

HEATED TOBACCO PRODUCTS: GLOBAL REGULATION AND RECOMMENDED MEASURES



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Governments seeking to reduce tobacco use and nicotine addiction should either ban the sale of heated tobacco products (HTPs) entirely or regulate them strictly using WHO Framework Convention on Tobacco Control (WHO FCTC) measures.

For guidance on which option is most appropriate given different country-specific circumstances, see [HTPs: Policy Guidance](#).

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The extent of HTP regulation across different countries is varied because:

- HTPs are relatively new and often do not fit into the categories and definitions of countries' existing tobacco control laws.
- As HTPs have been launched in approximately 70 countries to date, many governments have yet to take specific action to regulate the products.
- Tobacco companies have employed different tactics to circumvent existing laws.

To ensure effective and comprehensive regulation of HTPs, see [HTPs: Common Regulatory and Drafting Issues](#).

1. HOW COUNTRIES REGULATE HTPSⁱ

A. Countries Banning the Sale of HTPs

At least 18 countries/jurisdictions ban the sale of HTPs. Countries have enacted measures banning HTP sales in different ways. Some countries have specifically legislated to ban the sale, manufacture, and/or import of HTPs (e.g., India). In other countries, HTPs are banned under existing laws because those countries prohibit all new nicotine products (e.g., Australia) or “smokeless” tobacco (e.g., Sri Lanka); or HTPs fall under a broad category of electronic systems that claim to be a substitute for cigarettes (e.g., Brazil).

 **Argentina** (import, sale)¹

 **Australia** (sale)^{2,3}

 **Brazil** (import, sale)⁴

 **Cambodia** (import, sale)⁵

 **Ethiopia** (manufacture, import, sale)^{6,7}

 **Hong Kong (SAR)** (manufacture, import, sale)⁸

 **India** (manufacture, import, sale)⁹

 **Lao PDR** (manufacture, import, sale)¹⁰

 **Malta** (manufacture, import, sale)¹¹

 **Mauritius** (manufacture, import, sale)¹²

 **Mexico** (import, sale)¹³⁻¹⁶

 **Panama** (sale)^{17,18}

 **Qatar** (manufacture, import, sale)¹⁹

 **Singapore** (import, sale)²⁰

 **Sri Lanka** (manufacture, import, sale)²¹

 **Thailand** (import, sale)²²⁻²⁴

 **Turkey** (import)^{ii,25,26}

 **Vanuatu** (sale)²⁷

In addition to a ban on manufacture, importation, and/or sale, several of these countries prohibit the use of HTPs in public and their advertising, promotion, and sponsorship. This is advisable to remove any uncertainty as to whether their use and promotion are permitted.

i. The country counts and examples in this document are current as of April 14, 2023. While every attempt has been made to review applicable measures globally, we may not always have in-country lawyer assistance and/or we may experience errors in our translations, which may result in interpretation errors.

ii. Domestic production of HTPs must have approval from the Ministry of Agriculture and Forestry and no approval has been granted as of this review. As such, the combination of the import ban and the absence of production effectively bans the sale of HTPs.

B. Countries Regulating HTPs Using WHO FCTC Measures

If HTPs are available for sale, they should be subject to the full suite of evidence-based measures to reduce tobacco use, nicotine addiction, and exposure to tobacco smoke contained in the WHO FCTC and its implementing guidelines. After all, HTPs are tobacco products that produce toxic emissions that fall within the definition of tobacco smoke.ⁱⁱⁱ (See [HTPs: Evidence and Health Harms](#).) Governments must resist tobacco industry lobbying to regulate HTPs less strictly than other smoked tobacco products, including by positioning them as ‘smokeless’ or ‘reduced risk’ products. Instead, where allowed on the market, HTPs should be regulated akin to conventional cigarettes, strictly applying all WHO FCTC measures.²⁸

Existing laws must be carefully reviewed.

Because HTPs are tobacco products, it is likely that they are covered to some extent by existing tobacco control laws. However, careful consideration must be given to how HTPs fit within existing tobacco control laws and whether these laws require updating to ensure proper coverage of tobacco inserts and devices for all policy measures set out below. The devices are a required component for use of an HTP system and are often branded, advertised, and promoted by tobacco companies separately from the tobacco inserts.

Countries that have taken specific action.

In addition to those countries that ban the sale of HTPs, at least 71 countries/jurisdictions^{iv} have taken specific action to regulate them in at least one tobacco control policy area, whether adopting a new law, amending a previous law, or issuing updated regulations or other agency decisions.

