



CANNABIS LEGALISATION AND REGULATIONS IN CANADA



BACKGROUND AND CHALLENGES

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MEMO NO. 2018-04
SAINT-DENIS, 11 OCTOBER 2018

OVERVIEW

Following Uruguay in 2013, Canada is the second country in the world – the first in G7 – that has officially legalised the production, distribution and possession of cannabis for recreational use. Starting October 17, 2018, Canadian adults have been legally able to purchase recreational cannabis produced under licence, to possess up to 30 grams of cannabis and, in most provinces, to grow up to four cannabis plants at home.

Canada is the first federal state to propose a decentralised model for the regulation of cannabis. The federal Cannabis Act has introduced an approach focused on public health and youth safety: it creates a strict legal framework to control the production, distribution, sales and possession of cannabis throughout Canada.

Federal, provincial and territorial governments share responsibility for overseeing the cannabis regulation system. Conspicuously, provinces and territories have had to figure out their own regulation systems for the distribution and sale of cannabis and all related safety measures (for the minimum legal age, quantities and place of purchase or use, etc.), whereas municipalities have the possibility to control use at local level, even though it remains illegal to transport cannabis outside Canadian borders (regardless of quantity). The implementation of this reform involves various jurisdiction levels and diverse regulation systems across the country.

Cannabis regulations in Canada raise a number of questions. Its impacts on public health, road safety and the economy are the most anticipated, with the emergence of a genuine cannabis industry, built on the foundations of the alcohol market. This is because the Canadian reform primarily has an international impact. As medical cannabis has been authorised in the country since 2001, Canada is already the leading centre for the production and export of legal cannabis. Home to several cannabis firms listed on the stock exchange, Canada is guaranteed strong economic growth due to the current prohibition on production everywhere else in the world.

This overview describes the reform process, the objectives of the new legislation and the market control mechanisms implemented in Canada, before identifying the watch-points to be monitored.

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INTRODUCTION

After pioneering medicinal cannabis (2001), Canada is the second country, after Uruguay, to legalise the production, distribution and possession of recreational cannabis. It is also the first G7 nation – and the first federal state – to trial regulation of a legal cannabis market, contrary to the principle of prohibition established by the international conventions on illicit drugs¹.

Following heated parliamentary debates, the legislative project proposed by Justin Trudeau’s Liberal government was finally adopted by the Senate on 19 June 2018. Implementation of the reform, initially announced for the 1st of July (national holiday), has been postponed until 17 October 2018 at the request of the provinces and federal territories responsible for organising distribution due to concerns that the appropriate measures may not yet be in place.

This reform is taking place in a context of extensive cannabis consumption in Canada. Levels of use are among the highest in the world, particularly among young people, and are continuing to grow, especially in the provinces bordering the United States – where 8 out of 50 states² have already opened a legal cannabis market based on private enterprises (Obradovic, 2017). In view of the health risks associated with cannabis use, one of the objectives of the new legislation is to provide a strict framework for production, distribution, sale and possession with a view to restricting access to this substance among young people.

This report examines the context and objectives of the Canadian reform, before describing its diverse conditions for implementation in the 10 provinces³ and 3 federal territories⁴ which resemble “miniature testing grounds” for cannabis regulation. It highlights the similarities and differences in these “marketing” models, leading to a diversified spectrum of policies relating to cannabis regulation established worldwide. It also examines the economic prospects resulting from this reform on a global scale.

WHY LEGALISATION? CONTEXT, DYNAMIC AND OBJECTIVES OF THE REFORM

CONTEXT AND DYNAMIC OF THE REFORM

Situational analysis of substance use

Cannabis is, by far, the most widely used illicit substance in Canada, mainly in herbal cannabis (marijuana) form. Lifetime use in the adult and youth population is over 40% (44.5%), and more than one in ten individuals report at least one instance of last-year use (12%) (Statistics Canada, 2015a).

Young adults (20-24 years) are the group with the highest prevalence of use (nearly 30%), ahead of adolescents (15-19 years) who, nonetheless, account for 20.6% of users (Statistics Canada, 2015a). Among developed countries, Canadian adolescents show the highest prevalence of cannabis use⁵.

Despite an overall decline in cannabis use in Canada between 2004 and 2015, an **upturn** has been observed since 2008, particularly in some of the most highly populated provinces bordering the United States and also reporting the highest levels of use (British Columbia, Ontario, Alberta, Manitoba, Saskatchewan, with last-year prevalence exceeding 10%). In contrast, last-year use in other provinces (Quebec, Newfoundland and Labrador) remains below 10%. Prince Edward Island shows the lowest prevalence (8.2% current users) (see map on page 19).

1. 1961 Single Convention on Narcotic Drugs, 1971 Convention on Psychotropic Substances, 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

2. Colorado, Washington State, Oregon, Alaska, California, Maine, Massachusetts and Nevada. Half of these states border Canadian provinces. Possession and use of cannabis are also authorised in Vermont and Columbia district (Washington DC), but without access to a legal cannabis market.

3. Alberta, British Columbia, Prince Edward Island, Manitoba, New Brunswick, Nova Scotia, Ontario, Quebec, Saskatchewan, Newfoundland and Labrador (see map on page 21).

4. Northwest Territories, Nunavut and Yukon (see map on page 19).

5. Statistics based on adolescents aged 11 to 15 years (UNICEF, 2013).

This upturn **mainly reflects young people** (Statistics Canada, 2015a). For example, in Quebec, where the decline is less prominent, up to a third of regular or, indeed, daily users are young people in secondary school education (Tessier, 2017). In addition to the established health risks, this high level of use among young people exposes them to dangerous behaviours⁶, the risk of arrest and conviction, and contact with criminal networks – since most users obtain their supplies from various components of the black market. Prior to the legalisation of the cannabis market (for both recreational and medical use), only 4% of the most frequent users obtained their supplies from producers authorised by Health Canada⁷ (for medical cannabis) (Health Canada, 2017b).

History of drug reforms

The legalisation of cannabis is part of a national approach to drug reforms. As one of the pioneers of **harm reduction measures** with the launch of the first drug consumption room in 2003 (Insite, Vancouver), Canada was also one of the first countries to recognise medical cannabis (2001).

The decision to legalise recreational cannabis was made after nearly **half a century of public debate and parliamentary work** recommending the decriminalisation of cannabis possession and authorisation of home-cultivation for personal use⁸.

Furthermore, Canada is characterised by a **strong reflexive tradition** in terms of defining the structure of its policies relating to health, repression, re-offending prevention, research and integration of results in the evidence-based policies. Europe repeatedly references the “Canadian model” in terms of criminal and prison reforms (Bérard and Chantraine, 2017).

A political and electoral argument

In a **context of the new electoral victory by the Liberal Party**⁹, Justin Trudeau¹⁰, the candidate in the 2015 general election, aimed to embody a proactive political approach after ten years of Conservative government. As part of a campaign built on the theme of change (“It’s time for a real change”), the proposal to legalise cannabis to “keep it out of the hands of children and profits out of the hands of criminals”, championed from August 2013, constituted a new argument in the federal electoral competition (see text box on page 4).

This electoral promise echoes **public opinion** increasingly in favour of the Liberal platform in general (over 70% according to polls) and decriminalising cannabis use in particular (support for legalisation among 65% of the population¹¹).

The programme to legalise cannabis at federal level is also part of a **strategy to set itself apart from the United States** (partner and commercial competitor), where two out of 50 states have already voted in favour of legalising cannabis, without introducing this regulation as yet¹².

6. In 2015, 2,786 road traffic accidents were caused by driving under the influence of illegal drugs out of 72,039 cases of “impaired driving” reported by police. While the majority are related to alcohol (96%), the number of cases implying illegal drug use doubled between 2009 and 2015 (from 2% to 4%) (Statistics Canada, 2015b).

7. Federal institution comprising divisions and agencies from the portfolio of the Ministry of Federal Health. However, it should be noted that health predominantly falls within the provincial domain.

8. Governmental inquiry committee on non-medical drug use, chaired by Gérard Le Dain (1969-1972); 2002 Special Senate Committee on illegal drugs and cannabis; 2002 House of Commons Special Committee on non-medical use of drugs or medications; Citizens’ Initiative Bill C-344; Bill C-38 and Bill C-10 submitted to Parliament in 2003 and 2004 but which did not lead to a vote.

9. In 2013, the party faced major electoral losses: its results in federal elections had declined continuously since 2006. In 2011, for the first time in its history, the Liberal Party fell to third place, behind the New Democratic Party (NPD).

10. Justin Trudeau, aged 41, is the son of Pierre Elliott Trudeau, Canadian Prime Minister from 20 April 1968 to 3 June 1979, then from 3 March 1980 to 30 June 1984. He is a major figure in the Liberal Party and in Canadian political history, owing to his long political career, his renowned charisma and the importance of his reforms (abolition of the death penalty, legalisation of divorce, and the decriminalisation of abortion and homosexuality). Once again, today, “Trudeaumania” has re-emerged with a sense of nostalgia, although more nuanced in Western Canada and among the Quebec sovereignty movement.

11. This support would be confirmed after the electoral victory by the Liberal Party in the House of Commons (67% in favour of legalising cannabis in November 2015, and 70% in June 2016).

