

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

**Convention Secretariat**

**January 2015**

## Executive summary

The World Health Organization Framework Convention on Tobacco Control (WHO FCTC) is the first international health treaty negotiated under the auspices of WHO and was adopted in 2003. It has since become one of the most widely and rapidly embraced treaties in the history of the United Nations, with 180 Parties to date<sup>1</sup>.

Jamaica ratified the WHO FCTC on 7 July 2005, the 73<sup>rd</sup> country in the world and the ninth country in the Region of the Americas to become a Party to the Convention. The Convention entered into force for Jamaica on 5 October 2005.

Jamaica has made significant advances in meeting its obligations under the Convention, most notably in the areas of protection from exposure to tobacco smoke (Article 8) and in implementation of graphic warnings and other requirements for tobacco package labelling (Article 11), through the adoption of the Public Health (Tobacco Control) Regulations, promulgated in 2013 and amended in 2014. Implementation of the Convention has also been incorporated into Jamaica's NCD action plan and the Ministry of Health's business plan.

### Milestones in Tobacco Control in Jamaica

- 2000 Jamaica participates in the First meeting of the Intergovernmental Negotiating Body for the WHO Framework Convention on Tobacco Control
- 2002 Formation of the Jamaica Coalition for Tobacco Control
- 2003 PAHO/WHO pilots the "Smoke Free Americas" workshop in Jamaica
- 2003 Ministry of Health establishes a multisectoral Tobacco Control Technical Working Group
- 2005 Jamaica ratifies the WHO FCTC
- 2006 Jamaica implements rotating, text only health warnings to cover 33% of principal display surfaces of cigarette packages and point of sale materials
- 2011 Jamaica co-facilitates the UN High-level Meeting on Non-communicable Diseases in New York
- 2011 Draft comprehensive tobacco control bill developed
- 2013 Jamaica adopts the Public Health (Tobacco Control) Regulations, requiring smoke-free public places and workplaces, graphic health warnings on tobacco packaging and tobacco product disclosure.
- 2013 Jamaica adopts the National Strategic and Action Plan for the Prevention and Control of Non-Communicable Diseases 2013-2018

Still, challenges remain in order for Jamaica to be fully compliant with the WHO Framework Convention on Tobacco Control. With this in mind, a needs assessment exercise for implementation of the WHO FCTC was conducted jointly by the Government of Jamaica, the WHO FCTC Secretariat and the Pan American Health Organization from July - September 2014, including the initial analysis of the status,

<sup>1</sup> [http://www.who.int/fctc/signatories\\_parties/](http://www.who.int/fctc/signatories_parties/)

challenges and potential needs deriving from the country's most recent implementation report and other sources of information. An international team, led by the Convention Secretariat and including representatives of the WHO Prevention of Noncommunicable Diseases Department, the Pan American Health Organization Noncommunicable Diseases and Mental Health Department and the United Nations Development Programme, conducted a mission in Kingston, Jamaica, from 18-22 August 2014. The assessment involved relevant ministries and agencies of Jamaica (see Annex).

This needs assessment report presents an article-by-article analysis of the progress the country has made in implementation; the gaps that may exist and the subsequent possible action that can be taken to fill those gaps. The key elements that need to be put in place to enable Jamaica to fully meet its obligations under the Convention are summarized below. Further details are contained in the report itself.

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

**Second**, Article 5.1 of the Convention requires Parties to develop, implement, periodically update and review comprehensive multisectoral national tobacco control strategies, plans and programmes in accordance with the Convention. In 2013 Jamaica adopted the National Strategic and Action Plan for the Prevention and Control of Non-Communicable Diseases 2013-2018, which includes implementation of the WHO FCTC as a priority. It is recommended that Jamaica clarify and strengthen the mechanisms to monitor implementation of the NCD action plan and progress toward achievement of the reduction targets in tobacco prevalence.

**Third**, the Convention requires a national multisectoral coordinating mechanism to be established to coordinate its implementation. It is therefore recommended that the Government strengthen existing mechanisms or establish a new mechanism to effectively coordinate the implementation of the WHO FCTC throughout the Government. Possible options include scaling up of the NCD committee established under the National Strategic Plan 2013-2018 by broadening its membership to cover all relevant Government departments, or establishment of a standalone tobacco control committee, which can be made responsible for monitoring and advising on the implementation of WHO FCTC by Jamaica. Further, the Ministry of Health operates two, part-time focal points, one on legal and one on technical matters related to tobacco control. It is advisable, however, that the capacity of the Ministry of Health dedicated for tobacco control is further strengthened, for example by creating a focal point dedicated exclusively to tobacco control.

**Fourth**, Article 5.3 of the Convention requires Parties to protect tobacco control measures from the influence of the vested interests of the tobacco industry. Jamaica does not yet have mechanisms in place to identify, prevent or address such tobacco industry influence. It is therefore recommended that the Government put such mechanisms in place, including but not limited to the development of a code of conduct for public officials in their dealings with the tobacco industry and its interest groups, and ensuring transparency of any interactions between the Government and the tobacco industry in the process of developing and implementing regulations and other measures which concern

the tobacco sector. In doing so the Government should follow the Guidelines for implementation of Article 5.3 of the Convention.

**Fifth**, in relation to adopting and implementing legislative, executive, administrative and/or other measures in accordance with Article 5.2(b) of the Convention, it should be highlighted that Jamaica has started the development of comprehensive tobacco control legislation, with assistance from PAHO, which is still in a draft form. In the meantime, to progress with the implementation of the WHO FCTC, the Minister of Health promulgated the Public Health (Tobacco Control) Regulations 2013. The Regulations were subsequently amended in 2014 and all provisions became effective in August 2014. The Regulations have made Jamaica compliant with some of its obligations under the Convention, including Articles 8 and 11 in full and Articles 10 and 16 in part. Jamaica has existing legislation which addresses other provisions of the FCTC. For example, Jamaica's Child Care and Protection Act, 2004 prohibits the sale of certain tobacco products to and by minors. However, to ensure full compliance with all requirements of the Convention, it is recommended that the Government of Jamaica adopt comprehensive tobacco control legislation incorporating all its remaining obligations under the WHO FCTC, including Article 13 of the Convention (Tobacco advertising, promotion and sponsorship), for which the Treaty sets a five-year timeline following the entry into force of the Convention for a Party).

**Sixth**, the rate of the specific excise tax applied on tobacco products has not changed since 2010, and it has been further eroded by the inflation (between 7-10% annually between 2010 and 2014). This has resulted in the reduction of the tax value in real terms. It is recommended therefore that the Government of Jamaica implement tax increases on a regular basis to take into account both increases in consumer prices and household incomes, in order to decrease affordability of tobacco products and eventually reduce consumption. In addition, the excise tax should be applied to all tobacco products, at the same or similar rates as applicable to cigarettes.

**Seventh**, Jamaica has initiated some public information campaigns on matters concerning tobacco use and control, for example in relation to the World No Tobacco Day and promotion of the Public Health (Tobacco Control) Regulations 2013. However, it has yet to implement sustained, broad public information campaigns and strategies in accordance with Article 12. The Government has also initiated programmes related to the treatment of tobacco dependence in accordance with Article 14. These include the development of national guidelines for the management of nicotine use disorders, establishment of tobacco cessation services and an inventory of such services and initiation of training of health professionals in tobacco cessation counselling. It is recommended that the Government of Jamaica implement further measures under Articles 12 and 14 as planned in the NCD Strategy and Action Plan 2013-2018 and the Business Plan of the Ministry of Health 2014-2017, in line with the recommendations of this report and using the guidance of the relevant implementation guidelines.

**Eighth**, Jamaica has conducted surveys related to the prevalence of tobacco use among adults and children, including the Global Youth Tobacco Survey 2000, 2006 and 2010, and Global School Health Survey, in 2006 and 2010, the Global Health Professions Student Survey in 2008, National Secondary School Survey, 2013 and the Jamaica Health and Lifestyle Survey 2000 and 2007/2008 and Reproductive Health Survey 2008. However, no recent information is available on tobacco use among adults and related

health, economic and environmental indicators were not assessed. The National Strategic and Action Plan for the Prevention and Control of Non-Communicable Diseases 2013-2018 includes among its strategies the monitoring of tobacco use in adolescents and adults and the monitoring and evaluation of implementation tobacco control policies. It is therefore recommended that tobacco use and related health, economic and environmental indicators are monitored more frequently (e.g, at least every three to five years), for example as part of the NCD Strategy and Action Plan. Another possible option for regular data collection on tobacco use is the integration of tobacco-specific indicators in ongoing household surveys run by the Planning Institute of Jamaica.

**Ninth**, the United Nations Development Assistance Framework (UNDAF) is the strategic programme framework jointly agreed between the Government and the UN system outlining priorities in national development. The current UNDAF (2012-2016) for Jamaica has not included implementation of the WHO FCTC. It has also been observed that WHO Country Office is not integrated with the UNDAF. It is therefore recommended that the Ministry of Health follow up with the Planning Institute of Jamaica (the Government focal point to coordinate UNDAF negotiations) and the UN Resident Coordinator, who expressed his full support for this process, to ensure that supporting implementation of the Convention is incorporated in the current UNDAF, in the course of its mid-term review. Further, it is recommended that the Ministry of Health promote the inclusion of the WHO Country Office in the UNDAF process to ensure that PAHO/WHO can regularly bring its contribution to the UN Country Team meetings, including advocating for the implementation of the WHO FCTC.

**Tenth**, the Conference of the Parties has adopted eight guidelines to implement Articles 5.3, 6, 8, 9&10, 11, 12, 13 and 14. The aim of these guidelines is to assist Parties in meeting their legal obligations under the respective Articles of the Convention. The guidelines draw on the best available scientific evidence and the experience of Parties. Jamaica is strongly encouraged to follow these guidelines in order to fully implement the Convention.

**Eleventh**, WHO, UNDP, UNICEF, UNFPA, UNAIDS and the World Bank are committed to supporting Jamaica, as part of their ongoing activities, in meeting the obligations of the Convention to address the gaps and needs identified in the needs assessment report. Through their various mandates, capacities and networks, intergovernmental organizations play an important role in tobacco control and are also committed to working with the Government to implement the Convention.

**Twelfth**, the needs identified in this report represent priority areas that require immediate attention. Addressing the issues raised in this report will make a substantial contribution to meeting the obligations under the WHO FCTC and improving the health status and quality of life of Jamaica people. As Jamaica addresses these areas, the Convention Secretariat in cooperation with PAHO/WHO and other relevant international partners is available and committed to providing technical assistance in the above areas and to facilitating the process of engaging potential partners and identifying internationally available resources for implementation of the Convention. The Convention Secretariat is also committed to providing the following assistance upon the request of the Ministry of Health: (1) to support and facilitate the stakeholder workshop to consider the needs assessment report (2) to provide immediate support for any priorities identified by the Ministry of Health.

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

This joint needs assessment mission was financially supported by the European Union\*<sup>1</sup>. The MOH and the WHO/PAHO Country Office provided resources and logistic support to the needs assessment exercise, including organizing the meetings during the mission.

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<sup>1</sup> This publication has been produced with the assistance of the European Union. The contents of this publication are the sole responsibility of the Ministry of Health of Jamaica and the WHO FCTC Convention Secretariat and can in no way be taken to reflect the views of the European Union.

### **The WHO FCTC**

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

### **The needs assessment exercise**

- COP1 (February 2006) called upon developing country Parties and Parties with economies in transition to conduct needs assessments in light of their total obligations related to the implementation of all provisions of the Convention and to communicate their prioritized needs to development partners (decision FCTC/COP1(13)).<sup>1</sup>
- The needs assessment is an exercise undertaken jointly with a government to identify the objectives to be accomplished under the WHO FCTC, resources available to the Party concerned for implementation, and any gaps in that regard. It is based on all substantive articles of the WHO FCTC so as to establish a baseline of needs.
- Post-needs assessment assistance has been provided to the Parties that have conducted needs assessments, based on the reports and priorities identified.

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<sup>1</sup> See COP/1/2006/CD, *Decisions and ancillary documents*, available at: [http://apps.who.int/gb/fctc/E/E\\_cop1.htm](http://apps.who.int/gb/fctc/E/E_cop1.htm).

