

FEBRUARY 2006

# FCTC Monitoring *report*

A REVIEW OF CANADA'S PROGRESS TOWARDS  
IMPLEMENTING THE FRAMEWORK CONVENTION  
ON TOBACCO CONTROL

## WANTED:

## Stronger Measures

**A**lthough Canada is widely considered to be in the forefront of global tobacco control, there are many other countries which have taken greater advantage of the FCTC process to strengthen their tobacco control policies.

Canada was a strong supporter of the Framework Convention on Tobacco Control, and many of the measures promoted in the treaty were pioneered in Canada (such as picture based warning messages). All levels of government in Canada have given political and financial support to tobacco control initiatives. These strategies have led to significant reductions in tobacco use in recent years.

When the FCTC was being developed, expectations for Canada's continued leadership

were high. Canada has one of the world's largest tobacco control infrastructures (more than one hundred person years at the federal level alone), a strong public health system and a mature political system. There seemed to be every reason to think that Canada could use the FCTC, as other countries have done, as a springboard to further improve its tobacco policies and programs. At the very least, Canada was expected to meet all of the specific obligations of the FCTC. These expectations have not yet been met.

Those working in tobacco control in Canada — health professionals, community workers, public servants and political leaders — know that Canada can, and will, do better.

## CANADA SHOULD:

- ▶ **Implement a comprehensive ban on advertising, sponsorship and promotion.** (art. 13)
- ▶ **Prohibit smoking in all federally-regulated indoor workplaces and public places.** (art. 8)
- ▶ **Establish sustained funding** for global tobacco control. (art. 23)
- ▶ **End deceptive packaging, including the use of misleading terms** like 'light' and 'mild' on cigarette packages. (art. 11)
- ▶ **Restore funding** to Health Canada's tobacco program. (art. 5)
- ▶ **Re-establish a meaningful, sustained federal mass media** anti-smoking campaign. (art. 12)
- ▶ **Increase federal tobacco taxes** by \$10 per carton. (art. 6)
- ▶ **End the sale of reduced-duty** tobacco in duty-free stores. (art. 6)
- ▶ **Develop legislation or regulations** to require **generic packaging** of tobacco products in Canada. (art. 11)

# About this report

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.”*

**This is the first civil society report on the measures Canada has taken to implement and support the Framework Convention on Tobacco Control.**

This report was prepared in anticipation of the first Conference of the Parties to the FCTC. The purpose of this document is to:

- Demonstrate the feasibility of civil society reporting on FCTC implementation and emphasize its importance.
- Encourage the view that the FCTC is a framework to set goals and measure improvements in tobacco control even in countries with highly developed tobacco control strategies.
- Encourage the Conference of Parties to adopt measures to ensure that civil society perspectives are considered during the review of reports from parties.
- Provide a status report on FCTC implementation in Canada at the beginning of 2006.

## **Civil society monitoring.**

Success in reducing tobacco use depends on a high level of collaboration between governmental and non governmental agencies. The FCTC recognizes this in one of its seven ‘guiding principles’:

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

This principle applies strongly to the issues involved in 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 reports to the COP. Their own assessments of efforts to comply with the Convention may be incomplete, may tend to minimize problems and may be tempted to give undue emphasis to their accomplishments.

Independent civil society reports (these are often called “shadow reports”) can validate, supplement (or even counter) official government reports. They can provide information that would otherwise go unreported.

Civil society “shadow reports” are an integral part of modern treaty governance. They can be included formally in the review of each country’s treaty implementation as well as contributing to less formal treaty evaluations.

This report on the measures that have been taken in Canada with respect to the FCTC was prepared more than a year before the government of Canada will be required to file an official report to the Conference of the Parties. As such, it is not a ‘shadow’ report. It does, however, foreshadow the expectations of Canada’s health community that our government should benefit from the FCTC to accelerate improvements to Canada’s tobacco control regime.

This report focuses on the operational articles of the FCTC (Articles 5, 6, 8-22 and 26). Other articles of the convention provide statements of principle or are

provisions pertaining to treaty administration.

## **Jurisdictional issues**

In Canada’s system of government, treaty ratification is the prerogative of the federal government, even when the subject matter may fall under provincial jurisdiction. Under Canada’s constitutional division of powers, jurisdiction over some areas affecting tobacco falls jointly to the federal government, as well as to the ten provincial and three territorial governments. There are, for example, laws governing tobacco commerce in each province, as well as a pan-Canadian law based in the federal government’s power.

We have chosen to focus this report principally on the actions of the government of Canada to implement the FCTC, but does note specific provincial actions where they are of particular interest or impact.

# About the Framework Convention on Tobacco Control

**The Framework Convention on Tobacco Control** is a landmark new public health treaty negotiated through the World Health Organization.

The treaty has significant global support: within 30 months of its unanimous adoption at the World Health Assembly in 2003, over 170 countries had signed, ratified or acceded to it. The FCTC came into force on February 27, 2005 and the first Conference of Parties meets in February 2006.

This FCTC is the first occasion where the WHO has used a treaty process to address a globalized health problem.

In wealthier, developed nations, tobacco use is declining. But in developing countries, it is growing at an alarming rate. Together with HIV/AIDS, tobacco is the fastest growing cause of death in the world. WHO estimates that almost 5 million people will die as a result of tobacco use this year, and that the number of victims will double by 2020. Most of those deaths will occur in the 'developing' world.

The FCTC establishes a way to respond to the globalized trends (cultural, economic and commercial) that increase tobacco use. It codifies an international agreement to implement core elements of domestic tobacco control (like advertising bans, smoke-free spaces and health warnings). It provides a mechanism to

manage cross-border issues, like global marketing and smuggling as well as a framework for increased global cooperation.

The treaty is designed to help countries in need of assistance to develop national legislation and policies. It does not limit countries to only the measures identified in the treaty, but encourages them to develop more stringent rules.

## Canada's support for the FCTC

Canada has been a leader in the development of the Framework Convention for Tobacco Control. Canada strongly supported the development of the treaty from early discussion in the World Health Assembly in 1995 through to the successful adoption at the World Health Assembly in 2003. Canada was one of the earlier countries to sign the treaty in 2003 and among the first 40 countries to ratify it.

The FCTC is not Canada's first global effort to control tobacco. In the late 1980s and early 1990s, Canada successfully championed international action through the International Civil Aviation Organization to make all international flights smoke-free.

In addition to policy support, Canada has financed efforts to strengthen global tobacco control. The International Affairs Directorate of Health



Canada has provided support through multilateral agencies through bilateral agreements and, more recently, through non governmental organizations. The Canadian International Development Agency (CIDA) has funded civil society participation in the development of the FCTC, capacity building projects in developing countries, and support through bilateral agreements with a few countries. The Research for International Tobacco Control (RITC) program of Canada's International Development Research Centre (IDRC) funds multidisciplinary tobacco control research projects in developing countries, many of which have been aimed at supporting the FCTC.

