Consistency of Hong Kong's Tobacco Control Regime with WHO Framework Convention on Tobacco Control (FCTC)

FCTC Article	Substantive Requirements	Measures being adopted in Hong Kong	New Measures to be adopted
5. General obligations	 To develop, implement, periodically update and review comprehensive multisectoral national tobacco control strategies, plans and programmes To establish or reinforce and finance a national coordinating mechanism or focal points for tobacco control To act to protect public health policies from commercial and other vested interests of the tobacco industry 	 The Health, Welfare and Food Bureau (HWFB) develops, implements and regularly reviews tobacco control strategies and policies having regard to international developments and prevailing community sentiments. We rely on a mix of measures including taxation, legislation, education and publicity to discourage smoking and prevent public exposure to secondhand smoking. A Tobacco Control Office (TCO) has been set up in the Department of Health since February 2001 to promote law compliance by the community and to co-ordinate enforcement work of relevant government departments. The TCO is the focal point for 	Nil

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			Hong Kong, China's liaison with overseas tobacco control agencies. Public health is always given a high priority in the formulation of our tobacco control policies.	
6. Price and tax	- To implement tax and price	•	Currently, Hong Kong levies a	• Nil
measures to reduce	policies on tobacco products		duty on tobacco products in	
the demand for			accordance with the Dutiable	
tobacco			Commodities Ordinance (DCO),	
			Cap.109, at the following rates:	
			(a) Cigarettes – HK\$804/1 000	
			pieces of cigarettes	
			(b) Cigars – HK\$1 035/Kg	
			(c) Chinese prepared tobacco -	
			HK\$197/Kg	
			(d) All other manufactured	
			tobacco except tobacco intended	
		:	for the manufacture of	
			cigarettes – HK\$974/Kg	
		•	The Customs and Excise	
			Department (C&ED) is the	
			authority dedicated to enforce the	
			DCO.	

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	To prohibit or restrict sales or		• Nil
	importation by international	are provided for in the Dutiable	
	travelers of duty-free tobacco	Commodities (Exempted	
	products	Quantities) Notice of DCO as	
		follows:	
		- Hong Kong residents aged 18	
		or above are allowed to bring in	
		a maximum of 60 cigarettes or	
		15 cigars or 75 gm of other	
		manufactured tobacco only if	
		they have left Hong Kong for	
		more than 24 hours.	
		- Passengers aged 18 or above	
		who are not Hong Kong	
		residents are allowed to bring in	
		a maximum of 200 cigarettes or	
		50 cigars or 250 gm of other	
		manufactured tobacco.	
8. Protection from	• To adopt and implement	- Some indoor public places,	We have introduced the Smoking
exposure to	legislative, executive,	including banks, supermarkets	(Public Health) (Amendment)
tobacco smoke	administrative or other	and shopping malls, are already	Bill 2005 to the Legislative
	measures providing for	designated as statutory no	Council in May 2005.
	protection from exposure to	smoking areas under the existing	Amongst others, the Bill seeks to
	tobacco smoke in indoor	Smoking (Public Health)	expand the statutory no smoking
	workplaces, public transport,	Ordinance (the Ordinance) (Cap.	area to all indoor area of
	indoor public places, and other	371).	workplace and public place. If
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	public places as appropriate	 Cap. 371 provides for an effective prohibition on smoking in public transport carriers. Cap. 371 requires restaurants with over 200 indoor seats to designate at least 1/3 of the seating area as no smoking area. Government offices have been encouraged to adopt stringent tobacco control practices and to work towards smoke-free workplaces. 	passed, it would be a major step forward in protecting our citizens from exposure to second hand smoke.
9. Regulation of the contents of tobacco products	• To adopt and implement legislative, executive and administrative or other measures for meeting guidelines for testing and measuring the contents and emissions of tobacco products, and for the regulation of these contents and emissions		 We understand that such guidelines will be proposed by the Conference of the Parties (COP). The first session of the COP will take place during 6-17 February 2006. National authority will then approve and adopt the proposed guidelines for regulation. We will work with Government Chemist to implement measures for meeting guidelines for testing and measuring the contents and emissions of tobacco products

			when such guidelines are available.
10. Regulation of tobacco product disclosures	• To adopt and implement legislative, executive and administrative or other measures requiring manufacturers and importers of tobacco products to disclose information about the contents and emissions of tobacco products to governmental authorities	Regulation (Cap.371A) stipulates that upon any cigarettes being first offered for sale by retail and bearing on their packets or retail containers the tar and nicotine yields, the person responsible for the wholesale distribution shall,	• We will consider how to implement this clause when the above-mentioned guidelines for testing and measuring the contents and emissions of tobacco products are available.
	To adopt and implement effective measures for public disclosure of information about the toxic constituents of the tobacco products and their emissions	publishes tar and nicotine reports for tobacco products sold in Hong Kong.	• Nil

