

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

Convention Secretariat

January 2015

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. Peru ratified the WHO FCTC on November 2004 and the Convention entered into force for Peru on 28 February 2005.

An assessment of the needs for implementation of the WHO FCTC in Peru was conducted jointly by the Government of the Republic of Peru and the Convention Secretariat on November 2013, including the initial analysis of the status of implementation, and the 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, including representatives of the PAHO/WHO Pan American Health Organization, the WHO Country Office in Peru and the United Nations Development Programme (UNDP) Regional Office, conducted the mission in Peru together with the representatives of the government from 18 to 22 November 2013. The assessment involved relevant ministries and agencies of the Government and several nongovernmental organizations (NGOs) working on tobacco control (see annex).

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 undertaken to fill those gaps. The key elements that need to be put in place to enable Peru 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, Peru is obliged to implement its provisions through national laws, regulations or other measures. It is important to identify all obligations in the substantive articles of the Convention including achievements and gaps through a strong multisectoral collaborative approach.

Second, under Article 5.2(b) of the WHO FCTC, Parties in accordance with their capabilities have an obligation to develop and adopt national tobacco control legislation to enable full implementation of the Convention. Peru has adopted a national tobacco control law No. 28705 General Law for the Prevention and Control of Tobacco Use Risks in 2006 and its amendment as Law No. 29517, as well some of the relevant regulations, which address obligations under Articles 5.1 (General obligations), 8 (Protection from exposure to tobacco smoke), 10 (Regulation of tobacco product disclosures), 11 (Packaging and labelling of tobacco products), 12 (Education, communication, training and public awareness), 13 (Tobacco advertising, promotion and sponsorship), 15 (Illicit trade in tobacco products), 16 (Sales to and by minors) and 20 (Research, surveillance and exchange of information) of the Convention. While this law seeks to address obligations under these articles, its provisions do not comply fully with the requirements of the treaty. In addition, it has been observed that in the provisions concerning implementation of article 13 that are time bound, enforcement is either not effective or needs to be strengthened. It is therefore necessary that the law No.28705 be revised to ensure full compliance with the requirements of the treaty and that its enforcement is strengthened, primarily through improving cooperation between Government agencies which are mandated by the law to enforce provisions therein.

Third, the Convention requires Parties to develop, implement, periodically update and review comprehensive multisectoral national tobacco control strategies, plans and programmes and to establish and finance a national coordinating mechanism for tobacco control. Currently Peru does not have a multisectoral national tobacco control strategy or action plan, nor a national coordinating mechanism for tobacco control. It is important therefore to proceed without delay with the development of a national tobacco control strategy and establishes a multisectoral coordination mechanism at national level. The latter should clearly outline the roles and responsibilities of different ministries and other relevant stakeholders in order to ensure that all relevant sectors contribute to the implementation of the Convention. In addition, an effective chain of communication should be established towards regional and subnational authorities, including municipalities, to ensure implementation of the Convention also at subnational levels.

Further, there is a need to raise awareness within the government of Article 5.3 and its guidelines by introducing measures to prevent interference of the tobacco industry and those promoting its interests, and protect public health policies with respect to tobacco control.

Fourth, Article 6 of the Convention recognizes that price and tax measures are an effective demand reduction measure to reduce tobacco consumption and achieve better health outcomes. Policies on taxation on tobacco products are governed by the Ministry of Economy and Finance in consultation with relevant tobacco control stakeholders in Peru. It is also recommended that tax rates be increased on a regular basis by taking into account both increases in consumer prices and household incomes in order to decrease the affordability of tobacco products and eventually reduce consumption. The Pan American Health Organization (PAHO/WHO) could provide assistance on tobacco tax policies, including tax administration, in collaboration with the World Bank.

Fifth, Article 8.2 of the Convention requires Parties to adopt and implement effective measures to protect against exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places. Further, the guidelines for implementation of Article 8, adopted by the COP, emphasize that there is no safe level of exposure to environmental tobacco smoke. While Law No. 28705 and its amendments contain strong measures to prevent exposure to tobacco smoke, implementation and monitoring of these measures should be strengthened to ensure effective implementation of the law throughout the country.

Sixth, Articles 9 and 10 recognize the importance of regulation and disclosure of the contents and emissions of tobacco products. These provisions are not yet fully implemented in Peru and it is therefore recommended that importers of tobacco products (Peru is a net importer of tobacco products) are required to provide information regularly to a designated Government authority, on the content and emissions of their products, and making such information available to the public, as appropriate. In addition, it is also recommended to provide for random testing and measuring of the content and emissions of tobacco products, and making the tobacco industry responsible for the costs of tobacco product regulation measures.

Seventh, efforts to educate different target groups, including school children, youth, parliamentarians, the media, the clergy, etc. on the harms of tobacco use and exposure to tobacco smoke are on-going, but there is a need to give more emphasis to issues related to all tobacco products, in particular there is a need for a national level mass media campaign on the harms of tobacco use, with free radio and television air time to be devoted to such campaign.

Eighth, Peru does not have national guidelines on tobacco cessation and treatment of tobacco dependence. A free quit line of the Ministry of Health provides, among other services, information on the nearest health centre where tobacco users can receive substance abuse counselling and a prescription to medicines that aid cessation. Nicotine replacement therapy is not registered under the essential drugs list in Peru. It is therefore recommended that the implementation of Article 14 of the Convention and its guidelines be strengthened and tobacco cessation treatment provided.

Ninth, 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 the Parties to the Convention between 10 January 2013 and 9 January 2014. Parties to the Convention can now accede or ratify the Protocol. Consultations have already started within the Government of Peru on the ratification of the Protocol, and will hopefully be completed soon to enable the start of its implementation.

Tenth, Peru has longitudinal data on youth tobacco use from surveys conducted with the support of WHO and the US Centres for Disease Control and Prevention (CDC). However, Peru does not have comparable longitudinal data for adults and data on smoking tobacco other than cigarettes are inadequate. Thus, it is recommended that this gap is addressed in research and surveillance through conducting both adult and youth surveys on a regular basis and systematically or by incorporating questions related to the consumption of tobacco and tobacco control policies into national surveys and / or other data collection mechanisms that are already underway.

Eleventh, implementation of the WHO FCTC translates in the reduction of inequalities in several aspects of human development such as a poverty reduction, human rights, gender equality and human development, as well as health and public health related inequalities. The current United Nations Development Assistance Framework (UNDAF) (2012–2016) does not include the WHO FCTC or the prevention and control of noncommunicable diseases (NCDs), the leading cause of death worldwide and in Peru. The UNDAF mid-term review would be an opportunity to make specific references to the progress of the implementation of the WHO FCTC. In the next UNDAF, it should be considered to include a specific reference to the Convention, being an international obligation. This would help ensure inter-agency action to support a multisectoral approach to tobacco control. It is recommended to actively follow up with the United Nations Resident Coordinator and relevant UN agencies to include implementation of the prioritized areas of the Convention under the UNDAF and their programming activities.

Twelfth, the needs identified in this report represent priority areas that require immediate attention. The Convention Secretariat, in cooperation with WHO and relevant international partners, will be available and committed to supporting the process. The Convention Secretariat is also committed to providing and facilitating technical assistance, particularly in the following areas, upon request of the Government: (1) support to develop the national strategic plan; (2) support to facilitate the access to resources through the coordination of donors; (3) facilitation of technical support in tobacco taxation policy; (4) support actions to strengthen supervision and inspection of smoke free places to ensure effective application of the law throughout the country (5) support in the development of a media strategy; (6) facilitation of technical support in establishing a tracking and tracing system; (7) support to include standard tobacco questions in on-going national surveys and

other data collection mechanisms; and (8) support and facilitation of a stakeholder workshop that will consider the present report in order to arrive at the establishment of a multisectoral support mechanism within the Government.

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

This joint needs assessment mission was financially supported by the European Union.¹The MOH provided resources and logistic support to the mission, including organizing the meetings during the mission.

¹This publication has been produced with the assistance of the European Union. The contents are the sole responsibility of the Convention Secretariat, WHO Framework Convention of Tobacco Control, and can in no way be taken to reflect the views of the European Union.

Introduction

The WHO FCTC is the first international treaty negotiated under the auspices of WHO. Peru ratified the WHO FCTC on 30 November 2004. The Convention entered into force for Peru on 28 February 2005.

The Convention recognizes the need to generate global action so that all countries are able to implement its provisions effectively. Article 21 of the WHO FCTC requires Parties to regularly submit to the Conference of Parties (COP) reports on their implementation of the Convention, including any challenges they may face in this regard. Article 26 of the Convention recognizes the importance that financial resources play in achieving the objectives of the treaty. The COP further requested that detailed needs assessments be undertaken at country level, especially in developing countries and countries with economies in transition, to ensure that lower-resource Parties receive the necessary support to fully meet their obligations under the treaty.

At its first session (February 2006), the COP called upon developed country Parties to provide technical and financial support to developing country Parties and Parties with economies in transition (decision FCTC/COP1 (13)).² 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))³ to actively seek extra budgetary 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 and project development, particularly to lower-resource countries, as part of efforts to promote and accelerate access to relevant internationally available resources.

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

³See COP/2/2007/CD, Decisions and ancillary documents, available at: http://apps.who.int/gb/fctc/E/E_cop2.htm.

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 Peru and the Convention Secretariat, including a mission to Peru by an international team of experts from the Convention Secretariat, the WHO South-East Asia Regional Office and the UNDP from 18 to 22 November 2013. The detailed assessment involved relevant ministries and agencies of Peru. 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 Peru. 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”.

Currently, no measures have been implemented in Peru that go beyond those provided for by the Convention.

It is recommended, that while working on meeting the obligations under the Convention, areas in which measures going beyond the minimum requirements of the Convention can be identified and implemented.

