

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

Convention Secretariat

August 2012

Executive summary

The WHO Framework Convention on Tobacco Control (WHO FCTC) is the first international health treaty negotiated under the auspices of the World Health Organization (WHO) and was adopted in 2003. It has since become one of the most widely and rapidly embraced treaties in the history of the United Nations, with 176 Parties to date. Samoa ratified the WHO FCTC on 3 November 2005. The Convention entered into force for Samoa on 1 February 2006.

A needs assessment exercise for implementation of the WHO FCTC was conducted jointly by the Government of Samoa and the Convention Secretariat from February to April 2012, including the mission of an international team to Samoa from 26 February to 3 March 2012. The assessment involved relevant ministries and agencies of Samoa and the WHO Country Office in Samoa. The draft report was further discussed and updated by the Samoa Ministry of Health (MOH) until submission on August 2012. The report presents an article-by-article analysis of the progress the country has made in implementation; gaps that may exist; and the possible action that can be taken to fill those gaps.

The key elements that need to be put in place to enable Samoa to meet its obligations under the Convention are summarized below. Further details are contained in the main report.

First, the WHO FCTC is an international treaty and therefore international law. Having ratified this treaty, Samoa is obliged to implement its provisions through national law, regulations or other measures. There is therefore a need to analyse this report and to identify all obligations in the substantive articles of the Convention, the progress made by the country in implementation, gaps that may exist, and the subsequent possible action that can be taken to fill those gaps.

Second, Samoa previously had an active National Tobacco Control Committee (NTCC) as the multisectoral coordinating mechanism for tobacco control that ceased to be active in 2008 after the passage of the Tobacco Control Act. There was apparent fatigue after decades of fighting to ensure the passage of the legislation through Parliament; the NTCC's work became sporadic and then eventually stopped between 2010 and 2011. It has now been revived, with its first meeting since this revival taking place on the third week of August 2012. While the lapse in drive on the part of the NTCC was noted there was a higher-level forum of policy-makers who ensured that progress at the national level continued to be made. Current advocacy work is undertaken by a broader Special Parliamentary Advocacy Group for Healthy Living (SPAGHL). Representatives of this group include the Speaker of the House, the leader of the Opposition, four Cabinet Ministers, 10 other members of Parliament and the Director General for Health/Chief Executive Officer of the Ministry of Health (DG/CEO-MOH), CEO of the Ministry of Education Sports and Culture, and the CEO of the Ministry of Women, Community and Social Development. SPAGHL effectively influences decision-making at the highest political level and champions healthy living in the community. There is still a need for greater awareness and involvement by respective ministries and government agencies with respect to their obligations under the Convention. The Tobacco Control Policy & Strategy 2010–2015 reaffirmed that the NTCC “should be re-invigorated” to assume

national coordination once more. Samoa has revived and reinforced as required the coordination mechanism accordingly.

Third, the Legislative Assembly of Samoa passed the Tobacco Control Act 2008 (the Act) within three years of the Convention entering into force for Samoa. The Act demonstrates Samoa's political will to meet the obligations under the Convention. Under Article 8 and its guidelines, Parties have the obligation to provide universal protection from exposure to tobacco smoke by ensuring that all indoor public places, all indoor workplaces, all public transport and, as appropriate, other public places are 100% smoke free. Each Party should strive to provide universal protection within five years of the Convention's entry into force for that Party. The deadline for Samoa was 1 February 2011. The Act still allows exemptions pending the approval of the health authority. Further legislative or other administrative or executive measures are needed to address those areas that are not yet in line with the obligations under the Convention. It is recommended that the future review and updating of the strategy and revision of the Act should take into account the outcome of the joint needs assessment and ensure full compliance with the Convention. The Tobacco Control Regulations 2012 (the Regulations) are at the final stage of development. The international team had the opportunity to review the latest version of the draft Regulations and provided detailed comments.

Fourth, the Convention calls on Parties to provide, in their budgets, financial resources for implementation of the Convention. Samoa should also mobilize resources through bilateral and multilateral channels. It is recommended and desirable that the MOH prioritise the resourcing of the Convention under the Sector Wide Approach (SWAp) to address the needs identified through the joint needs assessment.

Fifth, the United Nations Development Assistance Framework (UNDAF) is the strategic programme framework jointly agreed between the Government and the UN system outlining priorities in national development. The next UNDAF (2014–2019) is in the final stages of completion. The international team met the UN Resident Coordinator (UNRC) and the DG/CEO-MOH and brought this to their attention. It is therefore recommended that the MOH follow this up with the UNRC to ensure that supporting the implementation of the Convention is included in the UNDAF (2014–2019).

Sixth, addressing the issues raised in this report, including in particular the 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 and quality of life in Samoa.

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

This joint needs assessment mission was financially supported by the Government of Australia.

Introduction

The WHO FCTC is the first international treaty negotiated under the auspices of WHO. Samoa ratified the WHO FCTC on 3 November 2005 and the Convention entered force for Samoa on 1 February 2006.

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

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

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

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

The assessment of needs is necessary to identify the objectives to be accomplished under the WHO FCTC, resources available to a Party for implementation, and any gaps in that regard. Such assessment should therefore be comprehensive and based on all substantive articles of the WHO FCTC with a view to establishing a baseline of needs. The needs assessment is also expected to serve as a basis for assistance in programme and project development, particularly to lower-resource countries, as part of efforts to promote and accelerate access to relevant internationally available resources.

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** by an international team to the country for a joint review with government representatives of both the health and other relevant sectors; and
- (c) **follow-up** with country representatives to obtain further details and clarifications, review additional materials jointly identified, and develop and finalize the needs assessment report in cooperation with the government focal point(s).

With the above objectives and process in view, a joint assessment of the needs concerning implementation of the WHO FCTC was conducted by the Government of Samoa, the Convention Secretariat and WHO Country office in Samoa, including a mission to Samoa by two international experts from 26 February to 3 March 2012. The detailed assessment involved relevant ministries and agencies of Samoa. 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 in the implementation guidelines adopted by the COP where relevant. Specific recommendations are then made concerning that particular area.

Status of implementation, gaps and recommendations

This core section of the report follows the structure of the Convention. It outlines the requirements of each of the substantive articles of the Convention, reviews the stage of implementation of each article, outlines achievements and identifies the gaps between the requirements of the treaty and level of implementation by Samoa. Finally, it provides recommendations on how to address the gaps identified during the joint needs assessment mission, with a view to supporting the country in meeting its obligations under the Convention.

Relationship between this Convention with 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”.

Samoa currently has in place no measures that go beyond those provided for by the Convention.

It is therefore recommended that the Government, while working on meeting the obligations under the Convention, also identify 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 their obligations under the Convention and its protocols. The Parties concerned shall communicate such agreements to the Conference of the Parties through the Secretariat.”

