

TOBACCO WATCH

Monitoring Countries' Performance on the Global Treaty



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A news article in a Turkish newspaper which utilises the Marlboro logo. The relationship between the reporter or the newspaper and Philip Morris is unknown.

Executive Summary

This issue of the Framework Convention Alliance (FCA) *Tobacco Watch*, an independent civil society shadow report, covers three substantive Articles of the WHO Framework Convention on Tobacco Control, and reflects five years of progress – or lack of progress in some cases – for the first countries to become Parties. Because these Parties have also reached their deadline to enact a comprehensive ban on tobacco advertising, promotion and sponsorship, special attention has been given to that topic. We looked at the first 49 countries to ratify the FCTC, whose phase 2 reports were due to the Convention Secretariat by March 31, 2010.

Article 8: Protection from exposure to tobacco smoke

The following Parties have enacted smoke free legislation that follows the Guidelines to Article 8, either at the national level or through local acts which cover the majority of their population:

Australia	Qatar
Canada	Solomon Islands
Cook Islands	Syrian Arab Republic
Germany	Trinidad & Tobago
Mauritius	Turkey
Mexico	United Kingdom
New Zealand	Uruguay
Panama	Vietnam

However, a number of Parties have made little progress in protecting their citizens from exposure to tobacco smoke:

Armenia	Myanmar
Bangladesh	Palau
Denmark	San Marino
Fiji	Seychelles
Ghana	Slovakia
Hungary	Sri Lanka
Japan	Timor-Leste
Madagascar	
Marshall Islands	
Mongolia	

Article 11: Packaging and labelling of tobacco products

The majority of the Parties surveyed have met the minimum requirements for warning labels under Article 11. **Uruguay** leads the "race to the top" with picture warnings that cover 80% of the package front and back. The following eleven countries have failed to reach the 30% requirement, which should have been met by 2007:

Marshall Islands	Trinidad and Tobago
Myanmar	Solomon Islands
Palau	Fiji
Seychelles	India
Sri Lanka	Peru
Syrian Arab Republic	

Article 13: Tobacco advertising, promotion and sponsorship

We gathered observational data in 23 Parties that submitted their phase 2 reports. Of these, 14 reported comprehensive marketing bans as required by the Article 13 Guidelines. The following 7 Parties have included point of sale displays in their bans:

Australia	Qatar
Ghana	Thailand
Jordan	Turkey
Panama	

Article 21: Reporting and exchange of information

Compared to the 2007 experience with the phase I questionnaire among the same Parties, the response rate in 2010 has been a disappointment. Please see page 8 for a list of Parties who had failed as of the end of September 2010 to submit their official reports to the Convention Secretariat.

Introduction to Civil Society Shadow Reporting

by Laurent Huber, FCA Director

In 2010, we mark the fifth anniversary of the world's first international public health treaty, the WHO Framework Convention on Tobacco Control. It is the first such treaty for good reason: tobacco use is the leading cause of preventable death in the world today, claiming over 5 million lives a year. The WHO estimates that this figure will double in a generation, with most of the deaths occurring in the developing world. Perhaps most alarmingly, without earnest action tobacco is expected to kill one billion people this century, ten times the toll of the 20th century. Six hundred fifty million of those victims have yet to be born.

The tobacco epidemic is unique among diseases. Unlike malaria or AIDS or schistosomiasis, tobacco has a human vector, in the form of a wealthy, powerful multinational industry. Tobacco industry revenue dwarfs the GDP of many countries. While tobacco use is stagnant or shrinking in many developed countries, the industry has used its billions to aggressively market its products in the developing world. As the globe strives to reduce poverty, developing countries can ill afford the health, economic, and environmental costs of increased tobacco use.

The FCTC is the best path to address this potential calamity. Decades of national and local experience has demonstrated that there is no one "magic" intervention that will thwart the tobacco industry in their efforts to addict new generations. The Convention attacks the epidemic from every angle: demand and supply, marketing and distribution, policy and industry interference. To date there are 171 Parties to the treaty, making it among the most quickly adopted international instruments in history. However, the FCTC is mere paper without implementation.

Civil society has played a unique role in the FCTC process from its earliest conception. Drawing lessons from environmental and human rights treaty processes, the tobacco control community banded together as the Framework Convention Alliance (FCA) to press for strong treaty language and best practices implementation. The role of civil society in tobacco control is recognized in the FCTC itself. The FCA has also been instrumental in advocating for and drafting detailed guidelines to several FCTC articles, and has been a strong voice in the ongoing illicit trade protocol negotiations.

While the FCTC is comprehensive on the substantive areas of tobacco control, it is lacking in one key respect – there is no independent assessment mechanism to track national

implementation. Unlike most environmental and human rights treaties, the Convention includes no structure to ensure that Parties live up to their obligations. Under Article 21, Parties must periodically report on their implementation to the Convention Secretariat. But this process, which was developed with limited input from independent parties such as NGOs, is limited in scope, is only performed by governmental bodies, and ends once the national questionnaires are published on the Convention Secretariat's website.

