



Global Center for
Good Governance
in Tobacco Control

Handbook on Implementation of WHO FCTC Article 5.3

Policies and Practices that Protect Against Tobacco Industry Interference

Second Edition



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About GGTC

The Global Center for Good Governance in Tobacco Control (GGTC) is the WHO FCTC Secretariat’s Knowledge Hub on Article 5.3. It is a partnership program of the School of Global Studies, Thammasat University, Thailand, and the Southeast Asia Tobacco Control Alliance (SEATCA) to promote and enhance good governance in tobacco control through a whole-of-government approach.

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I. Introduction

This handbook summarizes reports on the implementation of Article 5.3 of the World Health Organization – Framework Convention on Tobacco Control (WHO FCTC) in order to prompt information exchange among Parties to the WHO FCTC. It aims to raise awareness of international instruments that Parties to the WHO FCTC can use to support domestic/country implementation of the treaty provision that protects tobacco control policies from tobacco industry interference. It also lists some progress by the global community in countering tobacco industry's efforts at the global or regional level.

To further support knowledge dissemination on these topics, the Global Center for Good Governance in Tobacco Control (GGTC) is undertaking further research to elaborate on the broad narratives in this handbook.

II. Country Level

A. Good Practices at Country Level

Reports of tobacco industry tactics to undermine tobacco control policies have progressively increased since the public health community agreed to implement the life-saving measures outlined in the WHO FCTC. The treaty itself, particularly Article 5.3, anticipated the tobacco industry's strategies: In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.³⁹ With this provision, a number of countries started taking measures to prevent tobacco industry interference...mostly in the form of general principles embodied in legislation.

After the Article 5.3 Guidelines were adopted in 2008, Parties were provided with the much-needed guidance to articulate the measures needed to protect health policies from tobacco industry interference. Article 5.3 covered various means of protecting policies such as by requiring transparency from the tobacco industry, rejecting partnerships, de-normalizing so-called corporate social responsibility (CSR) activities, raising awareness of tobacco industry tactics, strengthening code of conduct (avoiding conflicts and limiting interactions), and refusing any preferential treatment for the tobacco industry.

With the recommendations provided by the Guidelines, Parties to the WHO FCTC have since adopted more sophisticated measures to prevent tobacco industry interference.

Table 1 below compiles good practices at country level on the implementation of Article 5.3 from publicly available reports, such as:

1. Reports of Parties submitted to WHO FCTC from 2007 to 2016 as required under Article 21.1 of the Convention.¹
2. WHO FCTC, Examples of implementation of Article 5.3 communicated through the reports of the Parties.
3. WHO FCTC, Good country practices in the implementation of WHO FCTC Article 5.3 and its guidelines: Report commissioned by the Convention Secretariat, Prepared by Mary Assunta, January 15, 2018.
4. Corporate Accountability International, Roadmap to protecting health from Big Tobacco: A guide for implementation of the Framework Convention on Tobacco Control's Article 5.3, 2017.
5. Campaign for Tobacco-Free Kids database of tobacco control laws.

The eight (8) activities recommended to address tobacco industry interference under the Guidelines for the Implementation of Article 5.3 are summarized below and used to categorize the types of activities undertaken by FCTC Parties:

1. Raise awareness about the addictive and harmful nature of tobacco products and about tobacco industry interference with Parties' tobacco control policies.
2. Establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur.
3. Reject partnerships and non-binding or non-enforceable agreements with the tobacco industry.
4. Avoid conflicts of interest for government officials and employees.
5. Require that information provided by the tobacco industry be transparent and accountable.
6. De-normalize and, to the extent possible, regulate activities described as "socially responsible" by the tobacco industry, including but not limited to activities described as "corporate social responsibility."
7. Do not give preferential treatment to the tobacco industry.
8. Treat state-owned tobacco industry in the same way as any other tobacco industry.

Table 1. Good Practices at Country Level on the Implementation of Article 5.3

Country	Description / Details	Official Documents
Antigua and Barbuda	(3) Reject partnerships and non-binding agreements The government does not involve the tobacco industry in any decisions regarding public health policies. Its new draft tobacco control legislation includes a requirement protecting public health	Document N/A*

* NOTE: N/A means "Not Available." This suggests that the policy or document was not provided in the Party's report and/or not available on the website, including government website.

Country	Description / Details	Official Documents
	policies from the industry. ²	
Australia	<p>(2) Limit interactions and ensure transparency of interaction that occur; (4) avoid conflicts of interest; (6) de-normalize and regulate its so-called CSR</p> <p>The government's National Tobacco Strategy 2012-2018 includes a provision to "protect public health policy, including tobacco control policies, from tobacco industry interference."³</p> <p>The Department of Health and Ageing informs the general public through its website details of its meeting with the tobacco industry, including consultations on plain packaging measures.⁴ The Australian Taxation Office also uploads on its website records of meetings of the Tobacco Stakeholder Group, which includes industry representatives.⁵</p> <p>The Australian Public Service Code of Conduct requires all government officials to take reasonable steps to avoid conflicts of interest, while the government keeps a Register of Lobbyists and a Lobbying Code of Conduct to ensure that interactions between lobbyists and government representatives are done consistent with public expectations of transparency, integrity, and honesty.⁶</p> <p>The government does not accept donations from the industry; any donations to a political party greater than A\$10,000 should be reported to the Australian Electoral Commission.⁷</p>	<p>National Tobacco Strategy 2012-2018⁸</p> <p>Public Service Act: Code of Conduct, 1999⁹</p>
Bahrain	<p>(1) Raise awareness; (2) limit interactions and ensure transparency of interactions that occur; (3) reject partnerships and non-binding agreements; (6) de-normalize and regulate its so-called CSR</p> <p>The government bans tobacco industry sponsorship, directly or indirectly, of any event related to health, sports, and welfare, and prohibits industry interference in tobacco control policies.¹⁰</p> <p>In 2014, it reported that its Ministry of Health denied the request of Bahrain's business association, a tobacco investor, to be included as member of the National Anti-Smoking Committee, emphasizing that tobacco industry representatives are not allowed to interfere with tobacco control policies.¹¹</p>	Policy N/A [†]

[†] NOTE: N/A means "Not Available." This suggests that the policy or document was not provided in the Party's report and/or not available on the website, including government website.

Country	Description / Details	Official Documents
Benin	<p>(1) Raise awareness; (2) limit interactions and ensure transparency of interactions that occur; (3) reject partnerships and non-binding agreements</p> <p>The Ministry of Health disallows public sector collaboration with the tobacco industry and tobacco industry participation in all its meetings. In 2014, a network to monitor the tobacco industry was established after a workshop on WHO FCTC Article 5.3 implementation.¹²</p>	Policy N/A [‡]
Brazil	<p>(1) Raise awareness; (2) limit interactions and ensure transparency of interactions that occur; (3) reject partnerships and non-binding agreements; (4) avoid conflicts of interest; (6) de-normalize and regulate its so-called CSR; (7) do not give preferential treatment</p> <p>The government requires members of its multi-sectoral national committee for tobacco control (CONICQ) to prevent conflicts of interest. In addition, it bans acceptance of gifts or offers of partnerships from the tobacco industry, and disallows giving of preferential treatment to it. Its policy ascertains the following principles for action by CONICQ members: transparency; primacy of interests of public health; access to information on the industry and its interference in tobacco control.¹³</p>	Administrative Rule N° 713, 2012 ¹⁴
Bulgaria	<p>(1) Raise awareness; (2) limit interactions and ensure transparency of interactions that occur</p> <p>Ministry of Health officials shun any type of communication with tobacco industry representatives. A website, maintained within the frame of the National Programme for Tobacco Control, is used to expose industry tactics.</p> <p>The government is planning to come up with a normative act to oblige all public institutions and municipal structures to ascertain transparency in all interactions with the industry.¹⁵</p>	National Programme for Limitation of Tobacco Smoking in the Republic of Bulgaria, 2007-2010 ¹⁶
Burkina Faso	<p>(1) Raise awareness; (2) limit interactions and ensure transparency of interactions that occur; (5) require information to be transparent and accountable; (7) do not give preferential treatment</p> <p>The country's tobacco control law mandates the government to increase awareness on harms of tobacco and industry activities. Moreover, it requires transparency of interactions with the industry, obliges disclosure of industry information and its activities, and disallows giving of preferential treatment to it.¹⁷</p>	Law No. 040-2010/AN, Concerning the campaign against tobacco in Burkina Faso, 2010 ¹⁸

[‡] NOTE: N/A means “Not Available.” This suggests that the policy or document was not provided in the Party’s report and/or not available on the website, including government website.

Country	Description / Details	Official Documents
Cambodia	<p>(2) Limit interactions and ensure transparency of interactions that occur; (3) reject partnerships and non-binding agreements</p> <p>The country's law on tobacco control forbids the Ministry of Health to collaborate with private sector entities that are affiliated with the tobacco industry.</p>	Law on Tobacco Control law, 2015 ¹⁹
Canada	<p>(1) Raise awareness; (2) limit interactions and ensure transparency of interactions that occur; (3) reject partnerships and non-binding agreements; (5) require information to be transparent and accountable; (6) de-normalize and regulate its so-called CSR</p> <p>The government has carried out administrative measures (e.g., Health Canada's policy) of not partnering with the tobacco industry on tobacco control programming. Moreover, Health Canada has tackled the Article 5.3 Guidelines with its federal partner departments and with vital departments of provincial/territorial governments that are collaborators in the Federal Tobacco Control Strategy.^{20 21}</p> <p>Lobbying at the federal level is regulated. It is illegal for corporations (including tobacco companies) to donate money to political campaigns for electoral purposes.²² The tobacco industry is also required to report on its research and promotional activities pursuant to the Tobacco Reporting Regulations.²³</p>	Tobacco Reporting Regulations ²⁴
Chile	<p>(1) Raise awareness; (2) limit interactions and ensure transparency of interactions that occur; (5) require information to be transparent and accountable; (6) de-normalize and regulate its so-called CSR</p> <p>The country's tobacco control policy requires the tobacco industry to report every year to the Ministry of Health any donations made to public institutions, sports organizations, community, academic, cultural, and non-government organizations.²⁵</p> <p>Other government agencies have been requested that in cases where it is absolutely necessary to meet with tobacco companies, civil society organizations (CSOs) should be summoned to the meeting, and that proceedings of the same should be recorded and made publicly available in accordance with the WHO FCTC Article 5.3 Guidelines.²⁶</p>	Law No. 20660, Amending Law N° 19419, Regarding Smoke-Free Environments, 2013 ²⁷
China (Hong Kong)	<p>(7) Do not give preferential treatment</p> <p>In 2012, the Hong Kong Monetary Authority revealed initial steps to divest from tobacco and instructed its contractors to divest from all tobacco stock portfolio holdings.²⁸ Effectively, this could remove some forms of incentive for the tobacco industry to run its</p>	Communication from Hong Kong Monetary Authority to Clear Air NGO and Charity, February 2,

Country	Description / Details	Official Documents
	business.	2012 ²⁹
Colombia	<p>(2) Limit interactions and ensure transparency of interactions that occur; (3) reject partnerships and non-binding agreements</p> <p>The Colombia Congress eliminated Big Tobacco's seat from the policy table during the development of the country's 2009 national tobacco control legislation, thereby facilitating and speeding up negotiations that resulted in regulations compliant with the WHO FCTC.³⁰</p>	Document N/A [§]
Congo	<p>(2) Limit interactions and ensure transparency of interactions that occur; (3) reject partnerships and non-binding agreements</p> <p>In 2016, the government reported that the Ministry of Health and Population turned down the offer given by the tobacco industry to assist in drafting the implementing regulation of the law on tobacco control, and to take part in a study mission, presentation, and demonstration of Codentify (a traceability system).³¹</p>	Document N/A
Cook Islands	<p>(5) Require information to be transparent and accountable; (6) de-normalize and regulate its so-called CSR</p> <p>The country's tobacco control law bans any direct and indirect tobacco industry contributions to public officials or candidates, and obliges the industry to test and report on the contents of its products.³²</p>	Law: Tobacco Products Control Act, 2007 ³³
Cyprus	<p>(1) Raise awareness; (2) limit interactions and ensure transparency of interactions that occur; (3) reject partnerships and non-binding agreements; (4) avoid conflicts of interest</p> <p>The Ministry of Health informed the tobacco industry that it will not meet with the latter to discuss policy issues and allow industry interference in tobacco control policies. It has no conflicts of interest and does not have partnerships/ agreements with the industry.³⁴</p>	Document N/A
Denmark	<p>(1) Raise awareness; (3) reject partnerships and non-binding agreements; (4) avoid conflicts of interest</p> <p>The Agency for the Modernization of Public Administration published a Code of Conduct stipulating the essential terms and conditions of work in the public sector.³⁵</p> <p>In 2017, a state-funded entity on human rights rejected engagement with Philip Morris International (PMI) stating that the production and marketing of tobacco is irreconcilable to the human right to health.³⁶</p>	Code of Conduct in the Public Sector, 2017 ³⁷

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Country	Description / Details	Official Documents
Djibouti	<p>(3) Reject partnerships and non-binding agreements; (4) avoid conflicts of interest</p> <p>The country's tobacco control law requires that in defining and applying sectorial public health policies in connection with tobacco control, the different sectors shall see to it that these policies are not influenced by commercial or other interests of the tobacco industry, in accordance with national legislation.³⁸</p> <p>In 2007, the government enacted a law requiring the inter-sectoral tobacco control committee to safeguard the country's national tobacco control policy from industry interference.³⁹</p>	Law n°175/AN/07/5ème L concerning organization for the protection of health against the tobacco habit, 2007 ⁴⁰
Fiji	<p>(1) Raise awareness; (5) require information to be transparent and accountable</p> <p>The Ministry of Health, through the Minister or Permanent Secretary of Health, relays information to the Tobacco Control Enforcement Unit when the British American Tobacco (BAT) submits quarterly reports on manufacture, imports, and sale of tobacco products.⁴¹</p>	Policy/ Document N/A**
Finland	<p>(1) Raise awareness; (2) limit interactions and ensure transparency of interactions that occur</p> <p>The government limits its interactions with the tobacco industry mostly to open requests for comment. Various reports on activities of the industry have also been published. Several non-government organizations (NGOs) have adopted a policy of not interacting with the industry, its affiliates, or any other companies that work with it (e.g., advertising agencies).⁴²</p>	Policy N/A
France	<p>(1) Raise awareness; (4) avoid conflicts of interest; (5) require information to be transparent and accountable</p> <p>In addition to requiring the tobacco industry to disclose its ingredients or product contents to the regulatory authorities, the government requires, under pain of penalty, an annual report pertaining to lobbying as well as benefits, in kind or cash, directly or indirectly, given to public officials. Product contents and market research are likewise required to be made available to the public.⁴³</p> <p>Pursuant to the Ordinance, a Decree requires transparency of expenses related to the lobbying activities or representation of interests of manufacturers, importers, and distributors of tobacco</p>	<p>Ordinance No. 2016-623 of 19 May 2016 transposing Directive 2014/40 / EU on manufacturing, presentation and sale of tobacco products and related products⁴⁵</p> <p>Decree n° 2017-279 of March 2nd, 2017 relating to</p>

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Country	Description / Details	Official Documents
	products and their representatives. ⁴⁴	o the transparency of the expenses related to the activities of influence or representation of interests of the manufacturers, the importers, the distributors of tobacco products and their representatives ⁴⁶
Gabon	<p>(3) Reject partnerships and non-binding agreements; (4) avoid conflicts of interest</p> <p>The country's tobacco control law provides measures to safeguard tobacco oversight policies from commercial and other interests of the tobacco industry, and starts with a vital overarching principle of protection for tobacco control policies.⁴⁷ It includes ban on any partnerships (direct or indirect) between the government and industry.⁴⁸</p>	Law No. 006/2013, Concerning the enactment of measures supporting the campaign for tobacco control in the Republic of Gabon, 2013 ⁴⁹
Ghana	<p>(1) Raise awareness; (2) limit interactions and ensure transparency of interactions that occur; (4) avoid conflicts of interest</p> <p>The country's tobacco control law stipulates, among others, that "interactions or meetings between public authorities or public officers with a role in tobacco control and the tobacco industry shall be limited to the extent strictly necessary for effective tobacco control and enforcement of relevant laws."⁵⁰</p> <p>The government has issued guidelines on the composition of its tobacco control committee, developing its Public Health Act, and on proper ways to interact with the industry, which is prohibited from participating in any meetings or activities on tobacco control.⁵¹</p> <p>The Ministry of Health has carried out sensitization activities for customs and immigration officers and all points of entry to create awareness about industry tactics and interference and how to prevent them.⁵²</p>	Tobacco Control Regulations (L.I. 2247), 2016 ⁵³
Honduras	<p>(3) Reject partnerships and non-binding agreements</p> <p>The country's special law on tobacco control bans interference by commercial and other interests linked with the tobacco industry.⁵⁴</p>	Special Tobacco Control Law Approved by the National Congress of Honduras, June 9, 2010, Decree No.92-2010 ⁵⁵

Country	Description / Details	Official Documents
Hungary	<p>(1) Raise awareness The Tobacco Control Focal Point provides information on practices of the tobacco industry.⁵⁶</p>	Document N/A ^{††}
Iran	<p>(3) Reject partnerships and non-binding agreements The country's tobacco control law prohibits the tobacco industry from attending policy-making sessions on tobacco control.⁵⁷</p>	Comprehensive Act on National Control and Campaign Against Tobacco, 2006 ⁵⁸
Ireland	<p>(1) Raise awareness; (2) limit interactions and ensure transparency of interactions that occur Department of Health officials meet with tobacco industry representatives only when such meetings are needed to effectively regulate the latter and advance tobacco control policies.⁵⁹</p> <p>In November 2017, the Minister of State and the Chief Medical Officer sent an open letter to the Taoiseach, all government ministers, and all heads (secretaries general) of government departments, reminding them of the country's obligation under WHO FCTC to implement strict and transparent interactions between the government and industry.⁶⁰</p>	Document N/A
Jamaica	<p>(1) Raise awareness; (2) limit interactions and ensure transparency of interactions that occur; (3) reject partnerships and non-binding agreements The Ministry of Health has taken steps to ensure that the tobacco industry does not participate in public health policies related to tobacco control. It successfully removed a tobacco company official from the board of the Bureau of Standards where decisions on labeling of products are made.</p> <p>Moreover, government officials were sensitized on the issue of industry interference, and on the country's obligations under WHO FCTC Article 5.3. Persons who have violated Article 5.3 were informed, and civil society groups share this information to the public.⁶¹</p>	Document N/A
Japan	<p>(4) Avoid conflicts of interest According to Japan's 2010 report on its implementation of Article 5.3, two (2) national laws appropriately regulate commercial and other vested interests of the tobacco industry, namely, Penal Code⁶² and Political Funds Control Act,⁶³ which include prohibition on acceptance of consideration in exchange for influence.</p>	<p>Penal Code, Act No. 45 of 1907⁶⁴</p> <p>Political Funds Control Act of 1948 (last amended in 2014)⁶⁵</p>

