



Japan Society for Tobacco Control

日本禁煙学会

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# 電子タバコや加熱式タバコなどの新しいタバコ製品使用禁止に成功した香港の経験

日本禁煙学会 理事 松崎道幸 訳



## Success and challenge of banning new tobacco products: Hong Kong's experience

電子タバコや加熱式タバコなどの新しいタバコ製品使用禁止に成功した香港の経験

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## 背景

### 新しいタバコ製品

タバコとパイピング製品製造企業は、2000 年代初頭から、電子タバコ、加熱式タバコ、ニコチンポーチなどの新しいタバコ製品の開発を行ってきた。

これらの製品は葉たばこを原料とするものとしがないものがある。しかし、いかなるタバコ製品も有害であり、かつ葉たばこ由来あるいは合成されたニコチンを使用しているため、高度の依存性を持っている。また、カラフルなパッケージや魅力的なフレーバーを使用して、若者を惹きつける戦略を駆使してきた。

### タバコ製品の禁止及び規制の国際的状況（文末の資料参照）

電子タバコ使用を認可した国は、アメリカ、イギリス、ニュージーランドなど未だ一握りに過ぎない。一方、40 か国以上の国々が、電子タバコの使用を禁止している。これは電子タバコの成分、含有物、健康影響などに関する科学的知見がほとんど明らかにされていないためである。特に、紙巻きタバコと言うトラディショナルなタバコ製品により大きな健康と経済被害を受けて続けている低中所得国の人々に対する健康影響が大きく懸念されるためであり、これらの国々においては、新しいタバコ製品などの使用を許可する余裕などない。

電子タバコの完全禁止を実施している国に加えて、80 か国以上の国では、電子タバコの販売は許可しているが、国境を越えた販売はアクセスの禁止、制限などのさまざまな規制を実施している。さらに、42 か国では電子タバコのニコチン含有量あるいはフレーバーなどの添加物などをはじめとして様々な規制を行っている。最低使用許可年齢、電子タバコの宣伝販売プロモーション活動禁止、幼児が誤って誤飲しないようにチャイルドパッケージを義務付ける、有害警告表示（ニコチン含有量、安全性、フレーバーなど添加物の内容）、課税、仕様馬場署の制限など。

加熱式タバコについては、30 か国以上で既存法あるいは新法によって販売と輸入が禁止されている。

有害製品の使用にあたり、有害影響を減らすためのハームリダクションと言う考えは歴史的に存在する。例えば、ヘロイン依存症に対するメサドン投与、自動車の安全ベルト、コンドームの使用などである。喫煙者、医療者、政治家にとって、ハームリダクションと言う政策は極めて魅力的に見えるだろうが、残念なことに、タバコ製品使用の問題をハームリダクションと言う手法で緩和する事は、実際には大きな問題があり、一筋縄ではいかないとする知見が多いと言わざるを得ない。

## **新しいタバコ製品の禁止が必要な論拠**

**成分が不明である：**電子タバコには膨大な銘柄と商品群が存在し、何が含まれているかは全く公開されておらず、リスク評価を行うことができない。紙巻きタバコなど既存のタバコ製品と全く異なるリスクプロファイルを持っている。ニコチンを含む製品もあれば、含まない製品もある。香港などにおける調査では、成分表示が間違っている例が多く見られた（ニコチンなし誤→あり正、ニコチンあり誤→なし正）など。

**いうまでもなく有害である：**電子タバコや加熱式タバコと言う製品は、すべての人々、とりわけ若い世代に大きな健康



被害をもたらすことが明らかである。ニコチン依存、がん、免疫不全、メンタルヘルス低下、口腔疾患、不妊、呼吸器疾患、心臓病、妊娠経過の障害、胎児の成長阻害、新生児への障害、小児の成長と発達の阻害など。加熱式タバコに含まれるニコチンおよび多くの有害物質ががんなど様々な病気をもたらすことが確実である。

電子タバコ使用により新型コロナへの感染と重症化、死亡リスクが極めて高くなる。これは、高齢者だけでなく若い世代でも同様である。スタンフォード大学の調査によれば、中学高校世代の若者が電子タバコを使用すると、使用しない人々の 7 倍新型コロナに感染することが明らかにされている。また、電子タバコのペーパーには新型コロナウイルスが多量に付着しており、電子タバコ使用者の呼気が新型コロナ感染を広げる恐れがあることが指摘されている。この点については、水タバコ使用者の呼出気も同様である。

今後健康被害の情報はさらに増えると予想される。紙巻きタバコ消費が始まってからすでに 100 年以上経つが、新たな健康被害に関する知見は、年を追って増加中である。したがって、新しいタバコ製品の健康影響の全貌が明らかになるまでには数十年以上かかることは必至であり、予想を大きく超えた有害作用を持つと考えて対応すべきである。

**ゲートウェイ効果：**小学から思春期世代の子どもたちが電子タバコを使用すると、その後、紙巻きタバコ使用率が激増することが、多くの研究調査で明らかにされたため、WHO は、電子タバコが紙巻きタバコ喫煙の入り口（ゲートウェイ）となる恐れが高いことを警告している。電子タバコのゲートウェイ効果に関して味はで初めて 2019 年に台湾の 1 万 3 千名の生徒を対象とした調査が発表された。これによれば、電子タバコを使用するティーンエイジャーは、2 年後に紙巻きタバコ喫煙を始めるリスクが倍増したという。