Like the treaty process itself, civil society must transition from negotiation to implementation. National, regional and local NGOs have been hard at work for years advocating, educating and researching toward meaningful policies to combat tobacco use. The role of the FCA in implementation is many faceted, but among its most important functions is to act as an independent monitor of national adherence to the letter and spirit of the FCTC. In the absence of any formal enforcement or independent verification, public scrutiny is the best assurance that the tobacco epidemic will be addressed.

"Tobacco Watch" is designed to complement rather than compete with other tobacco control surveys, filling a gap in the logical loop that leads to best practices and ultimately to a decrease in the death and disease caused by tobacco use. Epidemiological data gives us a snapshot of the depth and breadth of the epidemic, which informs policy makers on the best legislative or regulatory interventions to address it. Policies are tracked through the official Convention Secretariat surveys, among others. However, these surveys track only the written law, and do not address enforcement and compliance. A smokefree air law that is ignored by the population, or a ban on advertising that is ignored by the tobacco industry, does nothing to reduce the tobacco burden. But a government official can still check the "yes" boxes on a questionnaire.

Like the FCTC, FCA shadow reporting is a process rather than a product. This report covers a few key Articles in some of the first countries to ratify the Convention. This year the FCA has also supported national shadow reports in a dozen countries. In the coming years, the process will embrace additional Articles and Parties, creating a body of knowledge of best practices and advocating always for comprehensive implementation.

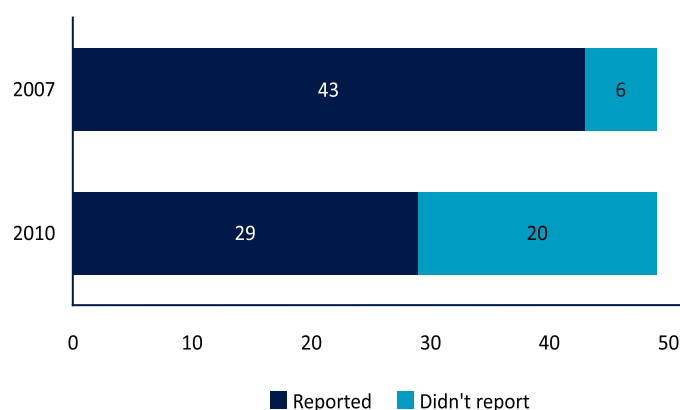
The FCTC is a promise to future generations. In its watchdog role, civil society will continue to support and press governments to fulfill that promise.

FCTC Article 2I: Reporting and Exchange of Information

FCTC Article 2I: Reporting, or Perhaps Not

This first issue of *Tobacco Watch* focuses mainly on the first 49 Parties to ratify the FCTC, all of which were due to submit their phase 2 reports to the Secretariat by March 31, 2010. This date seemed very reasonable given the experience from the phase 1 reports in 2007. While several Parties turned in their reports late for phase 1, by September 2007 only 6 of the 49 had failed to submit.

Phase 2 reporting has not been as successful. As of mid-September, just 29 of the 49 Parties due to submit their responses by March 31 had done so.



What is the cause of this marked change from the Phase 1 experience? We asked our partner organizations in countries which had failed to report to inquire with their government contacts. The responses varied, but there was one commonality: No government *decided* not to submit its report.

The absent reports were not all from nations with limited bureaucratic capacities (see list below).

The reasons cited included:

- "We did not receive reminders from the Convention Secretariat."
- "The reminders did not arrive on the correct person's desk."
- "There was a change of government and the new person responsible was not briefed."
- "We just plain forgot."

It should be noted that the Convention Secretariat *did* send out several reminders, so the disconnect is likely somewhere between the person receiving the reminders and the person responsible for filling out the questionnaire.

As this report went to press, the following Parties were at least five months late in submitting their Phase 2 reports¹:

Bhutan	Peru
Fiji	San Marino
Iceland	Singapore
Madagascar	Solomon Islands
Maldives	Sri Lanka
Malta	Timor-Leste
Mongolia	Trinidad & Tobago
Myanmar	United Kingdom
Nauru	Vietnam
Pakistan	

