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

Convention Secretariat

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Table of abbreviations

ACDO	Assistant Chief District Officer
COP	Conference of Parties
GHPSS	Global Health Professions Student Survey
GTSS	Global Tobacco Surveillance System
GYTS	Global Youth Tobacco Survey
IRD	Inland Revenue Department
MOAD	Ministry of Agriculture Development
MOFA	Ministry of Foreign Affairs
MOHP	Ministry of Health and Population
MOLJCP	Ministry of Law, Justice, Constitutional Assembly and Parliamentary
MOSTE	Ministry of Science, Technology and Environment
NCRS	Nepal Cancer Relief Society
NDHS	Nepal Demographic and Health Survey
NGA	Nepal Golf Association
NGO	Nongovernmental organizations
NHCP	National Health Communication Policy
NHEICC	National Health Education, Information and Communication Centre
NHRC	Nepal Health Research Council
NML	National Medicines Laboratory
NPC	National Planning Commission
PACT	Project for Agriculture Commercialization and Trade
PAL	Practical Approaches to Lung
RECPHEC	Resource Centre for Primary Health Care
SAARC	South Asian Association for Regional Cooperation
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
USAID	US Agency for International Development

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. Nepal ratified the WHO FCTC on 7 November 2006 and the Convention entered into force for Nepal on 5 February 2007.

A needs assessment exercise for implementation of the WHO FCTC was conducted jointly by the Government of Nepal, Ministry of Health and Population (MOHP), and the Convention Secretariat from January to May 2013including the initial analysis of the status, challenges and potential needs deriving from the country's most recent implementation report and other sources of information. An international team led by the Convention Secretariat which also included representatives of the WHO South-East Asia Regional Office, the WHO Country Office in Nepal and the United Nations Development Programme (UNDP) conducted the mission in Nepal together with the representatives of the government from 14 to 22 April 2013. The assessment involved relevant ministries, departments and divisions of the Government of Nepal. The World Bank, the United Nations Children's Fund (UNICEF), the United Nations Population Fund (UNFPA), the Joint United Nations Programme on HIV/AIDS (UNAIDS), and a number of nongovernmental organizations (NGOs) working in the field of tobacco control also participated in relevant meetings.

Nepal's national tobacco control laws represent a remarkable achievement in implementation of the Convention. The Tobacco Product (Control and Regulatory) Act 2010 (the Act), the Tobacco Products (Control and Regulatory) Regulations 2011 (the Regulations), and the Directive for Printing and Labelling of Warning Message and Picture in the Box, Packet, Wrapper, Carton, Parcel and Packaging of Tobacco Product (2011) (the Directive), are fairly comprehensive and cover almost all substantive articles of the Convention. As the national tobacco control focal point, the National Health Education, Information and Communication Centre (NHEICC) has implemented and coordinated Convention-related activities, particularly many nationwide education, communication and awareness-raising campaigns on the tobacco control legislation and the harmful effects of tobacco use. The tobacco control system started with the establishment of the Tobacco and Noncommunicable Diseases (NCDs) Section at the NHEICC. The enforcement and inspection mechanism was put into effect with the Assistant Chief District Officer being designated as the inspector for tobacco control. Nepal has also collected data on both youth and adult tobacco use through the WHO STEPS survey of NCD risk factors, the Nepal Demographic and Health Survey (NDHS) and the Global Tobacco Surveillance System. Nepal has submitted two implementation reports to the Conference of the Parties (COP) in a timely manner.

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

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

Second, Parties are required to develop, implement, periodically update and review comprehensive multisectoral national tobacco control strategies, plans and programmes in accordance with the Convention. Nepal's current periodic three-year plans reflect its health and development objectives. The Second Long Term Health Plan 1997–2017 that guides health sector development also specified the need for effective information, education and communication measures to address tobacco use. The Nepal Health Sector Programme I (NHSP-1), 2004–2009, and Nepal Health Sector Programme II (NHSP-2), 2010–2015, highlighted the need to implement and enforce the tobacco control law and proposed various activities that aim to reduce the demand and supply of tobacco. The National Health Communication Policy (NHCP) 2012 envisions the promotion of healthy lifestyles through integrated, updated, organized and effective health communication activities. One of the strategies of this policy is to formulate and implement the tobacco control Strategic Plan along with communication programmes. In line with the NHSP-2 and the NHCP, Nepal has developed a draft National Tobacco Control Strategic Plan 2013–2016 (the Strategic Plan). However, it remains broadly a health sector tobacco control plan and is still under further development with a view to making it multisectoral. It is therefore recommended that: (1) implementation of the Convention continue to be included in subsequent three-year plans; (2) the MOHP involve relevant ministries and agencies to develop and officially adopt the multisectoral Strategic Plan utilizing the needs assessment report as a reference; and (3) the Strategic Plan address all the substantive articles of the Convention in a comprehensive way.

Third, the Act established the Tobacco Products Control and Regulatory Committee (the Committee) under the chairmanship of the Secretary of the MOHP. The MOHP is mandated to formulate tobacco control policies and regulations and to act as the secretariat of the Committee. The current Committee is, by and large, a health sector committee. The Act and the Regulations delineate the Committee's functions, duties and powers. As the Convention requires a multisectoral coordinating mechanism, it is recommended that Nepal: (1) amend the Act and involve other relevant ministries and agencies to be members of the Committee with clear mandates and responsibilities; (2) before the Act is amended, involve experts from other ministries and sectors in the meetings to give their inputs as per Provision 19(6) of the Act; and (3) capitalize on existing multisectoral administrative structures to implement the Convention – in this regard, the Office of the Chief Secretary could coordinate and mobilize all relevant Secretaries, and the MOHP could utilize the multisectoral Health Service Facilitation and Coordination Committee of the National Planning Commission (NPC).

Fourth, the Act became effective on 8 August 2011 followed by the Directive which became effective on 4 November 2011. The Regulations became effective on 7 May 2012. The Act, the Regulations and the Directive address the obligations under the Convention in a comprehensive way. Under these measures, smoking is banned in most public places, workplaces, public transport, private homes and vehicles; all kinds of direct or indirect tobacco advertising, promotion and sponsorship are also banned, as are sales to and by minors and pregnant women. Certain labelling and packaging requirements, and smoking

ban exemptions at tourist-level hotels, prisons and airports, are not fully compliant with the Convention, and therefore will need amendment. The percentage of the current allocation of the Health Tax Fund for prevention activities and implementation of the Convention should also be increased. It is also recommended that implementation and enforcement of the tobacco control legislation be further strengthened to ensure compliance with the Convention.

Fifth, Nepal has imposed specific excise duty, import tax and value added tax on the different types of tobacco products. The Inland Revenue Department (IRD) has taken progressive steps to regulate tobacco. The IRD takes the rate of inflation into account when setting tobacco taxes and has increased specific excise duty and import tax correspondingly year on year, except in the past two years (due to the political situation). The IRD has also introduced excise stamps and recently organized an orientation workshop on controlling the movement of loose tobacco in the market. However, tax rates are still low and different products have different rates. This makes tax increases less effective than would be the case if a lower number of rates or ideally a single rate were applied to tobacco products, since smokers are currently able to switch to cheaper tobacco products. It is therefore recommended that the MOHP work together with the Ministry of Finance to simplify the tobacco taxation structure by decreasing the number of rates, ideally to a single rate, but at most to two rates, thereby minimizing incentives to shift to cheaper products. It is also recommended that tax rates be increased on a regular basis to take into account both increases in consumer prices and household incomes in order to decrease the affordability of tobacco products. Tobacco products other than cigarettes should be taxed in a comparable way to limit substitution among products.

Sixth, the current smoking ban is comprehensive in its coverage, with some areas for improvement. Provision 4(2) of the Act and Provision 3(3) of the Regulations do not explicitly state that the "specific place" a manager can designate for tobacco consumption has to be outdoors. In addition, Provision 3(2) and 3(3) of the Regulations permit the manager/director of a hotel, prison or airport to designate a smoking zone by constructing a room with an automatic door that remains closed at all times, where there is direct exit of smoke, and where there is space for no more than one person to smoke or otherwise consume tobacco. The guidelines for the implementation of Article 8 adopted by the COP clearly point out that approaches other than 100% smoke-free environments, such as ventilation, air filtration and the use of designated smoking areas (whether with separate ventilation systems or not), are ineffective and do not protect against exposure to tobacco smoke. It is therefore recommended that the Regulations be amended to explicitly state that the "specific place" a manager can designate for tobacco consumption has to be outdoors in order to achieve 100% smoke-free indoor workplaces, public transport, indoor public places and, as appropriate, other public places.

Seventh, Nepal has made substantial efforts to pass comprehensive legislation on tobacco packaging and labelling through Provisions 7 and 9 of the Act, Provisions 5 and 6 of the Regulations, and the Directive. The Act (in Provision 9) and the Directive (in Provision 3), in requiring pictorial health warnings to cover 75% of both front and back of the packaging, as well as the Directive (in Provision 9) and the Regulations (in Provision 6), in banning the use of misleading words, graphics or symbols, are in line with Article 8 of the WHO FCTC and the guidelines thereon. However, progress in implementing the law has been halted due to cases filed by the tobacco industry against provisions on packaging and labelling and regulations on the content of tobacco products. The Supreme Court has suspended the

implementation of these provisions until a ruling has been made. Article 11 is a time-bound provision with a three-year deadline from the date of entry into force of the Convention. Nepal, as a Party to the Convention, is obligated to prioritize the country's right to protect public health and implement effective packaging and labelling measures. It is recommended that when the cases come up for hearing, the Government apprise the Supreme Court that Article 11 is a time-bound obligation, for which Nepal has missed the deadline. It is also recommended that Nepal amend the Act to remove Provision 7(b) that requires manufacturers to include information on nicotine content on tobacco product packaging, which could imply that one brand is less harmful than another; and to include a requirement for tobacco products to carry the statement: "Sales only allowed in Nepal", in order to indicate the final destination where the product may legally be sold on the domestic market, which will address illicit trade issues.

Eighth, Provision 10 of the Act stipulates a comprehensive ban on direct and indirect tobacco advertising, promotion and sponsorship, though there are challenges regarding monitoring and enforcement of the law due to limited resources. Nepal has begun efforts to eliminate tobacco product advertising and promotion in electronic and print media and to address sponsorship by tobacco companies and their activities under the guise of "corporate social responsibility". As there have been known instances of violations, it is recommended that the MOHP coordinate with other relevant authorities to strengthen monitoring and enforcement of this Provision.

Ninth, Nepal does not have national guidelines on cessation services and treatment of tobacco dependence. Training on cessation techniques has been conducted, but on a small scale. There are cessation services available in some health care facilities and educational institutions but they have not been sufficiently integrated into the primary health care system. Pharmaceutical products to aid cessation such as nicotine replacement therapy and bupropion are not registered and are therefore not available in Nepal. There is also no national toll-free quit line. It is therefore recommended that Nepal develop national guidelines and programmes on tobacco cessation and treatment in accordance with Article 14 and its guidelines.

Tenth, the current United Nations Development Assistance Framework (UNDAF) (2013–2017) includes prevention and control of NCDs under Outcome 1, concerning improved and equitable access to basic, essential social services and programmes for vulnerable and disadvantaged groups. As implementation of the Convention is central to reducing NCDs and their burden, it is important for the Convention to be reflected in the UNDAF. It is recommended that an explicit mention of the obligations of the Government of Nepal in implementing the Convention under Outcome 1 or Outcome 10 (enabling the Government to strategize about international policy and regulatory issues) – and the United Nations commitment to providing technical assistance to facilitate implementation – would help ensure inter-agency action to support a multisectoral approach to tobacco control. The international team met the Honourable Minister of Health and Population, a Honourable Member of the National Planning Council, the United Nations Resident Coordinator a.i. and some of the United Nations Country Team – UNDP, UNICEF, UNFPA, UNAIDS and WHO – and gained support for incorporating implementation of the Convention into the next programming phase of the UNDAF. It is recommended that the NHEICC actively follow up with the United Nations Resident Coordinator, the MOHP and the MOFA to include implementation of the prioritized areas of the Convention under the UNDAF programming activities in 2014 and beyond.

Eleventh, UNDP, WHO, UNICEF, UNFPA, UNAIDS and the World Bank are committed to supporting Nepal, as part of their on-going activities, in meeting the obligations of the Convention to address the gaps and needs identified in the needs assessment report. NGOs play an important role in tobacco control and are also committed to working with the Government to implement the Convention.