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Country	Description / Details	Official Documents
Kenya	<p>(3) Reject partnerships and non-binding agreements; (4) avoid conflicts of interest</p> <p>The country's tobacco control law forbids tobacco industry interference and collaboration/ consultation with the industry in preparing and carrying out tobacco control policies. It disallows any member of the Tobacco Control Board to be linked (directly or indirectly) with the industry or its subsidiaries, and requires disclosure of tobacco industry affiliation. Failure to disclose is punishable under the law.⁶⁶</p>	The Tobacco Control Act, 2007 ⁶⁷
Kosovo	<p>(3) Reject partnerships and non-binding agreements; (4) avoid conflicts of interest; (7) do not give preferential treatment</p> <p>The country's tobacco control law forbids partnerships between the government and the tobacco industry, and prohibits any support or privileges given to tobacco businesses. It includes provisions that disallow hiring of persons formerly engaged with tobacco companies, and that prohibit government officials from being employed in management positions of tobacco companies within one (1) year after leaving public service.⁶⁸</p>	Law No. 04/L-156 on Tobacco Control, 2013 ⁶⁹
Kuwait	<p>(3) Reject partnerships and non-binding agreements; (6) de-normalize and regulate its so-called CSR</p> <p>The government prohibits receipt of tobacco industry support for any activities as well as industry sponsorships.⁷⁰</p>	Policy N/A ^{††}
Laos	<p>(3) Reject partnerships and non-binding agreements (4) Avoid conflicts of interest; (6) de-normalize and regulate its so-called CSR</p> <p>The country's tobacco control law safeguards government officials and public health policies from tobacco industry interference. ⁷¹ It disallows sponsorships for the interest of tobacco business, and prohibits public officers from abusing power and receiving bribes to the detriment of public interest in relation to tobacco control work.⁷²</p>	Law on Tobacco Control, 2009 ⁷³
Latvia	<p>(3) Reject partnerships and non-binding agreements</p> <p>The government does not allow any tobacco industry member/representative to take part in policy development on tobacco control.⁷⁴</p>	Policy N/A
Lebanon	<p>(1) Raise awareness; (2) limit interactions and ensure transparency of interactions that occur; (4) avoid conflicts of interest</p> <p>The government prevented tobacco industry representatives from taking part in parliamentary committee meetings deliberating on a tobacco control legislation.⁷⁵ In 2014, the Ministry of Finance</p>	Document N/A

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Country	Description / Details	Official Documents
	had a focal point to serve as information source and as a firewall between the state-owned tobacco monopoly and the Ministry of Public Health and other tobacco control advocates. ⁷⁶	
Madagascar	<p>(1) Raise awareness; (2) limit interactions and ensure transparency of interactions that occur</p> <p>In 2014, the government reported that three (3) national workshops on tobacco industry interference were conducted for ministerial departments, journalists, and NGOs, with the assistance of The Union and WHO. Various government departments were also issued letters enjoining them to identify their interactions and relationships with the tobacco industry.⁷⁷</p>	Document N/A ^{§§}
Mexico	<p>(2) Limit interactions and ensure transparency of interactions that occur; (5) require information to be transparent and accountable</p> <p>The country's tobacco control law requires "companies producing, importing or trading tobacco products to release information concerning the content of their products to the Ministry of Health, including ingredients and emissions, and their health effects, in accordance with applicable regulations, and to make them available to the general population."⁷⁸</p> <p>The Ministry of Health also requires its officials to follow the WHO FCTC Article 5.3 Guidelines in all communications and other relations they have with the industry.⁷⁹ Upon request, the public can access details of meeting between the government and the industry through the Federal Institute for Access to Information.⁸⁰</p>	General Law on Tobacco Control, 2008 ⁸¹
Moldova	<p>(2) Limit interactions and ensure transparency of interactions that occur; (3) reject partnerships and non-binding agreements; (4) avoid conflicts of interest; (5) require information to be transparent and accountable</p> <p>The country's tobacco control law safeguards tobacco control policies from commercial and other vested interests of the tobacco industry, and prevents/ manages conflicts of interest for government officials and employees.⁸² So-called CSR of the tobacco industry is banned. Government officials are prohibited from receiving any form of contribution from tobacco companies including retailers. Under the law, the Ministry of Health is tasked to raise awareness of tobacco industry</p>	Law for amendment and supplementation of certain legislative acts, 2015 ⁸⁴

^{§§} NOTE: N/A means "Not Available." This suggests that the policy or document was not provided in the Party's report and/or not available on the website, including government website.

Country	Description / Details	Official Documents
	tactics. One who has managed or promoted tobacco business in the past twenty-four (24) months is not allowed in tobacco control policy development and implementation, and one who is to participate in such policy must declare his/her tobacco-related interest in the past twenty-four (24) months. In addition, the tobacco industry is required to submit information on marketing, charitable expenses, emissions, etc., and this information is made publicly accessible. ⁸³	
Mongolia	<p>(1) Raise awareness; (3) reject partnerships and non-binding agreements; (4) avoid conflicts of interest; (6) de-normalize and regulate its so-called CSR; (7) do not give preferential treatment</p> <p>The country's tobacco control law stipulates that the WHO FCTC will prevail over local laws in cases of conflict, and that its policy is to safeguard public health policies from the negative influences of the tobacco industry. Furthermore, it seeks to raise awareness on industry abuses, bans industry partnerships in policy development, and disallows giving of preferential treatment to it. Finally, it forbids industry CSR⁸⁵ and obliges the government to refuse industry offers of CSR. Government officials that had been involved in setting and implementing tobacco control are prohibited from promoting tobacco industry interests. Treatment of the tobacco industry must be the same regardless of ownership. Citizens and entities have a duty not to receive tobacco industry sponsorship.⁸⁶</p>	Law on Tobacco Control (as amended), 2005 ⁸⁷
Montenegro	<p>(6) De-normalize and regulate its so-called CSR</p> <p>The government prohibits the tobacco industry from funding any CSR activity associated with protection of public health (e.g., concerning promotion, prevention, treatment, and rehabilitation).⁸⁸</p>	Policy N/A ^{***}
Myanmar	<p>(1) Raise awareness</p> <p>The Tobacco Control Cell under the Department of Health – Public Health Division organized a national workshop with the goal to increase awareness among government and NGOs on how to tackle the problem of tobacco industry interference. It is now in the process of crafting guidelines and regulations to protect public health policies from the industry's commercial and vested interests.⁸⁹</p>	Document N/A
Namibia	<p>(3) Reject partnerships and non-binding agreements; (4) avoid conflicts of interest; (6) de-normalize and regulate its so-called CSR</p>	Tobacco Products Control Act, 2010 ⁹¹

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Country	Description / Details	Official Documents
	The country's tobacco control law has provisions on conflicts of interest, and prohibits entities associated with the industry or with tobacco industry interests from joining the Tobacco Products Control Committee. Moreover, it prohibits the industry from giving financial support to any organized activity. ⁹⁰	
Netherlands	<p>(2) Limit interactions and ensure transparency of interactions that occur; (3) reject partnerships and non-binding agreements; (4) avoid conflicts of interest</p> <p>The government is transparent in all interactions with the tobacco industry and, upon request, gives data about the type, incidence of contacts, and entities involved. Overall, it does not meet with the industry to talk about tobacco control policies. It consults the industry only to the extent strictly necessary for the latter's regulation. It does not support any partnership/ agreement with the industry.⁹²</p>	Policy N/A ^{†††}
New Zealand	<p>(2) Limit interactions and ensure transparency of interactions that occur; (3) reject partnerships and non-binding agreements; (7) do not give preferential treatment</p> <p>The Ministry of Health is transparent in all its dealings with the tobacco industry, and does not have any partnerships with the latter. Since 2011, it keeps a publicly available online register of meetings it has with the industry, showing the dates of such meetings, participants, and matters discussed.⁹³ Also, the government does not provide incentives, privileges, benefits or preferential tax exemptions to it.⁹⁴ In 2010, a Bill sought to discontinue all investments of the Crown financial institutions in tobacco.⁹⁵</p>	<p>Ministry of Health, New Zealand, Meetings with tobacco industry representatives⁹⁶</p> <p>Section 35 (Returns and reports), Smoke-free Environments Act 1990⁹⁷</p>
Norway	<p>(4) Avoid conflicts of interest; (6) de-normalize and regulate its so-called CSR; (7) do not give preferential treatment</p> <p>In 2014, the Parliament passed ethical standards to prevent the Government Pension Fund Global from investing in tobacco companies.⁹⁸ The tobacco control law provides for a ban on all tobacco contributions and sponsorships, and avoids conflicts of interest for enforcers.⁹⁹</p>	<p>Guidelines for observation and exclusion from the Government Pension Fund Global, 2014¹⁰⁰</p> <p>Act No. 14 of 9 March 1973 relating to Prevention of the Harmful Effects of Tobacco (with 2013 amendments)¹⁰¹</p>

^{†††} NOTE: N/A means “Not Available.” This suggests that the policy or document was not provided in the Party’s report and/or not available on the website, including government website.

Country	Description / Details	Official Documents
Oman	<p>(1) Raise awareness; (3) reject partnerships and non-binding agreements; (4) avoid conflicts of interest</p> <p>The National Committee for Tobacco Control initiated a conflict of interest report form. Also, the Ministry of Health warned all concerned government agencies not to receive assistance and donations from tobacco companies.¹⁰²</p>	Document N/A ^{†††}
Panama	<p>(2) Limit interactions and ensure transparency of interactions that occur; (4) avoid conflicts of interest</p> <p>The National Commission for the Study of Smoking is responsible for all tobacco industry interactions with the Ministry of Health. Its meetings with the industry are recorded for transparency purposes and are limited only to regulation of the latter. Its members must not have worked for the industry in the previous three (3) years, nor may they work for the industry within three (3) years after their appointment to the Commission.¹⁰³</p>	Resolution No. 745, 2012 ¹⁰⁴
Philippines	<p>(2) Limit interactions and ensure transparency of interactions that occur; (3) reject partnerships and non-binding agreements</p> <p>The government adopted special Codes of Conduct for dealing with the tobacco industry for purposes of protecting all civil servants from industry interference, particularly to avoid conflicts of interest, prevent unnecessary interactions, and ensure transparency of any interaction deemed necessary. The Civil Service Commission (CSC) and the Ombudsman, both constitutional commissions, have the jurisdiction to adjudicate any case of violations of the Code, which was a result of the joint initiative of the Department of Health (DOH) and CSC.</p> <p>In 2009, the government established a committee on Article 5.3 to harmonize efforts to safeguard public health policies from industry interests. The committee included the Presidential Anti-Graft Commission and has representatives coming from the public sector and civil society.^{105 106}</p> <p>The DOH also adopted an administrative order (AO) to ensure that all health agencies abide by a more stringent code when it relates to the industry. The AO requires all contracts of agencies to contain the clause: “We do not deal with the tobacco industry.”</p>	<p>CSC-DOH JMC 2010-01: Protection of the Bureaucracy against Tobacco Industry Interference, 2010¹⁰⁷</p> <p>DOH Department Memorandum No. 2010-0126, Protection of the Department of Health, including all of its Agencies, Regional Offices, Bureaus or Specialized/ Attached Offices/ Units, against Tobacco Industry Interference¹⁰⁸</p>

^{†††} NOTE: N/A means “Not Available.” This suggests that the policy or document was not provided in the Party’s report and/or not available on the website, including government website.

Country	Description / Details	Official Documents
Poland	<p>(1) Raise awareness; (3) reject partnerships and non-binding agreements; (6) de-normalize and regulate its so-called CSR</p> <p>The Ministry of Health raised awareness among all Chancellors, Vice Rectors, and Deans of Medical Schools in Poland about the PMI-funded Foundation for a Smoke-Free World (FSFW), in accordance with the WHO FCTC Article 5.3, declaring that it will not consider for policy development or legislation any research receiving support from FSFW.</p>	Ministry of Health letter to Chancellor, Vice Rectors, and Deans, January 09, 2018 ¹⁰⁹
Portugal	<p>(4) Avoid conflicts of interest</p> <p>The government prohibits all members of the National Scientific Tobacco Prevention Board from having any conflicts of interest with the tobacco industry.¹¹⁰</p>	Policy N/A ^{§§§}
Russia	<p>(2) Limit interactions and ensure transparency of interactions that occur; (6) de-normalize and regulate its so-called CSR</p> <p>The tobacco control law requires raising awareness not only of tobacco harms but also of tobacco industry. Moreover, it calls for a ban on tobacco industry sponsorship, and obliges public authorities and local governments to ensure accountability and transparency in their interactions with the industry.¹¹¹ It requires that such interactions should be done in public, and that industry appeals and answers to the same should be placed on the official websites of state authorities and local governments.¹¹²</p>	Federal Law N 15-FZ "On Protecting the Health of Citizens from the Effects of Second Hand Tobacco Smoke and the Consequences of Tobacco Consumption," 2013 ¹¹³
Saint Lucia	<p>(3) Reject partnerships and non-binding agreements</p> <p>The government refuses to engage tobacco industry representatives in dialogues on development and implementation of tobacco control policy.¹¹⁴</p>	Document N/A
Senegal	<p>(3) Reject partnerships and non-binding agreements; (6) de-normalize and regulate its so-called CSR</p> <p>The country's tobacco control law forbids tobacco industry interference in national health policies, and bans tobacco sponsorship. Since 2012, the Ministry of Health no longer has contact with the industry.¹¹⁵</p>	Law No. 2014-14 concerning the manufacture, packaging, labeling, sale and use of tobacco 2014 ¹¹⁶
Serbia	<p>(3) Reject partnerships and non-binding agreements; (4) avoid conflicts of interest; (6) de-normalize and regulate its so-called CSR</p> <p>The government prohibits health care institutions from receiving any support from the tobacco industry, and disallows industry sponsorship of tobacco control activities. Members of the Council for Tobacco Control and National Committee are not allowed to have any form of relations with the industry that can</p>	Policy N/A

^{§§§} NOTE: N/A means "Not Available." This suggests that the policy or document was not provided in the Party's report and/or not available on the website, including government website.

Country	Description / Details	Official Documents
	be viewed as creating a conflict of interest, and all are required to sign a declaration of interests. ¹¹⁷	
Seychelles	(5) Require information to be transparent and accountable The country's tobacco control law requires tobacco manufacturers, importers, and exporters to regularly report on their sales and other relevant information. Specifically, it requires them to submit to the Board every quarter information on amount and selling price of tobacco products, copies of outer packaging of units for sale, information on country from which tobacco products were imported or exported, measures of constituents, and the like. ¹¹⁸	Tobacco Control Act, 2009 ¹¹⁹
Singapore	(2) Limit interactions and ensure transparency of interactions that occur The Health Promotion Board has established guidelines governing interactions with the tobacco industry. Deliberations adhere to an agreed agenda and proceedings of meetings with the industry are recorded. ¹²⁰	Policy N/A****
Thailand	(3) Reject partnerships and non-binding agreements; (4) avoid conflicts of interest; (5) require information to be transparent and accountable; (6) de-normalize and regulate its so-called CSR Since July 2017, the government has comprehensively banned the tobacco industry's so-called CSR activities, covering tobacco advertising, promotions, and sponsorship, except humanitarian ones. The law provides that direct or indirect interest in the tobacco trade disqualifies one from being a member of the National Tobacco Product Control Board, ¹²¹ and requires the tobacco industry to submit information on its marketing revenues, and industry interference or contributions. ¹²² Moreover, the Department of Disease Control has a Regulation safeguarding it from industry interference. ¹²³	The Tobacco Products Control Act of A.D. 2017 ¹²⁴ Regulation of Department of Disease Control Re: How to Contact Tobacco Entrepreneurs and Related Persons B.E. 2553 (2010) ¹²⁵
Togo	(6) De-normalize and regulate its so-called CSR; (7) do not give preferential treatment The country's tobacco control law prohibits granting of financial benefits (e.g., subsidies, incentives, and tax exemptions) to tobacco companies. ¹²⁶ The law also prohibits tobacco sponsorships.	The Law Concerning the Production, Sale and Consumption of Tobacco and its Derivative Products, 2010 ¹²⁷
Turkey	(3) Reject partnerships and non-binding agreements In 2014, the Ministry of Health and the National Regulatory Agency adopted its internal code of practice reflecting all principles of the guidelines for Article 5.3 implementation. ¹²⁸	Policy N/A

**** NOTE: N/A means "Not Available." This suggests that the policy or document was not provided in the Party's report and/or not available on the website, including government website.

