



F C T C

WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL

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



The WHO Framework Convention Secretariat would like to thank the Government of the Republic of the Philippines for the invitation to conduct this needs assessment mission

**Convention Secretariat
May 2018**

Table of abbreviations

ADB	Asian Development Bank
AER	Action for Economic Reform
ASH	Action on Smoking and Health
ASEAN	Association of Southeast Asian Nations
BIR	Bureau of Internal Revenue (DOF)
COP	Conference of Parties
CSC	Civil Service Commission
DepEd	Department of Education
DOA	Department of Agriculture
DOF	Department of Finance
DOH	Department of Health
DOJ	Department of Justice
DPCB	Disease Prevention and Control Bureau (DOH)
FCAP	Framework Convention Alliance-Philippines
FCTC	WHO Framework Convention on Tobacco Control
HPCS	Health Promotion and Communications Service (DOH)
GATS	Global Adult Tobacco Survey
GSHS	Global School-based Student Health Survey
GYTS	Global Youth Tobacco Survey
NCD	Noncommunicable Diseases
NGO	Nongovernmental organization
NTA	National Tobacco Administration (DOA)
NTCP	National Tobacco Control Program (DOH)
R.A.	Republic Act
SEATCA	Southeast Asia Tobacco Control Alliance
STEPS	WHO STEPwise Approach to Surveillance
UNDAF	United Nations Development Assistance Framework
UNIATF	United Nations Inter-Agency Task Force on the Prevention and Control of Noncommunicable Diseases
WHO	World Health Organization
WTO	World Trade Organization

The WHO FCTC

- The World Health Organization Framework Convention on Tobacco Control (WHO FCTC) was developed in response to the globalization of the tobacco epidemic, which has taken place since the 20th century.
- The Convention is an evidence-based treaty that reaffirms the right of all people to the highest standard of health.
- The objective of the Convention is “to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke.” The Convention asserts the importance of demand-reduction measures as well as supply-side strategies to achieved this end, and Parties are also encouraged to implement measures beyond those required by the treaty.
- The Conference of Parties (COP) is the decision-making body of the Convention. The Convention Secretariat was established as a permanent body to support the implementation of the Convention in accordance with Article 24 of the WHO FCTC.

The needs assessment exercise

- COP1 (February 2006) called upon 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 (decision FCTC/COP1 (13)).¹
- The needs assessment is an exercise undertaken jointly with a government to identify the objectives to be accomplished under the WHO FCTC, resources available to the Party concerned for implementation, and any gaps in that regard. It is based on all substantive articles of the WHO FCTC so as to establish a baseline of needs.
- Post-needs assessment assistance has been provided to the Parties that have conducted needs assessments, based on the reports and priorities identified.
- The international team composed of Dr Myrna Cabotaje, tobacco control focal point from the Philippine Department of Health, Dr Robert Totanes, WHO Headquarters, Ms Kathleen Lannan, WHO Regional Office for the Western Pacific, Dr Florante Trinidad, Office of the WHO Representative to the Philippines, and led by Dr Carmen Audera-Lopez, WHO FCTC Secretariat, conducted a needs assessment mission to the Philippines from 7-11 May 2018.

¹ See COP1/2006/CD, Decisions and ancillary documents , available at: http://apps.who.int/gb/fctc/E/E_cop1.htm.

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1. Key recommendations

At the conclusion of the joint needs assessment mission for the implementation of the WHO Framework Convention on Tobacco Control (FCTC), the international team made the following key recommendations:

- To advocate for whole-of-government and whole-of-society support for the passage of pending tobacco control legislation on the following:
 - To strengthen the Inter-Agency Committee-Tobacco (IAC-T), charged with overseeing the implementation of the Tobacco Regulation Act, in order to reinforce the committee's role in promoting health, and remove the tobacco industry representative from the committee;
 - To increase taxation of tobacco products to account for at least 75% of the retail price, in order to further decrease affordability, and maintain the uniform specific excise tax structure;
 - To implement a comprehensive ban on tobacco advertising, promotion and sponsorship, including at point-of-sale and corporate social responsibility programmes;
 - To increase the minimum age to purchase tobacco products to 21 and ban the sale of single tobacco sticks;
- To strengthen implementation by local government units of national tobacco control policies through awareness raising, advocacy, closer monitoring, development of tools, and incentives as appropriate;
- To strengthen governance mechanisms for tobacco control:
 - To institutionalize a multi-sectoral coordinating mechanism at the highest levels of government for the implementation of the FCTC, composed of different government agencies, development partners and civil society at national and regional levels;
 - To establish a national tobacco control unit, specify a full-time focal point, and enhance coordination among different bureaus or offices within the DOH, in support of the national tobacco control programme;
- For the Food and Drug Administration (FDA) to regulate the contents and emissions of tobacco products, e-cigarettes and other novel products;
- To ensure transparency and accountability in the distribution of revenues from excise taxes on tobacco products; propose amendments to the law that allocate revenues based on leaf production (see Section 8b of R.A. 10351) in order to remove incentives to produce more tobacco and promote sustainable alternatives to tobacco growing; and, to prioritize tobacco control and NCD prevention and control in the allocation of revenues from excise taxes on tobacco products;
- To encourage proactive monitoring and prosecution of violations to the Joint Memorandum Circular on Article 5.3 (tobacco industry interference) by the Civil Service Commission and the Office of the Ombudsman;
- To take concrete steps in the accession to the Protocol on Illicit Trade and require licensing for the sale of tobacco products;
- To prioritize tobacco control in the National Unified Health Research Agenda (NUHRA); including conducting pilot environmental impact assessments of selected tobacco growing areas.

2. 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 181 Parties to date. The Philippines ratified the WHO FCTC on 6 June 2005. The Convention entered into force in the Philippines on 4 September 2005.

A needs assessment exercise for implementation of the WHO FCTC was conducted jointly by the Government of the Philippines and the Convention Secretariat from 7-11 May 2018. The exercise included an initial analysis of the status, challenges and potential needs deriving from the country's most recent implementation report and other sources of information. An international team led by the Convention Secretariat which also included representatives of the UN Inter-Agency Task Force on the Prevention and Control of Noncommunicable Diseases (UNIATF), WHO Headquarters, WHO Regional Office for the Western Pacific, and Office of the WHO Representative to the Philippines, conducted the mission in the Philippines from 7-11 May 2018. The assessment involved relevant government agencies, nongovernment organizations, and other development partners in the Philippines (see Annex A).

This needs assessment report presents an article-by-article analysis of the progress the country has made in implementation the gaps that may exist, and the possible actions that can be taken to fill those gaps. The key elements that need to be put in place to enable the Philippines 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, the Philippines is obliged to implement its provisions through national laws, regulations or other measures. There is therefore a need to identify all obligations in the substantive articles of the Convention, link them with the relevant government agencies, obtain the required resources, and seek support internationally where appropriate.

Second, the Convention requires Parties to develop, implement, periodically update and review comprehensive multi-sectoral national tobacco control strategies, plans and programmes in accordance with the Convention. The Philippines has developed two national strategies for tobacco control, the latest covering the period from 2017-2022. In order to ensure its proper implementation, it is recommended that implementation by local government units (LGUs) of tobacco control policies and programmes, and, governance mechanisms for tobacco control, at national and regional levels, be strengthened.

Third, a national tobacco control focal point and a multi-sectoral coordination mechanism is necessary to fully meet the country's obligations in the Convention. It is recommended that the Philippines institutionalize a multi-sectoral coordinating mechanism, protected from tobacco industry influence, at the highest levels of government, and establish a national tobacco control unit with a full-time focal point at the DOH.

Fourth, the Government of the Philippines is committed to fully implementing the Convention and notable achievements have made in national tobacco control policies over the years (see Annex B). However, significant gaps in implementation by LGUs were noted

during the mission. These gaps have been attributed to, among others, tobacco industry interference, low awareness among local government officials of national tobacco control policies, misconceptions in the interpretation of current policies and regulations, lack of adequate resources for close monitoring, insufficient coordination among relevant government agencies, and lack of technical capacity to support enforcement. Several pieces of legislation are now pending in congress to strengthen tobacco control policies, by addressing loopholes, and introduce new regulations consistent with the Philippines' commitment to the FCTC. Whole-of-government and whole-of-society support will be necessary to strengthen implementation of tobacco control policies and advance legislative reform.

Fifth, the Philippines has yet to regulate the contents and emissions of tobacco products, e-cigarettes and other novel products. Policies and legislation to address these gaps are recommended, it is also recommended that regulation be carried out by the Food and Drug Administration (FDA) as the appropriate government agency. The Philippines is also encouraged to take concrete steps towards accession to the Protocol on Illicit Trade.

Sixth, the United Nations Development Assistance Framework (UNDAF) is the strategic programme framework jointly agreed between the Government of the Philippines and the UN system outlining priorities in national development. The current UNDAF (2012-2018) has not made reference to implementation of the WHO FCTC. The international team met the UN Resident Coordinator (UNRC) and officials of relevant government counterparts for UNDAF and brought this to their attention. It is therefore recommended that the DOH follow this up with the UNRC and relevant government agencies to ensure that support for the implementation of the Convention is included in the next UNDAF.

Seventh, addressing the issues raised in this report, including particular attention given to treaty provisions with a deadline (Articles 8, 11 and 13 and corresponding implementation guidelines) will make a substantial contribution to meeting the obligations under the WHO FCTC and improvement of the health status of Filipinos and the overall quality of life in the Philippines.

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

Ninth, WHO, UNDP, UNICEF, UNFPA, ADB and the World Bank are committed to support the Philippines, as part of their ongoing activities, in meeting the country's obligations in the Convention by addressing the gaps and needs identified in this report. Civil society organizations in the Philippines also play an important role in tobacco control and are committed to work with the Government and other development partners to implement the Convention.

Addressing the issues raised in this report will make a substantial contribution to meeting the obligations under the WHO FCTC and improving the health status and quality of life of the Filipino people. The needs identified in this report represent priority areas that require immediate attention. As the Philippines addresses these areas, the Convention Secretariat, in cooperation with WHO and other relevant international partners, is available

and committed to providing technical assistance in the above areas, facilitating the process of engaging potential partners, and identifying internationally available resources for implementation of the Convention. The Convention Secretariat is also committed to providing the following assistance upon the request of the Department of Health: (1) to provide expert technical assistance in support of pending tobacco control legislation, (2) engage in strategic advocacy to strengthen implementation of tobacco control policies and programmes by LGUs, (3) facilitate support by the UN system and other development partners, and (4) provide immediate support for any priorities that the DOH may identify in the future.

