ANTI-CORRUPTION AND TOBACCO CONTROL

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CHALLENGING ABUSE, PROTECTING PEOPLE

SEATCA

GGTC
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About SEATCA
SEATCA is a multi-sectoral non-governmental alliance promoting health and saving lives by assisting ASEAN countries to accelerate and effectively implement the evidence-based tobacco control measures contained in the WHO FCTC. Acknowledged by governments, academic institutions, and civil society for its advancement of tobacco control movements in Southeast Asia, the WHO bestowed on SEATCA the World No Tobacco Day Award in 2004 and the WHO Director-General's Special Recognition Award in 2014.

For more information, visit: www.seatca.org

Table of Contents

Anti-corruption and Tobacco Control

I. Introduction

This document makes the case for why tobacco control policies, particularly those aimed at protecting public health policymaking from the tobacco industry are, in reality, good governance policies geared towards fighting corruption. It is intended for advocates and governments around the world to give them additional tools to be able to implement the life-saving measures enshrined in the global tobacco treaty, formally known as the WHO Framework Convention on Tobacco Control (FCTC).

For years, governments and advocates operated under the assumption that tobacco control policies are exclusively public health policies in nature. Though the primary goal of the FCTC will always be to reduce tobacco consumption worldwide, which is certainly a public health goal, since the adoption and entry into force of the FCTC, governments are increasingly recognizing that the policy issues involved span a range of legal frameworks.

This document focuses on the aspects of the FCTC that are considered good governance policies. These policies, such as codes of conduct for government officials, transparency measures, and policies to protect against conflict of interest, facilitate the workings of any and all governmental institutions.

In the context of tobacco control, they are geared towards safeguarding the policymaking process from the corrupting influence of the tobacco industry, which has operated for decades with the express intent of blocking, delaying, and weakening tobacco control policies that save lives.

These safeguards, enshrined in Article 5.3 of the FCTC (Protection against Tobacco Industry Interference), are arguably among the most effective measures that governments can implement to speed up the implementation of all of the other areas of the treaty.

These measures are, in effect, anti-corruption measures. They are geared towards freeing governments from the influence-peddling, manipulation, and bullying of a wealthy corporation whose goal is to block policies that would reduce tobacco use. Thus, challenging tobacco industry interference is challenging corruption, and safeguarding public health from the tobacco industry is safeguarding governmental institutions and the public's well-being.

Most countries have good governance laws on the books. Anti-corruption laws, lobby registers, codes of conduct—these policies already exist in a majority of countries. What is required is dedicated advocacy to ensure these are made applicable to implementing Article 5.3 or alternatively update and incorporate the safeguards enshrined in Article 5.3 into the stated policies—speeding up the process of FCTC implementation.

This document:

- Demonstrates that protecting public health and protecting governments from corrupting influences like the tobacco industry go hand-in-hand;
- Highlights the opportunity that countries have to strengthen their anti-corruption measures by incorporating the FCTC's Article 5.3 provisions, and examines Article 5.3 through the lens of anti-corruption; and,
- Gives governments the tools necessary to speed up the implementation of the FCTC's good governance and anti-corruption policies in the following ways:
    1. Making the case that challenging tobacco industry interference is indeed challenging corruption;
    2. Making the case that implementing safeguards against the tobacco industry is equivalent to safeguarding governments and the public good;

3. Emphasizing the opportunity that governments have to update existing anti-corruption or good governance laws in order to meet their obligations under the FCTC; and,

4. Highlighting success stories from the Southeast Asian region where framing tobacco control as anti-corruption has been helpful in building the political will necessary to pass these policies.

Given the growing number of children who become addicted to tobacco every day, and the increasingly desperate tactics that the tobacco industry uses to undermine public health policies, it is imperative that governments act now to implement the good governance policies enshrined in the FCTC.

II. Background

Every year, tobacco kills seven million people. Around the world, families continue to suffer the devastating health, financial, and social consequences of tobacco-related diseases. Despite the strides made in curbing the tobacco epidemic, tobacco remains the largest preventable cause of death in the world.[1] The WHO projects the death toll from tobacco will rise to more than eight million by 2030, with 80 percent of those deaths occurring in the Global South.[2]

A major policy shift occurred when the WHO launched negotiations on a global tobacco treaty, the FCTC. Since the treaty's entry into force in 2005, it has become international law in effect in 181 countries, protecting nearly 90 percent of the world's population. Tobacco industry interference, however, remains the single greatest threat to its full implementation.[3]

The Tobacco Industry has no Place in Public Health

The tobacco industry, by selling a product that has no known benefits and, if used as instructed by the manufacturer, kills more than half of its users, has an irreconcilable conflict of interest with the goals of public health policymaking. This industry is a driving force in not only the rising death toll, but is also blocking, undermining, and delaying efforts to implement the treaty and save lives, driven solely by the pursuit of profit. For decades, the tobacco industry has used its political influence and economic power to prevent effective public health policies and regulations. As such, it must be kept out of public health policymaking altogether.

Luckily, FCTC Parties, in order to enable the treaty to fulfill its potential and save up to 200 million lives by 2050,[4] adopted Article 5.3. This article, the backbone of the treaty, obligates Parties to protect their health policies from tobacco industry interference. In 2008, Parties unanimously adopted specific guidelines[5] to implement Article 5.3 and safeguard public health against the tobacco industry.

Some countries have implemented tobacco control laws modeled on all of the FCTC's articles and accompanying guidelines, including its good governance and anti-corruption policies, enshrined in Article 5.3, and others are continuing to follow suit. However, the implementation of such policies has been sporadic and inconsistent across regions.

Definitions of Good Governance and Corruption in Health

The tobacco control movement has been working diligently for decades to create a framework of good governance around tobacco products to regulate the tobacco industry and its affiliates, particularly with a view to protecting public health policies from commercial and other vested interests of the industry.

Good governance is the act of public institutions conducting public affairs and managing public resources in an efficient and transparent manner. This requires transparent government dealings and accountability of the industries with whom they deal. One fundamental tenet of good governance is transparency in order to avoid corruption or the appearance thereof.

It has been said that "corruption is a threat to good governance in countries around the world."[6] In the health sector, corruption undermines health policies and service delivery, thereby adversely affecting the poor. Effective implementation of anti-corruption strategies in the field of public health is inevitably a key to development, particularly in an area of health where simple policy interventions could save millions of lives at a time.

Good Governance Elements of the FCTC

Some of the key goals of good governance, empowerment and participation of civil society organizations (CSOs), integrity and transparency of public officers, and accountability of the tobacco industry and those dealing with it, have been integrated into the WHO FCTC since these are proven to be necessary for the effective implementation of tobacco control.

Good Governance and Development in the Context of Tobacco Control

Researchers have pointed out that studies correlating good governance and economic development have yet to be further improved.[7] It may be argued that, in no other area of economic growth and development can the effect of good governance have a greater impact than in tobacco control.

This is due to the unique nature and adverse economic impact of tobacco product as well as the known tactics of the tobacco industry.

