

ARTICLE 5.3 AND INTERNATIONAL TOBACCO INDUSTRY INTERFERENCE

Report commissioned by the Convention Secretariat, WHO FCTC

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International (an Observer to COP)*

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DISCLAIMER

The information and views set out in this report are those of the author(s) and do not necessarily reflect the official opinion of the Secretariat of the WHO Framework Convention on Tobacco Control.

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Abbreviations and initialisms

1. British American Tobacco (BAT)
2. Campaign for Tobacco-Free Kids (CTFK)
3. Corporate Accountability International (CAI)
4. Corporate social responsibility (CSR)
5. Ending Childhood Labour in Tobacco Growing (ECLT)
6. Food and Agriculture Organization of the United Nations (FAO)
7. Framework Convention Alliance (FCA)
8. Framework Convention on Tobacco Control (FCTC)
9. Intergovernmental organization (IGO)
10. International Chamber of Commerce (ICC)
11. International Labour Organization (ILO)
12. International nongovernmental organization (international NGO)
13. International Tax and Investment Center (ITIC)
14. International Tobacco Growers' Association (ITGA)
15. International Trademark Association (INTA)
16. International Union Against Tuberculosis and Lung Disease (The Union)
17. ITC Limited (ITC)
18. Japan Tobacco International (JTI)
19. Nongovernmental organization (NGO)
20. Philip Morris International (PMI)
21. Protocol to Eliminate Illicit Trade in Tobacco Products (the Protocol)
22. Secretariat of the Framework Convention on Tobacco Control (the Secretariat)
23. Southeast Asia Tobacco Control Alliance (SEATCA)
24. Tobacco industry monitoring (TIM)
25. United Nations (UN)
26. United Nations Children's Fund (UNICEF)
27. United Nations Conference on Trade and Development (UNCTAD)
28. United Nations Development Programme (UNDP)
29. United Nations Environment Programme (UNEP)
30. United Nations High Commissioner for Refugees (UNHCR)
31. United Nations Global Compact (UNGC)
32. United Nations Joint Staff Pension Fund (UNJSPF)
33. United Nations Office on Drugs and Crime (UNODC)
34. United States Chamber of Commerce (US Chamber)
35. World Customs Organization (WCO)
36. World Health Organization (WHO)
37. World Health Organization Tobacco Free Initiative (WHO TFI)

I. INTRODUCTION

This report was prepared to support the Secretariat of the WHO Framework Convention on Tobacco Control (the Secretariat) in meeting the mandate provided in decision FCTC/COP6(14) on “*Protection of public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry*”.

The initial version of this report benefited from the consideration and inputs of a group of experts involved in the global efforts to assist Parties to the Convention in implementing their obligations under Article 5.3 of the Convention, that met in Bangkok, in November 2015, at a meeting co-organized by the Convention Secretariat and SEATCA (an Observer to COP).

This report consists of three major sections:

- (1) A summary of findings on tobacco industry engagement with international organizations (governmental and non-governmental), both current and past, with recommendations on counter-measures.
- (2) A summary of tools and mechanisms of assistance available to Parties to support implementation of Article 5.3, and recommendations on further resources.
- (3) An assessment of and recommendations for sustainable mechanisms of international cooperation on counteracting tobacco industry interference, and proposals for tools to encourage sharing of information to enhance monitoring of tobacco industry interference.

II. TOBACCO INDUSTRY ENGAGEMENT WITH INTERNATIONAL ORGANIZATIONS

The goal of this section is to examine the level of tobacco industry engagement in key international organizations that are in a position to contribute to WHO FCTC implementation, including those that are observers to the COP, and their impact on multisectoral collaboration for the implementation of the WHO FCTC, and make appropriate recommendations.

Background

International organizations fall into two broad categories:

- (1) Intergovernmental organizations (IGOs), which are composed of sovereign Member states.
- (2) International nongovernmental organizations (NGOs), which are NGOs that have international operations. These can be divided into two additional categories, for the purposes of the report:
 - (a) International NGOs that represent public interests (public-interest international NGOs). These can have broad or narrow focuses, including but not limited to direct service, charitable activities, and foundations, among others.

- (b) International NGOs that represent business interests (business-interest international NGOs). These entities may have broad or narrow focuses, including but not limited to broad business interests, direct tobacco industry interests, trade and investment, taxation, and intellectual property.

Over the years, a number of international organizations, both IGOs and NGOs, have applied for observer status at the Conference of the Parties (COP). The COP has remained vigilant about which organizations to accept as observers, taking measures to ensure that they have no direct links to the tobacco industry. For example, the Sixth Session of the Conference of the Parties (COP6) rejected INTERPOL's application for observer status because it was in a partnership with Philip Morris International (PMI).¹

Notably, the Rules of Procedure of the COP delineate three types of observers that may attend the COP: (1) state non-Parties, (2) international IGOs, and (3) NGOs. Rules 30 and 31 state that the COP may grant international IGOs and NGOs observer status, respectively, by "taking into account the 17th and 18th preambular paragraphs as well as Article 5.3 of the Convention."² In preambular paragraph 18 of the FCTC, Parties "[recognize] the 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," implying that the COP should remain vigilant about tobacco industry interference through observers to the COP. Due to the specific acknowledgment within the Rules of Procedure about observer status, observers and non-observers are treated separately in this report.

Intergovernmental Organizations (IGOs)

The tobacco industry has engaged with IGOs through a range of strategies and tactics, which its activities related to international NGOs complement and facilitate.

Tobacco industry to engagement with IGOs is well-documented and predated negotiations of the FCTC by decades. For example, a landmark report on these activities published in July 2000 entitled "Tobacco industry strategies to undermine tobacco control activities at the World Health Organization"³ found that the tobacco industry has worked to subvert the tobacco control efforts of WHO for years. Tactics identified in this report included: (1) establishing inappropriate relationships with WHO staff; (2) leveraging influence through other United Nations (UN) agencies; and (3) using surrogates, such as front groups and trade unions; among others. Other reports and entities have further documented efforts of the tobacco industry to engage with IGOs. For example, the United Nations Ad Hoc Inter-Agency Task Force on Tobacco Control frequently discussed and reported on the conflict of interest posed by the involvement of the tobacco industry with various UN agencies.⁴

This report focuses on tobacco industry engagement with IGOs other than the WHO. This engagement often employs similar tactics to those described above, and occur through a variety of channels, as follows:

- (1) Direct representation in IGOs, or participation in their meetings and activities.