12. Colorado and Washington State, referenda on 6 November 2012.

Chronological history of the reform

22 August 2013	As part of the federal electoral campaign, Justin Trudeau, the Liberal Party candidate, announced that he was in favour of legalising cannabis. Claiming to have smoked cannabis “five or six times” himself, he touched on his late brother’s legal problems due to possession of the substance. This revelation made the headline of every major newspaper in the country.
19 October 2015	After nearly ten years of Conservative government led by Stephen Harper, Justin Trudeau’s Liberal Party won the majority of seats in the House of Commons (184 out of 338, i.e. 150 more seats compared to 2011). Liberals continued to grow in popularity throughout the electoral campaign, rivalling Tom Mulcair’s New Democratic Party (NPD), which had been the official opposition since 2011, and had started the campaign in the lead in terms of voting intention.
5 December 2015	A month after being sworn in, Prime Minister Justin Trudeau announced, in his general policy speech, that Canada would become the first G7 country to legalise cannabis.
30 June 2016	Creation of a federal “Task force” (working group) on the legalisation and regulation of cannabis with a view to drafting the bill. Chaired by Anne McLellan, it is made up of 9 experts, selected according to their specific competency (public health, drug addiction, law enforcement, justice), their territorial base (representing the maximum number of provinces and territories) and cultural origins (in view of the misgivings concerning legalisation among certain ethnic communities). This group aims to consult and offer guidance to the federal government on designing a legislative and regulatory framework for access to cannabis, in keeping with its commitment to “legalise, regulate and restrict access”.
1st November 2016	“Legalisation of cannabis: financial considerations”: Report issued by the Parliamentary Budget Officer estimating the effects of legalisation and sales tax revenue: based on 4.6 million cannabis users in 2018, the report estimates the production volume at 655 tonnes of cannabis per year, generating expenditure of 3 to 4.2 thousand million euros associated with use (between 4.2 and 6.2 thousand million Canadian dollars per year) and tax revenue of approximately 418 to 618 million dollars in 2018. In 2021, the number of Canadian cannabis users could rise to 5.2 million.
30 November 2016	Submission of the final report by the Task Force on Cannabis Legalisation and Regulation, presenting 80 recommendations to the government. The experts recommend allowing federal government to be responsible for laying down a general (i.e. “minimal”) framework to control production, distribution and use, and entrusting the provinces with distribution and the creation of legislation to control distribution and use.
13 April 2017	Submission of bill C-45 for the first reading in the House of Commons, allowing time for examination in the Federal Parliament, then for organising distribution within the provinces as from 1 July 2018. Numerous cannabis stores are opened and closed immediately by the authorities (more or less effectively depending on the towns). Cannabis supply is limited to 43 medical cannabis producers approved by Health Canada.
April-November 2017	Expert groups and public consultations in the provinces.
21 November 2017	Launch of a two-month national public consultation on federal regulation of cannabis.
27 November 2017	Adoption of the bill by the House of Commons (in the third reading, 200 votes in favour, 82 against).
15 February 2018	Under pressure from Conservatives in the Senate, the new Federal Minister for Health, Ginette Petitpas Taylor, concedes that the reform will come into force later than planned. The opposition is concerned about the minimum age for access to use, and fears that legalisation could increase tobacco use and complicate the work of the law-enforcement services.
19 March 2018	Publication by Health Canada of the summary report on the public consultation on the regulation model (3,200 people + 450 stakeholders in the field, including the provinces and territories).
7 June 2018	Deadline for the vote during the third reading of Bill C-45 in the Senate in order for legalisation to come into force on 1 July. The provinces and territories claimed that 2 to 3 months were necessary between the date of Royal Assent and implementation of the law, to cover the transition to the new framework.
19 June 2018	Adoption of Bill C-45 on the legalisation of cannabis by the Senate (56 votes in favour, 30 against, one abstention). The Upper Chamber decides not to prolong the legislative battle and agrees to the vision of Trudeau’s government, particularly on the home-cultivation issue. Implementation is postponed until 17 October, to allow the provinces, law-enforcement services and the industry an implementation period to prepare the cannabis production and distribution system for the general public, in stores or online.
21 June 2018	The bill is approved by the Crown (“Royal Assent” ceremony which allows it to become law).
1st July 2018	Implementation date initially envisaged for authorised distribution (national holiday).
17 October 2018	Effective implementation of the legalisation of cannabis.

Regain control of the medical cannabis market

As observed in the American states which have fully legalised cannabis (for medical and recreational use), the Canadian reform was also an opportunity to regain control of the “medical cannabis” market. Prior authorisation of “medical” cannabis had effectively partly benefited recreational users, sustaining a **“grey market”** able to evade State control. From this perspective, legalising the entire cannabis industry **resolves the confusing situation surrounding medical cannabis**.

The Canadian situation in this area is unusual in several respects. Canadian legislation on medical cannabis was designed according to injunctions and objections¹³, completely at odds with a proactive political approach, giving rise to a complex system. For example, it allows access to medical cannabis via a **“recommendation”** (rather than a medical prescription) and exclusively via mail order (see text box on page 6).

Aside from certain cannabinoids authorised on prescription¹⁴, the legal system for access to medical cannabis is based on **three supply channels**: patients with **“authorisation for possession”** (issued by Health Canada based on a medical recommendation) may procure cannabis directly from private producers approved by Health Canada (exclusively by mail order) or by applying for a production licence (for home-cultivation by themselves or a third party).

This opening up of the medical cannabis market was accompanied by a **marked increase in the number of registered patients**: in September 2017, 235,621 Canadian citizens¹⁵ were registered as “medical” cannabis “clients”¹⁶ and authorised to possess dried medical cannabis (as opposed to 37,000 in 2013), i.e. 1% of the population. In certain provinces, this percentage reaches 3% of the adult population¹⁷. However, in practice, most purchases of products containing cannabinoids concern recreational users (90%) (Statistics Canada, 2018). In this context, the authorities were forced to thoroughly review the rules for access to cannabis so as to reaffirm the distinction between recreational users and patients.

Moreover, from the 1990s, alongside the legal state-controlled production and home-cultivation system, “Compassion Clubs” (community cannabis distribution centres with “compassionate” aims), developed, particularly in Quebec but especially in Ontario and British Columbia. This **falsely legal market** targeted users with medical evidence of disorders not recognised by Health Canada (migraines, pain, etc.). After being tolerated for a certain period, some Compassion Clubs and “dispensaries” (unauthorised) were shut down by the authorities, but others resurfaced (particularly in Toronto and Vancouver, between 2014 and 2017). British Columbia (which borders Washington State) was particularly exposed to this phenomenon, although the municipality of Vancouver decided to regulate these dispensaries from June 2015 and close those not fulfilling municipal regulations: nearly 180 applications were filed for a licence but only twenty or so were successful¹⁸, creating a new lawless space.

The rapid development of “pseudo-dispensaries” and changes in the regulations leading to the market becoming more open have thus promoted the rising demand for medical cannabis (legal and illegal), thereby representing, according to certain authors, “legalisation under the veil of medicalization” (Fischer et al., 2015). In this context, one of the main challenges of the future regulation is to define the structure of the medical and recreational cannabis markets.



13. Partly in response to legal decisions based on the respect for individual rights and freedoms, and partly in a context of opposition by successive Conservative governments.

14. Dronabinol (Marinol[®]) and nabilone (Cesamet[®]) distributed in tablet form; nabiximols (Sativex[®], sold as an oral spray made from plant extracts).

15. This figure is limited to clients registering with an authorised producer at the end of each month. Clients may be registered with several authorised producers (as long as they provide an original medical certificate for each registration) or register with Health Canada (to grow a limited quantity of cannabis for their own personal needs, or to appoint a person to grow it for them).

16. According to Canadian terminology which registers them as consumers and financial contributors.

17. The number of registered clients varies considerably according to the provinces: nearly 100,000 registered clients listed in Ontario (nearly 1% of the adult population) and Alberta (nearly 3% of adults) (source: Canadian Government).

18. Authorised establishments must not be located close to certain spaces frequented by minors (schools, etc.); products authorised for sale include cannabis for smoking, oil, capsules, and tinctures but exclude food products, which appeal to children (cakes, confectionery, etc.); managers must not have a recent criminal record.

Canadian regulations on access to medical cannabis

Medical cannabis, authorised since 2001, was first controlled by the “Marihuana Medical Access Regulation” (MMAR)¹⁹ authorising a single company (under licence) to grow cannabis and package it in dried form, for medical use. This monopoly on production (entrusted to *Prairie Plant Systems* – now known as *CanniMed*) came up against criticism from users with regard to the restrictions on the products. Following several legal convictions warranted by compliance with the Canadian Charter of Rights and Freedoms, home-cultivation of cannabis for medical use was authorised, subject to approval by Health Canada.

Furthermore, since August 2016, a new regulation has come into force (MMPR)²⁰ which provides for three possible types of access to medical cannabis for patients with a medical recommendation:

1. purchase the product from private producers approved by Health Canada;
2. obtain a licence for home-cultivation;
3. obtain a licence to appoint a producer-supplier.

In most provinces, the cost of seeds and purchase is reimbursed as a tax credit for medical costs. Health Canada and producer companies which hold licences may sell cannabis by mail order (online sales) and patients may purchase it with a simple recommendation from a health professional (physician or nurse in most provinces) if they suffer from a disorder²¹ recognised by Health Canada and do not have a criminal record.

