

Framework Convention on Tobacco Control Implementation Challenges in Armenia

Civil Society Report

2005-2010



This report presents the results of implementation of the World Health Organization's Framework Convention on Tobacco Control (FCTC) in Armenia during the first five years since its enactment in 2005.

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“The success of the WHO FCTC as a tool for public health will depend on the energy and political commitment that we devote to implementing it in countries in the coming years”

WHO Director General, late Dr LEE Jong-wook

1 Summary

According to experts' estimations, 70% of tobacco-caused mortality will be located in the countries with low or average income by the year 2030. Armenia has one of the highest male smoking rates in Europe and high rates of tobacco-related diseases and deaths.

Armenia was the first post-soviet country to accede the Framework Convention on Tobacco Control (FCTC) developed under the auspices of World Health Organization (WHO). As a party to the FCTC, Armenia duly paid its biennial voluntary assessed contributions (VACs) in 2005-2010. It also established a national coordinating mechanism, as required by the FCTC Article 5.

This report attempts to provide an independent assessment of the results of five years of FCTC implementation in Armenia (2005-2010), focusing specifically on the FCTC Articles 8, 11 and 13. A number of gaps related to the implementation of these Articles exist in Armenia. Legislation amendments are urgently required to harmonize the national legislation with the WHO FCTC. Article 8 of FCTC states, for example, that a universal and complete protection of employees from exposure to secondhand smoke shall be guaranteed by the law. This concerns all categories of indoor worksites, including dining and leisure facilities. However, under the national legislation, no such protection is afforded to employees. Additionally, under Article 13 of the Convention, the country shall undertake a comprehensive ban on tobacco advertising, promotion and sponsorship within 5 years of coming into force; however, only partial ban was implemented under national legislation.

Finally, although the national legislation meets minimal requirements identified by Article 11 of the FCTC, this does not reflect international best practices and is inadequate for challenging the high smoking rates in the country.

Collating the provisions of the national legislation with the FCTC implementation guidelines, this report provides specific recommendations for filling the existing gaps.

2 Introduction

The tobacco epidemic is a major global public health challenge. While tobacco consumption has been declining in high-income countries, the expansion of multinational tobacco companies to emerging markets has resulted in the rise of tobacco epidemics in developing countries, as well as in formerly socialist countries in Eastern Europe [1,2]. According to experts' estimations, 70% of tobacco-caused mortality will be located in the countries with low or average income by the year 2030 [1].

Armenia has one of the highest male smoking rates in Europe. According to the National Survey on the drug, alcohol use and smoking prevalence of the adult population of Armenia, 59.6% of men and 2.1% of women were smokers in Armenia in 2005 [3]. The alarmingly high male smoking rate results in excessive premature mortality. Experts' estimations showed that about 17 years of life is lost prematurely per smoker in Armenia [4,5]. Furthermore, the exposure to tobacco smoke is widespread in Armenia. Near 80% of 13-15yrs respondents of 2009 Global Youth Tobacco Survey in Armenia reported being exposed to tobacco smoke in public places [6].

The Framework Convention on Tobacco Control (FCTC) was developed under the auspices of the World Health Organization (WHO) to respond to the problem of the globalization of tobacco consumption and “to protect the present and future generations from the devastating health, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented by the Parties” [7].

3 Effectiveness of International Agreements

As Thomas Hobbes noted more than 300 years ago, “covenants without the sword are but words.” However, studies of the effectiveness of international agreements suggest that they help to change States' behavior in a positive way, even in the absence of traditional means of enforcement such as sanctions. The treaty implementation is a process by which “intent gets translated into action” [8]. This implies both international action, such as further development and governing of the treaty, as well as national action, such as national legislation, administrative rule making, and adjudication to ensure compliance with the treaty.

Treaties have different functions and cannot all be assessed using the same standard. Thus, regulatory treaties seek to change the behavior of their regulatory target (for example, states, businesses, or individuals), while framework conventions seek to establish a general framework of governance for an issue area, and to facilitate the development of regulatory protocols, while aspirational conventions seek to change basic attitudes about what is acceptable and unacceptable [8,9].

The WHO FCTC is the first global public health treaty and has features of all these functions. While putting member States under significant “moral pressure,” expressing the concern of the international community about the production, sale, trade and use of tobacco, the treaty establishes a framework for further action by establishing basic institutions and decision-making mechanisms. Importantly, the WHO FCTC is a regulatory and binding treaty, i.e. it requires the states to change behavior, for example, by requiring the banning of tobacco advertising or creating smoke-free environments [8].

The FCTC helps better to understand the country's own interests and empowers stakeholders within each member country that support the treaty's objectives. The compliance with the treaty is not coerced; it is encouraged [8,9]. It can be enhanced through the process of mutual consultation and analysis, by promoting transparency and building national capacity for effective tobacco control, for example, through the provision of technical and economic assistance. Finally, civil society has a critical role in promoting transparency for the successful FCTC implementation, both globally and within countries.

4 Armenia and WHO FCTC

Armenia acceded to the WHO FCTC on November 29, 2004, thus becoming the first NIS country to become a party to the FCTC [10]. The binding obligations imposed by the FCTC, which as an international treaty takes precedence over the domestic legislation, triggered the rapid development of national tobacco control legislation¹. On December 24, 2004, the National Assembly of RA adopted the RA Law “On Restrictions of Tobacco Sale, Consumption and Use.” The law banned smoking in health,

1. The international treaties prevail over the national legislation as defined by the Constitution of RA.

educational, and cultural institutions and public transport. It also restricted smoking in all other public buildings with the exception of cafes and restaurants [11,12].