**Tobacco prevalence, exposure to tobacco smoke and tobacco-related mortality in Jamaica: Key Facts**

- Prevalence of current smoking among adults aged 15-74 in 2008 was 22.1% among men and 7.2% among women (combined 14.5), as compared to 28% and 7% (combined 18%), respectively, in 2000. No national survey was conducted since 2008 in the adult population.
- Among the children aged 13-15 the trend of current smoking is increasing. In 2010, it stood at 32% in boys and 16.8% in girls (combined 24.6%), up from 19% and 12% respectively (combined 15%) in 2001.
- More than 40% of 13-15 year olds are exposed to tobacco smoke in the home on at least a weekly basis.
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- In 2004, tobacco-attributable mortality was estimated to be 155 per 100,000 Jamaicans 30 years and older.



## SWOT Analysis of Tobacco Control in Jamaica

<p><b>Strengths</b></p> <p>Political commitment and strong civil society support</p> <p>Highly committed national coordinating team</p> <p>Tobacco control integrated in relevant sectoral plans (MOH Business Plan, NCD Action Plan)</p> <p>Good support from PAHO/WHO system and several international partners</p> <p>Support from the UN Resident Coordinator and UN Country Team</p> <p>Public Health (Tobacco Control) Regulations promulgated in 2013, and high public support for tobacco regulations</p> <p>Existence of a National Health Fund</p>	<p><b>Weaknesses</b></p> <p>No comprehensive tobacco legislation</p> <p>Insufficient intersectoral coordination</p> <p>Inadequate resource allocation for tobacco control</p> <p>WHO FCTC implementation not incorporated into UNDAF</p> <p>Insufficient monitoring, surveillance and evaluation systems</p> <p>Lack of measures to prevent the interference of the tobacco industry</p>
<p><b>Opportunities</b></p> <p>Political momentum for tobacco control</p> <p>High public support for the Tobacco Control Regulations</p> <p>Global and regional movement with specific targets for tobacco control</p> <p>Stakeholders met during the joint needs assessment expressed their willingness to strengthen their contributions towards FCTC implementation National Health Fund</p> <p>Interest in improving tax collection to improve fiscal situation</p>	<p><b>Threats</b></p> <p>Tobacco industry interference</p> <p>Lack of capacity for strengthened WHO FCTC-specific work in different (non-health) Government departments</p> <p>Misperception that tax increases result in illicit trade</p>

## **Status of implementation, gaps and recommendations**

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

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

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

Jamaica does not currently implement measures that go beyond those provided for by the Convention.

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

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

Jamaica has not yet provided information on bilateral or multilateral agreements relevant to the Convention and its Protocols. The Ministry of Foreign Affairs and Foreign Trade, in consultation with the relevant line ministries including Ministry of Finance and Planning and Ministry of Industry, Investment and Commerce, should identify these agreements and report them as appropriate.

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

***It is recommended that the Ministry of Foreign Affairs and Foreign Trade and relevant Government departments review any agreements in their jurisdictions that may fall under the scope of Article 2.2 of the Convention. Furthermore, if such agreements have been identified, it is recommended that the Government of Jamaica communicate them to the Secretariat either as part of its next WHO FCTC implementation report or independently.***

## **Guiding Principles (Article 4)**

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

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

A number of nongovernmental organizations (NGOs) participated in the national stakeholders’ meeting held during the assessment, which brought together the international team and representatives of various government ministries and agencies and civil society organizations.

The most active NGO working in tobacco control is the Jamaica Coalition for Tobacco Control (JCTC) and its member organizations. The JCTC has provided technical support to the Ministry of Health in support of the passage and implementation of the Tobacco Control Regulations, and has played the primary role of “watchdog” of the tobacco industry. The Ministry of Health has included civil society in its activities and has acknowledged the value of the work of civil society, including as part of the technical working group on tobacco control, operational since 2003.

However, most of the tobacco control work carried out by the JCTC and its member organizations has relied on short-term funding from external international organizations for specific activities. Without such funding, these organizations do not have sufficient capacity to fund staff to work on tobacco control, and consequently their tobacco control work is significantly curtailed when external funding is not available. In addition, the JCTC primarily represents the health and medical sectors. Tobacco control in Jamaica would benefit from more active participation from other sectors of civil society. Examples of such organizations are consumer organizations, community development organizations, women’s organizations, and others.

### Gaps –

1. There is insufficient funding to sustain the work of civil society organizations in tobacco control.
2. A wider range of civil society needs to be more actively engaged in tobacco control.

***It is therefore recommended that the Government continue working with civil society to ensure its contribution towards implementation of the WHO FCTC. It is further recommended that the Government and current civil society actors engage a wider range of civil society organizations to actively support implementation of the Convention.***

## **General obligations (Article 5)**

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

The National Development Plan (Vision 2030 Jamaica)<sup>1</sup> foresees, as one of its national outcome, a healthy and stable population. While tobacco is not mentioned per se in the Plan, several strategies mentioned envisaged at achieving the main health outcome are relevant to implementation of the WHO FCTC. These include strengthening disease surveillance and risk reduction, as well as the health promotion and primary health care approach, provide and maintain an adequate health infrastructure to ensure efficient and cost effective service delivery, governance mechanisms for supporting health services, introduce a programme for sustainable financing of health care, to name only a few.<sup>2</sup>

In 2013, the Ministry of Health of Jamaica released the National Strategic and Action Plan for the Prevention and Control of Non-Communicable Diseases 2013-2018. The plan was approved by Cabinet and tabled in Parliament, and includes implementation of the WHO FCTC, as well as targets for reduction in tobacco use.

The first priority area of the Action Plan is “Risk factor reduction and health promotion”, under which a major strategy is to “*accelerate implementation of the WHO FCTC*” and which sets as its first specific objective “*to reduce the prevalence of current tobacco use in persons aged 15+ years and among adolescents 13-15 years old by 10% by 2018 by implementing the key measures of the FCTC fully, especially price/tax promotion, smoke free spaces, labelling and introducing smoking cessation counselling in primary health care*”. Furthermore, as part of the fourth priority area (“Public policy and advocacy”) the Action Plan aims to ensure “*... the passing and implementation of legislation banning smoking in public places and other provisions of the WHO FCTC by 2014*”.

The Ministry of Health’s Strategic Business Plan for 2014 – 2017 also incorporates tobacco control, particularly the expansion of tobacco cessation services.

The NCD Action Plan indicates that a comprehensive monitoring and evaluation plan will be developed as a companion document to the Plan.

### Gaps-

1. The National Strategic and Action Plan for the Prevention and Control of Non Communicable Diseases 2013-2018 does not contain indicators or targets for reduction of exposure to tobacco smoke.
2. A detailed plan for monitoring the implementation and outcomes of the NCD action plan still needs to be developed, and sufficient surveillance and monitoring

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<sup>1</sup> <http://www.vision2030.gov.jm/>

<sup>2</sup> After the Needs Assessment (in September 2014), the Planning Institute of Jamaica (PIOJ) held a series of consultations with stakeholders on the proposed Sustainable Development Goals for the Post-2015 Development Agenda, which will inform the National Outcome Document in preparation for the UN General Assembly. Under Goal 3, (Ensure healthy lives and promote well-being for all at all ages) the proposed target 3.5- *Strengthen prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol* made mention of enacting comprehensive tobacco control legislation in alignment with the FCTC

systems needs to be put in place to track progress toward the tobacco reduction goal of the Action Plan.<sup>1</sup>

***It is therefore recommended that Jamaica clarify and strengthen the mechanisms to monitor implementation of the NCD action plan and progress toward achievement of the tobacco use reduction targets and make mid-term adjustments to the plan as necessary in order to achieve targets. It is also recommended that exposure to tobacco smoke among various population groups (such as children, workers, etc.) be added to the targets / indicators in the plan.***

***This needs assessment report can serve as a base and a reference document in strengthening the monitoring mechanism and adding additional indicators for exposure to tobacco smoke. The WHO FCTC Indicator Compendium, available at <http://www.who.int/fctc/reporting/Compendium/en/>, may be used to assist in this process.***

The Convention Secretariat is committed to facilitating provision of expertise and technical support for monitoring of the Action Plan.

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

The Ministry of Health has identified focal points for tobacco control (one focal point on legal matters and another focal point on technical matters) within the Ministry. However, the focal points also cover other public health matters, not just tobacco.

A technical working group on tobacco control was established by the Ministry of Health in 2003, involving a few ministries and members of civil society. A National Committee on Non-Communicable Chronic Diseases was established in 2011 in order to provide strategic direction, leadership, and guidance in the areas of prevention and control of NCDs, with a standing sub-committee on alcohol and tobacco control.

#### Gaps –

1. There is no full-time focal point for tobacco control within the Ministry of Health with sufficient scope of work and authority to ensure implementation of the WHO FCTC.
2. Most government ministries and agencies do not have designated focal points for tobacco control.
3. Current intersectoral coordinating mechanisms do not:
  - Have a clear mandate to ensure implementation of the Convention;
  - Include all relevant public agencies, civil society, and international organizations;
  - Have a mechanism to ensure a sufficiently high level of participation to effectively coordinate WHO FCTC implementation across government agencies; and
  - Have dedicated human resources and financial support to ensure their effective functioning.

***It is therefore recommended that the Ministry of Health allocate a tobacco control focal point within the Ministry dedicated exclusively to tobacco control, and with***

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<sup>1</sup> This subject is discussed in more detail under Article 20 of the Convention.

*sufficient scope of work and authority to coordinate implementation of the WHO FCTC.*

*It is also recommended that the Government, whether through strengthening of existing mechanisms or through establishment of a new mechanism to specifically address tobacco control and WHO FCTC implementation, establish an intersectoral coordinating committee that incorporates the following elements:*

- *The committee should be formalized through a Cabinet decision to include all relevant government agencies and ministries, and, as appropriate, civil society organizations and academia without vested interests in the tobacco industry, UN and donor agencies.*
- *When establishing the membership of the committee, Jamaica should follow recommendation 4.8 of the Guidelines for implementation of Article 5.3, adopted by the COP in 2008, that stipulates that “Parties should not allow any person employed by the tobacco industry or any entity working to further its interests to be member of any government body, committee or advisory group that sets or implements tobacco control or public health policy“.*
- *The committee should explicitly be charged with the functions of monitoring and advising the Government on matters concerning implementation of the WHO FCTC.*
- *The committee should be chaired by the Minister of Health or his designate, and the Ministry of Health should provide secretarial functions for the committee*
- *The committee should be provided with adequate human and financial resources by the Ministry of Health and other government agencies and ministries as necessary to ensure its effective and sustainable functioning.*

The Convention Secretariat can assist with the establishment of the intersectoral coordinating mechanism by promoting advanced practices and experiences from other Parties to the Convention and can participate, in coordination with PAHO/WHO, in the finalization of the terms of reference of such a mechanism.

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

A Comprehensive Tobacco Control Bill (*to regulate the import, export, sale and advertising of tobacco and tobacco products in furtherance of keeping the good health status of Jamaicans*) was drafted in 2011, and it proposes several measures required under the Convention. These include, among others, the licensing of tobacco manufacturers, importers and sellers, measures to control tobacco advertising and promotion, sales to and by minors, tobacco packaging and tobacco use in public places. The draft has already been discussed at the level of the Chief Parliamentary Counsel and the Attorney General's Chambers; however, it is not yet settled as further revision of the draft is required.<sup>1</sup>

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<sup>1</sup> The international team, upon request from the Minister, has provided detailed comments on the draft bill under separate cover.

Instead, the Ministry of Health, under the leadership of the Minister of Health, Hon. Dr Fenton Ferguson, developed the Public Health (Tobacco Control) Regulations 2013. The Regulations were developed under the Public Health Act of 1925, in exercise of the power conferred upon the Minister by sections 14 and 15 of the Act and were not subject to parliamentary scrutiny. The Regulations were amended in 2014 and all provisions became effective on 16 August 2014, when the active enforcement of the Regulations began.

A recent survey presented by the Ministry of Health revealed strong support for the Regulations of 83% of the population. There is also strong contribution and support from civil society organizations, inter-governmental entities and faith-based organizations for the new Regulations.

The Regulations cover Articles 8, 11, and (partially) Articles 10, 16 of the Convention.<sup>1</sup> Full coverage of the requirements of the Convention in any legislative, executive, administrative and/or other means, is still to be achieved.