This regulation aimed to control a medical cannabis sector, including production and mail-order distribution of the substance prescribed after receipt of the medical certificate – with the first online sales system of its kind in the world. The first producer authorised to sell medical cannabis was *CanniMed*, located in Saskatchewan. Other companies have specialised in the cultivation of medical cannabis, the largest firms being *Canopy Growth* (Ontario, British Columbia and New Brunswick) and *Aurora Cannabis* (Alberta), whose shares on the Toronto stock exchange rocketed when the legalisation of recreational cannabis was announced.

Eradicating the black market

One of the main arguments for reform resides in the potential to eradicate the black market and fight organised crime, rapidly rising despite several decades of repressive policies. According to advocates for legalisation, regulation would make it possible to: guarantee the quality and properties of cannabis for users (active substance concentration, products used during cultivation, etc.), control processing conditions, and prioritise prevention and support measures for users from the time of purchase.

In 2012, the black market for cannabis in Canada was valued at 6.2 thousand million Canadian dollars²² (approximately 3.98 thousand million euros). The **price of cannabis on the black market** oscillates between 7.14 and 8.84 dollars per gram (between 4.28 and 5.67 euros)²³. Above all, the already high **financial accessibility** of cannabis appeared to be constantly growing: between 1989 and 2017, the average price of cannabis on the (non-medical) black market fell by 12 dollars per gram (€7.68) to 7.5 dollars (€4.80). According to Statistics Canada (MacDonald and Rotermann, 2017), this fall in price is thought to have helped increase supply and stimulate demand, while sustaining criminal networks.

19. Marihuana Medical Access Regulations, 14 June 2001, repealed on 31 March 2014 (<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2001-227/page-1.html>).

20. Marihuana for Medical Purposes Regulations (MMPR), 7 June 2013, repealed on 24 August 2016 (<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2013-119/page-1.html>).

21. Multiple sclerosis, spinal cord lesions, cancer, AIDS, epilepsy, arthritis, etc.

22. Unless specifically stated, all values expressed in dollars refer to the Canadian dollar (1 CAD = €0.67).

23. Cannabis Stats Hub, Statistics Canada: <https://www150.statcan.gc.ca/n1/pub/13-610-x/cannabis-eng.htm>

Sizeable financial interests

In 2017, approximately 4.9 million Canadians (aged 15 to 64) spent 5.6 thousand million dollars (3.7 thousand million euros) on medical or recreational cannabis. The financial stakes in the legal cannabis market are therefore immensely promising.

Throughout the 2015 federal election campaign, J. Trudeau defended his aim to **develop and diversify the economy** in order to reduce Canada's commercial dependence on the United States. In this context, opening up a new cannabis market, potentially amounting to at least 4.2 thousand million euros per year²⁴, almost equivalent to the wine sector²⁵, represents an opportunity for considerable growth. Furthermore, medical cannabis production in Canada, the second leading supplier (behind The Netherlands) and the leading exporter worldwide, was valued at 2.17 thousand million euros in 2014, substantially outstripping the tobacco industry²⁶. The **cannabis-producing companies** already operational prior to the reform are major global economic stakeholders. The Canadian firm *Canopy Growth* is now the leading company exclusively dedicated to cannabis production and the largest in terms of turnover and development dynamics²⁷.

The 2018 reform is thus a continuation of a **policy favourable to the business interests** of the cannabis industry. Legalisation appears to be a way of establishing Canada's position on the emerging global cannabis market and generating a "cannabusiness" which creates jobs both directly and indirectly.

The legalisation of cannabis also offers a number of **prospects for reducing the public deficit**, with the promise of tax revenue for a market estimated, according to various sources, at between **6 and 7 thousand million Canadian dollars** (3.9 to 4.5 thousand million euros). In 2017, the public agency Statistics Canada estimated the national cannabis market at approximately 3.7 thousand million euros, with an increase of approximately 20% expected after implementation of the act. Irrespective of the estimates, the federal state could benefit from a tax windfall of approximately **400 million Canadian dollars per year** (260 million euros), to be shared between the federal government and the provinces. In a context of deficit and public debt (which is greater than 38% of GDP in certain provinces such as Quebec and Ontario), this extra tax revenue would finance the health system, education and prevention.

LEGALISATION FOR GREATER CONTROL: THE CHALLENGE OF REGULATION

Multiple and occasionally competing objectives

Bill C-45²⁸ primarily aims to restrict access to cannabis for young people, by controlling the production, distribution, sale and possession of the product throughout Canada. Its main objectives are as follows:

- **protect young people from cannabis** by reducing incentives to use the substance;
- **protect public health and safety** by regulating access to cannabis, introducing professional requirements for market operators and quality control of products;
- **reduce criminal activities** by guaranteeing legal cannabis production and stepping up the criminalisation of trafficking, supply or sales of narcotics (particularly illegal sales to minors and cannabis import-export);
- **reduce criminal justice system costs** related to arrests associated with cannabis (96,000 drug law offences reported in 2016, including 51% for cannabis possession (Cotter et al., 2015);
- lastly, **regulate the cannabis industry, via a global, centralised system**, from supply to demand: access to cannabis, market control, health care and treatment referral, prevention, market surveillance (statistics and impact studies).

24. Between 4.2 and 6.2 thousand million Canadian dollars (Office of the parliamentary budget officer, 2016). The estimate compares cannabis expenditure relative to the number and volume of users.

25. Statistics Canada provided a corroborating estimate of 2017 cannabis expenditure (over 6 thousand million Canadian dollars, i.e. 3.85 thousand million euros), practically equivalent to expenditure on wine purchases (7 thousand million Canadian dollars, i.e. 4.47 thousand million euros) (MacDonald and Rotermann, 2017).

26. In 2014, medical cannabis production in Canada was valued at 3.4 thousand million Canadian dollars (2.17 thousand million euros), three times more than the tobacco industry (1 thousand million Canadian dollars, i.e. 0.64 thousand million euros).

27. *Canopy Growth* reported a stock market valuation estimated at 1 thousand million dollars and a turnover close to 40 million in 2017, compared to 12 million in 2016. The company more than doubled its revenue in the third quarter of 2017 relative to the previous year – with a turnover of 21.7 million dollars in the last quarter – selling 2.3 tonnes of cannabis in 3 months (nearly twice as much as the previous year), at an average price of 8.30 dollars per gram compared to 7.36 the year before.

28. Bill C-45 - An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts (<http://laws-lois.justice.gc.ca/PDF/C-24.5.pdf>)

To prevent the negative effects in terms of **road safety**, this framework was supplemented by Canadian government Bill C-46²⁹ on driving under the influence, which defines new offences for various levels of “drug-impaired faculties” and authorises the law-enforcement services to carry out saliva tests to determine the presence of drugs in the driver’s body. Drivers tested as having a THC level³⁰ between 2 and 5 nanograms per litre of blood now face fines of up to 1,000 Canadian dollars (€700). Above this level, they face prison sentences of up to 10 years in the most serious cases, while combined alcohol and cannabis use is also severely punished. However, the act includes two particularly controversial provisions: the legal limit for THC concentration in the blood and random tests.

Federal government announced that the legalisation of cannabis would come into force on 17 October 2018. The implementation date for the provisions relating to driving under the influence of cannabis is slightly later (18 December 2018).

Prohibited access for minors, controlled access for adults

Bill C-45 provides positive measures for preventing young people from having access to cannabis:

- It prohibits the sale or supply of cannabis to under 18s.
- It has created two new criminal offences punishable by penalties of up to 14 years in prison: offering or selling cannabis to a young person and using a young person to commit a cannabis-related offence.

To avoid cannabis use among young people, the cannabis law also prohibits:

- marketing, packaging or labelling cannabis in an attractive way;
- sale of cannabis in self-service stores or via automatic dispensing devices;
- the promotion of cannabis.

Any offenders are liable for hefty fines (up to 5 million dollars) and a 3-year prison sentence.

However, the law allows adults to legally:

- possess and share up to 30 grams of legal cannabis with other adults;
- purchase herbal cannabis (dried or fresh) or cannabis oil, either from a retailer authorised by the province, or online according to the conditions defined by the provinces and territories;
- grow up to 4 plants at home for personal use (from legally sourced seeds).

The sale of food products containing cannabis and cannabis concentrates should be authorised by October 2019, to avoid some of the problematic effects observed in Colorado within the first few months of the reform.

Aiming for a third way, between Uruguay and the United States

After announcing the reform, the Canadian government stated that it wished to proceed with **caution** in defining regulations which guaranteed an optimum balance between prevention and public health, aiming for a “third way”, drawing on the trials in Uruguay³¹ and a few American states – particularly Colorado where some abuses were observed.

After allowing a few approved private producers to supply cannabis on medical prescription from 2014, federal government continued on a “business-friendly” path, without, however, bowing to private interests, as seen in certain American states. Its aim is more to **“authorise but not promote”** recreational cannabis. Communication on the reform thus focused on the claims for a regulation model which did not sacrifice the objectives of public health for economic interests, like in Colorado, but which welcomed the participation of private stakeholders, unlike Uruguay. The regulation defined at federal level thus emphasises the **role of guidelines for the provinces and federal territories**, consideration of experience in alcohol and tobacco control, and the need to lay down health standards, for instance, to avoid the use of unauthorised pesticides or any increase in the active substance concentration in cannabis placed on the market, as observed in the United States.

Moreover, to allow public debate and sufficient time to reflect on the conditions for “responsible regulation”, the Liberal government opted for a **collaborative process**, calling for expert hearings and citizen consultations (see text box on page 4). A group of nine “experts”, chaired by a law professor (also a lawyer in a firm representing medical

29. [Bill C-46](#) - An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts.

