

June 2007

The FCTC in Canada

A Civil Society Report on Canada's Progress Toward Implementing the Framework Convention on Tobacco Control

It Is Time for Canada to Support Global Tobacco Control



Canada is known as a world leader in tobacco control. Thus, we would have hoped for more progress from Canada in fostering tobacco control in the developing world, where the need for assistance is great.

Under the FCTC, Canada has committed to help the developing world implement a range of tobacco control best practices to fight the global tobacco epidemic. This epidemic claims over 5 million lives per year and the death toll threatens to reach 10 million per year by the 2020s, mostly in the developing world, unless action is taken now. It is more than two years after the FCTC came into force in February 2005. Now is the time for Canada to intensify its efforts with concrete action plans in support of the FCTC, both at home and abroad.

Regrettably, Canada's direct contributions to tobacco control in the developing world have actually dropped since the FCTC has come into force. When the treaty came into force, Canada diverted its voluntary contribution to the FCTC secretariat, which administers the treaty, from funds that had previously gone directly to international health grants in tobacco control (see page 5 for more details). Canada and other developed countries have yet to develop mechanisms that will provide significant and effective technical and financial assistance to strengthen tobacco control in the developing world, even though this was a key promise to the developing world during the FCTC negotiations (see page 26).

Encouragingly, while much remains to be done, Canada has made some progress domestically. The federal government recently agreed to introduce regulations that would ensure that all federally-regulated workplaces are 100% smoke-free. Across Canada, most provinces and territories have 100% smoke-free legislation. Tax regimes have been improved to comply with the FCTC.

This report provides an article-by-article overview of Canada's progress in implementing the FCTC, both at home and abroad. While there has been some progress domestically, Canada can and must do more to stem the death toll from tobacco within its borders and around the world.

CANADA SHOULD:

- **Restore funding to Health Canada's tobacco control program** (Articles 5 and 12)
- **Establish sustained funding for global tobacco control** (Articles 5, 22 and 23)
- **Increase federal tobacco taxes** by \$10 per carton (Article 6)
- **End the sale of reduce-duty tobacco** in duty-free stores (Article 6)
- **Prohibit smoking in all areas under federal jurisdiction**, including federally-regulated indoor workplaces and First Nations (Article 8)
- **Implement a comprehensive ban on tobacco advertising, sponsorship and promotion** (Article 11)
- **Require generic packaging** of tobacco products in Canada (Article 11)
- **Re-establish a meaningful, sustained federal mass media anti-smoking campaign** (Article 12)
- **Introduce comprehensive new measures to reduce tobacco contraband** (Article 15)

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About the Framework Convention on Tobacco Control



The Framework Convention on Tobacco Control (FCTC) is a landmark public health treaty negotiated under the auspices of the World Health Organization (WHO). This is the first time the WHO has used a treaty process to address a global health problem.

The FCTC has significant global support. One hundred and forty-seven (147) countries have become parties since the

treaty's unanimous adoption at the World Health Assembly in 2003. The treaty came into force on February 27, 2005 and the next Conference of the Parties will take place from June 30 to July 6, 2007.

In wealthier developed nations, like Canada, tobacco use has declined in recent years but continues to be a major killer. Although the current smoking rate has declined from just under 50% in 1965 to 19% in 2005, and daily smoking is down to 15%, **smoking is responsible for more than 37,000 deaths a year in Canada**, or about one in six deaths. In the developing world, tobacco use is growing at an alarming rate. If current trends continue, the WHO estimates that 10 million people per year will die from smoking by 2020, with 70% of these deaths coming from the developing world.

The FCTC is a global response to this global health epidemic. It commits the parties to the treaty, including Canada, to implement core tobacco control policies such as advertising bans, smoke-free spaces and health warnings. It also provides a mechanism to manage cross-border tobacco control issues, like cross-border marketing and smuggling, as well as framework for increased global cooperation.

As a party to the FCTC, Canada has promised the world that it will implement, within Canada, the core tobacco control policies called for in the treaty and assist developing nations with tobacco control.

About this Report

Success in reducing tobacco use depends on a high level of cooperation between governmental and non-governmental agencies. The FCTC recognizes this in one of its 'guiding principles':

The participation of civil society is essential in achieving the objectives of the Convention and its protocols. (Article 4)

This principle applies to treaty governance, including monitoring and evaluation of each country's compliance with and implementation of its treaty obligations.

Even the most FCTC-friendly governments will be tempted to put only a 'best face' on their own reports to the FCTC Conferences of the Parties (COPs). Their own assessments of

efforts to comply with the treaty may be incomplete, may tend to minimize problems and may be tempted to give undue emphasis to their accomplishments.

Independent civil society reports (often called "shadow reports") can validate, supplement or even counter official government reports. They can provide information that would otherwise go unreported. As such, civil society reports are an integral part of modern treaty governance.

This report focuses on the operational articles of the FCTC (Articles 5-6, 8-22 and 26). The other articles of the treaty are statements of principle or pertain to treaty administration.

The Preamble of the FCTC acknowledges the importance of civil society participation:

"Emphasizing the special contribution of nongovernmental organizations and other members of civil society not affiliated with the tobacco industry, including health professional bodies, women's, youth, environmental and consumer groups, and academic and health care institutions, to tobacco control efforts nationally and internationally and the vital importance of their participation in national and international tobacco control efforts."

Article 5: General Obligations

What Canada Has Committed To Do

Under Article 5 of the FCTC, Canada must:

> Develop, implement and periodically review a comprehensive multisectoral national tobacco control strategy, plan and program in accordance with the FCTC;

> Reinforce and finance a national coordinating mechanism or focal point for tobacco control;

> Adopt and implement effective measures for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke;

> Protect these policies from tobacco industry interference;

> Cooperate with other Parties in the formulation of proposed measures, procedures and guidelines for implementing the FCTC;

> Cooperate, as appropriate, with competent intergovernmental organizations and other bodies to achieve the objectives of the FCTC; and

> Cooperate with other FCTC Parties to raise funds for implementation.

How Canada Is Doing

National Strategy

In Canada's federal system, tobacco control is a shared responsibility of federal and provincial governments.

A pan-Canadian comprehensive, multisectoral tobacco control strategy, agreed to by governments, has been in place for over two decades. This strategy has been periodically updated to reflect new knowledge and

experience. The most recent version of the 'national strategy' was adopted by provincial and federal Health Ministers in 1999.

Canadian provincial, territorial and federal governments work through the Tobacco Control Liaison Committee to coordinate their efforts. Annual reports are produced on the governmental accomplishments of the strategy.

Civil society organizations participated in the development of the national strategy, but do not formally participate in the coordinating committee or its activities.

Recommendation 5-1: The FCTC focal point in Canada should include non-governmental organization (NGO) representatives as full partners.

The level of engagement of NGOs in government tobacco control activities varies greatly across jurisdictions and program and policy areas.

No mechanism has yet been announced for the federal management of inquiries about the FCTC or coordination of FCTC activities with non-governmental actors.

The federal tobacco strategy is implemented through legislation as well as administrative or executive actions. The federal *Tobacco Act* is the cornerstone of federal health law on tobacco, although other legislative instruments (such as tax laws) are also used.

Federal and provincial governments have consistently defended these measures from tobacco industry challenges and interference. The tobacco industry has launched court actions against some federal, provincial and municipal laws. These have been vigorously defended by all levels of government.

Federal and provincial/territorial per capita direct investment in tobacco control in 2005-2006

Yukon	\$6.70
Northwest Territories	\$4.77
Ontario	\$4.01
Québec	\$3.89
Alberta	\$3.22
Nunavut	\$2.69
Nova Scotia	\$2.45
British Columbia	\$1.35
Newfoundland and Labrador	\$1.15
Saskatchewan	\$0.59
Manitoba	\$0.50
New Brunswick	Not public
Prince Edward Island	Not public
Health Canada	\$2.00

sources: Ontario Tobacco Research Unit, Health Canada

How Canada Is Doing

International Assistance

In the past year, the federal government has actively participated in meetings regarding the development of FCTC protocols on illicit trade and cross-border marketing, and guidelines on product testing.

Recommendation 5-2: Canada should continue to support and accelerate the development of FCTC protocols, including through funding for protocol development, with emphasis on:

- Illicit trade (including surveillance systems)
- Cross-border marketing (including Internet advertising)
- Banning Internet and mail order sales
- Banning cross-border duty-free sales for travelers.

Financial support from the Canadian government for international tobacco control efforts is managed through two agencies - Health Canada (the federal department of health) and the Canadian International Development Agency (CIDA). The International Health Grants Program (IHGP), run by Health Canada, provides funding to multilateral agencies and has historically been the mechanism through which Canada provides support to the WHO and its regional offices. The recent decision to allow non-governmental organizations (NGOs) to make funding proposals to this program is much appreciated by the NGO community.