3.2.7	11	Tobacco advertising, promotion and sponsorship (Please check "Yes" or "No". For affirmative answers, please provide a brief summary in the space provided at the end of the section and attach the relevant documentation. Please provide documentation, if available, in one of the six official languages.)	
Have you adopted and implemented, where appropriate, any legislative, executive, administrative or other measures or have you implemented, where appropriate, programmes?			
3.2.7.1	11.1	– Initiating a comprehensive ban on all tobacco advertising, promotion and sponsorship?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If you answered "No" to question 3.2.7.1, please proceed to question 3.2.7.3.			
3.2.7.2		If you answered "Yes" to question 3.2.7.1, does your ban cover:	
		• display and visibility of tobacco products at points of sale?	<input type="checkbox"/> Yes <input type="checkbox"/> No
		• the domestic internet?	<input type="checkbox"/> Yes <input type="checkbox"/> No
		• the global internet?	<input type="checkbox"/> Yes <input type="checkbox"/> No
		• brand stretching and/or brand sharing?	<input type="checkbox"/> Yes <input type="checkbox"/> No
		• product placement as a means of advertising or promotion?	<input type="checkbox"/> Yes <input type="checkbox"/> No
		• the depiction of tobacco or tobacco use in entertainment media products?	<input type="checkbox"/> Yes <input type="checkbox"/> No
		• tobacco sponsorship of international events or activities and/or participants therein?	<input type="checkbox"/> Yes <input type="checkbox"/> No
		• contributions from tobacco companies to any other entity for "socially responsible causes" and/or any other activities implemented under the umbrella of "corporate social responsibility" by the tobacco industry?	<input type="checkbox"/> Yes <input type="checkbox"/> No
		• cross-border advertising, promotion and sponsorship originating from your territory?	<input type="checkbox"/> Yes <input type="checkbox"/> No

¹ Kenya submitted its report to the Secretariat on September 10, 2010, but the report was not publicly available in time for this publication.

FCTC Article 8: Protection from Exposure to Tobacco Smoke

Why Go Smoke Free?

In recent years, the creation of smoke free environments has received much public attention while governments around the world undertook one of the most effective tobacco control measures to protect their citizens from exposure to tobacco smoke. Scientific evidence has shown that tobacco smoke contains more than 4,000 chemicals, including more than 50 that cause cancer and other diseases. It increases the risk of lung cancer by 20–30% and the risk of heart disease by 25–35%. Many toxins in tobacco smoke are invisible and odorless gases. It is estimated that worldwide, 1.6 billion adults and 700 million children are exposed to tobacco smoke, which results in a higher prevalence of asthma, asthma attacks, respiratory illness, and ear infections.

In most countries, the creation of smoke free environments has proven to be one of the most effective and popular tobacco control interventions. 100% smoke free legislation not only reduces the hazardous health effects of exposure to tobacco smoke, but it 'denormalizes' smoking habits, resulting in many people quitting. The Article 8 Guidelines¹ of the WHO FCTC were the first guidelines adopted by the Conference of the Parties in 2007. They were adopted unanimously, setting the core principles for effective smoke free policies. As there is no safe level of tobacco smoke exposure and approaches other than 100% smoke free have repeatedly been shown to be ineffective, governments have agreed that the only way to protect their people from the hazards of second hand tobacco smoke is to introduce comprehensive smoke free laws. Hence, effective smoke free legislation should be clear and enforceable, including compliance and enforcement infrastructure and strategies. Authorities also need to inform, consult and involve the public to ensure support and compliance.

There has been rapid progress over the past few years. Hundreds of millions of people are now protected by smoke free laws. New laws have been implemented in low and medium income countries and this sends a clear message: everybody has the right to be protected from tobacco smoke. To date, more than 60 countries have enacted strong or comprehensive smoke free legislation at the national or local level. Smoke free laws are well respected; for example, New Zealand and France have a 97% and 95% compliance rate, respectively. There are no safe levels of exposure to tobacco smoke. Smoke free legislation is effective, inexpensive, and popular.

Article 8 Guidelines – Core Principles for Effective Smokefree Policies

1. Eliminate tobacco smoke to create 100% smoke free places
2. Protect everyone – don't allow exemptions
3. Use legislation, not voluntary measures
4. Provide resources for implementing and enforcing the law
5. Include civil society as an active partner
6. Monitor and evaluate smoke free laws
7. Be prepared to extend the law if needed



Creating the Global Smokefree Map

The information on Article 8, protection from tobacco smoke, was compiled by the Global Smokefree Partnership. The 'Global Map of Smokefree Laws' gives an overview of the smoke free status of the vast majority of Parties to the FCTC, as well as some non-Parties. It was first produced in 2008. The map, regional and national information, and other resources can be found at <http://www.globalsmokefreepartnership.org/>.

The information to update the Global Smokefree Map was provided by FCA Regional Coordinators, in consultation with national partners, in response to e-mail questionnaires sent at the end of August 2010.

¹ The Guidelines can be found at http://www.who.int/fctc/guidelines/article_8/en/index.html.

