disclose to governmental authorities information about the contents and emissions of their tobacco products and disclose to the public information about the toxic constituents of such products.*

*Each Party is required to further adopt and implement effective measures for public disclosure of information about toxic constituents of the tobacco products and the emissions they may produce*

- *Measures by Parties requiring manufacturers and importers to disclose information to governmental authorities about the content and emissions of their tobacco products*

#### Status

There is currently no legislation, regulation or other measures addressing this obligation.

#### Gaps vs. FCTC obligation

There is currently no requirement for disclosure

#### Principal action required

In drafting of the relevant legislation, regulation or other measures, use language that reflects the spirit and letter of the Convention including indicating the institution which will enforce these regulations.

Action is by the Government of Lesotho and principally the agency responsible for standards, Ministry of Health and Social Welfare and other relevant Ministries.

- *Measures by Parties requiring public disclosure of information about toxic constituents of the tobacco products and the emissions*

#### Status

There is currently no legislation, regulation or other measures addressing this obligation.

#### Gaps vs. FCTC obligation

No requirement of disclosure to the public

#### Principal action required

In drafting of the relevant legislation, regulation or other measures, use language that reflects the spirit and letter of the Convention including indicating the institution which will enforce these regulations.

Action is by the Government of Lesotho and principally the agency responsible for standards, Ministry of Health and Social Welfare and other relevant Ministries.

### **Article 11: Packaging and labelling of tobacco products**

*Article 11.1 requires each Party to, within a period of three years after entry into force of this Convention for that Party, adopt and implement, in accordance with its national law, effective measures to ensure that:*

*(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”*

*(b) each unit packet and package of tobacco products and any outside packaging and labelling of such products also carry health warnings describing the harmful effects of tobacco use, and may include other appropriate messages.(Parts i-v)*

#### Status

The entry into force of the Convention for Lesotho was 14 April 2005. There is no legislation, regulation or other measures that address the provisions of Article 11 of the Convention.

#### Gaps vs. FCTC obligation

Lesotho has not met its obligation to this Article as three years (14 April 2008) have already passed before meeting this obligation.

#### Principal action required

In drafting of the relevant legislation, regulation or other measures, use language that reflects the spirit and letter of the Convention including indicating the institution which will enforce these regulations. This is urgent.

Action is by the Government of Lesotho and principally the Ministry of Trade and Industry and the Ministry of Health and Social Welfare.

*Article 11.2 requires that 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.*

Status

There is currently no legislation addressing this obligation.

Gaps vs. FCTC obligation

No legislation on packaging and labelling.

Principal action required

In drafting of the relevant legislation/regulation, use language that reflects the spirit and letter of the Convention including indicating the institution which will apply and enforce these regulations.

Action is by the Government of Lesotho and principally by Ministry of Health and Social Welfare and the Ministry of Trade and Industry.

*Article 11.3 provides that 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.*

Status

There is currently no legislation addressing this obligation.

Gaps vs. FCTC obligation

No legislation on packaging and labelling.

Principal action required

In drafting of the relevant legislation, use language that reflects the spirit and letter of the Convention including indicating the institution which will apply and enforce these regulations.

Action is by the Government of Lesotho and principally by the Ministry of Health and Social Welfare and the Ministry of Trade of Industry.

*NB: Since there is not yet legislation that addresses the provisions under Article 11, the guidelines for the implementation of Article 11 will be a useful resource when the law is being drafted.*

Action is by the Government of Lesotho and principally by Ministry of Health and Welfare and the Ministry of Trade and Industry.

### **Article 12: Education, communication, training and public awareness**

*Article 12 requires each Party to promote and strengthen public awareness of tobacco control issues, using all available communication tools.*

#### Status

The Ministry of Health and Social Welfare has a policy of health promotion including a public awareness programme in the Department of Health Education. There is also some collaboration between the ministry and civil society in public awareness activities. The provisions have however not been institutionalised through legislation or regulation.

#### Gaps vs. FCTC obligation

No legislative or other measures to address Article 12.

#### Principal action required

To establish a clear government policy on the promotion of public awareness of tobacco control issues and use all available communication tools within government, including the ministry responsible for communication. This may be through relevant legislation or regulation that reflects the spirit and letter of the Convention including indicating the institution which will apply and enforce these regulations.

*This article also requires that towards this end, 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 smoke;*

#### Status

Broad access for the public to information on the health risks including addictive characteristics and exposure to smoke is provided through programmes that are targeted at the general public, or groups e.g. adults, children, women and youth. The benefits of cessation are also included in this programme.

There is however currently no legislation or regulation that addresses this obligation.

#### Gaps vs. FCTC obligation

There is need to strengthen these activities and efforts to ensure the public have broad access to tobacco control information.