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

Peruvian officials communicated to the mission that bilateral and multilateral trade agreements are negotiated under the responsibility of the Rector of the Ministry of Commerce and Tourism, in coordination with relevant sectors.. All trade agreements of which Peru is a party have an article of general exceptions, within which is provided an exception to the application of measures necessary to protect human health as established by international trade agreements.

It is recommended that agreements Peru enters into be communicated to the Secretariat either as part of Peru’s next WHO FCTC implementation report(s) 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*”.

The international team met with a few NGOs who are active on tobacco control such as the “Comisión Nacional Permanente de Lucha Antitabáquica (COLAT)” and the “Centro de Información y la Educación para la Prevención del Abuso de Drogas (CEDRO)”. The NGOs conduct and implement training programs for officials of the regional governments such as Callao regarding the control and supervision of smoke-free environments, provide technical assistance for the development of regional legislation and its enforcement, encourage the creation of local networks of stakeholders, develop and implement education programs about the harmful effects of tobacco, and create public awareness through media campaigns. In addition, COLAT has made available a toll free phone number for complaints of lack of compliance with the smoke-free environments.

The important role of civil society is recognized in the achievement of the objective of the Convention, and as an example of this, an institutional cooperation agreement was signed in 2011 between the COLAT and the Regional Government of Callao. .

By involving the civil society in the implementation of the WHO FCTC, Peru has met its obligations under Article 4.7 of the Convention.

It is recommended that the MOH work closely with non-governmental organizations to develop activities that contribute to the implementation of the Convention and in particular on the recommendations of this report. Greater coordination between the various governmental and non-governmental organizations is also recommended by a collaboration platform, in order to improve the synergy and effectiveness of their actions.

General obligations (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*”.

Peru does not currently have a standalone comprehensive tobacco control strategy, plan or programme. Neither the General Law No. 28705 for the Prevention and Control of Tobacco Use Risks, nor its modification through Law No. 29517, specify or call for the development of such national tobacco control strategy, plan or program. Tobacco control and WHO FCTC implementation are integrated health policies and plans of the General Directorate of Health Promotion of the MOH. Other health programs including tobacco control initiatives are the National Strategy to Fight Drugs 2012-2016 from the National Commission for Development and Life without Drugs (DEVIDA), and the Ministry of Health’s “Esperanza Plan” to fight cancer.

During the mission, the international team met with cooperation and development partners such as the Belgian Cooperation Agency, which could support Peru in developing the National Action Plan for Tobacco Control as part of their next health cooperation plan.

Gap –

Peru does not currently have a standalone comprehensive tobacco control strategic plan or any other plan that addresses all substantive articles of the Convention in a comprehensive way.

Therefore, it has not fully met its obligations described in Article 5.1 of the FCTC.

It is therefore recommended that a National Tobacco Control Strategic Plan or Program is developed in 2015, ensuring that it 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. Such plan can be independent or be included in broader health strategies and plans. It is further recommended that the national health and development policies identify implementation of the Convention as a priority to effectively prevent and control non-communicable diseases and reduce their burden on the national health care system.

The Convention Secretariat is committed to facilitating provision of expertise and technical support in the development of a National Tobacco Control Strategic Plan, upon request from the MOH.

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

The focal point for the tobacco control in Peru is to date the Executive Director of the Office for Promoting Healthy Life. He currently works with a medical professional part-time, actions related to the prevention and control of tobacco.

The focal point for tobacco control to date is the Executive Director of the Office for Promotion of Healthy Life. He currently works with a part-time medical professional, and covers areas in relation to the prevention and control of tobacco.

Peru does not currently have a national multisectoral coordinating mechanism for tobacco control. A national committee for tobacco control was established in 2001 with representatives of the Ministry of Health, Ministry of Education, and the National Institute of Radio and Television. However, said committee did not hold regular meetings to coordinate activities related to tobacco control and its implementation, and did not have continuity overtime.

The General Law No. 28705 of 2006 for the Prevention and Control of Tobacco Use Risks and the Law No. 29517 which amends it, does not mention the creation of a national coordinating mechanism for tobacco control, nor delineate the functions of such a mechanism. The Ministry of Health, by means of Ministerial Resolution No. 207-2010/MINSA of March 11 2010, made Sectoral Commission responsible for providing recommendations to the Ministry on how to comply with the provisions of the WHO FCTC. The composition of the Commission is established through Ministerial Resolution No. 784-2011/MINSA of 24 October 2011, to currently include the Directorate General of Health Promotion, the Directorate General of Health of the People, the General Directorate of Environmental Health, the General Office of International Cooperation and the General Office of Communications.

The creation of a Tobacco Control Unit has also been suggested, under the leadership of the Directorate General of Health Promotion from the Ministry of Health (Report No. 086-2011-MINSA/DGPS/DPVS/RETL). The Directorate General of Health Promotion and the

Directorate General of Environmental Health have developed activities in the past eight years to promote and supervise 100% smoke-free environments, coordinating with regional and local governments nationwide in order to facilitate implementation of existing regulatory instruments, such as those on smokefree environments.

Given the structure of the Peruvian state, subnational level implementation of the Convention is equally important. It is therefore necessary to establish a clear chain of communication with territorial authorities to ensure effective subnational implementation of the Convention.

Gaps –

1. There is no national multisectoral coordinating mechanism in place yet, which could ensure full, integrated and sustained participation of various sectors of the Government and the society at large in implementation of the Convention.
2. The current sectoral commission does not involve other sectors than Health.
3. The involvement and participation of subnational authorities in implementation of the Convention needs to be strengthened.

Peru has a national tobacco control focal point assigned to the Ministry of Health's Directorate General of Health Promotion, but lacks a multisectoral coordinating mechanism at both national and subnational levels, and has therefore not fully met its obligations under Article 5.2(a).

It is therefore recommended to establish a national multisectoral coordinating mechanism or committee to strengthen coordination and collaboration among different sectors and government institutions, and civil society.

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”.

Peru has taken various legislative and administrative measures to regulate tobacco-related matters and align its national legislation with the requirements of the Convention.

In 2006, the Parliament of Peru adopted the General Law No. 28705 for the Prevention and Control of Tobacco Use Risks, later amended by Law No. 29517. The legislation addresses most of the substantive articles of the Convention as follows:

- Article 8 - by calling for smoke-free environments in indoor workplaces, public places and on all means of public transport, and all outdoor areas of educational and health facilities;
- Article 11 - by requiring health warnings on tobacco products;
- Article 12 - by promoting and strengthen public awareness through education and communication
- Article 13 - by partially prohibiting tobacco advertising, promotion, sponsorship and brand stretching;
- Article 16 - by prohibiting sale of tobacco products to persons under 18 and by banning the use of vending machines and the free distribution of tobacco products.

The law also imposes fines and penalties for non-compliance and identifies the authorities responsible for enforcing specific requirements of the Law. Further details on the content of the Law and mandated enforcement mechanisms are included in the subsequent sections.

Relevant regulations and resolutions developed under the Tobacco Control Law include the following:

- Supreme Decree No. 015-2008-SA, Regulations of Law No. 28705, it regulates smoke free environments; tobacco advertising, promotion and sponsorship; and tobacco packaging and labelling.
- Supreme Decree No. 001-2010-SA, Amending Regulation of Law No. 28705 approved by Supreme Decree No. 015-2008-SA
- Supreme Decree No. 001-2011-SA, Amending Regulation of Law No. 28705 approved by Supreme Decree No. 015-2008-SA and amended by Supreme Decree No. 001-2010-SA, these amendments introduce 100% smoke free environments and require health warnings on both principal display areas of tobacco product packaging.
- Ministerial Resolution No. 469-2011, related to health warnings and graphics.

The Law mandates for further regulations in specific areas covered therein. The areas where the Law calls for further regulations are as follows:

- Health warnings on tobacco product packaging;
- Point of sale advertising; and
- Regulation of Penalties by the Executive Branch.

Although the legislation is extensive, certain areas of the Law and/or Regulations, such as point-of-sale and cross-border tobacco advertising, need to be amended so that they are fully aligned with the requirements of the Convention and their enforcement is strengthened, primarily through improving cooperation between Government agencies which are mandated by the law to enforce provisions therein.

Gaps – The Law is not fully compliant with the WHO FCTC in a few areas, such as implementation of a comprehensive ban on tobacco advertising, promotion and sponsorship, where Peru missed the five-year deadline (28 February 2010) as required in Article 13.1 of the Convention.

It is therefore recommended to review and amend the current national tobacco control legislation to make it fully in line with the obligations under the Convention and its guidelines. It is worth mentioning that there is a bill on the matter in the Congress, with a favorable opinion of both the Commissions of Health and Consumer Protection.

In support to amend national tobacco control legislation, the Convention Secretariat is committed to support the review of the draft amendment and regulations, upon the request of 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 no government branch should endorse, support, form partnerships with or participate in activities of the tobacco industry described as socially responsible.

There is no direct reference in the Law – or any other normative document in force in Peru – to any measures required under Article 5.3 of the Convention or recommended by the respective guidelines for implementation.

There is no specific legal provision or code of conduct that stipulates that all branches of the government should not endorse, support, form partnerships with or participate in the activities of the tobacco industry described as socially responsible. In addition, there is no requirement or established standards to ensure transparency of the interactions that occur between government officials and representatives of the tobacco industry.

Gaps –

1. There is no explicit provision in any law or state policy that reflects the requirements of Article 5.3 of the Convention and the recommendations of the guidelines for implementation of Article 5.3.
2. There are no measures in place requiring that all interactions with the tobacco industry deemed necessary are conducted in a transparent manner.