2010 Global Map of Smokefree Laws

www.globalsmokefreepartnership.org



The Global Smokefree Partnership is hosted by



FCTC Article 8: Protection from Exposure to Tobacco Smoke

Progress on Smoke Free Air Legislation

There is no deadline stated in the FCTC for implementing Article 8, "Protection from exposure to tobacco smoke". Five years after ratification, here is where the first 49 Parties stand:

NATIONAL POLICIES

Comprehensive

New Zealand
Panama
Peru
Qatar
Solomon Islands
Syrian Arab Republic
Trinidad & Tobago
Turkey
United Kingdom
Uruguay

Strong with Limited Exemptions

Brunei Darussalam
Cook Islands
France
Iceland
India
Jordan
Kenya
Lithuania
Maldives
Malta
Mauritius
Nauru
Norway
Pakistan
Singapore
Thailand

LOCAL POLICIES

Comprehensive or Strong

Australia¹
Canada
Germany
Mexico
Vietnam

LITTLE OR NO PROGRESS TO DATE²

Armenia
Bangladesh
Denmark
Fiji
Ghana
Hungary
Japan
Madagascar
Marshall Islands
Mongolia
Myanmar
Palau
San Marino
Seychelles
Slovakia
Sri Lanka
Timor-Leste

¹ 99% of Australia is covered by strong local legislation.

² Bhutan has banned the sale of tobacco products.

FCTC Article II: Packaging and Labelling of Tobacco Products

Introduction

Pursuant to FCTC Article II, Parties must require a rotated series of health warnings (or other appropriate messages) in the country's principal language(s) that should cover at least 50% – and must be at least 30% – of the package front and back (or, for non-standard packages, of the principal display surfaces). The use of pictures or pictograms is optional.

The Article II Guidelines recognize that well-designed health warnings are "effective in reducing tobacco consumption." Warnings work, and the tobacco industry knows it. That is why in so many countries the industry has lobbied against improved warnings.

Package warnings are highly cost-effective given that governments select/design the warnings and the tobacco industry pays printing costs. Warnings work 24 hours a day, 7 days per week, and reach all consumers, as well as many others (e.g., friends, family, co-workers). A smoker may reach for a package 20 times a day, 7300 times per year. Prominent package warnings are really mini-billboards that increase motivation to quit, and make consumption less attractive for youth.

Pictorial warnings increase effectiveness – a picture says a thousand words. Pictures increase emotional impact, and are especially important for low-literacy populations.

The effectiveness of warnings increases with size. A larger size allows for bigger and better images, more text, and/or a larger font size. A larger size increases noticeability and means that the brand portion detracts less from the warning. Warnings on both the front and back are better than on just one side, recognizing that the front is more important than the back. Warnings should be refreshed periodically to maintain impact.

For further information on warnings, see:

www.tobaccolabels.org

www.smoke-free.ca/warnings

<http://blogsofbainbridge.typepad.com/warnings/>

http://tobaccofreecenter.org/resources/warning_labels

<http://www.who.int/tobacco/healthwarningsdatabase/en/index.html>

http://www.who.int/fctc/guidelines/article_II/en/index.html

Methodology

Considerable effort was made to ensure the accuracy of the information contained in this section. Information obtained as of October 1, 2010 has been included to ensure that the section was as up-to-date as possible before publication. However, it was not possible to confirm national requirements prior to press for Timor-Leste. Moreover, national requirements for package warnings are constantly evolving and as such it may be that for some countries listed in this report further progress may have been made but is not reflected in this report.

Country information was only included once legal requirements (such as an Act, regulation, or decree) were finalized, and no further approval steps were needed. For some countries, the transition period for warning implementation on packages has not been completed; however if no further approval steps were needed, these new requirements were included in the report. To ensure accuracy, copies of legislation as well as actual packages were collected from the countries included in the section. Where new information for a country could not be confirmed prior to publication, this new information was not included. This section provides information only for packages of cigarettes, not other tobacco products. Information for cigarette cartons has not been compiled.



Article II: Package Warnings

	Country	Picture Warnings	Average Front/back	Front	Back	EC Countries	Non-compliant (minimum size)	Article II FTC Deadline	Pictures Year
1	Armenia		30	30	30				
2	Australia ¹	√	60	30	90				2006
3	Bangladesh		30	30	30				
4	Bhutan ²		n/a	n/a	n/a			Feb. 27, 2008	
5	Brunei Darussalam	√	50	50	50				2008
6	Canada	√	50	50	50				2001
7	Cook Islands ³	√	60	30	90				
8	Denmark		35	30	40	√			
9	Fiji		20	20	20		X	Feb. 27, 2008	
10	France	√	48	43	53	√			2011
11	Germany		35	30	40	√			
12	Ghana ⁴		50	50	50				
13	Hungary		35	30	40	√			
14	Iceland		48	43	53	*			
15	India	√	20	40	0		X	Feb. 27, 2008	2009, 2010
16	Japan		30	30	30				
17	Jordan	√	30	30	30				2006
18	Kenya		40	30	50				
19	Lithuania		35	30	40	√			
20	Madagascar		50	50	50				
21	Maldives		30	30	30				
22	Malta	√	39	32	45	√			2011
23	Marshall Islands		0	0	0		X	Mar. 8, 2008	
24	Mauritius	√	65	60	70				2009
25	Mexico	√	65	30	100				2010

* Countries that follow the EC Directive

¹ Australia: Rotation of Sets A, B every 12 months.

