

NEEDS ASSESSMENT FOR IMPLEMENTATION OF THE WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL IN GHANA



MINISTRY OF HEALTH



Your Health - Our Concern



WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL

ACKNOWLEDGMENT

The Needs Assessment was successfully carried out through the contribution and cooperation of many individuals and organizations to which we would like to express our deepest appreciation.

We would like to thank the Convention Secretariat of the WHO FCTC for jointly conducting this needs assessment with the government of Ghana and for its commitment to further provide assistance in treaty work. We also appreciate the expertise and support provided by the WHO Tobacco Free Initiative and WHO Ghana Country Office.

Our special appreciation goes to the representatives of the various Ministries, Departments and Agencies, the Speaker of the Parliament and the Parliamentary Select Committee on Health, as well as the Media, and Non-governmental Organizations and other stakeholders for their valuable contributions and support during the numerous consultations and finalization of this report.

We also thank the UN Agencies and other Development Partners for providing inputs to the needs assessment and for their cooperation and assistance.

We look forward to a continuous cooperation for the complete implementation of the Convention in Ghana. The contribution of each and everyone in the production of this document is highly appreciated and the Ghana Tobacco Control Programme is looking forward to working together with all its partners in the implementation of these findings.

FORWARD

The year 2010 marks Ghana's fifth anniversary of ratification of the World Health Organization Framework Convention on Tobacco Control (WHO FCTC), as well as the fifth year of the enactment of the WHO FCTC. This Convention is unique for two reasons: it is the first international Public health treaty negotiated under WHO's umbrella and with 171 parties. It has become one of the most widely and rapidly ratified treaties in the history of the United Nations.

Significant barriers to the treaty's long term success remain in many countries, especially low income countries including Ghana. These include:

- lack of locally relevant evidence and data gathering/surveillance and infrastructure
- inadequate expertise in relation to some areas of research, health systems development, and policy formation and implementation
- National Tobacco Control Laws and regulation

The FCTC will be more successful in countries that have strong and durable capacity in tobacco control. Ghana needs the capability to implement the treaty's obligations and to respond to the unintended consequences of increased national and international regulation of tobacco products. Hence the Needs Assessment exercise affords the opportunity to view the future realistically with an informed understanding of the past.

The Needs assessment exercise was conducted jointly by the Government of Ghana and the Convention Secretariat in April 2010. The detailed assessment involved relevant Ministries, Departments and Agencies of the Government of Ghana.

Tobacco control advocacy is being pursued by the Ministry of Health to maintain the momentum generated throughout the FCTC process and ensure that all stakeholders and for that matter Ghana have the Legal backing (National Tobacco Control Law), knowledge, tools, data, people, and organizations needed to implement the convention and develop sustainable tobacco control programmes.

The Ministry of Health (MOH) is looking forward to working together with all its partners, relevant Ministries, Departments and Agencies (MDAs) and all stakeholders including Non-governmental Organizations in the implementation of this document towards a common goal. It is my fervent hope that all our collaborators would consider the implications of this document for their own activities and how best they can work

Implementation of WHO FCTC - Needs Assessment in Ghana

together with the MOH to help tobacco control in Ghana. This is the opportunity for all of us to renew our commitment to providing Ghanaians with good health.

The Government of Ghana would like to acknowledge the leadership and expertise offered by the Convention Secretariat in coordinating and conducting the needs assessment and its strong commitment to provide continuous support in the implementation of the WHO FCTC. We look forward to a continuous cooperation for the complete realization of the Convention in Ghana.

MESSAGE FROM THE GHANA HEALTH SERVICE

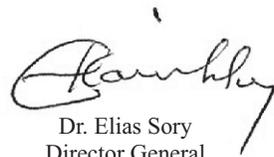
The spread of the tobacco epidemic is a global problem with serious consequences for public health. Ghana is determined to give priority to the right to protect the public through its numerous interventions undertaken as part of the tobacco control programme.

This Needs Assessment report has been developed through a consultative process that began with a National Conference and was followed by a series of consultations with key stakeholders.

The report provides a detailed analysis of the obligations that Ghana has to the Convention; the progress the country has made in implementation; the gaps that may exist and the subsequent possible actions that can be taken to fill those gaps provides a comprehensive roadmap that Ghana will need to follow to reverse the tobacco epidemic. The key elements which need to be put in place to enable the government of Ghana meet its obligations to the Convention are well elaborated in the Needs Assessment report.

The success of the implementation will depend on leadership, commitment, political will, integrity, vision and courage of our government, civil society, people and organizations entrusted to turn the concept of an international treaty in global health into national and local reality.

This Needs Assessment report which we (the Ghana Health Service) accomplished together with the Convention Secretariat is a landmark in the development of tobacco control programme for Ghana. This report is only the beginning of improving the collaboration between the Ghana Health Service and all its partners both local and international to fight the tobacco menace. The Ghana Health Service is dedicated to continue on this path to ensure effective and integrated service delivery for all Ghanaians.



Dr. Elias Sory
Director General
Ghana Health Service

MESSAGE FROM THE HEAD OF THE CONVENTION SECRETARIAT

The Conference of the Parties 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 the Convention, and to communicate their prioritized needs to development partners. The Convention Secretariat was requested to assist Parties with the conduct of such needs assessments. Ghana was among the first Parties to pilot this important treaty instrument in cooperation with the Convention Secretariat.

A needs assessment exercise for the implementation of the WHO FCTC was conducted jointly by the Government of Ghana and the Convention Secretariat in April and May 2010, including the mission of an international team to Ghana from 15 to 19 April 2010. WHO's Tobacco Free Initiative and country office provided valuable input and assistance. The Convention Secretariat appreciates the commitment of the Government of Ghana in undertaking this joint exercise and believes that it will serve as an important step towards reaching full implementation of the Convention in the country.

The needs assessment report outlines the status of implementation of the WHO FCTC, identifies needs and gaps, and gives recommendations for achieving full implementation of the Convention. In view of the multisectoral character of the Convention, there is a need to promote the role and full engagement of different branches of government in supporting its implementation.

In order to promote access to internationally available resources, and in coordination with the Government, the Convention Secretariat is committed to sharing and discussing the findings of the needs assessment report with development partners that may have an interest in supporting the implementation of the Convention in Ghana. The Secretariat also stands ready to cooperate with the Government in the development of project and programme proposals for securing international support. Integration of the implementation of the Convention into the United Nations Development Assistance Framework is another important tool that the Secretariat will further explore and promote in cooperation with the Government and the relevant international organizations and bodies.

Dr. Haik Nikogosian
Head of the Convention Secretariat
WHO Framework Convention on Tobacco Control

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EXECUTIVE SUMMARY

The WHO Framework Convention on Tobacco Control (WHO FCTC) is the first and only public health treaty negotiated under the auspices of the World Health Organization (WHO) and was adopted in 2003. It has since become one of the most widely and rapidly embraced treaties in the history of the UN and it currently has 169 Parties. Ghana ratified the WHO FCTC on 29th November 2004 and was among the first 40 countries to do so. The Convention entered into force for Ghana on 27 February 2005.

A needs assessment exercise for implementation of the WHO FCTC was conducted jointly by the Government of Ghana and the Convention Secretariat in April to May 2010, including the mission of an international team to Ghana from 15 to 19 April 2010. The detailed assessment involved relevant ministries and agencies of the government of Ghana with support from the WHO's Tobacco-Free Initiative (WHO-TFI) and the WHO Country Office in Ghana (Annex I). This needs assessment report therefore presents an article by article analysis of the obligations that Ghana has to the Convention; the progress the country has made in implementation; the gaps that may exist and the subsequent possible actions that can be taken to fill those gaps.

The key elements which need to be put in place to enable the government of Ghana to meet its obligations to the Convention are summarized below and further details are found herein in the needs assessment report.

First, the WHO FCTC is an international treaty and therefore international law. Having ratified this treaty, Ghana is obliged to implement its provisions through national law, regulation or other measures. There is therefore need to analyse this report, identify all obligations in the substantive articles of the Convention, link them with the relevant agencies, avail the required resources and seek support internationally where appropriate.

