

# FCTC and China's Politics of Tobacco Control

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The 4<sup>th</sup> GLF Annual Colloquium, May 15<sup>th</sup>, 2012

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## **Abstract:**

The international community, under the auspice of WHO, developed the Framework Convention on Tobacco Control (FCTC) to curb the tobacco epidemic throughout the world. It is the first time that the Organization has used its constitutional power to develop an internationally legal instrument in global health governance. China accounts for 38% of the world's cigarette sales and 1/3 of the world's smokers. Annually, more than 1 million people die prematurely from tobacco-induced diseases in China. Therefore, China's tobacco control has significant implications for global health governance. FCTC was ratified by China's top legislative body in 2005, which indicates that China is under legal obligation to internalize the global health norm. However, China's endorsement of FCTC has made little difference in China's tobacco control since then. The absence of political will leads to China's failure to internalize FCTC. The paper analyzes China's rationale to join FCTC and identifies the divide between FCTC requirements and China's implementation of the global health norm. It argues that political ideology, incompatibility of institutional arrangements, interest groups in tobacco industry, and political and financial restrictions on NGOs are the most important factors that hinder the internalization of FCTC in China.

Key Words: China      FCTC      Politics

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\* The author is indebted to Robert Keohane, Ngaire Woods for their comments on the first draft of the paper. He can be reached at [jiyong76@163.com](mailto:jiyong76@163.com)

## I Introduction

“Tobacco is one of the greatest emerging health disasters in human history”.<sup>1</sup> Recognizing that point, the international community, under the auspice of WHO, unanimously adopted the Framework Convention on Tobacco Control (FCTC) in 2003. It is for the first time that the Organization has used its constitutional right to develop an internationally legal instrument in global health governance. With 174 party member covering 87% of the World’s population, FCTC has been among the most popularly and rapidly embraced global health norms in the history of the United Nations. The convention was ratified by the standing Committee of the National People’s Congress of China, China’s top legislative body in 2005, which indicates that China is under legal obligation to internalize the global health norm.

China has the largest tobacco industry in the world. The state-owned company operates almost exclusively in China, accounting for 38% of the world’s cigarette production and sales.<sup>2</sup> There are 350 million adult smokers in China, accounting for 1/3 of the world’s smokers, exceeding the entire population of the United States.<sup>3</sup> Around 1 million dies prematurely of tobacco-induced diseases, 30 times the death number caused by HIV/AIDS. China’s tobacco-attributable premature deaths are projected to reach 2 million by the year 2020.<sup>4</sup> According to the report issued by WHO in 2008, as many as 100 million Chinese men currently under age 30 will die from tobacco use.<sup>5</sup> Since FCTC came into force in China in January 2006, it has made little difference in China’s tobacco control policy. The effective guidelines for tobacco control are not practised to advance public health but shelved by China’s government. On the contrary, China’s tobacco output was increased by 32% from 2004 to 2011. The prevalence of smoking hasn’t been reduced at all. China’s comprehensive failure to meet the requirements of FCTC indicates that the international norms on tobacco control haven’t been internalized.

China’s tobacco control policy has been well documented. Most of the literature has elaborated on tobacco control policy in a perspective of public health, focusing on tobacco-

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<sup>1</sup> WHO, *WHO Report on the Global Tobacco Epidemic*, Geneva: WHO, 2008, p.6.

<sup>2</sup> Euromonitor, *Cigarettes-China*, Euromonitor, Chicago, 2010.

<sup>3</sup> Bryant Ott, Rajesh Srinivasan, “Three in 10 Chinese Adults Smoke”, 9 February 2012. <http://www.gallup.com/poll/152546/Three-Chinese-Adults-Smoke.aspx>. Accessed Feb 9, 2012

<sup>4</sup> The-wei Hu, et al., *Tobacco Taxation and Its Potential Impact in China*, Paris: International Union against Tuberculosis and Lung Disease, 2008, p.4.

<sup>5</sup> World Health Organization, *WHO Report on the Global Tobacco Epidemic 2008: MPOWER Package*, Geneva: WHO, 2008.

induced mortality or morbidity.<sup>1</sup> The authors argue that smoking wreak tremendous havoc on China's public health. Some other scholars have studied China's tobacco control economics and explored the economic impact of tobacco control on China's economy. They argue that China's tobacco problem should be tackled with economic tools.<sup>2</sup> A few scholars have examined China's tobacco control from a policy-making perspective.<sup>3</sup> Some western scholars have examined tobacco control from a political lens.<sup>4</sup> However, these studies concentrate on the interaction between politics and tobacco control in developed countries or on the UN's role global tobacco control, without touching upon China's politics in tobacco control. Therefore, it is both interesting and rewarding to analyze China's tobacco control policy

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<sup>1</sup> Wang JB, et al., "Estimation of Cancer Incidence and Mortality Attributable to Smoking in China", *Cancer Cause Control*, Vol.21, No.6, 2010, pp.959-65; Jingmei Jiang, et al., "Smoking-Attributable Deaths and Potential Years of Life Lost from a Large, Representative Study in China", *Tobacco Control* 2010; 19:7-12; Jing Zhang, et al., "Tobacco Smoking in China: Prevalence, Disease Burden, Challenges and Future Strategies", *Respirology*, Vol.16, No.8, Nov 2011, pp.1165-1172.

<sup>2</sup> Teh-wei Hu, et al., "Recent Tobacco Tax Rate Adjustment and Its Potential Impact on Tobacco Control in China", *Tobacco Control*, No.19, 2010, pp.80-82; Lian Yang, et al., "Economic Costs Attributable to Smoking in China: UPDATE AND AN 8-YEAR Comparison, 2000-2008", *Tobacco Control*, No.20, 2011, pp.266-272; The World Bank, *Curbing the Epidemic: Governments and the Economics of Tobacco Control*, Washington, DC, 1999; Margaret Harris Chen, "Economic Concerns Hamper Tobacco Control in China", *Lancet*, Vol. 370, Sep 1, 2007.

<sup>3</sup> Yang Gonghuang, Hu Angang, *Tobacco Control and China's Future*, Beijing: the Economic Daily Press, 2011. Teh-wei Hu, Zhengzhong Mao, Jian Shi, Wendong Chen, *Tobacco Taxation and Its Potential Impact in China*, 2008; Xia Wan, et al., "Conflict of Interest and FCTC Implementation in China", *Tobacco Control*, No.10, 2011, p.1136; Jun Lv, et al., "Implementation of the WHO Framework Convention on Tobacco Control in Mainland China", *Tobacco Control* No.20, 2011, pp.209-214.

<sup>4</sup> Donley T. Studlar, *Tobacco Control: Comparative Politics in the United States and Canada*, New Broadview Press, 2005; Wendy E. Parmet, "On the Politics of Tobacco", *Journal of Health Politics, Policy and Law*, Vol.31, No.3, April 2006; Donley T. Studlar, "What Explains the Paradox of Tobacco Control Policy under Federalism in the U.S. and Canada? Comparative Federalism Theory Versus Multi-level Governance", *Publius: The Journal of Federalism*, Vol.40, No.3, 2010, pp.389-411; Thilo Gru et al., "Puffing Away? Explaining the Politics of Tobacco Control in Germany", *German Politics*, Vol.17, No.2, 2008, pp. 140-164; David Vogel et al., "Political Culture and Tobacco Control: an International Comparison", *Tobacco Control*, No.2, 1993, pp.317-326; Erik Albek et al., "Making Tobacco Consumption a Political Issue in the United States and Denmark: the Dynamics of Issue Expansion in Comparative Perspective", *Journal of Comparative Policy Analysis*, Vol.9, No.1, 2007, pp.1-20. Jeff Collin, "Tobacco Politics", *Development*, Vol.47, No.2 2004, pp.91-96; Michael Givel, "Punctuated Equilibrium in the Limbo: the Tobacco Lobby and U.S. State Policymaking from 1990 to 2003", *The Policy Studies Journal*, Vol.34, No.3, 2005, pp. 405-418.

through a political lens. The paper argues that China just adopted the FCTC expediently and instrumentally. Consequently, when it comes to internalization, the impact of FCTC is discounted with discretionary enforcement. China's domestic politics compromises the robustness of the normative assimilation or proliferation of FCTC. Specifically, the ruling Party's pursuit of economic performance-based legitimacy underlies China's tobacco control; China's institutional arrangement for implementing FCTC is not conducive to internalizing the international norm; Interests groups such as tobacco industry and local governments pose formidable challenge for effective tobacco control; The political and financial restrictions deprive anti-tobacco NGOs of the ability to launch social mobilization against tobacco.

The paper is organized in the following fashion. The first section briefly traces the history of FCTC; The second section examines the role played by China in the process of negotiating FCTC, investigating China's wavering positions in different stages of FCTC negotiation, focusing the rationales motivating China to endorse the international norm; What follows, then, identifies the divide between China's current tobacco policy and the requirements of FCTC via comparative analysis; Finally, the paper explores China's domestic factors hindering the internalization of FCTC. Some concluding remarks are also offered.

## II A Brief History of FCTC

When the sailors under the leadership of Christopher Columbus discovered the “new World” in 1492, they also brought back an odd plant called tobacco to European countries. A few hundred years later, tobacco was spread far and wide with globalization, becoming “the most effective agent of death ever developed and deployed on a worldwide scale”.<sup>1</sup> Tobacco use caused 100 million deaths in the 20th century. As the single most preventable cause of death, it kills over 5 million people per year, accounting for 1 in 10 adult premature deaths. The annual death toll will rise to more than 8 million people by 2030 if the tobacco epidemic is not checked.<sup>2</sup> In addition, tobacco consumption imposes a devastating and astronomical economic burden, counteracting the global efforts to reduce poverty because tobacco and poverty are inextricably linked. WHO estimates the annual global cost of tobacco at US \$ 500 billion in 2000-2010; Global annual economic costs of tobacco consumption will be up to US \$ 1 trillion by 2040 if strong and sustained action is not taken now.<sup>3</sup>

In view of the tremendous demographic and economic catastrophe caused by tobacco epidemic worldwide, WHO, the only international organization safeguarding global health, decided to use its constitutional treaty-making power to meet the formidable global public health challenge. In May 1995, the World Health Assembly adopted Resolution WHA48.11, requesting the Director-General to report to the 49<sup>th</sup> Session of the World Health Assembly on the possibility of convening an international tobacco control mechanism. Concomitantly, the Director-General submitted a feasibility study to the 79<sup>th</sup> Session of the WHO Executive Board. Meanwhile, the Executive Board adopted *Resolution EB97.R8* entitled *International Framework Convention for Tobacco Control*. In 1998, Dr Gro Harlem Brundtland was elected Director-General of the WHO. As a staunch supporter for tobacco control, she launched *Tobacco Free Initiative* and spearheaded the negotiation of the convention on tobacco control. The initiative also became part of her efforts to revitalize WHO’s authority in global health governance. In May 1999, “being deeply concerned by the escalation of smoking and other forms of tobacco use world-wide, which resulted in the loss of at least 3.5million human lives and is expected to cause at least 10 million deaths a year by 2030 if the pandemic is not controlled, with 70% of these deaths occurring in developing

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<sup>1</sup> ITC Project, *ITC France National Report. Results of the Wave 2 Survey*. University of Waterloo, Waterloo, Ontario, Canada; French Institute for Health Promotion and Health Education (INPES) and French National Cancer Institute (INCa), Paris, France, October 2011, p.ii.

<sup>2</sup> World Health Organization, “Why Tobacco is a Public Health Priority”, [http://www.who.int/tobacco/health\\_priority/en/](http://www.who.int/tobacco/health_priority/en/). Accessed Oct 10, 2011.

<sup>3</sup> World Health Organization, “The Future”, <http://www.who.int/tobacco/en/atlas38.pdf>. Accessed Dec 23, 2011.

countries”<sup>1</sup>, the World Health Assembly unanimously passed a resolution (*WHA52.18*), and decided to establish a technical working group and an intergovernmental negotiating body to draft and negotiate a framework convention on tobacco control, which paved the way for the multilateral negotiation on FCTC. Meanwhile, a working group of WHO Member States was established to conduct preparatory work for the intergovernmental negotiating body.

The process of negotiating FCTC is laborious and time-consuming since the Party Members with different priorities divide over the wording of the draft about tobacco advertising, promotion, liability and compensation, and packaging and labelling etc. After three years of negotiation, the negotiating body submitted the final version of the FCTC to the 56<sup>th</sup> World Health Assembly in March 2003. The Convention was adopted by the 56<sup>th</sup> World Health Assembly on 21 May 2003 and kept open for Member States to sign. On 27 February, 2005, the treaty came into force and became a binding international law after Peru became the 40<sup>th</sup> country that had ratified the FCTC.

The conclusion of FCTC is a milestone in the human beings’ efforts to prevent the proliferation of tobacco use. It is also a landmark event in global health governance. For one thing, it is for the first time that WHO had used its constitutional law-making power to convene an international treaty; For another, it is the first attempt that the international community had made concertedly to target a single legal product on the global dimension. It reaffirms the value that the right of all people to the highest standard of health exceeds free trade and signifies a precedent for global governance of other industries that profit at the cost of public health. What’s more, this groundbreaking global health norm becomes one of the most widely ratified treaties in the history of the United Nations. So far, FCTC has 174 Party Members. The epoch-making advent of FCTC ushered tobacco control into the era of global health governance.

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<sup>1</sup> World Health Organization, *WHA52.18 Towards a WHO Framework Convention on Tobacco Control*, [http://www.who.int/tobacco/framework/wha\\_eb/wha52\\_18/en/index.html](http://www.who.int/tobacco/framework/wha_eb/wha52_18/en/index.html). Accessed Oct 23, 2011.

### III China and the Negotiation of FCTC

At the outset of the international community's advocacy for a convention for tobacco control, China was half-hearted about the idea out of political and economic considerations. For one thing, China worried that Taiwan would seize the opportunity to promote its international visibility. Since Taiwan's place in the United Nations was supplanted by China Mainland in 1971, Taiwan has spared no efforts to join international organizations to which only sovereignty countries are entitled. WHO has become an ideal forum for Taiwan to seek such a diplomatic objective. Since 1997, Taiwan, with the support of its diplomatic allies, has successively motioned to join the World Health Assembly as an "observer" or "Health Entity" for 7 times. However, all these attempts were set back because of China's opposition. China Mainland claimed that Taiwan's diplomacy towards WHO is nothing but pursuing a "two-China" or separatist policy. Therefore, China mainland was concerned that the prospect of convening an international treaty over tobacco control would complicate Taiwan issue. In other words, China's stand in negotiating FCTC is in line with its other international negotiation, i.e. putting sovereignty first. And for another, tobacco industry in China is regarded as a cash cow for government revenue. China is economically disinclined to embrace a treaty over tobacco control. That is to say, China treats tobacco control as an internal economic issue rather public health issue. It worries that an internationally binding treaty may restrict its economic development policy options. This is reflected in the statement of China State Tobacco Monopoly Administration (STMA): "The form, scope and scale of any tobacco controls must respect each country's different circumstances, and choices cannot interfere with national sovereignty".<sup>1</sup> Actually, China's ambivalence to the FCTC found full expression in the following comments:

*China's position adheres to certain principles and tactics, including 1) The primordial need to protect China's sovereignty; 2) A strong desire that other countries should not make rules with regard to China's internal affairs; 3) A conservative, cautious and slow negotiating style in order to preserve China's options.*<sup>2</sup>

In term of why countries join an international treaty, political scientists put forward two views. One is normative and the other is rationalist. The normative perspective argues that states may ratify international treaties if they commit themselves to the goals that the treaties

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<sup>1</sup> "Global Tobacco Treaty Hearings: Public Hearings on the World Health Organization's Proposed Global Treaty Framework Convention on Tobacco Control", October 13, 2000, Bates No: 524860008.

