

POLICIES & LEGISLATION

Policy and legislation are essential to address the burden of cancer globally and locally. The effective use of law to achieve population health goals requires collaboration across sectors.

In 2011, a landmark high-level meeting of the United Nations General Assembly resulted in a commitment to address non-communicable diseases (NCDs) as a major development challenge. In 2013, the World Health Assembly adopted the World Health Organization Global Action Plan on NCDs, emphasizing whole-of-society approaches to reduce the major drivers of preventable NCDs. The plan also endorsed a global monitoring framework including nine voluntary global targets. **FIGURE 39.1** In 2015, a goal to reduce premature mortality from NCDs by one-third was included in the United Nations Sustainable Development Goals. **FIGURE 39.2**

The effective use of law is critical to addressing cancer and other NCDs. This is true across the cancer and NCD continuum, including prevention (reducing exposure to risk factors such as tobacco, alcohol, unhealthy diet, air pollution, and occupational exposures); conduct of research and management of personal health information (protection of individual privacy, while allowing for the conduct and dissemination of essential medical and public health research); screening, diagnosis, treatment and care (access, affordability, quality, safety, regulation of health

practitioners, and protection of the rights of patients, their families and carers); and life after a diagnosis (employment protection, access to insurance, pension funds, and loans).

The effective use of law requires collaboration across sectors: government; civil society; academia; health professionals; communities; people affected by cancer or NCDs, their families and caregivers; and, as appropriate, the private sector. Collaboration across different parts of government is also needed, as few problems can be addressed by health ministries acting alone.

Addressing cancer and NCDs through law involves engaging with domestic, regional and international legal and governance frameworks, including those dealing with health, human rights, international trade, intellectual property and investment law, environment, and occupational health and safety. It also requires being able to defend against litigation, or threats of litigation, by corporate interests—such as the tobacco, alcohol and food industries—which is becoming increasingly common. **FIGURE 39.3** Legal capacity is an essential component of the cancer/NCD workforce.



The Australian Government has successfully defended against three sets of legal challenges to its tobacco plain packaging laws: a constitutional challenge in its highest domestic court, an investment treaty claim, and a dispute in the World Trade Organization. These victories demonstrate the power governments have to legislate for public health.

FIGURE 39.3

International trade and investment litigation against tobacco control laws

	AUSTRALIA	URUGUAY
ACCESS CREATES PROGRESS	Australia and Uruguay have successfully defended litigation against their tobacco packaging laws under international trade, intellectual property and investment laws.	
Action	Australia was challenged under a bilateral investment treaty between Australia and Hong Kong by Philip Morris Asia, claiming expropriation and a breach of obligations to provide fair and equitable treatment (case decided in Australia's favor in December 2015), and in the World Trade Organization by Cuba, Dominican Republic, Honduras, and Indonesia, claiming breaches of obligations relating to trade restrictiveness and intellectual property protection (case decided in Australia's favor in June 2018).	Uruguay was challenged under a bilateral investment treaty between Uruguay and Switzerland by Philip Morris Switzerland, claiming expropriation and a breach of obligations to provide fair and equitable treatment (case decided in Uruguay's favor in July 2016).
Result	Australia's and Uruguay's successes have confirmed the policy space that countries have under international trade, intellectual property, and investment agreements to implement evidence-based tobacco control measures. However, litigation of this nature is resource-intensive and expensive to defend.	

FIGURE 39.1

Nine voluntary global targets endorsed by governments in the World Health Organization (WHO) Global Action Plan on NCDs

Law is essential to implement a number of the globally agreed 'best buys' for NCDs—the evidence-based interventions considered the most cost-effective and feasible for implementation in low- and lower middle-income countries.

