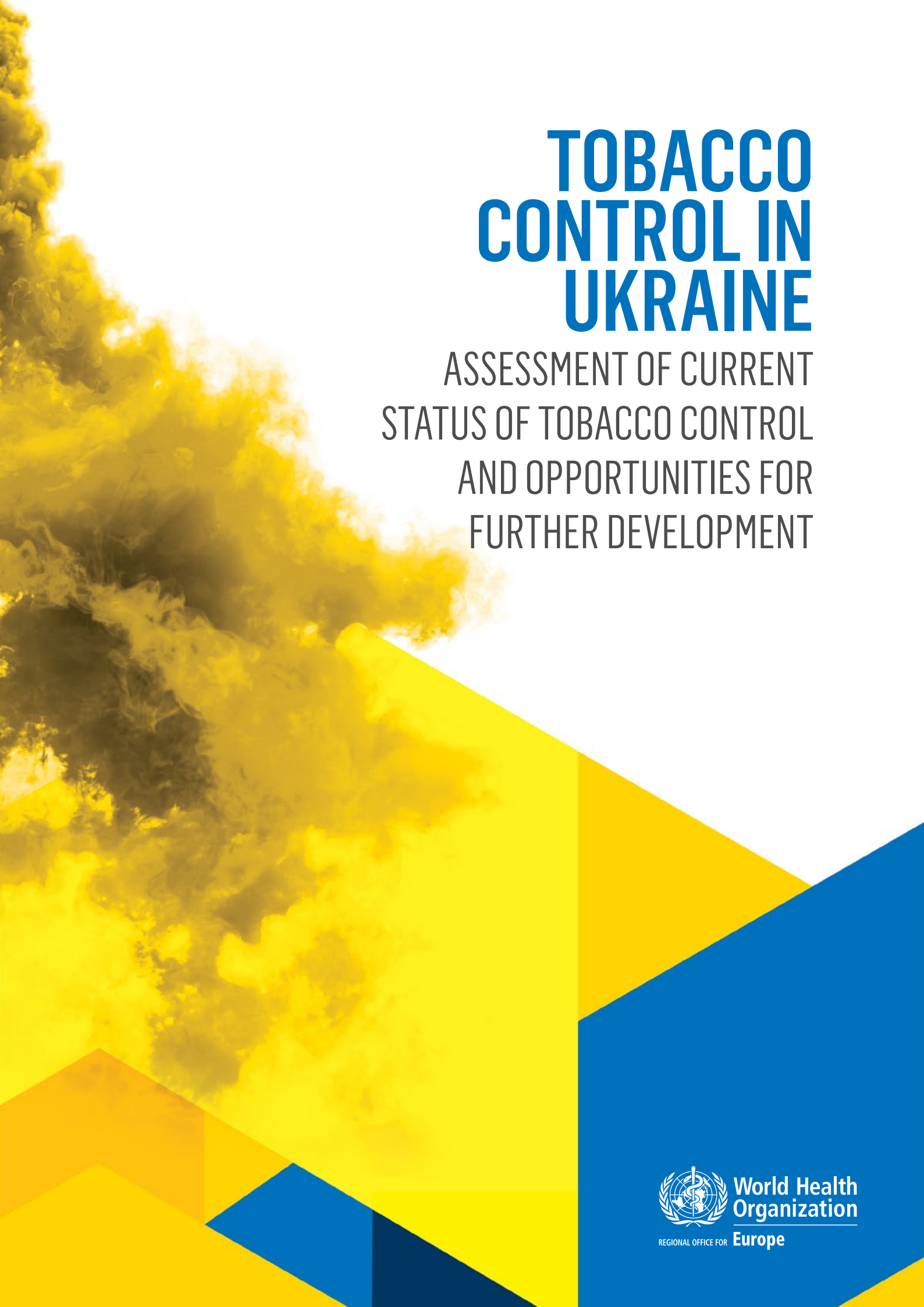

TOBACCO CONTROL IN UKRAINE

ASSESSMENT OF CURRENT STATUS OF TOBACCO CONTROL AND OPPORTUNITIES FOR FURTHER DEVELOPMENT

World Health Organization
REGIONAL OFFICE FOR Europe

Abstract

Ukraine signed the WHO Framework Convention on Tobacco Control (WHO FCTC) on 25 June 2004 and the Convention was ratified on 6 June 2006. While recognizing that substantial progress has already been made on implementation of WHO FCTC measures, this report aims to contribute to the identification of key elements that need to be put in place to enable Ukraine to meet fully its obligations under the WHO FCTC and to make further significant reductions in smoking prevalence. It sets out the findings of an investigation on the current status of tobacco control and opportunities for further development in the country, including: observations and findings on requirements and enforcement arrangements contained in the current tobacco-control laws of Ukraine; practical measures for increasing compliance with tobacco-control laws, including improving enforcement, based on best practice in the United Kingdom and elsewhere; advice on measures for reducing smoking prevalence; and consideration of the supply and use of smokeless tobacco products, nicotine-containing products and illicit tobacco products.

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This report was written by: Ian Gray, Co-director of the Environmental Health Collaborating Centre and the Tobacco Control Collaborating Centre at the Institute of Performance in Practice, United Kingdom, and expert adviser for the National Institute for Health and Care Excellence (NICE) Centre for Guidelines; and Paul Hooper, Co-director of the Environmental Health Collaborating Centre and the Tobacco Control Collaborating Centre at the Institute of Performance in Practice, United Kingdom.

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Acronyms

GATS	Global Adult Tobacco Survey
GYTS	Global Youth Tobacco Survey
ENDS	electronic nicotine delivery systems
EU	European Union
HTPs	heated tobacco products
NICE	National Institute for Health and Care Excellence (United Kingdom)
NCDs	noncommunicable diseases
NGOs	nongovernmental organizations
STEPS	WHO STEPwise Approach to Surveillance survey
WHO FCTC	WHO Framework Convention on Tobacco Control

Introduction

Background

Noncommunicable disease (NCD)-related mortality in Ukraine is reported to be among the highest in the WHO European Region. According to official statistics, NCDs are estimated to account for 86% of deaths and 77% of the disease burden in the Region. A 20% reduction in smokers has been achieved since 2010, but results from the Global Adult Tobacco Survey (GATS) for 2017 show that current tobacco-use prevalence was 23% overall (40.1% among men and 8.9% among women).

Ukraine signed the WHO Framework Convention on Tobacco Control (WHO FCTC) *(1)* on 25 June 2004 and the Convention was ratified on 6 June 2006 *(2)*. A needs assessment for implementation of the WHO FCTC carried out in 2017 contained an article-by-article analysis of the progress the country had made in implementation, the gaps that existed and the subsequent possible actions that could be undertaken to fill those gaps (WHO FCTC Secretariat supported by the European Commission, unpublished report, November 2017).

While recognizing that substantial progress has already been made, this report aims to contribute to the identification of key elements that need to be put in place to enable Ukraine to meet fully its obligations under the WHO FCTC and to make further significant reductions in smoking prevalence.

Improving Performance in Practice, a consortium of public health professionals with a track record of successful delivery at national and international levels *(3)*, hosts the Tobacco Control Collaborating Centre in the United Kingdom. It was engaged to work under the direction of the WHO Regional Office for Europe and the WHO Country Office in Ukraine to investigate and report on the current status of tobacco control and opportunities for further development, in line with WHO FCTC articles and respective guidelines for implementation.

This report sets out the findings of the investigation, including:

- observations and findings on requirements and enforcement arrangements contained in the current tobacco-control laws of Ukraine;
- practical measures for increasing compliance with tobacco-control laws, including improving enforcement, based on best practice in the United Kingdom and elsewhere;

- advice on measures for reducing smoking prevalence; and
- consideration of the supply and use of smokeless tobacco products, nicotine-containing products and illicit tobacco products.

Methodology

The assessment drew on the CLeaR model that is used to assess tobacco-control activity in localities of the United Kingdom *(4)*. CLeaR is an evidence-based approach to externally assessing practical tobacco-control measures based on information provided in advance, interviews with key staff and independent observations. The model seeks to assess the success of local action to address harm from tobacco, provide independent challenges to self-assessment of progress and enable benchmarking of work on tobacco control over time. The process can also be used as an opportunity to bring partners together to discuss the range of tobacco-control work, identify priorities and reinforce efforts.

Rationale for comprehensive tobacco control

Tobacco as a health issue

Tobacco is a leading cause of death and disease and a major contributor to health inequalities in Ukraine. It is a unique addictive product in that it kills when used entirely as intended. Tobacco use is a leading global disease risk factor and underlying cause of ill health, preventable death, and disability. It is estimated to kill more than 7 million people each year across the globe, accounting for more deaths annually than HIV/AIDS, tuberculosis and malaria combined.

Smoking contributes to increased risk of dementia *(5)*, is the single biggest avoidable risk factor for cancer *(6)*, can lead to multiple complications of diabetes, can worsen several eye disorders, particularly cataracts and age-related macular degeneration, and may lead to blindness *(7)*. It also is recognized as being the most important of the known modifiable risk factors for coronary heart disease *(8)*, and can affect fertility in both women and men, sexual function in men, and the health of pregnant women, unborn babies and young children. Higher smoking rates contribute to reduced life expectancy for people with mental health conditions.

It was estimated in 2017 that 35.9% of adult men, 7.0% of women and 9.2% of 15-year-olds in Ukraine were regular smokers. These rates will have a significant impact on individuals' health and the health economy.

When tobacco use is reduced, resources can be released to address other health issues.

Tobacco is the leading NCDs risk factor contributing to death and disease in Ukraine. It was estimated in 2017 that 35.9% of adult men, 7.0% of women and 9.2% of 15-year-olds in Ukraine were regular smokers.

Tobacco as an economic issue

It is useful to consider the economic impact of tobacco use. Individual smokers can spend a significant percentage of their disposable income on tobacco and some will prioritize nicotine addiction over food options and resources for their family.

The World Bank states that health systems suffer along with individuals *(9)*. Treatment of the numerous chronic diseases caused or exacerbated by smoking swells countries' annual health-care costs and diverts resources that could be used to tackle other health challenges or address development

There is overwhelming evidence of the effectiveness of tobacco-control measures, showing that the **best results are achieved when a comprehensive set of measures is implemented together.**

priorities. Businesses face considerable burdens from loss of productivity through smoking breaks and illness; a study carried out in the West Midlands region of the United Kingdom estimated that 69% of costs to the economy through tobacco consumption were borne by businesses, and reducing tobacco consumption created local jobs (Department of Health West Midlands, unpublished report, 2005).