It is therefore recommended that the obligations are included in Article 5.3 of the Convention, an amendment to the legislation or new regulations, as applicable. In addition, awareness of Article 5.3 should be promoted through existing channels of communication between various ministries within the Government such as issuance of an administrative circular. It is also recommended that any meetings occurring between government officials and the tobacco industry be made transparent and to make information and notes for record available to the public.

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”.

Peru participated has attended all sessions of the Conference of the Parties and also the sessions of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products. Peru served as member of the Bureau of the Conference of the Parties between the 4th and 5th sessions of the Conference.

Peru has participated through their representatives in the working group for the preparation of draft guidelines on protection from exposure to tobacco smoke (in November 2006 in Ireland) and in the Working Group the guidelines of Article 11 of the Convention on "Packaging and labelling of tobacco products" (in November 2007 in the Philippines and in March 2008 in Brazil). The representatives of Peru were appointed by the respective Ministerial Resolutions of the Ministry of Health.

Therefore, Peru has fulfilled its obligations under Article 5.4 of the Convention.

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*”.

Peru has been cooperating with several international organizations and donor agencies, such as the PAHO/WHO, the World Bank, the UNDP, as well as the Belgian Cooperation Agency.

Further details on international cooperation are given under Article 22.

Peru has met its obligations under Article 5.5 of the Convention.

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*”.

Peru has sought and received funding from international agencies including WHO, the World Bank, and the US CDC for legislation, capacity building, advocacy and surveillance activities.

However, it is recommended that the various governmental institutions and civil society organizations mobilize resources for effective implementation of the Convention and strengthen implementation of the relevant legislation.

Peru 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*”. Further, 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*”.

Taxation of tobacco products

Taxation of tobacco products in Peru is regulated through the Law on Income Tax, General Sales Tax, and Selective Consumption Tax of 2006. The Department of Excise within the General Directorate of Revenue of the Ministry of Economy and Finance (MOEF) develops the excise policies of the Government and conducts various activities including the protection and collection of excise revenue.

According to the Guidelines for Tax Policy established in the 2014-2016 multiannual macroeconomic framework, the taxation of tobacco products in Peru is oriented to the consideration of the negative externality generated by consumption and also by the reaching of public health goals. Taxation of tobacco products is regulated in Peru by the Supreme Decree N 025-2004-EF updated in 2010 by the Supreme Decree No. 004-2010-EF. In 2010, the nature of the excise tax imposed on tobacco products was changed from ad valorem (30% of the retail price declared by importers) to specific excise (of a fix amount of 0.07 soles per cigarette)

reviewed annually. Currently, the structure of cigarette taxes as percentage of the retail price in Peru is 59% customs duty, 15% VAT and 23% specific tax.

Table 1. Evolution of the rates and types of tax applied to tobacco products in Peru as percentage of the retail price

Type of tobacco products	Customs Duty	VAT	Consumption tax
Cigarettes (2009)	30%	15%	25% (ad valorem)
Cigarettes (2010)	30%	15%	30% (ad valorem)
Cigarettes (2013)	50%	15%	23% (specific)

Despite all the efforts, excise tax on tobacco products has not increased as expected by changing from the ad valorem type to the specific type of fixed amount.

Discussions are ongoing concerning the structure of tobacco tax rates. The mission also helped to provide more evidence on the possible health impact of higher taxes on tobacco (and eventually, of higher prices of tobacco products) and promoted tax increases during the discussions with the Directorate of Taxation of the Ministry of Economy and Finance who expressed their interest in the experience of other countries in the region on this issue and what the situation was comparatively in Peru.

Prices of tobacco products

The mission has learned that a pack of 20 cigarettes in Peru was 4 soles in 2009, 4.7 soles in 2010, and 6 soles (2.13 USD) in 2013.

The average price per pack of 20 cigarettes in the WHO region of the Americas is around 3.20 USD. Tobacco prices in Peru are well below the global average (3.81 USD) and also below the average of countries in the Region of the Americas.

The Consumer Price Index of cigarettes shows a similar trend to that of the General Consumer Price Index, with a steady increase between 2009 and 2013. The CPI of cigarettes increased sharply between January and March 2010, where it exceeded that of the General CPI by 5 basis points.

As a result of the increases in tobacco prices consumption in higher socio-economic groups have started to decrease; however, data presented by the Ministry of Economy and Finance results from 2009 and 2010 indicate that lower-socioeconomic groups have increased their consumption. Taking into account this new trend, caused by the increase in household income of the Peruvian population in general and of lower socio-economic groups in particular, an analysis on the affordability of tobacco elaborated would be most useful, in addition to assess that increases in the price of cigarettes have kept up with inflation rates and increases in gross domestic product. Such a study could inform of the need to further increase the price and tax rates of tobacco products to reduce affordability thereby reducing consumption.

Gaps –

1. There are no annual, above-the-inflation tax increases that could ensure a decreasing affordability of tobacco products and could eventually decrease the demand for tobacco.
2. Current tax rates do not take into account changes in household incomes and have not kept up with inflation, therefore making tobacco products increasingly affordable.

It is therefore recommended to strengthen tax policies on tobacco with a tax increase above the rate of inflation and income growth on a regular basis, resulting in public retail prices decreasing the affordability of tobacco products, leading to a reduction in consumption of tobacco. 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”*.

Tax-free and duty-free tobacco products are available for purchase by arriving and departing passengers at the country's main airport (not compliant with the FCTC). Returning travellers over the age of 18 are allowed to carry up to twenty (20) packs of cigarettes or fifty (50) cigars or two hundred fifty (250) grams of chopped tobacco (partial compliance with the FCTC).

Overall, Peru has not fully met its obligations under Article 6.2(b) of the Convention.

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”*.

In Peru, smoking is prohibited in health, educational and other public institutions, in indoor workplaces, in enclosed public places and on all forms of public transport facilities; all of these settings are considered 100% smoke-free. Most of the relevant definitions contained in the Peruvian legislation are aligned with the FCTC and its guidelines, except for that of “smoking” and “exposure to tobacco smoke”, for which there are no specific references in the law.

The Law No. 28705 specifies that the municipal authority shall be responsible for seeing that the smoking ban is obeyed by performing inspections and periodic measurements of tobacco

smoke contaminants and shall penalize offenders. In addition, “no smoking” signs will be placed at all entrances, in every indoor space and in a visible place. The Ministry of Health will oversee compliance by performing physical inspections of the signage in the places referenced and that breaches detected in these places be made known to the Provincial or District Municipality, so relevant actions can be initiated.

The power of inspection of smoke free environments was further delineated in Article 12.3 of the Supreme Decree No. 001-2011-SA, which states that it is the responsibility of the Ministry of Health through the General Environmental Health Office (DIGESA), the Regional Offices or Directorates of Health acting on behalf of Regional Governments in the country, or, in the regions, the Provincial and District Municipalities in their areas of competency also perform inspection activities of compliance with the Law; in this regard the Ministry of Health shall approve a Technical Inspections Regulation through Ministerial Resolution that serves as a guiding technical document on the matter. The DIGESA, the National Customs and Tax Administration Superintendence (SUNAT) and Institute for the Defence of Competition and Intellectual Property (INDECOPI) have signed cooperation agreements for performing activities of surveillance, control and enforcement of smokefree environments.

In addition, the General Environmental Health Office provides technical assistance to the regions and municipalities in the enforcement of this legislation and has capacity for inspection and control, and applies the sanctions. In 2013 over 50 institutions were fined. However, the amount of the fine for breach of the smoke-free ban is the equivalent to one Tax Revenue Unit-ITU (3,750 new soles for 2013) independently of the size of the company and does not reflect the financial capacity of the company breaching the ban. Violations of the law leading to sanction include: allowing smoking in prohibited places demonstrated through the presence of persons with lit cigarettes and/or detection of the presence of tobacco smoke.

A mechanism to allow citizens to report any non-compliance with the existing smoke-free legislation is not yet effectively implemented. However, any citizen may report the infringement of smokefree provisions to a toll free phone number facilitated by the COLAT NGO, and can also bring their complaints to the Regional Offices or Directorates of Health acting on behalf Regional Governments, as well as municipalities. In addition, further sensitisation is needed to ensure that proprietors, employers and administrators of the public places report to competent authorities any breaches of smoking bans.

In summary, while the Tobacco Control Law from 2006 and its amendments provide for strong measures to prevent exposure to tobacco smoke, the enforcement and monitoring of such measures needs to be strengthened to ensure effective implementation of the Law throughout the national territory.

The latest Global Youth Tobacco Survey (GYTS) from 2007 indicated that 20-30% of young people aged 13–15 years lived in homes where others smoked in their presence and 40-50% had been exposed to tobacco smoke in public places. Reported exposure to second hand smoke is still very high.

The 2006 Global Health Professions Student Survey (GHPSS) showed high prevalence of exposure to second-hand smoke at home (30-40%) and in public places (60-70%) among third-year medical, pharmacy and nursing students.

Findings from GYTS and GHPSS indicate significant level of public support (>80%) for banning smoking in all enclosed public places.

With about 40–50% of young people aged 13–15 years exposed to tobacco smoke in enclosed and outdoor public places and about one in three in their homes, coupled with strong support to ban smoking in public places, there is an opportunity to strengthen implementation of Article 8.

The obligation under Article 8 with respect to adopting the normative texts to ban tobacco smoking in most of the public places was met. However, there is still room to provide for universal protection as recommended by Article 8 and its guidelines through removing the current legal exemptions and expanding the list of public places to include outdoor public places.

Gaps –

1. While having advanced provisions creating 100% smoke-free environments, the enforcement of these measures is insufficient. This is partly due to the inconsistent development of regulations clearly defining, among others, the relevant law enforcement authorities and their roles in monitoring and enforcing of measures and applying penalties for non-compliance.
2. Further mobilization is needed among the territorial authorities for identifying the relevant stakeholders at subnational level and ensuring that the Law is effectively implemented in all regions, municipalities and cities of the country.
3. Research on the impact of smoke-free measures has not yet been implemented.