		warnings as prescribed by Cap. 371. Public education programmes on the health hazards of first and second hand smoking are being run by TCO and The Hong Kong Council on Smoking and Health (COSH).		
11. Packaging and labeling of tobacco products	In a prohibit packaging and labeling that promotes a tobacco product by misleading or deceptive means that create the false impression that the product is less harmful than others. This may include terms such as "light", "mild" or "low tar"	At present, packets may include the words "light", "lights", "mild", "low tar" or other words which imply that the cigarettes have a low tar yield of 9 milligrams or less.		We intend to adopt a notation and grandfathering approach to deal with misleading words on packets and retail containers of cigarettes. Please refer to the relevant paper for details.
	• To require at least 30 per cent – but ideally 50 per cent or more – of principal display areas of tobacco product packaging is taken up by clear health warnings in the form of text, pictures or a combination of the two	Packets of tobacco products are now required by Cap. 371 to bear health warnings in the prescribed form and manner and the size of warnings shall be at least 20% of the surface area.	•	We will introduce an amendment to Cap 371 to enable health warnings to carry pictorial and graphic contents and to increase the size of the warnings to 50% of the principal display areas.
	To require each unit packet and	Nil	•	We will consider how to

	package of tobacco products to contain information on relevant constituents and emissions of tobacco products		implement this clause when the above-mentioned guidelines for testing and measuring the contents and emissions of tobacco products are available.
12. Education,	• To promote and strengthen	• Over the years, TCO has been	To tie in with the coming
communication,	public awareness of tobacco	dedicated to disseminating	legislative amendment, TCO and
training and	control issues	tobacco control messages to the	COSH will step up educational
public awareness		public through a wide range of publicity avenues.	programmes for new no smoking areas to ensure compliance by
		COSH appointed by the Secretary	work place management,
		for Health, Welfare and Food has	employees, venue managers and
		been implementing communication and publicity	the general public.
		programmes to inform and	
		educate the public of the adverse	
		effects of smoking on personal	
		and public health, social life and	
		the environment.	

13. Tobacco advertising, promotion and sponsorship	• To undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship within five years after entry into force of FCTC. A party that is not in a position to undertake a comprehensive ban shall apply restrictions on all tobacco advertising, promotion and sponsorship	shall display, cause to be displayed, publish or distribute any tobacco advertisement except for tobacco retailers who employ not more than two persons or possess a license pursuant to the Public Health and Municipal	We will introduce an amendment to Cap. 371 to revoke the current exemptions on the display of tobacco advertisement applicable to licensed hawker stalls and retailers employing not more than two persons. However, for the case of licensed hawkers, as mentioned in a separate paper to the Bills Committee, the adaptation period will be extended to three years from the date the Ordinance is published in the Gazette.
	 To require that health warnings or messages accompany all tobacco advertising, promotion and sponsorship To restrict the use of direct or indirect incentives that encourage the purchase of tobacco product 	 All tobacco advertisements are, to the extent that they are allowed, required by Cap. 371 to bear health warning with not less than 20% of the total area. Pursuant to Cap. 371, no person shall give tobacco products or provide gifts or valuable consideration to induce or encourage someone to smoke. 	The Smoking (Public Health) (Amendment) Bill proposes that the health warning shall be of a size that covers at least 50% of the area of the surface. We will introduce an amendment to Cap. 371 to prohibit the sale of a tobacco product in association with any merchandise whether it is charged or not.

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• To undertake a comprehensive ban or restrict tobacco advertising, promotion and sponsorship on radio, television, print media, and on the Internet	• Cap. 371 provides that no person shall (i) broadcast tobacco advertisement by radio, visual images, film or on the Internet and (ii) publish or distribute tobacco advertisement in printed publications.	• Nil
• To undertake a comprehensive ban or restrict the tobacco sponsorship of international events, activities and/or participants	The display of a tobacco brand name in any sponsored event is prohibited unless it is used in association with a non-tobacco product and where there is no mention of such words as "cigarette", "cigarettes", "smoking", "tobacco", "cigar", "cigars", "pipe" or "pipes".	• To further tighten control over the display of tobacco brand names in sponsored events, we will introduce an amendment to Cap. 371 to prohibit the use of trade marks, trade names or brand names of tobacco products unless the mark or name does not form the most prominent part of the advertisement or object.