# General obligations

## Article

### 5 of the FCTC requires that:

*Parties undertake substantive duties to:*

► *Develop comprehensive, multisectoral national tobacco control policies in accordance with the FCTC.*

► *Establish an effective national coordinating mechanism or focal point for tobacco control.*

► *Implement national legislation.*

► *Protect these measures from tobacco industry interference.*

*Parties make procedural obligations to:*

► *Cooperate on implementing the FCTC*

► *Cooperate with inter-governmental organizations to implement the FCTC*

► *Cooperate to raise funds for FCTC implementation.*

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 20 years. 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.

The level of engagement of non-governmental organizations in government tobacco control activities varies greatly across jurisdictions and program or 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.

Perhaps because such work is at very early stages, the government of Canada has not yet made public any work underway to develop new FCTC measures, such as a protocol on smuggling or cross border advertising. Nor have its efforts to raise funds for the FCTC been disclosed.

### Federal and provincial per capita direct investment in tobacco control 2004-2005

<b>Northwest Territories</b>	<b>\$5.82</b>
<b>Quebec</b>	<b>\$5.14</b>
<b>Alberta</b>	<b>\$3.86</b>
<b>Yukon</b>	<b>\$3.37</b>
<b>Ontario</b>	<b>\$2.48</b>
<b>Nova Scotia</b>	<b>\$2.45</b>
<b>Nunavut</b>	<b>\$2.03</b>
<b>British Columbia</b>	<b>\$0.95</b>
<b>Saskatchewan</b>	<b>\$0.59</b>
<b>Manitoba</b>	<b>\$0.57</b>
<b>Newfoundland and Labrador</b>	<b>\$0.39</b>
<b>New Brunswick</b>	<b>Not public</b>
<b>Prince Edward Island</b>	<b>Not public</b>
<b>Federal Department of Health</b>	<b>\$1.95</b>

*source: Ontario Tobacco Research Unit, Coalition québécoise pour le contrôle du tabac, Health Canada*

Federal funding for international tobacco control is provided through Health Canada and the Canadian International Development Agency. Funding provided for international tobacco control in fiscal year 2005-2006 has not been made public.

## RECOMMENDATIONS

► Canada should support and accelerate the development of FCTC protocols on:

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

► Canada should provide adequate and sustained funding to national and global FCTC implementation.

► The FCTC focal point in Canada should include NGO representatives as full partners.

## Tax measures

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

There have been no increases in federal tobacco taxes since June 2002, although several provinces have increased their tax rates. Federal tax is about 8 cents per cigarette. Provincial cigarette taxes range from a low of 10 cents per cigarette in Quebec to a high of 21 cents in Northwest Territories.

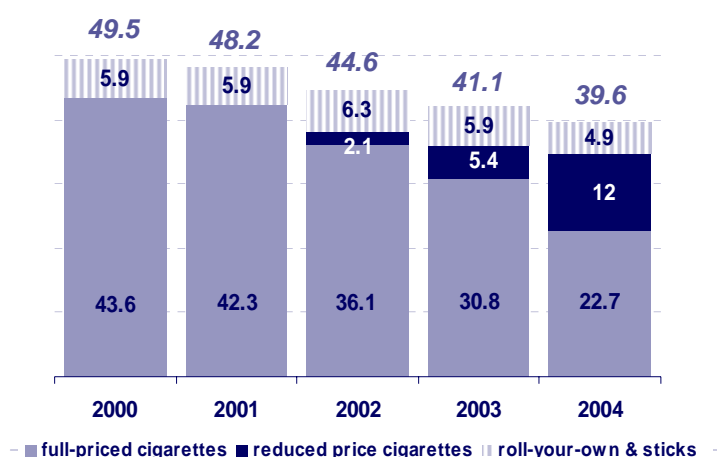
Total federal and provincial revenues from excise taxes on cigarettes were \$7.6 billion in 2004-2005, of which \$3 billion was received by the federal government.

## 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 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.

Sales of reduced-price cigarettes, 2000-2004  
(billions of cigarettes and cigarette equivalents sold)



source: BAT/Imperial Tobacco Canada

## Price Measures

For decades, the major cigarette manufacturers sold their cigarettes at a common price. In recent years, pressure from small manufacturers has led each of the three multinational companies operating in Canada to introduce 'discount' or 'reduced price' brands. In 2004, these cigarettes, which are typically \$1 to \$2 per package cheaper than other brands, make up about 45% of the Canadian tobacco market.

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.**

## Article

### 6 of the FCTC concerns price and tax measures.

*Parties are obliged to recognize the importance of price and tax have on reducing the demand for cigarettes, particularly among young persons.*

*They are also obliged to include tax rates and trends in consumption in their reports to the Conference of Parties*

*Parties are recommended to:*

- Take account of health objectives when setting tax and price policies on cigarettes.
- Prohibit or restrict duty-free sales to international travelers.

## RECOMMENDATIONS

- The federal government should raise cigarette taxes by \$10 per carton of 200 cigarettes, and encourage provinces where cigarette taxes remain low to also increase taxes so that cigarettes are taxed at a higher rate across Canada.
- Jurisdictions which continue to tax some tobacco products at lower rates (such as tobacco sticks or roll-your-own) should be encouraged to ensure all tobacco products are uniformly taxed.



# Protection from second hand smoke

## Article

### 8 of the FCTC requires that:

*"Each Party shall adopt and implement in areas of existing national jurisdiction as determined by national law and actively promote at other jurisdictional levels the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places."*

**2<sup>ND</sup> HAND SMOKE CAN KILL YOU. JUST ASK HEATHER.**

Heather Crowe ne fume pas, mais elle se rend au travail à cause des restaurants où elle travaille. Elle se rend au travail à cause du cancer du poussoir. Certaines personnes de leur état que la fumée secondaire émette les gens. Santé Canada diffuse cette loi. Contactez votre médecin. Appeler au 1 800 O-Canada (1 800 465-7722) ATIS: 1 800 465-7722 www.VousSoteParlez.ca

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

Heather Crowe ne fume pas, mais elle se rend au travail à cause des restaurants où elle travaille. Elle se rend au travail à cause du cancer du poussoir. Certaines personnes de leur état que la fumée secondaire émette les gens. Santé Canada diffuse cette loi. Contactez votre médecin. Appeler au 1 800 O-Canada (1 800 465-7722) ATIS: 1 800 465-7722 www.VousSoteParlez.ca

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

law. In both of these jurisdictions there are municipal provisions which provide residents in the capital cities and some other municipalities with protection.

