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OPEN SOCIETY INSTITUTE  
INTERNATIONAL POLICY FELLOWSHIP PROGRAMME

**TOBACCO ECONOMICS RESEARCH AND ADVOCACY**  
**ROMANIA - political mapping and advocacy strategy in**  
**tobacco control**



**= Research Paper =**

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Motto:

“Tobacco use is unlike other threats to global health. Infectious diseases do not employ multinational public relations firms. There are no front groups to promote the spread of cholera. Mosquitoes have no lobbyists.”

WHO Zeltner Report, 2000

## Introduction

This research, developed under the framework of the Open Society Institute – International Policy Fellowship Programme, aims to identify the current situation in Romania on the tobacco related problems.

In Romania and generally in Eastern Europe after the social and economic reforms that took place from 1989 death rate and morbidity patterns, which relates to tobacco products consumption have considerably changed. New issues became manifest in the tobacco market, which was, at that time, fed only by the internal production. Opening the borders have meant for the multinational companies then the finding of a new, empty market, thus appropriate for placing their products.

The statistics do still not comprise the real dimensions of smoking, individually and socially, within the Romanian society and it is for the moment a real need for evaluation from the point of view of consequences, to health, to the social life, to the environment and maybe first of all to the economy of the country.

It should be underlined that The Tobacco Atlas published by the World Health Organization in 2002 ranked Romania on the top ten countries with an estimated 44% smoking rate, men and women combined.

There are at present various very active actors into the anti-tobacco field. Representatives of governmental agencies, nongovernmental organizations, mass-media even private institutions are more and more interested in smoking prevention and, actually, make significant efforts in anti-tobacco campaigns. In spite of some attempts of establishing of a real communication and some partnerships, it is still not the situation of a solid alliance on the anti-tobacco field.

At the beginning of 2004 some nongovernmental organizations with activity in tobacco control field established the Romania Network for Smoking Prevention a new, formal organization. In the same time thanks to a project funded by the World Health Organization in the framework of “Channeling the Outrage” program it was established the Romanian Coalition for Tobacco control which is an informal organization with the focal point at the Center for Health Policies and Services.

At the governmental level the most active body in this field is the Romanian Ministry of Health but also the National Agency Against Drugs shows an increased interest in the tobacco control field.

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The final objective of this research is to publish in Romanian language a comprehensive book about tobacco and tobacco consumption in Romania. International and local experts will be invited to contribute with their experience and ideas to the content of this book.

## 1. Romania general overview

**Capital City: Bucuresti (Bucharest)**

**Romania is located in the South Eastern Europe with the following neighbors:**

- Republic of Moldova, Ukraine and the Black Sea on the east
- Bulgaria on the south
- Serbia and Montenegro (former Yugoslavia) on the south and south-west
- Hungary on the west
- Ukraine on the north

**Area: 238.391 square km, (91.699 square miles) ranking 12<sup>th</sup> in Europe.**

**Population: 21.689.181 (March 2002).**

**Ethnic Structure: Romanians 89,5%; Hungarians 6,6%; Roma 2,5%; other ethnic groups 1,4%.**

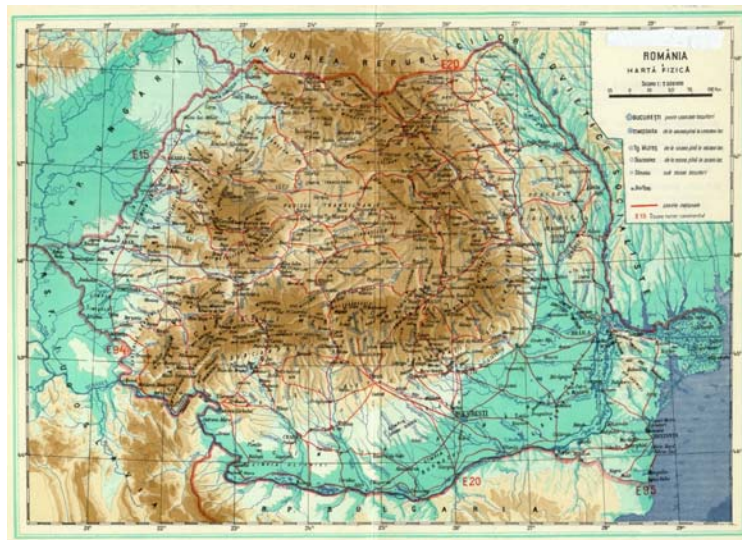
**Religion: Eastern Orthodox 86,7%; Roman Catholic 4,7%; Reformed 3,2%; Greek Catholic 0,9%; Evangelical 0,2%; Unitarian 0,2%; other religions 4%.**

**Official language: Romanian.**

**Administrative Organization: 41 counties (including the Municipality of Bucharest), comprising 263 towns and cities as well as 2.685 communes with 13.285 villages.**

**Government: Presidential Republic.**

**Legislative Power: The Parliament of Romania (485 members in the 2000-2004 legislature) has two houses: the Senate of Romania (140 members) and the Chamber of Deputies (345 members).**



Romania possesses an important natural, economic, social and geostrategic potential, as part and parcel of the European wealth, and this potential should be known and turned to good account. Romania has to apply a firm policy to develop a functional market economy, able to cope with the competition pressure and with the market forces within the European Union, as well as to assume the obligations resulting from accession.

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## **Methodology**

The present research is based on the text of the Framework Convention on Tobacco Control (FCTC) combined with data collected in Romania from different sources: legislation, statistics, studies, media, stakeholders involved in tobacco control.

According with the International Policy Fellowship Programme, for the Tobacco economics research and advocacy group, if possible, from each selected country, a team formed by an economist and an advocate in tobacco control will cooperate for the preparation of the final research paper.

Examples from tobacco industry documents obtained form Internet on-line search and thanks to the Visiting Scholars Programme organized by London School of Hygiene and Tropical Medicine (LSHTM) for studying BAT Guildford documents are used to show and underline the position and influence of the tobacco industry in Romania.

The 56th World Health Assembly adopted the World Health Organization (WHO) Framework Convention on Tobacco Control unanimously on 21 May 2003 and now countries continue to sign the WHO Framework Convention on Tobacco Control at the United Nations Headquarters in New York. Unfortunately, until today, Romania doesn't sign the Convention.

I chose this methodology because ...”The Framework Convention process will activate all those areas of governance that have a direct impact on public health. Science and economics will mesh with legislation and litigation. Health ministers will work with their counterparts in finance, trade, labor, agriculture and social affairs ministries to give public health the place it deserves. The challenge for us comes in seeking global and national solutions in tandem for a problem that cuts across national boundaries, cultures, societies and socio-economic strata<sup>1</sup>.”

On the way to integration to the European Union the Romanian legislation had to be harmonized with the European one and in this moment the role of nongovernmental organization is to advocate for speed-up the signature ratification and application of the FCTC.

All policy recommendation developed based on this research will be presented to Romanian politicians and media showing the steps that our country and region must follow for joining the global world and European movement for regulating tobacco production and consumption.

This kind of research was never done in Romania and my opinion is that Romania represents in this moment a very good model for studying all Tobacco Industry strategies for penetrating a new market including influencing political factors.

---

<sup>1</sup> Dr Gro Harlem Brundtland, Director-General Emeritus, World Health Organization.

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## Chapter one - The new democracy

We can consider the below letter the preamble of a long story, a story that sometime seems to be an endless story for the Romanian people. This is the tobacco story.

CHESTER G. ATKINS  
7TH DISTRICT, MASSACHUSETTS  
  
COMMITTEE:  
APPROPRIATIONS  
STANDARDS OF OFFICIAL CONDUCT  
  
AT LARGE DEMOCRATIC WHIP  
  
LINDA J. HARTKE  
ADMINISTRATIVE ASSISTANT

Congress of the United States  
House of Representatives  
Washington, DC 20515

REPLY TO:  
 WASHINGTON OFFICE  
504 CANNON BUILDING  
WASHINGTON, DC 20515-9998  
(202) 225-3411  
 DISTRICT OFFICE:  
134 MIDDLE STREET, SUITE 320  
LOWELL, MA 01852-1886  
(508) 459-0101  
Toll Free (800) 831-3125

January 25, 1990

Ms. Marian Succoso  
Director of Advertising & Marketing  
Loews Corporation  
1 Park Avenue, 15th Floor  
New York, New York 10016

Dear Ms. Succoso:


Having just returned from Romania, I must object to the full page Kent ad trivializing the overthrow of Nicolae Ceausescu (New York Times, Jan. 17).

According to the ad, "In Romania, Kents are too valuable to smoke. Fortunately, we live in America." Yes, it is fortunate we live in America, but not because of Kent cigarettes. The last thing developing countries need are the disastrous health consequences and the economic stagnation associated with cigarette addiction.

While most of the world is celebrating freedom in Eastern Europe, the cigarette industry is poised for a massive campaign to sell American brands. If recent history is any example, the industry will enlist the United States Trade Representative to open markets for their product.

After heroically overthrowing Ceausescu, the fledgling Romanian democracy needs U.S. support, not U.S. cigarettes. The new Romanian Health Minister Dan Enechescu, has made the reduction of cigarette use a top priority as scarce Romanian resources are absorbed to pay the frightening cost of tobacco-related health care.

Kent cigarettes were very popular under Ceausescu when Romanian people had little to live for. Now, as they "relish discovering life in a world without Mr. Ceausescu," Romanians, who have the shortest life expectancy in Europe, may relish a longer and healthier life without Kents.

Sincerely yours,  
  
Chester G. Atkins  
Member of Congress

*pr 1*  
~~cc: Mr. Laurence A. Tisch~~

92744050

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Among all Eastern European countries Romania has suffered the “big tobacco invasion” after the fall of the communist regime in December 1989.

During last 15 years the Transnational Tobacco Companies (TTC) have imposed and dictated the policy they wanted and all statistics show that they obtain the domination on the market.

As the Philip Morris documents show (Bates No: 2500120503-0537) the strategy is to work very closely with the high level officials:

PM'S STRATEGY HAS BEEN TO WORK VIA TOP-LEVEL  
POLITICAL CONTACTS IN EASTERN EUROPE MARKETS,  
NOTABLY IN THE FINANCE MINISTRIES. PM IS ALSO  
MAKING USE OF US DIPLOMATIC MISSIONS IN THE EASTERN  
COUNTRIES TO CONVEY OUR POINT OF VIEW. THIS EFFORT  
IS BEING DONE IN CO-ORDINATION WITH OUR WASHINGTON  
OFFICE, WHILE OUR MONITORING AND LOBBYING  
CAPABILITIES IN EE ARE BEING BEEFED UP.

2500120513

(11)

One example that shows that this strategy adopted by all TTC is the effective one is the position of the US Ambassador Alfred Moses addressed in 1994 an audience at the grand opening of a new American cigarette factory near Bucharest:

"I am sure that Camel and the other splendid products of the RJ Reynolds Tobacco Co. will prosper in Romania."

The same strategy is followed by BAT during the phase of their interest for privatization of the Romanian Tobacco Monopoly:

Letter from Lazard Brothers to Nigel Gourlay, Director of Operations – New Business Development BAT (Bates no: 203843233-234)

*“.....In Romania, as in all countries where ownership rights were not clearly defined because of the old centrally planned economic system, a consensus among several officials is usually sought since individual players are unsure as to whether they have the authority to take important decisions such as the privatization of a tobacco company. And of course they are often fearful of making a mistake which they could be accused of later.*

*Given the above, I believe the following steps should be taken:*

- (i) *Approach Mr. Adrian Epure, general Director of Food Industry with Banca Agricola, perhaps the major leader to the tobacco sector. Mr. Epure is well known to the European*



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- Bank for Reconstruction and Development where I have close contacts, as you know. (The EBRD has lent US\$80 million to Banca Agricola for on-lending)*
- (ii) Ask him to introduce us to Mr. Stan Dragomir, the newly appointed Secretary of State for Tobacco within the Ministry of Agriculture. I believe he will be the key man in the negotiating process.*
  - (iii) We should also continue discussions with Mr. Vasile Grigore, head of the Regie Autonome for Tobacco, the management of the selected tobacco company and begin discussions with Mr. Mircea Cosea, head of the Council for Economic Reform.*

Only few people involved in NGO's, working almost without money but with moral support from similar organizations around the world tried during this "transition period" to stop this aggression. In this sense the statement presented jointly by AER PUR ROMANIA and Smoke Free Maryland at the Philip Morris annual meeting in April 2002 was a key moment:

*"Good morning Mr. Bible (CEO of Philip Morris).*

*My name is Mark Breaux and I'm here representing Smoke Free Maryland and Aer Pur of Romania. Philip Morris and other tobacco companies have taken advantage of Romania and its people through your campaign of lies and manipulation. Your market share in that country has grown by over 14% in the past year alone. You have made millions of dollars through the suffering of your victims, but you will not win. You are dealing with organizations like Aer Pur Romania, who have the moral courage to work day in and day out to defeat Philip Morris and the tobacco industry that tries to take the very soul of a nation for its own profit.*

*Smoke Free Maryland has made much progress here at home, but will not allow our country to export its tobacco epidemic to more vulnerable nations. Philip Morris cannot hide behind a new name. We know who you are, we know what you do, and we will NEVER give up the fight.*

*(paraphrase) My question to you is... with all the problems that Romania and other countries in Eastern Europe have faced since the wall came down... with all of the burden on their health care systems... when do you plan to reduce your activities that cause so many health related problems in those countries?"*

*RESPONSE: Mr. Bible responded basically by saying that "Democracy" in Eastern Europe now gives people the choice to smoke.*

This is the understanding of the democracy for the rich companies the same companies that in 1999 join the forces to stop a new Romanian law that tried to regulate the tobacco and tobacco products aspects in Romania and that appear dangerous for the TTC.

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30/07/1999 12:02 +49-221-1646-658

RJRTG COLOGNE

S. 06



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**R.J. REYNOLDS TOBACCO ROMANIA S.R.L.**

**To:** RUSSELL GREENWOOD  
FERNAND DUCARROZ

**Cc:** ADRIAN POPA  
PETER IMRE

**From:** MICHEL HEITZMANN

**Cc:** GILDA LAZAR

Bucharest, July 30, 1999

**RE: Governmental Decision Concerning Tobacco and Tobacco Products**

The latest draft of the Governmental Decision Concerning Tobacco and Tobacco Products issued by the Public Health Institute seems to pose serious problems to the tobacco industry, concerning the scientific aspects.

We have engaged all our resources and managed to considerably improve the conceptual side of the document.

As for the scientific side, we would appreciate the involvement of your specialists.

In this respect please find enclosed the following documents:

1. The latest Romanian version of the Project of the Governmental Decision Concerning Tobacco and Tobacco Products, issued by the Public Health Institute – Bucharest;
2. The Romanian and English versions of the same Governmental Decision, containing the provisions suggested by us.

We consider this a non competitive issue and urge your involvement.

Sincerely yours,

Michel Heitzmann  
General Manager

2505563649

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**Bucharest, 9-9A, Dimitrie Pompei St., District 2**  
tel. (00 40 1) 204 31 11; fax 204 31 00

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RJRTG COLOGNE

S. 03

Lutz Mueller

July 27, 1999

***Comments on the Romanian Draft Governmental Decision  
Concerning Tobacco and Tobacco Products  
in its pre-July 28 Version***

.....  
Here are my comments (focussed on scientific/technical issues):

**Article 2 (1):** say "dried/cured leaves of *Nicotiana tabacum* and *Nicotiana rustica*". The species *Nicotiana rustica* is still used and should not be excluded.

**Article 2 (5):** say "raw material (leaves or strips or reconstituted tobacco)".

**Article 2 (6) – (10):** the English translation may not always be adequate; I hope the definitions are correct when expressed in Romanian language.

**Article 2 (16) - (21):** these definitions need to be made more precise; some - but not all - uncertainties may be due to the translation.

**Article 3 (2):** are we sure that "the standards in force or .. the technical product specifications" pose no problem?

**Article 5 (2):** this is a very unusual way of setting a limit for a smoke fraction and makes no sense. The material defined in Article 2 (22) includes water the amount of which is always several mg and can be quite variable depending on experimental conditions. The difference of only 4 mg between the material defined in Article 2 (22) and the material defined in Article 2 (24) (representing nicotine and water) is definitely too small and is certain to cause us a lot of trouble if implemented!

**Article 3:** this Article is going to kill us if it is kept in the Governmental Decision! We, and the whole industry, are hardly in a position to demonstrate that the additives which we use for manufacturing our products comply with the specifications set forth in Annex I. Nowhere in the world does this requirement exist and, if it existed, nowhere in the world could we meet it! For more details, see my comments below on Annex No. I.

**Article 8:** are we sure that "the regulations in force" pose no problem?

**Article 9 (1):** the term "coloranti alimentari = edible dyes" requires a definition. It may be possible to refer to the so-called E-numbers (granted by a European Union expert body) but this needs to be looked into in detail.

**Article 10:** are we sure that "the regulations issued by the Ministry of Health" pose no problem?

**Annex No. I:** This Annex - and the reference to it in Article 3 - is the most critical aspect of the draft Governmental Decision. To start with, I would like to pose a whole series of questions and then make a few statements:

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RJRTG COLOGNE

S. 02/02

R. J. REYNOLDS TOBACCO COMPANY  
COLOGNE OFFICE

DR. LUTZ MUELLER  
Research & Development  
Scientific Affairs



Razvan Bocaneala	BAT Romania	Bucharest
Jean-Bernard Boder	Philip Morris Europe	Neuchâtel
Ecaterina Iovanescu	RJR Romania	Bucharest
Eva Schumacher	BAT Germany	Bayreuth

August 6, 1999

Dear Colleagues:

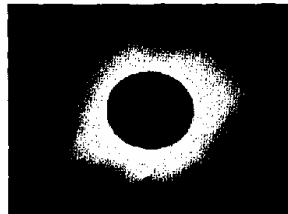
A meeting has been arranged for the discussion of the Romanian draft "Project of Governmental Decision concerning Tobacco and Tobacco Products"

*on Wednesday, August 11, 1999, at 11:00 hours  
at the Munich Airport Business Service Center, Room 14.*

The Business Service Center is located opposite Terminal D and is clearly signposted in the airport as "BSC Konferenzzentrum".

Room 14 in the BSC Conference Center is available from 10:00 hours on. Frau Schumacher, parking is available at the parking lot P25 (behind the Business Service Center) where you have four hours free parking as a guest of the BSC.

I am looking forward to welcoming you in Munich and to a pleasant and productive meeting on the regulatory challenge in Romania. During the meeting we may even be able to see the stars.



With kindest regards,

(My mobile phone is always on duty:  
+49 - 171 - 355 9346)

MARIA-ABLASS-PLATZ 15 · D-50668 COLOGNE  
TELEPHONE: (+ 49) 221 - 16 46 - 379 · TELEFAX: (+ 49) 221 - 1646 - 658

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**The TTC “democracy” was again imposed to the Romanian society, the Draft were never adopted and the following document where is underlined that the “Romanian legislators had a more limited interpretation in mind” is a clear prove of sarcasm and manipulation.**

2078378922

---

**From:** Prince, James  
**Sent:** Tuesday, November 16, 1999 4:10 PM  
**To:** Gatenby, Dermot  
**Cc:** Williams, David L.; Hurwitz, Even; Kiss, Emese; Jackson, James  
**Subject:** Romania - Draft Tobacco Ordinance, Annex 3

Dermot, after our call I discussed this issue in more detail with David Williams. He thinks it's OK to leave the "and its derivatives" phrase referred to in his 28 October e-mail, insofar as the reference appears to be limited to derivatives of the substances in question rather than widely-used unrelated flavorings such as nutmeg and mace oil (which are widely accepted for use and not derived from the substances in question).

If it turns out down the line that due to translation or other reasons the Romanian legislators had a more limited interpretation in mind, we will work with them to ensure our compliance with their regulatory intent.

Kind regards,

Jamie

**In this time the poor Romanian smoker did not understand anything and the mass of non-smokers and passive smokers fought an unequal battle. On one hand the “serious investors” were selling death and on the other all diseases coming from the habit of smoking.**

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## **Chapter two - What is FCTC**

The framework convention (protocol) approach allows law-making to proceed incrementally, beginning with a framework convention that establishes a general system of governance for an issue area, and then developing more specific commitments and institutional arrangements in protocols. This method has been used with considerable success in the environmental arena, to address such problems as acid rain and stratospheric ozone depletion.

Elements of a framework convention may include:

- A statement of the convention's overall objective and guiding principles.
- Basic obligations, including commitments to take national measures to address the relevant problem, to exchange information, to cooperate in scientific research, and to submit periodic reports.
- Institutions, including at a minimum, a regular conference of the parties and secretariat, and also possibly a scientific advisory body, implementation body, and financial mechanism.
- Mechanisms to review implementation, promote compliance, and resolve disputes.
- A law-making process for the adoption of more specific commitments, usually in protocols.

The idea of an international instrument for tobacco was initiated with the adoption of Resolution WHA 48.11 in May 1995, requesting the Director General to report to the Forty-ninth Session of the World Health Assembly (WHA) on the feasibility of developing an international instrument such as guidelines, a declaration, or an international convention on tobacco control.

192 member states of the 56th World Health Assembly unanimously adopted on 21 May 2003, the first global health treaty, the Framework Convention on Tobacco Control (FCTC).

The final text of the FCTC, reached after four years of diplomatic negotiations, provides the basic tools for countries to enact comprehensive tobacco control legislation.

### **2.1. Summary of the Framework Convention on Tobacco Control (FCTC)**

#### *Advertising, Promotion and Sponsorship (FCTC - Article 13)*

**A comprehensive ban is required:** The FCTC requires all Parties to undertake a comprehensive ban on tobacco advertising, promotion and sponsorship within five years of ratifying the treaty. The ban must include cross-border advertising originating within a Party's territory.

#### *Packaging and Labeling (FCTC - Article 11)*

Large health warning labels are required. Parties to the treaty agree that health warning labels ideally should cover 50% or more of the principle display areas of each packet, which for a standard cigarette package means both the front and back. Parties are required to implement health warning labels that cover, at a minimum, 30% of the principle display areas within three

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years of ratifying the treaty. Health warning labels must include rotating messages in the principle languages of the Party, and may include pictures or pictograms.

Deceptive labels must be prohibited. Countries agree to prohibit misleading or deceptive terms on tobacco product packages within three years of becoming a Party. Research has proved that cigarettes that are labeled "light", "low tar", and "mild" (among other terms) are as dangerous as those denoted as regular and thus these terms mislead and deceive consumers about the risks involved in the use of these products. Although the treaty does not specify the terms that Parties should ban, the scientific evidence would certainly support banning the use of terms such as "light", "mild", "low tar", etc.

### *Second-hand Smoke (FCTC - Article 8)*

Nonsmokers must be protected in workplaces, public transport and indoor public places. The treaty recognizes that exposure to tobacco smoke has been scientifically proven to cause death, disease and disability. It requires all Parties to implement effective measures to protect nonsmokers from tobacco smoke in public places, including workplaces, public transport and indoor public places -- evidence indicates that only a total smoking ban is effective in protecting non-smokers.

### *Smuggling (FCTC - Article 15)*

Action is required to eliminate tobacco smuggling. Measures required include marking all tobacco packages in a way that signifies the origin and final destination or the legal status of the product, and cooperating with one-another in anti-smuggling, law enforcement and litigation efforts.

### *Taxation & Duty Free Sales (FCTC - Article 6)*

Tobacco tax increases are encouraged. The treaty states that "each Party should take account of its national health objectives concerning tobacco control" in its tobacco tax and price policies. The treaty recognizes that raising prices through tax increases and other means "is an effective and important means of reducing tobacco consumption by various segments of the population, in particular young persons."

Duty-free sales are discouraged. Parties may prohibit or restrict duty-free sales of tobacco products.

### *Product Regulation & Ingredient Disclosure (FCTC - Articles 9 & 10)*

Tobacco products are to be regulated. The Parties agree to establish guidelines that all nations may use in regulating the content of tobacco products.

Ingredients are to be disclosed. Parties shall require manufacturers to disclose to the government the contents of their tobacco products.

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### *Liability (FCTC - Articles 4.5 and 19)*

Legal action is encouraged as a tobacco control strategy. The treaty recognizes that liability issues are an important part of a comprehensive tobacco control program and the Parties agree to consider legislative and litigation approaches to advance tobacco control objectives. Parties also agree to cooperate with one another in tobacco-related legal proceedings.

### *Treaty Oversight (FCTC - Article 23)*

A strong Conference of the Parties will oversee the treaty. The FCTC establishes a Conference of the Parties (COP) which will convene within one year of the treaty's entry into force. The COP is empowered to monitor the implementation of the treaty, adopt protocols, annexes and amendments to the FCTC, and to create appropriate subsidiary bodies to carry out specialized tasks.

### *Financing (FCTC - Article 26)*

Parties have committed themselves to promote funding for global tobacco control. The Parties agree to mobilize financial assistance from all available sources for tobacco control initiatives for developing country Parties and for Parties with economies in transition, including from regional and international intergovernmental organizations and other public and private sources.

### *Other Important Commitments*

- Each Party shall establish or reinforce and finance a national coordinating mechanism or focal point for tobacco control. (FCTC - Article 5)
- Parties shall endeavor to include tobacco cessation services in their national health programmes. (FCTC - Article 14)
- Parties shall prohibit or promote the prohibition of the distribution of free tobacco products. (FCTC - Article 16)
- Parties shall promote the participation of NGOs in the development of national tobacco control programmes. (FCTC - Article 12)
- Parties shall prohibit the sale of tobacco products to persons under the age set by national law, or eighteen. (FCTC - Article 16)
- No reservations to the FCTC are allowed. (FCTC - Article 30)
- The FCTC will enter into force 90 days after ratification by the 40th country. (FCTC - Article 36)

The full text of the FCTC can be read at:

[http://www.who.int/tobacco/fctc/text/en/fctc\\_en.pdf](http://www.who.int/tobacco/fctc/text/en/fctc_en.pdf)

As can be read above the Framework Convention on Tobacco Control (FCTC) is a new legal instrument that could address issues as diverse as tobacco advertising and promotion, agricultural diversification, smuggling, taxes and subsidies.

From June 2003 when the FCTC was open for signature until June 29, 2004 **1XX (TBC on June 30, 2004!)** countries from all six World Health Organization regions, as well as the European Community, had officially signed the treaty. The next step will be to get these countries to ratify.



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Forty countries need to ratify the treaty before it enters into force, after which protocol negotiations can proceed and a subsidiary body will begin meeting to review country compliance and provide technical (and possibly) financial assistance.

Pursuant to paragraph 7 of resolution WHA56.1, the first session of the Open-ended Intergovernmental Working Group on the Framework Convention will be convened from 21 to 25 June 2004. The Working Group is responsible for considering and preparing proposals on those issues identified in the Convention for consideration and adoption, as appropriate, by the first session of the Conference of the Parties. Romania will have a representative delegated to attend the working group. The Agenda of this first working group comprises:

- Activities of the Secretariat since the adoption of the WHO FCTC
- Draft rules of procedure for the Conference of the Parties, including criteria for participation of observers
- Draft financial rules for the Conference of the Parties
- Draft budget for the first financial period
- Options for the designation of the permanent secretariat and arrangements for its functioning
- Potential sources and mechanisms of support

## 2.2. Tobacco industry position regarding the FCTC

### British American Tobacco

The treaty calls for a comprehensive ban on all advertising but British American Tobacco is concerned about how this could limit the Group's ability to tell consumers about potentially reduced risk products which, over time, it aspires to develop.