Second, a National Tobacco Control Steering Committee (NTCSC) was established by the Minister of Health in January 2002. Members of the committee were tasked to support the Ministry in policy development, advocacy, and advice on effective intervention strategies. Though NTCSC has continued to play some coordination role, a

national coordination committee on implementation of the Convention has not yet been formally set up since Ghana ratified the Convention in 2004. Therefore establishment of a multisectoral national coordinating mechanism with a formal mandate from the government to coordinate implementation of the Convention is urgently needed. This mechanism will also offer a platform for increased understanding of treaty obligations within the whole of government and beyond.

Third, the WHO FCTC is a comprehensive treaty whose implementation requires the involvement of many sectors for formulation of comprehensive national legislation, regulation and other measures including setting up an infrastructure for enforcement and identifying regulatory authorities with clear mandates. Ghana has existing laws, regulations and administrative directives that address some obligations to the Convention (Annex II). A comprehensive legislation would however strengthen the framework for implementation of the Convention in Ghana. A Tobacco Control Bill has been drafted and requires approval of the Executive arm of government before it can be presented to the Parliament for debate. It is very urgent for Ghana to have a comprehensive Tobacco Control law in line with the Convention and its guidelines.

Fourth, while it is crucial to speed up the legislation agenda, opportunities exist for the different Ministries and agencies to review and utilize the existing laws and regulations to meet some of the treaty obligations. Clearer provisions on who the executing authorities are and their mandate to enforce and apply appropriate sanctions for non-compliance are recommended. Raising public awareness about both the existence and the rationale for these laws, in collaboration with civil society, will support the enforcement.

Fifth, the Convention also calls on Parties to provide in their budgets, financial resources for implementation of the Convention. These resources should be availed through the relevant ministries and government agencies. The information on allocation of budgets of the concerned government ministries and agencies that contribute to the implementation of the Convention should be identified and activities coordinated so as to ensure optimal use of these funds. Setting up a funding mechanism for implementing the Convention will ensure sustainability in efforts to meet treaty obligations.

Sixth, there is potential for international cooperation with development partners including UN agencies regarding implementation of the Convention. The Ghana Joint Assistance Strategy is developed every five years and the current one ends in 2010. Some areas in health such as HIV/AIDS, maternal and child health and malaria have been identified as key areas of assistance from the development partners. The United Nation Country Team is in the process of developing the next five year United National Development Assistance Framework (UNDAF) for 2012-2016. There is an urgent need to advocate for the inclusion of implementation of the WHO FCTC - the first international health treaty - into the future Ghana Joint Assistance Strategies and UNDAF.

Seventh, The Comprehensive Africa Agriculture Development Programme (CAADP) can be an entry point for the Ministry of Food and Agriculture to work with the World Food Programme and other development partners in providing support to Ghana's small scale tobacco farmers to transition to economically viable alternative livelihoods. In the context of South-South cooperation, technical support can be accessed from other developing countries and countries with economies in transition that have had positive outcomes with alternative livelihoods for tobacco farmers.

Eighth, particular attention needs to be given to the obligations with a clear deadline after the entry into force of the Convention for Ghana and these are Article 11 (Packaging and labelling of tobacco products) within 3 years (February 2008) and Article 13 (Tobacco advertising, promotion and sponsorship) within 5 years (February 2010). The guidelines of Article 8 (Protection from exposure to tobacco smoke) recommend that Parties should ban smoking in public places and indoor workplaces by providing universal protection within a 5 year timeline (February 2010).

Addressing the issues raised in this report will make a substantial contribution to meeting obligations to the WHO FCTC and improvement of the health status in Ghana. The final report of this joint needs assessment, which follows this summary, can also be the basis for any proposal(s) that may be presented to relevant partners to support Ghana to meet its obligations to the Convention.

INTRODUCTION

The WHO Framework Convention on Tobacco Control (WHO FCTC) is the first and only international public health treaty negotiated under the auspices of the World Health Organization. Ghana ratified the WHO FCTC on 29 November 2004 and was among the first 40 countries to do so. The treaty therefore entered into force for the country on 27 February 2005, the same day that the WHO FCTC became international law.

The Convention recognizes the need to generate global action so that all countries are able to respond effectively in the implementation of the provisions of the Convention. Article 21 of the WHO FCTC calls on Parties to periodically submit to the Conference of Parties (COP) implementation reports, including any challenges they may face during implementation of the treaty. Article 26 of the Convention recognizes the importance that financial resources play in achieving the objectives of the treaty. The COP further directed that detailed needs assessment be done at country level, especially in developing countries and countries with economies in transition, to ensure that lower resource Parties are supported to fully meet their obligations under the treaty.

The first session of the COP (February 2006) called upon developed country Parties to provide technical and financial support to developing country Parties and Parties with economies in transition (decision FCTC/COP1 (13)). The COP also called upon the developing country Parties and Parties with economies in transition to conduct needs assessment in light of their total obligations related to the implementation of all provisions of the Convention and 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 asked the Convention Secretariat (Decision FCTC/COP2(10)) to actively seek extrabudgetary contributions specifically for the purpose of assisting Parties in need to carry out needs assessments and develop project and programme proposals for financial assistance from all available funding sources.

At its third session (November 2008), the COP adopted the work plan and budget for the biennium of 2010-11. The workplan, inter alia, stressed the importance of assisting developing country Parties and Parties with economies in transition, strengthening coordination with international organizations, and aligning tobacco control policies at country level to promote the implementation of the Convention. Needs assessments, combined with the promotion of access to available resources, the promotion of treaty tools at country level, the transfer of expertise and technology, and south-to-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 and resources available to a Party for the implementation and any gaps thereof. It should therefore be comprehensive and based on all substantive articles of WHO FCTC with a view to establishing a baseline of needs that a Party requires to fulfill its obligations under the Convention. The needs assessment is also expected to serve as a basis for assistance in Programme and Project development for meeting the obligations under the Convention, particularly to lower resource countries to promote and accelerate access to internationally available resources for implementation of the Convention.

To be comprehensive, the needs assessment is 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 available sources of information;
- (b) visit of an international team to the country for a joint review with government representatives representing both the health and other relevant sectors; and
- c) follow up with country representatives for further details and clarifications, review of additional materials jointly identified, and the development and finalization of the needs assessment report in cooperation with the government focal point(s).

With the above objectives and process in view, a joint assessment of the needs concerning the implementation of the WHO FCTC was conducted by the Government of Ghana and the Convention Secretariat, with the participation of the WHO Tobacco-Free Initiative (WHO-TFI) and WHO Representative in Ghana in April to May 2010, including the mission of an international team to Ghana from 15 to 19 April 2010. The detailed assessment involved various relevant ministries and agencies of the

Government of Ghana. The following report is, therefore, based on the findings of the joint needs assessment exercise.

The report contains a detailed overview of the status of implementation of substantive articles of the treaty and also identifies gaps therein and areas where further actions are needed to ensure full compliance with the requirements of the treaty and the implementation of guidelines adopted by COP when relevant. This is followed by specific recommendations concerning that particular area. The Executive Summary provides an overview of the joint needs assessment exercise, and an outline of key findings and recommendations.

STATUS OF IMPLEMENTATION, GAPS AND RECOMMENDATIONS

This core section of the report follows the structure of the WHO FCTC. It outlines the requirements of each of the treaty's substantive articles, reviews the stage of implementation of each particular article, outlines achievements and identifies the gaps between the requirements of the treaty and actual level of implementation by Ghana. Recommendations of guidelines adopted by COP are also referred to when relevant. Finally, it provides recommendations on how to address the gap(s) so identified during the joint needs assessment mission with a view to support the country to meet its obligations under the Convention.

Article 2

Relationship between this Convention with other agreements and legal instruments

Article 2.1 of the Convention encourages Parties to implement “*measures beyond those required by the Convention and its protocols and that are in conformity with international law.*”

Ghana does not currently have measures which go beyond those provided for by the Convention.