- (2) Partnerships with IGOs on issues related to customs and illicit trade of tobacco.
- (3) Partnering with IGOs on humanitarian efforts.⁵
- (4) Sponsorship, whether financial or otherwise, of non-humanitarian activities of IGOs.
 - (a) E.g., tobacco industry sponsorship of a publication of the United Nations Children’s Fund (UNICEF).⁶
- (5) Enlisting front groups, particularly non-health and business-interest NGOs, to engage IGOs on its behalf.
- (6) Partnering with or sponsoring IGOs at the country level.
 - (a) E.g., (1) a 2011 partnership between the International Organization for Migration in Colombia and Coltabaco,⁷ and (2) a partnership between UNICEF and PMI Kazakhstan in 2010.⁸
- (7) Joint participation in initiatives and coalitions with IGOs.
 - (a) E.g., the Coalition for Intellectual Property Rights (CIPR) included the World Intellectual Property Organization (WIPO) as an observer, UNESCO as an Associate member, and Philip Morris is a Corporate member.⁹
- (8) Acceptance of awards from IGOs, typically on sustainability.¹⁰
 - (a) E.g., the United Nations Environment Programme (UNEP)^{11,12} and the Food and Agriculture Organization of the United Nations (FAO)¹³ gave the tobacco industry awards.

As highlighted in the Report of the Secretariat on the “Implementation of Article 5.3 of the WHO FCTC: evolving issues related to interference by the tobacco industry,”¹⁴ tobacco industry involvement with some IGOs presents a more immediate concern to FCTC implementation, including Article 5.3, than others. In particular, Parties may look to IGOs that play an active role in activities related to tobacco control for policy examples and best practices regarding interactions with the tobacco industry. Consequently, the range of ongoing relationships between IGOs and the tobacco industry send at a minimum a mixed message about what constitute appropriate engagement with the industry, particularly among various ministries. Chief among these agencies are the International Labour Organization (ILO), World Customs Organization (WCO), United Nations Office on Drugs and Crime (UNODC), Interpol, and the United Nations Global Compact (UNGC), briefly discussed below.^a Notably, ILO and WCO are observers to the COP,¹⁵ and INTERPOL, as mentioned above, has applied but was rejected on two separate occasions for its connections to the tobacco industry.¹⁶

The full magnitude of the tobacco industry’s influence through these organizations is beyond the scope of this report. The sections below highlight recent case studies to illustrate the breadth and depth of tobacco industry interference in IGOs (both that are Observers to the

^a These are agencies that recently have been highlighted by civil society and Member States as having potential conflicts given their engagement with the industry, particularly with efforts to implement Articles 5.3, 17 and the Protocol. However, other IGOs also engage and have partnerships, or funding relationships, with the tobacco industry; thus these are examples and not a comprehensive list.

COP and those that are not accredited as Observers to COP) and the impact of this interaction on the implementation of the WHO FCTC.

Observers to the COP

International Labour Organization

ILO is an agency of the UN that addresses labor issues and has a unique tripartite governance structure, representing governments, employers, and workers.^{17,18} This tripartism has been cited as a limitation on its ability to restrict engagement with the tobacco industry. ILO engagement with the tobacco industry includes the following:

In 2003, ILO convened a Tripartite Meeting on the Future of Employment in the Tobacco Sector, which included representatives from BAT, JTI, and Imperial Tobacco, among others.¹⁹ The Meeting adopted several resolutions, including: (1) promoting dialogue among “partners” and “relevant international organizations” to mitigate “the adverse effects of employment levels in the tobacco sector,” and (2) ensuring consultation between “social partners” and UN agencies, including WHO, so that employment is “addressed and recognized when adopting policies regarding this sector.” ILO later published an article emphasizing the importance of jobs in the tobacco sector, a perspective often promoted by the tobacco industry.²⁰

ILO is adviser to the board of the Elimination of Child Labour in Tobacco Growing Foundation (ECLT),²¹ which claims to work toward ending child labor in tobacco farming. ECLT was co-founded and funded entirely by the tobacco industry,²² and academic studies have described it as an ineffective CSR initiative of the tobacco industry aimed at improving its public relations.^{23,24}

ILO has partnered directly with the tobacco industry on labor issues within the tobacco supply chain. For example, ILO has partnered with JTI since 2011 to address child labor in tobacco growing through the ARISE program.^{25,b} In addition, in September 2015 ILO announced a partnership with JTI on labor rights in tobacco growing.²⁶ The tobacco industry has promoted its participation in related events on the front pages of its websites, featuring ILO’s logo prominently.^{27,28} ILO’s active engagement with the tobacco industry has drawn criticism from the public health community.²⁹

World Customs Organization

WCO is an independent IGO comprising 180 customs administrations, and it cooperates with other IGOs, including agencies of the UN and the WTO. The stated mission of WCO is “to enhance the effectiveness and efficiency of Customs administrations.”³⁰

^b Note: various studies have identified such initiatives of the tobacco industry as CSR projects that are ineffective in reducing child labor.

WCO engagement with the tobacco industry gained attention during the negotiations of the Protocol to Eliminate Illicit Trade in Tobacco Products (the Protocol), particularly in regards to joint activities between WCO and groups that receive support from the tobacco industry, such as Interpol and ITIC.^{31,32} Given the prominent role of Customs in the development and implementation of the Protocol, as well as specific language in the Protocol warning against partnerships with the tobacco industry, there have been efforts to discuss with WCO the role of the tobacco industry and gain their commitment to work in partnership with the FCTC Secretariat in implementation of the Protocol,^{33,34,35} as called forth by the Protocol itself.

WCO continues to participate in industry-funded activities and to partner with industry-funded groups that promote the messages of the tobacco industry, including ITIC, Digital Coding & Tracking Association (DCTA),^c and Interpol. Furthermore, there is abundant evidence of Customs departments and agencies at the national level engaging with the tobacco industry in industry-led efforts to allegedly stop illicit trade of tobacco products.

Organizations that are not accredited as Observers to the COP

United Nations Global Compact

UNGC is an initiative by the UN to encourage corporations to adopt sustainable and socially responsible policies, such as protecting human rights and supporting the UN Sustainable Development Goals. The positions of the UNGC in regards to engagement with the private sector are particularly significant because they provide guidance for other UN Agencies in developing their own policies. For example, UNESCO states that its framework for partnerships with businesses is based off of the guidelines of the UNGC, as well as its own private sector guidelines.³⁶

In 2010 the UNGC adopted a new policy on tobacco industry participation, stating its support for WHO's views on tobacco, and that it "actively discourages tobacco companies from participation in the initiative and does not accept funding from tobacco companies," and "does not permit tobacco companies to make presentations at any of its global events or to use the global brand in order to raise their profile." Yet it also states that it cannot exclude the tobacco industry because it is "a legal product whose use UN Member States have not yet outlawed," and recommends that the tobacco industry be included in UNGC's "call to all companies to embrace, support and enact within their sphere of influence" to support "Government efforts to advance human rights, labour conditions, the environment and anti-corruption."^{37,38}

A number of groups and organizations, including the Inter-Agency Task Force and the Secretariat of ECOSOC,³⁹ have found the various ways the UNGC addresses conflicts of interest, including tobacco industry participation, inadequate.^{40,41} For example, ITC Limited (ITC), the largest tobacco corporation in India, has participated in UNGC since 2008,⁴² and

^c Note: this is a tobacco industry front group. For more information, see Annex 1.