30. Tetrahydrocannabinol (the main psychoactive agent of cannabis).

31. Refer to the Cannalex study conducted by INHESJ and OFDT (Lalam *et al.*, 2017).

cannabis companies), was created under the patronage of the Ministries of Justice, Security and Health, to gather expert opinions on cannabis use and its impact: at the end of 2016, it submitted a report comprising 80 guidelines (Health Canada, 2016). Furthermore, a large-scale national consultation was initiated by the Canadian Ministry of Health from 20 November 2017 to 20 January 2018, in order to conduct a survey of public opinion on cannabis regulation (conditions for obtaining licences, production, labelling, market surveillance, sale of food or cosmetic products containing cannabis, etc.). The purpose of these consultations as a whole was to allow the law to be adapted as closely as possible to Canadian consumer habits and concerns.

Lastly, the Canadian government envisaged **monitoring the law** with the Ministry of Health being obliged to report to the government on the implementation of the law, three years after implementing its provisions.

HOW TO INTRODUCE REGULATION? FROM THEORY TO PRACTICE

VARIOUS IMPLEMENTATION MODELS ACCORDING TO THE PROVINCES

A foundation of federal regulations to be adapted to local contexts

Although legalisation is a federal decision, responsibility for implementation lies with local government (provinces and territories) (see text box on page 11). Further to the submission of Bill C-45, each province and territory started to draw up their own regulation system according to **various time-frames**. Ontario, the most populated province (nearly 14 million inhabitants), was the first to present its distribution and sales plan, in September 2017, although this was amended following the change of provincial government in June 2018. Other provinces, like Quebec, less in favour of legalisation³², were the scene of turbulent debates, which led to delays in determining the regulatory framework (June 2018).

In order to take local characteristics and levels of use into account, each province carried out a public consultation (and sometimes expert hearings) before defining “its own” regulatory framework, so as to identify any misgivings of the populations related to the federal bill.

On a national scale in Canada, federal law defines several modes of access to cannabis reserved for adults only (direct purchase, in specialist stores or online, and home-cultivation) and a regulatory foundation controlling the market (production licences, health standards, restrictions on use, ban on advertising, etc.). However, the choice of “marketing” strategy (distribution entrusted to the public sector or private enterprises, selling price, etc.) lies with the provinces and territories. This is therefore a **multi-level regulation**, jointly implemented by federal government, and provincial and territorial government, municipalities and other social groups (employers, home-owner associations, landlords, armed forces, etc.).

The Canadian government defined a strict regulatory framework, at federal level, which authorises adults to:

1. **purchase** cannabis produced under licence;
2. **grow** four plants maximum per household, for personal use (this measure was contested by two provinces);
3. **possess** up to 30 grams of recreational cannabis.

In addition to these general principles, the federal regulation defined a national framework in three areas:

- **commercial production** (requirements applicable to cannabis producers);
- **health and safety standards**, which apply to industry, concerning:
 - ✓ the types of products authorised for sale (initially excluding food products and concentrates other than - cannabis oil, which were problematic in Colorado),
 - ✓ the requirements relating to product packaging and labelling (to avoid aggressive marketing),
 - ✓ the active substance concentration (THC level) and size of standard units,
 - ✓ the prohibited use of certain ingredients (contaminants),
 - ✓ cannabis traceability from seed to sale, to prevent diversion to the black market,
 - ✓ restrictions relating to promotion and advertising of products containing cannabis and brands.
- **Criminal bans and penalties**: the law on cannabis steps up penalties for offenders and creates new offences targeting individuals associated with organised crime. For example, the restriction of access for minors will be

32. Although the citizens interviewed throughout the country seemed to be in favour of legalisation (54%), the opposite was observed in Quebec where 54% of interviewees claimed to oppose the legalisation of cannabis in 2017.

accompanied by more severe penalties for people selling to them. These penalties, proportional to the seriousness of the offence, range from warnings or misdemeanours punishable by a fine (for minor offences) to criminal prosecution and prison sentences (for more serious offences).

Table of penalties stipulated by the federal law on cannabis

Offence	Penalty stipulated by federal law
Possession exceeding the authorised limit	Misdemeanour punishable by a fine for small quantities Imprisonment for 5 years maximum
Illegal distribution or sale	Misdemeanour punishable by a fine for small quantities Imprisonment for 14 years maximum
Cannabis production in excess of the limits defined for cultivation for personal use or use of combustible solvents	Misdemeanour punishable by a fine for small quantities Imprisonment for 14 years maximum
Cannabis possession when crossing a Canadian border	Imprisonment for 14 years maximum

In other respects, the conditions for market control fall within the remit of the provinces and territories which are responsible for:

- ensuring compliance with federal regulations;
- controlling and overseeing the distribution and sale of cannabis;
- allocating permits (sales licences);
- monitoring distribution and sales;
- guaranteeing prevention, promotion of health, public safety (including road safety) and control of use in a professional environment.

Provinces and territories may also enforce more stringent regulations, for example by:

- increasing the minimum age;
- reducing the limit for possession for private use;
- creating additional regulations for home-cultivation of cannabis (for example, reducing the number of plants authorised per home);
- restricting places where adults can use cannabis (in public or in vehicles).

In some provinces, the municipalities may ban stores (Ontario, Manitoba, etc.) and use in public spaces.

The division of competence between various levels of government (federal, provincial/territorial and municipal) is still a delicate issue, which had not been fully clarified on the eve of the implementation of legalisation.

Market organisation based on the alcohol market

In practice, all provinces have entrusted the distribution and wholesale of cannabis to State-owned alcohol companies, and retail sale to “specialist stores” approved by these State-owned companies – as is the case for alcohol³³. Beyond this common regulation plan, the **market strategies** are clearly differentiated, even more so than for alcohol. Aside from Alberta, which is the only province to have completely privatised the sale of alcohol, Canadian provinces have a public monopoly on wine and spirit purchases and distribution to retailers (public or private). As regards cannabis, conversely, retail sales give rise to highly diverse models depending on the provinces (see table appended, pages 20-21):

- **Direct sale is more or less State-controlled:** this is based completely on private enterprises in 5 provinces³⁴, completely on the public sector in 4 provinces³⁵, and on a hybrid public and private model in only one province (British Columbia);
- **Online sale** (inspired by the medical cannabis sales model) may be entrusted to public or private operators;
- Sales may be authorised at the **same outlets as for alcohol** (co-location) or physically separated (stand-alone retailers).

33. As is the case in Sweden for example, in most Canadian provinces, alcohol is not sold in general food stores (grocers, small and larger supermarkets, etc.) but in specialist stores (in the public or private sector). This measure was implemented after the Prohibition era, to limit alcohol use among minors.

34. Ontario, Alberta, Manitoba, Newfoundland and Labrador, Saskatchewan.

35. Quebec, New Brunswick, Nova Scotia, Prince Edward Island.

Canadian federalism

Made up of 10 federal states in the South (known as “provinces”) and 3 “territories” in the Far North (scarcely populated), Canada is one of four countries in the world which has had a federal structure for more than a century (with the United States, Switzerland and Australia). Like all federations, Canada has a constitution which assigns exclusive power to the legislative body of each federal state to adopt and apply laws relating to a large number of subjects within its territory: education, natural resources, administration of justice and prisons, health, public work (e.g. roads), property and civil rights and, more generally, any subjects of a local or private nature.

“Provincial autonomy” in Canada is not an empty word: in practice, the provinces decide “in complete sovereignty” on the laws within their sphere of competence. In this context, the federal state does not impose its decisions: federal states constitute an “order of government” (rather than a “level”, which implies a hierarchy, as in unitarian regimes) which may enter into “agreements” with the federal level.

Owing to the constitution, the provincial authorities have access to diverse sources of revenue, particularly “direct taxes” (i.e., all tax and social security deductions, except for customs duties and a few other contributions). The Canadian parliament may receive revenue via any means of taxation.

Most provinces and territories have opted for stores which will exclusively sell cannabis. Only two provinces plan to sell cannabis in stores where alcohol is also sold: Nova Scotia and Saskatchewan (+ Northwest Territories). Furthermore, in Newfoundland and Labrador, several points of sale will be opened in supermarkets which are authorised, in this province, to sell alcohol. Discussions on the regulation openly examined the **accessibility of specialist stores**: given the vast expanse of the provinces and territories, sales in grocery stores or petrol stations could ultimately be envisaged in the most isolated areas where these are the only available stores.

Due to the variety of possible combinations, **comparison of marketing models is not an easy task**. In short, Quebec, the maritime provinces (New Brunswick, Nova Scotia, Prince Edward Island) and the Northwest Territories³⁶ opted for a market completely managed by the public sector (including online sales). In contrast, in Saskatchewan and Manitoba, retail sales have been entrusted to the private sector, including online sales, which is not the case in Alberta which authorises private retailers but has entrusted online sales to the public sector. This is also the case in Ontario, where only government online sales will initially be authorised³⁷. Lastly, in British Columbia, it will be possible to purchase cannabis from State-controlled stores, *BC Cannabis Stores*, together with private stores. The government will also sell cannabis online.

It should be noted that the cannabis regulations, in three provinces, fall within the remit of the **public regulatory authorities** which also take charge of gambling: Alberta, Saskatchewan, Manitoba (see table appended, pages 20-21).