The Article 5 of the FCTC stipulates that each Party to the Convention “shall 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.”

As required by the FCTC Article 21, Armenia has submitted two reports on the implementation of the treaty to the WHO FCTC Secretariat: the first report in 2007 (2005-2007) and the second report in 2010 (2005-2010) [11].

Armenia has duly paid its biennial voluntary assessed contributions (VACs)² in 2005-2010 [13]. The country also established a national coordinating mechanism, as required by the FCTC Article 5. 2a. The Coordinating Committee on Actions Against Smoking was established by the Ministerial Decree N1865-A on 19 November 2010. The Coordinating Committee included representatives of several government ministries, as well as academic community and non-governmental organizations.

According to the timetable of the FCTC implementation, the following FCTC provisions should have been in place in Armenia by 2010, i.e. in five years after the FCTC entry into force for the country:

- Effective protection of public from exposure to tobacco smoke,
- Larger and meaningful health warnings on tobacco products,
- Comprehensive ban of tobacco advertisement, promotion and sponsorship.

Therefore, this report will focus on the following corresponding articles of the Framework Convention on Tobacco Control: (a) Article 8: Protection from exposure to tobacco smoke; (b) Article 11: Packaging and labeling of tobacco products; and (c) Article 13: Tobacco advertising, promotion and sponsorship.

5 Study Goals and Objectives

The goals of this report are to provide an independent assessment of the results of five years of FCTC implementation in Armenia (2005-2010), highlight achievements and challenges in this area, and make recommendations to civil society organizations and policymakers for future action.

This report is a desk review project that includes: (a) comparative analysis of Articles 8, 11, 13 of the WHO FCTC and the domestic legislation on tobacco control, and (b) analysis of tobacco control policy implementation monitoring data collected by civil society organizations.

Objective 1: To document level of internalization of the FCTC Articles 8, 11, 13 in the domestic legislation through comparative analysis of the national regulatory acts and the FCTC guidelines.

Objective 2: To document the level of compliance with the national policies related to the Articles 8, 11, 13 through analysis of the civil society monitoring data.

Objective 3: Make recommendations for further harmonization of the national tobacco control policy with the WHO FCTC and identify priority actions in FCTC implementation in Armenia.

2. Parties' assessments follow the World Health Organization (WHO) formula based on national income.

6 Protection from Exposure to Tobacco Smoke

6.1. Legislation on protection from exposure to tobacco smoke in Armenia

On December 24, 2004 the supreme legislative body of the country, the National Assembly, adopted the Law of the Republic of Armenia “On Restrictions of Tobacco Sales, Consumption and Usage” (hereinafter, “the Law”). The Law, which is a major regulatory document that establishes the rationale for tobacco control, provides definitions of relevant terms, and stipulates a wide range of measures, was enacted on March 2, 2005.

Along with many other provisions, the Law regulates smoking in public places. The Law does not, however, provide full protection of its citizens from exposure to second-hand smoke. While it bans smoking in healthcare, educational and cultural organizations and public transport, it still allows smoking in allocated areas in other public buildings. Moreover, no protection is provided at dining places such as cafes, bars, and restaurants.

6.2. Research on implementation of the smoke-free policy in Armenia

6.2.1. Tobacco control policy surveys (2005-2007)

To assess the level of public awareness of, and the practice and attitudes towards the tobacco control measures before and after the adoption of the anti-tobacco law, the Center for Health Services Research and Development of the American University of Armenia carried out population-based tobacco control policy surveys in 2005 and 2007. The study found that awareness of the tobacco control legislation among adult population increased 2.6 times from 2005 to 2007; however, the proportion of the respondents who were aware of the law on tobacco control remained relatively low (35.3% in 2007 vs. 13.8% in 2005). Although respondents showed strong support toward smoking restrictions, no changes were found in the number (proportion) of smoke-free worksites in 2007 compared to 2005. The majority of employed respondents in 2007 (more than 60%) reported that their worksites were not smoke-free [14,15].

The data from the Global Youth Tobacco Survey in Armenia also did not show major changes in the proportion of youth exposed to smoke in public places over five years (78.3% in 2009 vs. 85.1% in 2004) [6].

6.2.2. Civil society monitoring of smoke-free policy implementation (2007-2010)

In many countries, the civil society monitoring of smoke-free policy implementation has been

FCTC Article 8. Protection from exposure to tobacco smoke

1. Parties recognize that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease, and disability.
2. Each Party shall 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.

critical for the successful implementation of FCTC Article 8. With support from the international tobacco control community, the Center for Health Service Research and Development of the American University of Armenia (CHSR/AUA) has made a considerable effort for building and strengthening capacities of local non-governmental organizations to enhance their engagement in the monitoring of the national tobacco control law implementation. The monitoring study completed by the CHSR/AUA in 2010 found that the overall compliance with smoking restrictions and bans required by the national law has improved from 2007 to 2010 [16].