**電子タバコで禁煙することはできない：**紙巻きタバコ喫煙者は電子タバコも使用する「デュアルユーザー」となりやすい。

禁煙すなわち紙巻きタバコ使用を止めるために、電子タバコにスイッチしても、中長期的には、紙巻きタバコと電子タバコの両方を使用するようになることが明らかにされている。2021 年に 64 編の論文をメタアナリシスした結果、「成人において、紙巻きタバコ使用を中止するために電子タバコにスイッチしても禁煙成功率は改善しなかった」との結論が出されている。

**タバコ製品使用を「再常識化 re-normalize」する**：多くの国々で喫煙率が大きく低下している現状に反して、電子タバコや加熱式タバコなどの新たなタバコ製品を「トレンドなタバコ新製品」として宣伝することは、「タバコ使用は非常識」と言う現在の社会的ノルムを、「タバコを吸うのが常識だ」と言う昔のノルムにもどす役割を果たしていると考えなければならない。新しいタバコ製品（とりわけ加熱式タバコ：松崎追加）には、使用者の使用頻度、タイミング、パフ回数、パフ間隔などをリアルタイムで収集し企業に送信するソフトウェアが組み込まれているのだが、製品消費者のほとんどはこのことを認識せずに使用を続け（させられ）ている。

**ひとたび認可すると取り消せない**：政府がこれらの「新しいタバコ製品」を一度認可すると、（後日取り消そうと思っても：松崎）取り消すことはほとんど不可能である。（タバコ産業が強力な法曹スタッフを抱えていることを想起すべきである：松崎）

**タバコ規制国際枠組み条約（FCTC）の見地から**：FCTC 締約国会議第 7 回（2016 年）、第 8 回（2018 年）において、すべての締約国（もちろん日本も含む）は、それぞれの国内法と公衆保健上の目的に合致する場合、電子タバコと加熱式タバコの製造、輸入、流通、紹介、販売および使用を禁止あるいは制限する適切な措置を実行すべきであるという決議が採択された。

## タバコ産業の妨害活動

世界の巨大タバコ産業は、数十年前から、紙巻きタバコに代わる新しいタバコ製品の開発を進めようとしていた。2012年以降、小規模の電子タバコブランド製造企業を買収して、自分達の目的に合うタバコ製品の開発を進めてきた。

ただし、タバコ産業の新製品セールストークには、多くの懐疑的意見が寄せられてきた。例えば、フィルター付きタバコは両切りタバコより安全だとか、低タールたばこは高タールタバコよりも害が少ないと宣伝されてきたが、これらの主張は全く虚偽であったことが明らかにされている。

例えば、1960年代から70年代にかけてのアメリカ国内における紙巻きタバコのコマーシャルでは、フィルター着きタバコや低タールタバコは害が少なく、禁煙が容易になると宣伝されてきたが、実際には、子どもや若者に対して喫煙がトレンドであると印象付ける役割を果たしたのである。

タバコ産業干渉指数による評価では、タバコ産業が新しいタバコ製品を発売することにより、タバコ規制対策を妨害してきたことが明らかにされている。

### 新しいタバコ製品の宣伝、販売促進、製造、輸入、流通禁止に成功した香港の経験

HKSAR（Hong Kong Special Administrative Region of the People's Republic of China 中華人民共和國香港特別行政区：以後香港と呼称）は、1982年に喫煙規制条例を施行し、FCTCに沿って、禁煙、受動喫煙防止、タバコ税増税などの事業を進めてきた。香港の喫煙率は1982年の23.3%から2021年の9.5%へ大

きく低下している。香港当局は 2025 年までに、喫煙率を 7.8%まで低下させる目標を持っている。これを達成するためには、紙巻きタバコ喫煙率の低下に向けた取り組みに加え、香港における新しいタバコ製品の輸入と流通を完全に防ぐことが必要である。

2018 年に香港の行政長官は、新しいタバコ製品の完全禁止でなく規制を主体とする対策を提案したが、医療、教育、保護者組織はこの方針に懸念を表明した。以下に規制を厳しくしても、何らかの形で子どもや若者がこれらの製品にアクセスできるようになるため、規制は有名無実になると主張した。これらを受けて討論が行われ、2019 年に、紙巻きタバコの代替品としての電子タバコ、加熱式タバコ、ハーブタバコなどを含めた新たなタバコ製品の輸入、製造、販売、流通、宣伝を禁止する条例改定が提案され、パブリックヒアリングのプロセスに回された。その後新型コロナパンデミックのために審議が大幅に遅れた。電子タバコ禁止については、ほとんど反対がなかったが、加熱式タバコについては、紙巻きタバコと同じレベルの規制をするにとどめてはと言う意見が一部から出された。その後加熱式タバコに関する科学的データが紹介され、多くの議論が行われ、条例検討委員会は、2021 年 10 月 21 日に、賛成 32、反対 3、棄権 2 で、電子タバコ、加熱式タバコ、ハーブタバコなどの新たなタバコ製品の輸入、製造、販売、流通、宣伝を完全に禁止する改定案が承認された。これに至るまで多くの紆余曲折が起きたが、当局、政策決定者、研究者、市民組織、医学専門家、一般市民などの幅広い共同に支えられて、電子タバコ、加熱式タバコの完全禁止条例が勝ち取られた。

香港大学の調査によれば、7～9 才層の電子タバコ経験率は 2016～17 年に 2.9%だったが、2017～18 年には 4.5%と五割増加した。12 才～17 才層の電子タバコあるいは加熱式タバコ常習率は 2018～19 年に 0.3%だったが、同じ時期の加熱式タバコ経験率は 2.3%、電子タバコ経験率は 7.7%だった。加熱式タバコあるいは電子タバコ使用経験者の紙巻きタバコ経験率はそれぞれ 83.0%、58.4%だった（つまり加熱式タバコと電子タバコ使用経験のある小児の 6～8 割がシガレットにも手を出しているという事：松崎）。香港当局は、海外におけるこれらのタバコ製品