Martin Broughton, BAT, Group's Chairman said: "To have sensible regulation that can really contribute to reducing the health impact of tobacco, we need to move away from the adversarial approach of the WHO, to one of co-operation and inclusion. On public smoking, for example, it would be helpful if the WHO could base its views on sound scientific evidence, rather than continuing to promote the belief that smokers pose a significant threat to non-smokers' health."

As the world's first international health agreement, the tobacco control treaty sets a precedent that could in future affect many other industries, such as alcohol and fastfood.

[http://www.bat.com/oneweb/sites/uk\\_3mnen.nsf/vwPagesWebLive/DO52WQJV?opendocument&DTC=20040605&TMP=1](http://www.bat.com/oneweb/sites/uk_3mnen.nsf/vwPagesWebLive/DO52WQJV?opendocument&DTC=20040605&TMP=1)

### Philip Morris (Altria)

The FCTC is an opportunity - for consumers, the public health community and the tobacco industry. We look forward to working with governments around the world to use this opportunity to encourage effective regulation of tobacco products everywhere

[http://www.philipmorrisinternational.com/pages/eng/busenv/global\\_t\\_control.asp](http://www.philipmorrisinternational.com/pages/eng/busenv/global_t_control.asp)

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**Japan Tobacco International**

**Comments by Japan Tobacco on the Proposed Framework Convention on Tobacco Control**  
Tuesday, August 01, 2000

**„In other instances, the FCTC may have an impact on our business and the livelihoods of many people associated with tobacco that is disproportional to any potential benefit.”**

**[http://www.jti.com/english/press\\_room/press\\_releases/pr\\_article\\_01\\_08\\_2000.aspx](http://www.jti.com/english/press_room/press_releases/pr_article_01_08_2000.aspx)**

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## **Chapter three - Romanian legislation for Tobacco Control**

**“Legislation is the heart of effective tobacco control. It expresses society’s deeply held values, institutionalizes a country’s commitment, creates a focus of activity, and controls private conduct in ways that informal measures cannot. Enacting strong legislation involves difficult challenges, however. These often include limited public understanding of the problem, as well as the need to develop national “capacity” – the infrastructure and resources for a critical mass of support. Perhaps the greatest barrier to success is the extraordinary opposition of the tobacco industry and its allies” (Tobacco Control Legislation, An Introductory Guide, World Health Organization 2003, D. Douglas Blanke – editor).**

**Enacting tobacco control measures administratively through regulations rather than legislatively, if adequate legal authority exists for doing so, can have strategic advantages: typically a quicker and less contentious process, and the possibility of avoiding the tremendous influence the tobacco industry may have in the legislature.**

**Acting administratively will require a committed and strong Minister, as well as a legal system that vests the administrative branch of government with authority that the legislative and judicial branches cannot easily override.**

**In Brazil, for example, administrative orders by the Minister of Health make up most of Brazil’s comprehensive and stringent tobacco control measures. Because of the Minister of Health’s high level of commitment to tobacco control, the tobacco industry lacked the leverage to block the Ministry’s administrative measures.**

**On the other hand where in a country the Minister is not committed, delay or weak regulations could be the result. Another consideration is the degree of turnover in Ministers--constant changes in the Ministry, like in Romania during last years especially 2003, could result in changes in commitment and lack of consistent implementation.**

**Romanian legislation on tobacco control is at present in a pro-active process of development of appropriate measures in order to protect the Romanian population from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke. Measures have been taken for reducing continually and substantially the prevalence of tobacco use and exposure to tobacco smoke. A great impact of the process has been made by the European legislation and the engagements assumed by the Romanian Government in the pre-accession process.**

**This process made possible the adoption of „one law after another”, to be enforced measures for banning selling tobacco products to minors, banning smoking in public places, workplaces or public transportation or to define clear messages and dimensions for the health warning text on the units packets. There is no doubt that there are other candidate countries that made even more advanced steps within the restrictions for the tobacco products, like Poland that already has a law, enforced one, that bans totally the tobacco products promotion and advertising. For the moment, Romania is not yet prepared to adopt such a law but with some efforts made by appropriate forces (NGOs and professional bodies to develop lobby and advocacy activities) it is very possible that in the future this issue to be raised into the public attention.**

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Shortly, revising and analyzing the legislative efforts in the country we could identify some strengths, limitations and opportunities such as:

***Strengths:***

- EU accession process and harmonization of the European legislation.
- FCTC adoption and opening to ratification.
- European Strategy for Tobacco Control, already adopted by the ministers of health from all over Europe (and the Romanian Minister of Health was one of them).
- Important pole of nongovernmental organizations, capable to coagulate into a National Network, as an important “voice” for the lobby activities.

***Limitations:***

- Absence of a National Action Plan on Tobacco Control.
- Inconstant interest of the decision makers for tobacco control.
- High percentage of medical doctors that smoke and low interest in counseling for quitting within the health professionals (even low level or, more or less, the absence of a simple advice coming from the doctor to the patient regarding the harm of tobacco consumption).
- The partnership between nongovernmental organization and the governmental agencies is not sufficiently empowered and “visible”.
- Tobacco Industry lobby in order to delay the legislative process as much as possible.

***Opportunities:***

- The ongoing establishing of a national network of the nongovernmental organization together with the governmental agencies, as a joining force in identifying the best solutions in tobacco control in Romania.
- Signing and ratifying Framework Convention on Tobacco Control.

### **3.1. Opportunities and difficulties for tobacco control in the process of pre-accession of Romania to the European Union**

In recent decades, the health of the Community population has improved dramatically, as shown by the fact that life expectancy at birth has risen by five years since 1970. While there is every reason to welcome this development, it must not be allowed to hide the fact that there are still serious health problems in the Community:

- one person in every five still dies prematurely (before the age of 65) from avoidable diseases, particularly relating to lifestyle, or as a result of accidents;
- new risks to health are emerging, especially from communicable diseases;
- there are still wide variations in health status from one socio-economic stratum to another;
- the ageing of the population is giving rise to a substantial increase in diseases related to old age, such as Alzheimer's disease.

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Health care systems in the Member States are subject to conflicting pressures. On the one hand, the proportion of GDP devoted to health care spending has doubled over the last three decades and is rising steadily: this is mainly due to demographic factors, the cost of new medical technologies and citizens' increased expectations. On the other hand, the general constraints on public finances make it necessary to reform health care systems in order to contain expenditure while optimizing the sector's cost-effectiveness in a context of increased competition.

Member States must manage these conflicting pressures without losing sight of the importance of health to people's well being and the economic importance of the health systems. Community public health policy must take account of both the prospects of enlargement and the world context. The health care systems of the countries of central and Eastern Europe compare poorly with those of the existing Member States, mainly on account of inadequate resources. For this reason, the problems with which they are faced are different. It will be necessary to help these countries improve the effectiveness of their health system, as well as to examine the potential impact of enlargement on health in the present Member States.

The EU enlargement is the greatest challenge of Europe at the beginning of the 21st Century due to the chance to unite a continent where two world wars took place and resulted in losses of millions of human lives in less than 100 years.

Romania is a country willing to be part of the European Union. For Romania, integration in the EU means a guarantee of stability, economic growth, and performances. The EU enlargement leads to a genuine revolution at the level of the European policies. Romania has enrolled in this irreversible process and takes part in the modernization required by the integration into the European Union, which entails the general evolution of the whole Romanian society.

Romania's bid to join the EU is overwhelmingly sustained by citizens (over 80% of the Romanians declare themselves in favor of the country's admission to the European Union). For Romanian citizens, as well as for those of the European Union, the identity of the European space is expressed by working places, fighting poverty and social exclusion, decent education, adequate health-care, a common approach of environment protection, of climate change and food security. Due to the present status of Romania, as a candidate country to accession into European Union by the process of enlargement launched by European Union, the recent developments made within the tobacco control legislation had focused on the key word – "acquis communautaire", involving transposing and harmonizing of the Romanian legislation to the European Union's one. To have a better understanding of the European efforts of tobacco control we will have a short overview of the process in European Union or Member States.

The last year has seen very dynamic changes in European Member States on tobacco policies:

- Direct and indirect advertising ban adopted in Denmark, Netherlands and United Kingdom
- Direct advertising ban adopted in Czech Republic
- Direct ban on certain forms of advertising adopted in Armenia, Georgia, Kazakhstan, Moldova and Uzbekistan
- Stronger legislation in second-hand smoking adopted in Azerbaijan, Kazakhstan, Netherlands Italy, Greece and Romania
- Legislation on smoke-free restaurants and bars in Norway

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- Tax increases on tobacco products in France and several other countries
- One of the most mediated successes is the new law adopted in Ireland at the initiative of Minister of Health regarding banning smoking in workplaces.

It is now a year since some of the requirements of the Tobacco Products Directive (2001/37/EC) came into effect, for example, terms such as "light" and "mild" were banned, and health warnings had to cover not less than 30% of the front of cigarette packs and not less than 40% of the back. From January 2004, cigarettes that are either manufactured or sold in the European Union must conform to particular product standards.

The Directive on advertising and sponsorship of tobacco products (2003/33/EC) proposes a general ban on advertising of tobacco in the press, radio and Internet and bans sponsorship of events. It is to be implemented by the end of July 2005.

In the context of the European integration process, through its National Plan for Accession into the European Union (NPAR) Romania has engaged to approve the Tobacco Bill by the end of 2002, a complex set of norms integrating this regulatory act with the effective European legislation. We are speaking here about the Draft Law for approving the technical and hygiene norms in the producing, stamping, storing, transporting, and selling of tobacco products.

### **3.2. Highlights of the current Tobacco Control Legislation**

Within the process of transposing and implementing of the European Union acquis regarding tobacco products

In the Position Paper included in the negotiations documents with European Commission for Romania's accession into European Union, Chapter 13, it is foreseen that the EU legislation regarding tobacco products will be adopted by end - 2003.

- Council Directive 89/622/EEC of 13 November 1989 on the approximation of the laws, regulations and administrative provisions of the European Union Member States concerning the labeling of tobacco products and the prohibition of the marketing of certain types of tobacco for oral use, amended by Directive 92/41/EEC, has been transposed by:
  - Ministerial Order no. 853/2000 regarding establishing of the health warning text and its dimensions for tobacco advertising
- Directive 98/43/EC of the European Parliament and the Council on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products (annulled in 2000), as well as Directive 89/552/EEC which imposes a prohibition on television advertising of tobacco products
  - The Law for approval of the Governmental Emergency Ordinance no. 55/1999 for banning the tobacco products advertising in cinema halls and banning selling tobacco products to minors, which provides:
    - ✓ banning the tobacco products advertising in cinema halls
    - ✓ banning selling tobacco products to minors

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- **The Law no. 148/2000 regarding advertising, which provides:**
  - ✓ **establishing of the mandatory norms for advertising, teleshopping and sponsorship**
- **Directive 2001/37/EC of the European Parliament and of the Council of 5 June 2001 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products, WHICH ANNULES THE 89/622/CEE Directive, as well as 92/41/CEE Directive – and the Resolution of the Council and the Ministers for Health of the Member States on banning smoking in places opened to the public (89/C/189/01), will be transposed by:**
  - **Law no. 349/2002 for preventing and combating the effects of the tobacco products use – entered into force in December 2002. Has been elaborated in few different variants between 1992 and 2002, by various initiators but it was never adopted<sup>1</sup>.**
    - ✓ **Banning smoking in closed public places,**
    - ✓ **Labeling the tobacco products; establishing the health warnings**
    - ✓ **Involving the radio and television national companies in broadcasting antitobacco messages shows a.s.o.**
    - ✓ **Protecting the health of the non-smokers and smokers by the tobacco harm**
  - **Governmental Ordinance no. 13/2003 for modifying and completing the Law no. 349/2002, elaborated and initiated by the Ministry of Health and Family in December 2002**
    - ✓ **Establishes the norms for the smoking areas**
    - ✓ **Corrects some wordings in concordance with the Directive 2001/37/CE**
    - ✓ **Complete ban of smoking in hospitals and any health facilities**
  - **Law no. 275/2003 for approving the Governmental Ordinance no. 13/2003 for modifying and completing the Law no. 349/2002**
  - **Law no. 90/ February 2004 for modifying and completing Law no. 349/2002 for preventing and combating the effects of the tobacco products use;**
    - ✓ **Establishing of the maximum concentrations for tar, nicotine and carbon monoxide and labeling regarding this issue**
    - ✓ **Regulating the product, in order to prevent the development of the use of tobacco products that smoke and tobacco products that don't smoke**

There are some differences between the new law (Law 90) and the old law (Law 349) regarding the date of entering into force. Law no. 90/2004 postpones the date of entry into force of the provisions related to:

- ✓ **Labeling of tobacco products**
- ✓ **Prohibiting the sale of cigarettes individually or in packets of fewer than 20 cigarettes**
- ✓ **Maximum tar, nicotine and carbon monoxide yields**

The new date of entry into force is 1st of January 2007. The date for entry into force of the rest of the provisions of the Law 349 or of the new law (no. 90/2004) is December 31st, 2004.

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<sup>1</sup> The major argument in passing the law into the chambers of the parliament was finally, the accession process!

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### **Romanian legislation on advertising, teleshopping and sponsorship of tobacco products**

**Banning advertise for the tobacco products is one of the most important measure for tobacco control, recommended by all international organizations.**

**After political changes from 1989, cigarettes were present practically in all mass-media - on TV, radio, streets, magazines, etc - with attractive spots, banners and articles.**

**Since 2000, advertisement was regulated partially, nowadays being accepted some forms of indirect advertisement: outdoor, sponsorship for cultural events, advertisement inside journals, magazines and books.**

- **The Law no. 349/ 06.06.2002 - about prevention and control of the effects of tobacco use - don't ban totally the advertisement: "Advertising for tobacco products is permitted according to actual legislation".**
- **Advertising and teleshopping for cigarettes and other tobacco products on TV and radio are banned:**
  - **Decision of the National Council of Audiovisuals (NCA)no. 65/ 23.05.2000**
  - **Law no. 148/ 26.07.2000**
  - **Law no.504/11.07.2002.**

**The NCA's representatives are responsible for the implementation of the Law; the fine is between 50.000.000 ROL and 500.000.000ROL<sup>1</sup>.**

- **Advertising for cigarettes and tobacco products is banned:**
  - **1. on printed mass-media - journals, magazines:**
    - ✓ **Law no. 148/ 26.07.2000 - on the first and last covers of the printed materials;**
    - ✓ **Law no. 283/ 15.05.2002 - explicites the term "cover" - the representatives of Consumer's Protection Agency are responsible for the implementation.**
  - **2. Inside educational and medical establishments, or outside, to a distance lesser than 200 m from the entrance, measured on public road:**
    - ✓ **Law no. 148/ 26.07.2000 - the representatives of local town hall are responsible for the implementation.**
  - **3. In publications addressed especially to minors.**
    - ✓ **Law no. 148/ 26.07.2000**
  - **4. In show halls:**
    - ✓ **Ban was for all shows - OUG no. 55/29.04.1999 (approved by Order of Minister of Health no. 318/519/ 13.05.1999).**
    - ✓ **at present - advertising for tobacco products is banned before, during and after shows addressed to minors, and before, during and after shows addressed to adults and performed between 5.00 am - 8.00 pm (Law no. 151/26.07.2000, Law no. 125/ 3.04.2001).**
    - ✓ **Law no. 148/ 26.07.2000**
  - **5. On public transport tickets:**
    - ✓ **Law no. 148/ 26.07.2000. The representatives of local town hall are responsible for the implementation.**
- **Advertising for tobacco products is allowed in none of the conditions in which:**
  - ✓ **it is addressed to minors;**

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<sup>1</sup> 1 EURO = 41.000 ROL ; 1USD = 34.000 ROL (june 2004)



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- ✓ there are presented minors consuming such products;
- ✓ it is suggested that tobacco products have therapeutically properties, or sedative effect, or could resolve personal problems;
- ✓ it is transmitted a negative imagine about abstinence;
- ✓ there aren't mentioned the warnings, in Romanian language.

The implementation authority is the Consumer's Protection National Authority or Ministry of Health. The sanctions are a fine (between 15.000.000 and 40.000.000 lei) and the obligation to withdraw the advertisement or to modify it.

- TV advertising and teleshopping "stimulating attitudes that could affect health" are banned in the Decision of NCA no. 65/ 23.05.2000 but not in the Law 148/2000, the restrictions being reintroduced in the Law no.504/11.07.2002.
- Restrictions about advertising that encourages "attitudes affecting the environment" are stipulated in the Decision of NCA no. 65/ 23.05.2000, Law 148/2000, Law no.504/11.07.2002.
- Companies producing and selling tobacco products couldn't sponsor TV and radio programmes:
  - ✓ Decision of NCS no. 65/ 23.05.2000
  - ✓ Law no.504/11.07.2002.
- Companies asking for outdoor advertising for tobacco products have to pay 20% from the contract's value to local budget - OU no. 84/ 23.12.1997.

**Recent developments (first half of year 2004):**

Ministry of Health elaborated a Draft Law regarding the advertising and sponsorship in favor of the tobacco products in order to transpose the Directive 2003/33/EC of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products and also some provisions from the Council Recommendation 2003/54/EC of 2 December 2002 on the prevention of smoking and on initiatives to improve tobacco control. The Ministry of Health organized public debates for the text of the draft law and took into consideration those suggestions for modification that was in line with the Community legislation. At present the draft law obtained the approval on the text by all ministries except Ministry of Justice (MoJ) – the approval process within MoJ is still ongoing. After approval by the Government the draft law will be submitted to the Parliament.

### **Financial legislation – taxation for tobacco products**

Legislația română în domeniul **ACCIZELOR LA TUTUN** a suferit numeroase modificări din 1990 din punct de vedere al nivelului taxei și al modului de calcul. Precursorul accizei a fost "*impozitul pe circulația mărfurilor*" stabilit, prin HG 1109/18.10.1990.

În HG nr. 779/ 15.11.1991 (cu Norme de aplicare nr. 262754/ 1.12.1991) apare pentru prima dată noțiunea de *acciză pentru produsele din tutun* iar referirile la tutun sunt abrogate de OG nr. 28/ 26.08.1992.

OG nr. 28/ 26.08.1992 (abrogată de Legea nr. 3/ 24.02.1993) stabilește un mod nou de calcul:

- Acciza reprezintă un procent din prețul de vânzare (pentru produsele locale) sau din valoarea în vamă (pentru produsele importate);

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- Cota este de 185 pentru țigarete și produse din tutun cu excepția mărcilor Top, Dacia, Record, Pescăruș, Snagov (pentru care cota este de 70) și Mărășești, Carpați, Bucegi (pentru care cota este de 45);
- Produsele importate temporar sau aflate în regim de tranzit nu sunt supuse accizelor.

Normele de aplicare sunt prevăzute în Ordinul 5188/ 19.07.1993 și a fost aplicată din 1 ianuarie 1993. Pentru reglementarea prețurilor, a livrării, emiterea facturilor fiscale, avizelor de expediție de însoțire a mărfii s-a emis Ordonanța Guvernului nr. 27/2000 privind regimul produselor supuse accizelor).

O modificare a nivelului accizelor s-a făcut și prin OG nr. 57/ 25.06.2003: 4,47 euro + 32% pentru 1000 țigarete; pentru 1000 țigări și țigarete de foi, acciza este de 8 euro; pentru 1 kg tutun destinat fumatului, acciza este de 16 euro, din care pentru tutunul destinat rulării în țigarete acciza este de 11 euro/kg.

Comercializarea produselor din tutun are norme distincte începând cu OG nr. 50/ 14.12.1998, formularele, taxele de comercializare modificându-se succesiv. Astfel, taxa de comercializare a țigaretelor și a produselor din tutun în sistem en detail a crescut de la 1.000.000 lei (în 1998) la 5.000.000 lei (în 2002).

Legea nr. 521/ 17.07.2002 reglementează supravegherea și autorizarea producției, importului și circulației produselor din tutun, fiind instituite măsuri antifraudă. Conform HG nr. 1036/28.08.2003, contravențiile care au legătură cu produsele din tutun sunt înscrise în certificatul fiscal.

OG nr. 22/ 1992 instituia taxa pentru ocrotirea sănătății care a fost eliminată prin OG nr. 57/ 25.06.2003 prin includerea ei în acciză, începând cu data de 1.03.2003.

OG nr. 86/28.08.2003 reglementează regimul produselor din magazinele dutyfree și include produsele din tutun în regimul de antrepozitare fiscală.

Sistemul de marcare este reglementat prin Ordonanța Guvernului nr. 23/1995 privind instituirea sistemului de marcare pentru țigarete, produse din tutun și băuturi alcoolice, Ordinul ministrului finanțelor nr. 1.772/1998 pentru aprobarea Normelor metodologice de aplicare a Ordonanței Guvernului nr.23/1995 privind instituirea sistemului de marcare pentru țigarete, produse din tutun și băuturi alcoolice, republicată, cu modificările ulterioare

În toată perioada parcursă până în prezent, au fost adoptate acte normative care au modificat nivelul accizelor, însă ceea ce este important de menționat este faptul că în vigoare este în prezent, **Legea 571 din 22 decembrie 2003** (Publicată în Monitorul Oficial, Partea I nr. 927 din 23/12/2003), lege prin care se stabilește **noul Cod Fiscal**, act normativ care include prevederi cu referire la marcarea, accizarea, taxarea produselor din tutun. Noul cod fiscal abrogă prevederile anterioare și este un act normativ care armonizează în totalitate prevederile similare în legislația Uniunii Europene. Cota de accizare este în prezent încă scăzută față de nivelul european însă există un calendar de creștere gradată a acestei cote până la atingerea cotei de 64% pentru produsul cel mai consumat. Începând cu anul 2004 nici un producător nu mai poate produce decât dacă obține autorizarea conform legii (autorizare de antrepozit fiscal).

În ceea ce privește încadrarea pe clase de calitate au fost emise Ordinul ministrului finanțelor nr. 1151/1997 și Ordinul ministrului finanțelor nr. 1151/1997 privind încadrarea pe clase de calitate a unor sortimente de țigarete), precum și Ordinul nr. 1270/199 privind încadrarea pe clase de calitate a țigaretelor.

În ceea ce privește **legislația cu privire la tutunul brut**, am identificat existența Ordonanței de Urgență nr.186 din 20 decembrie 2001 privind instituirea sistemului de declarații de livrare a tutunului brut. În prezent se află în vigoare Legea nr.236 din 2 iunie 2003 privind organizarea pieței tutunului brut în România publicată în M.O. nr. 408/11 iunie 2003, adoptată de Parlamentul româniei la inițiativa Ministerului Agriculturii, Pădurilor, Apelor și Mediului. Legea reglementează organizarea

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pieței tutunului brut și prevede ca în vederea cultivării și comercializării tutunului brut, producătorii de tutun se pot organiza în grupuri de producători, iar Ministerul Agriculturii, Alimentației și Pădurilor este autoritatea competentă pentru autorizarea unităților prim-procesatoare pentru încheierea contractelor de cultură cu producătorii de tutun. De notat și Ordinul 502/4 august 2003 privind contractul tip de vânzare – cumpărare a tutunului brut valabil pentru recolta anului 2004, precum și Ordinul nr. 503 din 4 august 2003 al ministrului agriculturii, pădurilor, apelor și mediului privind autorizarea unităților prim-procesatoare de tutun, împreună cu Ordinul 976/28 noiembrie 2003 pentru modificarea Ordinului 503/2003, ca acte normative necesare implementării legii. Cităm din Expunerea de motive la Legea privind organizarea pieței tutunului brut în România: „În momentul aderării la Uniunea Europeană, în România trebuie să funcționeze următoarele mecanisme de piață comunitare: acordarea de prime de producție pentru kilogramul de tutun livrat. Primele sunt stabilite diferențiat pe varietăți și pe clase de calitate; măsuri de orientare a producției de tutun din punct de vedere cantitativ și calitativ; acordarea unui ajutor special pentru grupurile de producători în scopul respectării de către acestea a reglementărilor comunitare în acest sector de activitate. Pentru ca aceste mecanisme să funcționeze, piața tutunului trebuie să fie gestionată prin următoarele instrumente: contracte de cultură a tutunului încheiate între cultivatorii de tutun și prim – procesatori; declarații de livrare a tutunului; autorizația de funcționare a prim –procesatorului, document în baza căruia acesta încheie contracte de cultură cu producătorii de tutun; atestate de cote; atestate de control. Această lege este armonizată cu Regulamentul (CEE )nr.2075/1992 privind organizarea comună de piață în sectorul tutunului brut, modificat prin Regulamentele (CEE) nr.1636/1998 și nr.2848/1998 și permite transpunerea organizatorică și instituțională a acquis-ului comunitar în acest sector de activitate.”

După cum se poate ușor observa legea prevede acordarea de prime și ajutoare pentru cultivatorii de tutun însă, în contextul evoluției legislației în domeniul controlului tutunului la nivel global, în concordanță cu prevederile Convenției cadru de Control al Tutunului va apărea necesitatea adoptării unei politici de eliminare a subvențiilor în favoarea tutunului și acordarea de sprijin guvernamental altor activități economice viabile.

### **Other activities, as regards to Romania's integration within international tobacco control**

- **Romania participated to the international negotiations regarding the Framework Convention on Tobacco Control (FCTC), under WHO auspices, agreeing the European Commission position within the negotiations process**
- **The Health Minister has signed the Warsaw Declaration, next to the European WHO Member States and the WHO Regional European Office, for supporting the FCTC, in agreement, also, with European Commission**
- **Within the annual working meetings of the National Counterparts Network in tobacco control, the WHO National Counterpart, contributed to the elaboration and facilitates the implementation of the European Action Plan for Tobacco Control, together with the European Commission representative.**
- **The Health Minister has signed, in Copenhagen 2002, together with the European Health Ministers, the European Strategy for Tobacco Control (WHO)**
- **Beginning with 2003 Romania is included in the new group of countries in which it is going to be developed the Global Youth Tobacco Survey (with WHO and CDC Atlanta technical assistance)**
- **Ministry of Health and Family develops, at present, one major project within the tobacco control goal financed by Government and World Bank loan (education and information campaigns, legislative developments, establishing of three smoking cessation centers etc.)**

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- Adoption of the Governmental Decision No. 1270/13 November 2002, regarding the declaration of The National Smoke - Out Day (3rd Thursday of every November)<sup>1</sup>.
- During the first trimester of 2002, based on ministers agreement, it has been established the Inter-ministerial Group for tobacco control, which functions, at present, through the ministerial nomination of an expert representing every ministry, has the following tasks:
  - ✓ Analyzing of the Framework Convention on Tobacco Control in order to elaborate the Romanian position for the international negotiations, task already achieved by now.
  - ✓ Elaborating and implementing the National Action Plan for Tobacco Control.

As a general conclusion the Romanian legislation in tobacco control field is now following tightly the European legislation provisions. Every provision mentioned in the European directives is now included in the Romanian legislation. The difference is coming from the deadline for entering into force or implementation. As for most of the European provisions the period of entry into force already begun, the Romanian legislators decided to enact laws that will entry into force beginning with 2007 (labeling, maximum tar, nicotine and carbon monoxide yields etc.) or will be implemented later on (increasing the levels of excise taxes). This difference is not a cause of incompatibility with the European legislation but it could become a factor for creating of a major gap between the enacted laws and the capacity for implementing the legislation in the moment of accession to the European Union. The time left until the accession to EU could than is a period for capacity building, having regard to the human resources, infrastructures, financial resources etc. to be used in tobacco control in Romania.

