

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

Convention Secretariat

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Table of Abbreviations

COP	Conference of the Parties
CTC	Ceylon Tobacco Company
GATS	Global Adult Tobacco Survey
GHPSS	Global Health Professions Student Survey
GSPS	Global School Personnel Survey
GYTS	Global Youth Tobacco Survey
IEC	Information, education and communication
MOA	Ministry of Agriculture
MOFP	Ministry of Finance and Planning
MOH	Ministry of Health
MOJ	Ministry of Justice
MOLLR	Ministry of Labour and Labour Relations
MOYASD	Ministry of Youth Affairs and Skills Development
NBT	Nation building tax
NRT	Nicotine replacement therapy
NYSC	National Youth Services Council
PHW	Pictorial Health Warnings
WHO STEPS	WHO STEPwise approach to Surveillance
TCC	Tobacco Control Cells
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Programme
VAT	Value-added tax

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 177 Parties to date. Sri Lanka ratified the WHO FCTC on 11 November 2003, being the first country in Asia and the fourth in the world to do so. The Convention entered into force for Sri Lanka on 27 February 2005.

An assessment of the needs for implementation of the WHO FCTC in Sri Lanka was conducted jointly by the Government of the Democratic Socialist Republic of Sri Lanka and the Convention Secretariat from September to October 2013, following an initial analysis of the status of implementation, and the challenges and potential needs deriving from the country's most recent implementation report and other sources of information. An international team led by the Convention Secretariat, which included representatives of the WHO Regional Office for South-East Asia, the WHO Country Office in Sri Lanka and the United Nations Development Programme Asia-Pacific Regional Center, conducted the mission in Sri Lanka together with representatives of the Government from 14 to 18 October 2013. The assessment involved relevant ministries and agencies of the Government and several nongovernmental organizations (NGOs) working on tobacco control (see annex).

This needs assessment report presents an article-by-article analysis of the progress the country has made in implementation, the gaps that exist and the subsequent possible action that can be undertaken to fill those gaps. The key elements that need to be put in place to enable Sri Lanka 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, Sri Lanka is obliged to implement its provisions through national laws, regulations or other measures. It is important to identify all obligations in the substantive articles of the Convention, including achievements and gaps, through a strong multisectoral, collaborative approach. It is therefore recommended that Sri Lanka strengthen multisectoral collaboration within the Government, strengthen inclusion of NGOs in treaty implementation work, provide the required resources and seek support internationally where appropriate, in order to fulfil the obligations under the Convention.

Second, under Article 5.2(b) of the WHO FCTC, Parties have an obligation to develop and adopt national tobacco control legislation to enable full implementation of the Convention. Sri Lanka has adopted the National Authority on Tobacco and Alcohol Act No. 27 of 2006 (the Act), and consequently, as mandated by Article 34 of this Act, adopted the Tobacco Products (Labelling and Packaging) Regulations No. 01 of 2012 (the Regulations). The legislation addresses Articles 5.2(a), 8, 9/10, 11, 13, 15 and 16 of the Convention. However, to fully implement the requirements of the Convention, amendments need to be made to the law in several areas, specifically with regard to smoke-free environments, point-of-sale and cross-border tobacco advertising, and sales to and by minors. In addition, the Regulations should be implemented

without delay and further regulations need to be developed as mandated by the Act (in Articles 30(1) and 33 of the Act).

Third, under Article 5.3 of the WHO FCTC, Parties have an obligation to protect public health policies from commercial and other vested interests of the tobacco industry. Information reported by several stakeholders indicates that the tobacco industry uses various tactics and strategies to interfere with public policies, specifically in the areas of illicit trade in tobacco products and sales to and by minors and through various “corporate social responsibility” initiatives. Tobacco industry interference needs to be prevented by raising awareness of the industry’s activities within all branches of the Government and/or including a clause in the national legislation or any other relevant normative documents.

Fourth, taxation on tobacco products in Sri Lanka is governed by Tobacco Tax Act No. 8 of 1999 and the Tobacco Tax (Amendment) Act No. 9 of 2004. Excise taxes do not apply to all smoking tobacco products nor to any smokeless tobacco products. In addition, the excise rates vary according to the length of cigarettes, making the structure complex. There have been regular increases in tobacco excise rates in recent years, which has led to a decreased demand for cigarettes. It is therefore recommended that the tobacco taxation structure be simplified and the excise tax applied to all tobacco products, including smokeless forms, at the same or similar rates as cigarettes to prevent shifting between different products. It is also recommended that tax rates continue to be increased on a regular basis to take into account both increases in consumer prices and household incomes, in order to decrease the affordability of tobacco products and ultimately reduce consumption.

Fifth, the current smoking ban imposed by the Act is almost comprehensive in its coverage, but has exemptions for hotels, guest houses or lodges, restaurants, clubs, airports, private workplaces and outdoor public places. It is therefore recommended that the Act be amended to remove these exemptions. The enforcement of smoke-free policies also needs to be strengthened. It is therefore recommended that the Act be amended to confer the necessary powers on all Authorized Officers to enable swift enforcement and to enable them to apply fines without an arrest warrant.

Sixth, the Regulations adopted in 2012 to implement the relevant requirements of the Act call for pictorial health warnings to be printed on the top surface area of both front and back of every cigarette packet, package or carton and to cover an area of not less than 80% of the top surface area of both front and back of every cigarette packet, package or carton. However, progress in implementing the law has been halted due to cases filed by the tobacco industry against provisions of the Regulations on packaging and labelling. The Supreme Court has suspended the implementation of the Regulations until January 2014. Article 11 is a time-bound provision with a three-year deadline from the date of entry into force of the Convention. Sri Lanka, as a Party to the Convention, is obligated to prioritize the country’s right to protect public health and implement effective packaging and labelling measures. It is recommended that when the cases come up for hearing, the Ministry of Health (MOH) apprise the Supreme Court that Article 11 is a time-bound obligation for which Sri Lanka has missed the deadline and work for a rapid conclusion of the cases.

Seventh, efforts to educate target groups, including schoolchildren, youth, parliamentarians, the media, religious leaders, etc. on the harms of tobacco use and exposure to tobacco smoke are ongoing, but there is a need to give more emphasis to issues related to all tobacco products, in particular smokeless forms of tobacco. It is recommended that the MOH work closely with the Ministry of Mass Media and Information, as well as other ministries and civil society organizations, to: obtain free airtime on national television and radio stations for the broadcasting of anti-tobacco messages; and to develop, implement and sustain mass media campaigns that reach all segments of society, in particular vulnerable populations such as children and pregnant women. In addition, the MOH is encouraged to work closely with the Secretary of the Ministry of Justice in relation to the organization of a WHO FCTC-related awareness raising session among the judiciary.

Eighth, Sri Lanka does not have national guidelines on cessation services and treatment of tobacco dependence. A quit line is available which provides information on the locations of health centres at which the public can receive substance abuse counselling and prescriptions for medicines that aid cessation. Nicotine replacement therapy is not registered under the essential drugs list and is therefore not available in Sri Lanka. It is therefore recommended that Sri Lanka strengthen its implementation of Article 14 of the Convention and the guidelines for its implementation.

Ninth, the Protocol to Eliminate Illicit Trade in Tobacco Products adopted at COP5 provides an additional legal instrument to reduce supply. The Protocol is now open for ratification by the Parties to the WHO FCTC. Consultations have already started within the Government regarding the possibility of ratifying the Protocol. The Government is encouraged to complete this process as soon as possible.

Tenth, Sri Lanka has made progress in implementing Article 16 of the WHO FCTC to ban sales to and by minors, although there are areas that require strengthening. Sri Lanka could strengthen the Act by including a prohibition on sales by minors, by requiring sellers of tobacco products to place a notice at points of sale indicating that tobacco products may not be sold to persons under the age of 21 years, and by prohibiting the sale of cigarettes individually or in small packets, which increase the affordability of such products to minors.

Eleventh, the Government does not provide subsidies to the tobacco sector (including tobacco growers) and does not support tobacco cultivation under its National Irrigation Scheme. Tobacco farmers are now voluntarily moving away from tobacco cultivation due to diminishing profits from the sale of tobacco leaf, soil erosion, reduced tobacco yields and better profitability of replacement crops. It is recommended that the Government capitalize on this natural trend and support activities that help tobacco farmers make the transition to other economically viable alternatives.

Twelfth, Sri Lanka has longitudinal data on youth tobacco use from surveys conducted with the support of WHO and the US Centers for Disease Control and Prevention. However, Sri Lanka does not have comparable longitudinal data for adults, particularly the prevalence of smokeless tobacco use. Data on smoking tobacco other than cigarettes are still inadequate. Thus, Sri Lanka is encouraged to address these research and surveillance gaps by conducting standard surveys such as the Global Adult Tobacco Survey and the WHO STEPwise approach to Surveillance (WHO STEPS) or by incorporating standard tobacco questions in on-going national surveys and other data collection mechanisms.

Thirteenth, implementation of the WHO FCTC should be viewed as a poverty reduction, human rights, gender equality and human development issue and not just a public health matter. The current United Nations Development Assistance Framework (UNDAF) (2013–2017) includes prevention and control of noncommunicable diseases (NCDs) under Outcome 2.1 (*Enhanced capacity of national institutions for evidence-based policy development and strengthened provision of, access to and demand for equitable and quality social services delivery*). The UNDAF mid-term review would be an opportunity to make specific references to the progress of the implementation of the WHO FCTC under Outcomes 2.1 and 3.1 (*Communities empowered and institutions strengthened to support local governance, access to justice, social integration, gender equality, and monitoring, promotion and protection of human rights in alignment with international treaties and obligations and in alignment to the constitution of Sri Lanka*). In the next UNDAF, Sri Lanka should consider including a specific mention of the Convention. This would help ensure interagency action to support a multisectoral approach to tobacco control. It is recommended that the Government actively follow up with the United Nations Resident Coordinator and relevant United Nations agencies to include implementation of the prioritized areas of the Convention under the UNDAF and their programming activities.

