

APACT 2013 Statement to the Japanese Government

Japan is the only country in the G8 that has not enacted comprehensive national mandatory protections from the hazards of tobacco smoke exposures. This is not only an *embarrassment*; we are deeply concerned that this is causing a *public health disaster* for Japanese citizens, who have a universal human right to governmental protection of their health and lives.

Background:

Article 25 of Japan's Health Promotion Law enacted in August 2002 aims to prohibit passive smoking in public places, but only as a call for competent persons to "try to take necessary steps" towards this goal. The lack of any obligatory or punitive provisions makes the law utterly insufficient. In Bangkok in July 2007, the Second Conference of the Parties to the WHO Framework Convention on Tobacco Control (FCTC COP2), including Japan, unanimously adopted international guidelines for implementation of FCTC Article 8. This document urges State Parties to make all indoor workplaces and public spaces 100% smoke-free by the end of February 2010. In this regard, the Japanese Government has failed in its responsibilities.

In March 2009, the Kanagawa Prefectural Government under the leadership of Governor Shigefumi Matsuzawa passed an ordinance for the prohibition of passive smoking in public places. In 2012, Hyogo Prefecture followed with a similar ordinance. Although these ordinances are flawed in that they do not require all private workplaces to be smoke-free, and even restaurants or bars less than 100 square meters are not regulated, they were Japan's first such local actions and demonstrate that even limited actions can begin improving public health without harming business prosperity.

Recommendations

We, the 785 delegates from 42 countries participating in the 2013 Asia Pacific Association for the Control of Tobacco (APACT) Conference from 18-21 August 2013 in Chiba, Japan, urge the Japanese Government to fully implement the WHO FCTC with regards to all of its terms; in this regard, comprehensive national mandatory protections from the hazards of tobacco smoke exposures should be among the highest priorities. The roadmap for action is clear. Japan need only look to the implementing guidelines for

FCTC Article 8, or observe the best practices in our G8 companion nations, to see how this can be done.

We further urge the Japanese Government, particularly the Ministry of Finance, to respect and comply with FCTC Article 5.3 and its implementing guidelines, which call upon FCTC Parties to, inter alia, treat State-owned tobacco companies in the same way as any other tobacco industry. In particular, Recommendation 8.3 insists that senior officials from the Ministry of Finance's tobacco and tax divisions should not serve among the nation's delegates at meetings of the FCTC Conference of Parties.

We finally urge the Japanese courts to carefully review the liability of Japan Tobacco Inc (JTI) and the State for their activities in manufacturing and selling tobacco products. We further urge the courts to provide a fair process for parties seeking justice for tobacco-related harms including allowing for liberal discovery of tobacco industry documents and records, and determination of decisions by the judges who were most involved in hearing live witness testimony.