On the other hand, it is well known and accepted that due to the legal constraints of the Treaties, the European legislation for tobacco control could not be, at present, more restrictive than it is. In this situation, it comes to the Member States to adopt stronger provisions for tobacco control, in accordance with national requirements and needs (total ban of the tobacco advertising and sponsorship for example, difficult to be adopted by the Community right but possible and recommendable to be adopted in the national legislations).

### **3.3. Short term recommendations:**

First measure to be taken as the appropriate political sign for the commitment of the Romanian Government to the tobacco control measures world-wide and, also, as one great opportunity for benefiting from the experience shared, exchange of data and information, and not in the last, important funds for research, public campaigns and establishing infrastructures.

Transpose of the Recommendation of the Council 2003/54/CE from 2 December 2002 - smoking prevention and improvements of tobacco control partly already included in Law no. 349/2002 for preventing and combating the effects of the tobacco products use. It is recommended for MOH

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<sup>1</sup> Here is important to mention that this was possible thanks to a project funded by Open Society Institute and American Cancer Society and implemented in Romania by a task force formed from a NGO - AER PUR ROMANIA, a media organization – Romanian Television Channel 2 and the Ministry of Health.

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**to elaborate a draft for completing the legislation in accordance with the Recommendation's provisions.**

**Transpose of the Directive 2003/33/EC of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products by the Law for advertising and sponsorship of the tobacco products.**

**Transpose of the Directive 2003/641/EC: Commission Decision of 5 September 2003 on the use of color photographs or other illustrations as health warnings on tobacco package.**

**Developing of large public campaigns for the promotion of the legislation, promotion of the smoking cessation centers etc., in national partnerships with NGOs, professional bodies, governmental agencies etc. and favoring the establishing of a real National Network for Tobacco Control capable to develop lobby and advocacy activities for the further tobacco control legislation in Romania.**

**Elaboration and adoption of the National Action Plan on Tobacco Control elaborated and adopted by the Governmental competent agencies in co-operation with non-governmental organizations, professional societies etc. in a joint effort.**

**Gradual increasing of the assizes and taxes for tobacco products for obtaining a constantly increase in tobacco products prices, as one of the most effective measure in decreasing tobacco consumption.**

**Revising of the legislation regarding the tobacco earmarked taxes for tobacco in order to make it to be applicable.**

**Not in the last, signing and ratifying the Framework Convention for Tobacco Control, having in mind the fact that the convention provides at the global level the general measures to be taken but establishes in the same time the financial ones in order to assist the countries with transition economies or developing countries.**

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## Chapter four - Stakeholders involved in tobacco related issues

The general objective of this part of the research is to identify the key players in tobacco related fields in Romania, to analyze their position and the extent and degree of concentration of power and interests.

### Governmental authorities

#### Romanian Government

AUG 23 '95 09:39 PHILIP MORRIS INT'L P.2/2

**PHILIP MORRIS INTERNATIONAL INC. INTER-OFFICE CORRESPONDENCE**  
800 WESTCHESTER AVENUE, RYE BROOK, N.Y. 10573-1301  
23 1995

TO: Mr. Murray H. Bring      DATE: August 22, 1995

FROM: Owen C. Smith

SUBJECT: Highlights - Week Ending May August 18, 1995

**Confidential** *JH*

The Romanian Ministry of Finance has written to Philip Morris explaining that under the proposed monopoly law licenses for the production of cigarettes would be granted to all qualified companies, and that the government did not wish to deter foreign investors.



2073950707

Ministry of Health and Family  
<http://www.ms.ro>

Ministry of Education  
<http://www.edu.ro>

Ministry of European Integration  
<http://www.mie.ro>

Child Protection Directorate

Public Health Institute  
<http://www.ispb.ro>

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**Public Health Directorates**

**Professional organization**

Romanian Society of Pneumology

Romanian Society of Cardiology

Student Leagues

**Nongovernmental organizations**

**Aer Pur Romania**

<http://www.aerpur.ro>

**AER PUR ROMANIA is a Non Governmental and Non-Profit Organization. The main goal of this organization is to protect the non-smokers, mainly by defending their right to breathe a clean-fresh air.**

**For this, AER PUR takes the following actions:**

- **it continuously inform the public about the effect of active and passive smoking**
- **it undertakes campaigns for educating children and teenagers to convince them to maintain their "non-smoker" status they have been born with**
- **it acts in line with the international strategies for preventing smoking and defending the non-smokers**
- **it fights against all types of cancer caused by smoking and polluted air.**
- **it seeks to create a Center for the recovering the people who suffered because of active or passive smoking or who want to give up the habit of smoking**
- **it militates for the adoption of a proper legislation in this field**

**Only volunteers carry out activities inside the organization. Any person regardless of age, profession, sex, smoker or non-smoker, which wants to protect the rights of non-smoker, can be a member of "AER PUR"**

**AER PUR ROMANIA Statute clearly stipulates that the organization is engaged to fight against cancer. Other objective of the organization is to carrying out a mass movement aimed to protect and to defend the rights of non-smokers, especially the right to breathe a clean air. It informs the public about the harmful effects of smoking and second-hand smoking.**

**Aer Pur Romania is a member organization of Framework Convention Alliance (<http://www.fctc.org>), INGCAT, Globalink, European Union of Nonsmokers, and associate organization to the European Network for Smoking Prevention (<http://www.ensp.org>).**

**During last three years Aer Pur Romania was mainly financed by the American Cancer Society and Open Society Institute.**

**The activity of AER PUR Romania is also reflected in the tobacco industry documents:**

**July 1997 – PM Docs**

**Bates no. 2074651987A-1991**

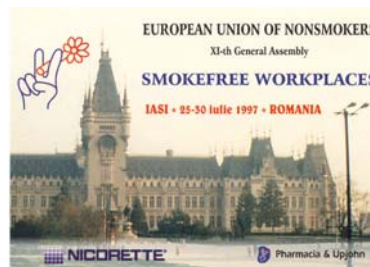
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Country: ROMANIA

Issue: ADVOCACY ISSUES

The anti-smoking organisation "Aer Pur" published the first edition of its 4-page magazine. The brochure announced the 1997 programme of the organisation, which includes a national public campaign to advocate the adoption of a new law prohibiting the sale of tobacco products to minors and any form of encouragement for children to smoke. In preparation of the campaign, "Aer Pur" is planning to do a comparative study of existing legislation in other countries and to draft a law proposal to be submitted to Parliament. The public campaign includes collecting signatures in support of the draft law. The association also plans to organise the 11th Conference of the European Union of Non-Smokers in Romania in July 1997.



**Centre for Health Policies and Services**

<http://www.cpss.ro>

**Romtens Foundation**

<http://www.romtens.ro>

**Romanian Cancer League**

<http://www.cancerleague.ro>

« Pupaza din Tei » Association

### **Other organizations and institutions**

**Romanian Patriarchy**

**Adventist Church**

### **Tobacco Industry**

**National Company Romanian Tobacco SA (SNTR)**

<http://www.sntr.ro>

**From TJI – 16 June 1993**

**RTM-Faces the Hard, Cold Facts of Freedom**

**By. Glenn A. John**



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**“Don’t look for the privatization of the RTM...In fact, a new law will solidify RTM,s control in all aspects of the tobacco industry”**

**Victor Negomireanu – Director RTM**

**February 1992 – Contract signed with Papastratos for cooperation with Tg. Jiu factory.**

**In July 1993- joint brand COLOANA**

**(Evenimentul zilei 5 martie 1993)**

**August 1992 – B&W offer production line to Bucharest factory (maker, packer and filter making machinery)**

**February 1993 -BUCURESTI- brand designed in co-operation with B&W**

**Discussion with PM for Timisoara factory**

**With Rothmans for Sf. Gheorghe factory**

**With SEITA for Iasi factory.**

**Privatization of the Romanian tobacco monopoly SNTR seems to be a difficult issue. SNTR was privatized two years ago, but when the new majority shareholder did not pay the debts of the company, it came back to the state by assets re-evaluation. Now SNTR is once again up for sale.**

**The privatization of the National Company Romanian Tobacco SA (SNTR) started three years ago; for the last period, the majority shareholder with 53 per cent was the Romanian holding InterAgro, owned by Ioan Niculae. In last December, owing to outstanding debts to the exchequer, SNTR was denied the fiscal license to produce cigarettes in 2003.**

**The stocks were exhausted during the next two to three months. Now, the traditional Romanian brands which in 2002 occupied some 27 per cent of the market volume, although much less in value share, are no longer present on shelves. Last March, the Romanian ministry of agriculture and food handed over its minority participation of 43 per cent to the privatization agency APAPS, headed by minister Ovidiu Musetescu; by re-evaluation of company assets, the state, once again, became majority shareholder of SNTR with a participation of 56.4 per cent.**

**In mid April 2003, Mr Musetescu stated on television: “I brought SNTR to the position of obtaining all the necessary approvals in order to resume the manufacturing activity. Whatever happened in the past, a tax payer which contributes every year between ROL 2,500 and 3,000 billion to the exchequer (E 82 to 98 million) cannot be ignored; the more so a tax payer which provides bread to more than 50,000 small farmers from whom he buys tobacco every year cannot be ignored.”**

**After obtaining the majority package, APAPS had changed the entire managerial team and appointed a special administrator. On 25 April, SNTR received the much-expected license and resumed cigarette production on May 12, 2003.**

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**It might be worth mentioning that APAPS, the majority shareholder, is a structure which will end its activity, according to the law, at the end of 2003. If not sold by that time, SNTR might become a sore thumb for the present government.**

### **British American Tobacco**

<http://www.bat.com>

Keynote speech to the World Tobacco Symposium  
Wednesday 22<sup>nd</sup> September 1993  
Moscow

Ulrich Herter, Managing Director Tobacco  
B.A.T. Industries Plc.

Bates No. 500002008 – 18  
First Page 500001873  
Last Page 500002032

“Here in the Eastern half of our European continent, the struggle for freedom and liberalization has led to the opening up of markets and to privatization. It has created opportunities for local firms to work with their foreign counterparts to develop old business and discover new ones; to create prosperity and jobs for the future. The tobacco industry is an important part of this process” – page 1

“ It is more likely that long term funds will come from international funding organizations like World Bank and the European Bank for Reconstruction and Development and established entrepreneurs – like BAT” – page 6

“Trust has to be earned and not demanded. We and another international company, already spend, and must continue to spend, a lot of time winning hearts and minds, trying to explain our commitment to the people in our business” – page 8

“Those of us who have the opportunity of investing for the first time in Central and Eastern Europe and Central Asian states are constantly aware of the tremendous courage and sacrifice that continues to be shown, day by day, as governments and people move towards new concepts of freedom and different, untried, forms of a market economy. The challenges are awesome”.....”BAT’s involvement in this part of the world, demonstrates our Company’s confidence that the countries here will be able to achieve prosperity” – page 11

### **1997- The start of operations of BAT’s tobacco factory in Ploiesti**

#### **Philip Morris**

<http://www.philipmorris.com>

March 1997 – PM Docs  
Bates no. 2074162247-2249

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### ROMANIA

#### Corporate Image

The annual "Crans Montana Forum", of which PM is one of the main sponsors, took place on March 21-23 in Bucharest. Foreign investment was encouraged by President Constantinescu and mention was made in the media about PM's intention to invest in Romania. The Forum accommodated over 150 foreign business representatives and all key ministers of Romanian government.

**Philip Morris completed and officially opened its new plant in September 2001, which is already running at full capacity.**

#### Japan Tobacco International

<http://www.jti.com>

**RJ Reynolds was the first to set up operations back in 1995, the factory being acquired by JT International in 1999, when it took over RJRI.**

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**PRESS RELEASE**

April 27, 1995

BUCHAREST, ROMANIA -- R.J. Reynolds Tobacco International, Inc. announced that it has completed the implementation of a cigarette making-and-packing factory in Romania, under a sister company called Reynolds Manufacturing (Romania). The project has been approved by the Romanian Development Agency.

The company said it has converted an existing 1700 square meters facility located in Bucharest. The plant has a production capacity equivalent to approximately 6% of the Romanian market.

The project has created over 120 jobs (end of 1994) during the initial phase and is part of a \$40 million expenditure earmarked for Romania by RJR Tobacco International over the next ten years, including capital investments and investments in marketing and distribution. The new manufacturing facility will establish the company firmly in the Romanian cigarette market which is considered the second largest market in Central Europe, with significant demand for American-blend cigarettes, and a considerable potential for several of RJR's best-selling international brands, including CAMEL, MONTE CARLO, and WINCHESTER. The company plans to introduce its full range of leading international brands for the Romanian market.

The company said its sizable investment demonstrates a strong, long-term commitment to Romania and its people. The RJR investment opens up a competitive situation in the Romanian tobacco industry by giving Romanian smokers a larger choice of cigarette products, based on RJR's quality standards for its products internationally. RJR plans to manufacture CAMEL cigarettes and eventually other premium-brands in its Romanian factory for the domestic market at the moment the excise tax for these brands is lowered to the point where consumers can afford them. In the meantime, small quantities of CAMEL cigarettes are being manufactured for export.

"Our main objective, short-term, is to develop the franchise of our international brands, which are already very favorably perceived by Romanian smokers. Our locally produced RJR brands will be manufactured with the same standards of high quality and materials as in RJR factories in the United States, Germany, and Switzerland," said Gerard Cayla, Country Manager of RJR Romania.

"We view this investment and its growth and development to be of strategic importance to Reynolds now and in the forthcoming years," said Geoff Carlson, General Manager of Eastern Europe. "RJR will participate in the local business community actively to meet the demands of smokers and to develop strong links to, and cooperation with, the emerging distribution and retail sectors as well as the domestic tobacco industry."

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**Other tobacco companies**

**In addition to the multinationals, the Greek manufacturers Papastratos and Sekap have operations in Romania and there are also five smaller producers including V Tabac, RGS Industries and REL Tobacco operating on the fringe of the market along with importers.**

**Gallaher**

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<http://www.seeurope.net/en/Story.php?StoryID=50509>

2004-05-13 09:31:51

**British cigarette producer Gallaher ranked sixth internationally and with sales worth £9 billion last year is entering the Romanian market.**

**It is set to start production at a location in Bucharest.**

**"We will soon kick-start the production process in Romania, but all I can tell you at this moment is that we will produce in Bucharest," Dan Crisan, general manager of the company's branch in Romania, Gallaher Austria Tabak, told Ziarul Financiar.**

## **Front groups of the tobacco industry**

### **Foundation for Pluralism**

**This organization take during year 2002 the leader role of the "Educational Program" "The decision is mine" launched in 2000 by the BAT Romania and PM Romania with support of the Ministry of National Education, Ministry of Young and Sports and Ministry of Health. The following two images of the adverts in Romanian media show clearly the change of the TTC strategy regarding the presence of this action in Romania.**

**It is interested also to underline that the President of this NGO is a former counselor of the President of Romania for the relationship with Romanian NGO's.**

**Advert in the Romanian newspapers - May 2000**

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**Advert in the Romanian newspapers - May 2002.**

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Programul educațional "Decizia e a mea!": primul de acest gen din România, aflat în al treilea an de existență, este un real succes.

Programul educațional "Decizia e a mea!": coordonat de către Fundația pentru Pluralism, este sprijinit de:

- Ministerul Educației și Cercetării
- Ministerul Sănătății și Familiei
- Ministerul Tineretului și Sportului
- Președinția României

Sprijinind programul "Decizia e a mea!" ajuți adolescenții din România să ia decizii corecte în viață.

Află mai multe despre programul educațional "Decizia e a mea!" contactând Fundația pentru Pluralism:  
tel 01.212.51.43, e-mail: fpp@ines.ro

**Decizia e a mea!**

**The educational program**

**"The decision is mine" the first in Romania is in the third year of existence a real success.**

**The educational program**

**"The decision is mine" coordinated by Foundation for Pluralism is supported by:**

- **Ministry of Education and Research**
- **Ministry of Health and Family**
- **Ministry of Youth and Sports**
- **Romanian Presidency**

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## **International organizations**

**World Health Organisation**

<http://www.who.int>

**World Bank**

[www.worldbank.org](http://www.worldbank.org)

**Open Society Institute**

<http://www.soros.org>

**American Cancer Society**

<http://www.cancer.org>

**Advocacy Institute**

<http://www.advocacy.org>



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## **Chapter five – Economics and Tobacco**

This part of research is under development in cooperation with the Centre for Health Policies and Services in the framework of the project supported by the Open Society Institute New York.

Tobacco economics research has not been of a major interest for the Romanian authorities. The facts that lead to this conclusion rely on the disparities of relevant data and on the difficulties to make up time series over 10-15 years.

Indicators of a general interest such as macroeconomic ones and general health and demographic indicators could be followed over the time. The specific indicators such as trade on manufactured tobacco, diseases attributable to smoking, costs of such diseases, cigarettes' prices are incomplete and fragile, usually composed based on various incomplete sources. The agricultural land devoted to tobacco, agricultural production, wages and employment in tobacco industry are the exceptions, the official data offering long and complete data series. On the other hand, the major economic and political change Romania passed through at the beginning of 90s breaks the monetary expressed statistics on comparable basis at that moment.

More preoccupied of the topic have been the health representatives, by developing projects concerning tobacco prevalence and intensity. Time series on specific statistics on morbidity and mortality caused by diseases highly related to smoking are still missing, as well as the treatment costs.

The EU enlargement perspective made tobacco control matters more visible. As consequence more detailed data are available, but starting with 1999-2000. Due to all mentioned before, this research is largely based on data of international organisations' web pages as well as on the official records. The data are not necessarily fit (figures or trends) when confronting different sources. Even when data fit they usually reply other source and not confirm it.

Despite of few months of efforts directed to gathering data, not all-relevant data series have been made up, so not in depth economic analysis could be performed. The paper succeeds to be a complex approach of the field, pictured as much as possible in evolution.

### **5.1. Why Economics research in the framework of Tobacco Control activities?**

The data to be found in literature on tobacco economics and control point out a decrease tendency in tobacco prevalence in developed countries parallel to an increase in the developing ones. In addition there is mentioned a high smoking prevalence among low educated men and increased related figures among high educated and young female. (Curbing, 1999) The age of up-taking is to be found in early teens for most of the smokers in the high-incomes countries, while in the low- and mid- incomes ones it used to be at early twenties, but is decreasing. (Chaloupka, coord).

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The tobacco control approach has not a relatively long history. Economic development level and cultural differences functioned as barriers in governments' and public attention on the subject. This is why comparative data on the topic are barely consistent across time and regions. The debate is sensitive because it deals with economic and social matters. Public health concerns put the light on the topic and the shortage of public budgets offered one more reason to be focused on it, as long it is a field of increasing their revenues.

The threat for individuals' health tobacco consumption consists in is no more to debate. Different sort of cancers, respiratory and circulatory diseases are commonly associated with tobacco consumption. Despite of this, long term related statistics are not so easy to be found. The difficulty rises from the fact that the tobacco consumption echoes in individuals' health are visible with 20 years delay.

Tobacco consumption is in the same time a source of state budgetary revenues. The perspective of increasing budgetary resources is very attractive for Governments, especially for the poor ones. But usually poor Governments means poor people, increased tax on tobacco means increased cigarettes price, which in a poor context is likely to lead to reducing consumption and/ or increased smuggling behaviour. Both could end with the opposed effect – reducing budgetary income revenues. Econometric measures are used to identify the optimum level of tax increase and to observe price and consumption elasticity as response to different strategies.

On the other side tobacco producers invest in local economy and offer quite well paid jobs. Tobacco leaves producers come to play their role in this equation. For some of them this sort of agricultural product represents the main income resource. In a low developed local economy a cigarettes producer could occur as a major local actor. Its activity will not occur economically profitable just for itself, but -by the taxes paid and sponsorship activities- for hundreds of employees and their families, as well as local authorities. Public health concern could be in this case a soundless matter and the subject itself hardly understood at real importance.

The battle in the name of public health is a long run one. The developed economies are aware of difficulties in this respect. Their experience is a walked-route for the less developed economies. Some relevant keys of action are known. Nevertheless, the discourse is not the same in a poor economic environment. Nor the Government neither public opinion can be (steadily) opened to arguments and strategies concerning tobacco economics and control successfully applied in developed countries. The policy makers in the field of public health have to pay attention also to cultural differences.

If not traditional behaviours are to be overcome, which is easing the task, public health defenders have to come up with counter arguments for jobs' scarcity, labour market inflexibility, and budgetary shortage. The positive dimension of job losing vanishes on an inflexible market. The risk of different disease in the next 20 years is too far to be properly perceived by someone who is anyway exposed to diseases of medium term risk, as are poverty related ones. His primary concern is about the day after tomorrow: will he still have to work, for how much money, does he have what to eat, does he have adequate cloth, does he have enough for heating and housing maintaining, will he be able to support his children education?

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Individuals' health care concern comes just after all these. And anyway, what is social/health insurance paid for? When the treatment costs are paid from social funds, built on social solidarity criteria, the answer is in the favour of public health defenders. Usually, the poor do not afford a private assurance system, and anyway, why a non-smoker should use his private health insurance to cure a disease caused by passive smoking? The direct causality between passive smoking and different smoking related diseases is a key element at this point.

Despite its simplicity and rationality saving money by stop smoking have barely the expected echo: smokers, even more if they are poor, are not very sensitive to rational economic reasoning? The dependency aspect of tobacco/ nicotine consumption complicates more the cessation attempts. Investing in cessation centres or treatments from public resource could sound again strange in the poor economic environment briefly described above: people as well as local governments could disagree with this way of spending money, by considering it less important than other socio-economic matters.

The adolescents are the most exposed to up taking as well as that they respond poorly to health education (Chaloupka, coord). Curiosity and the over valued self-confidence, specific to these ages, are sensitive to tackle with when about "no doing" education, when elderly is too far, and sickness "is not touching" them.

Health care and prevention habit is to be learned by both poor and young people. Targeted strategies are properly to be considered. Costs on non-smokers are the solid argument that stands without facing high voice economic counter argument. This is a key element of tobacco control efforts and turns the attention on moral and social ethics.

European Union enlargement perspective changes a bit the perspective in this topic, for Romania too. Increasing tobacco excises at a minimum imposed level is a criterion of entering EU. For the candidate countries it could be seen as a way of simplifying the battle for increasing excises. Public health policy defenders in these countries should be aware of the shallowness of such approach. A too abrupt process could easily end in an intense smuggling activity.

The reasons behind high excises are based on circumstances met in developed countries. Similarities with circumstances in less developed countries have to be stressed out and not take them for granted. On one hand it will serve the objective to avoid losing the purpose of peoples' public health consciousness among other transition worries, and on the other hand to obstruct temptation of the multinational cigarettes companies new set in less developed countries to turn any dissimilarities in their favour.

## 5.2. Romania among CEE Countries

A look on Romania and few other CEE countries in recent years is to be found in the following. This brief image alters a bit the general observation about the relation between smoking, poverty and health. This is not else but an argument for enhancing systematic efforts in order to find out and to prove the correlation, even more it particular, between smoking habits and economic and health effects on the individuals.

Romania and Bulgaria have a relatively high incidence of poverty, in terms of both poverty rate and GDP per capita, but a different pattern of tobacco consumption: while Bulgaria

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experiences the greatest cigarettes consumption per adult Romania comes close to Czech Republic.

It is to be noted that the even low Romania's annual average consumption per adult is in fact higher than the EU' s average consumption for the same period. The first one had varied after 1992 between 1250 and 1500 per adult. [4]

**Table 1 – Romania as CEE country**

	Romania	Bulgaria	Croatia	Czech Rep.	Hungary	Poland
<b>Cigarettes consumption /adult – annual average, 1992-2000, 1)</b>	1563	3322	2218	1476	2697	2473
<b>GDP/ capita PPP US\$, 2001, 1)</b>	5830	6890	9170	14720	12340	9450
<b>Population below income poverty line, \$4 a day, %, 1996-1999, 1)</b>	23	22	-	<1	<1	10
<b>Female</b>	10.1	29.8 2001	26.6	17.3	30.4	19.0 1998, 3)
<b>Male</b>	32.3	51.7 2001	34.1	29.7	53.1	39.0 1998, 3)
<b>Life expectancy at birth</b>	71.3	71.9	74.4	75.5	72.6	74.0 2000
<b>Infant deaths/ 1000 live births</b>	18.4	14.4	7.7	4.0	8.1	8.1
<b>Lung cancer</b>	40.0	32.2	42.3	40.9	67.0	46.9
<b>Cerebrovascular diseases</b>	82.7	71.2	41,2	25.5	53.6	39.6
<b>Ischemic heart diseases</b>	106.2	85.7	66.5	69.6	103.0	76.3

Sources: 1) Human Development Report, UNDP, 2003; 2) Trends in Europe and North America, Statistical Yearbook, UN (Source: UNECE); 3) World Development indicators, WB, 2002; 4) Atlas of Health in Europe, WHO, 2003. Notes: 5) Health Survey, SAN 2000, Romanian Institute of Economical and Social Research

When about prevalence pattern by gender one can see that Romania is particular from the other considered countries. The incidence of female smokers is third times less than of males, while for the other countries this proportion is between ½ and 2/3. Bulgaria and Hungary show a common pattern. One of two men is a regular daily smoker, while among the women this category represents 30% of the total.

The three general population health indicators considered here have improving by countries with income increase, but the indicators of health injury are not registering expected differences according to consumption prevalence and intensity. The lowest incidence of lung cancer deaths is to be found for Bulgaria, the country with the highest cigarette consumption. On the other hand Romania experiences the highest incidence of deaths caused by cerebrovascular and ischemic hearth diseases, and the lowest value for

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life expectancy at birth. The infant mortality rate is still the highest in Europe. (See annex 1 to the present Chapter)

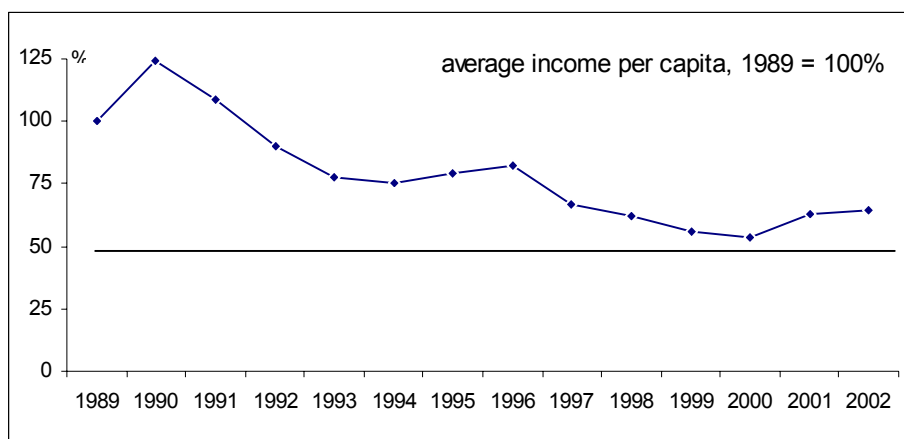
### 5.3. Romania – General Environment

Romania is the second biggest country in CEE after Poland. Its population has increased up to 1990, a moment of major economic, political and social changing. (See annex 2 to the present Chapter)

A general economic decrease has accompanied the transition period. The average wage decreased down to 54% (2000) of its value in 1989 to increases later (2002) up to 64% of the pre-transition value. The number of wage earners has decreased to half of the 1989 level, while the number of pensioners has increased with around 40% over the period, representing around 145% of the number of wage earners. The unemployment was officially recognized starting with 1991, after when it registered a relatively low level, with a peak of 11.8% in 1999. The share of long term unemployment (more than 12 months) has been constantly high – around 1 out of two unemployed.