*Gap – There is no comprehensive tobacco control legislation that implements all of the relevant requirements of the WHO FCTC.*

***It is therefore recommended that the Government develop and adopt comprehensive tobacco control legislation that implements all of the relevant requirements of the WHO FCTC, including inspection and enforcement provisions to ensure compliance with the legislation.***

The Convention Secretariat, in coordination with PAHO/WHO, can provide assistance to Jamaica in drafting a comprehensive bill to ensure full implementation of the Convention.

Article 5.3 stipulates that in setting “public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry”. Further, the guidelines for implementation of Article 5.3 recommend that “all branches of government... should not endorse, support, form partnerships with or participate in activities of the tobacco industry described as socially responsible”.

Jamaica has not yet met its obligations under Article 5.3.

Civil society, in collaboration with the Ministry of Health, has carried out sensitization activities in order to promote the requirements of Article 5.3 among public officials and agencies and civil society. Further, the NGOs working in tobacco control have also brought to public attention any known conflicts of interest with the tobacco industry.

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<sup>1</sup> Following the promulgation of the Regulations in 2013, a Committee of Parliament was set up by the Prime Minister to review the Regulations. The Committee provided a number of recommendations, some of which were taken into account and the text of the Regulations amended accordingly, with a view to ensuring clarity and enforceability, proper implementation and application to particular sectors. In addition, the tobacco industry also challenged the Minister’s Promulgation of the Regulations by filing a claim for Judicial Review in October 2013. Carreras Limited/The Applicants applied for orders to quash the labelling provisions of the Regulations asserting that the then required size of the pictorial health warnings (75%) infringed the Applicants’ rights to exhibit their products properly. Carreras subsequently withdrew its claim at the Hearing of the matter before a Judge in Chambers in December 2013.

The Ministry of Health in collaboration with PAHO/WHO has also employed avenues for sensitizing public officials about the importance of adherence to Article 5.3, including through the hosting of a High Level Inter-Ministerial meeting in April 2014.

However, there is no existing code of conduct or ethics for government officials and departments regarding interaction with the tobacco industry and there are no measures in place to ensure transparency of the interactions which occur between public officials and representatives of the tobacco sector, including the tobacco industry. In the past, the industry participated in the discussions of tobacco control policies in different stakeholders' fora. For example, in or around 2005, Carreras Limited, a subsidiary of British American Tobacco, participated in the discussions regarding the Jamaican Standard for the labelling of cigarettes developed by the Bureau of Standards.

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

In meeting with representatives of various government ministries and agencies, the international team found that the tobacco industry still interferes with the development of public policies, and sponsors diverse activities and implements community-based projects described by the industry as “Corporate Social Responsibility”, often in direct or indirect partnership with government agencies. In many cases, government officials are not aware of these activities or do not perceive them to be a conflict of interest. In some cases, the tobacco industry is viewed as a legitimate stakeholder.

Gaps –

1. There is no law or policy that explicitly requires public officials to comply with the requirements of Article 5.3 and its implementation guidelines.
2. There is no regulation of activities described by the tobacco industry as “Corporate Social Responsibility”.
3. There is a lack of awareness of Article 5.3 of the Convention and its implementation guidelines among public officials.
4. There is a lack of awareness within public agencies of existing conflicts of interest with the tobacco industry, and lack of any monitoring mechanism to systematically identify and prevent such conflicts of interest.

***It is therefore recommended that the Government of Jamaica: (i) in collaboration with civil society, continue to raise awareness on protection of public health policy from the vested interests of the tobacco industry among all government agencies and public officials; (ii) include the obligations under Article 5.3 in comprehensive tobacco control legislation, based on the Guidelines for implementation of Article 5.3 of the WHO FCTC; (iii) establish codes of conduct for government officials to regulate their dealings with the tobacco industry and ensure that government bodies only interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products; and (iv) establish mechanisms to monitor interactions as well as real and perceived conflicts of interest between public officials and agencies and the tobacco industry. These mechanisms can be required as part of the comprehensive legislation or any relevant regulation developed to complement comprehensive legislation.***



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

Jamaica has met its obligations under Article 5.4 by participating in the working groups on Articles 6 and 11 established by the Conference of the Parties, and has participated in all meetings of the Conference of the Parties and several meetings of the Intergovernmental Negotiating Body on the Protocol to Eliminate Illicit Trade in Tobacco Products. Further cooperation and participation in intergovernmental processes in this regard will be highly appreciated.

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

The Ministry of Health regularly cooperates with WHO/PAHO in order to advance implementation of the WHO FCTC. Members of the international team, accompanied by members of the PAHO/WHO country office, met the UN Resident Coordinator (UNRC) and other members of the UN Country Team in order to explore how cooperation with all UN agencies could be strengthened. This is discussed in more detail under Article 22.

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

Civil society organizations in Jamaica have sought and received funding from international organizations including the Bloomberg Initiative to Reduce Tobacco Use. However, other than through WHO, the Ministry of Health has not successfully raised resources to implement the WHO FCTC.

The international team met with and sensitized the representatives of the European Commission and of the Inter-American Development Bank regarding the process and goals of the mission and the expected report. It has been agreed that, based on the needs assessment report, follow up meetings will be held to discuss funding needs and opportunities.

Gap – The Government has not yet received funding for tobacco control activities and implementation of the Convention through multilateral and bilateral mechanisms.

***It is therefore recommended that the Government fully explore multilateral and bilateral support available to implement the Convention and, in particular, follow up with the InterAmerican Development Bank and the European Union regarding the needs identified in this report. The PAHO regional and country offices are committed to assisting the Government of Jamaica with the coordination with other UN agencies.***

### **Price and tax measures (Article 6)**

In Article 6.1, the Parties recognize that “*price and tax measures are an effective and important means of reducing tobacco consumption by various segments of the population,*

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

Jamaica's General Consumption Tax Act of 1991 and the Excise Duty Act of 1986, as well as their subsequent amendments, address measures required under Article 6 of the WHO FCTC, as they address tax policies which should reduce demand for tobacco. Although several changes have been recently made to the taxation structure in relation to tobacco products, Jamaica has not yet fully exploited the opportunities laid down in this Article of the Convention; thus it has only partly met its obligations under Article 6.2(a).

### Taxation of tobacco products

Prior to 2008, Jamaica applied a mixed excise tax system (both specific and ad valorem) to cigarettes, the most commonly used tobacco product in the country. In 2008, the excise tax on tobacco, called Special Consumption Tax (SCT), was converted into a specific excise tax (Special Consumption Tax Specific, SCTS), with the elimination of the ad valorem component, and an increase in the specific excise tax to 6,000 JMD (approximately USD55) per 1,000 sticks. The tax was further increased in 2010 to 10,500 JMD per 1,000 sticks but has remained at the same level since then<sup>1</sup>.

Due to the high inflation rate during 2010-2014 (between 7 and 10% annually), the tax has been eroded in the last four years, resulting in a reduction of the tax value in real terms. If the SCTS had been adjusted to account for inflation since 2010, it would now amount to approximately 15,000 JMD per 1,000 sticks rather than 10,500 JMD.

Up until very recently, Jamaica Customs have considered electronic cigarettes to be non-tobacco products and have not imposed the SCT upon their entry into port. However, the Standards and Regulations Division of the Ministry of Health issued a Circular<sup>2</sup> dated 7 July 2014, disseminated to relevant Ministries, including Customs, indicating the conditions under which e-cigarettes will be allowed in the country..

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<sup>1</sup> The relative income price (RIP) of cigarettes has increased overall during the period 2007-2013. Specifically, the relative income price based on the MOFP's calculation is that the RIP moved to \$12.34 in 2013 up from \$8.42 in 2007, thus showing that despite no movement in the Specific SCT on cigarettes since January 2010, cigarettes have in fact become more expensive over time.

<sup>2</sup> The Circular outlines the conditions, i.e. that permits must be obtained prior to the importation of all drugs, including nicotine, in accordance with the Food and Drugs Regulations, 1975..

### Applicable Duties and Fees for Tobacco Products

TOBACCO PRODUCTS	SCTS	Import Duty*	Environmental Levy*	Standard Compliance Fee	Custom Administration Fee	Additional Stamp Duty* (ASD)	General Consumption Tax (VAT)	SCTA	Excise
Tobacco not stemmed/stripped	\$1,500 per kg	5% of CIF	0.5% of CIF	0.3% of CIF	\$1,200 per kg		16.5% for personal shipments; 21.5% for shipments imported by the registered commercial importer		
Cigars, cheroots, cigarillos, containing tobacco	\$10.5 per stick	40% of CIF	0.5% of CIF	0.3% of CIF			16.5% for personal shipments; 21.5% for shipments imported by the registered commercial importer		
Cigarettes containing tobacco	\$10,500 per 1,000 sticks	40% of CIF. Duty free allowance for 200 sticks	0.5% of CIF	0.3% of CIF	\$1.00 per stick		16.5% for personal shipments; 21.5% for shipments imported by the registered commercial importer		
Smoking tobacco, containing tobacco in any proportion		40% of CIF	0.5% of CIF	0.3% of CIF	\$1,200 per kg	56% of CIF	16.5% for personal shipments; 21.5% for shipments imported by the registered commercial importer	12% of CIF	23% of CIF

TOBACCO PRODUCTS	SCTS	Import Duty*	Environmental Levy*	Standard Compliance Fee	Custom Administration Fee	Additional Stamp Duty* (ASD)	General Consumption Tax (VAT)	SCTA	Excise
Other tobacco products; tobacco extracts and essences; “nesoi”		40% of CIF	0.5% of CIF	0.3% of CIF	\$1,200 per kg	56% of CIF	16.5% for personal shipments; 21.5% for shipments imported by the registered commercial importer	12% of CIF	23% of CIF

\*CARICOM imports are exempt.

As noted in the table above, the following taxes apply tobacco products:

- SCTS (Special Consumption Tax Specific): 10,500\$ per 1,000 sticks (cigarettes, cheroots, cigarillos and cigars) or 10,500\$ per kg for tobacco not stemmed/stripped.
- SCTA (Special Consumption Tax Ad Valorem): applicable on products other than cigarettes, cheroots, cigarillos or cigars, such as smoking tobacco. Note that the SCTS is not applicable on those products.
- General Consumption Tax (GCT, a value-added tax): 16.5% of retail price excluding VAT
- Standard Compliance Fee (SCF): 0.3% of Cost Insurance Freight (CIF) value
- Environmental levy (EL): 0.5% of CIF value
- Import duty (ID; not applied on imports from CARICOM): 40% of CIF value (cigarettes are mainly imported from Trinidad and Tobago, a CARICOM country, thus import duty does not apply)
- Customs administration fee (CAF): 1 JMD per stick. This tax was introduced in April 2014 and replaced the Customs User Fee of 2% of CIF. This recent change resulted in a slight increase in tax since 2010.
- The “excise” referred to in the table above is another excise levy of 23% of the sum of the ex-factory price and the SCTA, payable by the cigarette manufacturers since April 2003 and it was earmarked for the National Health Fund (a drug plan for select disease conditions). It was also removed in 2008 from cigarettes, cheroots, cigarillos and cigars. It remains applicable for other tobacco products (such as smoking tobacco, tobacco extracts and essences).

#### Tobacco taxation policy, administration and revenues

The Ministry of Finance and Planning sets the level of all taxes except the Standard Compliance Fee, which is under the responsibility of the Ministry of Industry, Investment and Commerce.

Changes in the law are usually adopted at the end of a fiscal year (April-March) to be implemented at the beginning of the next year. However, the Ministry can also propose changes during the course of the year.

Jamaica has not manufactured cigarettes since 2005 when BAT relocated its production from Jamaica to Trinidad and Tobago. According to the ERC Group, a market research company, BAT products held more than 90% of market share in Jamaica in 2008. This proportion likely has not changed significantly since then. Therefore, most cigarettes are now imported by Carreras Limited, a subsidiary of British American Tobacco, and all taxes are levied at Customs.

Total tax revenues from cigarettes fell by 20% from 7.7 billion JMD in 2012/2013 to 6.2 billion JMD in 2013/2014.<sup>1</sup> This is partly explained by the reduction in declared cigarette imports from 595 million sticks in 2012/2013 to 406 million sticks in 2013/2014. In the absence of a tobacco use prevalence study since 2008, it is not known if a decrease in consumption also contributed to this decline.