<http://www.legacy.library.ucsf.edu/tid/wzo03c00/pdf?search=%22china%20fctc%22>. Accessed on Aug 1, 2011

<sup>2</sup> Regan JD, Meeting with U.S. Delegation Members to FCTC, April 17, 2000, Bates No. 522571106/1108. <http://www.legacy.library.ucsf.edu/tid/djn50d00/pdf?search=%22china%20fctc%22>. Accessed on Sep 1, 2011

present, even if doing so is not in line with their material interests. Martha Finnemore labels the normative view as “constructivist”.<sup>1</sup> In the view of rationalists, states adopt treaties that they believe to be “in their interests”.<sup>2</sup> Both of the views explain the rationales of states to adopt international norms one way or the other. They are not contradictory but complementary, because “rationality cannot be separated from any politically significant episode of normative influence or normative change, just as the normative context conditions any episode of rational choice”.<sup>3</sup> Based on the rationalist interest and normative consideration, China supported the negotiation of FCTC with reservation. For example, China was among the 59 countries that took the floor to pledge financial and political support for FCTC while the WHO member states were voting for Resolution 52.18.<sup>4</sup> Although China is among the “big four” countries that are opposed to key FCTC provisions, it is regarded as the least vigorous opponent to key provisions of the Convention among the “big four”.<sup>5</sup>

In the first session of the intergovernmental negotiation in October 2000, the officials from STMA in China’s delegation found fault with the text of FCTC. For example, they thought that the word “*devastating*” (Zai Nan Xing de 灾难性的) used to modify worldwide health, social, economic and environmental consequences of tobacco consumption should be replaced by “the *harmful* (You Hai de 有害的)”. However, prior to the second session of the negotiation, China’s State Council gave three directions for its delegation to follow: First, great efforts should be made to make FCTC possible; Second, don’t fuss over the nuanced wording of the FCTC text. The direction, in essence, is a criticism against the officials from STMA for their recalcitrant and passive attitude towards FCTC; Third, make sure that Taiwan issue is not involved in the negotiation and that the negotiation mustn’t become a platform for Taiwan to pursue separatist policy and international visibility.<sup>6</sup> From the aforementioned directions, we can draw a conclusion that Chinese government then presented a very constructive and cooperative posture in the negotiation.

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<sup>1</sup> Martha Finnemore, *National Interest in International Society*, Cornell University Press, 1996.

<sup>2</sup> Abram Chayes, Antonia Handler Chayes, *The New Sovereignty: Compliance with International Regulatory Agreement*, Harvard University Press, 1998, p.7.

<sup>3</sup> Martha Finnemore, Kathryn Sikkink, “International Norm Dynamics and Political Change”, *International Organization*, Vol.52, No.4, Autumn 1998, p.888.

<sup>4</sup> World Health Organization, *WHA52.18, Towards a WHO Framework Convention on Tobacco Control*, [http://www.who.int/tobacco/framework/wha\\_eb/wha52\\_18/en/index.html](http://www.who.int/tobacco/framework/wha_eb/wha52_18/en/index.html). Accessed Dec 16, 2011.

<sup>5</sup> H.M.Mamudu, S.A.Glantz, “Civil Society and the Negotiation of the Framework Convention on Tobacco Control”, *Global Public Health*, Vol.4, No.2, pp.150-168.

<sup>6</sup> Interview with Yang Gonghuan, Director of China National Tobacco Control Office, “Tobacco Economy is Sun-setting”, [http://news.sina.com.cn/c/sd/2010-05-26/120220350032\\_3.shtml](http://news.sina.com.cn/c/sd/2010-05-26/120220350032_3.shtml). Accessed Jan 1, 2012

### *China's Contribution to FCTC: a Rationalist Perspective*

In the rationalist perspective, material interest predominates in defining state interest, concomitantly determining a state's policy preference in the negotiation of international treaties. Whether a state endorses an international treaty or not depends on its cost-benefit calculation. As Helen Milner has pointed out, "in any international negotiation the groups who stand to gain or lose economically from the policies are the ones who will become politically involved. Those who stand to lose should block or try to alter any international agreement, whereas those who may profit from it should push for its ratification."<sup>1</sup> States only adopt international treaties that serve their interest. The aforementioned reasoning is also applicable to China's engagement in the negotiation of FCTC. In other words, China adopted and ratified that FCTC because it is in China's interest to do so. China identified the economic benefit of adopting the FCTC in the following aspects:

Firstly, China wants to utilize the international norm to block trade liberalization in tobacco products so as to preserve the monopoly status of the China National Tobacco Corporation in domestic market. Trade liberalization facilitates market penetration. China is home to 350 million smokers, the biggest cigarette market in the World. Since China's entry into WTO in 2001, China's state-owned tobacco industry has tried hard to keep the monopoly status, accounting for 95% of the domestic market share. Such transnational tobacco industries as British American Tobacco and Philip Morris are keeping an eye on China's expansive tobacco market and try assiduously to penetrate into the market since China is regarded as the "ultimate prize" among emerging markets for tobacco products.<sup>2</sup> Under the heavy pressure of potential competition from the transnational tobacco corporations, China will seize every opportunity to block foreign encroachers. In 1999, while talking about the challenges of China's tobacco control, Zhang Wenkang, China's then Minister of Health, argued that a particularly formidable challenge facing China's tobacco control is the marketing promotion by the tobacco giants of developed countries.<sup>3</sup> While negotiating over the priority of health and trade during the second session of the Intergovernmental negotiating body, U.S. and Japan proposed the FCTC guiding principles D.5 stating that "tobacco control measures should not constitute a means of arbitrary or unjustifiable discrimination in international trade", which implies that tobacco control measures should not

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<sup>1</sup> Helen v. Milner, *Interest, Institutions, and Information*, Princeton University Press, 1997, p.63.

<sup>2</sup> O'Sullivan B, Chapman S, "Eyes in the Prize: Transnational Tobacco Companies in China 1976-1997", *Tobacco Control*, No.9, 2000, pp.292-302.

<sup>3</sup> "China's Youth Smoking Prevalence is Gradually Increasing".

<http://news.sina.com.cn/society/9906/060106.html>. Access 16 January 2012.

take precedence over international trade liberalization of tobacco products.<sup>1</sup> China was vehemently against the guideline on the ground that China worried that those countries with advanced tobacco industries may quote the principle as an excuse to expand their market share in China and deprive China of the leverage to prevent external market penetration. Eventually, the proposal was deleted from FCTC and replaced by a statement in the preamble of FCTC reaffirming governments' right to protect public health. China's intention to prevent transnational's marketing in China within FCTC is also reflected in its strong espousal of Article 2.3 and 4.8 of FCTC that puts public health precedent over trade during the 6<sup>th</sup> Session of the Intergovernmental Negotiating Body, February 2003, albeit China doesn't mean to practice this public health-first idea domestically. For its health-over-trade posture, China was offered the Orchid Award from the Framework Convention Alliance (FCA).

Secondly, China wants to utilize FCTC to solve illicit tobacco trade problems. Given China's monopolization over the domestic market and transnational tobacco industry's failure to encroach on the market in the name of trade liberalization, smuggling has been an important option for foreign tobacco tycoons to circumvent barriers to China's market access. Some research has shown that "smuggling has been strategically critical to BAT's ongoing efforts to penetrate the Chinese market and to its overall goal to become the leading company within an increasingly global industry".<sup>2</sup> It has been demonstrated that BAT had a role in tobacco smuggling in China.<sup>3</sup> 99% of foreign cigarettes sold in China are smuggled.<sup>4</sup> The loss of Chinese government revenue for tobacco smuggling reaches US\$ 1.8 billion annually.<sup>5</sup> In the recognition that FCTC would be an effective tool to counteract tobacco smuggling, China's delegate reiterated in the negotiation that:

*"Tobacco control and the drafting of "Convention" should help to prevent and eliminate illegal activities such as smuggling and the production of contraband cigarettes. Cigarette smuggling and the production of contraband cigarettes are major problems in many countries in the world. These illegal activities pose big*

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<sup>1</sup> Hadii M Mamudu, Ross Hammond, Stanton A Glantz, "International Trade versus Public Health during the FCTC Negotiation, 1999-2003", *Tobacco Control*, Vol.20, No.3, 2011, pp.4-5.

<sup>2</sup> Kelley Lee, Jeff Collin, "Key to the Future: British American Tobacco and Cigarette Smuggling in China", Vol.3, No.7, *PLoS Medicine*, July 2006, p.1080.

<sup>3</sup> Jeff Collin, et al., "Complicity in Contraband: British American Tobacco and Cigarette in Asia," No.13, *Tobacco Control*, 2004.

<sup>4</sup> Framework Convention Alliance, "How Big was the Global Illicit Tobacco Trade Problem in 2006", February, 2008. <http://www.fctc.org/dmdocuments/fca-2008-inb-illicit-trade-inb1-factsheet-how-big-was-illicit-trade-2006-en.pdf>. Accessed 16 January 2012

<sup>5</sup> Kelley Lee, Jeff Collin, "Key to the Future: British American Tobacco and Cigarette Smuggling in China", Vol.3, No.7, *PLoS Medicine*, July 2006, p.1081.

*threat to country sovereignty and consumer interest as well. The tobacco control activity of WHO should first of all help to prevent and eliminate the illegal activities in the manufacturing and marketing of tobacco products and should not be mistaken to hamper legal activity while encourage illegal activities. ”<sup>1</sup>*

China’s assertion is finally reflected in the final text of FCTC. Article 15 of FCTC specially addresses illicit trade in Tobacco Products, which states that:

*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 sub-regional, regional and global agreements, are essential components of tobacco control.<sup>2</sup>*

Thirdly, tobacco control measures stipulated in FCTC, if implemented accordingly, will benefit China’s overall economic development in the long run. Admittedly, tobacco control will reduce government’s revenue from the tobacco industry in the short term, particularly in such provinces as Yunan and Guizhou. However, down-to-earth adoption of FCTC will contribute to China’s sustainable economic growth. This has been supported by a World Bank’s 1999 report, which concludes that tobacco control is not only good for health but also for the economy.<sup>3</sup> At least, Chinese government identified with the international norms concerning tobacco control, which provides Chinese delegation an impetus to propel the negotiation of FCTC.

#### *China’s contribution to FCTC: a Normative Perspective*

States endorse international norms not just because it is in their interest, but also because doing so is in line with their international identity. As Peter Katzenstein points out, “the behaviour of states is not only shaped by goals, alternatives, and rules of maximization central to rationalist models of politics”.<sup>4</sup> China doesn’t adopt the FCTC just out of instrumental consideration. China’s identity as a responsible power in international community also motivates China to actively engage in the negotiation. As what has claimed

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<sup>1</sup> “China National Tobacco Corporation’s (CNTC) Comments on World Health Organization’s Framework Convention on Tobacco Control (FCTC)”, October 12, 2000. Bates No.: 2067224709/4712. <http://legacy.library.ucsf.edu/tid/div34a00/pdf>. Accessed Nov 26, 2011

<sup>2</sup> WHO, *Framework Convention on Tobacco Control*, Geneva: WHO, p.13.

<sup>3</sup> The World Bank, *Curbing the Epidemic: Governments and the Economics of Tobacco Control*, Washington DC, 1999, p.2.

<sup>4</sup> Peter J. Katzenstein, *The Culture of National Security: Norms and Identity in World Politics*, New York: Columbia University Press, 1996, p.28.

by China's Ministry of Foreign Affairs, "the Chinese delegation (to FCTC negotiation) not only safeguards China's rights and interests as a big power of production and consumption of tobacco in the world but also establishes its image as a responsible big power".<sup>1</sup> Cheng Yongzhao, an official of STMA, also argues that China's adoption of FCTC contributes to building its international image as a responsible country for public health in international community.<sup>2</sup>

Scholars have different ideas about the criteria for being a responsible power. Rosemary Foot observes that a responsible state is "one that is in good standing in the international regimes that made up the substance of international life".<sup>3</sup> According to Alastair Iain Johnston, the international responsibility includes, but not exclusively, the following aspects: active engagement in building international regimes, recognizing the interdependence as an objective reality in the world today, acknowledging the necessity to transfer national sovereignty conditionally so as to solve global issues.<sup>4</sup> Although they have different definition on the concept of a responsible power, they share the essence of international responsibility, i.e., a responsible power should actively interact with international regimes and be cooperative and constructive in the development of international regimes to tackle global issues.

Since its initiation of the reform and open door policy in 1979, China began to merge into the international society and posed itself as a co-operator rather than a revolutionary revisionist, constructing its national identity as a responsible power in the international community. Aspiring to be recognized as a responsible actor in global governance, China attaches great importance to polishing its image in international community. With China's dramatic growth in the past decades, the international community were very concerned about China's strategic intention. The idea of *China threat* proliferated consequently, rendering China under increasing pressure to wrestle with the idea of international responsibility in its foreign policy. In response to *China Threat*, Chinese government put forward the diplomatic concept of "being a responsible power in the international community" and tries to live up to the concept in its foreign policy since 1990s. For example, China resisted the temptation to

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<sup>1</sup> Ministry of Foreign Affairs of China, "China and the Framework Convention on Tobacco Control", 9 July 2001.

<sup>2</sup> Wang Yi, "Convention on Tobacco Control Shocks China's Tobacco Industry", *China Economic Daily*, 14 October 2005

<sup>3</sup> Rosemary Foot, "Chinese Power and the Idea of a Responsible State", *The China Journal*, No.45, Jan 2001, p.8

<sup>4</sup> Alastair Iain Johnston, "Some Thought on China's Engagement with International Regimes", *World Economics and Politics*, No, 7, 1999.

devalue Chinese RMB during the Asia financial crisis in 1997, providing a brake on the deterioration of the regional financial instability, for which China won great applause. In 2001, China's entry into WTO indicated that China has comprehensively accommodated international institutions. Although China's "responsible power" ambition was reversed for the cover-up action in the SARS crisis in 2003 and consequently the hard-won reputation in the international community as a responsible power was disgraced, its commitment to acting responsibly in addressing global issues remains unchanged. "China strives to become a responsible power".<sup>1</sup>

As has been pointed out, "state identity fundamentally shapes state behaviour".<sup>2</sup> China behaves itself as a responsible power because China is concerned about its identity. As argued by Qin Yaqing, a professor of China Foreign Affairs University, China's identity in relation to international society constitutes the century-puzzle of the Chinese since 1840.<sup>3</sup> "In Chinese foreign policy discourse, 'international status' seems to be the most desirable value, particularly since the 1990s".<sup>4</sup> China's self-identity as a responsible power energizes China to constructively embrace international norms. As Martha Finnemore and Kathryn Sikkink have argued, the states that are insecure about their international status or reputation and seek their reputation and esteem are expected to enhance new international norms most eagerly and thoroughly.<sup>5</sup> Given China's identification with the status of responsible power and the moral implications of the international norm concerning global health, it is a logical foreign policy choice for China to advance FCTC. Otherwise, China would be regarded as an international pariah, which apparently would be in diametrical conflict with China's international image building strategy. As what Wang Guangya, China's UN ambassador, claimed while signing FCTC on behalf of China, China has played active and constructive role in the negotiation of FCTC; By endorsing the international convention, China once again presents the world its commitment to supporting WHO and the government's strong

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<sup>1</sup> Xiong Zhiyong, "China's Diplomacy in the Past 55 Years: from a Poor and Weak Country to a Responsible Country", 26 September 2004. <http://www.china.com.cn/chinese/2004/Sep/668170.htm>. Accessed Oct 10, 2011.

<sup>2</sup> Martha Finnemore, Kathryn Sikkink, "International Norm Dynamics and Political Change", *International Organization*, Vol.52, No.4, Autumn 1998, p.902.

<sup>3</sup> Qin Yaqing, "International Society as a Process: Institutions, Identities, and China's Peaceful Rise", *The Chinese Journal of International Politics*, Vol.3, 2010, p.130.

<sup>4</sup> Yong Deng, "Better Than Power: 'International Status' in Chinese Foreign Policy", in Yong Deng, Feiling Wang, eds, *China Rising: Power and Motivation in Chinese Foreign Policy*, Lanham, MD: Rowman & Littlefield, 2005, p.51

<sup>5</sup> Martha Finnemore, Kathryn Sikkink, "International Norm Dynamics and Political Change", *International Organization*, Vol.52, No.4, Autumn 1998, p.906.

determination to control tobacco.<sup>1</sup> Nevertheless, to what extent the global health norm is internalized remains to be seen. As Sebastian Heilmann and Nicole Schulte-Kulmann note, “in effect, Chinese policymakers try to utilize policy diffusion as an instrument for negotiating and promoting the nation’s global rise. Yet, when it comes to implementation, global regulatory standards are weakened or even neutralized through discretionary enforcement. The depth and robustness of normative assimilation therefore remain uncertain”.<sup>2</sup> China’s pursuit for international recognition rather than public health security consideration in the process of FCTC negotiation has presaged the setback of FCTC in China.