Small farming as well as small entrepreneurial activities has been developed in order to replace the lost income or sometime in addition to a stable income source as wages, pensions, or other social assistance financial support. There have been counted 4 million agricultural properties, in average of less than ½ ha. The occupied population in agriculture has increased up to 41% of the total, but agriculture's contribution to GDP rests at low level –around 13%. (See annex 2 to the present Chapter)

Two impoverishment waves have been identified after 1990 (Zamfir (c)/ UNDP, 2001), the first one in 1991-1993, and the second in 1997 – 1999. They overlap the two high inflation period and the two period of economic decrease after 1990. In 13 years the average income per capita felt to 53.8% of the level registered in 1989 (inflation adjusted). Poverty level as well as incomes inequalities have increased. GINI index computed on incomes increased from almost the lowest European value in 1989 -0.155 to amongst the highest in 2000 -0.406 (NIS data)



Source: Simona Ilie computation, based on NIS data; Households' survey data.

Expenditures on tobacco represent in average 3.6% of the monetary expenditures of the households. This level varies by residence area and households' living standard. For those

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in the poorest 20% of the households (defined by expenditures per equivalent adult) the share is 5.25% while for those in the richest 20%, 2.91%. The households of smokers in rural area spend around 4% of their monetary expenditures compared to 3.26% spent by those living in cities.

## 5.4. Romanian Tobacco Manufacture

### Tobacco agriculture

Tobacco leaf crop has its tradition in Romania. Ministry of Agriculture, Forest and Environment (MAFE) registers data in this respect since mid 30's. Agricultural area devoted to tobacco leaves increased until the beginning of 80s when reached a pick of 43.6 thousands hectares. During 80's, parallel to the economic crises Romanian economy's experienced, tobacco planted area was restrained to a bit more than 30 thousands hectares. The economic collapse faced at early 90's is marked in this field by a decrease of both land devoted (down to 8.6 in 2002) and tobacco yield. An opposite tendency registers work productivity, which increased with around 40% (Annex 4 to the present Chapter). Unfavorable weather and selling opportunities are criteria to remind.

Entire agricultural activity has faced serious difficulties due to breaks in its structure and both domestic and foreign trade channels. The pre-processing phase is also accomplished traditionally by local producers. With respect to tobacco, disruptions have appeared in each step of manufacturing chain. All these have had echoes on number of tobacco farmers.

After land restitution in 1991 tobacco production is attributable almost entirely to the private owners. This is spread all over the country, but not in all counties. In 2000, 7 out of 41 counties did not register tobacco farmers, and tobacco yield covered less than 5 ha in 4 others. Handwork of most cultivation practices explains the small size of the plots. Due to high prices of inputs these are rather poor, the fertilizers and chemicals have been rather insufficient, as well as specialized equipment. Farmers count a lot on precipitation than on irrigation due to its high costs. The 1998 Gain Annual Report on tobacco in Romania<sup>1</sup> states that the 11560 ha sum the activity of 100000 growers.

Table 5.4a Tobacco devoted land by Romanian regions, 2000

	C	NW	W	SW	S	B	SE	NE	TOTAL
At 100000 arable land, ha	84,3	45,4	64,1	395,9	80,2	2,7	74,2	61,8	111,9
% of total	6,2	4,4	6,7	47,0	15,0	0,0	12,8	8,0	100,0

Source: Simona Ilie computations based on MAFE and NCS data.

<sup>1</sup> [www.fas.usad.gov/scripts/w](http://www.fas.usad.gov/scripts/w) GAIN Annual Reports

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**Table 5.3b Tobacco farmers by regions, 2000**

	C	NW	W	SW	S	B	SE	NE	Total
Number	2221	2375	4781	17313	9045	0	10913	7244	53892
% of total	4.1	4.4	8.9	32.1	16.8	0.0	20.2	13.4	100.0

Source: Simona Ilie computations based on MAFE data

The biggest tobacco area is for far the SW (tables 5.3a, 5.3b). Here are gathered almost 50% of the tobacco devoted land and one third of the growers. The region is the second out of eight in the top of the poorest in Romania. Specialists of MAFE<sup>1</sup> call up the link between tobacco crop and the so-called “disfavoured” areas, which are areas with high incidence of poverty. The soil quality that makes other agricultural crops less efficient compared to tobacco leaf was named as the explanation behind.

Households’ dependency on tobacco yield was named as argument for the 40% excise reduction for cigarettes producers acting in Romania which contract more than 5000mt annually from Romanian tobacco growers (O186/2001). According to the State Secretary of MAFE, the measure addressed “the around 70000 tobacco growers for which the resulted incomes represented 60-70% of their resources”. (G. Predilă, Parliamentarian debates<sup>2</sup>, O180/2001, referring O186/2001).

Resetting distribution channels for the agricultural products has been a problem to be solved. Peasant markets could turn into a solution for various products, but tobacco leaf is not counted among them. Romania has never been a significant tobacco exporter, finding itself amongst tobacco net importers. On domestic market the production used to be contracted with the 6 state cigarettes factories. Until present the main beneficiary of tobacco yield has been the national cigarettes company (SNTR). There are not officially data, but representatives of multinational companies admitted they did buy un-manufactured tobacco from domestic market also.

The number of contracts concluded by SNTR and tobacco growers is considered the indicator for the number of tobacco producers. Their number varied a lot across years, due to both economic stability of SNTR and the environmental factor. The SNTR difficult privatisation process started in the second half of 90s (see below) is named responsible on the sharp decrease in the number of producers. For 2002, the identified number of tobacco farming households decreased to 35000<sup>3</sup>.

**Table 5.4 Tobacco farmers, no.**

Year	1993	1994	1995	1996	1997	1998	1999	2000
Number of farmers	38718	56715	54912	51895	71315	72081	46165	53829

Source: MAFE based on data provided by SNTR

<sup>1</sup> Mrs. P. Craioveanu, Specialist on tobacco agriculture

<sup>2</sup> [www.diasan.vsat.ro/pls/steno](http://www.diasan.vsat.ro/pls/steno)

<sup>3</sup> [www.cotidinu.ro/anterioare/2002](http://www.cotidinu.ro/anterioare/2002) – February 18-24,2002

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The O186/2001 was despite of all an attempt to support local un-manufactured tobacco producers. It was never applied, being abolished few months later, finding itself on a reverse trend within the EU adjusting excises legal framework efforts.

A state incentive for tobacco growers was provided by GD1594/2003 (4500 ROL/kg of tobacco leaves), as a direct subvention like for crops as grain and corn. This is equivalent to around 25 cents, compared to 2€ / kilo of dry tobacco on EU market<sup>1</sup>. Among the forms of encouraging local farmers to plant more tobacco one can see the following during 90's:

- **Producer prices usually announce by the national cigarettes producer at the beginning of the planting season. These prices were annually increased, sometimes more than covering the inflation effect.**
- **Promptly (and not delayed) payment for the tobacco delivered directly to tobacco factories**
- **Bonuses for those delivering 15-30% of their contract as superior qualities**
- **Bonuses for those delivering large quantities of tobacco**
- **An amount of filtered cigarettes at no cost for each kg. of tobacco delivered**
- **Treated seeds, technical assistance, plastic sheets for seedling or curing at no cost (USDA Reports)**

According to MAFE specialists' efforts of supporting tobacco yield found their justification not just within the context of supporting local agriculture, but also based on yield's quality. The conclusion of the Phare Report RO 9505-04-02-06 (Pandrex Consorțiu, Lincoln House Lichfield, UK, 1998) stating that varieties of tobacco as Djebel, Burley, Virginia, Bărăgan, Molorate, Ghimpați produced in Romania fit reasonably the international standards encourages these efforts.

Tobacco leaf production decreased significantly between 1980 and 1992 (See Annex 5 to the present Chapter), year characterised by unfavourable weather conditions. The production was re-launched, resting relatively constant during the next 4 years. For the last years of 90s is specific high constant production level, doubled by also high level of un-manufactured tobacco imports. These equalise together the 1980 level. Exports almost disappeared at mid 90's have been re-launched after 1997, but still at low levels.

It is considered that the efficiency of tobacco control policies has to be seen as a whole, not just coping with effects. A system of differentiated subvention by quality of yields and less harmful classes has to be considered as well. Financial resources from special taxes paid by tobacco industry - for environment, for public health- have to be visible within the efforts of tobacco control policies, including measures for supporting structural changes of the agricultural/ tobacco yield by targeting to promote the agreed sorts and quantities.

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<sup>1</sup> Minister of Privatisation, O. Musetescu, Press Conference January 2004.



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## **Tobacco Industry and Trade**

Statistics provide figures for employment in tobacco industry since several decades ago. Before 1990, the 6 cigarettes factories spread in different parts of the country produced various cigarette brands. The first Romanian filtered cigarettes were produced in early 60's. During 70's and 80's the local brands were complemented by some foreign brands sold in state's store – Chinese, Bulgarian, German, Egyptian, Greek, and Albanese. Brands like Kent, Marlboro, Pall Mall could be found in duty free shops. The local brands were considered of good quality. This started to be depreciated after the severe cut of imports around 80's.

The national cigarettes company (Regia Autonoma a Tutunului - RAT, later named Societatea Nationala "Tutunul Romanesc" - SNTR) had a leading position on domestic market until 1998. Until 90's RAT was the sole tobacco producer, and imports were limited at minimum. During that time it was seen as an important enterprise providing significant revenues to the national budget. Its production has been devoted entirely to the domestic market. Alongside to these, 8 curing facilities could be counted in 1995. In the second part of 90's the national company has been subject of privatisation. The huge debts of the SNTR to the state budget complicated its privatisation. Due to this SNTR activity was stopped for a while: Ministry of Finance did not renew company's marking license. The activity was restarted after almost 2 months under the condition of rescheduling its fiscal debts over the next five years and limiting company's spending on wages and investments. (Reuters).

After the last privatisation attempt, in 2004, Minister of Privatization<sup>1</sup> estimated SNTR production capacity at "25000 tonnes annually, compared to the national total consumption of 33000 tonnes". It is estimated also that 78% of cigarettes sold in Romania are produced by the international tobacco firms (Reuters 14/04/2003 on [www.tobacco.org/news.php](http://www.tobacco.org/news.php)).

The decrease trend in employment is to be found in tobacco industry too. Variations in this respect could be explained by the entrance of international companies parallel to reducing activity of SNTR. This has effect on wage level too. Employees in tobacco industry have been always better rewarded than in other economic branches. In 2003 tobacco industry occupied the third position (preceded by "Banks and insurance" and "Transports") in the top branches with the highest wages. The distance between average wage in tobacco industry and the national average wage increased in time, by ending to double it after 2000.

In the first half of 90's joint ventures with foreign tobacco companies were established in order to improve RAT chances to survive on the market. The domestic market is now shared between few actors among which British American Tobacco (since 1997), Philip Morris (since 2001), Japan tobacco (who bought RJ Reynolds in 1999, which was acting since 1995), Papastratos (1993), and more than 10 other cigarettes producers (not necessarily the same over the last 14 years). Parallel to foreign brands invasion and the

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<sup>1</sup> Minister of Privatisation, O. Musetescu, at press Conference in January 2004.

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increasing market competition the long up-side-down privatization process of the national cigarette company contributed to the lose of its leading position.

**Table 5.5 - Cigarettes market**

	1997	1998	2000	2001
<b>SNTR</b>	61%	58%	25%	15%
<b>BAT</b>		16%	28%	31%
<b>RJR /JTI</b>		17%	21.5%	20%
<b>PM</b>			21.5%	24%
<b>Others</b>		9%	4%	10%

Source: 1997 – Newspaper “Adevărul economic” (588), august 2003; 1998 – [terc\\_profls.globalink.org/ro\\_tcp3.html](http://terc_profls.globalink.org/ro_tcp3.html); 2000 – [www.cancer.org/countryprofile](http://www.cancer.org/countryprofile)

Various sources provide data tobacco production and trade. On one hand there are the estimates of ERC Group for 1990 – 2000 concerning production, imports, and consumption based on UN and NIS data, UN and different trade sources respectively. The other sources have not necessarily specification of indicators’ definition. US Embassy in Romania provided figures of GAIN/ USDA Reports for 1994/1995 to 1999, in a period when US Government was interested in supporting US tobacco production and exports<sup>1</sup>.

Spared figures from newspapers (“Cigarettes’ production is estimated to 36 billion cigarettes per year”. -Adevărul Economic, no.588), representatives’ declaration (see above), and international sources (WB, Globalink) were found for various years. These figures, presented in Annex 6 and Graph 1, are not necessarily fit or reveal the same trend.

Despite an increase in population incomes (inflation adjusted) in 1990, during 1990 – 1993 GDP decrease in real terms, official unemployment appearance and hyperinflation phenomenon characterized the Romanian economic environment. (Annex 2 to the present Chapter). In terms of tobacco production and trade is to be note the fall in un-manufactured production and the increase of un-manufactured, manufactured and cigarettes imports. The increased supply is due to increase in imports. Domestic production felt after 1980. Consequence of political changes, 1989 - 1990 was a period of confusion. The international trade relationships were affected. Romanian tobacco exports felt consequence of Romania’s marginal position on international market in this respect. Untraditional routes were opened consequence of liberalizing imports.

The years 1990 – 1992 are suspected of significant informal/ illegal trade. In those years state’s specialized cigarettes stores sold largely (as before 1990) domestic brands and those subject of traditional trade relationships with mainly former communist countries. Western brands of cigarettes were largely sold on small street trade. The major movement

<sup>1</sup> The reports revised annually the data in previous years, so eventual forecasts and provisional data could be adjusted according to the real process.

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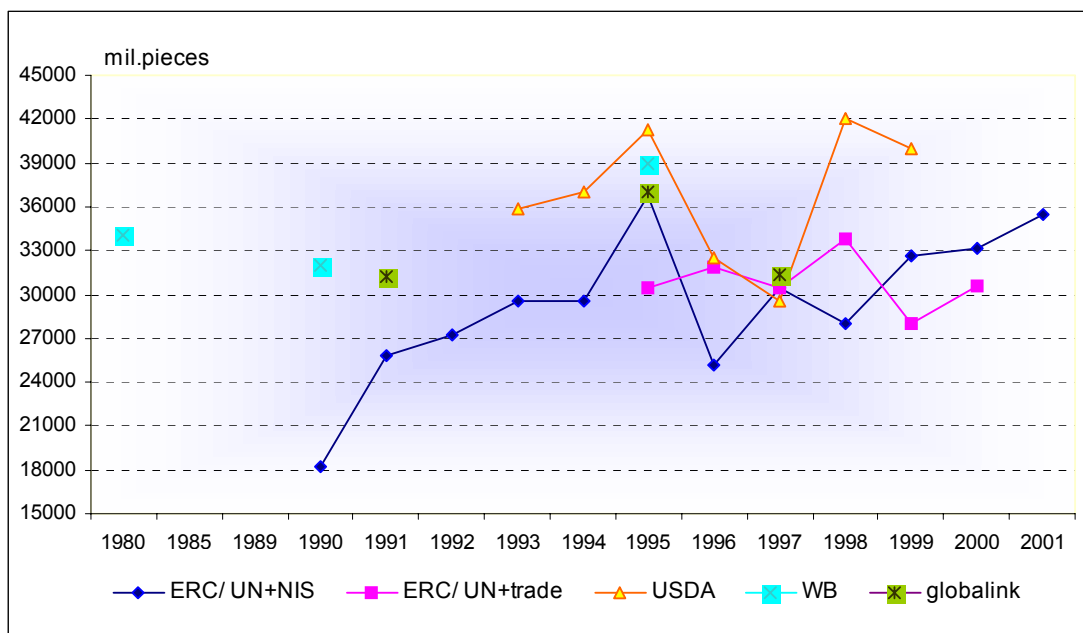
on tobacco market during that time was not the entrance of international companies, but of the Arabian and Turkish big traders, selling various sorts of cigarettes. The unrestricted advertising, not severe tax on tobacco products, the low quality of domestic cigarettes and Romanians' propensity for until than forbidden brands abet the foreign brands' invasion. Just few of the domestic brands produced in Romania before 1990 are still on the market. The popular and emblematic brand "Carpati" is counting among them.

Mid of 90's are considered years of slight economic increase. For tobacco 1995 and 1996 are particular years due to Government's actions directed toward reducing fiscal fraud. O23/1995, imposing stamp on cigarettes packs sold or imported in Romania had as effect a significant decrease in cigarettes imports during 1996-1997.

1997 is a moment of revitalizing tobacco agriculture, but period of 1997-1999 is of economic decrease. Moments of opening local factory of the international companies are also visible in tobacco trade statistics (1995, 1997, 1999 and 2001)

Due to preferential duty treatment offered to EU, CEFTA, Turkey and Moldova the un-manufactured and manufactured tobacco imports from Italy, Greece, Turkey, Moldova, Albania were preferred.

**Graph 5.1 – Annual cigarettes supply (P+ I- E) (exports considered since 1993)**



The evolution described before is not so obvious on the Graph 1, due to high differences between available data for several years. The difference in 1990 is important in order to find out in how far legal framework, which was not particularly tobacco control oriented in that period, could control the consumption intensity. The differences in 1995 could be explained by possible large smuggling activity. 1996 and 1997 have the most similar data, probably consequence of introducing fiscal fraud control measures. 1998 and 1999 have also large disparities between figures.

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## 5.5. Tobacco Prices, Taxation and Laws

### Excises

Taxes represents between 2/3 and 4/5 of the retail price of a pack of cigarettes in high incomes countries, while in low and mid incomes ones not more than half. (Curbing, 1999) Excises as special taxes on consumption are paid in Romania since 1993, introduced in the same time with the value added tax (VAT).

In 2003, in Romania the best-sold cigarette brands contain 47% and 45% excises in their retail price. For the inferior local national brand these represented 54%, and 43% for the superior brand of multinational companies respectively. The increasing excises on cigarettes and health policy alignment to western norm are count among Romania's EU entry obligations. Excises tax on popular cigarettes brands have to rise to the EU level of 57%. (Bloomberg News 11/2001 on [www.tobacco.org/news.php](http://www.tobacco.org/news.php)).

Results of negotiation Romania obtained a transition period of three years after the joining date (!) for tobacco taxes increase to the minimal level of the EU. The current level of 11,87 Euro/1000 cigarettes (2003), will increase to 24,5 Euro/1000 cigarettes by the and of 2006, and 51,2 Euro/1000 cigarettes at the end of 2009 respectively. BloombergNEws/ B. Preda 03.2001

Table 5. 6 - Cigarettes taxes

1992	O28/1992	Excises=185% except for some local cigarettes brands (Top, Dacia, Record, Club, Pescarus, Snagov=70% and Marasesti, Carpati, Bucegi= 45%). Temporary imports and transit is not subject of taxation. Imported license required
1995		60% import duty + 0.5% import commission + import tax for luxury items (300% for high quality, 70% for medium quality, 45% for lower quality brands). Imported license required
1996		98% import duty for all countries + 0.5% import commission + import tax for luxury items (300% for high quality, 70% for medium quality, 45% for lower quality brands). Imported license required. Not requirement for producers or importers to label cigarettes with health hazards to smokers
1997		98% import duty for all countries
2000	O27/2000	2E / 1000 cigarettes + 25% on max final selling price (diferentiat cigars = 6.5 la 1000 stiks.)
March 2001		2.20 E / 1000 cigarettes + 30% on max final selling price

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2002	O158/2001	2,42 E / 1000 cigarettes + 33% on max final selling price
1st of July	O57/2003	4.47 E/1000 cigarettes + 32% on max final selling price; cigars la 1000 cigs =8E

Source: Romanian legislation and GAIN Reports

The increase in excises had echoes on both cigarettes and raw tobacco market. In 2001, British American Tobacco, Japan tobacco, Philip Morris and Papastratos have joined their forced in order to protest against the tax increase in March, when was foreseen an increase by around 20%. The protest invoked the huge arrears the national company (SNTR) had been accumulated to the state budget.

In February 2002, when the Government decided to cancel the tax deduction of 40% of excises for the cigarettes producers that used annually tobacco leaf from domestic production, made national cigarettes company to cancel its contracts with growers, the gratuities offer to them and to announce an increase of cigarettes prices by 25-30%. ([www.cotidianul.ro/anterioare/2002](http://www.cotidianul.ro/anterioare/2002))

Table 7 – Tobacco excises contribution to the state budget, %

	1995	2001	2002
Tobacco tax revenues as % of GDP	0.05	0.70	0.76
Tobacco tax revenues, as % total tax rev.	0.30	5.94	6.89
Tobacco tax revenues as % total excises rev.	4.75	29.88	35.66

Source : 3, 12

To excises are added some special taxes paid by producers and traders to the Health Fund:

- Since 2002, 12% tax on income derived from advertising activities for tobacco and alcohol (10% until then starting from 1992).
- 2% applied on the mark-up paid by traders of tobacco and alcohol. This was cancelled in 2003, and replaced by 1.5% from sales paid to the Environment Fund.

The fear of increasing smuggling was explicitly mentioned in a country which high poverty rate as Romania.

## Prices

Attempt of identifying price evolution is no easier than other series. The most complete data series is the ERC one, but for groups “local brands” and “Marlboro” in local currency, from 1993 to 2001, for March and September. The prices for 1993 and 1994, average of two months in a year, are very fragile in years with the high inflation rate. GAIN Reports mention interval of prices for local brands and for some foreign ones (or also as price interval), from 1995 to 1999. Starting with 1999 MF records prices of

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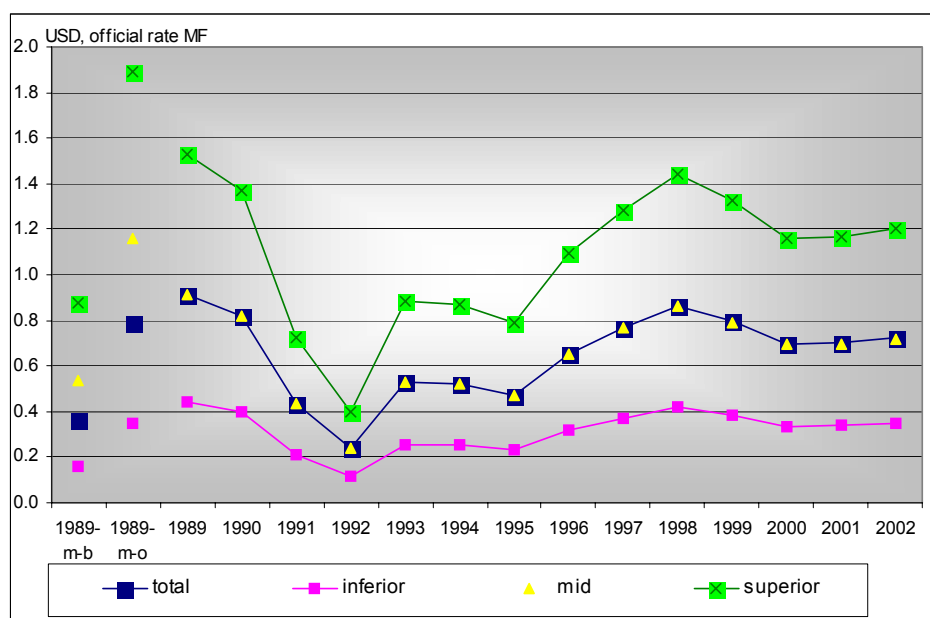
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cigarettes by 5 classes: inferior, mid-inferior, mid, mid-superior, superior. Mid class is the class of the best-sold cigarettes. The level declared is supposed to be the maximum for each brand, as long as the traders an ad-valorem tax applied to the maximum final selling price. Spared figures in newspapers and international organization web sites mention date for local/ domestic and foreign brands. Each step of unifying the available data is more than an approximate, due to intervals vs. figures, various classes, and so on.

ERC Report presents also a list of 91 cigarettes brands and their prices. These were split in 3 groups, trying to follow the MF's classification<sup>1</sup>: inferior, mid, and superior. The average price for each group, as well as for the 91 brands was adjusted by the annual tobacco price index, for the entire period between 1989 and 2002. The data are presented in graph 2.

Another problem arises at that point: the most of the cigarettes brands in 1999 were not on the market in 1989. The definition for superior and inferior was also different between the two moments. In order to check the data for 1989 an appeal to unwritten memories<sup>2</sup> was made. The results of it are presented in graph 2 at 1989-m-o.

Graph 2 - Cigarettes price evolution



Source: Simona Ilie computation based on ERC data for 1999, and tobacco consumption price provided by NIS

<sup>1</sup> This was not precisely possible because MF classification is not based on single criteria like price or quality. The mid class is the class of the best-sold brands. The rest of the groups look rather defined by prices. More than that the figures for different sources for 1999 do not fit. According to ERC list and price criteria Marlboro and Kent, which are largely considered of superior quality, fit rather mid-superior group. So, it was made a convention: brands cheaper than 8000 ROL (38 brands) were considered inferior, between 8001 and 16000 (25) were considered mid, and over that price superior (28). The price limits fit more or less the inferior and mid-inferior groups of MF, while the limit for superior was set in order to include also Marlboro and Kent brands.

<sup>2</sup> 5 smokers at 1989 were asked to mention the cigarette brands and their prices they remind from 1989. Resulted a list of 16 brands and their prices. The prices indicated by for a given brand converged for the same level. The procedure does not claim for any scientific value, but it will be used for comparisons with the inflation adjusted results.

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Another detail is to be taken into account. In the last years of Romania's communist period possession of foreign currency was legally forbidden. This way arose an official and a black market exchange rate, parallelism which prolonged in 1990 and few years after, under the form of high differences between the exchange rates at the exchange offices and banks, in the favour of the first ones. This difference is emphasized also in graph 2 as 1989-m-b.

As mentioned before, during communism western foreign branded cigarettes were not subject of official large trade. They were sold on black market and extremely restrictive in some shops around hotels. In 1989 a pack of Marlboro or Kent cost around 1 USD, at black market exchange rate. The group of superior cigarettes came close to this level after 1992 except 1995. Bloomberg news promoted quite the same value for western branded cigarettes is \$1 in Romania.

In 2003 tobacco companies announced an increase by up to 17% of the cigarettes they produce in Romania consequence of the increase in tobacco excises (around 80%).

### 5.6. Tobacco consumption

Consumption intensity depends on cigarettes supply and cigarettes prices. Data used to identify cigarettes supply, computed per capita were completed with other estimations of total and per capita<sup>1</sup> consumption from various international sources and different years. WHO data (1993 –1997) are added to ERC (1990 – 2000, based on legitimate sales) and USDA (1993-1999) data.

Spared figures do not necessarily simplify the pictures. A brief analyse of Globalink site<sup>2</sup> up to 1994 mentions a peak of 2100 cigarettes in early 1980, a decrease down to 1300(!, even suspected to be underdeclared) in 1991 followed by a rise up to 2000 in 1993. The authors of 1999 WHO Report are mentioning a consumption level for 1990 and 1997 close to that of ERC: 1014 “in late 1980s and early 1990s”, and 1663 per capita (!) in 1997. (Graph 2)

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<sup>1</sup> Some figures per adult (15 years and over) are author's re-computation based on NIS population data.

