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

Convention Secretariat
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Executive summary

The WHO Framework Convention on Tobacco Control (WHO FCTC) is the first international health treaty negotiated under the auspices of the World Health Organization (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, currently, 174 Parties.[1] Palau ratified the WHO FCTC on 12 February 2004 and was among the first 40 countries to do so. The Convention entered into force for Palau on 27 February 2005.

A needs assessment exercise concerning implementation of the WHO FCTC was conducted jointly by the Government of Palau and the Convention Secretariat from August to November 2011, including the mission of an international team comprised of representatives of the Convention Secretariat and the WHO South Pacific Office to Palau on 5–7 October 2011. The assessment involved relevant ministries and agencies of Palau, the Chairpersons of the Education & Health Committees of the Senate and the House of Delegates, and other key stakeholders including civil society (see Annex). This needs assessment report presents an article-by-article analysis of the progress made by the country in implementation; the gaps that may exist; and the subsequent possible actions that can be taken to fill those gaps.

The key elements which need to be put in place to enable Palau to meet its obligations under the Convention are summarized below; further details are contained in the report.

First, the WHO FCTC is an international treaty and therefore international law. Having ratified this treaty, Palau is obliged to implement its provisions through national laws, regulations or other measures. The Tobacco Control Act RPPL No. 8-27 was signed into law by H.E. President Johnson Toribiong on 19 August 2011. It is an important achievement towards implementation of the WHO FCTC in Palau. The objective of the Act is to adopt measures consistent with the objective of the WHO FCTC, to which Palau is a Party, and to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke. The Act is quite comprehensive as regards banning domestic tobacco advertising, promotion and sponsorship, but contains an exception for "socially responsible" activities by the tobacco industry. The Act also puts in place strong measures to prevent sales to and by minors and contains a comprehensive list of settings designated as smoke-free. Further measures are needed to make sure that all indoor workplaces, public transport, indoor public places and, as appropriate, other public places are 100% smoke free, in order to be fully compliant with the Convention. Provisions on packaging and labelling of tobacco products, regulation of the contents of tobacco products and regulation of tobacco product disclosures are missing in the Act as it stands and will need to be introduced in a timely manner. The Government is recommended to implement and enforce the Act as soon as possible and in the meantime to make efforts to introduce further measures in order to make it fully compliant with the WHO FCTC.

Second, there is a strong political commitment to implement the WHO FCTC in the context of combating noncommunicable diseases (NCDs) at the highest level. Palau declared NCDs to be a national health emergency. The first National Emergency Committee (NEC), chaired by Vice-President Kerai Mariur, met on 6 October 2011.

[1] As at March 2012.

President Toribiong addressed the meeting and gave full support to the fight against NCDs. Implementing the WHO FCTC was identified as being one of the key instruments for reducing the morbidity and mortality associated with NCDs. Comprehensive implementation of the WHO FCTC would contribute to successfully addressing Palau's challenges in regard to the prevention and control of NCDs. Tobacco control has been identified as one of the eight thematic areas in Palau's Public Health Strategic Plan 2008–2013. Article 5 of the Convention requires each Party to set up a national multisectoral coordinating mechanism for tobacco control. The Division of Behavioural Health serves as the national tobacco control focal point and is fully functioning, with dedicated staff for tobacco control. It would be beneficial for the National Emergency Committee (NEC) to have a sharp focus on implementation of the WHO FCTC. A subcommittee of the NEC should be established through appropriate executive order and mandated to coordinate the country's implementation of the WHO FCTC as part of the overall response to the NCD health emergency. This subcommittee will function as the national level multisectoral coordination mechanism for implementation of the WHO FCTC. This national level coordination mechanism would bring greater awareness of the respective responsibilities of different organs of the Government for implementation of the Convention, and would enable the Government to meet its obligations under the Convention in an effective manner.

Third, Palau submitted its two-year implementation report on 26 February 2007 and its five-year report on 12 March 2010. The next report is due in the period 1 January to 30 April 2012. One of the main constraints identified in reporting matters is lack of resources, both in terms of coordination among relevant Government agencies and in collecting adult data.

Fourth, Article 6 of the Convention recognizes that price and tax measures are an effective and important means of reducing tobacco consumption and bringing down prevalence. The Ministry of Finance needs to play a leading role in this regard by implementing tax and price policies that increase tobacco taxation regularly and progressively so as to contribute to the health objectives aimed at reducing tobacco consumption and prevalence. The tax increases should aim at achieving real price increases after adjusting for inflation.

Fifth, Article 11 of the Convention requires Parties to put in place, within three years of the Convention's entry into force (which was February 2008 in Palau's case), effective measures with regard to packaging and labelling of tobacco products. Currently Palau has not put in place any legislation or regulations to meet this obligation. It is recommended that the Ministry of Health develop the required regulation(s) as appropriate in line with the obligations under Article 11.

Sixth, the Convention recognizes that financial resources play an important role in achieving its objective. In Article 5.6, the Convention also calls on Parties to raise financial resources for effective implementation of the Convention through bilateral and multilateral funding mechanisms. It is recommended that Palau coordinate with the United Nations Joint Presence in Palau to include implementation of the Convention within the 2013–2017 United Nations Development Assistance Framework (UNDAF), which is currently being developed and is at an advanced stage.

Seventh, Article 4.7 recognizes that "the participation of civil society is essential in achieving the objective of the Convention and its protocols". A number of nongovernmental organizations are working to promote implementation of the Convention in Palau. These include the Coalition for a Tobacco Free Palau (CTFP), Ulekerreuil a Klengar (Healthy Islands) and Omellemel ma Ulekerreuil a Bedenged (Healthy Women and Healthy Islands). These nongovernmental organizations were invited by the Government to attend the stakeholders meeting during the needs assessment mission and made a constructive contribution to the joint needs assessment exercise. Strengthening collaboration between the Government and members of civil society that are not affiliated with the tobacco industry and its front groups will help to create synergy in support of the Government's efforts to meet its obligations under the Convention.

