

# Final Project Report: Alianca de Controle do Tabagisme / HealthBridge Collaboration

## Part 1: General Information

### Section A: Project Information

Date: Feb 11 2010

**Project Name:** Alianca de Controle do Tabagisme / HealthBridge Collaboration  
**Project Number:** 6549-15-2009-9190110  
**Project Start Date:** 17 July 2009  
**Recipient Organization:** HealthBridge Foundation of Canada  
**Address:** 1004-1 Nicholas Street, Ottawa ON K1N 7B7

**Contact person for the Project:** Sian FitzGerald, Executive Director  
**Telephone:** 613-241-3927, ext. 314 **Fax:** 613-241-7988  
**Email address:** [sfitzgerald@healthbridge.ca](mailto:sfitzgerald@healthbridge.ca)  
**Web address:** [www.healthbridge.ca](http://www.healthbridge.ca)

## Part 2: Project Information

### Section B: Project Objectives

Project Objectives	# IHGP Objectives
<p><b>Project Objective 1:</b> To increase awareness of the prevalence of point-of-sale promotion of tobacco products, as a prelude to a Canadian-style display ban.</p> <p><b>How Project Objective 1 meets IHGP objectives:</b></p> <ul style="list-style-type: none"> <li>• (1) The project contributed to awareness, in Brazil and throughout the Americas, of pioneering Canadian initiatives with respect to Article 13, namely point-of-sale display bans.</li> <li>• (1) Information on the activities undertaken was returned to Canada as per FCTC Article 20.</li> <li>• (1) Virtually all project spending occurred in Brazil, thus helping Canada to fulfill its FCTC Article 26 obligations.</li> <li>• (2,5) The project contributed to Brazil's ability to implement Articles 8 and 13 of the Framework Convention on Tobacco Control, by increasing awareness about second-hand smoke, tobacco advertising and promotion, and the measures that can most effectively deal with them.</li> <li>• (2) The project promoted stronger relationships between Canadian and Brazilian civil society organizations in tobacco control.</li> <li>• (3) An important element of this project was cooperation in legal and technical matters. With respect to point-of-sale, the project's strategy was based in large part on Canadian models and ongoing communication with Canadian organizations.</li> <li>• (4) The project highlighted Canada's global leadership in certain aspects of tobacco control, namely pioneering Canadian initiatives around point-of-sale advertising bans.</li> </ul>	1, 2, 3, 4, 5

**Project Objective 2:** To improve support among decision-makers and the public for workers' rights to clean air and the applicability of existing labour legislation to the issue of second-hand smoke in Brazil.

1, 2, 5

**How Project Objective 2 meets IHGP objectives:**

- (1) The project explored an as-yet underutilized tool for the implementation of Article 8 (occupational health and safety legislation), which is likely to be of relevance to a large number of countries.
- (1) Information on the activities undertaken was returned to Canada as per FCTC Article 20.
- (1) Virtually all project spending occurred in Brazil, thus helping Canada to fulfill its FCTC Article 26 obligations.
- (2,5) The project contributed to Brazil's ability to implement Articles 8 and 13 of the Framework Convention on Tobacco Control, by increasing awareness about how labour legislation can be used for tobacco control.

**Section C: Outputs and Results by IHGP Performance Measurement Indicators**

i. Types of information dissemination mechanisms

The information dissemination mechanisms utilized by this project to share products/knowledge/information with others included:

- Conferences
- Workshops
- Training sessions
- Internet web sites
- Other mechanisms (specify): press releases, fact sheets, interviews, public education, and listservs

