

28 December 2012

An open letter to the Chief Executive and Financial Secretary, Hong Kong SAR Government

	What's new since our last submission (3 documents attached)
12 Nov 2012	Adopted: FCTC/COP5(1) Protocol to Eliminate Illicit Trade in Tobacco Products http://apps.who.int/gb/fctc/PDF/cop5/FCTC_COP5(1)-en.pdf
17 Nov 2012	Adopted: FCTC/COP5(7) Set of guiding principles and recommendations for implementation of Article 6 of the WHO Framework Convention on Tobacco Control (<i>Price and tax measures to reduce the demand for tobacco</i>) http://apps.who.int/gb/fctc/PDF/cop5/FCTC_COP5(7)-en.pdf
Nov 2012	Published report: Asian Development Bank (Tobacco Taxes: A Win-Win Measure for Fiscal Space and Health) concludes that tobacco tax increases in Asia are “pro-poor” http://www.adb.org/sites/default/files/pub/2012/tobacco-taxes-health-matters.pdf

Price measures have been shown around the world to be the single, most effective measure in reducing tobacco use, especially among the young.

Tobacco is responsible for 7,000 deaths and community costs of more than five billion dollars annually in Hong Kong whilst if the cost of loss of life was included that figure becomes HK\$ 73 billion (at 1998 costs). An update study of local costs is now underway by Commed HKU.

We urge the Government to review its tobacco control strategy and ensure that in particular its legislative and fiscal measures are comprehensive, coherent, adequately staffed and rigorously enforced. The protection of young people from addiction to tobacco should be one of our highest public health priorities.

WHO FCTC:

There is now an ever greater degree of imperative since the unanimous adoption, without dissent, at the 5th Session of the Conference of Parties of the WHO Framework Convention on Tobacco Control (WHO FCTC) in Seoul, Republic of Korea, in November 2012 of:

- a) the Guidelines on tobacco taxation (attached), and
- b) the Protocol on Illicit Trade in Tobacco Products

Hong Kong, as part of China, ratified the WHO FCTC treaty in 2005.

Taxation

- Hong Kong's tobacco is cheap in relation to GDP per capita and comparison with other jurisdictions, for example, Marlboro cigarette price in Hong Kong is currently only 65.8% of that in Singapore.
- Rises in tobacco duty are recognized by the World Bank, World Health Organization, the World Economic Forum, and the UNDP, as essential public health measures to reduce smoking.
- Raising tobacco tax is "pro-poor" according to the ADB.
- In November 2012, the Asian Development Bank (Tobacco Taxes: A Win-Win Measure for Fiscal Space and Health) reviewing Asian countries concluded:

"The poorest socioeconomic groups in each country bear only a relatively small part of the extra tax burdens, but reap a substantial proportion of the health benefits of reduced smoking. The ratio of health benefits accrued to the poor to the extra taxes borne by the poor ranges from 1.4 to 9.5.

Thus, large increases in the cigarette tax in all of these countries are unusually attractive for public health and public finance, and are pro-poor in their health benefits." (<http://www.adb.org/publications/tobacco-taxes-win-win-measure-fiscal-space-and-health>)

- Young people are most sensitive to price; an increase in duty which raises price by 10% will reduce cigarette consumption by 5% overall, but youth is up to three times more sensitive to price. Cheap tobacco penetrates youth markets very effectively. Taxation should at least match inflation to influence price elasticity and affordability.
- Effective taxation must be 75%-80% of retail price whereas currently in Hong Kong it is only 69% (some variation by product).
- There are about 650,000 smokers in Hong Kong. One in two smokers is killed by disease caused by tobacco. **Thus, by NOT increasing tobacco tax a government will be responsible for thousands of deaths of smokers.**
- All duty free sales of tobacco should be abolished since this is a source of black market trading and Duty Free marked products have been found in the local illegal market. The allowance of 19 sticks per trip is pointless and leads to additional work for customs

officers at the border posts, reflected in the increased seizures last year after the budget increase. We should follow Singapore and abolish incoming duty free tobacco.

- Failure to raise tobacco tax is an admission of failure of law enforcement to be able to cope with illicit tobacco and destines more youth to addiction. Additional law enforcement measures can, if necessary, be funded by additional revenue from duty. This would be a public health approach which protects young people from nicotine addiction and ultimately a premature death.