Eighth, addressing the issues raised in this report, in particular the time-bound treaty provisions (Articles 8, 11 and 13 and the corresponding implementation guidelines), will make a substantial contribution to Palau's efforts to meet its obligations under the WHO FCTC and thereby improve public health and quality of life in Palau.

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

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

Introduction

The WHO Framework Convention on Tobacco Control (WHO FCTC) is the first international treaty negotiated under the auspices of the World Health Organization. Palau ratified the WHO FCTC on 12 February 2004 and was among the first 40 countries to do so. Palau became a Party to the Convention on 27 February 2005, the same day as the Convention entered into force.

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 assessment be undertaken at country level, especially in developing countries and countries with economies in transition, to ensure that lower resource Parties receive the necessary support to fully meet their obligations under the treaty.

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

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

At its third and fourth sessions (November 2008 and November 2010), the COP adopted the workplan and budget for the bienniums 2010–2011 and 2012–2013, respectively. The workplans, inter alia, re-emphasized the importance of assisting developing country Parties and Parties with economies in transition, strengthening coordination with international organizations, and aligning tobacco control policies at country level to promote the implementation of the Convention. Needs assessments, combined with the promotion of access to available resources, the promotion of treaty tools at country level, the transfer of expertise and technology, international cooperation and South-South cooperation were outlined as major components of this work.

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 WHO FCTC with a view to establishing a baseline of needs. The needs assessment is also expected to serve as a basis for assistance in programme and project

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

The needs assessments are carried out in three phases:

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

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

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

With the above objectives and process in view, a joint assessment of the needs concerning implementation of the WHO FCTC was conducted by the Government of Palau and the Convention Secretariat, with the participation of the WHO South Pacific Office, including a mission to Palau by an international team of experts on 5–6 October 2011. The detailed assessment involved relevant ministries and agencies of Palau. The following report is based on the findings of the joint needs assessment exercise.

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 and implementation of guidelines adopted by COP where relevant. This is followed by specific recommendations concerning that particular area. The executive summary above provides an overview of the joint needs assessment exercise, and an outline of key findings and recommendations.

Status of implementation, gaps and recommendations

This core section of the report follows the structure of the Convention. It outlines the requirements of each of the substantive articles of the Convention, reviews the stage of implementation of each article, outlines achievements and identifies the gaps between the requirements of the treaty and level of implementation by Palau. Recommendations contained in the guidelines adopted by the COP are also referred to when relevant. Finally, the report provides recommendations on how to address the gaps so identified during the joint needs assessment mission, 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 encourages Parties to implement *"measures beyond those required by this Convention and its protocols ... that are in conformity with international law"*.

The Convention in Article 16.1(d) calls on Parties to ensure that *"tobacco vending machines under its jurisdiction are not accessible to minors and do not promote the sale of tobacco products to minors"*.

Section 12 of the Tobacco Control Act RPPL No. 8-27 prohibits the use of vending machines to distribute or attempt to distribute tobacco products. In Section 21(a)(3), the Act prohibits the distribution, export, import or purchase for personal use, or display of tobacco though a vending machine. The Act thereby expands protection beyond minors to cover the entire population.

The definition of tobacco in the Act is comprehensive and forward-looking: it includes any product other than tobacco that contains nicotine and is intended for human consumption, including but not limited to nicotine water, nicotine candy, e-cigarettes and dissolvable tobacco.

Palau's implementation of measures in this regard therefore goes beyond the requirements of the Convention.

It is recommended that the Government progressively identify, while making efforts to implement and enforce these measures, other areas in which measures going beyond the minimum requirements of the Convention can be implemented.

Article 2.2 clarifies that the Convention does not affect *"the right of Parties to enter into bilateral or multi-lateral 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 Palau. The Ministry of State, in consultation with other relevant line ministries, should identify these agreements and report them as appropriate.

Gap: There is a lack of awareness of the obligation under this Article and the proactive role that all relevant ministries, in particular the Ministry of State, need to play in making other relevant or additional agreements compatible with Palau's obligation under the Convention, and of the need to contribute to the reporting process.

It is recommended that the Government of Palau take measures to ensure that relevant bilateral or multilateral agreements are in line with its obligations under the Convention and to report any previous agreements it entered into as required by Article 2.2 of the treaty. Such agreements concluded after entry into force of the Convention for Palau should also be reported.

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"*.

Tobacco control has been identified as one of the eight thematic areas in Palau's Public Health Strategic Plan 2008–2013. Palau's National NCD Strategic Implementation Plan 2009–2014 includes tobacco control as one of the primary means of preventing and controlling NCDs.

The process of developing a national strategic tobacco control plan started in October 2007 jointly by the Ministry of Health Tobacco Use Prevention and Control Program and the Coalition for a Tobacco Free Palau. WHO organized a training workshop for Palau to further develop the national action plan on tobacco control in April 2011. The plan is in the process of development.

Gap: Currently no national strategy or action plan to implement the Convention has been finalized and formally adopted.

It is therefore recommended that a multisectoral plan of action for implementation of the Convention be developed, finalized and implemented in due course. In finalizing the plan, recommendations from this joint needs assessment report should be taken into consideration. Actions to tackle NCDs as a national emergency need to better utilize implementation of the Convention, which is an effective tool to reduce the burden of NCDs.

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

A national focal point for tobacco control has been established. The Tobacco Use Prevention & Control Programme is in the Division of Behavioural Health of the Ministry of Health. Currently the United States of America provides federal funding to cover the salaries for four dedicated staff in the tobacco control programme. So far the Ministry of Health has not established a dedicated budget for tobacco control. A

multisectoral national coordinating mechanism to implement the Convention has not been formally designated or established by the Government although there is some cooperation and coordination among different government agencies.

Gap: A national coordination mechanism has not been formally designated or established yet.

It is therefore recommended that Palau designate or establish a national coordination mechanism to implement the Convention and the Tobacco Use Prevention & Control Programme (national focal point) should be allocated a dedicated budget line. Staff and resources should also be allocated in other Government agencies for implementation of the Convention. Palau may wish to look into the option of mandating the National Emergency Committee to serve as the national coordination mechanism with a sharper focus on leading the country's efforts in fully implementing the Convention.