Other considerations

Cigarettes and other smoking materials are a significant primary cause of fatal accidental fires in the home and elsewhere. Cigarettes impact on the environment, from growing the tobacco plant to the disposal of butts and packaging. Tobacco farming contributes to vegetation loss and climate change. Trees are felled to provide land to grow tobacco and to provide fuel to dry or cure the tobacco leaves. It is estimated that 200 000 hectares of land are cleared each year for the cultivation of tobacco *(10)*. The loss of trees that anchor the soil to their roots leaves soil vulnerable to erosion, which reduces the fertility of the soil and makes it more difficult to grow crops.

The production, consumption and disposal of cigarettes pollute the environment. The manufacture of cigarettes and cigars creates large quantities of waste in the form of tobacco slurries, solvents, oils, paper, wood, plastics, packaging materials and airborne pollution *(11)*. Discarded cigarette butts are non-biodegradable and frequently are the most common form of litter.

WHO FCTC and MPOWER

Tobacco control is a field of international public health science, policy and practice dedicated to addressing tobacco use and reducing the morbidity and mortality it causes. It is a priority area for WHO, through the WHO FCTC. Evidence shows that the best results are achieved when a comprehensive set of measures is implemented together.

The WHO FCTC is a supranational agreement that seeks to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke. It does so by enacting a set of universal standards stating the dangers of tobacco and limiting its use in all forms worldwide. To this end, the treaty's provisions include rules that govern the production, sale, distribution, advertisement and taxation of tobacco. WHO FCTC obligations are minimum requirements and signatories are encouraged to be even more stringent in regulating tobacco than the treaty requires.

Governments can reduce the harms caused by tobacco by adopting and implementing the tobacco-control provisions of the WHO FCTC, among

which are measures to decrease demand for tobacco and reduce tobacco production, distribution, availability and supply. To help make this a reality, WHO introduced the MPOWER measures, which correspond to one or more articles of the WHO FCTC, to assist in reducing the demand for tobacco products at country level *(12)*.

The WHO MPOWER measures are to:

- **monitor** tobacco use and prevention policies
- **protect** people from tobacco smoke
- **offer** help to quit tobacco use
- **warn** about the dangers of tobacco
- **enforce** bans on tobacco advertising, promotion and sponsorship
- **raise** taxes on tobacco.

Many of the comments in this report relate to the MPOWER model. Where comments do not fit the model or are cross-cutting, they have been added as other issues.

Observations on the current status of tobacco control in Ukraine

The mission involved many national stakeholder interviews and informal observations. It is apparent that Ukraine has made considerable progress in the adoption and implementation of the WHO FCTC requirements.

Tobacco advertising

Tobacco advertising virtually has been eliminated except at points of sale, where it was conspicuous and appeared to be increasing, supplemented by advertising for heated tobacco products.

Tobacco advertising virtually has been eliminated except at points of sale, where it was conspicuous and appeared to be increasing, supplemented by advertising for heated tobacco products (HTPs). Products were displayed at a low level (within children's eye line) and shisha tobacco was on general sale. Some age-of-sale signs were seen but they were not standardized. The mission was told that kiosks, including those near schools, were being paid for accepting tobacco product display materials.

Internet sales of tobacco are banned by law, but the practical difficulties in enforcing this are well recognized. The tobacco industry can use social media to circumvent advertising restrictions through, for example, the use of influencers.

Smoking in indoor workplaces and public places

Compliance with prohibitions on smoking in indoor workplaces and public places also appeared to be very high; this strongly indicates that behaviour change has taken place, since there has been no formal enforcement action for over three years. With the current exemptions and lack of enforcement, however, not everyone in Ukraine is protected equally and there can be no guarantees that compliance will be maintained without constant vigilance.

Smoking of cigarettes in indoor workplaces and public places in contravention of the smoke-free laws was not observed, and ashtrays generally were not present. Smoking nevertheless did seem to be allowed in some areas that might be considered enclosed (such as bar terraces). Shisha smoking was observed in some indoor premises.

It was not possible to determine whether compliance with the law was better

or worse in areas outside the centre of Kyiv, although it was suggested to the mission that street sales were common in local districts.

Public transport

Public transport is widely available in Kyiv in the form of buses, trams and taxis. Smoking by drivers and passengers in public service vehicles occasionally was observed (in taxis), and the mission was informed that smoking by bus drivers occurs regularly.

During preparations for the visit, the mission had not been informed about import restrictions for tobacco products, and no information was provided during the flight-booking process or upon landing. There was no access to duty-free shopping on arrival at the airport. Very few smoke-free signs were seen at the airport (except in the toilets) and people were observed to be smoking only outside the terminal building.

Awareness of smoke-free requirements

Informal conversations were held with managers and employees working in the hospitality sector, members of the public and tourists from several countries. Business representatives were generally aware of the smoke-free restrictions and stated that there was widespread public acceptance of the requirements. Tourists generally welcomed the smoke-free environments and willingly complied with the requirements, but understanding of the law was found to vary among businesses and between enforcement agencies.

Provision of smoking rooms

Smoking rooms are required by law to be provided in hotels and certain other locations, but none was available to view (other than in the departure lounge of the international airport). When questioned, tourists who were smokers were unaware of the existence of permitted smoking places or that such spaces were required to be provided in hotels, and several hotel managers stated that they had no intention of providing smoking rooms.

Compliance with prohibitions on smoking in indoor workplaces and public places appears to be very high. However, with the current exemptions and lack of enforcement, **there can be no guarantees that compliance will be maintained.**

Tobacco prices have been increasing, with contributions from the adoption of a tax escalator. **The price of tobacco products nevertheless remains relatively cheap and affordable** when compared to other products, such as popular items of fast food.

Representatives of some hotels did not agree that the provision of a smoking room was a legal requirement and stated that they did not intend to provide such smoking places.

Use of shisha (hookah or waterpipes)

The exception to the maintenance of smoke-free indoor environments was the widespread and apparently uncontrolled commercial provision of shisha (hookah or waterpipes). On one occasion, staff on premises where shisha was being consumed believed that the law applied only to cigarette smoking.

Availability and use of novel products

HTPs were widely advertised and their use was promoted and actively encouraged in some bars, including through provision of free samples to customers. These tobacco-containing products are being used in indoor places that otherwise are required to be smoke-free.

Electronic cigarettes are on open sale in Kyiv and were observed to be used in public places. Several shops sold vaping products, including specialist outlets, some of which contained extensive and attractive displays of a wide range of the products. Sales staff were knowledgeable and enthusiastic about their use.

Use of no-smoking signs

Very few no-smoking signs were observed. Of these, none appeared to be an official or standard sign, and most were of an informal design. The positioning of some signs was confusing, and the wording of some was misleading.

Signage indicating restrictions on smoking in outside areas such as parks, tourist attractions and outside building entrances was absent. A public smoking shelter was observed outside an office complex on the opposite side of the street; this was clearly an attempt to encourage employees not to smoke at the entrance to the building, but it was not possible to determine whether the shelter was used as intended.

Tobacco affordability and promotion

Tobacco prices have been increasing, with contributions from the adoption of a tax escalator. The price of tobacco products nevertheless remains relatively cheap and affordable when compared to other products, such as popular items of fast food. The relatively cheap price of tobacco and its

availability in novelty packaging attracts the national population, tourists and visitors to make bulk purchases. The mission was informed that there is an intention to introduce standardized packaging.

Enforcement agencies

Several agencies have responsibilities in ensuring compliance with tobacco-control requirements. Some officers appreciated the importance of collective action, but this was neither universal nor codified. The mission encountered enthusiastic and committed individuals, but confusion over roles and responsibilities, together with unclear legal requirements and unsupportive court judgements, are making collaboration and partnership-working difficult.

Regulation of the tobacco supply chain

Regulatory officers identified a need to exert greater control over the supply chain for tobacco products. Excise officers, for example, expressed a desire to be more able to identify products to control the supply chain of tobacco using techniques available through track-and-trace systems.

Opportunities and capacity for further development of tobacco control in Ukraine

A comprehensive approach to tobacco control should be adopted, with a set of aims that includes challenging (yet achievable) targets.

Role of the national tobacco-control plan

The Government of Ukraine and key stakeholders have recognized the need to review and improve tobacco-control legislation, particularly to extend the requirements for smoke-free premises, remove point-of-sale advertising and promotion, and reinstate enforcement measures to achieve and maintain compliance.

These changes could be incorporated into a new national tobacco-control plan that learns lessons from previous experience, aims to achieve full compliance with WHO FCTC requirements and enables implementation of other measures to reduce tobacco consumption in Ukraine. The national plan could also incorporate the organizational structures and ambitions of the new Government.

The plan should reflect the good progress already made, with extensive compliance already in place, and recognize that the need now is to maintain and build on achievements to date. The aims of the national plan could therefore include:

- publishing a tobacco-control plan with expected outcomes, realistic but challenging targets and specified actions for various stakeholders;
- committing the Government and its agencies to lead by example in implementing full compliance with smoke-free requirements in all enclosed areas;
- providing information, advice, inspection and enforcement to ensure the achievement and maintenance of full compliance with smoke-free legislation in all private sector enclosed areas, with a particular focus on the hospitality sector;
- demonstrating effective and appropriate use of enforcement measures and creating a deterrent effect against continued noncompliance with tobacco-control legislation;
- restoring public confidence and engaging civil society in maintaining compliance and reporting noncompliance; and
- protecting young people from the harmful effects of tobacco by prohibiting all advertising and promotion of tobacco products at points of sale and enforcing laws to prevent underage sales.

Several issues need to be considered and addressed to ensure the national plan is successful. Many will require high-level decision-making to amend the

laws, adapt government policy, align legal processes and court procedures, provide adequate resources and engage civil society. A number of public sector and civil society organizations have worked successfully on tobacco-control measures and could be encouraged and supported to continue this into the future. Each may have specific roles and expertise, and better progress could be made by working together on delivering the national plan in a coordinated manner.

Detailed and transparent monitoring of smoking prevalence, tobacco sales and compliance with requirements would enable the success of the plan to be measured and adjustments made if required.

The national plan would need to identify sufficient resources, at least in the short term, to allow for routine inspection, complaints investigation and enforcement procedures to be planned and delivered, and to ensure that premises at high risk of offending are visited and complaints are responded to promptly.

Setting targets for reducing smoking prevalence and tobacco use

Challenging yet achievable targets would provide a mandate and create impetus for carrying out tobacco-control measures. These may be adjusted according to external changes.