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

Addressing the issues raised in this report will make a substantial contribution to meeting the obligations under the WHO FCTC and improving the health status and quality of life of the Nepalese people. The needs identified in this report represent priority areas that require immediate attention. As Nepal addresses these areas, the Convention Secretariat in cooperation with WHO and relevant international partners is available and committed to providing technical assistance in the above areas and to facilitating the process of engaging potential partners and identifying internationally available resources for implementation of the Convention. The Convention Secretariat is also committed to providing the following assistance in particular, upon request of the MOHP: (1) to support and facilitate the stakeholder workshop to consider the needs assessment report and the National Tobacco Control Strategic Plan; (2) to support finalization of the Strategic Plan; (3) to provide technical support for the training of the national tobacco control focal point, district public health officers and district enforcement officers; (4) to provide immediate support for any priorities identified by the MOHP; (5) to facilitate the United Nations Country Team's support for community-level advocacy and training; and (6) to provide expert technical assistance to develop media strategy and materials (audio-visuals) for state radio and television.

The full report, which follows this summary, can also be used as the basis for any proposal(s) that may be presented to relevant partners to support Nepal 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. Nepal ratified the WHO FCTC on 7 November 2006. The Convention entered into force for Nepal on 5 February 2007.

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.

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

[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.

and project development, particularly to lower-resource countries, as part of efforts to promote and accelerate access to relevant internationally available resources.

The needs assessments are carried out in three phases:

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

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

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

With the above objectives and process in view, a joint assessment of the needs concerning implementation of the WHO FCTC was conducted by the Government of Nepal and the Convention Secretariat, including a mission to Nepal by an international team of experts from the Convention Secretariat, the WHO South-East Asia Regional Office and the United Nations Development Programme (UNDP) from 14 to 22 April 2013. The detailed assessment involved relevant ministries and agencies of Nepal. The following report is based on the findings of the joint needs assessment exercise carried out as described above.

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

Status of implementation, gaps and recommendations

This core section of the report follows the structure of the Convention. It outlines the requirements of each of the substantive articles of the Convention, reviews the stage of implementation of each article, outlines achievements and identifies the gaps between the requirements of the treaty and the level of implementation by Nepal. 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".*

Nepal has implemented a measure in Provision 6 of the Tobacco Product (Control and Regulatory) Act 2010 (the Act) that prohibits smoking in private homes or vehicles, which goes beyond the requirements of the Convention.

It is therefore recommended that Nepal continue to actively seek other areas in which it can exceed treaty requirements, with special regard to the recommendations of implementation guidelines.

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

No such information has been provided so far by Nepal. The Ministry of Foreign Affairs (MOFA), in consultation with the relevant line ministries, should identify these agreements and report them as appropriate. Representatives of the MOFA expressed their commitment to the implementation of the Convention and that they will consult with the Ministry of Health and Population (MOHP) to ensure adherence to the Convention.

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

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

Guiding Principles (Article 4)

The Preamble of the Convention emphasizes *"the special contribution of nongovernmental organizations and other members of civil society not affiliated with the tobacco industry, including health professional bodies, women's, youth,*

environmental and consumer groups, and academic and health care institutions, to tobacco control efforts nationally and internationally and the vital importance of their participation in national and international tobacco control efforts".

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

Nongovernmental organizations (NGOs) play an important role in advancing tobacco control programmes and policies. The Government of Nepal recognizes the importance of civil society's role in achieving the objective of the Convention, and as stipulated in the Act, has included them in the Tobacco Products Control and Regulatory Committee (the Committee). The Act (in Provision 19) states that the Committee will be comprised of two persons, including one woman, to be nominated by the Ministry, from among the NGOs working in the field of tobacco control, or persons working in private sector health organizations; as well as one active social worker, to be nominated by the Ministry. Currently, there is one representative from each of the Mrigendra Samjhana Medical Trust, Nepal Heart Foundation and the Janamaitri Hospital.

There are around 30 relevant NGOs in Nepal. Six of them (Child Workers in Nepal Concerned Centre, Janak Memorial Services Centre, Mrigendra Samjhana Medical Trust, Non-Smokers Rights Association of Nepal, Resource Centre for Primary Health Care, and the Nepal Cancer Relief Society (NCRS)) are members of the Framework Convention Alliance. Along with these NGOs, the Tobacco Control & Community Development Foundation, Sheer Memorial Hospital, Nobel Media and Research Institute, Health and Environment Awareness Forum Nepal, Community Health Promotion Centre, PHD Group and others have also organized advocacy and awareness campaigns for the effective implementation of the Convention.

The international team met a representative from the MOHP and a few relevant civil society groups/NGOs that have been involved in advocating for stronger tobacco control policies and for stronger enforcement measures. In coordination with the National Tuberculosis Centre, the Health Research and Social Development Forum has begun integrating tobacco control into the primary health care setting through the Practical Approaches to Lung Health as a pilot project. The NCRS has advocated for higher taxes, banning of tobacco advertisements, and the formulation and implementation of the tobacco control law. In addition, the NCRS has also conducted awareness campaigns through schools, colleges, youth clubs and the community regarding a 100% smoke-free environment. The civil society groups/NGOs have continuously applied pressure on the Ministry of Finance to increase taxes on tobacco products.

The NGOs stated that there is a need for greater coordination among themselves and for a coherent strategy and approach to supporting the Government of Nepal in meeting the obligations of the Convention. The Government can also benefit from a stronger relationship with civil society and can secure the support of NGOs by including them in the overall national tobacco control action plan.

Nepal has met the obligations under Article 4.7 of the Convention.

However, it is recommended that the MOHP work more closely with the existing NGOs to see how they can collaboratively scale up activities to support implementation of the Convention. Similarly, it is recommended that the NGOs working in the field of tobacco control coordinate among themselves and work closely with the Government in order to support implementation of the Convention effectively.

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"*.

Nepal develops periodic three-year plans that reflect the development goals of the Nepalese people. Since the first plan (2007–2010), the plan has highlighted the need to meet the obligations of the Convention and prevent tobacco use. Nepal's current three-year plan will expire in June 2013. The National Planning Commission (NPC) is currently working on the next three-year plan. The international team met with the Honourable member of the NPC (Health) and had a constructive discussion on the importance of including implementation of the Convention in the next three-year plan.

The Second Long Term Health Plan 1997–2017 guides health sector development to improve the health of the population and specifies the need for effective information, education and communication measures to address public health issues, such as reducing tobacco use prevalence in Nepal.

The Nepal Health Sector Programme I (NHSP-1), 2004–2009, and Nepal Health Sector Programme II (NHSP-2), 2010–2015, highlighted the need to implement and enforce the tobacco control law and proposed various activities that aim to reduce the demand and supply of tobacco. NHSP-2 is the sectoral umbrella plan of the MOHP. NHSP-2 gives a higher priority than NHSP-1 to noncommunicable diseases (NCDs) because of the growing epidemic and aims to expand prevention activities to reduce the burden of NCDs. According to NHSP-2, in order to reduce tobacco prevalence Nepal will develop a tobacco control plan in line with the Convention; strengthen the capacity of the National Health Education, Information and Communication Centre (NHEICC)and the enforcement agencies; implement and enforce the provisions in the Tobacco Control Act, Regulations and Directive; expand the bans on advertising, promotion and sponsorship and the coverage of non-smoking areas; increase taxes on tobacco products; encourage tobacco use cessation; strengthen and scale up communication programmes and activities aimed at changing behaviour; counter tobacco industry interference; develop a supply reduction strategy; undertake research and surveillance; and strengthen partnerships and coordination.

In line with NHSP-2 and National Health Communication Policy (NHCP) 2012, Nepal developed the National Tobacco Control Strategic Plan 2013–2016, which has not yet, however, been finalized and officially adopted. The NHEICC will review and incorporate, as appropriate, recommendations from this needs assessment report into the draft Strategic Plan. Currently, three main objectives are outlined in the plan, namely: (i) strengthen the capacities of individuals, institutions and communities in tobacco control; (ii) intensify and strengthen actions against smoked and smokeless tobacco use; and (iii) accelerate implementation of the WHO FCTC, which includes accelerating implementation and enforcement of the legislation.

Gaps –

1. The next three-year plan is under development and has yet to include implementation of the Convention as a priority.
2. The National Tobacco Control Strategic Plan 2013–2016 is still in draft form and has not been officially adopted.

3. The National Tobacco Control Strategic Plan 2013–2016 remains mainly a health sector rather than a multisectoral plan.

It is therefore recommended that Nepal include implementation of the Convention as a priority in the next three-year plan. It is also recommended that Nepal finalize the National Tobacco Control Strategic Plan, ensuring that the Plan is multisectoral, and using the needs assessment report as a reference in order to address all substantive articles of the Convention in a comprehensive way. It is further recommended that Nepal organize a high-level workshop with relevant stakeholders, including representatives from all relevant Government agencies, to launch and disseminate both the needs assessment report and the National Tobacco Control Strategic Plan once they are finalized and officially approved.

The Convention Secretariat is committed to facilitating provision of expertise and technical support in the improvement and finalization process of the draft National Tobacco Control Strategic Plan, upon request from the MOHP.

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

The NHEICC of the MOHP was first established in 1993 under the Department of Health Services. Since 2002, the NHEICC has been directly under the MOHP and is the national tobacco control focal point. This was the case, therefore, even before the Convention came into force in Nepal (February 2007). There are 13 (five full-time and eight part-time) staff members in the tobacco and NCDs control section of the NHEICC. There are five regional health directorates, 75 district health offices with one health education officer responsible for health promotion and education including tobacco control activities and three types of health care services at village level provided through primary health care centres, health posts and sub-health posts (headed by a medical officer and other allied health workers).

The Act (in Provision 19) established the Tobacco Products Control and Regulatory Committee under the chairmanship of the Secretary of the MOHP. The current Committee is composed mainly of representatives of the health sector with seven members from the MOHP and tobacco control NGOs, private sector health organizations and active social workers. Provision 20 of the Act and Provision 17 of the Regulations delineate the functions, duties, powers, responsibility and rights of the Committee. The mandate of the Committee is to formulate policies regarding the control and regulation of tobacco products and to perform other functions as well. As the Convention requires a national multisectoral coordinating mechanism to be established to coordinate its implementation, a provision will have to be included in the Act so that other relevant ministries and agencies may be invited to join the Committee with clear mandates and responsibilities.

Currently, the Act (in Provision 19 (6)) enables the Committee to invite experts from other sectors to participate in meetings. Nepal also has other existing multisectoral administrative structures that could be utilized to facilitate implementation of the Convention. The Chief Secretary can play an important coordinating role in mobilizing support from all relevant Secretaries, in order to ensure multisectoral efforts in implementation of the Convention. Another possible coordinating mechanism is the multisectoral committee of the NPC, also known as the Health Service Facilitation and Coordination Committee. The NPC is planning its next meeting though the date has not been confirmed. The NHEICC could consider sharing recommendations from the present needs assessment with this committee in order to raise awareness of the status of

implementation of the Convention and jointly identify actions to be taken to address the gaps.

The Act (in Provision 22) established a Health Tax Fund to be used for controlling consumption of tobacco products and in prevention and control of tobacco-related diseases. According to Provision 18 of the Regulations, "at least 25% of the total amount raised from the revenue levied from the excise tax upon smoking and tobacco products by the Government of Nepal as per the financial Act shall be deposited in the Health Tax Fund". Provision 19 of the Regulations state that the allocations of the total Health Tax Fund shall be as follows: "75% to government owned hospitals for diagnosis, treatment and investigation of the diseases caused by smoking and consumption of tobacco; 15% to centres or divisions under the ministry involved in conducting programmes on health education, public awareness and services for the control of smoking and tobacco products; 10% to social organizations and non-government hospitals involved in prevention, control, diagnosis and treatment of the diseases caused by smoking and consumption of tobacco, of which not more than 0.5% shall be spent for carrying out administrative functions of the committee". This is the first year of implementation and the Government's budget allocation for tobacco control has been increasing over the years. In order to better implement the Convention, allocation of the Health Tax Fund for the prevention and implementation of the comprehensive measures of the Convention would need to be increased. This will require amending the Regulations.

Gaps –

1. The Act established a Committee composed mainly of representatives from the health sector. Experts from other sectors may be invited to the meetings but are not considered members.
2. The Regulations allocated the Health Tax Fund primarily to curative activities.

It is therefore recommended that Nepal in the long run amend the Act and involve all other relevant ministries and agencies as members of the Committee with clear mandates and responsibilities. While the MOHP should take the lead in implementing the Convention, other relevant ministries should also designate focal points and allocate staff time and budget to support implementation of the Convention. It is also recommended that Nepal consider capitalizing on existing multisectoral administrative structures to facilitate implementation of the Convention. It is further recommended that the Regulations be amended to increase the allocation of the Health Tax Fund to prevention and the comprehensive 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".*

The Constituent Assembly enacted the Act, which became effective on 8 August 2011, followed by the Directive on 4 November 2011 and the Regulations on 7 May 2012. As stated in the Act, Nepal recognizes that tobacco consumption is injurious to health and has negative social, economic and cultural impacts. Through the Act, Nepal aims to regulate and reduce the import, production, sales, distribution and consumption of tobacco products in order to improve the health and well-being of the population. Nepal's national tobacco control laws represent a remarkable achievement in implementation of the Convention. The Act, Regulations and Directive are fairly

comprehensive and cover almost all substantive articles of the Convention. The provisions banning smoking in most public places, workplaces, public transport, private homes and vehicles, all kinds of direct or indirect tobacco advertising, promotion and sponsorship, and sales to and by minors and pregnant women are mostly compliant with the obligations of the Convention. The Directive also introduces strong measures on packaging and labelling, which are mostly in line with the Convention.