Country	Description / Details	Official Documents
Uganda	<p>(2) Limit interactions and ensure transparency of interactions that occur; (3) reject partnerships and non-binding agreements; (4) avoid conflicts of interest; (5) require information to be transparent and accountable; (6) de-normalize and regulate its so-called CSR; (7) do not give preferential treatment¹²⁹</p> <p>The country's tobacco control law established the duty of government to safeguard tobacco control policies from tobacco industry interference and to ensure transparency of any interactions with it. The law also requires periodic reporting and provides a list of information required. A person who has engaged in any occupational activity with the tobacco industry within less than two (2) years is not allowed to hold a position that has a bearing on tobacco control policy. Furthermore, the law prohibits: partnerships and endorsements of the industry; voluntary industry contributions; and, giving of incentives or privileges to it.¹³⁰</p>	Tobacco Control Act, 2015 ¹³¹
Ukraine	<p>(6) De-normalize and regulate its so-called CSR</p> <p>The country's tobacco control law puts primacy on public health policy over financial, tax, and corporate interests involving the tobacco industry. It calls on individuals and citizens' groups not associated with the industry to be involved in policies on reducing consumption of tobacco products.¹³² Moreover, the law disallows tobacco sponsorship and political contributions of tobacco industry to individuals or political parties.¹³³</p>	<p>Law of Ukraine on Measures for the Prevention and Reduction of the Use of Tobacco Products and their Harmful Impact on the Health of the Population, 2005 (with amendments in 2006, 2009, 2010)¹³⁴</p> <p>Law of Ukraine on the Introduction of Changes to Some Legislative Acts of Ukraine on the Prohibition of the Advertising, Sponsorship and Promotion of the Sale of Tobacco Products, Art. 3(2), 2011¹³⁵</p>
United Kingdom	<p>(1) Raise awareness; (2) limit interactions and ensure transparency of interactions that occur</p> <p>In 2009, the Secretary of State for Health brought to the attention of the Prime Minister and Cabinet colleagues the country's obligation to implement</p>	Tobacco Control Department of Health, Healthy Lives, Healthy People: A

Country	Description / Details	Official Documents
	<p>Article 5.3.¹³⁶ The government is obligated to disseminate details of all policy-related meetings of its various departments with the tobacco industry, e.g., HM Revenue and Customs publishes online the details of its meetings with the industry.¹³⁷ In addition, the government's tobacco control plan seeks, among others, to protect the government's tobacco control strategies from vested interests.¹³⁸</p> <p>In 2013, the Department of Health issued its revised guidelines to clarify that those serving in foreign posts should limit interactions with the industry, and to ensure transparency in their dealings with the latter.¹³⁹</p>	<p>Tobacco Control Plan for England, 2011¹⁴⁰</p> <p>United Kingdom's Revised Guidelines to Overseas Posts on Support to the Tobacco Industry, 2013¹⁴¹</p>
Uruguay	<p>(2) Limit interactions and ensure transparency of interactions that occur; (6) de-normalize and regulate its so-called CSR</p> <p>The government restricts its interactions with the tobacco industry only to the extent necessary for its regulation. Civil society representatives are invited when the government holds meetings with the industry.¹⁴² Moreover, its law does not allow the tobacco industry to participate in or sponsor national or international, cultural, sports, or any other kinds of activities.¹⁴³</p>	<p>Law No. 18,256, Smoking Control Regulations, 2008</p>
Vietnam	<p>(1) Raise awareness; (3) reject partnerships and non-binding agreements; (6) de-normalize and regulate its so-called CSR</p> <p>The Ministry of Health issued a memo calling on the government, local government, and mass organizations to coordinate the implementation of the WHO recommendation and to inform governments and health communities not to cooperate with the Foundation for a Smoke-Free World.</p>	<p>Ministry of Health memo re WHO recommendation and non-cooperation with the PMI-funded Foundation for a Smoke-Free World, November 28, 2017¹⁴⁴</p>

Public information on implementation of Article 5.3 is scant. The following Parties indicated having initiated its implementation but further details were not available online:

Table 2. Countries that Initiated Article 5.3 Implementation

Country	Brief Description
Costa Rica	The government initiated legislation with unequivocal measures to protect against tobacco industry interference. ¹⁴⁵
Czech Republic	The government approved a Code of Ethics that governs the conduct of all government officials and employees. ¹⁴⁶

Country	Brief Description
Ecuador	The government initiated legislation with unequivocal measures to protect against tobacco industry interference. ¹⁴⁷

Parties may have omitted reporting on common forms of Article 5.3 implementation, such as the Ministry of Health's efforts of raising awareness of tobacco industry tactics or the banning of so-called CSR of the tobacco industry.

A large number of Parties are known to have a partial or complete ban on so-called CSR of the tobacco industry, but many of these were not reported as part of Article 5.3 implementation. Table 1 is augmented with pertinent information where the law provided for an absolute ban and/or suggest that any person, including public officials, are prohibited from receiving sponsorship.

In most cases, Parties reported that they have excluded tobacco industry from policy development. This was classified as a means to "reject partnerships/ non-binding agreements with and policy contributions of the tobacco industry," although many of these efforts are limited to the ministries of health and not to the rest of the government such as parliament where lobbying is strongest.

Many instances of "limiting interaction with the tobacco industry" and "avoiding conflicts of interests" are reported, but these apply to ministries of health or the national tobacco control councils. By partnering with the commission on public service, the Philippines utilizes a novel whole-of-government approach to ensure that the same rules apply across all public officials. On the other hand, Uganda incorporated Article 5.3 recommendations, including provisions on public officers' conduct, into its national law.

Party reports do not elaborate on codes of conduct or governance laws that apply to non-health government officials, or how an existing general code of conduct, has been or may be used to counter tobacco industry interference. A notable exception is Australia's elaboration on how the current governance laws are used to require transparency, documentation, and publication (on the website) of all meetings with the tobacco industry.

Using the WHO FCTC Article 5.3 and its Guidelines as a framework, further forms of detailed regulation or guidance can strengthen enforcement of existing good governance rules (anti-corruption, transparency, code of conduct) on the tobacco industry.

The least reported areas of Article 5.3 implementation are:

1. Require information from the tobacco industry to be transparent and accountable

This suggests the need for ministries of health to exert their regulatory authority further and to demand transparency and accountability from the tobacco industry. Based on the French case study (see Sub-section 2, Chapter II, Title I, Book V, Part III of the Public Health Code¹⁴⁸), this also emphasizes the need to strengthen the role and monitoring mechanisms of civil society groups in order to allow them to support government efforts in requiring information and accountability from the industry.

2. Do not give preferential treatment to the tobacco industry

This suggests the need for further engagement with economic planning departments as well as ministries of trade and investment and related sectors to assist in implementing Article 5.3. An example is a policy of the United States on ensuring that no government funds should be used to and no public official in the executive agency should promote the export and sale of tobacco products.^{149 150}

B. Case Studies

This section features how some governments are using WHO FCTC Article 5.3 and its Guidelines to address tobacco industry interference.

1. Philippines: Incorporating Article 5.3 into the Civil Service Rules

The Philippines paved the way for countries looking to incorporate WHO FCTC Article 5.3 Guidelines into national policy. On June 24, 2010, the Philippine Civil Service Commission (CSC), a constitutional body that serves as the human resource arm of the government, and the Department of Health (DOH) announced a Joint Memorandum Circular (JMC) to protect the bureaucracy against tobacco industry interference.¹⁵¹

The JMC closely follows WHO FCTC Article 5.3 Guidelines. It prohibits government workers from interacting with the tobacco industry, except when strictly necessary for the latter's effective regulation, supervision, or control.¹⁵² The JMC includes a code of conduct, a monitoring/ reporting process, and administrative sanctions. In 2016, the CSC issued a reminder elaborating on the JMC: a Memorandum Circular prohibiting all government offices from soliciting or accepting gifts from the tobacco industry.¹⁵³

The JMC was the first of its kind in the country as it provides special rules on how public officers must conduct themselves when it comes to the tobacco industry. In the same way that no other commercial industry relating to a consumer product has ever been isolated and denounced through a treaty, no other commercial industry has been accorded such a unique treatment in the country. Those representing the interests of the tobacco industry continue to vigorously attack the JMC during budget hearings, calling for its revocation invoking the industry's rights as a "stakeholder."¹⁵⁴

For the development of the policy, a multi-sectoral group comprised of the ministry of health, the civil/public service commission, anti-graft office, civil society groups, and the academe undertook around eighteen (18) months of consultations that started with the first meeting on Article 5.3 sponsored by the Southeast Asia Tobacco Control Alliance (SEATCA).¹⁵⁵ The think tank HealthJustice consistently organized the meetings and reported on monitored tobacco industry tactics in media, noting that the most popular forms of tobacco industry interference pertains to the industry's engagements with and so-called CSR contributions to the Department of Education (DepEd), Department of Environment and Natural Resources (DENR), and the Bureau of Internal Revenue (BIR).¹⁵⁶

The tobacco control law, reportedly the outcome of strong tobacco industry influence in 2003, provides for a partial sponsorship ban limited only to sports, culture, concert, and other youth activity, thus creating a loophole for industry contributions on other areas, e.g., during natural calamities; contributions for the environment and children's education, etc.

It also provides for an interagency committee that includes various government agencies and a representative from a tobacco industry research institution.¹⁵⁷ ¹⁵⁸ Partly because of the failure to come to consensus during the interagency meetings and, in later years, due to the JMC, government executives are careful about ensuring that such interagency meetings comply with the JMC, in terms of ensuring transparency, limiting such interactions, avoiding meetings that are not necessary for regulation, and rejecting any contributions from the tobacco industry.¹⁵⁹

Despite the challenges of the tobacco control law, as of 2018, several national government agencies and local governments have issued memos to raise awareness of the JMC including:

- Department of Education (DepEd): In 2012, DepEd issued a circular that restricts interaction of its officials with the tobacco industry and includes a prohibition of the tobacco industry contributing funds to educational institutions. ¹⁶⁰ In 2016, it issued its Policy and Guidelines on Comprehensive Tobacco Control expanding its scope to cover private schools.¹⁶¹

- Bureau of Internal Revenue (BIR): In 2012, BIR issued Memo No. 16-2012 adopting the JMC and indicating that violation of its provisions would constitute grave misconduct.¹⁶²
- Department of Foreign Affairs (DFA): As an effort to protect the Conference of the Parties (COP) against tobacco industry interference, the DFA issued a memorandum in 2013 to remind all foreign service posts, including regional consular offices, “of the general prohibitions of the JMC and code of conduct that should be followed in case interactions are strictly necessary for regulation.”¹⁶³
- Department of Environment and Natural Resources (DENR): In 2018, consistent with the administration leadership’s penchant for tobacco control and environmental protection, DENR issued a memo adopting the JMC, effectively reminding environment officials that receiving so-called CSR of the tobacco industry is punishable through administrative measures.¹⁶⁴

2. Thailand: Treating State-Owned Enterprises the Same Way

Although the Thai Tobacco Monopoly (TTM) is a state-owned enterprise, Thailand has demonstrated that it needs to halt any possible avenue for tobacco industry interference, and that its state-owned tobacco enterprise is to be treated in the same way as any other tobacco industry.

As early as 2010, the Ministry of Health (MOH) adopted a regulation to protect its Department of Disease Control from tobacco industry interference.¹⁶⁵ Through a cabinet decision in 2012, Thailand prohibited the acceptance of all forms of contributions from TTM, including offers of assistance, policy drafts, or study visit invitations to the government and its officials.¹⁶⁶ In practice, TTM is not included in any MOH-hosted meetings to develop tobacco control policy.¹⁶⁷

In July 2017, Thailand adopted a comprehensive ban on tobacco-related CSR activities, covering tobacco advertising, promotions, and sponsorship.¹⁶⁸ This law requires tobacco manufacturers and importers to submit reports annually on their marketing expenses, revenues, lobbying activities, and contributions.¹⁶⁹ The Tobacco Products Control Board is authorized to require, as needed, further information from the tobacco industry to be used as evidence for tobacco control policy development.

Recruited expert committee members cannot own or be a related person or a stakeholder in a business involving tobacco products, whether directly or indirectly.¹⁷⁰

3. France: Requiring Information from the Tobacco Industry

In addition to requiring the tobacco industry to disclose its ingredients or product contents to regulatory authorities, the French law requires, under pain of penalty, an annual report from manufacturers, importers, and distributors of tobacco products, as well as companies, professional organizations or associations representing them, on lobbying as well as benefits, in kind or cash, directly or indirectly, given to public officials.¹⁷¹ Information includes the number of staff working on lobby or influence activities, names of consultants hired, amount spent, and name of beneficiaries. Through a Decree,¹⁷² the MOH has provided a format for the report, submission details, and the conditions on making the information publicly available on the website, while CSOs vigilantly monitor the reports.

Feedback from a civil society representative¹⁷³ monitoring the implementation of the afore-stated policy revealed that:

- The policy was adopted after many years of advocacy and exposé of tobacco industry tactics by civil society groups, especially by the National Committee for Tobacco Control with the collaborative work of journalists, researchers, along with the firm commitment and support of MOH.
- During the development of the policy, the tobacco industry already had a sordid reputation due to efforts in exposing tobacco industry tactics, and it did not challenge transparency rules.
- The tobacco industry's response may have been influenced by the fact that the then proposed transparency rules had already been applied to pharmaceutical industry.
- The publicly accessible information is used by journalists as a resource.
- Although the policy greatly assists in monitoring of tobacco industry tactics, accuracy of industry's report could not be determined and interference remains a challenge especially in the areas of illicit trade protocol, taxation, etc., as the tobacco industry uses many third parties for its lobbying activities.

The following are some features of the French policy:

- a. Definition of lobbying or related expenses: The following are considered expenses related to activities of influence or representation of interests and must be reported by tobacco manufacturers, importers, and distributors:
 1. "The remuneration of personnel employed in whole or in part to exercise influence or interest representation activities;
 2. Purchases of services from consulting firms in influential or interest representation activities;

3. Benefits in kind or in cash, in any form whatsoever, directly or indirectly, the value of which exceeds 10 €, provided to:
 - a. Members of the Government;
 - b. Members of ministerial offices or collaborators of the President of the Republic;
 - c. Collaborators of the President of the National Assembly or the President of the Senate;
 - d. Parliamentarians;
 - e. Persons entrusted with a public service mission which their mission or the nature of their function calls for taking or preparing the decisions and opinions of the public authorities relating to tobacco products;
 - f. Experts, natural or legal persons, appointed by agreement with a public person, to advise on behalf of a public person whose mission it is to take or prepare the decisions and opinions of the authorities public information on tobacco products."¹⁷⁴

b. Penalties: The law provides for a fine of €45,000 in case of failure to comply with the reporting requirement or to knowingly omit making public the pertinent expenses. The fine is imposed on manufacturers, importers, and distributors of tobacco products, as well as companies, professional organizations or associations representing them, e.g., consulting firms, etc.

c. Enforcement: The law provides that consumer associations as well as long-standing (at least 5 years old) tobacco control civil society groups can file civil suits for violations of the reporting requirement.¹⁷⁵

4. Uganda: Incorporating Article 5.3 into National Law

Uganda's government has developed measures to embed the letter and spirit of WHO FCTC Article 5.3 in its national legislation and policy process. On 28 July 2015, its Parliament passed a comprehensive, WHO FCTC-compliant tobacco control law, with a whole section covering Recommendations 2-4, 7 of the Article 5.3 Guidelines.¹⁷⁶

The law contains provisions banning all forms of tobacco sponsorships and requiring submission by a tobacco manufacturer, distributor, supplier or importer of detailed information on a periodic basis or upon request.¹⁷⁷ Failure to comply with the law leads to a fine and imprisonment not exceeding six (6) months.¹⁷⁸ The law has an extensive annex (20 items) elaborating on the information to be provided by the tobacco industry (see Sixth Schedule¹⁷⁹), and regulations will be developed to make the information available and accessible to the public.

Any person providing partnerships and endorsements of the tobacco industry, receiving voluntary contributions from it, and giving incentives or privileges, is considered to have committed an offense and is liable to cancellation of partnership or endorsement or memorandum of understanding, forfeiture of the contribution made, and revocation on any benefit, incentive, privilege or preferential tax exemptions.¹⁸⁰

For violating the conflict of interest provisions, a private or public person may suffer a penalty that includes a fine and imprisonment of up to five (5) years. In addition, the person can be accountable for compensation for losses suffered by the government or public body through a civil law procedure.¹⁸¹

Conflict of interest

Conflict of interest provisions apply to any one who contributes to or may contribute to the development of “public health policies on tobacco control.” Conflicts arise where one deals with a matter where he has interest and is in a position to influence the matter directly or indirectly; the service he offers to another is in conflict with his duties due to his official position; and, he solicits or receives a bribe for his actions.¹⁸² In addition to requirement of disclosure of former tobacco industry work, there is a two (2) years gap before assigning one who has worked in the tobacco industry to contribute to policy development. Also, one is allowed to take up tobacco industry occupation only two (2) years after leaving public service, and a confidentiality clause shall apply to the said person.¹⁸³

The MOH harnessed support of civil society groups and identified civil society allies to the national committee. Civil society groups established a tobacco industry monitoring team, provided effort into drafting to ensure the provisions will be enforced, and provided support to ensure that Article 5.3 provisions are included in the first working draft and are maintained in the bill at every stage.¹⁸⁴

Tobacco Industry Challenge via Litigation

The tobacco industry challenged four (4) of the aforementioned provisions pertaining to Article 5.3, and sought a preliminary injunction on:

1. The two (2) years gap after public service or tobacco industry employment in relation to tobacco control policy contribution. BAT argued that this would discriminate against tobacco industry employees and create an unfair barrier to further employment.
2. Penalty clauses for violations of conflict of interest rules (fine, imprisonment up to 5 years, damages). BAT contended that these are harsh, unreasonable, and disproportionate, and contravenes practice of lawful trade or occupation guaranteed by the constitution.
3. Conflict of interest provision relating to compensation for losses and its execution shall be deemed a decree under the Civil Procedure Act. BAT

- argued that this is unreasonable.
4. "A person, body or entity that contributes to, or could contribute to, the formulation, implementation, administration, enforcement or monitoring of public health policies on tobacco control" shall not provide preferential treatment, investment in tobacco venture, establish a tobacco business (wholesale, manufacturing or import, given any incentive to any phase of tobacco growing and tobacco product production or marketing. BAT claims that the coverage is broad and covers the entire arm of government: the executive, legislature, and judiciary, and that the provision discriminates against entities doing lawful business, trade, and occupation within the tobacco industry.