14. Demand reduction measures concerning tobacco dependence and cessation	 To design and implement effective smoking cessation program The Department of Health has been providing cessation services to the public through its clinics and health centres. Likewise, the Hospital Authority is running 16 smoking cessation units in its hospitals / clinics. Counseling services and nicotine replacement drug prescriptions are being provided at these outlets. A hotline has been set up by the Department of Health has been services attent of Health has been services under the Faculty of Medicine of the University of Hong Kong started a new hotline in 2005 for smoking cessation targetting young people aged between 12 and 25.
	one-stop consultative service for persons seeking information on smoking cessation. To collaborate with other parties to facilitate accessibility and affordability for treatment international conferences and
	of tobacco dependence seminars from time to time to share Hong Kong's experience with treatment of tobacco dependence.
15. Illicit trade in tobacco products	To require that unit packets and packages of tobacco products for domestic market carry the statement "Sales only allowed" In accordance with Cap. 371, all tobacco products for sale in Hong Kong shall bear on the packets a health warning in a prescribed

in (insert name of the country, subnational, regional or federal unit)" or any effective marking indicating the final destination or which would assist in the determination of whether the product is legally for sale on the domestic market To consider developing a	form and manner. These markings will enable enforcement officers to identify that such products are allowed for sale in Hong Kong. In accordance with Cap. 109, all containers of dutiable tobacco products for export to overseas countries shall bear legibly and permanently a marking of "FOR EXPORT", except with written permission of the Commissioner of C&ED. This marking indicates that such products are not allowed legally for sale on the Hong Kong market. Furthermore, C&ED may in accordance with Cap. 109 require dutiable tobacco products for export to be marked "HKDNP" (i.e. Hong Kong Duty Not Paid) on the packets. Such products are also not allowed to be for sale in Hong Kong. Under Cap. 109, all ranges of	• Nil
practical tracking and tracing	dutiable tobacco activities,	7 111

regime to assist in the investigation of illicit trade	including importation, exportation, removal, manufacture and storage, are subject to the control of a licensing and permit system which is administrated by C&ED. Such system will enable the tracking and tracing of illicit trades by investigators of C&ED.	
To monitor and collect data on cross-border trade in tobacco products and exchange information among customs, tax and other authorities		• Nil

		trades. C&ED plays an active role in the World Customs Organization (WCO) to combat illicit tobacco trades. In June 2004, C&ED hosted the 1 st Meeting of WCO Contact Point for Anti-Cigarette-Smuggling Operation in Asia Pacific Region for enhancing Customs cooperation against illicit tobacco activities in the region. C&ED conducts regular intelligence exchanges and coordination meetings with the Mainland Customs against cross-boundary illicit tobacco activities. C&ED frequently carries out ad hoc operations against transnational illicit tobacco trades based on intelligence exchange with Customs counterparts and other law enforcement agencies.	
•	To ensure all confiscated manufacturing equipment,	_	• Nil.

counterfeit and contraband cigarettes and other tobacco products are disposed of in environmentally-friendly way	with the Waste Disposal Ordinance, Cap. 354, which controls and regulates the treatment, reprocessing and recycling of wastes. All tobacco disposal procedures are consistent with the guidelines of Environment Protection Department, which is a government authority responsible for ensuring all wastes are disposed of in an environmentally-friendly way that meets international standards.
• To enact or strengthen legislation with appropriate penalties and remedies against illicit trade in tobacco products	 Cap. 109 makes all illicit tobacco activities criminal offences, which include buying, selling, possession, dealing, storing, manufacturing, smuggling etc. The maximum penalty is a fine of HK\$1,000,000 and 2 years of imprisonment. Under the Import and Export Ordinance, Cap. 60, any smuggling (including smuggling of tobacco) will attract a

	maximum penalty of a fine of HK\$2,000,000 and 7 years of imprisonment. • Under the Organized and Serious Crimes Ordinance (Cap. 455), any organized crimes (including smuggling of tobacco) will attract a maximum penalty of a fine of HK\$5,000,000, 14 years of imprisonment and confiscation of crime proceeds. • In accordance with Cap. 109, any goods and things seized in connection with illicit tobacco offences are liable to forfeiture.
To adopt and implement measures to monitor, document and control the storage and distribution of tobacco products held or moving under suspension of taxes or duties	 In accordance with Cap. 109, storage and movement of dutiable tobacco products in Hong Kong is prohibited except under and in

- include the implementation of necessary procedure on stock controls, sound financial status, fitness for handling dutiable goods, etc.
- A dutiable tobacco storage premise licensed under Cap. 109 is subject to control of C&ED, e.g. surprise stock checks, financial auditing, etc.
- Movement of tobacco products into and out of a licensed dutiable tobacco storage premise for domestic market or for export must be covered by a permit.
 C&ED regulates licensed traders' conduct of business by imposing conditions prior to the granting of a permit.
- A dedicated office of C&ED has been established to carry out licensing work and to supervise the storage and distribution of dutiable tobacco products in order to prevent illicit trade.