Samoa Australian Partnership is a bilateral agreement for revitalizing primary health care to facilitate better noncommunicable disease (NCD) screening. It was implemented at district and village level through a health promotion approach in the form of Village Health Fairs. Advocacy focused on village governance: village council members in turn endorsed smoke-free council meetings. This was a bold decision given the number of village chiefs who smoke. This village governance position is being monitored by the Ministry of Women, Community and Social Development.

No information has been communicated that other agreements of this nature have been entered into by Samoa. If and when such agreements take place, the Ministry of Foreign Affairs and Trade, in consultation with the relevant line ministries, should identify these agreements and report them to the Conference of the Parties through Secretariat as appropriate.

Gap - There is a lack of awareness of the obligation under this Article and the proactive role that all relevant ministries need to play in the reporting process.

It is recommended that relevant ministries review any agreements in their jurisdictions that may fall under the scope of Article 2.2 of the Convention. Furthermore, if such

agreements have been identified, it is recommended that the Government of Samoa communicate these to the Conference of the Parties through 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*”.

A number of nongovernmental organizations exist in Samoa. The Samoan Cancer Society would be a valuable partner for collaboration. The Seventh-day Adventist Church and Mormon Church have been providing cessation services in Samoa for some years. Other groups, including the National Council of Churches, had been given the task of implementing the NCD prevention facilitation package that advocates tobacco control initiatives in support of the Convention.

There is potential for civil society to play a more substantive role in supporting implementation of the Convention. The Samoan Nurses Association has been advocating tobacco prevention measures for years as one of their core targets. The Samoa Family Health Association integrates smoking cessation into their service delivery and counselling work. The village councils through the “Whole of Country, One Health Integrated Approach” support tobacco control initiatives together with the enforcement of the Tobacco Act 2008 at village level; especially with the banning of sales to minors, the ban on smoking at public gatherings and the ban on sales of broken packages at village-based trade stores. The Samoa Aids Foundation, Samoa Red Cross, Samoa Cancer Society, the churches and private schools also try to implement and enforce tobacco free programmes.

Gap - There is currently a low level of spontaneous and genuine involvement of civil society in promoting implementation of the Convention.

It is therefore recommended that the MOH build capacity and work more closely with existing nongovernmental organizations and encourage more relevant civil society groups to contribute to implementation of the Convention.

General obligations (Article 5)

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

The Strategy for the Development of Samoa (2008–2012) fully acknowledges the need to tackle tobacco use as a risk factor for NCDs and highlights the need to develop tobacco

control legislation under health development. The Samoa Health Sector Plan (2008–2018) identified five strategies for national health sector goals; tobacco control and raising awareness of legislation and policy are under Strategy 1 (Strengthening health promotion and prevention of illness, treatment) and Strategy 5 (Strengthening the Health Sector and strengthen partnerships).

Samoa has developed and implemented a comprehensive multisectoral strategy for tobacco control. A National Tobacco Control Policy & Strategy 2010–2015¹ approved by Cabinet outlines six key strategic areas as a framework for tobacco control activities in Samoa (Governance and Leadership; Legislation and Enforcement; Financing and Tobacco Taxation; Alliances and Partnerships; Public Awareness, Education, Communication; Treatment and Cessation). The document suggests strategies under each area, defines stakeholders and lays out a strategic action plan and monitoring framework with four goals: reduce use of tobacco products; reduce exposure to environmental tobacco smoke; change social norms; track progress against policy objectives and use evaluation data to guide programme planning

In the development of policy and strategy the MOH undertakes a comprehensive literature and technical review of the topic, with a draft then submitted to stakeholders for comment. The document is then submitted to the Cabinet Secretariat for approval. The National Tobacco Control Policy & Strategy will be reviewed every five years.

Samoa has met its obligation under Article 5.1.

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

Samoa has previously had an active National Tobacco Control Committee (NTCC) as the multisectoral coordinating mechanism for tobacco control. The Committee ceased to be active in 2008, but has recently been revived. The MOH has a tobacco control focal point in the Health Promotion Unit and an enforcement office to enforce the Act.

It is envisaged that the revival of the NTCC will result in stronger coordination of sectoral action, which should in turn drive implementation of the National Control Policy 2010–2015. The NTCC meeting on the third week of August 2012 should update the committee’s terms of reference, membership and roles.

Revived NTCC:

GOVERNMENT MEMBERS

1. DG/CEO-MOH: Chairperson
2. CEO Ministry of Finance
3. CEO Ministry of Women, Community & Social Development
4. CEO Ministry of Education, Sports & Culture

CIVIL SOCIETY/NGOs

11. Samoa Medical Association
12. Samoa Nurses Association
13. Samoa Teachers’ Association
14. Samoa Cancer Society

¹ <http://www.health.gov.ws/PublicationsStatisticsResources/Publications/tabid/5385/language/en-US/Default.aspx>

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| 5. CEO Ministry of Revenue | 15. Samoa Association of Sports & [SASNOC] |
| 6. CEO Ministry of Commerce, Industry & Labour | 16. Samoa Latter Day Saints Church |
| 7. Samoa Land Transport Authority | 17. Samoa Seventh Day Adventist Church |
| 8. Ministry of Agriculture | |
| 9. Ministry of Police & Prison | Secretariat: MOH HPES Division ACEO |
| 10. Ministry of Foreign Affairs | |

The Special Parliamentary Advocacy Group for Healthy Living (SPAGHL) effectively influences decision-making at the highest political level and champions healthy living in the community. There is still a need for greater awareness and involvement by ministries and Government agencies with respect to their obligations under the Convention. The proposed implementation of the Tobacco Control Strategy 2010–2015 has warranted a more active engagement of the NTCC, which has been re-invigorated to undertake national coordination. Samoa has considered the need for on-going coordination and reinforces as appropriate the multisectoral national coordination mechanism.

In support of the government's effort to revive the national coordinating mechanism, the Convention Secretariat is committed to facilitating exchanges of expertise and experiences with other Parties.

Gaps – There is a revived multisectoral national coordination mechanism to coordinate implementation of the Convention, but other relevant ministries have not fully recognized that they have a contribution to make and have not allocated staff time and a dedicated budget to fulfil their responsibilities under the Convention.

It is therefore recommended that while making full use of the advocacy role for policy change available through SPAGHL, Samoa continue to reinforce the multisectoral coordination mechanism. It is also recommended that other relevant Government agencies also allocate staff time and a dedicated budget to implementation of the Convention.

Article 5.2 (b) calls on Parties to “adopt and implement effective legislative, executive, administrative and/or other measures, and cooperate, as appropriate, with other Parties in developing appropriate policies, for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke”.