Most Canadians work in workplaces covered by provincial labour law, but 10% work in federally-regulated workplaces. These include workers in banks, broadcasting or federal public servants. The federal law on smoking in federal workplaces has not been updated since 1989.

Most federal workers are protected from second hand smoke through administrative policies or because their employers respect provincial or municipal bans on smoking at work.

There is less protection in some federally regulated facilities (like airports) than in their surrounding municipalities.

In recent years, most prisons in Canada have put measures in place to provide inmates and prison staff with protection from second hand smoke. Federal and provincial prisons (except those in Quebec) now have smoke bans in place.

### Measures to promote protection

Although most of the legislative improvements to protect Canadians from second-hand smoke have occurred at the sub-national (provincial and municipal) level, a significant contributor to the communications support for this legislative change has been the federal government.

### Protective measures

Since 2003, seven of Canada's ten provinces and two of three territories have adopted or implemented legislation prohibit smoking in indoor spaces, including bars and casinos.

Jurisdictions which have gone smoke-free are: Nunavut, Northwest Territories, Manitoba, New Brunswick, Saskatchewan, Newfoundland (listed by implementation date). Ontario and Quebec laws come into force on May 31 2006 and Nova Scotia's on December 1, 2006.

In each of those provinces, except Saskatchewan, workers also have legislated protection from exposure to

smoke. The Newfoundland law also fails to protect all workers by allowing smoking rooms in workplaces not open to the public.

In British Columbia and Prince Edward Island, laws or regulations have been adopted which protect most workers and the public from smoke. Hospitality workers, however, continue to be exposed in these provinces because designated smoking rooms are allowed in some hospitality venues. In British Columbia, some municipalities have adopted bylaws which ban these smoking rooms.

Alberta has the weakest provincial law in Canada, and the Yukon has no territorial

**Percentage of Canadians currently living in communities where provincial, territorial or municipal law protects public from second hand smoke exposure in public places, including bars and restaurants:**

**27%**






**Percentage who will have this level of protection by January 1, 2007:**

**80%**

## Province wide smoke-free laws



### Legend

 Workers and public are protected	 Public protected, but some workers exposed	 Workers and public will soon be protected
	 Workers protected, except for hospitality workers	 No real protection

Health Canada has energetically promoted second-hand smoke provisions at the municipal and provincial level, and has provided mass media support to assist the development of local by-laws and provincial laws.

Health Canada's support for smoke-free legislative improvements have included:

- National mass media campaigns, like the "Heather Crowe" campaign which told the story of a non-smoking Ottawa waitress diagnosed with lung cancer caused by second hand smoke.
- Development of resources and opportunities for training and policy development.
- Funding for locally designed and managed media campaigns.
- Package warnings regarding health effects of second-hand smoke.

## RECOMMENDATIONS

- The federal government should revise the *Non-Smokers' Health Act* and/or the *Canada Labour Code* to prohibit smoking in all federally-regulated indoor workplaces and public places.
- The Yukon, Alberta, British Columbia, Prince Edward Island, Newfoundland and Saskatchewan should increase the level of protection from second-hand smoke to prohibit smoking in all workplaces and public places under their jurisdiction.

### In comparison

Countries with stricter national smoke-free laws include:

**Ireland, Norway, New Zealand.**

Article

9 of the FCTC requires that

► *The Conference of the Parties develop guidelines for testing and measuring of cigarette ingredients and cigarette smoke ('emissions').*

► *Parties adopt measures to regulate testing and measuring of cigarette contents and emissions.*

Pioneering initiatives

Canada recently became the first national level jurisdiction to regulate the ignition propensity (fire-causing properties) of cigarettes.

After October 1, 2005, all cigarettes manufactured in or imported into Canada must meet so-called 'fire-safety' standards which reduce the risk of cigarette-caused fires.

Ministry HomeGovernment of British Columbia

What is in Cigarettes?Ministry of Health

Home | Tobacco Strategy | Regulation | Testing | Legend | Measurements |

What is in Cigarettes?

Smoke Constituents Search Results

Your search for **mainstream smoke** constituents of **DU MAURIER LIGHT KING SIZE - IMPERIAL TOBACCO COMPANY LTD.** for the reporting period, **20020101 to 20021231**, produced the following results:

SMOKE CONSTITUENT NAME	STANDARD PUFFING	INTENSE PUFFING	UNITS OF MEASUREMENT
Ammonia	10.19	28.64	ug/cig
2-aminonaphthalene	9.41	15.69	ng/cig
1-aminonaphthalene	16	26.79	ng/cig
4-aminobiphenyl	1.45	2.91	ng/cig
3-aminobiphenyl	1.81	3.65	ng/cig
Benzo[a]pyrene	8.18	18.9	ng/cig
Formaldehyde	41.39	137.13	ug/cig
Acetaldehyde	539.77	1366.62	ug/cig
Acetone	288.62	719.99	ug/cig
Acrolein	73.66	198.11	ug/cig
Propionaldehyde	48.09	123.99	ug/cig
Crotonaldehyde	20.61	75.42	ug/cig
Methyl ethyl ketone	68.8	190.65	ug/cig
Butyraldehyde	29.21	82.12	ug/cig
Hydrogen Cyanide	88.83	313.71	ug/cig
Mercury	3.44	6.87	ng/cig
Lead	NQ	NQ	ng/cig

For decades, many countries have used guidelines established by the International Standards Organization (ISO) to test and measures cigarette smoke emissions. The results have been disastrous to 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 differed 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 diluted 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 adapting this as a global standard.

RECOMMENDATIONS

- Canada should encourage the COP to acknowledge that the machine tests of cigarette emissions, such as the ISO and the Canadian 'intense' method, is not an appropriate mechanism for evaluating or comparing the harmfulness of cigarette brands.
- Health Canada should contribute to the development of methods that reflect compensatory human smoking and human exposure to cigarette emissions.



# Emission and content disclosure



The toxic constituent label displayed on Canadian cigarettes shows machine test results for six chemicals under two testing conditions. These labels still 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

# 10

of the FCTC requires that

► Parties compel tobacco companies to report on the contents and emissions of their products.

► Parties disclose information on toxic constituents of tobacco products and emissions to the public.

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' ISO 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.

Canada has also failed to move forward on a ban on the use of 'light' and 'mild' descriptors. Health Canada's research shows that many smokers are deceived by light cigarettes into postponing quitting.

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 findings 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 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 provides information on constituents and emissions for brands sold in that province, which includes most major brands sold in Canada.

## RECOMMENDATIONS

► 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.

► All information reported to Health Canada under the Tobacco Reporting Regulations should be made public, consistent with Article 10 of the FCTC.