- To adopt and implement measures to control or regulate the production and distribution of tobacco products in order to prevent illicit trade
- In accordance with Cap. 109, manufacture and movement of tobacco products in Hong Kong is prohibited except under and in accordance with a licence or permit issued by C&ED.
- Traders are granted a licence to manufacture or move any dutiable tobacco products only if they fulfill the requirements as stipulated in Cap. 109, which include necessary procedures on stock controls, sound financial status, fitness for handling dutiable goods, etc.
- A dutiable tobacco manufactory licensed under the DCO is subject to the controls of C&ED, e.g. surprise stock check, financial auditing, etc.
- Movement of tobacco products into and out of a dutiable tobacco manufacturer for domestic market or for export must be covered by a permit. C&ED regulates licensed traders' conduct of

Nil

		business by imposing conditions prior to the granting of a permit. A dedicated office of C&ED has been established to carry out licensing work and to supervise the production and distribution of dutiable tobacco products in order to prevent illicit trade.
16. Sales to and by minors	• To prohibit the sales of tobacco products to persons under the age of 18 by effective measures.	shall sell any tobacco products to
	 To require tobacco sellers to place a clear and prominent indicator about prohibition of tobacco sales to minors and to request purchasers to provide appropriate evidence of having reached full legal age 	retailers are required to display a sign to indicate that "no tobacco product shall be sold to person under 18 or given for promotion
	• To ban the sale of tobacco products in any manner by which these products are directly accessible, such as store shelves	restrict the means through which tobacco products are offered for products already discourages

	To prohibit the manufacture and sale of sweets, snacks, toys or any other objects in the form of tobacco products which appeal to minors or distribution of free tobacco products	any form to minors is prohibited under Cap. 371. Moreover, no person shall give valuable consideration to any individual in order to induce him/her to buy a tobacco product. S.15A(2) and
	 To ensure that tobacco vending machines are not accessible to minors and do not promote the sale to minors 	shall sell or offer for sale any
	 To prohibit the sales of cigarette individually or in small packets which increase affordability of the product to minors 	must be sold in packet of at least 20 sticks.
	 To prohibit the sales of tobacco products by persons under the age set by domestic law 	 According to employment laws in Hong Kong, no person shall employ a child, or cause or permit a child to be employed who is under the age of 13 years.
17. Provision of	• To promote economically	 Largely not applicable to Hong Nil

support for economically viable alternative activities	viable alternatives for tobacco workers, growers and individual sellers growing industry. There are very few individual sellers who offer tobacco products as the only commodity item on sale.
18. Protection of the Environment and the Health of Persons	 To protect the environment and the health of persons in respect of tobacco cultivation and manufacture Under Cap. 109, a tobacco of tobacco use any substance other than water or steam, except to such extent as may be permitted by C of C&E.
19. Liability	 For the purpose of tobacco control, to consider taking legislative action or promoting existing laws, where necessary, to deal with criminal and civil liability, including compensation where appropriate Under our existing tobacco control regime, criminal liability is imposed on a person who smokes in certain places or on certain premises e.g. section 3(1), (2) & 4(1) of Cap. 371, regulation 7 of the Hospital Authority Bylaws, Cap. 113A, regulations, Cap. 279A, regulation 16 of the Airport Authority Bylaws, Cap. 483A, etc. The existing penalty level will apply to smoking in "new" statutory no smoking areas.

20. Research, surveillance and exchange of information	based on common law principles of torts would also be relevant. To develop and promote researches in the field of tobacco control To establish progressively a system for the epidemiological surveillance of tobacco consumption and related social, economic and health indicators based on common law principles of torts would also be relevant. The Census and Statistics Department regularly conducts surveys about smoking prevalence and patterns. COSH has also been engaged in tobacco control researches on subjects of public health significance or topical issues. Apart from the Government, other parties such as universities and NGOs also conduct tobacco-related researches in Hong Kong.
21. Reporting and exchange of information	 To submit periodic reports to the Conference of the Parties through the Secretariat HWFB and TCO will co-ordinate the preparation and submission of periodic reports in the prescribed format in consultation with relevant government departments and other agencies.

Health, Welfare and Food Bureau January 2006