Anti-smuggling action

- The WHO FCTC Protocol on Illicit Trade was adopted unanimously without dissent at COP5 in November 2012. Thus, track and tracing has become an imperative as member states move forward to ratify the Protocol.
- Mandatory tracking by pack and case marking of any imported cigarettes for which the technology has long been available, eg SICPA, would save Hong Kong millions of dollars. (See: <http://www.sicpa.com/government-security-solutions/tobacco>). The costs of the system would be the responsibility of the tobacco companies.
- Introduce mandatory fines on local tobacco companies for any genuine non duty paid product found in Hong Kong at a rate of 100 times the duty paid retail price of the product, increasing double fold each time a seizure is made. Pursue overseas civil claims against those companies which do not have an office or local agent here.
- Introduce mandatory minimum fines (e.g. of \$10,000) for possession of illegal non duty paid cigarettes by smokers. Licence all cigarette exporters, manufacturers and distributors and require detailed records of their activities and supply chain tracking and tracing.
- Licence all retailers who wish to sell cigarettes; they would first be warned, and then lose their licence, if found selling illegal cigarettes plus receive punitive mandatory fines for selling any tobacco product to under-aged youth.
- Increased anti illicit tobacco operations and manpower are of little use without mandatory penalties, including mandatory punitive fines and prison sentences for selling or importing non duty paid or other illicit tobacco. Courts should have no option other than to jail the culprits. Tobacco, like drink driving kills. Enforcement will have an immediate effect especially on health protection for youth.
- The European Community has issued major lawsuits against the main world tobacco companies in relation to smuggled contraband tobacco. As a result, in 2004 Philip Morris, followed later by Japan Tobacco International, agreed a settlement with the EU whereby major financial compensation would be paid by the tobacco companies over a period of years to EU and additionally that the tobacco companies would institute a track and trace system on their products. Any genuine article contraband found smuggled into the EU would result in agreed punitive fines.

We ask why a similar mechanism has not been set in place in Hong Kong to protect public health?

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WORLD HEALTH ORGANIZATION FRAMEWORK CONVENTION ON TOBACCO CONTROL

PART III: MEASURES RELATING TO THE REDUCTION OF DEMAND FOR TOBACCO

Article 6

Price and tax measures to reduce the demand for tobacco

1. The Parties recognize that price and tax measures are an effective and important means of reducing tobacco consumption by various segments of the population, in particular young persons.
2. Without prejudice to the sovereign right of the Parties to determine and establish their taxation policies, each Party should take account of its national health objectives concerning tobacco control and adopt or maintain, as appropriate, measures which may include:
 - (a) implementing tax policies and, where appropriate, price policies, on tobacco products so as to contribute to the health objectives aimed at reducing tobacco consumption; and
 - (b) prohibiting or restricting, as appropriate, sales to and/or importations by international travellers of tax- and duty-free tobacco products.
3. The Parties shall provide rates of taxation for tobacco products and trends in tobacco consumption in their periodic reports to the Conference of the Parties, in accordance with Article 21.



香港吸煙與健康委員會
HONG KONG COUNCIL ON SMOKING AND HEALTH



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致香港特別行政區行政長官及財政司司長公開信

	最新控煙動向 (請參閱附件)
2012年11月12日	世界衛生組織：FCTC/COP5(1) 消除煙草製品非法貿易議定書 http://apps.who.int/gb/fctc/PDF/cop5/FCTC_COP5(1)-ch.pdf
2012年11月17日	世界衛生組織：FCTC/COP5(7) 關於世界衛生組織煙草控制框架公約第6條(減少煙草需求的價格和稅收措施)實施準則的指導原則和建議 http://apps.who.int/gb/fctc/PDF/cop5/FCTC_COP5(7)-ch.pdf
2012年11月	亞洲開發銀行：〈煙草稅：財政與健康之雙贏策略〉總結於亞洲提高煙草稅「有利貧窮人士」(只提供英文版) http://www.adb.org/sites/default/files/pub/2012/tobacco-taxes-health-matters.pdf

世界各國均證實煙草價格為最有效減低煙草使用量的控煙措施，對年青人尤其有效。

香港每年有 7,000 人因吸煙而致命，每年社會需要因此而負擔超過 50 億元的開支，連同因人命損失造成的代價計算在內，數字更高達 73 億港元 (1998 年數據)。為掌握最新情況，香港大學公共衛生學院現正就修訂有關數據作深入研究。

我們促請政府檢討現行香港的控煙政策，以確保有關的立法及財政措施能夠全面一致，並有足夠人手嚴厲地實施。保護青少年避免染上吸煙習慣絕對要在公共衛生政策上佔著優先位置。

世界衛生組織《煙草控制框架公約》

2012年11月於韓國首爾舉行世界衛生組織《煙草控制框架公約》(《公約》)第五屆締約方會議，獲得與會者一致通過及認同以下協議及議定書，具有確切執行的必要性：

- a) 煙草稅制指引(附錄)及；
- b) 消除煙草製品非法貿易議定書。

中國於2005年簽署《公約》，香港作為中國的一部分，同樣需要履行締約方的責任。

煙草稅

- 相比其他鄰近國家以及對比人均本地生產總值，香港煙草稅率一直處於較低水平，例如一包萬寶路捲煙在香港的售價只是新加坡售價的65.8%。
- 世界銀行、世界衛生組織、世界經濟論壇及聯合國發展計劃均認同提高煙草稅是有效減低吸煙率的公共衛生措施。
- 亞洲開發銀行 - 「提高煙草稅有利貧窮人士」。