However, the comprehensiveness of these measures varies. Some of the countries that have taken specific action have chosen to regulate HTPs less strictly than conventional cigarettes (which is not recommended) and/or apply requirements only to tobacco inserts and not to devices.

For instance:

- Some countries’ packaging and labeling requirements for tobacco inserts and devices are not as comprehensive as what is required for conventional cigarettes. This includes:

- Requiring health warnings on tobacco insert packaging but not device packaging (e.g., Canada, Georgia, Moldova, Ukraine).
- Prescribing smaller health warnings for tobacco insert packaging as compared to conventional cigarette packaging (e.g., Canada, Georgia, Moldova, New Zealand, Ukraine).
- Mandating text-only warnings for tobacco insert packaging, although pictorial warnings are required for conventional cigarette packaging (e.g., Canada, Georgia, Israel, Moldova, New Zealand, Ukraine).
- Not requiring any health warnings for tobacco insert packaging, although warnings are required for conventional cigarette packaging (e.g., Belarus).
- Some countries apply restrictions on tobacco advertising, promotion, and sponsorship to tobacco inserts, but not devices (e.g., Belarus).
- Some countries apply a lower rate of tax to tobacco inserts than to conventional cigarettes (e.g., Italy).²⁹

Countries that rely on existing laws.

Many countries have not specifically regulated HTPs but are instead relying on their existing tobacco control laws. This may result in less than comprehensive regulation and/or the application of less strict measures as compared to other smoked tobacco products, especially because the tobacco companies are taking steps to circumvent the existing laws for their HTPs. For a more extensive discussion of common issues and proposed solutions, see [HTPs: Common Regulatory and Drafting Issues](#).

iii. According to the Report by the Convention Secretariat of the WHO FCTC titled ‘Challenges posed by and classification of novel and emerging tobacco products’ (FCTC/COP/9/10) and submitted to the Ninth Session of the Conference of the Parties in November 2021, HTPs “emit pyrolysis products such as volatile aldehydes ... therefore, these aerosols are clearly within the scientific definition of ‘smoke,’ and any smoke emitted by HTPs is unambiguously ‘tobacco smoke.’” https://untobaccocontrol.org/downloads/cop9/main-documents/FCTC_COP9_10_EN.pdf.

iv. Twenty-six countries of the European Union (note that Malta is excluded because the country bans the manufacture, import, and sale of HTPs), as well as Albania, Armenia, Azerbaijan, Bahrain, Belarus, (Federation of) Bosnia and Herzegovina, Canada, China, Colombia, Costa Rica, Egypt, El Salvador, Georgia, Guam, Indonesia, Iran, Israel, Japan, Jordan, Kazakhstan, Malaysia, Moldova, Montenegro, Morocco, New Zealand, North Macedonia, Norway, Pakistan, Paraguay, Philippines, Republic of Korea, Russia, Saudi Arabia, Serbia, Switzerland (note that the law regulating HTPs has been adopted but the implementation decree is pending), Taiwan, Tajikistan, Timor-Leste, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay, and the West Bank and Gaza Strip.

2. RECOMMENDATIONS FOR REGULATING HTPS USING WHO FCTC MEASURES

Governments choosing to regulate HTPs instead of banning them should apply the full suite of WHO FCTC measures comprehensively to all components of the HTP system – tobacco inserts and devices. Regulating HTPs less strictly than conventional cigarettes should be rejected as a regulatory option (see [HTPs: Policy Guidance](#)).

The following table lists WHO FCTC measures and recommends how they should be applied to HTPs. In addition, some examples are given of countries that have taken specific action to implement each of these measures to regulate HTPs (there may also be other countries where existing laws apply to HTPs for each measure). To date, no country has taken specific action to ensure all WHO FCTC-based policy measures apply to tobacco inserts and devices.