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

3. Key facts: Tobacco prevalence, exposure to tobacco smoke and tobacco-related mortality in the Philippines

ADULT TOBACCO PREVALENCE

Current tobacco users (%)	*GATS 2009	GATS 2015
Total	29.7	23.8
Male	49.5	41.9
Female	10.1	5.8
Current tobacco smokers (%)	GATS 2009	GATS 2015
Total	28.2	22.7
Male	47.6	40.3
Female	9.0	5.1
Average no. of cigarettes smoked per day (number)	GATS 2009	GATS 2015
Total	10.6	11.0
Male	11.3	11.2
Female	6.9	8.6

*The Global Adult Tobacco Survey (GATS) uses a multistage geographically clustered sample design to collect nationally representative data on Filipinos aged 15 years or older. In 2009, there were a total of 9 701 completed individual interviews, with an overall response rate of 88.4%. In 2015, there were a total of 11 644 completed individual interviews with an overall response rate of 92.1%

YOUTH TOBACCO PREVALENCE

Current tobacco users (%)	*GYTS 2011	GYTS 2015
Total	13.7	16.0
Boys aged 13-15	18.8	22.2
Girls aged 13-15	9.3	10.4
Current cigarette smokers (%)	GYTS 2011	GYTS 2015
Total	8.9	12.0
Boys aged 13-15	12.9	17.6
Girls aged 13-15	5.3	7.0
Current smokeless tobacco users (%)	GYTS 2011	GYTS 2015
Total	5.8	2.5
Boys aged 13-15	3.3	2.9
Girls aged 13-15	4.5	2.1
Percentage of students who smoked cigarettes on one or more days during the past 30 days	**GSHS 2007	GSHS 2011
Total	9.5	11.0
Boys	14.4	16.0
Girls	5.8	6.4
Percentage of students who used any tobacco products other than cigarettes on one or more days during the past 30 days	GSHS 2007	
Total	3.3	
Boys	5.8	
Girls	1.4	

*The Global Youth Tobacco Survey (GYTS) is a nationally representative school-based survey of students in grades associated with 13-15 years. In 2011, 6044 students in the Philippines participated in the survey of which 3708 were ages 13 to 15. In 2015, 8789 students in the Philippines participated in the survey of which 5885 were aged 13-15.

**The Global School Health Survey (GSHS) is a school-based survey of high school students in the Philippines. In 2007, 5657 students participated in the GSHS, 97% school response rate, 83% student response rate, and 81% overall response rate. In 2011, 5290 students participated in the GSHS, 97% school response rate, 84% student response rate, and 82% overall response rate.

EXPOSURE TO TOBACCO SMOKE

Exposure to secondhand smoke at home at least monthly (%)	GATS 2009	GATS 2015
Total	54.4	34.7
Male	58.1	39.0
Female	50.6	30.3
Exposure to secondhand smoke at work (%)	GATS 2009	GATS 2015
Total	32.6	21.5
Male	38.8	25.4
Female	26.2	16.4
Exposure to secondhand smoke in public places (%)	GATS 2009	GATS 2015
<i>Government building/offices</i>		
Total	25.5	13.6
Male	27.9	15.6
Female	23.1	11.7
<i>Healthcare facilities</i>		
Total	7.6	4.2
Male	8.0	4.9
Female	7.3	3.8
<i>Restaurants</i>		
Total	33.6	21.9
Male	38.4	26.8
Female	28.6	17.0
<i>Public Transportation</i>		
Total	55.3	37.6
Male	61.1	39.9
Female	49.7	35.5

Exposure to secondhand smoke at home (%)	GYTS 2011	GYTS 2015
Total	42.9	38.3
Boys		36.3
Girls		40.2
Percentage of students who reported people smoking in their presence on one or more days during the past 7 days	GSHS 2007	GSHS 2011
Total	45.1	50.0
Boys	48.7	54.5
Girls	42.3	46.0

TOBACCO-RELATED MORTALITY

Deaths caused by tobacco (%)	Tobacco Control Atlas 6th Ed.
Male	22.65
Female	13.25
Total NCD deaths ('000s)	2014 WHO Global Status Report on NCDs
Male	217.2
Female	166.3
Premature NCD mortality (%)	2014 WHO Global Status Report on NCDs
Male	70.3
Female	57.3

4. Introduction

The WHO FCTC is the first international treaty negotiated under the auspices of the WHO. The Philippines ratified the WHO FCTC on 6 June 2005. The Convention entered into force in the Philippines on 4 September 2005.

The Convention recognizes the need to generate global action so that all Parties 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 last February 2006, the COP called upon developed country Parties to provide technical and financial support to developing country Parties and Parties with economies in transition (decision FCTC/COP1 (13)).¹ The COP also called upon the developing country Parties and Parties with economies in transition to conduct needs assessments, in light of their total obligations related to the implementation of all provisions of the Convention, and to communicate their prioritized needs to development partners. The Convention Secretariat was further requested to assist Parties, upon request, with the conduct of needs assessments, to advise them on existing mechanisms of funding and technical assistance, and to provide information to development partners on the needs identified.

At its second session last July 2007, the COP requested the Convention Secretariat (in decision FCTC/COP2(10))² to actively seek extrabudgetary contributions specifically for the purpose of assisting Parties in need to carry out needs assessments and develop project and programme proposals for financial assistance from all available funding sources.

At its third, fourth and fifth sessions (held in November of 2008, 2010 and 2012), the COP adopted the work plans and budgets for the bienniums 2010–2011, 2012–2013 and 2014–2015, respectively. The work plans, 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, including South-South cooperation, were outlined as major components of this work.

The needs assessment is necessary to set priorities to be accomplished under the WHO FCTC, identify available resources to support the Party's implementation, and any gaps in that regard. Such assessments should be comprehensive and based on all substantive articles of the WHO FCTC with a view to establishing a baseline of needs. The needs

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

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

assessment is also expected to serve as a basis for assistance in programme and project development, particularly for lower-resource countries, as part of efforts to promote and accelerate access to relevant internationally available resources.

The needs assessments are carried out in three phases:

- (a) initial analysis of the status, challenges and potential needs deriving from the latest implementation report of the Party and other sources of information;
- (b) visit of an international team to the country for a joint review with relevant government agencies; and
- (c) follow-up with country representatives to obtain further details and clarifications, review additional materials jointly identified, and develop and finalize the needs assessment report in cooperation with the government focal point(s).

With the above objectives and process in view, a joint needs assessment mission concerning implementation of the WHO FCTC was conducted by an international team comprised of representatives of the Government of the Philippines, the Convention Secretariat, WHO, and other partners, from 7-11 May 2018 in Manila, Philippines. The detailed assessment involved relevant government agencies, nongovernment organizations, and development partners in the Philippines. The following report is based on the findings of the joint needs assessment exercise described above.

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

5. 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 implementation of each article, outlines achievements, and identifies the gaps between the requirements of the treaty and level of implementation by the Philippines. Finally, it provides recommendations on how the gaps could be addressed, with a view of supporting the country in fully 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, the Philippines does not have measures which go beyond those provided for by the Convention.

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

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

The Department of Foreign Affairs (DFA) highlighted that the Philippines actively collaborates with the international community in support of tobacco control.

As a member state of the Association of Southeast Asian Nations (ASEAN), the Philippines is committed to the ASEAN Regional Action Plan on Healthy Lifestyles which includes tobacco control among the priority areas for action. The Philippines likewise adopted the UN Sustainable Development Goals (SDGs) which also includes a specific target on the implementation of the WHO FCTC (see SDG Target 3.a).

During the mission, other government agencies raised concerns about perceived conflicts between the FCTC and agreements under the purview of the World Trade Organization (WTO). The international team clarified that there are no conflicts between the FCTC and WTO agreements.

Gap – There are perceived conflicts between the FCTC and agreements under the purview of the WTO. There is also a lack of awareness of the proactive role that all relevant government agencies need to play in the reporting process.

It is recommended that the Convention Secretariat and WHO work closely with the Government of the Philippines in clarifying any misconceptions regarding implementation of the FCTC and trade agreements under the purview of the WTO.

It is also recommended that the DFA and other relevant government agencies proactively review any agreements in their jurisdictions that may fall under the scope of Article 2.2 of the Convention. Furthermore, if such agreements have been identified, it is recommended that the Government of the Philippines communicate them to the Convention Secretariat either as part of their next WHO FCTC implementation report 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 Philippine National Tobacco Control Strategy (2011-2016) highlights the “large and active civil society network that has proven to have an important role in keeping tobacco control in the government agenda. The non-governmental (NGO) sector includes advocacy groups, faith-based organizations, academia, health professional groups, as well as local branches of international organizations.”¹ Ever since the Fifth Conference of Parties (COP) in 2012, civil society organizations have been part of the official delegation of the Philippines. During the joint needs assessment mission, the international team met with the following civil society organizations: Framework Convention Alliance-Philippines (FCAP), Action on Smoking and Health (ASH), Action for Economic Reform (AER), Health Justice, and the Southeast Asia Tobacco Control Alliance (SEATCA).

FCAP is a non-profit organization and member of the Framework Convention Alliance for Tobacco Control. The organization supported the Philippines during negotiations for the WHO FCTC and its subsequent ratification by the Philippine Senate in 2005. It has also provided support during congressional deliberations of key pieces of tobacco control legislation (e.g. graphic health warnings, tobacco tax reform) and led the development of a coalition of health professionals for tobacco control.²

¹ Philippine National Tobacco Control Strategy (2011-2016)

² Yarcia, L. & Nadate, A. (2017). The Philippine Policy Development Plan for Tobacco and Smoking: Redesigning the Department of Health Administrative Regime Towards Full WHO FCTC Compliance.

Action on Smoking and Health (ASH) highlighted the special role of NGOs during the mission. NGOs can catalyse change through political advocacy and coalition building. ASH has actively campaigned for the passage of key pieces of tobacco control policy in the Philippines, including the recently signed Executive Order No. 26 on smoke free environments. According to ASH, there are political opportunities for tobacco control under the current government in light of the Philippine President's expressed support for tobacco control.

Action for Economic Reform (AER) works mainly on fiscal policies for public health (e.g. taxation) to advance tobacco control. The NGO collaborated closely with the Department of Health (DOH) and the Department of Finance (DOF) for the passage of R.A. 10351 or the Sin Tax Law. During the joint needs assessment mission, they underscored the vital role of other government sectors (e.g. finance) in promoting and protecting public health. AER also highlighted the need for better quality data to support advocacy, and monitoring of the implementation of tobacco control policies and programmes.