It is therefore recommended that the Government while working on meeting the obligations under the Convention would also identify areas that it could implement measures beyond the minimum required by the Convention.

Article 2.2 clarifies that “*the Convention does not affect the right of Parties to enter into bilateral or multi-lateral agreements on issues relevant or additional to the Convention, provided that such agreements are compatible with the Party's obligations under the Convention. Such agreements shall be communicated to the Conference of the Parties (COP) through the Convention Secretariat.*”

No such information has been provided so far by Ghana. The Ministry of Foreign Affairs, in consultation with the relevant line ministries, will identify these agreements and report as necessary.

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

It is therefore recommended that the Government of Ghana reports on any previous agreements it entered into as required by Article 2.2 of the treaty. Such agreements concluded after entering into force of the Convention for Ghana should also be reported retrospectively. It is also recommended that the Ministry of Foreign Affairs takes a more proactive role in the reporting process.

Article 4 **Guiding Principles**

The Preamble of the Framework Convention Parties emphasized "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 “*the participation of civil society is essential in achieving the objective of the Convention and its protocols.*”

A number of Non-governmental Organizations (NGOs) have formed a coalition on tobacco control. Some NGOs have secured support for capacity building and this can be a good entry point to help the coalition to explore more funding opportunities. Some other NGOs working on health and social development issues have expressed

willingness to share their experience and expertise in capacity building to help the coalition develop and become a strong voice for tobacco control. The tobacco control focal point in Ghana Health Service has also made efforts to provide technical support to the coalition including being involved in major tobacco control events.

Gap - the overall participation of civil society in implementing the WHO FCTC is still quite weak in the country. Lack of coordination and capacity to mobilize funding remains a barrier for them to take a more proactive role in advancing tobacco control in Ghana. The coalition does not meet on a regular basis and currently has limited impact on the implementation of the WHO FCTC.

It is recommended that the coalition needs to enhance its leadership role in coordination and advancing tobacco control efforts among civil society players. It is further recommended that Government continues to work with civil society in advocating for the urgent need to pass the Tobacco Control Bill and putting in place comprehensive tobacco control strategies. Women, youth, environmental, consumers and faith based groups could also be mobilized to support further implementation of the Convention.

Article 5

General obligations

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.”

Many tobacco control activities have been conducted such as Quit and Win, observation of the annual World No Tobacco Day, raising public awareness and updating policy makers on tobacco control issues. There is a draft National Tobacco Control Plan of Action which awaits formal adoption by the Ministry of Health.

As there are several government agencies involved in various obligation to the Convention, there is an urgent need to develop a national strategy in implementing the WHO FCTC to enable better coordination of the policy making process related to tobacco control to maximize effectiveness. It is important to ensure that all actors

(governmental and non-governmental) can bring their contributions to the implementation of a national tobacco control action plan.

Gap- there are no comprehensive national tobacco control programme, strategies and plans in Ghana at this time. Most tobacco control activities are conducted in conjunction with the World No Tobacco Day and during release of some tobacco control related surveys. Meeting the treaty obligations are mainly seen as the task of the Ministry of Health rather than the whole government's responsibility.

It is therefore recommended that a multisectoral strategy to implement the WHO FCTC should be developed and adopted by the Government of Ghana.

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

1. National coordinating mechanism

A National Tobacco Control Steering Committee (NTCSC) was established by the Minister of Health on 14 January 2002. Members of the committee were tasked to support the Ministry in its policy development, advocacy for tobacco control and to advise on effective intervention strategies for the successful implementation of a National Tobacco Control Program. The Minister also expected the committee to develop a national policy on tobacco control. The Ghana Health Service was appointed the Secretariat of the Committee. Other relevant government agencies were invited as members of the Committee (Annex III). After Ghana ratified the Convention in 2004, NTCSCS has continued to play some coordination role and in consultation with key stakeholders, drafted the Tobacco Control Bill.

The WHO FCTC is a comprehensive treaty whose implementation requires the involvement of any sectors. It is encouraging to note that the Ministry of Foreign Affairs is committed to support coordination from the treaty implementation angle and make effort to ensure the obligations under the Convention will be fully met. Interest was also expressed by the Ministry of Finance in learning more about international experience of using earmarked tobacco taxation to fund the national coordination mechanism and tobacco control activities. Members of the Health Committee of Parliament also suggested securing the funding mechanism such as by establishing a

health promotion fund though earmarked tobacco taxation in the Tobacco Control Bill.

Gap - a national coordination mechanism on implementation of the WHO FCTC has not yet been established and financed.

It is therefore recommended that a multi-sectoral national coordination mechanism is formally established by the Government with membership that is as broad as possible to include all relevant government agencies and other relevant stakeholders. A specific budget line needs to be allocated to support the work of the national coordination mechanism with dedicated staff in place.

2. National tobacco control focal point

A tobacco control focal point is currently housed in the Research and Development Division, Ghana Health Services under Ministry of Health. The tobacco control focal point also covers other research responsibilities apart from tobacco control. In the absence of a national coordination mechanism, the tobacco control focal point also plays the coordination role in preparing the country's WHO FCTC implementation report with the relevant agencies but it relies heavily on personal effort rather than a systematic mechanism.

Gap - lack of a full time tobacco control unit and dedicated budget line for tobacco control in the Ministry of Health.

It is recommended that an office be established in the Ministry of Health to work full-time on the implementation of the Convention. This office can then better coordinate all relevant units in Ghana Health Service (such as non communicable disease, health promotion, research etc) and the Food and Drugs Board (FDB) to integrate implementation of the WHO FCTC in all health care programmes. Other staff from within the Ministry and its agencies could support tobacco control on a part-time basis. More staff time shall be realized from other ministries and agencies of government who have a role in the implementation of the Convention.

Article 5.2 (b) calls on Parties to “adopt and implement effective national law and cooperate with other parties in developing policies”

Under the coordination of the NTCSC, a draft Tobacco Control Bill has been developed. The next step is to get approval from the Cabinet before Parliament can debate and pass it into law. When enacted, it will help Ghana to meet its obligations to the Convention and reduce tobacco consumption and exposure to second hand smoke.

Existing laws such as the Environmental Protection Agency Act, 1994 and policies in various government agencies such as National Media Commission could be utilized and updated to address some obligations under the Convention.

Gap - lack of a national law and comprehensive policy on tobacco control and implementation of the Convention.

It is therefore recommended that the Ministry of Health should take immediate action to speed up the executive procedure to get approval from the Cabinet for the Tobacco Control Bill to be sent to the Parliament for debate. It is also recommended that Ghana should at the same time review existing laws, regulations and policies and identify what can be utilized to implement the WHO FCTC within the current legal instruments and administrative measures.

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

There are currently no clear policies on how to engage with the tobacco industry in protecting public health policy from influence by vested interests. Although there is no manufacture of tobacco products in Ghana tobacco products importers are regularly engaged in lobbying government so as not to increase tobacco taxation.

Gap - very little awareness about the Article 5.3 and its guidelines among government officials. There is also no clear guidance on implementing Article 5.3 and its guidelines in the government.

It is recommended that the Government ensures, in line with the treaty obligations, that the tobacco industry does not participate in the development of any tobacco control policy. The Government should ensure that it only interacts with the tobacco industry and to the extent strictly necessary to enable them to effectively regulate the

tobacco industry and tobacco products. Provisions along these lines should be included in the draft Tobacco Control Bill. The Code of conduct of civil servants should also be revisited to be in line with Article 5.3 and its guidelines.

Article 6

Price and tax measures to reduce the demand for tobacco

In Article 6.1, 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".

It is not clear if the Government recognizes from a policy perspective that tobacco taxes are an effective means to reduce tobacco use. It is clear, however, that an excise tax is imposed on tobacco products (as well as alcohol) partly because those products are considered harmful to health.

It is recommended that during the development of the national policy and strategy for implementation of the Convention, a clear statement is made to cover this obligation.