Principal action required

Measures to implement public access to information on the tobacco control.

Action is by the Government of Lesotho and principally by Ministry of Health and Social Welfare

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

Status

As indicated in (a) above there are health promotion (including public awareness) activities conducted by the Ministry of Health and Social Welfare. One ministry agency, Thaba Bosiu Centre and NGOs such as Anti Drug and Alcohol Association of Lesotho (ADAAL), Scott Hospital and Christian Health Association of Lesotho (CHAL) are active in raising public awareness on harmful effects of tobacco consumption, as well as alcohol and other drugs, and the benefits of cessation.

Gaps vs. FCTC obligation

Though there are activities to raise awareness on the harmful effects of exposure to smoke and the need of smoke free environment, the scale is moderate.

Principal action required

There is need to increase the scale of raising awareness both on harmful effects of smoking and the need for smoke free environment.

Action by the Government of Lesotho and principally by Ministry of Health and Social Welfare and Ministry of Communication.

*(c) public access to wide range of information on the tobacco industry.*

Status

There is currently no legislation, regulation or other measures addressing this obligation.

Gaps vs. FCTC obligation

Currently, there is no policy on public access to information on tobacco industry.

Principal action required

Provide legislation, regulation or other measures to address this obligation in Lesotho.

Action is by the Government of Lesotho and principally by Ministry of Health and Social Welfare.

*(d) 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.*

Status

There is a programme where appropriate training and sensitization is addressed to health, community and social workers, as well as doctors and decision makers.

Gaps vs. FCTC obligation

The need for this provision to be clearly addressed by legislation, regulation or other measures.

Principal action required

In drafting of the relevant legislation, regulation or other measures use language that reflects the spirit and letter of the Convention including indicating the institution which will apply and enforce these regulations.

Action is by the Government of Lesotho and principally by Ministry of Health and Social Welfare

*(e) awareness and participation of public and private agencies and non governmental organizations not affiliated with the tobacco industry in developing and implementing of intersectoral programmes and strategies for tobacco control.*

Status

There is an ad hoc group, the Lesotho network on Anti-smoking, which is multi-sectoral in nature and does include non-governmental organizations not affiliated with the tobacco industry. It cooperates in informing the public about the harmful effects of tobacco use and exposure to tobacco smoke and on benefits of quitting, among other things.

Gaps vs. FCTC obligation

The absence of formal conditions guiding the types of non-governmental organizations and private agencies that can be involved in tobacco control activities.

Principal action required

Promotion of greater involvement of more NGOS and private entities in raising the awareness and participation of public on tobacco control issues; also to participate in developing and implementing intersectoral programmes and strategies for tobacco control in Lesotho. Formalizing that all participating bodies have no affiliation with the tobacco industry.

Action is by the Government of Lesotho and principally by Ministry of Health and Social Welfare

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

Status

This is part of the public awareness activities referred to above.

Principal action required

To have policy that addresses this obligation particularly the negative consequences of tobacco production.

Action is by the Government of Lesotho and principally by Ministry of Health and Social Welfare

**Article 13: Tobacco advertising, promotion and sponsorship**

*Article 13.1 requires Parties to recognize the necessity of a ban on advertising, promoting and sponsorship to reduce the consumption of tobacco products*

*Articles 13.2 and 13.3 - Each party shall in accordance with its constitution or constitutional principles, undertake a comprehensive ban of all tobacco advertising, promotion and sponsoring. This shall include a comprehensive ban or applying restrictions on cross-border advertising, promotion and sponsorship originating from its territory.*

*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 with Article 21.*

Status

There is currently no legislation, regulation or other measures and no regulatory authority addressing this obligation. There is however no constitutional hindrance in Lesotho to implement these provisions.

Gaps vs. FCTC obligation

There is currently no legislation or regulating authority on tobacco advertising, promotion and sponsorship, and the five years timeline to meet this obligation is approaching (14 April 2010).

Principal action required

In drafting of the relevant legislation or regulation, use language that reflects the spirit and letter of the Convention and relevant guidelines including indicating the institution which will apply and enforce these regulations.

Action is by the Government of Lesotho and principally by Ministry of Health and Social Welfare and Ministry of Trade and Industry.