As is the case for alcohol, there will be a **legal minimum age** for purchasing and using recreational cannabis in all provinces. The age of legal access to cannabis has been indexed to that for alcohol: usually 19 years of age, except in Quebec and Alberta where this is 18 years of age.

Production and distribution: the “supply agreement” system

In order to implement the reform according to the planned schedule, the provincial governments had to enter into supply agreements with **medical cannabis producers already authorised** by Health Canada, with a view to supplying cannabis products complying with quality standards, to meet recreational user demand. These agreements are presented in the form of protocols stating the volumes to be produced and the quality criteria to be fulfilled, etc. Supply agreements with secondary cannabis suppliers have also been negotiated in certain provinces.

36. In Yukon, only one store managed by the Alcohol Corporation will be opened; however, the government will also sell cannabis online. The Corporation aims to close its store once private retailers are operational.

37. The newly elected government wishes to introduce regulations based on the experience of other provinces, even though sales are expected to be entrusted to the private sectors. The strategy among Conservatives is to thwart J. Trudeau's Liberal project, which counted on a provincial government monopoly on cannabis sales. Retail sales are expected to start on 1 April 2019.

Although British Columbia is the province which has signed the most supply agreements (31 authorised producers for 150 varieties of cannabis), New Brunswick was the first to sign an agreement protocol with a production company (*Zenabis*), in November 2017. Four producers in total will supply cannabis and derived products to *Cannabis NB*, three of which are established within the province and one in Ontario. The province will be supplied with 15 tonnes of cannabis per year in total.

In Quebec, the Quebec Alcohol Corporation (SAQ), of which the Quebec Cannabis Corporation (SQDC) is a subsidiary, has signed supply agreements with 6 producers for a deliverable volume of 62 tonnes of cannabis per year. Only one of these companies is based in Quebec (*Hydropharmacy*), which led to a debate on the question of “**economic nationalism**”.

Another controversial factor was whether the recreational cannabis market should be built on the foundations of the “medical” cannabis market. However, while the majority of provinces were already home to medical cannabis firms, Newfoundland and Labrador was still the only province without an approved producer prior to implementation of legalisation.

To date, approximately one hundred companies have obtained a production licence and another hundred or so have applied for a licence.

Home-cultivation: a controversial measure

Following a legislative stand-off between the House of Commons and the Senate with regard to home cultivation, the law which was finally adopted allows the provinces to prohibit this practice – as is the case for two out of the ten provinces (Quebec and Manitoba). However, the Senate fell in line with these two provinces in May 2018, with a risk that the law would not be adopted by parliament within the schedule announced by the Prime Minister; however, the government refused outright the request to suspend home-cultivation. This dissension led to a **conflict of jurisdictions**, with Quebec threatening court action to exercise its legislative prerogatives³⁸.

Price and taxation

The tax system applicable to recreational cannabis is **crucial to the regulation**. This aims to optimise state revenue: however, the **level of taxation** of a substance should **not appear too high** (to compete with the black market and prevent users from turning to illegal supply sources), **or too low** (to avoid encouraging use among young people). The challenge thus lies in setting taxes which guarantee a “balanced” selling price for legal cannabis, which is competitive but does not encourage use among young people.

Federal government emphasised the need to set lower provincial taxes to compete with the black market and pointed out that the main aim of legalisation was not to generate tax revenue. In October 2017, it announced an **upper limit on cannabis taxation** and entered into an agreement with the majority of provincial and territorial governments to ensure that excise duties³⁹ on cannabis remain low⁴⁰. The Federal State will levy excise duties of one dollar (€0.65) per gram of dried cannabis⁴¹ sold for 10 dollars (€6.42) or less, and 10% per gram above this price. In addition to these excise duties, federal and provincial consumption taxes will be applied, ranging from 10 to 15% in total, according to the provinces. As is the case for alcohol, cannabis is therefore subject to two clearly distinct taxes: the first, a federal tax (which is 5% for alcohol) and the second tax which varies by province (ranging from 5% in Alberta to 15% in Quebec for alcohol). Before legalisation, cannabis sold for on average 10 dollars per gram on the black market: in order to eliminate this market by making legal cannabis “competitive”, the Quebec government, for example, set the lowest possible selling price to compete with the lowest priced illegal cannabis in the country prior to the reform (6.19 dollars per gram).

38. Quebec changed government on 1 October 2018. The new provincial government, created from the Coalition Avenir Québec, promised to increase the legal age for cannabis use to 21 years of age. However, this change could not be made in the short term, prior to implementation of legalisation.

39. Indirect tax on the sale or use of certain substances perceived as non-essential items (luxury products), rare (oil) or hazardous (such as tobacco, alcohol or casino games: these are then referred to “sin taxes”).

40. The combined special tax rate for cannabis (federal, provincial and territorial) should not exceed 1 Canadian dollar per gram (€0.65) or 10% of the producer selling price.

41. One gram of dried cannabis is equivalent to: 5 grams of fresh cannabis; 15 grams of edible product; 70 grams of liquid product; 0.25 grams of concentrate (solid or liquid); 1 cannabis plant see (refer to: <https://www.justice.gc.ca/eng/cj-jp/cannabis/>)

Comparison of cannabis access schemes between the provinces

Similarities and differences in regulatory models for cannabis in Canada

Similarities	Differences
Restrictions on access to the legal cannabis market	
Prohibition of the sale of cannabis to minors (or adults purchasing cannabis for minors)	Minimum age: 19 in most provinces (18 in Quebec and Alberta, as for alcohol)
Possession	
Possession in public limited to 30 g/person	Restrictions on possession in the home (Quebec: 150 g, Saskatchewan: 30 g, no limit in Alberta...)
Restrictions on use	
Ban on smoking or vaping cannabis wherever tobacco smoking is prohibited (public spaces, areas frequented by minors, etc.)	Specific ban on cannabis use in certain places (pavements, dog-walking parks, etc.)
Possibility of creating smoking rooms in certain areas (residential homes for the elderly, etc.).	
Due to their management rights, employers may control or, indeed, prohibit cannabis use	Property owners may prohibit cannabis use in the lease
Ban on smoking in vehicles	
Production and supply to retailers	
Cannabis production subject to a licence awarded by Health Canada	Production monitoring system
Supply agreements with suppliers of cannabis or cannabis accessories	Supply agreements limited to one or two companies
Sale	
Sales models based on alcohol (State-controlled companies)	Online sale: public or private according to the provinces
Wholesale entrusted to the public sector	Retail sale: public or private operators, or both
Ban on sales between individuals	Upper limit on sales outlets
Sales authorisation limited to dried cannabis flower heads, oil and seeds	
Ban on the sale of edible products infused with THC and concentrates other than oils before mid-2019	Stores kept separate from alcohol sales outlets (<i>stand-alone retailers</i>)
Ban on sales outlets close to spaces frequented by minors	Regulatory distance from schools
Home cultivation	
Authorised in most provinces (maximum limit of 4 plants per household)	Banned in Quebec and Manitoba
	Restrictions on indoor and outdoor cultivation (out of sight from the general public, etc.)
	Banned by property owners
Advertising	
Ban on (direct or indirect) advertising promoting cannabis or a brand of cannabis, with a few exceptions	Special restrictions on advertising
Authorisation restricted to printed newspapers and magazines sent to adults	
Authorisation for display restricted to the interior of cannabis sales outlets	
Ban on attractive messages concerning the price or gustatory qualities of cannabis	
Promotion	
Ban on giving out cannabis free of charge, supplying it for promotional purposes (tasting, discounts) or gifting cannabis	
Ban on linking sports or cultural events, research or health/social establishment to a cannabis brand or image relating to cannabis	
Road safety	
Ban on driving with "impaired faculties" (Bill C-46) (https://www.justice.gc.ca/eng/cj-jp/sidl-rlcfa/index.html)	Tolerance thresholds: - Zero tolerance for all drivers (Quebec, etc.) - Zero tolerance for young, learner or professional drivers (British Columbia, Ontario, etc.)

Based on a hypothetical price of 10 dollars per gram, for 400 tonnes in sales, the **tax revenue** should reach **one thousand million Canadian dollars** (640 million euros) in a full year, with some estimates counting on substantially higher amounts⁴². Although figures vary considerably, the **Canadian cannabis market is generally valued at between 6 and 7 thousand million dollars**, with 150,000 jobs into the bargain⁴³, as well as high consumer potential. The national institute Statistics Canada estimates that 5.4 million Canadians hope to procure cannabis in 2018. Adding 1.7 million consumers who could continue to source their supplies from the black market, Canada should count nearly 20% regular users in the course of 2018 only.

This revenue was initially expected to be split half and half between federal and provincial government. Following criticism from the provinces and territories, which pointed out that they, along with the municipalities, were responsible for costs related to distribution, public health and also police checks, this tax margin was revised and will be divided as follows: **75% to provincial and territorial governments versus 25% to federal government**. As the government allows the provinces and territories to keep the largest share of tax revenue from cannabis, this will enable them to “manage their costs fairly”. Moreover, the government planned to limit its tax levies to 100 million dollars per year: any surplus federal revenue will be paid to the provinces and territories. According to this agreement, federal government expects a substantial share of the revenue arising from this tax windfall paid to the provinces and territories to be passed onto the municipalities and local authorities, on the front line of legalisation.