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

Before 2008, Ghana imposed a flat ad valorem rate of 140% (of the Cost, Insurance and Freight - CIF - value) on all tobacco products. In 2008 the taxation structure was changed for cigarettes to a specific excise tax. The rate varied depending on the type of cigarette imported.

The following rates were imposed during 2008 and 2009:

- o Premium cigarettes: 0.0275 cedis per stick
- o High quality cigarettes: 0.0235 cedis per stick
- o Medium quality cigarettes: 0.0175 cedis per stick
- o Low quality cigarettes: 0.01 cedis per stick

The other types of taxes imposed on tobacco products:

- o Import duty: 20% of CIF value (cigarettes produced within

- o ECOWAS(Economic Community of West Africa States) and imported to Ghana are exempt from the import duty);
- o National Health Insurance Levy: 2.5% of CIF + Import duty value (this levy is imposed on all products in the market which are subject to VAT, it is collected at the same time as VAT);
- o ECOWAS levy: 0.5% of CIF value (imposed on most imported products);
- o Economic development and investment fund: 0.5% of CIF value (imposed on most imported products);
- o Processing fee: 1% of CIF value (only imposed on products benefiting from the import duty waiver above);
- o Value-added tax (VAT): 12.5% of CIF + Import duty value +excise tax (initially, the enforcement agency - Customs - used only CIF + Import duty as the base, but the Ministry of Finance sent a note to Customs to make sure that the excise value was also taken into account in the base for the VAT tax. This happened only 5 months ago).

The main reason why the tax structure was changed in 2008 was for revenue generation purposes and affected all non-petroleum excisable products (tobacco, alcoholic and non alcoholic drinks). The Government assumed tax neutrality, i.e. follow one tax policy approach for all non-petroleum excisable products. This meant that the government looked at the effect of tax change as a whole and not by product and the purpose was to increase revenue from those products taken altogether.

After two years of imposition of the new tax structure introduced in 2008, the government noted a decrease in their total tax revenues from non-petroleum excisable products. The reduction in revenue was mainly driven by the decrease in revenues from alcoholic beverages. However, revenues from tobacco taxes actually increased. Unfortunately, because of the tax neutrality approach and the fact that total revenues went down, the government decided to go back to the old regime with the rates applied on the excisable products before 2008. For tobacco products, in particular cigarettes, this meant basically a reduction of the tax rate.

In 2010 the Ministry of Finance decided to impose the flat ad valorem rate of 140% of CIF value. Even though the rate seems like a high rate, when converted as a percentage of the retail price, excise tax only represents 22% of the price and the total tax (excise + import duty + VAT + other levies) share is 31% of the retail price.

Gap - since the government has not increased tobacco taxation recently, the price of tobacco products has actually gone down with the inflation, which makes them more affordable over time.

It is recommended that the government considers increasing excise taxes on tobacco products. However, the increase should not only cover cigarettes but all tobacco products in order to avoid substitution of consumption to other tobacco products.

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

The quantity limit for importation of tobacco products by international travellers is not clearly stated in the Customs law and is left at the discretion of each customs officer.

Gap - lack of an objective guidance for the quantity limit which makes it difficult to enforce the duty free law for tobacco products and therefore hard to control the amount brought into the country through duty free channel.

It is recommended that the Customs law clearly sets the limit for the sale and/or importation of tobacco products by international travellers entering the country.

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

This information has been provided in the two reports Ghana has submitted. Ghana has therefore met the obligations under Article 6.3.

Article 8

Protection from exposure to tobacco smoke

In Article 8.1, Parties recognize that “*scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability.*”

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.”

Article 8 guidelines emphasizes that “*there is no safe level of exposure to second-hand smoke*” and calls 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 corresponding date for Ghana was 27 February 2010.

Various Ministries and government agencies have issued administrative directives on protection from exposure to tobacco smoke. The Ministry of Health for example, prohibits smoking in all its health care facilities and other premises.

The Ministry of Education prohibits the smoking of cigarettes by both students and teachers at the pre-tertiary level within the school premises and enforces stiff punishment for those students caught smoking. The Ministry has also developed a draft School Health Education Policy in 2009 to promote a child friendly school framework and healthy lifestyles which includes avoiding the use of tobacco. Emphasis is also given to the provision of counseling service to the students who want to quit.

The Children’s Act, 1998 protects the right to education and well-being of children and stipulates that no person shall deprive a child access to education, immunisation, adequate diet, clothing, shelter, medical attention or any other thing required for their development. As exposure to tobacco smoke poses serious health consequences to the child’s development, the right to clean air without tobacco smoke can be effected under this Law.

The Ministry of Transportation restricts smoking in public and private commercial transport, including the Ghana Private Road Transport Union and Inter City Buses, and on both domestic and international flights.

Ghana Tourism Board is the government’s regulatory body to develop, promote and coordinate all tourism activities. It is responsible for issuing licenses to the hospitality industry. The Board has been promoting smoke free public places and gave some hotels in the Greater Accra Region non-smoking signs and encouraged the hospitality industry to create smoke free places within their facilities.

Several administrative directives require the following places to be smoke-free in Ghana.

- o Government buildings, health care, cultural & pre-tertiary educational facilities
- o Non-private workplaces except restaurants and bars
- o Public transport facilities

Environmental Protection Agency (EPA) was established by the EPA Act, 1994. EPA has a law on indoor air pollution which although not specific to tobacco smoke, can be a legal base to implement Article 8 and its guidelines. One function of EPA is to issue environmental permits and pollution reduction notices for controlling the volume, types, constituents and effects of waste discharges, emissions, deposits or any other source of pollutants and of substances which are hazardous or potentially dangerous to the quality of the environment or a segment of the environment;

The Environment Assessment Regulations, 1999 further requires that no person shall commence activities in respect of any undertaking which in the opinion of the Agency has or is likely to have adverse effect on the environment or public health unless, prior to the commencement, the undertaking has been registered by the Agency in respect of the undertaking. Public health concern is a major reason for undertaking the environmental permits which could be utilized to ban exposure to tobacco smoke in workplaces and public places.

The potential to utilize the existing EPA Act, 1994 and the environmental Assessment Regulations, 1999 was explored and found to be viable. EPA has not included protection of exposure to tobacco smoke as one of its areas of work at this time but expressed interest for future cooperation with the Ministry of Health. It was also indicated that coordination at the Ministry level (Health and Environment) is crucial for success.

Gaps - Ghana was not able to meet the five year timeline as called for in the Article 8 guidelines. Environmental law and regulations have not been fully utilized to promote smoke free policies.

It is therefore recommended that the Tobacco Control Bill should cover the obligations in Article 8 and meet the expectations of the relevant guidelines

including legislating a 100% smoke free public places and work places. Secondly, the Environmental Protection Agency, Ministry of Health as well as the Ministry of Environment, Technology and Science should utilize the existing environmental law and regulation to ban smoking in workplaces, public places and other appropriate places in line with Article 8 and its guidelines.

Article 9

Regulation of the contents of tobacco products

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

Ghana has two institutions whose mandates are relevant for the implementation of Articles 9 of the Convention. These are the Food and Drugs Board (FDB) and the Ghana Standards Board (GSB).

FDB - The Food and Drugs Law established FDB in 1992. Although the Food and Drug Law does not directly cover regulation on tobacco, the Minister of Health's Directive of 2007 gives the Board the mandate for tobacco regulation. As there is no manufacture of tobacco products in Ghana, FDB requires all importers to register their tobacco products with the agency and submit analytical reports on contents. For cigarettes, the ignition propensity test is also required.

The Ghana Standards Board (GSB) was established by the Standards Decree, NRCD 173, 1973 to promote standardization in industry and commerce and promote standards in public health and industrial welfare. Health and safety is taken into consideration for setting standards and conducting conformity testing. Some tobacco products standard (GS 105-1:1992) has been set up. It details the specifications for cigarette including tar and nicotine levels and the methods for sampling procedure required to ensure compliance to the standard.