III. Global Level

A. International Instruments that Take Tobacco Industry Interference into Consideration

Table 3 below summarizes, in chronological order, the international instruments that have been adopted or developed to be consistent with or to support the implementation of WHO FCTC Article 5.3 which provides:

In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.³⁹

Table 3. Decisions of the International Community that Support the Implementation of WHO FCTC Article 5.3

International Organization / Year / Parties	International Instrument / Details
UN Economic and Social Council (ECOSOC), 2017 Number of Members: 54	Resolution E/2017/L.21: Model Policy for Agencies of the United Nations System on Preventing Tobacco Industry Interference "10. Encourages members of the Task Force, as appropriate and in line with their respective mandates, to develop and implement their own policies on preventing tobacco industry interference, bearing in mind the model policy for agencies of the United Nations system on preventing tobacco industry interference, in order to ensure a consistent and effective separation between the activities of the United Nations system and those of the tobacco industry." ¹⁸⁵
World Health Assembly (WHA), 2016 Number of	WHA Resolution 69.10: Adoption of the Framework for Engagement with Non-State Actors In 2016, the WHA's Resolution 69.10 adopting the Framework for Engagement with Non-State Actors (FENSA) provided clear rules for non-engagement with the tobacco industry and other non-state

International Organization / Year / Parties	International Instrument / Details
Members: 193	<p>actors that work to further the interests of the tobacco industry. Setting the standard for private sector engagement with a United Nations (UN) agency, FENSA provides:</p> <p>“WHO does not engage with the tobacco industry or non-State actors that work to further the interests of the tobacco industry.”^{186 187}</p> <p>“WHO does not engage with the tobacco industry_or with non-State actors that work to further the interests of the tobacco industry. The latter includes but is not limited to: entities and subsidiaries engaged in the manufacturing, distribution and/or sale of tobacco or tobacco-related products; entities working to specifically further the interests of the tobacco industry through lobbying, advertising, legal advice or similar activities; entities being funded, supported or influenced in their governance by tobacco-related entities; and entities having tobacco industry or their representatives among their members.”¹⁸⁸¹⁸⁹</p>
<p>United Nations, 2015</p> <p>Number of Parties: 193</p>	<p>United Nations General Assembly Resolution 70/1: Sustainable Development Goals (SDGs)</p> <p>“Goal 3: Ensure healthy lives and promote well-being for all at all ages</p> <p>Strengthen the implementation of the World Health Organization Framework Convention on Tobacco Control in all countries, as appropriate.”¹⁹⁰</p>
<p>United Nations, 2012</p> <p>Number of Parties: 193</p>	<p>United Nations General Assembly Resolution 66/2: Political Declaration of the High-Level Meeting of the General Assembly on the Prevention and Control of Non-Communicable Diseases</p> <p>“38. Recognize the fundamental conflict of interest between the tobacco industry and public health.”¹⁹¹</p>
<p>WHO FCTC, 2008</p> <p>Number of Parties: 181</p>	<p>Decision FCTC/COP3(7): Guidelines for the Implementation of Article 5.3 of the WHO FCTC</p> <p>“Guiding Principles:</p> <p>Principle 1: There is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests.</p> <p>Principle 2: Parties, when dealing with the tobacco industry or those working to further its interests, should be accountable and transparent.</p> <p>Principle 3: Parties should require the tobacco industry and those working to further its interests to operate and act in a manner that is</p>

International Organization / Year / Parties	International Instrument / Details
	accountable and transparent. Principle 4: Because their products are lethal, the tobacco industry should not be granted incentives to establish or run their businesses." ¹⁹²

International Labour Organization

While the international community has seen some global trends on protection against tobacco industry funding or influence, the International Labour Organization (ILO) is still in the process of resolving some concerns relating to the tobacco industry.

ILO serves as advisor to the board of the Eliminating Child Labor in Tobacco-growing (ECLT) Foundation,¹⁹³ an organization established in 2002 and purely funded by tobacco companies.¹⁹⁴ Philip Morris International (PMI), British American Tobacco (BAT), Japan Tobacco International (JTI), Imperial Tobacco, and other tobacco industry players fund ECLT and serve as its board members.^{195 196}

ILO has reportedly received \$15 million from JTI and groups associated with huge tobacco companies for “charitable partnerships” to address child labor in tobacco fields.¹⁹⁷

The public health community has vigorously censured ILO's engagement with the tobacco industry.¹⁹⁸ In October 2017, about 200 organizations and individuals from various parts of the world have urged ILO to stop receiving money from the tobacco industry and to cut off its relationship with it.¹⁹⁹

As of January 2018, ILO's Governing Body is confronted with the need to decide if it should keep its partnership with the industry.²⁰⁰ During its meeting in Geneva in March 2018, the ILO's proposed integrated strategy stated that child labor remains widespread and noted the need to transition from donor-industry funding to development-partner funding that aligns with integrated approaches and international developmental goals.²⁰¹ The decision on the matter has been pending and it is to be made by the Governing Board comprising of fifty-six (56) titular members (28 governments, 14 employers, and 14 workers).²⁰²

B. Tobacco Industry Interference in UN Agencies and the International Community's Response

Model policy for agencies of the United Nations system on preventing tobacco industry interference

In 2006, 2008, and in 2010, the Secretary General reported at ECOSOC's Substantive Sessions on various types of tobacco industry interference within the UN System, such as conflicts of interest.²⁰³ The reports emphasized the need to raise awareness on WHO FCTC Article 5.3 and policies against tobacco industry engagement, such as those from the United Nations Development Programme (UNDP) and the International Atomic Energy Agency (IAEA).

In 2014, COP6 decided to request the WHO FCTC Secretariat to make appropriate recommendation in light of the tobacco industry engagement in key international organizations,²⁰⁴ and to seek collaboration with such international organizations to raise awareness of the fact that their "administrative, financial and other decisions affect implementation of Article 5.3 of the WHO FCTC," and to promote "the principles of Article 5.3 and its implementing Guidelines, including rejection of any direct or indirect contributions, technical and financial, from the tobacco industry."²⁰⁵

In 2016, the model policy for agencies of the UN system on preventing tobacco industry interference was adopted by members of the UN Interagency Task Force on the Prevention and Control of Non-Communicable Diseases (UNIATF).²⁰⁶ Its purpose is "to ensure that efforts to protect tobacco control from commercial and other vested interests of the tobacco industry are comprehensive, effective and consistent across the United Nations system including the UN itself and its funds, programmes, specialized agencies, other entities and related organizations."²⁰⁷

In 2016, the COP mandated the WHO FCTC Secretariat to continue encouraging bodies under the UN to adopt mechanisms to address tobacco industry attempts to impede the implementation of tobacco control efforts.²⁰⁸

UN Global Compact

One UN office that actively seeks out funding from the private sector is the UN Global Compact (UNGC), a voluntary initiative encouraging businesses globally to adopt sustainable and socially responsible policies.²⁰⁹

A research conducted by the Ad Hoc Inter-Agency Task Force on Tobacco Control criticized the UN's Global Compact "for harboring tobacco companies under its umbrella."²¹⁰ In response to numerous criticisms, the Global Compact announced as early as 2014 that it "actively discourages

tobacco companies from participation in the initiative and does not accept funding from tobacco companies.”²¹¹

Consistent with the model policy and global trends to shun tobacco funding, UNGC's Integrity Policy Update, dated 12 September 2017, stated that: “the UN Global Compact will increase scrutiny of companies upon entry into the initiative, review engagement with existing participants, and institute new exclusionary criteria for companies involved in certain high-risk sectors – including the production and manufacture of tobacco products, and nuclear, chemical, or biological weapons. Participating companies whose business involves manufacturing or producing tobacco products will be delisted effective 15 October 2017” (emphasis supplied).²¹²

Table 4. Policies of International Intergovernmental Organizations that Protect against Tobacco Industry Interference

International Organization / Year	Document / Details
United Nations Development Programme (UNDP), 2013	<p>“Guiding Principles for Partnerships: Advance UNDP goals; Maintain integrity, independence, and impartiality; Ensure transparency; Non-exclusivity and no unfair advantage; Cost-effectiveness; Clearly defined roles and responsibilities and shared risk and benefits.</p> <p>UNDP has defined a set of exclusionary criteria outlining those business practices considered unacceptable to the organization, and these include the 'manufacture, sale or distribution of tobacco or tobacco products.’”²¹³</p>
United Nations Children's Fund (UNICEF), 2001	<p>“In 2001, UNICEF adopted guidelines that rejected all partnerships with tobacco companies or organization.”²¹⁴</p> <p>“UNICEF’s corporate engagement guidelines, which were developed in 2001, codified a pre-existing, organization-wide policy of not accepting funding or entering into partnership with tobacco manufacturers.”²¹⁵</p>
United Nations Educational, Scientific and Cultural Organization (UNESCO), 1997	<p>The Guidelines forbid any private sector involved in the “production or distribution of tobacco (products)...” to be a funding source for collaboration with UNESCO.²¹⁶</p>
World Bank, 1999	<p>“The Bank does not lend directly for, invest in, or guarantee investments or loans for tobacco production, processing, or marketing.”²¹⁷</p>
International Atomic Energy Agency (IAEA)	<p>“The IAEA has a checklist for partnership agreements to exclude the manufacturers or distributors of goods widely recognized as harmful to public health, or against public morals. Tobacco products are included in the list.”²¹⁸</p>

Red Cross

Although not an intergovernmental organization (IGO), the Red Cross policy on refusing tobacco-backed funds is considered a significant policy covering many constituents due to its presence in practically all states. The International Federation of Red Cross and Red Crescent Societies (IFRC), along with 190 member-countries of National Red Cross and Red Crescent Societies worldwide, act before, during, and after disasters and health emergencies to assist vulnerable people. Red Cross' policies potentially affect trends in CSR in over 190 countries where it is operating.

The Red Cross has long adopted a policy not to accept funds from tobacco, alcohol, and arms. During the World No Tobacco Day celebration on May 31, 2013, the Governing Board of the International Federation of the Red Cross/Red Crescent resolved to enjoin National Societies to desist from receiving money from the tobacco industry.²¹⁹

In June 2015, the IFRC issued an Internal Guidance Brief on their non-engagement with tobacco companies. This document—which was disseminated to National Societies, including their staff and volunteers—states, among others, that it upholds principles to dissociate itself from the tobacco industry, “an industry that contributes to significant mortality, illness and suffering worldwide.”²²⁰

C. Case Studies on Responses to Efforts by International/ Regional Organizations that Represent Tobacco Industry Interests

The tobacco industry has backed or established international organizations to pursue its interests. Below are case studies where the global community responded to efforts of such organizations to undermine tobacco control policies.

1. International Tax and Investment Center

1.1. *ITIC Relationship with the Tobacco Industry*

The International Tax and Investment Center (ITIC) claims to be an international think tank that works closely with governments on fiscal and trade issues,²²¹ but its board includes representatives coming from four (4) tobacco companies, namely, PMI, JTI, BAT, and Imperial Tobacco. Based on analysis of internal tobacco industry documents,²²² the organization has been identified as a tobacco industry front group.²²³

1.2. ITIC Tactics in Interfering with the WHO FCTC during the Adoption of the Article 6 Guidelines (Price Measures)

ITIC sponsored an event intended to challenge COP6 adoption of Article 6 Guidelines; the time and venue was strategically set just before/during the COP6 and near the COP6 session venue in Moscow. It invited tax officials from FCTC Parties and WHO member-states that are observers to the COP.²²⁴

Response: Note Verbale of the Framework Convention Secretariat

The Framework Convention Secretariat (FCS) issued a *Note Verbale* (NV) to warn against attending the event.¹⁰² For many delegates and government officials, it was the first time they were apprised that the ITIC event is not an activity related to or endorsed by COP, and that ITIC is tobacco industry-funded. In addition, CSOs circulated information about ITIC arguments and how they undermine the proposed Article 6 Guidelines.²²⁵ Due to these efforts, the ITIC event was hardly attended by COP delegates.

On 04 March 2016, the FCS issued another NV that expressed concern about meetings organized by ITIC and advised Parties that tobacco industry interference (e.g., ITIC-organized regional and global meetings) is “damaging for tobacco-control efforts worldwide.”²²⁶ It reminds Parties to “reject partnerships and non-binding or non-enforceable agreements with the tobacco industry.”²²⁷ It issued the NV amidst reports that tobacco companies are proposing to some FCTC Parties to sign agreements in which the former will take on certain tasks in controlling the tobacco supply chain; and, reports that the tobacco industry is actively endorsing the use of Codentify, a coding system it developed.

The aforesaid NVs have increased the awareness of FCTC Parties and COP observers about ITIC and its activities; thus, many of them have refused to participate in ITIC events.

1.3. ITIC and its Involvement in Tax/ Customs Global Events

On its website, ITIC claims that it regularly sponsors and participates in global events where tax and customs officials from all over the world will be in attendance. For instance, in 2014, ITIC presented its report on “The Illicit Trade in Tobacco Products and How to Tackle It” to over 150 enforcement officials from various countries during the World Customs Organization (WCO) meeting in Brussels.²²⁸ One such widely promoted event was the 12th Annual Asia-Pacific Tax Forum, held in New Delhi on 5-7 May 2015.

Response: World Bank and Host Country Response

After much global campaigning from CSOs, the World Bank withdrew from the 12th Annual Asia-Pacific Tax Forum, held in New Delhi on 5-7 May 2015, which

was co-organized by a consortium financed by several transnational tobacco companies. The Indian government officials, touted by ITIC to inaugurate the event, also decided not to participate.^{229 230}

1.4. ITIC Challenging Civil Society Groups

In 2015, the Southeast Asia Tobacco Control Alliance (SEATCA) published "ITIC's ASEAN Excise Tax Reform: A Resource Manual," which revealed how ITIC's report is undermining global best practice in tobacco taxation in the region.²³¹ In 2014, it also critiqued ITIC's Asia-11 Illicit Tobacco Indicator 2012,²³² which together with other ITIC reports, were widely disseminated to finance ministers in Southeast Asia. Shortly after, ITIC president Daniel Witt sought to meet with SEATCA to have a "round-table discussion" with stakeholders on the matter. It was later revealed that the meetings are meant to make SEATCA rectify its "errors." A series of letters were written to complain about SEATCA's inaccuracies and refusal to engage with ITIC. Letters were written to various individuals associated with SEATCA to pressure its executive director to participate in ITIC meetings. A subsequent letter, written by an Australian consultant, accused SEATCA of unreasonableness, lack of transparency, accountability, and good governance, and of continuing to "dismiss competing views and disparage those who hold them."²³³

Response: Civil Society Groups Unified in the Denouncement of Tobacco Industry Funds/ Ties

Various civil society groups responded to defend SEATCA's position and criticized ITIC for its tobacco industry tactics. In 2017, ITIC announced that it has removed tobacco industry representatives from its board and declared that it would no longer receive sponsorships from the tobacco industry.²³⁴ Its previous papers supporting tobacco industry interests are no longer available on its website's resources list.

Outcome: ITIC Rejects Tobacco Industry to Safeguard Reputation

In 2017, ITIC announced that it has adopted a resolution to immediately sever links with tobacco companies. ITIC's Board resolved that it will no longer accept sponsorship from tobacco companies and that representative from tobacco firms will no longer serve in it. ITIC's president admits that this is due to pressures that have consistently petitioned the organization to support the WHO FCTC. He added that this "was a necessary step to safeguard ITIC's reputation and ensure its long-term effectiveness." The Commonwealth Association of Tax Administrators has welcomed this policy.²³⁵

2. International Tobacco Growers Association

2.1. ITGA Relationship with the Tobacco Industry

The International Tobacco Growers Association (ITGA) claims to represent the interest of farmers at various global and regional fora, yet its main supporters are transnational tobacco-related companies, including Alliance One International, Imperial Tobacco International, Universal Leaf, PMI, BAT, JTI, etc.²³⁶

ITGA claims that the WHO FCTC puts the livelihoods of millions of growers at risk. According to the Framework Convention Alliance (FCA), the global civil society group supporting tobacco control, "ITGA does nothing to help tobacco farmers and farm workers trapped in cycles of poverty and debt bondage because of the industry's exploitative tobacco buying practices and unfair contracts."²³⁷

2.2. ITGA Tactics in Interfering with the WHO FCTC during the Adoption of Guidelines (Articles 9/10, 17/18)

In 2010, during the FCTC COP4, the ITGA reportedly rallied tobacco farmers from several countries together in order to influence the negotiations and to thwart the approval of Articles 9 and 10 Guidelines and progress report on Articles 17 and 18.²³⁸

Response: Rejection of Application for Observer Status

When ITGA applied for observer status in 2010, the COP4 took note of the report that information available on the official website of the organization shows that its activities "may not be in line with the aims and spirit of the Convention," in particular with regard to Article 5.3. The COP4 then rejected ITGA's application for observer status.²³⁹

3. ASEAN Intellectual Property Association

3.1. ASEAN IPA is an association of intellectual property owners that meets annually to celebrate World Intellectual Property Day.

3.2. ASEAN IPA's Tactics in Interfering with the WHO FCTC as well as Intellectual Property and Plain Packaging in ASEAN

The ASEAN Intellectual Property Association (IPA) is a Philippine-based organization that aims to promote the development and protection of intellectual property in Southeast Asian countries. It is one of the over forty (40) organizations that submitted a total of thirty-six (36) amicus curiae in opposing

Australia's plain packaging at the World Trade Organization (WTO). Its amicus brief had been adopted by oppositors Honduras, Indonesia, and Dominican Republic.²⁴⁰ In 2016, it wrote a series of letters to governments in ASEAN to warn against the harmful consequences of cigarette plain packaging in the region.

Response: SEATCA Counters ASEAN IPA Arguments

The regional non-government organization, SEATCA, refuted ASEAN IPA's arguments. Through letters, it informed governments in the region of the association's background and agenda.²⁴¹

The ASEAN IPA continues to raise intellectual property issues on plain packaging in light of the planned adoption of the measure by some countries in the region. Nevertheless, despite its tactics in the region, the Singapore Ministry of Health launched public consultations for plain packaging in February 2018.