Despite the difficulty in predicting the scope of the market, tax revenues are expected to reach several hundred million Canadian dollars from 2018⁴⁴, although estimates vary, according to the provinces, from 5.8 million dollars (Newfoundland and Labrador) to 75 million (British Columbia), and up to 100 million for Quebec (for 2018-2019).

Allocation of resources to the reform

The government has set aside substantial resources for implementation, to accompany the reform, allay fears among the opponents of legalisation and make it easier for the provinces to stay on schedule. In order to apply the new legislative and regulatory framework, a strategic investment of 546 million Canadian dollars (approximately 366 million euros) over five years has been agreed – which the government hopes to recover with the expected revenues. A further sum of 6 million will be added; hence, the total planned expenditure to allow the Canadian government to strictly regulate cannabis access will amount to 553 million Canadian dollars over five years⁴⁵. This budget should notably allow: the recruitment of 400 inspectors; the development of prevention; public education and awareness-raising to provide information on health and safety risks associated with cannabis use; a training programme for law-enforcement services (particularly on how to recognise drivers with drug-impaired faculties) (150 million dollars). Lastly, 113.5 million dollars will be allocated to Public Safety Canada, the Royal Canadian Mounted Police and the Canada Border Services Agency to fight illegal import and export, and organised crime (Health Canada, 2018a).

UNRESOLVED QUESTIONS AND WATCH POINTS

Numerous uncertainties remain on the practical conditions for implementation of a law which has generated concerns. These concerns have been expressed by health professionals, the law-enforcement services, company directors worried about their employees’ health and safety together with their productivity at work, and the provinces responsible for its implementation.

What are the effects on public health?

Fear of greater cannabis access and use – including for younger populations – was the focus of parliamentary debates and controversies surrounding the conditions for implementing legalisation in the provinces. Some have raised the risk of cannabis becoming “commonplace” among young populations, and the risk of a simultaneous resurgence in tobacco smoking. As a matter of interest, the minimum age for access to legal cannabis was widely debated during review of the bill, with physicians’ unions recommending a much higher minimum age for cannabis use (21 according to the Canadian Medical Association, and 25 according to the Canadian Psychiatric Association).

42. CIBC bank suggests tax revenue (federal + provinces) reaching 10 thousand million dollars per year.

43. According to the Deloitte firm.

44. According to the CD Howe Institute.

45. As the figures have been rounded to the nearest integer, the total amount may not correspond to that stated.

They also stated that home cannabis cultivation could clash with the prevention policies aimed at minors.

The growing importance of economic interests developing around the opening up of a private cannabis market could lead to an increase in supply and, therefore, demand. With diversification, the forms of cannabis ultimately available (edible, cosmetic, liquid concentrates destined for vaping, etc.) and the development of marketing strategies⁴⁶, the risk related to increased use is regularly highlighted.

Another worrying factor is the **rise in problem use**⁴⁷, which is not routinely determined in prevalence surveys, although it represents an important indicator. The fear of seeing private enterprises thriving to the detriment of public health is the key concern. Provinces having decided to entrust sales to the private sector, particularly Ontario, could face difficulties in honouring the public health objectives of the reform, as company interests tend to focus on increasing sales to maximise profit, hence developing strategies to promote use.

In terms of public health, the legalisation of cannabis is sometimes presented (by some physicians, but particularly industrialists) as a harm reduction measure related to the opioid crisis rife in North America, owing to an anticipated effect on switches in substance use. Canada is the second largest consumer of opioids per inhabitant worldwide. In 2017, deaths due to opioid overdose reached a record height of 3,987 deaths in Canada, i.e. an increase of almost 34% (2,978 registered cases in 2016). This phenomenon primarily affects certain provinces (British Columbia, Ontario and Alberta), while others are relatively spared (Quebec).

What is the effect on the (legal and illegal) markets?

One of the main challenges of legalisation lies in the **ability of the legal market to eradicate the black market**. Past experience in regulation tends to reveal the strong resilience of the black market (the share of the black market is estimated at 30 to 40% in Colorado, in the United States, and is still predominant in Uruguay) and the selective profit of the reform, while producers and the most well-off users benefit the most from legalisation. Until now, the legalisation of cannabis tended to increase the segmentation of user categories. This issue is particularly relevant to the Native American (First Nations) populations.

In the same vein, user associations emphasise the **risk of targeted arrests** in certain populations who do not have the means to obtain supplies from specialist stores or make their living from small-scale dealing on the streets (vulnerable, homeless individuals, Native American communities, etc.). The sale of cannabis will only, in fact, be authorised in approved sales outlets: sales between individuals under any circumstances are still prohibited and punishable by criminal penalties.

Another unresolved question concerns **the way in which this new market will be structured with other markets**: medical cannabis (already legal), illegal drugs, and also alcohol (legal for adults). The medical cannabis market, organised at federal level but based on a degree of medical authorisation which differs considerably according to the provinces, can at the very least rely on changes in prescribing practices (medical recommendation).

However, market effects are most keenly anticipated by **entrepreneurs**. The latter have spent months fine-tuning their strategies for conquering this lucrative market, valued at 22.6 thousand million Canadian dollars (16.1 thousand million euros) by the Deloitte consultancy firm. Certain companies, anticipating the implementation of the reform, opened cannabis dispensaries as early as 2017 – some of which were closed by the authorities, for instance in Quebec, but often remaining open in Ontario or in British Columbia – and sold derived products (for example, cannabis Advent calendars). Furthermore, current cannabis producers (for medical use) are making the most of their competitive edge before the reform comes into force. In July 2018, an acquisition and merger trend brought together two of the largest firms in the Canadian cannabis industry (**Aurora Cannabis Inc.** and **MedReleaf Corp**) in an operation worth approximately 3.2 thousand million dollars. Although these **acquisitions and mergers** are primarily driven by increased production capacity, companies also focus on vertical integration, aiming to expand into retail sales in provinces which have opened up the sector to private operators. Adopting a similar strategy, in July 2018, *Canopy Growth* announced the approximately 250 million dollar acquisition of *Hiku Brands Ltd.*

46. Hence, for example, *Canopy* has signed an agreement with the rapper Snoop Dogg to sell some of its varieties under the brand name *Leafs By Snoop*.

47. Problem cannabis use is defined as use liable to cause major health and social harm, to oneself and to others. The signs of problem use, identified in the clinical literature (memory impairment, loss of motivation or energy, psychological distress, respiratory problems, sleep disorders, relationship, family or school problems, etc.) may be identified using various scales, for example the Cannabis Abuse Screening Test (CAST). For more information on the CAST: <https://www.ofdt.fr/BDD/publications/docs/eisasst9.pdf>

the activities of which focus on retail sales and brand strategies. This acquisition has allowed *Canopy* to expand into the retail sales sector in various provinces (Alberta, Manitoba and Ontario). Before the reform even came into force, the cannabis market thus appeared to have been primarily captured by specialist industrial cannabis groups, currently listed on the stock exchange (the cumulative stock exchange valuation of *Canopy Growth*, *Aurora Cannabis*⁴⁸, *Tilray* and *Aphria* is over one thousand million Canadian dollars⁴⁹).

Another characteristic of the acquisition and merger trend, which accelerated in 2018, is the **international expansion of companies in the Canadian cannabis sector**, banking on the legalisation of cannabis in other countries. In 2018, after Europe, *Canopy Growth* expanded its activities to South Africa and Latin America (including Uruguay where it took over one of the two State-authorized production companies)⁵⁰. Other companies have also announced their desire to expand their activities in Latin America and the Caribbean by taking over companies in the sector in Columbia, Argentina and Jamaica⁵¹. We can therefore expect these Canadian firms to continue expanding into international markets, particularly in regions where the climate is conducive to cannabis cultivation in open fields, so as to reduce production costs and expand their distribution networks. The financial analyst firm New Frontier identifies the Canadian cannabis industry as an “early movers” market, captured by a small group of companies which have sufficient expertise and capacity to gain a foothold on a market expanding on a global scale.

Observers, particularly health professionals, are also paying attention to the **emergence of companies specialising in alcohol sales**. In addition to the risk of industrial concentration and a private monopoly in certain provinces, a concern shared by health professionals is the alignment of the cannabis and alcohol markets (‘canna-alcohol products’). With the growth of micro-breweries in certain provinces, the brewery and wine industry is concerned about facing competition from recreational cannabis, which could overtake beer in terms of recreational habits⁵². As the government has decided to tax cannabis as lightly as possible, in order to compete with the black market, the Beer Canada group and several other alcohol groups (*Constellation Brands*⁵³, *Molson Coors*⁵⁴, *Heineken*) have joined cannabis producers in expecting a drop in sales.

Major operations are therefore underway. In addition to the launch of the first “cannabis beer” in August 2018, which gained massive media attention, *Canopy* has announced its plan to market an innovative beverage made from industrial cannabis oil, aiming to compete with Canadian whisky. At the same time, *Aurora Cannabis* has invested 100 million dollars (i.e. approximately 67 million euros) in acquiring 20% of the alcohol retail chain *Liquor Stores* with a view to creating a joint retail sales network for cannabis in Alberta. Companies in the cannabis sector, wishing to offer innovative products while benefiting from the expertise of breweries and firms specialising in the alcohol sector in terms regulations and marketing, find these completely novel partnerships particularly worthwhile. Although cannabis-based beverages will not be authorised at first in Canada, this development is planned for 2019.