# Labelling of tobacco products

## Article

# 11 of the FCTC requires that:

### ► Health warning

labels cover at least 30% of the principal display areas (i.e. front and back) of all tobacco packaging. The treaty also recommends that the labels cover at least 50% or more of the principal display areas. The use of pictures or pictograms is encouraged.

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

These requirements must be met by February 27, 2008.



## Strong warnings

Canada was the first country 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 16 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).

Additional health information is printed or included as a leaflet in the inside of cigarette packages.

Health Canada is now developing a second wave of health warning messages for cigarettes.

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 signalled that it intends to strengthen the warning messages on these other tobacco products.

## Weak protection from deceptive descriptors

Although the government undertook to ban misleading cigarette descriptors, like ‘light’ and ‘mild’ in 2001, no formal steps towards such regulation have been made since that time. There are no laws in Canada specifically banning the use of terms like

‘light’ or ‘mild.’ Health groups have launched several initiatives, including formal court procedures, to try to convince or compel the government to implement this FCTC measure. These efforts have not yet been successful.

## Evaluating Canada's package warning system.

Health messages on cigarette packages deliver important information directly to smokers. The message is repeated and reinforced every time a smoker reaches for a cigarette.

There have been several evaluations of Canada's cigarette warning system.

## Research confirms that this warning system is effective:

- Smokers believe these messages more and remember them better than they do public education campaigns.
- Warnings are most effective when the warning is vivid, and when pictures and text are clear and simple.
- Warnings are more effective when they are combined with something that makes smokers feel more confident about quitting. (In Canada cigarette packages include inserts about how to quit smoking.)



The deceptive terms “light” and “mild” still appear on Canadian cigarettes, more than 5 years after tobacco companies were asked to voluntarily remove them.

Countries which ban deceptive descriptors like ‘light’ and ‘mild’ include **Australia, Brazil, France, Sweden, Italy, Poland, (and at least 22 more).**



Estimated Deaths in Canada, 1996



**WARNING**  
EACH YEAR, THE EQUIVALENT  
OF A SMALL CITY DIES  
FROM TOBACCO USE

Health Canada

Tobacco - 45,000



**WARNING**  
CIGARETTES  
CAUSE MOUTH  
DISEASES

Cigarette smoke causes oral cancer, gum diseases and tooth loss.

Health Canada



**WARNING**  
CIGARETTES  
CAUSE STROKES

Tobacco smoke can cause the arteries in your brain to clog. This can block the blood vessels and cause a stroke. A stroke can cause disability and death.

Health Canada



**WARNING**  
CIGARETTES  
CAUSE LUNG  
CANCER

Every cigarette you smoke increases your chance of getting lung cancer.

Health Canada



**WARNING**  
CIGARETTES ARE A  
HEARTBREAKER

Tobacco use can result in the clogging of arteries in your heart. Clogged arteries cause heart attacks and can cause death.

Health Canada



**WARNING**  
TOBACCO USE  
CAN MAKE YOU  
IMPOTENT

Cigarettes may cause sexual impotence due to decreased blood flow to the penis. This can prevent you from having an erection.

Health Canada



**WARNING**  
CIGARETTES ARE  
HIGHLY ADDICTIVE

Studies have shown that tobacco can be harder to quit than heroin or cocaine.

Health Canada



**WARNING**  
WHERE  
THERE'S SMOKE  
THERE'S  
HYDROGEN  
CYANIDE

Tobacco smoke contains hydrogen cyanide. It can cause headaches, dizziness, weakness, nausea, vertigo and stomach aches in smokers and non-smokers.

Health Canada



**WARNING**  
CHILDREN SEE  
CHILDREN DO

Your children are twice as likely to smoke if you do. Half of all premature deaths among life-long smokers result from tobacco use.

Health Canada



**WARNING**  
YOU'RE NOT THE ONLY ONE  
SMOKING THIS CIGARETTE

The smoke from a cigarette is not just inhaled by the smoker. It becomes second-hand smoke, which contains more than 50 cancer-causing agents.

Health Canada



**DON'T  
POISON US**

**WARNING:** Second-hand smoke contains carbon monoxide, ammonia, formaldehyde, benzo(a)pyrene and nitrosamines. These chemicals can harm your children.

Health Canada



**WARNING**  
IDLE BUT  
DEADLY

Smoke from a lit cigarette contains toxic substances like hydrogen cyanide, formaldehyde and benzene. Second-hand smoke can cause death from lung cancer and other diseases.

Health Canada



**WARNING**  
CIGARETTES CAUSE  
LUNG CANCER

85% of lung cancers are caused by smoking. 80% of lung cancer victims die within 3 years.

Health Canada



**WARNING**  
CIGARETTES  
LEAVE YOU  
BREATHLESS

Tobacco use causes crippling, often fatal lung diseases such as emphysema.

Health Canada



**WARNING**  
TOBACCO SMOKE  
HURTS BABIES

Tobacco use during pregnancy increases the risk of preterm birth. Babies born preterm are at an increased risk of infant death, illness and disability.

Health Canada



**WARNING**  
CIGARETTES HURT  
BABIES

Tobacco use during pregnancy reduces the growth of babies during pregnancy. These smaller babies may not catch up in growth after birth and the risks of infant illness, disability and death are increased.

Health Canada

Canada's package health warning system includes 16 rotating exterior warning messages—as well as 16 rotating health information message on the inside of the package.

All of the current warning labels are shown in their English version (left) and 2 of the 16 package inserts are shown below.

### Can tobacco cause brain injury?

- Yes, it can result in brain injury.
- Tobacco damages blood vessels and causes blood clots in the blood vessels of the brain. This causes strokes.
- Strokes often result in extreme disability, including paralysis and loss of speech. Strokes can also result in death.

- More than 2,500 people in Canada die each year from tobacco-caused strokes.

Quitting smoking reduces your chance of having a stroke.

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.hc-sc.gc.ca/hppb/tobacco](http://www.hc-sc.gc.ca/hppb/tobacco)

Health Canada

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### Tobacco products are highly addictive

- Tobacco contains nicotine.
- Nicotine is a very addictive drug when delivered by a tobacco product.
- The Royal Society of Canada and the U.S. Surgeon General agree. In terms of addiction: nicotine affects your body in ways that are similar to heroin and cocaine. Many smokers find it difficult to stop.
- Consider talking to a health professional about cessation therapy options.

It may take several attempts but fortunately, many smokers are still able to quit.

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.hc-sc.gc.ca/hppb/tobacco](http://www.hc-sc.gc.ca/hppb/tobacco)

Health Canada

12

# Labelling of tobacco products (continued)

Comparative surveys confirm that bigger health warning messages are better – and that pictures increase the impact.