使用の増加と関連する健康被害情報を踏まえて、すべての新たなタバコ製品については、規制でなく完全禁止を行うことに政策を転換したわけである。これは香港も 2006 年に賛同した FCTC に合致する対策である。

## 法令順守措置

紙巻きタバコ喫煙禁止区域での新たなタバコ製品の使用に対しては同額の罰金を科することにした。新たなタバコ製品の輸入、製造、販売、流通にかかわった者には最高 6500 米ドル相当の罰金と 6 か月の禁固を課することになった。

改訂条例が発効したのは 2022 年 4 月 30 日である。香港税関は密輸に対して新たな対策を開始した。さいしょの 1 か月に 46 件の密輸を摘発し、36 万個の商品を押収した。これは 130 万米ドル相当である。入域者に対して、新たなタバコ製品を自主的に提出させた。これらの対策は円滑に進み、香港政庁は、人々の健康を守るための厳格な法令実施を推進することができた。





香港当局はすべてのタバコ製品使用が有害であるという原則を堅持している。この法令の成立は、包括的タバコ対策の始まりに過ぎない。今後も海外の経験にも学び、香港でのタバコ対策を進めてゆく方針である。

チャン教授は、当局に対して「タバコエンドゲーム」を勝ち取る包括的タバコ対策実施のためのロードマップを策定するように申し入れた。要点を以下に示す：

1. 受動喫煙防止対策の徹底
2. タバコ製品の魅惑性を削減する取り組み
3. タバコ製品使用による健康被害を減らすために、タバコ製品使用年令を継続的に上げて、タバコ製品使用ゼロの世代を拡大する
4. タバコ製品使用中止のための治療と支援を行う

2022 年 10 月、香港長官は 2025 年までに喫煙率を 7.8%に低下させると表明し、2023 年初頭までに、これを実現するためのロードマップを策定すると述べた。

## 香港におけるタバコ産業の妨害策動

昔から香港でタバコ産業のロビー活動が盛んにおこなわれてきた。しかも香港の法制審議会には、自分がタバコ産業の代弁者だと公言する者までいるという実情がある。

タバコ産業は、香港の行政府や立法府の構成員に対して、法令の改正に反対するための一連の資料を送付し続けてきた。例えば、新しいタバコ製品はより安全だとか、禁煙推進に協力するなどである。

さらに、新聞社だけでなく、ふつうはタバコ問題と直接関係のないアーティスト、宣伝業界、若者、シンクタンクなどにも、様々なメディアを通じて同様の宣撫攻勢を実施し、香港当局のタバコ対策が不適切であると言い続けてきた。フィリップモリスは、新聞社に投書、タバコ対策是か非かと言う討論番組を提供した。

タバコ産業は、香港当局に今回のタバコ規制法令に反対する意見書のひな型を多くの団体や個人に拡散し、当局に意見書を送り付ける取り組みも行った。さらに SNS を通じて保健担当部局を中傷する「ツイッターデモ」まがいのことも行ったという。

マルボロブランドのオーナーであるアルトリア（フィリップモリス）が資金を提供しているアメリカのシンクタンク、R Street Institute は、香港当局に、電子タバコと加熱式タバコの禁止を断念するように要求した。これは、2019 年にフィリピン当局と FDA に対して行われたものと同様の内容である。

香港の電子タバコショップは、「whynotregulate.hk' campaign」を開始して、禁止法令を断念するよう香港中にポスターとバナーを貼り巡らせた。

フィリップモリスは禁止法が成立した場合、香港の施設を閉鎖して失業者をたくさん作るぞと当局を脅迫した。

法令審議中、タバコ産業は当局に大量の書類、質問書、弁護士からの質問状を送り付け、公務職員のエネルギーと労働時間を奪おうとした。タバコ産業お抱えの弁護士は、法令審議担当当局に翻訳が必要な重箱の隅をつつくような質問状を大量に送り付けた。香港当局のベテラン弁護士は、立法当局にこれほど大規模なロビー活動が行われたことはないと言っていた。

## 市民社会の果たした役割

香港では、Hong Kong Council on Smoking and Health（香港喫煙と健康委員会）、Clear the Air、Asian Consultancy on Tobacco Control などをはじめとして影響力のある様々な団体が、行政当局を支援した。法令案への支持を表明するだけでなく、香港大学看護学部および公衆衛生学部は、法令案の根拠となる科学的データを 21 篇の論文として公表した。

医療保険専門家だけでなく、父母の 82%と生徒の 90%がすべての新たなタバコ製品禁止を支持するという調査成績を PTA 連合会、Lok Sin Tong Benevolent Society が発表した。この調査は香港の幼稚園、小中学校 100 校以上を対象として Committee on Home-School Co-operation が実施したもので、回答を寄せた父母の 75%が

新たなタバコ製品の輸入、製造、販売だけでなく、使用そのものも禁止すべきだという意見だった。タバコ産業の反対にもかかわらず、社会の広い階層の人々が法令案を支持したことが成立の基盤となった。



国際的な健康保健推進団体も支援を行い、情報を拡散し、メディアに投書を行った。

実際に行われた活動：

- 国際的専門家を招いたセミナー開催
- 記者会見、報道用資料拡散
- 記事の配信
- タバコ産業とのテレビ討論
- 禁止賛成集会
- 法令審議委員に対するアピール（香港喫煙と健康委員会の呼びかけ、100 以上の香港の団体の署名入り）
- 香港および国際的な調査活動
- 署名運動（10 万筆達成）
- 父母の意見調査（新たなタバコ製品の販売に反対が多数）
- 教員組織の賛同
- タバコ産業の主張に対する反論活動