Article 5.2 (b) calls on Parties *to "adopt and implement 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".*

Palau passed The Tobacco Control Act RPPL No. 8-27 in August 2011. The objective of the Act is to adopt measures consistent with the objective of the Convention and to protect present and future generations against the devastating health, social, environmental and economic consequences to tobacco consumption and exposure to tobacco smoke. The Act takes a strong stance on protecting children from easy access to tobacco products by banning vending machine sales of tobacco, "kiddie packs" of less than 20 sticks, and sales to minors (people under 18 years of age).

The Act bans illicit trade in tobacco products and also recognizes the importance of regional and international cooperation in combating such illicit trade. It further requires that regulations on illicit trade shall be updated within 180 days of ratification of the protocol on illicit trade in tobacco products should it be adopted by the COP.[2] The Act has put in place relatively strong measures in terms of banning tobacco advertising, promotion and sponsorship, with the unfortunate exception of allowing "socially responsible" business practices of the tobacco industry.

The Act also bans smoking in most public places and workplaces with the exception of guest rooms in hotels, motels and other lodging establishments. However, the Act has missed quite a number of the provisions under the Convention, such as packaging and labelling (Article 11), regulation of the contents of tobacco products (Article 9), and regulation of tobacco product disclosures (Article 10). Although the Act is already effective, it has not been implemented yet.

Through Presidential Executive Order #295, Palau declared a State of National Emergency on NCDs. The Minister of Health was mandated to establish programmes to combat NCDs. The National Emergency Committee, with the representation of all

[2] At the time of writing, the fifth session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products was due to be held in the near future (29 March – 4 April 2012).

Government agencies and legislative bodies, held a meeting to discuss the National Commitment to Actions on NCDs on 6 October 2011. Both the President and Vice-President attended the meeting. Implementing the Convention is included on the list of actions discussed in the meeting. The international team was invited to attend and briefly address the meeting.

Gap: Some provisions of the Act only partially meet the obligations under the Convention, while some important obligations are not covered at all.

It is therefore recommended that Palau continue to adopt effective legislative, executive and other regulatory measures to implement the Convention. It is also recommended that the Act be implemented and enforced as soon as possible and efforts made to close the loopholes in the Act with the aim of meeting all obligations under the Convention.

Article 5.3 and related guidelines[3] call for and provide guidance on how to protect public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry.

There are currently no clear policies on how to engage with the tobacco industry. Although Palau does not grow tobacco on a large scale, one factory imports tobacco leaves and packs them locally. Lobbying from the tobacco industry and the hospitality industry remains quite strong. The Ministry of Health, together with civil society, managed to block an attempt by Philip Morris to meet legislators while tobacco control legislation was being developed in 2008.

Gap: There is a lack of awareness of Article 5.3 of the Convention and its guidelines among civil servants.

It is therefore recommended that Palau disseminate information on Article 5.3 and its guidelines and incorporate relevant requirements within the Code of Conduct and Ethics of Public Service.

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

Palau has actively participated in working groups established by the COP. Palau was one of the key facilitators of the Article 12 working group, a reviewer of the Article 8 guidelines, and a member of the working groups on Articles 11 and 12. Palau is currently a member of the Article 6 working group. Palau participated in the first session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products. Palau has been serving as a member of the Bureau of the COP since the end of the third session of the COP. Palau has therefore met the obligation under Article 5.4. Further cooperation and participation in intergovernmental processes will be highly appreciated.

Price and tax measures (Article 6)

[3] See http://www.who.int/fctc/protocol/guidelines/adopted/article_5_3/en/index.html

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 and adopt or maintain, as appropriate, measures which may include: (a) implementing tax policies and, where appropriate, price policies, on tobacco products so as to contribute to the health objectives aimed at reducing tobacco consumption"*.

Palau's tobacco taxation has remained at the same level since 2003. For packs of cigarettes, the excise tax is $2 per pack or $20 per carton of 20 pieces. For loose tobacco, the ad valorem tax is 150%. The purpose of tobacco taxation is to generate revenue as with any other commodity. Senate Bill 8-95 has been proposed to add another $2 sales tax on units of all tobacco products and to allocate all the revenue generated to the Palau Health Insurance and Medical Savings Fund through the annual budget.

Gaps:

1. The government has not increased tobacco taxation since 2003, which has resulted in the real price of tobacco products actually going down as a result of inflation; this has made tobacco products more affordable over time.
2. National health objectives concerning tobacco control and the use of taxation as an effective measure to reduce tobacco consumption and improve health outcomes have not been taken into consideration.

It is recommended that the Government progressively and regularly increase taxation on tobacco and tobacco products to further reduce tobacco consumption. The draft Bill 8-95 needs to be revised to build in a mechanism of regularly and progressively increasing tobacco taxation. It is also recommended that national health objectives concerning tobacco control and reducing tobacco consumption and prevalence be taken into consideration in developing tobacco taxation policy.

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*".

Palau does not ban duty-free sales of tobacco products and does not ban or limit sales of tobacco products to international travellers leaving the country. The amount of tax- and duty-free tobacco products allowed for international travellers coming to Palau is 200 pieces of cigarettes or 454 grams of cigars or loose tobacco.

Gaps:

1. There is no prohibition or restriction of duty-free sales of tobacco products to international travellers leaving the country.
2. The amount of duty-free tobacco products allowed for incoming international travellers remains large.

It is recommended that the Government ban duty-free sales of tobacco products and reduce the amount of duty-free imports of tobacco products allowed for international travellers.

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

Palau has provided this information in its first (two-year) and second (five-year) reports therefore meeting its obligations under Article 6.3.

Protection from exposure to tobacco smoke (Article 8)

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

The Article 8 guidelines[4] emphasize that "*there is no safe level of exposure to tobacco smoke*" and call on each Party to *"strive to provide universal protection within five years of the WHO Framework Convention's entry into force for that Party*". The guidelines also make it clear that "*effective measures to provide protection from exposure to tobacco smoke … require the total elimination of smoking and tobacco smoke in a particular space or environment in order to create a 100% smoke free environment … Approaches other than 100% smoke free environments, including ventilation, air filtration and the use of designated smoking areas … have repeatedly been shown to be ineffective and there is conclusive evidence, scientific and otherwise, that engineering approaches do not protect against exposure to tobacco smoke*".