Fourteenth, the needs identified in this report represent priority areas that require immediate attention. The Convention Secretariat, in cooperation with WHO and relevant international partners, will be available and committed to supporting Sri Lanka in addressing these areas, upon request. The Convention Secretariat is also committed to providing and facilitating technical assistance, particularly in the following areas, upon request of the Government: (1) development of the national strategic plan; (2) accessing resources through coordination with donors; (3) development of tobacco taxation policy; (4) establishment of a tracking and tracing system; (5) inclusion of standard tobacco-related questions in ongoing national surveys and other data collection mechanisms; and (6) convening of a stakeholder workshop that would consider the present report and adopt a future plan of action.

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

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

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

Introduction

The WHO FCTC is the first international treaty negotiated under the auspices of WHO. Sri Lanka ratified the WHO FCTC on 11 November 2003, being the first country in Asia and the fourth in the world to do so. The Convention entered into force for Sri Lanka on 27 February 2005.

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

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

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

At its third, fourth and fifth sessions (held in November of 2008, 2010 and 2012), the COP adopted the workplans and budgets for the bienniums 2010–2011, 2012–2013 and 2014–2015, respectively. The workplans, inter alia, re-emphasized the importance of assisting developing country Parties and Parties with economies in transition, strengthening coordination with international organizations, and aligning tobacco control policies at country level to promote implementation of the Convention. Needs assessments, combined with the promotion of access to available resources, the promotion of treaty tools at country level, the transfer of expertise and technology, and 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

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.

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

With the above objectives and process in view, a joint assessment of the needs concerning implementation of the WHO FCTC was conducted by the Government of Sri Lanka and the Convention Secretariat, including a mission to Sri Lanka by an international team of experts from the Convention Secretariat, the WHO Regional Office for South-East Asia and the United Nations Development Programme (UNDP) from 14 to 18 October 2013. The detailed assessment involved relevant ministries and agencies of Sri Lanka. The following report is based on the findings of the joint needs assessment exercise carried out as described above.

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

Status of implementation, gaps and recommendations

This core section of the report follows the structure of the Convention. It outlines the requirements of each of the substantive articles of the Convention, reviews the stage of implementation of each article, outlines achievements and identifies the gaps between the requirements of the treaty and the level of implementation by Sri Lanka. Finally, it provides recommendations on how the gaps identified could be addressed, with a view to supporting the country in meeting its obligations under the Convention.

Relationship between this Convention and other agreements and legal instruments (Article 2)

Article 2.1 of the Convention, in order to better protect human health, encourages Parties “*to implement measures beyond those required by this Convention and its protocols, and nothing in these instruments shall prevent a Party from imposing stricter requirements that are consistent with their provisions and are in accordance with international law*”.

Currently, some measures going beyond the provisions contained in the Convention have been implemented or are being considered in Sri Lanka. One of these areas is sales of tobacco products to minors. Although in Sri Lanka “minor” means 16 years or younger (or 18 years when it comes to voting), Sri Lanka has prohibited sales of tobacco products to those aged 21 years and below, so that young adults are also protected.

The Ministry of Health (MOH) also tries to go beyond the provisions of the Convention by amending the existing law on few other aspects.

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*”.

Sri Lanka has not communicated any information concerning bilateral or multilateral agreements on issues relevant or additional to the Convention and its Protocol.

It is recommended that if such agreements are identified in the future, the Government communicate them to the Secretariat either as part of Sri Lanka’s next WHO FCTC implementation report(s) or independently.

Guiding Principles (Article 4)

The Preamble of the Convention emphasizes “*the special contribution of nongovernmental organizations and other members of civil society not affiliated with the tobacco industry, including health professional bodies, women’s, youth, environmental and consumer groups, and academic and health care institutions, to tobacco control efforts nationally and internationally and the vital importance of their participation in national and international tobacco control efforts*”.

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

Members of the international team met representatives of relevant nongovernmental organizations (NGOs), such as the Swarna Hansa Foundation, the Sri Lanka Temperance Association, the Sri Lanka Federation of Nongovernmental Organizations Against Drug Abuse, and the Alcohol and Drug Information Centre Sri Lanka (ADIC). The NGOs conduct the following activities: awareness-raising programmes for communities, Government officials, schools and restaurant and hotel owners; public campaigns and peaceful demonstrations; research and programme evaluation; training of teachers and enforcement officers; mobilization of communities to support tobacco control such as persuading shop owners to stop selling cigarettes; collection of evidence of violations related to the ban on tobacco advertising, promotion and sponsorship; monitoring of corruption that weakens enforcement of the law; dissemination of information, education and communication materials; advocacy for policy change, specifically in the areas of smoke-free environments, tobacco advertising, promotion and sponsorship, and health warnings on tobacco packages; and submission of petitions in support of the Government.

The Government of Sri Lanka recognizes the importance of civil society's role in achieving the objective of the Convention, and includes representatives of civil society in the National Authority on Tobacco and Alcohol (the Authority) under Article 3(j) of the National Authority on Tobacco and Alcohol Act No. 27 of 2006 (the Act)¹ or as ex-officio members.

The MOH has ensured the participation of civil society in almost all tobacco-related steering committees (e.g. the National Steering Committee for Noncommunicable Diseases (NCDs), National Committee on Mental Health, the NCD Stakeholder Committee, etc.). A mechanism has also been put in place to monitor activities conducted by civil society: their representatives are summoned to regular meetings by the national tobacco control focal point.

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

It is recommended that such collaborative work between the MOH and the relevant NGOs continue, in order to improve the synergy and efficiency of the action taken by civil society.

General obligations (General obligations (Article 5))

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

Sri Lanka does not have a standalone comprehensive tobacco control strategy, plan or programme. Tobacco control and WHO FCTC implementation are integrated into broader health and development policy and plans, and within the NCD prevention and control programme. Guided by the Health Master Plan 2007–2016 and the vision of the Mahinda Chinta 2010–2016, the following plans detail tobacco control activities:

- Prevention and Control of Chronic Noncommunicable Diseases Strategic Plan 2010–2015 (also known as the National NCD Medium Term Development Plan): aims to

¹ Article 3(j) of the Act states that the Minister of Health can appoint five members of the Authority from among persons who have wide experience and knowledge in medicine and other fields related to tobacco products.

strengthen WHO FCTC implementation by supporting the Authority and its functions, implementing the Act, and scaling up primary health-care services to provide tobacco cessation counselling.

- National Health Development Plan 2013–2017: Within this Plan, the NCD workplan provides details of tobacco control activities, which include strengthening district Tobacco Control Cells (TCCs); establishing smoke-free enclosed public places; training primary care doctors to provide brief interventions; initiating a social marketing campaign; conducting health promotion programmes among schoolchildren; enforcing the ban on tobacco advertising; raising tobacco taxes; and evaluating implementation of the Convention by the central NCD unit biannually.
- Sri Lanka Second Health Sector Development Project 2013–2018: the health sector plan supported by the World Bank, which includes strengthening the health system and building capacity for tobacco control, for example by supporting regulatory and service delivery measures.
- 2013 Annual Action Plan: every year, each programme and directorate (national, provincial, district) of the MOH will develop an action plan. Tobacco control is embedded within NCD prevention and control and specific activities are listed in the provincial and district plans.

Gap – Sri Lanka does not have a standalone tobacco control strategic plan that addresses all substantive articles of the Convention in a comprehensive way.

It is therefore recommended that Sri Lanka develop a National Tobacco Control Strategic Plan, ensuring that the Plan is multisectoral and using the present needs assessment report as a reference in order to address all substantive articles of the Convention in a comprehensive way.

The Convention Secretariat is committed to facilitating provision of expertise and technical support in the development of a national tobacco control strategic plan, upon request from the MOH.

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

The focal point for tobacco control is the Deputy Director General (Medical Services) of the MOH. There is no dedicated staff member working full-time on tobacco control, although two of eight directorates under the purview of the focal point have tobacco control activities.

Sri Lanka also has a national multisectoral coordinating mechanism for tobacco control. The Act established the National Authority on Tobacco and Alcohol, which is responsible for “*identifying the policy on protecting public health; for the elimination of tobacco and alcohol-related harm through the assessment and monitoring of the production, marketing and consumption of tobacco products and alcohol products; to make provisions discouraging persons especially children from smoking or consuming alcohol, by curtailing their access to tobacco products and alcohol products; and for matters connected therewith or incidental thereto*”. The Authority holds meetings each month and quarterly meetings at district level to coordinate activities related to implementation of the Act.

The Authority is composed of representatives of the following seven ministries: health, justice, education, media, trade, sports and youth affairs. The Chairman of the National Dangerous

Drugs Control Board and representatives of the Commissioner-General of Excise and of the Inspector-General of Police are also involved in the work of the Authority. Additionally, five members can be appointed by the Minister of Health from among persons who have wide experience and knowledge in the field of medicine and other fields related to tobacco products and alcohol products. Articles (4–7 and 9–13) of the Act provide details of the terms of engagement and powers of the Authority.

Article 14 of the Act delineates the functions of the Authority, which include advising on policy matters; making recommendations on appropriate interventions; monitoring and evaluating the implementation and impact of interventions; promoting research; and liaising with local, regional and international organizations on tobacco-related matters. Article 22 of the Act has established a Fund for the Authority to use for its operations and implementation of the Act.

The Act (in Articles 15 and 16) confers power to the Authority to appoint officers and sub-committees to discharge the functions of the Authority; and for purposes of this Act, the Food and Drugs Inspector, Public Health Inspector, Police Officer or Excise Officer shall be an Authorized Officer of the Authority. With regards to the Authorized Officers, Articles 17, 18, 19 and 21 of the Act detail their powers, responsibilities and terms of engagement.

The MOH in collaboration with the Authority established TCCs in all districts in the country to implement tobacco control strategies at the district level. The TCCs were officially launched in 2009.

Sri Lanka has a national tobacco control focal point and a multisectoral coordinating mechanism at both national and subnational levels, and has therefore met its obligations under Article 5.2(a).

However, it is recommended that the Authority further strengthen coordination and collaboration among its members, especially with other non-health related stakeholder Ministries.

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”.

Tobacco control has a long history in Sri Lanka and the country has taken various legislative and administrative measures¹ to regulate tobacco-related matters, even before the Act, which addressed tobacco in a comprehensive manner, was adopted in 2006.