In 2006-2007, Health Canada awarded \$500,000 in grants in support of international tobacco control through the IHGP. This is down from \$800,000 in 2005-2006 and \$925,000 in 2004-2005. The reason for this drop is that Health Canada has received no new funding to reflect its new responsibility to pay out Canada's contributions to the FCTC

secretariat. Because the FCTC is financed through voluntary, and not mandatory, contributions, Canada's contribution is provided through Health Canada, rather than the Department of Foreign Affairs and International Trade. Until additional funding is provided to Health Canada to reflect the new responsibilities for FCTC assessed contributions, Health Canada must rob the tobacco control "Peter" to pay the FCTC "Paul".

Recommendation 5-3: Additional funding should be provided to Health Canada's International Health Grants Program to ensure that the voluntary assessments required for FCTC operations do not come at the cost of other international tobacco control efforts.

Since 1997, CIDA's official health strategies (Cf. <http://www.acdi-cida.gc.ca/CIDAWEB/acdicida.nsf/En/STE-42485038-HDF>) have mentioned controlling tobacco as a health goal. The agency supports the Canadian Public Health Association's work in strengthening public health associations in the Balkans, Africa and Latin America, which includes a tobacco control component. CIDA also provided funding for HealthBridge's South-to-South tobacco control program (2003-2006), and is currently funding a HealthBridge tobacco control project in Brazil (2006-2010). However, CIDA has no specific program or specialist for tobacco issues; tobacco control is only funded as a sub-component of other programs or funds.

Recommendation 5-4: CIDA should allocate funding specifically for international tobacco control and make its developing country partners aware that funding is available for relevant projects.

Article 6: Price and Tax Measures

What Canada Has Committed To Do

Under Article 6 of the FCTC, Canada must:

> Recognize that price and tax measures are an effective and important way to reduce tobacco consumption by various segments of the population, in particular young people;

> Take account of national health objectives when setting tax and price policies on tobacco products, including tax- and duty-free sales; and

> Report on tax rates and consumption trends to the periodic Conferences of the Parties to the FCTC.

How Canada Is Doing

Tax Measures

Tobacco taxes in Canada have been gradually restored toward the level they were in 1994 before the federal government cut taxes to reduce the profitability of smuggling.

There have been no net increases in federal tobacco taxes since June 2002, although several provinces have increased their tax rates since then. Federal tax is about 8 cents per cigarette. Provincial taxes range from a low of 10 cents per cigarette in Québec to a high of 21 cents in Nunavut and the Northwest Territories. The federal government raised the federal excise tax on tobacco products slightly in 2006, but this was only to offset a 1% cut in the Goods and Services Tax (GST). The net effect of the GST cut and the tobacco tax increase was to keep the tax on tobacco products about the same.

Total federal and provincial revenues from excise taxes on cigarettes were \$7.1 billion in 2005-2006, of which \$2.8 billion was received by the federal government. Several provinces and the federal government continue to tax certain tobacco products, such as tobacco sticks and roll-your-own, at lower rates. This undermines the health goals of tobacco taxation.

Recommendation 6-1: The federal government should raise cigarette taxes by \$10 per carton of 200 cigarettes (5 cents per cigarette), and encourage provinces where cigarette taxes remain low to also increase taxes, so that cigarettes are taxed at a higher rate across Canada.

Recommendation 6-2: Jurisdictions which continue to tax some tobacco products at lower rates (such as tobacco sticks and roll-your-own) should be encouraged to ensure that all tobacco products are uniformly taxed.

Duty-Free

In 2001, the government imposed federal excise taxes on cigarettes sold at duty-free shops and required returning travelers to Canada to pay excise taxes

on any cigarettes they brought back under their import allowance.

Nonetheless, it is still cheaper to purchase cigarettes in duty-free shops than at regular stores because provincial tobacco taxes do not apply in duty-free stores.

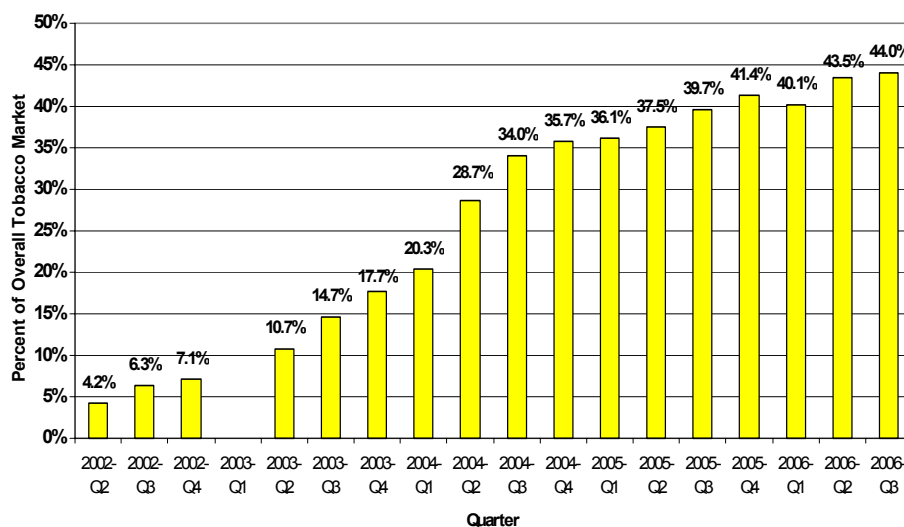
Price Measures

For decades, the major cigarette manufacturers sold their cigarettes at a common price. In recent years, the pressure from small manufacturers has led each of the three multinational companies operating in Canada to introduce 'discount' or 'reduced price' brands. In the third quarter of 2006, these cigarettes, which are typically \$1 to \$2 per package cheaper than other brands, made up 44% of the Canadian tobacco market, not including contraband.

The health impact of the loss of a homogeneously priced market is still not well understood.

Health agencies are concerned that the introduction of discount brands may have blunted the impact of tax increases.

Discount Cigarette Quarterly Market Share, Canada



Article 8: Protection from Second Hand Smoke

What Canada Has Committed To Do

Under Article 8 of the FCTC, Canada must:

> In areas of existing national jurisdiction, adopt and implement measures to provide protection from exposure to tobacco smoke in indoor workplaces, public transport and indoor public places; and

> Promote these measures at other jurisdictional levels.

How Canada Is Doing

Federal Jurisdiction

Now that the FCTC has come into force, the federal government has a clear obligation under international law to protect workers and the public from exposure to second hand smoke in all areas of federal jurisdiction. **The federal government has been slow to comply with this FCTC commitment.** Furthermore, as described below, the government has gone backwards by permitting the dismantling of protection from second hand smoke in First Nations communities. (First Nations are Aboriginal jurisdictions whose local government powers are defined in the federal *Indian Act*. There are over 600 First Nations communities in Canada.)

While many First Nation communities are protected from second hand smoke by provincial smoke-free laws, there remain gaps in the protection of First Nations people that the federal government has failed to address. The federal government has the authority under section 73(f) of the *Indian Act* to regulate smoking in First Nations but has not done so despite its clear obligation under the FCTC. Further, a few First Nations in Saskatchewan, New Brunswick and Manitoba have passed local bylaws purporting to dismantle the

protection their public places previously enjoyed under provincial law even though band councils do not have the jurisdiction to do this under the *Indian Act*. The department of Indian and Northern Affairs Canada (INAC) is responsible for reviewing and approving all band bylaws but has permitted these bylaws to come into force even though they are not permitted under the *Indian Act* and violate Canada's obligations under the FCTC

Recommendation 8-1: The federal government should enact a regulation under the *Indian Act* to provide protection from exposure to second hand smoke in workplaces and public places in First Nations. Until this regulation is enacted, the federal government should stop approving band bylaws that dismantle the protection provided under provincial smoke-free laws.

Workers and the public also suffer exposure to second hand smoke in federally-regulated workplaces, such as banks, airports, railways and broadcasters. Ten percent of Canadian workers are federally regulated. At long last, the government recently indicated that the *Non-Smokers' Health Regulations*, which regulate smoking in these workplaces, will be updated to eliminate designated smoking rooms. This is a welcome development, because designated smoking rooms do not protect workers and the public from exposure to second hand smoke.

Despite the current gap in the law, many federal workers, such as government employees, are protected from second hand smoke through administrative policies or because their employers respect provincial or municipal bans on smoking at work. However, the promised regulatory reform needs to be adopted as soon as possible to protect those workers who are not protected by these other measures. Recently, much media attention was accorded to the



existence of designated smoking rooms in the Canadian Broadcasting Corporation offices in Ottawa. This raised the ire of the Ontario Minister of Health Promotion, who pointed out that this loophole in federal law was counter-productive to the efforts being made by the Ontario government to protect Ontarians from the ravages of second hand smoke.

Recommendation 8-2: The federal government should adopt the promised revisions to the *Non-Smokers' Health Regulations*, and/or amend the *Canada Labour Code*, to prohibit smoking in all federally-regulated indoor workplaces and public places.

It is noteworthy that the two areas in which the federal government has been slow to comply with Article 8 of the FCTC, federal workplaces and First Nations, fall under the responsibility of Labour Canada and INAC respectively. This highlights the need for a whole-of-government approach and leadership at the political level to ensure that Canada respects its commitments under international law.