Health Justice Philippines is an NGO working to bridge the gap between public health and law. Over the years it has provided technical, legal and economic research and analysis to support the passage of various tobacco control policies, monitor tobacco industry interference, institute tobacco tax and illicit trade policy reform, and enforce tobacco control measures by different government agencies.

The Southeast Asia Tobacco Control Alliance (SEATCA) is a multi-sectoral alliance established to support ASEAN countries in developing and putting in place effective tobacco control policies. In the Philippines, SEATCA has advocated for tobacco control through research, evidence, and by providing a platform for government and other partners to develop common action plans. During the mission, SEATCA emphasized adopting a whole-of-government response to tobacco control.

Tobacco industry interference, policy incoherence and competing government priorities were identified as perennial threats to tobacco control in the Philippines by the civil society organizations. Research funding, capacity building, and improved access to local data were identified as particular needs to support their activities.

Gap – Tobacco industry interference impedes the work of civil society organizations. Lack of access to good quality data, and limited funding for research, also hinders their capacity to analyse trends and monitor the implementation of existing tobacco control policies and programmes.

It is therefore recommended that the government take active steps in protecting civil society organizations from tobacco industry interference, facilitate access to relevant data, and allocate more resources for tobacco control research.

Furthermore, it is recommended that government maximize the potential of digital health technology in overcoming gaps and access to local data and information. This is

<https://www.researchgate.net/publication/320736118> The Philippine Policy Development Plan for Tobacco and Smoking Redesigning the Department of Health Administrative Regime Towards Full WHO FCTC Compliance

especially relevant for the Philippines considering the relatively high levels of market penetration of mobile technology.

General obligations (Article 5)

Article 5.1 calls upon Parties to “develop, implement, periodically update and review comprehensive multi-sectoral national tobacco control strategies, plans and programmes in accordance with this Convention”.

The Philippines has developed two National Tobacco Control Strategies covering the periods 2011-2016 and 2017-2022. Building on the experience gained from the first national strategy, the current strategy has set the following targets: 1) the reduction of adult tobacco use to 18%, up to a maximum of 15%, by 2022, and 2) the reduction of exposure to secondhand smoke to 15%. Furthermore, the strategy has identified nine priority areas for tobacco control in the Philippines, namely:

1. Protecting public health policies from tobacco industry interference;
2. Eliminating remaining tobacco advertising, promotion and sponsorship;
3. Reducing affordability and accessibility of tobacco products;
4. Implementing stronger measures to protect the public from exposure to tobacco smoke;
5. Strengthening surveillance and data;
6. Institutionalizing the tobacco control program;
7. Levelling up the DOH Red Orchid Award;
8. Strengthening mass media campaigns and other communication strategies to sustain public awareness; and,
9. Regulating tobacco products and strengthening cessation of tobacco use and management of tobacco dependence.

Under the present administration, the Philippine Health Agenda (2016-2022) includes the implementation of the FCTC under the National Objectives for Health 2022.¹ The Philippine Health agenda is comprised of four pillars that will help the country advance towards the vision of Healthy Philippines 2022:

- **Health financing:** consolidate funds to the most appropriate payer;
- **Health regulation:** shift to a regulatory regime that reinforces equity and embraces innovation;
- **Health service delivery:** create demand for a holistic clinical experience; and,
- **Good governance for health:** foster a culture of learning and shared accountability.

These four pillars are underpinned by measures to support performance accountability such as the LGU scorecard and the DOH’s annual Red Orchid Awards.

¹ WHO (2017). Philippines-WHO Country Cooperation Strategy (2017-2022)
<http://iris.wpro.who.int/bitstream/handle/10665.1/13584/WPRO-2017-DPM-003-eng.pdf>

More broadly, the Philippines has demonstrated its commitment to the 2030 Agenda for Sustainable Development by integrating the Sustainable Development Goals (SDGs) into its long-term vision and goals for national development under the banner “Ambisyon Natin 2040” (Our Ambition 2040). The plan envisions a healthy society with a life expectancy of at least 80 years by 2040.¹

Furthermore, the Philippines-WHO Country Cooperation Strategy (2017-2022) calls for action to accelerate the introduction of tobacco-free societies by supporting the full implementation of the FCTC. This falls under Strategic Priority 2 on “Promoting well-being: Empowering people to lead healthy lives and enjoy responsive health services.”

The Philippines has met the obligation under Article 5.1 of the Convention. It is recommended that the Philippines, together with all relevant stakeholders, support implementation of the different priorities under the tobacco control strategic plan. It is also recommended that the Philippines include the need to fully implement the WHO FCTC in its national development and health strategic plans.

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

The Tobacco Regulation Act of 2003 established the Inter-Agency Committee-Tobacco (IAC-T) and vested the committee with “exclusive power and function to administer and implement [its] provisions.”² Comprising the IAC-T are the Department of Trade and Industry (DTI) and Department of Health (DOH), as Chair and Vice-Chair respectively, and the Department of Agriculture (DOA), Department of Education (DepEd), Department of Environment and Natural Resources (DENR), Department of Justice (DOJ), Department of Science and Technology (DOST), National Tobacco Administration (NTA), a representative from the tobacco industry (nominated by recognized industry associations), and a representative of an NGO (nominated by the DOH in consultation with other NGOs) as members.

Within the Department of Health, the National Tobacco Control Program (NTCB) is under the Disease Prevention and Control Bureau (DPCB). Through Department Order # 2015-0270 dated 14 December 2015, the NTCB subsumed all functions formerly designated to the National Tobacco Control Coordinating Office (NTCCO) under the Health Promotion and Communications Service (HPCS). This includes establishing a comprehensive national tobacco control programme using a risk factor reduction approach for the prevention and control of tobacco use and its complications; upholding the principles of the WHO FCTC and all Philippine laws on tobacco use; coordinating with the IAC-T; and, coordinating with the different DOH bureaus/offices with regards to tobacco control.

At the subnational level, Local Government Units (LGUs) may assign or deputize a specific task force to enforce local ordinances on tobacco control. The composition of the task force differs for each LGU, and may include, but is not limited to, city/municipal departments such as the City/Municipal Health Office or City/Municipal Environment and Natural

¹ Republic of the Philippines (2017). Ambisyon Natin 2040 <http://2040.neda.gov.ph/about-ambisyon-natin-2040/>

² Republic of the Philippines (2003). Republic Act 9211 Tobacco Regulation Act http://www.wipo.int/wipolex/en/text.jsp?file_id=224833#LinkTarget_37

Resources Office, local police force, sanitary inspectors or traffic enforcers. Local tobacco control councils may be created to serve as the implementation arm of the LGU.

Gap – The DTI elects to have a “balanced” trade policy which often supports the tobacco industry, over the greater public interest of tobacco control policies. Furthermore, the inclusion of a representative from the tobacco industry itself further undermines the committee’s role in protecting and promoting public health.

Within the DOH there is no full-time focal point for tobacco control. Human resources are shared across different areas of work limiting the DOH’s capacity to effectively coordinate and monitor the various tobacco control policies and activities.

Owing to the devolved set-up of the Philippine health system, LGUs also have considerable autonomy from the national government. This has led to gaps in implementation of tobacco control policies at the local level due to low awareness or misinterpretation of national policies among local government officials, lack of local political will, and limited technical capacity, among other factors.

Proof of harm caused by tobacco is incontrovertible. It is therefore recommended that the role of the IAC-T to promote health be reinforced, and the representative of the tobacco industry be removed from the committee, consistent with the Philippines’ obligations to the FCTC. In view of the DTI’s “balanced” trade policy, it is recommended that the balance be shifted towards achieving “healthy lives for all” as espoused in the Philippines’ long-term development vision “Ambisyon Natin 2040”.

It is also noted that the DFA, an agency necessary for compliance with international obligations, is not a member of the IAC-T. It is recommended that the present composition of the IAC-T be reviewed and an ad-hoc interagency committee, specific to the FCTC, be created if needed.

In order to strengthen implementation by LGUs of national tobacco control policies, a multi-sectoral coordinating mechanism at the highest levels government must be institutionalized. Furthermore, it is recommended that a national tobacco control unit, with a full-time focal point, be established within the DOH. The DOH is encouraged to take a stronger position with respect to national obligations to the FCTC.

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.”

R.A. 9211, or the Tobacco Regulation Act of 2003, regulates the packaging, use, sale, distribution and advertisements of tobacco products in the Philippines. The law states that the official policy of the Philippines is to protect the populace from hazardous products and promote the right to health and instil health consciousness among them. It is also the policy of the Philippines, consistent with the Constitutional ideal to promote general welfare, to safeguard the interests of the tobacco workers and other stakeholders.

R.A. 9211 has 41 different sections covering different provisions, including provisions pertaining to promoting a healthful environment (Sections 5, 6), access restrictions (Sections 7-12), and, advertising and promotions (Sections 13-28). R.A. 9211 also established the IAC-T which includes a representative from the tobacco industry.

R.A. 10351, or the Sin Tax Law of 2012, restructured the excise taxes on alcohol and tobacco products through amendments to relevant sections of the National Internal Revenue Code of 1997. It reduced the categories of machine packed cigarettes based on their retail prices and tax rates to two and applied a uniform tax treatment of PHP30 per pack beginning in 2017.

R.A. 10643 or the Graphic Health Warning Law of 2014 was passed to: a) have graphic health warnings that effectively warn of the devastating effects of tobacco use and exposure to secondhand smoke, b) remove misleading or deceptive numbers or descriptors like “low tar”, “light”, “ultra-light” or “mild” which convey, or tend to convey, that a product or variant is healthier, less harmful or safer; and, c) to further promote the right to health and information of the people.

Executive Order No. 26 by the President of the Republic of the Philippines provides for the establishment of smoke-free environments in public and enclosed places. The order has 13 different sections covering different provisions, including provisions pertaining to prohibitions to smoking, and the sale, distribution and advertising of tobacco products (Section 3), standards for designated smoking areas (Section 4), duties and obligations of persons-in-charge (Section 5), and a smoking cessation programme (Section 8).

Further details are also included in the sections on the relevant Articles below.¹

Despite the presence of several national laws and policies for tobacco control, significant gaps in implementation at the local level have been observed. At the same time, misconceptions regarding the relationship between newer laws vis-à-vis older laws that provided protections and incentives for the tobacco industry continue to persist.