2021 年 8 月 15 日、香港の食品保健長官は、Asian Consultancy on Tobacco Control から、改正案を審議している法制審議会奉安委員会で、改正案に反対している数人のメンバーが、タバコ産業から資金提供を受けるなど親密な関係にあると指摘した書状を受け取った。その内容を以下に示す：

「（香港も含む）中国の立法に携わる議員で、中国政府自身が批准した FCTC 第 5 条 3 項の内容を十分理解している人々は極めて少ないようだ。FCTC 第 5 条の全文は以下である（囲み）。香港の立法府の構成員および立法府自身は、第 2 項と第 6 項の「資金調達」が重要だと誤解しているようだが、第 5 条で最も重要なのは第 3

項（締約国は、タバコの規制に関する公衆の健康のための政策を策定し及び実施するに当たり、国内法に従い、タバコ産業の商業上及び他の既存の利益からそのような政策を擁護するために行動する）である。

（FCTC 第五条 一般的義務）

- 1 締約国は、この条約及び自国が締約国である議定書に従い、多くの部門における包括的な自国の戦略、計画及びプログラムであってタバコの規制のためのものを策定し、実施し、並びに定期的に更新し及び検討する。
- 2 このため、締約国は、その能力に応じ、次のことを行う。
  - （a）タバコの規制のための国内における調整のための仕組み又は中央連絡先を確立し又は強化し、及びこれらに資金を供与すること。
  - （b）タバコの消費、ニコチンによる習慣性及びタバコの煙にさらされることを防止し及び減少させるための適当な政策を策定するに当たり、効果的な立法上、執行上、行政上又は他の措置を採択し及び実施し、並びに、適当な場合には、他の締約国と協力すること。
- 3 締約国は、タバコの規制に関する公衆の健康のための政策を策定し及び実施するに当たり、国内法に従い、タバコ産業の商業上及び他の既存の利益からそのような政策を擁護するために行動する。
- 4 締約国は、この条約及び自国が締約国である議定書の実施のための措置、手続及び指針に関する提案を作成することに協力する。
- 5 締約国は、適当な場合には、この条約及び自国が締約国である議定書の目的を達成するため、権限のある国際的及び地域的な政府間機関並びに他の団体と協力する。
- 6 締約国は、利用することができる手段及び資源の範囲内で、二国間又は多数国間の資金調達のための制度を通じ、この条約の効果的な実施のための資金を調達することに協力する。

WHO は、FCTC 第 5 条 3 項の施行ガイドラインの中で、政府の主要な 3 部門すべてが、FCTC の実施に重要な役割を果たすと指摘している。

（5 条 3 項施行ガイドライン抜粋）本ガイドラインは、政府家計者、議員、各級（国～市町村）公務員、国内の公立と民間の諸団体そして、積極的にタバコ対策推進のために活動する諸個人すべてに適用される。行政、立法、司法のすべての部門が、タバコ規制対策の立案と実行に責任を持ち、タバコ産業の利益から人々を守るための対策を推進すべきである。

## 結論/サマリー

いま世界中の国々で、電子タバコや加熱式タバコなど新しいタバコ製品を売り込むためのタバコ産業の強大なロビー活動が行われている。香港でもこの数年にわたり新しいタバコ製品の使用を禁止するための法令制定をめぐって闘いが続けられてきた。いかなる国も、タバコ産業のロビー活動を打ち破って新しいタバコ製品使用の禁止を勝ち取ることは容易にはできない。タバコ産業の猛烈な反対活動に加えて、電子タバコなど新しいタバコ製品の使用を推進する著名人も少

なくない中で、香港当局はタバコ産業にしっかりと立ち向かい、人々、とりわけ若い人々の健康を守るために行動してきた。なぜそれが成功したか？それは何よりも、香港当局が、新たなタバコ製品が人々の健康を損なうことが避けられないという科学的知見に支えられた結論を堅持したからである。

## 参考資料/リソース

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[https://untobaccocontrol.org/impldb/wp-content/uploads/Info-Note\\_Novel-Classification\\_EN.pdf](https://untobaccocontrol.org/impldb/wp-content/uploads/Info-Note_Novel-Classification_EN.pdf)

Hong Kong Law: Smoking (Public Health) (Amendment) Ordinance 2021. Ord. No. 39 of

2021. <http://www.gld.gov.hk/egazette/pdf/20212543/es12021254339.pdf>

### E-cigarettes

The Institute for Global Tobacco Control at Johns Hopkins University publishes the Ecigarette

Policy Scan website, which contains a directory of information relating to the

regulation of e-cigarettes around the world.

<https://www.globaltobaccocontrol.org/en/policy-scan/e-cigarettes>

The Global Center for Good Governance in Tobacco Control (GGTC) publishes information

on e-cigarette regulation.

E-cigarette Ban & Regulation: Global Status as of February 2022.

<https://ggtc.world/library/e-cigarette-ban-regulation-global-status-as-of-february-2022>

The Campaign for Tobacco-Free Kids publishes detailed, up to date information at country level in a searchable database on the Tobacco Control Laws website.

[https://www.tobaccocontrolaws.org/legislation/finder/#\\_location-ecig](https://www.tobaccocontrolaws.org/legislation/finder/#_location-ecig)

For State Parties to the WHO Framework Convention on Tobacco Control (FCTC) progress towards implementation of relevant articles, including newer products, is detailed in the FCTC implementation database (<https://untobaccocontrol.org/impldb/> ).

