SUMMARY AND RECOMMENDATIONS

The regional meeting for South-east Asia on implementation of the WHO FCTC has taken place from 23-26 July 2013 in New Delhi, India. Ten countries from the WHO South-East Asia Region, including nine Parties and one State non-Party (Indonesia) participated in the meeting. The meeting was organized by the Secretariat of the WHO FCTC, in cooperation with the Ministry of Health and Family Welfare of India, the host of the meeting. Among inter-governmental partners, the International Agency for Research on Cancer (IARC), United Nation’s Development Programme (UNDP), United Nations Office on Drugs and Crime (UNODC), World Bank, UNCTAD (via video conference) and World Customs Organization (WCO) participated. Framework Convention Alliance and World Lung Foundation representing civil society organizations also participated in the meeting. The meeting was convened in cooperation with the WHO Regional Office for South-East Asia.

The aim of the meeting was to discuss and promote implementation of the Convention in the Region. The meeting also provided an opportunity to promote the signature and ratification of the Protocol to Eliminate Illicit Trade in Tobacco Products, adopted by the fifth session of the Conference of the Parties (12–17 November 2012, Seoul, Republic of Korea). The meeting was convened in line with the workplan adopted by the COP and was financially supported under the European Union grant to promote implementation of the Convention.

The meeting started with updates of treaty work, including decisions taken by the COP at its fifth session, treaty instruments available to support implementation, and the general status of and recent developments in implementation of the Convention in the Region. Participants then discussed the Protocol to Eliminate Illicit Trade in Tobacco Products including the status and procedures of signature and ratification, while WCO and UNODC provided information on their respective areas of expertise in relation to the Protocol. This was followed by presentations and a discussion on achievements and challenges in implementing time-bound provisions of the Convention – namely those under Articles 11 and 13 and recommendations contained in guidelines of Article 8. In addition, other articles with overarching impact, in particular Article 5 concerning general obligations and Article 12 concerning education, communication, training and public awareness were also discussed. Resources and mechanisms of assistance and the role of intergovernmental organizations and development partners to promote implementation of the Convention
were also presented and discussed. The meeting deliberated upon challenges related to use of smokeless tobacco and discussed a draft discussion paper on challenges and policy options, effective responses and way forward to tackle this important issue in the Region. Finally, other priority areas, such as electronic cigarettes and hookah, were also discussed.

The meeting participants agreed on the following, with a view to further promoting implementation of the Convention:

**MAIN ISSUES DISCUSSED AND OUTCOMES**

**A. General recommendations/suggestions from the Parties and updates on implementation experiences: achievements and challenges**

- All countries in the WHO South-East Asia Region (SEAR) except Timor-Leste have tobacco control legislation in place. Various regulations are being enforced and countries face legal challenges, including litigation, with the tobacco industry. Countries are encouraged to share with the Secretariat, bilaterally or through the Bureau member representing the Region their experiences, in particular relevant judgments, in order to facilitate access to such information among countries in the region and beyond.
- Many countries shared the fact that enforcement of tobacco control laws is weak due to:
  - lack of resources, capacity and dedicated funds;
  - lack of a national coordination mechanism or the mechanism is not streamlined/not functional, as required under Article 5.2.
- All countries have national tobacco control focal points, a limited number of dedicated staff, but are facing budgetary constraints.
- Multisectoral collaboration needs to be further strengthened, including by the establishment of appropriate policy coordination mechanisms.
- Parties are reminded that the WHO FCTC provides for the implementation of measures beyond the specific requirements of the Convention in Article 2.1: “Parties are encouraged to implement measures beyond those required by the Convention and its protocols…”

**B. Protocol to Eliminate Illicit Trade in Tobacco Products**

- Illicit trade in tobacco products affects all Parties. The Protocol will provide the basis for international cooperation to counteract fight illicit trade. It is not yet in force and efforts should be made to sign and ratify it.
- One WHO FCTC Party from SEAR (Myanmar) has signed the Protocol. Other Parties in the Region are in the process of preparing for signature. Parties are invited to engage all relevant agencies, including the country and regional offices of WHO, in advocating for signature and ratification of the Protocol.
- A study on the basic requirements of the tracking and tracing regime and the global information sharing focal point under Article 8 of the Protocol was requested by the COP. It is meant to facilitate discussions of the track and trace regime at the first session of the Meeting of the Parties to the Protocol. The study will be available to Parties in September 2014. It was requested that the study should contain some pros and cons of the different options set out in the study in order to facilitate discussions.
- It was also noted that internal discussions in governments were difficult because of many pending questions regarding implementation of the obligations of the Protocol and what cost implications they would have.
• The **draft “self-assessment checklist”**, also requested by the COP, was distributed to delegations for their comments. The checklist can be used by WHO FCTC Parties in assessing their legal and regulatory status vis-à-vis the Protocol obligations while ratifying and implementing the Protocol.