The Legislative Assembly passed the Tobacco Control Act 2008 (the Act) within three years of the Convention entering into force for Samoa. The Act, which commenced on 1 January 2009, demonstrates Samoa's political will to meet obligations under the Convention.

The Act aims to “protect people from disease and premature death caused by tobacco use; protect non-smokers from exposure to tobacco smoke; regulate marketing, advertising, sale, promotion and distribution of tobacco products; and to monitor and regulate the presence of harmful constituents in tobacco products.”

The Act comprehensively addressed the issues related to establishing a smoke-free environment in public places, smoke-free workplaces, tobacco product control, including regulation of the contents of tobacco products, regulation of tobacco product disclosures, packaging and labelling of tobacco products, tobacco advertising, promotion and sponsorship, sales by minors, enforcement mechanisms and future regulations.

The Act bans all domestic advertising, promotion and sponsorship. Further efforts are still needed to ban cross-border tobacco advertising, promotion and sponsorship. The Act also comprehensively addresses tobacco product regulations, and testing and disclosure of information to the Government. It bans sales of tobacco products to persons under 21 years old and sales of tobacco products via vending machines. In terms of packaging and labelling, it requires health warnings to take up 30% of the principle areas, requires rotation of warnings and also allows for the introduction of pictorial health warnings.

Unfortunately the Act is not yet totally in line with Article 8 and its guidelines. The five-year deadline to provide universal protection from exposure to tobacco smoke in all public places, all indoor workplaces, all public transport and as appropriate, other public places was 1 February 2011 for Samoa. The Act still allows exemptions, pending approval of the health authorities. Future legislation or other administrative or executive measures need to address those areas which are not in line with the Convention and its guidelines.

Gaps –

1. The Act is not fully in line with the Convention and its guidelines, particularly with regard to Article 8 and its guidelines;
2. The Act has not been fully implemented due to the delay in the development of the Regulations.

It is therefore recommended that Part III of the Act be revised to remove the exemptions to a 100% smoke-free policy and that regulations aimed at putting the Act into effect be completed as soon as possible.

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

Samoa has reported that Article 5.3 has been implemented but, at this stage, no specific actions have been taken on this issue. In line with the standard procedures for developing legislation, the MOH consulted widely in the development of the Act and draft Regulations, including with the tobacco industry. However, the MOH did not change its position or policy as a result of such consultation nor allow lobbying by the tobacco industry.

Additionally, there is a current code of conduct required of all public servants, but there appears to be a need to ensure that there is no conflict in the conduct of civil servants in relation to the tobacco industry.

Before the Act was passed, policies banning the support of the tobacco industry for public activities and commercial interests were implemented by several corporations and

organizations. After the Act came into effect, the ban on affiliation with the tobacco industry was strengthened at a national level.

Gap – There is still a lack of awareness of Article 5.3 of the Convention and its guidelines among relevant agencies and civil servants

It is therefore recommended that Samoa disseminate information about Article 5.3 and its guidelines and link it to the general requirement under the Code of Conduct for civil servants.

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”.

Samoa participated in the activities of the working group on Article 6 established by the COP, and has therefore met the obligation under Article 5.4.

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”.

Samoa currently provides core budget for two staff members who cover the areas of: (1) health education and promotion; and (2) tobacco regulation and enforcement. Samoa has implemented a Health Sector Wide Approach (SWAp) (2009–2013)¹ in ensuring that financing for locally owned programmes uses a single policy and funding framework for the health sector to pool together the funds from the Government and development partners who join the programme. The current Samoa Health SWAp partners are the Government of Samoa, Australian Agency for International Development (AusAID), the New Zealand Agency for International Development (NZAID), and the World Bank. Other International and regional organizations like the Secretariat for the Pacific Community (SPC) and WHO consistently support Samoa’s tobacco-free programmes. The institutional development objective of the health SWAp is to improve the effectiveness of the Government of Samoa in managing and implementing the Health Sector Plan (2008–2018), using results from sector performance monitoring. The total indicative budget is US\$ 24.3 million from 2009 to 2013. Activities to implement the Convention are under the Health Promotion and Prevention component of the programme and through the Health Sector organization programmes. The programme areas identified are tobacco control regulatory roles, public awareness programmes and tobacco control policy, which all contribute to implementation of the Convention.

Gap – The funding allocated under the Health SWAp for implementation of the Convention goes towards all NCD risk factors, which is the entry point for specific issues like the Convention.

It is therefore recommended that the Ministry of Finance and MOH allocate a sufficient budget in the Health SWAp to ensure adequate funding in implementing the

¹ <http://www.health.gov.ws/PublicationsStatisticsResources/Publications/tabid/5385/language/en-US/Default.aspx>

Convention. Needs and gaps identified in this report could serve as a reference document.

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*”.

Samoa has increased the tax on cigarettes over the last decade. There have been price increases as well. The Customs Law was enacted in 1977 with an increase in excise in 2008 and amendments in 2010. Customs and Excise indicated that 70–80% of total domestic excise revenue is from tobacco. The excise on domestic production of cigarettes is \$193 (tala) per 1000 sticks and for other manufactured tobacco \$204 (tala) per kilogram.

Samoa has met the obligation under 6.2(a) of the Convention.

The Government is encouraged to continue to progressively increase the taxation of tobacco and tobacco products and take inflation into account to ensure a real increase in price in order to further reduce tobacco consumption.

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

The current duty-free allowance for manufactured cigarettes is one carton per person.

Samoa has met the obligation under Article 6.2(b) of the Convention.

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

Samoa has provided information on rates of taxation in its two year implementation report and has met its obligations under Article 6.2(b) of the Convention.

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

Protection from exposure to tobacco smoke (Article 8)

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

indoor workplaces, public transport, indoor public places and, as appropriate, other public places”.

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

Under Article 8 and its guidelines, Parties have the obligation to provide universal protection from exposure to tobacco smoke to ensure that all indoor public places, all indoor workplaces, all public transport, and, as appropriate, other public places are 100% smoke-free. The guidelines state that each Party should strive to provide universal protection within five years of the Convention’s entry into force for that Party. The deadline for Samoa was 1 February 2011, and the Act still allows exemptions pending the approval of the health authority.

The Act prohibits smoking in smoke-free areas in public places (Provision 5) and in the workplace (Provision 11). It includes a broad definition of the terms “public place” and “workplace”. Samoa has a complete smoking ban in Government buildings, health-care facilities, educational facilities, restaurants and on public transport.

Under the Act, “occupiers” and “employers” are obliged to “take all reasonably practicable steps” to ensure observance of Provision 6(1) and 12(1) and display relevant signs under Provision 7(1) and 13(1) within the smoke-free area in line with Article 8 and the associated guidelines, with accompanying penalties for those who fail to comply.