The Tobacco Control Scale monitors the implementation of tobacco-control policies systematically at country level across Europe *(13)*. Ukraine scores well for its advertising bans and public-place smoking restrictions, but less well for relative price of tobacco, health warnings, treatment services and campaigns. The latest report places Ukraine in joint 20th position out of 36 countries, with a score of 50 out of a possible 100.

Responding positively to the recommendations in this report will enable Ukraine to improve its Tobacco Control Scale score. Experience from other countries indicates that standing still and doing nothing can cause a reduction in scores and a deterioration in tobacco control, with consequential damage to health and the economy.

Few data appear to be available for some areas of interest, such as smoking in pregnancy.

The Tobacco Control Scale report, which monitors the implementation of tobacco-control policies at country level across Europe, **places Ukraine in joint 20th position out of 36 countries, with a score of 50 out of a possible 100.**

A comprehensive approach to tobacco control requires high degrees of intersectoral cooperation and collaboration across government and its departments and agencies. Currently, **no comprehensive national network for tobacco-control action exists in Ukraine.**

The GATS reported that the national rate of tobacco use in Ukraine dropped nearly 20%, from 28.4% in 2010 to 22.8% in 2017, which equates to a reduction of just less than 1% per year. On the basis that further measures to reduce tobacco control are being implemented, a target 1% reduction per year could be set.

Exposure to second-hand smoke also decreased, but it is estimated that nearly a quarter of Ukrainians are still exposed to second-hand smoke in restaurants and cafes, despite a ban on smoking in public places. The aim for this area should be virtually 100% protection in the workplace and a sliding scale for exposure in other areas not covered by the law. Proxy targets for numbers of compliant premises can be used to encourage consistent implementation of the law.

For quitting services, quality standards can be set as targets based on the levels of successful quits at four weeks, 12 weeks, six months and 12 months. These should be underpinned by carbon monoxide validation *(14)*.

Utilizing the regional public health system

A comprehensive approach to tobacco control requires high degrees of intersectoral cooperation and collaboration across government and its departments and agencies.

Currently, no comprehensive national network for tobacco-control action exists. The new public health system under the Ministry of Health in oblasts (comprising 12 of 25 areas, with six people per centre) has an opportunity to make tobacco control a priority and develop effective delivery structures, appropriately differentiating among national, regional and local duties and responsibilities. This can be developed in line with government intentions for decentralization by utilizing existing arrangements for coordination of local activities, such as engaging with the Association of Mayors.

Two pilot areas have been identified within the new regional structure to determine best methods for securing smoke-free compliance, including the use of enforcement measures. This creates an opportunity to develop standard operating procedures for implementing a full range of WHO FCTC requirements that can be applied in all areas, with scope for appropriate localized action.

Revisiting legislation

Draft laws relating to tobacco products, illicit tobacco, smoke-free requirements and enforcement of tobacco-control measures are to be considered by parliament. It will be important to resolve these issues and bring forward proposed amendments and draft laws to resolve outstanding anomalies (such as permitted smoking rooms) and provide opportunities for affirming the Government's commitment and engaging the public.

Capacity for moving forward

Ukraine's progress on many tobacco-control issues was acknowledged earlier in the report, but coordinated and concerted effort will be required from many individuals and organizations to achieve future advances. This will need to be supported by political, legislative and administrative policies and structures.

It was noted during the mission that active support for the tobacco-control agenda in Ukraine was expressed during interviews with key people. Leadership was demonstrated by some interviewees, and enthusiasm and passion for delivering quality innovative work was evident from some partners.

The desire to review progress and develop tobacco control further is recognized, and many interviewees were clearly committed to improving tobacco control in Ukraine. Concerns nevertheless were expressed about the capacity of enforcement staff to respond to renewed demands for inspections, exacerbated by confusion over the detail of some laws. A training/retraining programme could help build confidence and ensure consistency and fairness in enforcement.

There appeared to be a worrying degree of acceptance of some barriers to success, such as loopholes being exploited by the tobacco industry (on point-of-sale advertising, for instance). This indicates a fundamental need to remake the tobacco-control case to all opinion formers and those whose responsibilities include tobacco-control work.

Guidelines for implementation of the WHO FCTC encourage civil society to play an active role in building support for, and ensuring compliance with, legislative measures. Indeed, without the wider support of the population it would be virtually impossible to achieve success. Nongovernmental organizations (NGOs) should be included as active partners in the process of developing, implementing and enforcing legislation, but this should be built on a common purpose.

It is unlikely that implementation of legislation alone will substantially reduce smoking rates. Specific measures are needed to support smokers to stop and to discourage young people from taking up smoking.

At the time of the mission, there was an established, if limited, stop-smoking service achieving good quit outcomes. It is understood that plans are in place to expand the reach of the service, but currently funds are limited. Expansion of the Quitline coupled with the proposed amendments to the smoke-free and tobacco-control laws could provide opportunities for a renewed campaign effort. This will be most successful if provision of support for stopping smoking is combined with the supply of nicotine substitutes and behavioural support.

The Global Youth Tobacco Survey (GYTS) of 13–15-year-olds, the recent GATS survey and the forthcoming WHO STEPwise Approach to Surveillance (STEPS) survey will help to establish reliable baselines against which future progress can be assessed.

Ukraine demonstrated good progress on many tobacco-control issues, but coordinated and concerted effort will be required from many individuals and organizations to achieve future advances.

Findings and recommendations

MPOWER: **monitoring**

Rationale

Only through **accurate measurement** can problems caused by tobacco be understood and interventions be effectively managed and improved.

The WHO FCTC Article 20 states:

> The Parties shall establish surveillance of the magnitude, patterns, determinants and consequences of tobacco consumption and exposure to tobacco smoke. Parties should integrate tobacco surveillance programmes into national, regional and global health surveillance programmes so that data are comparable and can be analysed at regional and international levels.

Population-based national and international monitoring data are necessary to effectively plan and implement the WHO FCTC. Only through accurate measurement can problems caused by tobacco be understood and interventions be effectively managed and improved.

Monitoring can provide policy-makers and public health authorities with essential information on:

- the full extent of the tobacco epidemic in a country;[1]
- subgroups in need of tailored policies and programmes;
- public awareness and population knowledge of the danger of tobacco use and second-hand smoke, and attitudes to tobacco-control policies and actions taken by the government;
- changes in tobacco use following implementation of policies and programmes;
- government enforcement and societal compliance with tobacco-control policies, including tax collection and tax evasion,[2] smoke-free places, and advertising and marketing bans; and
- tobacco industry practices that may increase tobacco use or hinder implementation of tobacco-control policies and programmes.

1 Monitoring systems should provide data on the use of the whole range of tobacco products and use of non-tobacco forms of nicotine, such as electronic cigarettes. They therefore should track smoking of cigarettes and other smoked products (such as water pipes and cigars), smokeless tobacco products, HTPs and electronic nicotine delivery systems. These must be assessed in young people and adults.

2 Such data usually are analysed through assessment studies rather than periodical surveys. Tobacco surveys such as GATS assess economic aspects of tobacco use, such as the brands of purchased cigarettes, the source of last purchase and average expenditure.

Monitoring is also essential to evaluate the effectiveness of adopting and implementing WHO FCTC requirements and guidance.

Surveys can be conducted on tobacco use alone, or can be combined with surveys on other health issues of interest to a country's government. They should be repeated at regular intervals using the same survey questions and sampling and data-analysis techniques. This enables data from different surveys to be comparable, allowing accurate evaluation of the impact of interventions over time.

The proportion of former smokers (people who have ever smoked regularly and have quit) is a useful indicator of progress in tobacco control. Localized studies may also prove helpful in assessing the effectiveness of development and implementation of tobacco-control policies and in increasing stakeholder support.

Data from monitoring can provide critical evidence to promote stronger policies. Findings should be disseminated through government policy papers, academic publications and mass media *(15)*.

Monitoring in Ukraine

Ukraine has achieved much in relation to monitoring, with recent, representative and periodic data for both adults and young people (repeated within a five-year time span) available.

GYTS was conducted at national level in 2005, 2011 and 2017 and GATS in 2010 and 2017. STEPS, which monitors the main NCD risk factors through questionnaire assessment and physical and biochemical measurements, took place in 2019.

Many resources are available publicly in Ukraine through NGO websites *(16)*. It was suggested, however, that while many surveys had been undertaken, opportunities to share information in a timely fashion with appropriate others (such as civil society) so they can fully engage with the interpretation and application of the data to tobacco-control programmes may be being missed.

Ukraine has achieved much in relation to monitoring, with recent, representative and periodic data for both adults and young people available.

Recommendation 1. Where possible, data sets from relevant surveys should be made readily available to authorized organizations and NGOs to enable analysis, interpretation and application to policy-making.

The mission was informed of longitudinal surveys that could be used to make comparisons internally and with other countries *(17,18)*, but it was not clear if tracking surveys have been utilized.

Recommendation 2. Longitudinal and tracking surveys of tobacco use and smoking behaviours should be utilized fully to measure the impact of tobacco-control interventions.

Some comparison data on the detailed habits of nicotine users are available, but **it is not possible to determine overall prevalence or use of electronic cigarettes, HTPs or shisha.**

Some comparison data on the detailed habits of nicotine users are available *(17)*, but it is not possible to determine overall prevalence or use of electronic cigarettes, HTPs or shisha.

Recommendation 3. Surveys that enable changes in tobacco and other product use to be tracked should be undertaken. The information gathered can inform the tobacco-control programme on the way different ages, genders and other demographic groups use nicotine and how such use changes over time following interventions.

Little data on smoking prevalence among pregnant women and their families are available. Smoking status is usually assessed at primary health-care physician offices but not in the framework of national surveys (see section below on "Offering help to quit"). Some data are available on smoking in homes and vehicles; GATS and GYTS assess exposure to second-hand smoke in private homes and GATS assesses exposure in public transportation.

Recommendation 4. Where possible, surveys should be tailored to determine smoking rates in private homes and private vehicles. This information can be used to measure the effects of public information campaigns and determine if further action is needed.

Various studies have been used to provide information on the general effects of smoking on society as a basis for making the case for more tobacco-control measures.

Recommendation 5. Studies that can estimate the effects of tobacco on various levels of Ukrainian society (national, oblast, locality and entity levels) should be commissioned. Information can be issued in the form of calculators in which local information on, for example, the cost of smoking breaks for businesses can be inserted. Examples of this approach include the Action on Smoking and Health ready reckoner *(19)* and National Institute for Health and Care Excellence (NICE) Tobacco Control Return on Investment tool from the United Kingdom *(20)*.