It is therefore recommended that the various policy documents be revised and aligned with the guidelines on implementation of Article 8. It is also recommended to implement and strengthen monitoring and enforcement measures related to smoke-free policies by facilitating coordination among all levels of government involved including the Ministry of Health, Regional Health Offices of the Regional Governments, and the Provincial and District Municipalities. It is further recommended that efforts are made to extend smoke-free provisions to outdoor public places.

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.

Nor the Law No. 28705 or its amendments do not cover Article 9 of the Convention and standards have not yet been established to regulate the ingredients of tobacco products.

Also, the necessary infrastructure for testing and measuring the contents and emissions of tobacco products is not yet in place, and no national or regional laboratory with the capacity to measure contents and emissions of tobacco products has been identified.

Obligations under Article 9 of the Convention have not been met.

Gap—

There are no national regulations and standards concerning the testing and measuring of contents and emissions of tobacco products.

It is recommended that regulatory provisions be developed in order to establish standards for the testing and measuring of the contents and emissions of tobacco products introduced onto the market in Peru in accordance with the guidelines for the implementation of Articles 9 and 10

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”.

Article 9 of Law No. 28705 states that cigarette packs, bags, packages or tobacco product sold to the end user must contain the expiration date, tar, nicotine and carbon monoxide contents according to ISO standards, in addition to the information required in Article 3 of Law No. 28405 on the Labelling of Manufactured Industrial Products, wherever applicable, in an area other than the one used for the warning phrases. Article 24 of the Regulations under Supreme Decree No. 015-2008-SA makes reference to the implementation of the law also as part of the health warnings on tobacco products and states that all information must be in Spanish. Article 24.1 of the 2006 act stipulates that “on every sold tobacco product there must be the following message within the area designated for the health warning: TOBACCO SMOKE CONTAINS MORE THAN 4,000 TOXIC SUBSTANCES, OF WHICH 50 PRODUCE CANCER. AMONG THESE ARE ARSENIC, PHOSPHORUS, CYANIDE AND AMMONIA”. Further, Article 24.2 of the same act requires that “on another side face of the package there must be information on the country of manufacture, the expiration date, the sale price and the tar, nicotine and carbon monoxide content, notwithstanding the provisions of Article 3 of Law No. 28405, Law on Manufactured Industrial Products Labelling”. Breaches of these provision fall under supervision of the Unfair Competition and the Consumer Protection Commissions of the Institute for the Defence of Competition and Intellectual Property (INDECOPI).

Other than in the mode mentioned in Article 9 of the Law and Article 24 of the Regulations, there is no provision in the law that requires disclosing information about the ingredients, toxic constituents, additives and emissions of the tobacco products to the Government authorities or to the public.

Obligations under Article 10 of the Convention have been partially fulfilled.

Gaps –

1. Article 9 of the Convention is not covered in Law 28705 and there is no designated independent laboratory in the country to test and measure contents and emissions of tobacco products available on the Peruvian market.

2. A regulation describing the content, form and submission timeline of reports of tobacco manufacturers and importers of tobacco products on the content of the products they produce or commercialize has not been developed yet.
3. With respect to the disclosure of information about the toxic constituents of tobacco products and the emissions that they may produce, only tar, nicotine and carbon monoxide content need to be communicated on tobacco product packaging.

It is recommended to complete the process of development of regulations to implement Articles 9 and 10 of the Convention, in consultation with the relevant bodies within the Government, and that the partial guidelines are utilized for implementation of Articles 9 and 10 of the Convention, to list information (i.e. ingredients and additives) required to be disclosed by the industry to Government authorities, and be made also available to the public. It is also recommended that an assessment of the country's capacity for testing and measuring tobacco emissions and derivatives is conducted, and an independent national or international laboratory is identified to perform regular tests and measurements on the content and emissions of tobacco products available on the Peruvian market. It is further recommended that the regulations make the tobacco industry responsible for the cost of the testing and monitoring complaints of their products according to the financing recommendations of the guidelines on Articles 9 and 10.

In support of the Government's efforts to develop regulations in line with Articles 9 and 10 of the Convention, the Convention Secretariat is committed to providing technical support as requested by the Government, including experiences and advanced practices applied in other Parties to the Convention.

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.

Peru has undertaken legislative measures requiring the use of warning phrases, including text and images, related to the health effects smoking.

Peru developed the Regulations on the Law No. 28705, approved by the Supreme Decree No. 015-2008-SA including matters related to packaging and labelling and further modified by them in the Supreme Decree No. 001-2011-SA.

According to the "Graphic Standards for the use and application of health warnings on the packaging and advertising of cigarettes and other products made of tobacco" approved by Ministerial Resolution No. 469-2011 / MINSA on June 14, 2011, the Ministry of health approved the following sentences, the same that will be covered by health warnings:

- a. Smoking Causes Gangrene.
- b. Smoking Causes Breast Cancer.
- c. Smoking Causes Sexual Impotence.
- d. Smoking Causes Abortions. Unofficial Translation
- e. Smoking Causes Lung Cancer.
- f. Tobacco Smoke Causes Asthma in Children.
- g. Tobacco Smoke Harms Your Baby.

- h. Nicotine Is As Addictive As Heroine.
- i. Smoking Causes Heart Attacks.
- j. Smoking Causes Cancer of the Larynx.
- k. Smoking Causes Stroke.
- l. Smoking Causes Blindness.

The Regulations are very progressive and call for pictorial health warnings to be printed on the surface area of both front and back sides of every cigarette packet, package or carton and to cover an area of not less than 50% of the surface area of both front and back sides of every cigarette packet, package or carton. In addition, the provisions in the Regulations (in Article 23) ban the use of false, misleading or deceptive terms and descriptors such as “Light”, “Ultra-Light”, “Smooth”, “Super Smooth”, “Light”, “Ultralight” or synonyms and symbols which might suggest that a particular tobacco product is comparatively less toxic or less addictive than another. The health warnings are made up of two phrases and each with different images determined through Ministerial Resolution from the Ministry of Health and shall be rotated every twelve (12) months.

These provisions of the law are enforced under Articles 41-49 of the Regulations. Article 2 of the latest Regulations (Supreme Decree No. 001-2011-SA) sets the scale of violations and penalties. Fines range from 0.1 to 10 tax units (A tax unit equals approximately \$ 1.320, as of November 2013). The fine is set according to the financial capacity of the vendor, and final closure of the establishment or cancellation of the respective license, as applicable. Final closure or cancellation shall be applied in the face of repeated violation.

The Law and Regulations require a statement of the tar, nicotine, and carbon monoxide content to be printed on the cigarette packet along with the message "tobacco smoke contains more than 4,000 toxic substances, of which 50 produce cancer. Among these are arsenic, phosphorus, cyanide and ammonia" as well as a warning with the phrase “Banned for Sale to Minors Under 18 Years of Age”.

The table below provides the status of the Regulations in Peru, in relation to measures covered under Article 11 of the Convention.

Table 2. Comparison of the treaty requirements and level of compliance with these requirements in Peru, concerning measures under Article 11.

Paragr aph 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-	OBLIGATION MET	Article 8 of the Law No. 28705 and Article 23 of the Regulations forbid the use of terms that can be misleading and create an impression that a particular tobacco product is less harmful than another.

	light”, or “mild”.		
1(b)	each unit packet and package of tobacco products and any outside packaging and labelling of such products also carry health warnings describing the harmful effects of tobacco use, and may include other appropriate messages.	OBLIGATION MET	This provision is addressed in Article 7 of the Law No. 28705 and Articles 17, 18 and 21.3 of the Regulation.
1(b)(i)	[The warning] shall be approved by the competent national authority.	OBLIGATION MET	This provision is addressed in Article 18.2 and 18.3 of the Regulation approved by Supreme Decree No. 015-2008-SA and amended by Supreme Decree No. 001-2011-SA
1(b)(ii)	[The warnings] shall be rotating.	OBLIGATION MET	This provision is addressed in Article 18.2 of the Regulations approved by Supreme Decree No. 015-2008-SA and amended by Supreme Decree No. 001-2011-SA.
1(b)(iii)	[The warning] shall be large, clear, visible and legible.	OBLIGATION MET	This provision is addressed in Article 22.1 and 31.2 of the Regulations. In addition, Article 21 of the Regulations state that in no case may the health warning be covered by drawings, colours or printed frame on the paper or transparent plastic which surrounds the packages, nor be adhered to or printed on this paper.
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	This provision is addressed in Article 7 of the Law No. 28705 and Article 18.1 of the Regulations approved by Supreme Decree No. 015-2008-SA and amended by Supreme Decree No. 001-2011-SA.
1(b)(v)	[The warning] may be in the form of or include pictures or pictograms.	OBLIGATION MET	This provision is addressed in Article 7 of the Law and Article 22.1 and 31.2 of the Regulations.
2	Each unit packet and package of tobacco products and any outside packaging and labelling of such products shall, in addition to the warnings specified in paragraph 1(b) of this Article, contain information on relevant constituents and emissions of tobacco products as defined by national authorities.	OBLIGATION PARTIALLY MET	The Law (in Article 9) and the Regulations (in Article 24) require the amount of tar, nicotine and carbon monoxide to be included on packaging.
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	This provision is addressed in Article 24.3 of the Regulations.

Peru has met the majority of the obligations under Article 11 of the Convention and has also taken into account recommendations of the implementation guidelines.