However, The Act (Provision 8(1)) allows for exemptions to the smoke-free policy in the following premises: (a) those subject to a liquor license (but not parts of premises where food is served or stores selling alcohol); (b) members’ clubs (but not in parts where food is being served); and (c) “any premises, or class of premises, prescribed by the regulations for the purposes of this definition”. The Act (Provision 14) also allows for exemptions in workplaces: “Employers and persons shall not be subject to the provisions of this Part if the workplace is a place where smoking is permitted under this Act”.

Community programmes, awareness and spot-checks of night clubs and restaurants are integrated into the public health and health promotion programmes. The business community also supports the establishment of complete smoke-free public places by enforcing the ban themselves.

Gaps –

1. There remains a partial smoking ban in private workplaces, bars and nightclubs.
2. The Act (Provision 8(1) and Provision 14) allows for exemptions to the smoke-free policy in some public places and work places.
3. There is a lack of monitoring and enforcement of smoke-free policies and there is less than total compliance with the Act: visits to several restaurants and hotels showed widespread smoking in areas where food was being served.
4. Samoa missed the five year deadline (1 February 2011) as recommended by the Article 8 guidelines.

It is therefore recommended that smoke-free legislation and regulations be strengthened so that Samoa comes fully into line with Article 8 and its guidelines. This also requires that bars and nightclubs be included in the scope of the complete ban as these are also workplaces. Monitoring and enforcement measures related to smoke-free policies should be implemented and strengthened, especially after the Regulations are passed.

**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.

Samoa has implemented measures for testing and measuring contents, regulating contents and regulating emissions of tobacco products. According to Provision 28(1) of the Act “No person shall manufacture, import, export, sell or otherwise distribute any tobacco product that does not comply with prescribed standards relating to the manufacture of tobacco products”. The term “standards” refers to the amount of certain substances that may be contained in tobacco products, substances that may not be added to such products, and product design.

Provision 29 of the Act prescribes the following with regard to tobacco product testing: “Every manufacturer and every importer shall in each year conduct, in accordance with the regulations, and at an overseas laboratory nominated by the Chief Executive Officer, either or both of the following (as the regulations require): (a) a test for the additives and/or constituents of each brand of the product sold, and the respective quantities of those additives and/or constituents; and (b) if the product is intended to be smoked, a test for the constituents of the smoke of each brand of the product sold, and the respective quantities of those constituents. If the regulations require it, each variant of the brand must be tested separately. In addition to the annual test or tests required by subsection (29.2), the Chief Executive Officer may, by notice in writing to the manufacturer or importer, require a further test or tests to be conducted. The further test or tests must be conducted, in accordance with the regulations: (a) in a laboratory nominated by the Chief Executive Officer; and (b) at the expense in all respects of the manufacturer or importer. In any year, the Chief Executive Officer may require further tests under subsection (29.5) in respect of more than 10% of the brands of products to which subsection (29.2) applies sold by a particular manufacturer or importer”.

Furthermore, Provision 22(2) of the Act prescribes that: “no person shall import for sale, sell, pack or distribute any tobacco product labelled or otherwise described as suitable for chewing, or for any other oral use (other than smoking)”.

Samoa has indicated that the testing and measuring of the emissions of tobacco products has been implemented. The MOH has also collected tobacco product samples from retailers and sent them to be tested in a laboratory in New Zealand. The tobacco industry is responsible for replacing the samples collected and covering the cost of such testing. The MOH has not received any report from the tobacco industry as required by the Act.

Gap - the Act has not been fully implemented pending the development of the Regulations.

It is therefore recommended that the Regulations be finalized and approved without delay and implemented.

Article 10 requires Parties to “adopt and implement effective legislative, executive, administrative or other measures requiring manufacturers and importers of tobacco products to disclose to governmental authorities information about the contents and emissions of tobacco products. 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.”

Samoa has legislation that requires manufacturers and importers to provide regular reports on tobacco products containing information on the constituents and emissions of those products. According to Provision 30(1) of the Act, “Every manufacturer, importer and exporter of tobacco products shall submit to the Ministry on at least an annual basis, unless otherwise prescribed, reports and returns containing the information specified in regulations”. No information was available on the frequency of the provision of this information, and it has not been made available for public disclosure.

Samoa has received product information from the tobacco industry but this has not been made public.

Gap – There has not been any information on the testing required of the tobacco manufacturer to date and such information has not been made available to the public.

It is therefore recommended that the testing of tobacco products be fully implemented in line with the Act, Articles 9 and 10 of the Convention and the associated guidelines. It is also recommended that the information on constituents and emissions of tobacco products be effectively disclosed to the public.

Packaging and labelling of tobacco products (Article 11)

This is one of the articles of the Convention that contains a deadline for implementation of specific measures. The deadline of three years from the date of entry into force of the Convention for Samoa was 1 February 2009.

Provision 26 of the Act requires the implementation of several measures that need to be implemented under the Convention and its guidelines.¹ The Act enters into details covering most of the obligations of the Convention.

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

Paragraph in Art. 11	Content	Level of compliance	Comments and identified gaps
1(a)	tobacco product packaging and	Obligation met.	Required by the Act (Provision

¹ See: http://www.who.int/fctc/protocol/guidelines/adopted/article_11/en/index.html

	labelling do not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, including any term, descriptor, trademark, figurative or any other sign that directly or indirectly creates the false impression that a particular tobacco product is less harmful than other tobacco products. These may include terms such as “low tar”, “light”, “ultra-light”, or “mild”		27) and implemented.
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.	Partial compliance.	The current warning in Samoa covers 30% of the front face of the pack with a warning in both English and Samoan as follows: “SMOKING SERIOUSLY DAMAGES YOUR HEALTH” “E MATUA AAFIA LOU SOIFUA MALOLOINA I LE TAUMAFATA PA’A”. This is followed by an attribution in small lettering: “Government Health Warning”. Furthermore, Provision 26 prohibits sales/offers for sale of tobacco products unless the package displays a health message.
1(b)(i)	[The warning] shall be approved by the competent national authority	Obligation met.	By the MOH and to be included in the Regulations.
1(b)(ii)	[The warnings] shall be rotating	Obligation not met.	Currently there is only one health warning. The Tobacco Control Regulations 2012 will require rotation. Warnings will be rotational once Regulations is passed.
1(b)(iii)	[The warning] shall be large, clear, visible and legible	Obligation met.	Provision 26(2) of the Act.
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 not met.	The health warning covers 30% of the front of the pack only and there is no warning on the back. Health warnings will cover 50% of the front and the pack after Regulations are passed.
1(b)(v)	[The warning] may be in the form of or include pictures or pictograms	Obligation not met.	There are no pictures or pictograms, only words on the health warning. Pictorial warnings will be included once Regulations are passed.
2	Each unit packet and package of	Obligation not met.	Information on tar and nicotine

	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.		is included on the side of the pack, but this has not been defined by the national authorities.
3	Each Party shall require that the warnings and other textual information specified in paragraphs 1(b) and paragraph 2 of this Article will appear on each unit packet and package of tobacco products and any outside packaging and labelling of such products in its principal language or languages.	Obligation met.	The health warning in text form is included in both English and Samoan language on the front of the pack.

