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Cannabis Regulatory Approaches

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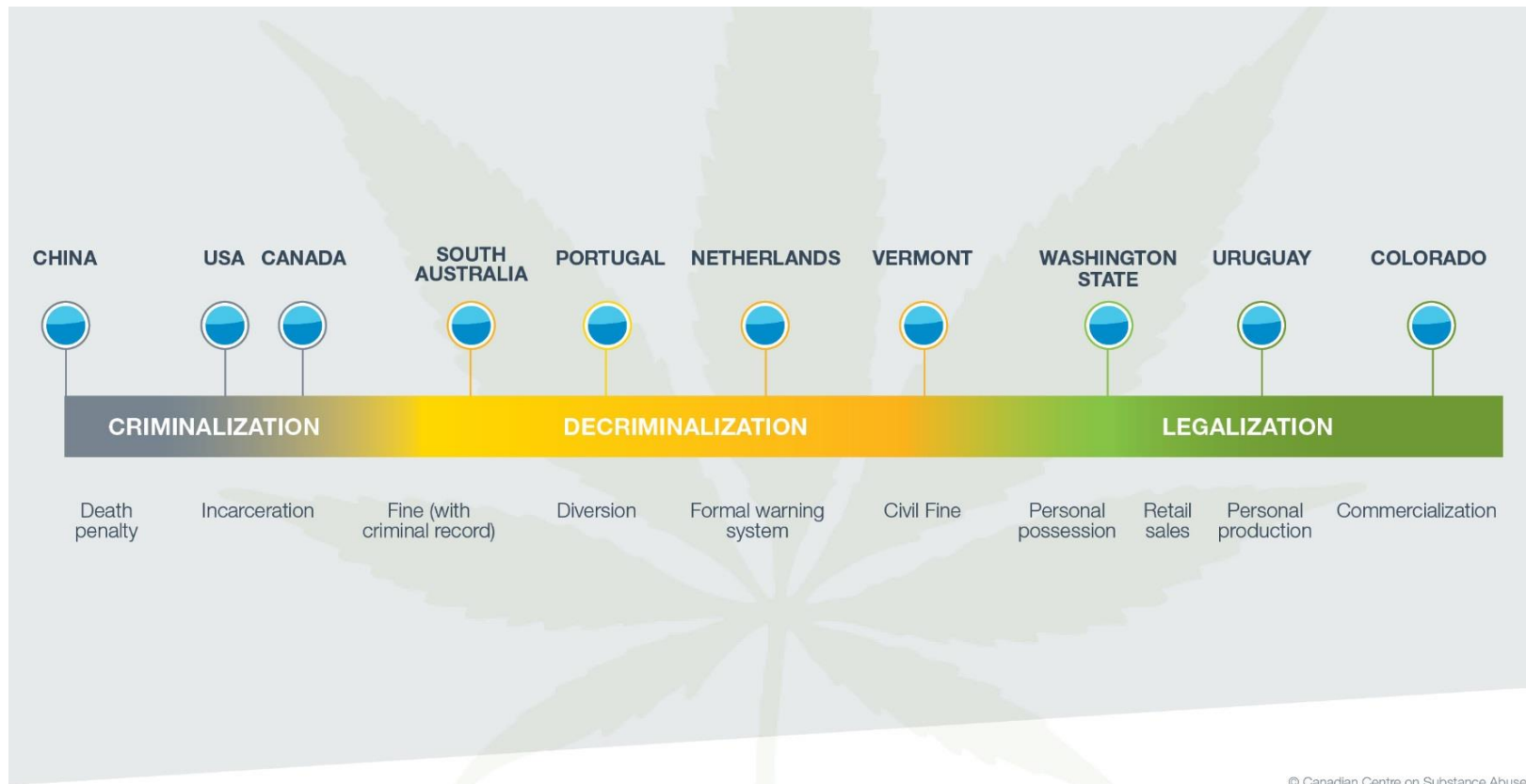
Cannabis : approches réglementaires

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Regulatory Continuum

Regulatory options for cannabis fall along a continuum, rather than into distinct categories. The diagram illustrates the continuum with examples of the various approaches and countries that have implemented them.