TOBACCO is UNIQUE

- Tobacco is the only consumer product that has a legally binding treaty (i.e., FCTC) that requires its Parties to implement evidence-based measures to reduce its use and exposure to its smoke.
- The total economic cost of tobacco is more than USD 1.4 trillion annually, which is equivalent to 1.8% of the world's yearly gross domestic product.[8]
- Tobacco control is considered "best buy" and most cost-effective public health intervention especially in low- and middle-income countries.[9] [10]
- "More than 80% of tobacco-related deaths occur in low- and middle-income countries."[11]
- "Cigarette is the only legal consumer product that kills up to half of its users when used exactly as intended by its manufacturer."[12]
- "No consumer product kills as many people, and as needlessly, as does tobacco. It killed 100 million people in the 20th century."[13] "Every year, tobacco kills more than 7 million people. More than 6 million of those deaths are the result of direct tobacco use, while around 890,000 are the result of non-smokers being exposed to second-hand smoke."[14]
- "Second-hand smoke contains over 7,000 chemicals of which at least 69 are known carcinogens. Worldwide, 40% of children are exposed to secondhand smoke."[13]
- "Tobacco use is the second biggest contributor to the epidemic of non-communicable disease, next to high blood pressure." "Tobacco is responsible for over 71% of all cases of lung cancer deaths globally, 42% of chronic respiratory disease deaths, and nearly 10% of all deaths from cardiovascular disease." [13]
- "Smokers are more susceptible to certain communicable diseases, such as tuberculosis and lower respiratory infections." [13]
- "Tobacco use is a major risk factor for six of the eight leading causes of mortality in the world." [13]
- "Tobacco kills many people at the height of their productivity, depriving families of breadwinners and nations of a healthy workforce."[11]

III. The Link between Tobacco Industry Interference and Corruption

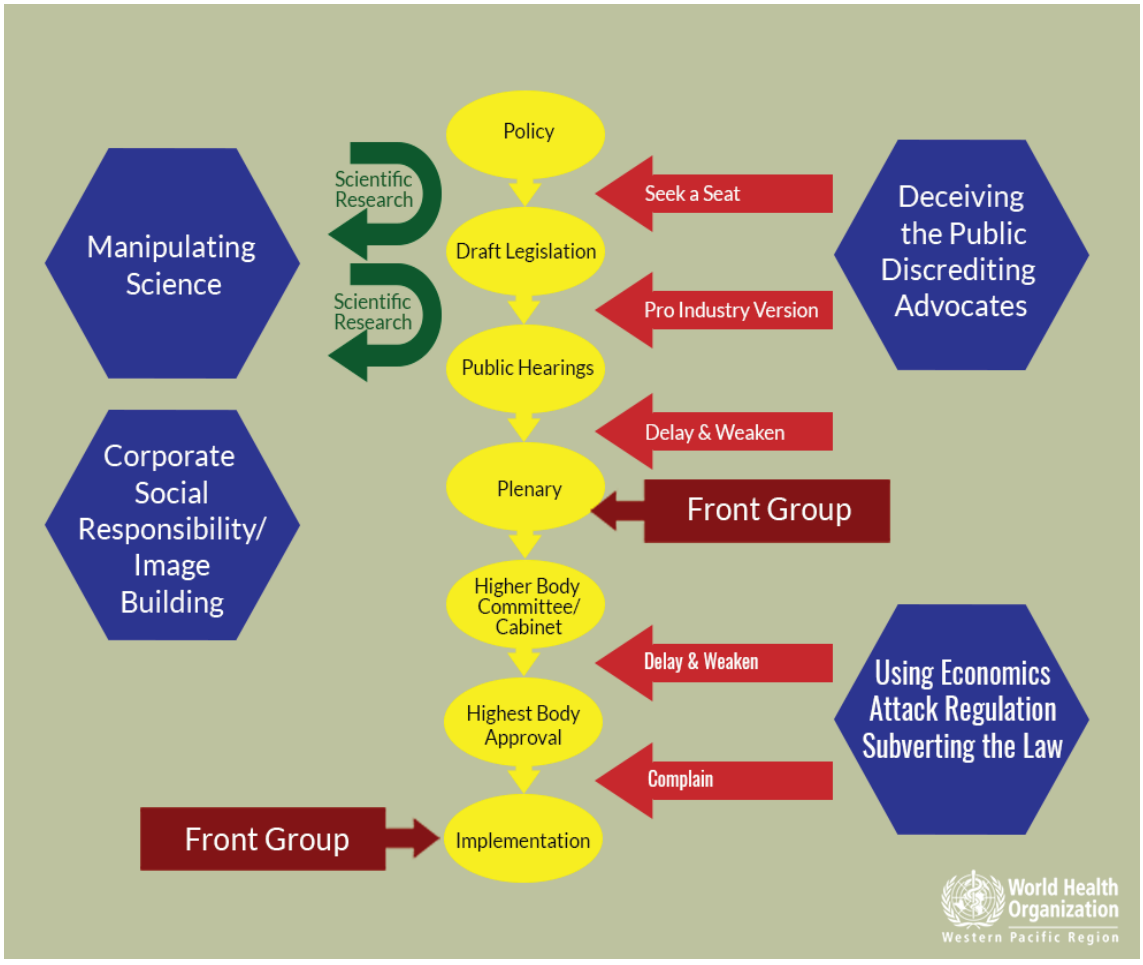
According to the WHO Committee of Experts on Tobacco Industry Documents, "tobacco companies have operated for many years with the deliberate purpose of subverting the efforts of the WHO to address tobacco issues. The attempted subversion has been elaborate, well-financed, sophisticated, and usually invisible."[15] The following section of this document reviews Transparency International's definition of corruption, why tobacco industry interference can be considered a form of corruption with a case study from Indonesia and related reports from other countries.

Transparency International defines corruption as "the abuse of entrusted power for private gain" and grand corruption as "acts committed at a high level of government that distort policies or the central functioning of the state, enabling leaders to benefit at the expense of the public good."

Behind Closed Doors, Big Tobacco Lures Policymakers into Corruption

On the surface, it is evident that when the tobacco industry meets with government officials behind closed doors and compels them to weaken or delay life-saving public health measures, the ensuing government action can be considered corruption. Thus, the tobacco industry's manipulation of policymakers has a corrupting influence.

The Policy Making Process and Tobacco Industry Interference



Courtesy: Dr. Susan Mercado, WHO Western Pacific Regional Office

Though the most visible form of tobacco industry interference in policymaking is Big Tobacco's global "intimidation by litigation campaign," where it sues governments like Thailand that are enacting bold health measures, it certainly is not the only form of interference.

Because the industry has a direct conflict of interest with public health and because of its history of undermining public health measures, all attempts to influence policy outcomes for the benefit of its bottom line and at the expense of public health and public trust in governments—whether through lobbying, creating financial or other relationships, or partnering with governments—can be considered to have a corrupting influence on decision-makers.

Most forms of corrupting activities are more clandestine. When the tobacco industry offers to draft legislation or lobbies decision-makers, it happens behind closed doors—it has to operate furtively in order to influence. This lack of transparency amounts to corruption.

These secret forms of interference can be much more effective for the industry than litigation. It is these tactics that are fomenting corrupt practices within governments.

The case study below from Indonesia describes a typical case of corruption as a result of tobacco industry interference.

Case Study: Indonesia's Disappearing Tobacco Clause – Interference in Policymaking

In 2009, a critical clause identifying tobacco as an addictive substance mysteriously disappeared from the text of the Indonesian National Health Bill. "The bill that passed the Parliament on September 14th defined tobacco as an addictive substance, but that clause on tobacco was deleted in the version of the bill that was sent by Parliament to the President's Office for signature."[16] The influence of the tobacco lobby was suspected to be the cause.

Ribka Tjiptaning (then deputy chairwoman of the Democratic Party of Struggle) and Asiah Salekan (lawmaker from Golkar Party) said that the commission received last-minute appeals from the Indonesian Tobacco Farmers' Association, the Central Java Regional Representatives Council, and the District Legislative Councils Association objecting to the tobacco clause.