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<sup>1</sup> Xinhua News, “Wang Guangya signs the FCTC on behalf of Chinese Government”, Dec 11, 2003, [http://news.xinhuanet.com/world/2003-11/11/content\\_1170775.htm](http://news.xinhuanet.com/world/2003-11/11/content_1170775.htm). Accessed Oct 18, 2011

<sup>2</sup> Sebastian Heilmann, Nicole Schulte-Kulmann, “The limits of Policy Diffusion: Introducing International Norms of Anti-money Laundering into China’s Legal System”, *Governance*, Vol.24, No.4, 2011, p.639.

#### IV China and FCTC: the Divide between Implementation and Obligation

The success of FCTC hinges on national commitment to internalization. Since the FCTC officially took effect in January 2006 in China, considerable efforts have been made to implement the FCTC. However, China's implementation of FCTC is still a far cry from the requirements of the international norm. According to a report of China CDC, smoking prevalence of male aged 15 years and over is 52.9% in 2010<sup>1</sup>, similar to that of 2002. Meanwhile, China's tobacco output and consumption didn't decrease but increased conversely. What is worse, it has been reported that China's youth smoking rate increased since FCTC was implemented.<sup>2</sup> As Hu Angang has pointed out, China's performance in tobacco control is very far from satisfactory in the past 5 years.<sup>3</sup> It is concluded that the average score for the implementation of the 6 policies of the WHO MPOWER package<sup>4</sup> in China is only 37.3 points of 100 points.<sup>5</sup> This section aims to illustrate the divide between China's performance and the requirements of FCTC in the 5 policy area. And then, a comparison will be made among China, Brazil and India in terms of their implementation of FCTC.

##### *Protecting people from tobacco smoke*

It is the obligation of a government to protect its nationals from health hazard. It is even argued that it is a moral imperative to protect non-smokers from the effects of second-hand smoke.<sup>6</sup> Comprehensive ban of smoking in public places is the only effective measure that protects people from the harm by second-hand smoke. Meanwhile, smoke-free laws in workplaces can cut absolute smoking prevalence by 4%.<sup>7</sup> Article 8 of FCTC clarifies the

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<sup>1</sup> Global Adult Tobacco Survey (GATS) Fact Sheet China: 2010. [http://www.who.int/tobacco/surveillance/en\\_tfi\\_china\\_gats\\_factsheet\\_2010.pdf](http://www.who.int/tobacco/surveillance/en_tfi_china_gats_factsheet_2010.pdf). Accessed Aug 12, 2011.

<sup>2</sup> "Experts say China Failed in Tobacco Control; China's Youth Smoking Rate Increases", *China Youth Daily*, Sep 20, 2011.

<sup>3</sup> "Hu Angang Suggested China Take Leadership in Tobacco control", [http://news.xinhuanet.com/politics/2011-05/31/c\\_121477943.htm](http://news.xinhuanet.com/politics/2011-05/31/c_121477943.htm). Accessed 6 Dec, 2011.

<sup>4</sup> POWER is an abbreviation of policy guidelines, which refers to the following aspects separately: *Monitoring tobacco use and prevention policies, Protecting people from tobacco smoke, offering help to quit tobacco use, Warning about the dangers of tobacco, Raise taxes on tobacco.*

<sup>5</sup> Gong-Huan Yang, et al., "Findings from 2010 Global Adult Tobacco Survey: Implementation of MPOWER Policy in China", *Biomedical and Environmental Sciences*, No.23, 2010, p.422.

<sup>6</sup> Donley T. Studlar, "U.S. Tobacco Control: Public Health, Political Economy, or Morality Policy?" *Review of Policy Research*, Vol.25, No.5, 2008,p.400.

<sup>7</sup> Fichtenberg CM, Glantz SA. "Effect of smoke-free Workplaces on Smoking behaviour: System Review". *British Medical Journal*, Vol.325, No.7357, 2002, p.188.

importance and measures to protect no-smokers from exposure to tobacco use, which states that:

*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.*<sup>1</sup>

In July 2007, *Guidelines on Protection from Exposure to Tobacco Smoke* was elaborated on the conference of Parties to FCTC. These guidelines substantively specify necessary measures or best practices to achieve effective protection from hazards of second-hand smoking. It requires that all indoor workplaces, indoor places, and public transports should be smoke-free and legislation be made to protect people from exposure to tobacco smoke by January 2011.<sup>2</sup> Ireland is the first country that has made national legislation banning smoking in all public and working places in 2004. Up till now, 19 FCTC Members have adopted national tobacco-free law in all indoor working and public places.

Currently, over 700 million people are routinely exposed to second-hand smoking in China, leading to more than 100 thousand premature deaths annually, entailing heavy economic burden.<sup>3</sup> However, among China's 31 province-level administrative units, legislation banning smoking in public places are only adopted in four municipalities (including Beijing, Shanghai, Tianjin, and Chongqing). National law specific to banning tobacco use in public places has been made so far. In May 2009, MOH, in concert with State Administration of Traditional Chinese Medicine, the Health Divisions of the General Logistics Department of the Liberation Army, and the Department of Logistics of the People's Armed Police Force, issued *Resolutions on Achieving Comprehensively Smoke-free in National Healthcare Units since 2011*, aiming to take the lead to implement FCTC. The Resolutions took effect in January 2011.<sup>4</sup> Even if the Resolutions would have been enforced without discount, i.e. 100% tobacco free would have been realized in all medicare units throughout the country, the total tobacco-free area would only account for 2% of all the public places nationally.<sup>5</sup> On 22 March 2011, MOH issued the revised *Implementation Rules*

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<sup>1</sup> WHO, *WHO Framework Convention on Tobacco Control*, Geneva: WHO, 2003.

<sup>2</sup> WHO, *Conference of the Parties to the WHO FCTC: Second Session*, Bangkok, 30 June-6 July 2007. [http://apps.who.int/gb/fctc/PDF/cop2/COP2\\_07\\_CDDecisions-en.pdf](http://apps.who.int/gb/fctc/PDF/cop2/COP2_07_CDDecisions-en.pdf). Accessed Dec 16, 2011

<sup>3</sup> Gan Quan, "The Death Toll induced by Smoking outnumbers That of Wenchuan Earthquake", *China Daily*, Dec 22, 2010.

<sup>4</sup> *Resolutions on Achieving Comprehensively Smoke-free in National Healthcare Units since 2011*, <http://vip.chinalawinfo.com/newlaw2002/slc/slc.asp?db=chl&gid=117206>. Accessed Jan 18, 2012.

<sup>5</sup> Du Wei "Fighting for Interest behind 3.5 Billion Smokers", *China Business Times*, June 4, 2010.

on the *Regulations on Public Places Sanitation*, a new regulation to ban smoking in public places, stating that “smoking is banned in indoor public places; the managers of public places should set up conspicuous warnings and signs against smoking”.<sup>1</sup> It is almost unenforceable. For one thing, public places in the regulation exclude offices and government workplaces, so it is a not comprehensive ban of smoking. And for another, the penalty measures are very ambivalent. None is held accountable when the ban is violated. It just required that the managers of public places dissuade the smokers. In most cases, the managers are reluctant to do so for fear of displeasing their customers.

Good news about protecting people from tobacco smoke is that China integrated this tobacco control approach into its 12nd Five-Year Plan for National Economic and Social Development in 2011. According to Five-Year Plan, Chinese committed itself to the task that “comprehensive ban of smoking will be implemented in public places”.<sup>2</sup> Unfortunately, no concrete and substantial steps have been taken accordingly to honour the target so far.

#### *Offering help to quit tobacco use*

Offering support to quit tobacco use is a crucial approach to effective tobacco control. Article 14 of *FCTC* stipulates that each Party shall develop and disseminate appropriate, comprehensive and integrated guidelines based on scientific and best practices, taking onto account national circumstances and priorities, and shall take effective measures to promote cessation of tobacco use and adequate treatment for tobacco dependence. Concrete measures for the aforementioned target are also specified.<sup>3</sup> Many countries have taken measure to fulfil the target. For example, many countries, such as United Kingdom, United States, Thailand and India, have set up a toll-free telephone quit line to discuss cessation with callers.

Support to quit tobacco use, to some degree, should be regarded as a public good. It is the responsibility of each country to provide such help so as to advance tobacco control campaign. Many countries, including United Kingdom and Brazil, have included such service in their national healthcare. However, the issue of tobacco cessation has been taken into consideration in the process of China’s healthcare reform. As of 2010, tobacco control was not listed as a priority in China’s health reform plan and only accounted for 0.5% of the budget for disease control and prevention.<sup>4</sup> China’s national health insurance doesn’t cover the cost of helping smokers to quit tobacco use. It also doesn’t cover the cost of nicotine replacement therapy (NRT) (e.g., patch, gum, lozenge, spray or inhaler) recommended by the

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<sup>1</sup> MOH, *Implementation Rules on the Regulations on Public Places Sanitation*, 22 March 2011.

<sup>2</sup> *China’s 12nd Five-Year Plan for National Economic and Social Development*, Feb 17, 2011. <http://news.sina.com.cn/c/2011-03-17/055622129864.shtml>. Accessed Oct 16, 2011.

<sup>3</sup> WHO, *WHO Framework Convention on Tobacco Control*, Geneva: WHO, 2003.

<sup>4</sup> Cui W. “China wrestles with tobacco control”, *Bulletin of WHO*, Vol. 88, 2010, pp.251-2.

WHO either. No toll-free telephone quit line has been set up to provide quit smoking service. China is in bad need of capacity building in offering help to quit tobacco use.

### *Warning about the dangers of tobacco*

Clear and prominent warning can effectively discourage tobacco use. Article 10 and 11 of FCTC state that “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”. The third session of the conference of the Parties to the WHO FCTC held in 2008 in Durban, South Africa, further developed the principles concerning the warning about the dangers of tobacco.<sup>1</sup> China was offered the “Dirty Ashtray Award” for its initial opposition to the principle. Therefore, it is not surprising to see that the principles are not translated into practice in China.

Pictorials have not been used in the cigarette package. Article 11 of FCTC and the Resolution adopted by the Parties stipulates that “Parties should mandate culturally appropriate pictures or pictograms, in full colour, in their packaging and labelling requirements; Parties should consider the use of pictorial health warnings on both display areas of the tobacco products packaging”. Pictures on cigarette packets can have greater impact than words. It is recommended that pictorial warnings be best practice as warnings against smoking.<sup>2</sup> Over 49 countries have adopted pictorial warning in tobacco packaging. However, no graphics haven’t used as warning. The government claims that Chinese tobacco packaging featured mountains, rivers and monuments, and placing ugly pictures besides such scenes would humiliate the Chinese people”.<sup>3</sup> Actually, on the 3<sup>rd</sup> session of the Conference of the FCTC Parties, while discussing guidelines for implementing Article 11, Chinese delegation argued forcefully that China could not put graphic warnings on cigarette packs because those packs featured revered cultural icons. If those icons are covered with pictorial warning, it will be terrible disrespect for Chinese culture.<sup>4</sup> Instead, only text warnings such as *Smoking Is Harmful to Your Health, Quit Smoking Reduces Health Risk* are used.

Secondly, the message content on the cigarette package falls short of the requirement of FCTC. FCTC requires that tobacco product packaging and labelling should 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

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<sup>1</sup> WHO, FCTC/COP/3/REC/1, Geneva: WHO, 2009.

<sup>2</sup> WHO, *WHO Report on the Global Tobacco Epidemic, 2008: The MPOWER package*. Geneva, Switzerland: World Health Organization, 2008.

<sup>3</sup> Yang Gonghuan, “China Wrestles with Tobacco Control”, *Bulletin of World Health Organization*, No.88, 2010, p.251.

<sup>4</sup> Ruth Malone, “China’s Chances, China’s Choices in Global Tobacco Control”, *Tobacco Control*, Vol.19, No.1, 2010, p.1.

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”.<sup>1</sup> However, quantitative information about tar, nicotine and carbon monoxide is stated on the cigarette packages in China. In addition, China’s STMA continuously claims that China’s low-tar technology contribute to harm reduction. Substantial scientific evidence has demonstrated that lowering the tar doesn’t make any difference in reducing the risks caused by smoking.<sup>2</sup> However, Xie Jianping, a so-called tobacco scientist, was elected to the Chinese Academy of Engineering, an honorary body that also advises the government, for his research on lower-tar cigarettes and on adding traditional Chinese herb medicines to cigarettes in 2011. In March 2012, one program about “cigarettes production with Chinese characteristics”, which was conducted by China’s STMA, was offered National Award of Science & Technology Advancement by the Ministry of Science and Technology of the People’s Republic of China. While visiting a tobacco corporation branch of STMA in 2010, Zhou Ji, President of the Chinese Academy of Engineering, even song high praise for the “low-tar cigarettes with Chinese characteristics”. China’s STMA spares no efforts to minimize the warning effects required by FCTC. For example, FCTC requires that “the warnings and messages should be 50% or more of the principal display areas but shall be no less than 30% of the principal areas”. China just follows the minimum level of no more than 30% of the principal display area and covers the area with small warning text, one side in Chinese, another in English. 73.2% adult Chinese smokers don’t understand “Smoking is harmful to your health” in English.<sup>3</sup> People have a right to exact information on the harms of tobacco use. However, STMA tries to hide the harm of cigarettes. In February 2012, it was even reported that that the filter of cigarettes are made of highly deleterious materials and the China’s tobacco industry has covered up the fact in the last decade.<sup>4</sup>

*Enforcing bans on tobacco advertising, promotion and sponsorship*

Prohibition of direct and indirect tobacco advertising is a crucial approach to tobacco control. A comprehensive ban on advertising, promotion and sponsorship reduces tobacco

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<sup>1</sup> WHO, *WHO Framework Convention on Tobacco Control*, Geneva: WHO, 2003, p. 9.

<sup>2</sup> U.S. Department of Health and Human Services. *How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease: A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2010.

<sup>3</sup> Jiang Y, Fong GT, Li Q, “Effectiveness Evaluation of Health Warnings on Cigarette Packs In China, 2008”, *China Journal of Health Education*, 2009; 25: 411-13.

<sup>4</sup> “The Filter of Cigarettes Made of Highly Deleterious materials, the Secret Covered in the last decade”, Feb 15, 2012. <http://business.sohu.com/20120215/n334806257.shtml>. Accessed Feb 16, 2012.

consumption. A World Bank report shows that per-capita cigarette consumption in countries with comprehensive advertising bans declined by about 8%.<sup>1</sup> The FCTC specifies that “Each Party shall, in accordance with its constitution or constitutional principles, undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship”.<sup>2</sup> Although China has endorsed the national law banning all electronic and print advertising from 1992, sponsorship, promotion and outdoor advertising on tobacco were not covered by those laws. China has taken some steps to meet the requirements of FCTC, but the tobacco industry utilizes loopholes to market and promote tobacco use. Extended or hidden tobacco marketing is commonplace. According to the WHO Report on the Global Tobacco Epidemic 2011, China’s score of compliance with direct bans on tobacco advertising, promotion and sponsorship is 5 out of 10; the score of compliance with indirect bans is 0, where 0 is “low compliance”.<sup>3</sup> The tobacco industry overtly and covertly adopts the following strategies for advertising or promotion:

First, the tobacco industry tries to extend cigarette brand by sponsoring sports and entertainment activities. Many countries have taken highhanded measures to ban tobacco companies from such hidden advertisement. For example, U.K has adopted the prohibition since 2001; U.S. has enacted the Anti-Smoking Law, prohibiting tobacco brands from sponsoring sports and entertainment events.<sup>4</sup> By contrast, such advertisement has been widely used by China’s tobacco industry for promotion. For example, China STMA sponsored Hunan athlete teams RMB 5 million for the Olympic Games to be held in London in 2012.<sup>5</sup> On 8 January 2012, Shanghai Tobacco Corporation supported the billiards competition held in Liaoning Province, China. The sports event was named “Zhong Nan Hai Fashion”, while Hong Nan Hai is one of the most famous cigarette brands. From September to December 2009, 52 tobacco companies sponsored 79 sports and entertainment activities.<sup>6</sup>

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<sup>1</sup> The World Bank, *Curbing the Epidemic: Government and the Economics of Tobacco Control*, Washington, DC, the World Bank, 1999.