was listed as a “Gold” participant in 2011 by contributing at least \$10,000.^{43,d} In addition, a number of other tobacco industry representatives, including: PMI, which joined in June 2015;⁴⁴ ECLT, which joined in 2015;⁴⁵ BAT subsidiary Souza Cruz, which used its position to promote itself;^{46,47} and others have participated in UNGC. Notably, in spite of the UNGC policy on both its refusal to accept tobacco industry funding *and* its inability to turn the tobacco industry away, Philip Morris Dominicana SA may have made a contribution to UNGC in 2010 and was expelled as a participant in 2012.^{48,49}

United Nations Development Programme

The mission of the United Nations Development Programme (UNDP) is to support global sustainable development against poverty and promote democracy. In the past, UNDP has supported or gave the perception of support of activities funded by the tobacco industry. For example, in 2009 a UN representative for the Dominican Republic and a representative from UNDP visited a foundation created by the tobacco industry (Tabacalera Fuente).⁵⁰ The video from the visit prominently displays the logo of UNGC, as this foundation was a member.⁵¹ In addition, the Global Environment Facility, a joint initiative of UNDP and the World Bank, supported an afforestation program to sustain tobacco farming,⁵² and received funding from the tobacco industry on other activities.⁵³

Due to growing evidence on the convergence of interests between tobacco control and development, UNDP became a stronger advocate of tobacco control, including Article 5.3. For example, in 2012, ITC received the World Business and Development Award, an event supported by UNDP.⁵⁴ Following criticism from civil society, UNDP Director Helen Clark acknowledged that it was a “a serious oversight” and that UNDP would review rules for the award to ensure that tobacco corporations were not eligible to participate in the process.^{55,56,e}

Since then, UNDP has taken leadership on the issue of Article 5.3, actively promoting progress on Article 5.3 and issuing reports that recommend that Parties protect their policymaking from the tobacco industry.^{57,58}

Conclusions and recommendations

The tobacco industry engages with IGOs that have a role in implementation of the FCTC using a broad set of tactics, including sponsorships, partnerships, and mobilization of other entities to promote its messages. This includes direct partnerships with IGOs and, in some instances, mobilizing front groups such as ITIC to influence IGOs in order to indirectly communicate its messages to government officials.

^d Note: this citation is a web archive. The listing no longer includes ITC on the UNGC website.

^e At the time, European tobacco control advocates also criticized the Swedish SIDA for agreeing to the award as well (<http://www.ensp.org/node/790>)

Most IGOs do not have policies that explicitly exclude the tobacco industry from their activities, and the ones that do exist may not be publicly available, adequate, or well-enforced. IGOs that do have such policies include, but are not limited to, the following:

- (1) WHO has the most comprehensive policy on excluding partnerships with or participation of the tobacco industry in its activities.
- (2) UNESCO has an explicit policy to ensure no partnerships with the tobacco industry, stating in its World Heritage center website that it "will not engage with businesses that [...] are involved in the armament, weapon, alcohol, gambling or tobacco businesses."⁵⁹ Additionally, UNESCO's Internal Guidelines for Private Sector Fund raising disqualifies working with any private sector involved in the "production or distributions of tobacco (products)".⁶⁰
- (3) The 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.⁶¹
- (4) The UNDP Due Diligence Policy on Work with the Private Sector defines a set of criteria of acceptable and unacceptable businesses practices and lists the "manufacture, sale or distribution of tobacco or tobacco products" among its exclusionary criteria.⁶²
- (5) The World Bank, while not explicitly dissociating itself from the tobacco industry, has "mandatory operational policy not to lend, invest in, or guarantee investments or loans for tobacco production, processing, or marketing."⁶³

Within the UN system more broadly, efforts to create the UN Code of Conduct for Transnational Corporations, the creation of the UNGC, and other international instruments, highlight the challenges of compelling corporations to respect human rights and shortcomings of corporate self-reporting.^{64,65,66}

The "Guidelines on Cooperation between the United Nations and the Business Sector"⁶⁷ (UN Guidelines) provide a framework for UN agencies on the development of their own policies, although several agencies, such as UNESCO, already have a policy.⁶⁸ However, the UN Guidelines rely on the application of the UNGC ten principles,⁶⁹ which is problematic given the inadequacies of the UNGC policy on tobacco industry participation. Nonetheless, the UN Guidelines contain language that may be useful, especially if adapted to explicitly identify the tobacco industry. Specifically:

c) 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."

There are 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;^{70,71} (2) the UN Public Administration Programme, which offers a series of resources for governments to strengthen transparency and conduct policies;⁷² and (3) the Code of Ethics for UN personnel, which provides language for preventing conflict of interests and rejection of gifts,⁷³ although few agencies provide regular training to staff on ethical issues.⁷⁴

While it is understood that implementation of the FCTC is Parties' domain, a coherent policy within IGOs, starting with UN agencies, would support national and regional level implementation efforts and eliminate any confusions that Parties may face when establishing their own rules and policies to implement Article 5.3 of the FCTC.

Recommendations:

- (1) UN Member States should request an amendment to the UN Guidelines to explicitly state that the UN will not engage with the tobacco industry, following the precedent set by several agencies in the UN system.
- (2) WHO and the Secretariat should engage IGOs to promote the principles of Article 5.3 and its guidelines for implementation, and share the model policy as a way to limit interactions with the tobacco industry.
 - (a) In the course of these engagements, WHO and the Secretariat should raise awareness among IGOs that the tobacco industry mobilizes front groups to advance its interests, which fundamentally conflict with those of public health.
 - (b) In addition, WHO and the Secretariat should encourage IGOs to establish a system to ensure all personnel and staff are knowledgeable and familiar with proper conduct, including limiting engagements with the tobacco industry.
- (3) IGOs should ensure regular communications and collaboration with legitimate civil society organizations that monitor and counter tobacco industry interference.
- (4) Parties should review the observer status of IGOs for direct or indirect connections with the tobacco industry and consider revoking the status of those that have ties
- (5) Parties should maintain vigilance in reviewing applications for observer status of IGOs to ensure that they have no ties to the tobacco industry, by establishing a system to review existing IGOs' observer status and screening prospective applicants for connections to the tobacco industry.

International Nongovernmental Organizations (International NGOs)

The tobacco industry engages with international NGOs primarily in three ways:

- (1) Partnership with and/or financial contributions to public interest NGOs, such as health, human rights, or environmental organizations.
- (2) Founding, co-founding, or funding business interest NGOs that enable access to and influence of national governments and IGOs.
- (3) Direct membership in or partnership with business interest NGOs to enable access to and influence over national governments and IGOs.

Tobacco industry engagements with public interest NGOs typically take the form of so-called charitable contributions, whether financial or otherwise, and constitute activities often referred to as “corporate social responsibility” (CSR). CSR is a well-documented strategy that the tobacco industry uses to normalize its activities and contributes to its ability to access and influence policymakers. CSR is a well-documented strategy that the tobacco industry uses to normalize its activities and contributes to its ability to access and influence policymakers. CSR is considered a marketing strategy by the Guidelines for implementation of Article 13 and a form of tobacco industry interference with public policy by the Guidelines for implementation of Article 5.3.^{75,76} Studies have demonstrated that CSR can, has been, and continues to be used by the tobacco industry to “renew and maintain dialogue with policymakers, even in ostensibly unreceptive political contexts.”⁷⁷ The Guidelines for implementation of Articles 5.3 and 13 of the FCTC recommend that Parties restrict and ban such initiatives, respectively.