*Article 13.4 to 13.8 are not included in this report as Lesotho does not yet have legislation, regulation or other measures that may have addressed these obligations.*

## **Article 14: Demand reduction measures concerning tobacco dependence and cessation**

*Article 14.1 requires each Party to develop and disseminate guidelines based on scientific evidence and best practices concerning tobacco dependence and cessation and take effective measures to promote cessation of tobacco use and adequate treatment for tobacco dependence.*

*Towards this end (Article 14.2) each party is required to design and implement programmes aimed at cessation of tobacco use in such locations as educational institutions, health care facilities, workplaces and sporting environments.*

*(b) include diagnosis and treatment to tobacco dependence and counselling services for cessation of tobacco use in national health-care system, programmes, plans and strategies for tobacco control, health and education with participation of health workers, community workers and social workers.*

*(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 access and affordability for treatment of tobacco dependence including pharmaceutical products pursuant to Article 22. Such products may include medicines, products used to administer medicines and diagnostics.*

### **Status**

There is currently no legislation, or regulation addressing this obligation. There is however a programme that promotes cessation of tobacco use and treatment for tobacco dependence. This programme covers health care facilities and a rehabilitation centre for diagnosing, counselling, preventing and treating tobacco dependence. The promotion activities are conducted in educational institutions, health care facilities, workplaces and sporting environments. Tobacco cessation services are offered in selected government facilities by the mental health units. Thaba Bosiu Centre an agency of the Ministry of Health and Social Welfare, NGOs such as the Seventh Day Adventist (SDA) Church, the Anti Drug and Alcohol Association of Lesotho (ADAAL), Scott Hospital and Christian Health Association of Lesotho (CHAL) are actively involved in prevention and raising awareness on the harmful effects tobacco, alcohol and drugs and also provide support for quitting.

### **Gaps vs. FCTC obligation**

There are currently no national guidelines and also no legislation or regulation to address the obligations to Article 14.

### **Principal action required**

In drafting of the relevant legislation, regulation or policy, use language that reflects the spirit and letter of the Convention and its guidelines.

Action is by the Government of Lesotho and principally by Ministry of Health and Social Welfare and other relevant Ministries.

### **Article 15 Illicit trade in tobacco products**

*Article 15 requires that 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 and to adopt and implement effective legislative, executive, administrative or other measures to ensure this.*

#### **Status**

It should be noted that Lesotho is participating in the current negotiations for a protocol on illicit trade in tobacco products.

#### **Gaps vs. FCTC obligation**

This will be ascertained on review of the existing customs laws.

#### **Principal action required**

In drafting of the relevant legislation and regulation, use language that reflects the spirit and letter of the Convention and relevant guidelines including indicating the institution which will lead enforcement. Also to take into account the negotiations currently underway on a protocol on illicit trade in tobacco products.

There is need to estimate the levels of illicit trade in tobacco and its products which will include close cooperation on this subject with Lesotho's neighbours.

Action is by the Government of Lesotho and principally by Ministry of Health and Social Welfare and the Ministry of Finance (including the Lesotho Revenue Authority).

*Articles 15.2 to 15.7 have not been elaborated as there is no legislation or regulation to address these obligations.*

### **Article 16: Sales to and by minors**

*Article 16 requires that Parties implement appropriate measures to prohibit the sale of tobacco products to an age set by domestic law or eighteen years; prohibit the distribution of free tobacco products; single-stick sales and prohibit sale by minors of tobacco products.*

#### **Status**

There is currently no legislation, regulation or other measures addressing this obligation.

#### **Gaps vs. FCTC obligation**

No legislation, regulation or other measures on this Article

#### Principal action required

In drafting of the relevant legislation, regulation or other measures, use language that reflects the spirit and letter of the Convention and its guidelines on formulation and implementation of regulations including indication of the regulating authority which will apply and enforce them.

Action is by the Government of Lesotho and principally by Ministry of Health and Social Welfare.

*Articles 16.1(a) to 16.7 have not been elaborated in detail as there is no legislation, regulation or other measures that address these obligations.*

#### **Article 17: Provision of support for economically viable alternative activities**

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

#### Status

There is limited tobacco growing in Lesotho and is largely for personal use. Thaba Bosiu Centre (an agency of the Ministry of Health and Social Welfare) runs a programme on alternative livelihood targeting tobacco and other drugs of abuse.

#### Gaps vs. FCTC obligation

The activities of Thaba Bosiu Centre in this area have not yet been formalized as government policy.

#### Principle action required

There is need to formalize into government policy current alternative livelihood activities and secure them in legislation or other measures.

Action is by the Government of Lesotho and principally by Ministry of Health and Social Welfare.

#### **Article 18: Protection of the environment and the health of persons**

*Article 18 requires that in carrying out their obligations under this Convention, the 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 within their respective territories.*

#### Status

There is currently no cultivation of tobacco in Lesotho but there is a Ministry responsible for the environment and another for the health of persons.

#### Gaps vs. FCTC obligation

Clear link of government policy to this obligation.

#### Principle action required

In drafting of the relevant legislation, regulation and other measures, use language that reflects the spirit and letter of the Convention including indication of the institution which will be responsible for these regulations.

Action is by the Government of Lesotho and principally by Ministry of Health and Social Welfare, Ministry of Tourism, Environment and Culture.

