

Framework Convention on Tobacco Control

Shadow Report 2010

Mauritius

ViSa Mauritius

Acknowledgement

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The FCTC official Shadow Report of Mauritius was sent to the Convention Secretariat before the fourth Conference of Parties.

Executive Summary

1. Mauritius ratified the Framework Convention on Tobacco Control (FCTC) on 17 May 2004. Mauritius is an important leader in tobacco control in the region. It has created a National Tobacco Control Action plan for 2008-2012 in consultation with different stakeholders including ViSa Mauritius. In 2008, the Public Health Act was amended to make the Public Health Act compliant with the FCTC articles as far as possible, but it still has serious loopholes.

The Non Governmental Organisation (NGO) ViSa works in close collaboration with the Ministry of Health and is an active member of the Steering and Enforcement Committee on Tobacco Control.

The Ministry of Health is considering new amendments to Public Health Act 2008 and it is therefore the right time to overview the situation of tobacco control in Mauritius and to collect data and information to illustrate the extent to which three important articles 13, 11 and 8 are complied with in society, so as to make the appropriate recommendations to the decision makers at the level of government, civil society and media.

This Shadow Report on Mauritius implementation of the FCTC is addressed to the Ministers and Parliamentarians, to the NGOs with a tobacco control agenda, the media and the public in general who will be able to access it on the website that will be largely advertised. By this informative, lobbying and sensitization tool, we hope to achieve a stronger tobacco control law, still more compliant with the FCTC and that will enhance “the right of the population to the highest standard of health” through a tobacco free world.

These goals and objectives will be achieved when the laws will be strengthened and amended to guarantee 100% smoke free public places and workplace in Mauritius, and when the sale of single sticks and the display of tobacco products will stop effectively. The enforcement agency has a very important role to play and should regularly apply corrective action and fines.

The website of ViSa will give updated information on the progress and eventual failures of the implementation of the FCTC in Mauritius.

1.0 Introduction

A tobacco factory (British American Tobacco) existed in Mauritius since 1926 and closed down in 2007. However, an area of 234 hectares is still under tobacco cultivation, which produced 314 tonnes of leaves in 2010.

Mauritius had one of the highest consumption of cigarettes in Africa but the Mauritian government has shown strong commitment to tobacco control by participating in the negotiations of the Framework Convention on Tobacco control and in further discussions and decision making during the Intergovernmental Negotiation Body on different articles and in the Conference of Parties. In 2008, the Public Health Act (PHA) tobacco regulations was amended to introduce FCTC compliant measures. A National Tobacco Control Action plan for 2008-2012 was created in consultation with different stakeholders including ViSa Mauritius. However certain provisions of the Mauritian tobacco law are still in conflict with existing laws, namely 'The Consumer Protection Law' that requires the display of any single item on sale in the shop (among which tobacco products) and the 'Occupational and Safety Act' that still allows smoking in a 'demarcated area'. In practice, some measures of the PHA tobacco regulations are not fully applied and enforced.

ViSa lobbied successfully on the issue of graphic warnings on cigarette packs displayed at the duty-free of Mauritius, which now carry the mandatory graphic warnings. In November 2010, the National Budget made provision for an increase of 25% on excise taxes on tobacco products.

2.0 Overview of the situation

a) Smoking prevalence in Mauritius for adults aged between 25 -74 years old, 2009

Category of Smoker	Males	Females	% of total population
Current smokers	40.40 %	3.70%	21.70%
Daily smokers	37.80 %	3.10%	19.00%
Former Smoker	12.40%	3.00%	7.60%
Never Smokers	47.20%	93.30%	70.70%

Source: The Ministry of Health, Survey for Non-Communicable Disease 2009

b) To what extent the Public Health Act Tobacco Regulations of Mauritius is compliant with the FCTC.

The PHA regulations 2008 took effect on the 1st of June 2009. Most of the provisions of the Public Health Act Tobacco Regulations 2008 meet the FCTC requirements and FCTC guidelines on main issues of advertising (Art 13), Packaging (Article 11) and Smoke free Environment (Article 8) but on some important aspects of article 13 and 8, the law are in conflict with other existing laws.

PACKAGING

1. The PHA regs doesn't state how the 8 (or 10) graphic health warnings (i) are rotated (ii) how frequently they are updated (c.f FCTC 12 to 36 months)
2. The position and percentage of Health Warnings on cigar boxes and other tobacco products are not specified (FCTC requires 50% or more of the surface) Why not graphic warnings on all tobacco products?
3. No Quitline phone number on packs and other messages on economy for the household budget, benefits to quit etc. (In accordance with FCTC article 11 guidelines para 24 and 27, the Ministry should consider requiring other appropriate messages.
4. Constituents and Emissions of tobacco products: Descriptive (and not quantitative) disclosures on main constituents and emissions are required to meet FCTC article 11 guidelines.
5. Plain Packaging: According to the FCTC article 11 guidelines, Parties should consider adopting plain packaging measures (no logos, colours or brand images but just product names displayed in a standard colour and font style)
6. Penalties: The PHA provides the same penalty for all types of violations. But to meet the FCTC guidelines, the law should provide for a range of penalties, taking into account the resources of the violator and the severity of the offence.