A large number of NGOs have been, and continue to be, supported by CSR activities of the tobacco industry. Some international NGOs that recently received financial support from the tobacco industry include the United Way, as well as chapters within humanitarian networks, including the Red Cross/Red Crescent Movement, Caritas and Habitat for Humanity.⁷⁸ Notably, the International Federation of the Red Cross/Red Crescent has recently developed a briefing for National Societies recalling policies and regulations prohibiting association with the tobacco industry and referring to Article 5.3.

As mentioned above, tobacco industry’s CSR strategy is well-described in literature and the Guidelines for Article 5.3 and Article 13 each provide strong recommendations on how Parties can address it. A number of countries have implemented legislation in line with these recommendations. For example, Chapter 3 of Ecuador’s Organic Law, which addresses advertising, promotion, and sponsorship, includes an article that prohibits “promotion of programs of social responsibility by the tobacco industry.”⁷⁹ Mongolia has taken a step further, banning tobacco industry CSR outright.⁸⁰

The tobacco industry employs a broad network of business interest NGOs with varying focuses to advance its interests. These focuses include: (1) those specific to tobacco, such as tobacco farming and tobacco retail, (2) hospitality and manufacturing organizations, and (3) broader business issues, such as trade and investment, taxation, and intellectual property.

These NGOs often promote membership to the private sector, claiming it enables access to high-level officials and grants a seat at the policymaking table. In addition, they often allow their members to participate in setting their organizational agendas and objectives. Through membership in these organizations, the tobacco industry communicates its messages to regulatory bodies, both at the national and international level, to oppose tobacco control policies. As a result, the messages may appear to represent a broad range of business interests, but in reality originate largely or wholly from the tobacco industry. This approach is likely used to circumvent a shifting global climate on the tobacco industry, which increasingly regards participation of the tobacco industry as illegitimate due to its long and

ongoing history of efforts to subvert public health policies and the fundamental conflict between its interests and the interests of public health.

Internal documents of the tobacco industry have revealed that the tobacco industry was involved in the founding of various international business NGOs, such as the Anti-Counterfeiting Group. Other internal documents have revealed that the tobacco industry regards certain industry groups as channels through which it can communicate its messages.^{81,82,83,84,85} These have been documented extensively by civil society reports and academic publications.^{86,87}

A list of business-interest NGOs that the tobacco industry has mobilized can be found in Annex 1. The list is not exhaustive, but contains many of the major business-interest NGOs that serve as fronts for the tobacco industry. The full magnitude of the tobacco industry's influence through these organizations is beyond the scope of this report, but several case studies are included below to illustrate the breadth and depth of its impact on FCTC implementation.

International Tobacco Growers' Association

Organizational overview

The International Tobacco Growers' Association (ITGA) is a non-profit organization that was founded in 1984 and purports to represent the cause of millions of tobacco farmers around the world.⁸⁸ ITGA consists of country-level members such as the Tobacco Institute of South Africa, the Pakistan Tobacco Board, and the Korean Tobacco Growers Association, and claims to represent every tobacco farmer at the international level and ensure that their interests are considered by decision-makers.

Ties to the tobacco industry

Created and funded by cigarette manufacturers, ITGA is widely recognized by the public health community, including WHO, as a front group of the tobacco industry.⁸⁹ ITGA includes all the major tobacco international corporations on its list of "supporter members" that finance the organization, including PMI, BAT, JTI, Imperial, Alliance one, and Universal Leaf.⁹⁰ Internal documents have revealed that ITGA has been a front group of the tobacco industry since its conception. For example, according to an internal BAT memo, "ITGA could 'front' for our Third World lobby activities at the World Health Organization, and...(pushed by us) could activate regional agriculture lobbies."⁹¹

Example of activities

ITGA has a long and extensive history of opposition to tobacco control policies at the national and international levels. These are well-documented in literature, but several examples are included below.

- (1) ITGA attempted to mobilize internal contacts to ensure that the United Nations Food and Agricultural Organization supports tobacco growing in order to oppose WHO

efforts to advance tobacco control policies.⁹² In addition, in 1995, ITGA lobbied international agencies such as the United Nations Conference on Trade and Development and the World Bank to oppose WHO tobacco control efforts.⁹³

- (2) In 2010, ITGA launched a global campaign, mobilizing farmers around the world to oppose Guidelines for implementation of Articles 9 and 10 at COP4 in Uruguay.⁹⁴ ITGA claimed that a restriction on ingredients in tobacco products “could wipe out the livelihoods of millions of tobacco growers all over the world.”⁹⁵
- (3) Amid deliberations of a sin tax that would apply to cigarettes in the Senate of the Philippines, ITGA held a meeting in Manila. The international tobacco control community criticized this as an attempt to interfere with the sin tax.⁹⁶

Counter-measures

Civil society has taken a lead role in responding to ITGA efforts to interfere in tobacco control policy.⁹⁷ For example, civil society widely exposed ITGA as a front group of the tobacco industry in the lead-up to its press event and luncheon during COP6, resulting in minimal attendance by COP delegates.⁹⁸ Similarly, the Southeast Asian Tobacco Control Alliance and allied organizations publicly condemned ITGA’s conference in Manila as an attempt to interfere with the passage of the sin tax.⁹⁹

International Hotel & Restaurant Association

Organizational overview

Originally founded in 1947, the International Hotel & Restaurant Association (IHRA, formerly the International Hotel Association) is an international trade association that represents the interests of hotel and restaurant industries.¹⁰⁰ It is a membership organization comprised of international, national, and sub-national hotel and/or restaurant associations or chains; owners, developers, and investors; individual hotels and restaurants; and others.¹⁰¹ Its website states that it represents “the collective industry interests before policy makers” and “lobby against damaging or costly attempts to regulate the industry.”¹⁰²

Ties to the tobacco industry

Internal documents have revealed that the National Restaurant Association (NRA) of the United States, a member of IHRA, has requested significant funding from the tobacco industry.¹⁰³

Examples of activities

The efforts of the tobacco industry to support the IHRA and related entities at the national or regional level are well documented. With few exceptions, these groups have opposed smoke-free policies and implementation of Article 8 of the FCTC. Internal documents have revealed that the tobacco industry has mobilized the hotel and restaurant industry to oppose smoke-free policies. Examples:

- (1) Internal tobacco industry documents have revealed that a former CEO of the NRA met frequently with tobacco industry representatives and agreed to oppose smoke-free policies related to restaurants.¹⁰⁴ The NRA opposed and defeated legislation in the United States that would have established a national smoking policy.¹⁰⁵
- (2) As recently as December 2002, IHRA stated that it “opposes inflexible and restrictive legislation on smoking in public places.”¹⁰⁶ There is extensive evidence that suggests tobacco industry mobilization of the hotel & restaurant industry extended well beyond solely IHRA.¹⁰⁷