Summary of Approaches

Model ¹	Component	Description	Advantages	Possible Concerns	Jurisdictional Examples
Criminalization	Alternative Sanctions	Criminal prohibition is maintained, with diversion options introduced	Means of avoiding a record of criminal conviction Retains objectives of denunciation and deterrence Continued compliance with international conventions	Opportunity for unequal application due to police discretion Can still involve significant police and justice system resources, depending on model used	Australia, United Kingdom, US states
	Diversion – Fine	Police have the option of issuing a ticket with a fine associated in place of laying charges	Reduced resource impact on enforcement Does not require significant legislative change (e.g., could be done through <i>Contraventions Act</i>) Canadian Association of Chiefs of Police have spoken in favour of this option	Potential for net-widening (increased enforcement) due to streamlined process Although not a criminal record per se, record of diversion for a drug offense can still impede international travel Potential for fines to differentially impact marginalized or low socio-economic status populations	South Australia (Cannabis Expiation Notices) 15 US states that have introduced varying fine options (e.g., Maine, NY, Rhode Island)
	Diversion – Treatment	Police have the option to refer individuals to treatment in place of laying charges	Mechanism and incentive for access to treatment for those who would benefit	Most people who use cannabis do not require treatment Limited capacity in the treatment system to handle additional demand Legislative change required ² Treatment services are a provincial and territorial (P/T) responsibility, so P/Ts would bear the brunt of the resource impact within a context of significant health budget concerns and dissatisfaction with federal transfer payments	Portugal

¹ Note that the models and components fall across the continuum presented on page one and should not be interpreted as distinct categories.

² The requirement for legislative change is noted as a concern in light of the time and resources required, not as an assessment of whether such change is the most appropriate means through which to achieve policy goals.



Model ¹	Component	Description	Advantages	Possible Concerns	Jurisdictional Examples
	Escalating warnings	Sanctions associated with possession escalate with the number of police encounters, usually beginning with a warning	Opportunity to identify problematic use through repeat encounters and respond as appropriate (e.g., in conjunction with diversion options such as treatment)	<p>Administrative burden of tracking number of encounters</p> <p>Potential complications with tracking encounters across jurisdictional boundaries without creating more formal records that would then be accessible to a broader range of partners (e.g., international border control)</p> <p>Legislative change required</p> <p>International evidence is not clear about the success of this approach in achieving social control</p> <p>Different enforcement jurisdictions in Canada might complicate accurate tracking of encounters (e.g., municipal, provincial, national, First Nations)</p>	United Kingdom
Decriminalization	Decriminalization – General	Non-criminal penalties replace criminal penalties for selected offenses such as possession	<p>Removes the potential for a record of criminal charges for individuals in possession of small amounts (quantity to be determined)</p> <p>Reduced enforcement resources required to issue a fine versus lay a criminal charge, therefore potential cost savings at the provincial, territorial and municipal levels</p> <p>Potential for use as an interim measure while a comprehensive legalization framework is being developed</p>	<p>When targeted to personal possession, does not address issue of illicit supply, so the black market remains</p> <p>Potential for fines to differentially impact marginalized or low socio-economic status populations</p> <p>Requires revision to legislation</p> <p>Some debate about compliance with international conventions</p>	Australia, Portugal, Netherlands, Spain
	Civil fine	The criminal charges associated with personal possession are	Retains denunciation component Police in Canada have expressed support for the tool of laying criminal charges in cases of possession, particularly where other criminal activity is involved	<p>Removes a strategic tool available for use by police</p> <p>Risk of net-widening (increased police contacts) due to relative ease of issuing fines versus laying charges</p>	Vermont (although still within federal criminal legislation)



Model ¹	Component	Description	Advantages	Possible Concerns	Jurisdictional Examples
		replaced by civil fines			
	Regulated sites (i.e., cafes)	Use of cannabis is permitted in designated locations that are subject to regulations	Can set regulations to prohibit access for youth, restrict product forms and THC concentrations, purchase quantities and so on	Does not address the issue of illegal supply Resources are required to develop and enforce regulations	Netherlands
	Collectives or private members' clubs	Production, distribution and use are permitted among members and subject to regulation (can also take place in a legalized framework, as in Uruguay)	Can set regulations to prohibit access for youth, restrict product forms and THC concentrations, personal quantity allowances, membership numbers and so on Increased opportunity for quality control and quantity regulation in comparison to home production A template for this approach exists through private members lounges for tobacco	Resources are required to develop and enforce regulations Potential for diversion of private product to the illicit market Involvement of organized crime noted in some European locations Potential for unequal application of the law when comparing those with and without access to a private club Significant resources required for monitoring compliance with production, quality and operating regulations Potential for profit motives to guide club operations (e.g., expand membership and increase production quantities)	Spain, Belgium, Uruguay
Legalization	Legalization - General	Criminal sanctions are removed and production, distribution and use are subject to regulation	Eliminates dual criminal-civil system for production and distribution versus use Creates a broader framework for regulatory strategies (e.g., restrictions on age, purchase quantity and product format, quality control, retail location restrictions and marketing and promotion) The Centre for Addiction and Mental Health and the Canadian Public	In contravention of international conventions Potential impact on public health and public safety (e.g., impaired driving, emergency room admissions) Uncertain impact on the black market and organized crime Requirement for a comprehensive regulatory framework considering, for example, limits on forms of sale such as	Uruguay, Washington state, Colorado, Alaska, Oregon, Washington, DC