Samoa complies with the majority of the requirements of Article 11 of the Convention.

The Regulations will require pictorial health warnings to cover 30% of the face and 90% of the back of packs. With the facilitation of the Convention Secretariat, Samoa is currently in the process of requesting licences for images from other Parties to use in pictorial health warnings.

During the mission, the international team noted that Samoa's draft Regulations under Provision 38 of the Act indicate that an expiry date for tobacco products must be on the pack. The Article 11 guidelines recommend that "Parties should prevent the display of expiry dates on tobacco packaging and labelling where this misleads or deceives consumers into concluding that tobacco products are safe to be consumed at any time".¹ The MOH has followed this recommendation and removed this requirement to place the expiry date on packaging.

Gaps –

1. Although the labelling and packaging provisions in the Act are compliant with Article 11, the Act has not yet been fully implemented in Samoa.
2. The health warning covers only 30% on the front of the pack with only one textual warning and is therefore not rotated.

It is therefore recommended that Samoa ensure early completion of the Regulations to meet obligations under Article 11 of the Convention.

¹ *Guidelines for implementation*, 2011 Edition. Geneva, World Health Organization, 2011:59.

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

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

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

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

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

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

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

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

Samoa has undertaken extensive and comprehensive work on the priority actions required on most measures related to Article 12. There has been widespread education and promotion of a tobacco-free lifestyle through villages, schools and communities. Communication and advocacy on the health risks of smoking and the addictive nature of tobacco as well as the risks of exposure to tobacco smoke have been implemented in at least 138 villages in Samoa with 23 302 participants (13% of the population). A total of 144 villages have declared their meeting houses smoke-free and knowledge of tobacco-related health risks has increased. The benefits of cessation have also been incorporated into the promotion of health a tobacco-free lifestyle in these villages. The MOH works very closely with Ministry of Women, Community and Social Development in these community outreach programmes. The MOH has also conducted multimedia programmes on the harms of tobacco on television and radio.

Samoa has implemented a planned programme of information, education and communication materials that involves pre-testing, implementation at the national and local level, and monitoring and evaluation. The MOH prepares an annual communication and advocacy plan.

The MOH has previously funded interschool rugby and netball competitions, which promoted a smoke-free message and included awareness raising sessions for participants. Subsequently, these received sponsorship from other sources but maintained the smoke-

free messages. The MOH also conducts activities during World No Tobacco Day and the National Healthy Lifestyles Week.

The Samoa Cancer Society has produced materials advocating a smoke-free lifestyle. The Nursing Association and Tavana Nurses on Wheels support tobacco-free lifestyles as part of its community health programmes. Komiti Tumama has also conducted educational activities on the harmful effects of tobacco smoking in 68 communities. The Land Transport Authority includes information about smoking as part of the Road Safety Programme for schools and youth. Samoa Shipping Corporation implemented a smoke-free policy for their ferries even before the Act was passed.

Training has also taken place for health and community workers, educators and decision-makers. Samoa has undertaken training and provided resource materials on quitting smoking to some 80 teachers in government schools. Regular networking and activities initiated are monitored and regulated by the MOH. Training for key professionals is planned.

One significant challenge is that tobacco control social marketing, awareness and advocacy programmes through the media are quite expensive. All media are privately owned and the Government does not receive any discount or free air time.

Gaps –

1. Training needs at the local and national level have not been identified.
2. Training to key professionals including physicians, other health workers, community workers, decision-makers, faith and religious leaders, and counsellors has not been systematically provided.

These gaps have been noted and plans to respond have been incorporated into the Health Sector partners and health professional activities implemented at community level.

It is therefore recommended that Samoa continue to develop and expand the reach of education, communication, training and public awareness programmes on the adverse health, economic and environmental effects of tobacco production and consumption with particular emphasis on information concerning the tobacco industry. It is also recommended that the Government address the training needs and design a research-based plan and provide training for all key professionals. It is further recommended that the MOH and other relevant agencies coordinate with community leaders, faith and religious groups, and civil society organizations in meeting the requirements of this Article.

Tobacco advertising, promotion and sponsorship (Article 13)

Article 13.1 requires recognition by Parties 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”.

In the Act Samoa has imposed strict controls on the marketing, advertising, sale, promotion and packaging of tobacco products and their association through sponsorship with other products and events. Provision 22 of the Act prohibits the advertising of tobacco products as suitable for chewing or any other oral use.

Provision 17(1) of the Act bans tobacco advertising as follows: “No person shall publish, or arrange for any other person to publish, any tobacco product advertisement in Samoa”. This Provision does not apply to price lists given by retailers or to books, magazines, newspapers, and television or radio transmissions originating outside Samoa unless the principal purpose is the promotion of tobacco product use.

Provision 19 of the Act prohibits the use of tobacco trademarks for the promotion of a tobacco product on any other article or product, or for the purpose of advertising or identifying to the public any service, activity or event, or any scholarship, fellowship or other educational benefit.

Samoa has reported that a comprehensive ban on cross-border advertising, promotion and sponsorship originating from its territory has been implemented. There is no provision for this ban in the Act.

Provision 20(1) prohibits the promotion of tobacco products or trademarks in any organized activity in Samoa and Provision 21(1) prohibits the distribution or supply of tobacco products free of charge or on a reduced charge. Provision 22 of the Act specifically prohibits publishing “an advertisement for a tobacco product that directly or indirectly states or suggests that the product is suitable for chewing or for any other oral use (other than smoking)”.

Under the Regulations the display of packs was reduced to one pack for each brand. This is a considerable improvement, but still does not achieve the goal of no cigarette pack displays.

Additionally, while the Act enables the provision of trade discounts by the manufacturer, it appears that in reality the set price for tobacco is a disincentive to any trade discounts being offered to retailers.

Samoa has therefore met the obligation under Article 13.1 and 13.2.

Article 13.4(c) indicates that Each Party shall: “*restrict the use of direct or indirect incentives that encourage the purchase of tobacco products by the public*”.

Samoa has a fixed price for tobacco across the country and direct or indirect incentives are not permitted by the legislation in force. Samoa has met the obligation under Article 13.4(c).

Article 13.4(f) indicates that Each Party shall: “*prohibit... tobacco sponsorship of international events, activities and/or participants therein*”.

The Act does not allow for any tobacco promotion of international events. Samoa has met the obligation under Article 13.4 (f).

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*”.