4. US/ American Chamber of Commerce

4.1. Relationship with the Tobacco Industry

The US Chamber of Commerce, known in other parts of the world as American Chamber of Commerce (Amcham), is a global network of US business associations, most of which includes PMI.²⁴² It has been reported to promote tobacco industry interests in various countries all over the world as evidenced, among others, by its own internal documents.²⁴³ Five (5) US Chambers of Commerce (Mexico, Netherlands, Russia, Thailand, and United States) have amicus curiae opposing Australia's plain packaging at the WTO. Its amicus brief had been adopted by oppositors Honduras, Indonesia, and Dominican Republic.²⁴⁴

In June 2015, the New York Times released a report on the extent of lobbying that Amcham had undertaken in Australia, Burkina Faso, El Salvador, the European Union, Ireland, Jamaica, Kosovo, Moldova, Nepal, New Zealand, the Philippines, Ukraine, United Kingdom, and Uruguay²⁴⁵ to dilute and delay life-saving tobacco control measures.

Response: CVS Leaves US Chamber of Commerce

As a response to the New York Times exposé, CVS Health Corporation (a pharmacy healthcare company in the United States with more than 9,700 retail locations) decided to leave the association in 2015.²⁴⁶ US senators released a public statement critical of US Chamber of Commerce's actions, and sent letters to companies represented by Board Members to find out their positions on the Chamber's efforts to challenge tobacco control measures.

Globally, business associations continue to influence tobacco control policies on behalf of the tobacco industry. Over forty (40) business associations and organizations across the world publicly opposed plain packaging.²⁴⁷ A more regional strategy is exemplified by the ASEAN Business Council, which annually sets meetings with high-level officials in each country in the ASEAN region, making way for meetings/ unnecessary interactions between US tobacco company leaders and top-level government officials.²⁴⁸

5. Foundation for a Smoke-Free World

5.1. Foundation for a Smoke-Free World and its Relationship with the Tobacco Industry

On 13 September 2017, PMI announced that it will commit US\$1 billion to a Foundation for a Smoke-Free World (FSFW) over the next twelve (12) years. It was reported that FSFW will focus on funding research to support policy and collaborative initiatives on harm reduction. FSFW's president was formerly with the WHO.²⁴⁹

Response: WHO and Public Health Community Warn against Cooperating with FSFW

Within two weeks of the announcement, the Convention Secretariat for the WHO FCTC issued a statement denouncing key aspects of FSFW, among others, its leadership, the funding, new tobacco products, and potential interactions with the tobacco industry. It reminds FCTC Parties that: "Any collaboration with this Foundation, due to its current funding arrangement that comes from a tobacco multinational, would constitute a clear breach of Article 5.3 of the Convention concerning tobacco industry interference."²⁵⁰

Below are excerpts of the WHO statement dated 28 September 2017:

Article 5.3 of the WHO Framework Convention on Tobacco Control (WHO FCTC) obliges Parties to act to protect public health policies from commercial and other vested interests of the tobacco industry in accordance with national law. Guidelines for implementation of Article 5.3 state clearly that governments should limit interactions with the tobacco industry and avoid partnership. These Guidelines are also explicit that Governments should not accept financial or other contributions from the tobacco industry or those working to further its interests, such as this Foundation.

Strengthening implementation of the WHO FCTC for all tobacco products remains the most effective approach to tobacco control... If PMI were truly committed to a smoke-free world, the company would support these policies. Instead, PMI opposes them. PMI engages in large scale lobbying and prolonged and expensive litigation against evidence-based tobacco

control policies such as those found in the WHO FCTC and WHO's MPOWER tobacco control, which assists in implementation of the WHO FCTC. For example, just last year PMI lost a six year investment treaty arbitration with Uruguay, in which the company spent approximately US\$ 24 million to oppose large graphic health warnings and a ban on misleading packaging in a country with fewer than four million inhabitants.²⁵¹

Since the launch of FSFW, more and more public health advocates have renounced its efforts.²⁵² Seventeen (17) deans of the top schools of public health in the USA have announced that their schools are not accepting funding from or pursuing work with it.²⁵³

In January 2018, the Polish Health Ministry used the WHO statements to warn universities against receiving research funding from the foundation.²⁵⁴ Vietnam's MOH also issued a memo "calling on the cabinet, local government, and mass organizations to coordinate the implementation of the WHO recommendation and to inform governments and health communities not to cooperate with FSFW."²⁵⁵

In March 2018, during the 17th World Conference on Tobacco or Health (WCTOH), a global gathering of about 2,000 participants from the public health community), the conference organizers refused entry of FSFW representatives.²⁵⁶ In its Declaration, WCTOH urged "governments, scientists, research entities, foundations, and civil society organizations to reject or cease engagement with the Philip Morris International-funded Foundation for a Smoke-Free World and other initiatives of the tobacco industry."²⁵⁷ The 17th WCTOH Declaration also adopted the Cape Town Declaration on Human Rights and a Tobacco-Free World, which urged everyone to reject or cease collaboration with FSFW and similar public relations initiatives of the tobacco industry.²⁵⁸

In September 2018, the Asia Pacific Conference on Tobacco or Health (APACT), a regional gathering of tobacco control delegates and key stakeholders seeking to end the tobacco epidemic, adopted a Declaration stating a similar position that: "Partnership with the tobacco industry is detrimental to all SDGs and the FCTC. To ensure good governance, governments, scientists, research entities, and civil society organizations must reject or terminate all partnerships or support from the tobacco industry, including the Philip Morris International-funded Foundation for a Smoke-Free World, and other initiatives of the tobacco industry..."²⁵⁹

Annexes

Annex 1 - WHO Framework Convention on Tobacco Control Secretariat's Statement on the Launch of the Foundation for a Smoke-Free World

WHO FCTC Statement

19 September 2017

The WHO Framework Convention on Tobacco Control Secretariat (Convention Secretariat) notes the launch of the Foundation for a Smoke-Free World, led by a former official of the World Health Organization.

The Convention Secretariat regards this tobacco industry-funded initiative as a clear attempt to breach the WHO FCTC by interfering in public policy. It is a deeply alarming development aimed at damaging the treaty's implementation, particularly through the Foundation's contentious research programmes.

The WHO FCTC is the world's only tobacco control evidence based treaty and has been commended by global leaders as providing the primary roadmap to a tobacco-free world. It has 181 Parties, representing 180 States and the European Union, and is supported by numerous nongovernmental organizations.

The Convention Secretariat wishes to make the following points and clarifications:

1. With regard to the president of this Foundation

Although the president of the Foundation was part of the WHO Secretariat during the negotiation of the WHO FCTC, the treaty had no single architect. It resulted from the work of hundreds of committed government representatives, individuals and organizations, and that is its greatest strength – teamwork.

The Foundation's president is in no way linked to the Convention Secretariat, nor does he represent the Convention Secretariat's views.

2. With regard to the Foundation's funding

The Foundation for a Smoke-Free World describes itself as an independent organization. It reportedly will be funded solely with almost US\$ 1 billion from Philip Morris International, the tobacco conglomerate.

There is extensive experience of tobacco-industry funded research that was later used to prevent effective tobacco control policies. It is clear that the industry aims to follow the same path in the area of non-traditional tobacco products, which are unregulated in many countries.

3. With regard to interactions with the tobacco industry

Parties to the WHO FCTC should note that any collaboration with this Foundation, due to its current funding arrangement that comes from a tobacco multinational, would

constitute a clear breach of Article 5.3 of the Convention concerning tobacco industry interference.

Parties to the Convention have agreed, through the Guidelines to Article 5.3, that activities described as “socially responsible” by the tobacco industry, constitute a marketing and public-relations strategy that falls within the Convention’s definition of advertising, promotion and sponsorship. Parties should not endorse, support, form partnerships with or participate in tobacco industry activities described as socially responsible. Tobacco industry is clearly looking for a seat at the table.

4. With regard to new products

The tobacco industry is introducing new products in pursuit of profit rather than public health. For example, new “heat-no-burn” products contain tobacco and electronic nicotine delivery systems (ENDS) contain nicotine, an addictive substance regulated through appropriate policies under Article 5.2(b) of the Convention related to legislative and administrative measures.

Parties to the Convention have agreed to consider applying regulatory measures to prohibit or restrict the manufacture, importation, distribution, presentation, sale and use of ENDS, as appropriate to their national laws and public health objectives. If other novel tobacco or nicotine products emerge, the way that they are treated needs to be considered in the same way.

5. With regard to possible effects on tobacco growers

Article 17 of the WHO FCTC requires Parties to promote, as appropriate, economically viable alternatives for tobacco workers and growers. The tobacco industry knows that it creates social problems, including the use of child labour. Initiatives endorsed by the industry and those it funds are not designed to solve the problems it creates, but to give a false impression of sympathy for its victims.

6. With regard to the impact of the WHO FCTC on public health

The WHO FCTC, despite the efforts of the tobacco industry to prevent progress, has substantially improved global public health through the evidence-based measures it endorses.

The WHO FCTC has been recognized as playing “a critical role as an authoritative and agreed catalyst and framework for action.” The use by the tobacco industry of research to prevent effective tobacco control policies, now in relation to non-traditional tobacco products, is proof that the policies originating from Parties’ implementation of the WHO FCTC provisions are having an important and lasting effect on tobacco control.

Annex 2 - WHO Statement on Philip Morris-Funded Foundation for a Smoke-Free World

WHO Statement

28 September 2017

On 13 September 2017, tobacco company Philip Morris International (PMI) announced its support for the establishment of a new entity - the Foundation for a Smoke-Free World. PMI indicated that it expects to support the Foundation by contributing approximately USD 80 million annually over the next 12 years.

The UN General Assembly has recognized a “fundamental conflict of interest between the tobacco industry and public health.” (1) WHO Member States have stated that “WHO does not engage with the tobacco industry or non-State actors that work to further the interests of the tobacco industry”, (2) the Organization will therefore not engage with this new Foundation.

Article 5.3 of the WHO Framework Convention on Tobacco Control (WHO FCTC) obliges Parties to act to protect public health policies from commercial and other vested interests of the tobacco industry in accordance with national law. Guidelines for implementation of Article 5.3 state clearly that governments should limit interactions with the tobacco industry and avoid partnership. These Guidelines are also explicit that Governments should not accept financial or other contributions from the tobacco industry or those working to further its interests, such as this Foundation.

Strengthening implementation of the WHO FCTC for all tobacco products remains the most effective approach to tobacco control. Policies such as tobacco taxes, graphic warning labels, comprehensive bans on advertising, promotion and sponsorship, and offering help to quit tobacco use have been proven to reduce demand for tobacco products. These policies focus not just on helping existing users to quit, but on preventing initiation.

If PMI were truly committed to a smoke-free world, the company would support these policies. Instead, PMI opposes them. PMI engages in large scale lobbying and prolonged and expensive litigation against evidence-based tobacco control policies such as those found in the WHO FCTC and WHO's MPOWER tobacco control, which assists in implementation of the WHO FCTC. For example, just last year PMI lost a six year investment treaty arbitration with Uruguay, in which the company spent approximately US\$ 24 million to oppose large graphic health warnings and a ban on misleading packaging in a country with fewer than four million inhabitants.

There are many unanswered questions about tobacco harm reduction (3), but the research needed to answer these questions should not be funded by tobacco companies.

The tobacco industry and its front groups have misled the public about the risks associated with other tobacco products. This includes promoting so-called light and mild tobacco products as an alternative to quitting, while being fully aware that those products were not less harmful to health. Such misleading conduct continues today with companies, including PMI, marketing tobacco products in ways that misleadingly suggest that some tobacco products are less harmful than others.

This decades-long history means that research and advocacy funded by tobacco companies and their front groups cannot be accepted at face value. When it comes to the Foundation for a Smoke-Free World, there are a number of clear conflicts of interest involved with a tobacco company funding a purported health foundation, particularly if it promotes sale of tobacco and other products found in that company's brand portfolio. WHO will not partner with the Foundation. Governments should not partner with the Foundation and the public health community should follow this lead.

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General Assembly Resolution 66/2, Political Declaration of the High-level Meeting of the General Assembly on the Prevention and Control of Non-communicable Diseases, A/RES/66/2 (24 January 2012), para. 38.

World Health Assembly Resolution, WHO Framework of Engagement with Non-State Actors, WHA69.10, 28 May 2016, para. 44.

Electronic Nicotine Delivery Systems and Electronic Non-Nicotine Delivery Systems (ENDS/ENNDS), Report by WHO, Conference of the Parties to the WHO Framework Convention on Tobacco Control, Seventh Session, Delhi, (7 – 12 November 2016), FCTC/COP/7/11.

Annex 3 - Model Policy for Agencies of the United Nations System on Preventing Tobacco Industry Interference

Purpose

The purpose of this policy is to ensure that efforts to protect tobacco control from commercial and other vested interests of the tobacco industry are comprehensive, effective and consistent across the United Nations system including the UN itself and its funds, programmes, specialized agencies, other entities and related organizations (hereinafter referred to as “the United Nations system”).

Overview

Tobacco use is one of the most significant preventable causes of death and disease in the world. It is particularly escalating in children and women worldwide. Nearly 80% of the world's one billion smokers live in low- and middle-income countries.

The objective of the WHO Framework Convention on Tobacco Control (WHO FCTC) is to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke. This UN Convention is an international treaty that entered into force on 27 February 2005, and has 180 Parties so far.

Full implementation of the WHO FCTC support global commitments to achieving a 25% reduction in premature deaths from noncommunicable diseases by 2025, including a 30% reduction in the prevalence of tobacco use in persons aged 15 years and over.

The WHO FCTC is an important tool to ensure that public health is prioritized over industry profits by governments and the UN system, and to ensure the enjoyment of the highest attainable standard of health as one of the fundamental rights of every human being. Article 5.3 of the WHO FCTC stipulates that “Parties shall act to protect public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry in accordance with national law”. The Conference of the Parties, governing body of the Convention, adopted guidelines for implementation of Article 5.3 in 2008, to assist Parties in their work on implementation of this article.¹ The observers to the Conference of the Parties, although not bound by the treaty, are expected to work and act in the spirit of the Convention and its implementation guidelines.

Implementation of Article 5.3 and its guidelines will also bring an important contribution to achieving the Sustainable Development Goals, in particular Goal 3 on ensuring healthy lives and promoting well-being, target 3.a on strengthening implementation of the WHO FCTC and target 16.5 on substantially reducing corruption and bribery in all its forms.

Interference by the tobacco industry remains one of the greatest obstacles to implementing the WHO FCTC. Tobacco industry interference takes many forms.² These include:

- maneuvering with lobbyists to influence law-making;
- exaggerating the economic importance of the industry while ignoring the social, environmental and health costs caused by tobacco and tobacco products;
- manipulating public opinion to gain the appearance of respectability, e.g. by investing funds in youth programmes or nature conservation groups or disaster relief; this is part of efforts to look “socially responsible”. The corporate social responsibility of the tobacco industry is an inherent contradiction since the tobacco industry’s core functions are in conflict with the goals of public health.
- fabricating support through front groups which are phony “grassroots” groups that support its interests,
- attempting to discredit proven science; and
- intimidating governments with litigation or the threat of litigation

A multisectoral—whole of government, whole of UN and whole of UN entity—approach is necessary to fully and rapidly implement the WHO FCTC. Broadening the scope of the UN Inter Agency Task Force on Tobacco Control established in 1999, the UN Secretary-General established the UN Interagency Task Force on the Prevention and Control of Noncommunicable Diseases in 2013.³ Its terms of reference include ensuring that tobacco control continues to be duly addressed and prioritized while recognizing that public health policies for the prevention of noncommunicable diseases [such as those caused by tobacco use] must be protected from undue influence by any form of vested interest.

Scope of Article 5.3 of the WHO FCTC and its implementation guidelines

Article 5.3 of the Convention provides the policy framework for protecting public health policies with respect to tobacco control from the commercial and other vested interests of the tobacco industry. Furthermore, the recommendations of the implementation guidelines on Article 5.3, extend to all types of engagement and association with the tobacco industry, including, but not limited to, financial and in-kind contributions, secondments, meetings and events, programmatic initiatives, advertising, promotion and sponsorship, corporate social responsibility initiatives and advocacy, hereinafter referred to as “engagement with the tobacco industry”.

Article 5.3 and its guidelines aim to prevent interference not only by the tobacco industry, but also by organizations and individuals that work to further the interests of the tobacco industry⁴, including, but not limited to tobacco growers, manufacturers, wholesale distributors and importers of tobacco products, including State-owned, as well as lobbyists and associations. All these entities are hereinafter referred to as “the tobacco industry”.

Other existing UN documents also relate to implementation of Article 5.3 of the Convention. The “Guidelines on Cooperation between the United Nations and the Business Sector” (UN Guidelines) provide a framework for UN agencies on the development of their own policies. However, the UN Guidelines rely on the application of the UN Global Compact’s ten principles, which is problematic given the inadequacies of the UNGC policy on tobacco industry participation. Nonetheless, the UN Guidelines specifically state that “the UN will not engage with Business Sector entities that are complicit in human rights abuses, tolerate forced or compulsory labour or the use of child labour, are involved in the sale or manufacture of anti-

personnel landmines or cluster bombs, or that otherwise do not meet relevant obligations or responsibilities required by the United Nations".

Additional frameworks within the UN system that could be applied and adapted for limiting tobacco industry interactions. These include: (1) the International Code of Conduct for Public Officials, adopted by the UN General Assembly in December 1996, which could provide a model for ensuring there is no conflict of interest between public and private interest; (2) the UN Public Administration Programme, which offers a series of resources for governments to strengthen transparency and conduct policies; (3) the Code of Ethics for UN personnel, which provides language for preventing conflict of interests and rejection of gifts; and (4) United Nations Joint Staff Pension Fund (UNJSPF) has a policy that restricts investments in the tobacco industry, including any corporations that derive any portion of its revenue from tobacco production or primarily deal with tobacco manufacturing and distribution.

UN agencies such as the World Health Organization (WHO), UN Development Programme (UNDP) and the United Nations Educational, Scientific and Cultural Organization UNESCO are among the agencies that have taken steps to implement policies that are in compliance with the proposal described below.