US Chamber of Commerce and American Chambers of Commerce

Organizational overview

The US Chamber is a trade association that purports to be “the world’s largest business organization,” representing the interests of over 3 million businesses.¹⁰⁸ It is an advocacy group that advances the political positions of its members, spending more on lobbying in the United States than any organization. The US Chamber has a global network of 117 American Chambers of Commerce (AmChams) among 103 countries, which it uses to advance the interests of its members. The benefits of membership in the US Chamber includes “access to heads of state and government,” “advocacy on member issues,” “high-level government relations support,” among others.¹⁰⁹

Ties to the tobacco industry

The US Chamber is connected to the tobacco industry primarily through two avenues:

- (1) Direct participation in its membership. Altria, former parent of Philip Morris International (PMI) and Kraft, is on the US Chamber’s Board of Directors.¹¹⁰ Internal documents from Philip Morris, formerly the parent of both Philip Morris USA and PMI, have revealed that it uses the US Chamber to advance its interests. One document stated that strategic objectives with the US Chamber included to “positively influence the legislative and regulatory climate and the policy debate on critical issues facing PM.”¹¹¹
- (2) Membership in the US Chamber’s AmCham chapters. PMI, British American Tobacco (BAT), Japan Tobacco International (JTI), and/or Imperial Tobacco are members in at least 56 AmCham chapters.¹¹² Given the tobacco industry’s extensive representation on the US Chamber and its global network, and given the US Chamber’s explicit assertion to advocate on behalf of its members, it can be inferred that the tobacco industry uses the US Chamber to advance its interests.

Examples of activities

The US Chamber spent at least \$21 million between 2008 and 2013 on international activities.¹¹³ The full extent of these activities as they relate to tobacco control is unknown, but there are numerous documented instances in which the US Chamber opposed tobacco

control measures. Several of these are discussed below, and many more examples are available online.^{114,115,116}

- (1) In 2013, Burkina Faso was in the process of developing implementing regulations to its 2011 tobacco control law, which included graphic health warnings. In January 2014, the US Chamber sent a letter to the Prime Minister Luc Adolphe Tiao, warning that graphic warning labels violated international property rights and trade agreements. The implied threat of litigation delayed implementation of the law.^{117,118}
- (2) In 2012, the Philippines had among the cheapest cigarettes and the lowest tobacco taxes in the world.¹¹⁹ When a “sin tax” on tobacco and alcohol was proposed, the US Chamber and its local affiliate, as well as the US-ASEAN Business Council, opposed the tobacco tax, claiming it would increase cigarette smuggling. The US Chamber wrote another letter to the finance secretary with a similar warning. Both of these arguments reflect the arguments made by the tobacco industry. In addition, in 2011 PMI gave AmCham Foundation Philippines several large donations amounting to over \$1 million.¹²⁰
- (3) PMI has donated extensively to AmCham Indonesia,¹²¹ the Honorary President of which is the US Ambassador to Indonesia.¹²² In addition, one of the Board of Governors is Presiding Director at Sampoerna, the PMI subsidiary in the country.¹²³ Indonesia’s Industry Minister has criticized the Finance Ministry’s decision to raise the value added tax on cigarettes, arguing it would pressure cigarette manufacturers and reduce jobs.¹²⁴ It has also sent a letter to New Zealand opposing plain packaging.¹²⁵

Counter-measures

The New York Times reported on the US Chamber lobbying on behalf of the tobacco industry internationally.^{126,127} In addition, Campaign for Tobacco-Free Kids, Corporate Accountability International, Public Citizen, SEATCA, and other organizations released a report on the US Chamber’s actions to challenge tobacco control policies on behalf of the tobacco industry. In the aftermath of these two exposés, the Ministry of Health of Norway criticized the US Chamber¹²⁸ and CVS Health resigned as a member.¹²⁹ The Secretariat has also described this issue to Parties through an international health forum and a note verbale.¹³⁰

International Chamber of Commerce

Organizational overview

The International Chamber of Commerce (ICC) is an international NGO comprised of thousands of members. ICC describes itself as “the voice of world business” and claims its members receive “unrivalled access to national governments and top international officials.”¹³¹ In addition, ICC members gain access to its global network of national committees, which ICC claims “effects influence at the national level.”^{132,133} ICC

membership grants “access to the corridors of power” and “contact with ministers and international officials.”

Ties to the tobacco industry

ICC has extensive ties to the industry through three primary avenues:

- (1) Direct membership. While its membership list is not publicly available, BAT was a member as recently as May 2012.¹³⁴
- (2) Membership in the ICC initiative, Business Action to Stop Counterfeiting and Piracy (BASCAP), the objective of which is to “combat product counterfeiting and copyright piracy worldwide.”¹³⁵ PMI, BAT, and JTI are members of BASCAP,¹³⁶ which states that its members “drive the group’s agenda, directly contribute to policy recommendations and work with high-level experts and government leaders to implement tangible IPR improvements.” BASCAP claims that it allows members to “communicate directly with national government ministers and IGO officials through personal meetings, letters or via the media.” The BASCAP website lists ITGA, Tobacco International, and Tobacco Manufacturers Association are listed as its “contacts.”¹³⁷
- (3) Membership in national committees. Many of ICC’s national chapters have extensive ties to the tobacco industry; for example, ICC Georgia lists Philip Morris Georgia, JTI, and BAT as members.¹³⁸ A full list of ICC’s national committee connections and gateways is available online.¹³⁹ ICC’s US affiliate, the US Council for International Business (USCIB), listed PMI as a member as recently as May 2014,^{140,141} and its Board of Directors includes Myron A. Brilliant, who serves as Head of International Affairs at the US Chamber.¹⁴² More information on USCIB can be found in Annex 1.

Examples of activities

The activities of ICC have advanced the interests of the tobacco industry on numerous occasions. ICC has communicated the messages of the tobacco industry and, at various points, has facilitated meetings between the tobacco industry and government officials. For example, in 1998, ICC organized a meeting between UN Secretary General Kofi Annan and BAT chairman Lord Cairns through an ICC delegation on trade.^{143,144} ICC also hosts conferences, which have had keynote speeches by representatives from BAT and PMI.¹⁴⁵

Much of ICC’s activities regarding tobacco control in recent years have been executed through BASCAP. The website for BASCAP has a section dedicated to plain packaging in which it details its position and actions on plain packaging,¹⁴⁶ including: (1) letters to the Canadian government¹⁴⁷ and to the European Commission opposing plain packaging;¹⁴⁸ (2) a letter signed by 160 associations on “trademark elimination via plain packaging;”¹⁴⁹ and (3) a web page that promotes a legal opinion by Sir Franklin Berman on Article 5.3 of the FCTC, which was commissioned by JTI.¹⁵⁰