<sup>2</sup> [www.tcrp\\_profiles.globalink.org/ro\\_tcp.c.html](http://www.tcrp_profiles.globalink.org/ro_tcp.c.html)

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Graph 3 – Cigarettes consumption per adult (15 and over)

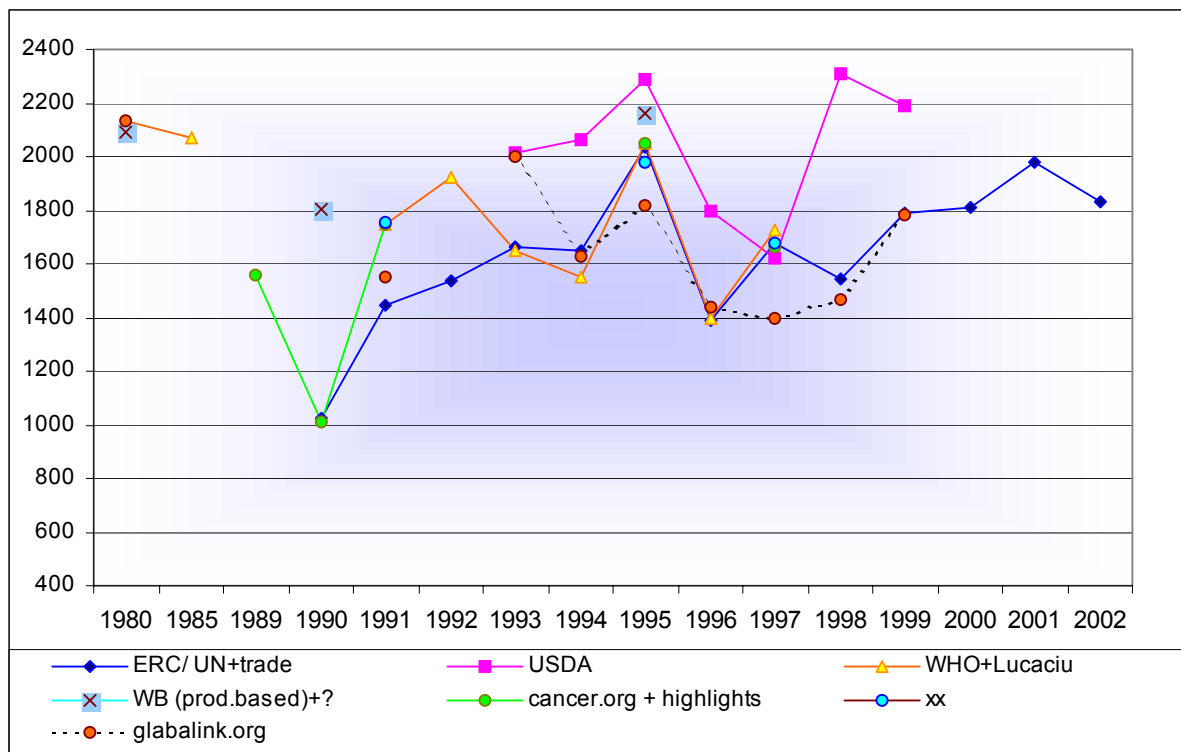


Table 7 Smoking intensity, cigarettes per adult/ per year

	1970	1980	1986	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
1. Cigs./ 15+	1740	2130	2073	1025	1444	1539	1671	1647	1691	1759	1679	1854	1484	1675	1750
2. Cigs./ 15+***					1749	1923	1646	1548	2052	1394	1727				

Source: ERC Group plc, Romania, 1/2001; [www.biologie.lucaciu.go.ro/lucrare/tutun/](http://www.biologie.lucaciu.go.ro/lucrare/tutun/) \*) [terc\\_profiles.globalink.org/ro\\_tcp-c.html](http://terc_profiles.globalink.org/ro_tcp-c.html) Figures for 1970 refers to 1970 –1972, as well as figure for 1980, which refers to 1980-1982; \*\*\*) WHO/ Europe, HFA database, June 2003, UNDP



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### Annex 1 General demographic indicators

Indicator	units	1980	1985	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Population, 1st of July	thous.people	22201	22725	23207	23185	22789	22755	22731	22681	22608	22546	22503	22458	22435	22408	21795
Population 15 and over	% of total	73.3	75.3	76.4	77.0	77.6	78.3	78.9	79.5	80.1	80.6	80.9	81.2	81.7	82.2	82.7
Male population	% of total	49.3	49.3	49.3	49.3	49.1	49.1	49.1	49.0	49.0	49.0	48.9	48.9	48.9	48.9	48.8
Urban population	% of total	45.8	50.0	54.3	54.1	54.3	54.5	54.7	54.9	54.9	55.0	54.9	54.8	54.6	54.6	53.3
Life expectancy (LE)	years	69.1	69.7	69.6	69.8	69.8	69.5	69.5	69.4	69.1	69.0	69.2	69.7	70.5	71.2	71.2
LE - male	years	66.5	66.8	66.6	66.6	66.6	66.1	65.9	65.7	65.3	65.2	65.5	66.1	67.0	67.7	67.6
LE - female	years	71.8	72.8	72.7	73.1	73.2	73.2	73.3	73.4	73.1	73.0	73.3	73.7	74.2	74.8	74.9
Infant mortality rate	% at 1000 live births			26.9	22.7	23.3	23.3	23.9	21.2	22.3	22.0	20.5	18.6	18.6	18.4	17.3

Source: NCS data.

### Annex 2 General economic indicators

Indicator	units	1980	1985	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Annual inflation rate	%				5,1	170.2	210.4	256.1	136.7	32,3	38.8	154.8	59.1	45.8	45,7	34.5	22.5
DGP/ capita, real terms*)	Bil.ROL, prices 1989			800	755.2	657.6	599.9	609.1	633.0	678.2	704.7	662.0	634.5	627.2	640.6	677.5	710.2
Employment in agriculture	% of total	30.4	29.4	27.9	29	29.7	33	36	36.5	34.5	35.5	37.6	38.1	41.2	41.4	40.8	
Employment in industry	% of total	43.5	44.7	45.1	43.5	39.9	37.1	35.8	34.4	33.6	34.3	32	30.7	24.4	23.2	27.5	
Employment in service	% of total	26	25.9	27	27.5	30.4	29.9	28.2	29.1	31.9	30.2	30.4	31.2	34.4	35.4	31.7	
Unemployment rate	%					3.0	8.2	10.4	10.9	9.5	6.6	8.9	10.4	11.8	10,5	8.8	8.1

Source: NCS data. \*) Starting with 1990 the registered values are recomputed by GDP annual price deflator index

### Annex 3 Tobacco related agriculture

Indicator	units	1980	1985	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Area devoted to tobacco leaves	thous.ha	43.6	35.1	16.8	9.9	6.5	9.4	10	9.6	9.5	14	13.5	10.9	11.3	9.2
- out of which in private property	thous.ha				9.6	6.1	8.5	8.9	9	9	13.4	13	10.6	11	9
Tobacco production	thous.ha	37.3	26.1	14.2	13.9	7.6	10.5	13	13.4	12.1	18.1	17.5	14.8	10.9	10.1
- out of which in private property	thous.ha				13.5	7	8.7	11	12.3	10.8	17	16.6	14	10.6	9.8
Average production per ha	kg	855	743	843	1410	1174	1120	1300	1388	1277	1266	1301	1349	965	1094

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Source: MAFFE and NCS data.

### Annex 4 Tobacco industry related indicators

Indicator	units	1980	1985	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Consumer prices index	%, previous year	-	-	105.1	270.2	310.4	356.1	236.7	132.3	138.8	254.8	159.1	145.8	145.7	134.5	122.5
Tobacco prices index	%, previous year	-	-	112.8	187.4	220.1	551.5	214.1	111.9	208.9	273.5	139.0	158.8	124.1	134.6	117.4
Wage earners	thous.people	7340	7661	8049	8155	7574	6887	6672	6438	6160	5939	5597	5369	4760	4623	4619
Wage earners in tobacco industry	thous.people	8	7	6	6	6	6	8	7	5	5	6	4	4	5	
National average wage*)	1989 = 100%	-	-	105.0	86.1	74.9	62.1	62.4	70.2	76.9	59.4	61.5	62.9	60.4	63.1	65.5
Average wage tobacco industry compared to national average wage	%	103.6	109.1	110.9	113.9	118.0	118.8	134.0	125.5	169.1	185.2	171.7	173.1	201.9	204.7	204.7

Source: NCS / TRANS MONEE data; \*) author's computation based on NCS data

### Annex 5 Tobacco trade, thous. tonnes

Indicators	1980	1985	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Total tobacco leaf production 8+4)	37300	27140	27456	14146	13919	7579	11404	12993	13358	12092	17700	17500	17800	10869	
Non/manufactured tobacco, imports 6+8)	0			3477			17670	5000	7736	7950	18097	16769	24867	18999	20906
Non/manufactured tobacco, exports, 2+8+10)	3200			1532			200	100	7		106	485	838	963	1193
Tobacco unmanufactured total	34100			16091			28874	17893	21087		35691	33784	41829	28905	
Tobacco manufactured, including prepared leaf, 1)	33000	32000		27000	42000	41000	23273	21920	22538	25440	25945	28576	30802	33301	
Manufactured tobacco, import 6+9)							32090	23943	29645	30373	24851	19572	27796	26964	
Manufactured tobacco, export 6+9)							189	21	85	89	112	560	856	1159	
Tobacco manufactured total							55174	45842	52098	55724	50684	47588	57742	59106	

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### Annex 6 Cigarettes trade, mil. sticks

Indicator	1980	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
Cigarettes production (cigars included), 1+4)	33224	18090	17722	17781	15222	14532	14747	16536	25943				
Cigarettes production 11)		18090	17781	17722	15222	14532	14747	16536	25943	25600	30800	29800	
Cigarettes production, 12)					21500	22000	20500	20500	23500	26000	34500		
Cigarettes production, 3+4)	34002	32002				22000	21000						
Cigarettes imports 11)		100	8000	9500	14540	15000	22076	8580	4566	2456	1909	3474	
Cigarettes imports, 12)					14540	15000	20800	12000	6000	6000	5500		
Cigarettes imports, 2+4)	-	-					21084			2749		3474	4200
Cigarettes exports 11)					163.0		78.0	4.0	2.0	---	16.0	71.0	
Cigarettes exports, 2+4)	-	-					78			75		71	926
Cigarettes consumption, legitimate sales, 11)		18190	25780	27220	29760	29530	30500	31860	30509	33740	27070	30710	32250
Domestic consumption, 12)					36040	37000	41300	32500	31500	33000	40000		
Cigarettes (sold) consumption, 3)							39000						
Cigarettes consumption 2)			31232				37004						
conceivable consumption*)	34003	32002	31232	34022	35877	37000	37004	32496	29498	32000	32693	33203	35524

Source: \*) exports taken into account after 1993

### Annex 7 Mortality data for diseases with incidence among smokers (deaths per 100000 inhabitants)

Indicator	1970	1980	1985	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Boli cronice pulmonare obstructive ***)		19.5	30.3	30.2	31.2	31.4	38.9	32.2	30.0	38.3	34.3	32.9	33.2	29.1	28.6	32.2
Lung, trachea, and bronchus cancer		28.7*)	29.2*)	30.7*)		31.8	33.0	33.9	34.3	33.8	34.5	34.8	33.8	35.7	35.9	
Bronchitis chronic and unspecified, emphysema and asthma						24.7	17.5	15.8	13.4	14.8	11.7	10.2	31.9	27.3	26.3	
Ischaemic heart disease ***)	72.6	114.6	161.2	182.1	192	211.5	238.8	238.5	244.4	259.5	258.4	252.3	256.6	242.6	244.9	259.3
Cerebrovascular diseases ***)	130.8	143.7	159.4	167.3	172.6	181.1	234.7	235.3	243.3	254.7	252.9	246.5	241.5	231.8	235.5	253.3
Tumors **)	123.3	135.0	136.7	142.1	144.7	153.0	158.9	162.2	165.5	170.3	173.6	174.6	176.7	184.0	190.8	198.2

Source: Health for all databases, WHO and author's computations based on Yearbooks /NCS data (before 1992) \*) author's estimations based on graph presented on [Terc\\_profiles.globalink.org/ro\\_tcp.c.html](http://Terc_profiles.globalink.org/ro_tcp.c.html) -data are referring the lung cancer only. The same estimations for the year 1992-1993 produce a lung cancer mortality rate of 34.6 0/0000, \*\*) NHD Report 2000; \*\*\*) MH, Yearbook, 2000 and 2002

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### Annex 8 Tobacco devoted land, ha

County	1997	1998	1999	2000	2001
<b>Center region</b>					
Alba	311	153	150	189	303
Sibiu	36	7			
Mures	457	334	348	459	657
<b>North West region</b>					
Bihor	194	156	131	163	104
Cluj	219	171	77	89	184
Satu Mare	342	281	182	184	159
Bistrita Nasaud	8			22	10
<b>West region</b>					
Arad	973	636	392	358	322
Timis	592	441	620	340	178
Caras Severin	33	1	17	5	27
Hunedoara	30			1	1
<b>South West region</b>					
Olt	2226	1947	807	773	575
Dolj	5890	4946	2990	4085	3739
Gorj	74	85	38	42	59
Mehedinti	164	143	108	39	69
<b>South region</b>					
Teleorman	468	340	175	101	116
Arges	77	124	82	52	68
Dimbovita	123	206	145	81	135
Prahova	33	26	29	32	21
Giurgiu	346	487	178	215	193
Ialomita	848	843	742	1069	605
Calarasi	130	107	66	25	55
<b>Bucharest Area</b>					
Bucuresti				3	4
<b>South East region</b>					
Buzau	826	734	455	474	305
Constanta	23	11	7	3	
Tulcea	115	105	67	69	95
Braila	700	630	559	414	223
Galati	340	350	326	345	348
Vrancea	136	116	77	43	25
<b>North East region</b>					
Botosani	108	61	57	41	8
Suceava	6	1			
Iasi	196	318	369	290	149
Neamt	6	2		3	
Vaslui	475	546	477	511	440
<b>Total</b>	<b>16505</b>	<b>14322</b>	<b>9671</b>	<b>10521</b>	<b>9175</b>

Source: MAFRD based on data provided by SNTR

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## **Chapter six – Knowledge's, attitudes and practices linked to the tobacco consumption among Romanian general population**

The research in this field is based on the study performed by the Centre for Health Policies and Services (CHPS) compared with other available data.

The study published by CHPS in Romanian language at the beginning of March 2004 with the financial support of the European Union in the framework of the Phare Program – Development of the Civil Society cover the following topics:

- Identification of the relevant statistic indicators linked to the tobacco consumption among Romanian general population.
- Identification of the knowledge's attitudes and practices linked to the tobacco consumption among Romanian general population (smokers/nonsmokers).
- Identification of the social and health consequences of the tobacco consumption.
- Identification of the role of mass-media and advertising for tobacco consumption promotion and quitting smoking.

**Target population:** men and women's, from general population with age between 15 and 60 years.

**Methodology:** Research quantitative techniques (questionnaires).

- Number of subjects: 1300 individuals (men and women's, smokers and non-smokers) from urban and rural areas, 10 counties and Bucharest representative for the Romanian general population.
- The places where the study is performed were random choose.
- The database is analyzed with SPSS software.

According to data series on tobacco prevalence one can notice an increase tendency in tobacco prevalence after 1990, from almost 1 out of 4 to a bit more than 1 out of 3 persons. The prevalence amongst men has increased slightly, approximately 5 percentages, while the incidence amongst women has increased twice, tendency similar to global trend in low- and mid- income countries.

The study carried out by the Center for Health Policies and Services in 2003, on a representative sample for the ages 14-60, reveals a share of 31.3% people that never tried to smoke. Another 19.5% declare that they smoked less than 100 cigarettes (5 packs) in their life. Questioned about the last 30 days the smokers' share was 35%. The frequencies considered here cumulate the "daily", "almost daily", and "rarely" smokers. Adding back those who did not smoke in the last 30 days, but admit they do it from time to time the share rises just to 35.9%.

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The figures for 2000 are referring to the regular daily smokers. By operating the same restriction for 2003 the general prevalence reached 29.7%, differentiated by gender as follows: 40.4% for men, 19.3% for women. The ERC Report (2001), citing a report released by BMA in October 2000, states that “28% of the population are smokers, unchanged from 1994”.

The increase in prevalence figures hides expresses an increase of more than 2 millions in smokers' number between 1989 (4.5 millions) and 2001 (6.6 millions).

Anyway, up to 2000 the women smoked 3 times less then men, share that differentiated Romania from the CEE countries discussed earlier. After 2000, this share became ½, a pattern more similar to other CEE countries.

### Tobacco prevalence in Romania

% of the total	1989	1992	1994	1995	2000*)	2001	2003
Prevalence, +15	25.9	28.4	28	29.2	21	36	35
Male	43.9	46	42.7	46	32.2	48	46.8
Female	11.3	13.3	15.2	13	10.1	25	23.5

Source: 1989 –National Center for Health Statistics, Ministry of Health cited in Ph.D; 1992 - Report on Romania - Reducerea cererii de droguri, Phare Project Commicion of European Communities, Draft, quoted in Mihălțan F., Ce nu știe fumătorul român? Ed. Medicală, București, 2001; 1994 – Ursuleanu D., Sănătatea într-un important sondaj, Actualitatea medicală, 1995 cited in Mihălțan F., Ciobanu M., Tabagismul: consecințe și tratament, Ed. Medicală, București, 2001; 1995- Mihălțan F., Costea M., et all, Aspecte și atitudini legate de fumat la Chirurgii din România, Pneumoftiziologia, 1999; 2000 - Trends in Europe and North America, Statistical Yearbook, UN (Source: UNECE), 2001 – ;2003 – authors computation on data provided by CPSS/SOROS national survey. \*) Daily smokers

The prevalence habit is significantly different by gender and residence areas. Smokers' share rises to 46.8% amongst men, and 38.1% for urban inhabitants in 2003. Considered over 10 years, it appears clearly that the increased smoking incidence amongst women and the urban inhabitants are the responsible for the increased general prevalence.

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### Tobacco prevalence, gender and regional characteristics:

Prevalence, % 15 and over	Male	Female	Urban	Rural
1992	46.0	13.3	31.8	30.6
2003	46.8	23.5	38.3	31.2

### Tobacco prevalence, age characteristics:

Prevalence, % 15 and over	15-24		25 – 44		45-64	
	Male	Female	Male	Female	Male	Female
1993	n.a	15.4	n.a	n.a	n.a	n.a
1994	32.8	17.4	61.7	25.0	44.3	10.5
1996	n.a	19.8	n.a	n.a	n.a	n.a
1999	45.4	25.7	n.a	n.a	n.a	n.a
2003	46.2	26.4	52.6	26.7	42.2	18.5

The retrospective look points out a constant highest prevalence in the age group of 25-44. Unfortunately, dangerous changes have to be noticed additionally. The increased general prevalence is due to the increased smoking prevalence in the group 15-24, for both males and females. For the other groups smoking prevalence has decreased for men (mostly in the middle group), and has increased for women respectively (in the young and the elderly groups).

The 1999 WHO Report on Romania (Highlights, 1999) found a decreased tendency of the heavy smokers (20 or more cigarettes per day) from around 13% in 1989 to around 9% in 1994. This pattern has maintained until 2003, when this category of smokers represents just 5.5% for the total. The heavy smokers are more frequent among men (MS, 1995) despite of a significant decrease between 1989 and 1994 from 26.5% to 17.1%. The share of heavy smokers rests at the same level (around 2.5 %) among women.

The same report points out a share of 55% of men between 20-29 as smokers, and 20% of women respectively. While the share for men has rest unchanged until 2003 (54.8%) that of the women increased to 28.4%. Another comparison is to be made with respect to high-educated

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women. The smoker amongst them has remained almost unchanged -34.3% in 2003 compared to 33% as was mentioned in the 1999 Report. Let's note that these figures are at least equal to the average. That means that the general increase in smoking prevalence at women is due to an increase among the low educated ones.

An important example from the CHPS study is referring to the attitude of the medical personnel in front of their patients:

<b>Did you talk with medical personnel representatives about negative effects of tobacco consumption?</b>	<b>Total (%)</b>	<b>Smokers (%)</b>	<b>Nonsmokers (%)</b>
<b>YES</b>	<b>13,1</b>	<b>20,8</b>	<b>9,0</b>
<b>NO</b>	<b>83,0</b>	<b>76,2</b>	<b>86,6</b>
<b>I don't know/I don't remember</b>	<b>3,5</b>	<b>2,8</b>	<b>3,9</b>
<b>Number of subjects</b>	<b>1209</b>	<b>423</b>	<b>786</b>

The answers show clearly that the Romanian medical personnel (doctors, nurses) don't talk with their patients about the negative effects of tobacco consumption.

Many doctors are relatively well informed of the health risk of smoking but the primary impediment to their accepting responsibility for tobacco control lies in their failure to recognize that their professional responsibility extends beyond the treatment and cure of tobacco caused diseases and includes the prevention and cessation of tobacco use. Especially in Romania this lack of recognition is reinforced by medical compensation system that doesn't pay for counseling and cessation services.

According with the provision of the Article 4 point 1 of the FCTC (every person should be informed of the health consequences, addictive nature and mortal threat posed by tobacco consumption and exposure to the tobacco smoke...) and taking in to account that doctors and other health professionals are respected and influential community leaders in Romania, one policy paper which will result after this research will be developed especially for this professional category.



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## **Chapter seven – Current situation in Romania compared with the FCTC provisions**

Having regard the major impact of the tobacco consumption to the public health, Romania actively participated at the 6 sessions of international negotiations organized by WHO, also to the inter-sessional activities and meetings, through the delegation comprised by the representatives of the Permanent Mission of Romania to the UN from Geneva (the Permanent Representative, Her Excellency, Lady Ambassador Anda Filip and Mrs. Doina Iordache, First secretary at the Permanent Mission) and the representative of the Romanian Government (Mrs. Luminita Sanda, MD, the delegate of the Ministry of Health). Some of the proposals of the Romanian delegation have been included in the texts of the negotiations. The meetings organized by the delegation of the European Commission and the delegation representing the European Presidency of the Member States were the opportunities for discussions among the countries of the European Union and the candidate countries, as well as other European countries. Those discussions concluded with the agreement of including Romania into the majority of the public positions of the countries sustaining the same position of EU.

As is stated in the Framework Convention on Tobacco Control the objective of FCTC (Article 3) is to protect present and future generations from devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented at the national, regional and international levels in order to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke.

Having regard to the global process of signing and ratifying of FCTC and also to the fact that European Community signed already the treaty, Romanian Ministry of Health initiated the formal procedures for signing the Framework Convention for Tobacco Control (Memorandum for Credentials for signing by the Permanent Representative from New York). The Ministry of External Affairs and Ministry of Agriculture have approved the Memorandum by now (June 4<sup>th</sup>, 2004). According to the Romanian legislation the Memorandum needs also approval from Ministry of Finance, Ministry of Justice and Ministry of European Integration. After that, the Prime Minister has to sign it on behalf of the Government and then to submit it to the President. Once these steps are done, the full powers for the Permanent Representative from New York will be issued and the treaty will be signed. The expectancies are that the Romanian Government will achieve signing FCTC before 29th of June 2004, in order to be, then, entitled to ratify the convention. If this deadline will be lost, Romania can only access the treaty.

The entire text of the Convention is acceptable for Romania. It is well known now that the level of restrictions and norms included in the provisions of the convention is a minimum level that could be obtained by tobacco control legislation, as it is usually happening with multilateral treaties. Some of the countries have already included the legislation deriving from the obligations of the convention into their legislation (before or after adopting the convention). From their side, signing and ratifying the convention was just a sign solidarity and willingness to join the global efforts for tobacco control (Hungary is one of them). Other countries have a lot of developments in front of them, after becoming a Party of the convention so, for them signing and ratifying means a shorter or longer period of changes, efforts, developments of the legislation or the implementation of it. It is very clear the fact that in any way, an international treaty like this could not adopt very strong rules for the simple reason that by doing this very few countries

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could accept to be bound to something that could overpass their internal rules, the national legislation etc. On the other hand, it is also true, that behind this argument a lot of compromises regarding the level of restrictions have been made during the negotiations.

The current situation in Romania is presented following the summary of the Framework Convention for Tobacco Control:

### 7.1. Advertising, Promotion and Sponsorship (FCTC - Article 13)

**A comprehensive ban is required:** The FCTC requires all Parties to undertake a comprehensive ban on tobacco advertising, promotion and sponsorship within five years of ratifying the treaty. The ban must include cross-border advertising originating within a Party's territory. The definitions of advertising, promotion and sponsorship are broad and include indirect as well as direct forms. Countries with constitutional constraints are required to restrict advertising, promotion and sponsorship, including cross-border advertising, in a manner consistent with their constitutional principles. The Parties also agree to consider a protocol to elaborate on the cross-border provisions, for example the technical and legal aspects of preventing or blocking advertising on the internet and satellite television.