### **Heated tobacco products**

Comprehensive report on research and evidence on novel and emerging tobacco products, in particular heated tobacco products, in response to paragraphs 2(a)–(d) of decision FCTC/COP8(22) - Report by the World Health Organization to the Conference of Parties to the WHO Framework Convention on Tobacco Control. Technical Document FCTC/COP/9/9. 23 July 2021.

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Global Tobacco Control. Countries that regulate heated tobacco.

<https://www.globaltobaccocontrol.org/en/resources/countries-regulate-heated-tobacco>



# Success and challenge of banning new tobacco products: Hong Kong's experience

Sophia Chan and Judith Mackay

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## Background

### New or emerging tobacco products

Since the early 2000s tobacco and vaping companies have developed newer nicotine and tobacco products, including e-cigarettes, heated tobacco products, and nicotine pouches.[1]

Some of these products contain tobacco, while others do not. Regardless of their tobacco content, they are still harmful and still contain tobacco-derived nicotine or synthetic nicotine, which is addictive. These products are attractive to children and teens with their colourful packaging and pleasing flavours.

### Global situation regarding bans and regulations (see Resources at end of document)

Only a handful of countries in the world have embraced the use of e-cigarettes. These include the USA, England, and New Zealand. On the other hand, the 40 or so countries that have enacted bans on e-cigarettes have done so because there are unacceptable gaps in scientific knowledge and too many unanswered questions about the ingredients, effects, and impact on public health, especially in low- and middle-income countries,[2] which are still struggling with the existing combustible-cigarette epidemic and do not want to introduce an additional and new form of tobacco into their markets.[3,4]

In addition to outright bans, in more than 80 countries that permit the sale of e-cigarettes, there are regulations and restrictions around cross-border sale venues, access, or other restrictions. In addition, 42 countries regulate nicotine and/or other contents of e-cigarettes.[5] Such laws and regulations relate to minimum age of sale; bans on e-cigarette advertising, promotion and sponsorship; child safety packaging, pack warnings and labelling requirements; product regulation such as nicotine levels, safety, ingredients or flavours; taxation; bans except as medical products; and bans on vaping in smoke-free areas.[6,7,8]

Regarding heated tobacco products (HTPs), more than 30 countries have implemented legislation under existing or new laws, banning sales and imports.[9]

Harm reduction has a historical place in public health, as in methadone maintenance in heroin addiction, or the wearing of safety belts in cars, or the use of condoms. The concept of harm reduction regarding tobacco is therefore very tempting for smokers, health professionals and politicians. Unfortunately, this is a one-sided view of a much more complex public health problem.[10]

### Rationale for bans on new tobacco products

**Unknown ingredients:** The many different ingredients in a wide range of vape products are not disclosed and therefore not known. They have a different risk profile from conventional tobacco products. Some contain nicotine, and some not. Studies in Hong Kong and elsewhere have shown that labelling is often misleading; for example, labels stating they contain no nicotine where they do, and vice versa.[11]

**Known harm:** These products cause harm to all ages, especially youth. These harms include addiction, cancer, immune, mental, oral, reproductive, respiratory and cardiovascular effects, and a significant risk to pregnant women and their unborn child, as the products damage the growing foetus.[12,13] Heated tobacco products contain tobacco and expose users to toxic emissions, many of which cause cancer and are harmful to health.[14]

Vaping greatly increases the risk of catching COVID-19 and also leads to worse health outcomes, even in youth vapers. A study at Stanford University in the USA found that adolescent vapers were up to seven times more likely to catch COVID-19 than non-vapers. Concern has also been raised about COVID-19 being transmitted by exhaled vape clouds,[15] or users transmitting COVID-19 through shared use of the waterpipe.

More information on harm will come. Conventional cigarettes have been on the market for over 100 years and evidence on their harm is still accumulating, so there will be more data on the harm of these new products in the future.[16]

**Gateway effect:** Social science studies and meta-analyses report, and the World Health Organization has warned, that e-cigarettes act as a gateway to children and adolescents later taking up conventional cigarettes.[17,18,19] The first report in Asia was published in 2019 on 13,000 students in Taiwan, China – teen vaping doubled the odds of youth taking up cigarette smoking two years later.[20]

**Unhelpful for smoking cessation:** With already-cigarette smokers, e-cigarettes encourage continuation and dual use, and longer studies show they are not helpful in aiding smokers to quit smoking.[21,22] A 2021 meta-analysis of 64 papers on the topic concluded: “As consumer products, in observational studies, e-cigarettes were not associated with increased smoking cessation in the adult population.”[23]

**Renormalization of tobacco:** The new trendy products also “re-normalize” tobacco use in society, just as cigarette prevalence is falling in most countries. Many users don’t realize they include embedded software, designed to monitor smoking behaviour.[24]

**Genie out of the bottle:** Once these products become established in societies, they will be almost impossible to eliminate.

**WHO FCTC:** The Seventh and Eighth sessions of the Conference of the Parties to the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) held in 2016 and 2018 agreed that Parties should apply regulatory measures either to restrict or prohibit, as appropriate, the manufacture, importation, distribution, presentation, sale and use of e-cigarettes[25] and heated tobacco products[26] respectively, as appropriate to their national laws and public health objectives.