Gaps – As mentioned in the previous section, the current composition of the IAC-T is problematic owing to the inclusion of a representative from the tobacco industry in its official membership. Bans on tobacco advertising, promotion and sponsorship do not include point-of-sale advertising and corporate social responsibility programmes. Taxation of tobacco products does not account for at least 75% of the retail price. Allocation of tax revenue is also tied to tobacco leaf production which has perversely incentivized the increased production of tobacco. Finally, e-cigarettes and other novel products are currently unregulated.

It is therefore recommended that tobacco control policies be amended to: (1) reinforce the IAC-T’s role in promoting health and remove the tobacco industry representative from its membership; (2) increase taxation of tobacco products to account for at least 75% of the retail price, while maintaining the uniform specific excise tax structure; (3) implement a comprehensive ban on tobacco advertising, promotion and sponsorship, including at point-of-sale and corporate social responsibility programmes; and, (4) remove provisions that allocate tobacco excise tax revenue based on tobacco leaf

¹ Articles 8, 9, 10, 11, 13, and 15.

production.

It is further recommended that new laws or policies be introduced to regulate e-cigarettes and other novel products, increase the minimum age to purchase tobacco products to 21, and ban the sale of single tobacco sticks.

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

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

In 2010, the DOH and the Civil Service Commission (CSC) issued the Joint Memorandum Circular No. 1 of 2010 which provides a code of conduct for all government officials in relation to the tobacco industry. The policy covers “all government officials and employees, regardless of status, in the national or local government, including government-owned and controlled corporations, with original charters, state colleges and universities.”¹

Prohibitions under the policy include the following: (1) unnecessary interaction with the tobacco industry, (2) preferential treatment of the tobacco industry, (3) accepting gifts, donations and sponsorships, (4) financial interest in the tobacco industry, (5) accepting other favours analogous to those mentioned above, (6) conflict of interest with the tobacco industry, and (7) engaging in an occupational activity within the tobacco industry.

Despite these prohibitions, examples of direct interaction between the tobacco industry and government, at all levels, have been observed at all levels of government.² Attempts by the tobacco industry to participate in government hearings and meetings on tobacco control, sponsorship of community activities, and donations to public agencies were reported during the joint needs assessment mission.

Gaps – The inclusion of the tobacco industry in the official membership of the IAC-T undermines its credibility and independence from tobacco industry interference. While the Joint Memorandum Circular between the DOH and the CSC is laudable, monitoring of compliance with the prohibitions is passive and violations are likely underreported. Tobacco industry programmes and activities under the guise of corporate social responsibility persist.

It is therefore recommended that the Philippines raise awareness of the Joint Memorandum Circular of the DOH and CSC among all government agencies and public officials, and establish a proactive compliance monitoring system. It is also recommended that the Philippines include obligations and recommendations under Article 5.3 in future tobacco control legislation. Members of the legislative and judicial

¹ Republic of the Philippines (2010), Civil Service Commission and Department of Health Joint Memorandum Circular No. 2010-01 <https://www.tobaccocontrollaws.org/files/live/Philippines/Philippines%20-%20JMC%202010-01%20-%20national.pdf>

² Wood, L. (2016), Changing Perception: The Philippines’ Efforts for a Tobacco Industry Interference Free Bureaucracy <http://www.csc.gov.ph/phocadownload/userupload/hrsympo/CHANGING%20PERCEPTION-Dr.Lisa%20Wood.pdf>

branches of the Philippine government are also encouraged to adopt a code-of-conduct with respect to the tobacco industry. The Tobacco Regulation Act should be amended to remove the tobacco industry from the IAC-T and protect any future legislation from tobacco industry interference.

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.”

The Philippines has participated in the working groups on Articles 5.3 and 11 established by the COP and hosted the first meeting of the working group on Article 11 on 7-9 November 2007 as one of the key facilitators. The Philippines participated in all five sessions of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products; and attended all six sessions of the COP. It has therefore met the obligation under Article 5.4. Further cooperation and participation in intergovernmental processes in this regard will be highly appreciated.

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

The Philippines-WHO Country Cooperation Strategy (2017-2022) calls for action to accelerate the introduction of tobacco-free societies by supporting the full implementation of the FCTC. In the WHO Western Pacific Region, where the Philippines is a member state, a Regional Action Plan for the Prevention and Control of Noncommunicable Diseases (2014-2020) and a Regional Action Plan for the Tobacco Free Initiative (2015-2019) have been endorsed by the Regional Committee.

As a member of the Association of Southeast Asian Nations (ASEAN), the Philippines is committed to its Regional Action Plan on Healthy ASEAN Lifestyles. The vision of the action plan is for all ASEAN citizens to lead healthy lifestyles consistent with their values, beliefs and culture in supportive environments by 2020. Tobacco control is among the priority areas of the action plan.

The current UN Development Assistance Framework (2012-2018) makes no reference to tobacco control. As of this writing, the new UNDAF is still under development and members of the mission met the UN Resident Coordinator (UNRC) on 7 May 2018. Further details on international cooperation are given under Article 22.

The Philippines has met its obligations under Article 5.5 of the Convention, and is encouraged to continue to do so.

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.”

The Philippines has sought and received funding from bilateral and international agencies and organizations including WHO, the International Union Against Tuberculosis and Lung Disease (The Union), and Bloomberg Philanthropies. Further opportunities for expanded support of tobacco control measures and implementation of the Convention are encouraged. This is in line with the Philippine's obligations under Article 5.6. However, further funding is needed to strengthen implementation by LGUs, support local tobacco control research, monitor compliance with tobacco control policies and regulations, and develop new tools and resources.

The Philippines has met its obligations under Article 5.6 of the Convention.

Price and tax measures (Article 6)

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

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

Taxation of Tobacco Products

In recent years, there have been significant changes in the tax structure and rates levied by the Philippines on tobacco products. In 2012, Republic Act 10351, otherwise known as the “Sin Tax Law”, restructured excise taxes on tobacco and alcohol products. Initially, the reform more than quadrupled excise tax rates for the cheapest cigarettes, from PHP2.72 to PHP12.00 per pack in 2013, for the lowest tier of cigarettes and gradually instituted a uniform specific excise of PHP30.00 for all cigarette products by 2017.

The Philippines' latest tax reform package, the Tax Reform for Acceleration and Inclusion Law (TRAIN) raised excise taxes on cigarettes to the current rate of PHP32.50 per pack and is scheduled to increase to PHP35.00 starting 1 July 2018. This will be increased further to PHP37.50 from 1 January 2020 to 31 December 2021, to P40 from 1 January 2022 to 31 December 2023, and increased by 4% from 1 January 2024 and every year thereafter.

Other tobacco products are taxed in a slightly different manner. According to the latest published tax rates in 2017, cigars are levied an ad valorem tax rate of 20% based on the net retail price (NRP) and a specific tax rate of PHP5.85. For tobacco twisted by hand, tobacco partially prepared with the use of any machine, and fine-cut shorts (including refuse, scraps, clippings, cuttings, stems, midribs and sweepings of tobacco) a specific tax

rate of PHP2.05 per kg is levied. Chewing tobacco is levied a specific tax rate of PHP1.75 per kg.¹

Prices of Tobacco Products

Data from the WHO Report on the Global Tobacco Epidemic shows that the retail price of the cheapest and most sold brand in the Philippines was at PHP40.50 (USD 0.85) per pack in 2016. Of this amount, 63% are taxes (specific excise and VAT). However, a significant challenge that remains is the single-stick sale of cigarettes, which is widely accessible and makes these products very affordable particularly to the youth and poor. A spot retail survey in Metro Manila during the needs assessment mission found cigarettes being sold on the streets at PHP5.00 to PHP6.00 per stick.

Government revenue for tobacco taxes and expenditure on tobacco control

In 2013, incremental revenues due to the Sin Tax Law amounted to PHP 51.1 billion, increasing to PHP 67.1 billion in 2016, significantly increasing the budget of the Department of Health. Republic Act 10351 mandates allocating 85% of incremental revenue from tobacco and alcohol excise taxes to support health programmes while 15% is allocated for the local government units of tobacco-growing regions. Specific to the health portion, 80% of this amount is allocated for the National Health Insurance Program to subsidize health insurance premiums, while the remaining 20% is allocated for medical assistance and health facility enhancement programmes.

Cigarette production and tobacco importation

The Philippines produced 121.4 billion cigarette sticks in 2010, which has since decreased to 95.5 billion sticks in 2014.² The total value of tobacco exports in 2016 amounted to USD 167.6 million, of which manufactured cigarettes accounted for USD 89.3 million. Meanwhile, the total trade value of tobacco imports amounted to 233.1 million USD.³ There are no official estimates of illicit trade in the country; however, Euromonitor estimates that 11% of retail sales of cigarettes was from illicit trade in 2016.⁴

Gaps – The taxation of tobacco products can be increased further to account for at least 75% of the retail price. Allocation of tobacco excise tax revenue is based on tobacco leaf production which has perversely incentivized increased cultivation of tobacco. At the national level, there is a lack of clarity on the exact distribution of tax revenue and monitoring is difficult due to the inaccessibility and/or unavailability of data.

It is therefore recommended that the Government increase taxation and duty for tobacco and tobacco products to account for at least 75% of the retail price, whilst maintaining the uniform specific excise tax structure. Tax rates must be increased on a regular basis to take in to account both increases in consumer prices and household incomes (to

¹ Bureau of Internal Revenue: <https://www.bir.gov.ph/index.php/tax-information/withholding-tax/10-tax-information.html>

² Food and Agriculture Organization FAOSTAT (2017): <http://www.fao.org/faostat/en/>

³ UN International Trade Statistics Comtrade (2017): <https://comtrade.un.org/>

⁴ Euromonitor International: <http://www.euromonitor.com/home>

decrease the affordability of tobacco products). Tobacco products other than cigarettes should be taxed in a comparable way to limit substitution among products. Furthermore, it is recommended that the same level of customs duty be applied to all tobacco products.

It is also recommended that allocations of tax revenue based on tobacco leaf production be revised in order to remove incentives to produce more tobacco and support the shift towards sustainable alternatives to tobacco growing. Allocation of revenue from tobacco excise taxes must be prioritized in favour of tobacco control and NCD prevention and control.

Enhanced cooperation among relevant government agencies, e.g. DOH, DOF and the Department of Budget and Management (DBM), is further recommended to monitor the distribution and utilization of revenue from tobacco excise taxes.

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

Article 6.2(b) requires Parties to prohibit or restrict, "as appropriate, sales to and/or importations by international travellers of tax- and duty-free tobacco products".