Article 8: Protection from Second Hand Smoke continued

How Canada Is Doing

Other Jurisdictions

Unlike at the federal level, 2006 and early 2007 saw continued improvement in protection from second hand smoke exposure at the provincial and territorial levels of government. Province-wide smoke-free legislation was adopted or came into force in Ontario, Québec, Nova Scotia and British Columbia, meaning ten of the thirteen provinces and territories now have legislation prohibiting smoking in indoor public places. (The others are Nunavut, the Northwest Territories, Manitoba, New Brunswick, Saskatchewan and Newfoundland and Labrador.) Over 90% of Canadians now live in provinces or municipalities that protect the public from exposure to second hand smoke in indoor public places, including bars and restaurants. Health Canada deserves much praise for its promotion of smoke-free laws at the sub-national level.

Of the ten provinces and territories with smoke-free indoor public places, only seven also protect workers in workplaces not open to the public. The two with incomplete legislative protection of workers are Saskatchewan and Newfoundland and Labrador.

Recommendation 8-3: Saskatchewan and Newfoundland and Labrador should protect all workers from exposure to second hand smoke by prohibiting smoking in all workplaces.

Prince Edward Island protects most workers and members of the public, but continues to allow designated smoking rooms in bars and restaurants. This exposes workers in these businesses to toxic second hand smoke, as well as patrons who choose not to enter the smoking rooms but who are exposed to drifting smoke when people go in and out of them.

**2ND HAND SMOKE
CAN KILL YOU.
JUST ASK HEATHER.**

Heather n'a jamais fumé, mais elle a travaillé dans des restaurants où fument.
Malheureusement, elle se meurt du cancer du poumon.
Certaines compagnies de tabac disent que la fumée secondaire dégage 1 en 500.
Santé Canada affirme qu'elle se trompe.
Refusez d'être une clope. Appelez au 1 800 O-Canada (1 800 622-6232).
ATS: 1 800 456-7736 www.vivrezSantéFrance.ca

**LA FUMÉE SECONDAIRE
PEUT VOUS TUER.
DEMANDEZ À HEATHER.**

Heather n'a jamais fumé, mais elle a travaillé dans des restaurants où fument.
Malheureusement, elle se meurt du cancer du poumon.
Certaines compagnies de tabac disent que la fumée secondaire dégage 1 en 500.
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Refusez d'être une clope. Appelez au 1 800 O-Canada (1 800 622-6232).
ATS: 1 800 456-7736 www.vivrezSantéFrance.ca

**HEATHER CROMIE, NEVER SMOKED, DYING OF LUNG CANCER
HEATHER CROMIE, N'A JAMAIS FUMÉ, SE MEURT DU CANCER DU POUMON**

Alberta has the weakest provincial smoking law in Canada, and the Yukon has no territorial law at all. However, a comprehensive territorial smoke-free law is currently before the Yukon legislature. In both Alberta and the Yukon, municipal bylaws provide the residents of the capital cities and some other municipalities with protection. Notably, Calgary and Edmonton, the largest cities in Alberta, and Whitehorse,

the largest city in the Yukon, are smoke-free. Nevertheless, the public in many municipalities in Alberta and the Yukon remain unprotected.

Recommendation 8-4: Alberta, Prince Edward Island and the Yukon should enact provincial/territorial laws to prohibit smoking in public places and workplaces under their jurisdiction.

Further Steps

Recent research has confirmed that outdoor smoking in areas where people congregate, such as bar and restaurant patios and outdoor arenas, can expose people to harmful levels of second hand smoke. Smoke drifting from entranceways and outdoor patios into otherwise smoke-free buildings also harms building occupants. In Canada, the provinces of Nova Scotia and Newfoundland and Labrador, as well as several municipalities in Ontario, therefore deserve praise for taking the important and innovative further step of **banning smoking on the outdoor patios of bars and restaurants**. The proposed smoke-free legislation before the Yukon legislature would also ban smoking on outdoor patios.

Recommendation 8-5: Federal, provincial and territorial governments should follow the lead of Nova Scotia and Newfoundland and Labrador and enact legislation, within their respective jurisdictions, to ban smoking on outdoor patios.

Other emerging issues aim to address the remaining gaps in protection from second hand smoke. These include smoking in multi-unit dwellings, like apartment buildings, protection of home-based workers and smoking in cars with kids. Smoking in multi-unit dwellings exposes neighbours to second hand smoke in their homes and is a growing concern of many Canadians. Many home-based workers, whose workplaces are other peoples' homes, are exposed to second hand smoke on the job because laws for smoke-free workplaces often do not include these workplaces. Several American jurisdictions have banned smoking in private vehicles when there are children inside and Ontario's Minister of Health Promotion has publicly supported this idea.

Recommendation 8-6: The federal government should promote and actively support measures at all levels of government to address the remaining gaps in the protection of Canadians from exposure to second hand smoke.

The Story of Howard Page: A Prison Guard's Fight for Safe Working Conditions

Federal prison guard Howard Page filed a health and safety complaint over his constant exposure to second hand smoke at work. The Health and Safety Officer agreed with Mr. Page that his health was at risk, and, in October 2005, ordered Corrections Canada to make the workplace safe by implementing effective non-smoking policies.

Despite the fact that Canada had agreed to Article 8 of the FCTC, the government appealed the decision and required that Mr. Page and other prison workers and prisoners continue to work and live in an environment polluted by cigarette smoke.

Subsequently, Corrections Canada restricted smoking to outdoor areas only in federal prisons. However, prisoners are allowed to keep cigarettes in their cells and the indoor smoking ban has proved impossible to enforce. Mr. Page and his co-workers continue to be exposed to tobacco smoke at work.

Article 9: Product Regulation

What Canada Has Committed To Do

Under Article 9 of the FCTC, the Conference of the Parties (COP), in consultation with competent international bodies, will propose guidelines for testing and measuring the contents and emissions of tobacco products and for regulating these contents and emissions. Canada must adopt and implement effective measures for this testing, measuring and regulation.

How Canada Is Doing

For decades, many countries have used guidelines established by the International Standards Organization (ISO) to test and measure cigarette smoke emissions. The results have been disastrous for public health.

The ISO method (developed in consultation with tobacco companies) mandated the use of a smoking machine test whose results bore little resemblance to actual smoker exposure to the toxins from a cigarette. The printing of these machine test results deceived smokers into believing they could reduce the harms of smoking by switching from cigarettes with higher machine readings to cigarettes with lower machine readings.

Canada was one of the first countries to try to address concerns with the ISO method. Since 2001, the federal government of Canada has required tobacco companies to provide comprehensive lists of all ingredients used in the manufacture of tobacco products, and to measure the levels of 39 identified chemicals in mainstream and sidestream cigarette smoke. Tests are also required on whole tobacco. Reports on this information must be provided semi-annually to Health Canada. Similar regulations were implemented in British Columbia in 1998.

This Canadian ‘intense’ method differs from the ISO method by increasing the frequency of puffs, the amount of air inhaled by the machine and by blocking the filter perforations that dilute the smoke. In effect, the ‘intense’ method

produces higher values than the ISO method, with smaller differences between cigarette brands.

The Canadian intense method is not effective for comparing the harmfulness of cigarette brands.

Canada has supplemented machine-yields with requirements for toxicity testing. Manufacturers must report annually on results for three toxicity tests.

The FCTC process can benefit from the Canadian experience in changing testing regimes and expanding the range of chemicals that must be measured, but not necessarily by adopting this as the global standard.

Recommendation 9-1: Canada should encourage the COP to acknowledge that the machine tests of cigarette emissions, such as the ISO method and the Canadian ‘intense’ method, are not an appropriate mechanism for evaluating or comparing the harmfulness of cigarette brands.

Canadian Initiative

Canada was the first country to regulate the ignition propensity (fire-causing properties) of cigarettes. Since October 1, 2005, all cigarettes manufactured in or imported into Canada have had to meet so-called ‘fire-safety’ standards which reduce the risk of cigarette-caused fires.

Article 10: Emission and Content Disclosure

What Canada Has Committed To Do

Under Article 10 of the FCTC, Canada must:

- > Require manufacturers and importers of tobacco products to disclose information about the contents and emissions of tobacco products; and
- > Disclose information about the toxic constituents and emissions of tobacco products to the public.

How Canada Is Doing

Health Canada regulations require that each cigarette package show values for six chemicals in cigarette smoke: tar, nicotine, carbon monoxide, benzene, hydrogen cyanide and formaldehyde.

These values are produced by the standard ISO and 'intense' test methods. Although problems with these values are well understood and although the World Health Organization TobREG committee has recommended that no ISO values

be displayed on cigarette packages, the Canadian government has not indicated any willingness to remove these numbers.

Recommendation 10-1: The federal government should continue to demand testing of cigarette emissions under various machine test standards. Several health organizations have called for a prohibition on the use of numeric values on cigarette packages, as these numbers may mislead smokers into believing that some brands of cigarettes are less harmful.