On the basis of these tobacco industry front groups' appeals, Ribka issued a written order to the House Secretariat's office to remove the "tobacco is an addictive substance" clause. Ribka later purportedly said it required further consultations with other lawmakers. When the Indonesian Tobacco Control Network picked up on this, it created the anti-corruption group KAKAR and raised awareness of the issue, fighting to have the clause included again. Ribka and two of her colleagues were reported to the national police, but the case was dropped "because it's not categorized as a crime." According to an inside source, who had previously lobbied for the tobacco industry, this secret lobbying was why the tobacco clause disappeared from the bill.[17]

Kartono Muhammad, chairman of the coalition also known as Kakar, said the group had learned that the House's Ethics Council, which conducted investigations into the deletion of the clause, had found "indications" it had been removed deliberately. "We are more certain than ever that there was a systematic effort to purposely omit the article from the health bill."

From the Jakarta Globe
Jan 27, 2010

Ribka was finally sanctioned for her role in this scandal when the House of Representatives Ethics Council found her guilty of attempting to erase the clause. The Council has barred her from chairing any special committee or working committee until her term ends in 2014.[18]

List of Corrupt Practices Fueled by Tobacco Industry Interference

Corruption in the context of tobacco control ranges the gamut of tobacco industry interference tactics fueling dishonest or fraudulent conduct by those in power. The common understanding of corruption typically involves some form of bribery but, in fact, it can include many more subtle variations. For example:

a. Giving preferential treatment to the tobacco industry;
b. Accepting political contributions from the tobacco industry;
c. Permitting involvement in policymaking of government officials with conflicts of interest due to prior employment by the tobacco industry;
d. Accommodating requests from the industry for postponement of compliance with regulations;
e. Failing to institute a code of conduct for interactions of public and government officials or all agencies and branches of government with the tobacco industry;
f. Permitting the tobacco industry to participate in or even dictate policy development and decision-making;
g. Meeting and interacting with the tobacco industry unnecessarily and without public disclosure or transparency;
h. Entering into non-binding or non-enforceable agreements with the tobacco industry;
i. Failing to require that information provided by the tobacco industry be transparent and accurate; and,
j. Accepting money for tobacco industry corporate social responsibility (CSR) programs.

All of these activities are instigated by the tobacco industry, are designed to manipulate policymakers, and usually lead to weakened, delayed, or blocked public health policies. The case of the Sin Tax in the Philippines is a good example of a subtle variation of corrupt activity and what it can lead to.

Case Study: Philippines' Sin Tax – Conflicts of Interest and Lack of Transparency

In December 2012, the Philippines signed Republic Act No. 10351 or the Sin Tax Law, instituting much needed reforms that had failed to pass for 16 years. With such an important measure for public health, the tobacco industry employed several strategies to block or water down the law. The tobacco industry held meetings with legislators, participated in hearings in Congress, released false and/or misleading information, invested in a strong media campaign against the policy, and used tobacco farmers to influence legislators to support their position.

One of the well-known strategies of the tobacco industry is to influence policymakers, particularly those holding prominent positions. After proposing a tobacco control policy that bore a strong resemblance to the recommendations of Philip Morris Fortune Tobacco Corporation (PMFTC),[19] Senator Ralph Recto, former Chairman of the Senate Ways and Means Committee, was forced to resign[20] from his position amid accusations of having held secret meetings with the tobacco industry.[21] Interestingly, Philip Morris invested a $300-million manufacturing plant in Batangas, the province of Sen. Recto, prompting tobacco control advocates to criticize the position of Recto and accuse him of conflict of interest.

Senator Recto's policy, a sin tax bill on alcohol and tobacco, was supported by British American Tobacco (BAT)[22] and parroted standard industry arguments on tax and illicit trade. After his resignation, Recto said he wanted to hear from "stakeholders" and saw no problem with meeting with the industry's lobbying group,[23] said to be the strongest in Asia.[24] This attitude is a true testament to the strength of the Philippine tobacco lobby and highlights the need for awareness-raising among lawmakers, in line with Article 5.3 guidelines, about the threat that the tobacco industry poses to the integrity of public health policies.

Reputation Index

In 2011, to further confirm the qualification of tobacco industry interference in public health and tobacco control policymaking as corruption, a survey of 85,000 international respondents showed that the tobacco industry ranked lowest for reputation among all industry categories – well behind any others. The study, conducted by the independent Reputation Institute, the world leading reputation consulting firm, and the Institute's Australian Research Partner, AMR Australia, rated all major industries in 25 categories for reputation. By far the worst performing category was tobacco, which rated a score of only 50.1 – well behind the next lowest category (utilities – 59).

Reports of Corruption in relation to the Tobacco Industry

Reports of the tobacco industry being involved in corruption have hit the mainstream media. Prestigious media networks like Reuters and BBC have uncovered evidence of corruption involving tobacco companies with the apparent end of undermining public health policies.

Country / Year	Reports of Bribery/Corruption involving Tobacco Industry
Australia, 2017	Sydney tobacco company director Peter Chen, sole Australian director of ATA International, reportedly donated $200,000 to New South Wales Labor in 2011 and another to the party's federal branch in 2013 through one of his companies, Wei Wah, which sells low-priced Chinese brand cigarettes that ATA International imports to Australia. The total donation being investigated by authorities is $400,000. Chen is suspected of smuggling cigarettes into the country.[25]
India, 2017	A company that produces gutka, the sale of which has been banned in Tamil Nadu, has allegedly bribed senior members of the government and bureaucracy. The illegal sale of gutka (a mixture of tobacco, areca nut, and multiple flavorings) has been identified as a factor for the increase in number of mouth cancer cases in the state.[26]
Kenya, 2015	BAT reportedly paid £50,000 to Kenyan politician Martha Karua, a former Justice Minister, to stop a competing company from supplying the government with a technology that will address the problem of cigarette smuggling. In exchange, BAT got vital classified Kenyan Revenue Authority (KRA) documents on the £100m five-year contract for the new technology. The company had the contract purposely delayed while it furtively lobbied to have its own system chosen.[27]
Africa (Burundi, Comoros, Kenya, Rwanda, Uganda), 2015	BAT has reportedly bribed politicians, parliamentarians, public health officials, and staff of rival tobacco corporations in Burundi, Comoros, Kenya, Rwanda, and Uganda to undermine public health legislation and cripple public health laws across Central and East Africa.[28 29 30]
Cambodia, 2014	Tobacco companies have lobbied the government to delay legislation aimed at regulating the tobacco industry, donated money and gave consultancy positions to government officials, and persuaded legislators to support laws drafted by, or in consultation with them.[31]
European Union, 2012	A tobacco company was reportedly asked €60 million by an associate of John Dalli, former European Health Commissioner, in exchange for influencing EU tobacco law.[32]
Thailand, 2000-2004	According to court documents, Alliance One International AG, a Swiss corporation, bribed Thai government officials to secure sales contracts with the Thailand Tobacco Monopoly, a Thai government agency, for the sale of tobacco leaf. From 2000 to 2004, Dimon, Standard, and Universal Brazil had sold Brazilian-grown tobacco to the Thailand Tobacco Monopoly. These companies kept sales agents in the country, and cooperated to dish out tobacco sales among themselves, to coordinate their sales prices, and to bribe officials in order to ascertain their share in the Thai tobacco market. Kickbacks paid to Thailand Tobacco Monopoly officials were, as follows: Dimon ($542,590), Standard ($696,160), and Universal Brazil ($697,000).[33]
Malaysia, 1998	BAT and other tobacco companies sponsored the 1998 Commonwealth Games in Malaysia through its Malaysian National Sports Council. The sponsorship is contrary to the Games constitution, which includes a tobacco-free policy. Based on internal BAT communications, the tobacco industry proposed "to contribute RM250 mns [approximately £66 million at current exchange rates] over a five year period, beginning January 1994." In exchange for the deal, the Malaysian government agreed to a "freeze on government-imposed excise over a similar period of five years."[34 35]

IV. General Corruption Indicators: Transparency International's Corruption Perception Index

Transparency International defines corruption as "the abuse of entrusted power for private gain" and grand corruption as "acts committed at a high level of government that distort policies or the central functioning of the state, enabling leaders to benefit at the expense of the public good."[36] Transparency International's Corruption Perceptions Index ranks countries "by their perceived levels of corruption, as determined by expert assessments and opinion surveys."[37] It is a composite index drawing on corruption-related data from a variety of institutions that determines the degree to which corruption is perceived to exist among public officials and politicians.