Model Policy for Agencies of the United Nations System on Preventing Tobacco Industry Interference

Guiding principles

The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being.

There is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests.

The United Nations system, including the intergovernmental agencies that are observers to COP and members of the UN Inter Agency Task Force, must work as One, ensuring a consistent and effective separation between its activities and those of the tobacco industry, to preserve its integrity and reputation and in promoting development.

Engagement with the tobacco industry is contrary to the United Nations system's objectives, fundamental principles and values.

The United Nations system, including the intergovernmental agencies that are observers to COP and members of the UN Inter Agency Task Force shall establish measures to limit interactions with the tobacco industry, and where interactions still occur, the recommendations of the guidelines for implementation of Article 5.3 of the Convention shall apply.

Specific measures to be included in the policy⁵

To limit interactions and avoid any real or perceived partnership with the tobacco industry, as an entity of the United Nations system, [Name of the Agency] should:

Inform and educate all entities and leadership in [Name of the Agency] about the addictive and harmful nature of tobacco products, the need to protect public health policies for tobacco control from the tobacco industry's interests and the strategies and tactics used by the tobacco industry to interfere with the development of relevant policies through, inter alia, individuals, front groups and affiliated organizations that act, openly or covertly, on their behalf.

Reject partnerships, joint programs, non-binding or non-enforceable agreements and any other voluntary arrangements with the tobacco industry.

Do not grant permission to the tobacco industry to use the name, logo and emblem of [Name of the Agency]. Further, measures should be taken to actively prevent the tobacco industry from using the name, logo and emblem of the organization.

Carry out any strictly necessary interaction with the tobacco industry in such a way as to avoid the creation of any real, perceived or potential conflict of interest resulting from or on account of such interaction and ensure the transparency of those interactions that occur through, for example, making the records of such interactions available to the public.

If strictly necessary to promote the goals of [Name of the Agency], meetings with the tobacco industry (1) must take place at a neutral venue for a mediated exchange and for the purpose information exchange, i.e. to receive certain information relevant to public health or the goals of the United Nations system from the tobacco industry, and (2) present to the tobacco industry [Name of the Agency's] policy on engagement with the tobacco industry and [Name of the Agency's] views on tobacco-related health, social, environmental and economic issues. Before the meeting, [Name of the Agency] shall clearly indicate in writing to the tobacco industry that they must not mischaracterize the nature of the meeting in such a way that implies that there is any relationship, collaboration or partnership or engagement between [Name of the Agency] and the tobacco industry. After the meeting, the minutes shall be made public to ensure transparency. No meetings should result in a partnership or joint work.

Mandate [if not yet done so] a policy on the disclosure and management of conflicts of interest for all staff.

Not award contracts to tenderers who have conflicts of interest with established tobacco control policies or whose clients include the tobacco industry or that have, as part of their constituency or governing board or board of directors or advisors a representative of the tobacco industry.

Avoid conflicts of interest for international civil servants of the United Nations system as per the Standards of Conduct for the International Civil Service.⁶ Payments, gifts and services, hospitality, monetary or in-kind, and research funding offered by the

tobacco industry can, for example, create real, perceived or potential conflicts of interest and should not be accepted.

Formulate, adopt and implement [if not yet done so] a code of conduct for staff of [Name of the Agency], prescribing the standards with which they should comply in their dealings with the tobacco industry.

Require a potential donor to provide all relevant information about itself and its activities, including annual income and funding sources, and in particular its links (direct and indirect funding) to the tobacco industry. Thereafter [Name of the Agency] conducts the necessary due diligence, i.e. steps taken to find and verify relevant information on a potential donor and to clarify its interest and objectives and what it expects in return, and decline donations where a real, perceived or potential conflict of interest may arise.

Exclude any person employed by or providing consultancy or other services to the tobacco industry to be a member of any committee, advisory or expert group or governing board delegation.

Share information on industry interference with the UN Interagency Task Force on the Prevention and Control of Noncommunicable Diseases at each regular meeting along with practical examples of countering tobacco interference.

Do not award or give prizes to the tobacco industry to reward activities described as socially responsible performed by the tobacco industry.

Do not invest or disinvest [if you have already invested in] from stocks of the tobacco industry or any organization that works to further the interests of the tobacco industry.

Endnotes:

¹ http://www.who.int/fctc/treaty_instruments/Guidelines_Article_5_3_English.pdf?ua=1

² http://www.who.int/tobacco/publications/industry/technical_resource_article_5_3/

³ <http://www.who.int/ncds/un-task-force/>

⁴ Including front groups; see the definition of front groups at: http://www.tobaccotactics.org/index.php/Front_Groups.

⁵ This list of measures presented here is not exhaustive. It is primarily based on the recommendations of the guidelines for implementation of Article 5.3 of the WHO FCTC and the agencies should select the most appropriate ones that are applicable to their case.

⁶ <http://icsc.un.org/resources/pdfs/general/standardsE.pdf>

Annex 4 - Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control

on the protection of public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry

INTRODUCTION

1. World Health Assembly resolution WHA54.18 on transparency in tobacco control process, citing the findings of the Committee of Experts on Tobacco Industry Documents, states that “the tobacco industry has operated for years with the express intention of subverting the role of governments and of WHO in implementing public health policies to combat the tobacco epidemic”.
2. The Preamble of the WHO Framework Convention on Tobacco Control recognized the Parties’¹ “need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts and the need to be informed of activities of the tobacco industry that have a negative impact on tobacco control efforts”.
3. Further, Article 5.3 of the Convention requires that “in setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law”.
4. The Conference of the Parties, in decision FCTC/COP2(14), established a working group to elaborate guidelines for implementation of Article 5.3 of the Convention.
5. Without prejudice to the sovereign right of the Parties to determine and establish their tobacco control policies, Parties are encouraged to implement these guidelines to the extent possible in accordance with their national law.

Purpose, scope and applicability

6. Use of the guidelines for implementation of Article 5.3 of the Convention will have an overarching impact on countries’ tobacco control policies and on implementation of the Convention, because the guidelines recognize that tobacco industry interference, including that from the State-owned tobacco industry, cuts across a number of tobacco control policy areas, as stated in the Preamble of the Convention, articles referring to specific tobacco control policies and the Rules of Procedure of the Conference of the Parties to the WHO Framework Convention on Tobacco Control.
7. The purpose of these guidelines is to ensure that efforts to protect tobacco control from commercial and other vested interests of the tobacco industry are comprehensive and effective. Parties should implement measures in all branches of government that may have an interest in, or the capacity to, affect public health policies with respect to tobacco control.
8. The aim of these guidelines is to assist Parties² in meeting their legal obligations under Article 5.3 of the Convention. The guidelines draw on the best available

scientific evidence and the experience of Parties in addressing tobacco industry interference.

9. The guidelines apply to setting and implementing Parties' public health policies with respect to tobacco control. They also apply to persons, bodies or entities that contribute to, or could contribute to, the formulation, implementation, administration or enforcement of those policies.
10. The guidelines are applicable to government officials, representatives and employees of any national, state, provincial, municipal, local or other public or semi/quasi-public institution or body within the jurisdiction of a Party, and to any person acting on their behalf. Any government branch (executive, legislative and judiciary) responsible for setting and implementing tobacco control policies and for protecting those policies against tobacco industry interests should be accountable.
11. The broad array of strategies and tactics used by the tobacco industry to interfere with the setting and implementing of tobacco control measures, such as those that Parties to the Convention are required to implement, is documented by a vast body of evidence. The measures recommended in these guidelines aim at protecting against interference not only by the tobacco industry but also, as appropriate, by organizations and individuals that work to further the interests of the tobacco industry.
12. While the measures recommended in these guidelines should be applied by Parties as broadly as necessary, in order best to achieve the objectives of Article 5.3 of the Convention, Parties are strongly urged to implement measures beyond those recommended in these guidelines when adapting them to their specific circumstances.

GUIDING PRINCIPLES

Principle 1: There is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests.

13. The tobacco industry produces and promotes a product that has been proven scientifically to be addictive, to cause disease and death and to give rise to a variety of social ills, including increased poverty. Therefore, Parties should protect the formulation and implementation of public health policies for tobacco control from the tobacco industry to the greatest extent possible.

Principle 2: Parties, when dealing with the tobacco industry or those working to further its interests, should be accountable and transparent.

14. Parties should ensure that any interaction with the tobacco industry on matters related to tobacco control or public health is accountable and transparent.

Principle 3: Parties should require the tobacco industry and those working to further its interests to operate and act in a manner that is accountable and transparent.

15. The tobacco industry should be required to provide Parties with information for effective implementation of these guidelines.

Principle 4: Because their products are lethal, the tobacco industry should not be granted incentives to establish or run their businesses.

16. Any preferential treatment of the tobacco industry would be in conflict with tobacco control policy.

RECOMMENDATIONS

17. The following important activities are recommended for addressing tobacco industry interference in public health policies:
 - (1) Raise awareness about the addictive and harmful nature of tobacco products and about tobacco industry interference with Parties' tobacco control policies.
 - (2) Establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur.
 - (3) Reject partnerships and non-binding or non-enforceable agreements with the tobacco industry.
 - (4) Avoid conflicts of interest for government officials and employees.
 - (5) Require that information provided by the tobacco industry be transparent and accurate.
 - (6) Denormalize and, to the extent possible, regulate activities described as "socially responsible" by the tobacco industry, including but not limited to activities described as "corporate social responsibility".
 - (7) Do not give preferential treatment to the tobacco industry.
 - (8) Treat State-owned tobacco industry in the same way as any other tobacco industry.
18. Agreed measures for protecting public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry are listed below. Parties are encouraged to implement measures beyond those provided for by these guidelines, and nothing in these guidelines shall prevent a Party from imposing stricter requirements that are consistent with these recommendations.

(1) Raise awareness about the addictive and harmful nature of tobacco products and about tobacco industry interference with Parties' tobacco control policies.

19. All branches of government and the public need knowledge and awareness about past and present interference by the tobacco industry in setting and implementing public health policies with respect to tobacco control. Such interference requires specific action for successful implementation of the whole Framework Convention.

Recommendations

- 1.1 Parties should, in consideration of Article 12 of the Convention, inform and educate all branches of government and the public about the addictive and harmful nature of tobacco products, the need to protect public health policies for tobacco control from commercial and other vested interests of

the tobacco industry and the strategies and tactics used by the tobacco industry to interfere with the setting and implementation of public health policies with respect to tobacco control.

- 1.2 Parties should, in addition, raise awareness about the tobacco industry's practice of using individuals, front groups and affiliated organizations to act, openly or covertly, on their behalf or to take action to further the interests of the tobacco industry.

(2) Establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur.

20. In setting and implementing public health policies with respect to tobacco control, any necessary interaction with the tobacco industry should be carried out by Parties in such a way as to avoid the creation of any perception of a real or potential partnership or cooperation resulting from or on account of such interaction. In the event the tobacco industry engages in any conduct that may create such a perception, Parties should act to prevent or correct this perception.

Recommendations

- 2.1 Parties should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products.
- 2.2 Where interactions with the tobacco industry are necessary, Parties should ensure that such interactions are conducted transparently. Whenever possible, interactions should be conducted in public, for example through public hearings, public notice of interactions, disclosure of records of such interactions to the public.

(3) Reject partnerships and non-binding or non-enforceable agreements with the tobacco industry.

21. The tobacco industry should not be a partner in any initiative linked to setting or implementing public health policies, given that its interests are in direct conflict with the goals of public health.

Recommendations

- 3.1 Parties should not accept, support or endorse partnerships and non-binding or non-enforceable agreements as well as any voluntary arrangement with the tobacco industry or any entity or person working to further its interests.
- 3.2 Parties should not accept, support or endorse the tobacco industry organizing, promoting, participating in, or performing, youth, public education or any initiatives that are directly or indirectly related to tobacco control.
- 3.3 Parties should not accept, support or endorse any voluntary code of conduct or instrument drafted by the tobacco industry that is offered as a substitute for legally enforceable tobacco control measures.

3.4 Parties should not accept, support or endorse any offer for assistance or proposed tobacco control legislation or policy drafted by or in collaboration with the tobacco industry.

(4) Avoid conflicts of interest for government officials and employees.

22. The involvement of organizations or individuals with commercial or vested interests in the tobacco industry in public health policies with respect to tobacco control is most likely to have a negative effect. Clear rules regarding conflicts of interest for government officials and employees working in tobacco control are important means for protecting such policies from interference by the tobacco industry.
23. Payments, gifts and services, monetary or in-kind, and research funding offered by the tobacco industry to government institutions, officials or employees can create conflicts of interest. Conflicting interests are created even if a promise of favourable consideration is not given in exchange, as the potential exists for personal interest to influence official responsibilities as recognized in the International Code of Conduct for Public Officials adopted by the United Nations General Assembly and by several governmental and regional economic integration organizations.

Recommendations

- 4.1 Parties should mandate a policy on the disclosure and management of conflicts of interest that applies to all persons involved in setting and implementing public health policies with respect to tobacco control, including government officials, employees, consultants and contractors.
- 4.2 Parties should formulate, adopt and implement a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry.
- 4.3 Parties should not award contracts for carrying out any work related to setting and implementing public health policies with respect to tobacco control to candidates or tenderers who have conflicts of interest with established tobacco control policies.
- 4.4 Parties should develop clear policies that require public office holders who have or have had a role in setting and implementing public health policies with respect to tobacco control to inform their institutions about any intention to engage in an occupational activity within the tobacco industry, whether gainful or not, within a specified period of time after leaving service.
- 4.5 Parties should develop clear policies that require applicants for public office positions which have a role in setting and implementing public health policies with respect to tobacco control to declare any current or previous occupational activity with any tobacco industry whether gainful or not.
- 4.6 Parties should require government officials to declare and divest themselves of direct interests in the tobacco industry.

4.7 Government institutions and their bodies should not have any financial interest in the tobacco industry, unless they are responsible for managing a Party's ownership interest in a State-owned tobacco industry.

4.8 Parties should not allow any person employed by the tobacco industry or any entity working to further its interests to be a member of any government body, committee or advisory group that sets or implements tobacco control or public health policy.

4.9 Parties should not nominate any person employed by the tobacco industry or any entity working to further its interests to serve on delegations to meetings of the Conference of the Parties, its subsidiary bodies or any other bodies established pursuant to decisions of the Conference of the Parties.

4.10 Parties should not allow any official or employee of government or of any semi/quasi-governmental body to accept payments, gifts or services, monetary or in kind, from the tobacco industry.

4.11 Taking into account national law and constitutional principles, Parties should have effective measures to prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates or campaigns, or to require full disclosure of such contributions.

(5) Require that information provided by the tobacco industry be transparent and accurate.

24. To take effective measures preventing interference of the tobacco industry with public health policies, Parties need information about its activities and practices, thus ensuring that the industry operates in a transparent manner. Article 12 of the Convention requires Parties to promote public access to such information in accordance with national law.

25. Article 20.4 of the Convention requires, inter alia, Parties to promote and facilitate exchanges of information about tobacco industry practices and the cultivation of tobacco. In accordance with Article 20.4(c) of the Convention, each Party should endeavour to cooperate with competent international organizations to establish progressively and maintain a global system to regularly collect and disseminate information on tobacco production and manufacture and activities of the tobacco industry which have an impact on the Convention or national tobacco control activities.

Recommendations

5.1 Parties should introduce and apply measures to ensure that all operations and activities of the tobacco industry are transparent.³

5.2 Parties should require the tobacco industry and those working to further its interests to periodically submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and all other

activities not prohibited or not yet prohibited under Article 13 of the Convention.¹

5.3 Parties should require rules for the disclosure or registration of the tobacco industry entities, affiliated organizations and individuals acting on their behalf, including lobbyists.

5.4 Parties should impose mandatory penalties on the tobacco industry in case of the provision of false or misleading information in accordance with national law.

5.5 Parties should adopt and implement effective legislative, executive, administrative and other measures to ensure public access, in accordance with Article 12(c) of the Convention, to a wide range of information on tobacco industry activities as relevant to the objectives of the Convention, such as in a public repository.

(6) Denormalize and, to the extent possible, regulate activities described as “socially responsible” by the tobacco industry, including but not limited to activities described as “corporate social responsibility”.

26. The tobacco industry conducts activities described as socially responsible to distance its image from the lethal nature of the product it produces and sells or to interfere with the setting and implementation of public health policies. Activities that are described as “socially responsible” by the tobacco industry, aiming at the promotion of tobacco consumption, is a marketing as well as a public relations strategy that falls within the Convention’s definition of advertising, promotion and sponsorship.

27. The corporate social responsibility of the tobacco industry is, according to WHO,⁴ an inherent contradiction, as industry’s core functions are in conflict with the goals of public health policies with to tobacco control.

Recommendations

6.1 Parties should ensure that all branches of government and the public are informed and made aware of the true purpose and scope of activities described as socially responsible performed by the tobacco industry.

6.2 Parties should not endorse, support, form partnerships with or participate in activities of the tobacco industry described as socially responsible.

6.3 Parties should not allow public disclosure by the tobacco industry or any other person acting on its behalf of activities described as socially responsible or of the expenditures made for these activities, except when legally required to report on such expenditures, such as in an annual report.⁵

6.4 Parties should not allow acceptance by any branch of government or the public sector of political, social, financial, educational, community or other contributions from the tobacco industry or from those working to further its interests, except for compensations due to legal settlements or mandated by law or legally binding and enforceable agreements.

(7) Do not give preferential treatment to the tobacco industry.

28. Some governments encourage investments by the tobacco industry, even to the extent of subsidizing them with financial incentives, such as providing partial or complete exemption from taxes otherwise mandated by law.
29. Without prejudice to their sovereign right to determine and establish their economic, financial and taxation policies, Parties should respect their commitments for tobacco control.

Recommendations

- 7.1 Parties should not grant incentives, privileges or benefits to the tobacco industry to establish or run their businesses.
- 7.2 Parties that do not have a State-owned tobacco industry should not invest in the tobacco industry and related ventures. Parties with a State-owned tobacco industry should ensure that any investment in the tobacco industry does not prevent them from fully implementing the WHO Framework Convention on Tobacco Control.
- 7.3 Parties should not provide any preferential tax exemption to the tobacco industry.