Certain areas of the Act need to be amended so that they are better aligned with the Convention. These include expanding the composition of the Committee to all relevant ministries and key stakeholders, adding the destination of tobacco products and removing the amount of nicotine in tobacco products from labelling and packaging. The smoke-free exemptions for prisons, airports and tourist-level hotels should be removed from the Regulations, and the allocation of the Health Tax Fund should be shifted towards prevention and implementation of the comprehensive measures of the Convention.

The Ministry of Home Affairs (MOHA) is responsible for law enforcement. Since the manager (chief) of public places is responsible for enforcing Provision 4 of the Act, the Assistant Chief District Officer (ACDO) is assigned to be the inspector for tobacco control and is recognized as the chief enforcement officer for tobacco control. According to Provision 15(g) and 15(h) of the Regulations, the ACDO may involve any staff member from other organizations or seek support from staff of the Government office, institutions and organizations or local-level organizations during inspections.

Implementation and enforcement of the tobacco control legislation also needs to be further strengthened to ensure compliance. Measures in this regard include but are not limited to the following: (i) prosecuting violations of the smoke-free policy; (ii) ensuring that testing reports are submitted on time; (iii) recovering from the tobacco industry the cost of implementing the measures related to product regulations; (iv) prosecuting breaches of the advertising, promotion and sponsorship policy; and (v) prosecuting violations of the ban on sales to and by minors.

Inclusion of the following would also strengthen legislation: a provision prohibiting any public official from being involved directly or indirectly in the manufacture, import, export or sales and marketing of tobacco products; guidelines and standards for testing contents and emissions of tobacco products; introduction of effective disclosure to the public of information about contents and emissions; disclosure of ingredients, characteristics and design features of tobacco products; provision of heavy penalties up to imprisonment, for violations of the tobacco control law; and a provision that explicitly requires only qualitative statements about the harmful substances in tobacco products.

The international team gave detailed comments on the existing legislation to the NHEICC, the Under Secretary (legal), the MOHP, and other relevant Government officials in the Ministry of Law, Justice, Constitutional Assembly and Parliamentary Affairs (MOLJCP) during the mission. Detailed comments on different provisions of the Act, Regulations and Directive are provided in the relevant parts of the report below. Representatives of the MOLJCP expressed their readiness to cooperate and advise the MOHP in the review and amendment of the current tobacco control legislation.

Since the Directive came into effect in November 2011 and the Regulations in May 2012, the tobacco industry has filed 12 cases against provisions on packaging and labelling and regulations on contents of tobacco products. Court hearings have concluded but the Supreme Court has not made its ruling. Although the Act,

Regulations and Directive have come into effect, the Supreme Court has put the related provisions on hold pending the ruling on the cases, thereby delaying implementation of the tobacco control law and fulfilment of Nepal's obligations under the Convention. This is a tactic used by the tobacco industry to delay implementation of tobacco control measures. As a Party to the Convention, Nepal is obliged to prioritize their right to protect public health.[3]

Gaps –

1. The Act and the Regulations are not fully compliant with the Convention in a number of areas.
2. Lack of compliance and enforcement of the Act, the Regulations and the Directive remain a challenge.
3. Implementation of Provision 9 of the Act (on warning messages and pictures) and implementation of the Directive has been delayed due to the court cases mentioned above. Nepal has therefore missed its three-year deadline (5 November 2010) in implementation of Article 11 and its guidelines on packaging and labelling.

It is therefore recommended that the Government review the current legislation and amend it or introduce administrative measures to ensure full compliance with the Convention and its guidelines. It is also recommended that the MOHP and MOHA, as well as other relevant agencies, strengthen law enforcement and implement the current legislation. It is further recommended that the MOHP request the Supreme Court to make a timely ruling on pending court cases to honour Nepal's international legal obligation as a Party to the Convention.

In support of the Government's effort to strengthen law enforcement, the Convention Secretariat is committed to facilitating provision of training and technical support, such as from the United Nations Development Programme (UNDP), upon request from the Government.

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

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

The MOHP has never included the tobacco industry or any sector perceived to be in favour of the industry in its meetings. The Regulations (in Provision 16) states that any nominated member of the Committee "found to be involved directly or indirectly in the manufacture, import, export or sales and marketing of tobacco products" may be removed from his or her post. Representatives of the Ministry of Agriculture Development (MOAD) also indicated that they have never carried out research on tobacco on behalf of or that supports the tobacco industry.

Although there is no legal provision or code of conduct for public officials with regards to Article 5.3, Provision 46 of the Civil Service Act 2049 (1993) states that "No civil employee shall, without being authorized by Government of Nepal, provide or divulge,

[3] Preamble of the WHO Framework Convention on Tobacco Control. Available for download from: http://www.who.int/fctc/text_download/en/index.html

directly or indirectly, to any other unauthorized employee or nongovernmental person or press any confidential matter which was known to him/her in the course of performing the governmental duty or any matter prohibited by law or any document or news written or collected by him/her". This restriction shall also be applicable to a person who has been relieved of the government service for any reason whatsoever". This could be further utilized to implement Article 5.3 of the Convention and the guidelines on its implementation.

Gaps –

1. There is no law or policy that explicitly requires public officials to comply with the requirements of Article 5.3 and its guidelines.
2. There is a lack of awareness among relevant ministries and agencies about Article 5.3 and its guidelines.

It is therefore recommended that Nepal include the obligations and recommendations under Article 5.3 in tobacco control legislation. In the future, specific reference should be made to Article 5.3 when adopting or amending existing national tobacco control legislation. In the meantime, awareness of Article 5.3 should be promoted through existing channels of communication between various ministries and departments within the Government.

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

Nepal participated in all five sessions of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products and has attended all sessions of the COP that have taken place since the Convention came into force for Nepal (COPs 2–5). Nepal has expressed an interest in participating in the expert group on Liability established by the COP, and is encouraged to participate in all inter sessional groups.

Further cooperation and participation in intergovernmental processes in this regard will be highly appreciated.

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

There are a number of examples of cooperation between Nepal, the WHO Regional Office for South-East Asia and the WHO Nepal Office. The US Centers for Disease Control and Prevention (CDC) in collaboration with WHO has provided technical and financial support in implementing the Global Tobacco Surveillance System (GTSS) in Nepal. Nepal has also cooperated with the International Union Against Tuberculosis and Lung Disease (the Union) to develop the Act, Directive and Regulations. Nepal as a member of the World Customs Organization also received support to enhance capacity to implement efficient and effective cross-border controls to counter illicit activities. Further details on international cooperation are given under Article 22.

Nepal 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"*.

Nepal has sought and received funding from bilateral and international agencies including WHO and the Union for legislation, policy development, capacity building, advocacy and surveillance activities. However, Nepal is encouraged to mobilize additional resources for effective implementation of the Convention and for strengthened enforcement of the relevant legislation.

Nepal has met its obligations under Article 5.6.

Price and tax measures (Article 6)

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

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

Taxes are levied on all types of cigarettes, cigars, bidis, pipe tobacco, smokeless tobacco products such zarda, khaini (nus), and on imported cigarettes such as cigars, cheroots and cigarillos. Ad valorem and specific excise duties, import tax and value added tax are imposed on different types of tobacco products. Table 1, below shows the different rates based on data provided by the Inland Revenue Department (IRD).

The IRD is responsible for monitoring and implementing the law on excisable items. The IRD suggests to the Ministry of Finance the tax rates to be imposed, which must then be approved by the Cabinet and Parliament. Tax rates (excise duty and import tax) on tobacco products have generally taken into account the inflation rate and have increased correspondingly year on year. However, tax rates have not changed in the past two years due to the political situation. According to the IRD, the contribution of tobacco tax to excise tax revenue has been on the decrease, from 33% in 2009–2010 to 32% in 2010–2011 and to 26% in 2011–2012.

In 2010, the NHEICC commissioned an assessment of the tobacco tax system in Nepal. The assessment reviewed various documents to assess the potential for reducing demand for tobacco products through an increase in tax rates and made recommendations on appropriate tax policies. Nepal is keen to follow international best practices in order to achieve its health goals.

Table 1. Rates and types of tax applied to tobacco products in Nepal.

Type	Tax on manufacturer's retail price	Specific excise duty	Import tax	Value added tax
Cigarettes	• <70mm length, non-filter: 37% • <70mm length, filter: 32% • 70-75mm length, non-filter: 30% • 75-85mm length,	• <70 mm length, non-filter: 252 rupees per 1000 sticks • <70 mm length, filter: 533 rupees per 1000 sticks • 70-75 mm length,	2000 rupees per 1000 sticks	13% of manu-facturer's price

	filter: 28% • >85mm length, filter: 24%	filter: 681 rupees per 1000 sticks • 75-85 mm length, filter: 872 rupees per 1000 sticks • >85 mm length, filter: 1135 rupees per 1000 sticks		
Prepared bidis	• To update if info is available	• 60 rupees per 1000 sticks	• 30%	13% of manu-facturer's price
Piped tobacco	• To update if info is available	• 700 rupees per kg	• 80%	13% of manu-facturer's price
Jarda/khaini	• To update if info is available	• 240 rupees per kg	• 30%	13% of manu-facturer's price
Toothpaste containing snuff/ tobacco	• To update if info is available	• 230 rupees per kg	• -	13% of manu-facturer's price
Raw tobacco without packing (raw leaves)	• To update if info is available	• 60 rupees per kg	• SAARC & Others: 15% • India: 13% • Tibet, China: 14%	13% of manu-facturer's price
Raw tobacco with packing (dust mixed with lime)	• To update if info is available	• 160 rupees per kg	• 30%	13% of manu-facturer's price
Cigar	• To update if info is available	• 7 rupees per stick	• 2000 rupees per 1000 sticks	13% of manu-facturer's price
Pan masala (Can be mixed with other tobacco)	• To update if info is available	• 275 rupees per kg		

Gaps –

1. The current taxation structure is complex with too many rates. This makes tax increases less effective since smokers can switch to cheaper tobacco products.
2. Taxation levels on tobacco products are still quite low.
3. Current tax rates do not take into account changes in household incomes and have not kept up with inflation in the past two years.

It is therefore recommended that the MOHP work together with the Ministry of Finance to simplify the tobacco taxation structure by decreasing the number of rates, ideally to a single rate, but at most to two rates. This will minimize incentives to shift to cheaper products. It is also recommended that tax rates be increased on a regular basis to take in to account both increases in consumer prices and household incomes

(to decrease the affordability of tobacco products). Tobacco products other than cigarettes should be taxed in a comparable way to limit substitution among products.

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

The Customs Act 2064 (2007), Notice Regarding Baggage Rules (in Provision 1), states that for a Nepali passenger, cigarettes (up to 200 sticks) or cigars (up to 50 sticks) may be imported upon payment of the prevailing customs duty. If cigarettes or cigars are imported in excess of the specified quantity, they may be cleared after payment of the prevailing customs duty and an additional 100% customs duty on the excess quantity of such items. Provision 5 of the Baggage Rules states that for a foreign passenger, customs duty is waived for cigarettes (200 sticks), cigars (50 sticks) and tobacco (up to 250 grams). Duty-free tobacco products are not available for purchase in Nepal except for diplomats under the Vienna Convention on Diplomatic Relations 1961.

Nepal has met the requirements of the Convention in relation to Article 6.2(b). However, it is recommended that consideration be given to further prohibit or restrict, 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"*.

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

In support of the Government's efforts to implement effective tax and price measures to reduce tobacco consumption, the Convention Secretariat is committed to facilitating provision of expertise and technical support.

Protection from exposure to tobacco smoke (Article 8)

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

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

Nepal has implemented legislation (in Provisions 3, 4 and 6 of the Act) that ensures protection from exposure to tobacco smoke in the places required by Article 8.2. Smoking is prohibited in Government offices; education institutions, libraries, training and health-related institutions; airports, airlines and public transport; child welfare

homes, child care centres, old people's homes, orphanages, children's parks and clubs; public toilets; industrial workplaces and factories (indoor and outdoor areas); cinema halls, cultural centres and theatres; hotels, motels, resorts, restaurants, bars, dining halls, canteens, lodges, hostels and guest houses; stadiums, covered halls, gymnasiums, swimming pools; department stores and mini-markets; places of pilgrimage and religious worship; public bus stands and ticketing centres; private houses; and transportation. In addition, the Government of Nepal may deem a place to be public by publishing a notice in the Nepal Gazette. This list of public places is in alignment with Article 8 and the guidelines on its implementation.