The tobacco industry claims that the decline is a result of an increase in demand for illicit

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<sup>1</sup> Source: Jamaica Customs Agency Metacube Database

tobacco products. However, the decline can just as easily be explained by the fact that Carreras is permitted to declare product when it is released from its local warehouses, rather than when it is imported into Jamaica.

This situation and its implications for estimates of illicit trade and control of illicit trade, are discussed in detail under Article 15. This discussion is of utmost importance in light of the fact that representatives of various Ministries expressed the view that taxes should not be raised, perceiving that they would lead to an increase in illicit trade. While this perception prevailed among various ministries, the Government has not implemented effective measures to reduce the illicit trade in tobacco products in order to counter this possibility and, as a result, has possibly foregone large amounts of tax revenue including through illicit trade.

### Prices of tobacco products

Price data collected in June 2014 indicates that prices, inclusive of all taxes, vary only slightly around 800 JMD per pack of 20 sticks when purchased in established shops. However, illegal cigarettes (counterfeit and contraband), with no taxes paid, are commonly sold in small shops and by street vendors for low as 400 JMD per pack of 20 sticks. It should also be noted that the price data collected does not include the price for the Pall Mall brand, which Carreras notes in its 2012-13 annual report is "... progressively defining itself as the credible response to the affordability challenges of consumers loyal to Carreras's brands..."<sup>1</sup>

For a tax-paid pack of Craven A, the most commonly sold brand, the excise tax as a proportion of 800 JMD per pack is around 26%, and the total tax represents around 43% of the price. This is far below the proportion of price comprised by tax in several jurisdictions that have successfully used tax to reduce tobacco use while controlling illicit trade.

### **Retail prices of selected brands of cigarette (tax paid), June 2014**

<b>BRANDS/RETAIL OUTLET</b>	<b> CRAVEN A</b>	<b> MATTERHORN</b>	<b> ROTHMAN'S</b>	<b> MARLBORO</b>
Shell gas station - Liguanea	20 pack – J\$840 10 pk. – J\$420	20 pk. – J\$840 10 pk. – J\$420	20 pk. – J\$840 (no 10 pk. Available)	20 pk. – J\$840 (no 10 pk. available)
Liguanea Pharmacy – Drug & Garden Supplies	20 pk. – J\$753.76 10 pk. – J\$378.63	20 pk. – J\$753.76 10 pk. – J\$378.63	20 pk. – J\$753.76	20 pk. – J\$766.58
General Foods Supermarket	20 pk. – J\$754 10 pk. – J\$377	20 pk. – J\$754 10 pk. – J\$377	20 pk. – J\$777.42	20 pk. – J\$767.03
Texaco gas station - Liguanea	20 pk. – J\$860 10 pk. – J\$430	20 pk. – J\$860 10 pk. – J\$430	20 pk. – J\$880	20 pk. – J\$910

Source: Prices collected by MoH

Gaps –

<sup>1</sup> Carreras Limited Annual Report 2012-2013, p. 29

1. While there were consecutive increases in the special consumption tax on cigarettes leading up to January 2010, the current excise tax rates have not changed since 2010 and have been eroded due to high inflation in the country. .
2. Cheap untaxed cigarettes seem to be readily available in the market.
3. Some government officials believe, erroneously, that increases in tobacco taxation will result in increases in illicit trade, and there is lack of awareness of the fact that increases in tobacco taxation is only one, and not even the most important, factor that can contribute to illegal activity.
4. Taxation of tobacco is generally seen only as a revenue measure instead of being perceived as an effective tool for reducing tobacco consumption as well as reducing illicit trade in tobacco products, provided a good tax administration policy is in place.

***It is therefore recommended that (i) the MOH work with the MOF to revise the current SCT law so as to integrate, as a minimum, an automatic adjustment to inflation. Ideally, the adjustment should be above inflation and should also take into account household income growth. Additionally, the current SCT rate should be revised upwards to make up for the losses incurred during the past four years as a result of high inflation, and meet tobacco consumption reduction targets; (ii) the MOF actively review with MOH the Guidelines for implementation of Article 6; (iii) tax administration and collection be strengthened in order to reduce opportunities for tax evasion, such as monitoring the amount of tobacco product in warehouses, and/or levying taxes on product kept in stock rather than upon their release; and (iv) tax policies be implemented in concurrence with stronger implementation of Article 15 of the Convention as discussed under Article 15.***

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”.

Jamaica restricts quantities of tax and duty-free cigarettes entering the country to 200 cigarettes per person, 50 sticks of cigars or 230 g of loose tobacco and has therefore partly met its obligations under Article 6.2(b) of the Convention.

***However, it is recommended that Jamaica consider prohibiting or further restricting, as appropriate, sales of tax- and duty-free tobacco products to international travellers.***

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

Jamaica has provided some information on tobacco taxation in its two-year report submitted in 2008 and the report it submitted in the 2014 reporting cycle, and has therefore met the obligations under Article 6.3. However, certain aspects of the reporting could be improved with more detailed explanations. In addition, the prices of tobacco products reported were obtained from a newspaper rather than from an official survey of prices.

***It is therefore recommended that Jamaica regularly submits, as part of its forthcoming implementation reports (the next one due in 2016), information on tobacco taxation and prices of tobacco products, also explaining trends in tobacco taxation and the***

*prices of tobacco products. Furthermore, sales and imports of tax- and duty-free tobacco products should be regularly monitored, so that such information is also included in each implementation report.*

In support of the Government's efforts to implement effective tax and price measures to reduce tobacco consumption, the Convention Secretariat is committed to facilitating provision of expertise and technical support. WHO/PAHO is planning to organize a subregional workshop in October 2014 for the Caribbean countries on tobacco taxation, which could be a good opportunity to further follow-up on taxation matters with the relevant Jamaican authorities.

### **Protection from exposure to tobacco smoke (Article 8)**

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

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

Jamaica has met its obligations under Article 8.2.

The Public Health (Tobacco Control) Regulations 2013 as amended in 2014 ensure protection from exposure to tobacco smoke and electronic cigarettes in the places required by Article 8.2, including in all enclosed public places and all enclosed workplaces, other than residences. The Regulations also prohibit smoking of tobacco products, water pipe and electronic cigarettes in several outdoor places, including:

- Within a five metre radius of an entrance, exit, window or ventilation intake of enclosed public places and enclosed workplaces;
- In sports, athletic or other similar facilities for the use of the public;
- Educational institutions
- At bus stops and departure and arrival waiting areas at a port or station for any form of transportation; and
- In areas specifically for use by children.
- Outdoor dining and service areas
- Parks
- National Heritage sites
- Outdoor markets
- Outdoor events or activities being used for gathering by individuals
- Beaches

The Regulations allow owners and operators, managers and lessees of businesses including bars, restaurants and clubs, tourist establishments, beaches, outdoor markets, outdoor events or activities being used for gathering by the public to establish outdoor smoking solutions which meet certain strict conditions.



The level of compliance with the regulations is not yet known as all the provisions of the Amendment Regulations only recently (August 16, 2014) became effective, after which active enforcement began

Enforcement responsibilities for measures under Article 8 of the Convention are shared among the Jamaica Constabulary Force, Medical Officers of Health, and other persons as designated by the Minister. At some workplaces, the Ministry of Labour's health and safety officers are responsible for monitoring and enforcing smoking restrictions. In other workplaces, such as hotels and restaurants, public health inspectors will include compliance with the Article 8 requirements as part of their inspections.

While Jamaica has met its obligations, it should be noted that domestic workers and workers in some outdoor workplaces are not protected from exposure to tobacco smoke, as originally proposed in the 2013 Regulations.

***Therefore it is recommended that Jamaica ensure enforcement of the current restrictions, further raise awareness about the harm from exposure to tobacco smoke, and consider strengthening protection for domestic workers and workers in outdoor environments in general.***

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

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

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

There is no established laboratory capacity in the country independent from the tobacco industry which could provide for the testing and measuring of the contents and emissions of tobacco products.

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

Sections 9 and 10 of the Public Health (Tobacco Control) Regulations 2013 as amended in 2014 provide authority for the Minister of Health to request information from manufacturers and importers on the ingredients and design of tobacco products.

Gaps –

1. There is no capacity for testing and measuring the contents and emissions of tobacco products independent from the tobacco industry.<sup>1</sup>
2. The Government has not yet used its regulatory authority to request information on ingredients and design.
3. There is no regulatory authority requiring tobacco companies to test and report the emissions of tobacco products to the Government.
4. There is no provision in the regulations for the disclosure of information on toxic ingredients or emissions to the public.

*It is recommended that the requirements of Articles 9 and 10 for testing and measurement of the contents and emissions of tobacco products and provisions for the disclosure of toxic substances to the public be included in comprehensive legislation, and measures taken to close the gaps identified above. The Partial Guidelines for the implementation of Articles 9 & 10 should be used to guide the development of legislation and requirements. It is also recommended that Jamaica enforce the existing regulatory authority to obtain information on ingredients and design from manufacturers and importers.*

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

### **Packaging and labelling of tobacco products (Article 11)**

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

Jamaica has met its obligations under Article 11.

The Public Health (Tobacco Control) Regulations 2013 as amended in 2014 incorporate all of the requirements of Article 11, as follows:

- A requirement for large, rotating health warnings on packaging; and
- A prohibition on misleading descriptors and other misleading elements on labelling.

The requirement for tobacco packaging to carry graphic health warnings covering 60% of the surface of packaging indicates compliance with Article 11.1(b)(iv) of the WHO FCTC. The requirements regarding misleading labelling are also comprehensive, including a prohibition of misleading terms, graphics, design characteristics, and a prohibition on the use of a number to differentiate brands within a brand family or use of a number associated with a smoking machine yield.

Tobacco manufacturers and importers may opt to send their packaging to the Bureau of Standards, Jamaica for pre-assessment of compliance prior to shipping product for sale. The cost for the pre-assessment is borne by the manufacturer or importer. The Bureau of

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<sup>1</sup> There may be need to coordinate and address the issue of establishing a reference laboratory at regional/subregional level.

Standards, which is responsible for enforcing the labelling requirements of the Regulations, also conducts spot checks at point of entry of product into Jamaica and at point of sale.

The Guidelines for implementation of Article 11 recommend numerous ways in which packaging and labelling provisions could be made even stronger, including larger health warnings and plain packaging.

*It is therefore recommended that Jamaica continue to enforce its current packaging and labelling requirements. It is also recommended that Jamaica consider strengthening warnings by increasing their size.*

*It is also recommended that Jamaica consider introducing plain packaging in order to prohibit the use of logos, colours, brand images or promotional information on packaging other than brand names and product names displayed in a standard colour and style. Adopting such measures will greatly contribute to the implementation of the Convention in Jamaica.*

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

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

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

The Ministry of Health, specifically the Health Promotion and Education Unit, has engaged in occasional general tobacco awareness campaigns, usually centered around World No Tobacco Day or similar events. The Ministry also promoted various aspects of the Public Health (Tobacco Control) Regulations to the public through outreach to stakeholders and through earned and paid media. However, these efforts have not been sustained as part of an overall communications strategy and have not been pre-tested and evaluated.

Several government agencies, including the Jamaica Information Service (JIS), the Institute of Sports, the Sports Development Foundation, the Jamaica Social Investment Fund, the National Housing Trust, and numerous programs and agencies under the Ministry of Youth and Culture provide good potential avenues for public outreach and coordination of messages, but these have not been used to full potential. The JIS has worked in collaboration with the Ministry of Health to develop public service announcements and other public messages, and free air time is also an option for messages of communication campaigns, except for prime time hours.

Tobacco is not specifically highlighted in the school curriculum. From Grades 1-9, healthy living is integrated into the curriculum, but tobacco is not explicitly included. In Grades 10-12, the Health and Family Life Program has a substance abuse component, but tobacco is not necessarily covered in the program. However, an evaluation of this program seems to show some outcome effects for tobacco.

The Ministry of Education and the school system as a whole have not actively promoted or enforced the regulations prohibiting tobacco use on school grounds, but Ministry of Education officials suggested that the sector could play a stronger role through existing mechanisms such as the National Education Inspectorate.

The National Council on Drug Abuse (NCDA), established in 1983, is responsible for educating the general public about the dangers of drug use, examine the legal, medical and security issues surrounding drug abuse, as well as conducting research. Their programme called Resistance Education Against Drugs (READ), also covering tobacco use, is aimed at delaying the onset of drug use among school age children. Programmes are run in schools, but they also target parents and the communities at large, to generate increased community interest and participation in preventing the sales of such substances to minors.