¹ The normative documents that have been used to regulate tobacco-related matters prior to 2006 include:

- the Railway Ordinance Act No. 20 of 1971 that prohibits smoking and chewing of betel on trains;
- the Children and Young Persons Ordinance Act No. 2 of 1978 that prohibits sale of tobacco to persons younger than 16 years of age;
- the Transport Board Law No. 19 of 1978 that prohibits smoking in public transport;
- the Consumer Protection Act No. 1 of 1979 Section 6(1c) that mandates health warnings, namely: (i) “smoking causes cancer” and (ii) “smoking causes heart attacks”;
- the Public Administrative Circular No. 8/1999 that prohibits smoking in state institutions; and
- the Health Ministry Circular No. 1-23/2003 that prohibited smoking in all health institutions and their premises.

In 2006, the Parliament of Sri Lanka adopted the National Authority on Tobacco and Alcohol Act No. 27. The Act was published in the Gazette on 1 September 2006 and became effective on 1 December 2006.

The Act addresses most of the substantive articles of the Convention as follows:

- Article 5.2(a): by establishing the National Authority on Tobacco and Alcohol as the national intersectoral mechanism for tobacco control;
- Article 8: by calling for smoke-free environments in most public places;
- Articles 9 and 10: by requiring testing and disclosure to the Government about the contents and emissions of tobacco products;
- Article 11: by requiring health warnings on tobacco products;
- Article 13: by prohibiting tobacco advertising, promotion and sponsorship and brand stretching;
- Article 16: by prohibiting sale of tobacco products to persons under 21, vending machines and free distribution of tobacco products;
- Article 20: by calling on the Authority to encourage and conduct research on tobacco use and other related issues.

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

Article 30 of the Act mandates the Minister to develop regulations to further regulate specific areas covered therein. The areas in which the Act calls for further regulations are as follows:

- types of tobacco products that can be manufactured, imported, sold or offered for sale;
- health warnings on tobacco product packaging;
- point of sale advertising; and
- testing of the constituents of tobacco products.

Although the legislation is comprehensive, certain areas of the Act and the relevant regulations need to be amended so that they are fully in line with the Convention. These include smoke-free environments, point-of-sale and cross-border tobacco advertising, and sales to and by minors. Inclusion of the following would also strengthen the legislation: introduction of effective disclosure to the public of information about contents and emissions; disclosure of ingredients, characteristics and design features of tobacco products; and a provision that requires qualitative statements about the harmful substances in tobacco products.

The Tobacco Products (Labelling and Packaging) Regulations No. 01 of 2012 (the Regulations) were due to come into effect three months from 8 August 2012, but this date were amended by an announcement in the Gazette on 8 November 2012, which stated that they will come into effect on 1 March 2013. However, implementation has been further delayed due to challenges filed by the tobacco industry and its allies, as follows: (i) the Ceylon Tobacco Company against the Minister of Health, Secretary of the MOH and the Authority, challenging the provisions of the Regulations; (ii) the Lion Brewery Ceylon against the Honorary Attorney General, challenging the constitutionality of the Act.

After the Court of Appeal refused to issue a stay order against implementation of the Regulations in February 2013, the CTC filed the case in the Supreme Court. On 20 September 2013, the Supreme Court issued a stay order suspending implementation of the Regulations

until 22 January 2014. These delaying tactics of the tobacco industry have impeded Sri Lanka's fulfilment of the obligations under the Convention. As a Party to the Convention, Sri Lanka is obliged to prioritize protection of public health.

Gaps –

1. The Act is not fully WHO FCTC-compliant in a few areas.
2. Three regulations to effectively implement requirements on Articles 33, 35 and 40 of the Act have not been developed yet.
3. Implementation of the packaging and labelling Regulations has been delayed due to the Supreme Court's stay order. Sri Lanka has missed its three-year deadline (27 February 2008) for implementation of Article 11 of the Convention.

It is therefore recommended that the MOH initiate amendment of the Act to ensure its full compliance with the Convention and the guidelines for its implementation. It is further recommended that the Government ensure implementation of the packaging and labelling regulations to honour Sri Lanka's international legal obligation as a Party to the Convention.

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

The guidelines for implementation of Article 5.3 recommend that no branch of government should endorse, support, form partnerships with or participate in activities of the tobacco industry described as socially responsible.

There is no direct reference in the Act – or any other normative document in force – to any measures required under Article 5.3 of the Convention or recommended by the respective guidelines for implementation. However, Articles 17, 24 and 35(2)(f) of the Act may enable the Authority to obtain information from the tobacco industry and make relevant information available to the public.

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

It was brought to the attention of the international team that media reports and information are available on tobacco industry interference with public health policies (there is only one tobacco leaf and cigarette producer in the country: the Ceylon Tobacco Company, a subsidiary of British American Tobacco). Examples include the following: an invitation to participate in a tobacco control conference was extended to a Government official, formerly associated with the tobacco industry; the tobacco industry's attempts to support “socially responsible” projects; offering free legal advice to violators of the Act, notably those measures preventing sales of tobacco products to minors; sponsoring business societies and associations in townships; and providing technical advice on farming tobacco; the Government acting in partnership with the tobacco company in development projects; and the tobacco company offering rewards to customs officers when counterfeit cigarettes are detected.

Gaps–

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

It is therefore recommended that Sri Lanka include its obligations under Article 5.3 in the 2006 Act or any relevant State policy. In addition, awareness of Article 5.3 should be promoted through existing channels of communication between various ministries of the Government, such as an administrative circular. It is also recommended that any meetings that may occur between Government officials and representatives of the tobacco industry be made transparent and that any relevant information or notes for the record be made available to the public.

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

Sri Lanka participated in all five sessions of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products and has attended all sessions of the Conference of the Parties (COP).

Sri Lanka currently participates in the work of the expert group on Article 19 of the WHO FCTC (“Liability”), but it is not a member of any other working groups established by the COP.

Sri Lanka has met the obligation under Article 5.4 of the Convention. Further cooperation and participation in such intergovernmental processes will facilitate Sri Lanka’s implementation of the Convention, the Protocol, and other instruments adopted by the COP; on the other hand, the sharing of information and experiences of Sri Lanka could facilitate implementation of the Convention by other Parties.

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”.

Sri Lanka has been cooperating with several international organizations and donor agencies, such as WHO, the World Customs Organization, the World Bank, the UNDP and the United Nations Population Fund (UNFPA), as well as the US Centers for Disease Control and Prevention (CDC), the International Union Against Tuberculosis and Lung Disease (the Union), and the Bloomberg Initiative to reduce tobacco use.

Further details on international cooperation are given under Article 22.

Sri Lanka has met its obligations under Article 5.5 of the Convention.

Article 5.6 calls on Parties to “within means and resources at their disposal, cooperate to raise financial resources for effective implementation of the Convention through bilateral and multilateral funding mechanisms”.

Sri Lanka has sought and received funding from international agencies including WHO, the World Bank, UNDP, UNFPA, US CDC and the Union for legislation, policy development, capacity building, advocacy and surveillance activities. However, Sri Lanka is encouraged to mobilize additional resources for effective implementation of the Convention and for strengthened enforcement of the relevant legislation.

Sri Lanka has met its obligations under Article 5.6.

Price and tax measures (Article 6)

In Article 6.1, the Parties recognize that “*price and tax measures are an effective and important means of reducing tobacco consumption by various segments of the population, in particular young persons*”. Further, Article 6.2(a) stipulates that each Party should take account of its national health objectives concerning tobacco control in implementing “*tax policies and, where appropriate, price policies, on tobacco products so as to contribute to the health objectives aimed at reducing tobacco consumption*”.

Taxation of tobacco products

The Tobacco Tax Act No. 8 of 1999 and the Tobacco Tax (Amendment) Act No. 9 of 2004 regulate and control illegal importation of tobacco products. The Department of Excise implements the excise policies of the Government and conducts various activities including the protection and collection of excise revenue. The Department of Excise also proposes annual excise tax increases to the Ministry of Finance and Planning (MOFP). The Inland Revenue Department collects taxes such as the value-added tax (VAT) and nation building tax (NBT). The Sri Lanka Customs is responsible for collecting excise, import and export taxes, for facilitating legitimate trade, for controlling and monitoring imports and exports of restricted and prohibited goods, and for collecting import and export data.

General customs duty, VAT, port and airport development levy (PAL), NBT, cess and excise taxes are imposed on different types of tobacco products. There are no excise duties on beedies, water pipe tobacco and other smokeless and chewing tobacco, and no duties on manufactured cigarettes being exported from Sri Lanka. Cigarettes manufactured overseas and brought into Sri Lanka are available for purchase in selected stores (i.e. bonded facilities), but duties will have to be paid if the cigarettes were sold and brought out of the facility where they were stored.

Table 1 shows the different rates based on the Sri Lanka Customs National Imports Tariff Guide 2013¹ and information provided by the Excise Department.

¹ Data obtained from the Sri Lanka National Imports Tariff Guide (<http://www.customs.gov.lk/tariff/TARIFF%202013.pdf>), the Customs Import Duty Amendments Effective from 31 July 2013 (<http://www.customs.gov.lk/tariff/cid130731.pdf>), the Gazette Notice 1821/1 on Excise (Special Provisions) Act No. 13 of 1989, Order under Section 3 effective from 29 July 2013 (http://www.treasury.gov.lk/depts/fpd/gazetts/1821_01E.pdf) and a presentation by the Department of Excise.

Table 1. Rates and types of tax applied to tobacco products in Sri Lanka¹

Type	Customs Duty	VAT	PAL	NBT	Cess	Excise
Unmanufactured tobacco; tobacco refuse						
Tobacco, not stemmed/stripped	75%	12%	5%	2%	30%	Rs10/= per kg net weight
Tobacco, partly or wholly stemmed/stripped	75%	12%	5%	2%	30%	Rs10/= per kg net weight
Tobacco refuse	75%	12%	5%	2%	30%	Rs10/= per kg net weight
Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes						
Cigars, cheroots and cigarillos, containing tobacco	Rs 1370/= per kg net weight	12%	5%	2%	Rs 6000/= per kg net weight	Rs 7000/= per kg net weight
Beedies	50% or Rs 1570/= per kg gross weight	12%	5%	2%	30%	-
Cigarettes, ≤60 mm	100%	12%	5%	2%	30%	Rs 5722/= per 1000 cigarettes
Cigarettes, >60 ≤67 mm	100%	12%	5%	2%	30%	Rs 10355/= per 1000 cigarettes
Cigarettes, >67 ≤72 mm	100%	12%	5%	2%	30%	Rs 12100/= per 1000 cigarettes
Cigarettes, >72 ≤84 mm	100%	12%	5%	2%	30%	Rs 16610/= per 1000 cigarettes
Cigarettes, > 84mm	100%	12%	5%	2%	30%	Rs 20000/= per 1000 cigarettes
Other	250% or Rs 1370/= per kg gross	12%	5%	2%	30%	-

¹ Prices given in Sri Lankan rupees (Rs): at the time of writing (October 2013), the exchange rate was US\$ 1 = R0.00761.

