Using points of precedent to support our case.

**Why Fossil Fuels are like Tobacco**

In 2007, the University of Toronto decided to divest from tobacco companies, after determining that the case to do so was consistent with university policies. There are several important ways in which the tobacco precedent is relevant to fossil fuel divestment.

Firstly, the scientific case demonstrating the harm caused by tobacco strengthened progressively over the span of decades. Companies were initially willing to challenge these claims, but the weight of evidence eventually made their case untenable. Similarly, the evidence demonstrating the seriousness of anthropogenic climate change has now progressed beyond the point where it can be considered a subject of ongoing academic inquiry and debate.

Secondly, in both the cases of tobacco and fossil fuels the problem is the primary product being produced by the industry. Just as it would be ineffective to use shareholder voice to try to convince a tobacco company to stop producing and selling tobacco, it is implausible that the university could use shareholder activism to convince fossil fuel companies to desist from activities that create and facilitate major greenhouse gas pollution.

Thirdly, both tobacco and fossil fuel consumption are distinct from other products that can be argued to cause social harm in that each item has "no safe use" (Advisory Board, 2007, p. 9).

As acknowledge by former president David Naylor in his letter regarding the university’s decision to divest from tobacco shares, both anti-smoking advocates and major producers alike acknowledged tobacco's negative effects on human health (<http://www.thestar.com/news/2667/64/16/u_of_t_to_sell_off_its_tobacco_holdings.html>). Similarly, environmentalists and scientists, along with spokespeople from the fossil fuel industry, have publicly conceded that the business of extracting and burning fossil fuels has multiple adverse effects on the ecological health of the planet as well as on global economic stability (see, for example, van den Hove, Le Menestrel, de Bettignies, 2002).

Fourth, both investments in tobacco and fossil fuels challenge pre-existing policies that were developed and implemented in alignment with the university's core values. For instance, the case for tobacco divestment was logical given that an anti-smoking policy was already implemented on campus "in recognition of the medical consensus on the health effects of smoking, and the University's place in the promotion of health” (Advisory Board, 2007, p. 9). While no local, provincial or federal legislation banned the production of cigarettes or the activity of smoking on a universal scale, the absence of such regulations did not deter the university from divestment.

The same logic can be applied to the case for divesting from fossil fuels. For instance, the university's Environmental Protection Policy, developed in 2010, reflects the university's commitment "to being a positive and creative force in the protection and enhancement of the local and global environment". Divestment from fossil fuels is a legitimate action in recognition of the governmental and scientific consensus on the detrimental effects of fossil fuel extraction and consumption, and in acknowledgment of the university's own position on promoting environmental health as stipulated in its Environmental Protection Policy as well in its academic programming (see Section 2.3 of this brief). In the absence of legislation banning the extraction or burning of fossil fuels, recognition of the adverse effects of these activities, legitimated through the enactment of the Environmental Protection Policy and other university initiatives, constitutes legitimate basis for divestment based on the precedent of the tobacco case.

Furthermore, the ability and desire to divest in the absence of official legislation that can be cited to validate claims of “social injury” is possible and has precedent in the events leading up to the university’s decision to divest from companies operating in apartheid South Africa. For instance, in response to growing social pressure calling on an end to apartheid and to international complicity in the system, the Canadian government passed Bill 9, “An Act Permitting Trustees and other Persons to dispose of South African Investments”. This piece of legislation was tabled first on November 5th 1987 and enacted in the Legislature of Ontario on December 15th, 1988. However, the Governing Council at the university voted to divest from stocks held in South African companies on January 21st, 1988, almost a full year before Bill 9 was passed. This progressive action on the part of the university represents a forward-thinking response to the trajectory of social sentiment regarding the issue of apartheid, which was growing rapidly and was manifesting itself in policy changes and legislation such as Bill 9.

While no such Canadian legislation currently exists with regards to the extraction and burning of fossil fuels which are the direct causes of climate change, we propose that the university give the same weight to the strengthening consensus amongst governments, scientific organizations, and financial institutions that are increasingly recognizing the risks of climate change not only to human health and ecosystems but to global economic stability and, on by direct implication, to the maintenance of sound investment policies **(refs needed - or refer to appropriate section of brief).**

QUESTION:

I have a question related to the following point:

*Taken from a quote from the Report of the Presidential Advisory Board cited directly below*: “Fiduciary responsibility formed the main objection and obstacle to the University’s divestment from tobacco shares. However, in response to the Board’s position that the Governing Council’s ethical investment policy was weakened by fiduciary responsibility, they recommended the policy be reviewed “...with specific attention to the responsiveness and effectiveness of the process as well as with respect to the substance of the policy” (p. 8).

-*Can we make some kind of claim asking for amendments to the policy??*

REFERENCES

Report of the Presidential Advisory Board on Social and Political Issues With Respect to University Investment, April 10, 1992, (Courtesy of the University of Toronto Governing Council), p. 8.

van den Hove, S., Menestrel, M.L., & de Bettignies, H. The oil industry and climate change: strategies and ethical dilemmas. *Climate Policy* 2 (2002), 3-18.