The indicators used to measure corruption are closely related to the guidelines set forth to help implement Article 5.3 by safeguarding tobacco control and public health from the interests of the tobacco industry.

Based on extrapolation of available data,[38] some of these measures of corruption that are specifically related to tobacco control measures are, as follows:

Transparency Indicator	Requirements
Transparency of dealings and decision-making	• Public access to information • Media scrutiny of governmental activities
Conflicts of interest of government officials	• Personal relations with industry executives, representatives • Vested interests, such as investments in the industry
Existence of codes of conduct	• Should protect against conflicts of interest
Financial oversight	• Regulation of political financing • Auditing of spending by an independent auditing body • Transparent public procurement

Article 5.3 Explained

Article 5.3 of the WHO FCTC 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."[39]

It acts as a roadmap for governments to update existing anti-corruption measures in order to protect against tobacco industry interference.

The eight principles in the Guidelines of Article 5.3 were formulated based on prior evidence of tobacco industry tactics to undermine policymaking. As such, the recommendations under each principle in the guidelines are designed to safeguard the policymaking process from a specific tactic.

The recommendations are based on good governance and anti-corruption measures that have been directed specifically to the tobacco industry. These measures are designed to isolate corrupting influences from policymakers and increase transparency: the core tenets of good governance policies, as we see in Transparency International's corruption index indicators.

In essence, successful implementation of Article 5.3 rests on the effective isolation of tobacco control and public health policy measures from the influence and interference of the tobacco industry. It also serves to ensure transparency in the operations and actions of governments and of the industry and of their interactions, where permitted, to avoid corruption or the appearance thereof.[40]

According to Campaign for Tobacco-Free Kids, "relevant good governance measures, such as the United Nations General Assembly's International Code of Conduct for Public Officials, the United Nations Convention against Corruption, various Organization for Economic Cooperation and Development Principles and Recommendations, and measures adopted domestically to implement these instruments, can be used to implement Article 5.3 where they align with Article 5.3 and the Guidelines. Where they do not, these measures still can provide guidance for drafting Article 5.3-specific measures since they share some common objectives with Article 5.3. Domestic laws addressing the right to information, lobbying, political contributions, and other Article 5.3-relevant topics also can be used in these ways."

Article 5.3 in the Good Governance and Anti-Corruption Context

Article 5.3 is one of many good governance or anti-corruption measures. As such, it addresses the core problem faced by tobacco control—the influence and interference of the tobacco industry in public health policy—by requiring transparency of governments and of the industry in order to avoid corruption.

Like other good governance measures, Article 5.3 of the WHO FCTC can easily be understood in the context of an anti-corruption law.

Similarities between Corruption Indicators and Corruption Intended to be Prevented by Implementation of Article 5.3 Guidelines

Elements in common among anti-corruption laws and Article 5.3 include transparency measures, issues of access to information and conflicts of interest, among others.

Corruption Indicators	Article 5.3 Guidelines
Protecting against policy manipulation for profit	Safeguarding public health policymaking from tobacco industry
Public access to information	Tobacco industry should release information to government.
Transparency of dealings and decision-making	Interactions between tobacco industry and governments should be transparent.
Lobbying and interest disclosure	Government officials disclose conflicts of interest, lobbying register.
Codes of conduct through which conflicts of interest can be avoided	A code of conduct should be established that dictates the terms of interactions between government officials and the tobacco industry.
Bribing/financial disclosure	Government officials should not take money from or invest in the tobacco industry.

V. Countries with Existing Anti-Corruption Laws

A review of anti-corruption laws in Asia-Pacific countries[41] reveals that almost all ASEAN countries have in place a legal framework to protect against corruption (see table below). This means that the groundwork is already laid for these countries to simply update their current laws to protect against tobacco industry interference in line with Article 5.3.

However, the existence of these laws alone is not sufficient to protect against the tobacco industry manipulation of policymakers. The Indonesia and Philippines case studies demonstrate that additional action to modify these laws is needed by governments in order to address the tobacco industry's corrupting influence. The rest of the ASEAN countries are experiencing high levels of tobacco industry interference in public health policymaking as shown in the cited reports as well as in SEATCA's Tobacco Industry Interference Index. It is clear that urgent action is needed.

Country	Anti-Corruption Laws Already in Place
Brunei	• Prevention of Corruption Act (Amendment) Order, 2010[42] • Prevention of Corruption Act of 1984, revised September 15, 2002[43] o Protecting against policy manipulation for profit: Part III, Sec. 6 o Bribery: Part III, Sections 10 and 11
Cambodia	• Cambodia Law on Anti-Corruption, NS/RKM/0410/004, April 19, 2010[44] o Interest/financial disclosure: Chapter 4, Articles 17-20 o Bribery: Chapter 6, Articles 33 & 34: Bribes to Foreign Public Officials or Officials of Public International Organizations

Country	Anti-Corruption Laws Already in Place
Indonesia	• Indonesia Law on the Commission to Eradicate Criminal Act of Corruption, Revised February 2012[45] • Protecting against policy manipulation for profit: Chapter II, Article 3; Articles 5.1 & 5.2; Bribery: Articles 209, 210, 418, 419 • Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering • Law No. 46 of 2009 on the Corruption Court[46] • Law No. 30 of 2002 on the Corruption Eradication Commission (the KPK)[46] • Indonesia Amendment to Law No. 31/1999 on Corruption Eradication, Law No. 20/2001 dated November 21, 2001[47] • Penal Code of Indonesia[48] • Law No. 28 of 1999 on State Management that is Clean and Free from Corruption, Collusion, and Nepotism (Good Governance Law)[46] • Law No. 11 of 1980 on Bribery (Anti-Bribery Law)[46]
Lao PDR	• Decree of the President of the Lao People's Democratic Republic on the Promulgation of the Law on Anti-Corruption, May 25, 2005[49] o Bribery: Chapter 2, Article 10
Malaysia	• Laws of Malaysia Act 694, Malaysian Anti-Corruption Commission Act 2009[50] o Bribery: Part IV, Sections 16-21
Philippines	• Code of Conduct and Ethical Standards for Public Officials and Employees[51] o Prohibited Acts and Transactions: Section 7 • Philippine's Act No. 3019, Anti-Graft and Corrupt Practices Act, August 17, 1960[52] o Protecting against policy manipulation for profit, bribery: Section 3 • An Act Revising the Penal Code and Other Penal Laws[53] o Bribery / Corruption of public officials: Title 7, Chapter 2, Section 2, Articles 210-2012
Singapore	• Republic of Singapore Prevention of Corruption (Amendment) Act 2002, October 31, 2002[54]
Thailand	• Amendment 3 of Thailand's Anti-Corruption Act, the Organic Act on Counter Corruption (2015)[55] o Offenses and punishments pertaining to bribery among state officials in Thailand, foreign countries, and officials from international organizations • Anti-Money Laundering Act of B.E. 2542[56 57] • Thailand Organic Act on Counter Corruption, B.E. 2542 (1999)[58 59] o Financial disclosure: Chapter III, Parts I & II o Conflict of interest: Chapter IX, Sections 100-103 • Thailand Criminal Code (1956)[60] o Protecting against policy manipulation for profit, bribery: Chapters 1 & 2
Vietnam	• Vietnam Order No. 26/2005/L-CTN of December 9, 2005, On the Promulgation of Law, Anti-Corruption Law, November 29, 2005[61] o Protecting against policy manipulation for profit and bribery o Transparency: Chapter II, Section 1 o Code of Conduct: Chapter II, Section 3 o Financial disclosure: Chapter II, Section 4 • Penal Code (1999)[62] o Bribery: Articles 279, 289, 290