Provision 4 of the Act states that "a manager may designate any specific place as necessary in a prison, airport or tourist-level hotel for smoking or consumption of tobacco in a way that may not affect other persons". Under Provision 3(1) of the Regulations, a hotel manager may designate some part of an open area outside the hotel building for smoking or consumption of tobacco in a way that would not harm others. However, Provision 3(3) of the Regulations states that "if the Tourism Standard Hotel is not able to provide a separate place for smoking and consuming tobacco as per Provision 3(1) due to lack of ample space, an arrangement may be made according to Provision 3(2) in order to make necessary arrangements in a specific place for smoking and consuming tobacco". Both the Act (in Provision 4) and the Regulations (in Provision 3(3)) do not explicitly state that the "specific place" a manager may designate for tobacco consumption has to be outdoors.

Under Provision 3(2) of the Regulations, managers/directors are to ensure that, if a smoking zone in a prison or airport is designated, a room for that purpose shall be constructed, with an automatic door that remains closed at all times, where there is direct exit of smoke produced, and where there should not be, as far as possible, place for no more than one person to consume tobacco products, if managers are unable to provide a separate place for smoking and tobacco consumption as per sub-clause 1. This means that a smoking area may be constructed indoors. The Article 8 guidelines recommend 100% smoke-free indoor workplaces, public transport, indoor public places and, as appropriate, other public places as no safe levels of exposure to second-hand smoke exist. The guidelines state that ventilation, air filtration and the use of designated smoking areas (whether with separate ventilation systems or not), are ineffective and do not protect against exposure to tobacco smoke.

Provision 12 of the Act and Provision 15 of the Regulations state that the Government of Nepal may designate any Government officer as an inspector to check for violations and to assess whether manufacturers or managers have fulfilled the obligations under the Act and the Regulations. The MOHA is the agency with the responsibility of overseeing enforcement of the law. The ACDO is assigned to be the inspector for tobacco control and is the chief enforcement office, and according to Provision 15(g) and 15(h) of the Regulations, may involve any staff member from other organizations or seek the support of staff of the Government office, institutions and organizations or local level organizations during the process of inspection. According to the MOHA, as the ACDO already has many responsibilities, capacity for enforcing the law under Article 8 requires further effort and mobilization of other relevant personnel under the Act and Regulations. Since the law came in effect, there have been 63 violations in Kathmandu District. In this early stage of implementation, coordination and cooperation needs to be enhanced between the District Administration Office and the District Health Office, including local bodies, to strengthen enforcement.

Provision 14 of the Act obliges the manager to enforce the law. Provision 5 of the Act and Provision 3 of the Regulations require the manager to fix a visible and legible notice indicating that smoking and tobacco consumption are strictly prohibited.

The Act (in Provisions 14, 15 and 16) offers an opportunity for complaints to be made about the manager, for an investigation to be carried out and for a case to be filed. Provision 17 of the Act imposes fines for violations of different sections of the Act.

In order to evaluate the impact of measures to reduce exposure to tobacco smoke, the MOHP is encouraged to work with the Ministry of Science, Technology and Environment (MOSTE) to measure the content of second-hand tobacco smoke in the air in workplaces (in particular restaurants and bars) and in public places. Representatives of MOSTE expressed their commitment to supporting the country's efforts to meet its obligations under the Convention, and said that they plan to call a meeting with the MOHP to strengthen collaboration and discuss the actions that the MOSTE needs to take.

The 2011 Nepal Demographic and Health Survey (NDHS) found that almost 40% of households were exposed daily to second-hand smoke (26.2% of urban households and 41.9% of rural households), estimated by the frequency of smoking in the home.

The 2011 Global Youth Tobacco Survey (GYTS) indicated that 38.4% of young people aged 13–15 years lived in homes where others smoked in their presence, 48.6% have been exposed to tobacco smoke in enclosed public places and 57.7% to tobacco smoke in outdoor public places. This was higher than figures from the 2007 GYTS, which showed that 35.3% of young people aged 13–15 years lived in homes where others smoke in their presence and 47.3% had been exposed to tobacco smoke in public places. Similar findings were reported in the 2005 and 2011 Global Health Professions Student Survey (GHPSS) among third-year medical and dental students.

The 2011 Global School Personnel Survey (GSPS) found that 97% of school personnel thought that smoking should be banned from public places. In the 2011 GYTS, 66.2% stated that smoking should be banned from public places. In the 2011 GHPSS, 88.5% of third-year medical students and 87.8% of third-year dental students were of the view that smoking should be banned in all enclosed public places.

With almost half of young people and adults being exposed to tobacco smoke in enclosed public places and in their homes, and strong support (between 66% and 97% of young people and adults surveyed) for banning smoking in public places, there is an opportunity to strengthen implementation of Article 8.

The five-year deadline to provide for universal protection, as recommended by the guidelines for implementation of Article 8 (February 2012 in the case of Nepal), was not met. Although Nepal has implemented the Act and Regulations to protect people from exposure to tobacco smoke, the pending cases in the Supreme Court filed by the tobacco industry have led to suspension of the law until a ruling is made. This has led to a delay in the implementation of tobacco control measures thereby preventing Nepal from meeting the obligations of the Convention.

Gaps –

1. The Act (in Provision 4) and the Regulations (in Provision 3(3)) do not explicitly state that the "specific place" that a manager may designate for tobacco consumption has to be outdoors.

2. The Regulations (in Provision 3(2)) permit managers/directors to construct a room for smoking in prisons, airports or tourist-level hotels, if they are unable to provide a separate place outside for smoking and tobacco consumption.
3. The range of penalties for violations is very limited and the effectiveness of the penalties is unknown.
4. Enforcement of the Act and Regulations is a challenge.

It is therefore recommended that Nepal amend the Act and Regulations in line with the guidelines on implementation of Article 8, explicitly state that the smoking area has to be outdoors, and implement 100% smoke-free policies in all indoor workplaces, public transport, indoor public places and, as appropriate, other public places. It is also recommended that Nepal consider expanding the range of penalties for violations to include imprisonment and suspension or revocation of licences, and increased penalties for repeated violations. It is further recommended that Nepal implement and strengthen monitoring and enforcement measures related to smoke-free policies. The MOHP and the MOSTE are encouraged to collaborate in measuring the level of second-hand tobacco smoke in workplaces and public places to assess impact of the smoke-free interventions.

In support of the Government's efforts to implement 100% smoke-free policies and enforce the tobacco control legislation, the Convention Secretariat is committed to facilitating provision of expertise and technical support.

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.

Under the Act (in Provision 20 (a)), the Committee has the mandate and authority to provide suggestions with regard to policies and laws to be adopted for the control and regulation of tobacco products. Provision 15(d) of the Regulations states that the inspector has the duty, responsibility and right "to send the specimen of tobacco products to the concerned agency for testing and necessary action".

Nepal has not established standards to regulate the ingredients of tobacco products, does not have testing guidelines, and has not designated a testing facility with the capacity to conduct the tests. The NHEICC plans to discuss developing testing guidelines, testing capacity and product standards with the National Medicines Laboratory (NML) and the Nepal Bureau of Standards and Metrology under the Ministry of Industry. Representatives of the NML stated informed the needs assessment mission team that they have the manpower and the facilities and can come to an ad hoc agreement with the NHEICC to conduct the tests. However, they would first need to know about the testing guidelines, methodology and equipment required .

The NHEICC is to work with the inspector (ACDO) to ensure compliance. If there are violations, Provision 17 of the Act imposes a fine and confiscation of the tobacco products. The Regulations (in Provisions 15(b), 15(c), 15(d), 15(f)) give inspectors the right to stop activities if there are violations in the manufacturing, storage, sale or marketing of such products. Provision 21 of the Act requires confiscated products to be destroyed in a way that does not have adverse effects on human health and the

environment. As there are no guidelines and no testing conducted at present, this is not being enforced.

The Conference of the Parties at its fourth and fifth sessions adopted partial guidelines for the implementation of Articles 9 and 10 of the Convention, which Parties can use to develop their own regulations and standards.

Gaps –

1. There are no national regulations and standards concerning contents and emissions of tobacco products, including the banning of additives which would be a strong public health measure, and be in accordance with the partial guidelines for the implementation of Articles 9 and 10 adopted by the Conference of the Parties.
2. The Act and Regulations do not specify a designated testing laboratory for tobacco products.

It is recommended that the NHEICC work closely together with the NML and the Nepal Bureau of Standards and Metrology in establishing standards in accordance with the guidelines for the implementation of Articles 9 and 10 adopted by the COP. Relevant legislation and regulations should be developed to include testing and measurement of the contents and emissions of tobacco products in order to implement the guidelines on Articles 9 and 10. It is also recommended that the NHEICC and the NML assess the arrangements for testing, either by developing their own testing capacity or by utilizing capable laboratories in the region through bilateral arrangements. The tobacco companies should bear all the costs of such testing requirements.

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

The Act (in Provision 8(1)) requires manufacturers to submit to the MOHP details of the constituents of and other prescribed information about tobacco products before sale or distribution. The Regulations (in Provision 8(1)) require manufacturers to submit an annual report to the MOHP containing details of the tar, carbon monoxide, nitrosamine and benzopyrene, price and batch number, date of manufacture and expiry date of the product, as well as the name, address and registration number of the manufacturer. There are no provisions in the law requiring the disclosure of tobacco product ingredients, characteristics and design features. Information to be submitted to the MOHP is not yet publicly available.

Not all tobacco companies have submitted reports. The NHEICC is supposed to work with the inspector (ACDO) to ensure compliance and to follow-up if reports are not submitted. If there is non-compliance with the reporting requirement, Provision 17(b) of the Act imposes a fine and confiscation of the tobacco products, and the Regulations (in Provisions 15(b), 15(c), 15(d), 15(f)) give inspectors the right to stop activities if there are violations in the manufacturing, storage, sale or marketing of the products. Provision 21 of the Act requires confiscated products to be destroyed in a way that does not cause adverse effects on human health and the environment. This has not been strictly enforced yet.

Gaps –

1. The partial guidelines for implementation of Articles 9 and 10 adopted by the Conference of the Parties have not been fully utilized to regulate tobacco product disclosures.
2. The submission of reports and disclosure of the contents and emissions of tobacco products have not been vigorously enforced.
3. There are no measures for public disclosure of information about the toxic constituents of tobacco products and the emissions that they may produce.

It is therefore recommended that Nepal take action to ensure that it updates the information that tobacco companies are required to disclose to Government authorities concerning the contents and emissions of tobacco products. It is also recommended that Nepal enforce the requirement to submit reports. It is further recommended that Nepal make access to information submitted by the tobacco industry publicly accessible.

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, in this case three years from entry into force for the implementation of specific measures. For Nepal, the deadline was 5 February 2010.

Nepal has applied measures relevant to this article under the Act (in Provision 9) and the Regulations (in Provisions 5, 6 and 9). Provision 1(2) of the Act states that Provision 9 on warning messages and pictures shall come into force from the 181st day of its authentication. The Directive was adopted and came into effect on 4 November 2011.

Nepal requires a set of four pictorial health warnings, obtained from Thailand and Singapore and pretested in Nepal, to be on all tobacco product packaging. After the Directive came into effect, the MOHP sent the CD with pictorial health warnings to the Ministry of Industry and the Ministry of Industry sent the CD to the manufacturers. After the manufacturers received the CD, the tobacco industry filed cases against the relevant provisions in the Act, Regulations and the Directive. The Supreme Court has halted implementation of the provisions in the law pending its ruling.