<sup>2</sup> WHO, *WHO Framework Convention on Tobacco Control*, Geneva: WHO, 2003, p. 9.

<sup>3</sup> WHO, *WHO Report on the Global Tobacco Epidemic, 2011, China Profile*. [http://www.who.int/tobacco/surveillance/policy/country\\_profile/chn.pdf](http://www.who.int/tobacco/surveillance/policy/country_profile/chn.pdf). Accessed Oct 21, 2011

<sup>4</sup> Kate Barrett, “President Obama Signs Anti-Smoking Law”, 22 June 2009. <http://abcnews.go.com/Politics/Health/story?id=7897525&page=1#.Tz4trdTM3YQ>. Accessed Oct 16, 2011

<sup>5</sup> China Daily, “Hunan Athlete Teams for Olympic Game Sponsored RMB 5 Million by Tobacco Industry”, 28 October 2011. [http://www.chinadaily.com.cn/micro-reading/dzh/2011-10-28/content\\_4198845.html](http://www.chinadaily.com.cn/micro-reading/dzh/2011-10-28/content_4198845.html). Accessed Dec 1, 2011

<sup>6</sup> “Tobacco Companies Not Qualified for Philanthropy”, <http://news.163.com/special/reviews/tobacco20101116.html>. Accessed Oct 19, 2011

Secondly, China's tobacco industry makes donations to causes that are universally popular with the ruling party. On the third session of Conference of the Parties to the WHO FCTC in 2008, it was agreed that "The Parties should ban contribution from tobacco companies to any other entity for 'socially responsible causes', as this is a form of sponsorship. Publicity given to 'socially responsible 'business practices of the tobacco industry should be banned, as it constitutes advertising and promotion".<sup>1</sup> However, violations against the agreement are widespread in China. For example, "Hope Project" is a public welfare programme launched by the Central government to help those out-of-school children for poverty to return to school in the least-developed areas of China. China's tobacco industry, in the name of corporate social responsibility, supports the project with such slogans as "Tobacco Helps You Become Talented". The schools are named after such Chinese cigarette brands as Liqun and Zhong Nan Hai. Over 100 primary schools are sponsored by tobacco industry.<sup>2</sup> A text on package of Zhong Nan Hai brand cigarettes even reads: "For each pack you consume, you devote your part to the charity Hope Project"; On 16 November 2010, China's STMA "donated" RMB 10 million and established "Golden Leaf Fund" in the framework of China Women's Development Foundation to support two welfare programmes "Mother Water Cellars" and "Mother Health Express" approved of by China's top leaders.<sup>3</sup> "Tobacco company corporate social responsibility (CSR), whether in the form of donations to charity, support for good causes or lavishly funded campaigns trumpeting their own virtuous behaviour, is in fact a self-seeking marketing tool designed to win friends and influence people".<sup>4</sup> Similarly, China tobacco corporations just utilize corporate social responsibility as a guise to enhance their brands visibility and hunt for the next generation of smokers. Their objective remains to promote tobacco use by maximizing the compatibility of the hidden strategy with the causes launched by central government.

#### *Raising taxes on tobacco*

Tax adjustment on tobacco price is an important leverage of each government to control tobacco use. Sufficient evidence has proved that increasing tobacco exercise taxes curbs

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<sup>1</sup> WHO, FCTC/COP/3/REC/1, Geneva: WHO, 2009, p.36.

<sup>2</sup> "Tobacco Helps you to Become Talented: How China's Tobacco Industry Sponsor Hope Primary School", 30 May 2011. [http://news.xinhuanet.com/politics/2011-05/30/c\\_121474921.htm](http://news.xinhuanet.com/politics/2011-05/30/c_121474921.htm). Accessed Oct 21, 2011.

<sup>3</sup> "'Golden Leaf Fund' poeticizing Tobacco", 16 November 2010. [http://news.xinhuanet.com/comments/2010-11/16/c\\_12778454.htm](http://news.xinhuanet.com/comments/2010-11/16/c_12778454.htm). Accessed Oct 11, 2011

<sup>4</sup> Gerard Hastings, Jonathan Liberman, "Tobacco corporate social responsibility and fairy godmothers: the Framework Convention on Tobacco Control slays a modern myth", *Tobacco Control*, April 2009, Vol.18, No.2, p.73.

tobacco consumption.<sup>1</sup> According to a WHO report, a 10% price increase may lead to 8% reduction in low-and middle-income country, with tobacco tax revenue increasing in spite of decreased consumption.<sup>2</sup> A lot of countries levy heavy taxes on tobacco products for tobacco control. For example, Germany's tax rate of tobacco amounts to 70%, Brazil 74% and United Kingdom 80%.<sup>3</sup> The increased revenue may contribute tobacco control resources. Many countries, such as U.S, UK, Australia, utilize the government revenue from tobacco industries to bankroll healthcare programme.

Article 6 of FCTC states that “the Parties recognize that price and tax measures are an effective and important means of reducing tobacco consumption by various segments of the population; Each Party should implementing tax policies and, where appropriate, price policies, on tobacco products so as to contribute to health objectives aimed at reducing tobacco consumption”.<sup>4</sup> China is under an international obligation to adopting price and tax measures to deter tobacco consumption. In May 2009, MOF and the State Administration of Taxation (SAT) jointly issued *the Notice on Adjusting the Policy on Consumption Tax of Tobacco Products*, which aims to “appropriately increase government revenue from tobacco products and improve the consumption-based tax system”. In other words, the tax raising policy on tobacco was not designed for tobacco control but for increasing the government revenue so as to stimulate the economy in the context of economic slowdown in the early 2009. Unsurprisingly, the tax increase was not correlated with retail price of tobacco products because China STMA absorbed the increased tax.

Even though raising tax is an effective tool to deter tobacco, we cannot expect China to use the tax-raising instrument to restrain tobacco consumption. For one thing, tobacco consumption as gifts takes up a large share in China's tobacco market, which buffers the leverage of raising tax in tobacco control; For another, consuming tobacco with public money is rampant in China, which renders raising tax unimportant because the officials are not sensitive to the price of cigarettes. It is estimated that the quantity of such “grey consumption” of cigarettes is astronomical, amounting to over £ 30 billion annually.<sup>5</sup>

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<sup>1</sup> Frank J Chaloupka, et al., “Effectiveness of Tax and Price Policies in Tobacco Control”, *Tobacco Control*, No.20, p.235.

<sup>2</sup> WHO, *WHO Report on the Global Tobacco Epidemic*, Geneva: WHO, 2008, p.12.

<sup>33</sup> Du Wei “Fighting for Interest behind 3.5 Billion Smokers”, *China Business Times*, June 4, 2010.

<sup>4</sup> WHO, *WHO Framework Convention on Tobacco Control*, Geneva: WHO, 2003, p. 8.

<sup>5</sup> “Who smokes? the Smokers or the Government ”? *Sanlian Life Weekly*, 14 March 2005. <http://www.lifeweek.com.cn/2005/0314/11279.shtml>. Accessed July 17, 2011

**Table 1 A Comparison among China, Brazil and India on the Implementation of FCTC**

Items	Country	China	Brazil	India
Smoking rate among those aged $\geq 15$ years (2009)		27%	17%	15%
Compliance score on smoke-free environment of FCTC(2011)		2	10	5
Form of health warning on tobacco packages (2010)		text	graphic	graphic
Percentage of the principal display areas of the package that is legally mandated to be covered by health warning		30%	50%	40%
Compliance score* of direct bans on advertising, promotion and sponsorship (2010)		5	9	6
Compliance score of indirect bans on advertising, promotion and sponsorship (2010)		0	4	6
Tax rate on the most popular brand of cigarettes (2010)		41%	60%	46%
Government expenditure on tobacco Control		US\$ 2 878 257 (2008)	US\$5 453 247 (2003)	US\$ 5 237 239 (2010)

\* A Score of 0-10, where 0 is low compliance. The data derives from *WHO Report on the Global Tobacco Epidemic, 2008, 2011*.

## V Why Feeble Implementation of FCTC in China?

In terms of the cross-national diffusion of international norms, scholars generally agree that domestic politics matter. Similarly, whether FCTC will be practiced or not rests on China's domestic politics around the issue. China expediently and readily adopted and ratified FCTC with an aim to enhance its international recognition. Whereas, when it comes to the implementation, China's determination to internalize the norm wakens. As has been pointed out, "policy diffusion was successfully employed as a mechanism for supporting China's global standing, while subsequent enforcement of novel regulatory standards remained extremely feeble".<sup>1</sup> The government doesn't "walk the walk" but "talk the talk" in tobacco control. Tobacco control involves both politics and science.<sup>2</sup> Given that Overwhelming evidence has shown the gravity of the tobacco epidemic in China and so much scientific knowledge for tobacco control have arisen,<sup>3 4 5</sup> domestic politics account for China's poor performance in meeting FCTC. Tobacco control is heavily influenced by politics.<sup>6</sup> China's tobacco control is a political issue. "International norms must always work with their influence through the filter of domestic structure and domestic norms, which can produce important variations in compliance and interpretation of these norms".<sup>7</sup> Undoubtedly, China's domestic structure determines the extent to which FCTC is internalized. An exploration of China's domestic politics of tobacco control is fully warranted.

### China's Political ideology

Political ideology comprises two dimensions: goals and means. In other words, it underlies what a political entity aims to pursue and how to pursue. It also constitutes the fundamental guidelines by which a government addresses public affairs. Tobacco control, as an increasingly pressing public issue, is not exempted from the influence of political ideology.

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<sup>1</sup> Sebastian Heilmann, Nicole Schulte-Kulmann, "The Limits of Policy Diffusion: Introducing International Norms of Anti-Money Laundering into China's Legal System", *Governance*, Vol.24, No.4, October, 2011, p.640

<sup>2</sup> Rahul Rajkumar, "New Directions in Tobacco Control", *JAMA*, December 5, 2001, Vol.286, No.21, p.2732.

<sup>3</sup> Surgeon General, *Smoking and Health: Report of the Advisory Committee to the Surgeon General of the Public Health Service*. Washington: US Department of Health, Education and Welfare, 1964.

<sup>4</sup> World Health Organization, *The Scientific Basis of Tobacco Product Regulation*, Geneva: WHO, 2008.

<sup>5</sup> US Department of Health and Human Services, *The Health Effects of Active Smoking: A Report of the Surgeon General*. Washington, DC, U.S. Government Printing office, 2004.

<sup>6</sup> Young Kyung Do, Kidong Park, Local governments' dependence on tobacco tax revenue: a deterrent to tobacco control in the Republic of Korea, *Bull World Health Organization*, No.87, 2009, p. 692.

<sup>7</sup> Martha Finnemore, Kathryn Sikkink, "International Norm Dynamics and Political Change", *International Organization*, Vol.52, No.4, Autumn 1998, p.893.

Chinese Communist Party (CCP), the only party ruling China, tries to utilize every means to achieve its goals. The ultimate goal of China's CPC is to sustain the regime survival. As far as China's tobacco control is concerned, the ideology of CCP is deeply infiltrated into China's public policies relevant to tobacco control.

Firstly, the CCP's political ideology determines the government's posture to tobacco control. With the absence of democratic election in China, the importance of legitimacy to CCP cannot be overstated. It is also the top concern of the ruling party. A widely held idea is that the CCP's legitimacy will be ensured as long as China's economy keeps growing, or what is known as "performance legitimacy".<sup>1</sup> Preoccupied with economic performance-based legitimacy, the government adopted a GDP-first approach to tobacco control. Actually, China's "economic growth first" model is well entrenched in the CCP's ideology in the last two decades. China's GDP, to which tobacco industry has been contributing greatly, is used as the only yardstick for economic performance by China's government. As argued by Zheng Yongnian, Professor of National University of Singapore, the only ideology guiding China's development in decades is the money-centred "GDPism".<sup>2</sup> Deng Xiaoping utter pragmatism is the fundamental tenet of GDPism. Deng's successor *Jiang Zemin* followed the same *economic growth first* approach. After Hu Jintao came to power, the approach is still held holy. The government claims that "development is hard truth and nothing is more important

**Table 2 China's Tobacco Profit & Tax and Its Percentage of National Fiscal Revenue (2005-2011)**

Year	Chinn's Tobacco Profit & Tax( in Billion CNY)	Percentage of China's Fiscal Revenue
2005	2400	7.99%
2006	2963	7.52%
2007	3880	7.56%
2008	4499	7.33%
2009	5131	7.49%
2010	6046	6.25%
2011	7530	7.25%

Source: *China Statistical Yearbook 2005-2011*, National Bureau of Statistics of China.

<sup>1</sup> Yu Liu and Dingding Chen, Why China will Democratize, *The Washington Quarterly*, Vol.35, No.1, p.42.

<sup>2</sup> Zheng Yongnian, "The Prospect of China's Social Management", *Lianhe Zaobao*, Jan 3, 2012. [http://www.zaobao.com/yl/yl120103\\_001.shtml](http://www.zaobao.com/yl/yl120103_001.shtml). Accessed Jan 4, 2012.

than economic development”.<sup>1</sup> The CCP’s feverish desire for performance legitimacy makes it impossible for the government to control production and consumption as tobacco industry account for an important source of government revenue, although the share of the tobacco industry in China’s overall GDP is comparatively dwindling in recent years with the boost in other sectors such as real estate and booming export. (**Table 2**) Being frenzied to maximize economic growth, China has been addicted to revenues from its state-owned tobacco monopoly. The ideology inoculated in tobacco industry is conducive to the CCP’s performance legitimacy for the time being. While in the long run, it will be detrimental to China’s economic resilience and deteriorate public health security, undermining people’s trust in the CCP’s capacity and legitimacy to rule.

Secondly, the ideology is well established in China’s public healthcare policy in the way that exempts the government from being held accountable for the morbidity and mortality caused by tobacco consumption. As Sylva Noble Tesh, a professor of political science at the University of Arizona, has argued, “more powerful than vested interests, more subtle than science, political ideology had, in the end, the greatest influence on disease prevention policy.”<sup>2</sup> Correlated with the CCP’s GDPism, overall market-oriented reform of healthcare system was introduced in China since 1980s. The marketization transfers responsibility for healthcare cost from the government to individuals. That is to say, government needn’t to pay for the healthcare cost resulting from tobacco use. Instead, the individuals (excluding those working for the government) who are afflicted with tobacco related diseases reimburse the healthcare bills out of their own pocket. In 2006, a new round of healthcare reform was launched so as to respond to widespread criticism on the government’s profit-driven healthcare system. The rate of healthcare coverage was concomitantly improved from 15% (2000) to 95% (2010).<sup>3</sup> However, the level of benefits remains low. According to a document issued by China’s State Council in 2011, the government only subsidized 200 RMB (around \$30) to every person covered by the New Rural Cooperative Medicare Plan. Similarly, the smokers suffering from tobacco-related disease have to pay the lion’s share of their medical cost incurred.<sup>4</sup> Therapy for quitting tobacco is not included in the national healthcare system. By eschewing the economic responsibility for tobacco-related diseases in

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<sup>1</sup> “Bearing Development First in Mind forever”, China CCTV, <http://www.cctv.com/news/china/20050427/100018.shtml>. Accessed Jan 3, 2012

<sup>2</sup> Sylva Noble Tesh. *Hidden Arguments: Political Ideology and Disease Prevention Policy*. New Brunswick, New Jersey: Rutgers University, 1988, p.155.

<sup>3</sup> “China’s Primary Healthcare Covers 1.27 Billion People, the Rate Reaches 95%”, <http://www.031311.com/News/NewsShow-4480.html>. Access Jan 5, 2012.

<sup>4</sup> “Medicare Subsidy Increased from 120 RMB to 200 RMB per Capita”, <http://politics.people.com.cn/GB/1026/13947007.html>. Access Jan 5, 2012.

healthcare system, the government spares no efforts to make people take it for granted that the government has nothing to do with the tobacco victims.<sup>1</sup> Therefore, the government has no economic motivation and less pressure from smoking victims to practise tobacco control. Ironically, China's STMA, the governmental agent in charge of tobacco production and regulation, claims on its official website that it "puts the consumers' interest first".