Model ¹	Component	Description	Advantages	Possible Concerns	Jurisdictional Examples
			Health Association have publicly expressed support for legalization	edibles, levels of THC, marketing and promotion, and packaging (e.g., pre-rolled versus bulk) Tax revenue needs to be balanced against cost of administering regulations and investing in education, prevention and treatment	
	Personal production	Individuals are allowed to grow a limited amount of product	Potential quality control through licensing regulations Individuals are not reliant on industry production (e.g., strain selection, growing techniques, cost)	Risk of diversion Enforcement of quantity and quality controls is difficult	Washington, DC (personal production only) Colorado, Alaska (personal production alongside retail sales)
	State-licensed production	State-issued licenses are required to grow and distribute product Note: can be exclusive or alongside personal production	Greater control over product availability through licensing requirements Can set limits on quantity of producers and product Opportunity for quality control, including THC concentrations Model in place through licensed medical producers	Significant resources required to effectively monitor and enforce regulations Challenges associated with either consolidating medical and recreational production or maintaining two distinct sets of regulations	Washington, Colorado
	Open market production	No special license required for production beyond standard health and safety	Reduced regulatory and enforcement burden on the state	Competitive commercial market likely to reduce price and encourage increased use Reduced ability for quality control might pose a public health risk	None to date



Model ¹	Component	Description	Advantages	Possible Concerns	Jurisdictional Examples
	Limit to state-controlled sales	Distribution through state-licensed outlets only	<p>State control over all aspects of retail sales</p> <p>Immediate state access to sales revenue</p> <p>Opportunity to expand existing state-controlled alcohol outlets</p> <p>Strongest support for containing rates of use based on lessons learned from alcohol</p>	Puts the state in a position in which it is selling a substance in breach of international conventions	Uruguay (licensed pharmacy model)
	Private retail sales	Private retailers are licensed by the state to sell cannabis	<p>State can generate revenue through license fees as well as sales tax</p> <p>State has the ability to set licensing and operating regulations</p> <p>Many provinces are introducing privatized alcohol sales, providing a possible precedent and model for private cannabis sales</p>	<p>Less direct access to sales revenue</p> <p>Conflict between public health interests and profit motives (e.g., pressure from the commercial market about advertising and promotion)</p>	Colorado
	Distinct medical and recreational markets	Sales and potentially production are governed by distinct regulations, pricing, access and tax structures, with medical access generally having higher purchase and possession limits, lower taxes and access by minors	<p>Provides a way to maintain lower pricing for those with recognized medical conditions</p> <p>Recognizes the possibility of different needs (e.g., quantities, strains, formats) for medical use</p>	<p>Potential for diversion between systems</p> <p>Maintains a gatekeeper role for physicians regarding medical access</p> <p>Potential for abuse of the medical system to take advantage of lower pricing (e.g., doctor shopping)</p> <p>Resource demand associated with maintaining two regulatory systems</p> <p>Regulation and enforcement is more complex</p>	Colorado



Model ¹	Component	Description	Advantages	Possible Concerns	Jurisdictional Examples
	Merged medical and recreational markets	A single access system is in place regardless of whether the purpose for use is therapeutic or recreational	More streamlined regulation and enforcement	<p>Challenge of designing a single regulatory system that respects court decisions focused on ensuring ease of access and public health considerations, while controlling access within the recreational context</p> <p>In Canada, access to cannabis for medical purposes has been largely determined through the courts, requiring any developments in the recreational market that influence the medical market to be reviewed in light of compliance with court decisions</p>	Washington



Legalization Regulation at a Glance

The following table provides an overview of the regulatory details developed in Colorado, Washington state, Oregon, Alaska and Uruguay. Note that this overview does not provide a comprehensive description of all associated fees, regulations and so on, and that regulations continue to evolve as this report is being published. Readers should consult with the respective jurisdictional regulatory authorities for additional details and to ensure currency of information.