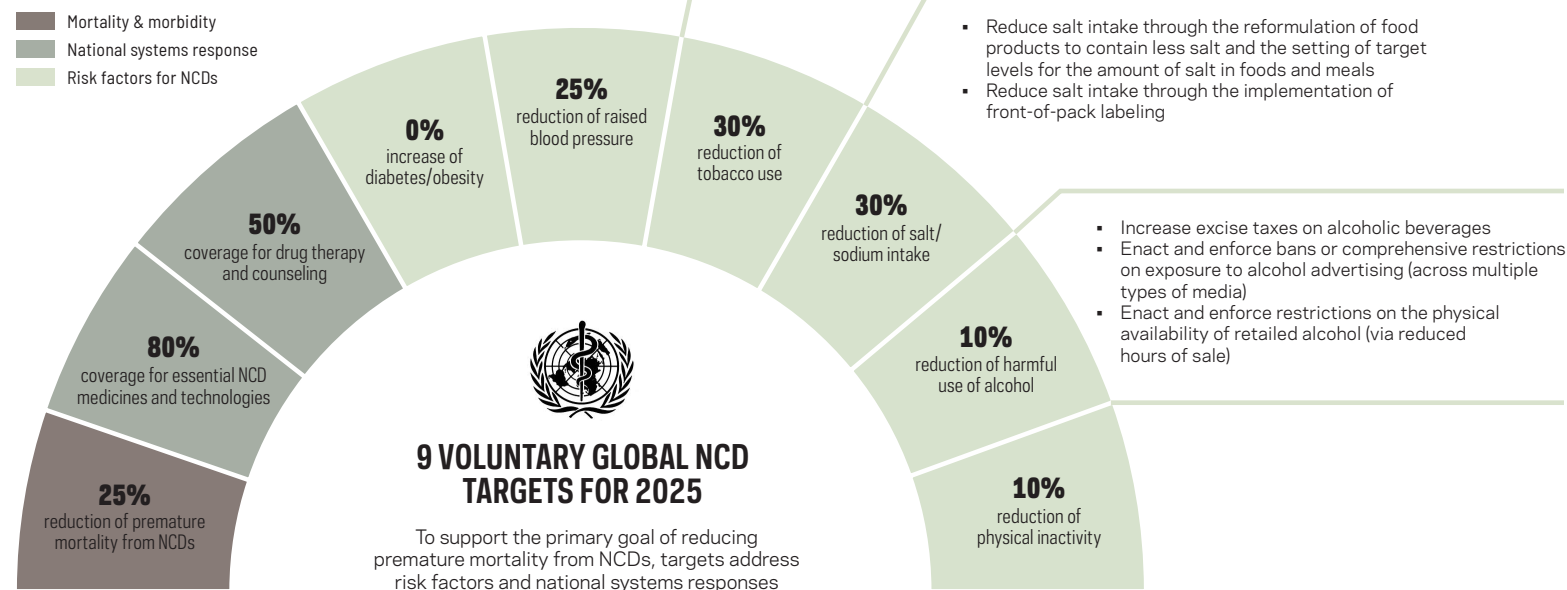
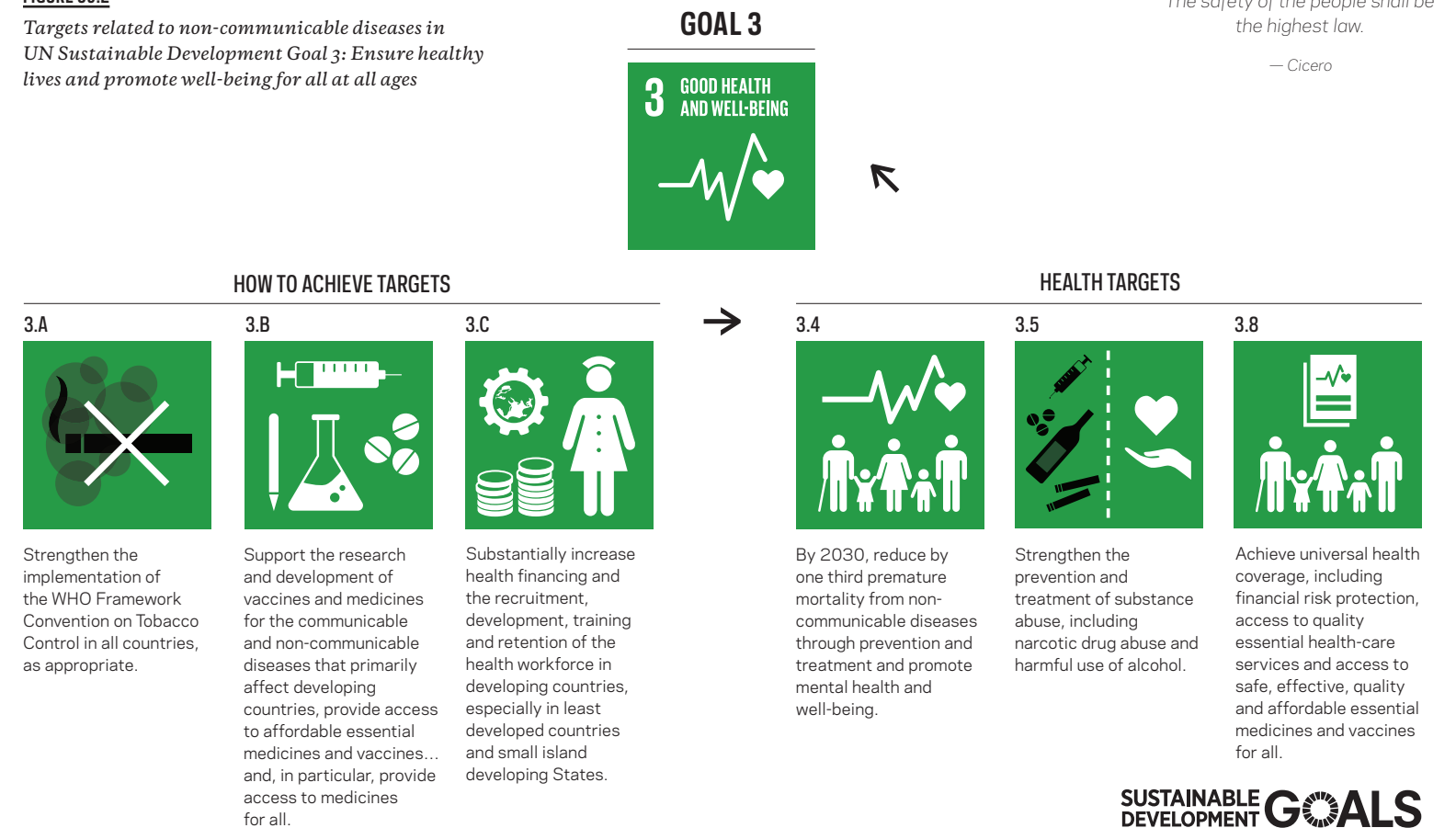


FIGURE 39.2

Targets related to non-communicable diseases in UN Sustainable Development Goal 3: Ensure healthy lives and promote well-being for all at all ages



The safety of the people shall be the highest law.

— Cicero