As an example, it would be helpful to monitor air quality in premises where shisha or HTPs are extensively promoted and used indoors. This would support the case that these products should be covered by the smoke-free law and promote its diligent enforcement.

Recommendation 6. Consideration should be given to utilizing the expertise of in-country specialist research centres.

Monitoring of the tobacco market shows that turnover is higher than estimated consumption. This is attributed to the smuggling of products out of the country because of relatively cheap prices in Ukraine.

Monitoring and reporting of compliance data and enforcement activity

The collection, collation and reporting of compliance levels and enforcement activity, including historic trends, can be very influential in persuading people that the law is working and encouraging and maintaining compliance. It is recommended that success in securing high levels of compliance and enforcement activity is reported regularly to encourage public support for tobacco-control measures.

The collection, collation and reporting of **compliance levels and enforcement activity**, including historic trends, can be very influential in persuading people that the law is working and encouraging and maintaining compliance.

The mission was informed that inspection activity had been curtailed due to a moratorium, although permission had been granted for some inspections based on a prior approval system.

No information on the numbers or types of activity approved or not approved was available.

Publishing both compliance data and enforcement activity is considered very important in the United Kingdom. Enforcement agencies were required to provide statistical returns on a regular basis to inform reports that were published online every month *(21)*. These reports provided the basis for authoritative public statements confirming that compliance levels were high (reaching 98.9% no smoking in smoke-free premises) and enforcement action to maintain the high levels of compliance was continuing.

Recommendation 7. Arrangements should be made to regularly collect and collate compliance data and enforcement activity. The information should be incorporated into communications plans.

Established systems for reporting noncompliance are used widely and can be very useful in providing information to inform enforcement officers of possible offences. Several enforcement agencies deal with a range of offences and a variety of premises and vehicles.

Recommendation 8. Arrangements should be made to enable systematic reporting and recording of noncompliance with tobacco-control laws. A dedicated telephone number and web-based systems should be utilized. Staff operating the telephone reporting line and monitoring web-based systems should be provided with algorithms and guidance for responding to and referring complaints and enquiries relating to smoking and tobacco-control issues.

MPOWER: **protecting people from tobacco smoke**

Rationale

Experience consistently shows that **smoke-free laws are practical, popular (even among smokers) and successful**, despite industry claims to the contrary.

The WHO FCTC Article 8 states:

> Scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability. Each party shall adopt and implement ... measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.

There is no safe level of exposure to tobacco smoke. Exposure to tobacco smoke is proven to cause heart disease, cancer and many other diseases. All people have a fundamental right to breathe clean air. Completely smoke-free indoor environments – with no exceptions – are the only proven way to protect people.

Experience consistently shows that smoke-free laws are practical, popular (even among smokers) and successful, despite industry claims to the contrary. Myths, such as the threat of economic loss, continue to be spread by the tobacco industry. These myths and opposition can be anticipated and countered.

A review of the economic effects of smoke-free environments around the world concludes that they do not have a negative economic impact on businesses. In many cases, smoke-free laws have even had a slight positive economic impact. Economic impact studies of smoke-free laws have shown no adverse effects on bar and restaurant businesses or tourism.

The primary purpose of establishing smoke-free workplaces is to protect workers' health. Framing the debate about smoke-free workplaces as a worker safety issue can help build support.

Smoke-free environments also help smokers who want to quit.

Smoke-free regulations can easily be enacted in facilities under direct government control or regulation. Establishing smoke-free public places encourages families to make their homes smoke-free, protecting children and other family members from the dangers of second-hand smoke.

Public support is critical to the success of smoke-free laws. Support can be gained through effective education about the harms of second-hand smoke exposure and a clear explanation of the purpose of the law.

Smoke-free legislation should be written clearly and be comprehensive. There should be no exemptions, and responsibility for enforcement should be specified. The law should clearly define the act of smoking, specify all indoor areas covered, and mandate posting of clear and conspicuous signage.

Once enacted, laws establishing smoke-free places must be well enforced. Administrators, managers or proprietors, rather than individual smokers, should bear primary responsibility for ensuring enforcement. Although maintenance of smoke-free places is largely self-enforced in the long term, it may be necessary to increase the level of enforcement immediately after smoke-free laws are enacted. Usually it is possible to reduce enforcement measures, with regular monitoring, once a high level of compliance has been achieved *(22)*.

Observations and reflections

Compliance with prohibitions on smoking in indoor workplaces and public places appears to be very high. Current exemptions, however, such as permitted smoking rooms, growth in shisha use and suspension of formal enforcement action for over three years, means that compliance with the law cannot be guaranteed.

There is also widespread confusion about legal requirements, including among enforcement officers. The mission was informed, for example, that the police has powers to fine smokers, but those interviewed were uncertain of the requirements and enforcement procedures, the circumstances under which warnings should be given, and when fines should be imposed.

Compliance with prohibitions on smoking in indoor workplaces and public places is high. Current exemptions, such as permitted smoking rooms, should be eliminated and uncertainty around the legal requirements and enforcement procedures should be resolved.

Definition of smoking

The current law of Ukraine defines smoking as "actions that lead to the combustion of tobacco products, as a result of which tobacco smoke is formed and then released into the air and inhaled by the person who is smoking them". Tobacco smoke is defined as "products of the combustion of tobacco products that are released into the air as a result of their being smoked".

Tobacco products are defined as "filter or non-filter cigarettes, hand-rolled cigarettes, cigars, cigarillos, and also pipe, snuff, sucking, chewing tobacco, makhorka and other tobacco products or substitutes for smoking, snuffing, sucking or chewing".

These definitions are considered sufficient to prohibit the commercial provision and use of shisha (hookah pipes) in premises required to be smoke-free.

A problem can arise when the definition of smoking is limited to the use of tobacco and tobacco products. Where it is claimed that a non-tobacco product is being used, such as herbal smoking mixtures and tobacco-free shisha, enforcement officers would need to obtain proof to the contrary, which could involve the collection of samples and laboratory analysis and create delays and additional costs.

The legal definition of smoking should include smoking tobacco or anything that contains tobacco, or smoking any other substance, including in cigarettes, cigars, herbal cigarettes and pipes (including water pipes). The definition should include not only tobacco products that are burned, but also those that are heated.

It is recommended that if these definitions are to be amended, the legal definition of smoking should include smoking tobacco or anything that contains tobacco, or smoking any other substance, including in cigarettes, cigars, herbal cigarettes and pipes (including water pipes). The definition should include not only tobacco products that are burned, but also those that are heated.[3]

It will not always be possible for enforcement officers to observe a person in the act of inhaling smoke from a tobacco product. To simplify the process, it should be sufficient for enforcement officers to observe a person holding a lit cigarette or other product used for smoking. The legal definition of smoking should therefore include being in possession or control of a lit tobacco product regardless of whether the smoke is being actively inhaled or exhaled (for example, holding lit smoking materials or placing them in a receptacle such as an ashtray for later use).

Definition of public place and workplace

The current law of Ukraine defines a public place as "part (parts) of any buildings, structures, which are accessible or open to the public for free or by invitation, or for a fee, constantly, periodically, or from time to time, including entrances, as well as underground passages [and] stadiums" and a workplace as "the space reserved in the building or structure for the employee to perform his work".

These overlap to some extent in that public places are also likely to be workplaces for people who clean and maintain the structure or provide services for the occupants. Workplaces include not only places at which work is performed, but also all attached or associated places commonly used by workers in the course of their employment, including, for example, toilets and washing facilities, corridors, lifts, stairwells, lobbies, cafeterias and outbuildings used in connection with work.

Proposed definition of premises

There is a proposal to adopt a definition that defines premises as any space under a roof, confined by two or more walls or partitions, regardless of the material used for the roof, walls or partitions, or whether its structure is permanent or temporary. Presumably the need for this definition arises from the desire by businesses to provide shelter for smokers using hospitality

3 The definition used in the Republic of Moldova covers all type of products: "Smoking – the possession or manipulation of a lit or smouldering tobacco product or similar product involving a burning or smouldering process, regardless of whether smoke is actively inhaled or exhaled. For the purposes of this law, the possession or manipulation of a device that is turned on to heat a non-smoking tobacco product or similar product that does not involve a burning or smouldering process, or any other new tobacco product that does not involve a burning or smouldering process, regardless of whether the aerosol is actively inhaled or exhaled, is recognized as smoking".

premises that otherwise would be required to be smoke-free.

The mission arrived in Kyiv during warm dry weather and observed a large number and variety of permanent and temporary structures (known locally as terraces) that were either attached to buildings or free-standing and which readily could be made completely or partially enclosed by the addition of removable materials to form roofs and walls during periods of cold and wet weather. This is an issue encountered in many countries.

To avoid confusion and deliberate avoidance of compliance, it will be necessary to specify the proportion of a structure that is required to be open to the air. It is important that the application of the rule is simple and can be understood clearly; if it is not, experience shows that it will be open to wide interpretation and lead to inconsistent and unfair application of the smoke-free requirements. The 50% rule, which is used throughout the United Kingdom, is recommended as a means of determining whether smoking will be permitted or prohibited.

> **Recommendation 9.** Consideration should be given to identifying clearly where smokers will be allowed to smoke and how this information can clearly be communicated to enforcement officers, citizens and visitors.

No-smoking signs

The law of Ukraine requires that in places where smoking is prohibited by law, visual information must be displayed, consisting of a graphic sign and text reading "Smoking is prohibited".

There do not appear to be any standards for officers or guidance for businesses to assist them in deciding upon the type and size of no-smoking signs, or where and how the signs should be displayed. The observed result is that no-smoking signs are being displayed on an inconsistent basis, and can even cause confusion – when displayed inside buildings, for example, they create the mistaken belief that people are permitted to smoke if they stand away from the area indicated by the no-smoking sign.

The risk of smoking continuing to take place in some premises, such as those in the hospitality sector in which people have become accustomed to being allowed to smoke, is much higher than in places where smoking traditionally has been prohibited and compliance is high and/or effectively enforced. Signs can play an important role in informing, reminding and warning. The number and placement of signs need to be considered. Clearly, what may be sufficient in small premises will be insufficient in larger premises. Although signage on its own does not ensure compliance with the law, it provides clarity on where smoking is allowed and removes a potential defence from those who continue to smoke in restricted areas.

The law requires that in places where smoking is prohibited, visual information must be displayed, consisting of **a graphic sign and text reading "Smoking is prohibited".** However, the number and placement of signs need to be considered.

The law should be amended to make it an offence for any person having responsibility for a smoke-free area to permit or fail to prevent people smoking.