Type	Customs Duty	VAT	PAL	NBT	Cess	Excise
	weight					
Other manufactured tobacco and manufactured tobacco substitutes; “homogenized” or “reconstituted” tobacco; tobacco extracts and essences.						
Water pipe tobacco	250% or Rs 1370/= per kg gross weight	12%	5%	2%	30%	-
Pipe tobacco	250% or Rs 1370/= per kg gross weight	12%	5%	2%	30%	Rs 500/= per kg
Beedi tobacco	75%	12%	5%	2%	30%	-
Other	250% or Rs 1370/= per kg gross weight	12%	5%	2%	30%	-

The types of taxes applied to one stick of the most sold (Gold Leaf) cigarette are as follows:

Retail price	Rs	28.00	
Wholesale price	Rs	26.92	
Excise special provision tax	Rs	16.80	=16.80
VAT 12%	Rs	26.92x12/112	=2.88
NBT 2%	Rs	26.92x2/100	=0.53
ESC (Wholesaler)	Rs	26.92x1/100	=0.26
ESC (Retailer)	Rs	28.00x1/100	=0.28
Excise tax (1kg – 900 Cigarette)	Rs		=0.01
Total taxes	Rs		=20.76
Total taxes as a % of retail price		20.76x100/28.00	=74.14%
Total taxes as a % of wholesale price		20.76x100/26.92	=77.12

Excise tax on tobacco products has been increasing by 1–2 rupees per stick each year, except for cigars, cheroots and cigarillos containing tobacco, cigarettes $>67 \leq 72$ mm, and pipe tobacco, where there was no change from 2012 to 2013.¹ For other types of taxes, VAT decreased from 15% in 2006 to 12% in 2013; PAL increased from 2.5% in 2006 to 5% in 2013.

In Sri Lanka, the Ceylon Tobacco Company, a subsidiary of British American Tobacco Holdings, is the sole tobacco leaf and cigarette producer in the country.

¹ This is based on data from Gazette Notices for Excise (Special Provisions) Act No. 13 of 1989 effective on 21 November 2011, 8 November 2012 and 29 July 2013.

The number of cigarettes produced locally and sold on the local market in 2012 was slightly lower than in 2003 (4320 and 4462 billion pieces, respectively); in the same period, the amount of collected tax increased more than 2.5 times from 20 billion rupees in 2003 to 54 billion rupees in 2012.

Prices of tobacco products

In 2013, a pack of 20 Gold Leaf cigarettes was priced at 560 rupees (28 rupees per piece), and the proportion of tax to retail price for this brand was 74.14%.

From 2008 to 2012, the proportion of tax to retail price on the most popular brand of cigarettes in Sri Lanka increased from 71.7% to 73.6%.

An analysis of the affordability of tobacco was published in 2010. The study found that the most recent (2006, 2008, 2009) increases in the prices of cigarettes had not kept up with inflation rates and increases in gross domestic product. This meant that cigarettes were more affordable post 2005 than previously (1990–2000). In order to correct the affordability gap and achieve the same affordability level as pertained in 1980, cigarette prices would have had to be increased by 51% in 2009 or 64% in 2010.¹ This study highlights the need to further increase the price and tax rates of tobacco products to reduce affordability and thereby reduce consumption.

Gaps –

1. The current taxation structure is very complex.
2. Cigarettes are increasingly affordable.
3. Current tax rates do not take into account changes in household incomes and have not kept up with inflation in the past decade.

It is therefore recommended that the MOH work together with the MOFP to simplify the tobacco taxation structure by decreasing the number of rates, ideally to a single rate. This will minimize incentives to shift to cheaper products. It is also recommended that tax rates be increased on a regular basis to take into account both increases in consumer prices and household incomes (to decrease the affordability of tobacco products). Tobacco products other than cigarettes should be taxed in a comparable way to limit product substitution.

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

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

Tax-free and duty-free tobacco products are not available for purchase by international travellers arriving at the airport. If international travellers entering Sri Lanka are found to

¹ Tobacco affordability analysis: to inform relevant public policy action. Verité Research. February 2010. (http://www.nata.gov.lk/images/stories/publications/tobacco_pricing_study_nishan.pdf, accessed 3 October 2013).

possess cigarettes purchased abroad, even if they are for personal use, these are forfeited to the State and destroyed under the Tobacco Tax Act (Article 15(7)).

Sri Lanka has met its obligations under Article 6.2(b) of the Convention.

Protection from exposure to tobacco smoke (Article 8)

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

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

The current smoking ban imposed by the Act is almost comprehensive in its coverage, but has some exemptions. Article 39(1) and (5) of the Act prohibits smoking within any enclosed public place; the definitions of “public place” and “enclosed public place” are in line with the definitions given in the guidelines for implementation of Article 8 of the WHO FCTC. However, exemptions are made for hotels, guest houses or lodges having 30 rooms or more; restaurants or clubs with a minimum seating capacity of 30 persons; or for airports. These venues are allowed to designate an enclosed space or area for smoking as long as there is adequate ventilation and if it conforms to the prescribed air quality standards. There are no specific provisions that ban smoking in private workplaces and outdoor public places.

Articles 39(2), 15 and 16 of the Act specify the persons responsible for implementation and enforcement of the smoking ban, namely any person who is the owner, occupier, proprietor, manager, trustee or person in charge of any enclosed public place, any officer and servant appointed to discharge the functions of the Authority, and any Food and Drugs Inspector, Public Health Inspector, Police Officer or Excise Officer; and Article 39(4) of the Act specifies the penalties and fines for any violations against the provision.

Authorized Officers have been deployed island-wide through the district TCCs to ensure effective enforcement of the law. The public has also been supportive in enabling detections of violations. According to the Department of Excise, their officers have detected numerous offences related to Articles 31–39 and 43 of the Act concerning such provisions as the prohibition of the sale of tobacco products to persons under 21 years, prohibition of tobacco advertising, promotion and sponsorship, and prohibition of smoking within any enclosed public place.¹

The international team was informed that the excise officers and public health inspectors, who do not possess the same powers as police or peace officers, are unable to apply fines without an arrest warrant when there are violations of the smoking ban. This was perceived to weaken their effectiveness. It is recommended that an appropriate strategy be considered, which would enable swift enforcement and issuance of fines and penalties without an arrest warrant. The

¹ In 2012, excise officers detected 4163 offences with resulting fines totaling 8 727 450 rupees. The figures were 3759 offences and fines of 5 886 800 rupees in 2011 and 2159 offences and fines of 2 973 550 rupees in 2010. These figures do not include offences detected by Authorized Officers from other agencies.

extension of these powers to excise officers and public health inspectors has been already included in the draft amendments.

The 2011 Global Youth Tobacco Survey (GYTS) indicated that 21.2% of young people aged 13–15 years lived in homes where others smoked in their presence, 42.5% had been exposed to tobacco smoke in enclosed public places and 52.5% to tobacco smoke in outdoor public places. These were lower than the figures from the 2007, 2003 and 1999 GYTS, which may indicate greater awareness of the harms caused by second-hand smoke.

The 2011 Global Health Professions Student Survey (GHPSS) also saw a similar decrease in exposure to second-hand smoke at home and in public places compared to 2006 among third-year medical, dental and nursing students.

Findings from GYTS, GHPSS and the Global School Personnel Survey (GSPS) indicate substantial support (>80%) for banning smoking in all enclosed public places.

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

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

Gaps –

1. The Act (in Article 39(2(a)–(c)) permits construction of an enclosed room or area for smoking within any hotel, guest house or lodge having 30 rooms or more, restaurant or club having a minimum seating capacity of 30 persons and within an airport, if adequate ventilation is provided and air quality conforms to prescribed standards.
2. A swift enforcement strategy with appropriate powers conferred on Authorized Officers to enable issuance of fines and penalties without an arrest warrant is not yet in place.

It is therefore recommended that Sri Lanka amend the Act in line with the guidelines on implementation of Article 8, so that it is explicitly stated that smoking areas must be outdoors, and implement 100% smoke-free policies in all indoor public places. It is also recommended that Sri Lanka implement and strengthen monitoring and enforcement measures related to smoke-free policies.

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.

Sri Lanka has not established standards to regulate the ingredients of tobacco products and does not have testing guidelines. The MOH is currently working with the National Dangerous Drugs Control Board to establish the structure for testing and measuring the contents and emissions of tobacco products. At present, the Government Analyst has the capacity to measure tar content only.

The following provisions in the Act may be applicable to regulating the contents of tobacco products:

- Article 14(i) states that the Authority shall monitor health and other issues related to the production and consumption of tobacco products; and
- Article 40 requires manufacturers and importers, in consultation with the necessary Government Analyst, to conduct tests on the constituents for each brand of tobacco product manufactured or imported.

Although these provisions may be applicable to regulating the contents of tobacco products, the Minister may develop specific regulations concerning the contents and emissions of tobacco products as mandated by Article 30(1) of the Act.¹ Specifically, Article 40 of the Act, referred to above, indicates that the intervals and other requirements imposed on every manufacturer and importer of a tobacco product may be **prescribed**² with respect to the testing of the constituents of the respective tobacco product.

Sri Lanka has not met its obligations under Article 9 of the Convention.

Gap – There are no national regulations and standards concerning the testing of contents and emissions of tobacco products, including the banning of additives.

It is recommended that regulations be developed on the testing and measuring of the contents and emissions of tobacco products. It is also recommended that the MOH work with the Government Analyst and the National Dangerous Drugs Control Board to establish standards concerning contents and emissions of tobacco products, in accordance with the guidelines for implementation of Articles 9 and 10 adopted by the COP.