Gap –

1. The legislation concerning packaging and labelling of tobacco products does not require the display of qualitative statements on each unit packet or package about the emissions of the tobacco products, as required by Article 11.2 of the Convention and the related implementation guidelines.
2. The pictures are placed at the bottom, and not on the top, of the respective display area.
3. The relevant legislation should be strengthened to allow for confiscation and withdrawal from the market of packages that do not comply with packaging and labelling regulations, as well as to instruct in relation to measures to be undertaken with the confiscated proceeds

It is recommended strengthening of national legislation concerning packaging and labelling of tobacco products and require that the size of warnings be increased to more than 50% of both main surface areas, that the pictorial health warnings be placed at the top rather than at the bottom of the front and back surfaces, and that qualitative statements on tobacco packages about the emissions of tobacco products be required.

In support of the Government's efforts to implement Article 11, the Convention Secretariat is committed to provide the necessary technical support on packaging and labelling of tobacco products.

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” education, communication and public awareness about the health, economic and environmental consequences of tobacco consumption and exposure to tobacco smoke, the benefits of tobacco cessation and tobacco-free lifestyles, as well as training for all concerned persons and public access to information on the tobacco industry.

By means of Article 5 of the Law No. 28075, the implementation of educational programs on the risks of illness and death which occur due to consumption of tobacco and exposure to tobacco smoke are available, including the addictive properties and Article 13 of the Regulations. The Ministry of Education is responsible for establishing policies and educational strategies for the prevention and reduction of risk factors resulting from tobacco use. The MOE is also responsible for including in its curricular system (National Curricular Design) programs on prevention to avoid the initiation of smoking. These objectives are met within the frame of the National Strategy Against Drugs 2012-2016, through the inclusion of specific content on prevention of tobacco use in the curricula through different levels and educational cycles as follows:

- Kindergarten: Personal and Social area
- Primary education: Science and environment
- Secondary education: Science and environment area, and Persona, Family and Human relations.

The programs promote the participation of teachers, students and parents in national campaigns and mobilizations for “World No Tobacco Day” through tutoring and educational guidance.

Since 2010, the MoE in coordination with the National Commission for Development and Life without Drugs (DEVIDA) have developed a national strategy on prevention of drug use in secondary education based on tutoring and educational guidance. In 2012 the program “Prevention of drug use in the school population” (developed within the frame of the National Plan for Civil Safety and Social Coexistence) has been implemented in 250 educational institutions in Lima and Callao, and was targeted at strengthening capacities of tutors, coordinators and school principals providing guidance on drug prevention to 27387 students in secondary schools. As a follow up, in 2013-the evaluation of said program took place by survey conducted to 964 students between 1st and 5th grade. The MoE also supervised and monitored 83 educational institutions in 11 regions where the program on prevention of drug use was implemented with evidence showing positive impact. In addition, a joint evaluation of the implementation of the program took place in 2013 in collaboration with DEVIDA.

Other activities of the Ministry of Education in cooperation with the Ministry of Health include the promotion of healthy lifestyles and social mass media campaigns on commemorative dates such as World No Tobacco Day. The MOH has a total yearly budget of approximately 10.5 million USD for communication campaigns. The General Office of Communications from the MOH also informed the mission of an education campaign through a bus visiting public places, schools, universities and such, with available information on the harmful effects of tobacco use and promotion of smoke free lifestyles.

Media campaigns have been developed including TV spots and advertisements as part of the campaign “PERU 100% SMOKE FREE”, and the “Peruvian Week Against Cancer” as part of the “Esperanza Plan”. The latter included tobacco control information stands and activities aimed at raising awareness among the population about the importance of healthy lifestyles. Additionally, awareness campaigns and information about the harmful effects of tobacco consumption in the general population of approximately 800 municipalities were performed.

Fewer interventions seem to target university students. For example, the latest GHPSS implemented in 2006 shows that 90% of nursing, pharmaceutical and medical students agree that health professionals have an important role in advising patients about tobacco cessation, and over 90% of them also feel that health professionals should get specific training on cessation techniques. In spite of this, only 20-30% of such students reported receiving formal training in tobacco cessation during their university studies. There is need to more specific programmes targeting university students of the health professions to correct this backlog.

While considerable work has been undertaken in education, training and public awareness, there is a need for evidence-based research and international best practices and experiences in promoting and strengthening public awareness of tobacco control issues.

Gaps –

1. There is no anti-tobacco communication strategy in place.
2. There is no sustained mass media campaign targeting all relevant segments of the society.

3. 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.

It is therefore recommended the continuation of the collaborative work between MOH and the MOE, as well as other ministries and civil society organizations, to develop a sustained mass media campaign targeting all relevant segments of the society to address the health, social, environmental and economic consequences of tobacco use and exposure to tobacco smoke. It is further recommended to obtain free airtime for the broadcasting of anti-tobacco messages. It is also recommended to rigorously research and evaluate the impact of interventions and activities in order to achieve better outcomes.

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”.

Peru does not yet have a fully comprehensive ban on all forms of tobacco advertising, promotion and sponsorship. The current legislation still allows for the following exemptions under Article 31 of the 28075 Law:

- Point of sale advertising;
- Retailer incentive programs;
- Display the trademark or brand name on a tobacco product or package;
- Internet sales;
- Brand stretching and brand sharing;
- Depictions of tobacco in entertainment media;
- Financial support to groups, events, etc;
- Publicity of financial support to groups, etc;
- Cross-border advertising, promotion and sponsorship;

Breaches of the provisions on advertising and labelling of tobacco products contained in the Law are reported to the Commission on Unfair Competition Commission and to the Consumer Protection Commission of INDECOPI respectively. When dealing with imported products, prior to their introduction in the national market SUNAT performs the inspections necessary to verify compliance with the legislation and apply the pertinent penalties fixed by the regulations.

A draft legislation for a more comprehensive ban on all forms of tobacco advertising, promotion and sponsorship is currently under review for debate in Congress. The most important measures introduced by this proposed bill would be a complete ban on point of sale, the display of tobacco products and cross-border advertising. The Constitution of Peru allows for a complete ban in order to protect the health of citizens (Articles 7 and 9) as stated in the Bill 991-2011-CR. Legal precedent exists within the Constitutional Court jurisprudence (Expedient number 00032-2010-PI/TC) stating that the right to health addressed in Article 3 of the Law No. 28075 prevails over other consumer and trade rights. In addition, the Constitutional Court has granted rank of International Human Rights Treaty (STC 0032-2010-PI/TC) to the WHO Framework Convention on Tobacco Control, which could make a case for a more comprehensive ban on tobacco advertising, promotion and sponsorship.

Gaps –

1. Several forms of direct and indirect tobacco advertising are still permitted.
2. Cross-border advertising is permitted.
3. There is lack of information on whether tobacco companies are still found to sponsor “socially responsible” projects.

It is recommended amend existing legislation to completely ban or eliminate all remaining forms of advertising, promotion and sponsorship of tobacco products, including a ban of point of sale, tobacco products display, and cross-border advertising, promotion and sponsorship in line with the guidelines for implementation of Article 13. It is also recommended the development of a multi-sectoral and intergovernmental strategy to detect attempts to violate the ban on tobacco sponsorship and strengthen enforcement of the ban.

In support of Government efforts the Convention Secretariat can provide assistance to organize an awareness raising session for key parliamentarians, to gain further support for the draft law in the Parliament.

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”.

Gap – Currently, Peru does not have national guidelines concerning tobacco dependence and cessation.

It is therefore recommended to make use of the guidelines for the implementation of Article 14 of the Convention in designing and developing national guidelines and standards concerning tobacco dependence and cessation, taking into account national circumstances and priorities, and utilizing best international and regional practice. This national cessation strategy should be included as part of the comprehensive tobacco control action plan, and the services established to provide cessation advice should be integrated in the National Health System.

Article 14.2 stipulates that to achieve the end outlined in Article 14.1, each Party shall endeavour to implement effective tobacco cessation programmes aimed at “*promoting the cessation of tobacco use*”, “*include diagnosis and treatment of tobacco dependence and counselling services on cessation of tobacco use in national health and education programmes*”, “*establish in health care facilities and rehabilitation centres programmes for diagnosing, counselling, preventing and treating tobacco dependence*”, and ensure the accessibility and affordability of treatments for tobacco dependence.

Tobacco cessation support services are available in some hospitals and are also provided by several health professionals. There is availability of nicotine replacement therapy in the country sold over the counter and without prescription in stores. Other drugs such as bupropion and varenicline are available at pharmacies upon prescription. However, the national insurance or the public health system does not cover the cost of any of these products nor are they in the essential drugs list. The MOH has made available a toll-free phone number called “INFOSALUD” for general health matters, including tobacco cessation advice.

Gaps –

1. Peru has not yet developed a national cessation strategy.
2. Cessation services are not integrated in the national health system.
3. There is no national quitline per se, but the “INFOSALUD” line of MOH can be further scaled up to become a proactive cessation service.

It is therefore recommended that a national cessation strategy is developed as part of a comprehensive tobacco control strategic plan. It is further recommended that services to provide cessation advice are established by integrating such services in the national health system. It is also recommended that a national quitline is established and its number is included in the health warnings on tobacco packages.

In support of the Government’s efforts to further promote tobacco dependence treatment and cessation of tobacco use, the Convention Secretariat is committed to providing technical support in this area as and when it is requested by the Government.

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 was adopted at COP5 and has been open for signature by all Parties to the Convention since 10 January 2013, and will remain so until 9 January 2014. At the time of the mission, coordination among the different government bodies has already been initiated, by requesting opinions of various actors with a view to initiate the accession process of the Protocol.

All tobacco products in the Peruvian market are either imported since the last manufacturing company closed in 2005, or illicitly traded. From 2009-2013 the imports of blond tobacco

products decreased by 3.8%, representing 103.8 million units of cigarettes less, and the imports of black tobacco products were reduced by 70.5%, representing 350.9 million cigarettes less.