The monitoring team conducted spot checks in randomly selected facilities in three largest cities in Armenia, including the capital Yerevan and two geographically diverse provincial centers Gyumri and Vanadzor. At each visited facility, a trained observer used a structured checklist to record the compliance with the provisions of the Law. Four categories of workplaces, namely educational, healthcare, cultural, and governmental, were included in the study. Within each category, a random sample was drawn from the facilities' list of the particular geographic location. Those facilities visited at baseline in 2007 were followed up in 2010. In the selected 172 facilities, the observers recorded significantly less indoor smoking in 2010 compared to 2007. This change was mainly due to improved compliance with smoke-free restrictions in governmental facilities. Significantly less smoking was observed in regional centers Vanadzor and Gyumri in 2010 than in 2007, while in Yerevan facilities smoking ban violations in 2010 were observed as often as in 2007.

On a nine-item compliance scale, 48% of all facilities visited in 2010 were scored “good”, while “satisfactory” and “poor” compliance was observed in 30% and 13% of the facilities, respectively. Healthcare institutions had the highest compliance with the smoking ban (63%), followed by educational and cultural settings (45% and 44%, respectively). Despite the tangible improvement since 2007, less than a quarter (23%) of the government facilities in 2010 had “good” compliance with smoking restrictions (Figure 1) [16].

6.3. Issues in implementation

The findings from the civil society monitoring study suggest that substantial issues exist and hinder the implementation of tobacco control policy in Armenia. The barriers to successful implementation of the Article 8 of the FCTC may include, but are not limited to, the following:

1. Deficiency of the smoke-free provisions by the Law, according to which the level of protection from the hazardous exposure differs depending on the worksite type. Studies across many countries have shown that unlike complete prohibitions of indoor smoking, partial measures are difficult to implement. When the legislation stipulates different measures depending on the type of workplace, this conveys unclear, mixed messages to the public. In addition, the Armenian Law does not define “smoking area,” which poses an obstacle to its enforcement at workplaces where smoking is not banned but restricted to smoking areas. Virtually any space can be defined and used as a “smoking area” [17,18].

2. Lack of enforcement is a common problem in the tobacco control policy implementation process and Armenia is not an exception [19]. Like many ex-soviet countries, Armenia has inherited the deficiencies of the soviet legal tradition, including the adoption of laws that lack the enforcement constituent. Normally, it is assumed that the enforcement mechanisms will be specified in the Administrative Book; however, the necessitated amendments to the Administrative Book (in force since

soviet times) may be delayed for years.

3. Lack of effective enforcement strategies is also a problem. The primary inspection body to monitor the compliance with smoke-free policies at worksites is the State Hygiene and Anti-Epidemics Inspectorate (SHAEI). However, the agency's inspectors are not allowed to conduct surprise visits to

4. Tobacco industry interference is a potential barrier to the successful implementation of tobacco control policy in the country. Domestic tobacco producers as well as tobacco importers have had seats in the country's supreme legislative body, the National Assembly, since 2003. International tobacco companies, such as Philip Morris International, British American Tobacco, and Japan Tobacco International, are also present and have vested interest with domestic oligarchic groups in Armenia [21,23]. Therefore, it is not surprising that both the supreme legislative body and the executive branch have been slow in moving forward with tobacco control efforts.

6.4. FCTC Article 8 on protection from exposure to tobacco smoke

Studies have proved that there is no safe level of exposure to tobacco smoke [23]. Neither partial restriction of smoking, nor ventilation is sufficient to effectively prevent second-hand smoke exposure. The FCTC Guidelines on Article 8 clearly indicate that only 100% smoke-free environments protect people's health from the hazards of tobacco smoke [24]. To assist in establishing a sound legislative base for protecting the public from the second-hand smoke, the Guidelines define “smoke-free,” “public

Table 1. Comparison of the key term definitions: recommended by the Guidelines to FCTC Article 8 vs. used in the Armenian Law

Definitions	FCTC Article 8 Guidelines	RA Law “On Restrictions of Tobacco Sales, Consumption and Usage”
Smoking	“Being in possession or control of a lit tobacco product regardless of whether the smoke is being actively inhaled or exhaled.”	Not defined
Second hand smoke (SHS)	“The smoke emitted from the burning end of a cigarette or from other tobacco products usually in combination with the smoke exhaled by the smoker.”	Not defined
Smoke-free	“Smoke free air” is air that is 100% smoke free. This definition includes, but is not limited to, air in which tobacco smoke cannot be seen, smelled, sensed or measured.”	Not defined
Public places	“All places accessible to the general public or places for collective use, regardless of ownership or right to access.”	Not defined

Indoor (enclosed) area	“Any space covered by a roof or enclosed by one or more walls or sides, regardless of the type of material used for the roof, wall or sides, and regardless of whether the structure is permanent or temporary.”	Not defined
Workplace	“Any place used by people during their employment or work.” This should include not only work done for compensation, but also voluntary work, if it is of the type for which compensation is normally paid. In addition, “workplaces” include not only those places at which work is performed, but also all attached or associated places commonly used by the workers in the course of their employment, including, for example, corridors, lifts, stairwells, lobbies, joint facilities, cafeterias, toilets, lounges, lunchrooms and also outbuildings such as sheds and huts. Vehicles used in the course of work are workplaces and should be specifically identified as such.”	Not defined
Public transport	“Any vehicle used for the carriage of members of the public, usually for reward or commercial gain.”	Not defined

Article 8 Guidelines stipulate that “every party is obliged to provide universal protection by ensuring that all indoor public places, all indoor workplaces, all public transport and possibly other (outdoor or quasi-outdoor) public places are free from exposure to second-hand tobacco smoke. No exemptions are justified on the basis of health or law arguments. If exemptions must be considered on the basis of other arguments, these should be minimal. In addition, if a Party is unable to achieve universal coverage immediately, Article 8 creates a continuing obligation to move as quickly as possible to remove any exemptions and make the protection universal. Each Party should strive to provide universal protection within five years of the WHO Framework Convention's entry into force for that Party.”