Source: *International Tobacco Control Policy Evaluation Project ITC, 2005. Survey results from 2002.*



Outcome measure (percentage of smokers)	Canada	Australia	U.K.	U.S.
Noticing labels often/very often	60	54	44	30
Reading labels often/very often	33	26	22	16
Labels are a motivation to quit	45	36	28	29
Labels have stopped you from having a cigarette	19	12	9	14

## RECOMMENDATIONS

The Canadian government should recognize that the implementation of effective warnings requires the removal of tobacco company disinformation from packages which neutralizes or undermines the effectiveness of the government's warnings and gives legitimacy to the product inside (i.e. trademark pictures, colour and graphics).

This health goal can be achieved by

- ▶ the prohibition of false or deceptive descriptors including but not limited to 'light' and 'mild' descriptors,
- ▶ increasing the size of the warnings to reflect the nature and magnitude of the risks of tobacco while, simultaneously, reducing the space available to companies for appealing designs and graphics on the remainder of the package,
- ▶ legislating plain or generic packaging as recommended by Parliament's Standing Committee on Health in the report *Toward Zero Consumption: Generic Packaging of Tobacco Products*;
- ▶ standardize all cigarette packages to the most commonly sold Canadian package form (known as slide and shell) to ensure that the superior warning system that now appears on this package appears on all tobacco packages. This would also prevent the introduction of new packaging that has the potential to undermine warning regulations now in effect;
- ▶ utilize surfaces within the package, including the foil and the cigarette itself, for additional disease prevention/health promotion messaging;
- ▶ require the use of full colour design and graphics on any messaging inside the package;
- ▶ in the absence of standardized packaging, eliminate the exemption for interior warnings that exists for 'soft pack' packages;
- ▶ increase the frequency of the rotation of warnings without decreasing the number of warnings in rotation at any given time;
- ▶ improve the information to smokers with respect to where they may get cessation help such as a free 'quit line' telephone number;
- ▶ increase the quality of the warnings through improved language, content, graphics and innovative messaging (e.g. reminders of financial costs, skin damage, increased surgical risks).

## Education, training and public awareness



Health Canada no longer has the ability to run campaigns like the high-impact “Heather Crowe” campaign which supported smoke-free legislation by telling the true-life story of a Canadian waitress who got lung cancer from second-hand smoke at work.

In 2001, Canada’s federal health department (Health Canada) greatly increased its funding for programs to increase public awareness about tobacco. A five-year program was approved, with funding of \$480 million. Forty percent of the budget was allocated for mass media activities.

The program was never fully realized because the money was diverted to other activities, even though Health Canada has continued to receive the full \$480 million. The amount diverted by Health Canada management has grown each year. Arguably, the tobacco control program has been used as a ‘cash cow’ by the department to cover activities not adequately supported by parliamentary allocation.

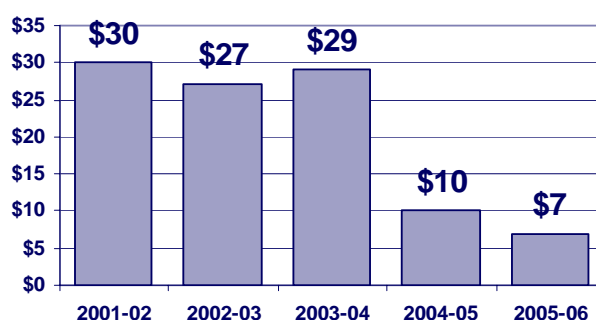
The mass media component of the federal tobacco strategy has suffered the most. A strong mass media campaign was intended to be the main focus of the

program, and intended to drive changes in social attitudes and behaviour. In fiscal year 2005-2006, funding is less than one-fifth the amount originally promised.

A contributing factor to the erosion of the mass media program was the decision by government to change its advertising policies in the wake of a scandal over political corruption in government advertising procurement and centralized all advertising decisions at a cabinet level.

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

**Health Canada direct spending on anti-smoking mass media (\$ millions)**



### Article

**12** of the FCTC requires:

*Parties to “promote and strengthen public awareness of tobacco control issues, using all available communication tools, as appropriate.” Parties must communicate not only the health consequences of tobacco use, but also the economic and environmental impacts.*

*This section also requires parties to provide public access to information about tobacco companies, and to run training programs for human services personnel.*

## RECOMMENDATIONS

- The government should fully restore funding for its tobacco control programme to \$110 million per year.
- The government should instruct Health Canada not to reallocate this money to other program activities.



# Tobacco advertising, sponsorship and promotions

## Article

### 13 of the FCTC requires that:

► *Parties implement a comprehensive ban on tobacco advertising, promotion and sponsorship within five years of ratifying the treaty.*

► *Countries where a comprehensive ban is not consistent with its constitution or constitutional principles must restrict advertising, promotion and sponsorship and must require health warnings on all permitted advertising.*

► *Under either circumstances, countries must restrict or ban cross-border advertising originating in their territory with cross-border effects.*

Japan Tobacco's Canadian affiliate continues to host youth-oriented "Extreme" events to promote its "Export A" brand with its recognized "X" logo



Even a year after Canada has ratified the FCTC, it is not yet determined whether a comprehensive advertising ban is consistent with Canada's constitution.

The uncertainty stems from the government's response to the Supreme Court ruling in 1995 that the government had failed to provide evidence that a total ban was justified. Although the government initially said that it had the evidence to justify the ban, it later decided to introduce a weaker law. 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).

#### 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.

There are no health warnings yet required on such promotions, despite the clear FCTC requirement that these be in place.

Canada does not prohibit the export of tobacco advertising.

Provincial governments also have the legal power to ban advertising, and Quebec's laws are stronger than the federal law. Three provinces and territories (Manitoba, Saskatchewan and Nunavut) have implemented bans on retail displays of tobacco products and three more (Prince Edward Island, Ontario and Quebec) have passed legislation which will ban such displays by May 31, 2008.



Six Canadian provinces and territories have passed laws to ban the display of tobacco products at retail.

In this Manitoba supermarket, cigarettes are hidden behind cupboard doors.

## In comparison

Countries with comprehensive advertising bans include:

**Iceland, South Africa, Norway, Thailand, Finland, United Kingdom (and many more!)**

## RECOMMENDATIONS

- Canada should implement a comprehensive ban on tobacco advertising.
- 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 laws or by federal law.