In addition to cigarette emissions, Health Canada also requires companies to conduct annually three toxicity tests on each of their tobacco products and to report the finding to government. Requirements for toxicity testing were introduced in 2005.

Companies are also required to provide annual information on manufacturing procedures, promotional activities and research activities. They are also required to report tobacco sales on a monthly basis.

Of these many reports, only sales data are made public as reported. The British Columbia government makes public information on constituents and emissions for brands sold in that province, which includes most major brands in Canada.

Recommendation 10-2: All information reported to Health Canada under the *Tobacco Reporting Regulations* should be made public, consistent with Article 10 of the FCTC.

The toxic constituent label displayed on Canadian cigarettes shows machine test results for six chemicals under two testing conditions. These labels do not allow meaningful comparison of the relative harmfulness of different cigarette brands.

Toxic emissions/unit	Emissions toxiques/gramme
Tar/Goudron	15-34 mg, Nicotine 1.4-3.1 mg, Carbon monoxide/Monoxyde de carbone 15-29 mg, Formaldehyde/Formaldéhyde 0.036-0.094 mg, Benzene/Benzène 0.048-0.096 mg, Cyanide/Acide cyanhydrique 0.14-0.27 mg



Article 11: Labelling of Tobacco Products

What Canada Has Committed To Do

Under Article 11 of the FCTC, Canada has committed (by February 27, 2008) to adopt and implement effective measures to ensure that tobacco product packaging and labelling:

> do not promote the product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, including anything that creates a false impression that a particular tobacco product is less harmful than others; and

> bear rotating health warnings that should cover at least 50%, and must cover at least 30%, of the principal display areas.

How Canada Is Doing

Health Warnings

Canada was the first country in the world to introduce picture-based warning messages. The warnings that have been displayed on Canadian cigarette packages since 2001 exceed the minimum requirements for the FCTC, and are consistent with the recommendation for larger warnings with pictures.

All cigarettes and most tobacco products sold in Canada display one of sixteen rotating pictorial health warning messages. These messages take up 50% of the principal display space (one side in each of Canada's two official languages, English and French). Additional health information is printed or included as a leaflet in the inside of cigarette packages.

Recommendation 11-1: Utilize surfaces within the package, including the foil and the cigarette itself, for additional disease prevention/health promotion messaging and require the use of full colour design and graphics on any messaging inside the package.

Recommendation 11-2: Improve the information to smokers with respect to where they can get cessation help, such as a free 'quit line' telephone number.

Development of Health Canada's second wave of health warning messages has been delayed. It took just under two years for Health Canada to bring its first wave of health warning messages from concept to on-package implementation (January 1999 to December 2000). The estimated time frame before new graphic health warning messages appear on packages in Canada is more than two years away, even though work on their development

has already been underway for two years. In this respect, Canada is behind other countries, such as Brazil, Thailand and Singapore, which have been able to revise and refresh their warning systems with a second wave of graphic messages in a timely way.

Recommendation 11-3: Accelerate development of a new phase of health warning messages, and have them in place by the end of 2008.

Recommendation 11-4: Increase the frequency of rotation of warnings without decreasing the number of warnings in rotation at any given time.

Recommendation 11-5: Increase the quality of the warnings through improved language, content, graphics and innovative messaging (ie. reminders of financial costs, skin damage, increased surgical risks, etc...)

Some other tobacco products, including cigars, cigarillos, bidis and oral tobaccos are sold in Canada with smaller or non-pictorial health messages. Health Canada has signaled that it intends to strengthen the warning messages on these other tobacco products.

New Hexagonal Packages Undermine Warnings



Ever since package warnings were first introduced in Canada, tobacco companies have been experimenting with new package designs to reduce the impact of the warnings. The latest example of this is the hexagonal package, pictured to the left.

The Canadian warning regulations require 50% of the "principal display

area" to contain health warnings. Switching from four sides to eight reduces the size of the "principal display area" of the package, squeezing the warning message on the central panel, between two empty panels, and reducing the visual impact of the graphic warning.

The Canadian Cigarette Package Warnings



In addition to the exterior warning messages, cigarette packages in Canada also contain sixteen rotating package inserts with health information.

You CAN quit smoking!

Tobacco products are highly addictive

- If you're thinking of quitting, having a plan and sticking to it really helps overcome your addiction.
- Psych yourself up. If you want others to help you, tell them your quit date.
- Take a moment and write down your reasons for quitting. If you are tempted to light up, look at this list to remind yourself why you stopped.

For more information on tobacco, its health effects and ways to overcome a tobacco addiction, talk to a doctor, nurse or pharmacist or visit www.infotobacco.com

Health Canada

1

If I have lung cancer, what are my chances of surviving?

- Your chances of surviving this disease are low.
- 60% of lung cancer victims die within one year.
- Less than 15% of lung cancer victims will be alive 5 years after diagnosis.
- Smoking causes 85% of all lung cancers.

Quitting smoking reduces your chance of getting lung cancer.

For more information on tobacco, its health effects and ways to overcome a tobacco addiction, talk to a doctor, nurse or pharmacist or visit www.infotobacco.com

Health Canada

9

Article 11: Labelling of Tobacco Products (continued)

How Canada Is Doing

Deceptive Labelling

In 2006, in the face of an investigation by the federal Competition Bureau for making misleading claims, three of Canada's largest tobacco companies signed an agreement to stop using the terms "light" and "mild" on their packaging by mid-2007. However, more is required to fully implement Article 11 of the FCTC.

Merely removing the terms "light" and "mild" is not enough to stop deceptive labelling. Other terms may be substituted to continue sending the deceptive message that some cigarettes are less harmful than others. The use of colour variations and package imagery also undermines the effect of removing the terms "light" and "mild".

Truly effective warnings to consumers require the removal of all tobacco company disinformation from packages

that neutralizes or undermines the effectiveness of the government's warnings and gives legitimacy to the product inside, including trademarks, colours and graphics. The most effective way to do this is to require plain packaging of tobacco products, as recommended by the House of Commons Standing Committee on Health in 1994.

Recommendation 11-6: The federal government should enact regulations to prohibit false and deceptive packaging, including, but not limited to, the terms already covered by the Competition Bureau agreement.

Recommendation 11-7: Increase the size of the warnings to reflect the nature and magnitude of the risks of tobacco while, simultaneously, giving more space to convey additional information, and to convey information more effectively.

Recommendation 11-8: Legislate plain or generic packaging, as recommended by the House of Commons Standing Committee on Health in the report *Toward Zero Consumption: Generic Packaging of Tobacco Products*.

Recommendation 11-9: Standardize all cigarette packages to the most commonly sold Canadian package form (known as slide and shell). This would prevent the introduction of new packaging that has the potential to undermine the warning regulations now in effect, such as the new du Maurier hexagonal packages.

Recommendation 11-10: In the absence of standardized packaging, eliminate the exemption for interior warnings that currently exists for "soft pack" packages.

Tobacco Companies Replace 'Light' and 'Mild' with Other Terms

Tobacco manufacturers in Canada have adapted to the Competition Bureau agreement by substituting other brand extensions for the terms 'light' and 'mild'. Pictured below are two packages of an identical cigarette product, one from before the implementation of the Competition Bureau agreement (left) and one from after (right). The only difference on the company's portion of the package is that the word 'light' has been replaced by 'smooth'. The remaining marketing elements, such as the logo and the colour, are identical. These elements lend legitimacy to the product and should be eliminated through plain packaging.



Article 12: Education, Training and Public Awareness

What Canada Has Committed To Do

Under Article 12 of the FCTC, Canada must:

- > Promote and strengthen public awareness of tobacco control issues, using all available communication tools, as appropriate;
- > Provide public access to information about tobacco companies; and
- > Run training programs in tobacco control for human services personnel.

How Canada Is Doing

Cuts to Federal Tobacco Control

The federal government has repeatedly cut its tobacco control programming in recent years. It has used the funds budgeted for the Federal Tobacco Control Strategy (FTCS) as a “cash cow” to fund other unrelated activities. The amounts diverted by Health Canada management have grown each year. In 2001, the government pledged to spend \$480 million on the FTCS over five

years, rising to \$110 million per year by year five. By the 2006-07 fiscal year, the actual spending was down to \$47 million. Health Canada has also failed to be entirely transparent on where all the diverted funds have gone.

The mass media component of the FTCS has suffered the most from these cuts. A strong mass media component was intended to be the main focus of the program in order to drive changes in social behaviour and attitudes toward tobacco. As such, it is crucial to Canada’s commitment to Article 12 to promote and strengthen public awareness of tobacco control issues. Funding for the mass media program fell from \$30 million in 2001-02 to \$3.5 million in 2006-07, a massive decline of over 88%.