The United Kingdom has in place a legal requirement to display official no-smoking signs at every entrance to smoke-free premises, or within each compartment of a smoke-free vehicle. The type and size of signs are specified in legislation and signs have been provided free of charge by the Government (they can be downloaded and printed from the Government's Smokefree England website). The advice is to display as many additional signs inside the premises as are necessary to act as reminders in, for example, areas used for eating and drinking and in toilets.

The intention of this requirement is twofold. First, no one will be able to say they are unaware that they are in a smoke-free premises or vehicle, since they will have passed through an entrance or entered a vehicle where the no-smoking sign is displayed. Secondly, the sheer number and visibility of no-smoking signs acts as a constant reminder to people that the smoke-free requirements are being applied – this is particularly important during the initial period of introduction of the smoke-free legislation.

It follows that it is a straightforward matter for enforcement officers in the United Kingdom to check whether the right signs are being displayed correctly. Where they are missing, replacements can be offered and only refusals to display or persistent offenders need to be dealt with through enforcement measures.

Recommendation 10. An official no-smoking sign should be adopted and made generally available to enforcement officers, government agencies and NGOs, and be downloadable from official websites. It should be used by the owners and occupiers of businesses and buildings who wish to remind people that it is against the law to smoke in their premises.

Recommendation 11. Premises where smoking offences are occurring, such as hospitality premises, or that have a history of noncompliance with smoke-free requirements should be required to display the official no-smoking sign in prominent positions at all entrances to smoke-free areas.

Identifying the person in control of the smoke-free area

The documents provided to the mission do not describe an offence in the law for permitting or failing to prevent smoking in a smoke-free place. A comprehensive smoke-free law should require that no person shall smoke or allow any other person to smoke any tobacco product within any enclosed public place *(23)*. Owners, occupiers, proprietors, managers, trustees or other persons in charge of any enclosed public place shall ensure that no person smokes any tobacco product within any such enclosed public place.[4]

4 It is an offence in the United Kingdom for persons who control or manage smoke-free premises or vehicles to permit others to smoke in them. Permit in this sense means to fail to stop smoking that is taking place and to fail to prevent smoking from occurring repeatedly *(24)*.

The person who controls or manages smoke-free premises can include the owner of the business or the official occupier of the premises, but can also simply be the person who is in charge at that moment in time. For example, where the owner is absent (and may even be abroad), the manager is not on the premises (perhaps he or she has gone out for lunch) and the supervisor is temporarily unavailable (taking receipt of a delivery, for example), any of the staff present can be said to be in charge. They would be expected to summon the manager or, if necessary, take action themselves if a customer tried to leave without paying or damaged property, so they can also be expected to require someone not to smoke. Maintaining compliance is therefore a shared responsibility among all of the staff, so their employer needs to ensure they understand their responsibilities.

Recommendation 12. The law should be amended to make it an offence for any person having responsibility for a smoke-free area to permit or fail to prevent people smoking.

Compliance in premises owned and operated by the state

Premises that are owned or operated by the state should act as role models for the rest of society. It therefore is essential that these are seen to be fully compliant with the smoke-free laws.

Similarly, public figures, including politicians and government officials and employees, should comply with the smoke-free laws and act as visible and vocal advocates for compliance.

Recommendation 13. The Government of Ukraine should, through statements issued by senior ministers, make clear its expectation that the requirements of the smoke-free laws will be complied with by all Government members and employees and in all premises and vehicles owned and operated by the state, including in the open areas of their territories where smoking is prohibited.

Permitted smoking rooms

There was confusion among government representatives regarding whether the provision of smoking rooms is a permission issue or, in some cases, a legal requirement. The mission was informed, for example, that the existing law includes exemptions for hotels, guest houses and lodges having 30 rooms or more, restaurants and clubs with a minimum seating capacity of 30 persons, and for airports. It was also stated that these venues are allowed to designate an enclosed space or area for smoking.

The presence of smoking rooms is in direct conflict with the WHO FCTC requirements. It undermines the basis of smoke-free policies and creates confusion that can adversely affect compliance.

It is strongly recommended that **any and all permissions for indoor smoking exemptions in all workplaces and public places should be discontinued** as a matter of urgency.

Enforcement measures to ensure compliance with smoke-free requirements are being reinstated in Ukraine after suspension for several years.

Recommendation 14. It is strongly recommended that any and all permissions for indoor smoking exemptions in all workplaces and public places should be discontinued as a matter of urgency.

Smoking prohibitions

It is not necessary for legislation to list every type of workplace and public place, as doing so is limiting and allows the possibility that a particular type of workplace is not included, thereby creating a loophole in the legislation. It is better to use generic descriptions. The following suggested wording is a proven model that provides an inclusive definition.

Premises that are places of work for more than one person will be required to be smoke-free at all times in all enclosed and substantially enclosed parts, even if people work there at different times of the day, or only intermittently. A place of work used only by one person will also be required to be smoke-free at all times if members of the public enter the premises, for example to receive goods or services.

The legislation should also define work to include casual, temporary and unpaid work.

Recommendation 15. Any amendment to the legislation in respect of smoke-free prohibitions should use a generic description to include all indoor places where people work and/or to which the public has access.

Resources for enforcement activities

Enforcement measures to ensure compliance with smoke-free requirements are being reinstated in Ukraine after suspension for several years. The State Service for Food Safety and Consumer Protection will carry out planned and unplanned inspections according to a protocol to be issued by the Ministry of Health. This will include criteria for intervention, uniform inspection forms and protocols.

Sufficient resources will need to be made available, at least in the short term, to allow for routine inspection, complaint investigation and enforcement procedures to be planned and delivered to ensure that premises at high risk of offending are visited and complaints are handled promptly.

Recommendation 16. A realistic assessment of the necessary resources for effective smoke-free enforcement arrangements should be carried out, including staffing requirements, remuneration, transport and travel, and taking into account evening and weekend working.

Recommendation 17. Consideration should be given to requiring all regulatory officers visiting business premises for any reason to also check compliance with smoke-free requirements and report noncompliance to an appropriate enforcement agency.

MPOWER: **offering help to quit**

Rationale

The WHO FCTC Article 14 states:

> Each Party ... shall take effective measures to promote cessation of tobacco use and adequate treatment for tobacco dependence. Each Party shall endeavour to design and implement effective programmes aimed at promoting the cessation of tobacco use [and to] include diagnosis and treatment of tobacco dependence and counselling services on cessation of tobacco use in national health and education programmes, plans and strategies.

It is difficult for tobacco users to quit. Most people, however, want to quit when informed of the health risks. Tobacco-control policies create the environment in which users can successfully stop. Cessation support and medication can increase the likelihood that a smoker will quit successfully.

Cost analyses have shown the benefits from tobacco-cessation programmes to be either cost-saving or cost-neutral.

Clear, strong, personalized advice from all health professionals about the risks of tobacco use and the importance of quitting is usually well received and increases quit rates. All health professionals should offer cessation support to smokers or refer smokers to a cessation service where possible. Cessation support includes:

- promoting the benefits of cessation
- assessing the degree of nicotine dependence
- assisting smokers in setting a quit date
- advising that complete abstinence from smoking is best
- arranging effective medication, if available
- arranging follow-up.

All health-care workers should be trained in giving brief advice to quit and offering cessation support to tobacco users.

The highest quit rates are achieved when cessation support is combined with medication.

Doctors and other health-care workers are most effective in assisting patients to quit when they serve as role models by not smoking themselves.

Clinical cessation services are much more cost–effective than most other health-care system activities. They are most effective when combined with other MPOWER measures *(25)*. It is also useful to note that encouraging smokers to quit means fewer smokers and, consequently, less demand for smoking areas and probably fewer violations of the smoke-free law.

Clinical cessation services are much more cost–effective than most other health-care system activities. They are most effective when combined with other MPOWER measures.

National cessation guidelines for Ukraine are available, but no data on impacts were provided to the mission. However, it was suggested that in general, doctors do not ask about the smoking status of their patients. Neither do they advise smokers about quitting or encourage and support them to stop.

Stop-smoking services

A comprehensive approach to tobacco control includes measures to drive down smoking, such as high prices, restrictions on advertising, controlling sales and restricting where people can smoke. This needs to be balanced by support for smokers and encouragement to stop smoking.

Structured behavioural support with medication is not routinely offered to smokers. It is unclear how readily available stop-smoking medications are in Ukraine. The evidence of effectiveness of these measures nevertheless is well documented and this approach to supporting smokers to stop smoking is highly recommended.

National cessation guidelines for Ukraine are available,[5] but no data on impacts were provided to the mission. It was suggested that in general, doctors do not ask about the smoking status of their patients. Neither do they advise smokers about quitting or encourage and support them to stop.

Recommendation 18. The basic infrastructure to support tobacco cessation and treatment of tobacco dependence should be established or strengthened.

Recommendation 19. Recording of tobacco use in medical records should be made mandatory.

Recommendation 20. A tobacco-cessation training network should be created to train all primary care providers on brief tobacco interventions (5As and 5Rs)[6] and prepare a pool of tobacco-cessation specialists to deliver intensive specialized tobacco-cessation support.

Recommendation 21. To achieve the above, a sustainable source of funding for tobacco cessation should be identified.

Recommendation 22. Consideration should be given to implementing fully the national cessation guideline to ensure that a standard offer is given to all smokers based on evidence of effectiveness. This is particularly important for smokers in contact with the health service and those seeking support to stop smoking or reduce their level of tobacco consumption.

Recommendation 23. An evidence-based national training programme should be developed[7] and delivered to all front-line staff who interact with smokers.

5 For examples from the United Kingdom, see Public Health England *(26)*, National Centre for Smoking Cessation and Training *(27)* and NICE *(28)*.

6 The five major steps to intervention are the 5As: ask, advise, assess, assist and arrange. The 5Rs of motivation are: relevance, risks, rewards, roadblocks and repetition.

7 There are many resources available to assist in this, including Robert West's "Smokefree formula", which lists 29 evidence-based methods of quitting, each with varying levels of effectiveness *(29)*.

Recommendation 24. All primary care providers should routinely identify tobacco users and advise them to quit, using 5As and 5Rs models.

Recommendation 25. The smoking status of pregnant women should be measured at all interactions with primary health-care physician offices and maternity services. This information can be used to offer targeted support to pregnant smokers and their families.

Recommendation 26. When resources are available, specialized intensive tobacco-dependence treatments (tobacco-cessation clinics) should be established, and consideration should be given to establishing tobacco-cessation clinics to provide intensive specialized tobacco-cessation support to tobacco users.