According to the Tobacco Control Act RPPL No. 8-27, smoking is prohibited in all indoor and outdoor educational facilities, sports facilities, childcare and adult care facilities, health facilities and all areas within the designated property or compound in which functions, conferences, or events related to education/school, sports, child care, adult care or health care are being carried out. The Act unfortunately allows smoking in medical research or treatment sites if it is integral to the research and treatment being conducted. Scientific evidence has unequivocally established that tobacco consumption and exposure to tobacco smoke cause death, disease and disability, and therefore smoking should not be an integral part of any research and treatment.

The Act prohibits smoking in enclosed work places and public places. The Ministry of Finance has been given the mandate to promulgate regulations prescribing areas where smoking shall be restricted in enclosed places of employment. The Act allows the following exemptions: guest rooms in hotels, motels and other lodging establishments, outdoor and other designated areas of restaurants, bars, clubs, hotels and motels. These hospitality places are actually workplaces and the right of the employees to clean air

[4] See http://www.who.int/fctc/protocol/guidelines/adopted/article_8/en/index.html

should be protected as in any other workplace. The Act also permits exposure to tobacco at Palau National Airport. International experience has shown that smoke-free policies are popular and do not have a negative impact on hospitality business.

The Act prohibits smoking of any tobacco products including e-cigarettes on airline flights between points in Palau.

Smoking in places of employment, schools, sports facilities, child or adult care facilities and health facilities are subject to fines of up to $100 but not less than $25. Smokers on airline flights shall be fined up to $1000, but not less than $100, or be imprisoned for not more than seven days or both. Threats of harm to anyone asserting his or her right to a smoke-free environment shall lead to fines of up to $5000 but not less than $1000, or imprisonment of not more than 15 days, or both.

Gaps:

1. The five-year deadline of 27 February 2010, as recommended by the guidelines for implementation of Article 8 of the Convention, to provide for universal protection against exposure to tobacco smoke has not been met.
2. Restaurants, bars, clubs, hotels and motels are allowed to designate smoking areas and smoking is allowed in designated guest rooms in hotels, motels or similar lodging establishments.
3. Duty of compliance has not been imposed on the owners of establishments as recommended by the Article 8 guidelines. Enforcement of the Act remains a challenge as no specific agency is mandated with the responsibility for enforcement.

It is therefore recommended that a total ban on smoking in all indoor workplaces and, as appropriate, other public places including but not limit to hotels, motels, restaurants, bars, clubs, airports, etc. be implemented either by revising the Tobacco Control Act RPPL No. 8-27 (Section 13) or through development of regulations by the Ministry of Finance in close consultation with the Ministry of Health. The regulations should place the responsibility for compliance on the owner, manager or other person in charge of the premises and identify the actions he or she is required to take. Failure to comply should be subject to stricter penalties than those for individual violators.

Regulation of the contents of tobacco products (Article 9) and Regulation of tobacco product disclosures (Article 10)

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

Article 10 requires Parties 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"* and also to *"further adopt and implement effective measures for public disclosure of information about the toxic constituents of the tobacco products and the emissions they may produce"*.

The guidelines on Article 9 and 10[5] recommend that "*in order to alleviate governmental budgetary pressures"* Parties *"consider placing these costs on tobacco industry and retailers".*

Loose tobacco is imported into Palau by one factory in which cigarettes are then rolled and packed locally. Inspectors from the Division of Environmental Health can inspect the packing site but are not in a position to issue health certificates to tobacco workers and the tobacco company. The Ministry of Health does not have a laboratory capable of testing the contents and emissions of tobacco products. In the past, there have been some public complaints about nails, rocks, etc. being found in the cigarettes, but public awareness of information regarding the contents and emissions of tobacco products remains very low. A variety of brands of cigarettes are imported into the country.

Gaps: Currently the contents of tobacco products and tobacco product disclosures are not regulated at all.

It is therefore recommended that the Ministry of Health, together with other relevant ministries, designate a regulatory body to regulate the contents of tobacco products. Relevant regulations should be developed, which include testing and measuring of the contents and emissions of tobacco products. The next step would be to assess and review the testing and laboratory capacity of the existing facilities in the country, which would help inform a subsequent decision on whether Palau will develop its own testing capacity or utilize a qualified laboratory in the region through bilateral arrangements. The Ministry of Health should also put in place effective measures for public disclosure of information about the toxic constituents of the tobacco products and the emissions that they may produce, and to ensure that such information is provided before any licence is issued or renewed.

Packaging and labeling of tobacco products (Article 11)

Article 11 requires that *"Each party shall, within a period of three years after entry into force of this Convention for that Party, adopt and implement, in accordance with its national law, effective measures to"* meet the obligations of the article.

Article 11.1(a) requires that *"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" "*

Article 11.1.(b) requires that "*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. These warnings and messages:*

(i) shall be approved by the competent national authority,

[5] http://www.who.int/fctc/protocol/guidelines/adopted/article_9and10/en/index.html

(ii) shall be rotating,

(iii) shall be large, clear, visible and legible,

(iv) should be 50% or more of the principal display areas but shall be no less than 30% of the principal display areas,

(v) may be in the form of or include pictures or pictograms."

Article 11.2 requires that "*Each unit packet and package of tobacco products and any outside packaging and labelling of such products shall, in addition to the warnings specified in paragraph 1(b) of this Article, contain information on relevant constituents and emissions of tobacco products as defined by national authorities"*.

In Article 11.3, each Party shall require that "*the warnings and other textual information ... 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"*.

The Article 11 guidelines[6] recommend that Parties implement pictorial health warnings and give specific recommendations on the contents of message and design elements such as location, size and colour.