(8) Treat State-owned tobacco industry in the same way as any other tobacco industry.

30. Tobacco industry can be government-owned, non-government-owned or a combination thereof. These guidelines apply to all tobacco industry, regardless of its ownership.

Recommendations

- 8.1 Parties should ensure that State-owned tobacco industry is treated in the same way as any other member of the tobacco industry in respect of setting and implementing tobacco control policy.
- 8.2 Parties should ensure that the setting and implementing of tobacco control policy are separated from overseeing or managing tobacco industry.
- 8.3 Parties should ensure that representatives of State-owned tobacco industry does not form part of delegations to any meetings of the Conference of the Parties, its subsidiary bodies or any other bodies established pursuant to decisions of the Conference of the Parties.

Enforcement and monitoring

Enforcement

31. Parties should put in place enforcement mechanisms or, to the extent possible, use existing enforcement mechanisms to meet their obligations under Article 5.3 of the Convention and these guidelines.

Monitoring implementation of Article 5.3 of the Convention and of these guidelines

32. Monitoring implementation of Article 5.3 of the Convention and of these guidelines is essential for ensuring the introduction and implementation of efficient tobacco control policies. This should also involve monitoring the tobacco industry, for which existing models and resources should be used, such as the database on tobacco industry monitoring of the WHO Tobacco Free Initiative.
33. Nongovernmental organizations and other members of civil society not affiliated with the tobacco industry could play an essential role in monitoring the activities of the tobacco industry.
34. Codes of conduct or staff regulations for all branches of governments should include a "whistleblower function", with adequate protection of whistleblowers. In addition, Parties should be encouraged to use and enforce mechanisms to ensure compliance with these guidelines, such as the possibility of bringing an action to court, and to use complaint procedures such as an ombudsman system.

INTERNATIONAL COLLABORATION AND UPDATING AND REVISION OF THE GUIDELINES

35. International cooperation is essential for making progress in preventing interference by the tobacco industry with the formulation of public health policies on tobacco control. Article 20.4 of the Convention provides the basis for collecting and exchanging knowledge and experience with respect to tobacco industry practices, taking into account and addressing the special needs of developing country Parties and Parties with economies in transition.
36. Efforts have already been made to coordinate the collection and dissemination of national and international experience with regard to the strategies and tactics used by the tobacco industry and to the monitoring of tobacco industry activities. Parties would benefit from sharing legal and strategic expertise for countering tobacco industry strategies. Article 21.4 of the Convention provides that information exchange should be subject to national laws regarding confidentiality and privacy.

Recommendations

37. As the strategies and tactics used by the tobacco industry evolve constantly, these guidelines should be reviewed and revised periodically to ensure that they continue to provide effective guidance to Parties on protecting their public health policies on tobacco control from tobacco industry interference.

38. Parties reporting via the existing reporting instrument of the Framework Convention should provide information on tobacco production and manufacture and the activities of the tobacco industry that affect the Convention or national tobacco control activities. To facilitate this exchange, the Convention Secretariat should ensure that the principal provisions of these guidelines are reflected in the next phases of the reporting instrument, which the Conference of the Parties will gradually adopt for use by Parties.
39. In view of the paramount importance of preventing tobacco industry interference in any public health policy with respect to tobacco control, the Conference of the Parties may, in the light of experience with implementing these guidelines, consider whether there is a need to elaborate a protocol in relation to Article 5.3 of the Convention.

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¹ “The term ‘Parties’ refers to States and other entities with treaty-making capacity which have expressed their consent to be bound by a treaty and where the treaty is in force for such States and entities.” (Source: United Nations Treaty Collections: <http://untreaty.un.org/English/guide.asp#signatories>).

² Where appropriate, these guidelines also refer to regional economic integration organizations.

³ Without prejudice to trade secrets or confidential information protected by law.

⁴ WHO. Tobacco industry and corporate social responsibility – an inherent contradiction. Geneva, World Health Organization, 2004.

⁵ The guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control address this subject from the perspective of tobacco advertising, promotion and sponsorship.

References/ Endnotes

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- ² WHO FCTC, Examples of implementation of Article 5.3 communicated through the reports of the Parties, http://www.who.int/fctc/parties_experiences/en/.
- ³ National Tobacco Strategy 2012-2018, [http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/publishing.nsf/Content/D4E3727950BDBAE4CA257AE70003730C/\\$File/National%20Tobacco%20Strategy%202012-2018.pdf](http://www.nationaldrugstrategy.gov.au/internet/drugstrategy/publishing.nsf/Content/D4E3727950BDBAE4CA257AE70003730C/$File/National%20Tobacco%20Strategy%202012-2018.pdf).
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- ⁵ Australian Taxation Office, Tobacco Stakeholder Group, <http://www.health.gov.au/internet/main/publishing.nsf/Content/tobacco-conv-public>.
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- ¹¹ Bahrain FCTC Report on Implementation of Article 5.3, 2014.
- ¹² Benin FCTC Report on Implementation of Article 5.3, 2014/2016.
- ¹³ Brazil Administrative Rule N° 713, April 17, 2012, <https://www.tobaccocontrolaws.org/files/live/Brazil/Brazil%20-%20Ord.%20No.%20713.pdf>.
- ¹⁴ Brazil Administrative Rule N° 713, April 17, 2012, <https://www.tobaccocontrolaws.org/files/live/Brazil/Brazil%20-%20Ord.%20No.%20713.pdf>.
- ¹⁵ WHO FCTC, Examples of implementation of Article 5.3 communicated through the reports of the Parties, http://www.who.int/fctc/parties_experiences/en/.
- ¹⁶ National Programme for Limitation of Tobacco Smoking in the Republic of Bulgaria, 2007-2010, http://untobaccocontrol.org/impldb/wp-content/uploads/reports/Bulgaria_annex4_national_program_2007_2010.pdf.
- ¹⁷ Law No. 040-2010/AN, Concerning the Campaign against tobacco in Burkina Faso, <https://www.tobaccocontrolaws.org/files/live/Burkina%20Faso/Burkina%20Faso%20-%20Law%20No.%20040-2010.pdf>.
- ¹⁸ Law No. 040-2010/AN, Concerning the campaign against tobacco in Burkina Faso, <https://www.tobaccocontrolaws.org/files/live/Burkina%20Faso/Burkina%20Faso%20-%20Law%20No.%20040-2010.pdf>.
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- ²¹ Canada's Implementation of Article 5.3 of the Framework Convention on Tobacco Control: A Civil Society Shadow Report, September 2016, http://cqet.qc.ca/Documents_docs/DOCU_2016/MEMO_16_09_00_CCAT_shadowreport_Article5POINT3.pdf.
- ²² Canada Reporting Instrument of the WHO Framework Convention on Tobacco Control, 2014.
- ²³ Tobacco Reporting Regulations, <http://laws-lois.justice.gc.ca/eng/regulations/SOR-2000-273/>.
- ²⁴ Tobacco Reporting Regulations, <http://laws-lois.justice.gc.ca/eng/regulations/SOR-2000-273/>.
- ²⁵ Chile FCTC Report on Implementation of Article 5.3, 2014/2016.
- ²⁶ Chile FCTC Report on Implementation of Article 5.3, 2014/2016.
- ²⁷ Chile Law No. 20660, Amending Law N° 19419, Regarding Smoke-Free Environments (unofficial translation), 2013, <https://www.tobaccocontrolaws.org/files/live/Chile/Chile%20-%20Law%20No.%2020.660.pdf>.
- ²⁸ Communication from Hong Kong Monetary Authority to Clear Air NGO and Charity, February 2, 2012, <http://tobacco.cleartheair.org.hk/wp-content/uploads/2012/02/Clear-the-Air-e.pdf>. In one of its communications, it stated that: "*In the light of the relevant guidelines under the FCTC, we have already requested all our external managers to examine their stock holdings for the account of the Exchange Fund, and make necessary arrangements to divest from the stock holding of tobacco industry as soon as practicable...*"
- ²⁹ Communication from Hong Kong Monetary Authority to Clear Air NGO and Charity, February 2, 2012, <http://tobacco.cleartheair.org.hk/wp-content/uploads/2012/02/Clear-the-Air-e.pdf>.
- ³⁰ Corporate Accountability International, Protecting Against Tobacco Industry Interference: 2010 Global Tobacco Treaty Action Guide.
- ³¹ Congo FCTC Report on Implementation of Article 5.3, 2016.
- ³² Cook Islands Tobacco Products Control Act 2007, <https://www.tobaccocontrolaws.org/files/live/Cook%20Islands/Cook%20Islands%20-%20Tobacco%20Products%20Control%20Act%202007%20-%20national.pdf>.
- ³³ Cook Islands Tobacco Products Control Act 2007, <https://www.tobaccocontrolaws.org/files/live/Cook%20Islands/Cook%20Islands%20-%20Tobacco%20Products%20Control%20Act%202007%20-%20national.pdf>.
- ³⁴ Cyprus FCTC Report on Implementation of Article 5.3, 2014.

- ³⁵ Denmark FCTC Report on Implementation of Article 5.3, 2014.
- ³⁶ In May 2017, the Danish Institute for Human Rights (DIHR), an independent human rights institution mandated to promote human rights through advice to private actors, ended its engagement with Philip Morris International. It cited: “According to the UNGPs [United Nations Guiding Principles on Business and Human Rights] companies should avoid causing or contributing to adverse impacts on human rights. Where such impacts occur, companies should immediately cease the actions that cause or contribute to the impacts. Tobacco is deeply harmful to human health, and there can be no doubt that the production and marketing of tobacco is irreconcilable with the human right to health. For the tobacco industry, the UNGP therefore require the cessation of the production and marketing of tobacco.” – DIHR, Human Rights Assessment in Philip Morris International: The Danish Institute for Human Rights ends engagement with Philip Morris International, May 4, 2017, <https://www.humanrights.dk/news/human-rights-assessment-philip-morris-international>.
- ³⁷ Code of Conduct in the Public Sector, Agency for Modernization Local Government Denmark Danish Regions, December 2017, <https://modst.dk/media/18742/code-of-conduct-in-the-public-sectorforside.pdf>.
- ³⁸ Djibouti Law n°175/AN/07/5ème L concerning organization for the protection of health against the tobacco habit (unofficial translation), 2007, <https://www.tobaccocontrollaws.org/files/live/Djibouti/Djibouti%20-%20Law%20No.%20175-AN-07%20.pdf>.
- ³⁹ Djibouti Law n°175/AN/07/5ème L concerning organization for the protection of health against the tobacco habit (unofficial translation), 2007, <https://www.tobaccocontrollaws.org/files/live/Djibouti/Djibouti%20-%20Law%20No.%20175-AN-07%20.pdf>.
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- ⁴¹ WHO FCTC, Examples of implementation of Article 5.3 communicated through the reports of the Parties, http://www.who.int/fctc/parties_experiences/en/.
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- ⁴³ France Ordinance No. 2016-623 of 19 May 2016 transposing Directive 2014/40 / EU on manufacturing, presentation and sale of tobacco products and related products (unofficial translation), <https://ggtc.world/dmdocuments/excerpts%20of%20French%20law%20-%20-%20unofficial%20translation%20%288.03.2018%29.pdf>.
- ⁴⁴ France Decree n ° 2017279 of March 2nd, 2017 relating to the transparency of the expenses related to the activities of influence or representation of interests of the manufacturers, the importers, the distributors of tobacco products and their representatives, <https://ggtc.world/dmdocuments/Decree%20n%20-%20C2%B0%202017-279%20of%20March%202017%20on%20the%20transparency%20of%20the%20expenses%20related%20to%20the%20activities%20of%20influence%20or%20representation%20of%20interests%20of%20the%20manufacturers,%20the%20importers,%20the%20distributors%20of%20tobacco%20products%20and%20their%20representatives%20-%20Artic.pdf>.
- ⁴⁵ France Ordinance No. 2016-623 of 19 May 2016 transposing Directive 2014/40 / EU on manufacturing, presentation and sale of tobacco products and related products (unofficial translation), <https://ggtc.world/dmdocuments/excerpts%20of%20French%20law%20-%20-%20unofficial%20translation%20%288.03.2018%29.pdf>.
- ⁴⁶ France Decree n ° 2017279 of March 2nd, 2017 relating to the transparency of the expenses related to the activities of influence or representation of interests of the manufacturers, the importers, the distributors of tobacco products and their representatives, <https://ggtc.world/dmdocuments/Decree%20n%20-%20C2%B0%202017-279%20of%20March%202017%20on%20the%20transparency%20of%20the%20expenses%20related%20to%20the%20activities%20of%20influence%20or%20representation%20of%20interests%20of%20the%20manufacturers,%20the%20importers,%20the%20distributors%20of%20tobacco%20products%20and%20their%20representatives%20-%20Artic.pdf>.
- ⁴⁷ WHO FCTC, Good country practices in the implementation of WHO FCTC Article 5.3 and its guidelines: Report commissioned by the Convention Secretariat, Prepared by Mary Assunta, January 15, 2018, <http://www.who.int/fctc/publications/fctc-article-5-3-best-practices.pdf>.
- ⁴⁸ Gabon Law No. 006/2013, Concerning the enactment of measures supporting the campaign for tobacco control in the Republic of Gabon, August 21, 2013, <http://tobaccocontrollaws.org/files/live/Gabon/Gabon%20-%202013%20TC%20Law.pdf>: “Chapter 7: Measures to protect tobacco oversight policies from commercial interests and other interests. Article 32: The State shall see to it that activities or attempts by the tobacco industry do not undermine, compromise or destroy the credibility of national and international public health policy for tobacco control. It shall also act to prevent any action enabling commercial interests or other private interests of the tobacco industry to interfere with the development and implementation of the tobacco control policy.”
- ⁴⁹ Law No. 006/2013, Concerning the enactment of measures supporting the campaign for tobacco control in the Republic of Gabon, 2013, <http://tobaccocontrollaws.org/files/live/Gabon/Gabon%20-%202013%20TC%20Law.pdf>.
- ⁵⁰ Ghana Tobacco Control Regulations (L.I. 2247), 2016, <https://www.tobaccocontrollaws.org/files/live/Ghana/Ghana%20-%20TC%20Regs%202016%20-%20national.pdf>.
- ⁵¹ Ghana FCTC Report on Implementation of Article 5.3, 2016.
- ⁵² Ghana FCTC Report on Implementation of Article 5.3, 2016.
- ⁵³ Ghana Tobacco Control Regulations (L.I. 2247), 2016, <https://www.tobaccocontrollaws.org/files/live/Ghana/Ghana%20-%20TC%20Regs%202016%20-%20national.pdf>.
- ⁵⁴ “ARTICLE 7. - PRIMARY ACTIONS. With the participation of civil society, the Honduran Institute for the Prevention of Alcoholism, Drug Addiction and Drug Dependency (IHADFA) shall have primary responsibility for formulating, coordinating, executing and assessing public policies related to the prevention and control of tobacco consumption and advisory services on its cessation. It shall also establish smoking cessation programs carried out by available centers of the Office of the Secretary of State at the Department of Public Health or other private and State institutions or at those established by IHADFA under its

exclusive premises and responsibility. All interference by commercial interests and others tied to the tobacco industry is totally banned.”

⁵⁵ Honduras Special Tobacco Control Law Approved by the National Congress of Honduras, June 9, 2010, Decree No.92-2010 (unofficial translation), <https://www.tobaccocontrolaws.org/files/live/Honduras/Honduras%20-%20Decree%20No.%2092-2010.pdf>.

⁵⁶ Hungary Reporting Instrument of the WHO Framework Convention on Tobacco Control, 2014.

⁵⁷ Iran FCTC Report on Implementation of Article 5.3, 2012.

⁵⁸ Iran Comprehensive Act on National Control and Campaign Against Tobacco, 2006, <https://www.tobaccocontrolaws.org/files/live/Iran/Iran%20-%20Comp.%20TC%20Act.pdf>.

⁵⁹ WHO FCTC, Examples of implementation of Article 5.3 communicated through the reports of the Parties, http://www.who.int/fctc/parties_experiences/en/.

⁶⁰ Ireland: Ministers reassert the importance of eliminating tobacco industry interference, November 29, 2017, <http://untobaccocontrol.org/impldb/ireland-ministers-reassert-the-importance-of-eliminating-tobacco-industry-interference/>.

⁶¹ Jamaica FCTC Report on Implementation of Article 5.3, 2016.

⁶² “Article 197-4. (Acceptance for Exertion of Influence) – A public officer who accepts, solicits or promises to accept a bribe as consideration for the influence which the official exerted or is to exert, in response to a request, upon another public officer so as to cause the other to act illegally or refrain from acting in the exercise of official duty shall be punished by imprisonment with work for not more than 5 years.”

⁶³ Japan FCTC Report on Implementation of Article 5.3, 2010.

⁶⁴ Penal Code, Act No.45 of 1907, <http://www.cas.go.jp/jp/seisaku/hourei/data/PC.pdf>.

⁶⁵ Political Funds Control Act of 1948 (last amended in 2014), <http://aceproject.org/ero-en/regions/asia/Jp/japan-political-funds-control-act-1948/view>.

⁶⁶ Kenya The Tobacco Control Act, 2007, <https://www.tobaccocontrolaws.org/files/live/Kenya/Kenya%20-%20Tobacco%20Control%20Act%20-%20national.pdf>.

⁶⁷ Kenya The Tobacco Control Act, 2007, <https://www.tobaccocontrolaws.org/files/live/Kenya/Kenya%20-%20Tobacco%20Control%20Act%20-%20national.pdf>.

⁶⁸ “Article 17 – Incompatibility: 1. The government should not hire, contract, or engage any person to perform work or serve in any capacity with responsibility for tobacco control, if that person is professionally engaged with the tobacco industry, or worked there in the last twelve (12) months or if that person has any other conflict of interest with the responsibilities of the position, contract, or service for tobacco control. 2. The senior officer who finishes the mandate of public function, for one (1) year from the termination of contract, has no right of employment or be appointed to managing positions or be involved in tobacco control of companies, if his duties during the last two (2) years before the end of his public function were directly related to the supervision or control of the business of those companies.