Recommendation 27. Consideration should be given to ensuring that products such as nicotine replacement, varenicline and cysticine are actively promoted and made readily available to smokers identified as wishing to quit.

Consideration should also be given to adding nicotine replacement therapy and other products to the national essential drug list and partially or fully covering the cost for tobacco users making supported quit attempts. These products could also be included as part of a programme for temporary abstinence, such as when smokers are admitted to hospital.

Quitline

The mission was informed about the Quitline in Ukraine, although it was not possible to observe the line in operation.[8] The Quitline had been in existence for two years, operating from 09:00–21:00, receiving around 6000 calls and helping 1000 clients in 18 months. Early indications showed a quit rate of around 12.5% in the first year, which is comparable with similar services in other countries.

Eight highly qualified consultants were employed. It was not clear what remuneration the Quitline consultants received so it was not possible to explore the viability of expanding the service.

The service had been evaluated, including a satisfaction survey of clients.

Recommendation 28. The Quitline should be reinstated, owned, funded and supported by the Ministry of Health to amplify its reach (1000 clients helped in 18 months is insufficient). The Quitline should aim to provide intensive counselling services (multiple calls) to callers to improve their success of quitting.

The Quitline had been in existence since 2017, operating from 09:00–21:00, receiving around 6000 calls and helping 1000 clients in 18 months. Early indications showed **a quit rate of around 12.5% in the first year, which is comparable with similar services in other countries.**

8 The mission subsequently was advised (in November 2019) that the Quitline has ceased operation, but there is a desire to reinstate it.

Recommendation 29. Evidence-based counselling protocols should be developed to guide telephone counselling service delivery.

Recommendation 30. The Quitline should be promoted widely through various means, such as including the Quitline number on cigarette/tobacco packs and creating links with health systems.

Recommendation 31. The Quitline should be staffed adequately to cope with demand. This will require the hiring and training of additional telephone counsellors.

Recommendation 32. Brief stop-smoking advice should be given by health-care providers who have direct contact with smokers as part of their routine practices (opportunistic intervention).

Recommendation 33. Feedback on the use of the Quitline, including monitoring of calls and the information obtained, should be obtained and fully utilized to inform development plans. Informal surveying of smokers calling the Quitline may assist in other tobacco-control activities, such as finding out where smoking occurs and where tobacco products are obtained.

Recommendation 34. Studies should be undertaken among smokers who have not contacted the Quitline previously to determine what barriers to calling may exist.

MPOWER: **warning about the dangers of smoking**

Rationale

The WHO FCTC Article 11 states:

> Each Party shall ... ensure that tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading [or] deceptive ... Each Party shall ... ensure that... tobacco products ... carry health warnings describing the harmful effects of tobacco use ...

Article 12 states that "Each Party shall promote and strengthen public awareness of tobacco control issues, using all available communication tools ...".

Despite conclusive evidence on the dangers of tobacco, few tobacco users understand the full extent of the health risks. Many smokers believe they can reduce or stop tobacco use before health problems occur. Both smokers and non-smokers underestimate the addictiveness of tobacco, the risk it poses to health and the danger of exposure to second-hand tobacco smoke.

These threats have not adequately been explained to the public.

Effective warning labels, anti-tobacco advertising and the proactive use of media to influence the public and policy-makers are three key ways of communicating the health risks of tobacco. Prominent warning labels on tobacco packs are the most direct way of communicating health risks to tobacco users; effective health warnings on cigarette packs encourage smokers to quit and discourage non-smokers from starting.

Anti-tobacco advertising in all forms of media can help publicize the full extent of tobacco's dangers. Smokers are more likely to quit when exposed to graphic anti-tobacco messages on television. Public relations activities can further educate people about the harms of tobacco and counter tobacco industry misinformation. As such, anti-tobacco educational campaigns should include efforts to obtain news coverage by working with journalists to develop stories or writing letters to editors *(30)*.

Despite conclusive evidence on the dangers of tobacco, **few tobacco users understand the full extent of the health risks.** Both smokers and non-smokers underestimate the addictiveness of tobacco, the risk it poses to health and the danger of exposure to second-hand tobacco smoke.

Provision of public information

It can be argued that smokers have a choice as to whether to continue to smoke or not, but there is a duty for governments and public health organizations to ensure that the choice is an informed one. Although most smokers would say they know smoking is harmful, they frequently underestimate the true harm. A strong social programme will increase smokers' desire to quit and should be met with appropriate services to help them to do so (Prime Theory).

Consideration should be given to using **ideas and concepts that have already proved their effectiveness** in other countries. The use of positive health messages to show how a life without smoking can be better is an example.

The mission was unable to determine the level of understanding of tobacco-control issues among the public, but surveys suggest high levels of public support (80–90%) for a display ban and increased action to detect and prevent underage sales. Information about, and evidence of, public awareness campaigns on the dangers of second-hand smoke and the inclusion in public service announcements of messages about smoking harms were presented. The police force also has a preventative function in this area.

Recommendation 35. Building on existing surveys of public knowledge and awareness, consideration should be given to gaining insights into suitable content for an advertising and promotion programme to prepare the next steps for tobacco control.

Recommendation 36. Consideration be given to using ideas and concepts from other countries, adapted for the Ukraine market where necessary. The use of positive health messages to show how a life without smoking can be better is an example.

Recommendation 37. Ukrainian legislation should be amended to ensure alignment with the European Union (EU) Tobacco Products Directive mandate of health warnings covering 65% of the main surfaces of packages.

MPOWER: **enforcement of ban on advertising and promotion**

Rationale

The WHO FCTC Article 13 states:

> ... a comprehensive ban on advertising, promotion and sponsorship would reduce the consumption of tobacco products. Each Party shall ... undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship.

Advertising, promotion and sponsorship normalize tobacco, making it seem like any other consumer product. This increases its social acceptability and hampers efforts to educate people about the hazards of tobacco use. Marketing falsely associates tobacco with desirable qualities such as energy, glamour and sex appeal.

Bans on direct advertising should cover all types of media. Partial bans have little or no effect because the industry simply diverts resources to other types of advertising, promotion and sponsorship.

Point-of-sale promotion, including price discounts and product giveaways, can account for more than 75% of tobacco company marketing expenditure. Point-of-sale advertising and in-store displays of tobacco products should be banned. Bans on product displays lead to reductions in smoking among young people and reduce impulse purchases by adults who want to quit.

Keeping tobacco behind the counter and out of public view can be effective. Even the extra effort required to ask a retailer for tobacco products is often enough to deter purchasers.

Some countries are beginning to require generic packaging for tobacco products. Plain or generic packaging – without colour, pictures or distinctive typefaces, other than health warnings – can neutralize the value of individual brands.

Policy-makers should announce bans on advertising, promotion and sponsorship well in advance of implementation to provide sufficient time for media and other businesses to find new advertisers and sponsors. Comprehensive bans on advertising, promotion and sponsorship must periodically be updated to take account of innovations in industry tactics and media technology *(31)*.

The relevant legal requirements for advertisement of tobacco products in Ukraine are understood and **enforcement measures are being applied effectively.**

Advertising of tobacco products

It was observed that overt advertising of tobacco products (through, for example, signs, billboards and printed media) has virtually been eliminated, and recent breaches relating to billboard advertising had been treated seriously and dealt with severely. This clearly indicates that the relevant legal requirements are understood and enforcement measures are being applied effectively.

The law should be clarified and, if necessary, amended **to impose complete prohibition on point-of-sale advertising, product display and promotion of tobacco products** in all retail premises.

Point-of-sale displays of tobacco products

A significant increase in point-of-sale advertising has been seen following restrictions on other forms of advertising. Open displays of tobacco products were observed, with extensive advertising and promotion of tobacco products at point of sale in shops, kiosks and the international airport.

Numerous examples of illuminated panels and product representations occupying large areas of available display space were seen, including the display of tobacco product packaging at the height of small children. It was stated that kiosks were being paid fees for accepting tobacco displays, including near school premises; at amounts around US$ 3000, the payments are seen as representing significant income for some kiosks.

Legal arguments have been made by the tobacco industry that point-of-sale marketing was tantamount to "displays of products" and not "advertising". The mission takes the view that these widespread and obvious breaches of the WHO FCTC requirements will be undermining other tobacco-control measures, particularly efforts to reduce smoking prevalence.

A proposed amendment to Article 16 of the Ukrainian law will prohibit placement of tobacco products, packages and displays at point of sale in such a way that they are visible only to the person working at the point of sale or an individual customer over the age of 18.

Enforcement procedures should be simplified, with observation and recording followed either by the threat of enforcement measures or actual prosecution. These actions should be considered as urgent priorities. They should be carried out in a manner that demonstrates the seriousness with which the Government views contraventions of the law and which sets an example for, and serves as a deterrent to, others who are similarly noncompliant.

> **Recommendation 38.** The law should be clarified and, if necessary, amended to impose complete prohibition on point-of-sale advertising, product display and promotion of tobacco products in all retail premises.

Duty-free tobacco was not available to purchase in the arrival lounge of Kyiv Airport but was advertised and promoted in the departure lounge. The United Kingdom model requires all tobacco products to be kept in a separate area of the duty-free shop, access to which is not permitted to underage people.

> **Recommendation 39.** Prohibition of, and restrictions on, point-of-sale advertising and promotion of tobacco products at retail premises should apply equally to duty-free shops.

> **Recommendation 40.** Standardized packaging should be introduced for all products containing tobacco.

MPOWER: **raising taxes**

Rationale

The WHO FCTC Article 6 states:

> Price and tax measures are an effective and important means of reducing tobacco consumption ... Each Party should ... adopt ... tax policies and ... price policies on tobacco products, so as to contribute to the health objectives aimed at reducing tobacco consumption.

Article 15 states that "Elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting ... are essential components of tobacco control".

Increasing the retail price of tobacco products through higher taxes is the single most effective way to decrease consumption and encourage tobacco users to quit. When tobacco prices increase:

- fewer people use tobacco
- people who continue to use tobacco consume less
- people who have quit are less likely to start again
- young people are less likely to start using tobacco.

Tobacco taxes are particularly effective in preventing or reducing tobacco use among young people and those who are poor. People in these groups are more affected by price increases.

Governments should raise taxes periodically so that prices increase faster than the combined effects of inflation and increased consumer purchasing power.

Contrary to tobacco industry claims, increased smuggling does not automatically follow tax increases. Tax evasion correlates more closely with poor governance and weak tax administration than it does with high levels of taxation.