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

The Act (in Article 40) states that manufacturers and importers, in consultation with the Government Analyst, are to submit a report on the constituents for each brand of tobacco product manufactured or imported. In the absence of regulations and testing guidelines, this provision has yet to be enforced.

The Act (in Article 34(1)) and the Regulations (in Article 6) require manufacturers of a tobacco product to display on every packet a statement of the tar and nicotine content. Although these

¹ Article 30(1) of the Act stipulates that the Minister may make regulations “in respect of any matter required by this Act”.

² Emphasis added.

measures are not in accordance with Article 11 of the WHO FCTC and the guidelines for its implementation, this is a form of disclosure by manufacturers and importers of the contents and emissions of tobacco products. At present, as implementation of the Regulations on tobacco product labelling and packaging has been suspended by the Supreme Court ruling until 22 January 2014, this requirement has not yet been imposed.

Other than in the manner mentioned in Article 34(1) of the Act and Article 6 of the Regulations, there is no legal provision that requires disclosure of information about the ingredients, toxic constituents, additives and emissions of tobacco products to the Governmental authorities or to the public.

Article 43 of the Act stipulates the fines and penalties to be imposed for failure to furnish any return or information in compliance with the requirements of the Act or for knowingly making any false statement in any return or information furnished.

Sri Lanka has only partially met its obligations under Article 10 of the Convention.

Gaps –

1. There are no measures on disclosure of information about the toxic constituents of tobacco products and the emissions that they may produce.
2. Only tar and nicotine content need to be disclosed on tobacco product packaging.

It is therefore recommended that Sri Lanka take action to ensure that regulations on the disclosure of the content of tobacco products, as mandated by the Act, are developed as soon as possible. It is also recommended that Sri Lanka utilize the partial guidelines for implementation of Articles 9 and 10 of the Convention, to list information (i.e. ingredients and additives) required in the report to Government authorities and to make such information available to the public.

Packaging and labelling of tobacco products (Article 11)

Article 11 requires each Party “within a period of three years after entry into force of the Convention for the Party to adopt and implement... effective measures” on packaging and labelling of tobacco products.

Currently, textual health warnings such as “Government warning: smoking causes cancer” or “Government warning: smoking causes heart attacks” are printed on the side of cigarette packets in three languages.¹

Sri Lanka had undertaken further legislative measures to regulate tobacco products even before the Act was adopted in 2006. The Act (in Article 34(1)–(2)) requires a health warning label to be carried on tobacco products.

As mandated by the Act, Sri Lanka developed the Regulations on packaging and labelling, which were due to come into effect three months from 8 August 2012. However, this date was amended by an announcement in the Gazette on 8 November 2012 that they would come into

¹ The Consumer Protection Act No. 1 of 1979 Section 6(1c) mandates health warnings, namely: (i) “smoking causes cancer” and (ii) “smoking causes heart attacks”.

effect on 1 March 2013. However, implementation was further delayed when, on 20 September 2013, the Supreme Court issued a stay order suspending implementation of the Regulations until 22 January 2014.

The Regulations are very progressive and call for pictorial health warnings to be printed on the top surface area of both front and back of every cigarette packet, package or carton and to cover an area of not less than 80% of the top surface area of both front and back of every cigarette packet, package or carton. In addition, the provisions in the Regulations (in Articles 2, 3 and 10) ban the use of false, misleading or deceptive terms and descriptors and require pictorial health warnings to be rotated once every six months. Pictorial health warnings are not required on packaging for tobacco products other than cigarettes. For example, beedies are not required to have health warning labels, as they are not considered a legal product; the MOH does not want to impose the requirement on beedies, as it would legitimize the product. According to a survey by the ADIC, many of the survey respondents (95.8% (n=506)) strongly support the implementation of pictorial health warnings in Sri Lanka. And of the respondents who were in favour of pictorial health warnings, 96.1% (n=485) were in favour of the pictorial health warnings covering 80% of the surfaces of both front and back of cigarette packs. This provides an indication of the strong public support for the Regulations.

These provisions of the law are enforced under Article 34(2) of the Act and Article 4 of the Regulations by Authorized Officers. Articles 34(1–2) of the Act defines the fines and penalties for violators.

There are areas of the Act and Regulations that need to be amended to be in line with Article 11 and its guidelines – Article 34(1) of the Act and Article 6 of the Regulations that require a statement of the tar and nicotine content to be printed on the cigarette packet.

Table 2 provides the status of the Regulations in Sri Lanka, if the Regulations come into force in 2014, in relation to measures covered under Article 11 of the Convention.¹

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

Paragraph in Art. 11	Content	Level of compliance	Comments and identified gaps
1(a)	tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, including any term, descriptor, trademark, figurative or any other sign that directly or indirectly creates the false impression that a particular tobacco product is less harmful	OBLIGATION NOT MET	This will be partially met once the Regulations come into force. The Act (in Article 34(1)) and the Regulations (in Article 6) require the amount of tar and nicotine to be included on packaging, which can be misleading and create the impression that a particular tobacco product is less harmful than another.

¹ Somatunga L et. al. Smokeless tobacco use in Sri Lanka. Indian Journal of Cancer. 2012;49(4):357–363. doi:10.4103/0019-509X.107729.

	than other tobacco products. These may include terms such as “low tar”, “light”, “ultra-light”, or “mild”.		This obligation will be fully met when the Act and Regulations are amended in line with the guidelines.
1(b)	each unit packet and package of tobacco products and any outside packaging and labelling of such products also carry health warnings describing the harmful effects of tobacco use, and may include other appropriate messages.	OBLIGATION MET	This provision is addressed in Articles 34(1)-(2) of the Act and Articles 4, 10 and 11 of the Regulations.
1(b)(i)	[The warning] shall be approved by the competent national authority.	OBLIGATION MET	This provision is addressed in Article 34(1) of the Act and Articles 4, 5 and 10 of the Regulations.
1(b)(ii)	[The warnings] shall be rotating.	OBLIGATION NOT MET	This provision will be met once the Regulations come into force.
1(b)(iii)	[The warning] shall be large, clear, visible and legible.	OBLIGATION NOT MET	This provision will be met once the Regulations come into force.
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	This provision will be met once the Regulations come into force.
1(b)(v)	[The warning] may be in the form of or include pictures or pictograms.	OBLIGATION NOT MET	This provision will be met once the Regulations come into force.
2	Each unit packet and package of tobacco products and any outside packaging and labelling of such products shall, in addition to the warnings specified in paragraph 1(b) of this Article, contain information on relevant constituents and emissions of tobacco products as defined by national authorities.	OBLIGATION MET	
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	According to the Consumer Protection Act and also addressed in the Regulations once they come into force.

Gap – The currently enforced provisions of the Act fall short of most of the obligations under Article 11 and its guidelines, since the Regulations addressing most of these requirements are not yet in force. As the Regulations are yet to come into force, Sri Lanka has not met the deadline (27 February 2008) for implementation of Article 11 of the Convention.

It is therefore recommended that Sri Lanka implement the Act and Regulations as soon as possible to meet its treaty obligations.

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

Article 12 requires that “each Party shall adopt and implement effective legislative, executive, administrative or other measures to promote” education, communication and public awareness about the health, economic and environmental consequences of tobacco consumption and exposure to tobacco smoke, the benefits of tobacco cessation and tobacco-free lifestyles, as well as training for all concerned persons and public access to information on the tobacco industry.

Several stakeholders have implemented such programmes. The National Authority on Tobacco and Alcohol, the MOH, the district TCCs and the National Cancer Control Programme (NCCP) have organized community campaigns and activities such as: World No Tobacco Day celebrations during which leaders and religious dignitaries deliver anti-tobacco messages; social marketing programmes to combat smokeless tobacco use; a social marketing campaign on early detection and primary prevention of cancers from July–December 2012, which saw 30-seconds radio clips and television spots featured on four radio channels and four television channels; development and dissemination of information, education and communication (IEC) materials in various settings such as public transport, schools, etc.; cancer walks; screening of programmes for bus conductors, drivers, Buddhist monks, etc.; development of handbooks for primary health-care workers and guidelines for dentists and doctors for opportunistic screening of oral cancers; discussions with owners of hotels, shops and restaurants about the sale of beedies; advocacy work with the media and celebrities; peaceful picketing; billboards at the entrance of towns to indicate that no tobacco is sold in the town; mobilizing communities not to shop at stores that sell tobacco; mobilizing pregnant women; and organizing petition campaigns. These initiatives have led to a reduction in the amount of tobacco sold in the targeted areas. The Government has also been able to use discounted airtime for the screening of documentaries, songs, videos and media clips on television channels, which has also led to increased media coverage of anti-tobacco messages.

Additionally, in order for health messages to reach young people and their families effectively, the MOH, in collaboration with the Ministry of Education (MOE), has: issued a circular calling for all schools to employ a counsellor whose job is to help protect children from tobacco; supported the establishment of school health clubs; organized anti-tobacco campaigns and co-curricular activities; put up IEC materials and provided students with information to share with their families; and included information on the harms of tobacco use as well as rules and regulations in the compulsory health science syllabus for Grades 6–9, with plans to extend it to Grade 11. In collaboration with the Ministry of Sports and the MOH, the MOE also plans to include the harms of tobacco use in the Health and Physical Education curriculum. The curriculum for medical, dental, pharmacy and nursing students covers the harms of tobacco and prevention, but excludes cessation techniques.

In 2013, the MOH signed a memorandum of understanding with the Ministry of Youth Affairs and Skills Development (MOYASD) and the National Youth Services Council (NYSC) to mobilize and empower members of the Federation of Youth Clubs aged 15–29 years to serve as change agents by addressing NCD risk factors in themselves, in their families and within their communities. There are approximately 40 000 youth clubs with 600 000 members, which makes them a network with a wide reach and sphere of influence. The NYSC will coordinate

and provide infrastructure for implementation while the MOH will mobilize and provide funding, conduct training and develop content. Other opportunities identified by MOYASD to integrate tobacco control into their work with youth are through the Youth Parliament, where young leaders are trained, as well as through inclusion of a session on tobacco control or NCD risk factors at the World Youth Conference 2014.