Numerous studies on the link between cannabis and alcohol use give rise to different conclusions⁵⁵. A recent situational analysis of these studies reveals that the legalisation of cannabis usually gives rise to a fall in alcohol sales⁵⁶. All categories of alcohol are liable to be affected by the legalisation of cannabis, which will inevitably affect revenues received by governments, alcohol producer companies and retailers.

48. *Aurora Cannabis* purchased 23% of shares in *The Cann Group*, the largest medical cannabis producer in Australia, in the context of a “strategic partnership”. The Australian media suggested that *Aurora* was taking steps to become the controlling shareholder of this firm, valued at 500 million Canadian dollars.

49. The undercurrents of the stock market valuation are less related to the domestic market than to the potential for medical cannabis exports, particularly in Europe (particularly to Germany, which legalised medical cannabis in March 2017, perceived as the main doorway to the European medical cannabis market).

50. The company exports medical cannabis to approximately twenty countries throughout the world, which do not have their own production infrastructures, for example, Jamaica, Australia, Brazil, Spain, Denmark and, to increasing degrees, Germany.

51. This is the case for *Aphria Inc.*

52. Iconic brands, such as *Budweiser*, are losing momentum in the United States, and the beer market penetration rate fell by 1% on the American market between 2016 and 2017.

53. *Constellation Brands*, a New York group which produces and distributes alcoholic beverages, with approximately 200 alcohol brands to its name (beer, gin, whisky, vodka, wine, etc.), is the third-largest beer and wine producer in the United States in terms of volume. It increased its *Canopy Growth* share stock in August 2018, which now stands at 38%.

54. On 1 August 2018, *Molson Coors Canada*, the Canadian sales division of the *Colorado Molson Coors Brewing Company*, announced the creation of a joint venture with *The Hydrothecary Corporation*, aiming to develop non-alcoholic beverages containing cannabis destined for the Canadian market.

55. Out of forty or so recently registered studies, 16 concluded that alcohol and cannabis are often substituted for each other, whereas 10 concluded that they are more frequently used together (Subbaraman, 2016).

56. An American study, published last year, revealed that monthly alcohol sales fell by 15% on average in states which legalised medicinal marijuana (Baggio et al., 2018).

What are the consequences in terms of public safety (particularly road safety)?

The opponents of legalisation have maintained that legalisation would complicate the work of the law-enforcement services, particularly in terms of road safety. Driving after using cannabis is one of the most controversial issues. Scientists have not reached any agreement on the degree of blood THC concentrations which would be hazardous in terms of impairment of the ability to drive. Federal government has made driving illegal within two hours following cannabis use and has introduced a saliva screening test which law-enforcement officers could use before demanding a blood sample; however, cannabis can be detected in saliva for up to 6 hours. The Canadian reform is innovative whereby it has raised some practical issues related to screening, namely the critical level for reduced driving responses, and has funded research to estimate this level.

Lastly, public safety could be compromised by the online sales methods stipulated by law, which give rise to **challenges in terms of banking security**. On the eve of implementation, online order and distribution systems had not been clearly introduced in all provinces. In Quebec for example, SQDC launched an online sales platform as soon as cannabis had been legalised – in addition to the twelve or so physical sales outlets initially – although the risk of interception of postal parcels still remains. Furthermore, online sales require the use of bank cards, sometimes managed through an American bank, in which case the federal ban on cannabis still applies. Canadian users therefore find themselves without any protection against fraud.

A future role for banks?

Some Canadian banks have started to approve loans to cannabis firms via their brokers⁵⁷. The Bank of Montreal has also granted *Aurora* a secured loan of 250 million dollars. In the near future, the more reluctant banks may take on a role in the industry if their traditional customers (grocery chains, pharmacies, beverage retail firms) invest in this new expanding market. In this context, several American firms in the cannabis sector, still experiencing difficulties in securing bank funding owing to the federal ban in the United States, have been listed on the Canadian stock exchange (the “CSE”).

A normalising effect?

As is the case in other states having already taken this step, the legalisation of cannabis could help **reduce the negative social image** of cannabis and normalise the product among the younger generations, which could be an incentive for use.

Other indicators in this normalisation process include **education on cannabis** in Canadian university curricula, particularly in law schools. At the start of the 2018 academic year, one of the most renowned law schools in Canada, *Osgoode Hall Law School* of York University, located in Toronto, will offer a free course on cannabis law, on the initiative of two corporate lawyers from the Davies firm.

Likewise, cannabis is featured in all kinds of **commercial promotional strategies**, from televised cookery programmes to strategies for enhancing the value of Canadian sites in terms of tourism, as in certain Ontario hotels where tobacco smoking is still prohibited, but not cannabis.

CONCLUSION

As from 17 October 2018, cannabis will no longer be considered as an illicit drug⁵⁸ in Canada but, as having the same status as alcohol, taxed and sold in specialist State-controlled stores with access reserved for adults only. The decision to legalise cannabis, imposed by central government, has given rise to **different regulatory systems**. The consequences, in terms of use and protection of minors, will be the main criterion for the success of this reform which, in the run up to the 2019 federal elections, represents a striking political challenge.

With this reform, Canada has stepped into the “corridor” of states authorising the sale of recreational cannabis, which covers the length of a continuous Pacific arc, from Alaska to California⁵⁹, over a total surface area of 11.7 million km² – i.e. more than a quarter of the American continent. A **highly diverse range of regulatory**

57. BMO Capital Markets and CIBC Capital Markets.

58. “Designated substance” in the founding legislation of 1996 (Controlled Drugs and Substances Act).

59. It should be noted that only Colorado, Maine, Massachusetts and Uruguay fall outside this geographical continuity.

systems is observed for the legal cannabis markets, between the 8 American states, Uruguay and the 10 federal provinces and 3 federal territories of Canada. These diverse models are part of the advent of a more elaborate and detailed, innovative, regulatory paradigm, as an alternative to prohibition. Furthermore, as this concerns the **tenth global economic power**⁶⁰, facing continuous demographic expansion⁶¹ and with a leading political role owing to its membership of G7, the Canadian reform is liable to influence debates surrounding the **international conventions on illicit drugs**, in the months leading up to the United Nations Commission on Narcotic Drugs planned in 2019.

It should also be noted that Canada was the **first federal state to introduce a legal cannabis market**, confronted with the difficulties in adopting regulatory policies taking into account local characteristics, potentially widening disparities between territories. Although Canada has developed a “business-friendly” approach in some provinces, **public health concerns** remain a central focus of the reform, in the same way as the budgets announced for risk prevention and education. This is the first time a state is accompanying the legalisation of the cannabis market with financial resources dedicated to offering guidance to the population. In terms of these various approaches, Canada sets itself apart from the United States, where the cannabis market is still diverse and hindered in its development due to the federal ban⁶². Canada is thus asserting itself as a **dominant stakeholder in the emerging cannabis industry, on a global level**.

Therefore, the Canadian reform could primarily have an international impact. Although it already represents the largest legal cannabis market worldwide ahead of California (where legalisation came into force on 1 January 2018), through this reform, Canada will have an **influential role on the global economy for cannabis** (the leading drug consumed on a global scale) and drugs in general. As the leading producer and exporter of legal cannabis, Canada is guaranteed exponential economic growth due to the current prohibition on production almost everywhere else in the world. Given the limited size of the national market, Canadian producers are clearly banking on measures to ease national legislation in other countries which would increase their potential – in New Zealand, for instance, where a few Canadian firms are already established, and which has planned a referendum in 2020 on the legalisation of recreational cannabis use. Several cannabis producer companies with an international reputation are already established in the cannabis sector, notably the industrial giant, Canopy, which from 2018 will generate the **largest legal cannabis harvest in history**⁶³ and which is already developing partnerships with countries which have authorised medical cannabis. The situation reflects the Prohibition era in the early 20th century. Alcohol was then prohibited in the United States, but tolerated in some Canadian provinces, which enabled Seagram to become the leading distiller worldwide, with 250 brands of beverages and derived products.

The current two-fold trend, towards **industrial concentration** involving the few pioneering companies in the global cannabis market and the alignment of the cannabis industry with the **alcohol industry**, has led to **challenges in terms of control** both at State and international level. These developments are being closely monitored by public health stakeholders, which have benefited from experience in the alcohol, tobacco and medicinal products industries, and economic stakeholders⁶⁴, who are convinced that the expansion of the cannabis industry has only just begun.