7. The law enforcement agency bears the responsibility of enforcement, and should grant that agency the power to confiscate products and suspend and revoke licenses of violators.

ADVERTISING

The following definitions of the PHA regulations meet the definitions provided in FCTC Art.13 and its guidelines:

Tobacco advertising and promotion, tobacco sponsorship, tobacco product (that is also applicable to e-cigarettes using nicotine from tobacco leaf)

The PHA 2008 meets the FCTC Article 13 and FTC Art.13 Guidelines with respect to tobacco advertising and promotion by applying a ban on domestic TV and radio, other domestic newspapers and magazines, other domestic print media, such as pamphlets, leaflets, flyers, posters, signs, domestic internet communications; international TV and radio, other international broadcast media, international newspapers and magazines, international internet communications, outdoor advertising (including billboards, posters), point of sale advertising and promotion, point of sale product display, vending machines, conventional mail, telephone and cellular phone, use of trademark, manufacturer's name, logo or brand, misleading terms like 'light', free distribution of tobacco products, promotional discounts, competitions associated with tobacco products or brand names, promotion of discounted products, direct targeting of individuals with promotional or informational materials, non-tobacco products or services using tobacco brand names and manufacturer's name (brand stretching and reverse brand stretching), toys, sweets, retailer incentive programmes, paid placement of tobacco products in TV, film or other media, unpaid depiction of tobacco use or tobacco products in TV, film or other entertainment media that is not legitimate journalistic, artistic or academic expression or legitimate social or political commentary, financial or other sponsorship from the tobacco industry and financial or other support by the tobacco industry to restaurants, clubs, pubs etc in exchange for allowing direct customer sales on premises, promotion to create erroneous impression about its characteristics and health effects.

RECOMMENDATION:

1. Ban tobacco packaging, labelling and inserts: To meet FCTC Art.13 and the FCTC Art.13 Guidelines, the law should prohibit promotional features on or in tobacco products and their packaging and labelling, in accordance with FCTC Art.13 Guidelines para.16
2. The PHA regulations should make it clear that the tobacco sales through the internet is banned. (Though tobacco sales already involves advertising and promotion implicitly)

SECOND HAND SMOKE (SHS)

The PHA 2008 doesn't meet the requirements of the FCTC article 8 on smoke free environments and article 8 guidelines regarding the following measures: In the PHA regs 2008 The definition of the term 'second Hand Smoke', 'smoking' or 'smoke' is not clear, it is ambiguous and this can impair to fulfill FCTC Art 8 requirements and undermine the application of other substantive provisions of the law. It is not clear what is considered 'second hand smoke' or 'tobacco smoke', 'smoking' or 'smoke' .

RECOMMENDATION: A definition of 'second hand smoke' should be provided in accordance with the FCTC article 8 guidelines definition.

SMOKE FREE STATUS

1. ALL indoor workplaces: (PHA Regs 2008, Arts 2,3;OSHA Art 14 (e)) Presently, smoking is prohibited in workplaces, except for a smoking demarcated area likewise the Occupational Health and Safety Act. Therefore there is a 'restricted' status in the workplace . A workplace is considered as a 'public place' in the PHA definition.
The law does not meet FCTC Art.8 and FCTC Art. 8 Guidelines because it doesn't provide for 100% smoke free indoor workplaces and public places and therefore does not provide effective or universal protection against tobacco smoke exposure.
2. All indoor public places: The law meets FCTC Art.8 and FCTC Art.8 Guidelines with regard to indoor public places.
3. All public transport: The law meets FCTC Art.8 and FCTC Art.8 Guidelines with regard to public transport.
Trains, buses and other shared ground transportation and taxis (for-hire vehicles), commercial aircraft, commercial watercraft, public transport facilities including indoor or enclosed waiting rooms, train stations, bus terminals and airports, and other places listed in the PHA regs 2008, private vehicles carrying passengers (this provision meets and exceeds FCTC art 8 and FCTC art. 8 Guidelines)
4. Government facilities: (PHA Regs 208 Arts 2,3;OSHA Art.14(e)- Smoking is only 'restricted' in hospitals, residential healthcare facilities public areas and patient rooms, non-residential healthcare facilities, childcare facilities/preschool, primary and secondary schools, universities/Vocational facilities, stores, cultural facilities, indoor stadiums, restaurants, bars/pubs/nightclubs, casinos, hotels/lodging (public areas and guest rooms),Prisons/Detention Facilities (public areas and cells).
5. All outdoor places: There is no specified distance of doorways, outdoor patios of bars or restaurants, parks/beaches, outdoor stadiums and outdoor markets that is required in the law.
These places have a 100% smokefree status: Outdoor premises of health institutions,pre-primary, primary, secondary, tertiary and any other educational institutions, premises for the practice of sports, recreational places other than beaches, bus stands and bus stations.