The MOH has conducted various training sessions aimed at: building the capacity of the health, social and enforcement agencies (police and excise) to implement the Act and Regulations; informing the judiciary of the content and practical aspects of implementing the law; enabling doctors to conduct brief interventions; and equipping health personnel, social workers and life skill teachers on tobacco cessation; training master teachers who will in turn train other teachers on the various types of tobacco products and the harm they cause. The NCCP has also conducted training of medical officers on preventing betel nut chewing.

There was a request to the international team by the Ministry of Justice conduct a WHO FCTC-related workshop and raise awareness among the judiciary of the effectiveness of pictorial health warnings, on how other countries have been successful in overturning lawsuits filed by the tobacco industry, on the tactics of the tobacco industry, and on making health a priority in the country's development agenda. The MOH is supportive of this proposal and will work closely with the Ministry of Justice to organize such a workshop.

It is to be noted that the 2011 GYTS and GSPS data show higher prevalence of chewing tobacco use compared to cigarette smoking among youth and school staff in Sri Lanka; a review of information from different sources also found that smokeless tobacco use is widely prevalent in many forms and is particularly high in rural areas.¹ Thus, particular attention needs to be paid to raising awareness of the harms of smokeless tobacco use in public education and communication programmes, targeting youth and rural areas, and to enhancing teacher training and youth life-skills education.

While considerable work has been undertaken on education, training and public awareness, there is a need for the MOH to focus on evidence-based research in promoting and strengthening public awareness of tobacco control issues. Rigorous pretesting, monitoring and evaluation is required to enhance the effectiveness of awareness-raising efforts.

Gaps –

1. There is no sustained mass media campaign targeting all relevant segments of the society.
2. The primary school curriculum does not include messages about the harms of tobacco use and exposure to second-hand smoke.
3. There is no systematic collection of information on the tobacco industry and no public access to such information.
4. There is a lack of systematic evaluation of the effectiveness of the activities conducted with regard to education, communication and training aimed at raising awareness of tobacco control issues.
5. There is a lack of pre-service and in-service cessation training for health professionals.

¹ Somatunga L et. al. Smokeless tobacco use in Sri Lanka. Indian Journal of Cancer. 2012;49(4):357–363. doi:10.4103/0019-509X.107729.

It is therefore recommended that: (i) the MOH work closely with the Ministry of Mass Media and Information, as well as other ministries and civil society organizations, to develop a sustained mass media campaign targeting all relevant stakeholders, and to obtain free airtime for the broadcasting of anti-tobacco messages; (ii) in relation to the Commonwealth Youth Summit 2014, which will be hosted by Sri Lanka, it is recommended that the MOH and MOYASD work together to profile tobacco under the “health” theme; (iii) the MOH work together with the MOE to develop a curriculum on the harms of tobacco use and exposure to second-hand smoke for primary school students; (iv) the MOH develop a plan for systematic collection of tobacco industry-related information; (v) the MOH rigorously research and evaluate the impact of interventions and activities in order to achieve better outcomes; and (vi) the MOH work together with the MOE to strengthen training on tobacco cessation techniques for health professionals.

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*”.

Sri Lanka has in place a comprehensive ban on all forms of tobacco advertising, promotion and sponsorship, although the following exemptions are included under Article 35 of the Act:

- displays of trademark or brand name on tobacco products or packages;
- sending of notices to distributors describing the product and indicating its price;
- at points of sale, displays of notices identifying the tobacco products for sale and their prices; and
- cross-border advertising.

The Authority has also issued Instructions to Television Channels Regarding Airing of Programmes Depicting Smoking and Drinking Scenes (the Instructions) that became effective on 1 September 2011. According to the Instructions, programmes must not contain smoking scenes. However, in the case of programmes produced before the Act came into effect on 1 December 2006, and for which there are difficulties in deleting such scenes, television channels are required to air an opening message provided by the Authority.

Articles 32(3), 35(3), 36(2), 37(4) and 38(3) of the Act outline the fines and penalties for contravening any of the aforementioned provisions.

The international team was informed that there are no violations on tobacco advertising and promotion though there have been attempts by the tobacco company to sponsor the upgrading of school and health-care facilities. Data from the 2011 GYTS found that more than half of students aged 13–15 years surveyed reported seeing pro-cigarette advertisements on billboards, and in newspapers and magazines, although this may be cross-border advertising. A small percentage of the young people surveyed reported owning an object with a cigarette brand logo and having been offered free cigarettes by a tobacco company representative.

Gaps –

1. Point-of-sale advertising and displays of tobacco products are permitted.
2. Cross-border advertising, promotion and sponsorship are permitted.
3. Tobacco companies are still found to sponsor “socially responsible” projects.

It is therefore recommended that the Authority amend the Act so that all remaining forms of advertising, promotion and sponsorship of tobacco products are completely banned or eliminated, including point-of-sale displays and cross-border advertising, promotion and sponsorship, in line with the guidelines for implementation of Article 13. It is also recommended that the MOH and other relevant stakeholders, including enforcement authorities, develop a strategy to detect attempts to violate the ban on tobacco sponsorship and strengthen enforcement of the ban.

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”.

There is no provision that prohibits cross-border (in-flow and out-flow) advertising, promotion and sponsorship; the Act (in Article 35(2)(d)–(e)) contains specific exemptions for cross-border (in-flow) advertising. Article 35(2)(d) of the Act permits tobacco advertisements in books, magazines or newspapers printed outside Sri Lanka and made available in the country, unless these are intended for sale or distributed only or mainly in Sri Lanka. And Article 35(2)(e) of the Act permits tobacco advertisements or any television or radio programme containing a tobacco advertisement to be transmitted or broadcasted to Sri Lanka from outside the country, unless such transmission or broadcast is intended to be seen or heard only or mainly by viewers or listeners in Sri Lanka.

Gaps –

1. Cross-border advertising entering the territory of Sri Lanka is permitted.
2. There is no provision that prohibits cross-border promotion and sponsorship.

It is therefore recommended that the Authority amend the Act to ban cross-border advertising, promotion and sponsorship in line with the guidelines on implementation of Article 13.

Measures concerning tobacco dependence and cessation (Article 14)

Article 14.1 requires each Party to “develop and disseminate appropriate, comprehensive and integrated guidelines [concerning tobacco dependence and cessation] based on scientific

evidence and best practices... [and] take effective measures to promote cessation of tobacco use and adequate treatment for tobacco dependence”.

Gap – Sri Lanka does not have guidelines concerning tobacco dependence and cessation.

It is therefore recommended that Sri Lanka make full use of the guidelines for implementation of Article 14 of the Convention in designing and developing its own national guidelines and standards concerning tobacco dependence and cessation, with particular attention to smokeless tobacco and taking into account national circumstances and priorities.

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

Cessation support services have been highlighted in various health and development policies and plans as well as within the NCD prevention and control programme as described in the section on Article 5.1 – namely, the Mahinda Chintana 2010–2016, the Health Master Plan 2007–2016, the National Health Development Plan 2013–2017, the National NCD Medium Term Development Plan, the MOH Annual Action Plan 2013 and the Second Health Sector Development Project 2013–2018.

In all districts of Sri Lanka, mental health professionals working in health care facilities such as hospitals, clinics and healthy lifestyle centres, as well as those in educational institutions, provide tobacco cessation services. In addition, the Angoda National Mental Health Institute, a state-run hospital under the MOH, and Mel Madura, an NGO-run facility, also provide counselling and cognitive behavioural therapy services to treat tobacco dependence.

Doctors and other health-care workers in hospitals, clinics and healthy lifestyle centres screen patients for their risks and indicate their smoking status in the medical records. The healthy lifestyle centres under the WHO Package of Essential Noncommunicable Disease Interventions for Primary Health Care in Low-Resource Settings (WHO PEN) project, monitor and follow up heavy smokers. There are currently 668 healthy lifestyle centres and the MOH aims to set up two healthy lifestyle centres per MOH area.

Sri Lanka has a national toll-free quitline, which became operational in 2010. The quitline is connected to approximately five mobile and land networks, and is open from 08:00 to 16:00 on weekdays. Telephone quitline counsellors are trained in the 5As (Ask, Advise, Assess, Assist and Arrange) method but at present they only provide information on the location of the nearest facility at which tobacco cessation services may be obtained.

Products to aid cessation such as bupropion and varenicline are available in the country (upon prescription) but nicotine replacement therapy (NRT) is not.

Gaps –

1. The quitline counsellors do not provide tobacco cessation advice.

2. NRT is not available in Sri Lanka.

It is therefore recommended that Sri Lanka establish a quitline through which callers can receive advice from trained cessation specialists. It is also recommended that Sri Lanka collaborate with other Parties to facilitate accessibility and affordability of pharmaceutical products, especially NRT, 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”.

The Protocol to Eliminate Illicit Trade in Tobacco Products was adopted at COP5 and is open for ratification. Consultations have already started within the Government concerning ratification of the Protocol.

Several requirements of the Tobacco Tax Act cover Article 15 of the Convention, as indicated in Table 3. The most relevant requirements of the Act are as follows:

- Articles 3, 4, 11, 12 of the Tobacco Tax Act require declaration to be made of manufactured tobacco products to be taken out of a facility or exported, require tax to be paid on manufactured tobacco products to be sold locally, and prohibit improperly imported cigarettes and illicitly manufactured or imported tobacco products.
- Article 5 of the Tobacco Tax Act requires manufacturers of tobacco products and importers of beedies to register with the Commissioner General of Excise as a manufacturer and/or importer.
- Article 8 of the Tobacco Tax Act states that a manufacturer may not possess imported tobacco products unless he has a duplicate of the bill of entry related to the importation of that quantity of tobacco into Sri Lanka.

The Tobacco Tax Act (in Article 15(1)–(7)) stipulates the fines and other penalties for violations of any of the above provisions.

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

Sri Lanka does not import cigarettes as they are locally manufactured, although small amounts of imported cigarettes are available in bonded facilities; duty must be paid when the cigarettes are to be removed from the facility. It is an offence to bring cigarettes into the country without a bill of entry, and if detected, the Customs or Excise Officers will seize and destroy these items. In 2012, excise officers detected 2794 offences related to the Tobacco Tax Act (i.e. illicit trade, smuggling, illegal manufacturing, counterfeiting) with fines of 11 124 100 rupees imposed. In 2011, excise officers detected 3055 offences with fines of 6 533 750 rupees imposed. And in 2010, excise officers detected 1001 offences with fines of 16 148 400 rupees imposed. The fines imposed vary depending on the severity of the violations and the number of offences committed.