60. In 2014, Canada reported a GDP of 1,887 thousand million dollars.

61. Continuous demographic growth since the 1990, with a growth rate higher than the United States.

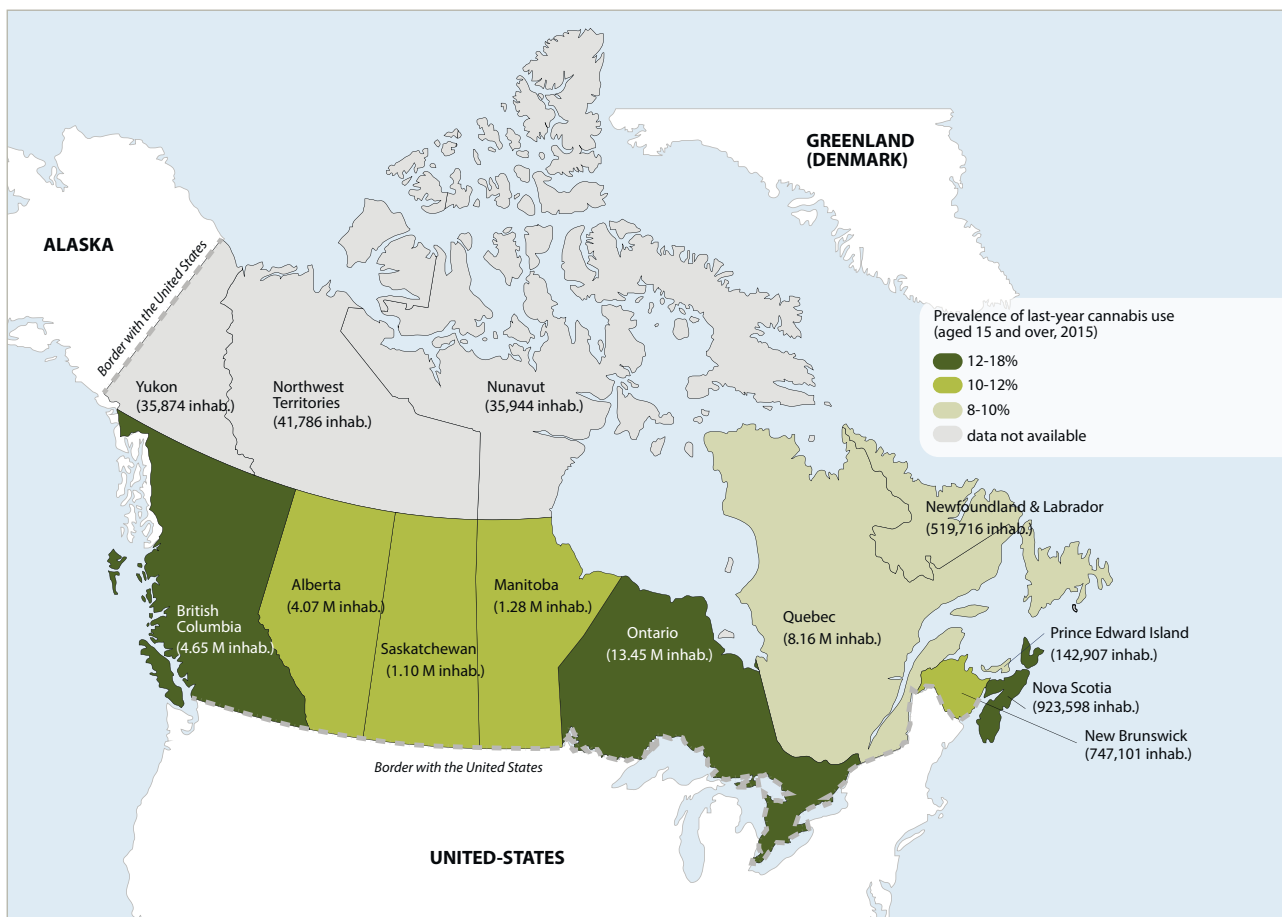
62. 9 states have legalised medical and recreational cannabis, 20 medical cannabis only, and 21 prohibit all cannabis use. Washington DC authorises possession, but without access to a legal market.

63. 500 tonnes, cultivated on 16 hectares of greenhouses in 4 Canadian provinces, but mainly in Ontario.

64. Including consultants and audit companies, in the same way as PWC (PricewaterhouseCoopers) which developed an information module on cannabis. Refer to: <https://www.pwc.com/ca/en/industries/cannabis.html>

APPENDICES

APPENDIX I. LAST-YEAR CANNABIS USE IN CANADA, BY PROVINCE (PRIOR TO THE REFORM) - YOUTH AND ADULTS



Source: Statistics Canada, OFDT infographic

APPENDIX 2. CANNABIS REGULATIONS ADOPTED BY FEDERAL PROVINCE AND TERRITORIES (AS OF 17 OCTOBER 2018)

	British Columbia	Alberta	Saskatchewan	Manitoba	Ontario	Quebec	Newfoundland & Labrador	New Brunswick	Nova Scotia	Prince Edward Island	Yukon	Northwest Territories	Nunavut
Legislation	Private Retail Licensing Guide Bill 30-2018: Cannabis Control and Licensing Act Bill 31-2018: Cannabis Distribution Act	Bill 26: An Act to Control and Regulate Cannabis Bill 29: An Act to Reduce Cannabis and Alcohol Impaired Driving Bill 6: Gaming and Liquor Statutes Amendment Act, 2018	Bill 121 Bill 112: The Miscellaneous Vehicle and Driving Statutes (Cannabis Legislation) Amendment Act, 2017 Cannabis Control (Saskatchewan) Act	Bill 11: Safe & Responsible Retailing of Cannabis Act Bill 25: Cannabis Harm Prevention Act	Bill 174: Cannabis Control Act, 2017 & Ontario Cannabis Retail Corporation Act, 2017	Bill 157: An Act to constitute the Société québécoise du cannabis, to enact the Cannabis Regulation Act and to amend various highway safety-related provisions (Cannabis Regulation Act)	Bill 20: An Act Respecting the Control and Sale of Cannabis Bill 23: An Act to Amend the Liquor Corporation Act	Bill 16: Cannabis Control Act & Bill 17: Cannabis Management Corporation Act Regulations	Bill 108: An Act to Provide for the Regulation and Sale of Cannabis	Bill 29: An Act to Respond to the Legalization of Cannabis	Bill 15: Cannabis Control and Regulation Act	Bill 6: Cannabis Legalization and Regulation Implementation Act	Bill 3: Cannabis Statutes Amendment Act & Bill 7: Cannabis Act
Framework regulation	B.C.'s Approach to Legalization	Alberta Cannabis Framework and Legislation	The Cannabis Control (Saskatchewan) Regulations	Cannabis in Manitoba	Ontario's Plan to Regulate Legalized Cannabis	Regulation of Cannabis in Quebec	Cannabis in Newfoundland & Labrador	It's In Control	Be in the Know about Legal Cannabis in Nova Scotia	Cannabis Policy, Legislation and Regulation	Find out what the government is doing about cannabis	Cannabis in the NWT	Cannabis in Nunavut
Legal age for purchase and use	19	18	19	19	19	18	19	19	19	19	19	19	19
Supply and distribution													
Retail sales model	Public-Private	Private	Private	Private	Private	Public	Private	Public	Public	Public then Private	Public	Public	Public-Private
Organisation in charge of distribution	BC Liquor Distribution Branch (LCRB)	Alberta Gaming & Liquor Comm. (AGLC)	Sask Liquor & Gaming Auth. (SLGA)	Liquor, Gaming and Cannabis Authority	Liquor Control Board of Ontario (LCBO), through one of its subsidiaries: the Ontario Cannabis Retail Corporation	Société des alcools du Québec (Quebec Alcohol Corporation)	Newfoundland and Labrador Liquor Corporation (NLQ) Cannabis NL	New Brunswick Liquor Corporation, through one of its subsidiaries: Cannabis Management Corporation: Cannabis NB	Nova Scotia Liquor Corp (NSLC)	PEI Cannabis management Corporation (PEILCC)	Yukon Liquor Corporation	NWT Liquor Commission	Nunavut Liquor Commission (NULC)

	British Columbia	Alberta	Saskatchewan	Manitoba	Ontario	Quebec	Newfoundland & Labrador	New Brunswick	Nova Scotia	Prince Edward Island	Yukon	Northwest Territories	Nunavut
Online sale	Public	Public	Private	Private	Public	Public	Public	Public	Public	Public	Public	Public if pno stores	Public
Maximum number of stores authorised	No upper limit	250 retail stores in the first year	Restricted for the first 3 years: 51 sales licences in 32 towns	22	40 initially, 80 by July 2019, 150 by 2020	20 initially	41 licences maximum initially	20	12	4 in 4 towns	1 initially	6 in alcohol sales outlets	0 initially
Separate entrance to the alcohol store	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	No	Yes
Possession and cultivation													
Restrictions on home-cultivation	4 plants kept out of sight Unless there is a landlord ban (tenants) Cultivation prohibited in residences authorised as community care institutions	4 plants per household	4 plants per household Unless there is a landlord ban (tenants)	Personal cultivation prohibited	4 plants per household	Personal cultivation prohibited	4 plants per foyer	Outside: locked enclosed space, 1.52 m high Inside: locked space	4 plants per household Unless there is a landlord ban (tenants)	4 plants per household, inaccessible to children	4 plants par foyer	4 plants par foyer	Personal cultivation prohibited until further instructions Unless there is a landlord ban (tenants)
Home possession limit (private)		No limit	30			150		No limit	No limit				

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ACKNOWLEDGEMENTS

For their contributions and insight: Clémence Bourillon, magistrate; Richard Cloutier, Minister of Health and Social Services (Quebec) (General Public Health Division); Brian Emerson, Ministry of Health (British Columbia) (Population and Public Health Division); Rebecca Jesseman, Canadian Centre on Substance Use and Addiction (CCSA); Rielle Capler, Stephanie Lake and Zach Walsh (University of British Columbia) ; Jenna Valeriani (BC Centre on Substance Use) ; Deepak Anand (Cannabis Compliance), Kerry Jang (Vancouver town councillor and member of the British Columbia legalisation task force).

For their review: Julien Morel d'Arleux, Julie-Émilie Adès, Michel Gandilhon et Anne de l'Eprevier (OFDT) ; François Gagnon (INSPQ - Quebec Public Health Expertise and Reference Centre); Anne-France Taiclet (Paris 1 Panthéon-Sorbonne University) ; Frank Zobel (Addiction Suisse).

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