Under the Canadian federal system, both 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:

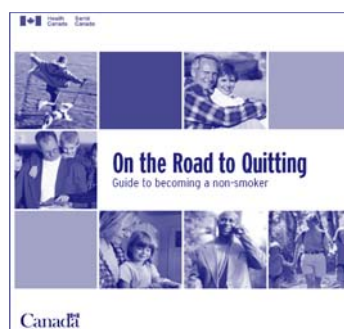
- supported the development of best practice guidelines for some health professions and for public programs, (i.e. guidelines for the nursing profession).
- supported development of a nation-wide system of smokers' helplines by funding pilot programs in 6 provinces, supporting the networking of all helplines, 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
- 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 or regions.
- reimbursement of some costs for nicotine replacement therapies in Quebec, 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 Canadian Cancer Society and The Lung Association.



## Article

# 14 of the FCTC requires that:

*Parties develop and disseminate best-practice guidelines and promote adequate treatment for tobacco dependence by:*

- *Designing and implementing cessation programs in institutional settings.*
- *Including diagnosis and treatment in national health and education programmes.*
- *Establishing programmes in health care facilities and rehabilitation centres to diagnose, counsel, prevent and treat tobacco dependence.*
- *Collaborate with parties to make treatments more accessible and affordable.*

## RECOMMENDATIONS

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.
- Increased cessation support through primary health care (including physician services and public health clinics).
- Developing incentives and other motivations for smokers, employers and communities to increase successful quit rates.

# Illicit trade in tobacco products

## Article

### 15 of the FCTC requires that parties:

- ▶ *Recognize that eliminating the illicit tobacco trade is essential to tobacco control.*
- ▶ *Have the jurisdiction of destination clearly marked on each package.*
- ▶ *Consider developing a practical tracking and tracing regime*
- ▶ *Monitor and collect data on cross border tobacco trade*
- ▶ *Enact or 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 as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.*
- ▶ *Cooperate with other parties and agencies to control smuggling.*
- ▶ *Adopt and implement further measures including licensing to prevent illicit trade.*

Governmental and health agencies agree that smuggling weakens one of the most effective measures to reduce smoking — taxation.

Several Canadian agencies are engaged in controlling cigarette smuggling, including the Royal Canadian Mounted Police, the Canadian Border Services Agency, the Canadian Revenue Agency, the Department of Finance and Health Canada.

A decade ago, most of the cigarettes smuggled into Canada were manufactured in Canada, exported and then returned through smuggled routes. The role of tobacco companies in this supply is now the subject of criminal investigations and civil actions by governments. Changes in tax collection policy reduced the profitability of this type of smuggling.

The current situation differs from that of a decade ago in

many important respects. Contraband cigarettes in Canada are now, according to the RCMP, mostly foreign-manufactured tobacco products that have been smuggled into Canada and cigarettes that have been manufactured in Canada, but whose manufacture/sale has not been reported to government.

Contraband cigarettes in Canada today are very small as a percentage of the overall market. Contraband originates mainly from manufacturing facilities on First Nations reserves in Canada, or from a U.S. reserve next to a Canadian border. Cigarettes are manufactured (legally and otherwise) on native reserves and sold (legally and otherwise) at cheaper prices because taxes have not been fully collected on them (legally and otherwise).

Canadian law enforcement authorities work with domestic and international partners to address cigarette smuggling, but do not produce a report on the nature or scope of these activities. Thus, it is not possible for civil society organizations to know the extent to which Canada has implemented the recommendations and requirements of Article 15.

Government policies which may contribute to smuggling include:

- policy of not denying manufacturing licenses to individuals at high risk of smuggling
- use of tear strips as primary tax markings, even though they are easily removed and/or counterfeited.
- practice of not enforcing Tobacco Act or Excise Act on some First Nations' communities.

## RECOMMENDATIONS

- ▶ The tax marking system in Canada should be improved to require both tear tapes and controlled stamps with covert and overt security features.
- ▶ Canada should implement a comprehensive tracking and tracing system
- ▶ Canada should introduce stronger licensing systems for tobacco manufacturers and suppliers of tax markings.
- ▶ The supply of raw materials or equipment used to make tobacco products to unlicensed manufacturers should be prohibited.
- ▶ Distinct federal markings should be used for duty-free product and for product intended for sale on First Nations reserves.
- ▶ A monthly limit should be set for the amount of tax-free tobacco products that can be delivered to native reserves.
- ▶ All exported product should indicate the country of origin and country of final destination on the packaging.
- ▶ Manufacturers should be strictly liable to pay federal and provincial taxes for any product seized in Canada on which federal/provincial taxes have not been paid, as well as additional penalties.
- ▶ Raw leaf manufacturers should be required to report on the quantity of tobacco sold to each tobacco product manufacturer.



Youth access laws focus on the supply of cigarettes to young persons: retailers also play a role in increasing the demand by through pervasive displays of tobacco products. Six provinces and territories have banned these displays.

## Article

# 16 of the FCTC requires each party to:

*Implement measures to prohibit the sales of tobacco products to young persons. Recommended or required measures include:*

- *Signage at retail stating that tobacco sales to minors is 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.*
- *Prohibiting the sale of individual or small packages of cigarettes.*

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 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.

Canada has not yet banned the sale of candy cigarettes, although Nunavut territory has.

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

## RECOMMENDATIONS

- Canada should ban cigarette vending machines.
- Canada should increase the federal law minimum age for cigarette sales from 18 to 19.
- Measures to ban the sale of candy cigarettes should be included in the legislative renewal of the Tobacco Act, 1997.
- Federal access laws should be strengthened by requiring that retailers display the number of a toll-free complaint line for the reporting of infractions.



# Support for alternative activities

## Article

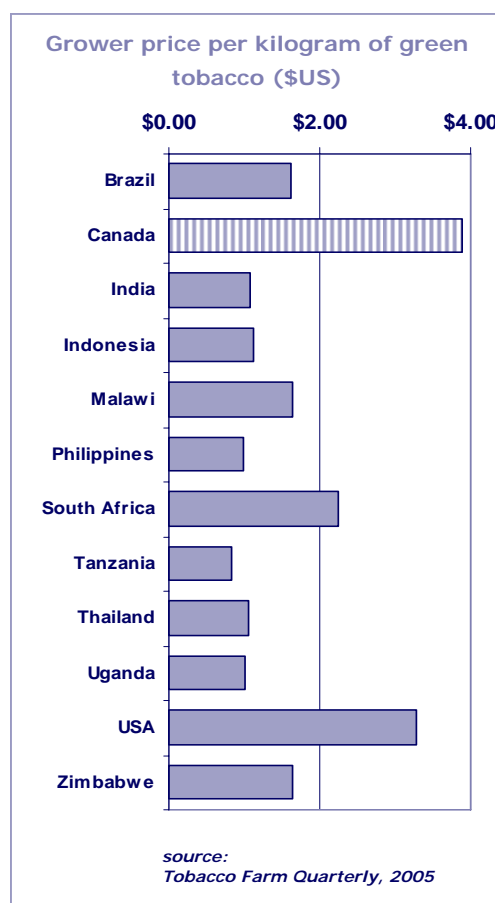
### 17 of the FCTC requires that:

*"Parties shall, in cooperation with each other and with competent international and regional intergovernmental organizations, promote, as appropriate, economically viable alternatives for tobacco workers, growers and, as the case may be, individual sellers."*

At the height of tobacco agriculture in Canada in 1978, there were over 3,000 tobacco farms in five provinces, and 250 million pounds of tobacco produced. Now, there are just 650 tobacco farms, almost all of them in Ontario. They produced 85 million pounds of tobacco in 2005.