A factor in the dismantling of the mass media program was the government’s decision, in 2005-06, to centralize all government in the Privy Council Office (PCO), the central administrative agency of the federal government, due to a government advertising scandal. Although tobacco advertising was not implicated in the scandal, \$16.4 million annually was transferred from the FTCS

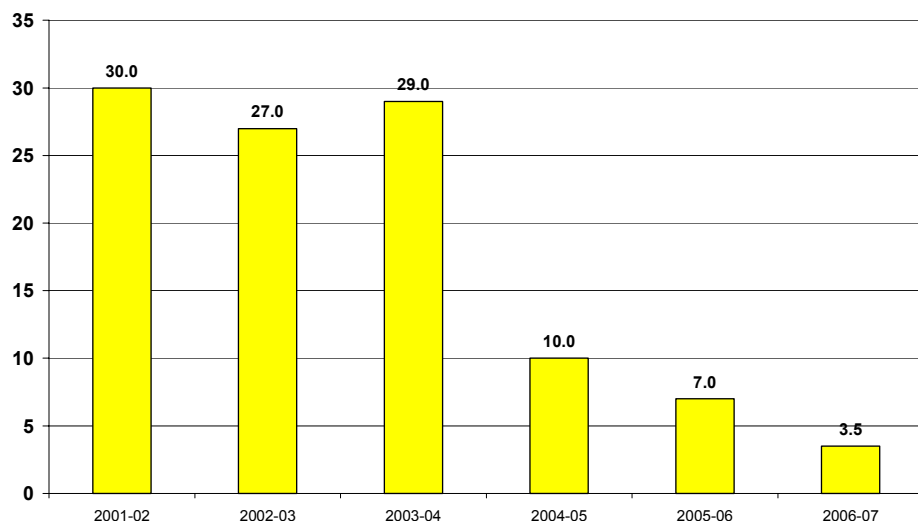
to the PCO and, in 2006-07, the PCO only sent \$3.5 million back to the FTCS for mass media programming. In effect, this was yet another diversion of funds out of the FTCS. Although there is nothing inherently wrong with central oversight of government advertising budgets, the amount dedicated to tobacco control advertising needs to be restored to 2001-02 levels.

On the positive side, Health Canada has continued to provide some financial support for other agencies and jurisdictions to run public awareness campaigns. These activities, combined with continued news media interest in tobacco issues, have resulted in the continued presence of tobacco issues in the public eye.

Recommendation 12-1: The federal government should renew the FTCS for another five years and fully restore its funding, including the mass media component, to \$110 million per year.

Recommendation 12-2: The federal government should ensure that Health Canada management does not reallocate FTCS funding for other uses.

Health Canada Direct Spending on Anti-Smoking Mass Media
(\$ millions)



Article 13: Tobacco Advertising, Sponsorship and Promotions

What Canada Has Committed To Do

Under Article 13 of the FCTC, Canada must:

> Implement a comprehensive ban on tobacco advertising and sponsorship by February 27, 2009, or if a comprehensive ban is not permissible under the constitution, restrict advertising, promotion and sponsorship and require health warnings on all permitted advertising; and

> Restrict or ban cross-border advertising from originating within Canada and cooperate with other Parties to the FCTC to eliminate cross-border advertising.

How Canada Is Doing

It is not yet determined whether a comprehensive advertising ban is consistent with Canada's constitution.

The uncertainty stems from the federal government's response to the Supreme Court ruling in 1995 that the government had failed to justify a total ban. Although the government initially responded to the judgment by saying that it had the evidence to justify the ban, it later decided to introduce a weaker law instead. As a result, the Supreme Court has never been given the opportunity to review this issue in light of knowledge gained after 1990 (the year of the trial).

Recommendation 13-1: Canada should implement a comprehensive ban on tobacco advertising.

Current Status

The federal *Tobacco Act* (1997) allows non-lifestyle brand preference tobacco advertisements in bars and other places where young persons are not allowed,

in direct mail to adults and in newspapers and other publications.

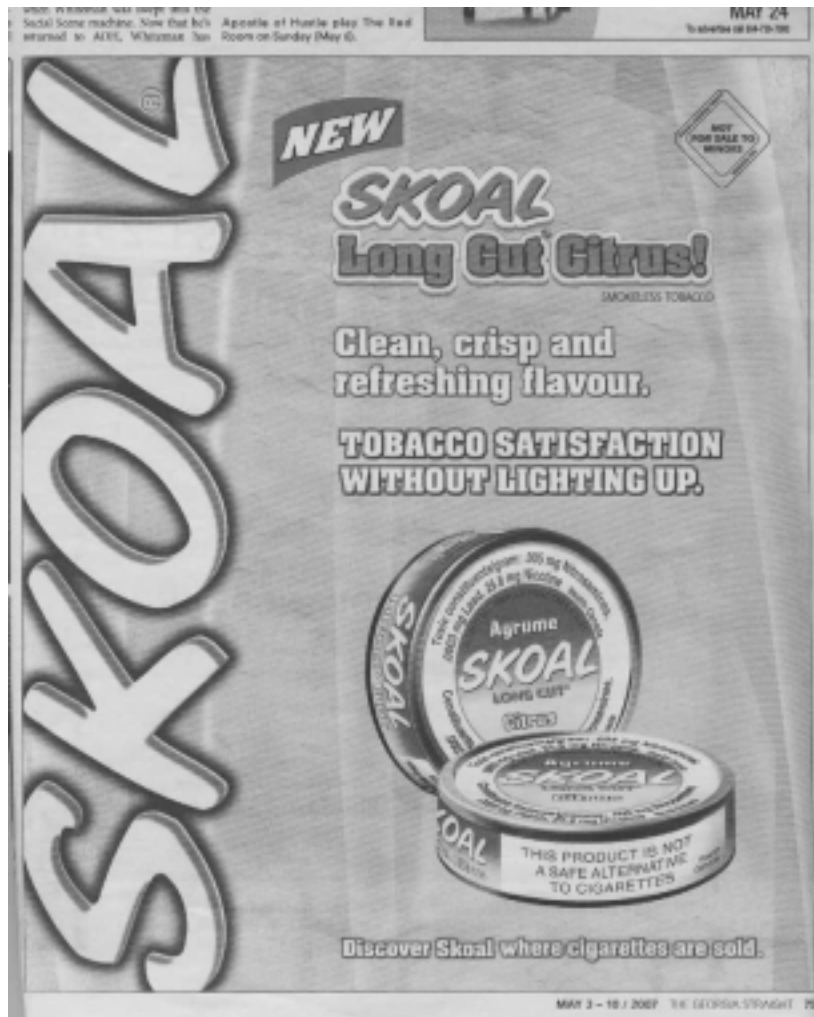
No health warnings are yet required on such promotions, despite the clear FCTC requirement that these be in place. Canada also does not prohibit the export of tobacco advertising.

Provincial government also have the legal power to ban advertising and Quebec's laws are stronger than the federal law. Six provinces and territories (Manitoba, Saskatchewan, Nunavut, Prince Edward Island, the Northwest Territories and Nova Scotia) have implemented bans on retail displays of tobacco products and two more (Ontario

and Quebec) have passed legislation which will ban such displays by May 31, 2008. The federal government and the government of British Columbia have also begun working toward enacting retail display bans through regulations.

Recommendation 13-2: As part of legislative reform, tobacco product displays and other forms of tobacco product promotion should be banned at point of sale across Canada, either through provincial/territorial law or by federal law.

Iceland and Thailand have also banned tobacco product displays at point of sale.



This half-page ad, which appeared in a major weekly entertainment publication in Vancouver, is an example of the tobacco advertising that is going on in Canada in the absence of a comprehensive ban.

Article 14: Tobacco Dependence and Cessation

What Canada Has Committed To Do

Under Article 14 of the FCTC, Canada must:

- > Take effective measures to promote cessation of tobacco use and adequate treatment for tobacco dependence;
- > Develop and disseminate cessation and treatment guidelines that are appropriate, comprehensive, integrated and based on scientific evidence and best practices;
- > Endeavour to include diagnosis and treatment in national health and education programs and establish facilities and rehabilitation centre programs for diagnosing, counseling, preventing and treating tobacco dependence; and
- > Collaborate with other parties to facilitate accessibility and affordability for treatment of tobacco dependence.

How Canada Is Doing

Under the Canadian federal system, both the provincial and federal levels of government have a role in helping smokers quit. Health care services are primarily a provincial responsibility, and both federal and provincial governments are engaged in health promotion.

At the federal level, Health Canada has:

- supported the development of best practice guidelines for some health professions and for public programs (i.e. guidelines for the nursing profession);
- supported development of a nation-wide system of smokers' helplines by funding pilot programs in six provinces,

supporting the networking of all helplines and developing an evaluation framework for helplines;

- supported regionally and locally designed and run cessation programs;
- run national mass media cessation messages;
- supported innovative and experimental cessation programs;
- developed web-based resources to aid quitting; and
- developed material to assist work-based cessation programs.

Provincial governments run a variety of programs supporting smoking cessation. These programs are often delivered with the financial support of the federal government and in collaboration with civil society organizations. Provincial measures also include:

- a national network of 'Quitlines', now available in all provinces (four provinces contribute financing);
- physician services provided through public health care;
- Quit and Win contests in many provinces and regions;
- reimbursement of some costs for stop-smoking medications in Ontario, Québec, Prince Edward Island and Nova Scotia.