Tax evasion and smuggling can effectively be reduced through stronger tax administration measures, including, among others:

- effective government record-keeping;
- improved border security and inspection procedures;
- banking controls to reduce money laundering; and
- better communication among finance, customs and other agencies involved in tax collection and enforcement.

Affixing advanced tax stamps that are difficult to forge to every package intended for retail sale and mandating pack warnings in local languages can further reduce incentives for illicit trade.

Increasing the retail price of tobacco products through higher taxes is **the single most effective way to decrease consumption and encourage tobacco users to quit.**

A tax increase directly benefits governments through increased revenues, at least in the short and medium terms, even when taking reduced consumption into account. To maximize the health impact of higher taxes, some revenues could be earmarked for tobacco control and other public health and social programmes. This makes tobacco tax increases even more popular with the public, including tobacco users.

It is also ethically appropriate for governments to use some of the increased tobacco tax revenue to help tobacco users quit through comprehensive tobacco-control programmes *(32,33)*.

Taxation in Ukraine

Ukraine has increased tobacco taxes significantly, which has been **one of the factors associated with reductions in smoking prevalence**, especially among young people. The additional revenue raised has been substantial.

Ukraine has increased tobacco taxes significantly (a sixfold increase was seen between 2008 and 2010), which has been one of the factors associated with reductions in smoking prevalence, especially among young people. The additional revenue raised has been substantial.

Ukraine began a gradual approximation of excise rates for tobacco products as part of the European Association Agreement in 2014; this eventually will lead to the minimum excise tax being at the same level as the EU minimum rate of €90 per 1000 cigarettes. The schedule adopted sets tax rates for tobacco from 2019 to 2025 *(34)*. The minimum excise rate will increase on average by 20% every year. Overall, it is expected to more than double during this period, which is a substantial increase.

Ukraine's planned tobacco tax increase by 2025 (also called the tax escalator) is welcome and should be protected, but the rate may need to be adjusted and increased as changes in inflation and exchange rates may mitigate against attaining the equivalent of €90 by 2025. Because of the low starting point, it would be preferable to consider setting more ambitious increases during this period to make tobacco products less affordable.

The rate of smuggling was described as low; ideally, any increases should be prevented. Concern over illicit tobacco (counterfeit and smuggled) is frequently used as an argument against increasing tobacco taxes. The way to prevent smuggling and sales of counterfeit product, however, is not to reduce prices of legitimate products, but rather to strengthen customs and other enforcement activity.

> **Recommendation 41.** Ukraine should secure the seven-year tax escalator and aim to increase real tobacco prices faster than the economy in general.

The State Fiscal Service has a system of licensing of tobacco manufacturers and importers and is able to monitor the supply chain. This is very helpful for the control of the product. Action can be taken against individual entities and cases have been taken through the courts.

The Government currently is considering the adoption of a draft law (No. 1210) on taxation, which includes a provision to tax HTPs. The proposed schedule aims to apply the same minimum excise tax adopted for cigarettes, starting in 2020, when HTPs will be taxed per stick. This is a very welcome development as HTPs are tobacco products and should not be treated differently.

Information was provided about the Government's current work on developing a proposal to tax electronic nicotine delivery systems (ENDS) products. While this is a matter for the Government, authorities may include in their considerations that ENDS products are not harmless and their long-term health effects are unknown. To discourage initiation, especially among young people, they could consider using the precautionary approach and tax ENDS at the same level as cigarettes. Authorities can also consider including non-nicotine-containing products (electronic non-nicotine delivery systems) in their tax scheme, as these are not harmless either and often include low doses of nicotine.

The desire to apply fiscal mark and adopt tracking and tracing was expressed. The Government should consider becoming a Party to the Protocol to Eliminate Illicit Trade in Tobacco Products. The Protocol includes an important provision on tracking and tracing (Article 8) that could be used as a guide for criteria to be considered in putting a good system in place.

The Government is considering the adoption of a draft law (No. 1210) on taxation, which includes a provision aiming to apply to HTPs the same minimum excise tax adopted for cigarettes, starting in 2020. This is a very welcome development as **HTPs are tobacco products and should not be treated differently.**

Other issues

Commercial provision of shisha – an increasing threat to health

Prohibitions, restrictions and requirements for use of tobacco products **should apply equally to the use of shisha products.**

Shisha is a single or multistemmed instrument for vaporizing and smoking flavoured tobacco and/or other substances. Smoke is produced from the heating of a moist mixture which is then passed through a water basin before inhalation. Tobacco is often sweetened with fruit or molasses sugar, which adds flavour to the smoke and makes it more aromatic than cigarette smoke.

People are being misled into thinking that shisha smoking is not addictive, or that it is not harmful because the water used in the pipe can absorb nicotine and other toxins. In reality, shisha smokers are still being exposed to enough nicotine to cause addiction, and there is little filtering of harmful substances.

Like cigarettes, shisha smoke contains nicotine, tar, carbon monoxide and heavy metals such as arsenic and lead. Shisha smokers consequently are at risk of the same range of diseases as cigarette smokers, including heart disease, cancer, respiratory disease and problems during pregnancy. It is difficult to determine exactly how much smoke or toxic substances to which a user is exposed in a typical shisha session, but particularly high levels of carbon monoxide and heavy metals have been found in some shisha smoke.

People tend to smoke shisha for much longer periods of time than they would smoke a cigarette, and the user may inhale the same amount of smoke in one puff of shisha as they would in smoking a single cigarette. A typical shisha smoking session may last up to an hour and research has shown that in this time, users can inhale the same amount of smoke as from more than 100 cigarettes.

Shisha (hookah, waterpipes) being offered for sale and used in premises that are required to be smoke-free was observed on a large number of occasions. Staff on premises where shisha was being consumed stated that prohibitions on smoking only applied to cigarette smoking and not to the use of shisha. The mission was also informed that many of the violations of the smoke-free law reported during the enforcement moratorium related to premises where shisha is provided commercially.

Ownership and operation of shisha premises in some countries have been linked to other illegal activities, including money-laundering and people-trafficking, and encouragement of underage use of tobacco. Prohibitions, restrictions and requirements for use of tobacco products should apply equally to the use of shisha products.

> **Recommendation 42.** Immediate action should be taken to clarify or, if necessary, amend the law to effectively control the supply and use of shisha, including content and labelling requirements,

advertising and promotion, minimum-age requirements, licensing of premises for retail sales and prohibition of use in premises required to be smoke-free.

Recommendation 43. All premises providing shisha should periodically be inspected to ensure they comply with all relevant legislation, including smoke-free requirements, signage, labelling and point-of-sale requirements, as well as payment of excise duty.

Recommendation 44. Supply and use of shisha products should be monitored and reported to inform future public health and smoking prevention activities and to protect as far as possible the health of users and workers.

Illegal street sales of tobacco products

Some examples of street trading, presumably illegal but tolerated, were seen in the centre of Kyiv and around the university area. The mission was told that bazaar/market stalls and street selling was common in other areas and that police are able to take action through fines and confiscation of goods, but there was a reluctance to take action against so-called babooshka sellers.

The mission's view is that overt street sales of tobacco will be undermining other tobacco-control measures, particularly efforts to restrict retail supplies of tobacco, reduce smoking prevalence and discourage smoking uptake by young people.

It is well known that street traders may undercut the prices of legitimate retailers by selling illicit products. Their displays of tobacco products undermine prohibitions on advertising and defeat the purpose of health warnings, and present the means by which many children obtain supplies of tobacco products, especially where they are easily able to purchase single cigarettes.

Recommendation 45. Enforcement action should be taken to put a stop to street trading in tobacco products, which is undermining other efforts to control tobacco provision and use. Tobacco products should be considered as contraband just like other dangerous products, such as drugs, knives and other weapons, for which there may already be a policy of zero tolerance.

This will entail a procedure of observation and recording followed by appropriate enforcement measures on illegal trading. These actions should be considered urgent priorities. They should be carried out in a manner that demonstrates the seriousness with which the Government views such legal contraventions and which sets an example for, and serves as a deterrent to, others engaging in these activities.

Enforcement action should be taken to put a stop to street trading in tobacco products, which undermines other tobacco-control measures, particularly efforts to restrict retail supplies of tobacco, reduce smoking prevalence and discourage smoking uptake by young people.

Preventing underage sales of tobacco products is an important element of protecting children from exposure to tobacco.

Underage sales of tobacco products

Article 13 of the Ukrainian law of 2005 prohibits the sale of tobacco products to people under the age of 18 years.[9] Preventing underage sales of tobacco products is an important element of protecting children from exposure to tobacco.

Several signs stating that people under 18 years cannot be sold tobacco were observed, but there was no standard sign. A kiosk vendor was seen to check identity documents for proof of age of a tourist wishing to buy tobacco.

> **Recommendation 46.** An official "Under 18" sign should be adopted and made generally available for use by enforcement officers, government agencies and NGOs, and be downloadable from official websites. It should be required to be displayed in a prominent position at points of sale by the owners/occupiers of all businesses selling tobacco products.

No information on the use of test purchasing to identify and investigate complaints of retail premises and kiosks that are engaging in, or failing to prevent, underage sales was provided. It was reported that difficulties are encountered in satisfying the courts on evidential requirements. It therefore is recommended that an agreed protocol be consistently employed.[10]

> **Recommendation 47.** Consideration should be given to the use of the United Kingdom model for test purchasing of underage sales of tobacco products to determine whether it can form the basis of a protocol in accordance with Ukrainian law and practice.

Sale of single cigarettes (so-called sticks)

Article 13 of the Ukrainian law of 2005 prohibits the sale of tobacco products to people under the age of 18 and in packages that contain fewer than 20 cigarettes or by single sticks. The mission was informed, however, that babooshka sellers (see above), some kiosks and a few shops are continuing to sell single cigarettes.

> **Recommendation 48.** Enforcement action should be taken to put a stop to trading in tobacco products otherwise than in their approved packages. Such trading is undermining other efforts to control tobacco provision and use.

This will entail a procedure of observation and recording followed by appropriate enforcement measures on illegal trading. It is recommended that these actions be considered urgent priorities. They should be carried out in a manner that demonstrates the seriousness with which the Government views such legal contraventions and which sets an example for, and serves as a deterrent to, others engaging in these activities.

9 An amendment to extend this restriction to herbal products and electronic cigarettes has been planned.

10 The method used in the United Kingdom is fully documented to ensure that the evidential requirements of the courts are met. It is operated according to strict guidelines to ensure that the test purchaser (the child) is properly protected from all risks and that the seller is not encouraged or misled to make an illegal sale.