	Colorado	Washington State	Oregon	Alaska	Washington, DC	Uruguay
Status	Retail sales began January 1, 2014	Retail sales began July 8, 2014	Limited sales from existing medical marijuana dispensaries began October 1, 2015 Oregon Liquor Control Commission accepting license applications Retail sales expected in mid-2016 Final rules to be developed and reported to legislative bodies by January 1, 2017	Law in force as of February 24, 2015 Retail licenses to be issued in May 2016	In effect as of February 26, 2015	Cooperatives and personal production in place in 2014 State-authorized producers have been identified Call for applications for pharmacy licenses closed May 16, 2016 Initiation of pharmacy sales estimated in summer 2016
Personal possession and/or sales limits	1 oz	1 oz dried 16 oz infused solid product 72 oz infused liquid product	1 oz dried 16 oz infused solid product 72 oz infused liquid product 5 g extracts or concentrate 4 immature plants 10 plant seeds	1 oz; can also possess all product grown from home 7g concentrate Products containing up to 5,600 mg THC	2 oz	40 g/month purchases from pharmacies; maximum 480g/year



	Colorado	Washington State	Oregon	Alaska	Washington, DC	Uruguay
Age restrictions	21	21	21	21	21	18
Personal production	Up to 6 plants (max. 3 mature) Must be in enclosed, locked space	No	Up to 4 plants and 8 oz dry marijuana 16 oz in solid form 72 oz in liquid form 16 oz concentrates Can transfer these amounts for non-commercial purposes (limit of 1 oz dried product) Production of extracts prohibited	Up to 6 plants in a household residence (max. 3 mature)	Up to 6 plants in a primary personal residents (max. 3 mature)	Up to 6 plants per household with a harvest of no more than 480 g/year
Commercial production	Yes, state licensed Mandatory tracking system	Yes, state licensed and capped Mandatory tracking system	Yes, state licensed Mandatory tracking system	Yes, state licensed, indoor and outdoor permitted Mandatory tracking system for plants over 8" high	No	Yes, state licensed
Retail distribution	Yes, state licensed	Yes, state licensed and capped Licenses initially allocated via lottery	Yes, state licensed In person sales and home delivery	Yes In-person sales only	No Individuals can transfer up to 1 oz, but there can be no remuneration	State purchases from commercial growers and supplies to licensed pharmacies
On-site retail consumption	No	No	No	Yes, if separate space within shop is provided	No	No



	Colorado	Washington State	Oregon	Alaska	Washington, DC	Uruguay
Licensing body	Colorado Department of Revenue	Washington State Liquor and Cannabis Control Board	Oregon Liquor Control Commission	Alcohol and Marijuana Control Office	N/A	Instituto de Regulación y Control del Cannabis (IRCCA)
License fees	Application fees: <ul style="list-style-type: none"> • New applicants: \$5,000 • Licensed medical expanding to retail: \$3,000 • Testing facility: \$1,000 License fees: <ul style="list-style-type: none"> • Cultivation facility: \$2,200 • Manufacturing: \$2,200 • Retail: \$3,000 • Testing: \$2,200 	Application: \$266; Annual fee: \$1,062	Application: \$250 Production: <ul style="list-style-type: none"> • Micro Tier I: \$1,000 • Micro Tier II: \$2,000 • Tier I: \$3,750 • Tier II: \$5,750 • Processors, wholesalers, retailers and laboratories: \$4,750 Changes to license: \$1,000	Application: \$1,000 Retail: \$5,000 Limited cultivation: \$1,000 Cultivation: \$5,000 Extract-only manufacturing: \$1,000 Manufacturing: \$5,000 Testing: \$1,000 Handler permit: \$50	N/A	Unknown
License types	Retail store, cultivation facility, product manufacturer	Producer, processor, retailer	Production; processor; wholesale; retail, laboratory	4 types: retail, cultivation (small grower subcategory for <500 square feet of canopy), manufacturing (subcategory for concentrates only), and testing	N/A	State authorized producer, licensed pharmacy or licensed cooperative