6.5. Conclusions and recommendations

Armenia has not met its obligations on developing and implementing effective smoke-free policies in five years after joining the Framework Convention on Tobacco Control. To protect health of the public, the national legislation urgently needs to be harmonized with the international health treaty, the WHO FCTC.

We have identified the gaps in the national legislation for public protection from second-hand smoke exposure and its implementation mechanisms. First, the Law does not provide **universal** protection. Every employee must be entitled to legal protection from the hazardous exposure, which is a fundamental human right. This concerns all categories of indoor worksites, including dining and leisure facilities. Second, it does not provide **complete** protection. Studies have proved that there is no safe level of exposure to tobacco smoke. Neither partial restriction of smoking to smoking areas nor ventilation systems are sufficient to effectively protect from the second-hand smoke exposure. A complete indoor

smoking ban is the only solution. Lastly, the Law itself and the RA Administrative Book do not clearly identify how the Law shall be enforced.

To fill these gaps the following changes are recommended:

1. Identify deadlines for implementation of subsequent steps to make all indoor worksites and public places 100% smoke-free;
2. Use clear language and definitions based on the FCTC Article 8 Guidelines (such as “indoor worksites,” “public places,” “second-hand smoke,” etc);
3. The Law should place the responsibility for compliance on the owner, manager or other person in charge of the premises and clearly identify the duty of compliance, such as:
 - (a) A duty to post clear signs at entrances and other appropriate locations indicating that smoking is not permitted. The format and content of these signs should be determined by health authorities or other agencies of the government and may identify a telephone number or other mechanisms for the public to report violations and the name of the person within the premises to whom complaints should be directed;
 - (b) A duty to remove any ashtrays from the premises;
 - (c) A duty to supervise the observance of rules;
 - (d) A duty to take reasonable specified steps to discourage individuals from smoking on the premises, including asking the person not to smoke, discontinuing service, asking the person to leave the premises and contacting a law enforcement agency or other authority.

Though presently the fines for violations and the enforcement bodies were specified in the Law “On making amendments and additions to the Administrative Book” (HO-89-N) adopted on April 7, 2009, an effective compliance monitoring and inspection infrastructure should be established to ensure compliance with smoke-free provisions of the Law.

The compliance inspections may be integrated into business licensing inspections, health and sanitation inspections, inspections for workplace health and safety, fire safety inspections and others. Regardless of the mechanism used, monitoring should be based on an overall enforcement plan, and should include a process for effective training of inspectors. Effective monitoring may combine regular inspections with unscheduled, surprise inspections, as well as visits made in response to complaints. Such visits may well be educational in the early period after the Law takes effect, as most breaches are likely to be inadvertent. The legislation should authorize inspectors to enter premises subject to the law and to collect samples and gather evidence, if these powers are not already established by the existing law. Similarly, the legislation should prohibit businesses from obstructing the inspectors in their work.

During the gray period, before launching the smoke-free policies, it is advisable to plan and implement sound public awareness campaigns on hazards of second-hand smoke exposure.

7 Packaging and labeling of tobacco products

FCTC Article 11. Packaging and labeling of tobacco products

1. Each Party shall, within a **period of three years** after entry into force of this Convention for that Party, adopt and implement, in accordance with its national law, effective measures to ensure that:

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

(b) Each unit packet and package of tobacco products and any outside packaging and labeling of such products also carry health warnings describing the harmful effects of tobacco use, and may include other appropriate messages.

These warnings and messages:

(i) Shall be approved by the competent national authority,

(ii) Shall be rotating,

(iii) Shall be large, clear, visible and legible,

(iv) Should be 50% or more of the principal display areas but shall be no less than 30% of the principal display areas,

(v) May be in the form of or include pictures or pictograms.

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

3. Each Party shall require that the warnings and other textual information specified in paragraphs 1(b) and paragraph 2 of this Article will appear on each unit packet and package of tobacco products and any outside packaging and labeling of such products in its principal language or languages.

4. For the purposes of this Article, the term “outside packaging and labeling” in relation to tobacco products applies to any packaging and labeling used in the retail sale of the product.

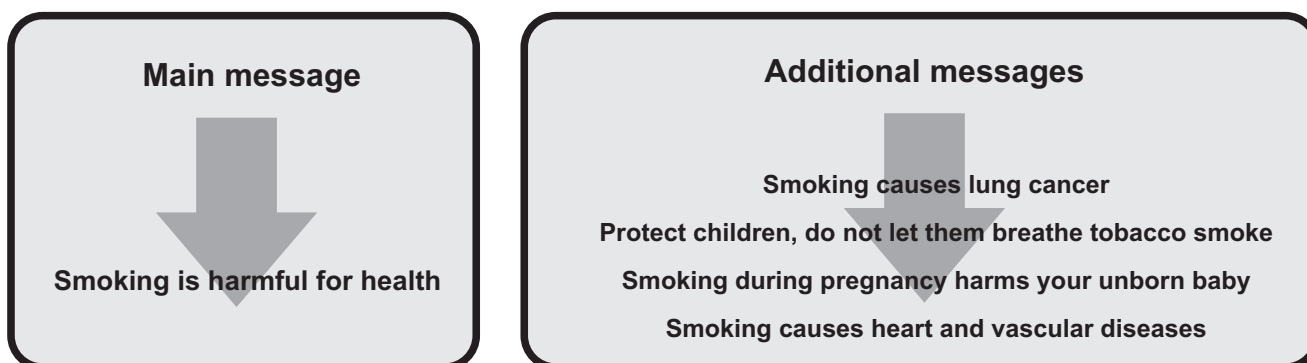
7.1. Packaging and labeling of tobacco products in Armenia.