The situation in Romania comparing with other European countries is as follows:

**Direct advertising:**

Country	National TV	Cable TV	National radio	National press	International press	Billboards	Point of sale	Cinema
Albania	Complete ban	No restriction	Complete ban	Complete ban	No restriction	No restriction	No restriction	No restriction
Andorra	No restriction	No data available	No restriction	No restriction	No data available	No restriction	No restriction	No restriction
Armenia	Complete ban	Complete ban	Complete ban	Partial restriction	No restriction	Partial restriction	No restriction	Partial restriction
Austria	Complete ban	Complete ban	Complete ban	Partial restriction	No restriction	Partial restriction	Partial restriction	Partial restriction
Azerbaijan	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Complete ban	Complete ban	Complete ban
Belarus	Partial restriction	Partial restriction	Partial restriction	Partial restriction	No restriction	Partial restriction	No restriction	Partial restriction
Belgium	Complete ban	Complete ban	Complete ban	Complete ban	Partial restriction	Complete ban	Partial restriction	Complete ban
Bosnia and Herzegovina	Partial restriction	Partial restriction	Partial restriction	Partial restriction	Partial restriction	Partial restriction	Partial restriction	Partial restriction
Bulgaria	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Complete ban	Partial restriction	Complete ban
Croatia	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Complete ban	Partial restriction	Complete ban
Czech	Complete	Complete	Complete	Complete	Partial	Complete	Partial	Complete

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Republic	ban	ban	ban	ban	restriction	ban	restriction	ban
Denmark	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Complete ban	Partial restriction	Complete ban
Estonia	Complete ban	No restriction	Complete ban	Complete ban	No restriction	Complete ban	Complete ban	Complete ban
Finland	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Complete ban	Complete ban	Complete ban
France	Complete ban	Complete ban	Complete ban	Complete ban	Complete ban	Complete ban	Partial restriction	Complete ban
Georgia	Complete ban	Complete ban	Complete ban	Partial restriction	No restriction	Partial restriction	Partial restriction	Partial restriction
Germany	Complete ban	Complete ban	Complete ban	No restriction	No restriction	Voluntary agreement	No restriction	Partial restriction
Greece	Complete ban	Complete ban	Complete ban	No restriction	No restriction	No restriction	No restriction	Partial restriction
Hungary	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Complete ban	Partial restriction	Complete ban
Iceland	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Complete ban	Complete ban	Complete ban
Ireland	Complete ban	Complete ban	Complete ban	Complete ban	Partial restriction	Complete ban	Complete ban	Complete ban
Israel	Complete ban	Complete ban	Complete ban	Partial restriction	No restriction	Complete ban	Partial restriction	Complete ban
Italy	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Complete ban	Complete ban	Complete ban
Kazakhstan	Complete ban	Complete ban	Complete ban	Partial restriction	No restriction	Complete ban	No restriction	Complete ban
Kyrgyzstan	Partial restriction	Partial restriction	Partial restriction	Partial restriction	No restriction	No restriction	No restriction	Partial restriction
Latvia	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Complete ban	Complete ban	Complete ban
Lithuania	Complete ban	Complete ban	Complete ban	Complete ban	Complete ban	Complete ban	Complete ban	Complete ban
Luxembourg	Complete ban	No restriction	Complete ban	Partial restriction	Partial restriction	Partial restriction	Partial restriction	Complete ban
Malta	Complete ban	No restriction	Complete ban	Partial restriction	No restriction	Partial restriction	Partial restriction	Complete ban
Monaco	No data available	No data available	No data available	No data available	No data available	No data available	No data available	No data available
Netherlands	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Complete ban	Partial restriction	Complete ban
Norway	Complete ban	Partial restriction	Complete ban	Complete ban	Partial restriction	Complete ban	Complete ban	Complete ban
Poland	Complete	Complete	Complete	Complete	Complete	Complete	Partial	Complete

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	ban	ban	ban	ban	ban	ban	restriction	ban
Portugal	Partial restriction	Partial restriction	Partial restriction	Partial restriction	No restriction	Complete ban	Partial restriction	Complete ban
Republic of Moldova	Complete ban	No restriction	Complete ban	Partial restriction	No restriction	Complete ban	No restriction	Partial restriction
<b>Romania</b>	<b>Complete ban</b>	<b>No restriction</b>	<b>Complete ban</b>	<b>Partial restriction</b>	<b>No restriction</b>	<b>Partial restriction</b>	<b>No restriction</b>	<b>Partial restriction</b>
Russian Federation	Complete ban	Complete ban	Partial restriction	Partial restriction	No restriction	No restriction	No restriction	Partial restriction
San Marino	No data available	No data available	No data available	No data available	No data available	No data available	No data available	No data available
Serbia and Montenegro	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Complete ban	Complete ban	Complete ban
Slovakia	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Complete ban	Complete ban	Complete ban
Slovenia	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Partial restriction	No restriction	Partial restriction
Spain	Complete ban	Complete ban	Complete ban	No restriction	No restriction	No restriction	No restriction	No restriction
Sweden	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Partial restriction	Partial restriction	Complete ban
Switzerland	Complete ban	Complete ban	Complete ban	Partial restriction	No restriction	Partial restriction	Partial restriction	Partial restriction
Tajikistan	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Complete ban	Complete ban	Complete ban
The former Yugoslav Republic of Macedonia	Complete ban	Complete ban	Complete ban	Complete ban	Complete ban	Complete ban	Complete ban	Complete ban
Turkey	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Complete ban	Partial restriction	Complete ban
Turkmenistan	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	Complete ban	Complete ban	Complete ban
Ukraine	Complete ban	Complete ban	Complete ban	Partial restriction	No restriction	Partial restriction	No restriction	Partial restriction
United Kingdom of Great Britain and Northern Ireland	Complete ban	Complete ban	Complete ban	Complete ban	Partial restriction	Complete ban	Voluntary agreement	Complete ban
Uzbekistan	Complete ban	No restriction	Complete ban	Partial restriction	No restriction	Complete ban	No restriction	No restriction

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### Promotion and sponsorship:

Country	Product placement in TV and films	Sponsored event with tobacco brand name	Non-tobacco products with tobacco brand name	Tobacco product with non-tobacco product brand name	Direct mail giveaways	Promotional discounts
Albania	No restriction	No restriction	No restriction	No restriction	No restriction	No restriction
Andorra	No data available	No data available	No data available	No data available	No data available	No data available
Armenia	No restriction	No restriction	No restriction	No restriction	No restriction	No restriction
Austria	No restriction	Partial restriction	No restriction	No restriction	No restriction	Complete ban
Azerbaijan	Complete ban	Complete ban	No restriction	No restriction	Complete ban	No restriction
Belarus	No restriction	Partial restriction	No restriction	No restriction	No restriction	No restriction
Belgium	Complete ban	Complete ban	Partial restriction	No restriction	Complete ban	Complete ban
Bosnia and Herzegovina	Complete ban	Complete ban	No restriction	No restriction	No restriction	No restriction
Bulgaria	Complete ban	Complete ban	Complete ban	Complete ban	Complete ban	Complete ban
Croatia	Complete ban	Partial restriction	Complete ban	Complete ban	Complete ban	Complete ban
Czech Republic	No restriction	Partial restriction	Partial restriction	No restriction	Complete ban	No restriction
Denmark	Partial restriction	Complete ban	Partial restriction	Partial restriction	Complete ban	Complete ban
Estonia	Complete ban	Partial restriction	No restriction	Complete ban	No restriction	No restriction
Finland	Complete ban	Complete ban	Partial restriction	Complete ban	Complete ban	Complete ban
France	Complete ban	Complete ban	Partial restriction	Complete ban	Complete ban	Complete ban
Georgia	Partial restriction	Partial restriction	Partial restriction	Partial restriction	No restriction	No restriction
Germany	No restriction	No restriction	No restriction	No restriction	No restriction	No restriction
Greece	Complete ban	No restriction	No restriction	No restriction	No restriction	Partial restriction
Hungary	No	Partial	Complete ban	Complete ban	No	No

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	restriction	restriction			restriction	restriction
Iceland	No restriction	Complete ban	Partial restriction	Complete ban	Complete ban	Complete ban
Ireland	Voluntary agreement	Complete ban	No restriction	No restriction	Complete ban	Complete ban
Israel	No restriction	Partial restriction	Complete ban	Complete ban	Complete ban	No restriction
Italy	Complete ban	Partial restriction	Partial restriction	Partial restriction	No restriction	Complete ban
Kazakhstan	Partial restriction	Partial restriction	Partial restriction	No restriction	Complete ban	No restriction
Kyrgyzstan	No restriction	No restriction	No restriction	No restriction	No restriction	No restriction
Latvia	Complete ban	Complete ban	No restriction	No restriction	Complete ban	Complete ban
Lithuania	Complete ban	Complete ban	No restriction	No restriction	Complete ban	Complete ban
Luxembourg	No restriction	Partial restriction	Complete ban	No restriction	No restriction	No restriction
Malta	Complete ban	No restriction	No restriction	No restriction	Complete ban	Complete ban
Monaco	No data available	No data available	No data available	No data available	No data available	No data available
Netherlands	No restriction	Complete ban	Partial restriction	Partial restriction	Complete ban	Complete ban
Norway	Complete ban	Complete ban	Complete ban	Complete ban	Complete ban	Complete ban
Poland	Complete ban	Complete ban	Complete ban	Complete ban	No restriction	No restriction
Portugal	Complete ban	Complete ban	Partial restriction	No restriction	No restriction	Complete ban
Republic of Moldova	No restriction	No restriction	No restriction	No restriction	No restriction	No restriction
<b>Romania</b>	<b>Complete ban</b>	<b>Partial restriction</b>	<b>Partial restriction</b>	<b>No restriction</b>	<b>No restriction</b>	<b>No restriction</b>
Russian Federation	Partial restriction	No restriction	No restriction	No restriction	No restriction	No restriction
San Marino	No data available	No data available	No data available	No data available	No data available	No data available
Serbia and Montenegro	Complete ban	No restriction	No restriction	No restriction	No restriction	No restriction
Slovakia	No restriction	No restriction	No restriction	No restriction	No restriction	No restriction
Slovenia	Complete	Partial	Partial	Complete ban	No	No

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	ban	restriction	restriction		restriction	restriction
Spain	Complete ban	No restriction	No restriction	No restriction	No restriction	No restriction
Sweden	Partial restriction	Partial restriction	Partial restriction	Partial restriction	Complete ban	Partial restriction
Switzerland	No restriction	Partial restriction	No restriction	No restriction	Partial restriction	No restriction
Tajikistan	No restriction	No restriction	No restriction	No restriction	No restriction	No restriction
The former Yugoslav Republic of Macedonia	Complete ban	Partial restriction	Partial restriction	No restriction	Complete ban	Complete ban
Turkey	Voluntary agreement	Partial restriction	Partial restriction	Voluntary agreement	No restriction	No restriction
Turkmenistan	No restriction	Voluntary agreement	No restriction	No restriction	No restriction	No restriction
Ukraine	No restriction	Complete ban	Partial restriction	No restriction	No restriction	No restriction
United Kingdom of Great Britain and Northern Ireland	Complete ban	Partial restriction	No restriction	No restriction	Complete ban	Complete ban
Uzbekistan	No restriction	Partial restriction	Partial restriction			

## 7.2. Packaging and Labelling (FCTC - Article 11)

**Large health warning labels are required. Parties to the treaty agree that health warning labels ideally should cover 50% or more of the principle display areas of each packet, which for a standard cigarette package means both the front and back. Parties are required to implement health warning labels that cover, at a minimum, 30% of the principle display areas within three years of ratifying the treaty. Health warning labels must include rotating messages in the principle languages of the Party, and may include pictures or pictograms.**

**Deceptive labels must be prohibited. Countries agree to prohibit misleading or deceptive terms on tobacco product packages within three years of becoming a Party. Research has proved that cigarettes that are labeled "light", "low tar", and "mild" (among other terms) are as dangerous as those denoted as regular and thus these terms mislead and deceive consumers about the risks involved in the use of these products. Although the treaty does not specify the terms that Parties should ban, the scientific evidence would certainly support banning the use of terms such as "light", "mild", "low tar", etc.**

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### **7.3. Second-hand Smoke (FCTC - Article 8)**

Nonsmokers must be protected in workplaces, public transport and indoor public places. The treaty recognizes that exposure to tobacco smoke has been scientifically proven to cause death, disease and disability. It requires all Parties to implement effective measures to protect nonsmokers from tobacco smoke in public places, including workplaces, public transport and indoor public places -- evidence indicates that only a total smoking ban is effective in protecting non-smokers.

### **7.4. Smuggling (FCTC - Article 15)**

Action is required to eliminate tobacco smuggling. Measures required include marking all tobacco packages in a way that signifies the origin and final destination or the legal status of the product, and cooperating with one-another in anti-smuggling, law enforcement and litigation efforts.

### **7.5. Taxation & Duty Free Sales (FCTC - Article 6)**

Tobacco tax increases are encouraged. The treaty states that "each Party should take account of its national health objectives concerning tobacco control" in its tobacco tax and price policies. The treaty recognizes that raising prices through tax increases and other means "is an effective and important means of reducing tobacco consumption by various segments of the population, in particular young persons."

Duty-free sales are discouraged. Parties may prohibit or restrict duty-free sales of tobacco products.

### **7.6. Product Regulation & Ingredient Disclosure (FCTC - Articles 9 & 10)**

Tobacco products are to be regulated. The Parties agree to establish guidelines that all nations may use in regulating the content of tobacco products.

Ingredients are to be disclosed. Parties shall require manufacturers to disclose to the government the contents of their tobacco products.

### **7.7. Liability (FCTC - Articles 4.5 and 19)**

Legal action is encouraged as a tobacco control strategy. The treaty recognizes that liability issues are an important part of a comprehensive tobacco control program and the Parties agree to consider legislative and litigation approaches to advance tobacco control objectives. Parties also agree to cooperate with one another in tobacco-related legal proceedings.

### **7.8. Treaty Oversight (FCTC - Article 23)**

A strong Conference of the Parties will oversee the treaty. The FCTC establishes a Conference of the Parties (COP) which will convene within one year of the treaty's entry into force. The COP is empowered to monitor the implementation of the treaty, adopt protocols, annexes and



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amendments to the FCTC, and to create appropriate subsidiary bodies to carry out specialized tasks.

## **7.9. Financing (FCTC - Article 26)**

Parties have committed themselves to promote funding for global tobacco control. The Parties agree to mobilize financial assistance from all available sources for tobacco control initiatives for developing country Parties and for Parties with economies in transition, including from regional and international intergovernmental organizations and other public and private sources.

## **7.10. Other Important Commitments**

- Each Party shall establish or reinforce and finance a national coordinating mechanism or focal point for tobacco control. (FCTC - Article 5)
- Parties shall endeavor to include tobacco cessation services in their national health programmes. (FCTC - Article 14)
- Parties shall prohibit or promote the prohibition of the distribution of free tobacco products. (FCTC - Article 16)
- Parties shall promote the participation of NGOs in the development of national tobacco control programmes. (FCTC - Article 12)
- Parties shall prohibit the sale of tobacco products to persons under the age set by national law, or eighteen. (FCTC - Article 16)
- No reservations to the FCTC are allowed. (FCTC - Article 30)
- The FCTC will enter into force 90 days after ratification by the 40th country. (FCTC - Article 36)

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## **ANNEX 1**

### **Development of public health policy in the European Community as a framework for action in the field of tobacco control**

European Union citizens rightly attach great importance to their health and expect to be protected from possible dangers. Thus, the Community has a crucial role to play and is obliged to guarantee a high level of protection for its citizens. Due to the emergence of new challenges and priorities in the field of health, such as enlargement, the emergence of new illnesses pressures on health systems and increased Community obligations following the amendments to the Treaty, in particular Articles 3 and 152, it has been identified the necessity of developing a new strategy. This strategy consists of two main elements:

- a public health framework, including an action program in the field of public health (2001-2006) and in public health policy and legislation;
- development of an integrated health strategy: as a result of the Treaty provision which stipulates that a high level of health protection must be ensured in the definition and implementation of Community policies, health protection concerns all key areas of Community activity. This new strategy contains specific measures to address the obligation to incorporate health protection into all Community policies.

The public health framework, which is a key element of the strategy, includes those measures, which relate specifically to public health. A new action program is part of this framework for which three main strands of intervention are identified:

- improving information on health for all levels of society;
- setting up a rapid reaction mechanism to respond to the major health threats;
- tackling health determinants, particularly by addressing harmful factors related to lifestyle.

By emphasizing the areas where Member States cannot be effective individually - where coordination at Community level is essential - the Community will be able to optimize its impact with a limited budget and will bring Community added value. It is planned to extend the existing programs before the launch of the new action programme until such time as this is established.

In addition to the public health programme, this public health framework contains other legislative measures in a range of sub-areas of public health, which will be developed within the framework. These include:

- prevention and monitoring of communicable diseases ; an international network of epidemiological surveillance and control of communicable diseases, set up in 1999;
- prevention of drug dependence; activities to supplement the Union's action plan to combat drugs 2000-2004 ;
- combating nicotine addiction; activities to supplement initiatives already taken, such as the proposal for a new directive to impose stricter rules on the manufacture, presentation and sale of tobacco products [COM (1999) 594 final], and the action programme's activities in this field;
- the quality and safety of organs and substances of human origin;
- blood and blood derivatives.;

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- **veterinary and phytosanitary;**

## **ANNEX 2**

# **Combating tobacco consumption within European Union**

### *Manufacture, presentation and sale of tobacco products*

#### **1) OBJECTIVE**

To approximate the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products in order to promote the smooth operation of the internal market while ensuring a high level of health protection.

#### **2) ACT**

Directive 2001/37/EC of the European Parliament and of the Council of 5 June 2001 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products [Official Journal L 194 of 18.07.2001].

#### **3) SUMMARY**

##### Context

The Directive is a recasting of the Community legislation on this subject. It repeals the three Directives on this subject: Directive 89/622/EEC concerning the labeling of tobacco products and the prohibition of certain types of tobacco for oral use (amended by Directive 92/41/EEC) and Directive 90/239/EEC concerning the maximum tar yield of cigarettes.

##### **Cigarettes: maximum yields**

The Directive lays down maximum tar, nicotine and carbon monoxide yields for cigarettes released for free circulation, marketed or manufactured in the Member States. These maximum yields are lower than those laid down by Directive 90/239/EEC concerning maximum tar yields and are extended to two other substances (nicotine and carbon monoxide).

From 1 January 2004, the maximum yields for cigarettes released for free circulation, marketed or manufactured in the Member States are as follows: 10 mg per cigarette for tar; 1 mg per cigarette for nicotine; 10 mg per cigarette for carbon monoxide. Cigarettes manufactured within the European Community and exported to non-member countries will have derogation until 1 January 2005. In any event, these provisions must be applied by 1 January 2007 at the latest.

As regards measurement methods, tests are carried out on the basis of standards specified by approved laboratories designated by the Member States. The information must be submitted on an annual basis to the competent authorities in the Member States, which will forward it to the European Commission. The Member States must also disseminate this information to consumers, taking account of any information, which constitutes a trade secret.

##### **Labeling**

##### **Maximum yields**

The information on the maximum yields for cigarettes must cover at least 10% of the surface of the packet (12% for a Member State with two official languages and 15% for a Member State with three official languages). The Directive also specifies where this information is to be placed on the packet.

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### **Warnings**

There are two types of compulsory warning for all products (except for tobacco for oral use and other smokeless tobacco products):

- a general warning ("smoking kills/can kill" or "smoking seriously harms you and others around you"), which must cover not less than 30% of the external area of the corresponding surface of the packet (32% and 35% for Member States with two or three official languages respectively);
- an additional warning (an annex to the Directive sets out a choice of such warnings), which must cover not less than 40% of the external area of the corresponding surface of the packet (45% and 50% for Member States with two or three official languages respectively).
- As in the case of maximum yields, the Directive specifies where the warnings are to be placed on the packet and the text to be used.

### **Tobacco products for oral use and smokeless tobacco products**

There are separate provisions for these two categories of products, i.e. the following warning: "This tobacco product can damage your health and is addictive."

#### **Product identification and traceability**

The Directive provides for identification of the place and time of manufacture of the product by means of batch numbering or equivalent

#### **List of ingredients**

Manufacturers and importers are required to submit to the Member States, on a yearly basis and for the first time by 31 December 2002 at the latest, a list of all ingredients, and quantities thereof, used in the manufacture of tobacco products, together with toxicological data on their effects on health and any addictive effects. A statement setting out the reasons for their inclusion must accompany this list. It must also be made public and be submitted to the Commission on a yearly basis.

#### **Product descriptions**

With effect from 30 September 2003, it will be prohibited to describe a product as less harmful than another does (by using names, figurative signs, etc.).

#### **Tobacco for oral use**

Member States shall prohibit the placing on the market of tobacco for oral use without prejudice to Article 151 of the Act of Accession of Austria, Finland and Sweden, which stipulates that the placing on the market in Sweden of tobacco for oral use may continue.

#### **Effects on trade**

As harmonization and approximation of the rules relating to the internal market will lead to greater clarity and increased security for market operators, the overall economic effects are considered to be positive.

#### **Implementation**

The Directive provides for transitional periods for the application of its specific provisions (on maximum yields etc.). It also provides for a second transitional period in respect of the presentation and sale of products. In actual fact, products, which do not comply with the provisions of the Directive, may continue to be marketed for one year after the deadline for implementation in the Member States. For products other than cigarettes, the transitional period is increased to two years.

The Commission, assisted by a committee will take adaptations of the Directive to scientific and technical progress into account. The Commission will also be assisted by a group of experts for the control of tobacco, set

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up within its Advisory Committee on Cancer Prevention, particularly in connection with the preparation of a report on the application of the Directive (see paragraph 9 below).

### Evaluation

No later than 31 December 2004, and every two years thereafter, the Commission has to submit to the European Parliament, the Council and the Economic and Social Committee a report on the application of the Directive.

The first report should also include an indication of the features, which should be reviewed in the light of developments in scientific and technical knowledge.

Act Date of entry into force Deadline for implementation in the Member States

Directive 2001/37/EC 18.07.2001 30.09.2002

Directive 2001/37/EC - Art. 3 18.07.2001 01.01.2007 for the Czech Republic

Directive 2001/37/EC - Art. 7 18.07.2001 30.09.2003

### 4) IMPLEMENTING MEASURES

### 5) FOLLOW-UP WORK

- Commission Decision 2003/641/EC of 5 September 2003 on the use of color photographs or other illustrations as health warnings on tobacco packages [Official Journal L226 of 10.09.2003]. This Decision establishes rules for the use, on cigarette packets, of colour photographs or other illustrations to depict the health consequences of smoking. It is a follow-up to Directive 2001/37/EC on tobacco products, which required an increase in the size of health warnings on packaging. However, the use of shock images in addition to warning messages is not mandatory.
- Directive 2003/33/EC of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products [Official Journal L 152 of 20.06.2003]. This Directive is designed to put a ban, at European Union level, on tobacco advertising in printed publications, in radio broadcasting and in information society services. It also bans the sponsorship of events, which have a cross-border effect and seek to promote tobacco products.
- Council Recommendation 2003/54/EC of 2 December 2002 on the prevention of smoking and on initiatives to improve tobacco control [Official Journal L 022 of 25.01.2003]. This Recommendation seeks to control the sale of tobacco to children and adolescents. It also aims to better inform the public of the health risks associated with tobacco in order to discourage smoking.

### *Advertising and sponsorship of tobacco products (print media, radio, information society)*

#### 1) OBJECTIVE

To prohibit, at European Union level, tobaccos advertising in print media, radio broadcasting, and information society services and the sponsorship, with a view to promoting tobacco products, of events with a cross-border effect.

#### 2) ACT

Directive [2003/33/EC](#) of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products [Official Journal L 152, 20.06.2003].

#### 3) SUMMARY

##### Background

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Following the Directive adopted in June 2001 on the [manufacture, presentation and sale of tobacco products](#), the present Directive forms another part of the comprehensive tobacco control policy being actively pursued by the European Community.

The differences between the Member States' laws, regulations and administrative provisions on advertising and sponsorship for tobacco products are likely to give rise to increasing barriers to the free movement of the products or services. The objective of this Directive is to eliminate the risks of distorting competition in the internal market.

This harmonization of national laws by regulating the promotion of tobacco is also intended to ensure a high level of health protection. Tobacco is responsible for more than 500 000 deaths in the European Community every year.

This Directive is intended to replace Directive [98/43/EC](#) of the European Parliament and of the Council of 6 July 1998, which was annulled by the Court of Justice on 5 October 2000 on the grounds that some of its provisions were not consistent with the legal basis for its adoption, i.e. Article 95 of the Treaty (1). Following a request by Germany, the Court ruled, contrary to what the legislator had maintained that the Directive was not intended to facilitate the establishment of the internal market. In the Court's view, the main aim was to protect public health, which, with few exceptions, remains the responsibility of the Member States.

A Framework Convention on Tobacco Control was also adopted by the World Health Organization (WHO) on 21 May 2003. This first international treaty negotiated under the aegis of the WHO establishes binding international rules, which supplement the provisions of this Directive.

### Scope

The Directive aims to harmonize the Member States' laws on the advertising and promotion of tobacco products. It does not cover indirect advertising, monitoring of tobacco companies' advertising expenditure, or vending machines. These issues will be addressed in a Council recommendation. Nor does it address the question of television advertising, which is covered by Directive [89/552/EEC](#) (" [Television without Frontiers](#) " Directive) (2).

Prohibition and limitation of tobacco product advertising

In general terms, the advertising of tobacco products is prohibited in:

- the print media (newspapers and other publications);
- information society services;
- radio broadcasting.

It remains limited to publications intended exclusively for professionals in the tobacco trade and publications which are published and printed in third countries and are not principally intended for the Community market.

### Sponsorship

Sponsorship of radio programs or international events by companies with the aim of promoting tobacco products is prohibited. The free distribution of tobacco products as sponsorship of such events is also prohibited. However, this Directive does not cover the sponsorship of events or activities with no cross-border effect.

### Penalties

The Member States must lay down the rules on penalties applicable to non-compliance with the national provisions adopted pursuant to this Directive.

### Report

The Commission must submit a report on the implementation of this Directive to the European Parliament, the Council and the Economic and Social Committee no later than 20 June 2008.

## 4) IMPLEMENTING MEASURES

## 5) FOLLOW-UP WORK

(1) Article 95 of the EC Treaty "empowers the Council (...) to adopt measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market."

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(2) The "Television without Frontiers" Directive prohibits all forms of television advertising for cigarettes and other tobacco products.

### *Initiatives to improve tobacco control*

#### **1) OBJECTIVE**

To encourage Member States to take further tobacco control measures.

#### **2) PROPOSAL**

Proposal for a Council recommendation on the prevention of smoking and on initiatives to improve tobacco control [[COM\(2002\) 303](#) final - Not published in the Official Journal].

#### **3) SUMMARY**

Smoking is a major public health concern. Some 500 000 Europeans die from smoking-related illnesses every year, and there is a worrying increase in the number of children and adolescents who take up smoking.

In accordance with [Article 152](#) of the EC Treaty, the Community strives to ensure a high level of public health protection by complementing national policies, with prevention of smoking as one of the primary aims. The [Europe against Cancer programme \(1996-2002\)](#) supports measures to reduce the number of cancers and other illnesses related to smoking. Community legislation regulating the [manufacture, presentation, and sale of tobacco products](#) and [advertising and sponsorship](#) of these products is currently being examined. Nevertheless, progress has been disappointing: smoking continues to be the single largest cause of avoidable death in Europe.

This Council recommendation is consistent with the [World Health Organization's Framework Convention on Tobacco Control](#), which is currently being negotiated. It encourages Member States to adopt legislative or administrative measures, or to foster voluntary agreements, with a view to:

- *prohibiting tobacco sales to children and adolescents:*  
This entails: establishing the age of purchasers, removing tobacco products from self-service displays, restricting access to vending machines, restricting distance sales, e.g. via the Internet, prohibiting the sale of cigarettes individually or in packets of fewer than 20 cigarettes;
- *preventing certain forms of advertising and promotion reaching children:*  
Methods used include the use of tobacco brand names on non-tobacco products or services, promotional items such as ashtrays, lighters, parasols and tobacco samples, billboards, posters and other indoor or outdoor advertising techniques, advertising in cinemas;
- *requiring manufacturers, importers and traders to provide Member States with information concerning the expenditure they incur on promotion not prohibited under Community legislation;*
- *providing adequate protection from exposure to tobacco smoke in public places, workplaces and public transport:*  
Particular attention is paid to children, pregnant women and persons with respiratory diseases;
- promoting health education programs;
- ensuring compliance with the measures set out and informing the Commission every two years of action taken in response to this Recommendation.

The Council invites the Commission to monitor and assess the developments and measures undertaken in the Member States and at Community level.

The Commission is invited to draw up a report on the implementation of the proposed measures, no later than the end of the fifth year after the date of adoption of this Recommendation, in which it is to consider the need for further action.

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### **Cancer: Action against smoking**

#### **1) OBJECTIVE**

To contribute to existing and future anti-smoking strategies at Union level and within the Member States, with the aim of reducing the impact which tobacco has on the health of Europe's citizens.

#### **2) ACT**

- Commission Communication of 18 December 1996 on the present and proposed Community role in combating tobacco consumption [[COM \(96\) 609](#) final - Not published in the Official Journal].
- Council Resolution of 26 November 1996 on the reduction of smoking in the European Community [Official Journal C 374 of 11.12.1996].

#### **3) SUMMARY**

Each year, half a million people die in the Community from tobacco-related effects. The death rate will continue to rise over the coming decades as changes in the population structure and the delayed impact of smoking on health become fully apparent.

The incidence of smoking in the Community has been in decline for a number of decades, but the rate of fall has slowed in recent years, with over 40% of the adult population continuing to smoke.

Various trends are in evidence:

- more and more young women are taking up the smoking habit;
- there is a significant rise in the proportion of smokers among young people of school age who are clearly ignoring the evidence of the harmful effects of tobacco;
- there is a higher prevalence of smoking among the lower socio-economic groups than in the better-off sections of society, the latter being more aware of the health risks;
- non-smokers are increasingly reluctant to be exposed to the inconvenience and dangers of other people's smoking habits.

The general message that smoking is bad for health rings truer than ever.

The Community dimension of the problem is clear. The Treaty provides that the Commission may take any useful initiative to promote co-ordination of the Member States' policies in order to ensure a high level of human health protection. Strategies to combat smoking differ substantially from one Member State to another and the Community is well placed to draw the various strands together.