In the Philippines, customs allowances for tobacco are up to 400 cigarettes, 250 grams of tobacco or 50 cigars for passengers 18 years of age and over.

The Philippines has met the requirements of the Convention in relation to Article 6.2(b). However, it is recommended that consideration be given to further prohibiting or restricting, as appropriate, duty-free allowances of tobacco products by international travellers.

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 Philippines has enacted legislation that protects from exposure to tobacco smoke in places required by Article 8.2. R.A. 8749, or the Philippine Clean Air Act of 1999, prohibits smoking inside enclosed public places, including public vehicles and other means of transport, and other enclosed areas, and directs LGUs to implement these prohibitions.

Furthermore, R.A. 9211, or the Tobacco Regulation Act of 2003, absolutely prohibits smoking in the following public places: centres of youth activity (e.g. playschools, preparatory schools, elementary schools, high schools, colleges and universities, youth

hostels) and recreational facilities for persons under 18 years old; elevators and stairwells; locations in which fire hazards are present (e.g. gas stations and storage areas for flammable liquids, gas, explosives or combustible materials); within the buildings and premises of public and private hospitals, medical, dental, and optical clinics, health centres, nursing homes, dispensaries and laboratories; public conveyances and public facilities (e.g. airport and ship terminals and train and bus stations), restaurants and conference halls (except for separate smoking areas); and food preparation areas.

However, the 2015 Global Youth Tobacco Survey (GYTS) in the Philippines indicated that 50.4% of boys and 57.7% of girls have been exposed to tobacco smoke inside enclosed public places, and 62.2% of boys and 69.7% of girls have been exposed to tobacco smoke at outdoor public places. The 2015 Global Adult Tobacco Survey (GATS) in the Philippines also found exposure to secondhand smoke for men and women at 34.7% at home, 21.5% at work, 37.6% in public transportation, and 13.6% in government buildings/offices.

Findings from these surveys indicate that much work remains to be done in implementing Article 8 and its guidelines.

In 2017, the President of the Philippines signed Executive Order (E.O.) No. 26 providing for the establishment of smoke-free environments in public and enclosed places. E.O. 26 prohibits the following: smoking within enclosed public places and public conveyances, whether stationary or in motion, except in designated smoking areas (DSAs); for persons-in-charge to allow, abet or tolerate smoking in places just described; for a minor to smoke, sell or buy cigarettes or any other tobacco products; and, ordering, instructing or compelling a minor to use, light up, buy, sell, distribute, deliver, advertise or promote tobacco products.

Prohibitions on indoor spaces, including workplaces, commercial establishments (e.g. shopping malls, pubs/bars, restaurants, nightclubs) are partial as they are highly dependent on individual company policies and programs.

At the sub-national level, there is an increasing number of LGUs with local ordinances on 100% smoke-free environments. The DOH's Red Orchid Awards provide incentives for the enactment of local ordinances consistent with FCTC provisions.

Gaps – As with other national tobacco control policies, gaps in enforcement at local level have been observed.

It is recommended that the Philippines further raise awareness about the harm from exposure to tobacco smoke and put in place measures to ensure that current policies are enforced.

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

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

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

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 government authorities information about the contents and emissions of tobacco products. Each Party shall further adopt and implement effective measures for public disclosure of information about the toxic constituents of the tobacco products and the emissions that they may produce”.

The partial guidelines for the implementation of Articles 9 and 10 recommend a range of measures in relation to Article 9, including that Parties should prohibit or restrict ingredients that may be used to increase palatability in tobacco products, that have colouring properties, that may cause tobacco products to be perceived as having health benefits, and that are associated with energy and viability such as stimulant compounds.

The Philippines has not utilized these guidelines and it does not have regulations on the contents and emissions of tobacco products, including their testing and measuring. Furthermore, the Philippines does not require disclosure to Government authorities or the public of the contents, and emissions of tobacco products from manufacturers or importers.

Gaps – The partial guidelines for the implementation of Articles 9 and 10 adopted by the COP have not been used in the development of national regulations and standards concerning contents, emissions and disclosures of tobacco products, including the banning of additives as a strong public health measure. There are no national standards on tobacco products. There are no measures for public disclosure of information about the toxic constituents of tobacco products and the emissions that they may produce. The competent authority does not have exclusive laboratory facilities for the testing of tobacco products.

It is recommended that the Convention Secretariat and WHO work closely together with the Philippines in developing national standards in accordance with the guidelines for the implementation of Articles 9 and 10 adopted by the COP. Relevant legislation and regulations should be developed that include testing and measurement of the contents and emissions of tobacco products in order to implement the guidelines on Articles 9 and 10. It is also recommended that the Convention Secretariat, WHO and the Philippines assess the arrangements for testing, either by developing the Philippines’ own testing capacity or utilizing capable laboratories in the region through bilateral arrangements. The tobacco industry should bear all the costs of such testing requirements.

It is also recommended that the Philippines take action to ensure that the tobacco industry is required to disclose to Government authorities the contents and emissions of tobacco products. It is also recommended that the Philippines enforce the requirement to submit reports and enable public access to information submitted by the tobacco industry.

The Convention Secretariat affirmed its commitment to facilitate exchanges of expertise and experiences from other Parties on regulation of tobacco products.

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 measure*” on packaging and labelling of tobacco products.

This is one of the articles of the Convention that contains a deadline for implementation of specific measures. The three-year deadline for the Philippines was 4 September 2008.

Section 13 of R.A. 9211 (Tobacco Regulation Act) and R.A. 10643 (Graphic Health Warning Law) refer to measures covered by Article 11 of the treaty.¹

R.A. 10643 requires graphic health warnings be printed on 50% percent of the principal display surfaces of any tobacco package; and that it shall occupy 50% of the front and 50% of the back panel of the packaging. The law also requires that nothing is printed or applied on a location where it is likely to obscure or cover, in part or in whole, the graphic health warning or the location where the internal revenue strip stamp is to be affixed.

A maximum of 12 templates of graphic health warnings shall be printed simultaneously and these shall be rotated periodically for each brand family and also for each variant, so that every 24 months, the variations of the warnings shall appear in the market with approximately equal frequency and equal display of health warnings on retail packages. The accompanying text warning shall be printed in Filipino (front panel) and English (back panel) and shall use no more than 20% of the entire area of the graphic health warning in clear and legible type and in contrast by typography, layout and colour, without the use of any border, frame or any other design that will effectively lessen the size of the textual warning.

As of 4 March 2016, all tobacco product manufacturers were required to adopt graphic health warning templates in the packaging and labelling of their tobacco products. As of November 2016, all retail stores were required to display tobacco products with graphic health warnings.

Table 1. Comparison of the treaty requirements and level of compliance with these requirements in the Philippines, concerning measures under Article 11.

Paragraph in Art. 11	Content	Level of compliance	Comments and identified gaps
1(a)	tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading,	OBLIGATION MET	

¹ The guidelines for implementation of Article 11 of the Convention provide guidance to Parties in implementing the requirements under Article 11. See http://www.who.int/fctc/protocol/guidelines/adopted/article_11/

	deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, including any term, descriptor, trademark, figurative or any other sign that directly or indirectly creates the false impression that a particular tobacco product is less harmful than other tobacco products. These may include terms such as “low tar”, “light”, “ultra-light”, or “mild”.		
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	
1(b)(i)	[The warning] shall be approved by the competent national authority.	OBLIGATION MET	
1(b)(ii)	[The warnings] shall be rotating.	OBLIGATION MET	
1(b)(iii)	[The warning] shall be large, clear, visible and legible.	OBLIGATION MET	
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	
1(b)(v)	[The warning] may be in the form of or include pictures or pictograms	OBLIGATION MET	
2	Each unit packet and package of tobacco products and any outside packaging and labelling of such products shall, in addition to the warnings specified in paragraph 1(b) of this Article, contain information on relevant constituents and emissions of tobacco products as defined by national authorities.	NOT IMPLEMENTED	
3	Each Party shall require that the warnings and other textual information specified in paragraphs 1(b) and paragraph 2 of this Article will appear on each unit packet and package of tobacco products and any outside packaging and labelling of such products in its principal	PARTIAL COMPLIANCE	No regulations requiring the display of information on relevant constituents and emissions of tobacco products as defined by national authorities.

	language or languages.		
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The Philippines complies with the majority of time bound requirements of Article 11 of the Convention. However, information referring to relevant constituents and emissions of tobacco products are not included in the health warnings.

Gaps - There is no regulation concerning information on the constituents and emissions of tobacco products on the packaging and labelling.

It is therefore recommended that the Convention Secretariat and WHO, together with relevant ministries from the Philippines, introduce guidelines on presenting information on the constituents and emissions of tobacco products on the packaging and labelling of tobacco products. It is further recommended that contact information of the national quit line is included on the packaging.

It is also recommended that the Philippines strengthen pretesting and evaluation of graphic health warnings to improve their effectiveness. The Government of the Philippines is also strongly recommended to introduce plain packaging in order to prohibit the use of logos, colours, brand images or promotional information on packaging other than brand names and product names displayed in a standard colour and style. Adopting such measures will greatly contribute to the implementation of the Convention in the Philippines.

In support of the Government's efforts to implement Article 11 and the guidelines for its implementation, the Convention Secretariat is committed to facilitating provision of expertise and technical support upon request from the Government.

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 to all concerned professionals and persons and public access to information on the tobacco industry.

Sections 33 and 34 of R.A. 9211 refer to provisions relevant to Article 12. Section 33 mandates a National Tobacco-Free Public Education Program and Section 34 calls on the DOH to cooperate with the Department of Education (DepEd) and the Philippine Information Agency (PIA) to undertake a continuous information program on the harmful effects of smoking.

Within the DOH, the HPCS is mandated to spearhead promotional, advocacy and information campaigns as required by the NTCP. Target audiences of these campaigns

have included: adults (men and women), children and young people (boys and girls), and pregnant women. Campaigns and materials were designed to appeal to certain differences among target audiences such as age, gender, educational background, cultural background and socioeconomic status. Materials routinely undergo pre-testing, monitoring and evaluation.

Special training or sensitization and awareness programmes on tobacco control are also carried out for health workers, community workers, social workers, media professionals, educators, decision-makers, administrators and the legal community. These programmes aim to raise awareness of health risks associated with tobacco consumption and exposure to tobacco smoke. However, it does not include promotion of the benefits of cessation and tobacco-free lifestyles and the adverse economic and environmental consequences of tobacco production and consumption.