Recommended Policy Measure		Country Example(s)
<i>Indoor smoke-free environments*</i>	Prohibit HTP smoking in all indoor public places, workplaces, public transport, and other smoke-free places. After all, the emissions from HTPs include chemicals produced from pyrolysis, such as volatile aldehydes, and fall within the scientific definition of tobacco “smoke.” ^{30,31}	Ethiopia ³² Mexico ³³⁻³⁶ Moldova ³⁷
<i>Health warnings and packaging</i>	Require prominent, effective, and scientifically accurate rotating health warnings on all packaging of tobacco inserts and devices to educate users about health impacts and prompt them to think about quitting. Health warnings should include pictures and cover at least 50% of the front and back surfaces.	<i>Currently, no country has enacted this policy measure in full.</i> (Republic of Korea requires 50% picture health warnings specific to HTP inserts, but not for HTP devices) ³⁸
	Apply plain packaging to tobacco inserts and devices to reduce the appeal of the products, increase the noticeability of health warnings, and reduce the ability of the packaging to mislead consumers about the harmful effects of use.	Canada ³⁹ Israel ⁴⁰
	Prohibit packaging and labeling that is false, misleading, or likely to create erroneous impressions about health effects or toxicity on tobacco inserts and devices.	Canada ⁴¹ United Arab Emirates ⁴²

Recommended Policy Measure		Country Example(s)
Advertising, promotion, and sponsorship*	Comprehensively ban all advertising, promotion, and sponsorship of tobacco inserts and devices , including point of sale advertising and display, cross-border advertising, and internet promotion, to prevent the initiation of HTPs by non-smokers and youth.	Mauritius ⁴³ (comprehensively banning APS) New Zealand ⁴⁴ (banning POS display for inserts and devices)
Health claims	Prohibit health claims, including claims of 'reduced risk', and cessation claims on packaging of tobacco inserts and devices unless approved by a specialized government health agency to prevent unproven and/or misleading claims from being made about HTPs' comparative safety or addictiveness.	New Zealand ^{v,45}
Contents and disclosures	Prohibit ingredients that make the products more palatable, such as flavors.	European Union ^{vi,46,47}
	Prohibit ingredients that make the products more attractive, such as caffeine and vitamins. Such additives may create the impression that the products have health benefits or present reduced health hazards.	European Union ^{vii,48,49} Ukraine ^{viii,50,51} United Arab Emirates ⁵²
	Require manufacturers and importers to disclose information to governmental authorities about contents, design features, company information, and sales volume, among other disclosures. ⁵³	Israel ^{54,55} Moldova ^{56,57} New Zealand ^{58,59}
Sales and access restrictions	Prohibit sales to persons below a specified minimum age.	Kazakhstan (21 years of age) ⁶⁰
	Prohibit sales of tobacco inserts and devices via vending machines, the internet, and other remote means.	Moldova ^{61,62}
	Prohibit sales in or near schools and health facilities.	Belarus ⁶³ Georgia ⁶⁴ Jordan ⁶⁵

Recommended Policy Measure		Country Example(s)
Taxation^{ix}	Tax HTPs to achieve equivalency with the excise tax on conventional cigarettes. The minimum excise rate should be at least the same as the excise rate on conventional cigarettes, and that rate should be sufficiently high to not only increase prices but also reduce affordability.	Georgia ⁶⁶
	Employ the same tax system and rate for HTPs as is used for conventional cigarettes. For countries that employ a specific excise system, impose an excise tax for HTPs based on the number of sticks (vs. weight). For countries that employ an ad valorem excise system, impose an excise tax for HTPs based on the retail sales value.	Republic of Korea (specific) ⁶⁷ Saudi Arabia (ad valorem) ⁶⁸
* Countries banning the manufacture, import, and/or sale of HTPs should also enact comprehensive bans on (1) smoking, including HTPs, in indoor public places, workplaces, and public transport and (2) HTP advertising, promotion, and sponsorship to include both the tobacco insert and device.		

FURTHER DETAILS ON COUNTRIES' EXISTING LAWS REGULATING HTPS ARE AVAILABLE AT WWW.TOBACCOCONTROLLAWS.ORG.

- v. Prohibits packaging information that suggests a "smokeless tobacco product" (which is defined to include HTP inserts and devices) is less harmful than other regulated products.
- vi. Under Commission Delegated Directive (EU) 2022/2100, characterizing flavors in HTPs will be prohibited. Member States have until July 23, 2023, to transpose the directive into national law, with the transposed instruments taking effect by October 23, 2023.
- vii. Under Commission Delegated Directive (EU) 2022/2100, certain additives (e.g., vitamins, caffeine) in HTPs will be prohibited. Member States have until July 23, 2023, to transpose the directive into national law, with the transposed instruments taking effect by October 23, 2023.

viii. Effective July 11, 2023.

- ix. For more information, see [Global Market and Taxation of Heated Tobacco Products and Cigarettes](#) and [Heated Tobacco Products and Cigarette Taxes and Prices from Around the World](#).

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