VI. Article 5.3 is an Anti-Corruption Measure and Should be Included in National Anti-Corruption and Good Governance Laws

These guidelines isolate and nullify the tobacco industry's corrupting influence and bring its activities out into the open to allow for public scrutiny. This public scrutiny delegitimizes the tobacco industry in the public eye and discourages future collusion between policymakers and the tobacco industry.

Parties in several regions around the world have incorporated the obligation to protect health policies from tobacco industry interference into their national laws and regulations.[63] Among these are Antigua and Barbuda, Australia, Brazil, Bulgaria, Burkina Faso, Canada, Colombia, Cook Islands, Costa Rica, Djibouti, Ecuador, Finland,

Gabon, Honduras, Ireland, Kenya, Latvia, Lebanon, Mexico, Moldova, Mongolia, Namibia, Netherlands, New Zealand, Norway, Oman, Panama, Philippines, Serbia, Singapore, Thailand, Turkey, Uganda, Ukraine, and United Kingdom (please see Annex 1).

Given the framing of Article 5.3 as an anti-corruption measure, FCTC Parties can implement Article 5.3 using existing anti-corruption legislation. Though methods for doing so vary, one effective means of ensuring enforcement of such policies is to attach the recommendations from the Article 5.3 guidelines to anti-corruption laws already in place.

This has dual benefits. First, updating laws is much easier politically than passing new ones. Second, a monitoring and enforcement body already exists. The new policies can be administered and enforced by the anti-corruption agency already tasked with oversight and enforcement of the existing or upcoming anti-corruption law.

A clear example of this would be an ethical code of conduct. Many countries already have ethical codes of conduct for their employees. If employees violate these codes of conduct, there are sanctions or penalties that are usually overseen by an Ombudsman. In order to incorporate Article 5.3's requirements, this code of conduct would need to be specifically updated to include its recommendations around preventing conflicts of interest among employees with the tobacco industry, interactions between the industry and government employees, and not taking money or gifts from it.

Case Studies of Countries with Article 5.3 in their Governance Policies

Some governments have started to address tobacco industry interference in their policies and legislation.

Philippines

The Philippines paved the way for countries looking to incorporate Article 5.3 guidelines into national policy. On June 24, 2010, the Philippine Civil Service Commission and the Department of Health announced a Joint Memorandum Circular (JMC) to protect the bureaucracy against tobacco industry interference.[64]

The JMC closely follows FCTC Article 5.3 guidelines. It bans government workers from interacting with any tobacco corporation or company, except when strictly necessary for the latter's effective regulation, supervision, or control. The JMC includes a Code of Conduct, a monitoring/ reporting process, and administrative sanctions.

In 2012, the Philippines Department of Education (DepEd) issued a circular, Order No. 6/2012, which restricts interaction of its officials with the tobacco industry and includes a prohibition of the tobacco industry contributing funds to educational institutions. Following this Order, public schools cannot receive CSR contributions from the tobacco industry. In 2016, DepEd issued its Policy and Guidelines on Comprehensive Tobacco Control (DO 48, s. 2016), expanding its scope to cover private schools, "for the effective implementation of a cohesive and comprehensive tobacco control program to promote a healthy environment in and around schools and DepEd offices."

Mongolia

Mongolia's national Law on Tobacco Control explicitly states that its policy is to "protect the public health policy from negative influences of tobacco industry within the legal framework" and that it supports the "participation of private and non-governmental organizations without any relationship with tobacco industry in developing and implementation of policy and programmes on tobacco control." The law follows this through by banning tobacco industry sponsorship of cultural, sports, and other social events, and any donations, contributions, or grants from the tobacco industry.

Thailand

Thailand has a similar policy on the tobacco industry for its Ministry of Health. Through a cabinet decision, Thailand prohibits the acceptance of all forms of contributions from the Thai Tobacco Monopoly, including offers of assistance, policy drafts, or study visit invitations to the government and its officials. Although the Thai Tobacco Monopoly is a state-owned enterprise, Thailand has demonstrated that it needs to halt any possible avenue for tobacco industry interference and that state-owned tobacco entity is to be treated in the same way as any other tobacco industry (Article 5.3 Guidelines, Principle No. 8).

VII. Global Challenges and Opportunities

Since tobacco companies have such a damaged reputation, they try to restore their image by getting endorsements from groups working on transparency and ethical issues by plugging into their activities and reports. BAT promotes its "recognition" by Transparency International in 2012. It is clear from BAT's website that the "recognition" plays right into its CSR strategy. This, in turn, gives the industry space to argue for a seat at the policymaking table.

Case Study: International Tax and Investment Center

A critical example of how tobacco industry funding and so-called Corporate Social Responsibility (CSR) activities at the global level are used to influence local policies is the International Tax and Investment Center (ITIC). ITIC is an international NGO that works closely with governments on fiscal and trade issues.[65] Until recently, on its governing board were executives from multinational tobacco companies.

From 2012 to 2015, PM had funded ITIC studies that question the value of increasing taxes in light of the risk of increased smuggling. The studies ignored the immense public health impact of significant increases in tobacco taxes for health.

ITIC attempted to interfere in the 6th Conference of the Parties (COP6) of the FCTC where governments gathered to finalize Article 6 Guidelines. Specifically, it sponsored an event and strategically chose the time and venue just before/during the COP6 and near the COP6 session venue in Moscow, and invited tax officials from FCTC Parties and WHO member-states that are observers to the COP. The FCTC Secretariat issued a *Note Verbale* to warn governments about the ITIC's activity which could undermine the adoption of strong Article 6 Guidelines. Upon alert of the tobacco industry influence in ITIC in light of the obligation to Article 5.3, most governments avoided attending the activity.

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.[66]

In recent times, the need to exclude the tobacco industry from being aligned with legitimate "CSR" activities has become explicit. Establishment of ISO 26000: 2010 Guidance on Social Responsibility has provided a universal standard for social responsibility. SEATCA's analysis of ISO 26000's 7 principles and 7 core subjects, reveals that the tobacco industry, by the nature of its business, cannot qualify to do genuine CSR.[67] This is consistent with the Guidelines adopted by the Parties to the FCTC, which does not call tobacco industry CSR as "CSR" but as "so-called CSR of the tobacco industry."[68]

There has been an evolution towards refusing tobacco industry-backed funding for development activities. One of the oldest policies is from the International Red Cross, and after the Article 5.3 Guidelines were adopted, the United Nations Development Programme (UNDP) adopted its policy excluding the tobacco industry in relation to partnerships with the private sector.

Case Study: International Federation of Red Cross and Red Crescent Societies

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.