ii. Knowledge products developed

Type	Title	# Produced	Dissemination	Purpose	Target audience	# Reached (to date)
Research reports	Study of existing Brazilian legislation relating to cigarette advertising at point-of-sale and related legal questions	1 – circulated electronically	This document was not produced for wide public dissemination, but was rather a document meant for key authorities; it was also meant to serve as an internal document to provide a situational analysis that would itself form the basis of a broader strategy	To prepare the basis for regulatory action banning point-of-sale advertising in Brazil. The results of the legal research were used to develop a legal opinion.	<ul style="list-style-type: none"> <li>• ANVISA (national regulatory authority)</li> <li>• National legislators</li> </ul>	10
	Legal Opinion on the Constitutionality of Point-of-Sale Advertising Ban	1,000 copies	Website, listserv, direct delivery, and at seminars and workshops.	To provide the legal basis for regulatory action banning point-of-sale advertising	<ul style="list-style-type: none"> <li>• Tobacco control advocates, particularly those engaged in legal and regulatory issues</li> <li>• ANVISA (national regulatory authority)</li> <li>• National legislators</li> </ul>	5,000
	Smoke-free Environments and Occupational Health	1,000 copies	Via seminar in Curitiba entitled	To gain a clearer understanding of the	<ul style="list-style-type: none"> <li>• Labour prosecutors</li> <li>• Trade unions</li> </ul>	500

Type	Title	# Produced	Dissemination	Purpose	Target audience	# Reached (to date)
	in Brazil		“Tobacco and labor relations” and through direct dissemination	legal status of second-hand smoke as an occupational hazard, with a view to more formally linking second hand smoke and occupational health rights.	<ul style="list-style-type: none"> <li>• Ministry of Labour</li> <li>• Parliamentarians</li> <li>• INCA (National Cancer Institute)</li> </ul>	
	Recall campanhas de fumo passivo (Public Opinion poll on Second hand smoke)	N/A	Via list serv, internet, press release and formal presentations	This highlighted the results of a public opinion survey to gauge support for smoke-free public spaces	<ul style="list-style-type: none"> <li>• Legislators</li> <li>• General population</li> </ul>	5,000+
<b>Models</b>	N/A					
<b>Tools</b>	N/A					
<b>Other: FACT SHEETS</b>	<p><b>(i)</b> A Proibição Total da Publicidade de Produtos de Tabaco e Constitucional (A total ad ban on tobacco products is constitutional)</p> <p><b>(ii)</b> Implementação da Convenção-Quadro no Brasil – 2009 (Implementation of the FCTC in Brazil 2009)</p> <p><b>(iii)</b> As diretrizes do Artigo 13 da Convenção-Quadro para o Controle do Tabaco (Publicidade, Promoção e Patrocínio de Tabaco) (Article 13)</p> <p><b>(iv)</b> 18 Motivos para Ambientes Fechados 100% Livres do Tabaco (18</p>	3,000 copies of each	Via list serv, internet, and hard copy at meetings, presentations, workshops, etc.	The purpose of each of the fact sheets is to raise public awareness of particular issues arising from the research reports.	Tobacco control advocates, general public	10,000+

Type	Title	# Produced	Dissemination	Purpose	Target audience	# Reached (to date)
	reasons for 100% SF) <b>(v)</b> Fumo Passivo No Ambiente de Trabalho: Prejuízo a Saude do Trabalhador (Passive smoke in the work place damages workers' health). <b>(vi)</b> Indústria do Tabaco usa Associações para fazer oposição à lei de ambientes livres de fumo (The tobacco industry uses unions to oppose smoke free work places)					