### **Incompatible Domestic Institutional Arrangements for Tobacco control**

The internalization of international norm, to a large extent, conditions corresponding domestic institutional arrangements. After an international norm is ratified, implementing institutions should be established accordingly to ensure the international norm is put into practice. Otherwise, the international norm would become irrelevant to policy choice and the compliance would be in the air. As Andrew Cortell and James Davis note, "the structure of domestic political institutions plays an important role in determining whether and how an appeal to an international norm will influence policy choice".<sup>2</sup> In terms of tobacco control, China established a political institution in the negotiation of the WHO FCTC and an inter-ministerial mechanism to translate the global health norm. However, the incompatible institutional arrangements after China's ratification of FCTC contribute to feeble internalization. The incompatibility manifests itself in the institutional and legal arrangements.

There is no denying that China's attitude to convening an international norm about tobacco control is negative and lukewarm at best prior to the inter-governmental negotiation. Realizing that strong opposition to negotiating FCTC would dishonour China's international reputation and it would be useless and immoral to stem against the imperative of the international community to promote global health, China turned to be actively engaged in the negotiation so as to maximize its interest by accommodating the policy preferences of other countries. China was even the only winner of Orchid Award for its supporting an FCTC provision that puts public health precedence over trade. The institutional arrangement in China's delegation to the convening conference facilitates China's positive participation in negotiation FCTC.

Firstly, China's delegation was headed by an agency that is independent of STMA. When WHO kicked off the first intergovernmental negotiating conference, China arranged an inter-ministerial delegation composed of State Development and Planning Commission (SDPC), MOH and STMA etc. The delegation was dominated by the Department of Industrial

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<sup>1</sup> Matthew Kohrman, Tobacco's Exceptionality: Male Sociality, Death and Memory-Making among Chinese Cigarette Smokers, *The China Journal*, No.58, July 2007.

<sup>2</sup> Andrew Cortell, James Davis, JR, "How Do International Institutions Matter? The Domestic Impact of International Rules and Norms", *International Studies Quarterly*, No. 40, 1996, p.471.

Development (in 2008 shifted to Secretary for Economic Coordination) of then State Development and Planning Commission (SDPC) (in March 2003 renamed National Development and Reform Commission (NDRC)), an agency in charge of macroeconomic regulation. Although STMA was supervised by SDPC, it was directly overseen by the Department of Economic Development of SDPC instead of the Department of Industrial Development. Without direct connection to STMA, the Department of Industrial Development was not amenable to the influence of STMA. Therefore, China's delegation showed a very positive posture in the negotiation. As what Liu Tienan, head of China's delegation, notes, "China gave its full commitment to involvement in that process (of negotiation) over the forthcoming three years."<sup>1</sup> According to Xiong Bilin, head of China's delegation to the second session of the negotiating conference, one of China's principles in the negotiation is that "China devotedly supports WHO's efforts to control tobacco, appreciating the great significance of FCTC, posing itself as a responsible power with completely cooperative attitude to the negotiation;"<sup>2</sup> "China supported the initiative of WHO to promote the process of negotiating the framework convention, (China's) position in that respect had not changed. It should be emphasized that China not only supported WHO efforts at the international level, but also accorded special attention to policy making and policy coordination at the national level. (China's) delegation would cooperate to ensure a successful outcome".<sup>3</sup>

Secondly, China's MOH, a staunch proponent for tobacco control, played an important role in the negotiation. Undoubtedly, China was the first country that included representatives of tobacco industry in its delegation to the FCTC negotiation, which set a bad example because other countries followed suit. China's blatant inclusion of members of tobacco industry was strongly criticized by anti-tobacco NGOs. However, the voice of STMA was subdued in the negotiation. Delegates from MOH far outnumber that from STMA and constitute a counterweight to representatives of tobacco industry. (**Table 3**) The configuration of the delegation helps to put public health imperatives over the interest of tobacco industry.

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<sup>1</sup> World Health Organization, *Intergovernmental Negotiation Body on the WHO Framework Convention on Tobacco Control, First Session, A/FCTC/INB1/SR/4*, 17 October 2000, p.3.

<sup>2</sup> "An Interview with Xiong Bilin, Head of China's Delegation to FCTC Negotiation", [http://www.tobaccochina.com/people/interview/wu/20037/200372110472\\_164827.shtml](http://www.tobaccochina.com/people/interview/wu/20037/200372110472_164827.shtml). Accessed 12 November 2011

<sup>3</sup> World Health Organization, *Intergovernmental Negotiation Body on the WHO Framework Convention on Tobacco Control, Second Session, A/FCTC/INB2/SR*. 30 April-4 May 2001, p.10.

**Table 3: The Composition of China’s Delegation to FCTC Negotiation Sessions**

Sessions	Leading agency of delegation	Delegates
First Session (Oct 2000)	Department of Industrial Development, SDPC (1)	SDPC (2); <b>MOH(3)</b> ; MOFA(2); SETC(1); <b>STMA(1)</b> ;CAPM(1); MOF(1);
Second Session (April 2001)	Department of Industrial Development, SDPC(1)	SDPC (2); <b>MOH(5)</b> ; MOFA(2); SETC(2); <b>STMA(2)</b> ;CAPM(1); MOF(1);SAT(1); SAIC(1);
Third Session (Nov 2001)	Department of Industrial Development, SDPC(1)	SDPC (2); <b>MOH(4)</b> ; MOFA(2); SETC(1); <b>STMA(2)</b> ;CAPM(1);
Fourth Session (Mar 2002)	Department of Industrial Development, SDPC(1)	SDPC (2); <b>MOH(5)</b> ; MOFA(2); SETC(1); <b>STMA(2)</b> ;CAPM(1);
Fifth Session (Oct 2002)	Department of Industrial Development, SDPC(1)	SDPC (2); <b>MOH(5)</b> ; MOFA(2); SETC(1); <b>STMA(2)</b> ; MOF(1); SAIC (1); SCA(1); SICB(1)
Sixth and Final Session (Feb 2003)	Department of Industrial Development, SDPC(1)	SDPC (2); <b>MOH(4)</b> ; MOFA(2); SETC(1); <b>STMA(2)</b> ; MOF(2); SAIC (1); SQIB(1); SCA(1);

1. State Development and Planning Commission (SDPC); 2. State Administration for Industry and Commerce(SAIC); 3. General Administration of Quality Supervision, Inspection and Quarantine (GAQSIQ) ; 4. Ministry of Health (MOH); 5. Ministry Foreign Affairs (MOFA); 6. State Customs Administration (SCA); 7. State Tobacco Monopoly Administration (STMA) ; 8. Ministry of Finance (MOF); 9. State Quality and Inspection Bureau (SQIB); 10. Chinese Academy of Preventative Medicine (CAPM); 11. State Administration of Taxation (SAT)

*The Incompatibility of FCTC Implementing Mechanism.* After FCTC took effect in China in 2006, China’s State Council established a cross-ministerial group to fulfil its commitment to the international norm. It is composed of (NDRC), MOH, MFA, MOF, General Administration of Custom (GAC), SAIC, GAQSIQ, STMA, with the leadership in the hands of NDRC. In the ministerial reform conducted by the State Council in 2008, the leadership was transferred to Ministry of Industry and Information Technology (MIIT). The Administrator of STMA also acts as one of 8 standing committee of MIIT. The configuration of implementing institution runs counter to tobacco control course because MIIT functions both as a player and a referee. “The tobacco industry is not and cannot be a partner in effective tobacco control”.<sup>1</sup> By contrast, the institutional arrangement for implementing FCTC makes China’s tobacco industry a legitimate stakeholder in the tobacco control policy making mechanism. Therefore, it is very hard to imagine that effective tobacco control policies would be adopted. For example, on the 2012 National Working Conference about

<sup>1</sup> WHO, *Tobacco Industry Interference with Tobacco Control*, Geneva, 2008, p.22

Tobacco, Miao Yu, the current Minister of MIIT, thought highly of the substantial achievement made by the tobacco industry in 2011 and attached great importance to stable and sustainable growth of tobacco industry.<sup>1</sup> In response to the criticism for China's failure to control tobacco, he even declared that "The demand of 350 million smokers for cigarettes should be taken into consideration; we should differentiate prohibition of drug from that tobacco; While MII is designing a specific programme for implementing FCTC, there is no timetable for the programme".<sup>2</sup> In 2011, while responding the call to put graphic warnings on cigarettes packs, Li Yizhong, the then minister of MIIT, claimed that putting brutal pictures on cigarette packs is unsuited for Chinese culture.<sup>3</sup> Whereas, many scholars have demonstrated that norms not enjoying a "cultural match" can be adopted domestically.<sup>4</sup> Simply put, the "cultural conformity" excuse does not hold water. On the 2009 National Working Conference about Tobacco, Li Yizhong even states:

*The Tobacco industry should persistently and confidently implement the Central Party's decision and strategy so as to advance the tobacco industry; The tobacco industry should thoroughly practice the idea of Scientific Development (a thought put forward by President Hu Jintao), following steadfastly the Chinese-specific way to industrialization, putting national interest first, maintaining the excellent momentum of tobacco industry, keeping the stable increase of tax, so as to make more contribution to the growth of national revenue.*<sup>5</sup>

On the other hand, MOH is sidelined for in tobacco control policy making for its disadvantaged position. As the most important watchdog for public health, MOH should take up the leading part in spearheading national tobacco control. The implementation of FCTC

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<sup>1</sup> "Remarks of Miao Yu on the 2012 National Working Conference about Tobacco", 11 January 2012. [http://www.echinatobacco.com/zxzx/2012-01/11/content\\_306380.htm](http://www.echinatobacco.com/zxzx/2012-01/11/content_306380.htm). Accessed Jan 15, 2012

<sup>2</sup> "Minister of MIIT Responding to Criticism: Demand of 350 Million Smokers be Considered", *Beijing Morning Post*, March 10, 2012.

<sup>3</sup> Chinese Association on Tobacco Control, "WHO Urges China to Put Large Graphic Warning on Cigarette Package", 14 July 2011.

<sup>4</sup> Amitav Acharya, "How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism," *International Organization*, No.58, Spring 2004, pp. 239–75; Andrew Cortell and James Davis, Jr., "When Norms Clash: International Norms, Domestic Practices, and Japan's Internalisation of the GATT/WTO," *Review of International Studies*, No.31, January 2005, pp.3–25; Petrice R. Flowers, *Refugees, Women, and Weapons: International Norm Adoption and Compliance in Japan*, Stanford: Stanford University Press, 2009.

<sup>5</sup> Ministry of Industry and Information Technology of the People's Republic of China, "Remarks of Li Yizhong on 2009 National Working Conference on Tobacco", Sep 14, 2009.

should hinge on the jurisdiction of MOH. However, MOH's authority in tobacco control is institutionally held back. On one hand, MOH is the only ministry that is not headed by a party member among FCTC Implementing mechanism, which put MOH at disadvantage in the competition for resources with other ministries in implementing FCTC. For example, Office of Tobacco Control, the only standing unit responsible for tobacco control affiliated to MOH, is only staffed with 8 people and has an regular budget of RMB 9.6 million annually.<sup>1</sup> The regular budget for tobacco control accounts for 0.5% of the total budget for disease prevention and control.<sup>2</sup> Therefore, it is impossible to expect such an understaffed and poorly funded unit to launch large-scale tobacco control campaign in a country with over 350 million smokers and 700 million second-hand smokers. On the other hand, MOH is not well positioned to advance tobacco control in healthcare system. Stringent tobacco control in healthcare system will present very positive and exemplary implications to successful national tobacco control. In February 2011, in order to meet China's obligation to provide universal protection from tobacco use in 2011 stipulated by FCTC, MOH issued *Implementation Rules on the Regulations on Public Place Sanitation (MOH Order No.80)*, prohibiting smoking in all indoor public places. Undoubtedly, the *Implementation Rules* reflect MOH's commitment to tobacco control. However, its enforceability remains dubious because it rests on the provincial and local government. In China, healthcare system is not vertically but horizontally administrated. That is to say, chiefs in charge of healthcare system are only accountable to local governments. The local governments may not have motivations to put those resolutions into practice since they are preoccupied with so-called "political credit" in the form GDP.

*Absence of National Legal Institutions in Tobacco Control.* International norms will not make much difference until they are institutionalized in domestic law. This is also a process of legal internalization. "Legal internalization occurs when an international norm is incorporated into the domestic legal system through executive action, judicial interpretation, legislative action or some combination of the three."<sup>3</sup> However, the legal internalization of FCTC hasn't taken place so far. As an international treaty, FCTC only provides blueprints and guidelines for national action. So legislation is at the very heart of effective tobacco control. All the countries that have successfully conducted tobacco control have passed draconian national legislation on. For example, Australia has enacted *Tobacco Advertising Prohibition Act (1992)*, *Tobacco Products Regulation Act* etc, making "Australia one of the darkest

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<sup>1</sup> "Selling Death", *China Youth Daily*, Dec 3, 2008.

<sup>2</sup> Yang Gonghuan, China Wrestles with Tobacco Control, *Bulletin of World Health Organization*, No.88, 2010, p.251.

<sup>3</sup> Harold Hongju Koh, "Why do Nations Obey International Law", *The Yale Law Journal*, Vol. 106, No.8, 1997, p.2657.

markets (for tobacco products) in the world”;<sup>1</sup> Brazil has enacted a law banning smoking in all enclosed public spaces in December 2011. Therefore, comprehensive tobacco control legislation is a pivotal strategy for tobacco control. It is even claimed that “Legislation is the most important strategy for comprehensive tobacco control”.<sup>2</sup> As a matter of fact, FCTC itself attaches great importance to legislation at the national level in tobacco control. For example, Article 7 of FCTC states that “Each Party shall adopt and implement effective legislative, executive, administrative or other measures necessary to implement its obligations”.

Since China ratified FCTC in 2005, no national legislation has been made on tobacco control. They have little relevance for effective tobacco control. Therefore, China has no strong teeth for practicing FCTC. As Yang Gonghuan, Director of National Office of Tobacco Control, has pointed out, “China failed to control tobacco because the government has been inactive in legislation and law-enforcement, particularly, in the legislation on the national level”.<sup>3</sup>

29 May 2010, a China Legal Panel Working Expert on China’s Tobacco Control was formed under the joint auspice of China’s Centre for Disease Prevention and Control, China University of Political Science and Law, and China Academy of Medicine. The Panel is devoted to providing impetus, support and advice on legislative drafting for national legislation on tobacco control. A lot of motions have been made for the national legislation. The National People’s Congress of the People’s Republic of China (NPC), China’s top law-making body, has become a mainstay platform for anti-tobacco activists to try to promote legislation on tobacco control. The number of congresspersons who signed and submitted the motions on tobacco control to sessions of NPC and the number of the motions have increased dramatically in recent years. **(Figure 1)** The substantial increase indicates that national legislation on tobacco control has become a pressing issue in the law-making agenda. Special committee of the National People’s Congress in charge of public health legislation has also urged that the State Council seriously study the general framework on tobacco control. The Committee also emphasized that the rationale for China’s *National Law on Tobacco Ban and Tobacco Control* is well grounded epidemiologically.<sup>4</sup> China’s National Committee of the Chinese People’s Political Consultative Conference (NCCPPCC), the top political advisory

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<sup>1</sup> S Chapman, F Byrne, S M Carter, “Australia is one of the Darkest Markets in the World” : the Global Importance of Australian Tobacco Control, *Tobacco Control* , No.12, 2003, (Suppl),pp.1-3.