Article 11 has a three-year deadline from the date of entry into force of the Convention for the Party in question to implement specific measures. The deadline for Palau was 27 February 2008. Palau has so far not implemented any measures on tobacco packaging and labelling, which creates a legislation and policy vacuum for meeting these obligations. As a result, locally produced cigarettes carry no health warnings. Imported cigarettes sometimes have the same packaging and labelling as in the original countries, but the tobacco industry has complete freedom with regard to packing and labelling.

In the process of developing the Act, provisions related to tobacco packaging and labelling were contained in the initial draft. There was a misconception that the burden of making packaging and labelling compliant with the Act would be borne by the Ministry of Health. Upon the recommendation of the President, the adopted Act removed all reference related to packaging and labelling of tobacco products. Article 11.1(a) was also not appropriately interpreted. It was understood that the Ministry of Health would have to put misleading terms such as "light", "low tar" etc. onto each package. Actually, all misleading terms should be banned.

Gap: No measures related to Article 11 and its guidelines have been put in place in Palau. Palau has not met its obligation under the Convention and has missed the three-year deadline to do so.

It is therefore recommended that awareness be raised among key policy-makers and within the legislative bodies about the urgent need to introduce health warnings and messages on tobacco product packaging in line with Article 11 and its guidelines. Palau should make effective health warnings and messages and other tobacco product packaging and labelling measures key components of a comprehensive, integrated approach to tobacco control. It is further recommended that as an immediate practical

[6] See http://www.who.int/fctc/protocol/guidelines/adopted/article_11/en/index.html

solution, effective pictorial health warnings be introduced by the Ministry of Health by means of regulation(s) or other appropriate administrative or executive measures before the Act is amended. Once the Government introduces such regulation(s), the tobacco industry would be obliged to implement these measures and bear all associated costs.

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 and exposure to tobacco smoke, and about the benefits of the cessation of tobacco use and tobacco-free lifestyles as specified in Article 14.2;*

(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."

Tobacco control education, communication and public awareness activities are conducted in Palau on a regular basis. The Tobacco Use Prevention and Control Program has a dedicated staff working on social marketing. Social marketing plans are developed on a regular basis and implemented in a well-coordinated manner. Education, communication and public awareness programmes cover a range of key areas required by Article 12(a), (b) and (d).

All means of communication, including television, radio and newspapers, have been effectively used. Government-owned media in particular have donated free time for tobacco control campaigns. Community outreach education and campaign programmes have also been conducted. The Tobacco Use Prevention and Control Program works closely with a number of nongovernmental organizations in advocacy campaigns. Training, sensitization and awareness programmes on tobacco control have been

addressed to health workers, community workers, social workers, educators, youth, pregnant women, the general public and some ethnic groups such as the Philippine community.

The development, management and implementation of communication, education, training and public awareness programmes are guided by research and have undergone testing, monitoring and evaluation. World No Tobacco Day has been annually observed in Palau. The school curriculum developed by the Ministry of Education includes modules about the harmful effects of tobacco use and the benefits of a tobacco-free lifestyle. Students violating non-smoking policies in schools are liable for punishment. Repeat offenders may be suspended for 10 days of school without help in making up for missed course work. School health centres in the meantime provide counselling and support with cessation advice and treatment to students.

Gaps:

1. Public access to a wide range of information on the tobacco industry is not yet promoted in a systematic way.
2. Public awareness of and access to information regarding the adverse economic, and environmental consequences of tobacco consumption has not been raised.
3. There is a lack of training for law enforcement officers and personnel in other relevant sectors in implementing the Tobacco Control Act.
4. There is a lack of sufficient government funding/budget to undertake the resource-demanding activities required to meet the obligations under Article 12.

It is therefore recommended that the Government allocate sustainable funds to the Ministry of Health and other relevant implementing agencies to conduct activities related to education, communication, training and public awareness. It is also recommended that access to information on the tobacco industry be promoted and awareness of the adverse economic and environmental consequences of tobacco consumption be raised as part of the advocacy campaign. The advocacy campaign should also include the harmful effects of chewing tobacco with betel nuts. It is further recommended that training for law enforcement officers in implementing the Act should be put in place immediately to allow timely implementation of the Act. An advocacy campaign to raise awareness of the Act is also urgently needed.

Tobacco advertising, promotion and sponsorship (Article 13)

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

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

The Act in its section 11 prohibits tobacco advertising, promotion and sponsorship. The ban includes both direct and indirect tobacco advertising and promotion, which is in line with Article 13 and its guidelines. This prohibition includes a ban on any display and on the visibility of tobacco products at points of sales. Brand stretching and sponsorship other than the tobacco industry's "socially responsible" activities are also banned. The five-year deadline for Palau to implement Article 13 was 17 February 2010. Although Palau missed the deadline, the country has now met its obligations under Article 13.1 and Article 13.2 by passing the Act.

Gaps:

1. Palau missed the five-year deadline in meeting the obligations under Article 13.2 of the Convention.
2. Exposure to tobacco and tobacco packaging at Palau National Airport in stores selling duty-free products remains.

It is therefore recommended that the Act be enforced. The Act should not exempt Palau National Airport. The Act should be amended or further administrative and regulatory measures introduced in line with the obligations under Article 13.2.

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

Currently Palau has not implemented any measures beyond the obligations set out in Article 13.5.

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"*.

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

Gap: The Act does not ban television programmes generated outside Palau that include tobacco advertising, promotion and sponsorship.

It is therefore recommended that cross-border advertising, promotion and sponsorship originating from and entering into the territory of Palau be banned according to the provisions of Article 13.2 and Article 13.7. Palau should explore cooperation with other Parties in the development of technologies and other means necessary to implement this obligation.

The Article 13 guidelines[7] recommend that Parties *"ban contributions from tobacco companies to any other entity for "social responsible causes", as this is a form of sponsorship. Publicity given to "socially responsible" business practices of the tobacco industry should be banned, as it constitutes advertising and promotion"*.

[7] See http://www.who.int/fctc/protocol/guidelines/adopted/article_13/en/index.html

The Act does not mention anything about banning "socially responsible" activities of the tobacco industry. Key policy-makers and legislators need to know that allowing such activities will create loopholes that will undermine the effective implementation of the measures introduced by the Act.