Article 18 of the Law and 44 and 46 of the Regulations (as amended in 2010) identify SUNAT as the governmental agency responsible for random inspections of imported tobacco products which are carried out during the physical inspections pursuant to the provisions of the General Customs Law. Prior to nationalization steps performed by SUNAT, cigarette boxes and other tobacco products made abroad must obligatorily comply with the standards referring to labelling and health warnings contained in the Regulations. If during the physical inspection it is found that the merchandise does not comply with the provisions of the Regulations, the merchandise cannot be introduced into the national market. This control is performed by SUNAT through customs controls in the primary zone and mobile agents in secondary zones, audits to companies that distribute in the country and criminal complaints to smugglers.

During the needs assessment process, SUNAT reported that they have no precise figures on contraband cigarettes. The value of seized and confiscated illicit tobacco products reached 532 thousand USD in 2011, 703 thousand USD in 2012, and 454 thousand USD by November 2013. SUNAT has permanently been adopting tax and customs measures to control illicit trade of tobacco products by raising tariffs and making random inspections at customs officials. Coordination between SUNAT, the National Police, the Public Ministry and the Judicial Branch has made the control more effective. It also falls under the competency of INDECOPI to randomly inspect whether tobacco products being sold in retail stores are compliant with the current legislation in Peru.

Currently, there is no tracking and tracing system in Peru, no centralized data collection system, and no requirement for excise stamps to be placed on tobacco packaging.

An overview of the measures taken by Peru against illicit trade in tobacco products, including several requirements of the 28075 Law, is given in **Table 3** below.

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

Paragraph in Art. 15	Content	Level of compliance	Comments and identified gaps
2	Each Party shall adopt and implement effective legislative, executive, administrative or other measures to ensure that all unit packets and packages of tobacco products and any outside packaging of such products are marked to assist Parties in determining the origin of tobacco products.	NOT YET IMPLEMENTED	There are no regulatory measures that mandate markings on tobacco product packaging to indicate origin.
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: <i>“Sales only allowed in (insert name of the country, subnational, regional or federal unit)”</i> or carry any other effective marking indicating the final destination or which would assist authorities in determining	NOT YET IMPLEMENTED	There are no regulatory measures that mandate markings on tobacco product packaging to indicate that the sales are only allowed in Peru.

	whether the product is legally for sale on the domestic market.		
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 in place in Peru.
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	The SUNAT and the National Police of Peru are responsible for the enforcement of relevant regulations, have their own requirements and have been collecting data on illicit trade of tobacco products. Information sharing and coordination of activities still need to be improved.
4(b)	enact or strengthen legislation, with appropriate penalties and remedies against illicit trade in tobacco products, including counterfeit and contraband cigarettes.	NOT YET IMPLEMENTED	Penalties and remedies, against illicit trade in tobacco products fall under the regulation of the General Customs Law and are enforced by SUNAT and the National Police of Peru. No specific mention to tobacco products is made.
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 dispose of in accordance with national law.	OBLIGATION MET	This provision is addressed by Article 18 of the Tobacco Law and Article 46 of the Regulations.
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	This provision is addressed by the General Customs Law and is responsible for compliance with SUNAT and the National Police of Peru. Any tobacco product seized may, at the discretion of an Authorized Officer, be kept or stored in the building or place where it was seized or be removed to any other place.
4(e)	adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.	OBLIGATION MET	This provision is addressed by the General Customs Law and is enforced by SUNAT and the National Police of Peru.
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	Information was not provided in the report to the COP.
6	Promote cooperation between national agencies, as well as relevant regional and	PARTIAL COMPLIANCE	Peru is an active member of international organizations facilitating licit trade of

	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.		tobacco products, such as the Latin American Integration Association (LAIA).
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 NOT MET	No licensing is required for the importation of tobacco products.

Gaps –

1. There is no requirement for products to include markings to indicate origin or final destination.
2. There is no tracking and tracing system implemented.
3. There is no licensing system for sellers of tobacco products.

Therefore the following is recommended:

- ***The packaging of all tobacco products sold in Peru include the statement "Sales only allowed in Peru" or other effective markings to indicate that the final destination of the imported product is Peru (note: Peru is a net importer of tobacco products).***
- ***Develop a mechanism for monitoring and tracking of tobacco products to ensure the distribution system and assist in the investigation of illicit trade.***
- ***Establish a licensing system for importers and sellers of tobacco products to control and regulate distribution.***
- ***Align the measures to prevent illegal trade in tobacco products with the requirements of the Convention and the Protocol as soon as possible.***
- ***Adopt environmentally friendly methods to destroy the confiscated equipment, counterfeit and contraband cigarettes, and other tobacco products derived from illicit trade.***
- ***Accede the Protocol on illicit trade in tobacco products as soon as possible, considering it is a tool that will allow more effective measures to control illegal trade, and at the same time strengthens international cooperation.***

In the meantime the Convention Secretariat is available to facilitate the sharing of international experience and coordinate any assistance needed to take any practical steps in combating illicit trade in tobacco products.

Sales to and by minors (Article 16)

Article 16 of the Convention urges Parties to adopt and implement “*measures at the appropriate government level to prohibit the sales of tobacco products to persons under the age set by domestic law, national law or eighteen.*”

Article 11 of Law No. 28705 prohibits the sale of tobacco products to minors under the age of 18.

The Supreme Decree No. 001-2011-SA defines the fines and penalties for violation of the aforementioned provision, including final closure or cancellation in case of repeated violations.

Experience shows that children can still buy tobacco products without being required to provide proof of their age in most of the cases.

Gap– Persons under the age of 18 years are still able to purchase tobacco products due to insufficient compliance of the vendors and the insufficient enforcement of the Law.

It therefore recommended that enforcement efforts be strengthened in this area, not least by establishing strategic collaboration between local authorities (either from municipalities or from the National Police) and, as appropriate, other relevant stakeholders at either national, regional and local levels.

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, request that each tobacco purchaser provide appropriate evidence of having reached full legal age;*”.

Article 10 of Law No. 28705 provides that the vendor needs to put up a sign in a visible location indicating that no tobacco products shall be sold to persons under the age of 18 years at his premises with the following phrase: “Sale prohibited to minors under the age of 18”.

Gap – None

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*”.

Gap – Tobacco products can be accessible from public stands without control.

It is therefore recommended to amend existing legislation to prohibit that tobacco products for sale are directly accessible.

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*”.

Article 11 of Law No. 28705 prohibits the promotion or distribution of toys in the alluding to tobacco.

The Supreme Decree No. 001-2011-SA defines the fines and penalties for violation of the aforementioned provision, including final closure or cancellation in the face of repeat violation.

Peru has met the obligations under Article 16.1(c) of the Convention.

Article 16.1 (d) calls on each Party to ensure “*that tobacco vending machines under its jurisdiction are not accessible to minors and do not promote the sale of tobacco products to minors*”.

Article 12 of the Law No. 28705 prohibits the sale of tobacco products in vending machines in locations where access is permitted to those under the age of 18.

The Supreme Decree No. 001-2011-SA defines the fines and penalties for violation of the aforementioned provision, including final closure or cancellation in the face of repeat violation.

Peru has met the obligation under Article 16.1(d) of the Convention.

Article 16.3 indicates that “*endeavour to prohibit the sale of cigarettes individually or in small packets which increase the affordability of such products to minors*”.

The sale of tobacco product packages containing fewer than 10 cigarettes is prohibited by Law No. 29517.

It is therefore recommended to amend existing legislation to ban the sale of cigarettes in small packets (less than 20 units) in order to make them less affordable to minors.

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

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

During the last 20 years in Peru, efforts have been made to reduce tobacco growing in the country, including the closure of a tobacco growing company owned by the state. Tobacco growing areas have been reduced in the regions of Cajamarca, Junin and San Martin from a total of approximately 1942 hectares in 2004-2005 to 188 hectares in 2012-2013. However the regions of Lambayeque and Loreto have suffered an opposite trend with tobacco growing areas increasing from approximately 392 hectares in 2004-2005 to 1868 in 2012-2013. Therefore, there has apparently been a shift of location of tobacco cultivation rather than an overall decrease.

The Ministry is aware of the need to control tobacco growing activities and will support mechanisms for crop transformation and further commercialization through Law N° 29736, Law on Agricultural Productive Restructuring that is being finalized. In collaboration with the Ministry of Economy and Finance (MOEF) and the Ministry of Agriculture (MOA), local and regional government will be able to support crop reconversion projects financed by the National System of Public Investment. Even though this system is specifically directed to the reconversion of illicit farming of coca leaves into legal crops like coffee or cocoa, tobacco could be included in the program.

Officials from the Ministry of Agriculture also informed that the interest in offering economically viable alternatives for tobacco growers is high. However, with the decentralization of government competencies this duty has been transferred to the regions making the process more difficult. Through regional government several alternatives are offered to tobacco growers in terms of productivity and association / cooperatives that enable farmers to apply to financing programs and business plans, and entitle them to be a part in the Rural Agrarian Productive Development Program (AGRORURAL) and the AGROBANK, a financial institution dedicated solely to agricultural matters. In addition, producers are encouraged to associate and sell their products at a larger scale.

The mission was informed that offering viable alternatives to tobacco growing is also feasible since existent trade agreements with international partners facilitate market access to other crops, and the main resistance is from the farmer itself due to lack of experience with new crops and market accessibility of their product.

Gap—Existing policies, plans or programmes on agricultural development may be applicable to tobacco growing, but these opportunities are still to be fully exploited in relation to Article 17 of the Convention.

It is recommended to promote economically viable alternatives to tobacco growing under Law No. 29736 (on Agricultural Productive Restructuring). It is also recommended that assistance is sought through mobilization of support by the World Bank, FAO and other development partners.