² Bhutan: Has banned the sale of tobacco products.

³ Cook Islands: Warnings are to either comply with the Australian or New Zealand requirements (which include pictures), or to require 50% text warnings with specified messages in English and in Cook Islands Maori. In practice, packages contain pictures as required in Australia/New Zealand.

⁴ Ghana: Warnings are in place through mandatory contractual arrangements between Ghana's Food and Drug Board and tobacco importers/distributors.

Article II: Package Warnings

	Country	Picture Warnings	Average Front/back	Front	Back	EC Countries	Non-compliant (minimum size)	Article II FTC Deadline	Pictures Year
26	Mongolia	√	33	33	33				2010
27	Myanmar		0	0	0		X	Feb. 27, 2008	
28	Nauru		30	30	30				
29	New Zealand ⁵	√	60	30	90				2008
30	Norway	√	48	43	53	*			2011
31	Pakistan	√	40	40	40				2010
32	Palau		0	0	0		X	Feb. 27, 2008	
33	Panama	√	50	50	50				2006, 2009
34	Peru	√	25	0	50		X	Feb. 28, 2008	2009
35	Qatar ⁶		8	8	8		X	Feb. 27, 2008	
36	San Marino ⁷		35	30	40				
37	Seychelles		0	0	0		X	Feb. 27, 2008	
38	Singapore	√	50	50	50				2004, 2006
39	Slovakia		35	30	40	√			
40	Solomon Islands		0	0	0		X	Feb. 27, 2008	
41	Sri Lanka		0	0	0		X	Feb. 27, 2008	
42	Syrian Arab Republic		0	0	0		X	Feb. 27, 2008	
43	Thailand	√	55	55	55				2005, 2007, 2010
44	Timor-Leste								
45	Trinidad and Tobago		0	0	0		X	Feb. 27, 2008	
46	Turkey	√	54	65	43				2010
47	United Kingdom	√	48	43	53	√			2008
48	Uruguay	√	80	80	80				2006, 2008 2009, 2010
49	Viet Nam		30	30	30				

* Countries that follow the EC Directive

⁵ New Zealand: Rotation of Sets A, B every 12 months

⁶ Qatar: Size estimated and may vary by pack. Legislation requires that the font size of the health warning text be one-quarter of the font size of the brand name, on the front and back. Although the warning is only required to appear in Arabic, in practice the warning appears in both Arabic and English and covers approximately 16% of the front only.

⁷ San Marino: Cigarettes sold in San Marino are imported from Italy and depict Italian package warning requirements.

Note: The European Community specifies that the warning size is to be as follows, plus a border (3-4mm in width) in addition to the space for the warnings: 35% (30% front, 40% back) unilingual countries; 39% (32% front, 45% back) bilingual countries; and 43% (35% front, 50% back) trilingual countries. Once the required border is factored in, the required size in effect increases to about the following: 48% (43% front, 53% back), unilingual countries; 52% (45% front, 58% back), bilingual countries; 56% (48% front, 63% back), trilingual countries. For the EC countries in this report, France and the United Kingdom are compliant with the border requirement, while Denmark, Germany, Hungary, Lithuania, Malta, and Slovakia are non-compliant based on packages obtained.

Article II: Package Warnings Examples



Uruguay (2010-front) has picture warnings that cover 80% of the front and back of packages, the largest in the world.



Turkey (2010-front) has picture warnings covering 65% of the front and text warnings covering 43% of the back of packages.



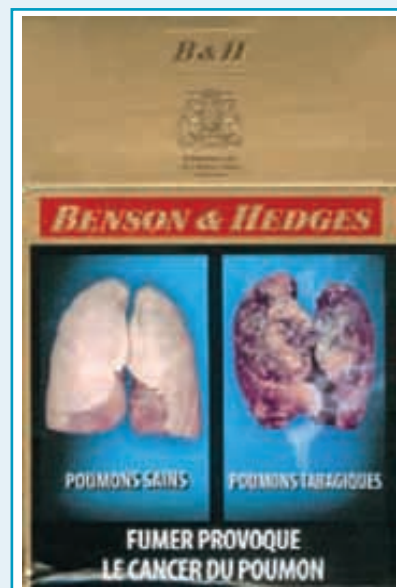
Japan (2009-front) requires text warnings that cover 30% of the front and back of packages; however the warnings blend into the design of the pack which demonstrates the importance of having clear visible warnings.

Article II: Package Warnings Examples

New Zealand (2008-back) has picture warnings that cover 30% of the front and 90% of the back of packages.



Mauritius (2010-front) has picture warnings that cover 60% of the front and 70% of the back of packages. These are the second largest in the world and the largest in the African Region.



Bangladesh (2010-front) requires text warnings that cover 30% of the front and back of packages with black text on a white background, which is far less effective than pictorial or graphic warnings.