The international team was told that there are products that have evaded the law, such as herbal cigarettes. Manufacturers argue that herbal cigarettes do not contain tobacco. The Authorized Officers have been advised to test these herbal cigarettes to identify the constituents and to ensure proper regulation. If the herbal cigarettes contain tobacco, they may be subjected to Article 34 of the Act and to the Regulations, which mandate health warnings. If they do not contain tobacco, they are in possible violation of Article 38(2) of the Act whereby any article that is not a tobacco product may not have the appearance of a tobacco product.

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

Table 3. Overview of measures taken against illicit trade in tobacco products in Sri Lanka

Paragraph in Art. 15	Content	Level of compliance	Comments and identified gaps
2	Each Party shall adopt and implement effective legislative, executive, administrative or other measures to ensure that all unit packets and packages of tobacco products and any outside packaging of such products are marked to assist Parties in determining the origin of tobacco products.	NOT YET IMPLEMENTED	There are no measures that mandate markings on tobacco product packaging to indicate origin.
2(a) and 3	require that unit packets and packages of tobacco products for retail and wholesale use that are sold on its domestic market carry the statement: <i>“Sales only allowed in (insert name of the country, subnational, regional or federal unit)”</i> or carry any other effective marking indicating the final destination or which would assist authorities in determining whether the product is legally for sale on the domestic market.	NOT YET IMPLEMENTED	
2(b) and 3	consider, as appropriate, developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade.	NOT YET IMPLEMENTED	There is no tracking and tracing system.
4(a)	monitor and collect data on cross-border trade in tobacco products, including illicit trade, and exchange information among customs, tax and other authorities, as appropriate, and in accordance with national law and relevant applicable bilateral or multilateral agreements.	OBLIGATION MET	The Excise, Customs and Police Departments are responsible for the enforcement of relevant regulations, have their own requirements and have been collecting data on tobacco products. Information sharing and coordination of activities still need to be improved.
4(b)	enact or strengthen legislation, with appropriate penalties and remedies,	OBLIGATION MET	This provision is addressed by Article 15(1)–(7) of the

	against illicit trade in tobacco products, including counterfeit and contraband cigarettes.		Tobacco Tax Act.
4(c)	take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using environmentally-friendly methods where feasible, or dispose of in accordance with national law.	OBLIGATION MET	This provision is addressed by Article 15(7) of the Tobacco Tax Act and Article 18 of the Act. Seized products are incinerated at a cement factory.
4(d)	adopt and implement measures to monitor, document and control the storage and distribution of tobacco products held or moving under suspension of taxes or duties within its jurisdiction.	OBLIGATION MET	This provision is addressed by Article 17(8) of the Act that states that any tobacco product seized may, at the discretion of an Authorized Officer, be kept or stored in the building or place where it was seized or be removed to any other place.
4(e)	adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.	OBLIGATION MET	
5	Information collected pursuant to subparagraphs 4(a) and 4(d) of this Article shall, as appropriate, be provided in aggregate form by the Parties in their periodic reports to the COP, in accordance with Article 21.	NOT YET IMPLEMENTED	Information was not provided in the report to the COP.
6	Promote cooperation between national agencies, as well as relevant regional and 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.	PARTIAL COMPLIANCE	Sri Lanka is a member of the Customs Enforcement Network (developed by the World Customs Organization), which is a communication tool facilitating the exchange and use of information and intelligence.
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	Article 5 of the Tobacco Tax Act requires manufacturers and importers to register and obtain a licence with the Commission General of Excise. There is no provision requiring sellers to obtain a license.

Gaps –

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

It is therefore recommended that Sri Lanka require products to indicate where they were manufactured and to include the statement “Sales only allowed in Sri Lanka” or other effective markings to indicate final destination. It is also recommended that Sri Lanka establish an effective tracking and tracing system to secure the distribution system and support the investigation of illicit trade. It is further recommended that Sri Lanka establish a licensing system for sellers of tobacco products in order to control and regulate distribution. Sri Lanka is also encouraged to become a Party to the Protocol to Eliminate Illicit Trade in Tobacco Products as soon as possible, and to promote international bilateral and multilateral cooperation to curb illicit trade in tobacco products.

Sales to and by minors (Article 16)

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

Article 31(1) of the Act stipulates that “a person shall not sell, offer for sale, or permit or promote the sale of any tobacco product ... to a person under 21 years of age”. However, the Act does not prohibit the sale of tobacco products by persons under 21 years of age. The Act (in Article 31(2)) specifies the fines and other penalties for violations of the provision.

Article 32 of the Act bans vending machines that sell tobacco products and stipulates the fines and penalties for violations.

The 2011 GYTS found that 20.3% of youths who buy cigarettes do so in a store. The Authorized Officers have also reported to the international team that there have been violations of this provision. However, it has proved difficult to convict those violating the provision.

Gap –

1. The Act does not prohibit sale of tobacco products by minors.
2. Persons under the age of 21 years are still able to purchase tobacco products due to insufficient compliance by vendors.

It is therefore recommended that Sri Lanka amend the Act to include prohibition of sale of tobacco products by persons below the age of 21 years. It is also recommended that Sri Lanka step up enforcement, review strategies adopted by other Parties in securing the conviction of violators, and then develop their own strategy in order to support implementation of the Convention.

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

There is no provision in the Act that states that vendors must put up notices indicating that no tobacco products shall be sold to persons under the age of 21 years.

The international team was informed that tobacco companies have given such display notices to sellers as part of their “corporate social responsibility” efforts.

Gap – There is no provision that requires the sellers of tobacco products to place a notice at points of sale about the prohibition of tobacco sales to minors.

It is therefore recommended that Sri Lanka include a legal provision that requires sellers of tobacco products to place a notice at points of sale indicating that no tobacco products shall be sold to persons under the age of 21 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*”.

Gap – There is no specific provision in the Act banning the sale of tobacco products in any manner by which they are directly accessible.

It is therefore recommended that Sri Lanka include in the Act a provision that explicitly bans the sale of tobacco products in any manner by which they are directly accessible, such as store shelves.

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

Article 38(2) of the Act bans the manufacture, import for sale or distribution free of charge of any article which is not a tobacco product but which has the appearance of a tobacco product.

The Act (in Article 38(3)) defines the fines and penalties for contravention of the aforementioned provision.

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

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

Article 32 of the Act prohibits the sale of tobacco products through vending machines.

The Act (in Article 32(3)) defines the fines and penalties for contravention of the aforementioned provision.

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

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*”.

Gap – There is no provision in the law to prohibit the sale of cigarettes individually or in small packets.

It is therefore recommended that Sri Lanka amend the existing legislation and include this requirement of the Convention.

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

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

There is no explicit policy or programme that supports economically viable alternative activities for tobacco workers, growers or sellers.

The Ministry of Agriculture (MOA) does not provide subsidies to the tobacco sector (including tobacco growers) and does not support tobacco cultivation under its National Irrigation Scheme. The MOA is introducing new crops (e.g. soya beans) to farmers to grow during the times of the year when tobacco is not being cultivated. The MOH also indicated that they are keen to collaborate with the MOA to purchase crops from local farmers to feed children in schools, which could support tobacco workers and growers in making the transition to other crops.

Tobacco farmers are now moving away from tobacco cultivation voluntarily due to diminishing profits from the sale of tobacco leaf, soil erosion, reduced tobacco yields and better profitability of replacement crops.¹ As a result, the land area cultivated with tobacco has fallen by more than half in the last two decades, from 5,247 hectares in 1990 to 2,587 hectares in 2012. The Government should capitalize on this natural trend and support activities that help tobacco growers make the transition to other economically viable alternatives.

Gap – There are no policies, plans or programmes to provide support to tobacco workers and growers in moving into economically viable alternative livelihoods.

It is recommended that Sri Lanka promote economically viable alternatives to tobacco growing through mobilization of support by the World Bank, the Food and Agriculture Organization and other development partners. It is also recommended that the MOH and the MOA discuss with other relevant Government agencies such as the Ministry of Livestock and Rural Community Development, the Ministry of Land and Land Development and the Ministry of Labour and Labour Relations (MOLLR) to discuss Article 17 of the Convention and Sri Lanka’s obligation as a Party.

The working group on economically sustainable alternatives to tobacco growing (in relation to Articles 17 and 18 of the Convention) is developing policy options to implement these Articles and will submit the recommendations to COP6 in 2014.

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*”.

¹ Priyanath H, Bandara R, Ariyasena N. Impact of tobacco vs alternative crop cultivation on the socio-economic status of farmers. Colombo: National Authority on Tobacco and Alcohol; 2011

Tobacco is grown and tobacco products are manufactured in Sri Lanka. There is currently no regulation requiring tobacco farms to pass an environmental impact assessment and no requirement for an environmental protection plan to be in place. Sri Lanka has also not ratified the ILO Occupational Safety and Health Convention, 1981 (No. 155).

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

It is therefore recommended that the MOH work together with the Ministry of Environment and the MOLLR to consider the health of the environment and persons working in tobacco cultivation and manufacturing in future decrees or regulations in order to implement Article 18 of the Convention.

Liability (Article 19)

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

There is no provision in Sri Lanka’s tobacco control legislation to deal with criminal and civil liability.

There was a case filed in which compensation was sought for adverse health effects caused by tobacco use. In 2008, a widow filed a case against the Ceylon Tobacco Company for a claim of 5 million rupees in the District Court of Colombo. The Court of Appeal held that the widow had cause for action to claim compensation and dismissed the appeal of the tobacco company.¹ The case continues, with support provided to the widow by civil society.

Sri Lanka participated in the work of the expert group on Article 19 of the WHO FCTC on Liability.

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

It is therefore recommended that Sri Lanka review and promote options for implementing Article 19 of the WHO FCTC in the national context, and subsequently develop policies, as appropriate. It is further recommended that Sri Lanka actively participate in future discussions on this matter at future COP sessions to reinforce the criminal and civil legal measures that are in place to address liability in the context of tobacco control.