iii. *Use of knowledge products*

Type & description	Who used it?	Where was it used?	How was it used?	What was result of its use? Any evaluation/assessment?
<b>Research Report</b> - Study of existing Brazilian legislation relating to cigarette advertising at point-of-sale and related legal questions	Legal team to produce formal legal opinion	<input type="checkbox"/> Practice environment <input type="checkbox"/> Government (specify) <input type="checkbox"/> Health authorities <input checked="" type="checkbox"/> Community/NGO <input type="checkbox"/> Education/research <input checked="" type="checkbox"/> Other	<input type="checkbox"/> Implemented/adopted  To inform decision making: <input checked="" type="checkbox"/> Policies on priority health issues <input type="checkbox"/> Programs on priority health issues <input checked="" type="checkbox"/> Other	Legal Opinion produced on the constitutionality of point-of-sale advertising ban. This provides the legal basis for regulatory action banning point-of-sale advertising. Fact sheets then developed based on the legal opinion and press releases issued (see Appendices).
<b>Research Report:</b> Legal Opinion on the Constitutionality of Point-of-Sale Advertising Ban	To be used by advocates of a bill on total ad ban, including parliamentarians	<input type="checkbox"/> Practice environment <input type="checkbox"/> Government (specify) <input type="checkbox"/> Health authorities <input checked="" type="checkbox"/> Community/NGO <input type="checkbox"/> Education/research <input checked="" type="checkbox"/> Other	<input type="checkbox"/> Implemented/adopted  To inform decision making: <input checked="" type="checkbox"/> Policies on priority health issues <input type="checkbox"/> Programs on priority health issues <input checked="" type="checkbox"/> Other	An evaluation of the value of the legal opinion was carried out informally by other lawyers through ACT's specialized list serv on legal issues. This evaluation demonstrated the high value of the document.
<b>Research Report:</b> Smoke-free	Public prosecutor's	<input type="checkbox"/> Practice environment	<input type="checkbox"/> Implemented/adopted	In line with the release of the report, 4

Type & description	Who used it?	Where was it used?	How was it used?	What was result of its use? Any evaluation/assessment?
Environments and Occupational Health in Brazil	office (labour section), INCA	<input type="checkbox"/> Government (specify) <input type="checkbox"/> Health authorities <input checked="" type="checkbox"/> Community/NGO <input type="checkbox"/> Education/research <input checked="" type="checkbox"/> Other	To inform decision making: <input checked="" type="checkbox"/> Policies on priority health issues <input type="checkbox"/> Programs on priority health issues <input checked="" type="checkbox"/> Other	Amicus Curiae were filed in favour of municipal and state smoke-free laws. A series of fact sheets were also developed and press releases issued (see Appendices)
<b>Research Report:</b> Recall campanhas de fumo passivo (Public Opinion poll on Second hand smoke)	Smoke-free advocates, governmental authorities, media	<input type="checkbox"/> Practice environment <input type="checkbox"/> Government (specify) <input type="checkbox"/> Health authorities <input checked="" type="checkbox"/> Community/NGO <input type="checkbox"/> Education/research <input checked="" type="checkbox"/> Other	<input type="checkbox"/> Implemented/adopted  To inform decision making: <input checked="" type="checkbox"/> Policies on priority health issues <input type="checkbox"/> Programs on priority health issues <input checked="" type="checkbox"/> Other	The results of the opinion poll have been used to demonstrate that citizens in Sao Paulo nearly universally support smoke-free public and work places. This information is used in advocacy campaigns to continue to pressure the federal government to pass the necessary legislation. The poll also helped to raise awareness among respondents about the impact of tobacco smoke in work places, especially those in the hospitality sector.  In addition to questions on second hand smoke, the poll looked at the impact of the messages used in ACT's earlier smoke-free campaign and the results demonstrated that the messages were understood and considered relevant by the great majority of respondents.

iv. Policy tools and strategies for priority global health issues

Global Priority Health Issue	New Policy Tools and Strategies Proposed and Developed					
	# Policies developed	# Policies proposed	# Policy options developed	# Policy options proposed	# Recommendations provided	Other
N/A						

Description of type of policy tools and/or strategies produced: The purpose of this project was not to develop policies or policy options *per se*. Rather, as noted in the sections above, it produced legally-grounded knowledge products that will inform discussion, decision-making, and policy-development around two key issues: point-of-sale advertising and secondhand smoke as an occupation hazard.

v. Improved collaboration in networks/fora with key partners and stakeholders

Collaborative Networks Working on Priority Global Health Issues and Barriers			
Name of Network/Fora	Partners/Stakeholders	Priorities Addressed in Network/Fora	
		Type of Current Global Priority Issues	Type of Emerging Global Priority Issues
N/A			