Gap: Corporate "social responsibility" activities are not banned.

It is therefore recommended that Palau put in place administrative, executive or legislative measures, including regulation, to ban the tobacco industry's "socially responsible" activities.

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"*.

Palau uses the guidelines developed by the US Centers for Disease Control and Prevention (CDC), i.e. *Clinical practice guideline treating tobacco use and dependence: 2008 update.* A process of internalization and adaptation to national circumstances of the guidelines will be important as it will mobilize support and better meet the needs of Palau's population.

Gaps:

1. National guidelines do not exist to guide Palau's cessation strategy and dependence treatment.
2. Ownership and involvement of key stakeholders and backing of the health system in implementing measures concerning tobacco dependence and cessation are lacking.

It is recommended that Palau take into account its national circumstances in using or adapting the guidelines from other countries and develop its own national guidelines, making full use of the guidelines for the implementation of Article 14[8] adopted by the fourth session of the COP.

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

[8] See http://www.who.int/fctc/protocol/guidelines/adopted/article_14/en/index.html

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

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

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

With the support of WHO, in 2009 Palau conducted a training workshop in which 13 health workers, community workers and social workers were trained on providing brief advice on cessation. A refresher course for those who hold the training certificate was conducted in early 2012. Cessation services and treatment are currently available in the country. A full-time cessation clinician will be hired by the Tobacco Use Prevention and Control Program to supervise cessation work in the main hospital complex, the Community Guidance Center and all the community health centres. A cessation hotline is operated by the Tobacco Use Prevention and Control Program during working hours. Nicotine gum has been purchased by the programme and is provided free of charge to those in need. Other pharmaceutical products for the treatment of tobacco dependence are not available in the market. Awareness of the benefits of cessation is still quite low among the population and the service has not been widely utilized. The Tobacco Use Prevention and Control Program has not fully integrated measures concerning tobacco dependence and cessation into the existing health care system.

<u>*Gaps*</u>:

1. A comprehensive and integrated programme concerning tobacco dependence and cessation has not yet been fully developed in Palau.
2. Health workers at primary health care level and teachers have not been trained on a large scale and mobilized to provide cessation counselling and brief cessation advice.
3. A very limited number of medical staff has received training on cessation and treatment of tobacco dependence.
4. Pharmaceutical products for treatment of tobacco dependence are not widely available in the public health service.

It is recommended that national programmes and services on the diagnosis and treatment of tobacco dependence and counselling services on cessation of tobacco use be established within existing health facilities. These services should be provided in health care facilities, educational institutions, workplaces and sporting environments. They should be integrated into the national health and education system. Training on brief cessation advice should be provided to all health workers and educators. The national quit line should be toll-free, enhanced and operate for longer hours.

<u>Illicit trade in tobacco products (Article 15)</u>

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". Seen in conjunction with Article 6 of the treaty, adequate control of illicit trade in tobacco products will ensure that tax increases fulfil their role as an effective tool to decrease consumption. On the other hand, if cheaper smuggled products become available on the market, the impact of tax measures (and of other measures under the Convention) will be jeopardized.

The Act in its Section 15 prohibits all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and contraband cigarettes. The Government makes a commitment to promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations, during investigations, prosecutions and proceedings, with a view to eliminating illicit trade in tobacco products. The Act requires the Minister of Finance to update the regulations on illicit trade within 180 days of ratification of a protocol to the Convention on the elimination of illicit trade in tobacco products.

The Act in its Sections 3, 4, 5, 6, 7 and 8 stipulates licensing requirements. No person shall distribute, export, import or manufacture tobacco in Palau without a valid licence issued by the Ministry of Finance. The Minister of Finance will develop regulations accordingly. These licensing measures will contribute to combatting illicit trade in tobacco products.

An overview of the measures against illicit trade in tobacco products, with identified gaps, is given in the table below.

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	Obligations not met	No measures have been taken on tobacco packaging and labelling
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	Obligation not met	No measures have been taken on tobacco packaging and labelling
2(b) and 3	consider, as appropriate, developing a practical tracking	Obligation not yet met	

	and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade		
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	Cross-border tobacco trade data has been collected by the Bureau of Revenue and Customs, Ministry of Finance, and shared with other relevant countries as appropriate
4(b)	enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband cigarettes	Obligation met	
4(c)	take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using environmentally-friendly methods where feasible, or disposed of in accordance with national law	Obligation met, except for using environmentally-friendly methods	
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	
4(e)	adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products	Obligation met	
5	Information collected pursuant to subparagraphs 4(a) and 4(d) of this Article shall, as appropriate, be provided in aggregate form by the Parties in their periodic reports to the Conference of the Parties, in accordance with Article 21	Obligation met	
6	promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations as it relates to investigations, prosecutions and proceedings, with a view to eliminating illicit trade in tobacco products. Special emphasis shall be placed on cooperation at regional and subregional levels to combat illicit trade of tobacco products	Obligation met	

7	Each Party shall endeavour to adopt and implement further measures including licensing, where appropriate, to control or regulate the production and distribution of tobacco products in order to prevent illicit trade	Obligation met	

It is recommended that the areas of non-compliance identified above be addressed during the revision of the Act or by promulgation of appropriate regulations.

The Act mandates the Bureau of Public Health of the Ministry of Health with the primary responsibility for enforcing prohibition of illicit trade in tobacco products, with the assistance of Bureau of Public Safety of the Ministry of Justice. Experiences from many other countries show that customs play a key role in combating illicit trade in tobacco products.

It is therefore recommended that the Ministry of Health together with the Ministry of Finance and the Ministry of Justice work together to establish a law enforcement mechanism to effectively implement section 15 of the Act.

In the meantime, Palau participated in the first session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products. The negotiations are now at an advanced stage.

It is therefore recommended that Palau send responsible Government officials to attend the fifth session of the Intergovernmental Negotiating Body, to be held on 29 March – 4 April 2012. This will better prepare Palau for future ratification of the Protocol should it be adopted by the COP.

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"*.