• Countries should utilize the self-assessment checklist to assess their legal and policy framework and their needs.

• Cooperation with the WCO and UNODC is specifically mentioned in the Protocol.

• The **WCO** representative pointed out that customs agencies/authorities already play an important role in the fight against illicit trade in tobacco products. WCO encouraged representatives of Ministries of Health to reach out to their Customs services from a very early stage in order to find synergies aiming towards a successful implementation of the Protocol. WCO was requested by the Secretariat to raise awareness of the Protocol among its members.

• The representative of **UNODC** referred to similarities between the Protocol and the United Nations Convention against Transnational Organized Crime (UNTOC), in particular in international cooperation in criminal justice matters. UNODC has developed a number of tools to assist UNTOC Parties in implementing UNTOC, such as the mutual legal assistance request writer tool. However, the representative pointed out UNODC’s very limited capacity to provide any Protocol-specific assistance.

• In addition to being a legal instrument in public health, the Protocol would support governments to collect lost revenue and to counteract organized crime.

• Parties are encouraged to sign the Protocol by 9 January 2014, and to ratify subsequently as soon as possible. The **United Nations Treaty Event**, held from 24–26 September and 30 September – 1 October 2013 at the United Nations Headquarters in New York, will provide a good opportunity to do so and should be utilized as much as possible.

• Information about raising awareness and promoting entry into force is updated through **webinars**, regional WHO FCTC workshops, technical and legal advice. It was suggested that information about signature and ratification procedures as well as the entry into force of the Protocol should be communicated to the Parties’ national focal points.

• Officials from departments of customs, revenue and law enforcement should be informed of the provisions of the Protocol. Online sensitization training programmes for these officials and other relevant representatives should be conducted through the Convention Secretariat.

• WCO and UNODC should be engaged intensively.

• Parties that have already signed or ratified the Protocol (or are likely to ratify in the future) – Myanmar in SEAR – should share their experiences with regard to the procedural and other strategies undertaken.

• The Secretariat is requested to assist countries that have signed the Protocol in assessing the legal and cost implications of ratifying the Protocol.

### C. Time-bound and other provisions of the WHO FCTC

**Overall:**

Parties agreed that while it was important to enact or amend legislation and regulations in line with obligations under the WHO FCTC, enforcement remains a significant challenge and it was proposed that the next regional meeting should include a component to discuss enforcement.

The strong lobbying by and interference of the tobacco industry is another challenge for most Parties in the Region.

A particular concern for many Parties is the use of smokeless tobacco.
Article 8:

- There are Parties in the Region that have implemented 100% smoke-free areas.
- Nepal has taken a step further and banned smoking in private residences and private vehicles.
- In most Parties, the enforcement of existing bans is a challenge, including bans on sales close to schools.
- Challenges in implementing smoke-free measures:
  - enforcement of existing laws and regulations;
  - interference of the tobacco industry throughout the process and limited experience and capacity in dealing with industry interference;
  - ensuring that all relevant government agencies are actively involved in implementation and enforcement;
  - creating 100% smoke-free places to be fully compliant with the WHO FCTC.

Article 11:

- Three Parties in the Region have adopted legislation/regulation on large pictorial health warnings and are facing legal challenges brought by the tobacco industry. These countries (and the size of the warnings) are:
  - Thailand (85%);
  - Nepal (75%); and
  - Sri Lanka (80%).
- In India, a public debate on plain packaging has begun with introduction of a private member’s bill in Parliament. Until such a measure can be implemented, it would be desirable that larger health warnings be introduced.
- A particular challenge in adopting large health warnings is the frequent claim by the tobacco industry that the WHO FCTC only refers to health warnings that should be “no less than 30% of the principal display area” (Art. 11.1(b)(iv)). Counterarguments: Article 2.1 (“Parties are encouraged to implement measures beyond those required by this Convention…”) and the guidelines on Article 11, which were adopted by a consensus decision of the COP.
- Many of the arguments made by the tobacco industry are identical and have been made in other disputes – Parties can contact the Secretariat for further information.
- Countries should adopt large graphic health warnings as a matter of priority.
- Parties are invited to utilize the databases of pictorial warnings maintained by WHO as well the resources provided by the World Lung Foundation.