International Tax and Investment Center

Organizational overview

The International Tax and Investment Center (ITIC) is an advocacy organization that describes itself as “an independent, nonprofit research and education institution.” It represents a large number of corporations and works closely with “ministries of finance, customs services and tax authorities in 85 countries.” ITIC claims members get a “seat at the policy-making table” through meetings with high-level government representatives within ministries of finance worldwide.¹⁵¹ In addition, a number of former government officials now work for ITIC. For example, former Head of Corporate Tax at HM Revenue and Customs (HMRC) in the UK became a director of ITIC a year after leaving HMRC.¹⁵²

Ties to the tobacco industry

PMI, BAT, JTI, and Imperial are members of ITIC and are members of its Board of Directors.¹⁵³ PMI is the Director of Fiscal Affairs, BAT is the Head of Tax and Trade Government Affairs, JTI is the Corporate Affairs VP, and Imperial is the Head of Group Economic Affairs. Internal documents from RJ Reynolds have revealed that it has acted “[u]nder the aegis of [ITIC]” to effect changes on the Russian excise tax structure regarding tobacco products.¹⁵⁴

Activities

The activities of ITIC on behalf of the tobacco industry have been previously described by civil society and academic publications.^{155,156} ITIC holds workshops and conferences on taxation and illicit trade of tobacco products, for which it has received funding from the tobacco industry. Through these events, ITIC promotes the tax policies of the tobacco industry, often using the same arguments as the tobacco industry, e.g. increasing tobacco taxes will result in higher illicit trade. In addition, ITIC has authored reports on illicit trade that have received criticism for poor methodology and exaggerating the effects of taxation on smuggling,¹⁵⁷ and which have since been used to lobby against plain packaging in UK.¹⁵⁸

- (1) Belgium. In November 2009, ITIC received funding from BAT, JTI, and PMI for a conference called “Anti-illicit trade of tobacco products” in Brussels. Speakers included representatives from the EU Anti-Fraud Office (OLAF) and other law enforcement agencies, and the meeting was chaired by former a British Customs employee.¹⁵⁹
- (2) ITIC was a co-organizer for the 12th Annual Asia Pacific Tax Forum in New Delhi 5-7 May 2015.^{160,161} The World Bank was announced as a participant in and financier of the event, and India’s Minister of Finance was originally listed as Chief Guest. The World Bank and the Minister ultimately withdrew and did not participate (see “Responses” below).

- (3) Shortly before the COP6, ITIC held an "invitation-only" briefing on tobacco taxation for Ministers of Finance. Among the items of discussion at COP6 were the proposed guidelines for implementation of Article 6 of the FCTC on taxation.^{162,163}
- (4) ITIC also advised Ukraine on operation and customs control of duty free retail outlets. ITIC sponsors conferences on tobacco taxes, including a 2008 seminar attended by 40 EU government officials and a 2009 conference on illicit tobacco with 25 countries represented.

Counter-measures

In response to the ITIC invitation before COP6, the Secretariat issued *notes verbales* to Parties, detailing the connections between ITIC and the tobacco industry and reminding them of the Guidelines to implementation of Article 5.3. In addition, civil society action resulted in reporting of ITIC's actions in the Financial Times, and resulted in minimal participation at the event. The Guidelines on implementation of Article 6 for tobacco taxation were adopted several days later, with no changes.

In regards to ITIC's Asia-Pacific Tax Forum, civil society took timely action once this news was shared among tobacco control groups. This included a letter to the World Bank regarding ITIC as a front group of the tobacco industry, after which the World Bank withdrew participation from the conference.¹⁶⁴ India's Minister of Finance decided not to attend the meeting to ensure his compliance to Article 5.3.¹⁶⁵

International Trademark Association

Organizational overview

INTA's members consist of trademark owners and advocates to strengthen trademarks and intellectual property laws.¹⁶⁶ INTA has over 6,600 members from over 190 countries,¹⁶⁷ which consist primarily of corporations, but also include government agencies, students, and professors.¹⁶⁸ INTA claims to offer its members "a global presence," and that it will advocate on their behalf,¹⁶⁹ including by "influenc[ing] public policy."¹⁷⁰

Ties to the tobacco industry

INTA has extensive ties to the tobacco industry: PMI, BAT (via Imperial Tobacco Canada), JTI, Imperial, and Altria are members,¹⁷¹ and INTA's President Elect is the Intellectual Property Trademarks Director for JTI, as of November 2015.¹⁷²

Activities

INTA's activities in relation to tobacco control have almost entirely focused on cigarette packaging by opposing plain packaging or large graphic health warning labels. Several other international NGOs have also opposed plain packaging and used trade claims to oppose

tobacco control, and have been previously described.^{173,174,175,176} INTA opposes these measures in a number of ways, as follows:

- (1) Filing amicus briefs in lawsuits and trade disputes. This includes an amicus brief on the WTO plain packaging suit, claiming that plain packaging violated Australia's obligations under various trade agreements.¹⁷⁷
- (2) Submitting comments and/or letters to governments.
 - (a) INTA has delivered messages opposing plain packaging and/or large graphic health warnings to a number of countries, including Australia,^{178,179,180} Brazil,¹⁸¹ Canada,¹⁸² the European Union,^{183,184,185} Guatemala,¹⁸⁶ Hong Kong,¹⁸⁷ Ireland,¹⁸⁸ New Zealand,^{189,190} Thailand,^{191,192} the United Kingdom,¹⁹³ among others.
 - (b) The arguments in these messages were identical to the claims of the tobacco industry in opposing the legislation, including: (1) plain packaging is unconstitutional; (2) plain packaging constitutes expropriation and would require financial compensation; (3) plain packaging would increase cigarette smuggling; (4) plain packaging violates intellectual property laws; (5) and plain packaging violates a country's obligations under international trade agreements.
 - (c) Internal tobacco industry documents have revealed that INTA has done this at the request of the tobacco industry. For example, in 1994, Rothmans, Benson and Hedges requested INTA to contact Canada's Standing Committee on Health to oppose plain packaging, with the possibility of "making a presentation or sending a brief."¹⁹⁴ Three weeks later, INTA wrote to the Chairman of the committee in opposition of plain packaging.¹⁹⁵
- (3) Holding presentations in countries on graphic health warnings or plain packaging. INTA has held several presentations in countries that have considered or proposed plain packaging. For example, INTA held a presentation in Panama in August 2014,¹⁹⁶ and in Chile in October of 2014,¹⁹⁷ in which plain packaging is described as "quite controversial."

Conclusions and recommendations

The tobacco industry is represented in the memberships and Boards of a wide network of NGOs, through which it contributes to the objectives, views, and activities of these organizations in the process of interfering with public policy making. Many of these have advanced the messages and arguments of the tobacco industry to governments in the process of developing tobacco control policies. In several instances, these NGOs have responded directly to requests from the tobacco industry to intervene in tobacco control policies.