The working group on economically sustainable alternatives to tobacco growing (in relation to Articles 17 and 18 of the Convention) has developed policy options to implement these Articles that were adopted at COP6. Such recommendations may also be relevant to Peru, when its efforts are strengthened in the area of provision of alternatives to tobacco growing.

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*”.

The Ministry of Environment is the regulating entity in matters related to environment sustainability. While tobacco is grown in Peru there is insufficient data available to evaluate and assess the environmental impact of tobacco growing. There is currently no regulation for tobacco farms to pass an environmental impact assessment and no requirement for an environmental protection plan to be in place.

Gap – There is no information on any measure or policy in place to protect the environment and health of persons involved in tobacco cultivation.

It is therefore recommended considering develop and / or strengthen a regulatory framework related to tobacco crops to protect the environment and health of people.

Liability (Article 19)

Article 19 requires Parties to consider, for the purpose of tobacco control, *“taking legislative action or promoting their existing laws, where necessary, to deal with criminal and civil liability, including compensation where appropriate”*.

No activities have been implemented recently in relation to this Article of the Convention. There is also no policy or legislative measure in place related to Article 19. The mission was not informed of any court cases in which compensation is being sought in relation to any adverse health effects caused by tobacco use or exposure to tobacco smoke, including any action against the tobacco importers for full or partial reimbursement of medical, social and other relevant costs related to tobacco use.

Gap –

1. There is no provision in the tobacco control legislation to deal with criminal and civil liability in conjunction with Article 19 of the Convention.

It is recommended is recommended to consider amending legislation to address criminal and civil liability, including compensation where appropriate.

Research, surveillance and exchange of information (Article 20)

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

Several research and surveillance in the field of tobacco control have been conducted in collaboration with WHO and the US CDC (namely GYTS, GHPSS and GSHS). For each survey, financial and technical assistance were provided as well as training conducted for key country personnel on survey methodology, implementation and analysis.

Studies and surveys that have been conducted in Peru on a tobacco-related matter are the following:

- Global Youth Tobacco Survey (GYTS) – conducted several times since 2000, but the first nationwide survey was implemented in 2007. Previous surveys were conducted in a few cities around Peru (in 2000, 2003 and 2007 in Lima, Huancayo, Tarapoto, Trujillo and in 2002 and 2007 in Ica City).
- Global Health Professions Student Survey (GHPSS) – 2006
- Global School-based Student Health Survey (GSHS) – 2010
- Peru Demographic Health Survey – 2000-2012 (yearly), performed by the National Institute of Statistics and Informatics (INEI)
- Study of the social and economic impact of drug consumption in Peru performed by the Drug Observatory (DEVIDA) – every four years since 1998, the latest was held in 2010. This survey is expected to be continued according to this timeline.

Peru has longitudinal data on youth tobacco use from surveys conducted with the support of WHO and the US CDC, in collaboration with the National Institute of Statistics and Informatics (INEI). However, these data are only comparable for four cities in Peru, while the first national

survey among secondary school students (aged 13-15) was conducted in 2007. Another youth-based prevalence survey, the GSHS was conducted in 2010, but it covered a different age group (13-17 year olds), thus not providing fully comparable data with the latest GYTS of 2007. (Note: the GSHS only collects information about smoking, but does not collect detailed information on the implementation of tobacco control policies). The mission has heard that the next national GYTS is planned for 2014.

In the case of adults, Peru does have comparable longitudinal data on cigarette smoking through the studies done by DEVIDA, but these are only conducted in four year intervals and, more importantly, they do not refer to smokeless tobacco use and smoking of tobacco products other than cigarettes. The National Institute of Statistics and Informatics (INEI) also conduct adult surveys. Additionally, studies concerning drug use (including tobacco) in university students have been conducted in four Andean countries (Bolivia, Colombia, Ecuador and Peru) in both 2010 and 2012. In this case, there is need for more cooperation between the national agencies implementing adult prevalence surveys to create synergy, harmonize the methodologies and the set of indicators used and the timing of the studies. To ensure more frequent and more comprehensive data on tobacco use, including implementation, and enforcement of policies, it is also encouraged to also consider integrating standard tobacco questions in on-going national surveys or implement, as appropriate, surveys such as the Global Adult Tobacco Survey (GATS) and the WHO STEPS on a regular basis (e.g, repeating a survey with a similar or comparable methodology and set of indicators every three years).

On tobacco-related morbidity and mortality data in Peru are patchy. A cancer registry has been developed but not all hospitals use them as of now. No comprehensive registry of mortality causes, neither centralised registration of death certificates have been put in place.

Peru has not fully met the obligations under Article 20 of the Convention.

Gaps–

1. There is a lack of a coordinated approach in collection of prevalence data among both young people and adults. It would be important to consider the integration of the “Tobacco questions for Survey (TQS)” in the national surveillance system so that it is possible to generate regular, systematic and standardized information.
2. The information available on the prevalence of use of other tobacco products than cigarettes on the implementation of tobacco control policies is limited.
3. There is a lack of epidemiological surveillance of social, economic and health indicators related to tobacco use. National data on the burden of disease related to tobacco and costs attributable to tobacco use and exposure to tobacco smoke are not available.
4. There is a lack of evaluation studies on the impact of interventions to reduce tobacco use prevalence.
5. A database of laws and regulations on tobacco control, including information on enforcement and pertinent jurisprudence is not yet functional.

It is therefore recommended that the agencies involved in regular tobacco-related data collection strengthen their cooperation to create synergies between their studies, harmonize the methodology/indicators and the timing of surveys and they also include tobacco-related questions in existing household surveys and other data collection mechanisms, as appropriate. It is important to strengthen the national surveillance system on NCDs and risk factors to include questions about tobacco in population-based household surveys that are

nationally representative for urban and rural areas, for the regular collection of data and providing standardized monitoring tobacco epidemic in the country. It is also recommended to strengthen its research activities in the areas of exposure to second-hand smoke mortality and morbidity attributable to tobacco use; social and economic consequences of tobacco use. It is further recommended that a web-based database of laws and regulations on tobacco control, and information on their enforcement as well as pertinent jurisprudence, is established as required under Article 20.4 (a) of the Convention.

To promote the use of treaty-specific indicators in national data collection systems the Convention Secretariat has made available to all Parties to the Convention the “WHO FCTC Indicator Compendium” and a “Glossary of terms” used in the Convention and its instruments (the Protocol and the guidelines). It is suggested that that when implementing research and monitoring activities, the responsible agencies take into account the content of these instruments. Specifically, treaty-specific indicators should be incorporated in national surveillance systems to ensure that data which needs to be reported in the reporting instrument of the WHO FCTC are regularly collected in the country.

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”.

Peru has provided two implementation reports so far (by January 2015). The first report was submitted on 3 May 2007, the second one was submitted on 28 March 2012, and the third one on 30 April 2014. One report (the so-called “five-year report” according to the initial reporting arrangements under the Convention) was not submitted by Peru.

The next implementation report is due in the 2016 reporting period.

Thus, Peru 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 to start the preparation of the next report, 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 fulfil the obligations arising from this Convention, taking into account the needs of developing country Parties and Parties with economies in transition. Such cooperation shall promote the transfer of technical, scientific and legal expertise and technology, as mutually agreed, to establish and strengthen national tobacco control strategies, plans and programmes”.

Peru has received and continues to receive grants from UN and other international agencies to implement various requirements of the Convention. The donors include the PAHO/WHO,

UNDP, the World Bank and the US CDC. They have been supporting the MOH in developing and implementing the national tobacco control legislation, strengthening communication towards various target groups, conducting research and building capacity for tobacco control.

Peru is a higher-middle income country and accordingly has a decreasing flow of financial resources from multilateral and bilateral sources of cooperation. In line with the country's development, Peru is constituted as a provider of South-South cooperation, as seen in foreign policy guidelines. The Office of International Cooperation advises on matters concerning international cooperation. During the mission they expressed their interest in elevating the profile of the Convention in regional and international cooperation forums such as the Andean Health Organization, the Union of South American Nations (UNASUR), and the Summit of South American-Arab Countries (ASPA).

The UNDAF (United Nations Development Assistance Framework) 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)⁴ 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 utilizing 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 United Nations Economic and Social Council also adopted the resolution E/RES/2012/4 in August 2012 on the United Nations system-wide coherence on tobacco control. This resolution highlights the need to strengthen multisectoral and inter-agency response for the full implementation of the WHO FCTC in order to address health, social, economic and environmental consequences of tobacco use.

UNDP and WHO issued a joint letter in March 2012, which was sent to all the UN Resident Coordinators and the WHO Representatives around the world, encouraging collective actions in support of the Political Declaration of the High-Level Meeting of the General Assembly on the Prevention and Control of NCDs, adopted by the General Assembly on 19 September 2011 in New York.

The current UNDAF of Peru covers the period from 2012 to 2016, and the mid-term review is expected in 2014. In this current UNDAF, prevention and control of NCDs does not come under any specific outcome and the WHO FCTC is not mentioned. The implementation of the WHO FCTC should be viewed as a poverty reduction, human rights, gender equality and human development issue and not just a public health matter. The UN's support of the implementation of the WHO FCTC will enhance the capacity of national institutions in implementing smoke-free policies and legislation, increase access to tobacco cessation services and strengthen data collection and analysis to better inform interventions with an equity focus. The UNDAF mid-term review would be an opportunity to introduce reference to the implementation of the WHO FCTC. Further, reference to the WHO FCTC can be made in the annex to the UNDAF document, which contains a listing of the country's international obligations under various treaties to which it is a Party.

⁴ See FCTC/COP4/REC/1, *Decisions and ancillary documents*, available at: http://apps.who.int/gb/fctc/E/E_cop4.htm.