Article 12:

- The public should be informed and educated on the importance of tobacco control to build support for tobacco control policies and achieve behavioural change. Countries should make provision for communication campaigns to be undertaken immediately and allocate free air time for this purpose in the longer term for advocacy and communication.
- Advocacy and media campaigns used in other Parties can be adapted to country-specific requirements and used – this is more cost-efficient than developing a campaign from scratch.
- More coordination is needed with the responsible government agencies in charge of communication, media and education. These agencies should have equal responsibilities in effective implementation Article 12.
- Health professionals at all levels, particularly at primary health level, should be trained adequately on effective tobacco control measures and skills to provide brief cessation advice. Countries may also develop national guidelines.
• Efforts should be made to encourage health workers and enforcement officials not to smoke or use tobacco products.
• The campaign “Voice of Tobacco Victims” from India was presented and some patients shared their personal stories with the participants. Countries took note of this particular form of advocacy.
• The WHO and the World Lung Foundation are available for assistance in Article 12 related matters.

**Article 13:**

• A total ban of all tobacco advertising, promotion and sponsorship (TAPS) is the only effective approach.
• Countries should include cross-border advertising in their bans. It was noted that implementation of cross-border regulations was challenging.
• The ban should apply to ALL tobacco products.
• Some Parties completely banned all forms of TAPS, but have difficulties in enforcing the ban.
• Several Parties reported problems with regulating or enforcing regulations on indirect advertising, for example, brand-stretching and brand sharing. Countries are encouraged to identify the inconsistencies or loopholes in laws and procedures to effectively address this issue.
• It was noted that the recommendations made by the expert group on cross-border advertising, especially with regard to a reporting mechanism via a web site, should also be taken into account.
• A number of Parties still have advertising (direct and indirect) at points of sale. “Corporate social responsibility” activities have not been totally banned or relevant regulations have not been effectively enforced in some Parties in the Region. The Parties in question are encouraged to take effective legal and other measures to ban or control such advertising.
• India has applied regulations on the display and use of tobacco products in films and televisions programmes (Tobacco Free Movie Rules, 2012). Countries are encouraged to follow this example.
• Countries are invited to note that there are best practices for the implementation of Article 13 in the Region as mentioned later in this document.

D. **Smokeless tobacco (SLT)**

• SLT poses serious public health problems in most countries in the Region due to high prevalence of use, the wide diversity of products, the social acceptance of its use, and lack of awareness of its adverse health consequences.
• The Region shall call on the COP to give due attention to SLT use as an integral component of the WHO FCTC, include it on the agenda of the sixth session of the COP and ensure that sufficient time is allocated so that it can be discussed properly, research gaps identified and strong decisions adopted, with a possibility of developing guidelines for prevention and control of SLT.
• Countries should introduce and implement strong legislation and regulations to control SLT, including but not limited to specific pictorial health warnings for SLT, if not yet done so.
• Countries, wherever applicable, should intensify education, communication and awareness campaigns to inform the public, policy-makers, legislators and health workers about the harmful effect of SLT use.
• Countries, wherever applicable, should ban any new types of SLT products and increase the real prices (inflation adjusted) of SLT products with a view to bringing them to levels comparable with those of cigarettes through effective taxation measures.
• Policies already in force in some countries to protect youth may be extended to all countries: these are to implement a ban on sales within a specified distance from schools and to include photos (e.g. of mouth cancer) on signboards at points of sale that notify the public of the ban on sales to minors.
• Parties should ban the use of plastic for packaging of SLT products.
• Thailand has banned the manufacture, import and sale of SLT products. Countries where SLT products are not yet established shall consider following the example of Thailand.
• India, through its food safety laws, has banned use of tobacco or nicotine as ingredients in any food products, thus banning the manufacture, sale and storage of some forms of SLT products considered as food products.

E. Electronic Nicotine Delivery Systems (ENDS), including e-cigarettes

Countries in the Region recognize the adverse impact of ENDS on human health that sustain and perpetuate nicotine addiction and resolve to take appropriate legislative, administrative and regulatory action/measures in line with obligations under Article 5.2(b) of the WHO FCTC, to prevent and reduce nicotine addiction, including through the banning of ENDS.

F. Hookah/water pipes

Countries in the Region strongly discourage the proliferation of use of water pipes (hookah) and agree to take appropriate legislative, administrative and regulatory measures to prevent their use. Countries are encouraged to share evidence and information about their experiences with other countries in the Region.