There is a high level of collaboration and integration in program design, delivery and evaluation among governments, health agencies, employers and civil society organizations in the field of smoking cessation. Several civil society organizations are actively involved in supporting smoking cessation, notably the Heart and Stroke Foundation, the Canadian Cancer Society and The Lung Association.

Recommendation 14-1: Canadian governments should continue to work collaboratively in providing support for smokers who wish to quit, and should consider extending public support for quitting through:

- Printing a toll-free quitline number on each cigarette package;
- Increasing cessation support through primary health care (including physician services and public health clinics); and
- Developing incentives and other motivations for smokers, employers and communities to increase successful quit rates.



Article 15: Illicit Trade in Tobacco Products

What Canada Has Committed To Do

Under Article 15 of the FCTC, Canada must:

- > Recognize that eliminating the illicit tobacco trade is essential to tobacco control;
- > Clearly mark the jurisdiction of destination on each package for sale in Canada;
- > Consider developing a practical tracking and tracing regime;
- > Monitor and collect data on cross-border tobacco trade;
- > Strengthen legislation against illicit trade in tobacco products;
- > Ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed or otherwise disposed of in accordance with national law;
- > Monitor, document and control tobacco in transit;
- > Adopt measures to enable the confiscation of proceeds derived from the illicit trade in tobacco products;
- > Cooperate with other parties and agencies to control smuggling; and
- > Adopt and implement further measures, including licensing, to prevent illicit trade.

How Canada Is Doing

Illicit trade in tobacco products grew in Canada in 2006. Contraband weakens the impact of tobacco tax policies, which are the most effective way to reduce

smoking. Urgent action is therefore required to bring the exploding contraband market under control.

Contraband tobacco products mainly originate from unlicensed manufacturing facilities located in several First Nations: the Kahnawake Mohawk Territory in Quebec, the Six Nations First Nation and the Tyendinaga Mohawk Territory in Ontario and the St. Regis Mohawk Reservation in New York State, on the Canada-US border. Due to political tensions between the leadership of these communities and the Canadian and American governments, law enforcement agencies in both countries have been slow to enforce the laws against unlicensed cigarette manufacturing in these communities.

Recommendation 15-1: Cut off the flow of raw materials to unlicensed manufacturers by prohibiting suppliers of raw tobacco, cigarette filters and other raw materials from selling these materials to anyone who cannot produce a valid manufacturing license.

Recommendation 15-2: Introduce legislation that holds all tobacco manufacturers strictly liable if their products are seized on the smuggling market.

Recommendation 15-3: The Canadian government should persuade the U.S. federal government to shut down illegal manufacturing operations on the U.S. side of Akwesasne.

Recommendation 15-4: The Canadian government and provincial governments should establish a minimum bond of at least \$5 million in order to obtain a federal or provincial tobacco manufacturing license.

Further complicating matters is the fact that, under the Canadian constitution, First Nations people do not have to pay

provincial taxes if they buy tobacco products in First Nation territory. Some vendors in First Nations illegally sell these cheaper tax-exempt products to non-First Nations people who are not eligible to buy them. The ideal solution to this problem would be for First Nations to tax tobacco products in their territory, in the place of the provincial governments. This would raise needed revenues for First Nation governments and improve the health of First Nations people by discouraging smoking. Currently, very few First Nations collect tobacco taxes. In the absence of taxation by First Nations, better precautions are needed to prevent legitimate tax-free products from being sold illegally to non-First Nations people.

Recommendation 15-5: Provincial governments should set strict quotas and a refund requirement to limit the amount of provincial tax-exempt cigarettes available in First Nations.

Recommendation 15-6: First Nation vendors should be required to pay an amount equivalent to provincial tobacco taxes up front, when they purchase their inventory from manufacturers or wholesalers, and then get a rebate from their provincial government only if they can prove that the product was sold to an eligible First Nation person.

Recommendation 15-7: Introduce an effective tracking and tracing system to help law enforcement identify where legitimately manufactured products leave the legitimate supply chain and enter the contraband market.

Recommendation 15-8: Revoke licences of tobacco manufacturers acting unlawfully.

Recommendation 15-9: Accelerate the ability of First Nations to impose their own tobacco taxes.

Article 16: Sales to Minors

What Canada Has Committed To Do

Under Article 16 of the FCTC, Canada has committed to implement measures to prohibit the sale of tobacco products to minors, which may include:

- > Requiring signage at retail stating that tobacco sales to minors are prohibited and that proof of age is required;
- > Banning the use of tobacco displays where tobacco products are directly accessible;
- > Prohibiting the manufacture and sale of candy cigarettes;
- > Ensuring that tobacco vending machines are not accessible to minors;
- > Prohibiting the distribution of free tobacco products to the public, and especially minors; and
- > Banning the sale of individual or small packages of cigarettes.

How Canada Is Doing

Provincial and federal governments in Canada have laws banning the sale of cigarettes to young persons. Federal law prohibits tobacco sales to persons under 18 years of age, and seven provinces/territories have established 19 years as the minimum age. Two provinces (Alberta and Nova Scotia) have also introduced laws making it illegal for young persons to possess tobacco products, against the recommendations of the health community.

Significant enforcement energies and resources are devoted to policing the sale of cigarettes to young persons. Canada has implemented many of the measures

recommended or required by Article 16 of the FCTC:

- Cigarette vending machines, once common in Canada, can only be used in very restricted adult-only venues, and are banned in several provinces;
- Display of signs at retail stating that it is against the federal law to sell cigarettes to persons under 18 is required by federal law. Seven provinces require additional signage at retail;
- Free distribution of cigarettes in Canada is banned;
- Self serve retail displays are banned;
- Cigarettes cannot be sold individually.

Recommendation 16-1: Canada should ban cigarette vending machines.

Recommendation 16-2: Canada should increase the federal minimum age for cigarette sales from 18 to 19.

Recommendation 16-3: Federal access laws should be strengthened by requiring that retailers display the number of a toll-free complaint line for the reporting of infractions.

Canada has not yet banned the sale of candy cigarettes, although Nunavut territory has. The Nova Scotia legislature has passed a law banning candy cigarettes, but the government has not yet proclaimed it into force.

Recommendation 16-4: Governments should ensure that there is a ban on candy cigarettes throughout Canada.

The cost of effective enforcement of sales to youth laws is very high. Based on the Canadian experience, countries should focus on other areas first.

Article 17: Support for Alternative Activities

What Canada Has Committed To Do

Under Article 17 of the FCTC, Canada must:

- > Promote economically viable alternatives for tobacco workers, growers and, as the case may be, individual sellers; and
- > Cooperate with other FCTC parties and competent international and regional intergovernmental organizations to promote these activities.

How Canada Is Doing

Canadian tobacco agriculture has been in decline since the 1970s. Now, there are about 650 tobacco farms, almost all of them in Ontario. They produced 84 million pounds of tobacco (about 38.1 kilograms) in 2006.

Canadian tobacco farms are not economically competitive with those from other countries. For decades, tobacco companies have propped up Canadian tobacco farming with subsidies ('top-up' payments.) British American Tobacco's Canadian affiliate has now indicate that it is no longer willing to pay this subsidy for much longer.

Over \$100 million dollars was spent by federal and provincial governments in the late 1980s and early 1990s, and about \$70 million spent again in April 2005. These programs were of an emergency nature, in reaction to a sharp short-term decline in demand for tobacco leaf by manufacturers. They were not planned in collaboration with public health agencies. While costly to taxpayers, they were not particularly effective in that they did not substantially reduce the amount of tobacco grown.

With or without coordination between the agriculture and health sectors, tobacco agriculture will change because of market forces.

To help achieve a clear public health objective, any tobacco farmer exit strategy must maintain government-supervised tobacco leaf supply management for as long as tobacco is grown in Canada. Once an exit strategy is complete, as in Australia, tobacco growing should no longer be permitted in Canada. Starting now and continuing indefinitely, prohibitions need to be strictly enforced against illegal sales outside of the official supply management system.

An Exit Strategy for Tobacco Farmers

Canadian farmers are campaigning for an exit strategy that will allow them to exit the tobacco farming business. Such an exit strategy was agreed upon in October, 2006 by Australian tobacco farmers. Beginning in 2007, tobacco can no longer be legally grown in Australia. Australia's 300 tobacco growers will receive A\$32 million (CAN\$30 million) in compensation for exiting the tobacco business, with A\$15 million (CAN\$14 million) being paid by the tobacco companies and A\$17 million (CAN\$16 million) being paid by the Australian federal government.

Recommendation 17-1: Federal and provincial governments should not participate in, encourage or endorse the export of Canadian tobacco.

Recommendation 17-2: As part of a comprehensive long-term health-oriented tobacco control policy, and in keeping with Article 17 of the FCTC, tobacco growing in Canada should be phased out by government as soon as possible.

Recommendation 17-3: During the entire phase-out period, maintain government-supervised tobacco leaf supply management. Once tobacco growing has been completely phased out, make tobacco growing illegal with continuing government supervision to enforce the ban on tobacco growing.