Packaging and labeling of tobacco products primarily concerns health warnings, removal of misleading information, and labeling of tobacco constituents and emissions.

7.1.1. Health warnings

At the time of joining the FCTC, the cigarette packs produced in or imported to Armenia carried a negligible health warning “Smoking is harmful for health”, that occupied 4% of the front and back sides area of the pack. Following the country's accession to the FCTC, the packaging of tobacco products is regulated by the Article 9 of the RA Law “On Restrictions of Tobacco Sales, Consumption and Usage” HO-72-N (see Attachment 1). The Law has been in force since March 2, 2005 and allocated a three-year grace period for implementation of the new packaging requirements, i.e. the maximum allowable

time interval specified by the Article 11 of the FCTC. The cigarette packs with 4% health warnings became outlawed on February 1, 2008. The text of new health warnings were defined by the Ministry of Health order N 916-N issued on October 5, 2005 “On Approval of the health warning's texts about health hazards of tobacco” and the order of their placement was defined by the Government Decree N 968-N on July 6, 2006.



At present, cigarette packs in Armenia have warnings that occupy 30% of the front and back sides, respectively. The warning text on front side of cigarette packs contains the main message; one of the four additional messages appears on the back side. Each unit of package of tobacco products and any outside packaging and labeling of such products also carry similar warnings. The cigarette packages with 30% health warnings have been in the market in Armenia since early 2008 (Figure 2). The FCTC requires that health warning must be regularly updated (rotated) to maintain their maximum impact overtime. The Guidelines on Article 11 implementation recommend that the parties alternate the warnings every 12-36 months [25]. However, the Armenian legislation does not specify when and how the existing health warnings should be replaced by a new set.

7.1.2. Removal of misleading information

On July 6, 2006 the Government decree N 968-N amended the earlier order “On Approving the Technical Regulation on Tobacco” (N540-N) and outlawed the use of misleading terms on packages of tobacco products. The examples include but are not limited to terms such as “low nicotine (or tar),” “light,” “ultra-light,” “mild,” “unique filter,” and other misleading terms that directly or indirectly create false impression of the product being less hazardous than other tobacco products. The prohibition relates to any unit and type of packaging and pack inserts. A long gray period was allocated to implement these particular requirements; however, they were enacted on February 1, 2008, within the maximum allowable time interval to fulfill the country's obligations on the Article 11.

7.1.3. Labeling of tobacco constituents and emissions

According to the FCTC Article 11, each unit packet and package of tobacco products and any outside packaging and labeling of such products shall, in addition to the warnings specified in paragraph 1(b) of this Article, contain information on relevant constituents and emissions of tobacco products as defined by national authorities.

The content of tobacco products is regulated by the Government decision N540-N “On Approving the Technical Regulation on Tobacco.” This regulatory act defines the technical required for

the certification of raw tobacco and manufactured tobacco product, packaging and labeling requirements, as well as standards and process for testing and certifying these products. Among the other provisions, it requires provision of information on the cigarette's content of nicotine and tar on each unit of package and also on the retail packaging and labeling as well. No information on carbon monoxide is required. A certified testing laboratory should conduct the testing. The testing methods are defined under the same decision N540-N. The residue quantities of pesticides should be determined by the methods approved by the RA Health Minister.

7.2. Implementation issues

The compliance with the national legislation regarding health warnings on cigarette packages has been satisfactory. There is no regular monitoring of the compliance by civil society organizations; however, occasional violations have been noted and corresponding steps have been taken. With regards to the removal of misleading information, Armenia's case is similar to others. The industry claims that descriptors such as “Light,” SuperSlims,” etc. are the parts of a product brand name that cannot be removed. Another common practice is using colors in the pack design to substitute the banned descriptors.

7.3. FCTC Article 11 on packaging and labeling of tobacco products

The pack of cigarettes has always been used as a marketing tool by the tobacco industry; as a Phillip Morris executive stated, “our final communication vehicle with our smoker is the pack itself.” [26].

However, the same cigarette pack can be used to communicate important health information to smokers. The FCTC obliges governments to fulfill their regulatory responsibility by requiring producers of tobacco products to place mandatory health warnings on their product to warn tobacco consumers about the deadly hazards of tobacco use.

At present, cigarette packs in virtually all countries have a health warning. Nevertheless, the warnings vary tremendously across the countries in terms of their size, position on the pack and general strength [27].

A number of studies have demonstrated the effectiveness of using graphic images on cigarette packs and their superiority over text health warnings. The graphic (pictorial) warnings increase knowledge about risks of smoking and can influence decisions about smoking [28]. Unlike the text warnings alone, pictorial warnings help to visualize the nature of tobacco-caused disease and provoke emotional responses.