Article 18 – Prohibition of the support and privileges of tobacco business: No institution or state body should offer support or privilege to any person or company for wholesale or retail selling, tobacco import, or any support or privilege related to any phase of the import and export of tobacco products.”

⁶⁹ Kosovo Law No. 04/L-156 on Tobacco Control, 2013, <https://www.tobaccocontrolaws.org/files/live/Kosovo/Kosovo%20-%20TC%20Law%202013.pdf>.

⁷⁰ WHO FCTC, Examples of implementation of Article 5.3 communicated through the reports of the Parties, http://www.who.int/fctc/parties_experiences/en/.

⁷¹ Laos FCTC Report on Implementation of Article 5.3, 2014.

⁷² Laos Law on Tobacco Control, 2009, <https://www.tobaccocontrolaws.org/files/live/Laos/Laos%20-%20TC%20Law.pdf>.

“Civil servants and officials are prohibited to act as follows: 1. To abuse one’s power, to use violence, coercion, threat to give or receive bribes causing losses to the interests of State, collectives and individuals resulting from tobacco control work.”

⁷³ Laos Law on Tobacco Control, 2009, <https://www.tobaccocontrolaws.org/files/live/Laos/Laos%20-%20TC%20Law.pdf>.

⁷⁴ WHO FCTC, Examples of implementation of Article 5.3 communicated through the reports of the Parties, http://www.who.int/fctc/parties_experiences/en/.

⁷⁵ WHO FCTC, Examples of implementation of Article 5.3 communicated through the reports of the Parties, http://www.who.int/fctc/parties_experiences/en/.

⁷⁶ Lebanon FCTC Report on Implementation of Article 5.3, 2016.

⁷⁷ Madagascar FCTC Report on Implementation of Article 5.3, 2014.

⁷⁸ WHO FCTC, Examples of implementation of Article 5.3 communicated through the reports of the Parties, http://www.who.int/fctc/parties_experiences/en/.

⁷⁹ WHO FCTC, Examples of implementation of Article 5.3 communicated through the reports of the Parties, http://www.who.int/fctc/parties_experiences/en/.

⁸⁰ Mexico Reporting Instrument of the WHO Framework Convention on Tobacco Control, 2012.

⁸¹ Mexico General Law on Tobacco Control, 2008, <https://www.tobaccocontrolaws.org/files/live/Mexico/Mexico%20-%20GLCT.pdf>.

⁸² WHO FCTC, Good country practices in the implementation of WHO FCTC Article 5.3 and its guidelines: Report commissioned by the Convention Secretariat, Prepared by Mary Assunta, January 15, 2018, <http://www.who.int/fctc/publications/fctc-article-5-3-best-practices.pdf>.

⁸³ Moldova law for amendment and supplementation of certain legislative acts, 2015, <http://tobaccocontrolaws.org/files/live/Moldova/Moldova%20-%202015%20TC%20Amdts.pdf>: “Article 17. Prevention and management conflicts of interest: (1) Any person, who is or has been involved in the management and/or promotion of enterprises in the tobacco industry in the last 24 months, may not participate in the development and implementation of public policies on tobacco control. (2) Any person involved in the development and implementation of public policies on tobacco control must disclose any personal interest, existing or emerging, as well as provide information regarding their participation in the management or promotion of enterprises in the tobacco industry in the last 24 months.”

⁸⁴ Moldova law for amendment and supplementation of certain legislative acts, 2015, <http://tobaccocontrollaws.org/files/live/Moldova/Moldova%20-%202015%20TC%20Amdts..pdf>.

⁸⁵ Specifically, it bans tobacco industry sponsorship of cultural, sports, and other social events, and any donations, contributions, or grants from the tobacco industry.

⁸⁶ Mongolia Law on Tobacco Control (as amended), 2005, <https://www.tobaccocontrollaws.org/files/live/Mongolia/Mongolia%20-%20Law%20on%20TC.pdf>;

“The State Policy on Tobacco Control shall be intimate part of the State Policy on Public Health and shall be guided by the principles set out below:

4.1.1. Prevent the initiation of the minors and reduce the consumption of tobacco products by sustainable financing of tobacco control and health promoting activities through tax increases reaching to the level indicated in the Convention Framework on Tobacco Control;

4.1.2. Protect the public health policies from negative influences of tobacco industry within the legal framework;

4.1.3. Support for participation of private and non-governmental organizations without any affiliation with tobacco industry in developing and implementation of policy and programs on tobacco control;

4.1.4. Increase the accessibility of scientific and comprehensive information, education and communication activities on health hazards, economic and environmental consequences of tobacco consumption and passive smoking and affordability of treatment of nicotine addiction;

4.1.5. Require the tobacco industry and those “legal entities” working to further its interests to operating and acting in the manner that is accountable and transparent;

4.1.6. It is not recommended to give rewards, tax discounts and other fringe benefits to the tobacco industry;

4.1.7. Treat tobacco industry equally regardless of form of ownership in the implementation of Tobacco Control Law;

4.1.8. Tobacco industry and those working to further its interests shall not be involved directly or indirectly in drafting, endorsing and implementing tobacco control legislation or policy;

4.1.9. All branches of government and the public shall be provided with information about strategies and tactics used by the tobacco industry including setting and implementation of the government’s public health related policies and need to be protected from vested interests of the tobacco industry and its advertisement, promotion and sponsorship activities.

5.1.3. Any personnel working for setting and implementing public health policy and public education activities shall avoid from partnering with legal entities or individuals working for tobacco industry or for the industry’s interests;

5.1.4. Dismiss any offer proposed by the tobacco industry when there is conflict of interest in implementing the Tobacco Control Law;

5.1.5. Government official working in the post of setting and implementing the Tobacco Control Law shall not partner with other workers in resolving issues related to vested interests and thereby reject such offers.”

⁸⁷ Mongolia Law on Tobacco Control (as amended), 2005, <https://www.tobaccocontrollaws.org/files/live/Mongolia/Mongolia%20-%20Law%20on%20TC.pdf>.

⁸⁸ WHO FCTC, Examples of implementation of Article 5.3 communicated through the reports of the Parties, http://www.who.int/fctc/parties_experiences/en/.

⁸⁹ Myanmar Reporting Instrument of the WHO Framework Convention on Tobacco Control, 2014.

⁹⁰ Namibia Tobacco Products Control Act, 2010, <https://www.tobaccocontrollaws.org/files/live/Namibia/Namibia%20-%20Tobacco%20Products%20Control%20-%20national.pdf>.

⁹¹ Namibia Tobacco Products Control Act, 2010, <https://www.tobaccocontrollaws.org/files/live/Namibia/Namibia%20-%20Tobacco%20Products%20Control%20-%20national.pdf>.

⁹² WHO FCTC, Examples of implementation of Article 5.3 communicated through the reports of the Parties, http://www.who.int/fctc/parties_experiences/en/.

⁹³ Ministry of Health, New Zealand, Meetings with tobacco industry representatives, <http://www.health.govt.nz/our-work/preventative-health-wellness/tobacco-control/who-framework-convention-tobacco-control/meetings-tobacco-industry-representatives>.

⁹⁴ WHO FCTC, Good country practices in the implementation of WHO FCTC Article 5.3 and its guidelines: Report commissioned by the Convention Secretariat, Prepared by Mary Assunta, January 15, 2018, <http://www.who.int/fctc/publications/fctc-article-5-3-best-practices.pdf>.

⁹⁵ Hansard (debates), Ethical Investment (Crown Financial Institutions) Bill, First Reading, August 4, 2010, https://www.parliament.nz/en/pb/hansard-debates/rhr/document/49HansD_20100804_00000932/ethical-investment-crown-financial-institutions-bill.

⁹⁶ Ministry of Health, New Zealand, Meetings with tobacco industry representatives, <http://www.health.govt.nz/our-work/preventative-health-wellness/tobacco-control/who-framework-convention-tobacco-control/meetings-tobacco-industry-representatives>.

⁹⁷ Section 35 (Returns and reports), Smoke-free Environments Act 1990, <http://www.legislation.govt.nz/act/public/1990/0108/latest/DLM224377.html>.

⁹⁸ Guidelines for observation and exclusion from the Government Pension Fund Global, 2014, <https://www.regjeringen.no/en/topics/the-economy/the-government-pension-fund/responsible-investments/guidelines-for-observation-and-exclusion/id594254/>.

⁹⁹ Act No. 14 of 9 March 1973 relating to Prevention of the Harmful Effects of Tobacco (with 2013 amendments), <https://www.tobaccocontrollaws.org/files/live/Norway/Norway%20-%20Tobacco%20Ctrl.%20Act%20%28No.%2014%20of%201973%29.pdf>.

¹⁰⁰ Guidelines for observation and exclusion from the Government Pension Fund Global, 2014, <https://www.regjeringen.no/en/topics/the-economy/the-government-pension-fund/responsible-investments/guidelines-for-observation-and-exclusion/id594254/>.

¹⁰¹ Act No. 14 of 9 March 1973 relating to Prevention of the Harmful Effects of Tobacco (with 2013 amendments), <https://www.tobaccocontrollaws.org/files/live/Norway/Norway%20-%20Tobacco%20Ctrl.%20Act%20%28No.%2014%20of%201973%29.pdf>.

¹⁰² WHO FCTC, Examples of implementation of Article 5.3 communicated through the reports of the Parties, http://www.who.int/fctc/parties_experiences/en/.

¹⁰³ Panama Resolution No. 745, 2012, <https://www.tobaccocontrollaws.org/files/live/Panama/Panama%20-%20Res.%20No.%20745%20-%20national.pdf>.

¹⁰⁴ Panama Resolution No. 745, 2012, <https://www.tobaccocontrollaws.org/files/live/Panama/Panama%20-%20Res.%20No.%20745%20-%20national.pdf>.

¹⁰⁵ CSC and DOH, FCTC Article 5.3 Guidelines Best Practice: The Role of the Public Service Commission, 2016, https://seatca.org/dmdocuments/CSC%20Best%20Practice%20in%20Art.%205.3_Final.pdf.

¹⁰⁶ WHO FCTC, Examples of implementation of Article 5.3 communicated through the reports of the Parties, http://www.who.int/fctc/parties_experiences/en/.

¹⁰⁷ CSC-DOH JMC 2010-01: Protection of the Bureaucracy against Tobacco Industry Interference,” Civil Service Guide: A Compilation of Issuances on Philippine Civil Service, <http://www.csguide.org/items/show/821>.

¹⁰⁸ DOH Department Memorandum No. 2010-0126, Protection of the Department of Health, including all of its Agencies, Regional Offices, Bureaus or Specialized/Attached Offices/Units, against Tobacco Industry Interference, 2010, <http://www.healthjustice.ph/wp-content/uploads/2014/09/DOH-Memo-on-Art-5.3-DM-2010-0126.pdf>.

¹⁰⁹ Poland Ministry of Health (MOH) letter to Chancellor, Vice Rectors, and Deans, January 09, 2018, <https://ggtc.world/dmdocuments/Unofficial%20translation%20Poland%20considers%20PM%20part%20of%20TI%20English.pdf>.

¹¹⁰ Portugal FCTC Report on Implementation of Article 5.3, 2014.

¹¹¹ Russia Federal Law N 15-FZ “On Protecting the Health of Citizens from the Effects of Second Hand Tobacco Smoke and the Consequences of Tobacco Consumption,” 2013, <https://www.tobaccocontrollaws.org/files/live/Russia/Russia%20-%20Law%20No.%2015-FZ%20%282013%29.pdf>.

¹¹² Russia FCTC Report on Implementation of Article 5.3, 2016.

¹¹³ Russia Federal Law N 15-FZ “On Protecting the Health of Citizens from the Effects of Second Hand Tobacco Smoke and the Consequences of Tobacco Consumption,” 2013, <https://www.tobaccocontrollaws.org/files/live/Russia/Russia%20-%20Law%20No.%2015-FZ%20%282013%29.pdf>.

¹¹⁴ Sta. Lucia FCTC Report on Implementation of Article 5.3, 2012.

¹¹⁵ Senegal FCTC Report on Implementation of Article 5.3, 2014.

¹¹⁶ Senegal Law No. 2014-14 concerning the manufacture, packaging, labeling, sale and use of tobacco (unofficial translation), 2014, <https://www.tobaccocontrollaws.org/files/live/Senegal/Senegal%20-%202014%20TC%20Law.pdf>.

¹¹⁷ WHO FCTC, Examples of implementation of Article 5.3 communicated through the reports of the Parties, http://www.who.int/fctc/parties_experiences/en/.

¹¹⁸ Seychelles FCTC Report on Implementation of Article 5.3, 2016.

¹¹⁹ Seychelles Tobacco Control Act, 2009, <https://www.tobaccocontrollaws.org/files/live/Seychelles/Seychelles%20-%20Tobacco%20Control%20Act%20-%20national.pdf>.

¹²⁰ WHO FCTC, Examples of implementation of Article 5.3 communicated through the reports of the Parties, http://www.who.int/fctc/parties_experiences/en/.

¹²¹ “Article 35. No operator or other interested party shall aid or support any person, group of persons, state agency, or private organization in one or another of the following forms:

(1) Any action that builds up the image of a tobacco product, a manufacturer, or an importer of tobacco products.

(2) Any action that interferes with or might interfere with tobacco control policy.

(3) Advertising for a tobacco product, or the manufacturer or importer of a tobacco product.

(4) Promotion of tobacco consumption.

The provisions of the first paragraph shall not apply to actions between operators, interested parties, and persons involved in the manufacture and sale of tobacco product, nor to charitable donations or humanitarian acts during a time of serious public danger. No person shall publicize any activity or news for public relations purposes, as set out in the first and second paragraphs.

Article 66. Any manufacturer or importer of tobacco products who fails to submit information or who submits incomplete information as required under Article 40 shall be subject to imprisonment for not more than six months or a fine of not less than one hundred thousand baht, or both. Any manufacturer or importer of tobacco products who submits falsified information in response to the requirements of Article 40 shall be subject to imprisonment for not more than one year or a fine of not less than two hundred thousand baht, or both.

Article 60. Any operator who violates the first paragraph of Article 35 shall be subject to imprisonment for not more than one year or a fine of not more than one half of the expenditure for the forbidden activity, but not less than one million, five hundred thousand baht, or both. If a violation under the first paragraph of Article 35 is committed by an employee or other person hired to perform such a violation, that person shall be subject to the penalties set out in the first paragraph. If a violation under the first paragraph of Article 35 is committed by an interested party, that person shall be subject to imprisonment for not more than one year or a fine of not more than five hundred thousand baht, or both. Any person who violates the third paragraph of Article 35 shall be subject to a fine of not more than five hundred thousand baht.

Article 66. Any manufacturer or importer of tobacco products who fails to submit information or who submits incomplete information as required under Article 40 shall be subject to imprisonment for not more than six months or a fine of not less than one hundred thousand baht, or both. Any manufacturer or importer of tobacco products who submits falsified information in response to the requirements of Article 40 shall be subject to imprisonment for not more than one year or a fine of not less than two hundred thousand baht, or both. To summon any person for questioning, to issue letters of inquiry, or to require submission of documents, information, or any other materials for consideration by officials or for use as evidence.

Article 40. Manufacturers and importers of tobacco products for sale in the Kingdom are required to report the quantity of such products manufactured or imported into the Kingdom, amounts spent on marketing, revenue, and the activities described in Article 35 to the Board annually. Such reporting shall comply with rules, procedures, and conditions set out by the Minister, upon the advice of the Board.”

¹²² Thailand Tobacco Products Control Act of A.D. 2017, <https://www.tobaccocontrolaws.org/files/live/Thailand/Thailand%20-%20TC%20Act%202017.pdf>.

¹²³ WHO FCTC, Good country practices in the implementation of WHO FCTC Article 5.3 and its guidelines: Report commissioned by the Convention Secretariat, Prepared by Mary Assunta, January 15, 2018, <http://www.who.int/fctc/publications/fctc-article-5-3-best-practices.pdf>.

¹²⁴ Thailand Tobacco Products Control Act of A.D. 2017, <https://www.tobaccocontrolaws.org/files/live/Thailand/Thailand%20-%20TC%20Act%202017.pdf>.

¹²⁵ Thailand Regulation of Department of Disease Control Re: How to Contact Tobacco Entrepreneurs and Related Persons B.E. 2553 (2010), <https://www.tobaccocontrolaws.org/files/live/Thailand/Thailand%20-%20Dept.%20Dis.%20Ctrl.%20on%20Contact%20with%20TI.pdf>.

¹²⁶ Togo FCTC Report on the Implementation of Article 5.3, 2016.

¹²⁷ Togo Law Concerning the Production, Sale and Consumption of Tobacco and its Derivative Products (unofficial translation), 2010, <https://www.tobaccocontrolaws.org/files/live/Togo/Togo%20-%20Tobacco%20Control%20Law.pdf>.

“Article 16. The State may not grant any subsidies or offer any incentives in favor of the growth or processing of tobacco.

Article 17. Tobacco and its derivative products may not benefit from tax exemptions.

Article 9. Any operation of sponsorship by a tobacco industry or any other entity that seeks to promote its direct or indirect interests is forbidden.

Article 10. No reward or article can be offered to encourage the sale and consumption of tobacco and its derivative products.”

¹²⁸ WHO Tobacco control in Turkey, November 2015, <http://www.who.int/tobacco/about/partners/bloomberg/tur/en/>.

¹²⁹ Uganda FCTC Party Report on Article 5.3 implementation; forthcoming paper on non-involvement of tobacco industry in policy development.

¹³⁰ Uganda Tobacco Control Act, 2015, <https://www.tobaccocontrolaws.org/files/live/Uganda/Uganda%20-%20TCA%20-%20national.pdf>.

¹³¹ Uganda Tobacco Control Act, 2015, <https://www.tobaccocontrolaws.org/files/live/Uganda/Uganda%20-%20TCA%20-%20national.pdf>.

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