Article 18: Protection of the Environment

What Canada Has Committed To Do

Under Article 18 of the FCTC, Canada has committed to have due regard to the protection of the environment and the health of persons in relation to the environment in respect to tobacco cultivation and manufacture.

How Canada Is Doing

The environmental impact of tobacco growing and manufacture in Canada has not been an area of significant focus by tobacco control agencies (governmental or non-governmental) in Canada.

Tobacco curing methods in Canada involve the use of natural gas, not the burning of wood.

Greenhouse gas emissions are monitored for tobacco manufacturing plants (as they are for all industries) through the National Pollutant Release Inventory, managed by Environment Canada.



The poisonous gases found in cigarette smoke pollute indoor and outdoor air, but cigarettes pollute the environment in other ways as well. A litter audit found that 17% of litter on Toronto streets was from cigarette butts and other tobacco-debris.

Photo credit: Flickr photo sharing (www.flickr.com)

Article 19: Liability

What Canada Has Committed To Do

Under Article 19 of the FCTC, Canada must:

- > Take legislative action, or promote existing laws, to deal with civil and criminal liability, including compensation where appropriate, for the purpose of tobacco control; and
- > Cooperate with and assist other FCTC parties in legal proceedings relating to civil and criminal liability.

How Canada Is Doing

Criminal and civil actions in Canada against tobacco companies have accelerated in recent years. There are now at least three criminal inquiries against tobacco companies, three government civil lawsuits and three certified class action civil suits. Canada uses both the English common law and French civil law systems. Litigation against tobacco companies is proceeding in both systems.

Criminal Proceedings

In January 2002, the Royal Canadian Mounted Police (RCMP) searched the premises of Rothmans, Benson & Hedges in connection with smuggling activities in the 1990s.

In February 2003, the RCMP laid charges of fraud against JTI-Macdonald, related companies and eight former corporate executives, claiming that Canada, Ontario and Québec had been



defrauded of \$1.2 billion in tax revenue between 1991 and 1996. One of the executives, Stan Smith, who was the company's vice-president of sales during that period, pleaded guilty to charges of fraud and possession of proceeds of crime on January 5, 2006. He received a lenient sentence of two years less a day of house arrest. The criminal

proceedings against the other accused are ongoing.

In November 2004, RCMP agents searched the Montréal office of Imperial Tobacco Canada. The RCMP affidavit used to obtain the search warrant states that smuggling led to \$607 million in unpaid taxes to the federal government.

Government Cost Recovery Suits

In January 2001, the province of British Columbia filed a health care cost recovery lawsuit against tobacco companies operating in that province and their multinational owners. In September 2005, the Supreme Court of Canada upheld the legislation used to manage the lawsuit. Since then, five other provinces, Saskatchewan, Manitoba, New Brunswick, Nova Scotia and Newfoundland and Labrador, have passed similar legislation. In 2006, the foreign multinationals named in the British Columbia lawsuit were unsuccessful in an attempt to claim that the province did not have the jurisdiction to include them in their lawsuit. In April 2007, the Supreme Court of Canada denied them permission to appeal on this issue. This paves the way for other provinces to include the foreign parent companies of Canadian tobacco companies in their lawsuits as well.

Recommendation 19-1: The federal government, and the four provinces that have not already done so, should adopt legislation similar to that in place in British Columbia and should file health care recovery lawsuits against the tobacco industry.

In August 2003, the Attorney General of Canada filed a suit against JTI-Macdonald for \$1.5 billion to recover tax losses caused by what it called a “massive conspiracy” to smuggle cigarettes. These proceedings have now been put on hold pending the developments in the criminal prosecution.

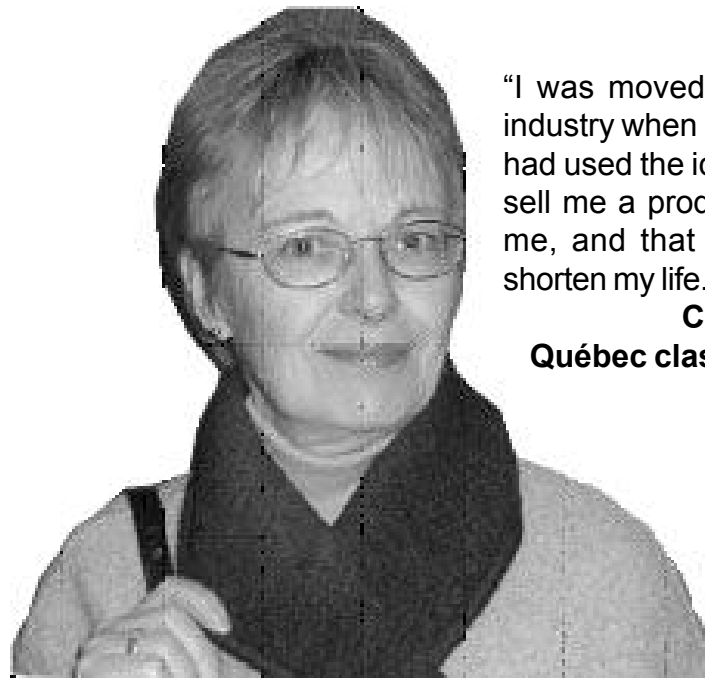
In August 2004, Québec obtained a court order for JTI-Macdonald to pay nearly

\$1.4 billion immediately for unpaid taxes, penalties and interest. JTI-Macdonald subsequently filed for bankruptcy protection. Total government claims now exceed \$9 billion.

Class Action Suits

Three class action suits against tobacco companies have been certified in Canada: two in Québec and one in British Columbia. In Québec, the “Létourneau” case claims damages for addiction and the “Blais et al” suit seeks compensation for smokers who are victims of cancers of the lung, larynx and throat as well as emphysema sufferers.

In British Columbia, the “Knight” case claims that Imperial Tobacco engaged in deceptive trade practices when it used the term “light” on its cigarettes. The case seeks the return of money made from the sale of “light” cigarettes as well as an injunction against their future sale.



Government Support

Québec is the only Canadian jurisdiction to provide financial support for class action suits (the ‘Fonds d’aide aux recours collectifs’). Individuals, non-profit corporations, cooperatives and employers associations employees may obtain financial aid from the Fund in order to bring a civil class action suit on behalf of persons whose claims are sufficiently similar to justify their grouping in a single case.

Recommendation 19-2: The government of Canada should develop and implement a strategy to assist public interest litigation efforts against tobacco companies.

Recommendation 19-3: Canada should work with other FCTC parties to ensure that access to documents, access to people and access to assets is included in the mutual legal assistance they extend to each other.

“I was moved to challenge the industry when I realized that they had used the idea of ‘freedom’ to sell me a product that enslaved me, and that would eventually shorten my life.”

**Cécilia Létournau,
Québec class action plaintiff**

Article 20: Research, Surveillance and Information Exchange

What Canada Has Committed To Do

Under Article 20 of the FCTC, Canada must:

- > Develop and promote national research, and coordinate research programs at the regional and international levels, in the field of tobacco control;
- > Initiate and cooperate in the conduct of research and scientific assessments; and
- > Promote and strengthen training and support for all those engaged in tobacco control activities, including research, implementation and evaluation.

How Canada Is Doing

Surveillance

Health Canada conducts regular surveillance of tobacco use in Canada. The principal surveillance tool for tobacco use in Canada is the Canadian Tobacco Use Monitoring Survey, which is conducted by telephone in two waves each calendar year. The results are widely disseminated, and the data is made freely available to researchers.

Tobacco use is also included in other national surveys, including the Canadian Community Health Survey, which uses household interviews.

Research

There are many agencies and individuals involved in research, surveillance and exchange of information on tobacco control in Canada:

- Health Canada undertakes evaluative research for existing programs and policies and establishes the research base for future policies and programs;
- The Canadian Tobacco Control Research Initiative (CTCRI) coordinates and sustains research that has a direct impact on programs and policies aimed at reducing tobacco use and nicotine addiction. It provides funding for a broad range of disciplines. The CTCRI's strategic partners are: the Canadian Institutes of Health Research, the National Cancer Institute of Canada, the Canadian Cancer Society and Health Canada. In addition to this, the CTCRI has a number of project partnerships in place involving organizations such as The Lung Association, the Heart and Stroke Foundation, the Canadian Centre for Substance Abuse, and others;
- The CTCRI has established a National Advisory Group on Monitoring and Evaluation to identify indicators for monitoring tobacco control strategies at the national, provincial and territorial levels;
- The International Development Research Centre runs the Research for

International Tobacco Control (RITC) program. This program provides funding for global tobacco control, and receives financial support from Canadian governments and other governments and agencies.

There are many research centres in Canadian universities focusing on tobacco use and its consequences. The provinces of Ontario and Québec have established research units to monitor and support provincial tobacco control initiatives. These are the Ontario Tobacco Research Unit and Québec's Institut national de la santé publique. Other research clusters focusing on tobacco control are found at the University of Waterloo, the University of British Columbia and Université Laval. University-based researchers who focus on tobacco control are found in other centres as well.