FCTC Article 13: Tobacco Advertising, Promotion and Sponsorship

Introduction

According to WHO, tobacco kills over 5 million people in the world every year. Despite this reality, the tobacco issue is underestimated or ignored in many countries. Conversely, tobacco sometimes enjoys a rather positive image. How can we explain this difficulty to change tobacco's image in the world and get governments involved? One explanation is the marketing used by the tobacco industry.

Cigarette producers excel in the art of producing advertisements making cigarettes appear cool, modern, safe, and crucial to facilitating social connections and women's liberation.

The different advertising techniques used by cigarette producers include, among others:

- Advertising on billboards, in stores or on TV;
- Sponsoring of sporting or cultural events (concerts, etc.);
- Placement of tobacco products in movies;
- Internet (sites, Facebook, YouTube, etc.);
- Point-of-sale advertising;
- Visually stimulating and appealing cigarette packaging;

These advertising techniques are enumerated in tobacco manufacturers' internal documents. They are effective around the world at luring men, women, children, and the underprivileged to smoke.

To counter this problem head on, one of the solutions offered by the FCTC is to forbid all types of advertising (direct or indirect) of tobacco in an effort to change its image and reduce the number of deaths it causes (Article 13).



Above, a stylish cigarette display in Armenia.

Below, a three-page fold-out KOOL ad in a Japanese magazine.



FCTC Article 13: Tobacco Advertising, Promotion and Sponsorship

Methodology for Data Collection

At first glance, a tobacco marketing ban seems like a simple undertaking. The tobacco industry has shown time and again, however, that if they are squeezed out of one medium, they will find new avenues to get their message to prospective customers. There are myriad marketing avenues for the industry to choose from, and not all of them are easily monitored. How does one ensure, for example, that there is no tobacco advertising on the Internet?

Unlike the previous Articles in this report, we gathered in-country data for Article 13 and compared it to claims made by Parties in their responses to the Convention Secretariat's phase 2 questionnaire, essentially "spot checking" compliance and enforcement.

The FCA's task was to gather observational data in a manner that would be:

- Simple enough that it would not require particular expertise from data gatherers,
- defensible from a methodological standpoint,
- meaningful from a statistical standpoint,
- comparable across Parties and over time, and
- clear so that it could be easily digested by policy makers, media and the public.

Our solution was to choose a finite number of types of advertising that could be easily understood, identified, and shown. In other words, we looked for types of violations that one could photograph. Three examples of advertising were targeted:

- Print media
- Outdoor
- Display and visibility at points of sale

The first two types of advertising are assumed to be part of any comprehensive ban under the Convention Secretariat's phase 2 questionnaire. Point of sale bans, included in the Article 13 Guidelines, were considered an extra in the questionnaire. For all three, if a Party did not claim to have such a ban in place, this report didn't consider instances of that type of advertising to be a violation of national law.

For print media, our data gatherers were asked to monitor two daily newspapers for a week, and two magazines (one aimed at a youth audience) for one issue. Violations were photographed, noting the date and publication, and uploaded to a central database.

For outdoor and point of sale advertising, data gatherers prepared, in advance, three "walking tours" in cities or towns of various sizes. Each tour began at a specified spot and continued until 10 points of sale were visited. While walking between these points, our partners scanned for outdoor advertising. Instances of advertising either at points of sale or outdoors were photographed, noting the time, place, and context (if necessary), then uploaded to the database.

The results of the official Party reports were entered into the database centrally as they became available on the Convention Secretariat's website. We then derived reports comparing bans in place to our observational results.



Weathered roadside ad in Kenya.

FCTC Article 13: Tobacco Advertising, Promotion and Sponsorship

Summary of Findings

Implementing a ban on tobacco advertising is not a simple task. When confronted with bans on certain types of media, the tobacco industry has always found new ways to market its products. This is recognized in the FCTC and the Article 13 Guidelines, which emphasizes the importance of a comprehensive ban.

The pages that follow detail the findings from our observational data gathering on certain aspects of a comprehensive tobacco advertising ban (outdoor, print media, and point of sale). Unlike the results from the sections on Articles 8 and 11, our efforts to track compliance and enforcement for Article 13 were dependent upon Parties' completing and submitting their phase 2 questionnaires. Because so many Parties failed to submit their responses, even six months after the deadline, the number of Parties included in this review is limited.

We were able to gather data in 34 of the 49 Parties due to submit their responses to the phase 2 questionnaire by March 31, 2010¹. Of these, 23 Parties actually submitted their responses in time for this report. Fourteen of those 23 Parties reported a comprehensive marketing ban in place. Of the nine that reported no comprehensive ban, three – Canada, Japan and Mexico – reported a constitutional barrier to full implementation. And among those that have instituted bans, there is clear evidence that, for many, work remains to be done both in the scope of the law and in enforcement and compliance.