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). BAT has now indicated 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 a similar amount again in April, 2005.



These programs were of an emergency nature, in reaction to sharp short-term declines 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.

Canadian tobacco farmers participated in government-led trade missions to promote Canadian tobacco as an export crop. The most recent of these trade missions took place in October 2005 when the Ontario Flue-Cured Tobacco Growers' Marketing Board participated in a trade mission to China, led by Ontario's Premier. The board has participated in federal government trade missions, including to China.

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

Any future transition programme for tobacco farmers should have a clear public health objective.

## RECOMMENDATIONS

- Federal and provincial governments should not participate in, encourage or endorse the export of Canadian tobacco.
- As part of the 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.



## Protection of the environment

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.

### Article

## 18 of the FCTC requires that:

*"In carrying out their obligations under this Convention, the Parties agree to have due regard to the protection of the environment and the health of persons in relation to the environment in respect of tobacco cultivation and manufacture within their respective territories."*

## Liability

### Article

## 19 of the FCTC requires that:

*Parties consider taking legislative action or promoting their existing laws, where necessary, to deal with criminal and civil liability, including compensation where appropriate.*

*Parties cooperate, within national law and practice, cooperate and assist one in legal proceedings relating to civil and criminal liability consistent with this Convention.*

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 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 searched the premises of Rothmans, Benson & Hedges in connection with smuggling activities in the 1990s.

In February 2003, the RCMP laid charges of fraud and





**"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 Létourneau,  
Quebec class action plaintiff**

against JTI-Macdonald, related companies and eight former corporate executives, claiming that Canada, Ontario and Quebec had been defrauded of \$1.2 billion in tax revenue between 1991 and 1996.

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

### **Government cost recovery lawsuits**

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. Ontario, Newfoundland and Labrador, New Brunswick and Nova Scotia have developed similar or related legislation, and other provinces have indicated they may also file lawsuits.

In August 2003, the Attorney General of Canada filed a suit in Ontario 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 stayed pending developments in the criminal prosecution.

In August 2004, Quebec 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 Quebec and one in British Columbia. In Quebec 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 for class action suits.**

Quebec is the only Canadian jurisdiction to provide financial support for class action suits (the 'Fonds d'aide aux recours collectives'). 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.

## **RECOMMENDATIONS**

- ▶ All provinces and the federal government should adopt legislation similar to that in place in British Columbia and should file health care recovery lawsuits against the tobacco industry.
- ▶ The government of Canada should develop and implement a strategy to assist public interest litigation efforts against tobacco companies.
- ▶ 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.

# Research, surveillance and exchange of information

## Surveillance

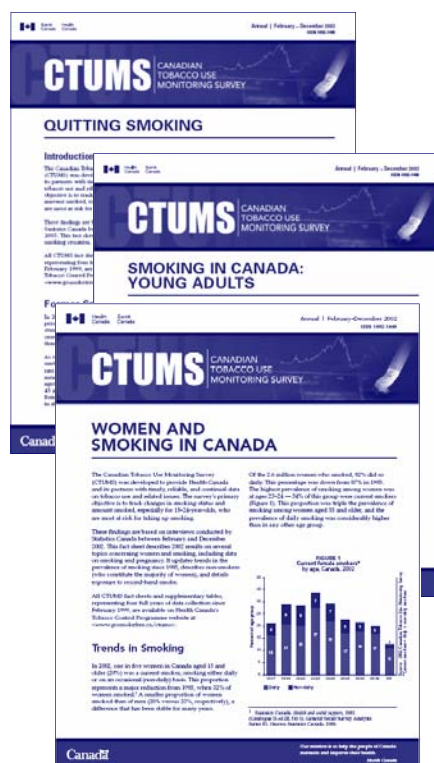
Health Canada conducts regular surveillance of tobacco use in Canada. The principal surveillance tool for tobacco use in Canada is the Canadian Tobacco Use Monitoring Survey, which is conducted by telephone in two waves each calendar year. The results are widely disseminated, and the data is made freely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

Tobacco use is also included on 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 of existing programs and policies and establishes the research base for future policies and programs.
- The Canadian Tobacco Control Research Initiative



(CTCRI) is a collaboration between the six Canadian Institutes of Health Research, the National Cancer Institute of Canada, the Canadian Cancer Society, and Health Canada.

CTCRI coordinates and sustains research that has a direct impact on programs and policies aimed at reducing tobacco abuse and nicotine addiction. It provides funding for a broad range of research disciplines.

- 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 centers in Canadian universities focusing on tobacco use and its consequences. The provinces of Quebec and Ontario have established research units to monitor and support provincial tobacco control initiatives. These are the Ontario Tobacco Research Unit, located in Toronto, and Quebec's Institut national de la santé publique. Other research clusters focusing on tobacco control are found at the University of Waterloo, the Universities 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 centers accept the importance of and are actively engaged in the coordination of their research programs.

## Article

# 20 of the FCTC requires that Parties:

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

## RECOMMENDATIONS

- There should be continuing support and funding for the agencies and institutions currently involved in funding and directing tobacco control research in Canada.
- Canada should increase its support for international research, through RITC and other mechanisms.

# Reporting and cooperation

## Articles

### 21, 22 & 26 of the FCTC require parties to cooperate with each other to implement the Convention nationally and internationally.

#### Article 21

► *requires that Parties submit reports to the Conference of the Parties on the progress in implementing the Convention. For the first forty ratifiers of the Convention (including Canada), the first report must be submitted by February 27, 2007.*

*Through the Conference of the Parties, developing countries and countries in transition can request assistance from developed countries in preparing their reports.*

#### Article 22

► *requires that Parties cooperate with each other in providing expertise and in scientific, technical and legal matters to strengthen their national tobacco control strategies.*

#### Article 26

► *reiterates the need for Parties to cooperate with each other to mobilize the necessary financial resources to strengthen tobacco control in all countries and at the international level.*

## Reporting

Canada has not yet made public the methods it will use to prepare a report for the COP, nor a process for engagement of non-governmental monitoring in this process.