Provision 17(3) (a)–(c) of the Act only bans cross-border advertising if the primary purpose of the materials is the promotion of the use of tobacco products, intended for sale, distribution or exhibition primarily in Samoa or the audience of any radio or television advertisement is targeted primarily in Samoa.

Gaps – The advertising ban does not apply to any advertisement in a book, magazine or newspaper originating outside Samoa, or to radio, television or video transmissions made outside Samoa unless (a) the principal purpose of the book, magazine, newspaper, transmission, film, or video recording is the promotion of the use of tobacco products; (b) the book, magazine, newspaper, film or video recording is intended for sale, distribution or exhibition primarily in Samoa; or (c) in the case of an advertisement in any radio or television transmission, the advertisement is targeted primarily at an audience within Samoa.

It is therefore recommended that legislation should be enacted that extends the ban to all cross-border tobacco advertising, promotion and sponsorship entering into the territory of Samoa. Samoa should cooperate with other Parties in the development of technological and other means necessary to implement this obligation.

Measures concerning tobacco dependence and cessation (Article 14)

Article 14.1 requires each Party to “*develop and disseminate appropriate, comprehensive and integrated guidelines [concerning tobacco dependence and cessation] based on scientific evidence and best practices ... [and] take effective measures to promote cessation of tobacco use and adequate treatment for tobacco dependence*”.

Samoa indicated that no guidelines have been developed on tobacco dependence and cessation. Efforts are underway to adapt the New Zealand Smoking Cessation Guidelines. The tobacco control policy requires that cessation services should be provided by the health sector. Current prescription and pharmaceutical costs are unaffordable for most people. The Samoa Cancer Council is exploring the possibility of establishing a quit line in collaboration with New Zealand.

Samoa has not met the obligations of the Convention under Article 14.1.

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

It is therefore recommended that Samoa make full use of the guidelines for the implementation of Article 14 of the Convention, adopted by COP4, in designing and

developing its own comprehensive guidelines concerning tobacco dependence and cessation, taking into account national circumstances and priorities.

Article 14.2 stipulates that “towards this end, each Party shall endeavour to:

(a) design and implement effective programmes aimed at promoting the cessation of tobacco use, in such locations as educational institutions, health care facilities, workplaces and sporting environments;

(b) include diagnosis and treatment of tobacco dependence and counselling services on cessation of tobacco use in national health and education programmes, plans and strategies, with the participation of health workers, community workers and social workers as appropriate;

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

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

The MOH has trained key health care providers from the health sector and community representatives to carry out cessation services. A tobacco cessation training-of-trainers course was conducted for health professionals and school heads in 2009. Several church organizations have also conducted cessation services in the past and opportunities for further collaboration are encouraged.

Samoa Cancer Society is exploring collaboration with New Zealand Quitline. While New Zealand Quitline is willing to provide such a service free of charge, the fees for calling New Zealand from Samoa are expensive and there is a need for funding support or a service such as Skype to enable access.

The National Heart Foundation was established early in 2006, and was opened by the Prime Minister, with the aim of early detection of heart problems and health promotion to prevent noncommunicable diseases. The current status of this organization was not determined.

Gaps –

1. There is no comprehensive and integrated programme for cessation/tobacco dependence treatment.
2. Only a very limited number of medical staff have received training on cessation and treatment of tobacco dependences.
3. There is no national quit line.

It is therefore recommended that national guidelines on cessation and treatment of tobacco dependence be developed, making full use of the Article 14 guidelines. National programmes and services on diagnosis and treatment of tobacco dependence and cessation counselling services should be established. These services should be provided in health-care facilities, educational institutions, workplace and sporting

environments as appropriate to the national situation. Community-based counselling and cessation programmes should be a primary approach. Training on brief cessation advice should be systematically provided to all health workers.

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*”.

Provision 26(3) of the Act requires that “all tobacco products imported for sale or sold in Samoa must carry a clear statement that the product is intended for sale in Samoa”. This is currently not being implemented.

Table 2. Overview of the measures against illicit trade in tobacco products in Samoa

Paragraph in Art. 15	Content	Level of compliance	Comments and identified gaps
2	Each Party shall adopt and implement effective legislative, executive, administrative or other measures to ensure that all unit packets and packages of tobacco products and any outside packaging of such products are marked to assist Parties in determining the origin of tobacco products	Not yet implemented [the following terms are used to indicate status of compliance: “obligation met”, “not yet implemented”, “partial compliance”]	
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.	15.2(a) not yet implemented 15.3 not yet implemented	Provision 26(4) of the Act requires that all tobacco products imported for sale or sold in Samoa must carry a clear statement that the product is intended for sale in Samoa.
2(b) and 3	consider, as appropriate, developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade	Not yet implemented	A tracing system for smuggling has been established by the Ministry of Revenue. Samoa is included in the network of the Pacific Transnational Crime Coordination Centre, which is responsible for tracking and tracing illegal trade of products within the Pacific.
4(a)	monitor and collect data on cross-border trade in tobacco products, including illicit trade,	implemented	Illicit trade in tobacco products has not been found in the last decade. Samoa is a member of

	and exchange information among customs, tax and other authorities, as appropriate, and in accordance with national law and relevant applicable bilateral or multilateral agreements		the Pacific Drugs & Alcohol Research Network.
4(b)	enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband cigarettes	Obligation met	Covered under the Customs Act 1997.
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	Implemented	The tobacco regulatory unit of the MOH has the authority to confiscate and destroy illegal tobacco products according to Ministry of Environment procedures.
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	Implemented	The Act is in place, but there have been no cases.
4(e)	adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products	Implemented	The Act is in place, but there have been no cases.
5	Information collected pursuant to subparagraphs 4(a) and 4(d) of this Article shall, as appropriate, be provided in aggregate form by the Parties in their periodic reports to the Conference of the Parties, in accordance with Article 21.	Implemented	No cases therefore no information can be provided.
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	Samoa is a member of the World Customs Organization (WCO) and the Oceania Customs Organization. WCO has a regional intelligence liaison mechanism and shares information as well as reports of cases of illicit trade.
7	Each Party shall endeavour to adopt and implement further measures including licensing, where appropriate, to control or regulate the production and distribution of tobacco products in order to prevent illicit trade.	Partial compliance	Licensing is required for manufacturing production but not for distribution including sale.

Samoa has indicated no illicit trade incidents in the last 10 years. It is uncertain whether this is due to limited surveillance as a result of lack of capacity or the fact that there really have been no such incidents.

Samoa was actively engaged in the process of drafting a protocol to eliminate illicit trade in tobacco products under the umbrella of the WHO FCTC.

Gap – There are significant gaps in current measures for dealing with illicit trade.