Provision of funding for community based programmes, usually referred to as “corporate social responsibility” by the tobacco industry, is widespread. Carreras (BAT) offers scholarships for teacher training and other areas. Officials at the Ministry of Education indicated that they did not believe that the government could prevent this. The international team emphasized the requirements of Article 5.3 and the need to eliminate such activities.

Representatives of the Ministry of Youth and Culture mentioned that Carreras has been active in youth and community activities in some communities. The National Youth Service works with Rise Life Management Services on drug rehabilitation programs. The international team pointed out that Rise Life’s drug rehabilitation work is funded by Carreras.

#### Gaps –

1. There is no coordinated tobacco control media strategy to ensure consistent, effective messaging and sustained national reach.
2. There is no funding available to implement sustained media campaigns.
3. Many government agencies responsible for youth, sport and education have recently had, or currently have, active direct or indirect partnerships with the tobacco industry.
4. Education and communication materials are not always pretested for effectiveness.
5. Tobacco control components are not explicitly included in the school curriculum.
6. There is a lack of systematic evaluation of the effectiveness of education and communication programmes aimed at raising awareness of tobacco control issues.

***It is therefore recommended that; (i) The Ministry of Health, in collaboration with other partners in government, develop a media communications strategy to ensure***

*consistent, effective communications to the public on tobacco control and the tobacco industry. The Government should ensure allocation of adequate resources to implementation of the strategy and multisectoral collaboration to ensure consistent messaging across government agencies and departments. This should include widespread communication of the smoke-free requirements throughout the hospitality and tourism sectors and other relevant stakeholders. It is also recommended that all relevant organizations pre-test and rigorously evaluate the impact of these activities in order to achieve better outcomes; (ii) the Government ensure the incorporation of best practices for tobacco control school programs into the curriculum for all grades, and in teacher training; and (iii) all education, youth and community outreach partnerships with the tobacco industry or with organizations funded by the tobacco industry should be terminated, and policies put in place to identify and prevent them as recommended under Article 5.3, and as part of the introduction of a comprehensive ban of all forms of tobacco advertising, promotion and sponsorship.*

*International cooperation may be useful to ensure that rigorous, systematic and objective methods are used in designing and implementing these programmes.*

In support of the Government's efforts to implement Article 12 and the guidelines for its implementation, the Convention Secretariat is committed to facilitating provision of expertise and technical support upon request from the Government.

### **Tobacco advertising, promotion and sponsorship (Article 13)**

Article 13.1 of the Convention notes that the Parties “*recognize that a comprehensive ban on advertising, promoting and sponsorship would reduce the consumption of tobacco products*”.

Article 13.2 of the Convention requires each Party to: “*in accordance with its constitution or constitutional principles, undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, a comprehensive ban on cross-border advertising, promotion and sponsorship originating from its territory. In this respect, within the period of five years after entry into force of this Convention for that Party, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21*”.

Jamaica has not introduced a comprehensive ban on advertising, promotion and sponsorship, therefore it has not met its obligations under Article 13.1 and 13.2. The deadline for implementation of Article 13.2 of the WHO FCTC for Jamaica expired on 5 October, 2010.

However, two initiatives in this area are worth mentioning. First, the Bureau of Standards, Jamaica has started developing a standard for tobacco advertising. Second, CARICOM has also requested and initiated development of a regional standard on tobacco advertising, promotion and sponsorship, in a similar way to the one it has negotiated on packaging and labelling of tobacco products. Taking into account the requirements of Article 13.2 of the Convention, and the expired deadline for the country, and also the fact

that development of a regional standard may take several years, Jamaica should move forward with creating its own regulatory framework on the matter.

Article 13.4 of the Convention lists the minimum requirements concerning restrictions on tobacco advertising, promotion and sponsorship in case a Party has not put in place a comprehensive ban of all forms of tobacco advertising and promotion. On the media listed under Article 13.4, Jamaica regulates tobacco advertising on radio and television.

The Broadcasting and Radio Re-Diffusion Act and the Television and Sound Broadcasting Regulations, 1996, prohibit any broadcaster licensed in Jamaica from advertising tobacco products on radio and television. However, the Act does not define “advertisement”, and the definition of “tobacco product” does not include the names of tobacco companies or tobacco brand names and elements used in other goods and services (such as sponsorship of sporting events, or branding of other promotional items).

There are no restrictions on tobacco advertising, promotion and sponsorship in Jamaica in other media, including the print media, outdoor media such as billboards, point of sale advertising, and on the Internet.

Tobacco promotion and sponsorship appears to be widespread. For example, the Carreras (BAT) Annual Report 2012-13 mentions sponsorship of numerous high profile events that are widely attended by youth, such as “inner-city street dances, Neighbourhood Road block parties” and “various holiday weekend parties and concerts including ATI/Dream Weekend, Heroes Day Party Weekend Festival, Reggae Sunfest and Jamaica Carnival.”<sup>1</sup> Tobacco products are commonly and prominently displayed at the cash register at points of sale, with ads accompanying the displays. As discussed under Article 5.3, the tobacco industry also promotes its products through “corporate social responsibility” activities, often with community organizations and in partnership with government. For example, information is available on the tobacco industry providing vehicles for the police force and scholarships for students.

Furthermore, in 2010, youth in school aged 13-15 indicated that:

- 14.7% owned an item with a cigarette brand logo;
- 64.4% had seen cigarette brand names on television programs in the previous 30 days
- 59.8% had seen ads for cigarettes on billboards in the previous 30 days; and
- 50.3% see ads for cigarettes when they attend sports events, fairs, concerts or community events.<sup>2</sup>

Gaps –

1. Tobacco advertising, promotion and sponsorship are not effectively prohibited in any medium.
2. The deadline for implementation of Article 13 in Jamaica expired nearly five years ago.
3. Youth exposure to tobacco promotion remains high.

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<sup>1</sup> Carreras Limited Annual Report 2012-2013, p. 28.

<sup>2</sup> Global Youth Tobacco Survey, 2010. Data from National Web Codebook available at: <http://nccd.cdc.gov/GTSSData/Ancillary/DownloadAttachment.aspx?DatasetID=2046>

4. The tobacco industry continues to use diverse means of promoting its products, including promotion targeted at youth.

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

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

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

Gaps –

The Broadcasting and Radio Re-Diffusion Act and the Television and Sound Broadcasting Regulations, 1996 do not explicitly prohibit cross-border tobacco advertising, promotion and sponsorship entering into its territory. There are no restrictions on cross-border tobacco advertising in other media.

***It is therefore recommended that the Government of Jamaica adopt comprehensive legislation to achieve a full prohibition on tobacco advertising, promotion and sponsorship, with reference to the Guidelines for implementation of Article 13, and including a ban on point-of-sale tobacco displays, Internet tobacco sales and promotion, contributions from the tobacco industry and importers in the form of “socially responsible” activities, and on cross-border tobacco advertising, promotion and sponsorship entering into and originating from its territory.***

#### **Measures concerning tobacco dependence and cessation (Article 14)**

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

In 2007, Jamaica developed the National Guidelines for the Management of Nicotine Use Disorders, based on scientific evidence and best practices.

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

Jamaica has only partially met its obligations under Article 14.2.

Tobacco-dependence diagnosis and treatment and counselling services are included in national tobacco-control strategies, plans and programmes.

The NCD Action Plan and the MOH Business Plan for 2013-2017 include support for tobacco cessation as a strategy and policy priority. The Business Plan's strategy of "institutionalization cessation of tobacco use programmes" aims to have one tobacco cessation programme "in incubation" by 2014/15, and to have conducted 1200 tobacco counselling sessions in each of years 2014/15, 2015/16, and 2016/17. The Business Plan also indicates that there is at least one tobacco cessation service provider in each Parish at baseline in 2013/14, and aims to increase the number of cessation service providers each year.

The Ministry of Health indicates that it has initiated training of health care professionals in tobacco cessation counselling.

With PAHO/WHO's assistance, a list of treatment sites was developed and distributed to the health network. The National Council on Drug Abuse (NCDA) refers clients to tobacco cessation treatment upon request. However, the NCDA reports that treatment centres for tobacco cessation are underutilized.

Tobacco dependence treatment is not yet incorporated into the primary health care system, and tobacco dependence treatment not included in the curricula of medical professionals or any systematic program to ensure that all health workers are trained in tobacco dependence treatment. Tobacco use status is not recorded in medical notes.

Nicotine replacement therapy and other tobacco cessation medications are available in private pharmacies.. However, Tobacco dependence (Nicotine use disorder) is not a "covered condition" under the National Health Fund (NHF) individual benefits programme. Consequently, the NHF does not include medication for tobacco dependence (Nicotine use disorder) under its pharmaceutical benefits.

Gaps –

1. There is no comprehensive and integrated programme concerning tobacco dependence and cessation in Jamaica.
2. A limited number of health workers at primary health care level have been trained and mobilized to provide cessation counselling and brief cessation advice, but this is not routinely implemented.
3. While there is a national quit line for substance abuse, there is no national 24 hour quit line solely for tobacco cessation.
4. Pharmaceutical products for treatment of tobacco dependence are not freely available in the public health service.
5. Recording of tobacco use in medical history notes is not mandatory.
6. Tobacco dependence treatment is not referred to in the curriculum of medical, dental, nursing and pharmacy schools.

***It is therefore recommended that (i) national programmes and services on diagnosis and treatment of tobacco dependence, and counselling services on cessation of tobacco use be established and promoted in different settings, as required under Article 14 of the Convention (e.g. educational institutions, health care facilities, primary health care***



*centres, workplaces and sporting environments). Integration of such services in primary health care should be considered of utmost importance; (ii) the training of health care workers to give brief advice and encourage quit attempts should be continued and further strengthened; (iii) the recording of tobacco use in medical history notes be made mandatory; (iv) Jamaica facilitate accessibility and affordability of pharmaceutical products for treatment of tobacco dependence, including if appropriate, by collaborating with other Parties in the region; (v) Jamaica establish a national quit line, preferably toll-free; and (vi) tobacco dependence treatment be incorporated into the curriculum at medical, dental, nursing and pharmacy schools. It is further recommended that tobacco dependence (nicotine use disorder) be included as a “covered condition” under the NHF, and that the NHF include medications to treat tobacco dependence in its pharmaceutical benefits.*

### **Illicit trade in tobacco products (Article 15)**

In Article 15 of the Convention the “Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to subregional, regional and global agreements, are essential components of tobacco control”.

The Protocol to Eliminate Illicit Trade in Tobacco Products was adopted at COP5 and is open for ratification and accession. Jamaica did not sign the Protocol, but it can still become a Party by means of accession. Consultations within the Government to discuss accession have commenced. The needs assessment mission was used to raise awareness of the Protocol’s key provisions, and of the Protocol’s potential benefits to Jamaica.

Representatives from all sectors showed interest in the Protocol and the general response was supportive. However, concerns were expressed regarding the availability of technical assistance for implementation of the Protocol, especially regarding the track and trace system and for drafting of relevant legislation. There was a lack of clarity with regard to the responsibilities of each Ministry regarding Protocol accession and implementation, especially between Ministries of Health and Finance (Customs).

Almost all tobacco products in the Jamaican market are either imported or illicitly traded. The Customs Act<sup>1</sup> defines offences regarding illicit trade and sets the following penalties:

- 1- False declaration: penalty of up to 500,000 JMD.
- 2- Importing a restricted item: penalty of up to 450,000 JMD.
- 3- Importing or exporting an item in a manner to deceive officers: penalty of not less than three times the import duty payable on the goods contained therein, and not more than three times the value of the product (for cigarettes the value is the retail price, or, more specifically, 35 JMD per stick). In such cases the package and the goods contained therein shall be forfeited.

Confiscated tobacco products are subject to incineration by the Ministry of Agriculture under the supervision of the Ministry of National Security.

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<sup>1</sup> <http://moj.gov.jm/laws/customs-act>.

Customs consults Carreras (BAT) regarding the authenticity of suspected counterfeit products. Carreras, in partnership with Customs, has also conducted training for customs officials with regard to identifying counterfeit Carreras products.