## 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, and a consortium of Canadian NGOs. The Canadian International Development Agency provides support for tobacco control to PATH Canada and the Canadian Public Health Association. Total Canadian government funding for global tobacco control, however, **is less than two million dollars annually.**

While Canada's work in favour of strengthening global tobacco control is admirable, much more 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 an entire 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

► The Canadian government should provide long-term and sustainable funding for strengthening global tobacco control. This funding should be made available for actions to implement the FCTC by the Conference of the Parties, the secretariat, other parties to the convention, non-parties to the convention, governments, civil society organizations and others.

► Canada should support measures to provide standing to civil society 'shadow reports' in the official review of state-reports to the COP.

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

# Key indicators of tobacco use in Canada

	1999	2000	2001	2002	2003	2004
Percentage of Canadians over 15 who smoke on a daily or occasional basis[1]	25%	24%	22%	21%	21%	20%
Percentage of Canadians over 15 years of age who smoke on a daily basis[1]	21%	20%	18%	18%	17%	15%
Number of Canadians over 15 who smoke on a daily or occasional basis	6,121,992	6,007,562	5,411,822	5,414,335	5,332,326	5,116,200
<b>Number fewer Canadians who smoke compared with 1999</b>		<b>114,430</b>	<b>710,170</b>	<b>707,657</b>	<b>789,666</b>	<b>1,005,792</b>
Percentage of Canadians aged 15-19 who smoke on a daily or occasional basis[1]	28%	25%	23%	22%	18%	18%
Percentage of Canadians aged 15-19 who smoke on a daily basis [1]	20%	18%	16%	16%	12%	11%
Number of Canadians 15 – 19 years old who smoke on daily or occasional basis	569,217	521,470	465,633	457,772	382,689	378,180
<b>Number fewer teenagers who smoke compared with 1999</b>		<b>47,747</b>	<b>103,582</b>	<b>111,445</b>	<b>186,528</b>	<b>191,037</b>
Percentage of Canadian population aged 15-19 who have never smoked. [1]	67%	70%	73%	74%	79%	78%
Number of Canadians 15-19 years old who have never smoked	1,379,793	1,439,386	1,505,801	1,539,704	1,644,709	1,538,780
<b>Number more teenagers who never smoked compared with 1999</b>		<b>59,593</b>	<b>126,008</b>	<b>159,911</b>	<b>264,916</b>	<b>158,987</b>
Percentage of households with children (under 12) exposed to smoke at home. [1]	26%	24%	19%	16%	14%	12%
Number of households with children (under 12) exposed to cigarette smoke at home	1,141,738	929,012	827,055	687,722	512,846	485,000
<b>Number fewer households exposing children to smoke compared with 1999</b>		<b>212,726</b>	<b>314,683</b>	<b>454,016</b>	<b>628,892</b>	<b>656,738</b>
Number of cigarettes sold in Canada (millions) [2]	51,400	49,500	48,200	44,500	42,100	39,600
<b>Number fewer cigarettes per year smoked compared with 1999</b>		<b>1,900</b>	<b>3,200</b>	<b>6,900</b>	<b>9,300</b>	<b>11,800</b>
Federal taxes collected on tobacco sales (\$ millions) [3]	\$2,111	\$2,150	\$2,630	\$3,140	\$3,390	\$3,030
<b>Increase in federal tobacco tax revenues compared with 1999 (\$ million)</b>		<b>\$39</b>	<b>\$519</b>	<b>\$1,029</b>	<b>\$1,279</b>	<b>\$919</b>
Promised Health Canada funding for tobacco control (in \$ million) [4]	\$20	\$20	\$70	\$90	\$90	\$110
<b>Actual Health Canada direct expenditures on tobacco control (\$ million) [5]</b>	<b>\$21</b>	<b>\$18</b>	<b>\$50</b>	<b>\$58</b>	<b>\$64</b>	<b>\$63</b>
<b>Shortfall between promised and actual spending (\$ million)</b>			<b>\$29</b>	<b>\$32</b>	<b>\$26</b>	<b>\$47</b>

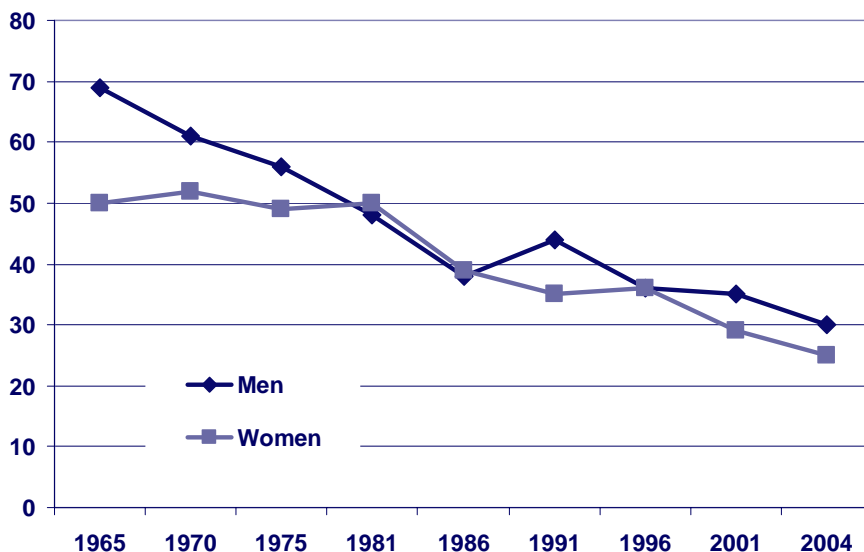
## Percentage of Canadians who smoke on a daily or occasional basis, 1965-2004 [5]

*sources:*

[1] *Canadian Tobacco Use Monitoring Survey, 1999-2004*; [2] *Annual reports, Imperial Tobacco Canada Ltd.*; [3] *Public Accounts of Canada, 1999-2005*;

[4] *Press release, April 5, 2001, "Government announces comprehensive strategy to discourage smoking,"* [5] *Health Canada Briefings to Canadian Coalition for Action on Tobacco*;

[5] *various Government of Canada surveys.*





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

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Alberta Action on Smoking and Health

Canadian Cancer Society

Canadian Council for Tobacco Control

Canadian Dental Association

Canadian Public Health Association

Clean Air Coalition of BC

Coalition québécoise pour le contrôle du tabac

Heart and Stroke Foundation

MANTRA Manitoba Tobacco Reduction Alliance

Non-Smokers' Rights Association

Ontario Campaign for Action Against Tobacco

Physicians for a Smoke-Free Canada

Saskatchewan Coalition for Tobacco Reduction

The Lung Association