Large pictorial warnings are especially effective among youth. Studies conducted in various countries showed that after the introduction of graphic warnings significant proportions of adult and young smokers reduced consumption of cigarettes [29]. In addition, such warnings can motivate smokers to quit, discourage nonsmokers from starting to smoke, and keep ex-smokers from starting again.

In fact, while the original text of the Article 11 suggests that parties “may” use pictorial warnings, the adopted at the COP-3 (South Africa, 2008) FCTC Guidelines on the implementation of the Article 11 clearly states that graphic images are superior to text warnings and do recommend adopting pictorial warnings [25]. This new approach reflects the growing evidence based on worldwide adoption of pictorial warnings.

Table 2. Comparison of the health warnings: Best practices/FCTC recommended vs. health warnings currently in use in Armenia.

Component	FCTC/best practices	National Law
Location	Place labels on the principal display areas (front and back of the package) on the “top” position instead of “bottom”	Front and back of the pack, “bottom”
Size	Cover at least 50% of the package's principal display areas. Impact: Large messages are more likely to be noticed. Large labels provoke emotional responses and increase motivation to quit.	Covers (at least) 30% of the package's principal areas
Pictorials	Illustrate the harmful effects of tobacco use through pictures and/or pictograms. Impact: Photos and strong graphics help smokers visualize the nature of a tobacco-caused disease better than words alone. Pictures are more likely to draw attention and are more likely to be remembered when an individual makes decisions about whether or not to smoke or cut back on smoking. Pictorial warnings are likely to reach children and adolescents, especially the children of smokers, who are particularly vulnerable.	None
Color, background and font	Use full color. Contrast colors with the background and the text. Impact: Maximizes visibility and ease of comprehension.	Test should be 1) clear and legible; 2) printed in dark ink on a contrasting background
Rotation	Use multiple health warnings and messages on all tobacco products concurrently or rotate them periodically. Impact: Prevents overexposure and desensitization of the audience.	No rotation
Text	List risk factors by highlighting harmful effects and impact of exposure to tobacco. Include the magnitude of specific risks. Provide cessation advice and local quit line information. Identify the addictive nature of tobacco. Elicit unfavorable emotional association with tobacco use.	Two messages: main (on front side) and additional (on back side) Main message: Smoking is harmful for health Additional messages: Smoking causes lung cancer Protect children, do not let them breathe tobacco smoke Smoking during pregnancy harms your unborn baby Smoking causes heart and vascular diseases
Language	Use the country's principal language(s).	Armenian
Approval of the label	Label should be approved by the competent national authority (e.g., Minister of Health)	Should be defined and approved by Ministry of Health

- (e) Undertake a comprehensive ban or, in the case of a Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles, restrict tobacco advertising, promotion and sponsorship on radio, television, print media and, as appropriate, other media, such as the internet, within a period of five years; and
 - (f) Prohibit, or in the case of a Party that is not in a position to prohibit due to its constitution or constitutional principles restrict, tobacco sponsorship of international events, activities and/or participants therein.
5. Parties are encouraged to implement measures beyond the obligations set out in paragraph 4.
 6. Parties shall cooperate in the development of technologies and other means necessary to facilitate the elimination of cross-border advertising.
 7. Parties which have a ban on certain forms of tobacco advertising, promotion and sponsorship have the 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. This paragraph does not endorse or approve of any particular penalty.
 8. Parties shall consider the elaboration of a protocol setting out appropriate measures that require international collaboration for a comprehensive ban on cross-border advertising, promotion and sponsorship.

8.1. Regulation of tobacco advertising, promotion and sponsorship in Armenia

8.1.1. Regulation of tobacco advertising in Armenia before the FCTC ratification

Legislative restrictions on tobacco advertisement in the Republic of Armenia can be traced as far back as to 1996, when tobacco and spirits advertisement was prohibited on TV and radio during prime time. A major breakthrough took place in 2002, when the tobacco advertisement was banned in electronic media, specifically, on television and radio.

8.1.2. Regulation of TAPS in Armenia after joining the FCTC

Tobacco advertising, promotion and sponsorship in Armenia are regulated by different laws. The restrictions of tobacco advertisement are mainly stipulated by the Law “On Advertising”, while the Law “On Restrictions of Tobacco Consumption, Sales and Usage” regulates tobacco promotion, marketing and sponsorship.

The Law “On Restrictions of Tobacco Consumption, Sales and Usage” was adopted on December 24, 2004 and introduced several restrictions on tobacco product promotion and sponsorship. In particular, Article 7 of this Law prohibits free distribution of tobacco products, prohibits sale of tobacco products with false or misleading information, prohibits the sale of tobacco products with information that is likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, prohibits the use of tobacco trade names on other products, and prohibits the dissemination, sale or awarding of items with tobacco logo or trade names. The Law also prohibits the sponsorship of international events or the sponsorship of participants of such events. In addition, it requires that health or other appropriate warnings or messages accompany any tobacco product.

The most notable policy change took place on December 16, 2005 when the Law “On Advertising”

7.4. Conclusions and recommendations

The health warnings used currently in Armenia correspond to the minimal allowable warning size set by the WHO FCTC. They have been in use since 2008 and have not been rotated. Furthermore, while graphic warnings are the “gold” standard today, the country has not made any steps to follow the best practices. Accordingly, we recommend: (1) regular rotation of health warnings, and (2) replacement of the text warnings with pictorial ones. In addition, putting the health warnings on the upper part of the pack will eliminate the potential problem of obscuring the warnings while shelving at a point of sale. The suggested changes in tobacco product labeling need to be stipulated by the law.