The Guidelines for Implementation of Article 13² unanimously adopted at the Third session Conference of the Parties, recommend that comprehensive bans include the display and visibility of tobacco products at points of sale. Seven countries reported having done so. Only in Jordan, however, did we find no violations of a point of sale ban. This is hardly surprising, especially in countries where a large percentage of tobacco is sold by small vendors in kiosks or simply on the side of the road.



Mobile Tobacco Marketing

Top, a delivery truck in the Marshall Islands. Bottom, this point of sale in India is wherever the bicycle happens to be.

¹ Please see page 4 for a list of Parties in which observational data was gathered.

² The Guidelines can be found at http://www.who.int/fctc/guidelines/article_13/en/index.html.

FCTC Article 13: Tobacco Advertising, Promotion and Sponsorship

Observational Data Findings

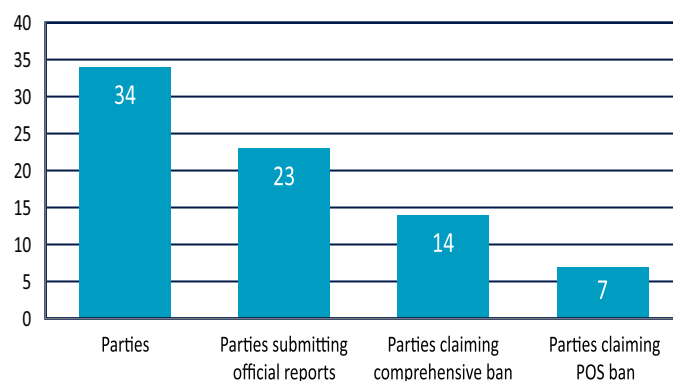
Our partners gathered in-country information in 34 countries that were due to submit their phase 2 reports to the Convention Secretariat by March 31, 2010. Each Party's reporting date coincided with the 5-year deadline to enact a comprehensive ban on tobacco advertising, promotion and sponsorship, under FCTC Article 13.2:

Each Party shall, in accordance with its constitution or constitutional principles, undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, a comprehensive ban on cross-border advertising, promotion and sponsorship originating from its territory. In this respect, within the period of five years after entry into force of this Convention for that Party, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21.

Observational data was gathered on three substantive aspects of a comprehensive ban on tobacco advertising. Two of these, print advertising and outdoor advertising, are presumed by the Convention Secretariat's phase 2 questionnaire to be a part of any comprehensive ban. The third, display and visibility of tobacco products at points of sale, while included in the FCTC Article 13 Guidelines, is considered by the Convention Secretariat's phase 2 questionnaire to be an "extra", and has a question specifically devoted to it.

One hurdle encountered was the large number of Parties failing to submit their official reports to the Convention Secretariat in time for this report to be published. Since our purpose was to track enforcement and compliance, in non-reporting Parties we could not know if instances of outdoor advertising, for example, were violations, and therefore were forced to leave these Parties out of our findings.

Summary of Party Reporting on Marketing Ban



The graphic above summarizes how Parties responded to the Phase 2 questionnaire on the issues we tracked for this report. Of the 34 Parties in which we gathered data, eleven failed to submit official reports (see page 7 for a list of Parties failing to report). Of the 23 remaining Parties, 14 indicated that they had passed a comprehensive ban on tobacco advertising, promotion and sponsorship. Of these, 7 included a ban on marketing at points of sale.

As we narrow our focus on the details of our findings, it should be noted that the spotlight is necessarily on those Parties most deserving of praise. In order to even be included in the graphs on the following pages, a Party had to both submit its official report, and indicate that a comprehensive ban had been put in place.

Parties Claiming Marketing Ban

Australia
Bangladesh
Cooks Islands
Denmark
Germany
Ghana
Jordan
Marshall Islands
New Zealand
Panama
Qatar
Syrian Arab Republic
Thailand
Turkey

Parties Claiming POS Ban

Australia
Ghana
Jordan
Panama
Qatar
Thailand
Turkey

FCTC Article 13: Tobacco Advertising, Promotion and Sponsorship

Compliance with Outdoor Marketing Bans



In the majority of Parties claiming a comprehensive ban, we found no outdoor ad violations. In the five Parties where we did find violations, they were often associated with an outside wall of a store or kiosk or other commercial establishment.

Compliance with Print Media Marketing Bans



Print media violations were found in 4 out of the 14 Parties claiming comprehensive bans. Few of these were outright advertisements for a tobacco product, but instead were often examples of brand stretching or promotions.