Jamaica has a number of free (trade) zones, which are subject to the Jamaica Export Free Zones Act<sup>1</sup> and which are under limited government control. It is envisaged that the Jamaica Export Free Zones Act will be repealed in 2015, and replaced by Special Economic Zones built into the “logistics hub initiative”<sup>2</sup> led by the Ministry of Industry, Investment and Commerce. The potential impact of this change on the level of illicit trade in tobacco is unclear.

There is no tracking and tracing system in Jamaica and no requirement for excise stamps to be placed on tobacco packaging.

There is also insufficient control over the storage and movement of tobacco products. Importers are permitted to keep imported product in warehouses. Only those products released from the warehouses are actually declared, meaning that importers have complete control over when to declare products. This permits the release of products into the market in a pattern that may not reflect the actual demand in the country.

For example, Carreras could release quantities of cigarettes far higher than market demand just before a tax increase is implemented, and a much lower quantity below market demand after the tax increase in order to avoid paying large amounts of taxes. The industry can then claim that the data shows a decreased demand for legal products and an increase in illicit trade due to tax increases.

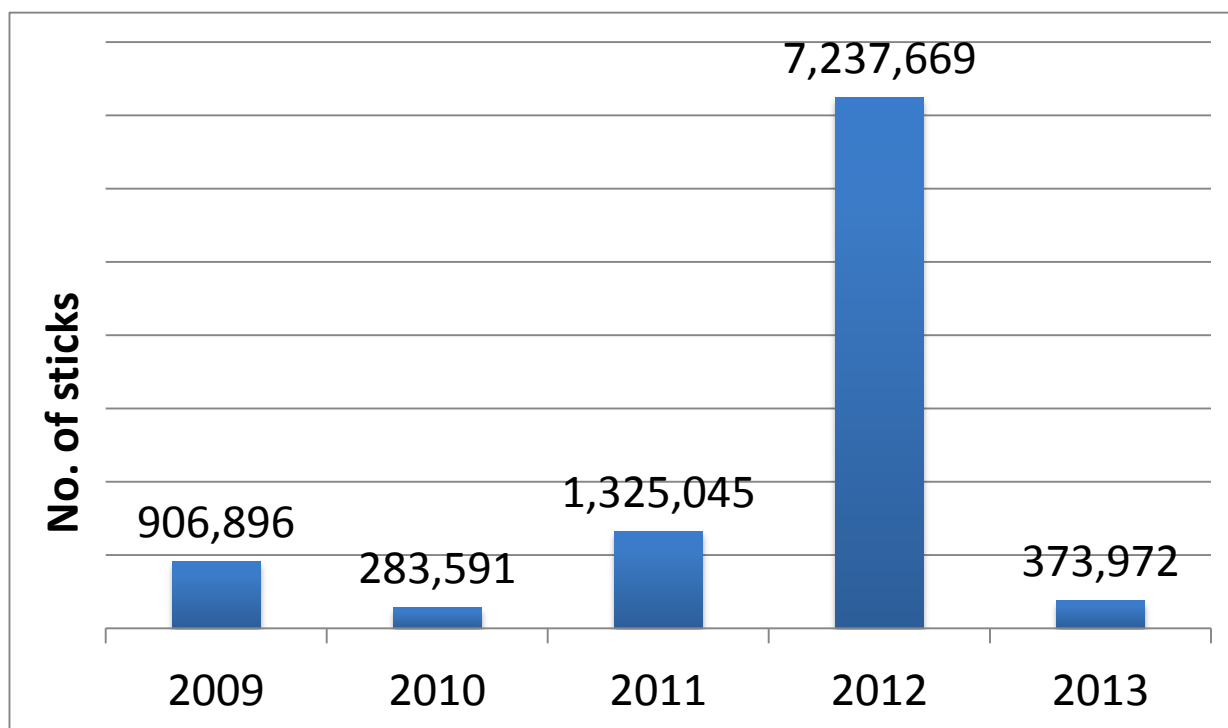
Customs fills in data forms for tax files and submits them to the Statistical Institute of Jamaica (STATIN), which compiles the information in its database. Information collected includes, among other things, the type of product imported, origin, value and weight. There is no electronic system to register the information collected by Customs, but such a system is currently being developed. Information is also collected on the brands that enter the country, but it is not clear if STATIN registers this information in its database. This data could be very useful for monitoring and analysing tobacco trends, as discussed in more detail under Article 20. However, STATIN imposes charges for access to its data.

The number of cigarettes seized by the Customs over the past few years is presented below. The lack of capacity of customs in general was noted as a challenge. There is no structured oversight of trans-shipment proceedings. For example, over 90% of the cargo at Kingston Container Terminal is identified as trans-shipment cargo destined for other countries. However, some of that cargo “disappears” into the Jamaican market.

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<sup>1</sup> <http://moj.gov.jm/laws/jamaica-export-free-zones-act>.

<sup>2</sup> <http://jamaicalogisticshub.com/>.



Jamaica participates in the Container Control Programme conducted jointly by WCO and UNODC. A Memorandum of Understanding was signed in November 2012 with the aim of establishing Joint Port Control Units (JPCUs) in Kingston and Montego Bay.

An overview of the measures taken by Jamaica against illicit trade in tobacco products is provided in **Table 3** below.

**Table 3. Overview of measures taken against illicit trade in tobacco products in Jamaica**

Paragraph in Art. 15	Content	Level of compliance	Comments and identified gaps
2	Each Party shall adopt and implement effective legislative, executive, administrative or other measures to ensure that all unit packets and packages of tobacco products and any outside packaging of such products are marked to assist Parties in determining the origin of tobacco products.	OBLIGATION MET	Markings on tobacco product packaging to indicate origin is mandated by the 2013 Regulations. The statement, “Sale only allowed in x country” is required on all packaging of products manufactured in Jamaica or intended for sale in Jamaica.
2(a) and 3	Require that unit packets and packages of tobacco products for retail and wholesale use that are sold on its domestic market carry the statement: “Sales only allowed in (insert name of the country, subnational, regional or federal unit)” or carry any other effective marking indicating the	OBLIGATION MET	Markings on tobacco product packaging to indicate that the sales are only allowed in Jamaica are mandated by the 2013 Regulations.

	final destination or which would assist authorities in determining whether the product is legally for sale on the domestic market.		
2(b) and 3	Consider, as appropriate, developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade.	NOT YET IMPLEMENTED	There is no tracking and tracing system in place in Jamaica.
4(a)	Monitor and collect data on cross-border trade in tobacco products, including illicit trade, and exchange information among customs, tax and other authorities, as appropriate, and in accordance with national law and relevant applicable bilateral or multilateral agreements.	OBLIGATION MET	The Jamaica Customs Agency and the Jamaica Constabulary Force are responsible for the enforcement of relevant regulations, have their own requirements and have been collecting data on illicit trade of tobacco products. Seizure data is recorded manually and transmitted daily to the Statistical Institute of Jamaica, which compiles the data. There are plans to automate these processes.
4(b)	Enact or strengthen legislation, with appropriate penalties and remedies against illicit trade in tobacco products, including counterfeit and contraband cigarettes.	PARTIALLY IMPLEMENTED	Penalties and remedies against illicit trade in tobacco products are subject to the Customs Act and are enforced by the Jamaica Customs Agency and the Jamaica Constabulary Force. No specific mention to tobacco products is made. Penalties should be more dissuasive in order to be deterrent.
4(c)	Take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed using environmentally-friendly methods where feasible, or disposed of in accordance with national law.	OBLIGATION MET	Confiscated tobacco products are incinerated in a special facility by the Ministry of Agriculture under the supervision of the Ministry of National Security.
4(d)	Adopt and implement measures to monitor, document and control the storage and distribution of tobacco products held or moving under suspension of taxes or duties within its jurisdiction.	NOT YET IMPLEMENTED	This provision is addressed by the Customs Act and is enforced by the Jamaica Customs Agency and Jamaica Constabulary Force. However, the fact that importers are permitted to declare product not when it is imported but when the importers choose to release it in the market indicates that there is inadequate monitoring, documentation and control.
4(e)	Adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit	OBLIGATION MET	This provision is addressed by the Customs Act and is enforced by the Jamaica

	trade in tobacco products.		Customs Agency and Jamaica Constabulary Force.
5	Information collected pursuant to subparagraphs 4(a) and 4(d) of this Article shall, as appropriate, be provided in aggregate form by the Parties in their periodic reports to the COP, in accordance with Article 21.	OBLIGATION MET	Information was provided in the 2014 report to the COP.
6	Promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations as it relates to investigations, prosecutions and proceedings, with a view to eliminating illicit trade in tobacco products. Special emphasis shall be placed on cooperation at regional and subregional levels to combat illicit trade of tobacco products.	PARTIAL COMPLIANCE	Jamaica is an active member of international organizations facilitating licit trade of tobacco products, such as CARICOM and WCO.
7	Each Party shall endeavour to adopt and implement further measures including licensing, where appropriate, to control or regulate the production and distribution of tobacco products in order to prevent illicit trade.	OBLIGATION NOT MET	

Gaps –

1. There is no tracking and tracing system implemented.
2. Apart from the requirement for general manufacturing licenses, there is no license required for the import of finished/processed tobacco products. There is no licensing requirement for anyone selling tobacco products.
3. Reliance of the government on what the industry declares at the release of products from industry warehouses restricts the government's ability to effectively monitor movements of products.
4. There is no formal multisectoral discussion regarding illicit trade in tobacco products and its effects on society, including the economy, crime prevention and public health.

***It is recommended that Jamaica consider acceding to the Protocol to Eliminate Illicit Trade in Tobacco Products, thus providing a legal basis for introducing a range of measures to secure the supply chain, and giving Jamaica access to international assistance to combat illicit trade. The Ministry of Health should lead this process in close consultation with all relevant Ministries and authorities.***

***It is also recommended that Jamaica establish an effective tracking and tracing system for tobacco products to secure the distribution system and facilitate the investigation of illicit trade, as early as possible and irrespective of progress toward accession to the Protocol. It is further recommended that Jamaica strengthen the monitoring and control of imports by international travellers of tax- and duty-free tobacco products in line with the obligations of Article 6. It is further recommended that Jamaica establish***

*a licensing system for importers and sellers of tobacco products in order to control and regulate all stages of the distribution chain and that license fees be levied to offset the costs of administration and enforcement. Such license fees could then be used to finance measures such as those related to the enforcement of the Regulations, tobacco control programmes and beyond.*<sup>1</sup>

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

### **Sales to and by minors (Article 16)**

Article 16 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.*”

Section of the Child Care and Protection Act 2004 prohibits sales of tobacco to or by persons under the age of 18. The Act provides a defence for persons who prove to the satisfaction of the court that they took all reasonable steps to ascertain, and reasonably believed, that the person employed, or the person to or by whom the tobacco product was sold was not a child. However, the Act does not provide guidance on what would constitute “reasonable steps,” such as requesting identification.

Additionally, the law does not specify the requirements of retailers to request identification from those purchasing cigarettes who appear to be under the age of 18.

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

The Act does not require sellers of tobacco products to post signs regarding sales of tobacco products to or by minors.

Many retailers participate in Carreras “Youth Smoking Prevention Programme”, which provides signs to retailers saying “I/We don’t sell cigarettes to persons under 18, It’s the Law.” On its web site, Carreras claims that the second phase of the program “... was launched in May 2010 and is endorsed by both the Ministry of Education and the Child Development Agency.” This program and partnership is an example of the type of tobacco industry interference addressed under Article 5.3 of the WHO FCTC.

Article 16.1. (b) requires Parties to “*ban the sale of tobacco products in any manner by which they are directly accessible, such as store shelves;*”.

Neither the Child Care and Protection Act 2004 nor the 2013 Regulations restrict the sale of tobacco products in a directly accessible manner.

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<sup>1</sup> See « Guidelines for implementation of Article 5.3, Article 8, Article 9 and 10, Article 11, Article 12, Article 13, Article 14 » (page 49).  
[http://apps.who.int/iris/bitstream/10665/80510/1/9789241505185\\_eng.pdf](http://apps.who.int/iris/bitstream/10665/80510/1/9789241505185_eng.pdf)

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

Neither the Child Care and Protection Act 2004 nor the 2013 Regulations restrict the manufacture or sale of these objects.

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

Neither the Child Care and Protection Act 2004 nor the 2013 Regulations restrict the sale of tobacco products from vending machines or promotion of tobacco products on vending machines.