Gaps - the FDB can not ensure all tobacco importers will register their products and sanction those who do not register. FDB does not at the moment do any confirmatory testing themselves and rely on the importers to do that and present the results. GSB's

laboratory has very limited capacity to test tobacco products and for example can not test nicotine level.

It is recommended that the legislation and relevant regulations need to include testing and measurement of the contents and emissions of tobacco products. An assessment and review of the testing and laboratory capacity among the existing facilities in the country will help to later decide whether Ghana should develop its own testing capacity or utilize capable laboratories in the Region through bilateral arrangement.

Article 10

Regulation of tobacco product disclosures

Article 10 requires Parties to “*adopt and implement effective measures requiring manufacturers and importers of tobacco products to disclose to governmental authorities information about the contents and emissions of tobacco products.*”

FDB currently requires importers to disclose information about active ingredients, other ingredients and reasons for inclusion, additional raw materials used but not in the final product, more than 20 constituents of whole/unburned tobacco and more than 40 toxic emissions in both mainstream and side stream smoke when the importer registers for their products.

FDB gets the information on tobacco product disclosures through the importer's registration form. There is no enforcement mechanism to ensure all tobacco importers will register with the FDB.

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

Currently there are no measures in place on public disclosure of information about toxic constituents and emissions.

It is recommended that the Tobacco Control Bill should authorize the FDB to put in places regulations and measures on public disclosure to meet obligations to this provision.

Article 11
Packaging and labeling of tobacco products

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

Despite the absence of comprehensive tobacco control legislation, Ghana has however made certain progress in meeting the obligations under Article 11 through the contractual arrangement with the tobacco product importers and distributors during product registration. FDB requires that all imported tobacco products should be registered with the agency and the importer signs an agreement that includes requirements on packaging and labelling of tobacco products. However, those measures will be difficult to sustain and ensure 100% compliance without national legislation.

Article 11.1 (a) requires that “*tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, including any term, descriptor, trademark, figurative or any other sign that directly or indirectly creates the false impression that a particular tobacco product is less harmful than other tobacco products. These may include terms such as “low tar”, “light”, “ultra-light”, or “mild”*”

FDB requires all imported tobacco products registered to comply with these requirements through contractual arrangement. Misleading descriptors are banned.

Article 11.1(b) requires that “*each unit packet and package of tobacco products and any outside packaging and labelling of such products also carry health warnings describing the harmful effects of tobacco use, and may include other appropriate messages.*”

In addition, the Article 11 guidelines recommend that Parties implement pictorial health warnings and give specific recommendations on message contents and the design elements such as location, size and color.

FDB requires that a tobacco product manufactured in, imported into or sold in the country shall carry the recommended health warnings determined by the Minister responsible for health.. There are three sets of textual health warnings (Annex IV) required in both the front and the back of the package. The size of the warnings is 50% on both the front and the back as required by the Article 11 guidelines. The health warnings should be black on a white background and are clear, visible and legible. Rotation is required with all three sets used at the same time as required by Article 11.1.(b).

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

FDB currently does not have any requirement related to this obligation. In Article 11.3, each Party shall require that “the warnings and other textual information which 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.”

FDB requires that the warnings and all other information on the labeling and packaging shall be written in English through the contractual arrangements with the tobacco importers.

Gaps identified are:

1. The deadline for Ghana to meet the obligations under Article 11.1 was February 2008. Without legislation and regulation in place, it is a challenge for FDB to ensure all tobacco products sold in the market are registered and therefore comply with its requirements on labelling and packaging. It is also a challenge to enforce the current requirements.
2. Pictorial health warnings recommended in the Article 11 guidelines have not yet been implemented at this time.
3. FDB has not yet required each unit packet and package of tobacco products and any outside packaging and labeling of such products to contain information on relevant constituents and emission of tobacco products. Quantitative levels of tar and nicotine rather than qualitative statement are usually shown in the labeling and packaging which is not in line with the Article 11 guidelines.

It is therefore recommended that Ghana take prompt action to include these requirements of the treaty and recommendations from the Article 11 guidelines in the Tobacco Control Bill to enable the responsible agency to discharge its mandate more effectively and also implement pictorial health warnings.

Article 12

Education, communication, training and public awareness

Article 12.2(a) requires that “*each Party shall adopt and implement effective legislative, executive, administrative or other measures to promote broad access to effective and comprehensive educational and public awareness programmes on health risks including the addictive characteristics of tobacco consumption and exposure to tobacco smoke;*”

Article 12.2(b) requires that each Party “*shall adopt and implement effective legislative, executive, administrative or other measures to promote public awareness about the health risks of tobacco consumption, exposure to tobacco smoke, and also about the benefits of cessation of tobacco use and tobacco free lifestyles as specified in Article 14;*”

Tobacco control advocacy is conducted on an ad hoc basis in conjunction with the observation of the annual World No Tobacco Day on 31 May. Three Quit & Win campaigns were organized by Ghana Health Services with the latest one in 2007 and the benefit of cessation of tobacco use and tobacco free lifestyle was highlighted. Dissemination of tobacco related survey results such as Global Youth Tobacco Survey in Ghana also create opportunities to secure resources to conduct advocacy campaigns and raise awareness of the harmful effects of tobacco use.

Some other Ministries and government agencies also have a mandate under this obligation. The Ministry of Education carries on tobacco control education programme in the schools with the technical input from the Ghana Health Service. "Smoker's body" posters are distributed to all schools to raise awareness among students and teachers.

The Ministry of Information has the mandate to ensure free flow of public information . This Ministry and Ghana News Agency have key roles to play in promoting public

access of information related to the harmful effects of tobacco use and the tobacco industry. The Ministry of Information has "information vans" in all districts which could be used as a valuable channel to educate the public on the effects of tobacco use and exposure to tobacco. However such resources at the disposal of this ministry have not yet been utilized for tobacco control and so is an opportunity in the future.

A media group representing the main print, radio and television outlets in the country has been mobilized to cover tobacco related issues and play a key role in communication and raising public awareness. This media group is committed to advocate for the passing of the Tobacco Control Bill.

Gaps - those identified include:

1. Lack of a comprehensive educational and public awareness programme on health risks including the addictive characteristics of tobacco consumption and harmful effects of exposure to tobacco smoke. Public access to wide range of information on the tobacco industry is not promoted in a systematic way yet;
2. There is no clear strategy on improving public awareness of and access to information regarding the adverse health, economic, and environmental consequences of tobacco production and consumption;
3. There is no effective and appropriate training, sensitization and awareness programmes on tobacco control in the population at large and especially in key target groups, such as health, community and social workers, media professionals, educators, decision-makers, administrators.
4. There is no information yet available on the overall level of knowledge of the members of the society on matters related to tobacco use or on the level of public support for stronger tobacco control legislation. Limited research has been done so far in Ghana.
5. There is no sufficient financial support to carry on the resource-demanding activities in meeting the obligations under Article 12.

It is therefore recommended that the Ministry of Health and other relevant government agencies such as Ministry of Education, Ministry of Information, National Media Commission, etc. should work together to educate and raise awareness of the harmful effectiveness effects of tobacco consumption and exposure to tobacco exposure. Effort should also be made to include training on tobacco control in both pre-service and in-service training for the health professionals.

Article 13

Tobacco advertising, promotion and sponsorship

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

Ghana has successfully banned tobacco advertisements in all media outlets. In 1982 the Government banned all cigarette advertisements on state television, radio and in print media. The National Media Commission’s Guidelines for Broadcasting also stipulates that liquor consumption and smoking should be shown only when consistent with plot and character development.

FDB requires the importers and distributors of tobacco products to accept the following conditions when applying for registration as an importer of tobacco product:

- i) prohibits direct and indirect advertising including brand stretching activities,
- ii) prohibits tobacco advertising on a billboard, wall mural, vehicle, transport stop or station;
- iii) prohibits organized activities and sponsorship and iv) prohibits promotional offers and items to youth through all kinds of media. Tobacco advertising at point of sale is however still allowed.