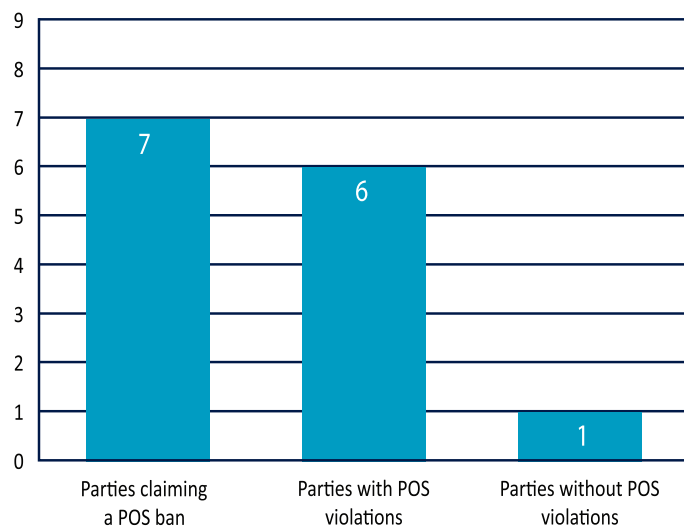
Posters outside a store in Pakistan.



An ad for cigars in a magazine in Panama.

FCTC Article 13: Tobacco Advertising, Promotion and Sponsorship

Compliance with POS Display Bans



Only 7 Parties indicated that they included a ban on the display or visibility of tobacco products at points of sale in their comprehensive advertising bans. We found examples of violations in 6 of those Parties. Only in Jordan did our partner report finding no violations among the 30 points of sale visited. In many developing countries, tobacco products are sold from kiosks or street vendors, making it particularly difficult to enforce a point of sale ban. However, even in these countries violations were also observed at indoor locations.



An outdoor vendor in Ghana with cigarette cartons stacked in an eye-catching manner.



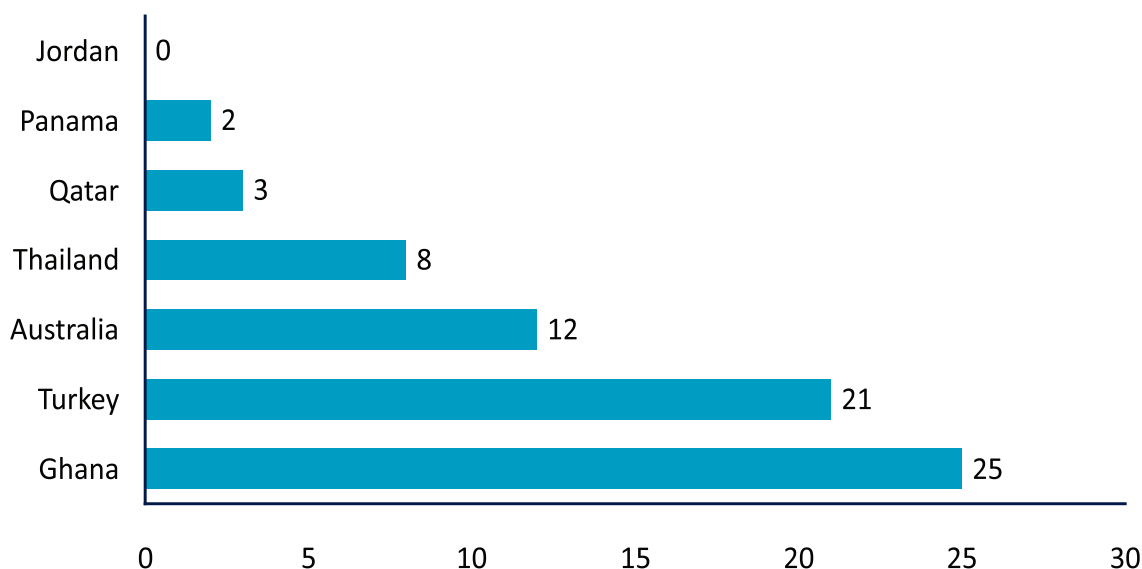
A line of cigarette displays in a Turkish supermarket.



Cigarette advertisement above a service window at a store in the Marshall Islands.

FCTC Article 13: Tobacco Advertising, Promotion and Sponsorship

Extent of Point of Sale Ban Violations



The graph above shows the number of violations noted among the 30 points of sale visited in each country claiming a point of sale ban. Data gatherers were asked to include a mix of types of points of sale, including convenience stores, supermarkets, street vendors and kiosks.

It is important to note again that these are the countries claiming the strongest adherence to the Article 13 Guidelines, since their comprehensive bans on tobacco advertising, promotion and sponsorship include the display and visibility of tobacco products at points of sale. Of course, such laws are useful only if they are enforced. We hope this information will be helpful as these Parties continue their efforts to protect people from the addiction, disease and death of tobacco use.



Cigarette display in a crowded store in Thailand.

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About the Framework Convention Alliance

The Framework Convention Alliance (FCA) was founded in 1999 and is made up of over 350 organizations from more than 100 countries working on the development, ratification and implementation of the international treaty, the World Health Organization's (WHO) Framework Convention on Tobacco Control (FCTC). The FCA is a civil society alliance whose mission is to help develop and implement the FCTC as the basis for effective global tobacco control. The FCA's vision is a world free from the devastating health, social, economic and environmental consequences of tobacco and tobacco use.



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