	Colorado	Washington State	Oregon	Alaska	Washington, DC	Uruguay
License caps	Individual with controlling interest in 3 or more cultivation facilities must have controlling interest in at least 1 retail store for each multiple of 3 cultivation licenses	Currently 556	No caps on quantity of licenses or number of licenses that can be held by an individual	No caps on quantity of licenses or number of licenses that can be held by an individual or company	N/A	2 licenses granted for nation-wide production
Local options	Can prohibit or impose additional licensing or approval requirements for retail businesses	Caps at regional levels Business must notify local authority before opening	Can only prohibit licensed facilities through voter referendum	Can prohibit licensed facilities Cannot prohibit personal use or possession	N/A	No
License restrictions (size or structure)	Standard manufacturing license permits up to 1,800 plants Extended count licenses available for 6,000 and 10,200 plants	3 tiers of production based on canopy size (2,000, 2,001–10,000 and 10,001–30,000 sq. ft)	Indoor (max. sq. ft): <ul style="list-style-type: none"> • Micro Tier I: 625 • Micro Tier II: 1,250 • Tier I: 5,000 • Tier II: 10,000 Outdoor (max. sq. ft): <ul style="list-style-type: none"> • Micro Tier I: 2,500 • Micro Tier II: 5,000 • Tier I: 20,000 • Tier II: 40,000 	1 company can hold all types of license except testing Testing licensees can hold only testing licenses	N/A	Co-ops can have up to 45 members and produce up to 99 plants 2 state-licensed producers contracted for 2,000 kg each/year
Location restrictions	Cannot be co-located with alcohol, tobacco or food sales Min. 1,000 ft from schools and child care centres	Min. 1,000 ft from schools, parks, playgrounds, public transit centres, game arcades, etc.	Min. 1,000 ft from schools Licenses are transferable Cannot be co-located with liquor licensee	Min. 500 ft from school, recreation, youth, religious or correctional centres Cannot be co-located with liquor licensed premises Licenses are non-transferable	N/A	Distributed through pharmacies only Co-operatives must be 150 m from schools



	Colorado	Washington State	Oregon	Alaska	Washington, DC	Uruguay
Taxation	15% excise; 10% sales + municipal taxes (approx. 30% of total price)	Initially, 25% excise tax at each of production, processing and retail sale + state and local sales taxes (approx. 50% of total price) Revised in July 2015 to single 37% excise tax	Retail sales tax of 17% plus up to 3% local tax	Excise tax of \$50/oz	N/A	Marijuana will not be taxed, but retail sales strategy is yet to be finalized
Dedicated revenues	Targeted to prevention, treatment and administration	Targeted but a portion re-allocated to the general fund	Marijuana Control and Regulation Fund distinct from General Fund	No	N/A	License fees will fund the IRCCA
Forms of sale	Dried marijuana, extracts, infusions, concentrates As of October 1, 2016, edibles must be stamped to indicate presence of THC Colorado Cannabis Chamber of Commerce implementing voluntary restriction on edibles formats: no human or animal shapes as of October 1, 2016	Dried marijuana and infusions	Dried marijuana, solids, liquids, concentrates, extracts, plants, seeds	Dried marijuana, edibles, concentrates Product cannot be adulterated food or drink, or resemble familiar food or drink items, including candy Serving size must be clearly marked	N/A	Dried marijuana 3 strains to be produced by state-licensed growers



	Colorado	Washington State	Oregon	Alaska	Washington, DC	Uruguay
Potency and quantity restrictions	Edibles can be no stronger than 10 mg per serving; no more than 10 servings per package	Edibles can be no stronger than 10 mg per serving; no more than 10 servings per package	Edibles can be no stronger than 5 mg per serving; up to 10 servings per package	Edibles can be no stronger than 5 mg per serving; up to 10 servings per package	N/A	Pharmacy sales limited to 3 strains produced by state-licensed growers THC level capped at 15%
Packaging	No more than 100 mg THC per individually packaged edible; servings up to 10 mg must be clearly marked and separable Child-resistant and not appealing to children (i.e. cartoons or similar characters); cannot include the word “candy” as of October 1, 2016 Usage instructions for non-edibles; health warnings; THC and CBD content listed	Child resistant and tamperproof Edible servings must be packaged individually; liquid product must include a serving-size measuring device Standard warnings must be included on the label Must indicate THC and CBD levels, business or trade name and inventory ID number	Child resistant and not attractive to minors Re-sealable if more than 1 serving Potency, activation time, contents and health warnings Edible products, extracts and concentrates must list serving size and number of servings Standard warnings must be provided	No cartoon characters or other graphics that might appeal to children Opaque, re-sealable, child-resistant Identifies store, THC content Provides standard health warnings	N/A	No branding