The Code of Advertising Practice allows outdoor, billboard tobacco advertising and sponsorship with some restrictions. In reality however, billboard tobacco advertising is rare in Ghana.

Article 13.4 requires that “As a minimum, and in accordance with its constitution or constitutional principles, each Party shall:

- (b) require that health or other appropriate warnings or messages accompany all tobacco advertising and, as appropriate, promotion and sponsorship;

FDB requires that posters containing health warning shall be placed at all distribution points and retail outlets. The text of the warning is as follows: “Ministry of Health Warning: Cigarette smoking is harmful to your health.”

The Code of Advertising Practice developed by Advertising Association of Ghana requires health warnings on packs of tobacco products and reaffirms the non press tobacco advertising rules.

Gap - Other than at point of sale, health warnings or messages are not required to accompany all tobacco advertisement, promotion and sponsorship.

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

Currently Ghana has not implemented any measures beyond the obligations set out in Article 13.4.

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

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

Gaps identified are:

1. Various regulations or contractual arrangements on banning tobacco advertisement, promotion and sponsorship are developed by different agencies and there is no consolidated legislation to ensure a total ban. Internet sales, brand stretching and brand sharing, corporate responsibility, depictions of tobacco in entertainment media as recommended in the Article 13 guidelines have not been regulated or banned yet.
2. The existing regulations and contractual arrangements still have loopholes such as point of sales advertisement and are not comprehensive.
3. FDB has no regulation or contractual arrangements to prohibit all forms of tobacco advertising, promotion and sponsorship that promote a tobacco product by any means that are false, misleading or deceptive or likely to create

- an erroneous impression about its characteristics, health effects, hazards or emissions;
4. FDB has no regulation or contractual arrangements to restrict the use of direct or indirect incentives that encourage the purchase of tobacco products by the public;
 5. FDB has no regulation or contractual arrangements to require the disclosure to relevant governmental authorities of expenditures by the tobacco industry on advertising, promotion and sponsorship not yet prohibited. .
 6. Lack of regulation to ban cross boarder advertising, promotion and sponsorship originating from and entering into its territory.

It is recommended that the new legislation should ensure 100% ban on tobacco advertising, promotion and sponsorship. It should also identify an enforcement mechanism to ensure compliance. It is also recommended that cross-border advertising, promotion and sponsorship originating from and entering into its territory should be banned according to provisions of Article 13.2 and 13.7.

Article 14

Demand reduction measures concerning tobacco dependence and cessation

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

A draft manual on cessation was developed by the Ghana Health Service in 2007 but has not been officially published yet.

Gap - currently there are no guidelines concerning tobacco dependence and cessation in Ghana.

It is therefore recommended that as a first step, the Manual on cessation should be published and adequate training should be provided to health care providers.

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

- (a) design and implement effective programmes aimed at promoting the cessation

- of tobacco use, in such locations as educational institutions, health care facilities, workplaces and sporting environments;
- (b) include diagnosis and treatment of tobacco dependence and counselling services on cessation of tobacco use in national health and education programmes, plans and strategies, with the participation of health workers, community workers and social workers as appropriate;
 - (c) establish in health care facilities and rehabilitation centres programmes for diagnosing, counselling, preventing and treating tobacco dependence; and
 - (d) collaborate with other Parties to facilitate accessibility and affordability for treatment of tobacco dependence including pharmaceutical products pursuant to Article 22. Such products and their constituents may include medicines, products used to administer medicines and diagnostics when appropriate.

Some psychiatrists can provide limited counseling and cessation services based on their training on substance abuse rather than tobacco dependence treatment. Medical students have undergone some basic training on tobacco control in their curriculum which usually means they can provide cessation advice but not tobacco dependence treatment.

Ghana served as a key facilitator to the Article 14 Working Group and actively participated in the drafting of the guidelines on implementation of Article 14 of the WHO FCTC.

Gaps - identified are:

1. There is no comprehensive and integrated programme concerning tobacco dependence and cessation in Ghana.
2. Pharmaceutical products for treatment of tobacco dependence are not widely available and also not covered by the National Health Insurance.
3. There is no in service training course on cessation and treatment of tobacco dependence.

It is recommended that a national programme and services on diagnosis and treatment of tobacco dependence and counseling services on cessation of tobacco use should be established and provided in health care facilities, educational institutions, workplace and sporting environment. It should be integrated into the national health and education system. The cost of treatment of tobacco dependence and cessation services

should be covered by the National Health Insurance. It is also recommended that Ministry of Health and its FDB should ensure to include Nicotine Replacement Therapy in the National Essential Drug List.

Article 15

Illicit trade in tobacco products

In Article 15.1, 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 Ministry of Finance and Economic Planning and the Customs, Excise and Preventive Services (CEPS) estimate that illicit tobacco products consist 20-30% of the market share in Ghana. Even though tobacco products are not explicitly mentioned, the CEPS Law is the legal basis for combating illicit trade including of tobacco products.

CEPS have confiscated illicit tobacco products where Ghana is used as a transit point for neighboring countries. CEPS has also signed MOUs with BAT and Phillip Morris to facilitate seizure of counterfeit products.

International travelers are allowed to bring in duty free tobacco products for personal uses. There is no clear guideline on the amount allowed. It is up to the Custom officers to determine what amount is appropriate for personal use.

Article 15.2 calls each Party to “*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.*”

Ghana currently does not have this requirement in place for the imported tobacco products.

It is therefore recommended that the Tobacco Control Bill will include this requirement.

Article 15.2 (a) requires that “*unit packets and packages of tobacco products for retail and wholesale use that are sold on its domestic market carry the statement: “Sales only allowed in (insert name of the country, sub national, regional or federal unit)” or “carry any other effective marking indicating the final destination or which would assist authorities in determining whether the product is legally for sale on the domestic market.”*”

FDB requires tobacco product importers to provide information on the country of origin during the registration of a tobacco product. It also requires that a tobacco product shall bear the inscription “For SALE IN GHANA” which shall cover not less than 5% of the principal surface of the package.

Gap - not all importers register their products with FDB therefore it could not cover all tobacco products sold in the country.

It is therefore recommended that the Tobacco Control Bill introduces provisions on tobacco products regulations in line with this article.

15.2(b) calls Parties to “*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.*”

Customs, Excise and Preventive Service (CEPS) has an electronic system of tracking and tracing transit goods under the Ghana Management System (GCMS) and Ghana Community Network (GCNet). Importers are required to process clearance of goods by electronic declarations and the system can detect fraud or smuggling.

Article 15.3 requires that “*the packaging information or marking specified in 2(a) shall be presented in legible form and/or appear in its principal language or languages.*”

All labels are required in official language-English or translated into English. Ghana has met the obligation under Article 15.3.

Article 15.4(a) calls Parties to “*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*”

Data are collected through the GCMS and GCNet systems. Ghana has met the obligations under this Article.

Article 15.4 (b) calls Parties to “*enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband Cigarettes.*”

CEPS (Management) Law 1993 prohibits all forms of smuggling. Penalties range from seizure, fine of 300% of the tax evaded and or a maximum jail of 10 years.

Article 15.4 (c) calls Parties to “take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using environmentally-friendly methods where feasible, or disposed of in accordance with national law”

Confiscated counterfeit and contraband tobacco products are destroyed under the supervision of the Environmental Protection Agency but it is not very clear whether the methods used are environmentally-friendly.

It is therefore recommended that CEPS and EPA should work together and establish environmental-friendly methods to destroy confiscated counterfeit and contraband tobacco products.

Article 15.4(d) calls Parties to “*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.*”

Under the Ghana customs Regulations, goods from the port of discharge are covered by Removal Bonds to ensure that they are not diverted into the market until they are safely delivered into Bonded warehouses and secured all taxes collected.

Article 15.4(e) calls Parties to “*adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products*”

In 2008, Ghana passed the Anti-Money laundering Act (749) where proceeds from unlawful activities such as proceeds derived from illicit trade in tobacco products are frozen on the orders of a court.