RECOMMENDATION: To meet FCTC Art. 8 andFCTC Art.8 Guidelines, the law should require ALL PARTS of ALL INDOOR PUBLIC PLACES AND WORKPLACES to be 100% smoke free.

In all cases, the PHA regulations 2008 should also provide for a range of penalties, taking into account the resources of the violator and severity of the offense. The law should grant the enforcement agency the power to apply corrective action and suspend and revoke licenses of violators.

DUTY/PENALTIES

1. **Duty imposed upon Business owners/employers/supervisors to post SIGNS,**

*Appropriate notice at
'La Flore Mauricienne restaurant
Port-Louis Nov. 2010*



2. To remove ashtrays :



3. Take steps to require a person to stop smoking

4. Duty imposed upon smokers not to smoke where prohibited



3.0 Report on the survey done on the sale of single sticks in shops, supermarkets and superettes (tabagies).

Ground monitoring work was undertaken by 4 social workers during 2 weeks in 2 towns in the island of Mauritius, Port Louis and Rose Hill, and Rodrigues to collect information on the extent of compliancy with articles 13, 11 and 8.

Their objective was to check whether the owners of the shops displayed mandatory warnings to ban cigarette sales to minors, sold single sticks and displayed cigarette packs.



The field workers took photos in shops, supermarkets and superettes (tabagies) on Friday 22 October 2010 in Port-Louis and Rose-Hill. And in Rodrigues from the 17th to the 23rd of October 2010. Each team of Field workers consisted of 2 persons, one taking pictures and taking notes and the other one asking to buy a single stick as a test.

Port-Louis (the capital) 2 supermarkets and 2 shops and one snack-shop were visited- Supermarkets do not sell **single sticks** but small shops and shop-snack do.

1 supermarket 2 shops in Port-Louis do not display the appropriate **notices** on the ban of tobacco sale to minors.

In Rose-Hill – 2 supermarkets and 3 shops and 2 shop-snacks were visited.

The findings show that all places visited show appropriate notices but the 3 shops 1 supermarket and one shop-snack sell single sticks.

One supermarket still has packs on sale without graphic warnings.

Graphic warnings: All shops and supermarkets display cigarette packs on sale except for one shop-snack in Rose-Hill.

The field workers reported a lack of compliance with the law in the following places:

4.0 Information from press review and Key informants

ViSa members have visited 3 night clubs and took note that they fail to comply with the law. Security officers and owners do not stop clients from smoking. Many shisha bars are illegally operational in some parts of the island.



Some newspapers report a failure in the implementation the ban on smoking in public places. They also report the sale of single sticks in most tobacco retail outlets as also verified by the findings of ViSa Mauritius.

5.0

Media monitoring was undertaken by 4 social workers during one week to screen newspapers on tobacco control issues.

6.0 Conclusion

Mauritius has shown a high level of compliance with the Framework Convention on Tobacco Control it ratified in 2004, namely through the implementation of a National Tobacco Control Action Plan 2008-2012 and the amendment of the Public Health Act in 2008. However, as highlighted throughout this report there is still more to do for the country to reach the level of the TOBACCO FREE country, as expressed by 96% of Mauritians in 2010 from the findings of the International Tobacco Control (ITC) Survey of the University of Waterloo-Canada.

Despite the fact that the ban on smoking in public places is on the overall satisfactory, some hotels, bars, nightclubs and restaurants still tolerate smoking. Smoke free workplaces are not guaranteed since the Public Health Act 2008 takes into consideration the provision of the Occupational Health and Safety Act for 'demarcated smoking areas'. This is in contradiction with the article 8 of the FCTC and its guidelines.

The Public Health Act 2008 bans the sale of single sticks, however the field work and press review showed that this regulation is hardly applied. The Government of Mauritius, and more specifically Ministry of Health and Quality of Life has the responsibility to make the necessary amendments to the Public Health Act 2008 and to the other conflicting laws so as to protect effectively the population from the tobacco epidemic that kills 1000 Mauritians per year.

The health and well-being of our people depends on our Government continuing to lead the way to a tobacco free Mauritius, to a tobacco free world.