Description of network or fora, including purpose and membership: The Aliança de Controle do Tabagismo (ACT - Brazil) is an alliance of more than 350 NGOs that seeks to promote measures that reduce the health, social, environmental and economic impact of the production and consumption of tobacco and of the exposure to tobacco smoke. Apart from successful work in the FCTC ratification debate, ACT has been instrumental in achieving smoke-free legislation/implementation in Rio de Janeiro and João Pessoa; pending legislation in the State of São Paulo (population: 40 million); as well as widespread publicity for tobacco issues. It also has a formal partnership with one of Brazil's foremost law schools, at PUC São Paulo. This project did not seek to improve collaboration in networks, but rather to utilize the existing network to produce the knowledge products noted above.

vi. Barriers to global health response identified and strategies/initiatives identified and/or proposed

Domestic or International Barriers Identified	Strategies/Initiatives to Address Barriers	Number of Barriers Decreased
Brazil's 1996 national tobacco control law prohibits several forms of advertising, but allows advertising at point of sale. This means that the tobacco industry has been able to successfully promote its products under the existing regulatory process.	After looking at the experience in other jurisdictions (Canada, Thailand, Australia etc.), it was decided that the first step was to raise public awareness about the use of POS for promotional purposes. At the same time, legal research was needed to prepare the basis for regulatory action addressing point-of-sale advertising. One option that would be explored is dealing with the deceptive nature of much of the point-of-sale advertising, which the courts may be able to deal with immediately, without formal regulatory action.	The barriers themselves were not decreased; however there exists a formal legal opinion on the constitutionality of tobacco advertising as a whole, which will make it easier for tobacco control advocates and pro-tobacco control legislators to move forward with regulatory changes.
Brazil's 1996 federal law provides for separation of smoking and non-smoking areas, with	One option, promoted by some labour law prosecutors – Brazil has specialized labour courts –	As above, the barriers themselves were not decreased; however, many labour law prosecutors

<p>“appropriate” separation and ventilation of the smoking areas. A more comprehensive national 100% smoke free law has yet to be passed. This means that people who work in the hospitality industry in particular are regularly exposed to second hand smoke in their work places.</p>	<p>is to simply apply existing rules on employers’ duty of care towards workers, much as British Columbia’s Workers’ Compensation Board made that province’s workplaces smoke-free in 2002. This would be facilitated if the federal Ministry of Labour issued a specific ruling on second-hand smoke as an occupational health hazard.</p>	<p>have come on board and are seeking to address this issue through the courts.</p>
--	---	---

vii. Adoption/adaptation of approaches, models, and best practices incorporated into Government policies, programs, strategies, or policy options

Approaches, Models, Best Practices	Global Priority Health Issue	How the approaches, models, or best practices were adopted				
		In government policy/policy options	In government programs	In government strategies	Other	Target Group
N/A						

The project team has adopted approaches and models from Canada’s tobacco control community – including specific approaches to point-of-sale advertising bans and the use of labour law to tackle second hand smoke issues. As yet, however, these approaches have not been incorporated into Government policies, programs, strategies, or policy options.

## ***Section D: Project Summary Overview***

The project met its two objectives as planned, although there were some modifications in the activities.

**Objective 1:** To increase public awareness of the prevalence of point-of-sale promotion of tobacco products, as a prelude to a Canadian-style display ban.