G. Overall implementation matters as well as the resources and mechanisms of assistance

• All governments in the Region should take effective measures to comprehensively implement the Convention.
• Indonesia is encouraged to accede to the Convention as soon as possible.
• Tobacco control policies should be incorporated into development and poverty reduction strategies, policies and programmes as part of national health and development priorities as well as programmes on the prevention and control of noncommunicable diseases (NCDs). National tobacco control action plans/policies should be developed on the basis of the needs identified and tobacco/disease/poverty surveillance and interlinkages.
• A multisectoral coordination mechanism at national level (including for the United Nations response) should be developed, preferably including consumer bodies, human rights groups and Ministry of Trade and Commerce, to enable the Parties in the Region to meet multisectoral challenges related to implementation of the Convention. Countries call for the United Nations Country Teams to support the inclusion of implementation of the Convention in the United Nations Development Assistance Frameworks (UNDAFs). Countries should include WHO FCTC implementation in their bilateral cooperation with international agencies, such as WHO, IARC, the World Bank, UNDP, UNCTAD, UNICEF, UNFPA, FAO and other relevant development partners and bilateral donors.
• The international community should increase technical, legal, financial, and other forms of assistance and cooperation to help Parties to introduce effective tobacco control policies, and to support tobacco-growing countries in the transition to economically viable alternative crops and livelihoods and in integrating concrete programming activities at country level.
• It was noted that NCDs had not been included in the Millennium Development Goals. Therefore, specific indicators on tobacco use should be included in the post-2015 development agenda. Countries should be encouraged to advocate for such an inclusion in the global consultation process. The WHO FCTC as a unique legal instrument can
serve as a strong resource for profiling public health in the post-2015 development agenda.

H. Regional good/best practices for implementation:

- healthy lifestyle approach;
- engaging religious leaders;
- introducing a “sin tax”;
- large pictorial health warnings;
- inclusion of violations of tobacco control measures in monthly crime reviews;
- reporting system for schools for violation of pertinent regulations;
- at points of sale – display a sign reading “no sale to minors” with pictorial health warnings;
- voice of victims campaigns;
- examples of innovative enforcement mechanisms: mobile courts for enforcement of tobacco control measures (example: Bangladesh) and on-the-spot fines (example: India);
- regulation of displays of tobacco use in films and TV programmes (example: India).

I. Steps to be taken by the Convention Secretariat and international development partners to facilitate implementation of the Convention

Parties in the Region took note of report of the Secretary-General (E/2013/61) and the ECOSOC decision on the growing interagency contribution to mechanisms of assistance under the Convention and noted the potential of the United Nations system as a resource available to Parties to support implementation of the Convention. Parties encourage continued engagement of the Convention Secretariat in the work of the United Nations Inter Agency Task Force on Tobacco Control on NCDs particularly in the area of Tobacco Control.

The Convention Secretariat will:

- facilitate and/or provide technical inputs to Parties, upon request, to meet their obligations under the Convention. Such assistance will be provided in cooperation with WHO, international development partners, and civil society organizations such as the World Lung Foundation, Framework Convention Alliance and, where appropriate, other relevant organizations;
- upon request, through joint needs assessment missions, assist Parties in identifying specific gaps and challenges related to lack of expertise and resources and in meeting the identified gaps and needs towards comprehensive implementation of the Convention;
- facilitate the granting of permission/licences to use pictorial health warnings, upon request from Parties;
- liaise with development partners, such as IARC, UNDP, UNCTAD and the World Bank to facilitate provision of multisectoral expertise to Parties;
- publish best practices from the Region with a view to promoting intercountry exchange of information and expertise and mutual assistance to Parties as outlined, in particular, in Articles 22 and 26 of the Convention;
- Publish a regional paper on SLT products, based on the presented discussion paper and the outcome of the debate of the meeting, as well as to promote cooperation between the Parties including through South-South cooperation in this important area for the region;
- provide necessary technical assistance to Parties in complying with their reporting obligations under the Convention.
The Secretariat shall further coordinate and facilitate technical assistance and provision of expertise from intergovernmental partners, in particular in the following areas:

**UNDP:**

- capacity building in strengthening national multisectoral coordination mechanisms;
- technical assistance relating to integration of implementation of the Convention into national development and health policies and programmes and the UNDAFs at country level;
- support to national efforts to reduce the influence of the tobacco industry in accordance with Article 5.3 of the Convention.