The table below provides the status of the regulations in Nepal in relation to measures covered under Article 11 of the Convention.[4]

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

Table 2. Comparison of the treaty requirements and level of compliance with these requirements in Nepal, 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".	PARTIAL COMPLIANCE	Provision 6 of the Regulations & Provision 9 of the Directive ban the use of misleading terms and descriptors on packaging. However, the Act (in Provision 7b) requires the amount of nicotine to be included on packaging, which should be addressed in line with the guidelines.
1(b)	each unit packet and package of tobacco products and any outside packaging and labelling of such products also carry health warnings describing the harmful effects of tobacco use, and may include other appropriate messages.	OBLIGATION MET	Provision 9 of the Act and Provision 3 of the Directive require pictorial health warnings to cover 75% of the packaging of all tobacco products. There are four pictures and four health warning messages.
1(b)(i)	[The warning] shall be approved by the competent national authority.	OBLIGATION MET	Provision 9 of the Regulations states that the MOHP may add warning messages, symbols and graphics from time to time.
1(b)(ii)	[The warnings] shall be rotating.	OBLIGATION MET	Provision 9 of the Regulations states that the warnings can be changed within the year.
1(b)(iii)	[The warning] shall be large, clear, visible and legible.	OBLIGATION MET	Provision 9 of the Act and Provision 3 of the Directive specify the size, colour and font.
1(b)(iv)	[The warning] should be 50% or more of the principal display areas but shall be no less than 30% of the principal display areas.	OBLIGATION MET	Provision 9 of the Act and Provision 3 of the Directive require warnings to be 75% of the upper principal area of the packaging of all tobacco products.
1(b)(v)	[The warning] may be in the form of or include pictures or pictograms.	OBLIGATION MET	Provision 3 of the Directive requires pictures – a set of four are available.
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	PARTIAL COMPLIANCE	Provision 7(1) of the Act, Provision 5 of the Regulations and Provision 3 of the Directive state the details to be included on tobacco packaging. The Directive requires qualitative statements but this is not explicit in the Regulations. Provision 7(1b) of the Act

	authorities.		requires the amount of nicotine to be printed on the packaging, which can be misleading.
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.	OBLIGATION MET	The Directive requires warnings to be on each unit packet, box and wrapper of all tobacco products. Provision 9 of the Act and Provision 5 of the Directive require warnings to be in Nepali.

Provision 10 of the Directive and Provision 9 of the Act obliges manufacturers and importers to comply with the requirements for labelling and packaging. The ACDO, who is the designated inspector and chief enforcement officer, is required to enforce the law. However, due to limited resources, enforcement is lacking and greater coordination between the District Administration Office and the District Health Office is needed. The NHEICC may also wish to consider utilizing other existing structures such as tax inspectors who will be monitoring whether all tobacco products in the market carry an excise tax stamp. As there are pending cases with the Supreme Court, implementation of certain provisions of the law has been suspended until a ruling is made.

The Regulations (in Provision 15(a)) state that the inspector has the duty and right to ask manufacturers to print warning messages and graphics and conduct monitoring. If there is non-compliance, Provision 17(b) of the Act imposes a fine on manufacturers and confiscation of the tobacco products. Provisions 15(c) and 15(f) of the Regulations give inspectors the right to stop activities, marketing and import and export of tobacco products if there are violations of the law. Provision 21 of the Act requires confiscated products to be destroyed in a way that does not have adverse effects on human health and the environment.

Gaps –

1. Nepal missed the deadlines for implementation of Article 11 and its guidelines.
2. The relevant provisions of the Act, Regulations and Directive related to packaging and labelling have not been implemented.
3. There is a requirement for the amount of nicotine to be printed on packaging, which is not in line with the guidelines.

It is therefore recommended that Nepal implement the Act, Regulations and Directive as soon as possible to meet its treaty obligations. It is also recommended that, when the cases come up for hearing, the MOHP request the Honourable Supreme Court to make a timely ruling of the pending court cases to honour Nepal's international legal obligation as a Party to the Convention. It is also recommended that the requirement to print nicotine content on packaging be removed from the Act. It is further recommended that the NHEICC work closely and coordinate with other relevant authorities to strengthen enforcement of the law once it is implemented.

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

Article 12 requires that *"each Party shall adopt and implement effective legislative, executive, administrative or other measures to promote:*

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

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

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

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

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

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

The NHCP 2012 envisions promoting healthy lifestyles through integrated, updated, organized and effective health communication activities, including through the formulation and implementation of the tobacco control Strategic Plan along with communication programmes. Prior to the Convention entering into force for Nepal, the National Anti-Tobacco Communication Campaign Strategy 2004–2008 had been put in place. The importance of tobacco-related health communication programmes in promoting healthy behaviour is also reflected in Nepal's Second Long Term Health Plan, NHSP-1 and NHSP-2. It is recommended that the communication plan, either within the Strategic Plan or separately, be multisectoral and include other sectors and stakeholders in implementation.

The Government of Nepal has conducted several tobacco control advocacy and awareness activities to disseminate information about the Act, Regulations and Directive, and to sensitize people about the dangers of tobacco use and exposure. The NHEICC has developed, pretested and disseminated information, education and communication materials to health institutions, schools, colleges and other public places; observed World No Tobacco Day every year; disseminated health messages and covered tobacco control issues in the media (radio, television and print); organized public rallies; conducted interactive activities and orientation workshops; and provided information, warnings and notices to the public in collaboration with other stakeholders.

There are currently four radio and four television programmes on which health messages are broadcast. Radio and television stations must be paid for air time, although discounts are given in the form of additional air time. The Ministry of Information and Communication owns two television channels and one radio channel that can reach 60 of 75 districts. In Government media, time is allocated to public welfare advertisements that can be provided by any ministry. In order to receive more airtime, the MOHP is advised to coordinate with the Ministry of Information and Communication. The Ministry of Women, Children and Welfare and the IRD have, in

separate meetings, expressed their commitment to supporting dissemination of tobacco control and anti-tobacco messages.

According to the Ministry of Education, tobacco control content is included in the curriculum for grades 3–10, and there are plans to update the curriculum in close collaboration with the NHEICC, which includes incorporating provisions of the law in the curriculum as appropriate. Although content is available, there is a lack of teaching materials and a possible lack of specific knowledge and skills. Thus, the effectiveness of the curriculum and teaching is unknown. In regard to higher education, relevant optional courses are available. The curriculum for medical, dental, pharmacy and nursing students may be limited to the harms of tobacco and to prevention, and exclude cessation techniques. Educational institutions have also conducted anti-tobacco awareness campaigns and co-curricular activities.

The 2011 GYTS found that 87.1% of youth aged 13–15 years had seen an anti-smoking media message in the past 30 days; 79.3% had been taught in class during the past year about the dangers of smoking; and 67.8% had been taught in class during the past year about the effects of tobacco use. This is higher than the figures from the 2007 GYTS and demonstrates the efforts put into education and communication activities. The next step would be to assess the effectiveness of these programmes and activities.

In terms of training, the NHEICC has organized orientation programmes to educate health workers and the public on the negative effects of smoking and tobacco use; conducted tobacco cessation training for health workers in three districts (Kathmandu, Pokhara and Biratnagar); conducted training on tobacco control for health workers, community workers and NGOs; and conducted five regional orientation workshops for inspectors and district health chiefs with the aim of enabling them to effectively implement the Act. Due to lack of funding, tobacco cessation training for health workers could not be expanded to cover the whole country.

The 2011 GHPSS found that 23.3% of the medical students surveyed had received formal training in smoking cessation approaches during medical school and 94.8% thought that health professionals should receive specific training on cessation techniques; the figures were 32.9% and 89.1%, respectively, of dental students, 15.8% and 96.8%, respectively, of nursing students, and 24.9% and 84.6%, respectively, of pharmacy students.

The 2011 GSPS found that 94.2% of those surveyed thought that teachers need specific training to help students avoid tobacco use; 52.4% of teachers had access to teaching materials on tobacco use; and 19.4% of teachers had ever received training on youth tobacco use prevention. Thus the survey showed that a low proportion of professionals had received training, yet a high proportion thought that specific training is necessary. It is recommended that training be enhanced for health professionals and teachers.

The 2011 NDHS, GSPS and GYTS data all show higher prevalence of chewing tobacco use compared to cigarette smoking among adult men, school staff and youth in Nepal. Particular attention needs to be paid to raising awareness about the harms of smokeless tobacco in public education and communication programmes, while teacher training and youth life-skills education are needed.

In addition, the MOHP has recently introduced a policy decision against hiring smokers and tobacco users, which should also help to raise awareness and change behaviour and social norms.

While considerable work has been undertaken in education, training and public awareness, there is a need for the NHEICC to focus on evidence-based research in promoting and strengthening public awareness of tobacco control issues. This would require rigorous pretesting, monitoring and evaluation to enhance effectiveness of current efforts.

Gaps –

1. Action plans for the implementation of education, communication and training activities within a comprehensive multisectoral tobacco control programme have not been established and the mandates of relevant ministries, Government agencies and other key stakeholders in implementing Article 12 have not yet been clearly defined.
2. Currently there is no free air time allocated to the broadcasting of tobacco control campaign messages.
3. There is no systematic collection of information on the tobacco industry and no public access to such information.
4. There is a lack of systematic evaluation of the effectiveness of the activities conducted with regard to education, communication and training aimed at raising awareness of tobacco control issues.
5. There is a lack of pre-service and in-service tobacco control and cessation training for health professionals and for educators.

It is therefore recommended that: (i) Nepal develop a multisectoral national action plan on education, communication and training within the overall Strategic Plan, and include planning for systematic collection of tobacco industry-related information; (ii) the NHEICC coordinate with the Ministry of Information and Communication and ensure that free air time is allocated to the promotion of tobacco control messages; (iii) the NHEICC rigorously research and evaluate the impact of interventions and activities in order to achieve better outcomes – international cooperation may be useful to ensure that rigorous, systematic and objective methods are used in designing and implementing these programmes; and (iv) the NHEICC work together with the Ministry of Education to strengthen training for health professionals and teachers.

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

Tobacco advertising, promotion and sponsorship (Article 13)

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

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

This is one of the articles of the Convention that contains a deadline for implementation of specific measures. The five-year deadline from the date of entry into force of the Convention for Nepal was 5 February 2012. Nepal partially met the deadlines for implementing Article 13 by adopting the Act on 8 August 2011 and Regulations on 7 May 2012. Provisions 7(3), 7(4), 10, 11(1), 11(5), 11(7) of the Act, Provisions 6(a) and 13 of the Regulations and Provision 8 of the Directive provide a comprehensive ban on tobacco advertising, promotion and sponsorship in Nepal.

The NHEICC is to work with the inspector (ACDO), who is the chief enforcement officer, to ensure compliance. If there are violations, Provisions 17(b) and 17(d) of the Act impose fines and confiscation of the tobacco products. The Regulations (in Provisions 15(c) and 15(f)) give inspectors the right to stop activities if there are violations in the manufacturing, storage, sale or marketing of tobacco products. Provision 21 of the Act requires confiscated products to be destroyed in a way that does not have adverse effects on human health and the environment.

In 1998, even before the Act was enacted, Nepal had begun eliminating tobacco product advertising and promotion in electronic and print media and addressing sponsorship by tobacco companies and their activities under the guise of "corporate social responsibility". The Ministry of Information and Communication's Censor Board has begun including health warnings in films and television programmes in which tobacco products appear. The next step would be to cut out those scenes and ban them completely.

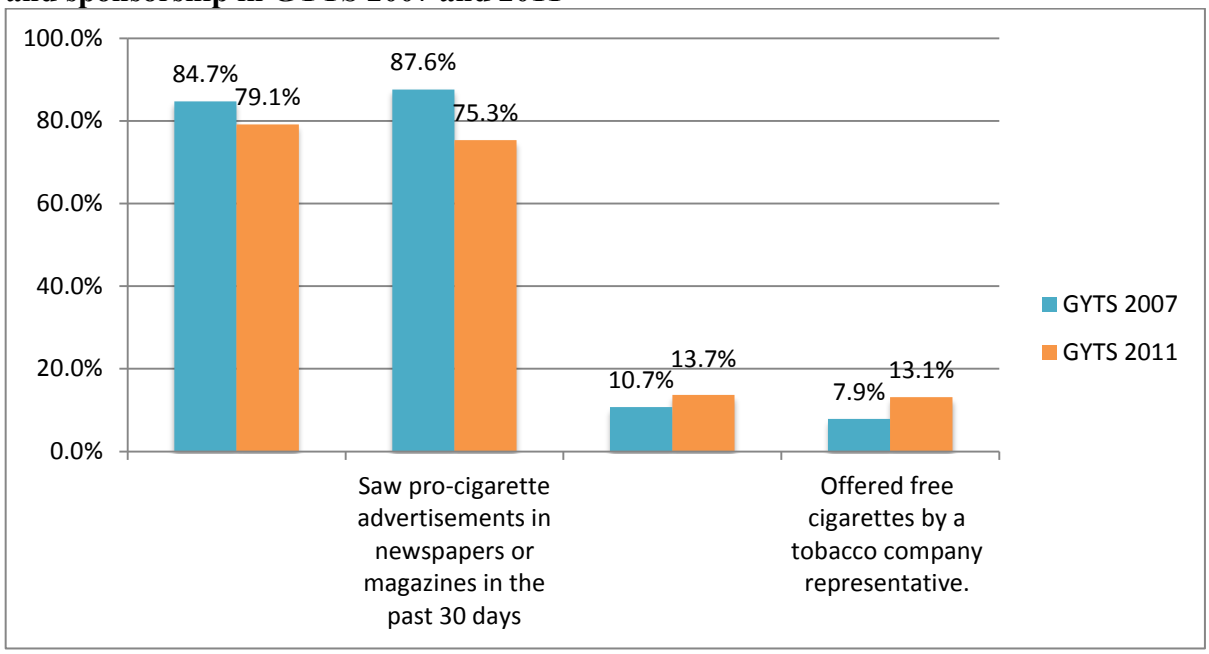
Surya Nepal, a company in the cigarette manufacturing business, recently signed a sponsorship deal with the Nepal Golf Association (NGA) to organize a sporting event and will also be sponsoring the NGA's Youth Golf Development Programme.[5] The Ministry of Youth and Sports has been informed and action will be taken to address the matter.