The Act in its Section 21(a)(7) prohibits sales of tobacco products to any individual who is under 18 years of age as well as offering to purchase tobacco for a minor. The Act further prohibits using or employing any minor to handle any tobacco product. The Act in Section 21(b) prohibits any person from distributing rolling papers to any minor and in Section 21(c) prohibits the sale of elaus to any minor.

Palau has therefore met its obligations under this Article.

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"*.

The Act in its Section 12 prohibits the use of vending machine to distribute or attempt to distribute tobacco products. In Section 21(a)(3), the Act prohibits the distribution, export, import, purchase for personal use, or display of tobacco though a vending machine. Palau

has met and implemented measures beyond the requirement of the Convention under Article 16.1(d).

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

The Act in its Section 21(a)(10) prohibits any person from distributing, exporting, importing, or purchasing for personal use, or displaying tobacco in single units or small packets (of fewer than 20 cigarettes).

Palau has therefore met its obligations under Article 16.3 of the Convention.

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

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

Currently there is no commercial tobacco growing in Palau. Very few people grow tobacco for personal use, and this is mainly for chewing. There is one local tobacco factory that imports loose tobacco and rolls it into cigarettes.

Gap: There is no policy and mechanism in place to support tobacco workers and individual sellers shifting to alternative livelihoods.

It is therefore recommended that the relevant Government agency promote economically viable alternatives to tobacco workers and individual sellers.

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"*.

Since tobacco is not cultivated commercially in Palau, protection of the environment and health of persons in relation to the environment in respect of tobacco cultivation is not applicable to the country. However, cigarettes are still locally rolled and manufactured.

Gap: No measures have been put in place to protect the environment and health of persons in relation to the environment in respect of tobacco manufacture.

It is recommended that the environment protection agency and Ministry of Health work together and make joint efforts to meet this treaty obligation.

Liability (Article 19)

Article 19 requires Parties to consider, for the purpose of tobacco control, *"taking legislative actions or promotion their existing laws, where necessary, to deal with*

criminal and civil liability, including compensation where appropriate", and also "*to cooperate with each other in exchanging information".*

In 1998, the fifth session of the Senate (Olbil Era Kelulau) passed Act RPPL No 5-31. This Act authorizes the Government to bring direct legal action to recover money which the Republic has spent, appropriated, or will be obligated to spend in the future, for the health care needs of the people, as a result of inherently harmful or defective products.

The Act first gives clear definitions of "inherently harmful" and "manufacturer". Although tobacco products are not directly mentioned in the Act, there is no doubt that tobacco products belong to the category of inherently harmful or defective products.

The Act also gives the Minister of Health the power to certify a product as inherently harmful or defective based on the current state of knowledge of the product and its effects.

The Convention in its preamble recognizes that "scientific evidence has unequivocally established that tobacco consumption and exposure to tobacco smoke cause death, disease and disability, and that there is a time lag between the exposure to smoking and the other uses of tobacco products and the onset of tobacco-related diseases".

If effectively used, this Act has huge potential to contribute to Palau's efforts to implement the Convention and protect its people from the harmful effects of tobacco consumption and exposure to tobacco use.

Palau has shared this Act with the COP through its implementation report. The fifth session of the COP, to be held in November 2012, will discuss measures needed to implement Article 19.

Gaps:

1. Awareness of Act RPPL No 5-31 is very limited and even policy-makers, including legislators, do not know of its existence.
2. This Act has never been utilized.

It is therefore recommended that Palau raise awareness of Act RPPL No 5-31 and seize the opportunity to effectively utilize it. The Ministry of Health should play a leading role in utilizing the Act to protect Palau's current and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke, and in the response to the national NCD emergency. It is also recommended that Palau actively contribute to the discussion on the implementation of this Article during the fifth session of the COP, including by sharing its experiences.

Research, surveillance and exchange of information (Article 20)

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

In its two-year implementation report, total male and female smoking prevalence for adults over 15 years of age were reported as being 14% and 5% respectively. In its five-year implementation report, Palau reported only the prevalence of tobacco use among the Philippine ethnic group for both sexes over 18 years of age, from the Filipino Community Tobacco Survey 2004.

Palau has conducted Global Youth Tobacco Surveys among schoolchildren of 6 to 12 years of age in 2000, 2005 and 2009. The 2009 survey shows that 41.4% smoke tobacco, 30.6% use smokeless tobacco and 54.1% use other tobacco mainly in the form of chewing tobacco with betel nut. Some 44% have been exposed to second-hand smoke at home. These surveys were conducted with technical and financial assistance from WHO and US CDC.

Palau is currently analysing the data collected in the national STEPs survey in which prevalence of smoking, chewing tobacco and mortality attributable to tobacco use among adults aged 25–64 years will be available by the end of 2012.

The 2008 Household Income & Expenditure Survey has questions related to tobacco consumption.

Gaps:

1. There is no national system for epidemiological surveillance of tobacco consumption and related social, economic and health indicators.
2. National data are lacking on adult tobacco use, burden of disease related to tobacco, and direct costs attributable to tobacco use and exposure to tobacco smoke.

The Government of Palau is therefore urged to:

1. ***Develop and promote national research capacity and cooperate with competent international and regional organizations; and to conduct research addressing the determinants and consequences of tobacco consumption and exposure to tobacco smoke, the direct and indirect costs generated by tobacco. As a first step, a database on morbidity attributable to tobacco use should be established.***
2. ***Promote and strengthen training programmes and support for all those engaged in tobacco control activities, including planning, implementation, monitoring and evaluation.***
3. ***Establish a national system for the epidemiological surveillance of tobacco consumption and related social, economic and health indicators and integrate it into national surveys such as the Household Income & Expenditure Survey and regional and global health surveillance. This system should provide standardized and systematic information targeting all relevant population groups, e.g. adults, youths, elderly persons, pregnant women, etc. The results generated from the surveillance system will better guide Palau's efforts to implement the Convention and fulfil the reporting requirements.***
4. ***Promote and facilitate the exchange of publicly available scientific, technical, socioeconomic and legal information.***

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 the Convention,"* which should include all relevant obligations as contained in the reporting instrument.