### **Tobacco industry interference**

The international tobacco companies have been interested in new forms of tobacco for decades.[27] They began buying existing e-cigarette brands and developing their own e-cigarette products from 2012.[28]

There should be scepticism about tobacco-industry claims over the new products. The industry has previously misled governments, the public health community and its customer-smokers by stating that filtered and low tar cigarettes were “safer,” yet this turned out to be a deception.[29]

Advertising of these new products, for example in the USA, is reminiscent of the atrocious cigarette adverts in the 1960s and 1970s. What the industry says is that their products help quitting and harm reduction in established smokers. Yet what they do is promote to children and youth as trendy products.[30]

The Tobacco Industry Interference Indexes document the behaviour of the industry in obstructing tobacco control policy in general, and also with regard to the new tobacco products.[31]

### ***The Hong Kong experience: a ban on importation, manufacture, distribution, promotion and sale***

#### **HK SAR Government Perspective**

Since the Smoking (Public Health) Ordinance was enacted in 1982, the HKSAR government has adopted a progressive and multi-pronged approach including legislation, taxation, education and smoking cessation services, aligned with the WHO FCTC and the WHO's MPOWER measures to reduce the use of tobacco and the harm it causes to public health. The smoking prevalence in Hong Kong has gradually reduced from 23.3% in 1982 to 9.5% in 2021,[32] marking the first time on record that the percentage dropped to a single digit.

Professor Sophia Chan, in her capacity as Secretary for Food and Health, announced in May 2022: “It is an important milestone in Hong Kong’s tobacco control effort that the smoking prevalence rate has dropped to single digits, but yet we cannot afford complacency.”

The Government has committed to the target of reducing smoking prevalence further to 7.8% by 2025 as part of a strategic action plan to prevent and control noncommunicable diseases in Hong Kong. The target will require ambitious measures to reduce cigarette use, but also to prevent any new tobacco products from entering the local market. Putting an end to emerging alternative smoking products is an essential but just one step in Hong Kong’s tobacco control efforts.



In 2018, the Chief Executive of the HK SAR announced in her Policy Address that, in order to safeguard the health of the public, the Government is determined to make strenuous efforts in tobacco control. In recent years, the emergence of e-cigarettes and other new smoking products has posed new health risks and challenges. Often packaged as less harmful substitutes with promotion tactics targeted at youngsters and non-smokers, these products open a gateway to the eventual consumption of conventional cigarettes. The fact is: all these new smoking products are harmful to health and produce second-hand smoke. There is also a lack of sufficient evidence to prove that these products can help quit smoking. The public may underestimate the harmful effects of these products and eventually endorse the smoking image and relevant behaviours once again.

Since the Government proposed to legislate for the regulation of e-cigarettes and other new smoking products in the middle of 2018, the medical professions, education sector, parents and many members of the public have expressed concerns about the adoption of a “lesser-than-total ban” regulatory approach for the issue. They are worried that allowing the sale of e-cigarettes and other new smoking products despite restrictions in the market will not be adequate to protect public health, and will bring about very negative impacts on children and adolescents in particular. After weighing the pros and cons of a regulatory approach as opposed to a full ban, the Government decided to submit proposed legislative amendments and introduced the Smoking (Public Health) (Amendment) Bill 2019 ("the Bill") into the Legislative Council (LegCo) in February 2019 to prohibit the import, manufacture, sale, distribution and advertisement of alternative smoking products, including e-cigarettes, heated tobacco products and herbal cigarettes.

The Bill was gazetted on 15 February 2019 and introduced by the Food and Health Bureau (FHB) to the LegCo for the first and second readings on 20 February 2019. A Bills Committee was then formed on 1 March 2019 to review the Bill. A public hearing was held by the Bills Committee to collect views from stakeholders and the general public. However, the bills scrutiny work could not be completed after eight meetings, hence it was discontinued on 2 June 2020 and the Bills Committee was dissolved on 3 July 2020, the end of the year's legislative session. However, due to the severe COVID-19 epidemic situation, the Chief Executive in Council decided to postpone the 2020 LegCo General Election, originally scheduled for September 2020, for a year to September 2021, in order to protect public safety and public health as well as ensure elections are conducted openly and fairly. The Sixth LegCo continued to discharge duties and a new Bills Committee was formed on 16 October 2020 to start the scrutiny work afresh.

The Bills Committee then held seven meetings to study and scrutinize the Bill. It also received 67 written submissions from 151 organizations and individuals. While Committee members had a unanimous view that a full ban should be imposed on e-cigarettes, debate on the draft amendments was mainly around HTPs. Many members suggested a total ban on all tobacco products including HTPs, but some members were of the view that HTPs should not be fully banned but should be subject to a regulatory regime similar to that of conventional cigarettes. Officials from FHB presented scientific evidence and carefully answered all questions raised by the Bills Committee regarding

HTPs. After almost three years since the Bill was first introduced to LegCo, the LegCo resumed consideration of the Bill. The third reading of the Bill was passed on 21 Oct 2021 by the LegCo with 32 votes in favour, 3 votes against and 2 abstentions. The Bill legislates to prohibit the import, manufacture, sale, distribution and advertisement of alternative smoking products (ASPs), including e-cigarettes, HTPs and herbal cigarettes.

With the Smoking (Public Health) (Amendment) Ordinance 2021[33] coming into effect on 30 April 2022, the new law prevents the ASPs from taking root in local markets and cultivating a new generation of young smokers. The passing of the Bill and the enactment of the Ordinance mark a significant milestone in Hong Kong's tobacco control work and a major achievement in public health. But the legislative process had experienced twists and turns, and the passing of the Bill was a result of the collective effort of the government, the legislators, researchers, civil society, the medical professions and the general public.