It is therefore recommended that the Regulations add that unit packets and packages of tobacco products for retail and wholesale use that are solely for sale in Samoa's domestic market carry information on the origin of the tobacco products and include the statement "Sales only allowed in Samoa" or carry other effective marking indicating the final destination. It is also recommended that the Ministry of Revenue play a leading role in combating illicit trade in tobacco products. It is further recommended that other identified areas of non-compliance be addressed during the revision of the relevant tobacco control legislation.

Sales to and by minors (Article 16)

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

Provision 23(1) of the Act forbids sales to persons under the age of 21 years. The Act includes a provision requiring sellers to place a clear and prominent message inside their point of sale about prohibition of tobacco sales to minors and, in case of doubt, request that each purchaser provide appropriate evidence of having reached full legal age.

There is currently no clear way to limit sales to those under 21 in Samoa. Vendors have no way of determining current age, unless they use a driving licence or licence for consuming alcohol.

Gap – There is a loophole in the Act under Provision 23(2) allowing a defence to a charge of selling tobacco products to minors if the offence was committed without the seller's knowledge and that the seller took reasonable precautions and exercised due diligence to prevent the commission of the offence. The proposed Regulations have not covered this restriction on sale to minors.

It is therefore recommended that the tobacco control legislation be amended to include a provision requiring sellers to place a clear and prominent message inside their point of sale about the prohibition of tobacco sales to minors and, in case of doubt, to request each tobacco purchaser to provide appropriate evidence of having reached full legal age, or to introduce it into the Regulations.

Article 16.1(b) stipulates that the measures undertaken by each Party in respect of banning sales to and by minors may include “banning the sale of tobacco products in any manner by which they are directly accessible, such as store shelves”.

This requirement is covered by Provision 25(3) of the Act, which prohibits the sale or offering for sale of tobacco products by means of a display that permits a person to handle the product before paying for it. Furthermore, Provision 25 of the Act prohibits “other methods of unsupervised sales” including through the mail or “any means by which the age of the purchaser or recipient of the tobacco product cannot be verified”.

Samoa has met the obligation under 16.1(b).

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

Provision 19 of the Act prohibits the use of trademarks on goods other than tobacco products. Samoa has met the obligation under 16.1(c).

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*”.

Provision 25(1) of the Act prohibits the sale of tobacco products by means of vending machines. Samoa has met the obligations under Article 16.1(d).

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

Provision 24 of the Act prohibits the sale of: loose cigarettes; cigarettes in packs of fewer than 10 pieces; less than 15 grams of loose tobacco.

Gap – There is no ban on small cigarette packs (fewer than 20 pieces)

It is therefore recommended that the Act be revised or the Regulations should ban sale of cigarettes in small packs.

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*”.

Samoa has a small production of locally grown and marketed tobacco in the form of “sai”, “fili” and “tipi”. The first is a large bundle of rolled leaf, the second is a small cigarette akin to a bidi and the third is loose tobacco. Such tobacco products are generally used in rural areas and appear to account for less than 2% of tobacco product use in the country.

Samoa has a local tobacco factory owned by British American Tobacco that employs some 30 workers and uses only imported leaf from Brazil in the production of cigarettes for consumption in Samoa and export to Tokelau.

The Ministry of Agriculture has programmes to support farmers with alternative cash crops that will increase income.

Gaps –

1. There is a lack of awareness in relevant Government agencies about the obligation under Article 17.
2. There is no policy and mechanism in place to support tobacco workers and sellers to in moving to economically viable alternative livelihoods.

It is therefore recommended that relevant Government agency/ies be made aware of the obligation under Article 17 and promote economically viable alternatives to tobacco workers and individual sellers.

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

In Articles 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”.

Cigarettes are manufactured in Samoa. The Occupational Health & Safety Act 2002 (OHS Act) under the Ministry of Commerce, Industry & Labour provides protection for employees from harmful working environments. MOH public health enforcement officers carry out regular spot-checks at all manufacturing companies to ensure proper working conditions according to the OHS Act and provisions of the Health Ordinance 1959.

Articles 17 and 18 of the WHO FCTC will be on the agenda at the fifth session of the COP and policy options and recommendations for implementation of these two Articles will be discussed.

It is therefore recommended that the environmental protection agency and the MOH work together and make joint efforts to meet this treaty obligation. It is recommended that Samoa actively participate in the discussion on policy options and recommendations for implementation of Articles 17 and 18 during the fifth session of the COP and adopt appropriate policy measures afterwards.

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”.

Early production of tobacco at the factory in Samoa apparently did not take account of concerns for the health of workers. In 1999 the Government sold its share in the tobacco company. Currently, no activities or policy or legislative measures have been implemented in relation to Article 19. The MOH indicated that it would provide technical support in the case of a person or persons pursuing litigation.

Article 19 will be included in the agenda of fifth session of the COP.

It is therefore recommended that Samoa actively participate in the discussion at the fifth session of the COP and develop policy as appropriate to suit its situation.

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”.

Samoa has developed its research capacity including in tobacco control over the last decade. A number of key surveillance measures either include questions on tobacco or are directly focused on tobacco.

Samoa conducted its first health Demographic and Health Survey in 2009, surveying women and men of reproductive age (women aged 15–49 years and men aged 15–54 years). People from 1947 households in rural and urban areas were interviewed. The survey found that 35% of men and 15% of women were current cigarette smokers. About 6% of men smoked the locally grown “tapaa” in Samoa, almost exclusively in rural areas.

Samoa has participated in two international surveys conducted by WHO. The Samoa Global Youth Tobacco Survey (GYTS) was conducted in 2007 and surveyed 1297 schoolchildren aged 8–11 years. The Samoa GYTS found that over one-quarter of those surveyed were currently using some type of tobacco product, while 16.6% were current smokers of cigarettes and 19.1% used other forms of tobacco.

With support from WHO, Samoa conducted a national STEPS survey in 2002, interviewing 2804 adults aged between 25 and 64 years; the survey found that 56.9% of men and 21.8% of women were current smokers.

There is on-going participation and contribution to the above research and surveillance activities by the MOH and other ministries/agencies of the Government of Samoa.

During the joint needs assessment mission, information on a “Whole of Country, One Health Integrated Approach” to healthy living was shared. Health fairs have been organized throughout the country; screening at 138 village fairs for 23 302 people took place with follow up. In comparison with the 2002 National STPES Survey, it was found that smoking prevalence had decreased since 2002 in both genders: prevalence for men was 44% and for women 13%, with an overall prevalence of 27%. While not based on comparable sampling and methods of data collection, this information would appear to offer encouragement that smoking prevalence is declining.

The National Tobacco Control Policy & Strategy 2010–2015 contains a sound monitoring framework that includes indicators and data sources.

Gap – There are gaps in research on the determinants and consequences of tobacco consumption and exposure to tobacco smoke.