亞洲開發銀行於2012年11月發表報告 - 〈煙草稅：財政與健康之雙贏策略〉(“Tobacco Taxes: A win-win Measure for Fiscal Space and Health”)，研究亞洲國家的情況時總結：

「每個國家裡最弱勢的社會經濟群體在稅款增加時，負擔相對較小，然而他們卻能夠大大受惠於因減少吸煙而帶來的健康利益。貧窮人士負擔的額外稅款與他們所得的健康利益，比率是1.4至9.5。

因此，在亞洲國家大幅度增加煙草稅有利於提升公共健康及公共財政，對貧窮人士有利。」 (<http://www.adb.org/publications/tobacco-taxes-win-win-measure-fiscal-space-and-health>)

- 年青人對價格最為敏感。煙草價格每提高 10%，整體吸煙率會隨之而降低 5%，而年青人降低的比率更達三倍之多。廉價的煙草產品已成功侵佔年青人市場。因此稅率的加幅必需要能跟上通貨膨脹的速度，以保持價格變動所造成的影響力。
- 有效的煙草稅應佔零售價的 75% - 80%，香港現行的比率只佔 69% (視乎個別產品有所差別)。
- 香港現時每日吸煙人口約 650,000 人，每兩個吸煙人士，就有一人會因煙草引致的疾病而死亡。政府若不增加煙草稅，便要為每年數千名吸煙者的死亡負上責任。
- 免稅煙草產品是非法市場的貨源之一，因此一切給予煙草產品的免稅優惠均應取消。限制攜帶 19 支捲煙的政策並沒有理據，並為邊境海關工作人員帶來額外工作，去年增加煙草稅後，檢獲違法攜帶的數字更有所增加，。我們建議香港效法新加坡實施全面禁止免稅煙草產品入口。
- 反對增加煙草稅人士，經常指加稅會助長私煙。然而不加煙草稅的話，代表承認政府無力打擊私煙，並助長更多青少年染上吸煙惡習。提高煙草稅是預防青少年吸煙，以及減少市民因煙害而提早死亡的公共衛生措施，多收的稅款更可用作打擊私煙。

打擊走私煙草

- 世界衛生組織《煙草控制框架公約》消除煙草製品非法貿易草案已經於第五屆締約方會議中獲得全體成員的一致通過，各締約方均有責任全力推行煙草產品的物流追蹤系統，使議定書得以貫徹執行。
- 透過包裝的記號作產品追蹤的技術經過多年的發展已被廣泛應用，如 SICPA 等，有關技術可以替香港節省的金錢以百萬元計算。煙草

商應該承擔有關係統的開支。(詳見 <http://www.sicpa.com/government-security-solutions/tobacco>)

- 如在香港發現本地煙草商有任何非法未完稅煙草產品，應徵收比稅率高 100 倍的強制性罰款，如被發現再犯，把罰款增加一倍。對於在香港未有註冊或不設辦事處的煙草商，則採取海外民事訴訟。
- 向任何購買非法未完稅捲煙的吸煙人士，實施最低強制性罰款 (如 \$10,000)。所有捲煙外銷商、製造商及分銷公司必需註冊，並向有關部門提供銷售活動的資料及協助產品的追蹤及認證。
- 要求煙草零售商註冊，如被發現出售私煙，首次警告後再犯則註銷牌照。如售賣捲煙予未成年人士，則被強制性罰款。
- 煙草禍害與酒後駕駛一樣危害他人，政府應該一視同仁，面對私煙猖獗的情況，除了增加資源打擊走私活動外，應該對售賣及入口私煙者採取強制性的懲罰制度 (包括罰款及監禁)，才能事半功倍，以達到阻嚇的作用。
- 歐洲國家聯盟 (歐盟) 早在走私煙草的問題上與煙草公司進行法律訴訟，2004 年煙草商菲利浦莫利斯及日本煙草國際與歐盟達成共識，同意向歐盟賠償經濟損失及設立產品追蹤系統。現在於歐盟國家一經發現未完稅煙草產品均會被罰款。

香港擁有三十年控煙經驗，我們為何未能建立上述制度以保障廣大市民的公眾健康？

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聯署謹啟

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附錄：

《世界衛生組織煙草控制框架公約》

第 III 部分：減少煙草需求的措施

第 6 條

減少煙草需求的價格和稅收措施

1. 各締約方承認價格和稅收措施是減少各階層人群特別是青少年煙草消費的有效和重要手段。
2. 在不損害各締約方約定各制定其稅收政策的主權時，每一締約方宜考慮其有關煙草控制的國家衛生目標，並酌情採取或維持可包括以下方面的措施：
 - (a) 對煙草製品實施稅收政策並在適宜時實施價格政策，以促進旨在減少煙草消費的衛生目標；和
 - (b) 酌情禁止或限制向國際旅行者銷售和/或由其進口免除國內稅和關稅的煙草製品。
3. 各締約方應根據第 21 條在向締約方會議提交的定期報告中提供煙草製品稅率及煙草消費趨勢。