In some cases, more than one businesses-focused NGO communicates these messages to governments, either in joint statements or through separate letters, which may give policymakers the impression that there is broad consensus in the business community about the views presented. In several examples, such as plain packaging in Canada and New Zealand, the activities of these NGOs were followed by the delay and possible obstruction of

tobacco control policies. Thus, it is likely that the tobacco industry uses its broad network of business-interest NGOs to present its views to influence tobacco control policies.

Article 5.3 of the FCTC states 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.” Because (1) the messages business NGOs convey regarding tobacco control reiterate the views of the tobacco industry, and (2) the tobacco industry likely exercises considerable influence over the activities of these NGOs, it can be concluded that these organizations represent the vested interests of the tobacco industry. Parties should implement Article 5.3 by applying the Guidelines to implementation of Article 5.3 to NGOs that have represented tobacco industry interests, whether through its membership otherwise. Such measures should include:

- (1) Ensuring limited and transparent interactions with these organizations.
- (2) Rejecting partnerships, assistance, and voluntary agreements with these organizations.
- (3) Avoiding conflicts of interest, banning revolving door with these organizations.
- (4) Require information from these organizations to be transparent and accurate.
- (5) End any preferential treatment given to these organizations, including tax incentives.

Further measures that Parties can take include:

- (1) Requiring in-country NGOs, their local chapters, and similar organizations to report on tobacco industry involvement in their memberships, activities, and communications, possibly as a requirement for NGO status.
- (2) Requiring NGOs, their local chapters, and similar organizations to create, implement, and make public their policy on engagement with the tobacco industry, whether financial or otherwise.
- (3) Requiring the tobacco industry to disclose its involvement in nongovernmental organizations, whether financial or otherwise, in accordance with Article 12(c) and recommendations 5.1, 5.2, 5.3 of the guidelines to implementation of Article 5.3.
- (4) Partnering with academia and civil society organizations to monitor tobacco industry activities.^f
- (5) Requiring organizations nongovernmental organizations complete a disclosure of interests regarding their involvement and communications with the tobacco industry as a prerequisite in all interactions related to tobacco control.

In addition, advocacy action from all sectors, including intergovernmental agencies, Parties, academia, and civil society, is critical to raising awareness of tobacco industry interference. These sectors should establish channels of communication and collaboration to ensure information on tobacco industry activities, including engagement with international organizations, is shared promptly. Partnership between governments, academia, and civil society in particular is critical to successful identification and exposure of tobacco industry

^f This is recommended by the WHO Technical Resource for country implementation of Article 5.3: http://apps.who.int/iris/bitstream/10665/44880/1/9789241503730_eng.pdf

interference. Sections 3, 4, and 5 describe and propose a number of options and mechanisms for collaboration to this end.

III. RAISING AWARENESS AMONG INTERGOVERNMENTAL ORGANIZATIONS

This section provides options for promoting 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.

- (1) WHO should introduce a model policy on limiting engagements with the tobacco industry to the UN Interagency Task Force on NCDs and propose that its constituent agencies implement the policy.
- (2) WHO and the Secretariat should create an online repository where existing best practices on non-engagement with the tobacco industry within the UN system and are easily accessible.
- (3) WHO, the Secretariat, and interested Parties should discuss develop strategies to amend the existing UN Guidelines on public-private partnerships to promote coherence to the principles of Article 5.3 and its guidelines.
 - (a) In addition, the Interagency Task Force on NCDs could recommend that the UN system establish a “watchdog” mechanism to monitor for and respond to violations more broadly.
- (4) Organizations applying for observers status with the COP need to present a current policy indicating that they do not have any partnerships or otherwise engage in collaborative efforts with the tobacco industry.
- (5) The Secretariat should send *notes verbales* to Parties, reminding them that Article 5.3 applies to all of government, including representatives in IGOs.
- (6) Parties should regularly send directives to government officials to raise awareness of (1) Article 5.3 and tobacco industry interference; (2) the fact that the tobacco industry mobilizes third Parties, including IGOs and international NGOs, to advance its interests, and (3) the fact that Article 5.3 applies to their duties.
- (7) Parties, WHO, and the Secretariat should encourage international NGOs that have policies on non-engagement with the tobacco industry to publicize and share these policies with other international organizations to raise awareness of their existence and of the tobacco industry’s interference.
- (8) Parties should require NGOs to disclose their affiliations with the tobacco industry in their lobbying on public health policies.
- (9) Parties should consider adopting within the amendments to the Rules of Procedure a requirement that organizations applying for observer status must have a model policy such as the one above in place.
 - (a) In addition, Parties should ensure that the review mechanism of Observers incorporates this process as well as a requirement of Observer Status.

IV. TOOLS AND MECHANISMS OF ASSISTANCE

This section documents and examines tools and mechanisms of assistance currently available to Parties aimed at raising awareness and assisting with implementation of Article 5.3 among all parts of government.

Tools and mechanisms of assistance to Parties on Article 5.3 fall into five general categories:

- (1) technical tools to assist Parties in implementation and enforcement of Article 5.3;
- (2) documents on raising awareness about tobacco industry interference;
- (3) needs assessments missions;
- (4) technical and legal expertise to support implementation of Article 5.3; and
- (5) monitoring, compilation, and communication of information related to tobacco industry activities and effective counter-measures.

A list of available tools and mechanisms with brief descriptions can be found in Annexes 2 and 3, including brief descriptions and categorization by author, focus, type, and contents. Where available online, links to these resources are provided as footnotes.

This section proposes additional tools that need to be developed to further facilitate the work of Parties in implementing Article 5.3 of the FCTC.

Recommendations

The existing tools and mechanisms of assistance provide extensive information and guidance for Parties on implementation of Article 5.3, but several issues need to be addressed to ensure that they are maximized:

- (1) Parties may lack awareness of the tools that exist.
- (2) Parties may lack guidance on what the Secretariat, WHO, international community, and civil society can do to assist with implementation of Article 5.3.
- (3) Parties may find it difficult to translate the general recommendations within the tools into detailed actions to implement Article 5.3 in their respective national contexts.
 - (a) This may be alleviated in part by other resources available to Parties, such as customized technical assistance from experts to implement Article 5.3, but Parties may also lack awareness of the availability of these resources.
- (4) The tools provide technical information on various areas, but no one tool does or can provide all information that a Party might need to implement Article 5.3.
- (5) The existing tools are fragmented in their locations and the support they provide, and are not available to Parties in a navigable format.

The following measures could be taken to address these issues:

- (1) The Secretariat should establish and promote among Parties an online platform, such as a Knowledge Hub, to act as central location for the tools and resources on implementation of Article 5.3.

- (a) The Secretariat could prepare with inputs from partners, a list of experts to deploy when needed to support implementation of Article 5.3.
- (2) The online platform should include the following features:
 - (a) A system to organize and summarize the various tools and mechanisms of assistance to guide Parties to the resources that suit their particular needs.
 - (b) A collection of Party and NGO experiences in implementation of Article 5.3, including legislative language and enforcement at national level.
 - (c) A mechanism of referring Parties to experts who can provide technical assistance that suits their particular needs in regards to Article 5.3 implementation and monitoring of tobacco industry activities.
 - (d) A program that includes training and other resources to build national, regional, and international capacity to implement Article 5.3 and monitoring the tobacco industry, including best practices, barriers to implementation, and sharing of experiences.
- (3) WHO could support this initiative through its collaborating center at the University of California, San Francisco.