Article 15.5 calls Parties to “*provide information collected pursuant to subparagraphs 4(a) and 4(d) of this Article in their periodic reports to the Conference of the Parties, in accordance with Article 21.*”

Ghana has provided such information through its two reports to the Conference of the Parties and therefore met the obligations under Article 15.5.

Article 15.6 calls Parties to “*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.*”

Ghana is a member of the International Criminal Police Organization (INTERPOL) and the World Customs Organization (WCO). Ghana shares information with INTERPOL and WCO and has active cooperation with them on anti-smuggling. Ghana has signed MOUs with its immediate neighbors Togo, Burkina Faso and Cote d'Ivoire on customs cooperation including combating smuggling.

Article 15.7 calls Parties 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.*”

The gap is that currently no licensing system is in place to control and regulate the distribution of tobacco products in Ghana.

It is recommended that licensing for importation, distribution and sale of tobacco products could be introduced. CEPS and FDB should work together to tighten border patrols against tobacco illicit trade and regularly check the market to uncover and seize illicit tobacco products. The Tobacco Control Bill should include provisions on combating illicit trade.

In the meantime, Ghana has been actively engaged in the current process of elaborating a Protocol on Illicit Trade in Tobacco Products under the umbrella of the WHO FCTC. Ghana has made great contribution to the treaty development process by serving as a Bureau Member of three sessions of the Intergovernmental Negotiating Body representing the Africa Region.

Article 16
Sales to and by minors

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.”

FDB requires the importers to commit to not selling tobacco or tobacco products to a person under eighteen. Selling in an education institution and in a facility with a significant portion of youth clientele including an amusement park, a movie theatre and sports stadium is also prohibited.

Gaps - is that the contractual arrangement introduced by FDB for the tobacco importers is a challenge to enforce due to the limited enforcement power of the administrative measures. The sale of tobacco products is still easily accessible to the minors.

It is therefore recommended that the Tobacco Control Bill should include a provision which will require sellers to place a clear and prominent message inside their point of sale about the prohibition of tobacco sales to minors and, in case of doubt, request that each tobacco purchaser provide appropriate evidence of having reached full legal age. The Tobacco Control Bill also need to ban the sale of tobacco products in any manner by which they are directly accessible, such as store shelves.

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

Fortunately there are no vending machines currently being used in Ghana. However, FDB asked the importers to commit not sell or offer to sell tobacco products through a vending machine. But tobacco companies may introduce vending machines in the future to provide for more opportunities for their products to be available.

It is recommended that a provision be introduced in the Tobacco Control Bill to prevent use of vending machines for selling tobacco products.

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

Currently small pack and single stick cigarette sale is common in Ghana. There is a big gap in meeting this obligation.

It is therefore recommended that the Tobacco Control Bill should include provisions to prohibit the sale of cigarettes individually or in small packets.

Article 17

Provision of support for economically viable alternative activities

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 large scale tobacco growing in Ghana. Moreover, the last factory for tobacco products was closed in 2006, and therefore there is no longer cigarette manufacture in the country. With the consequent drastic reduction in demand for tobacco leaves, tobacco farmers are now facing major difficulties in finding alternative livelihoods. The Ministry of Food and Agriculture provides limited credit to farmers and very limited extension services to tobacco farmers. The government has however, through the Ministry of Food and Agriculture committed to work closely with the Ministry of Health in finding feasible solutions to implement obligations under Article 17.

The Comprehensive Africa Agriculture Development Programme (CAADP) is an initiative by African governments to accelerate growth and eliminate poverty and hunger. In aligning with CAADP in October 2009, the Ministry of Food and Agriculture committed to achieve the Maputo Declaration of allocating at least 10% of annual expenditure to the agriculture sector. CAADP also provides a framework for partnership and development assistance. The World Food Programme could play a key role in providing support for the small tobacco farmers to shift to economically viable and sustainable alternative livelihoods.

Ghana hosted the second meeting of Working Group on Articles 17 and 18 from 21-23 April 2010 in Accra. This is the very first time that a Working Group meeting was held

in Africa and the meeting should have a significant impact by proposing policy recommendations to the Conference of Parties on the implementation of the Articles 17 and 18.

During this meeting the Brazilian delegation shared its experience in field testing a framework for economically sustainable alternative livelihoods to tobacco growing. In the context of south-south collaboration, the Brazilian delegation offered to consider any request to provide technical support to Ghana in exploring alternative livelihoods to the tobacco farmers.

There are very promising opportunities for the government to take advantage of the potential technical (south-to-south collaboration) and financial support (with CAADP and the World Food Program) that can be provided to affected tobacco farmers.

The gap is that there is no policy and mechanism in place to support the small scale tobacco farmers to adjust to the withdrawing of tobacco industry from the country and shift to alternative livelihood.

It is therefore recommended that the Ministry of Food and Agriculture should take the lead in promoting economically viable alternatives to smaller scale tobacco farmers and integrating its support into the government's overall food and agriculture programme. The Ministry of Food and Agriculture, in collaboration with the Ministry of Health, could follow up with World Food Programme and the Brazilian government for possible cooperation in helping to meet the obligations under this Article.

Articles 18

Protection of the environment and the health of persons

In Articles 18, Parties agree to “*have due regard to the protection of the environment and the health of persons in respect of the environment in respect of tobacco cultivation and manufacture.*”

There are no measures reported by Ghana in meeting this obligation. The attention of the Environmental Protection Agency was drawn to this Article.

It is recommended that the Environment Protection Agency, Ministry of Food and Agriculture and Ministry of Health to work together and make joint efforts in meeting this treaty obligation.

Article 19 ***Liability***

Article 19 promotes “*the use of legislative actions or Parties' existing laws, to deal with criminal and civil liability including compensation, as tools for tobacco control.*” No such efforts have been initiated so far in Ghana.

It is recommended that provisions addressing the issues in Article 19 of the Convention be included in the Tobacco Control Bill or other relevant law(s).

Article 20 ***Research, surveillance and exchange of information***

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

With the support from WHO and US Centre for Disease Control, Ghana conducted the Global Youth Tobacco Survey (GYTS) in 2000, 2006 & 2009, Global School Personnel Survey in 2006 & 2009 and Global Health Professional Students Survey in 2006. The STEPwise approach survey (STEPS) was conducted in one region of Ghana in 2008 and is expected to provide prevalence data for adults aged 15-64 for the Region. The final report of the STEPS Survey has not been published yet.

The gaps identified are:

1. There is no national system for epidemiological surveillance of tobacco consumption and related social, economic and health indicators.
2. Ghana Statistical Service is responsible to collect data on important vital statistics through household and other types of surveys. Current expenditure survey does not include information on tobacco consumption. A formal

request to include two questions on smoking prevalence in the forthcoming census was also made to the Bureau of Statistics.

The Government of Ghana is therefore urged to:

- o Develop and promote national research capacity and cooperate with competent international and regional organizations to conduct research addressing the determinants and consequences of tobacco consumption and exposure to tobacco smoke as well as research for identification of alternative crops*
- o Strengthen training and support for all those engaged in tobacco control activities, including research, implementation and evaluation.*
- o Establish progressively a national system for the epidemiological surveillance of tobacco consumption and related social, economic and health indicators and integrate it into national, regional and global health surveillance.*
- o Promote and facilitate the exchange of publicly available scientific, technical, socioeconomic, commercial and legal information, as well as information regarding practices of the tobacco industry and the cultivation of tobacco.*
- o Progressively establish and maintain an updated database of laws and regulations on tobacco control and information about their enforcement and jurisprudence.*

Article 21

Reporting and exchange of information

Article 21 requires each Party to “*submit to the Conference of the Parties, through the Convention Secretariat, periodic reports on implementation of the Convention, which should include all relevant obligations as contained in the reporting instrument.*”

Ghana has provided its two-year (first) report on the implementation of the Convention on 28 February 2007, accompanied by attachments providing more background information in relation to the implementation of certain provisions of the treaty.