### **Planned and Actual Activities:**

- (i) Public opinion poll addressing POS advertising and displays. This activity was not undertaken as planned. At the time that the proposal was submitted to Health Canada in December 2008, a larger public opinion poll was already planned and the questions on POS were to be added. However, delays in receiving funding approval meant that the survey went ahead as planned without the POS questions added. That said, though, the project team was able to draw upon results of a similar survey undertaken in 2008 and informally assessed public opinion in other ways. The project team was thus able to maintain a high level of interest in the subject in the media (see Appendices), and thereby continued to keep the issue of point-of-sale tobacco promotion in the public's mind.
- (ii) Legal research. This was completed as planned by ACT legal advisor Clarissa Menezes Homsí (see Appendices). The research report provides details about the issue of point-of-sale advertising bans from a legal and legislative perspective.
- (iii) This research report then led to the production of a formal legal opinion that demonstrated the constitutionality of a total advertising ban on tobacco products. The main arguments presented in the legal opinion include the following: (i) there are no absolute rights, thus any right can be limited or even suppressed if there is a reasonable justification; (ii) such justification should pass through the requirements of the Principle of Proportionality; (iii) the Brazilian Constitution has already determined that limitation can be placed on tobacco products advertising; (iv) Brazil has ratified the FCTC and should approve a bill totally banning tobacco products advertising. ACT sent the legal opinion to a public prosecutor who in turn used the arguments contained in it as part of a class action lawsuit against the tobacco industry for its abuse of existing advertising bans.
- (iv) Based on the results of the legal opinion, press releases were issued and fact sheets were produced and widely disseminated. Both were disseminated through ACT's website and network. ACT and HealthBridge will also include the fact sheets in a kit that will be disseminated at a seminar about the POS ban planned for March 2<sup>nd</sup> in Brasilia at the national Congress. The results of this work has provided a strong basis on which Brazilian tobacco control advocates can contest tobacco industry arguments that a total advertising ban is unconstitutional.
- (v) ACT has mapped the status of existing bills related to advertising bans on tobacco products. ACT has contacted the authors of some of those bills directly and good relationships have been developed. Preparing the research report also made the tobacco industry's strategy on the issue of tobacco control bills clearer to ACT: the industry has sought to have these bills attached to an old bill addressing alcohol restrictions; when that bill was defeated, so would be all of the attached bills on tobacco control. ACT worked with one of the supportive legislators to exclude the tobacco bills from the initial vote so that they could be voted on separately.

**Results/Key Impact:** ACT has **laid the groundwork for the development and passage of a point-of-sale tobacco advertising ban** by providing both a legal and legislative perspective on POS advertising and a legal opinion demonstrating the ban's constitutionality. This legal opinion has already been used as part of a class action lawsuit. ACT has identified and begun to mitigate the tobacco industry's interference in the legislative process. Finally, it increased public and government awareness of the legality and constitutionality of a POS ad ban, and created an informal alliance with legislators supporting the ban.

**Objective 2:** To improve support among decision-makers and the public for workers' rights to clean air and the applicability of existing labour legislation to the issue of second-hand smoke in Brazil.

### **Planned and Actual Activities:**

- (i) Report on the legal status of second-hand smoke as an occupational hazard. This was undertaken as planned by ACT legal advisor Adriana Pereira de Carvalho. To produce this report, she reviewed Brazilian legislation and jurisprudence, contacted labour prosecutors and trade unions, and discussed the matter with the Ministry of Labour. The report highlights the measured harmful effects of second hand smoke on those working in the hospitality industry and the significant reduction in those harms that was evident following the implementation of local smoke-free laws. In addition, the report demonstrates that in spite of the tobacco and hospitality industries' claims, smoke-free laws implemented at the state and municipal levels have not had negative economic effects.
- (ii) Amicus Curiae. In line with the release of the research report on second hand smoke as an occupational hazard, several Amicus Curiae were filed in favour of municipal and state smoke-free laws. [Amicus Curiae refers to someone, not a party to a case, who volunteers to offer information on a point of law or some other aspect of the case to assist the court in deciding a matter before it. The information may be a legal opinion in the form of a brief, a testimony that has not been solicited by any of the parties, or a learned treatise on a matter that bears on the case.]
- (iii) Seminar. The Seminar "Labor Relationships and Tobacco" took place in Curitiba, capital of the state of Paraná, in the Public Labour Attorney's head office. Participants included judges, public labour attorneys, and medical professionals. Among the speakers were lawyers, judges, tobacco growers, and professionals involved in tobacco control in Brazil; participants discussed the harmful effects of exposure to tobacco smoke, particularly for those working in the hospitality industry, and the exploitation of workers in the tobacco growing sector. The Seminar was a very important step in the process of involving the public labour prosecutors in the issue of second hand smoke, as it brought to light the obligation that employers have with respect to workers' health. Following the Seminar, ACT made contact with other public prosecutors in order to conduct the same seminar in additional states.
- (iv) Public opinion poll on second hand smoke. This was not a planned activity. However, given that the public opinion poll on POS could not proceed as planned, the project team decided to implement a smaller poll in São Paulo assessing public support for 100% smoke-free environments. The poll results revealed that more than 90% of those participating approve the new smoke-free law.
- (v) Based on the research report and the public opinion results, several press releases were issued and fact sheets produced and disseminated.