In June 2015, the Red Cross and Red Crescent Societies 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 "an industry that contributes to significant mortality, illness and suffering worldwide."

Although not an international instrument, Red Cross' policies affect trends in CSR in over 80 countries where it is operating.

Governments have also started to scrutinize the tobacco industry's involvement with the International Labour Organization (ILO), through one of its programs, Elimination of Child Labor in Tobacco Growing (ECLT), which is backed by a foundation funded by the tobacco industry. Pressure for ILO to refuse tobacco funding intensified further as the program received $15 million from JTI and groups associated with multinational tobacco companies for "charitable partnerships" to address child labor in tobacco fields.[69] [70]

Overall, attempts of the tobacco industry to join the global community's initiative in promoting socially relevant activities through the UN Global Compact have failed. Effective October 15, 2017, "Participating companies whose business involves manufacturing or producing tobacco products will be delisted."[71]

But the tobacco industry has not given up. On 13 September 2017, tobacco company Philip Morris International (PMI) announced its support for the Foundation for a Smoke-Free World to which it will contribute approximately USD 80 million annually over the next 12 years. The response of the WHO is clear:

> *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…*
>
> *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.***

Case Study: Danish Institute for Human Rights

May 2017 marked another failure of the tobacco industry to find means to justify its relevance in global development when the Danish Institute for Human Rights (DIHR), an independent human rights (HR) institution promoting HR through advice to private actors, terminated its engagement with PMI.[72]In a research conducted with PMI, DIHR concluded that the only way to support and advance HR would be for tobacco companies to discontinue the sale and marketing of tobacco products right away. Specifically, it reckoned that "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 United Nations Guiding Principles on Business and Human Rights (UNGPs) require the cessation of the production and marketing of tobacco."[73]

Moreover, DIHR stated that it respects and shares "the concerns that many stakeholders have about engaging with tobacco companies, including the concern that such engagement can legitimize the industry," and believes that "a flawed application of the UNGPs by the tobacco industry could be used to legitimize the industry and thereby undermine the effectiveness of the FCTC and the credibility of the UNGPs as the authoritative global standard for preventing and addressing human rights abuses by all companies."[72]

VIII. Conclusion

International organizations (IOs) play a critical role in advancing good governance, both at the international and national levels, particularly in implementing FCTC and in countering tobacco industry interference.

IOs, such as the WHO, UNDP, and UNESCO, have adopted policies to address tobacco industry interference, and have the legal personality and medium to influence governments and international bodies.[74] Good governance initiatives at the global level like the Global Compact are now protected against the tobacco industry's sphere of influence. UNDP has a conscious effort to shun tobacco influence while undertaking activities to alleviate poverty in developing countries.

Although good governance policies aimed at fighting the influence of the tobacco industry are in place at the global level, and in many instances, at the national level, governments must continuously monitor, improve on or implement policies to effectively curb corruption in the field of tobacco control.

Annexes

Annex 1 - Examples of FCTC Parties' Implementation of Article 5.3

Country / Year	Description / Details
Antigua and Barbuda	***Non-involvement of tobacco industry in policy development*** "The tobacco industry is not involved in any decisions regarding public health policy. The country's tobacco control legislation includes a requirement protecting public health policies from the tobacco industry." [75]
Australia, 2008-2009	***Transparency and conflict of interest policy*** "Details of meetings held between the Department of Health and Ageing and the tobacco industry, including consultations in relation to Australia's plain packaging measures, are notified to the public on the Department's website. The Australian Government maintains a Register of Lobbyists and a Lobbying Code of Conduct to ensure that contact between lobbyists and Government representatives is conducted in accordance with public expectations of transparency, integrity, and honesty. Government officials are required to comply with the Australian Public Service Code of Conduct,"[75] which "requires that all government officials 'take reasonable steps' to avoid conflicts of interest."
Brazil, 2012	***Limited and transparent interactions; non-partnership; conflict of interest policy; no preferential treatment*** "Brazil requires members of its multi-sectoral national committee for tobacco control, CONICQ, to avoid conflicts of interest, banning acceptance of gifts or offers of partnerships from the tobacco industry. In addition, it bans preferential treatment of the tobacco industry by CONICQ members."[76]
Bulgaria	***Transparency and non-interaction with the tobacco industry*** "A website maintained within the frame of the National Programme for Tobacco Control is used to reveal the tactics of tobacco industry. Ministry of Health officials avoid any form of communication with representatives of tobacco industry. There are plans to develop a normative act requiring that all State institutions and municipal structures ensure that all contacts with tobacco industry are transparent."[75]
Burkina Faso, 2010	***Transparency of interactions and tobacco industry information; no preferential treatment*** "Burkina Faso's tobacco control law requires the government to raise awareness about the harms of tobacco, as well as the industry's activities. Also mandated by law are the disclosure of tobacco industry information and its activities, the prohibition of preferential treatment, and transparent 'relations' with the tobacco industry."[76]
Canada	***Non-partnership with the tobacco industry*** "Canada has adopted administrative measures, such as Health Canada's policy of not partnering with the tobacco industry on tobacco control programming. Health Canada has discussed the Article 5.3 Guidelines with its federal partner departments and with relevant departments of provincial/territorial governments that are collaborators in the Federal Tobacco Control Strategy (FTCS)."[75]
Colombia, 2009	***Non-involvement of tobacco industry in policy development*** "The Colombia Congress removed Big Tobacco's seat from the policy table during the development of the country's 2009 national tobacco control legislation. This ultimately facilitated and accelerated negotiations, resulting in regulations consistent with the FCTC."[77]
Cook Islands	***Transparency of tobacco industry information; non-partnership; conflict of interest policy*** "The Cook Islands' Tobacco Products Control Act prohibits any contributions from the tobacco industry to public officials or candidates, whether directly or indirectly. It also requires the tobacco industry to test and report on the contents of its products."[76]
Costa Rica, 2009	***Protection against tobacco industry interference*** "Costa Rica introduced legislation with explicit measures to protect against tobacco industry interference."[77]
Djibouti, 2007	***Article 6.4 of the Tobacco Control Act of 2007; 2007 Presidential Decree - Non-interference of the tobacco industry with national tobacco control policy*** Article 6.4 of the Tobacco Control Act of 2007 requires that "in setting and implementing public health policies with respect to tobacco control, the various sectors ensure that these policies are not influenced by commercial and other interests of the tobacco industry in accordance with national legislation." "The 2007 Presidential Decree establishing the inter-sectoral tobacco control committee mandates the committee to follow and ensure non-interference of the tobacco industry with national tobacco control policy."[75]
Ecuador, 2009	***Protection against tobacco industry interference*** "Ecuador introduced legislation with explicit measures to protect against tobacco industry interference."[77]
Finland	***Limited interaction with the tobacco industry*** "Interaction with the industry is limited mainly to open requests for comment. Several reports on tobacco industry activities have been published. Many NGOs have adopted a policy of not interacting with tobacco companies, their affiliates or any other companies that work with tobacco industry, such as advertising agencies."[75]
Gabon, 2013	***Gabon Law No. 006/2013 - Protection of tobacco control policy from tobacco industry interests*** "The law provides measures to protect tobacco oversight policies from commercial and other interests of the tobacco industry, and begins with an important overarching principle of protection for tobacco control policies."[78][79]
Honduras, 2010	***Honduras' 2010 Special Law for Tobacco Control - No tobacco industry interference*** "The law prohibits interference by commercial and other interests associated with the tobacco industry."[77]