	Colorado	Washington State	Oregon	Alaska	Washington, DC	Uruguay
Marketing, advertising and sponsorship	Restrictions on number and location of signs Restriction on advertising or sponsorship where more than 30% of the audience is under 21 Cannot target out-of-state persons	Restrictions on number and location of signs	No advertising that is attractive to minors, promotes excessive use, promotes illegal activity under state law, or otherwise presents a threat to public health and safety	Restrictions on number and location of signs	N/A	Not permitted
Residency restrictions	¼ oz purchase limit for non-residents 2-year residency requirement for retailers, producers	3-month residency requirement for retailers, producers	2-year residency requirement for production and sale until 2020	Owners of marijuana companies must have lived in Alaska for min. of 1 year	No However, no opportunities for non-residents to purchase	Only Uruguayan citizens can legally purchase or grow marijuana
Driving restrictions	Yes 5 nanograms of THC per ml of blood	Yes 5 nanograms of THC per ml of blood	Details of restrictions in development Consumption while on the highway is a Class B violation	Yes Included in existing impaired driving prohibition	Yes Cannot operate a vehicle while under the influence	Yes Testing and limit to be set by IRCCA
Public use	No	No	No	No	No	No



	Colorado	Washington State	Oregon	Alaska	Washington, DC	Uruguay
Medical access	Licensed medical production and retail system pre-dates retail licensing and continues to operate in parallel with retail	Medical and retail merging under one system, but with separate regulations (e.g., age of access, purchase quantity, taxation) Retailers will need an endorsement to also conduct medical marijuana sales	Oregon Health Authority administers Oregon Medical Marijuana Act independently Medical and recreational processing and sales cannot be co-located; growth can be co-located with a special license Personal production limits for medical: 6 plants; can grow for up to 4 cardholders	Medical marijuana registry permits personal production or production by a designated caregiver No state-licensed medical dispensaries	Licensed medical cultivation and dispensary system	Legal since 2013, but framework and access is still in development.
Other			Outlines a process for the certification of researchers Includes good Samaritan and medical care exclusions	Product cannot be labelled organic Handler permits obtained through completion of an education course and written test		Uruguayans must register for form of access (personal production, co-op or pharmacy sales)



Selected Reports

The following list presents recent reports that contain analysis of cannabis policy options and implications from a range of perspectives. The Canadian Centre on Substance Abuse does not endorse the conclusions or recommendations of these reports, but recognizes their important contribution to the policy dialogue.

- [*A New Approach to Managing Illegal Psychoactive Substances in Canada*](#). (2014). Canadian Public Health Association
- [*Annual Update*](#). (2015). Colorado Department of Revenue Enforcement Division
- [*Cannabis Policy Framework*](#). (2014). Centre for Addiction and Mental Health
- [*Cannabis Regulation: Lessons Learned in Colorado and Washington State*](#). (2015). Canadian Centre on Substance Abuse
- [*Considering Marijuana Legalization: Insights for Vermont and Other Jurisdictions*](#). (2015). Rand Corporation
- [*Joint Venture: A Blueprint for Federal and Provincial Marijuana Policy*](#). (2016). C.D. Howe Institute
- [*Lessons After Two Years of Marijuana Legalization: Short Report*](#). (2015). Smart Approaches to Marijuana
- [*Marijuana for Medical Purposes: Policy Brief*](#). (2014). Canadian Centre on Substance Abuse
- [*Marijuana for Non-Therapeutic Purposes: Policy Considerations*](#). (2014). Canadian Centre on Substance Abuse
- [*Monitoring Health Concerns Related to Marijuana in Colorado: 2014*](#) (2015). Colorado Department of Public Health and Environment
- [*Pathways Report: Policy Options for Regulating Marijuana in California*](#). (2015). Blue Ribbon Commission on Marijuana Policy
- [*Uruguay's Drug Policy: Major Innovations, Major Challenges*](#). (2015). Brookings Institution, Washington Office on Latin America³

³ This paper is part of a series, *Improving Global Drug Policy: Comparative Perspectives and UNGASS 2016*, available from www.brookings.edu.