**Results/Key Impact:** ACT has laid the **groundwork in addressing smoke-free environments from an occupational health perspective** in Brazil. It has provided evidence in legal action filed in relation to several smoke-free laws, and has engaged public labour prosecutors in addressing smoke-free environments as an occupational health issue.

**Contribution to IHGP objectives:** This is addressed in more detail in Section B above.

**Challenges encountered and lessons learned:** One of the greatest challenges regularly addressed in a project such as this is the influence of the tobacco industry on legislative debate and decision-making. The most pertinent lesson learned is the need to identify ways to mitigate the industry's influence, by taking a different approach, rather than try to fight the influence directly.

### **Section E: Additional Comments**

This project worked in synergy with, and complemented, several other projects being implemented by HealthBridge and ACT and funded by the Canadian International Development Agency, the Bloomberg Initiative, and the Pfizer Foundation. In that sense, the impacts of the project will be far broader than they would through a single, one-off project, a number of related activities either preceded or will build upon the results attained here with no further funding from Health Canada.

to make available more variety of materials than planned originally.

1.5 Other Direct Project Expenses

*Materials Printing:* Over-expenditure in this line reflects the printing of a number of fact sheets and other promotional materials developed from the results Health Canada-funded research studies. These studies, one on existing Brazilian legislation relating to cigarette advertising at point-of-sale and related legal questions and the other related to smoke-free environments and occupational health in Brazil, are of particular relevance to this project as well and as such the printing costs were shared between the two projects.

## List of Appendices

1. Report of a Study of existing Brazilian legislation relating to cigarette advertising at point-of-sale and related legal questions (in English)
2. Legal Opinion on the constitutionality of a total advertising ban on tobacco products (in Portuguese)
3. Fact Sheet: A total ad ban on tobacco products is constitutional (in Portuguese)
4. Fact Sheet: Implementation of the FCTC in Brazil 2009 (in Portuguese)
5. Fact Sheet: FCTC Article 13 (in Portuguese)
6. Report on Smoke-free Environments and Occupational Health in Brazil (in English)
7. Report on Public Opinion Survey about Smoke Free Environments (in Portuguese)
8. Fact Sheet: 18 reasons for 100% SF (in Portuguese)
9. Fact Sheet: Passive smoke in the work place damages workers' health (in Portuguese)
10. Fact Sheet: The tobacco industry uses unions to oppose smoke free work places (in Portuguese)
11. Amicus Curiae submitted in defense of smoke-free laws (in Portuguese)
12. Amicus Curiae submitted in defense of smoke-free laws (in Portuguese)
13. Amicus Curiae submitted in defense of smoke-free laws (in Portuguese)
14. Amicus Curiae submitted in defense of smoke-free laws (in Portuguese)
15. Amicus Curiae submitted in defense of smoke-free laws (in Portuguese)
16. Press Release: ACT launches new campaign about SHS (July 2009) (in Portuguese)
17. Press Release: ACT awards the federal general attorney with a dirty ashtray (in Portuguese)
18. Press Release: Study from ACT and INCA show that smoke free laws do not impact business (in Portuguese)
19. Press Release: CEPALT celebrates its two year's anniversary (in Portuguese)
20. Press Release: ACT and Brasilcon launches competition for law students (in Portuguese)
21. Press Release: ACT requests a public hearing about the bill about smoke free environments (in Portuguese)
22. Press Release: ACT repudiates the bills with designated smoking rooms in Santa Catarina and Rio Grande do Sul (in Portuguese)
23. Press Release: Poll reveals that more than 90% of the citizens from São Paulo approve the new smoke free law (in Portuguese)
24. ACT supports bill to promote smoke free environments all over Brazil (in Portuguese)