Academia in Hong Kong has a long partnership with HKSAR to monitor the use of tobacco products in the population. According to consecutive school-based surveys conducted by the School of Public Health of the University of Hong Kong, the number of Hong Kong primary 2 to 4 students who ever used e-cigarettes increased from 2.9% in 2016-2017 to 4.5% in 2017-2018, an increase of 55%.[34] The daily user of e-cigarettes or HTPs among secondary 1 to 6 students was 0.3% in 2018-2019, while the percentages of those who ever used e-cigarettes and HTPs were 7.7% and 2.3% respectively.[35] Among the ever e-cigarettes and ever HTPs users, 58.4% and 83.0% ever smoked. Because of these alarming survey results, in the light of the rapid rise in the use of ASPs in overseas countries and the compelling evidence on health risks of ASPs, HKSAR Government was determined to take firm actions to ban, not just regulate, all ASPs.

The ban on ASPs is consistent with the provisions of WHO FCTC, the application of which has been extended to Hong Kong since 2006.

## **Enforcement**

The Hong Kong law[36] contains many specific clauses on enforcement. It gives powers of enforcement to inspectors of the Tobacco and Alcohol Control Office of the Department of Health and officers of Customs and Excise Department. The fines for individual users of ASPs for using ASPs in statutory no-smoking areas are the same as fines for illegal use of conventional cigarettes. However, any persons convicted of importing, manufacturing, selling, or distributing these prohibited products is subject to a maximum fine of \$50,000 (USD 6,500) and prison terms of up to a maximum of 6 months.

Since the Ordinance 2021 came into operation on 30 April 2022, Hong Kong Customs has conducted a special enforcement operation to combat smuggling of ASPs at source. Within one month after the implementation, Hong Kong Customs dealt with 46 related cases and seized around 360,000 products with an estimated market value of HK\$10 million[37] (approximately USD 1.3 million). Also, the majority of incoming travellers, who had ASPs, voluntarily declared them at customs. The enforcement operation

further proved that the Ordinance is feasible and practicable. The HKSAR government will continue to take stringent enforcement action to safeguard the population's health.



The government recognised the principle that all forms of tobacco use are harmful. Passage of the Bill and implementation of the Ordinance were just a start. The HKSAR government will continue to study and refer to foreign experience to prevent new smokers from smoking initiation and strengthen the efforts in smoking cessation.

Professor Chan further announced that the Government will take reference to experiences from other places and actively carry out the formulation of the Tobacco Endgame, provide a timetable and roadmap, and launch a comprehensive tobacco control strategy to safeguard public health. In order to achieve the long-term goal of eliminating tobacco hazards, four major strategies were highlighted, including:

- (1) a further reduction of public exposure to second-hand smoke;
- (2) curtailing the attractiveness of smoking products;
- (3) eliminating the harm of smoking products to the next generation such as increasing the age of legal purchase of cigarettes and other ways of attaining a smokefree generation; and
- (4) strengthening smoking cessation services.

The Department of Health also launched the "Quit in June" campaign, in collaboration with the Hospital Authority, District Health Centres/District Health Centre Expresses, the Hong Kong Council on Smoking and Health and other medical institutions in assisting people to quit smoking and promoting tobacco-free life.

The Government will continue to further reduce the smoking prevalence rate in Hong Kong proactively through multi-pronged approach, including legislation, taxation, health education and co-operation with community partners to take forward more focused smoking cessation services, so as to safeguard the health of Hong Kong citizens. Given the Government has determined to strengthen district-based primary healthcare services, and has set up District Health Centres/District Health Centre Express in each of the 18 districts in Hong Kong in the last term of Government, with a focus of NCD prevention and its modifiable risk factors, including smoking cessation, it is more timely than ever to embark on a strategic plan in tobacco control and to empower individuals, families and communities in taking a preventive health approach to protect their own health.

In October 2022, the Chief Executive announced his latest Policy Address 2022 and reiterated the target to lower the smoking prevalence of Hong Kong to 7.8% by 2025,

and to prepare a roadmap on tobacco control in early 2023 to gather the public's views on further reducing smoking prevalence. We are confident that with the strong support from the medical and health professionals, academia, and general public, the Government will embark on a comprehensive tobacco control strategy and formulate a timetable and roadmap for the "tobacco endgame" to advance the goal of a smoke-free Hong Kong.

### **Tobacco industry interference in Hong Kong**

The government recognised there was extensive and intense lobbying of legislators by the tobacco industry and its allies to prevent the ban on new tobacco products. In fact, the industry has a decades-long reputation of attempting to subvert tobacco control policy in Hong Kong. Several legislators openly support the tobacco industry, including one who brazenly said in the Legislative Council that he was the voice of the tobacco industry in LegCo.[38]

The tobacco industry attempted to exert its influence on the legislators and government officials, providing information packages to legislators and using different arguments to object to the bill, such as claiming the new products were a safer choice, or that they helped smoking cessation.

In addition to the usual newspaper vendors, the industry also engaged unconventional stakeholders to support its claims, such as those in the creative and advertising fields, press and media, young people, think tanks etc. It used multiple channels, writing articles in newspapers, TV programmes and deputations to create an impression that many people thought the Government's bill was not a good idea. Philip Morris's media campaign included writing letters to the press and initiating a TV debate [39] to create heated discussion in the media.

The industry also asked its stakeholders to send to the Government "template" letters objecting to the Government's bill, as it knew the Government would need to report the number of responses received. It also wrote on the Government Official social media platform and took the opportunity to smear the health minister on all fronts.

A US think tank, R Street Institute, funded by Altria, owner of Marlboro brand in the USA, sent a letter to the Hong Kong government and legislators, calling on both not to ban e-cigarettes or HTP,[40] similar to tactics directed at legislators and the FDA in 2019 in the Philippines.[41,42]

A 'whynotregulate.hk' campaign was launched by The Vape Shop Hong Kong [43] in an attempt to thwart an outright ban, with posters and banners all over Hong Kong.