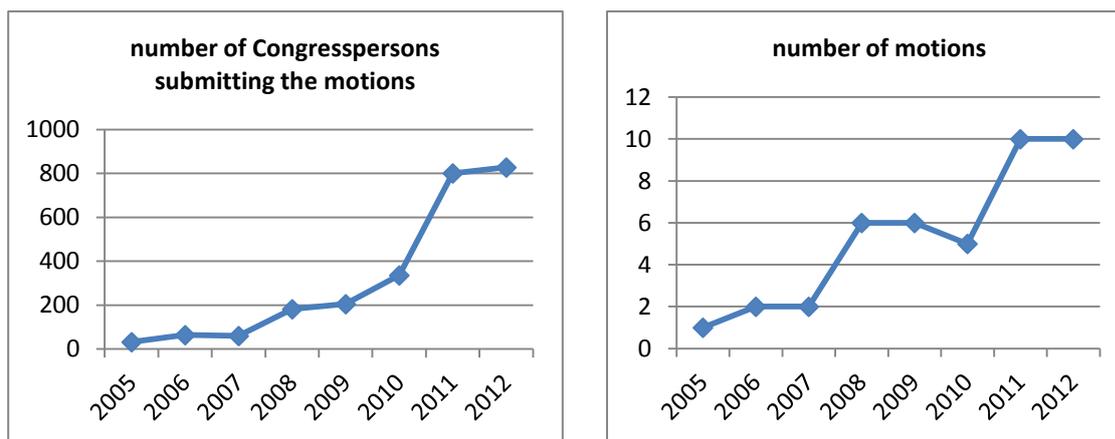
<sup>2</sup> “Why is Tobacco out of Control?” [http://news.xinhuanet.com/politics/2011-05/07/c\\_121388832.htm](http://news.xinhuanet.com/politics/2011-05/07/c_121388832.htm). Accessed Dec 15, 2011.

<sup>3</sup> Yang Gonghuan, Director of the Office of Tobacco Control, “China’s Domestic Work on Tobacco Control is only a Show”. <http://www.epiman.cn/article-147-2.html>. Access Oct 10, 2011.

<sup>4</sup> Ren Maodong, “Starting for a New Point, Improving Legislation in Health”, [http://www.npc.gov.cn/npc/bmzz/jkww/2011-03/25/content\\_1648972.htm](http://www.npc.gov.cn/npc/bmzz/jkww/2011-03/25/content_1648972.htm). Accessed Jan 1, 2012.

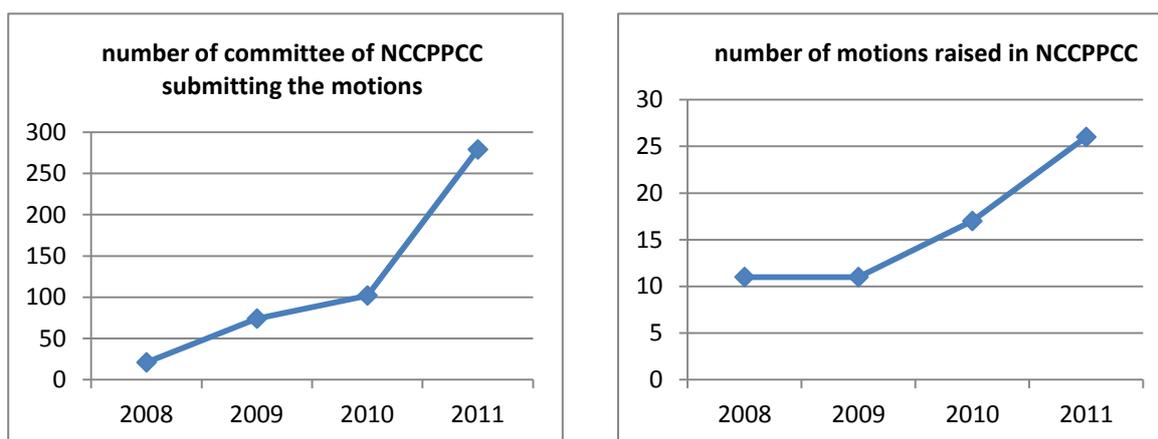
body, has also called on the government to legislate national tobacco control. Both the number of motions on tobacco control and committee raising the motions has increased drastically in the latest four years. (**Figure 2**) Although NCCPPCC is not a law-making agency in China's politics, the rising consensus on tobacco issue speak great volumes for the urgency to make national law on tobacco control. Unfortunately, national legislation agenda for tobacco control has not been set in the government's priority.

Figure 1 Number of Congresspersons in NPC Submitting Motions on Tobacco Control and the Number of Motions on Tobacco Control (2005-2012)



Source: the data are from Education, Science, Culture and Public Health Committee of China National People's Congress.

Figure 2 Number of Committees of NCCPPCC Submitting Motions on Tobacco Control and the Number of Motions on Tobacco Control (2008-2011)



Source: the data is provided by Shao Hong, a standing committee of China's NCCPPCC.

*Absence of Legal Institution for Litigation against Tobacco Industry.* Litigation against tobacco sector is an effective strategy for tobacco control. It may help the smoking victims to claim compensation from the tobacco industry. Furthermore, the lawsuits may transform

social norms about smoking by exposing deceptions of tobacco industry so as to make people better informed of the deceitful marketing and promotional strategy. For example, litigation in the US has disclosed the tobacco industry's history of denial and fraudulence, and had led to the release of previously secret internal industry documents. Last but not least, the litigation may arrest the public's attention, enhance advocacy and boost the public's awareness and knowledge of tobacco-induced harms due to wide coverage of such events. As argued by experts in tobacco control, while civil litigation is not a panacea that will eliminate the tobacco industry, US experience shows that litigation can be a very effective tobacco control strategy.<sup>1</sup> WHO FCTC also acknowledges the importance of such litigation:

*“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”; “The Parties shall, as appropriate and mutually agreed, within the limits of national legislation, legal practices and applicable existing treaty arrangements, afford one another assistance in legal proceeding relating to civil and criminal liability consistent with this Convention”.*

<sup>2</sup>

The aforementioned statement means that every Party to FCTC should be committed to refraining from banning civil lawsuits against tobacco industry and its affiliated agency to as to better control tobacco use. Apparently, China's STMA have anticipated the overwhelming threat of litigation to tobacco industry and taken pre-emptive measures to ban tobacco litigation. In a document issued by STMA in 2008, it is stipulated that:

*Legal litigation against tobacco industry should be strictly forbidden so as to maintain the authority of China's judicial system. Based on the fundamental guidelines made by (China's) State Council on China's approach to negotiating FCTC, China's delegate has strenuously and successfully negotiated on such important issues as “liability and compensation”. Given that China's social system is different from that of many other countries and tobacco industry is state-owned in China, legal litigation against tobacco industry may affect the normal production and consumption of tobacco, further undermining the development of our national economy. Meanwhile, the issue of “liability” not only affects our national economic interest, but also involves national law-making ideology and judicial system. There are over 300 million tobacco consumers in China. Failure to forbid litigations against tobacco industry will incur more litigation, and consequently bring tremendous pressure on our national judicial*

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<sup>1</sup> Rob Cunningham, Comprehensive Tobacco Control Strategy Needed, *Tobacco Control* No.9, 2000, p.239.

<sup>2</sup> WHO. *WHO Framework Convention on Tobacco Control*. Geneva, Switzerland: World Health Organization, 2003, p.17.

*system. Therefore, it is strongly recommended that high-handed measures should be taken to prohibit such litigations. Otherwise, smokers will use litigations to demand irrational compensation, seriously affecting our national economic development and judicial system, jeopardizing social stability.*<sup>1</sup>

Even though restrictions have been imposed by the government, a few cases of litigation against tobacco industry still have been initiated. It is not beyond expectation that no lawsuits were successful. For example, in 2001, on behalf of a 17-year-old juvenile smoker, Beijing Zhicheng Law Firm unprecedentedly submitted an indictment to a Beijing-based court, accusing STMA and its affiliated 25 tobacco industries of violating the juvenile's right to know. When the boy was 13 years old, he surfed the websites of STMA and was impressed that smoking looks elegant and civilized and doesn't appear harmful. From then on, he became addicted to smoking and developed such symptoms as chronic cough. The litigation was rejected by the court. In July 2007, Liu Shengjiang, a Professor in law who has smoked for 15 years, litigated to a court against a tobacco manufacturer in Nanjing on the ground that the cigarette he consumed deformed and stained his teeth. He demanded compensation and apology on the part of the manufacturer. Although his litigation was accepted, he lost the lawsuit. The court verdicted that there was no causal links between smoking and his suffering.

### **Interest Groups**

According to Marcus Ethridge and Howard Handelman, interest group is "an organization that attempts to influence public policy in a specific area of importance to its members".<sup>2</sup> In the area of tobacco control, interests groups exerts tremendous influence in public policy making because any potential policy change tends to break the existing distribution of benefits and costs. As Thomas Oliver argues, the politics of an issue are determined in large part by how it distributes the benefits it confers and the costs it imposes.<sup>3</sup> China's politics of tobacco control is also significantly impacted by the way it threatens the benefits of vested interest groups in tobacco industry. The role of China's tobacco interest groups cannot be overstated given that tobacco industry in China is monopolized and owned by the government. The central government's authority in making tobacco control policy is increasingly held hostage by the vested interest groups. They the may hinder the central

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<sup>1</sup> Zhou Ruizeng, "Measures be taken to counteract FCTC", <http://www.tobacco.org.cn/news/tgrs.htm>. Accessed Jan 16, 2012.

<sup>2</sup> Marcus Ethridge, Howard Handelman, *Politics in a Changing World: a Comparative Introduction to Political Science*, Thomson Wadsworth, 2008.

<sup>3</sup> Thomas R.Oliver, "The Politics of Public Health Policy", *Annual Review of Public Health*, No. 27, 2006, p.209.

government from initiating or implementing any stringent tobacco control policy. The interest groups in tobacco industry include STMA, certain local governments heavily reliant on tobacco revenues, the farmers growing tobacco leaves, and the retailers of tobacco products. However, the resistance to tobacco control on the part of retailers and farmers is negligible since they are not organized and have a very weak say in making tobacco control policy. Furthermore, the farmers don't have a strong preference for growing tobacco leaves because it is impossible for them to escape poverty by growing tobacco anyway.<sup>1</sup> The farmers are even subject to the government pressure to grow tobacco leaves. Given that STMA and provincial governments represents the biggest vested interests, this part emphatically elaborates on how these actors undercut the domestic internalization of FCTC.

### ***STMA: the Forefront Opponent of Tobacco control***

STMA (China National Tobacco Corporation, CNTC) poses the most formidable resistance against the internalization of FCTC. With a view to exercising tobacco monopoly domestic market, China established CNTC in January 1982. CNTC is vertically responsible for the marketing, production, distribution and sales of tobacco products. In September 1983, the State Council enacted *The Regulations on Tobacco Monopoly*, which institutionalized monopolization of CNTC. In 1984, STMA, now under the supervision of China's MIIT, was established to formulate development strategies for tobacco industry, conduct industrial restructuring, draft relevant regulations and policies, and oversee the enforcement of the Law of Tobacco Monopoly etc. In 1997, China's State Council promulgated *Regulations for the Implementation of the Law of the People's Republic of China on Tobacco Monopoly*, which further cemented the tobacco monopoly system. STMA successfully fended off competitive foreign tobacco industries salivating over the Chinese domestic market via the *Regulations*. STMA and CNTC, while in different names, refer to the same entity. The administrator of STMA is also the CEO of CNTC. STMA aims to maximize the development of China's tobacco industry. "The single largest challenge to WHO FCTC implementation is the tobacco industry, which continuously adapts its tactics to circumvent new laws and regulations controlling its activities".<sup>2</sup> STMA, as the proxy of the biggest tobacco industry in the world, poses strongest opposition to tobacco control measures advocated by FCTC. As what Chen

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<sup>1</sup> Shang Zhixin, "The profit and tax of Tobacco Industry Ranks No.1; Tobacco Growers in Yunnan only Earn CNY 40 (less than \$ 7) Per Capita Monthly and Forced to Grow Tobacco Leaves", *China Economic Times*, 3 November 2005; Teh-wei Hu, et, al., "China at the Crossroads: the Economics of Tobacco and Health", *Tobacco Control*, No.15, 2006, pp.37-41.

<sup>2</sup> G. Lien, K. Deland, Translating the WHO Framework Convention on Tobacco Control (FCTC): Can We Use Tobacco Control as a Model for Other Non-communicable Disease Control, Public Health? *Public Health*, Vol.125, 2011, p.851.

Zhu (Minister of MOH), et al. write, “the major challenge in accelerating implementation of the FCTC is the extraordinary power, and profitability, of the tobacco industry in China”.<sup>1</sup>

STMA is a combination of government function and enterprise management. It mandates both regulation and marketing of tobacco industry. Such a unique administrative system ensures the absolute oligopoly status of tobacco industry in China, which brings about astronomical monopoly profits for the tobacco industry. As well-known US investor Warren Buffet notes, “I will tell you why I like the cigarette business. It costs a penny to make. Sell it for a dollar. It is addictive and there is fantastic brand loyalty”.<sup>2</sup> Under the monopoly system, STMA is unsurprisingly one of the most lucrative enterprises in China. Statistics has shown that the net profit of CNTC ranks No.5 among all the Chinese corporations in 2011.<sup>3</sup> Among those beneficiaries, STMA accounts for a lion’s share of the profits from tobacco industry apart from the central government. **(Table 4)** With its unrivalled power of purse, STMA

Table 4 The Allocation of Net Profit of a Carton of Cigarettes (Golden Dihao) in 2010 (in CNY)<sup>4</sup>

	Total Net Profit	18775	Share (100%)
Beneficiaries			
Government Revenue	8652		46%
STMA(CNTC)	5223		28%
Tobacco Factories	2500		13%
Retailer	2400		13%

Source: “Tobacco Profit Enjoyed by the Monopoly Group”, *Chinese Business View*, May, 11, 2005.

spares no efforts to prevent ushering in effective tobacco control measures in China. For example, STMA has written to Vice Premier of the State Council to defend the interest of

<sup>1</sup> Chen Zhu, Shin Young-soo, Robert Beaglehole, “Tobacco Control in China: Small Steps towards a Giant Leap”, the *Lancet*, Vol.379, March 3, 2012, p.779.

<sup>2</sup> Tara Parker-Pope, *Cigarettes: Anatomy of an Industry from Seed to Smoke*, New Pr, 2001.

<sup>3</sup> “CNTC Astronomical Net Profit, Profitability Exceeding CNPC”, March 06, 2012. <http://finance.china.com.cn/industry/company/20120306/573204.shtml>. Accessed March 07, 2012.

<sup>4</sup> Golden Dihao (Imperial) is a famous cigarette brand in Henan Province, China. The cost of a carton of Dihao cigarettes is about 6225 CNY. The final retailing price is 25000 CNY. The net profit amounts to 18775 CNY. See Dong Wei, “The failure of International Tobacco Control Measure, Why is the Increase of Tax not linked to the Price of Cigarettes?” *China Youth Daily*, 19 January 2010.

tobacco industry and pledge China not to ratify the Framework Convention on Tobacco Control and its associated protocols.<sup>1</sup> On the whole, STMA covertly adopted a framing strategy to that end. “Framing” refers to a strategy that interest groups utilize to advance their interests by generating powerful perceptions which function as a framework for the public’s way of thinking.<sup>2</sup> By influencing the public’s attitudes towards and interpretation of an issue in society, the framing strategy aims to highlight the justifiability of the issue. Similarly, by accentuating tobacco issue as anything but health policy, STMA strives to improve the social acceptability of smoking and undermine the justifiability of tobacco control by framing the tobacco industry in a favourable way.

*Framing the Tobacco Industry as an Economic Pillar.* Framing tobacco industry as an important economic contributor has been an everlasting strategy for tobacco interest groups. “Economic contribution arguments form the cornerstone of tobacco industry public affairs. Data from farm incomes, jobs, taxes, balance of trade data, etc., form the catechism of industry lobbyists”.<sup>3</sup> The strategy has been so widely used that many people take it for granted. For example, tobacco politics was dominated for much of the 20th century by a positive view of the tobacco industry as a generator of jobs, exports and economic growth in the US.<sup>4</sup> The policy image of tobacco as an important economic issue was also adopted by tobacco industry in UK since World War II. China’s STMA portrays tobacco industry as an economic issue by framing tobacco industry as an important source of employment and government revenue. The strategy is particularly alluring when China is facing an imminent economic depression currently. According to the frame, any decline in tobacco consumption would impair China’s economy by reducing tax revenue and employment. It fits perfectly with the Communist Party’s development-first ideology and caters to the Party’s economic performance-based legitimacy. STMA has declared that it pursues nothing but national interests (economic development). By highlighting tobacco industry’s compatibility with national interests, STMA tries to play up the importance of tobacco industry to China’s economic development. For example, Jiang Chengkang, administrator of STMA, claims that

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<sup>1</sup>“Key Efforts by British –American Tobacco CORA Department on Tacking the WHO Tobacco Free Initiative”, Bates No: 321422732-321422735.