Information, education and communication materials are produced for both traditional and digital media. Regional tobacco control networks also develop materials adopted to local dialects and context.

The DOH bestows Red Orchid Awards to recognize outstanding achievement in implementing 100% tobacco-free environments. Hall of Fame Awards are given to LGUs that are bestowed the Red Orchid Award for three consecutive years. These awards have supported the implementation of tobacco control policies by providing incentives to LGUs.

The Philippines regularly celebrates WHO's World No Tobacco Day on 31 May and a No Smoking Month in June.

Gaps – A systematic evaluation of the effectiveness of various education, communication and training activities is not regularly carried out. There is no accompanying communication strategy to support demand for available services such as the quit line. Free air time to broadcast tobacco control campaign messages is not available.

It is therefore recommended that communication materials are pretested, rigorously researched, and evaluated in order to achieve maximum impact and better outcomes. International cooperation may be useful to ensure that rigorous, systematic and objective methods are used in designing and implementing these programmes. It is further recommended that the Convention Secretariat and WHO work closely with other stakeholders to ensure greater synergy among different media campaigns in order to increase their overall effectiveness. Notably, increasing awareness of national tobacco control laws and policies among the public and local government officials will contribute to stronger implementation and stricter compliance with tobacco control policies. Communication activities should also support demand for available services such as the recently launched quit line and mCessation programmes.

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”.

The Philippines does not have a comprehensive ban on all tobacco advertising, promotion and sponsorship.

Sections 15 to 21 of R.A. 9211 (Tobacco Regulation Act) specifies restrictions on tobacco advertising on print media, outdoor advertising, advertising in cinemas, television and radio advertising, advertising in audio, video and computer cassettes/discs and similar medium, and advertising on the internet and similar medium.

As of 1 January 2007, Section 22 of R.A. 9211 (Tobacco Regulation Act) banned tobacco advertising on television, cable television and radio channels. As of 1 July 2007, this ban included all forms of tobacco advertising in cinemas and outdoor advertising, and as of 1 July 2008 the ban extended to all forms of tobacco advertising in mass media. No leaflets, posters and similar advertising materials may be posted, except inside the premises of point-of-sale establishments.

Sections 23 and 25 of R.A. 9211 (Tobacco Regulation Act) specify restrictions on tobacco promotions and sponsorships. As of 1 July 2008, Section 28 of R.A. 9211 (Tobacco Regulation Act) prohibited cigarette and tobacco companies from sponsoring any sport, concert, cultural or art event, as well as individual and team athletes, artists or performers where such sponsorship shall require or involve advertisement or promotion of any cigarette or tobacco company, tobacco product or tobacco use.

Section 27 of R.A. 9211 (Tobacco Regulation Act) prohibits the distribution of samples of tobacco products to persons below 18 years old.

The Philippine Constitution does not preclude a comprehensive ban on tobacco advertising, promotion and sponsorship (TAPS). In 2015, the DOH conducted a monitoring of TAPS in 16 selected municipalities and cities. Results of the monitoring indicated that TAPS was rampant in points-of-sale and other localities (e.g. variety stores, restaurants) that advertise tobacco products through the use of posters and other marketing materials. Tobacco companies also regularly conduct product sampling during sponsored events in bars and other establishments.

Gaps – The current ban does not include point-of-sale and corporate social responsibility programmes. Youth exposure to tobacco advertisement remains high with 5 out of 10 students noticing tobacco advertising or promotions when visiting point-of-sale establishments.¹ Implementation and monitoring at local level is challenging due to limited resources and low awareness among LGUs.

It is therefore recommended that the Philippines enact a comprehensive ban on tobacco advertising, promotion and sponsorship, including at point-of-sale and corporate social responsibility programmes. It is also recommended that awareness and understanding of the general public and local government officials, regarding the need to eliminate tobacco advertising, promotion and sponsorship, be further increased to support monitoring and implementation. Routine monitoring of compliance to existing bans in all forms of media is also recommended to support implementation.

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

Currently the Philippines has not implemented any measures beyond the obligations set out in paragraph 4.

Article 13.7 reaffirms Parties’ “sovereign right to ban those forms of cross-border tobacco advertising, promotion and sponsorship entering their territory and to impose equal penalties as those applicable to domestic advertising, promotion and sponsorship originating from their territory in accordance with their national law”.

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

It is therefore recommended that the Philippines revise its policies to ensure a complete ban on tobacco advertising, promotion and sponsorship, including a ban on point-of-sale tobacco displays, internet tobacco sales, contributions from the tobacco industry and importers in the form of “socially responsible” activities, and a ban on cross-border tobacco advertising, promotion and sponsorship entering into and originating from its territory. The Philippines is strongly encouraged to implement the Article 13 guidelines to support a comprehensive ban on tobacco advertising, sponsorship and promotion.

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

¹ https://www.doh.gov.ph/sites/default/files/publications/2015GYTSFinalFactSheet_1.pdf

measures to promote cessation of tobacco use and adequate treatment for tobacco dependence”.

In 2014, the Philippine College of Chest Physicians published clinical practice guidelines for the diagnosis and treatment of tobacco use and dependence. The guidelines were developed as a resource and guide for all health professionals to: screen tobacco users, identify those with tobacco dependence, and deliver evidence-based tobacco smoking cessation treatments for patients and specific population groups who use tobacco.

Nicotine Replacement Therapy (NRT) has been included in the Philippine National Drug Formulary (PNDF) 8th edition, 2017

It is therefore recommended that in order to maximize the impact of its national clinical practice guidelines, awareness raising, and other educational activities are recommended.

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.

DOH Administrative Order # 2003-122 established the National Smoking Cessation Program (NSCP). The objectives of the programme are to: (1) promote and advocate smoking cessation in the Philippines, and (2) provide smoking cessation services to current smokers interested in quitting the habit. It has four components, namely: training of all DOH health personnel, LGUs, selected schools, industrial and other government health practitioners; advocacy; health education; and smoking cessation services. Examples of programmes for the diagnosis and treatment of tobacco dependence have been observed at different levels of the health system (e.g. primary, secondary, tertiary). However, these services are not universally available at all points of care and referral systems have not been established. Costs of treatment are partially covered by public funding or reimbursement schemes.

Media campaigns and settings-based programmes emphasizing the importance of quitting are occasionally carried out to promote cessation of tobacco use.

In June 2017, the DOH launched a national quit line and mCessation programme. Smokers in need of support to quit can call the hotline number “165364” or text “STOPSMOKE” to (29290)165364. The text “stopsmoke to (29290-165-364)” has already been disconnected. However, Quitline has mobile numbers where clients may send a text message and the counsellors from the Quitline shall be the one to call the clients. Smart/TNT/Sun – 0921-203-9534 Globe/Sun- 0977-627-7539. However, service capacity is limited with only six trained counsellors available at the Lung Centre of the Philippines, where the quit line’s operation centre is located. Calls to the quit line are also

only toll-free within Metro Manila. There is low public awareness of the quit line due to the absence of a sustained communication effort to promote it. Misconceptions regarding its use have also been observed with many callers calling the quit line to report violations to tobacco control policies instead of calling for support to quit smoking. To increase public awareness of the quit line, the upcoming set of new graphic health warning templates will include the hotline number.

Gaps – There is a lack of capacity at all levels of the health system to offer tobacco cessation services and low public awareness of the quitline and mCessation programme. Tobacco cessation is not fully integrated in the primary care system and relevant information is not routinely collected. Pharmaceutical products for treatment of tobacco dependence are not freely available in the public health service. There is also a lack of trained specialists in tobacco cessation in the Philippines and the current curriculum at medical, dental, nursing and pharmacy schools is limited. No outcome analysis has been undertaken to evaluate the effectiveness of existing cessation clinics and interventions.

It is therefore recommended that national programmes and services on diagnosis and treatment of tobacco dependence, and counselling services on cessation of tobacco use be strengthened and promoted in different settings (e.g. educational institutions, health care facilities, primary health care centres, workplaces and sporting environments). Community-based counselling and cessation programmes should be a primary approach. All health care workers must be trained to give brief advice and encourage quit attempts. It is further recommended that the DOH make recording of tobacco use, and interest in tobacco cessation, in medical history notes mandatory.

Improving accessibility and increasing service capacity and public awareness of the quit line and mCessation programme is also recommended. The curriculum on tobacco dependence treatment must be enhanced at medical, dental, nursing and pharmacy schools and integrated into the national health and education systems.

The Philippines may wish to collaborate with other Parties to facilitate accessibility and affordability of pharmaceutical products for treatment of tobacco dependence.

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”.

To counter the illicit trade of cigarettes, the Bureau of Internal Revenue (BIR) requires the affixture of internal revenue stamps, with security features, on imported and locally manufactured cigarettes and the use of the Internal Revenue Stamps Integrated System (IRSIS) for ordering, distribution and monitoring. The system is designed to ensure correct collection of excise taxes on cigarette products. Furthermore, the Electronic Official Registry Book (e-ORB) on tobacco products is an automated facility that allows excise taxpayers to electronically submit e-ORBs for monitoring, reconciliation, and uncovering

of possible discrepancies.

Illicit trade is estimated to account for 11% of total cigarette sales in the Philippines in 2016 according to Euromonitor. Customs allowances for tobacco are up to 400 cigarettes, 250 grams of tobacco or 50 cigars for passengers 18 years of age and over.

The Protocol to Eliminate Illicit Trade in Tobacco Products adopted at COP5 provides an additional legal instrument to reduce supply of tobacco products through illicit trade.

An overview of the measures against illicit trade in tobacco products, with identified needs is given in **Table 2** below.