As there have been known instances of violations, it is recommended that the MOHP coordinate with the inspector (ACDO) as well as other relevant ministries such as the Censor Board, Ministry of Youth and Sports, the Ministry of Education, the Ministry of Industry and the Ministry of Commerce and Supplies to strengthen monitoring and enforcement of this Provision. The Chief Secretary can also play an important coordination role to mobilize support from all relevant Secretaries to ensure multisectoral efforts in implementing the Convention.

Data from the 2007 and 2011 GYTS suggest that there is room for improvement in enforcement of and compliance with the provisions of the Act and Regulations. There are still pro-cigarette advertisements on billboards, newspapers and magazines; some young people also reported owning an object with a cigarette brand logo and having been offered free cigarettes by a tobacco company representative.

[5] Surya Nepal to sponsor Amateur Open Golf. *Republica*, 8 March 2013 (available at: http://www.myrepublica.com/portal/index.php?action=news_details&news_id=51183).

Figure 1. Percentage of young people affected by tobacco advertising, promotion and sponsorship in GYTS 2007 and 2011



Although the law meets the obligations under Article 13.2 of the Convention, implementation of the law, including enforcement, needs to be strengthened.

Gaps –

1. Tobacco products are still displayed on open shelves at points of sale, which reflects a lack of awareness of the law and a lack of enforcement.
2. Youth exposure to tobacco advertising remains high.
3. "Socially responsible" activities by the tobacco industry still take place.
4. There are challenges in regard to monitoring and enforcing the law due to limited resources.

It is therefore recommended that the NHEICC: (i) routinely monitor compliance by sellers in order to better implement the prohibition of displays and visibility of tobacco products at points of sale; (ii) routinely monitor compliance in print and electronic media to better implement the ban on tobacco advertising and promotion; and (iii) routinely monitor compliance of tobacco companies with the sponsorship ban. It is also recommended that public and inter-ministerial awareness of the need to eliminate tobacco advertising, promotion and sponsorship be enhanced.

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

Currently Nepal 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"*.

Nepal's laws prohibiting tobacco advertising, promotion and sponsorship includes cross-border advertising, promotion and sponsorship. Thus, Nepal has met the obligations under Article 13.7 of the Convention.

However, it is difficult to implement these measures, particularly to ban advertising from international satellite television channels and the Internet. Further enforcement efforts are needed to implement the ban on cross-border tobacco advertising, promotion and sponsorship entering into and originating from the territory of Nepal.

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"*.

Currently, Nepal does not have guidelines concerning tobacco dependence and cessation.

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

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

Article 14.2 stipulates that to achieve the end outlined in Article 14.1, "*each Party shall endeavour to:*

(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".

In 2012, the NHEICC conducted training on tobacco cessation to doctors in hospitals and community health workers in three districts (Kathmandu, Pokhara and Biratnagar), thereby enabling them to carry out limited counselling. Another two training workshops are scheduled for nurses and health workers in 2013. In addition, under the WHO Tobacco Free Initiative and Global TB Programme's-sPractical approach to Lung Health pilot project 2007–2008, 146 health staff in 25 health facilities (district health offices,

hospitals, primary health care centres and health posts of the pilot districts, including the National Tuberculosis Centre) have been trained to carry out tobacco cessation and counselling. There are calls to expand the PAL project to other districts.

There are cessation services available in some health care facilities and educational institutions but there is no comprehensive national programme and no inclusion of the diagnosis and treatment of tobacco dependence is not included in the national health system. Health workers ask about smoking status in an ad hoc manner and give brief advice to patients depending on the conditions they present when they visit clinics.

Products to aid cessation such as nicotine replacement therapy and bupropion are not available in Nepal as they are not on the list of registered drugs. An NGO, the Nepal Cancer Relief Society, has been running a quit line for six years and provides telephonic counselling from 10 am to 5 pm daily to support people who wish to quit. It is, however, not a national toll-free number.

Although training on the harms of tobacco is incorporated into curricula at medical, dental, nursing and pharmacy schools, it is reported that this is inadequate. Data from the 2011 GSHS and GHPSS also showed that health professionals and educators thought that health professionals should receive specific training on tobacco cessation techniques.

The 2011 GYTS found that 77.5% of youth aged 13–15 years who were current smokers had ever received help to stop smoking. The 2007 GYTS found that 92.0% of youth aged 13–15 years who were current smokers wanted to stop smoking; 93.8% had tried to stop smoking during the past year; and 90.2% had ever received help to stop smoking. This suggests that about 9 out of 10 current smokers want to stop smoking.

Gaps –

1. There is no comprehensive and integrated programme for cessation and dependence treatment services in Nepal.
2. Only a limited number of health workers have been trained to provide cessation counselling, and brief cessation advice is not routinely provided.
3. Pharmaceutical products for the treatment of tobacco dependence are not registered and therefore, are not available in the public health service.
4. There is no national toll-free quit line for tobacco cessation.
5. Curricula on tobacco dependence treatment at medical, dental, nursing and pharmacy schools are inadequate.

It is therefore recommended that: (i) national programmes and services on diagnosis and treatment of tobacco dependence, and counselling services on cessation of tobacco use, be established and promoted in different settings (e.g. educational institutions, health care facilities, primary health care centres, workplaces and sporting environments). Community-based counselling and cessation programmes should be a primary approach; (ii) all health care workers be trained to give brief advice and encourage quit attempts; (iii) the MOHP make recording of tobacco use in medical history notes mandatory; (iv) Nepal collaborate with other Parties to facilitate accessibility and affordability of pharmaceutical products for treatment of tobacco dependence; (v) Nepal establish a national toll-free quit line; (vi) curriculum on tobacco dependence treatment be enhanced at medical, dental, nursing and pharmacy schools; and (vi) the PAL project coordinate with the NHEICC to scale up services.

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"*.

The Protocol to Eliminate Illicit Trade in Tobacco Products adopted at COP5 provides an additional legal instrument to reduce supply. The Protocol has been open for signature by all Parties to the Convention since 10 January 2013, and will remain so until 9 January 2014. Following signature, Parties may ratify the Protocol. The Government of Nepal has started the process of becoming a signatory of the Protocol. The first step is to translate it into the Nepali language.

Provision 8(2) of the Act and Section 8(2) of the Regulations state that the manufacturer and person involved in the import and export of a tobacco product must submit to the ministry details on the place and quantity of the product manufactured, place and quantity of the product imported, place and quantity of the product exported, and details of the excise paid. Provision 7(1b) of the Act also requires that the name and address of the manufacturer be included on the product packaging to enable the authorities to determine the origin of the product.

If there is non-compliance, Provision 17(b) of the Act imposes a fine on manufacturers and confiscation of the tobacco products. Provision 15(c) and 15(f) of the Regulations give inspectors the right to stop activities, marketing and import and export of tobacco products if there are violations of the law. Provision 21 of the Act requires confiscated products to be destroyed in a way that does not have adverse effects on human health and the environment. However, this has yet to be enforced.

In addition to the requirements of the MOHP, the IRD also regularly requests information from manufacturers, because tobacco is an excisable item. In order to sell, distribute, produce, import and export excisable products, permission needs to be obtained from the IRD. The IRD is currently rolling out a new rule that requires all tobacco products to carry an excise stamp, which will enable Nepal to monitor illicit trade. The IRD will deploy its inspectors and staff in field offices to monitor the situation in the market. At the time of writing, the guidelines were shortly to be finalized and rolled out, and manufacturers were to be given 2–3 months to comply with the law. The rule also provides a mechanism that the MOHP can capitalize on to ensure compliance with the Act, Regulations and Directive.

At the border, the Customs Department (Customs) and the Customs Act 2064 controls all forms of illicit trade, smuggling and counterfeit. With the new excise stamp requirement, Customs will be able to assess whether the products are illicit or legal. However, there is no tracking and tracing system: currently, the name of the manufacturer is on the packaging indicating the origin of the product, but there are no markings to indicate where it is for sale.

If the tobacco products are illegal, Customs will confiscate the goods and a 100% penalty will be applied. The confiscated goods will then be checked for their expiry date. If the date has expired, Customs will bury it. If it has not expired, they will auction it. Previously, Customs have seized raw tobacco and have buried it. The MOSTE currently does not have standards on environmentally-friendly methods of disposal. However, the

MOSTE is committed to supporting the MOHP in implementing the Convention and will research environmentally-friendly methods of disposal and provide appropriate advice to the MOHP and Customs.

Nepal has held bilateral discussions on trade and its open border issues, and has held multilateral discussions with the South Asian Association for Regional Cooperation (SAARC) countries. Technical assistance has also been provided by the World Customs Organization.

An overview of the measures taken by Nepal against illicit trade in tobacco products, with identified needs, is given in **Table 3** below.

Table 3. Overview of measures taken against the illicit trade in tobacco products in Nepal

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.	OBLIGATION MET	The Customs Act 2064 controls all forms of illicit trade, smuggling and counterfeiting. Provision 7(1b) of the Act requires the name and address of the manufacturer to be provided, which will indicate the origin of the products.
2(a) and 3	require that unit packets and packages of tobacco products for retail and wholesale use that are sold on its domestic market carry the statement: *"Sales only allowed in (insert name of the country, subnational, regional or federal unit)"* or carry any other effective marking indicating the final destination or which would assist authorities in determining whether the product is legally for sale on the domestic market.	NOT YET IMPLEMENTED	This is not a requirement yet, and requires amendment of the tobacco control legislation.
2(b) and 3	consider, as appropriate, developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade.	NOT YET IMPLEMENTED	There is no tracking and tracing 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.	OBLIGATION MET BUT IMPLEMENTATION NEEDS TO BE STRENGTHENED	Provision 8(2) of the Act and Section 8(2) of the Regulations require reporting of the place and quantity of the product manufactured, place and quantity of the product imported, place and quantity of the product exported and details of the excise paid. Although required, this has not yet been implemented by the MOHP. The IRD and Customs have their own requirements and have been collecting data on

			tobacco products. Information sharing and coordination of activities are encouraged.
4(b)	enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband cigarettes.	OBLIGATION MET	Provision 17(5b) of the Act imposes a penalty and confiscation for violations. Customs imposes a 100% fine on illicit products and confiscates the goods.
4(c)	take appropriate steps to ensure tha all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using environmentally-friendly methods where feasible, or dispose of in accordance with national law.	OBLIGATION MET BUT IMPLEMENTATION NEEDS TO BE STRENGTHENED	Provision 21 of the Tobacco Control Act states that products confiscated as per this Act will be destroyed in a way that does not have adverse effects on human health and the environment. This has not yet been implemented by the MOHP. Customs destroys expired tobacco products and raw tobacco by burying them, and auctions products that have not expired. Coordination needs to take place among the MOHP, the Ministry of Environment, and the enforcement agencies.
4(d)	adopt and implement measures to monitor, document and control the storage and distribution of tobacco products held or moving under suspension of taxes or duties within its jurisdiction.	OBLIGATION MET	Under the Customs Act 2064
4(e)	adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.	NOT YET IMPLEMENTED	
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 subregional levels to combat illicit trade of tobacco products.	OBLIGATION MET	Nepal is a Party to the World Customs Organization and is part of SAARC. There are discussions regarding the open border which has enabled illicit trade of all products to take place, not just tobacco products.
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	OBLIGATION MET	A Licence is required for importing tobacco and is issued by the Department of Commerce and Supply Management. The licence fee for importing tobacco is 5000

	in order to prevent illicit trade.		rupees per document (per consignment), whatever may be the value of the imported product. Permission also needs to be obtained from the IRD in order to produce, distribute, sell, import and export tobacco products. The IRD's new rule requiring an excise stamp to be placed on all tobacco products will help further regulate the production and distribution of tobacco products.

Gaps –

1. There is no requirement for products to include markings to indicate final destination.
2. There is no tracking and tracing system.
3. Not all confiscated products are destroyed and more coordination is needed among the MOHP, the Customs and the MOSTE.