Country / Year	Description / Details
Ireland	***Limited interaction with the tobacco industry*** "Officials from the Department of Health meet with representatives of the tobacco industry only when such meetings are necessary to effectively regulate the industry and progress tobacco control policies."[75]
Kenya, 2007	***Tobacco Control Act 2007 - Protection of tobacco control policy from tobacco industry interference*** "The law prohibits interference, collaboration and/or consultation with the tobacco industry in the formulation and implementation of all tobacco control policies."[77]
Latvia, 2010	***Prohibition of the tobacco industry in participating in the State Committee on Restriction of Smoking*** "No member of the tobacco industry is allowed to participate in the process of tobacco-control policy development."[75]
Lebanon, 2011	***No tobacco industry participation in policy development*** "The tobacco industry and its representatives were prevented from participating in the parliamentary committee meetings, which were held to debate the tobacco control law adopted on 17 August 2011."[75]
Mexico	***Disclosure on government interactions with the tobacco industry*** "Officials of the Ministry of Health are required to adhere to the guidelines for implementation of Article 5.3 in all communications and other relations they have with the tobacco industry. In observance of the principle of the right to information under national law, any interested person may petition the Federal Institute of Access to Information, for details of meetings between the tobacco industry and the authorities."[75]
Moldova, 2015	***Moldova Tobacco Control Law - Conflict of interest policy; protection of tobacco control policies from tobacco industry interests*** "The law contains provisions for protecting tobacco control policies from commercial and other vested interests of the tobacco industry and for preventing and managing conflicts of interest for public servants."[78 80]
Mongolia, 2005	***Transparency; non-partnership; CSR regulation; no preferential treatment*** "Mongolia's law on tobacco control grants the FCTC authority over Mongolian law; in the event of any conflict, the FCTC prevails. The law also requires transparency of the tobacco industry and its front groups. Moreover, it regulates the government, recommending against preferential treatment of the tobacco industry, banning partnerships in drafting tobacco control policies, and raising awareness of the tobacco industry's abuses to government officials. Finally, the law bans tobacco industry CSR and requires the government to reject offers of CSR from the tobacco industry."[76]
Namibia, 2010	***Non-partnership; conflict of interest policy*** "Namibia's tobacco control law contains provisions on conflicts of interest, barring individuals with connections to the tobacco industry from participating in the Tobacco Products Control Committee. It also forbids the tobacco industry from contributing financially to any organized activity, which could be interpreted to include any gift to a government official."[76]
Netherlands	***Transparency and limited interaction with the tobacco industry*** "The Dutch Government is transparent with regard to all contacts with the tobacco industry or retail industry and provides, on request, information on the nature and frequency of these contacts, and the people who are involved. The Government only consults the industry on executive matters that have a direct influence on the industry and interacts with the industry only to the extent strictly necessary. The Government does not endorse any partnership or other non-binding agreements with tobacco industry. Tobacco control policy, in general, is not discussed with the industry."[75]
New Zealand, 2011	***Non-partnership and transparency on dealings with the tobacco industry*** "In implementing Article 5.3, the New Zealand Ministry of Health states it must be transparent in its dealings with the tobacco industry. Since 2011, the Ministry has maintained a publicly available online register of meetings it has had with the tobacco industry.[81]The Ministry indicates the date of such meetings, who attended, and the topics discussed."[78] The government does not have any partnerships with the tobacco industry, and does not grant incentives, privileges, benefits or preferential tax exemptions to the latter.[78 82]
Norway, 2014	***Guidelines for observation and exclusion from the Government Pension Fund Global - Divestment from tobacco production industry*** "The Parliament passed ethical standards to prevent the Government Pension Fund Global from investing in tobacco companies."[83]
Oman	***Conflict of interest policy and prohibition in accepting donations from the tobacco industry*** "A conflict of interest report form was introduced for members of the National Committee for Tobacco Control. The Ministry of Health alerted all concerned government units not to accept aid and donations from tobacco companies."[75]
Panama, 2004	***Panama's Law 40 of 2004 - Transparency of interactions with and prohibition from accepting donations from the tobacco industry*** "All relations of the Ministry of Health with the tobacco industry are undertaken within the National Commission for the Study of Smoking in Panama, and are recorded."[75] "Panama's Law 40 of 2004 includes Article 5.3 and considers acts such as accepting donations from the tobacco industry to run counter to the law."[77]

Country / Year	Description / Details
Philippines, 2010	***Joint Department of Health and Civil Service Commission Circular - Protection of the bureaucracy against tobacco industry interference*** The Department of Health and the Civil Service Commission have issued a Joint Memorandum Circular (JMC) No. 2010-01 on June 26, 2010 on "Protection of the bureaucracy against tobacco industry interference."[84] "A committee on Article 5.3 has been established to coordinate efforts to protect public health policies from tobacco industry interests. The committee is led by the Presidential Anti-Graft Commission and includes government and civil society representatives."[75]
Serbia, 2005	***Conflict of interest; transparency; prohibition from receiving sponsorships/ support from the tobacco industry*** "No health care institution may accept any support from the tobacco industry. No tobacco control activity may be sponsored by the tobacco industry. Codes of conduct for members of the Council for Tobacco Control and National Committee for Tobacco Prevention specify that their members may not have any kind of relations with tobacco industry that could be perceived as creating a conflict of interests and all are obliged to sign a declaration of interests."[75]
Singapore	***Health Promotion Board Guidelines - Transparency and limited interaction with the tobacco industry*** "The Health Promotion Board has put in place guidelines governing interaction with tobacco industry. Minutes are taken of meetings and the discussions follow an agreed agenda."[75]
Thailand, 2010	***Regulation of Department of Disease Control Regarding How to Contact Tobacco Entrepreneurs and Related Persons B.E. 2553 (2010) - Protection of the Department of Disease Control from tobacco industry interference*** "The Regulation seeks to protect the Thai Department of Disease Control from tobacco industry interference. The Department of Disease Control is the lead department for tobacco control. The Regulation applies specifically to the Department and is a good first step towards implementing Article 5.3."[78 85] "Thailand pulled government officials from major tobacco conference and arrested exposition organizers for violating national tobacco control law."[77]
Turkey	***Protection of tobacco control policy from tobacco industry interests*** "The Tobacco and Alcohol Market Regulatory Authority has published its internal regulation reflecting all guiding principles of the guidelines for implementation of Article 5.3."[75]
Uganda, 2015	***The Tobacco Control Act, 2015 - Transparency; protection of tobacco control policies from tobacco industry interference*** "Among the stated purposes of Uganda's Tobacco Control Act, 2015 is to 'insulate tobacco control policies, laws and programs from interference by the tobacco industry.' The law makes it the duty of the government to protect tobacco control policies from tobacco industry interference and to ensure transparency of any interactions with the industry."[78]
Ukraine, 2009	***Article 4 of the Tobacco Control Act - Primacy of public health policy over tobacco industry interests*** Article 4 of the Tobacco Control Act declares "priority of the public health policy as compared to financial, tax and corporate interests of economic subjects, the activity of which is related to the tobacco industry" and calls for the "participation of individuals and citizens' groups, whose activity is not related to the tobacco industry, in policies on prevention and reduction of consumption of tobacco products and their harmful influence on the health of the population."[75]
United Kingdom, 2009	***Healthy Lives, Healthy People: A tobacco control plan for England - Transparency and protection of tobacco control strategies from vested interests*** "The plan states that to ensure further transparency, the Government is committed to publishing the details of all policy-related meetings between the tobacco industry and Government departments. This excludes meetings to discuss operational matters to reduce the illicit trade in tobacco and bilateral meetings between tobacco manufacturers and HM Revenue and Customs. In the future, organizations engaging with the Department of Health on tobacco control, for example by responding to consultation exercises, will be asked to disclose any links with, or funding received from, the tobacco industry. Local authorities are encouraged to follow the Government's lead in this area, and to take necessary action to protect their tobacco control strategies from vested interests."[75]