Research, surveillance and exchange of information (Article 20)

¹ Samarasinghe S. Tobacco faces smoking death case. The Nation. 2 November 2008 (<http://www.nation.lk/2008/11/02/news7.htm>, accessed 10 October 2013),

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*”.

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

The tobacco control-related studies that have been conducted in Sri Lanka include:

- The WHO STEPwise approach to Surveillance (WHO STEPS) – 2003 (Western Province) and 2006 (National)
- GYTS – 1999, 2003, 2007 and 2011
- GSPS – 2003, 2007 and 2011
- GHPSS – 2006 and 2011
- World Health Survey – 2003
- Sri Lanka Demographic and Health Survey – 1987 and 2006
- Impact of tobacco versus alternative crop cultivation on the socioeconomic status of farmers – 2011
- Tobacco Affordability Analysis – 2010
- Public Attitudes Concerning Implementation of Pictorial Health Warnings (PHWs) and Tobacco Industry Interference to Undermine Enforcement of PHWs in Sri Lanka – 2013

The Global Adult Tobacco Survey (GATS) is planned for 2014.

Sri Lanka has longitudinal data on youth tobacco use (smoking and smokeless) from surveys conducted with the support of WHO and the US CDC. However, Sri Lanka does not have comparable longitudinal data for adults; in particular, prevalence data on smokeless tobacco use and smoking tobacco other than cigarettes, are inadequate. Sri Lanka is encouraged to address this research and surveillance gap by conducting standard surveys such as GATS and WHO STEPS or by incorporating standard tobacco questions in regular national surveys and other data collection mechanisms.

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

Gaps –

1. There is a lack of updated national data on the prevalence of tobacco use and exposure to second-hand smoke among the adult population.
2. There is a lack of national data on the burden of disease related to tobacco and direct costs attributable to tobacco use and exposure to tobacco smoke.
3. There is a lack of evaluation studies on the effectiveness of interventions to reduce tobacco use prevalence.
4. There is a lack of epidemiological surveillance of tobacco consumption and related social, economic and health indicators; and tobacco-related questions are not incorporated in the regularly implemented household surveys and other data collection mechanisms.
5. There is no database of laws and regulations on tobacco control, including information on enforcement and pertinent jurisprudence.

It is therefore recommended that Sri Lanka conduct regular standard surveys to measure the prevalence of tobacco use and exposure to second-hand smoke; and conduct research addressing the determinants and consequences of tobacco consumption and exposure to tobacco smoke, including data on mortality and morbidity attributable to tobacco use. It is also recommended that Sri Lanka conduct evaluation studies on the effectiveness of interventions to reduce tobacco use prevalence. It is also recommended that Sri Lanka include tobacco-related questions in existing household surveys and other data collection mechanisms. It is further recommended that the MOH establish a web-based database of laws and regulations on tobacco control and information on their enforcement as well as pertinent jurisprudence, as required under Article 20.4 (a) of the Convention.

Reporting and exchange of information (Reporting and exchange of information (Article 21))

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

Sri Lanka has provided two implementation reports so far. The first report was submitted on 27 February 2007 and the second on 16 April 2011.

The next implementation report is due in the 2014 reporting period (1 January to 30 April 2014).

Thus, Sri Lanka has met the obligation under Article 21 of the Convention.

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

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

Article 22 requires that Parties “shall cooperate directly or through competent international bodies to strengthen their capacity to 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”.

Sri Lanka has received and continues to receive grants from United Nations and other international agencies to implement various requirements of the Convention. The donors include the WHO, UNDP, the World Customs Organization, the World Bank, the US CDC, the Union and the Bloomberg Initiative to reduce tobacco use. They have been supporting the MOH in developing and implementing national tobacco control legislation, strengthening communication aimed at various target groups, conducting research, and building capacity for tobacco control.

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

The United Nations Economic and Social Council adopted resolution E/RES/2012/4 in August 2012 on United Nations system-wide coherence on tobacco control. The resolution highlights the need to strengthen the multisectoral and interagency response for the full implementation of the WHO FCTC in order to address the health, social, economic and environmental consequences of tobacco use.

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

The current UNDAF covers the period from 2013 to 2017, and the mid-term review is expected to take place in 2015. In this current UNDAF, prevention and control of NCDs comes under Outcome 2.1² but the WHO FCTC is not mentioned. The implementation of the WHO FCTC should be viewed as a poverty reduction, human rights, gender equality and human development issue and not just a public health matter. Support from the United Nations for implementation of the WHO FCTC will enhance the capacity of national institutions in implementing smoke-free policies and legislation, increasing access to tobacco cessation services and strengthening data collection and analysis to better inform interventions with an equity focus. The UNDAF mid-term review will be an opportunity to make specific references to progress in implementation of the WHO FCTC under Outcomes 2.1 and 3.1³.

In the next UNDAF, Sri Lanka may wish to consider including a specific mention of the Convention to ensure interagency action on a multisectoral approach to tobacco control. The United Nations' support can improve governance and mobilize communities to access information, seek redress for grievances and participate in local decision-making on tobacco.

During the mission, the international team met the United Nations Resident Coordinator and representatives of some of the members of the United Nations Country Team – UNDP, UNFPA and WHO – and discussed whether implementation of the Convention could be included in the next UNDAF.

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

² Outcome 2.1: Enhanced capacity of national institutions for evidence-based policy development and strengthened provision of, access to and demand for equitable and quality social services delivery.

³ Outcome 3.1: Communities empowered and institutions strengthened to support local governance, access to justice, social integration, gender equality, and monitoring, promotion and protection of human rights in alignment with international treaties and obligations and in alignment to the constitution of Sri Lanka.

The international team also met the Honourable Minister of Health who indicated his support for the process.

Sri Lanka has met the obligation under Article 22 of the Convention.

The Government is encouraged to make specific references to progress in implementation of the WHO FCTC under Outcomes 2.1 and 3.1 of the UNDAF during the mid-term review, and to promote integration of WHO FCTC implementation into the next UNDAF. The MOH is encouraged to sensitize the MOFP regarding the importance of doing so. The Government is further encouraged to actively seek opportunities to cooperate with other Parties, competent international organizations and development partners present in the country to support implementation of the Convention.

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

Financial resources (Article 26)

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

In 2013, the total budget for tobacco control in Sri Lanka is estimated to be about 153 million rupees (150 million rupees from the Government for the MOH, and 3 million rupees from the National Cancer Control Programme for reducing and preventing smokeless tobacco use). Separately, the MOH has another budget for tobacco prevention activities funded by other sources totalling 23 747 469 rupees in 2013, with approximately 5 million rupees allocated for the Authority and the rest for advocacy activities. These figures exclude financial resources allocated for tobacco control enforcement by other agencies such as the Excise, Customs and Police.

The Act (in Article 22) states that the Authority shall have its own Fund.

Sri Lanka has met its obligations 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*”.

As noted under Article 22, WHO, UNDP, the World Customs Organization, the World Bank, the US CDC, the Union and the Bloomberg Initiative to reduce tobacco use have been supporting the MOH in developing and implementing national tobacco control legislation, strengthening communication aimed at various target groups, conducting research and building capacity for tobacco control.

The UNDP, the United Nations Children's Fund, UNFPA, the Food and Agriculture Organization of the United Nations and other United Nations agencies present in the country could play a more active role in supporting implementation of the Convention under the UNDAF in various programmes including poverty reduction, education of children and young people, and promotion of economically viable alternatives to tobacco cultivation.

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

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

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

The MOA informed the international team that the Government-subsidized National Irrigation Scheme is not applicable to tobacco growing, and that they are promoting the growth of crops such as soya beans among farmers, including tobacco growers, as tobacco cultivation does not take place throughout the year.

Gap – There is no national strategy of sustainable development that directly promotes economically viable alternatives to tobacco production.

It is therefore recommended that the MOH and relevant ministries make efforts to implement the 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”.

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

Sri Lanka is encouraged to further utilize the potential of Article 26.4 to advocate for moving the Convention higher up the international development agenda. Ministries such as the Ministries of External Affairs, Finance and Planning, and Education, when representing Sri Lanka in other regional and global forums, are encouraged to urge regional and international organizations and financial institutions to provide financial assistance to developing countries with a view to supporting them in implementation of the Convention.

Annex

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

Ministry of Health

1. Maithripala Sirisena, Honourable Minister of Health
2. Dr Jayasundara Bandara, Deputy Director General (Dental Services), Ministry of Health
3. Dr Lakshmi C. Somatunga, Deputy Director General (Medical Services), Ministry of Health

Other departments/centres

1. National Cancer Control Programme
2. Chronic Noncommunicable Diseases Unit

Participating Government agencies

1. Attorney General's Department
2. Ministry of Agriculture
3. Ministry of Education
4. Ministry of Finance and Planning
5. Department of Excise, Ministry of Finance and Planning
6. Sri Lanka Customs, Ministry of Finance and Planning
7. Ministry of Justice
8. Ministry of Mass Media and Information
9. Ministry of Petroleum Industries
10. Ministry of Youth Affairs and Skills Development

International team

Convention Secretariat

1. Mr Vijay Trivedi, Coordinator
2. Dr Tibor Szilagyi, Technical Officer
3. Ms Trinette Lee, Consultant

UNDP

Mr Kazuyuki Uji, Programme Specialist, HIV, Health and Development Practice, UNDP, Bangkok

WHO Regional Office for South-East Asia

Dr Dharendra Sinha, Regional Adviser (Surveillance), Tobacco Free Initiative

WHO Country Office in Sri Lanka

1. Dr Firdosi Rustom Mehta, WHO Representative to Sri Lanka
2. Dr Arturo Pesigan, Technical Officer
3. Dr Lanka Jayasuriya Dissanayake, National Professional Officer (NCD)
4. Dr Sarath Samarage, National Consultant

Nongovernmental organizations

1. Alcohol and Drug Information Centre Sri Lanka
2. Sri Lanka Federation of Nongovernmental Organizations Against Drug Abuse
3. Sri Lanka Temperance Association
4. Swarna Hansa Foundation

International organizations and other development partners

1. Mr Subinay Nandy, United Nations Resident Coordinator
2. Ms Zoe Keeler, Assistant Resident Representative, UNDP Sri Lanka