It is therefore recommended that Nepal require products to include the statement "Sales only allowed in Nepal" or other effective markings to indicate final destination. It is also recommended that Nepal establish an effective tracking and tracing system to secure the distribution system and support the investigation of illicit trade. It is further recommended that Nepal identify and use environmentally-friendly methods for the destruction of confiscated products. Nepal is encouraged to strengthen coordination among the Customs Department, the MOHP, the MOSTE and other law enforcement forces to control illicit trade in tobacco products. Nepal is also encouraged to become an early signatory to the Protocol to Eliminate Illicit Trade in Tobacco Products followed by ratification, and to promote international bilateral and multilateral cooperation to curb illicit trade in tobacco products.

Sales to and by minors (Article 16)

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

Provision 11(1) of the Act prohibits sale, distribution or provision of tobacco products for free to a person below the age of 18 years and to pregnant women.

Nepal has met the obligations under Article 16; however, enforcement of the law remains a challenge.

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*;".

Provision 11(1) of the Regulations states that the vendor shall put up a notice indicating that no tobacco products shall be sold to or by persons under the age of 18 years. Provision 11(2) states that the seller may request the necessary proof of age. The

NHEICC is to work with the inspector (ACDO), who is the chief enforcement officer, to ensure compliance. If there are violations, Provision 17(d) of the Act imposes a fine. The Regulations (in Provisions 15(c) and 15(f)) give inspectors the right to stop activities if there are violations in the manufacturing, storage, sale or marketing of tobacco products.

The 2011 GYTS found that 27.1% of youths who buy cigarettes do so in a store. This suggests that enforcement needs to be enhanced to prohibit sales of tobacco products to minors.

Nepal has met the obligations under Article 16.1(a); however, enforcement of the law remains a challenge.

Gap – According to the 2011 GYTS, more than a quarter of young people report buying cigarettes in a store.

It is therefore recommended that Nepal step up enforcement of the provision prohibiting sale of tobacco products to persons under 18 years of 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*".

The Act (in Provision 11(3)) states that no person shall be allowed to sell tobacco products within 100 metres of educational and health institutions, child welfare homes, child-care centres, old people's homes, and other public places prescribed by the Government of Nepal on publication of a notification in the Nepal Gazette. Provision 11(7) of the Act also states that no decoration is permitted at points of sale to attract people to tobacco products or displays of such products.

The NHEICC is to work with the inspector (ACDO), who is the chief enforcement officer, to ensure compliance. If there are violations, Provision 17(d) of the Act imposes a fine. The Regulations (in Provisions 15(c) and 15(f)) give inspectors the right to stop activities if there are violations in the manufacturing, storage, sale or marketing of tobacco products. The international team found that cigarette packs are still openly displayed on store shelves.

Nepal has met the obligations under Article 16.1(b); however, implementation and enforcement of the law remains a challenge.

Gap – Implementation and enforcement of the law remains a challenge.

It is therefore recommended that Nepal step up enforcement of the provision prohibiting the display of tobacco products at point of sale.

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

Provision 7(2) of the Act prohibits any logo, mark, picture or word that could appeal to minors from appearing on tobacco product packaging. Provision 7(3) of the Act also states that no person shall be allowed to manufacture tobacco products using the same brand name or trademark as other industry or product. Provision 7(4) of the Act prohibits the production of any product in the shape of a cigarette, quid of tobacco or cigar.

Nepal has met the obligations under Article 16.1(c).

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

There are no vending machines currently being used in Nepal. The Act bans all kinds of direct and indirect advertising and promotion. Vending machines constitute, by their very presence, a means of advertising and promotion.

Nepal has met the obligation under Article 16.1(d) under the Convention. ***It is recommended that Nepal include a provision in the Regulations that bans the sale of tobacco products by self-service vending machines to pre-empt efforts by the tobacco industry to do so.***

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"*.

Provision 7 of the Regulations state that "manufacturers shall prepare box or packet of cigarettes or bidis with a capacity of at least 20 sticks of cigarettes or bidis in it".

Gaps –

1. In the Directive, there is a design provision for packs containing 10 cigarettes, a provision which has been superseded by the Regulations.
2. The international team found that it is still possible to purchase individual sticks or packs of 10 sticks. Thus, awareness and enforcement still needs strengthening.

It is therefore recommended that Nepal revise the Directive in line with the Regulations to avoid a discrepancy related to packs containing 10 cigarettes. It is also recommended that Nepal raise awareness of the Act and Regulations and strengthen implementation and enforcement of the law.

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"*.

Tobacco is considered one of Nepal's cash crops. Over the past few decades, there has been a gradual decrease in tobacco leaf production and in land devoted to tobacco growing. According to the Ministry of Finance, Nepal produced about 2491 tonnes of tobacco leaf in 2009–2010 on 2534 hectares of land; produced 9970 million cigarette sticks in 2006–2007, 10 710 million cigarette sticks in 2007–2008 and 11 130 million cigarette sticks in 2008–2009.[6,7] One company, Surya Nepal, is the major producer and grower of tobacco leaf in the country. The Agriculture Research Council under the MOAD indicated that they do not have research activities aimed at increasing yield and

[6] See: http://siteresources.worldbank.org/INTPH/Resources/Nepal.pdf

[7] *Brief profile on tobacco control in Nepal*. Ministry of Health and Population, Government of Nepal (available at: http://www.who.int/fctc/reporting/party_reports/npl/en/index.html).

that they do not subsidize tobacco growers. The Project for Agriculture Commercialization and Trade executed by the MOAD and funded by the World Bank to improve the competitiveness of smallholders, could be utilized by the MOHP to support economically viable alternatives to tobacco crops. The United States Agency for International Development (USAID) also supports programmes to increase agricultural productivity, the incomes of smallholder farmers, and the production of nutritious food products. Assistance from the World Bank and USAID to agriculture diversification could be useful in this regard.

The Regulations (in Provision 17) mandate the Tobacco Products Control and Regulatory Committee to submit proposals to the Government of Nepal on policies to encourage farmers engaged in tobacco cultivation to shift to other crops. There is no explicit policy to address this issue and no provision of support for economically viable alternative activities. Educational measures alone have been taken. The MOAD noted that they will communicate with the Ministry of Labour and Employment to discuss the Convention and Nepal's obligation as a Party.

Gaps –

1. There are no policies, plans or programmes to provide support to tobacco workers and growers in moving into economically viable alternative livelihoods.
2. There is a lack of coordination within the Government on implementation of Articles 17 and 18.

It is recommended that the relevant government agencies be made aware of the obligation under Article 17 and to promote economically viable alternatives to tobacco workers and growers. It is also recommended that Nepal promote economically viable alternatives to tobacco growing through mobilization of support by the World Bank, USAID and other development partners.

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

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

Tobacco is grown and tobacco products are manufactured in Nepal. The MOSTE, under the Environment Protection Act 2053 (1997), requires all factories, including tobacco factories, to pass an environmental impact assessment and to have an environmental protection plan in place, which the MOSTE evaluates every two to three years. There is currently no regulation on tobacco farms and their impact on the environment. The MOSTE will be revising the relevant regulations soon and expressed a willingness to include a requirement for tobacco farms to be assessed and evaluated upon an official request from the MOHP to implement the Convention. The MOSTE expressed strong interest in and commitment to ensuring that Nepal fulfils its obligations under the Convention.

The MOAD works with the Ministry of Labour and Employment to oversee tobacco farming as well as the welfare of tobacco growers and farmers. The Labour Act 2048 (1992) requires managers to ensure that conditions are in line with that Act, in order to protect the health and safety of workers. However, Nepal has not ratified the ILO Occupational Safety and Health Convention, 1981 (No. 155).

Gaps –

1. According to the current Environmental Protection Act and the Regulations, tobacco farms are not required to pass an environmental impact assessment nor required to have an environmental protection plan in place.
2. Awareness of the Convention and the articles under the responsibility of MOSTE is low.

It is recommended that MOHP submit a request to MOSTE to require, by law, tobacco farms to pass an environmental impact assessment and to have an environmental protection plan in place. It is also recommended that MOHP provide information about the Convention and the guidelines to other ministries and relevant agencies. It is further recommended that the MOHP work together with the MOAD and the Ministry of Labour and Employment to assess the implementation and enforcement of the Labour Act 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"*.

There is no provision in Nepal's tobacco control legislation to deal with criminal and civil liability. However, there is a Consumer Protection Act under which it may be possible to take legislative action against the tobacco industry.

The international team was not informed of any court cases in which compensation was being sought in relation to any adverse health effects caused by tobacco use, including any action against the tobacco industry (including tobacco importers) for full or partial reimbursement of medical, social and other relevant costs related to tobacco use.

Nepal is keen to participate in the expert group on Liability that was established by COP5.

Gap – There is no provision in the tobacco control legislation to deal with criminal and civil liability.

It is recommended that Nepal promote its existing laws and introduce provisions into its tobacco control legislation to deal with criminal and civil liability, including compensation where appropriate. It is also recommended that Nepal directly participate in the expert group or contribute to its work through its regional representatives.

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"*.

The NHEICC works with the Nepal Health Research Council (NHRC) regarding research into tobacco control. The NHRC is the regulatory body for health research and also initiates and undertakes research on the prevention, diagnosis and treatment of

diseases. The NHRC has established a list of priority areas for health research, which includes tobacco control. There was a suggestion that evaluation studies on the effectiveness of tobacco control interventions would be conducted, but it has yet to take place. The NHRC has more than 50 permanent staff and another 50 or so temporary staff who conduct research when the need arises. Economic studies related to health have been conducted by the Nepal Rastra Bank (i.e. the central bank of Nepal). Tobacco control information has been disseminated through journal articles.

Research and surveillance in the field of tobacco control have been conducted in collaboration with WHO and the US CDC, namely GYTS, GSPS and GHPSS. Other surveys which have tobacco-related questions include WHO STEPS and the USAID-supported NDHS. Apart from WHO STEPS, which does not have questions from which the level of exposure to second-hand smoke can be determined, these surveys provide key data for policy and programmatic recommendations. Additional questions on exposure to second-hand smoke will be included in the next round of WHO STEPS. As these studies are part of the global surveillance system, data are comparable and made available publicly. For each survey, financial and technical assistance were provided as well as training conducted for key country personnel on survey methodology, implementation and analysis.

The tobacco control-related studies that have been conducted in Nepal are:

- WHO STEPS – 2003 (Kathmandu), 2005 (3 districts) and 2007 (National)
- Public Opinion Poll Survey on Tobacco Control Legislation and Tobacco Consumption – 2010 and 2011
- Desk review of tobacco products focusing on smokeless forms – 2011
- GYTS – 2007 and 2011
- GSPS – 2007 and 2011
- GHPSS – 2005 and 2011
- NDHS – 2006 and 2011
- Formative Research on Information, Education and Communication/ Behavioural Change Communication in Health – 2006 and 2011

The NHRC is currently conducting the WHO STEPS survey 2012/2013, which will be completed in six months. The next NDHS is planned for 2016.

The 2011 NDHS reported that tobacco use was more common among Nepalese men than women (52% compared to 13%). Among men aged 15–49 years, 29.8% smoked cigarettes, 0.5% used a pipe and 37.9% used other tobacco. Among women aged 15–49 years, 8.7% smoked cigarettes, 0.7% used a pipe and 6.0% used other tobacco. The NDHS data show that more men used chewing tobacco than cigarettes, but that more women smoked cigarettes compared to other types of tobacco products.

The 2011 GHPSS reported that 18.1% of medical students surveyed currently smoked cigarettes and that 15.2% currently used other forms of tobacco, compared to 23.5% and 14.4%, respectively, in 2005. Between 2005 and 2011, prevalence of smoking decreased by 5.4% points and prevalence of the use of other forms of tobacco increased by 0.8% points. More medical students smoked cigarettes compared to other forms of tobacco use, both in 2005 and 2011.

The 2011 GHPSS reported that 29.2% of dental students surveyed currently smoked cigarettes and that 20.1% currently used other forms of tobacco, compared to 17.3% and 19.1%, respectively, in 2005. Between 2005 and 2011, prevalence of cigarette smoking

increased by 11.9% percentage points and prevalence of the use of other forms of tobacco increased by 1 percentage point. In 2011, more dental students smoked cigarettes compared to other forms of tobacco; but in 2005, more used other forms of tobacco compared to cigarettes.

The 2011 GSPS reported that 13.1% of school staff currently smoked cigarettes and 17.1% currently used any tobacco product. The 2007 GSPS reported that 16.9% of school staff currently smoked cigarettes and that 21.2% currently used other tobacco products. Prevalence in smoking and other tobacco products decreased by 3.8% points and 4.1% points, respectively. More school staff used other tobacco products compared to cigarettes, in both 2007 and 2011.