V. MONITORING TOBACCO INDUSTRY INTERFERENCE

Sustainable mechanisms on exchange of information on tobacco industry interference

This subsection identifies and recommends options and sustainable mechanisms of international cooperation on, and exchange of information related to, tobacco industry interference, building on the existing WHO Tobacco Industry Monitoring database or through a knowledge hub, in order to strengthen effective implementation of Article 5.3 of the WHO FCTC, in line with the COP6 decision.

The report has identified a number of existing mechanisms for international cooperation and exchange of information related to tobacco industry interference. These include:

- (1) Workshops, both regional and national, that provide technical assistance to implement Article 5.3. These are available upon request and administered by WHO TFI, the Union, SEATCA, and CTFK, among others.
- (2) Websites that provide information on the activities and tactics of the tobacco industry, some of which provide regular updates on recent activities. These include:
 - (a) The WHO tobacco industry monitoring database.¹⁹⁸
 - (b) Various “wikis” that focus on or include information on tobacco industry interference, such as TobaccoTactics,¹⁹⁹ and SourceWatch,²⁰⁰ among others.
 - (c) Regional or international websites on tobacco industry tactics and activities, such as Corporate Accountability International’s (CAI) webpage on the tobacco industry,²⁰¹ CTFK’s Industry Watch²⁰² and SEATCA’s Tobacco Industry Watch.²⁰³

- (d) An “Observers’ corner” on the WHO FCTC Home Page, to enable presentation of information coming from NGOs (and also IGOs) that are accredited as observers to the Conference of the Parties.
- (3) Collaborative online groups that regularly share information about tobacco industry activities. These include, but are not limited to:
 - (a) Weekly monitoring digests by CAI.
 - (b) Correspondence through the FCA listserv.
 - (c) The Global Tobacco Control Facebook Group.
- (4) The FCTC Information Platform, which, when completed, will combine information on implementation of the FCTC in one place, support sharing and dissemination of information relevant to implementation of the FCTC, and further enable the promotion and sharing of resources.

The limitations of these options are that (1) Parties may lack awareness of these resources, (2) Parties may lack access to the websites and listserves that provide them, and (3) it may not be clear to Parties which resources are best suited to address their specific needs. In addition, while a website provides a centralized location to store information and resources, it may not communicate the information to Parties.

The Secretariat could take the following measures to address these issues:

- (1) In partnership with WHO, academia, and civil society, convene a formal expert network to regularly monitor, analyze, and report on tobacco industry interference, and develop and provide technical assistance on Article 5.3 to Parties.
- (2) Collaborate with civil society and academia to create and promote among Parties an online platform that would, in addition to compiling tools and mechanisms of assistance on implementation of Article 5.3, provide information and regular updates (e.g. quarterly) on the activities of the tobacco industry.
 - (a) Ensure that the resources and expertise of the expert network are promoted and made available on the online platform.
- (3) Ensure that the FCTC Information Platform includes and prominently features a section dedicated to Article 5.3 implementation and tobacco industry monitoring, including all other resources available.
- (4) In collaboration with WHO, academia, and civil society, promote and host regional workshops that provide technical assistance on implementation of Article 5.3.
- (5) Partner with WHO to bring the issue to the attention of WHA to raise visibility of the issue of tobacco industry interference and Article 5.3 among a broader representation of government officials.
- (6) Ensure that funding for Article 5.3 implementation, including capacity-building and tobacco industry monitoring programs, is well-represented in discussions on financing tobacco control policies.

Furthermore, measures Parties could take include the following:

- (1) Establish an intersessional group to regularly review and report on mechanisms of ongoing monitoring of tobacco industry interference, including discussions on evolving issues on tobacco industry interference, and Article 5.3 implementation, with ongoing funding from Parties.
- (2) In line with Articles 5 and 26 of the FCTC, establish, at the national level, a sustainable funding mechanism to support tobacco control efforts using domestic resources, ensuring a portion of the funding supports activities related to Article 5.3 implementation and tobacco industry monitoring.
 - (a) For example, Parties could enact a tobacco excise tax, allocating a portion of revenue to fund international, regional, and/or national programs dedicated to monitoring of tobacco industry activities and implementation of Article 5.3 implementation.
- (3) Ensure Article 5.3 is included in the development of national strategies and programs on tobacco control, ensuring a systematic and sustainable resourcing, both financial and technical, of Article 5.3 and its implementing guidelines as an integral part of development and implementation of the FCTC.
- (4) Establish a working or expert group that cooperates with the Secretariat and WHO to monitor and provide regular updates to Parties on tobacco industry activities.
- (5) Ensure the implementation of Sustainable Development Goal 3.a regarding implementation of the FCTC incorporates Article 5.3

Monitoring Tools

This subsection reviews and proposes monitoring tools that would encourage voluntary and timely sharing of further information in order to enhance the monitoring of tobacco industry interference, including at the international level, and regularly report on findings to Parties; in addition, propose a monitoring tool of tobacco industry attempts to engage with international organizations including, but not limited to funding initiatives, support of front groups, participation in the United Nations Global Compact.

A variety of tools and mechanisms on sharing of information regarding tobacco industry interference are described in Section V. It is important to note that monitoring is only one step in compliance with Article 5.3. It is essential that the information acquired through monitoring be used inform policy action and policy development, as well as to ensure compliance when policies are already in place.

A wide range of tools to monitor the tobacco industry activities are publicly available as a result of civil society, academia, government, and WHO initiatives. It is essential that these tools continue to be made available to Parties, as Parties might not be aware of their existence. Essential elements of effective monitoring tools include:

- (1) The tools facilitate frequent updates with recent events related to tobacco industry interference and regularly report updates to Parties.
- (2) The tools should be accessible, easily usable, contain an appropriate level of detail, and effectively guide users to the information they seek.

- (3) The tools should be international in scope and facilitate sharing of information among Parties, the Secretariat, civil society, and relevant academic institutions.
- (4) The tools should be ongoing and sustainable, both financially and otherwise.
- (5) The tools should include an easy way to make submissions, including attachments.

Proposed tools

- (1) A “wiki”-style platform similar to TobaccoTactics for monitoring tools and related resources, hosted on the FCTC website, , including approved editors and a platform for non-editors for proposing additions.
 - (a) The platform for non-editors for proposing additions, for approval by editors, could take the form of “suggested additions” through a Google Form, or include an approval system similar to that on Wikipedia.
- (2) A global tobacco industry monitoring listserv that includes WHO, the Secretariat, Parties, and civil society to facilitate direct and rapid communication regarding tobacco industry interference.
 - (a) This listserv should have a separate list for international-level tobacco industry interference, including support of front groups and UNGC.
- (3) The intersessional body proposed in Section VI above could issues periodic reports on tobacco industry interference, co-authored by governments & civil society.

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