<http://www.legacy.library.ucsf.edu/tid/bnz34a99/pdf?search=%22china%20fctc%22>. Accessed Oct 12, 2011

<sup>2</sup> Thilo Gru ning, Christoph Stru nck & Anna B. Gilmore, “Puffing Away? Explaining the Politics of Tobacco Control in Germany,” *German Politics*, Vo.17, No.2, 2008, p.150.

<sup>3</sup> Yussuf Saloojee, Elif Dagli, “Tobacco Industry Tactics for Resisting Public Policy on Health”, *Bulletin of the World Health Organization*, Vol.78, No.7, 2000, p.905.

<sup>4</sup> E. Albek, C. Green-Pedersen and L.B.Nielsen, “Making Tobacco Consumption a Political Issue in the United States and Denmark: The Dynamics of Issue Expansion in Comparative Perspective”, *Journal of Comparative Policy Analysis* 9, 2007, pp.1-20.

“Chinese tobacco monopoly system aims to serve national interests; the tobacco industry has no other narrow interests apart from national interests”. “The shared value of tobacco industry is putting national interests first”.<sup>1</sup> STMA even claimed that China’s social and economic development would be impossible without tobacco industry; Tobacco industry is indispensable to China’s economy.<sup>2</sup>

The so called economic contribution generated by tobacco industry is not a blessing but a curse for China’s long-term economy. The profits of the tobacco industry are fuelling the growing burden of non-communicable diseases that is threatening the economy.<sup>3</sup> The economic contribution argument is only an insidious pretext for tobacco promotion. Current evidence from developed countries and emerging data from developing countries indicate that the economic argument is largely unfounded.<sup>4</sup> “The overall economic claims of the tobacco industry do not stand up to broader analysis”.<sup>5</sup> As for the employment contribution made by the tobacco industry, it should be born in mind that the money once spent on tobacco will not evaporate. Instead, it will be switched from cigarettes to other services and commodities, generating alternative job opportunities to make up for the lost jobs from the tobacco industry. By highlight the indispensability of tobacco industry to China’s economy, STMA aims to stymie tobacco control. Unquestionably, the contribution of China’s tobacco industry to the government fiscal revenue has been increasing and accounts for a large share of China’s fiscal revenue; whereas, the importance of tobacco industry to China economy is relatively shrinking. The trend is expected to continue with the booming growth of high technology and other industries in China’s economy. The prosperity of tobacco industry is fundamentally antithetical to public health promotion by tobacco control. The more revenue the tobacco industry produces, the higher price will be paid for public health in the near future. According to Yang Gonghuan, Director of Office of Tobacco Control, the net benefit generated by the tobacco industry is already below zero.<sup>6</sup> In 2005, the total direct and indirect costs attributable to smoking amounts to 252.6 billion CNY, accounting for 13.1 percent of the annual GDP, while the totality of profits & tax produced by the tobacco

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<sup>1</sup> Jang Chengkang, “Putting National Interest First: the Shared Value of Tobacco Industry”, *China Tobacco*, 17 August 2005.

<sup>2</sup> China’s State Tobacco Monopoly Administration, “Social and Economic Development Impossible with Tobacco Industry”, 26 August 2009. <http://www.ctt.cn/elms/portal/detail.jsp?docID=3530&type=53&parentType=5>. Accessed Jan 12, 2012

<sup>3</sup> Chen Zhu, Shin Young-soo, Robert Beaglehole, “Tobacco Control in China: Small Steps towards a Giant Leap”, the *Lancet*, Vol.379, March 3, 2012, p.779.

<sup>4</sup> World Bank, *Curbing the Epidemic: Governments and the Economics of Tobacco Control*, Washington DC, 1999.

<sup>5</sup> WHO Tobacco Free Initiative, *Tobacco Industry Interference with Tobacco Control*, Geneva, 2008, p.18.

<sup>6</sup> Yang Gonghuang, Hu Angang, *Tobacco Control and China’s Future*, Beijing: Economic Daily Press, 2011.

industry is only 240 billion CNY; The estimated net contribution of tobacco industry to China's economy was minus 61.8 billion CNY.<sup>1</sup> That is to say, the roaring expenditures and loss of productivity attributable to tobacco-induced diseases outweigh the economic benefits generated by the tobacco industry. Therefore, the economic contribution argument doesn't stand close scrutiny.

*Framing Tobacco Control as a Threat to Social Stability.* Since "Maintaining Stability Top Priority" was raised by Deng Xiaoping in 1990, the tenet has been practiced in social management by CCP. Particularly, the incumbent Party has attached great importance to maintaining social stability because widespread mass riots have been increasingly ignited by corruption, land grabs, environmental disasters and a widening inequality between the haves and the have-nots in recent years. Social stability is regarded as the top concern by the government. China's STMA also utilizes the stability-top-priority logic to stymie anti-tobacco efforts, designating tobacco control as a contributor to social instability. By correlating tobacco control to social instability, China's STMA aims to reversely politicize tobacco control and counteract tobacco control with a political shield. Zhang Baozhen, deputy chief of China STMA, claimed that "Smoking harms people's health, but restraining smoking threatens social stability".<sup>2</sup> While responding to an appeal of tobacco control on the Chinese People's Political Consultative Conference in 2008, Zhang said "Smokers rioted when the former Soviet Union collapsed because they could not get any cigarettes. The principle applies in China as well; Tobacco control affects social stability"; "As a developing country, China still needs the tobacco industry".<sup>3</sup> Shanghai Tobacco Corporation, the biggest affiliated tobacco industry of China STMA, even declared that tobacco control measures such as increasing tobacco tax only load the economic burden of the smokers and threatens social stability and solidarity.<sup>4</sup>

STMA's reverse politicization of tobacco control throws a bluff on tobacco control efforts because those who are engaged in tobacco control might be accused of destabilizing social "harmony". Furthermore, the local governors are discouraged to promote tobacco control for fear that social instability events to be ignited by tobacco control subtract their "political credit" for promotion. The social stability argument is apparently far-fetched. As a matter of fact, the opposite may be true because widespread tobacco epidemic deteriorates poverty and breeds social instability consequently.

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<sup>1</sup> Li Ling, Chen Qiulin, Jia Ruixue and Cui Xuan, Research into China's Smoking Patterns and the Disease Burden of Tobacco Use, *Chinese Health Economics*, Vol.27, No.1, 2008.

<sup>2</sup> "We Stress the Harm Caused by Smoking, But Inaccessibility to Cigarettes Threatens Stability", *Beijing Times*, March 7, 2007.

<sup>3</sup> Zhang Baozhen, "Smoking Curb could Upset China Stability", *Reuters*, March 7, 2007.

<sup>4</sup> "Shanghai Tobacco Corporation Claims that Tobacco Control Threatens Social Stability and Solidarity", 30 May 2007. <http://news.163.com/07/0531/15/3FR47U4G0001124J.html>. Accessed Feb 20, 2012

*Framing tobacco Industry as a Legitimate Actor in Tobacco Control Policy Making.* Public health policy interests are in inherently irreconcilable conflict with that of the tobacco industry. Therefore, effective tobacco control policy making should be exempted from the interference of tobacco industry. Realizing the contradicting interest between tobacco control community and tobacco industry in the negotiation of FCTC, World Health Assembly resolution 54.18 urges Member States to be aware of affiliations between the tobacco industry and members of their delegations;<sup>1</sup> Article 5.3 of WHO's FCTC also says that "in setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these public health policies from commercial and other vested interests of the tobacco industry in accordance with national law".<sup>2</sup>

Given that China's STMA per se acts on behalf of tobacco industry, the irreconcilability of conflict of interest determines that STMA cannot be a partner in effective tobacco control. Nevertheless, STMA frames itself as a legitimate stakeholder in tobacco control and strives to have a large say in tobacco control policy making. Actually, China is the first country that has included representatives on behalf of tobacco industry in its delegation to FCTC convening conference. One document of British American Tobacco shows that, in order to enhance the profile of the STMA in tobacco control, "STMA will seek participation in the FCTC Working Group in the name of China Tobacco Society, and will also seek participating in the Intergovernmental Negotiating Body in the name of STMA. It will also try to secure participation/representation from the Ministries of Finance and Agriculture".<sup>3</sup> In reality, the strategic tobacco control policy making, which should have rested in the top policy making agency, now have fallen in the hands of STMA. To some extent, the STMA'S pre-emptive and subversive self-designation as stakeholder of tobacco control successfully blocked the initiation of restrictive tobacco control measures. Legislation concerning tobacco control was entrusted to STMA. Consequently, the rules made by STMA are neither operable nor feasible, making no difference in tobacco control. For example, under the auspices of the STMA, a so-called research group, composed of more than 70 experts in tobacco industry, was formed so as to counteract the effect of FCTC. Eventually, the group produced *Counterproposal and Countermeasure Scheme against WHO FCTC*,<sup>4</sup> which fundamentally runs counter to the spirit of FCTC. By abusing its governmental administrative power, the STMA translated

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<sup>1</sup> World Health Organization, World Health Assembly Resolution 54.18: Transparency in Tobacco Control, May 21, 2001.

<sup>2</sup> WHO, *WHO Framework Convention on Tobacco Control*, Geneva: WHO, 2003, p.7.

<sup>3</sup> "Key Efforts by British –American Tobacco CORA Department on Tacking the WHO Tobacco Free Initiative", Bates No: 321422732-321422735. <http://www.legacy.library.ucsf.edu/tid/bnz34a99/pdf?search=%22china%20fctc%22>. Accessed Jan 12, 2012.

<sup>4</sup> Zhou Ruizeng, *Counterproposal and Countermeasure Scheme against WHO FCTC*, Beijing: Economic Science Publishing House, 2006.

*Counterproposal and Countermeasure Scheme* into national tobacco control policy. For instance, *the Provision on Cigarette Packaging and Labelling Selling within the Territory of the People's Republic of China* enacted by STMA with the GAQSIQ, is just another version of *Counterproposal and Countermeasure Scheme*. The *Provision* distorts and weakens Article 11 of WHO FCTC, which specifies packaging and labelling of tobacco products. Although STMA issued *the Notice of China STMA on Further Enhancing Warnings of Tobacco Package*, which will come into effect on April 1, 2012, the *Notice* is still a far cry from the requirements of FCTC. STMA tried to dilute the effect of FCTC in Chinese version. For example, “should” was translated into “宜 (may)” instead of “应当 (under obligation)”; “Comprehensive ban on advertising” was translated into “广泛 (extensive)” rather than “全面 (all)”. Meanwhile, The STMA adopted several self-regulatory or voluntary policies to take the place of national tobacco control legislation. Resting tobacco control policy making in the jurisdiction of STMA is almost tantamount to inviting the fox to sit in the chicken coop and discuss how to guard the chickens.

Additionally, STMA utilizes other approaches to thwart the domestic tobacco control efforts in China. For example, it frame tobacco control as a complete sovereignty issue and advocate China's exceptionalism in the global tobacco control campaign. On the public hearings on the FCTC, STMA declared that “The form, scope and scale of any tobacco controls must respect each country's different circumstances, and choices cannot interfere with national sovereignty”.<sup>1</sup> By asserting national sovereignty over tobacco control, STMA tries to use self-discipline to replace FCTC in tobacco control. All in all, STMA perversely employs the framing strategy to upgrade the social acceptability of tobacco industry and downgrade the justifiability of assertive tobacco control as a public health issue.

### ***Local Governments: Resistant Stakeholders in Tobacco Industry***

Effective tobacco control rests not only on discouraging tobacco consumption but also on restricting tobacco production. Restriction on tobacco production should be the first defence line against tobacco epidemic. Nevertheless, local governments spare no pains to advance tobacco output out of parochial government revenue consideration. The fact that tobacco industry substantially contributes to the local government revenue in such provinces as Yunnan, Guizhou, Hunan etc, shows that those local governments are stakeholders in tobacco industry. In 2005, China historically put an end to rural agricultural taxes to relieve the burdens of farmers. However, the tobacco leaves tax is maintained as an incentive for local governments to motivate tobacco leaf growth. Tobacco leaves become the only source of

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<sup>1</sup> “Global Tobacco Treaty Hearings: Public Hearings on the World Health Organization's Proposed Global Treaty Framework Convention on Tobacco Control”, October 13, 2000, Bates No: 524860008. <http://www.legacy.library.ucsf.edu/tid/wzo03c00/pdf?search=%22china%20fctc%22>. Accessed October 26, 2011

revenue from agriculture for local governments, which makes local officials in agricultural areas more inclined to encourage and even pressurize farmers to grow tobacco leaves since they can collect taxes and finance themselves. As a result, strong incentives of local governments to boom tobacco production pose daunting challenges for tobacco control.

Given that the central government divinizes GDPism in development, it is the local governments that put the so-called developmental theory into practice. Full development of tobacco industry, to the local governors, is a political credit and source of government revenue as well.<sup>1</sup> Business-minded, local governments promote tobacco industry as an economic backbone and put tobacco production on the top agenda. Several provinces developed large-scale tobacco industry and are heavily dependent on money generated from tobacco to keep their governments running. (**Table 5**) Yunnan province, for example, is so heavily dependent on tobacco industry that Qin Guangrong, the Governor of Yunnan Province, even claims that “Tobacco industry is the most important industry of Yunnan Province; No other industries can take the place of tobacco industry in the development of Yunnan”.<sup>2</sup> Such a strong addiction of local governments to the tobacco revenue finds full expression in the following analogy made by a government administrator of Yunnan province: “If tobacco industry sneezes, we will be caught by a cold consequently; If tobacco industry is caught by a cold, we will have a fever as a result”.<sup>3</sup>

Table 5 the Ratio of Tobacco Contribution to Government Revenue of several Provinces in 2010

Yunnan	Guizhou	Hunan	Hunbei	Anhui	Henan	Fujian
17.7%	6.95%	6.39%	3.52%	2.47%	2.22%	2.14%

Overwhelmingly addicted to astronomical tobacco-generated revenue and obsessed with the GDPism, the local governments shelve tobacco control obligations and turn a blind eye to the public health disasters induced by tobacco use. Instead, they have offered a series of preferential policies supportive of tobacco industry. In order to promote local tobacco

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<sup>1</sup> In terms of the allocation of tobacco tax between China’s central government and local governments, the central gets the lion’s share of tax. Notwithstanding, a 20% tobacco leaf tax was designed for local governments; The local governments also collect 25% of value-added tax of tobacco products and 50% of tobacco enterprise income tax and city construction/maintenance tax based on value-added tax and exercise tax of tobacco products.

<sup>2</sup> “Qin Guangrong’s Remarks on the Provincial Government’s Tobacco Conference”, *Yunnan Daily*, August 15, 2008.

<sup>3</sup> “Local Governments’ Dependence on Tobacco-Generated Revenue Spoils the Reform of China Tobacco Industry”, *Outlook News Weekly*, November 2, 2007.

economy, local government resort to regional protectionism and call on officials to consume a certain amount of cigarettes with public money. For example, Honghu City, a region of Hubei Province, issued a notice in 2007, which specified a quota of 15,900 cartons of cigarettes to be consumed on official business banquets. The quota was apportioned to governments at different levels. Any agencies that fail to finish the quota will be punished accordingly.<sup>1</sup> With an excuse to boost local economy in global financial crisis in 2009, Gonggan County of Hubei Province even issued an edict, requiring the official agencies in the county to purchase 23,000 cartons of cigarettes. Those officials who fail to meet their targets or are caught smoking rival brands produced in neighbouring provinces will be fined. Even local schools have been allotted a cigarette quota for teachers.<sup>2</sup>

In light of addiction to tobacco revenue, local governments boost tobacco leaf growth and cigarette production. They consistently highlight the profile of tobacco industry under the pretext of economy development. For example, as early as 1987, Hu Jintao, then Party Secretary of Guizhou Province, stated that “Cigarette production and tobacco leaves growth are pivotal industry of Guizhou province. If tobacco industry is not developed well, the Party Secretary should be held accountable. Tobacco industry is not only an important way to escape poverty and make fortune, but also a significant tool to make up for crop production. Therefore, the government cannot afford to give up tobacco production”.<sup>3</sup> The remarks by the leaders of some provinces run diametrically counter to China’s obligation to FCTC, rendering FCTC irrelevant in China’s tobacco control. The discourses of governors speak great volumes for the close attention the provinces paid to the development of tobacco industry. **(Table 6)** All in all, the policies of those local governments to maximize revenue out of tobacco production fly in the face of tobacco control efforts.