It is therefore recommended that Samoa:

1. *Develop and promote national research capacity and cooperate with competent international and regional organizations to conduct research that addresses the determinants and consequences of tobacco consumption, exposure to tobacco smoke and the direct and indirect costs generated by tobacco. As a first step, a database on morbidity attributable to tobacco use should be established.*
2. *Continue to work with WHO and conduct STEPS, GYTS and other international surveillance to monitor trends in tobacco use.*
3. *Strengthen the development of training programmes and support for all those engaged in tobacco control activities, including planning, implementation, monitoring and evaluation.*

Reporting and exchange of information (Article 21)

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

Samoa has provided its first (two-year) report on implementation of the Convention on 3 October 2008 but has not yet submitted its second (five year) report that was due on 27 February 2010. Samoa also missed the deadline to according to the new reporting period (1 January to 30 April 2012) adopted by the COP at its fourth session.

Gap – Samoa has not submitted its five-year implementation report before the reporting deadline.

It is therefore recommended that the MOH coordinate on Samoa’s reporting requirements with all relevant stakeholders and submit the report as soon as possible.

Article 21.1(b) requests “information as appropriate, on any constraints or barriers encountered in its implementation of the Convention, and on the measures taken to overcome these barriers”.

Samoa has provided such information in its first implementation report. It has therefore met the obligation under Article 21.1(b) and is encouraged to include these aspects in the implementation report currently in preparation.

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** [emphasis added] 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”.

Samoa has received assistance from a number of agencies including AusAID, NZAID and WHO. The Ministry of Finance coordinates overall international assistance from all development partners and works in coordination with the MOH to provide resources. This is managed through a comprehensive Government process under the Sector Wide

Approach (SWAp) for the provision of health and development services. Samoa has been able to mobilize support to implement the Convention. The Government's Health Advisory Committee discusses health issues and advocates for funding from different multilateral and multisectoral agencies.

The United Nations Development Assistance Framework (UNDAF) is the strategic programme framework jointly agreed between the Government and the UN system outlining priorities in national development. The current UNDAF covers the period 2008–2012. It does not include work directly related to implementation of the Convention. The next UNDAF, covering the period 2013–2017, is currently being finalized. The COP at its fourth session, in decision FCFC/COP4(17), fully acknowledged the importance of implementation of the Convention under the UNDAF as a strategic approach to ensure long-term and sustainable implementation, monitoring and evaluation progress for developing countries, encouraged developing countries to utilize the opportunities for assistance under the UNDAFs and requested the Convention Secretariat to work actively 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. The international team met the United Nations Resident Coordinator (UNRC) in Samoa together with the WHO Representative. The team discussed with the UNRC the need to include implementation of the Convention within the next UNDAF. The UNRC is keen to support the country's efforts to reduce NCDs and fully recognizes the contribution in this regard made by the Convention.

Gaps –

1. Broader international cooperation on implementing the Convention is yet to be utilized.
2. The current UNDAF has not given due consideration to supporting Samoa in meeting the obligations under the Convention.
3. Awareness of the importance of the UNDAF in supporting implementation of the Convention is limited among the relevant ministries and Government agencies.

It is therefore recommended that the MOH and Ministry of Finance play a leading role in advocating for support among bilateral and multilateral partners in meeting the country's obligations under the Convention. It is also recommended that the MOH follow up with the UNRC in advocating for the inclusion of support to the country in meeting its obligations under the Convention in the next UNDAF and its country operation plan.

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”.

Samoa has received significant funding through the SWAp to support public health programmes. Activities to implement the Convention have been conducted through the

SWAp including development of the Regulations, organization of health fairs (Samoa Australian Partnership in primary health care programmes) throughout the country, and the promotion of healthy lifestyles, education, communication, training and public awareness, law enforcement, multimedia awareness, NGO partnerships, etc.

Samoa has met the obligation under Article 26 of the Convention.

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

Article 26.3 also specifically points out that those 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*”.

As noted above, international organizations and development partners are active in Samoa. The SWAp pools funding from governmental and other development partners. Partners most likely to further assist the implementation of the Convention are UN agencies, AusAID and NZAID. Some of them could potentially play a role in supporting the country in meeting its obligations under the Convention. Through the SWAp programme, NZAID and AUSAID are providing funding for tobacco control programmes. UN agencies, namely the UNFPA, SPC, and UNICEF, as well as the Global Fund to Fight AIDS, Tuberculosis and Malaria, have tobacco control indicators under their programmes that are currently implemented through the health sector partners.

Samoa has small scale local cultivation of tobacco and British American Tobacco has a local manufacturing plant in the country. Economically viable alternatives to tobacco production, including crop diversification, should be addressed and supported in the context of nationally developed strategies of sustainable development

Gaps – The Government of Samoa has not yet fully utilized the bilateral, regional, subregional and other multilateral channels available with a view to providing sufficient funding for the development and strengthening of multisectoral, comprehensive tobacco control programmes, including projects promoting economically viable alternatives to tobacco production such as crop diversification.

It is therefore recommended that the Government of Samoa take advantage of the presence of international development partners in the country and promote the inclusion of implementation of the Convention in bilateral and multilateral agreements and action plans worked out with these agencies.

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 Ministry of Foreign Affairs and Trade and the MOH are fully committed to ensuring that Samoa will promote implementation of the Convention within the relevant bilateral and multilateral forums. The Minister for Health attended the High-level Meeting of the General Assembly on the Prevention and Control of NCDs meeting and fully recognizes the important role the Convention will play in reducing NCD morbidity and mortality.

It is therefore recommended that Samoa continue to be a strong advocate for moving the Convention higher up the international development agenda.

ANNEX

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

Participating Government agencies

Ministry of Health
Ministry of Foreign Affairs and Trade
Ministry of Finance
Ministry of Revenue and Customs
Ministry of Agriculture and Fisheries

Representatives of the Ministry of Health

Tuitama Dr Leao Talalelei Tuitama, Honorable Minister for Health
Ms Palanitina Tupuimatagi Toelupe, Director General and Chief Executive Officer
Ms Ualesi Silva, Assistant Chief Executive Officer
Ms Frances Brebner, Registrar
Mrs Sarah Asi Faletoese Sua, Assistant Chief Executive Officer
Mrs Latoya Lee, Principal Policy Officer
Mr Deuel Meredith, Principal Health Promotion Officer

Convention Secretariat

Ms Guangyuan Liu
Dr Harley Stanton (Temporary Advisor)

WHO Country Office in Samoa

Dr Yang Baoping, WHO Representative
Dr Asaua Faa'sino, National Professional Officer

Nongovernmental organizations and civil society

Samoa Cancer Society
Samoa Council of Churches

In addition, the international team met Ms Nileema Noble, UN Resident Coordinator and UNDP Representative for Samoa, Niue, Cook Islands and Tokelau.