Philip Morris even threatened to shut down facilities in Hong Kong if the ban went through, stating it would cause unemployment.[44]

During the bill scrutiny, the tobacco industry also bombarded the Government with legal documents, questions, accusations from lawyers, and more, which ate up staff's time and energy. The industry-friendly legislators also asked multiple difficult questions

that required the Government to answer and provide details and translation. These tactics exhausted the Government staff, making the process of bill scrutiny very painful. One veteran lawmaker in Hong Kong stated that he had never witnessed such an intensity of lobbying in the Legislative Council on any topic, health or otherwise.

### **The role of civil society**

Various key Hong Kong groups mobilised to support the government. These included the Hong Kong Council on Smoking and Health,[45] Clear the Air,[46] the Asian Consultancy on Tobacco Control, and organisations mentioned above. In addition to the support to the Government's bill, the HKU School of Nursing and School of Public Health published over 21 papers and provided the necessary data to support the Government during the passage of the Bill.[47,48]

In addition to the medical and health professionals, the Government also received strong support from the Federation of Parent-Teacher Associations and Lok Sin Tong Benevolent Society, which conducted a series of surveys, showing that a vast majority of parents (82%) and young people (90%) supported the ban on all ASPs. The survey conducted by the Committee on Home-School Co-operation among more than 100 primary and secondary schools and kindergartens in various districts in Hong Kong showed that 75% of participating parents not only supported the ban on the import, manufacture and sale of ASPs but also the ban on use of the ASPs.[49] In spite of the tobacco industry's objection, the wide support from the public laid a solid foundation for the passing of the Bill.

Members of the international public health community offered support, supplying information, writing letters to the press, etc.

Strategic actions included:

- Seminars with international experts.[50]
- Press conferences and press releases.[51]
- Articles in the media.[52,53]
- TV debates with industry.[54]
- Pro-ban rallies outside Legislative Council.
- Appeals to the Legislative Council members, such as a letter coordinated by HK COSH and co-signed by about 100 HK organisations.[55]
- Research, both international and in Hong Kong. [56]
- Signature campaign – 100,000 signatures collected by COSH.
- Parents' survey – showing they did not want these new products on market.[57]
- Teacher organisations similarly supported the ban.[58]
- Countering of industry claims.

On 15 August 2021, the then Secretary for Food and Health received a letter from the Asian Consultancy on Tobacco Control pointing out that several members of the Legislative Council Bills Committee who were obstructing the bill had close, including financial, connections with the tobacco industry.

"Very few, if any, legislators seem to understand their obligations under World Health Organization Framework Convention on Tobacco Control (WHO FCTC) Article 5.3, to which Hong Kong, through China, is a Party. In the past, responses from both LegCo Members and the LegCo have focussed on monetary payments, but Article 5.3 goes well beyond just financial remuneration:

Article 5.3. 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.

WHO specifically includes all three branches of government in the WHO FCTC Guidelines for Implementation of Article 5.3:[59]

The guidelines are applicable to government officials, representatives, and employees of any national, state, provincial, municipal, local, or other public or semi/quasi-public institution or body within the jurisdiction of a Party, and to any person acting on their behalf. Any government branch (executive, legislative and judiciary) responsible for setting and implementing tobacco control policies and for protecting those policies against tobacco industry interests should be accountable."

## ***Conclusion/Summary***

Countries around the world are facing the challenge of new tobacco products accompanied by intense opposition and lobbying by the tobacco and vaping industries. The battle to ban new tobacco products in Hong Kong extended over several years, and no country can expect an easy or smooth passage of such a ban. In the face of considerable opposition from the tobacco companies, and even from a few well-known pro-vape advocates,[60,61] the HK Government stood up to the tobacco industry, and acted in the interests of public health, especially young people. Simply put, the conclusion of the Hong Kong government was that new tobacco products do not protect public health.[62]



## Resources

### Status of laws and regulations on E-cigarettes [63]

WHO FCTC. Information note on classification of novel and emerging tobacco products. 15 March 2019. [https://untobaccocontrol.org/impldb/wp-content/uploads/Info-Note\\_Novel-Classification\\_EN.pdf](https://untobaccocontrol.org/impldb/wp-content/uploads/Info-Note_Novel-Classification_EN.pdf)

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The Global Center for Good Governance in Tobacco Control (GGTC) publishes information on e-cigarette regulation.  
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For State Parties to the WHO Framework Convention on Tobacco Control (FCTC) progress towards implementation of relevant articles, including newer products, is detailed in the FCTC implementation database (<https://untobaccocontrol.org/impldb/>).

### Heated tobacco products

Comprehensive report on research and evidence on novel and emerging tobacco products, in particular heated tobacco products, in response to paragraphs 2(a)–(d) of decision FCTC/COP8(22) - Report by the World Health Organization to the Conference of Parties to the WHO Framework Convention on Tobacco Control. Technical Document FCTC/COP9/9. 23 July 2021.  
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*About SEATCA*

SEATCA is a multi-sectoral non-governmental alliance promoting health and saving lives by supporting ASEAN countries to accelerate and effectively implement the evidence-based tobacco control measures contained in the WHO Framework Convention on Tobacco Control. Acknowledged by governments, academic institutions, and civil society for its advancement of tobacco control in Southeast Asia, the WHO bestowed upon SEATCA the World No Tobacco Day Award in 2004 and the WHO Director-General's Special Recognition Award in 2014. SEATCA is an official NGO Observer to the WHO FCTC Conference of Parties and a co-initiator of the Global Center for Good Governance in Tobacco Control (GGTC).

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