Table 7 Discourses Supportive of Tobacco Industry by Provincial Governors in 2011

Li Jiheng Governor of Yunnan Province	The tobacco industry in Yunnan should have a sense of crisis, insistently innovating developmental ideas and models, further boosting tobacco industry so as to better contribute to social and scientific development of Yunnan province.
Zhao Kezhi Governor of Guizhou	Tobacco industry should be accelerated so as to help build a well-off society and make unprecedented achievements in social and economic development;

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<sup>1</sup> Zhu Hongjun, Li Side, “Honghu City of Hubei Province Apportion Cigarette Quota for Official Banquets”, *South China News Weekend*, October 15, 2007.

<sup>2</sup> Peter Foster, “Chinese Ordered to Smoke More to Boost Economy”, *The Telegraph*, May, 4, 2009.

<sup>3</sup> “Zhao Kezhi, Governor of Guizhou Province, Remarks on the Conference about Tobacco Industry Development”, *Guizhou Daily*, October 23, 2011.

Province	Combined efforts should be made to transform Guizhou from a province large-scale tobacco industry into a province with strong tobacco industry so as to provide enough momentum for industrialization and urbanization of Guizhou province.
Zhou Qiang Governor of Hunan Province	As an important economic pillar, tobacco industry has made great contribution to the economic development of Hunan. The government will further support the tobacco industry in Hunan province so as to enhance the competitiveness of its cigarette brands with Chinese.
Li Zhonghong Party Secretary of Hubei Province	Hubei province will take advantage of its considerable strength in R&D and rich cultural resources to cultivate fashionable tobacco culture; While vigorously expanding domestic market, Hubei should actively implement a go-global strategy so as to further upgrade the tobacco industry in Hubei Province.
Guo Maogeng Governor of Henan Province	Henan Province will intensify its support for tobacco industry, providing quality service and doing the utmost to solve various problems for the tobacco industry, further advancing the strength and competitiveness of the tobacco industry.
Su Shulin Governor of Fujian Province	Tobacco industry in Fujian Province should make more efforts to improve cigarette quality and better contribute to the local economic development.

### **Political and Financial Restrictions on NGOs in Tobacco Control**

NGOs play a crucial role in the governance of public affairs, both nationally and internationally. Without the active engagement of NGOs, it would be difficult for governments to address so many emerging and re-emerging problems in the world today. In terms of tobacco control, NGO's part cannot be exaggerated. In those countries spearheading inspiring tobacco control programmes, NGOs dynamically evolved in tobacco control have become the driving force for governmental action in tobacco control. FCTC recognizes that the "participation of civil society is essential in achieving the objective of the convention" and encourages NGOs to motivate national and international tobacco control efforts. The importance of the participation of NGOs not affiliated with the tobacco industry in developing and implementing intersectoral programmes and strategies for tobacco control was reiterated in Article 12.E of FCTC.<sup>1</sup> In the foreword of FCTC, Parties to the international convention highlights "the special contribution of nongovernmental

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<sup>1</sup> WHO, *Framework Convention on Tobacco Control*, Geneva: WHO, p.11.

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 efforts".<sup>1</sup> According to WHO, NGOs in tobacco control generally undertakes the following tasks: create a national climate of opinion that favours action to control tobacco use; support the government to do what is needed in tobacco control; identify national legislative priorities for tobacco control and help develop a workable legislative package by presenting the different options for political consideration; make the case that tobacco control measures are a reasonable and effective response to the epidemic; increase awareness that the tobacco industry has acted and continues to act irresponsibly; provide a powerful and respectable public image for the tobacco control campaign.<sup>2</sup> Anti-tobacco NGOs, with their entrenched global network with their foreign counterparts, pool resources, information, and strategies, provide information, launch advocacy, and exert tremendous pressure on the governments so as to shape their positions on tobacco control policy. Detached from government, NGOs work to effect changes on a grass-root level. For example, NGOs played an important role in the FCTC negotiation.<sup>3</sup> <sup>4</sup> By issuing a daily newsletter in the process of the FCTC negotiation to frame the discourse and by adopting a naming and shaming strategy, the NGOs unprecedentedly influenced government's positions on tobacco control. Anti-tobacco NGOs in China, albeit not full-fledged, actively escalate the fight against tobacco industry and played an irreplaceable part in tobacco control. For example, in 2008, China's Ministry of Civil Affairs (MCA) decided to confer "China Charity Award" to China National Tobacco Corporation. Six NGOs including Chinese Association on Tobacco Control, Think Tank Research Centre for Health Development, questioned the tobacco companies' qualification for the award and urged MCA to nullify the decision. Eventually, MCR disqualified the tobacco companies for the award. Nonetheless, their role in tobacco control is bottlenecked due to political and resource restrictions.

Many seminal papers have elaborated on the role of NGOs in disseminating global norms into the domestic policy practice.<sup>5</sup> While investigating why state actors comply with

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<sup>1</sup> WHO, *Framework Convention on Tobacco Control*, Geneva: WHO, p.2.

<sup>2</sup> WHO, *Building Blocks for Tobacco Control: a Handbook*, Geneva: WHO, 2004, p.218.

<sup>3</sup> Collin, J., Lee, K., AND Bissell, K., 2002. The Framework Convention on Tobacco Control: the Politics of Politics of Global Health Governance. *Third World Quarterly*, Vol.23, No.2, 2002, pp.265-282.

<sup>4</sup> Farquharson, K. Influencing Policy Transnationally: Pro- and Anti-tobacco Global Advocacy Networks, *Australian Journal of Public Administration*, Vol.62, No.4, 2003, pp.80-92.

<sup>5</sup> Jennifer Chan-Tiberghien, *Gender and Human Rights Politics in Japan: Global Norms and Domestic Networks*, Stanford: Stanford University Press, 2004.

social norms, constructivist scholar identified social protest/mobilization as a mechanism through which state actors comply with norms. They argue that NGOs, in cooperation with transnational organizations and networks, utilize international norms to exert pressures for compliance on state decision makers.<sup>1</sup> NGOs play a considerable part in the dissemination of FCTC, the most prominent global norm concerning tobacco control. In terms of the internalization of FCTC, as what has been argued above, China's NGOs has undeniably enhanced the domestic salience of the international norms. Nonetheless, their potential in the domestic diffusion of FCTC is greatly retarded by political and resource restrictions.

*Political restrictions on anti-tobacco NGOs.* China adopts a state-centric approach in dealing with domestic and international issues. The government is suspicious of intentions of NGOs, viewing them as organizations that undercut the legitimacy and survival of the Party leadership. The authoritarian government harbours anxieties about social stability and poses antagonism towards NGOs, imposing very harsh restrictions on NGOs' activities. As a result, sustained efforts have been made by the government to suppress the NGOs. For example, all the NGOs are required to register officially under a supervisory government agency. Otherwise, they will be outlawed and dissolved. The requirement aims to put NGOs under the control of government. So it is not an exaggeration to say that completely independent NGOs are absent in China. It is even argued that China's major NGOs were founded by the government and remain firmly under the control of a Party agency.<sup>2</sup> Since the outbreak of Arab Spring in 2010, the authority has imposed more stringent restrictions on the NGOs for fear that they may serve "western hostile forces" as a Fifth Column in ushering a Jasmine Revolution in China. For example, in an article published in *Qiushi (Seeking Truth)*, an influential mouthpiece of the ruling Party, Zhou Benshun, Secretary General of Political and Legislative Affairs Committee of the Communist Party, warns that "China must guard against being misled to the point of falling into the trap of so-called 'civil society' devised by certain Western countries."<sup>3</sup> China's authority keeps a closer eye on the activities of NGOs sponsored by overseas organizations. Similarly, China's NGOs devoted to tobacco control are not exempted from political constraints given that anti-smoking NGOs are almost completely funded by foreign grants. For example, STMA issued *the Notice of China STMA*

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<sup>1</sup> Amy Gurowitz, "Mobilizing International Norms: Domestic Actors, Immigrants and the Japanese State", *World Politics*, Vol.51, No.3, pp.413-45; Audie Klotz, *Norms in International Relations: the Struggle against Apartheid*, Ithaca, New York: Cornell University Press, 1995.

<sup>2</sup> Jonathan Unger and Anita Chan, "Association in a Bind: the Emergence of Political Corporatism", in *Associations and the Chinese State: Contested Spaces*, edited by Jonathan Unger, 2008, New York: Sharpe, p.49.

<sup>3</sup> Zhou BenShun, Following an Innovative Way to Social Management with Chinese Characteristics, *Qiushi*, No.10, 2011, p.39.

on *Further Enhancing Warnings of Tobacco Package* in August 2011. The *Notice* stipulates that the members of the Expert Panel Verifying Cigarettes Package Warning should be selected by STMA. Chinese Association on Tobacco Control (CATC), the most influential anti-tobacco NGO, disclosed STMA's attempt to use self-regulation to replace requirements of FCTC. In response, STMA called CATC's legitimacy and intention into question, claiming that "(CATC) has been greatly bankrolled by foreign organizations, among which two U.S. foundations are the main sponsors; if (CATC) doesn't make any noise, its existence cannot be showcased".<sup>1</sup> By stressing CATC's source of sponsorship, STMA satirically stated to the effect that CATC only serves itself and its foreign sponsors instead of public health interests.

*Financial restrictions on anti-tobacco NGOs.* Besides the political factors that constrain the NGOs' participation in tobacco control, the organizations also suffer from shortage of resources, which seriously prevents them from launching large-scale advocacy campaign in tobacco control. Given the government's lukewarm attitude towards NGOs' activity, it is quite unrealistic for these organizations to expect human and material resources of the government. For example, National Social Science Foundation and National Natural Science Foundation of China are the most prestigious national-level foundations supportive of academic research in both natural and social sciences. Unfortunately, neither of the Foundations has ever offered any grant to anti-tobacco NGOs (including academic institutions) in research area of tobacco control. On the contrary, lots of projects beneficial to tobacco industry have been sponsored by the Foundations, the Ministry of Science and Technology, and STMA. In the context of underdevelopment of civil society organizations in China, it is hard for anti-tobacco NGOs to raise fund from enterprises for tobacco control campaigns. Starving of financial support, these NGOs could not go far in tobacco control. They have to dominantly depend on the foreign assistance, which will be most likely to incur the suspicion of the authority. Take CATC for example, the meagre commitment fee from China's Ministry of Health, which is around 17 thousand dollars annually, is CATC's sole domestic source of fund. As a result, CATC has to turn to foreign organizations for financial support so as to sustain its tobacco control campaigns. Such overseas foundations as Bloomberg Initiative to Reduce Tobacco Use, Bill and Melinda Gates Foundation, and Pfizer Foundation have become its main financial contributors. Without doubt, under the aegis of foreign foundations, the NGOs have provided significant momentum for China's tobacco control. Whereas, their heavy reliance on foreign assistance renders their tobacco control campaigns unsustainable and unsystematic in the long run. Thanks to insufficient resources, these NGOs are badly understaffed. For instance, CATC only has 14 full-time staffs; only

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<sup>1</sup> Song Xuefeng, "China Tobacco Control Association Questioned for its Questioning STMA", *China Philanthropy Times*, August 23, 2011.

one of them (the accountant) is salaried; the rest are volunteers. Other NGOs' situation is even worse. The poor capacity of anti-tobacco NGOs strikingly pales in comparison with the leviathan of tobacco industry and its alliances.

## VI Concluding Remarks

Well-established scientific evidence has substantiated the detriment caused by smoking to public health. As an evidence-based norm of global health governance, FCTC represents an historic achievement of global health politics in reversing the tobacco epidemic throughout the world. With 350 million adult smokers and over 1 million premature deaths annually induced by smoking, China is the largest stakeholder in implementing FCTC. Aspiring to be a responsible power, China contributed to the negotiation of FCTC and ratified the global health norm in 2005. However, the ratification has made little difference in China's tobacco control. On the contrary, the tobacco output and sales have increased dramatically since then. "Science can identify solutions to pressing public health problems, but only politics can turn most of those solutions into reality."<sup>1</sup> China's absence of political will determines its lip service to the global tobacco control efforts under the aegis of WHO. China's political inertia in implementing FCTC not only discredits the legitimacy of the government but also compromise its image as a responsible power in global health governance. China accounts for over 1/3 of the world's smokers. Therefore, it is not an exaggeration to say that China's failure in curbing tobacco epidemic is also a setback for global tobacco control. Without China's progress in tobacco control, it is impossible for global tobacco control to make great strides.

The paper argues that four variables mainly contribute to China's failure to meeting FCTC obligations. The ruling Party's ideology underlies the domestic failure of FCTC. Its excessive reliance on economic performance for legitimacy makes it difficult for the government to marginalize or de-normalize tobacco industry. The government is as addicted to tobacco revenue as smokers to cigarettes; The incompatibility of China's institutional arrangements in implementing FCTC results in poor enforcement of the international norm domestically. The administrative configuration strengthens pro-tobacco forces and weakens anti-tobacco proponents by installing MIIT, the supervisor of tobacco industry, as the leader of the implementing mechanism of FCTC, subordinating public health interest to that of tobacco industry. The absence of national legislation to fight tobacco exacerbates the institutional deficiency; Interest groups in tobacco industry overtly and covertly stem against tobacco control efforts. STMA, the biggest stake holder and manager of China's tobacco industry, vehemently retarded tobacco control by trumpeting the economic and political

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<sup>1</sup> Thomas R. Oliver, "The Politics of Public Health Policy", *Annual Review of Public Health*, No, 27, 2006, p.195.

justifiability of tobacco industry and by framing itself as a matter-of-course actor in tobacco control policy making. Local governments, particularly those provinces heavily reliant on tobacco industry for government revenues, are staunch supporters of tobacco industry, posing formidable challenges for tobacco control; Thanks to the political and financial restraints, anti-tobacco NGOs only play a very limited role in launching nationwide anti-tobacco initiatives, which blocks the important venue for social mobilization for tobacco control.

Apparently, effective tobacco control hinges on if the aforementioned problems can be addressed appropriately. First of all, it should be realized that the so called economic performance-based legitimacy derived from booming tobacco industry is untenable and unsustainable. Instead, strong commitment to practising internationally touted norms for promoting public health considerably credits a national government's legitimacy. Therefore, it is imperative for the government to forego its obsession with tobacco revenues and to put a brake on the growth of tobacco industry. Secondly, institutions conducive to tobacco control should be established. On the one hand, a high-level FCTC implementing mechanism free from the interference of STMA should be institutionalized given the irreconcilability of interest between tobacco industry and public health; On the other hand, national legislation on tobacco control should be prioritized. Thirdly, STMA and its alliances should be excluded from the anti-tobacco control policy making process. What is more important, anti-tobacco NGOs should be politically and financially empowered to launch comprehensive social mobilization against tobacco. Only in this way, can NGOs better function as effective tobacco control policy entrepreneur. Of course, all the aforementioned steps necessitate the political will of the central government, particularly that of the standing committee of the Politbureau of CCP.

In 1962, late Chinese leader Deng Xiaoping raised his political and economic ideology by saying that "It does not matter whether a cat is white or black, as long it catches mice, it is a good cat". The maxim has been regarded as a golden rule of development by Chinese government in the past decades. However, what China badly needs now is neither a white nor black cat but a "green cat" that pre-empts tobacco epidemic and safeguards public health. Tobacco control is not only a touchstone to examine China's commitment to building an environment-friendly economy, but also an ultimate indicator for gauging China's commitment to global health governance. As an important stakeholder in global health governance, it is high time for China to become an exemplar rather than laggard in implementing FCTC.