The 2007 and 2011 GYTS reported the following figures. In 2011, almost a quarter of boys and 16.4% of girls aged 13–15 years currently used any tobacco products compared to just 5.5% of boys and 0.8% of girls who currently smoked cigarettes. In 2007, 13% of boys and 5.3% of girls used any tobacco products compared to 5.7% of boys and 1.9% of girls who currently smoked cigarettes. Prevalence in the use of any tobacco products increased by 11.6 percentage points among boys and 11.1 percentage points among girls between 2007 and 2011. Prevalence of smoking decreased by 0.2 percentage points among boys and by 1.1 percentage points among girls between 2007 and 2011. The most common tobacco product consumed appears to be chewing tobacco with betel quid where 12.8% of boys and 6.6% of girls aged 13–15 years reported currently using that product. Table 4 presents the figures obtained from the 2011 and 2007 GYTS.

Table 4. Prevalence of tobacco use in Nepal, from 2011 and 2007 GYTS (% of respondents)

	2011			2007		
	Total	**Boys**	**Girls**	**Total**	**Boys**	**Girls**
Currently use any tobacco products	20.4	24.6	16.4	9.4	13	5.3
Currently smoke cigarettes	3.1	5.5	0.8	3.9	5.7	1.9
Currently smoke bidis	3.3	3.6	2.7	-	-	-
Currently chew tobacco with betel quid	9.6	12.8	6.6	-	-	-
Currently chew pan masala with zarda	7.6	9.3	6.3	-	-	-
Currently chew tobacco with lime mixture (khaini)	3.3	3.3	3.2	-	-	-
Currently use any other smokeless tobacco products (chewing tobacco, snuff, dip)	4.6	4.2	4.7	-	-	-

The Department of Health Services under the MOHP is responsible for the maintenance of health-related data and information and manages two information systems – the Health Management Information System and the Health Sector Information System. Research institutions and researchers may request for data and obtain approval from the NHRC to analyse and publish studies. The NHEICC and other researchers may have analysed data from selected health centres and published studies on tobacco-related morbidity and mortality. Thus far, no national-level studies have been conducted on the burden of disease and economic costs related to tobacco use.

Gaps –

1. There is a lack of national data on the burden of disease related to tobacco and direct costs attributable to tobacco use and exposure to tobacco smoke.
2. There is a lack of evaluation studies on the effectiveness of interventions to reduce tobacco use prevalence.
3. There is no research on alternative livelihoods.

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

Reporting and exchange of information (Article 21)

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

Nepal has provided both of the required implementation reports on time. The two-year (first) report was submitted on 27 February 2007, the five-year (second) report on 5 April 2012; the third report is due in the 2014 reporting period (1 January to 30 April 2014).

Nepal has met the obligation under Article 21 of the Convention.

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

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

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

The MOHP works closely with the donor community under the sector-wide approach (SWAp) model. The MOHP and donors developed the NHSP2-IP 2010–2015 that aims to increase access to and use of quality essential health services, and includes implementation of interventions to reduce the supply and demand for tobacco.

WHO has been providing technical support to the MOHP and the Ministry of Education in implementing the Convention, particularly by supporting surveys under the GTSS in collaboration with the US CDC, as well as the WHO STEPS survey. WHO has also engaged with the national tobacco control programme in international workshops and conferences and by exchanging international experiences. USAID provided technical and financial support to Nepal in conducting the NDHS. The Union provided support to Nepal in developing their tobacco control laws and advocacy programmes. A number of Parties have provided support by granting Nepal licences for the use of pictorial health warnings.

UNDP has supported community-level training and advocacy activities in Nepal, which could be a good platform for including tobacco control in future programmes. The World Bank and UNICEF mentioned that there are several opportunities for including tobacco control in their programmes. One would be in the training of women health volunteers, of whom there are about 50 000 working in villages across Nepal. The World Bank is committed to providing technical support in developing tobacco tax policies upon request of the Government and to promoting the inclusion or improvement of tobacco control content in the school curriculum under its support to the education sector and upon request by the Government.

The United Nations Development Assistance Framework (UNDAF) is the strategic programme framework jointly agreed between governments and the United Nations system outlining priorities in national development. At its fourth session, in decision FCTC/COP4(17)[8] 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. It encourages developing countries to utilize the opportunities for assistance under the UNDAF and requests the Convention Secretariat to actively work with the United Nations agencies responsible for implementation of the UNDAF and coordination of the delivery of assistance, in order to strengthen implementation of the Convention at country level.

The current UNDAF in Nepal, covering the period from 2013 to 2017 includes prevention and control of NCDs under Outcome 1, concerning improved and equitable access to basic, essential social services and programmes for vulnerable and disadvantaged groups. As implementation of the Convention is central to reducing NCDs and their burden, it is important for the Convention to be reflected in the UNDAF. It is recommended that an explicit mention of the obligations of the Government of Nepal in implementing the Convention – and the United Nations commitment to providing technical assistance to facilitate implementation – would help ensure inter-agency action to support a multisectoral approach to tobacco control. The international team met the Honourable Minister of Health and Population, the Honourable Member of the National Planning Council, the United Nations Resident Coordinator a.i. and some of the United Nations Country Team – UNDP, the United Nations Children's Fund (UNICEF), the United Nations Population Fund (UNFPA), the Joint United Nations Programme on HIV/AIDS (UNAIDS) and WHO – and gained support for incorporating implementation of the Convention into the next programming phase of the UNDAF. A Country Team retreat is scheduled for late May 2013 during which the UNDAF will be discussed.

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

Gap – Supporting implementation of the Convention has not been highlighted as a priority in the current UNDAF, though it is implicit as part of the NCD and international policy outcomes.

It is therefore recommended that the NHEICC actively follow up with the United Nations Resident Coordinator, the MOHP and the MOFA to include implementation of the prioritized areas of the Convention under the UNDAF programming activities in 2014 and beyond, and discuss appropriate programming activities with the United Nations Country Team. The activities may include priorities identified based on the joint needs assessment report. It is further recommended that the Government of Nepal actively seek opportunities to cooperate with other Parties, competent international organizations and development partners present in the country to support implementation of the Convention.

Financial resources (Article 26)

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

According to Provision 18 of the Regulations, "at least 25% of the total amount raised from the revenue levied from the excise tax upon smoking and tobacco products by the Government of Nepal as per the financial act shall be deposited in the health fund". Provision 19 of the Regulations states that the allocations of the total health fund shall be as follows: "75% to government owned hospitals for diagnosis, treatment and investigation of the diseases caused by smoking and consumption of tobacco; 15% to centres or divisions under the ministry involved in conducting programmes on health education, public awareness and services for the control of smoking and tobacco products; 10% to social organizations and non-government hospitals involved in prevention, control, diagnosis and treatment of the diseases caused by smoking and consumption of tobacco, of which not more than 0.5% shall be spent for carrying out administrative functions of the committee". According to the 2012 Nepal implementation report, 5 million rupees (approximately US$ 63 000) have been allocated to the tobacco control programme.

The NHEICC has limited funds for project implementation but has conducted regular education and communication activities and training, which are listed in this report in the section on Article 12 of the Convention. The MOHA has allocated resources and time to enforcement of the law, but challenges remain. The Ministry of Information and Communication has also allocated resources to enforcing the law that prohibits tobacco advertising and promotion, although the scope of the law is limited. More funds are needed to scale up training on tobacco cessation techniques; to strengthen provision of cessation services; to strengthen enforcement of the Act and its Regulations; as well to conduct public education campaigns to raise awareness and increase compliance with the Act.

Gaps –

1. The funding allocated to the MOHP is not sufficient to fully implement the Convention and enforce the legislation.

2. Other relevant ministries that have obligations to implement the Convention also do not have sufficient resources to fully implement the Convention and enforce the legislation.

It is therefore recommended that the Government allocate more budget and staff time to implementation of the Convention and enforcement of the tobacco control legislation.

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"*.

The NHEICC/MOHP works closely with the donor community under the sector-wide approach (SWAp) model. The MOHP, in collaboration with the donors developed the NHSP2-IP 2010–2015 that aims to increase access to and use of quality essential health services. The NHEICC may obtain more resources through the SWAp to strengthen tobacco control programmes.

The NHEICC has established close cooperation with WHO in implementation of the Convention in Nepal. UNDP, UNICEF, UNFPA, the Food and Agricultural Organization and other United Nations agencies present in the country could play a more active role in supporting implementation of the Convention under the UNDAF in various programmes including poverty reduction, education of children and young people, and promotion of economically viable alternatives to tobacco cultivation. The World Bank and the Asian Development Bank could also play a more active role in supporting development of appropriate tobacco tax policies as well as economically viable alternatives.

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

It is therefore recommended, in line with Article 26.3 of the Convention, that the Government of Nepal 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. It is also recommended that the MOFA play a more proactive leading role in promoting implementation of Article 26.3 of the Convention.

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

Gaps –

1. The Government has not to date promoted such projects.
2. The national strategies of sustainable development have not addressed economically viable alternatives to tobacco production, including crop diversification.

It is therefore recommended that the MOHP and relevant ministries make efforts in implementing obligations under Article 26.3 of the Convention.

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

The MOFA and the MOHP are committed to ensuring that Nepal will promote implementation of the Convention in the relevant bilateral and multilateral forums.

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

It is therefore recommended that Nepal utilize the potential of Article 26.4 to advocate for moving the Convention higher up the international development agenda. It is also recommended that other ministries, such as the Ministries of Foreign Affairs, Finance and Education, when representing Nepal in other regional and global forums, also proactively urge regional and international organizations and financial institutions to provide financial assistance to developing countries with regard to supporting them in implementation of the Convention.

ANNEX

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

Ministry of Health and Population

1. Mr Vidyadhar Malik, Honorable Minister of Health and Population
2. Dr Praveen Mishra, Secretary, Ministry of Health and Population (MOHP)
3. Dr Tirtha Raj Burlakoti, Chief, Curative Division/MOHP
4. Dr Padam Bahadur Chanda, Chief, Policy Planning and International Cooperation Division/MOHP
5. Dr Guna Raj Lohani, Deputy Director General, Department of Health Services/MOHP
6. Mr Badri Bahadur Khadka, Director, NHEICC/MOHP
7. Mr Komal Acharya, Under Secretary (Law), MOHP
8. Mr Sunil Raj Sharma, Senior Health Education Administrator, NHEICC/MOHP
9. Ms Babita Bindu, Coordinator (for affairs with WHO),NHEICC/MOHP

Other departments/centres

1. Mr Radha Raman Prasad, Director General, Department of Drug Administration, National Public Health Laboratory
2. Dr Chop Lal Bhusal, Chairperson, Nepal Health Research Council

Participating Government agencies

1. National Planning Commission
2. Ministry of Agriculture Development
3. Ministry of Commerce and Supplies
4. Ministry of Education
5. Inland Revenue Department, Ministry of Finance
6. Customs Department, Ministry of Finance
7. Ministry of Foreign Affairs
8. Ministry of Home Affairs
9. Ministry of Information and Communication
10. Ministry of Law, Justice, Constituent Assembly and Parliamentary Affairs
11. Ministry of Science, Technology and Environment
12. Ministry of Women, Children and Social Welfare
13. Ministry of Youth and Sports

International team

Convention Secretariat

1. Mr Vijay Trivedi, Coordinator
2. Ms Guangyuan Liu, Technical Officer
3. Ms Trinette Lee, Temporary Adviser

UNDP

Mr Dudley Tarlton, Programme Specialist, UNDP, Geneva

WHO South-East Asia Regional Office

Dr Nyo Nyo Kyaing, Regional Adviser, Tobacco Free Initiative

WHO Country Office in Nepal

1. Dr Lin Aung, WHO Representative in Nepal
2. Dr Frank Paulin, Public Health Administrator
3. Dr Prakash Ghimire, National Professional Officer
4. Mr Ashok Bhurtyal, National Professional Officer
5. Mr Yugesh Rajbhandari, Senior Administrative Assistant
6. Mr Bimal Gautam, Programme Assistant

Nongovernmental organizations

1. Nepal Public Health Foundation
2. Nepal Cancer Relief Society
3. Cancer Society Nepal
4. Health Research and Social Development Forum
5. Non-Smokers' Rights Association of Nepal
6. Child Workers in Nepal Concerned Centre
7. PHD Group
8. ProPublic

International organizations and other development partners

1. Mr Terence Jones, United Nations Resident Coordinator in Nepal a.i.
2. Ms Hanaa Singer, UNICEF Representative in Nepal
3. Ms Giulia Vallese, UNFPA Representative in Nepal
4. A representative from the Joint United Nations Programme on HIV/AIDS
5. Mr Yam Nath Sharma, Senior Governance Specialist, UNDP in Nepal
6. Mr Roshan Bajracharya, Senior Economist, World Bank in Nepal
7. Mr Matt Gordon, Service Delivery Team Leader, Health & HIV/AIDS Adviser, Department for International Development