8 Tobacco Advertising, Promotion and Sponsorship (TAPS)

FCTC Article 13. Tobacco Advertising, Promotion and Sponsorship

1. Parties recognize that a comprehensive ban on advertising, promotion and sponsorship would reduce the consumption of tobacco products.
2. Each Party shall, 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.
3. A Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles shall apply restrictions on all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, restrictions or a comprehensive ban on advertising, promotion and sponsorship originating from its territory with cross-border effects. In this respect, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21.
4. As a minimum, and in accordance with its constitution or constitutional principles, each Party shall:
 - (a) Prohibit all forms of tobacco advertising, promotion and sponsorship that promote a tobacco product by any means that are false, misleading or deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;
 - (b) Require that health or other appropriate warnings or messages accompany all tobacco advertising and, as appropriate, promotion and sponsorship;
 - (c) Restrict the use of direct or indirect incentives that encourage the purchase of tobacco products by the public;
 - (d) Require, if it does not have a comprehensive ban, the disclosure to relevant governmental authorities of expenditures by the tobacco industry on advertising, promotion and sponsorship not yet prohibited. Those authorities may decide to make those figures available, subject to national law, to the public and to the Conference of the Parties, pursuant to Article 21;

was amended to ban outdoor tobacco advertising such as posters, placards, announcements, billboards, illuminated signs and other technical displays. Also, the new amendments stipulated that a mandatory health warning message shall accompany any tobacco advertisement in printed media and shall occupy at least 10% of the area of the tobacco advertisement. However, the implementation of these provisions was delayed until October 1, 2006.

Since 2005, no further progress has been made in implementing a comprehensive ban on tobacco advertising, promotion and sponsorship as is required by the FCTC Article 13 and its implementation Guidelines [30].

8.2. Implementation issues

The compliance with the ban of direct tobacco advertising in electronic media as well as outdoor advertising has been high after the public's strong response to first occasional violations of the law.

However, many other types of tobacco advertising, promotion and sponsorship are not regulated and have flourished in Armenia [31]. In particular, point-of-sale tobacco advertisement has become extremely aggressive and widespread. Indirect advertising and product placement is also common, as well as prize lotteries and sponsorship of cultural events and other types of philanthropy (Figure 3-6). After five years of the FCTC implementation, Armenia has not achieved the comprehensive ban of TAPS. The major gaps to be addressed in the near future are identified in Table 3:

Table 3. Comparison of FCTC provisions on TAPS and the national legislation.

Type	FCTC	National legislation
Advertising in electronic media	Complete ban of direct and indirect advertising, promotion and sponsorship.	Ban of direct advertising of tobacco products and tobacco manufacturers' trade names
Advertising on domestic Internet	Impose obligations on Internet responsible entities, such as content producers, content publishers and content hosts. Parties could limit the obligations on content navigators and access providers to using reasonable efforts to disable access in light of what is technically possible.	Same as for electronic media in general. There is no specific requirement related to Internet.
Advertising in print media	Complete ban of direct and indirect advertising, promotion and sponsorship.	Partial ban Tobacco advertising is prohibited on the first and the last pages of newspapers and on the first and last pages and covers of magazines. Article 15, p. 5.1. Law on Advertising Health warning must comprise at least 10% of the tobacco advertising. Article 15, p. 5.2. Law on Advertising

Outdoor advertising	Complete ban	Complete ban Outdoor advertising of tobacco is prohibited by means of placards, ad sheets, announcements, billboards, light boards and by other means. Article 15, p.5.3 Law on Advertising
Free distribution of tobacco products	Ban	Ban of distribution of all brands of tobacco products or their samples free of charge for promotion purposes
Promotion	Ban of <i>all forms of commercial communication, recommendation or action with the aim, effect, or likely effect</i> of promoting a tobacco product or tobacco use either <i>directly or indirectly</i> .	Limited regulation. Prohibited to offer tobacco products as a means of promotion of other products or for other motivation Article 7, p. 2 Law on “On Restrictions of Tobacco Sales, Consumption and Usage” Prohibited to indicate the brand names and trademarks of tobacco products on sports equipment and accessories, toys, dolls, miniature models of racing cars, video, audio and video-audio games, candy and similar items. Article 7, p.1.3. Prohibited dissemination, selling or offering as a premium (prize) of any merchandise (e.g. T-shirts, caps and sport shirts, visors, backpacks, sunglasses, stationary supplies) bearing any tobacco product brand name or trademark. Article 7, p.1.5
Sponsorship	Ban of <i>all forms of contribution to any event, activity or individual with the aim, effect, or likely effect</i> of promoting a tobacco product or tobacco use either <i>directly or indirectly</i> .	Ban of international events sponsorship It is prohibited to sponsor tobacco products during international events or among their participants.
Retail sale and display	Total ban on any display and on the visibility of tobacco products at points of sale, including fixed retail outlets and street vendors. Only the textual listing of products and their prices, without any promotional elements, would be allowed.	No regulation
Corporate social responsibility	The Parties should ban contributions from tobacco companies to any other entity for “socially responsible causes,” as this is a form of sponsorship. Publicity given to “socially responsible” business practices of the tobacco industry should be banned, as it constitutes advertising and promotion.	No regulation
Depictions of tobacco in entertainment media	Implement a mechanism requiring that when an entertainment media product depicts tobacco products, use or imagery of any type, the responsible executives at each company involved in the production, distribution or presentation of that entertainment media product certify that no money, gifts, free publicity, interest-free loans, tobacco products, public relations assistance or anything else of any value has been given in exchange for the depiction. Prohibit the depiction of identifiable tobacco brands or tobacco brand images in	No regulation

association with, or as part of the content of, any entertainment media product. Require the display of prescribed anti-tobacco advertisements at the beginning of any entertainment media product that depicts tobacco products, use or image