Table 2. Overview of measures taken against illicit trade in tobacco products in Party X

Paragraph in Art. 15	Content	Level of compliance	Comments and identified gaps
2	Each Party shall adopt and implement effective legislative, executive, administrative or other measures to ensure that all unit packets and packages of tobacco products and any outside packaging of such products are marked to assist Parties in determining the origin of tobacco products.	OBLIGATION MET	
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 whether the product is legally for sale on the domestic market.	OBLIGATION MET	
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.	OBLIGATION MET	
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	OBLIGATION MET	

	or multilateral agreements.		
4(b)	enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband cigarettes.	OBLIGATION MET	
4(c)	take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using environmentally-friendly methods where feasible, or disposed of in accordance with national law.	OBLIGATION MET	
4(d)	adopt and implement measures to monitor, document and control the storage and distribution of tobacco products held or moving under suspension of taxes or duties within its jurisdiction.	OBLIGATION MET	
4(e)	adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.	NOT YET IMPLEMENTED	
5	Information collected pursuant to subparagraphs 4(a) and 4(d) of this Article shall, as appropriate, be provided in aggregate form by the Parties in their periodic reports to the COP, in accordance with Article 21.	OBLIGATION MET	
6	Promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations as it relates to investigations, prosecutions and proceedings, with a view to eliminating illicit trade in tobacco products. Special emphasis shall be placed on cooperation at regional and subregional levels to combat illicit trade of tobacco products.	OBLIGATION MET	
7	Each Party shall endeavor to adopt and implement further measures including licensing, where appropriate, to control or regulate the production and distribution of tobacco products in order to prevent illicit trade.	NOT IMPLEMENTED	

Gaps – The Philippines does not have any measures that enable confiscation of proceeds derived from the illicit trade of tobacco products and further measures that control or regulate the production and distribution of tobacco products such as licensing.

It is therefore recommended that the Philippines implement measures that enable the confiscation of proceeds derived from the illicit trade of tobacco products and require licensing for the sale and distribution of tobacco products to further regulate its production and distribution. Enhanced cooperation among relevant government departments, e.g. DOH, DOF and the Department of Justice (DOJ), is also recommended to address illicit trade.

Having met the majority of provisions, it is recommended that the government determine and address remaining gaps and to take concrete steps in the accession to the Protocol on Illicit Trade.

Sales to and by minors (Article 16)

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

Article 16.1.(a) requires Parties to ensure that “ all sellers of tobacco products place a clear and prominent indicator inside their point of sale about the prohibition of tobacco sales to minors and, in case of doubt, [to] request that each tobacco purchaser provide appropriate evidence of having reached full legal age;”.

Sections 7 to 12 of R.A. 9211 (Tobacco Regulation Act) prohibits the sale and distribution of tobacco products to minors, the purchasing of tobacco products from a minor, sale of tobacco products by a minor, and for a minor to smoke tobacco products. Moreover, the sale of tobacco products is prohibited within 100 meters of the school perimeter as well as sales to minors by means of a vending machine or any self-service facility. The law also requires warnings about the unlawful sale or distribution to minors of tobacco products at points-of-sale and the need for age verification during purchase. The legal age in the Philippines is 18.

DepEd has issued policies to address sales of cigarettes to and by minors within the school (e.g. school premises, school canteens, during school activities). These include policies on canteen management, 100% smoke free environments, adoption and observance of related provisions of R.A. 9211 (Tobacco Regulation Act) and the Joint Memorandum Circular protecting the bureaucracy against tobacco industry interference (Article 5.3).

The Metropolitan Manila Development Authority (MMDA), through their back-to-school program, conducts regular inspections of stores within 100 meters of school perimeters. As of 2016, 2 183 stationary stores and 780 ambulant vendors have been monitored for compliance to access restrictions.

Executive Order No. 26, signed by the President of the Republic of the Philippines in 2017, provides for the establishment of smoke-free environments in public and enclosed places. It includes the following prohibitions:

1. For any person to sell, distribute or purchase tobacco products to and from minors;
2. Ordering, instructing or compelling a minor to use, light up, buy, sell, distribute, deliver, advertise or promote tobacco products;
3. Selling or distributing tobacco products in a school, public playground, youth hostel and recreational facilities for minors, including those frequented by minors or within 100 meters from any point of the perimeter of these places;
4. Placing, posting, displaying or distributing advertisement and promotional materials of tobacco products within 100 meters from the perimeter of a school, public playground, and other facilities frequented particularly by minors, hostel and recreational facilities for minors, including those frequented by them, or in an establishment when such establishment or its location is prohibited from selling tobacco products;
5. Placing any form of tobacco advertisement outside of the premises of point-of-sale retail establishments; and,
6. Placing any stall, booth, and other displays concerning tobacco promotions in areas outside the premises of point-of-sale locations or adult-only facilities.

Unfortunately, the sale of single cigarette sticks by ambulant vendors makes tobacco products relatively accessible to minors and undermines other tobacco control measures such as price increases and graphic health warnings. Monitoring compliance with existing regulations, such as restrictions on the sale of tobacco products within 100 meters of schools, remains a challenge due to limited capacity and lack of political will among some LGUs.

Gaps – Sales of single cigarette sticks undermine tobacco control measures and make tobacco products relatively accessible to minors despite national policies. Compliance with national policies is hampered by limited monitoring and enforcement and lack of political will of some LGUs.

It is therefore recommended that the Philippines ban sales of single cigarette sticks and raise the minimum age to purchase tobacco products to 21. It is also recommended that the Philippines step up enforcement of existing national policies prohibiting the sales of tobacco products to persons under the age of 18 years.

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;”.

Section 7 of R.A. 9211 (Tobacco Regulation Act) prohibits the sale of tobacco products through any self-service facility or similar contraption, except at point-of-sale establishments.

Gaps – There are no provisions in the national tobacco control legislation banning the sale of tobacco products in a directly accessible manner at point-of-sale. Ambulant vendors

who sell single cigarette sticks present an additional challenge to meeting obligations to this article of the convention.

It is therefore recommended that the Philippines amend its current tobacco control legislation to ban the sale of tobacco products in any manner by which they are directly accessible, including at point-of-sale; to ban the sale of single cigarette sticks; and to step up enforcement of the provision prohibiting the display of tobacco products at point-of-sale.

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

The Philippines does not prohibit the manufacture and sale of sweets, snacks, toys or any other objects in the form of tobacco products which appeal to minors.

The Philippines has not met the obligations under Article 16.

It is therefore recommended that the Philippines prohibit the manufacture and sale of sweets, snacks, toys or any other objects in the form of tobacco products which appeal to minors.

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”.

Section 7 of R.A. 9211 (Tobacco Regulation Act) prohibits the sale of tobacco products through any vending machines, self-service facility or similar contraption, except at point-of-sale establishments.

The Philippines has not met the obligations under Article 16.1(d).

It is therefore recommended that the Philippines prohibit the sale of tobacco products through any vending machines, self-service facility or similar contraption, including point-of-sale.

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

The Philippines does not prohibit the sale of cigarettes individually or in small packets.

The Philippines has not met the obligations under Article 16.3.

It is therefore recommended that the Philippines prohibit the sale of cigarettes individually or in small packs to decrease the affordability of such products by minors.

It is also recommended that the Philippines develop standards for cigarette packs including the stipulation that each pack has to contain at least 20 sticks.

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

Section 9 of R.A. 9211 (Tobacco Regulation Act) prohibits the sale and supply of tobacco products by people under 18 years of age; fines are imposed for violations in addition to the confiscation of the products.

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*”.

The Philippines has a local tobacco growing and production industry. Under the Department of Agriculture (DOA), the National Tobacco Administration (NTA) is mandated to: (1) improve the economic and living conditions and raise the quality of life of the tobacco farmers including those who depend upon the industry for their livelihood; and, (2) promote the balanced and integrated growth and development of the tobacco industry to help make agriculture a solid base for industrialization.

Under Section 33 of R.A. 9211, the NTA is also mandated to implement the following programs:

1. Tobacco grower’s assistance programme – to provide financial support to tobacco farmers who may be displaced due to the implementation of the R.A. 9211 or who voluntarily cease to produce tobacco;
2. Tobacco grower’s cooperative – to promote cooperative programs to assist tobacco farmers in developing alternative farming systems, plant alternative crops and other livelihood projects;
3. National Tobacco Free Public Education Program to provide scholarships for dependents of tobacco farmers in collaboration with state colleges and universities; and,
4. Research and development program to undertake studies concerning technologies and methods to reduce the risk of dependence on or injury from tobacco product usage and exposure and development of alternative uses of tobacco and similar research programs.

Section 33 likewise mandates the implementation of the displaced cigarette factory workers’ assistance program – to assist displaced, terminated/separated or retrenched cigarette factory workers due to implementation of R.A. 9211.

Through the South-South and Triangular Cooperation Meeting for the implementation of the WHO FCTC, the Philippines was selected for technical assistance for Article 17 and 18. A team composed of representatives from the DOA, Department of Agrarian Reform (DAR), Department of Labor and Employment (DOLE) and the Department of Health (DOH), including representatives from the Regional Health Office and Agricultural Office travelled to Brazil to study their Alternative Livelihood Program. It is expected that the Philippine team will develop a country specific project on Alternative Livelihood for Tobacco Farmers.

Allotment of tax revenue to LGUs is currently based on tobacco leaf production. This has perversely incentivized the continued cultivation, and in some instances further expansion, of tobacco in the countryside. Older legislation that provided incentives and protections to the local tobacco industry, but superseded by newer laws and policies on tobacco control, are often cited by LGUs as justification for their continued support for tobacco growing.

Industry interference (e.g. price controls and guarantees) distort economic studies and comparisons between tobacco and alternative crops. Funds intended to support the shift of tobacco farmers towards other forms of sustainable livelihoods are also not spent in a strategic or transparent manner.

Gaps – Allotment of tobacco excise tax revenue based on tobacco leaf production incentivizes the continued cultivation of tobacco. Programmes to promote economically viable alternatives for tobacco workers, growers and individual sellers, including possible alternatives for tobacco growers, are undermined by industry interference and lack of transparency in the use of funds appropriated for this purpose. There is a need to reconcile the Philippines’ “balanced” trade policy with public health interests.

It is therefore recommended that the Philippines amend provisions that determine allotment of tobacco excise tax revenue according to tobacco leaf production. It is further recommended that misconceptions regarding old tobacco industry incentives and protections, and lack of awareness of newer tobacco control laws, among local government officials be addressed through advocacy and strategic communications. Programmes to promote economically viable alternatives must be protected against tobacco industry interference and supported with sufficient funds and human resources. The Philippines may wish to mobilize support to promote economically viable alternatives through other development partners such as the Asian Development Bank (ADB), World Bank and others.

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 Philippines is not implementing any measures with respect to tobacco cultivation, which take into consideration the protection of the environment and the health of the persons in relation to the environment.

Small scale tobacco farms, e.g. below 50 hectares, are not required to undertake environmental impact assessments by the Department of Environment and Natural Resources (DENR). This prevents the monitoring of the overall environmental impact of the tobacco industry, including the conduct of regular environmental and health audits.

The Philippines has not met the obligations under Article 18.