The five-year (second) implementation report was also submitted in April 2010. Various legislations and policy documents from relevant government agencies were also provided. This obligation has been met.

Article 22

Cooperation in the scientific, technical, and legal fields and provision of related expertise

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

The Government has received from WHO at various times support in tobacco control training and conducting advocacy campaigns in accordance with Article 12. Ghana also got support from WHO and the United States Center for Disease Control for various surveys under the Global Tobacco Surveillance System. WHO supported the sub national STEPs survey. Broader international cooperation on implementing the Convention has not been fully utilized. The hosting of the second meeting of the Articles 17 and 18 provided potential opportunity to cooperate with other Parties and competent international organizations and development partners. United Nations Development Assistance Framework (UNDAF) is the strategic programme framework for the UN Country Team (UNCT) to have collective response to the priorities in national development. The Current UNDAF covers the period of 2006 to the end of 2011. The six outcomes are health, education, sustainable livelihood, HIV/AIDS, data management and governance. Health as the very first outcome currently does not include work related to the implementation of the Convention. The UNCT is in the process of developing new UNDAF (2012-2016).

Ghana Joint Assistance Strategy is developed every five years by the major development partners to identify key areas of support. The current one ends by 2010. HIV/AIDS, malaria and maternal and child mortality are identified as priority areas in the Strategy.

Gaps - multilateral strategies have not given due consideration in supporting Ghana in meeting the obligations under the Convention.

It is recommended that the government of Ghana should proactively seek opportunities to cooperate with other Parties, competent International Organizations and development partners present in the country. It is also recommended that the government of Ghana should advocate for the implementation of the Convention as a priority area in the future UNDAF and Ghana Joint Assistance Strategy.

Article 26

Financial Resources

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

Article 26.2 calls on Parties to “*provide financial support in respect of its national activities intended to achieve the objective of the Convention, in accordance with its national plans, priorities and programmes.*”

The FDB has a unit dedicated to tobacco regulations and it collect registration fees from the tobacco importers and registered tobacco products. The registration fees are used for tobacco control activities but are not sufficient to cover all the expenses on tobacco control at this time. With no comprehensive Tobacco Control Bill in place, FDB finds it a challenge to make sure all importers and tobacco products registered and collect new fees from tobacco importers on testing constituents and emissions.

Gap - the Ministry of Health and Ghana Health Service currently do not have a budget line for tobacco control activities. Other relevant ministries which have obligations to implementation of the Convention do not have dedicated budget or staff to work in this area. These resources should be availed by the responsible ministries and government agencies.

It is therefore recommended that the Government of Ghana could take the following actions:

- o Establish within the budget of the Ministry of Health and relevant agencies, a dedicated line for implementation of the Convention.*
- o Urge the other relevant ministries to provide in their budgets, funds to support implementation of the relevant provisions of the Convention as their*

- responsibility towards meeting obligations of the treaty.*
- o Collate the sums in the various Ministry budgets to estimate the total government financing of implementation of the Convention.*
 - o Consider the establishment of a specific fund for tobacco control, using a determined part of the collected tobacco tax (earmarking).*

Article 26.3 of the Convention 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*".

Many international organizations and development partners are present and active in Ghana. UN Health Theme Group plays an instrumental role in providing support to Ghana's health sector and the members are WHO, UNICEF, UNAIDS and UNFPA. WHO has been working very closely with the government in providing technical assistance in helping the country to implement the WHO FCTC and conduct various surveys on tobacco use.

Gaps - the government of Ghana has not fully utilized the bilateral, regional, subregional and other multilateral channels to provide funding for the development and strengthening of multisectoral comprehensive tobacco control programmes yet.

It is recommended that, in the spirit of Article 26.3 of the Framework Convention, the Government of Ghana takes advantage of the presence of international development partners in the country and promotes the inclusion of implementation of the WHO FCTC in bilateral and multilateral agreements and action plans worked out with these agencies. The Ministry of Foreign Affairs, Ministry of Finance and Ministry of Health will have key roles in meeting obligations under this Article.

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.

Gaps - currently no policy and project has addressed the issue of economically viable alternatives to tobacco production, including crop diversification.

It is recommended that the Ministry of Food and Agriculture should initiate discussions with relevant development partners and explore possible assistance in meeting this obligation under the Convention.

Article 26.4 calls 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.

Gaps - currently Ghana has not met this provision in encouraging regional and international organizations and financial and development institutions to provide financial assistance to developing countries including Ghana for assistance in meeting their obligations under the Convention.

The Ministry of Foreign Affairs is however committed that Ghana will take a proactive and leading role in promoting implementation of the Convention in the relevant bilateral and multi-lateral forums.

It is therefore recommended that Ghana would take leadership role in meeting this provision and become a strong advocate for putting the WHO FCTC higher in the international development agenda.

ANNEX I

List of the Participating government agencies and the International Team of the Joint Needs Assessment

Participating government agencies

- o Ghana Health Service
- o Food and Drugs Board
- o Ministry of Health
- o Environmental Protection Agency
- o Ghana Statistical Service
- o Ministry of Finance and Economic Planning
- o Customs, Excise and Preventive Service
- o Ghana Standards Board
- o Ministry of Food and Agriculture
- o Ministry of Foreign Affairs and Regional Integration
- o Ministry of Youth and Sports
- o Ministry of Information
- o National Media Commission
- o Ministry of Employment and Social Welfare
- o Ministry of Environment, Science and Technology
- o Ministry of Trade and Industry
- o Ghana Tourist Board

Convention Secretariat

Dr. Ahmed Ogwel Ouma

Ms Liu Guangyuan

WHO Tobacco Free Initiative

Ms Anne-Marie Perucic

WHO Country Office in Ghana

Dr. Sopia Gillesberg Lassen

Ms. Sophia Twum-Barima

ANNEX II

Laws, regulations and administrative directives relevant to the implementation of the WHO FCTC

1. The Ghana Health Service and Teaching Hospitals Act 525, 1996
2. Food and Drugs Law, P.N.D.C.L. 3058, 1992
3. Minister of Health's Directory for the Registration of Tobacco and Tobacco Product(s)
4. Food and Drugs Board's Application Form for the Registration of a Tobacco Product
5. Food and Drug's Board's Application Form for Registration as an Importer of Tobacco Product
6. Food and Drugs Board's Health warnings
7. Ghana Standard on Tobacco and tobacco products, GS 105-1, 1992
8. Environmental Protection Agency Act 490, 1994
9. Environment Assessment Regulations, 1999
10. Customs, Excise and Preventive Service (Management) Law, P.N.D.C.L.330, 1993
11. Anti-Money laundering Act 749, 2008
12. The National Media Commission Act 449, 1993
13. The National Media Commission's Guidelines for Advertising
14. National Media Commission's Broadcasting Standards
15. The Code of Advertising Practice of Advertising Association of Ghana
16. The Children's Act 560, 1998
17. The Constitution of Ghana, 1992
18. The Draft Tobacco Control Bill

ANNEX III

Members of the National Tobacco Control Steering Committee

- o The Ministry of Health
- o Ghana Health Service
- o The Food and Drugs Board
- o Environmental Protection Agency
- o Ghana Standards Board
- o National Media Commission
- o Ministry of Trade and Industry
- o Ghana Tourism Board
- o The Attorney-General's Office
- o The Ministry of Information
- o Ministry of Foreign Affairs
- o The Ministry of Finance and Economic Planning
- o The Customs, Excise and Preventive Service
- o The Ministry of Education
- o The Ministry of Women and Children's Affairs
- o The Coalition of NGOs in Health
- O Consumer Associations

ANNEX IV

Health Warnings required by the Food and Drugs Board

Set 1

Front of pack: Smoking seriously harms you and others around you

Back of pack:

Stopping smoking reduces the risk of fatal heart and lung diseases

Set 2

Front of pack

Smoking causes cancer

Back of pack

Smoking damages the health of those around you

Set 3

Front of pack

Smoking causes fatal diseases

Back of pack

Smokers die younger