Palau provided its two-year (first) report on the implementation of the Convention on 26 February 2007 and five-year (second) report on 12 March 2010, accompanied by attachments providing background information in relation to the implementation of certain provisions of the treaty. Palau has met its obligation under Article 21 of the Convention.

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 Government has received support from WHO's South Pacific Office and the WHO Regional Office for the Western Pacific (WPRO) in tobacco control training and the conduct of advocacy campaigns. Palau also received support from WPRO and the US Centers for Disease Control and Prevention for various surveys under the Global Tobacco Surveillance System. The Secretariat of the Pacific Community (SPC) has also been providing support to Palau in the area of NCD control.

The United Nations Development Assistance Framework (UNDAF) is the strategic programme framework for the UN Joint Presence in Palau to collectively respond to the priorities in national development. The current UNDAF covers the period 2008–2012. It does not directly include work related to implementation of the Convention. The next UNDAF, to cover 2013–2017, is currently being developed. The UN Joint Presence in Palau is working with the Ministry of State and various other ministries to identify priorities. The international team met the UN Resident Coordinator in Fiji and also the Country Development Manager, UN Joint Presence in Palau. The team discussed with them the need to include implementation of the Convention under the next UNDAF. The Country Development Manager informed the team that prevention and control of NCDs had been identified as one of the priorities, and that implementation of the Convention was recognized as being an important tool in this regard. The Ministry of State and the Ministry of Health will be following this matter up to ensure that implementation of the Convention is indeed included in the final UNDAF document.

Gaps: Broader international cooperation on implementation of the Convention is yet to be utilized. The current UNDAF has not given due consideration to supporting Palau in meeting its obligations under the Convention. Awareness of the importance of the UNDAF in supporting implementation of the Convention is limited among the relevant stakeholder ministries and Government agencies.

It is recommended that the Government of Palau proactively seek opportunities to cooperate with other Parties, and with competent international organizations and development partners present in the country. It is also recommended that the Ministry of State play a leading role in advocating for support in meeting the country's obligations under the Convention among bilateral and multilateral development partners and also ensuring that support to Palau in meeting its obligations under the Convention is included as a priority in the next UNDAF.

Financial resources (Article 26)

In Article 26, Parties recognize *"the important role that financial resources play in achieving the objective of this Convention"*.

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"*.

Gaps: Currently there is no dedicated budget line for tobacco control in the Ministry of Health. Other Ministries do not have dedicated staff and budget to work on meeting the obligations under the Convention.

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

International organizations and development partners are active in Palau. The Ministry of State is responsible for coordination and management of external assistance. It is also in charge of reviewing and approving proposals from relevant Government agencies submitted to development partners. The international team held a fruitful discussion with the Ministry of State during the stakeholders' meeting which took place as part of the mission. The Ministry of State recognized its responsibilities and key role in meeting the obligation under Article 26.3 and encouraged the Ministry of Health to collaborate in utilizing bilateral, subregional and other multilateral channels to support implementation of the Convention in Palau. The Ministry of State indicated that Australia, WHO, SPC, and CDC were the main development partners supporting the health sector in Palau. Some of them have a potential role to play in supporting the country to meet its obligations under the Convention.

WHO has been working very closely with the Government in providing technical and financial assistance to support the country in implementing the Convention, conducting training, developing a national action plan and conducting various surveys on tobacco use. CDC provided support to the surveys and also provided funding to cover the salary costs of four staff members of the Tobacco Use Prevention and Control Program.

Gap: The Government of Palau 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 recommended that, in the spirit of Article 26.3 of the Convention, the Government of Palau promote the inclusion of implementation of the Convention in bilateral and multilateral agreements and action plans with international development partners. It is recommended that the Ministry of State play a leading role in coordinating with development partners to mobilize sufficient resources to help the country to meet its obligations under 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"*.

There is no large-scale commercial tobacco cultivation in Palau but local cigarette production still exists in one factory.

Gap: Currently no policy has addressed the issue of economically viable alternatives to replace the existing local tobacco factory.

It is recommended that the Ministry of Public Infrastructure, Industries, and Commerce and other relevant Government agencies develop policies to address the issue of economically viable alternatives.

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 Ministries of Health and State are fully committed to ensuring that Palau will promote implementation of the Convention in the relevant bilateral and multilateral forums.

Gap: Other than WHO, SPC and US CDC, Palau has not to date been successful in mobilizing financial assistance from regional and international organizations and financial and development institutions that are able to provide aid to developing countries, including Palau, in meeting their obligations under the Convention.

It is therefore recommended that Palau become a strong advocate for moving the Convention higher up the international development agenda. It is also recommended that other ministries, such as the Ministries of Finance, State, etc., representing Palau 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 to implement the Convention.

ANNEX

List of participating Government agencies, other major stakeholders, partners and members of the international team performing the needs assessment in Palau

Participating agencies

- Ministry of Health
- Ministry of State
- Ministry of Finance
- Ministry of Education
- Ministry of Justice
- Ministry of Public Infrastructure, Industries &Commerce

Palau National Congress

Hon'ble Chairperson, Senator Regina Kyota Mesebeluu, Health & Education Committee, the Senate
Hon'ble Chairperson, Delegate Kalistus Ngirturong, Health & Education Committee, the House of Delegates

Representatives from the Ministry of Health

Hon'ble Minister of Health, Dr. Stevenson J. Kuartei
Mr Temmy Temengil, International Health Coordinator
Ms Everlynn Joy Temengil, Acting Chief and Administrator, Division of Behavior Health
Mr Roman B Oseked, Program Manager, Tobacco Use Prevention and Control Program

Other major stakeholders and partners

Coalition for a Tobacco Free Palau
UAK
OMUB

Convention Secretariat

Mr Vijay Trivedi
Ms Guangyuan Liu

WHO South Pacific Office

Dr Li Dan, Medical Officer, WHO South Pacific Office, Suva, Fiji

In addition, the international team met the UN Resident Coordinator, Mr Knut Ostby, in Fiji and the Country Development Manager, Ms Sharon Sakuma, UN Joint Presence in Palau.