Disclosure of information on advertising, promotion and sponsorship expenditures by the tobacco industry to relevant governmental authorities

Require, if it does not have a comprehensive ban, the disclosure to relevant governmental authorities of expenditures by the tobacco industry on advertising, promotion and sponsorship not yet prohibited. Those authorities may decide to make those figures available, subject to national law, to the public and to the Conference of the Parties, pursuant to Article 21.

No regulation

8.3. Conclusions and recommendations

The number one priority in implementing the comprehensive ban on TAPS in Armenia is the ban of point-of-sale tobacco advertising. Other important actions would be banning all tobacco advertising in print media and indirect advertising on TV.

However, the comprehensive ban cannot be effectively implemented unless the public is made aware of the truth about the tobacco industry. The Armenian society has, unfortunately, limited understanding of social, ecological and health burden imposed by the tobacco industry that successfully supplied its many myths over decades, in order to save and improve its public image. In this transitional period, preceeding the implementation of comprehensive ban, the disclosure to relevant government authorities of expenditures by the tobacco industry on advertising, promotion and sponsorship shall be required as recommended by the WHO FCTC.

Afterword

By acceding to the Framework Convention on Tobacco Control, Armenia has contemplated to implement a set of policy measures to protect the public health in Armenia. This report reflected on the implementation of only three Articles to be addressed in the first five years after the treaty's adoption. The adopted national tobacco control law has failed to provide universal protection from exposure to tobacco smoke to its citizens as stipulated by Article 8. Tobacco advertising was successfully banned in electronic media and on the streets; nevertheless, the efforts by the Ministry of Health were not successful in fostering the total ban of tobacco advertisement as required by FCTC Article 13. Moreover, a legislative draft developed by the Ministry of Justice and aimed to extend smoke-free provisions and restrict point-of-sale advertising, was turned back in October 2011 in the National Assembly under unclear circumstances.

As to Article 11, Armenia had been formally compliant with the treaty. However, the country had missed a chance to pioneer in the region by introducing pictorial health warnings and was ranked 77th in the Canadian Cancer Society Report 2010, lagging behind Turkey that implemented pictorial warnings in 2010 (ranked 11), and Russia ranked 46th because of larger warnings [32].

In five years after acceding to the World Health Organization's Framework Convention on Tobacco Control, Armenia is in urgent need to critically assess the progress made and restate its goals and political commitment for implementation of comprehensive and effective measures to curb tobacco use in Armenia.

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APPENDIX 1. Articles 9 and 11 of the Law of the Republic of Armenia “On Restrictions of Tobacco Sales, Consumption and Usage”

Article 9. The packaging of tobacco products

1. Each packing of tobacco products should include in the state language of the Republic of Armenia:
 - 1) information on the tar and nicotine composition to be placed on one of the side walls of the cigarette pack
 - 2) warning on the negative impact of tobacco on the human health. The text of the warning on the negative impact of tobacco on human health to be approved by the authorized body. The text of health warning should occupy not less than 30% of the surface of front and hind sides of the consumer's packing (cigarette pack), used for wholesale and retail trade.
2. The warning text should be:
 - 1) clear and legible
 - 2) printed in dark letters on a contrasting background
 - 3) printed in the way that does not allow its removal
 - 4) placed on the pack in a way preserving it from damage while opening the pack.
3. The warning text should not be:
 - 1) printed on or attached to the transparent or other outer wrapping;
 - 2) hidden or covered with other printed information or image;
 - 3) printed on the excise stamps placed on consumer package (cigarette pack).

Article 11. Restrictions of tobacco usage

1. Smoking is prohibited in:
 - a) Educational institutions including: training institutions, schools, pre-school institutions, etc.
 - b) Cultural institutions including: theatres, cinemas, sport halls, circuses, concert-halls, museums, libraries, halls, auditoriums, exhibitions, as well as in the places envisaged for relaxation and amusement of the people under 18.
 - c) Health institutions including: hospitals, polyclinics, ambulatories, sanatoriums, and other health facilities.
 - d) All organizations, agencies and institutions except for those places designated for smoking.
 - e) Those places where smoking is prohibited in accordance with the fire safety rules.
 - f) Urban transport including buses, itinerary taxis, trains (except for cabins designated for smoking), as well as airports, bus and train stations etc.
2. The heads of agencies and organizations initiate appropriate measures to provide separate zones for smoking. They place precautions in visible places about the prohibition of smoking.
3. The directors of agencies and organizations are obliged to initiate measures to create appropriate conditions for smoking in closed rooms during the working hours, (including the lunch and rest breaks), in order the smokers do not disturb the non-smokers taking into account their preference. Such measures include but are not limited to:
 - a) Provision of specified separate zones for smoking during the breaks.
 - b) Permission for smoking only in individual closed premises
4. In restaurants, cafés and other organizations of public food taking there may be separated places, rooms, zones for smoking.