Once the implementation of the Convention is included into the UNDAF, the United Nations Country Team should include WHO FCTC implementation as a standing, regular agenda item in its meetings.

During the mission, the team met the United Nations Resident Coordinator and discussed whether implementation of the Convention could be included in the next UNDAF. Some aspects of the Convention could be accommodated in the current UNDAF, especially under democratic governance outcomes (3) (5), and the social protection and universal social services coverage outcomes (6) (8) (9).

Peru has met the obligation under Article 22 of the Convention.

It is recommended to actively seek opportunities to expand cooperation with other Parties, competent international organizations and development partners present in the country. It is also recommended to follow up with the UNRC to ensure that implementation of the Convention is included in the next UNDAF, during its mid-term review or in the next UNDAF.

The Convention Secretariat is committed to working with the MOH and the United Nations Resident Coordinator to include implementation of the prioritized areas of the Convention under the UNDAF programming activities, and discuss appropriate programming activities with the United Nations Country Team. The activities may include priorities identified based on the joint needs assessment report.

Financial resources (Article 26)

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

The funding of tobacco control activities is currently provided through the budget of the Directorate General of Health Promotion of the Ministry of Health as part of the prevention and control of noncommunicable diseases, in the absence of a national action plan or strategy on tobacco control with a specific budget or specific budget line.

Peru has partially met its obligations under Article 26 of the Convention.

Gaps –

1. Currently, there is no budget allocation line in the national budget for activities concerning the implementation of the WHO FCTC.
2. Government Institutions that have obligations to implement the Convention have not allocated budget to implementation of the Convention.

It is therefore recommended:

- *to add within the budget of the Ministry of Health, a dedicated budget line for implementation of the Convention and, concomitantly, formalize within its organigram the tobacco control team;*
- *that the relevant government institutions provide, in their budgets, human and financial resources to support implementation of the relevant provisions of the Convention as their responsibility towards meeting obligations of the treaty;*
- *to determine the budgets of various government institutions related to the prevention and control of tobacco use and to estimate the total Government financing of implementation of the Convention;*
- *to consider creating a specific fund for tobacco control, using a determined part of the collected tobacco tax (earmarking) or seeking other financing sources.*

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”.

As listed under Article 22, WHO, UNDP, the World Bank and the US CDC have been supporting the MOH in conducting research and building capacity for tobacco control.

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 democratic governance outcomes, and social protection and universal social services coverage outcomes.

The Belgian Cooperation Office informed the mission of the development of the new 4 year cooperation program starting in 2015 that could include support to tobacco control efforts already undertaken by the government, especially in the areas of capacity building and enforcement of the legislation at the Municipal and Regional levels.

Gap – Peru has not yet fully utilized the bilateral, regional, sub-regional and other multilateral channels available to provide funding for the development and strengthening of a multisectoral comprehensive tobacco control programme.

It is therefore recommended, in line with Article 26.3 of the Convention, to seek assistance from development partners and promote the inclusion of implementation of the Convention in bilateral and multilateral agreements and action plans developed with these agencies.

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

The MOA shared that support mechanisms for crop transformation and further commercialization through the Agricultural Productive Restructuring Act that is being finalized could include tobacco production.

Gap – No national strategy promoting economically viable alternatives to tobacco growing has yet been implemented in Peru.

It is therefore recommended to develop national and/or regional strategies promoting economically viable alternative activities to tobacco growing, with reference to form the current Agricultural Production Restructuring Act, at least as a pilot project.

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”.

Peru was successful in mobilizing financial assistance from regional and international organizations and development partners (listed under Article 22 of this report), thus meeting the obligation under Article 26.4 of the Convention.

It is encouraged that Peru further utilize the potential of Article 26.4 to advocate for moving the Convention higher up the international development agenda. It is also encouraged that ministries and relevant government institutions , , when representing Peru 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 between Monday 18 to Friday 22 November, 2013.

I. Representatives of the Ministry of Health of Peru

1. Dr. José Carlos Del Carmen Sara, Deputy Minister of Public Health
2. Dr. Danilo Pedro Medrano Céspedes, Secretary General
3. Dr. Bernardo Elvis Jara Ostos, Director General of the Directorate General of Health Promotion
4. Dr. Lao Rogger Eduardo Torres, Executive Director, Healthy Living Promotion Directorate General of Health Promotion
5. Dr. Carmen Rosa Quispe Rodriguez, Promotion of Healthy Life of the Directorate General of Health Promotion.

II. Representatives of the Pan American Health Organization / World Health Organization

1. Dr. Alfonso Tenorio, manager responsible for the Representation of the Pan American Health Organization / World Health Organization during the week of the mission in the absence of Dr. Luis Fernando Leanes, the PAHO / WHO in Peru
2. Mag . Rosa Carolina Sandoval, Regional Adviser on Tobacco Control of PAHO / WHO
3. Lic. Celeste Cambria, National Consultant of PAHO / WHO in Peru
4. Ms. Flavia Radovic, External Consultant

III. Representatives of the Secretariat of the Framework Convention for the tobacco control – FCTC

1. Mr. Vijay Trivedi, Coordinator
2. Dr. Tibor Szilagyi, Technical Officer
3. Dr. Paula Beltrán, Consultant

IV. Representative of the United Nations Program for Development

1. Dr. Maria Tallarico, Leader of HIV / AIDS Team. - UNDP Regional Centre for Latin America and the Caribbean, Panama

V. Branches of the Peruvian State that have participated in the joint needs assessment

1. Ministry of Health
 - Directorate General of Health Promotion
 - Directorate General of Health of the People
 - General Directorate of Medicines, Supplies and Drugs
 - General Environmental Health
 - General Office of Communications
 - General Office of Legal Counsel
 - Public Prosecutor of the Ministry of Health
 - Health Advocacy and Transparency
2. Ministry of Agriculture and Irrigation
3. Ministry of Education
4. Ministry of Economy and Finance

5. Ministry of the Interior
6. National Institute for the Defense of Competition and Protection of Intellectual Property
7. Ministry of Labour and Employment Promotion
8. Ministry of Foreign Trade and Tourism
9. Ministry of Foreign Affairs
10. Ministry of Justice and Human Rights
11. Ministry of Environment
12. National Commission for Development and Life without Drugs - DEVIDA
13. National Institute of Statistics and Information
14. Association of Municipalities of Peru
15. Peruvian Agency for International Cooperation

VI. Authorities of the Peruvian State, Non-Governmental Organizations and International Organizations interviewed by the Mission between Monday 18 to Friday 22 November 2013

1. Congress of Peru
 - Dr. Jaime Ricardo Delgado Zegarra, congressman
2. Presidency of the Council of Ministers
 - Dr. Marco León Felipe Barboza Tello, Secretary of the Cabinet
3. Ministry of Health :
 - Dr. José Carlos Del Carmen Sara
 - Deputy Minister of Public Health
 - Dr. Danilo Pedro Medrano Céspedes
 - Secretary General
 - Dr. Bernardo Elvis Jara Ostos
 - Director General of the Directorate General of Health Promotion
 - Dr. Eduardo Torres Rogger Lao
 - Executive Director, Healthy Living Promotion Directorate General of Health Promotion
4. Ministry of Foreign Affairs :
 - Ambassador Julio Garro Gálvez
 - Director-General for Multilateral Affairs and Global
 - Minister Augusto César Díaz DE las Casas, Director for Social Affairs
5. Ministry of Economy and Finance
 - Marco Antonio Camacho Sandoval , General Director of Revenue Policy
6. Ministry of Justice and Human Rights
 - Dr. Henry José Ávila Herrera, Deputy Minister of Human Rights and Access to Justice
7. Ministry of Education
 - Dr. Ursula León Desilu Chempén, Secretary General.
 - Mr. Jorge Ernesto Arrunátegui Gadea, Advisor to the Office of the Minister
8. Ministry of Agriculture and Irrigation
 - Ing. Augusto Nicolás Martínez Aponte, Director of the Promotion Directorate of Agricultural Competitiveness.
9. Ministry of Foreign Trade and Tourism - MINCETUR

- Ms Mary Victoria Elmore Vega, National Director of Multilateral Affairs and International Trade Negotiations
10. National Institute for the Defense of Competition and Protection of Intellectual Property - INDECOPI
 - Abelardo José Carlos Aramayo Baella, Technical Secretary of the Audit Commission Unfair Competition
 - Edwin Ramos Aldana, Technical Secretary of the Commission for Consumer Protection.
 11. National Superintendency Tax Administration - SUNAT
 - Ms. Luz Arce Larissa Ramos, Selective Manager Audit and Anti-Fraud.
 12. United Nations
 - Mr. Flavio Mirella, Acting Resident Coordinator of the United Nations
 13. World Bank
 - Ms. Karina Olivas, Country Officer for Peru
 14. Belgian Embassy
 - Ms. Annelies De Backer, Counsellor for Development Cooperation
- VI. Branches of the Peruvian State who collaborated in the review and have enriched the document:
1. Ministry of Health
 - Directorate General of Health Promotion
 - Directorate General of Health of the People
 - General Directorate of Medicines, Input and Drug
 - National Institute of Health
 - General Office of Communications
 - Department of Epidemiology
 - Health Advocacy and Transparency
 2. Ministry of Agriculture and Irrigation
 3. Ministry of Education
 4. Ministry of the Interior
 5. National Institute for the Defence of Competition and Protection of Intellectual Property
 6. Ministry of Labour and Employment Promotion
 7. Ministry of Foreign Trade and Tourism
 8. Ministry of Foreign Affairs
 9. Ministry of Justice and Human Rights
 10. Ministry of Environment
 11. National Commission for Development and Life without Drugs - DEVIDA
 12. National Institute of Statistics and Information