These research agencies and centres accept the importance of, and are actively engaged in, the coordination of their research programs.

Recommendation 20-1: There should be continuing support and funding for the agencies and institutions currently involved in funding and directing tobacco control research in Canada.

Recommendation 20-2: Canada should increase its support for international research, through RITC and other mechanisms.

Articles 21, 22 & 26: Reporting and Cooperation

What Canada Has Committed To Do

Under Articles 21, 22 and 26 of the FCTC, Canada must:

- > Submit reports to the Conference of the Parties (COP) of the FCTC on the progress in implementing the Treaty (Article 21);
- > Cooperate with other Parties in providing expertise and in scientific, legal and technical matters to strengthen their national tobacco control strategies (Article 22); and
- > Cooperate with other Parties to mobilize the necessary financial resources to strengthen tobacco control in all countries and at the international level.

How Canada Is Doing

Reporting

Canada submitted its first report to the COP on February 27, 2007. The report goes well beyond the minimum amount of information required by the international reporting template and usefully summarizes Canada's tobacco control activities. Health Canada published the report on the World Wide Web at: http://www.hc-sc.gc.ca/hl-vs/pubs/tobac-tabac/cop-cdp/index_e.html. The department deserves praise for consulting with the NGO community in drafting the report.

Canada was also a major participant in developing the reporting template that other FCTC parties will use for their national progress reports. This template could be strengthened by including a mechanism to include national civil society "shadow reports", such as this report, alongside the official government reports. Civil society shadow reports would strengthen the reporting

mechanism, since government reports naturally emphasize the good and downplay those areas where there has been less progress.

Recommendation 21-1: Canada should support measures to provide standing to civil society "shadow reports" in the official review of state reports to the COP.

Cooperation

The FCTC requires parties to engage in many forms of cooperative activity to strengthen treaty implementation. Important among these are cooperation in the financing of the treaty and cooperation in the sharing of expertise. These are areas where Canada has much to offer, and hopefully will soon be offering much.

There are many reasons that Canada can expect to be looked to for financial and other forms of support to the treaty.

In addition to policy support, Canada has provided financial support to strengthening global tobacco control.

Currently, the International Affairs Directorate of Health Canada funds FCTC related projects through multilateral agencies, the Research for International Tobacco Control program, and a consortium of Canadian NGOs. CIDA provides support for tobacco control to HealthBridge and the Canadian Public Health Association. However, total Canadian government funding for global tobacco control is **less than two million dollars annually**.

While Canada's work in favour of strengthening global tobacco control is a good start, much remains to be done. Canada currently supports a few short-term projects in about a dozen countries, but what is needed is sustained technical and financial support for strengthening tobacco control in about 150 countries.

It would be unreasonable for Canada to shoulder the entire burden of strengthening tobacco control in all countries. Nevertheless, in keeping with its leadership role on global tobacco control, Canada is well-placed to take the lead and put in place the structures that will provide help to strengthen tobacco control in about 30 countries, and put in place the infrastructure that will, over time, develop into a global system for providing assistance to strengthen tobacco control in all countries.

Canadian expertise in tobacco control is both deep and wide. Working at federal, provincial, municipal and civil society levels, there are several hundred Canadians with thousands of collective years of experience in reducing tobacco use through FCTC consistent measures. This expertise is currently available and is occasionally accessed through spontaneous and time-limited interactions.

Recommendations 22-1: The Canadian government should provide long-term and sustained funding for strengthening global tobacco control. This funding should be made available for actions to implement the FCTC by the COP, the Treaty secretariat, other Parties, non-Parties, government, civil society organizations and others.

Recommendation 22-2: Canada should support the development of a mechanism to facilitate the provision of appropriate expertise (such as drafting legislation and regulations, and research) to countries needing assistance in implementing the FCTC.

Articles 21, 22 & 26: Reporting and Cooperation continued

How Canada Is Doing

Cooperation continued

From the earliest stages of the development of the FCTC, many delegations identified the need for a multilateral fund to be included in the treaty as a way of increasing the capacity of health ministries to access resources to implement the treaty. A multilateral or 'global fund' which provided funding uniquely for tobacco control efforts, it was strongly suggested, would not put tobacco control in conflict with other pressing needs during bilateral aid negotiations.

Canada has neither supported the establishment of a multilateral fund nor offered suggestions for how bilateral aid mechanisms can be more responsive to tobacco control needs. Any efforts by Canada to research, analyze or respond to the concerns of other Parties who have expressed disappointment at the failure to establish a multilateral fund have not been made public. Unresponsiveness of Canada and other donor countries to this key area of disagreement among Parties may hinder the FCTC's effectiveness.

Although Canada was tasked during the first Conference of the Parties (COP1) with facilitating discussions between Parties requesting a global fund and Parties rejecting a global fund, we are not aware of any participation of Canada during continued negotiations on this sensitive but important file between COP1 and COP2.

Recommendation 22-3: Canada should research and develop options satisfactory to both recipient and donor countries that would facilitate the accessing of funds for tobacco control in regions where support is needed.



A child sells tobacco products on the streets of Kabul, Afghanistan.

Photo credit: Flickr photo sharing (www.flickr.com)

Key Indicators of Tobacco Use in Canada

	2000	2001	2002	2003	2004	2005
Percentage of Canadian over age 15 who smoke [1]	24%	21.7%	21%	21%	20%	19%
Number of Canadians over age 15 who smoke	6,007,562	5,411,822	5,414,335	5,332,326	5,116,200	4,966,600
Number fewer Canadians smoking compared with 2000		595,740	593,227	675,236	891,362	1,040,962
Percentage of Canadians aged 15-19 who smoke [1]	25%	22.5%	22%	18%	20%	18%
Number of Canadians aged 15-19 who smoke	521,470	465,633	457,772	382,689	419,000	385,000
Number fewer Canadian teenagers who smoke compared with 2000		55,837	63,698	138,781	102,470	136,470
Percentage of Canadians aged 15-19 who have never smoked [1]	70%	73%	74%	79%	75%	79%
Number of Canadians aged 15-19 who have never smoked	1,439,386	1,505,801	1,539,704	1,644,709	1,571,250	1,682,700
Number fewer Canadian teenagers who have never smoked compared with 2000		66,415	100,318	225,323	131,864	243,314
Percentage of households with children under 12 exposed to smoke at home [1]	24%	19%	16%	14%	12%	9%
Number of households with children under 12 exposed to smoke at home	929,012	827,055	687,722	512,846	485,000	270,000
Number fewer households exposing children under 12 to smoke compared with 2000		101,957	241,290	416,166	444,012	659,012
Number of cigarettes sold in Canada [2]	49.8 bln	48.1 bln	45.4 bln	41.5 bln	40.8 bln	40.5 bln
Number fewer cigarettes sold in Canada compared with 2000		1.7 bln	4.4 bln	8.3 bln	9 bln	9.3 bln
	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006
Federal taxes collected on tobacco sales [3]	\$2.15 bln	\$2.63 bln	\$3.14 bln	\$3.39 bln	\$3.0 bln	\$2.77 bln
Increase in federal tobacco tax revenue compared with 2000		\$480 mln	\$990 mln	\$1.24 bln	\$850 mln	\$620 mln
Promised Health Canada funding for tobacco control [4]		\$70 mln	\$90 mln	\$90 mln	\$110 mln	\$110 mln
Actual Health Canada funding for tobacco control [4]	\$19.7 mln	\$54.4 mln	\$71.6 mln	\$78.0 mln	\$79.6 mln	\$80.3 mln*
Increase in annual Health Canada spending on tobacco control since 2000-2001		\$34 mln	\$52 mln	\$59.8 mln	\$59.9 mln	\$60.6 mln*
Federal spending on tobacco reduction mass media	\$0	\$28 mln	\$27.4 mln	\$29.9 mln	\$37 mln	\$7 mln*
Cumulative shortfall between promised and actual spending		\$15.6 mln	\$34 mln	\$46 mln	\$76.4 mln	\$106.1 mln

sources:

[1] Canadian Tobacco Use Monitoring Survey, 2000-2005; [2] Sales data reported to Health Canada (www.gosmokefree.ca); no adjustment is made for contraband sales; [3] Public Accounts of Canada, 2000-2006; [4] Health Canada briefings to the Canadian Coalition for Action on Tobacco, Spring 2006.

*16 million of this budget was cut and/or redirected to centralized government advertising in the wake of the sponsorship scandal. The real spending on tobacco control is thus overstated by at least this amount. Mass media spending is included in "Actual" funding.

This report was prepared by members of the **Canadian Coalition for Action on Tobacco** and the **Canadian Global Tobacco Control Forum**.

Action on Smoking and Health

Canadian Cancer Society

Canadian Dental Association

Canadian Dental Hygienists Association

Canadian Public Health Association

Coalition québécoise pour le contrôle du tabac

Heart and Stroke Foundation of Canada

Non-Smokers' Rights Association

Ontario Coalition for Action on Tobacco

Physicians for a Smoke-Free Canada

The Lung Association