It is therefore recommended that relevant departments, e.g. DOA, DENR, DOH work together and make joint efforts to meet this treaty obligation and that the DOH submit a request to the DENR to require, by law, tobacco farms, regardless of size, to pass an environmental impact assessment and to have an environmental protection plan in place. It is also recommended that DOH provide information about the Convention and the guidelines to other ministries and relevant agencies. It is further recommended that DOH work together with DOA and DOLE to assess the implementation and enforcement of the Labour Act to meet this treaty obligation.

Liability (Article 19)

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

The Philippines has separate criminal liability provisions in relation to tobacco control and civil liability measures specific to tobacco control.

The mission was not informed of any court cases seeking compensation in relation to any adverse health effects caused by tobacco use. Court cases that were discussed during the mission included past cases for tax evasion (settled out of court), violations to the graphic health warning law (declared moot after eventual compliance), and administrative cases involving violations to the Joint Memorandum Circular on Article 5.3.

Gaps – There is low public awareness of the potential utilization of the General Law with regard to cases of liability relating to tobacco consumption. There is no unified repository of previous cases brought against the tobacco industry.

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

Research, surveillance and exchange of information (Article 20)

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

The Philippines regularly and systematically undertakes research into the following aspects of tobacco control:

Determinants of tobacco consumption	No
Consequences of tobacco consumption	No
Social and economic indicators related to tobacco consumption	Yes
Tobacco use among women, with special regard to pregnant women	No
Determinants and consequences of exposure to tobacco smoke	No
Identification of effective programmes for the treatment of tobacco dependence	No
Identification of alternative livelihoods	No

There is a national system for epidemiologic surveillance of patterns and determinants of tobacco consumption, and exposure to tobacco smoke. As of this writing, the following surveys related to tobacco control have been conducted in the Philippines:

Global Adult Tobacco Survey (GATS)	2009, 2015
Global Youth Tobacco Survey (GYTS)	2003, 2007, 2011, 2015
Social Weather Station (SWS) Survey	1998, 2008, 2009, 2010, 2012, 2013, 2014, 2015
Global School-based Health Survey (GSHS)	2000, 2003, 2007, 2011, 2015

Gaps – Research on alternative livelihoods is undermined by industry interference. There is limited local data on various aspects of tobacco control, including evaluation studies on the effectiveness of interventions to reduce tobacco use prevalence. There is also limited capacity and resources to conduct research.

It is therefore recommended that the Philippines strengthen research into tobacco control by including it in its National Unified Health Research Agenda (NUHRA). This includes research into alternative livelihoods and environmental impact assessments of tobacco growing.

In support of the Government’s effort to strengthen research and surveillance, the Convention Secretariat together with the WHO are committed to facilitating provision of expertise and technical support.

Reporting and exchange of information (Article 21)

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

The Philippines has provided all of the required implementation reports. The two-year (first) report was submitted on 4 September 2008, the five-year (second) report on 3 October 2011, the third report on 15 April 2014, and the fourth report on 14 April 2016.

The Philippines has met the obligation under Article 21 of the Convention.

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

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

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

The Philippines received assistance from the following organizations in the conduct of tobacco control activities in the country:

WHO	Funding for a 2015 National Forum on Smoking Cessation
Bloomberg Philanthropies	Funding for tobacco control projects undertaken by the DOH
McCabe Center for Law and Cancer	Inclusion of a DOH lawyer in their training programme

The United Nations Development Assistance Framework (UNDAF) is the strategic programme framework jointly agreed between governments and the UN system outlining priorities in national development. At its fourth session, in decision FCTC/COP4 (17)¹ the COP fully acknowledges the importance of implementation of the Convention under the UNDAF as a strategic approach to ensure long-term and sustainable implementation, monitoring and evaluation of progress for developing countries. It encourages developing countries to utilize the opportunities for assistance under the UNDAF and requests the Convention Secretariat to actively work with the UN agencies responsible for implementation of the UNDAF and coordination of the delivery of assistance, in order to strengthen implementation of the Convention at country level.

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

The current UNDAF in the Philippines covers the period 2012-2018 and does not directly include work related to implementation of the Convention. The next UNDAF is currently under development.

The international team met with Mr Ola Almgren, UNRC for the Philippines. The outcome of the discussion and the attitude of the UNRC is in support of implementation of the Convention in the country.

Gap – Implementation of the Convention has not been highlighted as a priority in the current UNDAF.

It is therefore recommended that the Convention Secretariat and WHO actively follow up with the UNRC and the DOH to include implementation of the prioritized areas of the Convention in the next UNDAF. The activities may include priorities identified based on the joint needs assessment report. It is further recommended that the Government of the Philippines actively seek opportunities to cooperate with other Parties, competent international organizations and development partners present in the country to support implementation of the Convention.

Financial resources (Article 26)

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

While overall funding for the DOH has increased as a consequence of tax reforms, actual funding for tobacco control programmes and activities remains insufficient. This is due to the allocation of funds from tobacco excise taxes to other public health programmes and difficulties in monitoring spending. At the same time, lack of adequate human resources also limits the absorptive capacity of government agencies to properly implement available funding.

Gaps – Tobacco control programmes and activities are not prioritized in the allocation of revenue from tobacco excise taxes. Lack of human resources limits government’s absorptive capacity.

It is therefore recommended that the Government allocate more budget and staff time for the implementation of the Convention and enforcement of the tobacco control laws, policies and programmes.

Article 26.3 requires Parties to “promote, as appropriate, the utilization of bilateral, regional, subregional and other multilateral channels to provide funding for the

development and strengthening of multisectoral comprehensive tobacco control programmes of developing country Parties and Parties with economies in transition”.

International funding for tobacco control in the Philippines is primarily from WHO and Bloomberg Philanthropies. Other development partners that participated in the mission and may have a potential role in providing international funding for tobacco control, include ADB, World Bank and the European Union.

Gaps – There is still room to maximize bilateral, regional, subregional and other multilateral channels to provide funding for the development and strengthening of multi-sectoral comprehensive tobacco control programmes in the Philippines.

It is therefore recommended, in line with Article 26.3 of the Convention, that the Government of the Philippines 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”.

Through the South-South and Triangular Cooperation Meeting for the implementation of the WHO FCTC, the Philippines was selected for technical assistance for Article 17 and 18. A team composed of representatives from the DOA, DAR, DOLE and DOH, including representatives from the Regional Health Office and Agricultural Office was formed and sent to Brazil to study their Alternative Livelihood Program. It is expected that the Philippine team will develop a country specific project on alternative livelihood for tobacco farmers.

Other programmes are undermined by tobacco industry interference, policy incoherence, and lack of coordination among relevant government agencies.

Gaps – Programmes to promote alternatives to tobacco production are undermined by tobacco industry interference, policy incoherence, and lack of coordination among relevant government agencies.

It is therefore recommended that relevant government agencies make efforts in implementing obligations under Article 26.3 of the Convention.

Article 26.4 stipulates that “Parties represented in relevant regional and international intergovernmental organizations, and financial and development institutions shall encourage these entities to provide financial assistance for developing country Parties and for Parties with economies in transition to assist them in meeting their obligations

under the Convention, without limiting the rights of participation within these organizations”.

The DOH is committed to ensuring that the Philippines will promote implementation of the Convention in relevant bilateral and multilateral forums.

Gap – There is still much room to mobilize financial assistance from other Parties, regional and international organizations, and financial and development partners to support the Philippines in meeting their obligations under the Convention. Other government agencies that regularly represent the Philippines in regional or global forums are not strategically engaged to advocate for stronger implementation of the Convention.

It is therefore recommended that the Philippines utilize the potential of Article 26.4 to advocate for moving the Convention higher up the international development agenda. It is also recommended that other government agencies, such as the DFA, DOLE, DOF, DTI, representing the Philippines in other regional and global forums, are strategically engaged and urged to proactively advocate to regional and international organizations and financial institutions to provide financial assistance to developing countries with regard to supporting them in implementation of the Convention.

6. Annexes

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

Department of Health

Dr Francisco Duque III, Secretary of Health, Republic of the Philippines
Dr Herminigildo Valle, Undersecretary, Department of Health
Dr Gerardo Bayugo, Undersecretary, Department of Health
Dr Myrna Cabotaje, Director IV, Disease Prevention and Control Bureau
Dr Maylene Beltran, Director IV, Bureau of International Health Cooperation
Disease Prevention and Control Bureau
Bureau of International Health Cooperation
Health Policy Development and Planning Bureau
Health Promotion and Communications Service

Participating Government agencies

Civil Service Commission
Department of Agriculture
Department of Education
Department of Environment and Natural Resources
Department of Finance
Department of Foreign Affairs
Department of Interior and Local Government
Department of Labor and Employment
Department of Trade and Industry
Food and Drug Administration
Lung Center of the Philippines
National Economic and Development Authority

Parliamentarians

Representative Angelina Tan, 4th District of Quezon City, Chair of the House Committee on Health
Representative Estrelita Suansing, 1st District of Nueva Ecija. Vice-Chair of the House Committee on Health
Representative Jose Enrique Garcia III, 2nd District of Bataan
Representative Ron Salo, Party List Representative "KABAYAN"
Representative Ciriaco Calalang, Party List Representative "KABAYAN"
Ms Judith Claudio, Legislative Officer, Office of Senator JV Ejercito, Chair of the Senate Committee on Health
Mr Ramon Navarra Jr., Director for Policy, Office of Senator Rissa Hontiveros, Vice-Chair of the Senate Committee on Health

Convention Secretariat

Dr Carmen Audera-Lopez, Programme Manager
Dr Jason Ligot, Consultant

WHO

Dr Gundo Weiler, WHO Representative to the Philippines
Dr Florante Trinidad, National Professional Officer, WR PHL
Dr Robert Totanes, Technical Officer, TCE/PND, HQ
Ms Kathleen Lannan, Coordinator, TFI/DNH, WPRO
Mr Ramon De Guzman, Consultant, TFI/DNH, WPRO

Other UN Organizations and International Bodies

UN Inter-Agency Task Force on the Prevention and Control of Noncommunicable Diseases
UN Resident Coordinator
United Nations Development Programme
United Nations Children's Fund
United Nations Population Fund
Food and Agriculture Organization
Public Health England
Asian Development Bank
World Bank
European Union
Handicap International

Nongovernmental organizations

Action on Smoking and Health
Action for Economic Reform
Framework Convention Alliance-Philippines
Health Justice
Southeast Asia Tobacco Control Alliance

In addition, the international team met Mr Ola Almgren, UN Resident Coordinator for the Philippines.

ANNEX B: Milestones in tobacco control policies in the Philippines (1992-2017)