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

Neither the Child Care and Protection Act 2004 nor the 2013 Regulations prohibit the sale of cigarettes individually or restrict the sale of small packets by, for example, setting a minimum package size.

Ten-stick packs are commonly available in Jamaica.

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

Section 40 of the Child Care and Protection Act 2004 prohibits sales of tobacco **by** persons under the age of 18.

In summary, Jamaica has partially met its obligations under Article 16, thus the remaining obligations under this Article of the Convention should be dealt with in the future comprehensive tobacco control legislation.

Despite the existing ban of sale of tobacco products to and by minors, children still report being able to purchase tobacco products in a store or from a street vendor. According to the 2010 GYTS, 11% of youth aged 13-15 reported purchasing cigarettes this way, indicating that the enforcement of these measures need to be strengthened. Direct purchase from vendors was the single most commonly reported source of tobacco products among these youth.

Gaps –

1. The law does not specify the requirements of retailers to request identification from those purchasing cigarettes who appear to be under the age of 18.
2. The only signs warning of the prohibition on sales of tobacco products to minors inside points of sale are voluntary and are sponsored by the tobacco industry.
3. With the exception of the restrictive specifications in the Child Care and Protection Act, there is no legislation banning the sale of tobacco products in a directly accessible manner.

4. There is no legislation prohibiting the manufacture and sale of sweets, snacks, toys or other objects in the form of tobacco products.
5. There is no legislation banning the sale of tobacco products from vending machines, or ensuring that vending machines selling tobacco products are not accessible to minors.
6. There is no legislation banning the sale of single tobacco products or requiring a minimum pack size or minimum number or units to be sold in a package of tobacco products.
7. The Child Care and Protection Act does not prohibit the sale of tobacco products in general (including electronic nicotine delivery systems) to and by minors. The current provision restrictively references cigarettes, cigars, cheroots, and cigarillos.

*It is therefore recommended that Jamaica include within comprehensive tobacco control legislation: (i) appropriate rules for ascertaining the age of a person buying tobacco products, and specifications for signs to be posted at point of sale; (ii) a prohibition on the sale of tobacco products in any manner by which they are directly accessible to consumers; (iii) a prohibition on the sale of sweets, snacks, toys or any other objects in the form of tobacco products which appeal to minors; (iv) provisions to prohibit the sales of tobacco products through vending machines, or, as a minimum, ensure that tobacco vending machines are not accessible to and do not promote the sale of tobacco products to minors; (v) a prohibition on the sale of individual tobacco sticks and on the sale of tobacco products in small packets; (vi) and a prohibition on the sale of all forms of tobacco products including ENDS to and by minors.*

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

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

Tobacco growing is not a major component of Jamaica’s agricultural sector. The Ministry of Agriculture and Fisheries does not regularly collect information on tobacco growing, including the number of tobacco growers. Statistical information is only available for food crops, and tobacco is not considered a food crop.

The latest assessment of tobacco production in Jamaica was conducted by the Rural Agricultural Development Authority (RADA) in 2011 on behalf of the Carreras Limited. At the time of the data collection in January-February 2011, the number of growers was ascertained at 573<sup>1</sup>. However, the data in the study should be considered in light of the fact that the study was conducted for Carreras, which has a vested interest in exaggerating the importance of tobacco growing and the tobacco industry in Jamaica.

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<sup>1</sup> Reporting on the trends of tobacco growing in Jamaica, the RADA report admits that large scale commercial production of tobacco almost disappeared in the country during the early 1990s, but towards the end of the first decade of 2000 there has been resurgence in the cultivation of tobacco. The report explains that this was led by strong demand in a mainly informal market for locally grown tobacco and to a lesser extent, the demand for tobacco for a small cigar making sub-sector. The crop was found to be mainly a small farmer driven crop, and nearly 92% of tobacco farms were less than one acre in size, with a total estimated acreage of tobacco in production of 310.5 acres.



During the mission, the Ministry of Agriculture and Fisheries estimated that the number of families growing tobacco is around 600. At the same time, during the mission a newspaper article quoted the Ministry of Agriculture and Fisheries as saying that preliminary figures of a new study show a 43% decrease in tobacco cultivation (from 311 acres in 2011 to 175 acres in 2014), with a parallel decrease in the number of farmers from 573 to 488 in 2011 and 2014, respectively.

The Ministry is promoting diversification to more profitable crops for all growers, not explicitly tobacco growers, through its “Agro Parks” programme. However, there is no written policy or explicit government support for tobacco growing or alternatives to tobacco growing. Based on limited information available to the Ministry, in areas where tobacco was replaced by other crops, Irish potato, sweet potato and onion were used as “replacement” crops.

During the discussions with the mission’s team, the Ministry of Agriculture and Fisheries indicated its commitment to play its role in implementation of the Convention, and its openness to assessing international experience in the area. Connecting with the UN system, specifically FAO, will be beneficial in strengthening implementation of Article 17 of the Convention.

Gaps –

1. There is no explicit written policy to assist the diversification of tobacco growers into alternative products.
2. Information on trends related to tobacco growing, acreage, yields, percentage of tobacco production in the overall agricultural output is not regularly collected by the Ministry of Agriculture.

***It is recommended that Jamaica promote economically viable alternatives to tobacco growing through, inter alia, mobilization of support by the World Bank, Food and Agriculture Organization (FAO), and other development partners. It is also recommended that the Ministry of Agriculture and Fisheries monitor the trends in tobacco growing, including acreage, yields, labour, and percentage of tobacco production in the overall agricultural output – the latter being an indicator used in the reporting instrument of the WHO FCTC – independent of funding from or collaboration with Carreras, in keeping with the requirements of Article 5.3 of the Convention.***

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

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

Jamaica has not met the obligations under Article 18. There are no policies or programs in place to protect tobacco growers from the risks of tobacco cultivation, or to minimize the impact of tobacco growing on the environment through, for example a program promoting reduced use of pesticides.

***It is therefore recommended that the Government (i) implement outreach and information programs to sensitize tobacco growers to the risks of tobacco growing, and to support protection of growers from those risks and (ii) promote protection of the environment due to harms caused by tobacco growing. The potential of a collaborative agreement with the FAO could be assessed to promote implementation of this Article.***

### **Liability (Article 19)**

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

Jamaica has not met its obligations under Article 19.

No activities have been implemented in relation to this article of the Convention. There are also no policy or legislative measures related to this article. The mission was not informed of any court cases seeking compensation in relation to any adverse health effects caused by tobacco use, including any action against the tobacco industry (including the tobacco importers) for full or partial reimbursement of medical, social and other relevant costs related to tobacco use.

#### Gap –

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

***It is recommended that Jamaica introduce a provision in its tobacco control legislation to deal with criminal and civil liability, including compensation where appropriate.***

### **Research, surveillance and exchange of information (Article 20)**

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

#### Research related to tobacco use

The most recent data on tobacco use and exposure to tobacco smoke are from 2007/2008 for adults (Jamaica Health and Lifestyle Survey) and from 2010 for youth (Global Youth Tobacco Survey).

The Jamaica Health and Lifestyle Survey, which includes questions on tobacco use, was scheduled to be conducted in 2014 but has not been conducted due to lack of funds. The study is now scheduled for 2015, pending availability of funding.

There is a need to collect basic, comparable data on tobacco use and exposure to tobacco smoke at least every three years.

Discussions were held with the Ministry of Health and the Planning Institute of Jamaica (PIOJ) regarding the possibility of including questions on the annual Survey of Living Conditions (SLC) on tobacco use and exposure to tobacco smoke. The PIOJ, which coordinates the Survey, agreed to include a limited number of questions on tobacco in the Survey, upon the advice and guidance of the Ministry of Health.

### Research on health, economic and social impact of tobacco use and on the tobacco industry

There is limited surveillance of and research on the morbidity and mortality caused by tobacco use and exposure to tobacco smoke. The Burden of Lung Disease (BOLD) study funded by the National Health Fund could provide partial information. There is limited surveillance of and research on the morbidity and mortality caused by tobacco use and exposure to tobacco smoke. The Burden of Lung Disease (BOLD) study funded by two grants one from the National Health Fund, and the other from the New Initiative Grant (NIG) could provide partial information. BOLD study is a global multi-centred study on COPD with the Coordinating Centre at the Heart Lung Institute, Imperial College in the United Kingdom. This project aims at determining the prevalence of COPD, identifying the risk factors in Jamaica and the economic burden of the disease on the Jamaican population.

There is limited evaluation of the impact of interventions to reduce tobacco use and exposure to tobacco smoke. However, the NCD Action Plan includes “Monitor Tobacco use in adolescent and adults” and “Monitor and evaluate implementation of tobacco control policies” among its strategies.

The only detailed economic impact study of tobacco use in Jamaica is a decade old<sup>1</sup>. The World Bank carried out a study on non-communicable diseases in Jamaica in 2007/2008 that briefly covered tobacco and looked at the profile of tobacco users and the expenditures of households on tobacco<sup>2</sup>. There is need for an updated economic analysis, including scenarios for future increases in tobacco excise taxes, price and income elasticity for consumption of tobacco products the costs (direct and indirect) of tobacco use, and of the costs and benefits of tobacco control measures.

There is no research, monitoring, or surveillance of the tobacco industry and its activities, such as research on promotional techniques, promotional expenditures, and efforts to undermine public health, or surveillance on tobacco product brands and prices.

The provisions of the Public Health (Tobacco Control) Regulations will support surveillance of industry reported sales volumes. In addition, the data collected by Customs and compiled by STATIN could be useful in monitoring trends. There is a need to develop a surveillance system (possibly through extension of the STATIN system) to

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<sup>1</sup> Van Walbeek (2005). The economics of tobacco control in Jamaica: Will the pursuit of public health place a fiscal burden on the government? Unpublished study conducted for the Ministry of Health with support from the International Development Research Centre.

<sup>2</sup> The report shows that household tobacco expenditure increased steadily from 2000 to 2008. Economically better-off households spend more on tobacco but both poor and rich households alike show a growing trend in tobacco use between 2000 and 2008. This trend is partly due to smokers establishing their smoking addiction at a very young age with easy access to local tobacco products. The study did not reflect on the economic indicators used in the WHO FCTC reporting instrument

monitor tobacco sales, imports and exports in order to assess the size of the legal and illegal tobacco market.

With regard to the requirements of 20.4 to establish databases of laws and information from national surveillance programs, there is incomplete information on tobacco control laws on the Ministry of Health web site. Many links that might provide more information are not operative. There is also no database for other information such as tobacco prevalence, tobacco's morbidity and mortality burden, tobacco sales, or tobacco taxation rates and prices.

#### Gaps –

1. There is limited epidemiological surveillance of and research on tobacco consumption and related social, economic and health indicators, including data on tobacco sales.
2. There is a lack of evaluation studies on the effectiveness of interventions to reduce tobacco use prevalence and exposure.
3. There is limited research on the burden of disease and deaths caused by tobacco use and exposure to tobacco smoke, and no recent research on the economic costs of tobacco or on the costs and benefits of tobacco control measures.
4. There is no surveillance and research on the tobacco industry and its activities.
5. There is a lack of resources for monitoring, surveillance and research.

*It is therefore recommended that the Government of Jamaica: (i) ensure the regular and timely collection of data on tobacco use and exposure to tobacco smoke, including incorporation of questions related to tobacco use in national household surveys and other relevant surveys so that trends can be monitored<sup>1</sup>; (ii) conduct economic analysis of the costs of tobacco use, and of the costs and benefits of tobacco control measures, including analysis of price and income elasticity for consumption of tobacco products and expansion of research on the burden of tobacco-caused death and disease; (iii) conduct monitoring of and research on the tobacco industry and its activities; (iv) develop a surveillance system to monitor tobacco sales, imports and exports in order to assess the size of the legal and illegal tobacco market. All data collected by Customs should be registered in the STATIN database, and this data should be shared free of charge with the MoH and other relevant government departments.*

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

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

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

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<sup>1</sup> For the indicators suggested for incorporation in household surveys, please see the WHO FCTC Indicator Compendium, available at: <http://www.who.int/fctc/reporting/Compendium/>. For concrete questions concerning these indicators, please see the publication of WHO promoting a limited subset of standardized questions from the Global Adult Tobacco Survey, the tobacco questions for surveys (TQS), available at: <http://www.who.int/tobacco/publications/surveillance/tqs/>.

Jamaica has met its obligations under Article 21 by submitting reports in 2008 and 2014.