**The World Bank:**

The World Bank can support tobacco control measures on the basis of governments’ formal demands through appropriate channels. This support can be provided by means of several instruments and tools. Examples include:

- technical advice and financial resources for tobacco control activities in general, and especially tobacco taxes, through grants/credits for health investment projects or Sector-Wide Approaches;
- technical assistance linked to or independent of World Bank grants/credits, to prepare and support arguments for policy dialogue on tobacco taxes, including the following areas: impact on poor tobacco-consuming households, health and economic costs, tobacco farmers and producers, industry reaction to tax reform, illicit trade in tobacco products, fiscal space/revenue allocation created by increased tobacco tax;
- technical advice and financial resources for interventions to support alternative livelihoods of tobacco farmers, through credits/loans to finance agricultural projects. Examples of activities generally financed include research, design, piloting and implementation of alternative livelihoods interventions;
- technical advice and financial resources for poverty and household expenditure surveys, and research in the area of tobacco and poverty. The Bank also supports poverty and social impact analysis prior to and after the introduction of national policies and reforms, including tobacco tax increases;
- budget support to national budgets promoting policies and reforms in any area including tobacco control measures, as well as limited financial resources to promote South-South cooperation through the “South-South Cooperation Trust Fund”.

**UNCTAD:**

- technical assistance to Parties, upon request, in the area of crop diversification, including through analysis of the value chain of tobacco to help Parties identify suitable economically viable alternatives to tobacco growing;
- technical input and advice to Parties in the areas of trade policy and bilateral trade agreements to help insulate against further challenges by the tobacco industry under bilateral investment agreements;
- provision of technical expertise related to TRIPS, Technical Barriers to Trade agreements and issues of trademarks, and of tobacco trade-related data for policy inputs related to taxation and trade policy development.

**International Agency for Research on Cancer (IARC):**
Potential projects employing IARC’s expertise in the advancement of WHO FCTC implementation in the Region under South-South and Triangular Cooperation in accordance with the decision taken by the COP at its fifth session on SLT and as follow-up to the Regional meeting.

**Analysis of prevalence of tobacco use**

A detailed analysis of the current status of tobacco use by type of tobacco, including the varieties of SLT by country, within countries (particularly within India), by gender, age group and ethnicity. The results will provide a rationale as to where implementation efforts should be focused. At the same time they will serve as a baseline to assess progress of WHO FCTC implementation in terms of reduced tobacco use.

**Age- and cohort-specific analysis of trends of oral and lung cancer incidence**

IARC supports cancer registries globally, and collects and analyses cancer incidence and mortality data. Given the specific scenario of tobacco use patterns and trends in SEAR, lung cancer rates can be used as an indicator of tobacco smoking-related adverse health effects and oral cancer rates as an indicator of tobacco chewing-related adverse health effects. A trend analysis of existing registry data for the past decades of lung and oral cancer rates by country, within countries (particularly within India), by gender, age group and ethnicity will provide an estimate of the tobacco habit-specific burden of adverse health effects, also reflecting use patterns in the past by tobacco types and by groups. At the same time the results will serve as a baseline to assess progress of WHO FCTC implementation in terms of reduced cancer burden.

**Evaluation of effectiveness of interventions offered by tobacco cessation clinics**

Different interventions are employed to increase cessation rates of tobacco smoking and there are now a sizeable number of smokers who have permanently stopped tobacco smoking. The IARC Monograph Volume 83 and the IARC Handbook of Cancer Prevention synthesized the evidence on risk reversal after smoking cessation. With regard to SLT the evidence base on successful intervention strategies for chewing cessation is much weaker and there are almost no data on risk reversal after chewing cessation. As a starting point, a systematic analysis of the experience of the Indian cessation clinics would inform a science-based strategy for successful programmes for chewing cessation. This project would need some preliminary assessment of data availability, data quality and overall feasibility of the project. As a follow-up, the risk reversal after chewing cessation could be studied.

**J. Assistance by civil society**

Assistance was also presented and offered by civil society organizations. The World Lung Foundation, for example, indicated that it could assist Parties in developing Regional and country-specific communication campaigns for print and electronic media and effective communication and evaluation strategies, in line with Article 12 and its guidelines; and, in particular, in developing a Region-specific repertoire of pictorial warnings that are pre-tested, including the provision of necessary technical assistance to help launch such warnings. The Framework Convention Alliance indicated that they would be providing support to Parties for inclusion of implementation of the WHO FCTC in UNDAFs.