Annex 2 - International Instruments that Include Protection Against Tobacco Industry Interference (Article 5.3 Implementation)

International Organization / Year / Parties	International Instrument / Brief Definition
UN Economic and Social Council (ECOSOC), 2017 *Number of Parties:* **54**	*Title:* ***Resolution E/2017/L.21*** *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.*[87]
United Nations Global Compact (UNGC), 2017 *Number of Participants:* **12,500+**	*Title:* ***UN Global Compact Integrity Policy Update*** *Effective 12 September 2017, 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.*[71]
WHO, 2016 *Number of Parties:* **181**	*Title:* ***Model policy for agencies of the United Nations system on preventing tobacco industry interference*** *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*[88]
United Nations (UN), 2016 *Number of Parties:* **193**	*Title: Sustainable Development Goals* *Goal 3: Ensure healthy lives and promote well-being for all at all ages* *Strengthen the implementation of the World Health Organization Framework Convention on Tobacco Control in all countries, as appropriate.*[89]
United Nations Development Programme (UNDP), 2013 *Number of Parties:* **193**	*Title:* ***Policy on Due Diligence and Partnerships with the Private Sector*** *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* *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."* [90]
United Nations (UN), 2013 *Number of Parties:* **193**	*Title:* ***UN Interagency Task Force on the Prevention and Control of Non-communicable Diseases (NCDs)*** *Decision FCTC/COP7(8): Protection of public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry – Requested the Convention Secretariat to continue to promote the use of the Model policy for agencies of the United Nations system on preventing tobacco industry interference, developed by members of the United Nations Interagency Task Force on the Prevention and Control of NCDs, in accordance with Article 5.3.* *Specifically noted is UNDP's work in supporting countries to develop multisectoral, whole-of-government responses to NCDs, including through strengthened multisectoral governance arrangements, investment case development, and the integration of NCDs and tobacco control into national and local development plans and strategies.*[91]
United Nations (UN), 2012 *Number of Parties:* **193**	*Title:* ***Political Declaration of the High-Level Meeting of the General Assembly on the Prevention and Control of Non-Communicable Diseases*** *38. Recognize the fundamental conflict of interest between the tobacco industry and public health.*[92]
WHO FCTC, 2008 *Number of Parties:* **181**	*Guidelines for the Implementation of Article 5.3 of the WHO FCTC*
WHO, 2005 *Number of Parties:* **181**	*Title:* ***WHO Framework Convention on Tobacco Control*** *Article 5.3 – 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]

Annex 3 - Tobacco Industry Interference at the International Level and Global Community Response

International Organization	Examples of Global Tobacco Industry Interference and Responses[74]
UN System	In response to various TI interference activities within the UN system, the 2012 and 2013 reports of the Secretary General to the ECOSOC recognized TI interference, and emphasized the need to raise awareness on Article 5.3 within the UN system. The reports led a handful of UN bodies to adopt mechanisms to address and monitor TI attempts to impede the implementation of tobacco control efforts, e.g., UNDP internal policy to avoid TI interference.
UN Global Compact	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."[93] In response to numerous criticisms, the Global Compact has announced that it "actively discourages tobacco companies from participation in the initiative and does not accept funding from tobacco companies."[94] Based on its recent Integrity Policy Update, starting September 12, 2017, "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."[71]
Red Cross	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.[95] In June 2015, the Red Cross and Red Crescent Societies 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 "an industry that contributes to significant mortality, illness and suffering worldwide."[96] Although not an international instrument, Red Cross' policies affect trends in CSR in over 80 countries where it is operating.
International Labour Organization	The International Labour Organization (ILO) serves as advisor to the board of the ECLT Foundation,[97] an organization established in 2002 and purely funded by tobacco companies.[98] PMI, BAT, JTI, Imperial Tobacco, and other TI players fund ECLT and serve as its board members.[98 99] Recently, 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. [69] The public health community has vigorously censured ILO's engagement with the tobacco industry.[100]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.[69] As of October 2017, ILO's governing body is confronted with the need to decide if it should keep its partnership with the industry.[69]
International Association of Tobacco Growers	In 2010, during the FCTC COP4, the International Association of Tobacco Growers (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.[111]
Digital Coding and Tracking Association	In 2013, the Digital Coding and Tracking Association (DCTA) reportedly sponsored WCO's global and regional events on illicit trade. The association, established by BAT, JTI, PMI, and Imperial Tobacco Group, is dedicated to combatting illicit trade of tobacco and represents producers of 75% of the world's tobacco products. In response, the University of Bath - Tobacco Control Research Group has revealed the loopholes of Codentify, a coding system originally developed by PMI and promoted by DCTA starting 2013. Public health advocates have rejected and criticized the coding system.
ASEAN IPA	In 2016, the ASEAN IPA, an association of IP owners in the ASEAN region, warned against plain packaging in ASEAN region. In response, SEATCA has counteracted ASEAN IPA's position. The association continues to raise IP issues on plain packaging, which can affect the planned adoption of the measure by some countries in the region.
American Chamber of Commerce	Global business associations have been reported to directly influence tobacco control policies in behalf of the tobacco industry. In June 2015, the New York Times released a report on the extent of lobbying that the American Chamber of Commerce had undertaken in Australia, Burkina Faso, El Salvador, the European Union, Ireland, Jamaica, Kosovo, Moldova, Nepal, New Zealand, the Philippines, Ukraine, United Kingdom, and Uruguay[112]to dilute and delay life-saving tobacco control measures. As a response to the exposé, CVS Pharmacy, a member of the association and a huge retailer chain across the US, decided to leave the association in 2015.[113]

International Organization	Examples of Global Tobacco Industry Interference and Responses[74]
International Tax and Investment Center	The International Tax and Investment Center (ITIC) claims to be an international NGO that works closely with governments on fiscal and trade issues,[65] but its board is composed of representatives coming from four (4) tobacco companies, namely, PMI, JTI, BAT, and Imperial Tobacco. Based on analysis of internal TI documents conducted by University of Bath's online academic resource, tobaccotactics.org, the organization has been identified as a TI front group.[101] ***• ITIC sponsored an event intended to challenge COP6 adoption of Article 6 Guidelines, strategically chose the time and venue just before/during the COP6 and near the COP6 session venue in Moscow, and invited tax officials from FCTC Parties and WHO member-states that are observers to the COP.*** [102] **Global Response:** 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 TI-funded. In addition, CSOs circulated information about ITIC arguments and how they undermine the proposed Article Guidelines. 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 TI interferences (e.g., ITIC-organized regional and global meetings) are "damaging for tobacco-control efforts worldwide."[103] It reminds Parties to "reject partnerships and non-binding or non-enforceable agreements with the tobacco industry."[103] 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 TI 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. ***• In 2014, during the World Customs Organization (WCO) meeting in Brussels, ITIC presented its report on "The Illicit Trade in Tobacco Products and How to Tackle It" to over 150 enforcement officials from various countries.[104] In 2015, it sponsored a global event indicating that tax and customs officials from all over the world will be in attendance.*** **Global 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.[105] [106] ***• 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.[107] In 2014, SEATCA also critiqued ITIC's Asia-11 Illicit Tobacco Indicator 2012,[108] 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."[109]*** **Global Response:** Various CSOs responded to defend SEATCA's position and criticized ITIC for its TI 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.[110]

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