Gap – There is some incomplete or inaccurate data in the most recent report, for example reporting on tobacco prices.

*As the COP established a new two-year cycle of Parties' implementation reports starting from 2012 with a deadline of submission six months prior to each COP session, it is therefore recommended that the Government start the preparation of the next report well in advance in 2015/2016 to meet the deadline in 2016 and thereafter, and to ensure complete and accurate reports.*

*It is also recommended that the relevant Government departments contribute to the preparation of country reports by providing data as requested in the reporting instrument of the WHO FCTC in a timely manner.<sup>1</sup>*

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

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

Jamaica cooperates closely with and has received assistance from the PAHO/WHO country office and with PAHO/WHO Headquarters to implement tobacco control priorities.

Jamaica has also received technical support for the implementation of the Global Youth Tobacco Survey by the U.S. Centers for Disease Prevention and Control, as well as support for civil society from the Bloomberg Initiative as mentioned under Articles 5.6 and 26.3.

Jamaica contributed to the updating of the CARICOM Standards for labelling of tobacco products and has provided assistance to CARICOM countries through sharing of Jamaica's graphic health warnings and it has also championed the development of the action plan on non-communicable diseases of PAHO<sup>2</sup>.

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<sup>1</sup> One of the approaches found efficient in other countries is to coordinate with the government agencies and other stakeholders who have the necessary information to contribute with to the preparation of the national implementation report, for example through requesting initiation of data collection by such entities in a circular note sent by the Ministry of Health focal point and later, once data have been collected by the relevant entities, to organize a meeting for the finalization of the implementation report.

<sup>2</sup> Jamaica was one of the two countries in charge of the 2011 High-level Meeting on Non-communicable Diseases of UNGA. Details at <http://www.un.org/en/ga/president/65/issues/ncdiseases.shtml>

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

The current UNDAF (2012-2016) for Jamaica does not include implementation of the WHO FCTC.

The international team met with the UN Resident Coordinator, Deputy Resident Representative of UNDP, other members of the UN Country Team, and the Planning Institute of Jamaica (PIOJ), which is the lead government agency in Jamaica with regard to UNDAF.

Although there is strong cooperation between PAHO/WHO and the Ministry of Health on tobacco control, other UN agencies have not specifically cooperated with the Government on implementation of the WHO FCTC. The international team raised awareness regarding the whole-of-government response required by the Convention, and the role that could be played by the UN Resident Coordinator in strengthening collaboration between UN agencies in Jamaica on tobacco control, and the need for integration of WHO FCTC implementation in the UNDAF.

Jamaica's UNDAF is currently undergoing a mid-term review, providing an opportune moment to potentially elevate the status of NCDs - and tobacco control and WHO FCTC implementation in particular - within the UNDAF and to frame these issues as development issues. There is precedence in the UN in Jamaica to elevate NCDs during the process of a midterm review, as UNICEF has done.

Both the UN Resident Coordinator and PIOJ expressed support for integration of WHO FCTC implementation in Jamaica's UNDAF. This needs assessment report can be used to inform this process.

Gaps –

1. Supporting implementation of the Convention has not been highlighted as a priority in the current UNDAF.
2. UN agencies other than PAHO/WHO have not actively collaborated with the Government of Jamaica to support implementation of the Convention.

***It is therefore recommended that: (i) the Ministry of Health advise PIOJ on relevant areas to be integrated into the UNDAF; (ii) the Ministry of Health and PIOJ, with PAHO/WHO support, follow up with the UNRC to ensure that supporting implementation of the Convention is included in the next UNDAF, and if possible***

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<sup>1</sup> See FCTC/COP4/REC/1, *Decisions and ancillary documents*, available at: [http://apps.who.int/gb/fctc/E/E\\_cop4.htm](http://apps.who.int/gb/fctc/E/E_cop4.htm).

*incorporated into the current UNDAF as part of the midterm review process; (iii) PAHO/WHO work with the UNRC in integrating tobacco and other development-related aspects of the PAHO/WHO programme into the UNDAF; (iv) the UNRC, with PAHO/WHO support, facilitate the establishment of regular meetings and information sessions between the Ministry of Health and the UN Country Team; and (v) UNCT make tobacco control and the WHO FCTC a standing agenda item for the UN country team or a working group of the UNCT.*

*It is further recommended that the Government of Jamaica actively seek opportunities to cooperate with other Parties, competent international organizations and development partners present in the country to support implementation of the Convention.*

### **Financial resources (Article 26)**

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

The Ministry of Health has funded “one-off” tobacco control activities when possible, but does not have sustainable funding or financing mechanisms for tobacco control.

The National Health Fund contributes to providing funding for tobacco control activities. The Fund was established in 2003 with the aim to reduce the burden of disease in Jamaica. It does so, among others, through funding health promotion and protection programmes and providing utilization of primary health care to improve the quality of life of the Island’s population.

The resources for the Fund originate from a 20% of a Special Consumption Tax (SCT) that is imposed on the importation of all tobacco related products, a 1% Payroll Tax collected by the National Insurance Fund, and 5% of a Special Consumption Tax (SCT) that is imposed on the importation of tobacco and tobacco products, petrol, alcohol, and motor vehicles.

Recently, the Fund sponsored several projects of the Ministry of Health to support the ban of smoking in public spaces. 15 million J\$ were used to develop and place advertisements in electronic and print media, print flyers and “No Smoking” signs, posters and brochures, t-shirts and implement awareness raising sessions.

### **Gaps**

1. The funding allocated by the Ministry of Health is not sufficient to fully implement the Convention.
2. Other relevant ministries that have obligations to implement the Convention have not allocated staff time and budget to implementation of the Convention.
3. Neither Government nor civil society organizations have adequate funding or sustainable financing mechanisms for tobacco control activities and implementation of the Convention.

*It is therefore recommended that the Government, in collaboration with civil society, explore options for sustainable financing mechanisms to support implementation of the Convention, including additional staff time dedicated to tobacco control. Options include:*

- 1. Increasing tobacco taxes and allocating a portion of the increased revenues to support implementation of the Convention.*
- 2. Increasing the proportion of tobacco taxes allocated to the National Health Fund and, once collected, increasing the proportion of these funds allocated to tobacco control.*
- 3. Using funds from the fines collected through application of the 2013 Regulations and through future comprehensive tobacco control legislation for funding tobacco control through the Ministry of Health.*
- 4. Using licensing fees for manufacturers, importers and sellers to fund tobacco control.*

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

Civil society organizations in Jamaica have sought and received funding from international organizations including the Bloomberg Initiative to Reduce Tobacco Use. However, other than through WHO, the Ministry of Health has not successfully raised resources to implement the WHO FCTC.

The international team met with and sensitized the representatives of the European Commission and of the Inter-American Development Bank regarding the process and goals of the mission and the expected report. It has been agreed that, based on the needs assessment report, follow up meetings will be held to discuss funding needs and opportunities.

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

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

Article 26.3 specifically points out that “*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 –



1. The Government has not to date promoted such projects particularly for tobacco growers. Crop diversification in general is promoted, but without a set budget or written policy. Alternative crops have not been evaluated for potential profitability.

***It is therefore recommended that the Government of Jamaica strengthen its efforts to implement obligations under Article 26.3 of the Convention.***

Article 26.4 stipulates that “Parties represented in relevant regional and international intergovernmental organizations, and financial and development institutions shall encourage these entities to provide financial assistance for developing country Parties and for Parties with economies in transition to assist them in meeting their obligations under the Convention, without limiting the rights of participation within these organizations”.

Gap – Other than WHO, Jamaica has not to date been successful in mobilizing financial assistance from other Parties, regional and international organizations and financial and development partners that are able to provide aid to developing countries (including Jamaica) in meeting their obligations under the Convention.

***It is therefore recommended that Jamaica utilize the potential of Article 26.4 to advocate for moving the Convention higher up on the international development agenda. It is also recommended that other ministries, such as the Ministries of Finance and Planning (including Customs), Justice, Agriculture and Fisheries, Youth and Culture and Education, representing Jamaica in other regional and global forums, also proactively urge regional and international organizations and financial institutions to provide financial assistance to developing countries with regard to supporting them in implementation of the Convention.***

## ANNEX

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

#### Ministry of Health Team

Hon. Dr. Fenton Ferguson, Minister of Health  
Dr. Jean Dixon, Permanent Secretary  
Dr. Kevin Harvey, Chief Medical Officer  
Ms. Sheryl Dennis, Legal Officer  
Dr. Tamu Davidson-Sadler, Acting Director, Chronic Diseases and Injuries Prevention and NCD Focal Point  
Mr. Adrian Booth, Programme Development Officer – South East Regional Health Authority (SERHA)  
Dr. Eva Lewis Fuller, Advisor to the Minister  
Ms. Stephanie Shaw-Smith, Communications Manager  
Dr. Sonia Copeland, Director, Health Promotion and Protection Branch  
Mr. Everton W. Anderson, CEO, National Health Fund  
Mr. Ron Page, Programme Development Officer  
Ms. Daisylyn Chin, Biostatistician, Epidemiological Research and Data Analysis Unit  
Ms. Takese Foga, Director, Health Promotion and Education  
Ms. Tazhmoye Crawford, Policy, Planning and Development Division  
Ms. Maureen Irons-Morgan, Director Mental Health and Substance Abuse Unit

#### Participating Government agencies

Ministry of Health, including  
National Council on Drug Abuse  
Regional Health Authorities  
National Health Fund

Ministry of Agriculture and Fisheries, including  
Rural Agricultural Development Authority

Ministry of Education

Ministry of Finance and Planning, including:  
Jamaica Customs Agency  
Planning Institute of Jamaica

Ministry of Foreign Affairs and Foreign Trade

Ministry of Industry, Investment and Commerce, including:  
Bureau of Standards Jamaica  
Jamaica Intellectual Property Office  
Consumer Affairs Commission  
Fair Trading Commission

Ministry of Justice, including  
Attorney General  
Office of the Chief Parliamentary Counsel  
Legal Reform Department  
Office of the Director of Public Prosecutions

Ministry of National Security, including  
The Jamaica Constabulary Force  
The Jamaica Defence Force

Ministry of Youth and Culture, including:  
Child Development Agency  
National Centre for Youth Development  
National Youth Service  
Office of the Children's Registry

Office of the Prime Minister, including:  
Broadcasting Commission of Jamaica, Public Broadcasting Corporation,  
Institute of Sports, Independence Parks Limited, Jamaica Anti-Doping  
Commission, Jamaica Information Service, Social Development Commission,  
Jamaica Social Investment Fund, National Housing Trust, Sports Development  
Foundation, Women's Centre of Jamaica

Office of the Children's Advocate

Planning Institute of Jamaica

### Ministers

Hon. Dr. Fenton Ferguson, Minister of Health, Senator  
Hon. Mark Golding, Minister of Justice  
Hon. Derrick Kellier, M.P. - Minister of Labour and Social Security, Agriculture and  
Fisheries  
Hon. Dr. Wykeham McNeill, Minister of Tourism and Entertainment  
Hon. Dr. Peter Phillips, Minister of Finance and Planning  
Hon. Horace Dalley, Minister without Portfolio in the Ministry of Finance and Planning  
Hon. Rev. Ronald Thwaites, Minister of Education  
Hon. Mr. Luther Buchanan, Minister of State for Primary Care Infrastructure, Ministry of  
Health

### Convention Secretariat

Dr. Tibor Szilagyi  
Ms. Ulrike Schwerdtfeger  
Ms. Heather Selin, Temporary Advisor

### WHO

Ms. Anne-Marie Perucic, Prevention of Noncommunicable Diseases  
Dr. Carlos Santos-Burgoa, PAHO/WHO Headquarters

Ms. Margareta Sköld, PAHO/WHO Representative, Jamaica  
Dr. Taraleen Malcolm, Tobacco Control Focal Point, PAHO/WHO Jamaica

UNDP

Mr. Brian Lutz, Policy Specialist: AIDS and MDGs, HIV, Health and Development Practice

Other UN Organizations and International Bodies

UN Resident Coordinator  
European Union  
Inter-American Development Bank  
UNICEF

Nongovernmental organizations

Jamaica Cancer Society

Heart Foundation of Jamaica  
Jamaica Coalition for Tobacco Control

Diabetes Association of Jamaica  
Medical Association of Jamaica  
Nurses Association of Jamaica