### **Article 19: Liability**

*Article 19 requires that for the purpose of tobacco control, the Parties shall consider taking legislative actions or promotion their existing laws, where necessary, to deal with criminal and civil liability, including compensation where appropriate and also cooperate with other Parties through the exchange of information.*

#### Status

There is currently no legislation addressing this obligation.

#### Gaps vs. FCTC obligation

No policy and legislation on dealing with criminal and civil liability, including compensation where appropriate.

#### Principle action required

In drafting of the relevant legislation, regulation and other measures, use language that reflects the spirit and letter of the Convention including indication of the institution(s) which will be responsible. Of particular interest is legislation that holds the tobacco industry liable and allows for compensation of victims of exposure to tobacco and its products.

Action is by the Government of Lesotho and principally by Ministry of Health and Welfare and Ministry of Parliamentary Affairs.

### **Article 20: Research, surveillance and exchange of information**

*This article requires that Parties undertake to develop and promote national research and to coordinate research programmes at the regional and international levels in the field of tobacco control.*

#### Status

The current strategies/programmes and plans cover research on the determinants and consequences of tobacco consumption and consequences of exposure to smoke. The Global Youth Tobacco Survey (GYTS) was conducted in 2008 and provides data for tobacco use among students 13-15 years of age.

#### Gaps vs. FCTC obligation

Regularity of research and absence of a surveillance system.

#### Principle action required

Establish a national surveillance system on tobacco consumption and related indicators.

Action is by the Government of Lesotho and principally by Ministry of Health and Welfare and Ministry of Planning particularly the Bureau of Statistics.

### **Article 21: Reporting and exchange of information**

*Article 21 requires each Party to submit to the Conference of the Parties, through the Convention Secretariat, periodic reports on implementation of the Convention, which should include all relevant obligations as contained in the reporting instrument.*

#### Status

Lesotho has provided its two-year report on the implementation of the Convention on 17 November 2008. The second implementation report is due on 14 April 2010.

#### Gaps vs. FCTC obligation

This obligation is met and data needs to be more complete.

#### Principle action required

Support to improve the completeness of national data to support the Lesotho reporting. Particular attention needs to be placed on collection of data required from different government agencies.

Action is by the Government of Lesotho and principally by Ministry of Health and Welfare.

### **Article 22: Cooperation in the scientific, technical and legal fields and provision of related expertise**

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

#### Status

The Lesotho Government has received from WHO at various times support in training and sensitization programmes in accordance with Article 12, including provision of the necessary material, equipment and supplies, as well as logistic support. Assistance was also received to meet reporting obligations.

#### Gaps vs. FCTC obligation

International cooperation has not been fully utilized.

#### Principal action required

Identifying potential partners and internationally available resources so as to receive this assistance.

Action is by the Lesotho government supported by the Convention Secretariat as necessary.

### **Article 26: Financial resources**

*This article requires that each Party shall 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.*

#### Status

The Ministry of Health and Social Welfare is currently supporting tobacco control activities under the budget of the Department of Health Education. There is currently no international assistance other than technical assistance from WHO.

#### Gaps vs. FCTC obligation

The information on allocation in the budgets of the other relevant ministries that contribute to the implementation of the Convention is not yet complete. In the budget of the Ministry of Health and Social Welfare there is no specific budget line for tobacco control.

#### Principal action required

See actions in article 5.2(a) under "budget"

*The article (26.3) also requires that Parties shall 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.*

#### Status

Regular assistance from WHO through WR Lesotho for tobacco control activities.

#### Gaps vs. FCTC obligation

Potential partners who are currently active in the country have not yet been engaged to contribute towards implementation of the Convention including UN agencies, World Bank, the European Union, the African Development Bank, Irish Aid and DfID of the United Kingdom.

Principal action required

Identifying potential partners and internationally available resources for implementation of the Convention.

Action by the Government of Lesotho supported by the Convention Secretariat as necessary.

## **Annex I**

### **List of participating Government Agencies in Lesotho**

Ministry of Health and Welfare:

- Nkareng Mosala, Focal Person National Tobacco Control
- Ntsebo Moremoholo
- Mpoetsi Mothibeli

Ministry of Foreign Affairs and International Relations

Ministry of Justice, Human Rights and Correctional Services

Ministry of Communications, Science and Technology

Ministry of Tourism, Environment and Culture

Lesotho Revenue Authority (under the Ministry of Finance and Economic Planning)

### **The International Team**

Dr Ahmed E. Ogwell Ouma - Team Leader, Convention Secretariat of the WHO FCTC

Peter Hartog - Technical Officer, Convention Secretariat of the WHO FCTC

Luminita Sanda - Medical Officer for Capacity Building, WHO Tobacco Free Initiative, Geneva

Peter Phiori, WHO Country Office, Lesotho