The Community has already taken certain initiatives:

- the "[Europe against Cancer](#)" programme;
- the recent establishment of the Advisory Committee for Cancer Prevention;
- the Directive on "[television without frontiers](#)" (89/552/EEC), which harmonised a ban on television advertising of tobacco products;
- Directive [89/622/EEC](#) on the approximation of laws relating to the labelling of tobacco products (repealed by Directive [2001/37/EC](#));
- Directive [92/41/EEC](#), which banned the marketing of certain types of tobacco for oral use (repealed by Directive [2001/37/EC](#));
- Directive [90/239/EEC](#) on the approximation of laws governing the maximum tar yield of cigarettes.

The Council resolution of 26 November 1996 on reduction of smoking in the European Union calls upon the Commission to carry out surveys on best practices adopted in the Member States to reduce the prevalence of smoking with a view to determining suitable measures which could be taken at Community level.

Tobacco is a very heavily taxed product in most of the Member States. However, this policy is of limited use in that it does not affect the addiction to nicotine of individuals who smoke. There are vast differences in retail prices between Member States, ranging from euro 39 per 1 000 cigarettes in Greece to Euro 186 in Denmark.



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Various options present themselves for additional future action at Community level:

- propose a system to monitor tobacco consumption, using as a basis the programme of action on health monitoring currently under discussion;
- develop a code of practice on the right to a smoke-free environment for children;
- promote studies to improve understanding of the reasons why young people start smoking;
- propose that nicotine addiction be considered as a dependency;
- evaluate possible toxicity and health consequences arising from additives to tobacco products;
- consider the case for a further progressive reduction in the maximum permitted tar content of 12 mg per cigarette;
- review the implementation of the existing labeling Directive to evaluate its effectiveness in informing consumers about the dangers of smoking and look into the possibility of improving the content and form of warnings;
- encourage Member States to exploit the flexibility available to them to increase their taxes on tobacco products;
- reform the common organization of the market in raw tobacco, having regard to the protection of human health [[COM\(96\) 554](#) final].

With smoking being the biggest single avoidable cause of death in developed countries, all the Member States give priority to measures aimed at reducing tobacco consumption. The following measures offer the best prospects for co-operation:

- protection of non-smokers from the harmful effects of passive smoking;
- setting of specific targets for reducing the number of smokers in the population;
- reinforcement of national rules aimed at limiting the sale of tobacco products to adults only;
- increasing the price of tobacco products in real terms;
- greater protection for workers who are exposed to above-normal levels of environmental tobacco smoke;
- limitation of tobacco manufacturers' sponsorship of major sporting, musical or cultural events which are likely to be televised, in order to avoid indirect advertising of tobacco products on television;
- increased funding of health-education measures targeted at smokers;
- provision of smoking-cessation medications at minimal or no cost to smokers.

At international level, the Community could co-operate with third countries to reduce the public-health impact of tobacco consumption in different areas: reduction in the tar content of exported tobacco products; incorporation of anti-smoking measures into existing co-operation programs; boosting anti-smoking campaigns through active support for the World Health Organization's proposed tobacco Convention; refusing support for tobacco-related projects in the context of development aid programs.

In the light of reactions to its communication, and having regard to the recommendations of the High-Level Cancer Experts Committee (annexed to the communication), the Commission may bring forward appropriate proposals for action. The Commission proposes to present each year a report on the progress achieved in relation to public health protection from the harmful effects of tobacco consumption.

### 4) IMPLEMENTING MEASURES

On 8 September 1999, the Commission presented a report on the progress achieved in protecting the public against the harmful effects of smoking [[COM \(1999\) 407](#) final] to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions.

The Commission's aim in the report is to show the progress made by the Commission itself and the Member States in the fight against smoking. The Commission also wishes to improve cooperation between Member States by providing national policy-makers with an overview of all the different measures applied by Member States.

The recommendations drawn up at Community level, inspired by good practices from the Member States, can help the latter to draw up a more comprehensive global anti-smoking strategy, adapted to each State's individual needs.

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The various anti-smoking initiatives taken at Community level could be even more effective if they were integrated into a global prevention and cessation strategy.

With regard to tobacco additives, the regulations in force and the legal situations in the various Member States are very different. Most Member States are considering lowering the tar and nicotine content of cigarettes to only below the requirements laid down in Directive [90/239/EEC](#).

The Member States have very different policies when it comes to the minimum age for buying tobacco, the sale of cigarettes from vending machines and the sale of cigarettes in packets of less than twenty.

The Commission will examine the proposals for Council recommendations in the context of Article 152 of the Treaty and review and add to the existing provisions in the context of the internal market, taking into account all the new developments based on scientific facts.

### *Cancer: ban on smoking in places open to the public*

#### 1) OBJECTIVE

To contribute to an improvement in the health and quality of life of citizens within the Community by reducing the number of cases of cancer, in particular by adopting anti-smoking measures and protecting the right to health of non-smokers.

#### 2) ACT

Resolution of the Council and the Ministers for Health of the Member States, meeting within the Council on 18 July 1989, on banning smoking in places open to the public [Official Journal C 189 of 26.07.1989].

#### 3) SUMMARY

In addition to the potential encouragement to smoke and the unpleasant physical effects and nuisance, which smoke causes for non-smokers, there is an increased risk of respiratory illnesses for non-smokers involuntarily exposed to the smoke of tobacco products. It is therefore necessary to protect the right to health of non-smokers.

The Member States are therefore invited to take the following measures by introducing legislation or by other methods in accordance with national practices and conditions:

- ban smoking in enclosed premises open to the public which form part of the public or private establishments listed in an Annex; Member States may add to this list;
- extend the ban on smoking to all forms of public transport;
- provide, where necessary, for clearly defined areas to be reserved for smokers in the above establishments and, if possible, in public transport, particularly for long journeys;
- ensure that in the event of disputes, in areas other than those reserved for smokers, the right to health of non-smokers prevails over the right of smokers to smoke.

Conclusions of the Council and the Ministers for Health meeting within the Council of 27 May 1993, on the response to the Resolution on banning smoking in places open to the public, with the opinion that a systematic assessment of the measures taken by the Member States would make it possible to take full advantage of the experience acquired and to draw appropriate lessons and guidelines for the future [Official Journal C 174, 25.06.1993].

On 14 November 1996, the Commission adopted a report to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on the response to the Resolution of the Council and the Ministers for Health of the Member States meeting within the Council on banning smoking in places open to the public [[COM\(96\) 573](#) final - not published in the Official Journal].

The report sets out the situation with regard to the application of the Resolution, on the basis of information supplied by the competent authorities in the Member States.

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In all Member States, measures of various legal types are currently in force to restrict smoking in places open to the public. Only the United Kingdom has failed to introduce a specific legal instrument and continues to rely on a mere code of practice. All the Member States have adopted an approach aimed at protecting the health of non-smokers. To a considerable degree, the national instruments reflect the measures set out in the Resolution and apply to the places mentioned in its Annex.

In all Member States, the growing awareness of the damage to health caused by tobacco has given rise to information and awareness-enhancing campaigns based on either observance of existing regulations or the content of "codes of practice" or voluntary agreements.

At Community level, the "Europe against Cancer" programme (1996-2000) is intended to protect the most vulnerable groups, in particular pregnant women and children, from the risks of passive smoking.

Finally, although this issue falls within the responsibility of national authorities, the Commission will endeavor to determine the actual application of national provisions.

### *Community Tobacco Fund: information programmes*

#### 1) OBJECTIVE

To extend the scope of the Community Tobacco Fund to include information programs for the public on the harmful effects of tobacco.

#### 2) ACT

Commission Regulation (EC) No [2182/2002](#) of 6 December 2002 laying down detailed rules for the application of Council Regulation (EEC) No [2075/92](#) with regard to the Community Tobacco Fund [Official Journal L 331 of 07.12.2002].

#### 3) SUMMARY

The Community Tobacco Fund was established in 1992 by Regulation (EEC) No [2075/92](#). The purpose of the Fund was to finance and coordinate research and information programs with a view to:

- improving knowledge of the harmful effects of tobacco and appropriate preventive and curative measures;
- directing Community tobacco production towards the least harmful varieties and qualities.

In 2002, the research strand was replaced by action to help leaf tobacco producers convert to other activities, and the information strand was expanded.

Regulation (EC) No [2182/2002](#) lays down the conditions for Community Tobacco Fund financing of measures to convert tobacco producers and measures to implement information programs. This presentation concerns the latter, which come under the Community's public health policy and, more specifically, the fight against smoking. The objective of the information programs financed by the Fund is to make EU citizens more aware of the harmful effects of tobacco consumption.

The programs consist of projects relating to **information** and **education**, **data collection** and **studies**. Projects must aim to:

- raise public awareness of the harmful effects of tobacco consumption, including passive smoking;
- improve the effectiveness of messages and communication methods concerning the harmful effects of tobacco consumption;
- prevent and stop people from smoking;
- disseminate the results achieved in the above areas to the national authorities and relevant sectors.

**Act:** Regulation (EC) No [2182/2002](#). Date of entry into force: 10.12.2002

#### 4) IMPLEMENTING MEASURES

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### 5) FOLLOW-UP WORK:

- Directive [2001/37/EC](#) of the European Parliament and of the Council of 5 June 2001 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products [Official Journal L 194 of 18.07.2001]. With a view to ensuring a high level of health protection, this [Directive](#) contains provisions on the tar yield of cigarettes, on tobacco for oral use, and on the labeling of tobacco products.
- Commission Decision [2003/641/EC](#) of 5 September 2003 on the use of colour photographs or other illustrations as health warnings on tobacco packages [Official Journal L 226 of 10.09.2003]. The objective of this Decision is to lay down rules for the use, on cigarette packets, of colour photographs or other illustrations showing the effects of smoking on health. It constitutes a follow-up to Directive [2001/37/EC](#) on tobacco products, which already requires the size of health warnings on packaging to be increased. However, the use of shock images in addition to messages is not compulsory.

In a summary the tobacco control efforts for reducing the prevalence of morbidity and mortality related to tobacco consumption within European Union, the overview of the legislation could be designated as follows:

#### a) Tobacco advertising and sponsorship

Effect	Date	Title	Provision
No longer in force	03 October 1989 03 October 1991 (deadline for implementation)	<a href="#">Council Directive 89/552/EEC</a> "Television without Frontiers" [amended by Directive 97/36/EC, below]	<ul style="list-style-type: none"> <li>Television advertising shall not encourage behavior prejudicial to health</li> <li>All forms of television advertising for cigarettes and other tobacco products shall be prohibited</li> </ul>
Binding legislation	30 June 1997 (decision)  30 December 1998 (deadline for implementation)	<a href="#">Directive 97/36/EC of the European Parliament and Council</a> amending Council Directive 89/552/EEC ("Television without Frontiers")	<ul style="list-style-type: none"> <li>All forms of television advertising for cigarettes and other tobacco products are banned</li> <li>Television programmes may not be sponsored by undertakings whose principal activity is the manufacture or sale of cigarettes and other tobacco products</li> </ul>
Draft legislation (superceded)	30 May 2001 (publication)	<a href="#">Proposal for a Directive of the European Parliament and of the Council</a> On the approximation of the laws relating to the advertising and sponsorship of tobacco products	Proposed ban on advertising tobacco products and sponsorship of events by tobacco-manufacturing organisations
Draft legislation	27 February 2003 (publication)	<a href="#">Proposal for a Regulation of the European Parliament and Council</a> Concerning sales promotions in the Internal Market [FR unavailable]	
Binding legislation	26 May 2003 (decision)  31 July 2005 (deadline for implementation)	<a href="#">Directive 2003/33/EC of the European Parliament and Council</a> On the approximation of laws relating to tobacco advertising and sponsorship	Print media <ul style="list-style-type: none"> <li>Advertising in the press is prohibited except in tobacco trade journals and other journals not destined for the EU market</li> </ul> Radio <ul style="list-style-type: none"> <li>All forms of radio advertising for tobacco products is banned</li> </ul>

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			<ul style="list-style-type: none"> <li>▪ Radio programmes shall not be sponsored by companies whose principal activity is manufacture or sale of tobacco products</li> </ul> <p>Sponsorship</p> <ul style="list-style-type: none"> <li>▪ Sponsorship of events involving Member States or having cross-border effect shall be prohibited</li> </ul> <p>Free distribution of tobacco products is banned</p>
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### **b) Manufacture and presentation of tobacco products**

Effect	Date	Title	Provision
Binding legislation	5 June 2001 (decision)  30 September 2002 (deadline for implementation)	<a href="#">Directive 2001/37/EC of the European Parliament and Council</a> [repeals Directives 89/622/EEC (labelling) and 90/239/EEC (tar content/ 'lights' description)] Approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products	<p>Content:</p> <ul style="list-style-type: none"> <li>▪ From 1 January 2004, yield cannot be greater than 10mg tar, 1mg nicotine, 10mg CO per cigarette (cigarettes for export only not subject until 1 January 2005; Greece 1 January 2007)</li> </ul> <p>Labelling:</p> <ul style="list-style-type: none"> <li>▪ yields, above, to be printed on packs in member state's official language, to cover at least 10% of packaging (12% where 2 languages, 15% where 3 languages)</li> <li>▪ Each cigarette/ tobacco packet must carry general warnings ("Smoking kills" and "Smoking harms those around you") on the most visible surface of outer packaging to cover at least 30% of pack (32% where 2 languages, 35% where 3 languages) PLUS one "additional warning" (eg. "Smokers die younger", "Get help to stop smoking (with quitline details)") to cover 40% of pack (45% where 2 languages, 50% where 3 languages)</li> <li>▪ Oral tobacco to carry "This product can damage your health and is addictive" to cover at least 30% of pack (32% where 2 languages, 35% where 3 languages)</li> <li>▪ Text, names, trade marks and signs suggesting one tobacco product is less harmful than another are not permitted</li> <li>▪ Tobacco for oral use is not permitted other than in Austria, Finland and Sweden</li> </ul> <p>Future of the Directive:</p> <ul style="list-style-type: none"> <li>▪ A bi-annual review of the Directive's application to be held</li> <li>▪ A commitment to reducing the yields over time as well as improving content/ size of pack warnings</li> </ul>

### **c) Tobacco and public health policy**

Binding legislation	30 November 1989 (decision) 31 December 1992 (deadline for implementation)	<a href="#">Council Directive 89/654/EEC</a> Concerning the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC)	<p>In rest rooms, appropriate measures must be introduced for the protection of non-smokers against discomfort caused by tobacco smoke.</p> <ul style="list-style-type: none"> <li>▪ Appropriate measures should be taken for the protection of non-smokers against discomfort caused by tobacco smoke</li> </ul>
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	ation – except Greece: 31 December 1994)		
Binding legislation	19 October 1992 (decision) Deadline for implemen tation: 2 years after adoption	<a href="#">Council Directive 92/85/EEC</a> On the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding	Workers should not be exposed to a variety of chemical agents known to pose a risk to the unborn child, including Carbon Monoxide
Opinion	26 November 1996 (decision)	<a href="#">Council Resolution 96/C 374/04</a> On the promotion of a reduction of smoking in the European Community	URGES the Member States <ul style="list-style-type: none"> <li>▪ to continue to promote strategies and measures aimed at reducing the prevalence of smoking and regularly exchange information on these strategies and measures,</li> </ul> <b>CALLS UPON THE COMMISSION:</b> <ul style="list-style-type: none"> <li>▪ to take particular account in Community policies of the detrimental effect of smoking on the health and quality of life of citizens of the Community</li> <li>▪ to carry out surveys on best practices conducted in the Member States towards reducing the prevalence of smoking, and the evaluation of their impact</li> <li>▪ to examine, in the light of its assessment of measures taken by Member States, the possible further measures which might be taken by the Community to support actions taken by Member States directed towards the reduction of smoking</li> <li>▪ to support the efforts of Member States to reduce smoking and to present reports on a regular basis on the progress achieved by the Community in promoting coordination by Member States of their policies and programmes and on the potential for further initiatives</li> </ul>
Opinion	2 December 2002 (decision)	<a href="#">Council Recommendation (2003/54/EC) of 2 December 2002</a> On the prevention of smoking and on initiatives to improve tobacco control	(i) Recommends the adoption of legislation (a) to prevent <ol style="list-style-type: none"> <li>5. sale of tobacco products to minors by enforcing age limits</li> <li>6. self-service and vending machines being accessible to minors</li> <li>7. sale of sweets and toys resembling cigarettes</li> <li>8. sale of packs with fewer than 19 cigarettes and individual cigarettes</li> </ol>

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			<p>9. the use of tobacco brand-names on non-tobacco products</p> <p>10. use of promotional items, eg. ashtrays, lighters etc</p> <p>11. outside advertising billboards and cinema advertising and any other form of advertising or sponsorship</p> <p>(b) to provide protection from exposure to Environmental Tobacco Smoke in indoor workplaces, enclosed public places and public transport. Priority consideration should be given to educational establishments, health care facilities and places providing services to children</p> <p>(ii) Recommends the continuing development of strategies and measures to reduce the prevalence of smoking, such as strengthening overall health education, particularly in schools, and general programmes to discourage the initial use of tobacco products and to overcome tobacco addiction</p> <p>(iii) Recommends the adoption and implementation of appropriate price measures on tobacco products so as to discourage tobacco consumption</p>
Binding legislation	<p>5 September 2003 (decision)</p> <p>Where Member states decide to use the combined warnings, legislation cannot be introduced before 1 October 2004</p>	<p><a href="#">Commission Decision 2003/641/EC</a></p> <p>On the use of colour photographs or other illustrations as health warnings on tobacco packages</p>	<p>Establishes rules for the use on tobacco packages, of colour photographs or other illustrations to depict and explain the health consequences of smoking. Member States do not have to use colour pictures, but where they choose to do so must adhere to these guidelines.</p>

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## **ANNEX 3 WHO Framework Convention on Tobacco Control**

### ***Preamble***

The Parties to this Convention,

*Determined* to give priority to their right to protect public health,

*Recognizing* that the spread of the tobacco epidemic is a global problem with serious consequences for public health that calls for the widest possible international cooperation and the participation of all countries in an effective, appropriate and comprehensive international response,

*Reflecting* the concern of the international community about the devastating worldwide health, social, economic and environmental consequences of tobacco consumption and exposure to tobacco smoke,

*Seriously concerned* about the increase in the worldwide consumption and production of cigarettes and other tobacco products, particularly in developing countries, as well as about the burden this places on families, on the poor, and on national health systems,

*Recognizing* that scientific evidence has unequivocally established that tobacco consumption and exposure to tobacco smoke cause death, disease and disability, and that there is a time lag between the exposure to smoking and the other uses of tobacco products and the onset of tobacco-related diseases,

*Recognizing also* that cigarettes and some other products containing tobacco are highly engineered so as to create and maintain dependence, and that many of the compounds they contain and the smoke they produce are pharmacologically active, toxic, mutagenic and carcinogenic, and that tobacco dependence is separately classified as a disorder in major international classifications of diseases,

*Acknowledging* that there is clear scientific evidence that prenatal exposure to tobacco smoke causes adverse health and developmental conditions for children,

*Deeply concerned* about the escalation in smoking and other forms of tobacco consumption by children and adolescents worldwide, particularly smoking at increasingly early ages,

*Alarmed* by the increase in smoking and other forms of tobacco consumption by women and young girls worldwide and keeping in mind the need for full participation of women at all levels of policy-making and implementation and the need for gender-specific tobacco control strategies,

*Deeply concerned* about the high levels of smoking and other forms of tobacco consumption by indigenous peoples,

*Seriously concerned* about the impact of all forms of advertising, promotion and sponsorship aimed at encouraging the use of tobacco products,

*Recognizing* that cooperative action is necessary to eliminate all forms of illicit trade in cigarettes and other tobacco products, including smuggling, illicit manufacturing and counterfeiting,

*Acknowledging* that tobacco control at all levels and particularly in developing countries and in countries with economies in transition requires sufficient financial and technical resources commensurate with the current and projected need for tobacco control activities,

*Recognizing* the need to develop appropriate mechanisms to address the long-term social and economic implications of successful tobacco demand reduction strategies,



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*Mindful* of the social and economic difficulties that tobacco control programmes may engender in the medium and long term in some developing countries and countries with economies in transition, and recognizing their need for technical and financial assistance in the context of nationally developed strategies for sustainable development,

*Conscious* of the valuable work being conducted by many States on tobacco control and commending the leadership of the World Health Organization as well as the efforts of other organizations and bodies of the United Nations system and other international and regional intergovernmental organizations in developing measures on tobacco control,

*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,

*Recognizing* the need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts and the need to be informed of activities of the tobacco industry that have a negative impact on tobacco control efforts,

*Recalling* Article 12 of the International Covenant on Economic, Social and Cultural Rights, adopted by the United Nations General Assembly on 16 December 1966, which states that it is the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

*Recalling also* the preamble to the Constitution of the World Health Organization, which states that the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition,

*Determined* to promote measures of tobacco control based on current and relevant scientific, technical and economic considerations,

*Recalling* that the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly on 18 December 1979, provides that States Parties to that Convention shall take appropriate measures to eliminate discrimination against women in the field of health care,

*Recalling further* that the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989, provides that States Parties to that Convention recognize the right of the child to the enjoyment of the highest attainable standard of health,

*Have agreed*, as follows:

### **PART I: INTRODUCTION**

#### ***Article 1***

##### *Use of terms*

For the purposes of this Convention:

- (a) "illicit trade" means any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase including any practice or conduct intended to facilitate such activity;
- (b) "regional economic integration organization" means an organization that is composed of several sovereign states, and to which its Member States have transferred competence over a range of matters, including the authority to make decisions binding on its Member States in respect of those matters<sup>16</sup>;
- (c) "tobacco advertising and promotion" means any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly;
- (d) "tobacco control" means a range of supply, demand and harm reduction strategies that aim to improve the health of a population by eliminating or reducing their consumption of tobacco products and exposure to tobacco smoke;
- (e) "tobacco industry" means tobacco manufacturers, wholesale distributors and importers of tobacco products;

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<sup>16</sup>Where appropriate, national will refer equally to regional economic integration organizations.

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(f) “tobacco products” means products entirely or partly made of the leaf tobacco as raw material which are manufactured to be used for smoking, sucking, chewing or snuffing;

(g) “tobacco sponsorship” means any form of contribution to any event, activity or individual with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly;

### **Article 2**

#### *Relationship between this Convention and other agreements and legal instruments*

1. In order to better protect human health, Parties are encouraged to implement measures beyond those required by this Convention and its protocols, and nothing in these instruments shall prevent a Party from imposing stricter requirements that are consistent with their provisions and are in accordance with international law.

2. The provisions of the Convention and its protocols shall in no way affect the right of Parties to enter into bilateral or multilateral agreements, including regional or subregional agreements, on issues relevant or additional to the Convention and its protocols, provided that such agreements are compatible with their obligations under the Convention and its protocols. The Parties concerned shall communicate such agreements to the Conference of the Parties through the Secretariat.

## **PART II: OBJECTIVE, GUIDING PRINCIPLES AND GENERAL OBLIGATIONS**

### **Article 3**

#### *Objective*

The objective of this Convention and its protocols is to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented by the Parties at the national, regional and international levels in order to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke.

### **Article 4**

#### *Guiding principles*

To achieve the objective of this Convention and its protocols and to implement its provisions, the Parties shall be guided, *inter alia*, by the principles set out below:

1. Every person should be informed of the health consequences, addictive nature and mortal threat posed by tobacco consumption and exposure to tobacco smoke and effective legislative, executive, administrative or other measures should be contemplated at the appropriate governmental level to protect all persons from exposure to tobacco smoke.

2. Strong political commitment is necessary to develop and support, at the national, regional and international levels, comprehensive multisectoral measures and coordinated responses, taking into consideration:

(a) the need to take measures to protect all persons from exposure to tobacco smoke;

(b) the need to take measures to prevent the initiation, to promote and support cessation, and to decrease the consumption of tobacco products in any form;

(c) the need to take measures to promote the participation of indigenous individuals and communities in the development, implementation and evaluation of tobacco control programmes that are socially and culturally appropriate to their needs and perspectives; and

(d) the need to take measures to address gender-specific risks when developing tobacco control strategies.

3. International cooperation, particularly transfer of technology, knowledge and financial assistance and provision of related expertise, to establish and implement effective tobacco control programmes, taking into consideration local culture, as well as social, economic, political and legal factors, is an important part of the Convention.

4. Comprehensive multisectoral measures and responses to reduce consumption of all tobacco products at the national, regional and international levels are essential so as to prevent, in accordance with public health principles, the incidence of diseases, premature disability and mortality due to tobacco consumption and exposure to tobacco smoke.

5. Issues relating to liability, as determined by each Party within its jurisdiction, are an important part of comprehensive tobacco control.

6. The importance of technical and financial assistance to aid the economic transition of tobacco growers and workers whose livelihoods are seriously affected as a consequence of tobacco control programmes in developing country Parties, as well as Parties with economies in transition, should be recognized and addressed in the context of nationally developed strategies for sustainable development.

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7. The participation of civil society is essential in achieving the objective of the Convention and its protocols.

### **Article 5**

#### *General obligations*

1. Each Party shall develop, implement, periodically update and review comprehensive multisectoral national tobacco control strategies, plans and programmes in accordance with this Convention and the protocols to which it is a Party.
2. Towards this end, each Party shall, in accordance with its capabilities:
  - (a) establish or reinforce and finance a national coordinating mechanism or focal points for tobacco control; and
  - (b) adopt and implement effective legislative, executive, administrative and/or other measures and cooperate, as appropriate, with other Parties in developing appropriate policies for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke.
3. In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.
4. The Parties shall cooperate in the formulation of proposed measures, procedures and guidelines for the implementation of the Convention and the protocols to which they are Parties.
5. The Parties shall cooperate, as appropriate, with competent international and regional intergovernmental organizations and other bodies to achieve the objectives of the Convention and the protocols to which they are Parties.
6. The Parties shall, within means and resources at their disposal, cooperate to raise financial resources for effective implementation of the Convention through bilateral and multilateral funding mechanisms.

## **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.

### **Article 7**

#### *Non-price measures to reduce the demand for tobacco*

The Parties recognize that comprehensive non-price measures are an effective and important means of reducing tobacco consumption. Each Party shall adopt and implement effective legislative, executive, administrative or other measures necessary to implement its obligations pursuant to Articles 8 to 13 and shall cooperate, as appropriate, with each other directly or through competent international bodies with a view to their implementation. The Conference of the Parties shall propose appropriate guidelines for the implementation of the provisions of these Articles.

### **Article 8**

#### *Protection from exposure to tobacco smoke*

1. Parties recognize that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability.
2. 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.

### **Article 9**

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### *Regulation of the contents of tobacco products*

The Conference of the Parties, in consultation with competent international bodies, shall propose guidelines for testing and measuring the contents and emissions of tobacco products, and for the regulation of these contents and emissions. Each Party shall, where approved by competent national authorities, adopt and implement effective legislative, executive and administrative or other measures for such testing and measuring, and for such regulation.

### **Article 10**

#### *Regulation of tobacco product disclosures*

Each Party shall, in accordance with its national law, adopt and implement effective legislative, executive, administrative or other measures requiring manufacturers and importers of tobacco products to disclose to governmental authorities information about the contents and emissions of tobacco products. Each Party shall further adopt and implement effective measures for public disclosure of information about the toxic constituents of the tobacco products and the emissions that they may produce.