Strengthening enforcement practice

Consistency and fairness in enforcement activities

No procedure manuals, guidance or details of training for smoke-free enforcement officers were shown to the mission. It was stated that there is lack of clarity, shared understanding and consistency among officers of several enforcement agencies.

The provision of new guidance and training will require Government investment of time and money; the following statement is provided to emphasize the importance of making this investment – it is essential to ensuring future success.

It is important to adopt and promote an approach to enforcement that is consistent and fair, whoever the person might be and whichever part of the country in which they live, work or visit. In the absence of written procedures, and where enforcement is being carried out by several agencies, enforcement officers will tend to adopt their own approach. This is especially true if legal definitions are unclear, incomplete or open to interpretation. Ukraine has an added complication in that enforcement officers from several professional disciplines are authorized to take action in relation to tobacco-control offences; consequently, there is a risk of inconsistency and unfairness.

Enforcement in certain premises, such as nightclubs, is considered to be difficult and often ineffective due to the problems of obtaining evidence outside of normal working hours and insufficiency of financial penalties to act as a deterrent against further offending.

Written procedure manuals, guidance and training in understanding and applying the procedures are the means by which consistency and fairness can be established and monitored.[11]

> **Recommendation 49.** Procedure manuals and written guidance setting out the entire process of gathering and recording evidence should be provided to all smoke-free enforcement officers (in all enforcement agencies). These should include what is considered to be appropriate and reliable evidence, how it should be recorded and reported, and the timescales to be observed. The procedure manuals and written guidance should be drafted and agreed by representatives of lawyers and field officers so the final documents will be recognized by all users as both legally based and practical.

The provision of new guidance and training for smoke-free enforcement officers is **essential to ensuring future success.**

11 United Kingdom (England) has a population of more than 51 million. Smoke-free legislation is administered by some 400 local authorities. There was therefore a need to establish, from the outset, a clear and consistent approach to ensure, as far as possible, that all enforcement officers would treat businesses and individuals fairly and in a similar fashion. Comprehensive guidance was produced for this purpose. The guidance formed the basis of a one-day training course attended by some 2000 enforcement officers. The value of the guidance and training has been demonstrated in that effective enforcement activity has been carried out for almost 10 years with few complaints of unfair practice, almost no adverse publicity and no successful appeals to the higher courts. The evidence shows that the application of the smoke-free legislation is increasingly popular with businesses and the public.

Recommendation 50. Training based on the procedure manuals and written guidance should be provided to all smoke-free enforcement officers in all enforcement agencies.

Recommendation 51. Plain-language versions of the procedure manuals and guidance should be made available to the public and business operators to promote common understanding of the legal requirements and the procedures that will apply when noncompliance is discovered.

Recommendation 52. Training of all enforcement officers should be based on the procedure manuals and written guidance.

Recommendation 53. The operators of telephone reporting lines should be provided with algorithms and guidance for responding to, and appropriately referring, calls relating to the full range of tobacco-control issues.

Recommendation 54. Consideration should be given to developing a community of practice for all regulatory agencies to assist with problems, share successes and provide mutual support. This may also assist in identifying data that could and should be shared, lead to greater collaboration and enable the sharing of resources.

Recommendation 55. Out-of-hours working should be facilitated to ensure all premises are subject to receiving inspections and appropriate enforcement action.

Coordination of enforcement activities

Effective enforcement requires action by more than one agency. Urgent consideration therefore should be given to the identification of a **multisectoral agency for the coordination of tobacco-control activities.**

Government agencies can authorize their officers to take responsibility for ensuring compliance with the various elements of the WHO FCTC requirements and for enforcement of the tobacco-control laws of Ukraine.

Some enforcement activities (like tackling counterfeit tobacco) require specialist knowledge and skills, while other areas of responsibility (such as smoke-free premises and advertising and promotion) overlap and impact on each other. In yet more cases, effective enforcement requires action by more than one agency. Illegal street-selling of tobacco products, for example, primarily is an issue of unregulated or uncontrolled street trading; failure to tackle it seriously impacts on the effectiveness of other areas of tobacco control.

Definite allocation of responsibilities for particular activities and/or prioritization of premises and activities, and prospective planning and coordination of actions to ensure comprehensive cover for routine monitoring, investigations and complaints, appear to be lacking. It is possible that mistaken assumptions are made that specific premises are being dealt with by a particular agency.

It may be the case that this happens by default, but any ad hoc arrangement, understanding or agreement would not be as effective and efficient as an agreed system for prioritization, long-term planning, monitoring and reporting.

Recommendation 56. Urgent consideration should be given to the identification of a multisectoral agency for the coordination of tobacco-control activities. The agency can be utilised to:

- clearly define and delineate responsibilities between designated agencies;
- create a formal coordinating mechanism between designated enforcement agencies, including an annual inspection plan;
- establish communication systems to improve communication and information exchange between and within agencies; and
- develop and deliver long-term planning to ensure compliance with tobacco-control laws, including enforcement activities, with agreed priorities, targets and allocation of responsibilities, together with reporting and monitoring arrangements to measure and analyse results and assess progress.

Review of licensing for retail sales of tobacco

The mission was informed that there is a requirement for all premises and people selling tobacco to be licensed and for the licence to be displayed. This can be a very effective enforcement tool, but the mission did not observe any licences on display and it was unclear how a licence can be cancelled when compliance is not maintained.

Recommendation 57. The use of licensing of tobacco sales should be reviewed to support compliance with, and enforcement of, tobacco-control laws.

Dealing with repeat offenders

The Government has introduced a system of calculating the level of fines for some offences based on the level of income and number of previous offences. There is continuing concern, however, that the fines for violation of some laws are not sufficiently substantial to act as a deterrent for some business operators who, in the absence of any threat of increasing fines or a custodial sentence, may repeatedly offend and consider the payment of occasional fines as a business expense. There may also be intimidation and threats of violence against enforcement officers.

Dealing with repeat offenders is a serious ongoing issue which, if not effectively addressed, can lead to demotivation of enforcement officers, undermine public confidence in the law and encourage other businesses

Dealing with repeat offenders is a serious ongoing issue which, if not effectively addressed, can lead to demotivation of enforcement officers, undermine public confidence in the law and encourage other businesses to fail to comply.

to fail to comply. The law needs to be fairly and consistently enforced to establish a level trading field in which all businesses compete on equal terms and without the unfair advantage of some being able to continue in noncompliance with tobacco-control laws on their premises.

Consideration needs to be given to how the level of fines can be increased and/or other areas of the law may be used to support enforcement officers where existing penalties for violations are found to be insufficient as a deterrent to repeat offending. There is also a need to consider how other areas of the law may be used to support enforcement officers in dealing with violations of tobacco-control laws.

Recommendation 58 – Several proposals to deal with repeat offenders should be explored, including the following.

a) Enforcement visits could be made by a combination of government agencies to determine compliance with the range of legal requirements. Repeated noncompliance with tobacco-control requirements may indicate that a business is being mismanaged generally or that the business owner has little respect for the law. Consideration should be given to what other laws could be enforced as an adjunct or proxy for tobacco control.

b) Licences and permits could be cancelled. A business owner or manager who repeatedly fails to ensure compliance with smoke-free requirements, prevent underage sales and comply with prohibitions on advertising, and who engages in the trading of illicit tobacco products might be considered not to be a fit and proper person to hold other licenses (such as for sale of alcohol, preparation and sale of food, gaming and gambling). Consideration should be given to which licences or permits could be withdrawn and under what circumstances.

c) Penalties could be increased, including imprisonment. Penalties for noncompliance with tobacco-control requirements should be increased where the offender has previously offended or the offence is of a particularly serious nature. Consideration should be given to providing guidance to the courts on appropriate levels of fines, supported by awareness training that includes the public health significance of tobacco control.

d) Court injunctions could be used. An injunction is a court order that requires a person to stop (called a prohibitory injunction) or do (a mandatory injunction) a particular act or thing. A breach of an injunction is generally punishable as a contempt of court and, in some circumstances, can lead to imprisonment. Consideration should be given to court injunctions when an offender appears to be unwilling to comply with the law after repeat offences or seeks actively to undermine the law.

Dealing with interference by the tobacco industry

Evidence shows that the tobacco industry is attempting to undermine tobacco-control initiatives in Ukraine. This is especially obvious in exploitation of legal loopholes that are allowing the advertising and promotion of HTPs, which increasingly are being used in smoke-free workplaces and public places. The activities of the tobacco industry need to be monitored closely and reported, and interference must be resisted with countermeasures where possible. The engagement of WHO and other international agencies in this area needs to continue.

The activities of the tobacco industry **need to be monitored closely and reported**, and interference must be resisted with countermeasures where possible.

It was concerning that the views being expressed in some discussions with representatives of Government agencies were those usually associated with the tobacco industry, such as smokers' rights should take precedence when applying tobacco-control laws. Unless measures are put in place to prevent interference, it is likely to continue and even increase as the industry's concerns about the effects Ukraine's laws and policies are having on their trading activities rises.

To combat this sort of activity in the United Kingdom, additional training was provided to opinion leaders and politicians regarding their responsibilities under the WHO FCTC Article 5.3 and for court officials to raise their awareness of tobacco-industry activities. An adapted version of this training could be considered to ensure that local enforcement officers are properly supported in taking action and in identifying, confronting and reporting corrupt practices.

> **Recommendation 59.** Consideration should be given to formal awareness-raising of the requirements of WHO FCTC article 5.3 among all politicians and relevant civil servants, and its inclusion in ministerial/civil servant codes of conduct.

It is not sufficient simply to be aware of tobacco-industry influence. Its activities should be exposed and publicized to ensure transparency and act as a deterrent.

> **Recommendation 60**. Government policy should state publicly that all tobacco-industry activity will be recorded and reported.

It is not sufficient simply to be aware of tobacco-industry influence. **Its activities should be exposed and publicized** to ensure transparency and act as a deterrent.

It is important that any referral system is fully recorded, supported and monitored at senior level, with oversight by appropriate agencies (such as the Ministry of Health).

> **Recommendation 61.** Government policy should actively seek evidence of tobacco-industry influence and report it officially at national and international levels.

Some NGOs stated that one of their functions was to monitor industry activity.

> **Recommendation 62.** NGOs' role in monitoring and reporting tobacco-industry activity should continue, with a report published annually.

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The WHO Regional Office for Europe

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UN City, Marmorvej 51,
DK-2100, Copenhagen Ø, Denmark
Tel.: +45 45 33 70 00
Fax: +45 45 33 70 01
Email: eurocontact@who.int
Website: www.euro.who.int