### **Article 11**

#### *Packaging and labelling of tobacco products*

1. Each Party shall, within a period of three years after entry into force of this Convention for that Party, adopt and implement, in accordance with its national law, effective measures to ensure that:

(a) 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”; and

(b) each unit packet and package of tobacco products and any outside packaging and labelling of such products also carry health warnings describing the harmful effects of tobacco use, and may include other appropriate messages. These warnings and messages:

(i) shall be approved by the competent national authority,

(ii) shall be rotating,

(iii) shall be large, clear, visible and legible,

(iv) should be 50% or more of the principal display areas but shall be no less than 30% of the principal display areas,

(v) may be in the form of or include pictures or pictograms.

2. Each unit packet and package of tobacco products and any outside packaging and labelling of such products shall, in addition to the warnings specified in paragraph 1(b) of this Article, contain information on relevant constituents and emissions of tobacco products as defined by national authorities.

3. Each Party shall require that the warnings and other textual information specified in paragraphs 1(b) and paragraph 2 of this Article will appear on each unit packet and package of tobacco products and any outside packaging and labelling of such products in its principal language or languages.

4. For the purposes of this Article, the term “outside packaging and labelling” in relation to tobacco products applies to any packaging and labelling used in the retail sale of the product.

### **Article 12**

#### *Education, communication, training and public awareness*

Each Party shall promote and strengthen public awareness of tobacco control issues, using all available communication tools, as appropriate. Towards this end, each Party shall adopt and implement effective legislative, executive, administrative or other measures to promote:

(a) broad access to effective and comprehensive educational and public awareness programmes on the health risks including the addictive characteristics of tobacco consumption and exposure to tobacco smoke;

(b) public awareness about the health risks of tobacco consumption and exposure to tobacco smoke, and about the benefits of the cessation of tobacco use and tobacco-free lifestyles as specified in Article 14.2;

(c) public access, in accordance with national law, to a wide range of information on the tobacco industry as relevant to the objective of this Convention;

(d) effective and appropriate training or sensitization and awareness programmes on tobacco control addressed to persons such as health workers, community workers, social workers, media professionals, educators, decision-makers, administrators and other concerned persons;

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(e) awareness and participation of public and private agencies and nongovernmental organizations not affiliated with the tobacco industry in developing and implementing intersectoral programmes and strategies for tobacco control; and

(f) public awareness of and access to information regarding the adverse health, economic, and environmental consequences of tobacco production and consumption.

### *Article 13*

#### *Tobacco advertising, promotion and sponsorship*

1. Parties recognize that a comprehensive ban on advertising, promotion and sponsorship would reduce the consumption of tobacco products.

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 crossborder 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.

3. A Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles shall apply restrictions on all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, restrictions or a comprehensive ban on advertising, promotion and sponsorship originating from its territory with cross-border effects. In this respect, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21.

4. As a minimum, and in accordance with its constitution or constitutional principles, each Party shall:

(a) prohibit all forms of tobacco advertising, promotion and sponsorship that promote a tobacco product by any means that are false, misleading or deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;

(b) require that health or other appropriate warnings or messages accompany all tobacco advertising and, as appropriate, promotion and sponsorship;

(c) restrict the use of direct or indirect incentives that encourage the purchase of tobacco products by the public;

(d) require, if it does not have a comprehensive ban, the disclosure to relevant governmental authorities of expenditures by the tobacco industry on advertising, promotion and sponsorship not yet prohibited. Those authorities may decide to make those figures available, subject to national law, to the public and to the Conference of the Parties, pursuant to Article 21;

(e) undertake a comprehensive ban or, in the case of a Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles, restrict tobacco advertising, promotion and sponsorship on radio, television, print media and, as appropriate, other media, such as the internet, within a period of five years; and

(f) prohibit, or in the case of a Party that is not in a position to prohibit due to its constitution or constitutional principles restrict, tobacco sponsorship of international events, activities and/or participants therein.

5. Parties are encouraged to implement measures beyond the obligations set out in paragraph 4.

6. Parties shall cooperate in the development of technologies and other means necessary to facilitate the elimination of cross-border advertising.

7. Parties which have a ban on certain forms of tobacco advertising, promotion and sponsorship have the sovereign right to ban those forms of cross-border tobacco advertising, promotion and sponsorship entering their territory and to impose equal penalties as those applicable to domestic advertising, promotion and sponsorship originating from their territory in accordance with their national law. This paragraph does not endorse or approve of any particular penalty.

8. Parties shall consider the elaboration of a protocol setting out appropriate measures that require international collaboration for a comprehensive ban on cross-border advertising, promotion and sponsorship.

### *Article 14*

#### *Demand reduction measures concerning tobacco dependence and cessation*

1. Each Party shall develop and disseminate appropriate, comprehensive and integrated guidelines based on scientific evidence and best practices, taking into account national circumstances and priorities, and shall take effective measures to promote cessation of tobacco use and adequate treatment for tobacco dependence.

2. Towards this end, each Party shall endeavour to:

(a) design and implement effective programmes aimed at promoting the cessation of tobacco use, in such locations as educational institutions, health care facilities, workplaces and sporting environments;

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- (b) include diagnosis and treatment of tobacco dependence and counselling services on cessation of tobacco use in national health and education programmes, plans and strategies, with the participation of health workers, community workers and social workers as appropriate;
- (c) establish in health care facilities and rehabilitation centres programmes for diagnosing, counselling, preventing and treating tobacco dependence; and
- (d) collaborate with other Parties to facilitate accessibility and affordability for treatment of tobacco dependence including pharmaceutical products pursuant to Article 22. Such products and their constituents may include medicines, products used to administer medicines and diagnostics when appropriate.

## PART IV: MEASURES RELATING TO THE REDUCTION OF THE SUPPLY OF TOBACCO

### *Article 15*

#### *Illicit trade in tobacco products<sup>17</sup>*

1. The Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to subregional, regional and global agreements, are essential components of tobacco control.
2. Each Party shall adopt and implement effective legislative, executive, administrative or other measures to ensure that all unit packets and packages of tobacco products and any outside packaging of such products are marked to assist Parties in determining the origin of tobacco products, and in accordance with national law and relevant bilateral or multilateral agreements, assist Parties in determining the point of diversion and monitor, document and control the movement of tobacco products and their legal status. In addition, each Party shall:
  - (a) require that unit packets and packages of tobacco products for retail and wholesale use that are sold on its domestic market carry the statement: “*Sales only allowed in (insert name of the country, subnational, regional or federal unit)*” or carry any other effective marking indicating the final destination or which would assist authorities in determining whether the product is legally for sale on the domestic market; and
  - (b) consider, as appropriate, developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade.
3. Each Party shall require that the packaging information or marking specified in paragraph 2 of this Article shall be presented in legible form and/or appear in its principal language or languages.
4. With a view to eliminating illicit trade in tobacco products, each Party shall:
  - (a) monitor and collect data on cross-border trade in tobacco products, including illicit trade, and exchange information among customs, tax and other authorities, as appropriate, and in accordance with national law and relevant applicable bilateral or multilateral agreements;
  - (b) enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband cigarettes;
  - (c) take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using environmentally friendly methods where feasible, or disposed of in accordance with national law;
  - (d) adopt and implement measures to monitor, document and control the storage and distribution of tobacco products held or moving under suspension of taxes or duties within its jurisdiction; and
  - (e) adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.
5. Information collected pursuant to subparagraphs 4(a) and 4(d) of this Article shall, as appropriate, be provided in aggregate form by the Parties in their periodic reports to the Conference of the Parties, in accordance with Article 21.
6. The Parties shall, as appropriate and in accordance with national law, promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations as it relates to investigations, prosecutions and proceedings, with a view to eliminating illicit trade in tobacco products. Special emphasis shall be placed on cooperation at regional and subregional levels to combat illicit trade of tobacco products.
7. Each Party shall endeavour to adopt and implement further measures including licensing, where appropriate, to control or regulate the production and distribution of tobacco products in order to prevent illicit trade.

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<sup>17</sup> There has been considerable discussion throughout the pre-negotiation and negotiation process concerning the adoption of an early protocol on illicit trade in tobacco products. The negotiation of such a protocol could be initiated by the INB immediately following the adoption of the FCTC, or at a later stage by the Conference of the Parties.

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### **Article 16**

#### *Sales to and by minors*

1. Each Party shall adopt and implement effective legislative, executive, administrative or other measures at the appropriate government level to prohibit the sales of tobacco products to persons under the age set by domestic law, national law or eighteen. These measures may include:
  - (a) requiring that all sellers of tobacco products place a clear and prominent indicator inside their point of sale about the prohibition of tobacco sales to minors and, in case of doubt, request that each tobacco purchaser provide appropriate evidence of having reached full legal age;
  - (b) banning the sale of tobacco products in any manner by which they are directly accessible, such as store shelves;
  - (c) prohibiting the manufacture and sale of sweets, snacks, toys or any other objects in the form of tobacco products which appeal to minors; and
  - (d) ensuring that tobacco vending machines under its jurisdiction are not accessible to minors and do not promote the sale of tobacco products to minors.
2. Each Party shall prohibit or promote the prohibition of the distribution of free tobacco products to the public and especially minors.
3. Each Party shall endeavour to prohibit the sale of cigarettes individually or in small packets which increase the affordability of such products to minors.
4. The Parties recognize that in order to increase their effectiveness, measures to prevent tobacco product sales to minors should, where appropriate, be implemented in conjunction with other provisions contained in this Convention.
5. When signing, ratifying, accepting, approving or acceding to the Convention or at any time thereafter, a Party may, by means of a binding written declaration, indicate its commitment to prohibit the introduction of tobacco vending machines within its jurisdiction or, as appropriate, to a total ban on tobacco vending machines. The declaration made pursuant to this Article shall be circulated by the Depositary to all Parties to the Convention.
6. Each Party shall adopt and implement effective legislative, executive, administrative or other measures, including penalties against sellers and distributors, in order to ensure compliance with the obligations contained in paragraphs 1-5 of this Article.
7. Each Party should, as appropriate, adopt and implement effective legislative, executive, administrative or other measures to prohibit the sales of tobacco products by persons under the age set by domestic law, national law or eighteen.

### **Article 17**

#### *Provision of support for economically viable alternative activities*

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.

## **PART V: PROTECTION OF THE ENVIRONMENT**

### **Article 18**

#### *Protection of the environment and the health of persons*

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.

## **PART VI: QUESTIONS RELATED TO LIABILITY**

### **Article 19**

#### *Liability*

1. For the purpose of tobacco control, the Parties shall consider taking legislative action or promoting their existing laws, where necessary, to deal with criminal and civil liability, including compensation where appropriate.
2. Parties shall cooperate with each other in exchanging information through the Conference of the Parties in accordance with Article 21 including:
  - (a) information on the health effects of the consumption of tobacco products and exposure to tobacco smoke in accordance with Article 20.3(a); and
  - (b) information on legislation and regulations in force as well as pertinent jurisprudence.

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3. The Parties shall, as appropriate and mutually agreed, within the limits of national legislation, policies, legal practices and applicable existing treaty arrangements, afford one another assistance in legal proceedings relating to civil and criminal liability consistent with this Convention.
4. The Convention shall in no way affect or limit any rights of access of the Parties to each other's courts where such rights exist.
5. The Conference of the Parties may consider, if possible, at an early stage, taking account of the work being done in relevant international fora, issues related to liability including appropriate international approaches to these issues and appropriate means to support, upon request, the Parties in their legislative and other activities in accordance with this Article.

## **PART VII: SCIENTIFIC AND TECHNICAL COOPERATION AND COMMUNICATION OF INFORMATION**

### ***Article 20***

#### *Research, surveillance and exchange of information*

1. The Parties undertake to develop and promote national research and to coordinate research programmes at the regional and international levels in the field of tobacco control. Towards this end, each Party shall:
  - (a) initiate and cooperate in, directly or through competent international and regional intergovernmental organizations and other bodies, the conduct of research and scientific assessments, and in so doing promote and encourage research that addresses the determinants and consequences of tobacco consumption and exposure to tobacco smoke as well as research for identification of alternative crops; and
  - (b) promote and strengthen, with the support of competent international and regional intergovernmental organizations and other bodies, training and support for all those engaged in tobacco control activities, including research, implementation and evaluation.
2. The Parties shall establish, as appropriate, programmes for national, regional and global surveillance of the magnitude, patterns, determinants and consequences of tobacco consumption and exposure to tobacco smoke. Towards this end, the Parties should integrate tobacco surveillance programmes into national, regional and global health surveillance programmes so that data are comparable and can be analysed at the regional and international levels, as appropriate.
3. Parties recognize the importance of financial and technical assistance from international and regional intergovernmental organizations and other bodies. Each Party shall endeavour to:
  - (a) establish progressively a national system for the epidemiological surveillance of tobacco consumption and related social, economic and health indicators;
  - (b) cooperate with competent international and regional intergovernmental organizations and other bodies, including governmental and nongovernmental agencies, in regional and global tobacco surveillance and exchange of information on the indicators specified in paragraph 3(a) of this Article; and
  - (c) cooperate with the World Health Organization in the development of general guidelines or procedures for defining the collection, analysis and dissemination of tobacco-related surveillance data.
4. The Parties shall, subject to national law, promote and facilitate the exchange of publicly available scientific, technical, socioeconomic, commercial and legal information, as well as information regarding practices of the tobacco industry and the cultivation of tobacco, which is relevant to this Convention, and in so doing shall take into account and address the special needs of developing country Parties and Parties with economies in transition. Each Party shall endeavour to:
  - (a) progressively establish and maintain an updated database of laws and regulations on tobacco control and, as appropriate, information about their enforcement, as well as pertinent jurisprudence, and cooperate in the development of programmes for regional and global tobacco control;
  - (b) progressively establish and maintain updated data from national surveillance programmes in accordance with paragraph 3(a) of this Article; and
  - (c) cooperate with competent international organizations to progressively establish and maintain a global system to regularly collect and disseminate information on tobacco production, manufacture and the activities of the tobacco industry which have an impact on the Convention or national tobacco control activities.
5. Parties should cooperate in regional and international intergovernmental organizations and financial and development institutions of which they are members, to promote and encourage provision of technical and financial resources to the Secretariat to assist developing country Parties and Parties with economies in transition to meet their commitments on research, surveillance and exchange of information.

### ***Article 21***



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### *Reporting and exchange of information*

1. Each Party shall submit to the Conference of the Parties, through the Secretariat, periodic reports on its implementation of this Convention, which should include the following:
  - (a) information on legislative, executive, administrative or other measures taken to implement the Convention;
  - (b) information, as appropriate, on any constraints or barriers encountered in its implementation of the Convention, and on the measures taken to overcome these barriers;
  - (c) information, as appropriate, on financial and technical assistance provided or received for tobacco control activities;
  - (d) information on surveillance and research as specified in Article 20; and
  - (e) information specified in Articles 6.3, 13.2, 13.3, 13.4(d), 15.5 and 19.2.
2. The frequency and format of such reports by all Parties shall be determined by the Conference of the Parties. Each Party shall make its initial report within two years of the entry into force of the Convention for that Party.
3. The Conference of the Parties, pursuant to Articles 22 and 26, shall consider arrangements to assist developing country Parties and Parties with economies in transition, at their request, in meeting their obligations under this Article.
4. The reporting and exchange of information under the Convention shall be subject to national law regarding confidentiality and privacy. The Parties shall protect, as mutually agreed, any confidential information that is exchanged.

### **Article 22**

#### *Cooperation in the scientific, technical, and legal fields and provision of related expertise*

1. The Parties shall cooperate directly or through competent international bodies to strengthen their capacity to fulfill the obligations arising from this Convention, taking into account the needs of developing country Parties and Parties with economies in transition. Such cooperation shall promote the transfer of technical, scientific and legal expertise and technology, as mutually agreed, to establish and strengthen national tobacco control strategies, plans and programmes aiming at, *inter alia*:
  - (a) facilitation of the development, transfer and acquisition of technology, knowledge, skills, capacity and expertise related to tobacco control;
  - (b) provision of technical, scientific, legal and other expertise to establish and strengthen national tobacco control strategies, plans and programmes, aiming at implementation of the Convention through, *inter alia*:
    - (i) assisting, upon request, in the development of a strong legislative foundation as well as technical programmes, including those on prevention of initiation, promotion of cessation and protection from exposure to tobacco smoke;
    - (ii) assisting, as appropriate, tobacco workers in the development of appropriate economically and legally viable alternative livelihoods in an economically viable manner; and
    - (iii) assisting, as appropriate, tobacco growers in shifting agricultural production to alternative crops in an economically viable manner;
  - (c) support for appropriate training or sensitization programmes for appropriate personnel in accordance with Article 12;
  - (d) provision, as appropriate, of the necessary material, equipment and supplies, as well as logistical support, for tobacco control strategies, plans and programmes;
  - (e) identification of methods for tobacco control, including comprehensive treatment of nicotine addiction; and
  - (f) promotion, as appropriate, of research to increase the affordability of comprehensive treatment of nicotine addiction.
2. The Conference of the Parties shall promote and facilitate transfer of technical, scientific and legal expertise and technology with the financial support secured in accordance with Article 26.

## **PART VIII: INSTITUTIONAL ARRANGEMENTS AND FINANCIAL RESOURCES**

### **Article 23**

#### *Conference of the Parties*

1. A Conference of the Parties is hereby established. The first session of the Conference shall be convened by the World Health Organization not later than one year after the entry into force of this Convention. The Conference will determine the venue and timing of subsequent regular sessions at its first session.
2. Extraordinary sessions of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat of the Convention, it is supported by at least one-third of the Parties.

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3. The Conference of the Parties shall adopt by consensus its Rules of Procedure at its first session.
4. The Conference of the Parties shall by consensus adopt financial rules for itself as well as governing the funding of any subsidiary bodies it may establish as well as financial provisions governing the functioning of the Secretariat. At each ordinary session, it shall adopt a budget for the financial period until the next ordinary session.
5. The Conference of the Parties shall keep under regular review the implementation of the Convention and take the decisions necessary to promote its effective implementation and may adopt protocols, annexes and amendments to the Convention, in accordance with Articles 28, 29 and 33. Towards this end, it shall:
  - (a) promote and facilitate the exchange of information pursuant to Articles 20 and 21;
  - (b) promote and guide the development and periodic refinement of comparable methodologies for research and the collection of data, in addition to those provided for in Article 20, relevant to the implementation of the Convention;
  - (c) promote, as appropriate, the development, implementation and evaluation of strategies, plans, and programmes, as well as policies, legislation and other measures;
  - (d) consider reports submitted by the Parties in accordance with Article 21 and adopt regular reports on the implementation of the Convention;
  - (e) promote and facilitate the mobilization of financial resources for the implementation of the Convention in accordance with Article 26;
  - (f) establish such subsidiary bodies as are necessary to achieve the objective of the Convention;
  - (g) request, where appropriate, the services and cooperation of, and information provided by, competent and relevant organizations and bodies of the United Nations system and other international and regional intergovernmental organizations and nongovernmental organizations and bodies as a means of strengthening the implementation of the Convention; and
  - (h) consider other action, as appropriate, for the achievement of the objective of the Convention in the light of experience gained in its implementation.
6. The Conference of the Parties shall establish the criteria for the participation of observers at its proceedings.

### **Article 24**

#### *Secretariat*

1. The Conference of the Parties shall designate a permanent secretariat and make arrangements for its functioning. The Conference of the Parties shall endeavour to do so at its first session.
2. Until such time as a permanent secretariat is designated and established, secretariat functions under this Convention shall be provided by the World Health Organization.
3. Secretariat functions shall be:
  - (a) to make arrangements for sessions of the Conference of the Parties and any subsidiary bodies and to provide them with services as required;
  - (b) to transmit reports received by it pursuant to the Convention;
  - (c) to provide support to the Parties, particularly developing country Parties and Parties with economies in transition, on request, in the compilation and communication of information required in accordance with the provisions of the Convention;
  - (d) to prepare reports on its activities under the Convention under the guidance of the Conference of the Parties and submit them to the Conference of the Parties;
  - (e) to ensure, under the guidance of the Conference of the Parties, the necessary coordination with the competent international and regional intergovernmental organizations and other bodies;
  - (f) to enter, under the guidance of the Conference of the Parties, into such administrative or contractual arrangements as may be required for the effective discharge of its functions; and
  - (g) to perform other secretariat functions specified by the Convention and by any of its protocols and such other functions as may be determined by the Conference of the Parties.

### **Article 25**

#### *Relations between the Conference of the Parties and intergovernmental organizations*

In order to provide technical and financial cooperation for achieving the objective of this Convention, the Conference of the Parties may request the cooperation of competent international and regional intergovernmental organizations including financial and development institutions.

### **Article 26**

#### *Financial resources*

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1. The Parties recognize the important role that financial resources play in achieving the objective of this Convention.
2. Each Party shall provide financial support in respect of its national activities intended to achieve the objective of the Convention, in accordance with its national plans, priorities and programmes.
3. Parties shall promote, as appropriate, the utilization of bilateral, regional, subregional and other multilateral channels to provide funding for the development and strengthening of multisectoral comprehensive tobacco control programmes of developing country Parties and Parties with economies in transition. Accordingly, economically viable alternatives to tobacco production, including crop diversification should be addressed and supported in the context of nationally developed strategies of sustainable development.
4. Parties represented in relevant regional and international intergovernmental organizations, and financial and development institutions shall encourage these entities to provide financial assistance for developing country Parties and for Parties with economies in transition to assist them in meeting their obligations under the Convention, without limiting the rights of participation within these organizations.
5. The Parties agree that:
  - (a) to assist Parties in meeting their obligations under the Convention, all relevant potential and existing resources, financial, technical, or otherwise, both public and private that are available for tobacco control activities, should be mobilized and utilized for the benefit of all Parties, especially developing countries and countries with economies in transition;
  - (b) the Secretariat shall advise developing country Parties and Parties with economies in transition, upon request, on available sources of funding to facilitate the implementation of their obligations under the Convention;
  - (c) the Conference of the Parties in its first session shall review existing and potential sources and mechanisms of assistance based on a study conducted by the Secretariat and other relevant information, and consider their adequacy; and
  - (d) the results of this review shall be taken into account by the Conference of the Parties in determining the necessity to enhance existing mechanisms or to establish a voluntary global fund or other appropriate financial mechanisms to channel additional financial resources, as needed, to developing country Parties and Parties with economies in transition to assist them in meeting the objectives of the Convention.

## **PART IX: SETTLEMENT OF DISPUTES**

### ***Article 27***

#### *Settlement of disputes*

1. In the event of a dispute between two or more Parties concerning the interpretation or application of this Convention, the Parties concerned shall seek through diplomatic channels a settlement of the dispute through negotiation or any other peaceful means of their own choice, including good offices, mediation, or conciliation. Failure to reach agreement by good offices, mediation or conciliation shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it.
2. When ratifying, accepting, approving, formally confirming or acceding to the Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that, for a dispute not resolved in accordance with paragraph 1 of this Article, it accepts, as compulsory, ad hoc arbitration in accordance with procedures to be adopted by consensus by the Conference of the Parties.
3. The provisions of this Article shall apply with respect to any protocol as between the parties to the protocol, unless otherwise provided therein.

## **PART X: DEVELOPMENT OF THE CONVENTION**

### ***Article 28***

#### *Amendments to this Convention*

1. Any Party may propose amendments to this Convention. Such amendments will be considered by the Conference of the Parties.
2. Amendments to the Convention shall be adopted by the Conference of the Parties. The text of any proposed amendment to the Convention shall be communicated to the Parties by the Secretariat at least six months before the session at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the signatories of the Convention and, for information, to the Depositary.
3. The Parties shall make every effort to reach agreement by consensus on any proposed amendment to the Convention. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-quarters majority vote of the Parties present and voting at the session. For purposes of this Article, Parties present and voting means Parties present and casting an affirmative or negative vote. Any adopted

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amendment shall be communicated by the Secretariat to the Depositary, who shall circulate it to all Parties for acceptance.

4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 of this Article shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least two-thirds of the Parties to the Convention.

5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.

### ***Article 29***

#### *Adoption and amendment of annexes to this Convention*

1. Annexes to this Convention and amendments thereto shall be proposed, adopted and shall enter into force in accordance with the procedure set forth in Article 28.

2. Annexes to the Convention shall form an integral part thereof and, unless otherwise expressly provided, a reference to the Convention constitutes at the same time a reference to any annexes thereto.

3. Annexes shall be restricted to lists, forms and any other descriptive material relating to procedural, scientific, technical or administrative matters.

## **PART XI: FINAL PROVISIONS**

### ***Article 30***

#### *Reservations*

No reservations may be made to this Convention.

### ***Article 31***

#### *Withdrawal*

1. At any time after two years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.

2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.

3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from any protocol to which it is a Party.

### ***Article 32***

#### *Right to vote*

1. Each Party to this Convention shall have one vote, except as provided for in paragraph 2 of this Article.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their Member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its Member States exercises its right, and vice versa.

### ***Article 33***

#### *Protocols*

1. Any Party may propose protocols. Such proposals will be considered by the Conference of the Parties.

2. The Conference of the Parties may adopt protocols to this Convention. In adopting these protocols every effort shall be made to reach consensus. If all efforts at consensus have been exhausted, and no agreement reached, the protocol shall as a last resort be adopted by a three-quarters majority vote of the Parties present and voting at the session. For the purposes of this Article, Parties present and voting means Parties present and casting an affirmative or negative vote.

3. The text of any proposed protocol shall be communicated to the Parties by the Secretariat at least six months before the session at which it is proposed for adoption.

4. Only Parties to the Convention may be parties to a protocol.

5. Any protocol to the Convention shall be binding only on the parties to the protocol in question. Only Parties to a protocol may take decisions on matters exclusively relating to the protocol in question.

6. The requirements for entry into force of any protocol shall be established by that instrument.

### ***Article 34***

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### *Signature*

This Convention shall be open for signature by all Members of the World Health Organization and by any States that are not Members of the World Health Organization but are members of the United Nations and by regional economic integration organizations at the World Health Organization Headquarters in Geneva from 16 June 2003 to 22 June 2003, and thereafter at United Nations Headquarters in New York, from 30 June 2003 to 29 June 2004.

### *Article 35*

#### *Ratification, acceptance, approval, formal confirmation or accession*

1. This Convention shall be subject to ratification, acceptance, approval or accession by States and to formal confirmation or accession by regional economic integration organizations. It shall be open for accession from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval, formal confirmation or accession shall be deposited with the Depository.
2. Any regional economic integration organization which becomes a Party to the Convention without any of its Member States being a Party shall be bound by all the obligations under the Convention. In the case of those organizations, one or more of whose Member States is a Party to the Convention, the organization and its Member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the Member States shall not be entitled to exercise rights under the Convention concurrently.
3. Regional economic integration organizations shall, in their instruments relating to formal confirmation or in their instruments of accession, declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depository, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

### *Article 36*

#### *Entry into force*

1. This Convention shall enter into force on the ninetieth day following the date of deposit of the fortieth instrument of ratification, acceptance, approval, formal confirmation or accession with the Depository.
2. For each State that ratifies, accepts or approves the Convention or accedes thereto after the conditions set out in paragraph 1 of this Article for entry into force have been fulfilled, the Convention shall enter into force on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval or accession.
3. For each regional economic integration organization depositing an instrument of formal confirmation or an instrument of accession after the conditions set out in paragraph 1 of this Article for entry into force have been fulfilled, the Convention shall enter into force on the ninetieth day following the date of its depositing of the instrument of formal confirmation or of accession.
4. For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States Members of the organization.

### *Article 37*

#### *Depository*

The Secretary-General of the United Nations shall be the Depository of this Convention and amendments thereto and of protocols and annexes adopted in accordance with Articles 28, 29 and 33.

### *Article 38*

#### *Authentic texts*

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at GENEVA this [date of month] two thousand and three.

Fourth plenary meeting, 21 May 2003  
A56/VR/4

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