

# **TECHNICAL RESOURCE**

## **FOR COUNTRY IMPLEMENTATION OF WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL **ARTICLE 5.3****

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



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Tobacco Control Article 5.3

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# Introduction

The WHO Framework Convention on Tobacco Control (WHO FCTC)<sup>1</sup> and its Parties acknowledge that the tobacco industry represents a serious threat to the achievement of the Convention's goals and objectives. In fact, Article 5.3 of the WHO FCTC calls on Parties to protect public health policies from the commercial and other vested interests of the tobacco industry. All governmental sectors – including direct administration, with the executive, legislative and judicial branches, as well as indirect and autonomous administration – are bound to comply with Article 5.3.

In 2009, the Conference of the Parties approved by consensus the guidelines<sup>2</sup> to assist Parties in meeting their legal obligations under this article of the WHO FCTC. The Guidelines remind everyone that there is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests. On the one hand, the tobacco industry produces and promotes a product that has been proven scientifically to be highly addictive, to harm and kill many and to give rise to a variety of social ills, including increased poverty. On the other hand, many governments and public health workers try to improve the health of their populations by implementing the measures to reduce the use of tobacco contained in the WHO FCTC. The tobacco industry recognizes the impact of these measures on its sales and actively fights against them. Time and time again it has used its resources to kill off these public health policies, water them down when it cannot stop them altogether, and undermine their enforcement when they are passed.

This technical resource presents information to support the implementation of the Article 5.3 Guidelines by sharing practical action steps and best practices and examples applicable to the implementation of Article 5.3. It also includes links to supporting materials for easy reference. The technical resource should always be used in association with the text of the WHO FCTC and with its Article 5.3 Guidelines.

The target audience of this publication is government authorities and employees at all levels, since the Article 5.3 Guidelines are applicable to all branches and levels of government. It is expected that coordinators and managers of tobacco control programmes will take the lead in the dissemination and application of this technical resource, helping countries to comply with Article 5.3. The technical resource may also be useful to people in academia, nongovernmental organizations and the private sector who are involved in implementation of the WHO FCTC.

All the tobacco industry's tactics and interference with public policy-making are aimed at increasing tobacco consumption and are detrimental to public health.

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1 <http://whqlibdoc.who.int/publications/2003/9241591013.pdf>, accessed 3 May 2012.

2 [http://www.who.int/fctc/guidelines/article\\_5\\_3.pdf](http://www.who.int/fctc/guidelines/article_5_3.pdf), accessed 3 May 2012.

# Section 1.

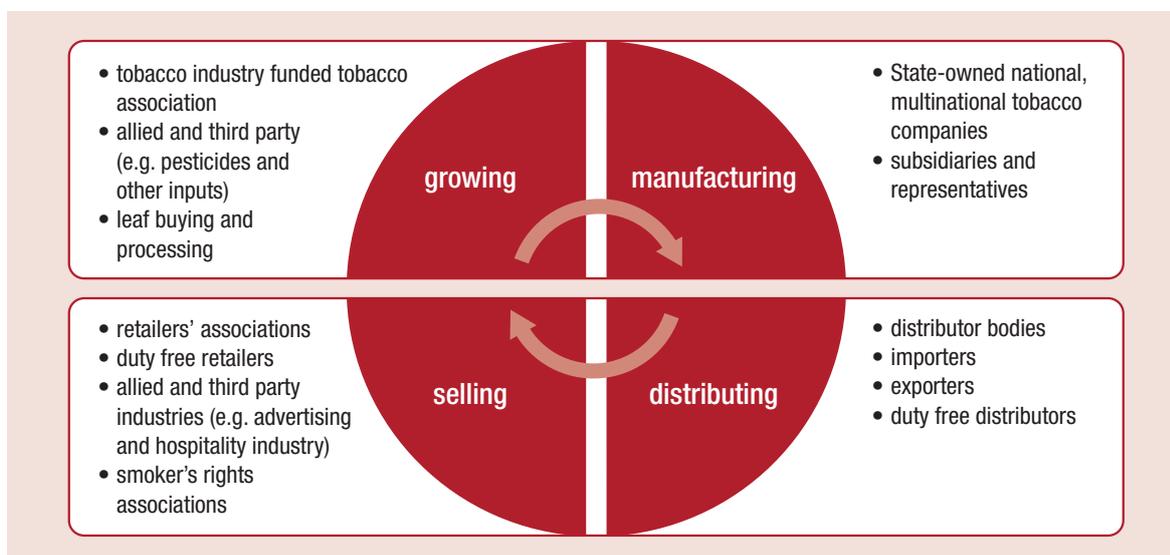
## Who are those that represent the commercial and other vested interests of the tobacco industry?

The commercial and other vested interests of the tobacco industry are represented and defended, above all, by the tobacco industry itself. The WHO FCTC defines the tobacco industry as including “tobacco manufacturers, wholesale distributors and importers of tobacco products”, whether the company is State-owned or privately owned, national or multinational. Experience in countries around the world has shown that the industry uses similar policy interference strategies, whatever the ownership of the company in question.

Commercial and other vested interests of the tobacco industry are not, however, represented only by the tobacco industry. In fact, everyone engaged, directly or indirectly, in the supply chain for tobacco leaf and products has a commercial interest in making a profit out of the sale of tobacco and is likely to resist effective tobacco control measures. Not only tobacco manufacturers, but also wholesale distributors and importers of tobacco products, tobacco leaf growers and processors, retail distributors and sellers of tobacco products form part of the supply chain. Furthermore, other businesses contribute to and profit in part from the sale of tobacco products, including the advertising industry, the media that profit from selling advertising time and space, and the legion of public relations firms and legal firms that work for the tobacco industry and its allies.

Finally, it is important to know that the commercial and other vested interests of the tobacco industry can be represented by front groups,<sup>3</sup> giving the impression that the allies of the tobacco industry are more numerous than they really are or promoting the interests of members of the supply chain more aggressively than the legitimate organizations which represent them. Front groups may include tobacco-industry-funded growers’ associations or retailers’ associations, trade groups related to advertising, some labour unions or the hospitality industry. Thus, when implementing Article 5.3, in addition to the tobacco industry itself as defined by the Framework Convention, Parties need to consider all vested interests that are associated with it. Fig. 1 lists examples of the main organizations, institutions and sectors that have been identified as speaking against tobacco control in the past and therefore must be watched in order to monitor and counter tobacco industry activities and strategies.

Fig. 1. Supply and sale chain, allies, third parties and front groups



<sup>3</sup> Front groups are organizations that purport to serve a public cause while actually serving the interests of a third party, sometimes obscuring or concealing the connection between them.

## Section 2.

### Forms of tobacco industry interference

The scope of the tobacco industry's influence in policy-making is vast in breadth and depth, and covers the entire world. Research demonstrates that tobacco industry strategies are often similar across countries: sharing information on countering industry strategies, as stated in Article 20.4 of the Framework Convention, is an important resource for the implementation of Article 5.3. Table 1 presents six main forms of tobacco industry interference.<sup>4,5</sup>

Table 1. Six main forms of tobacco industry interference

#### Tobacco industry interference

1. Conspiring to hijack the political and legislative process
2. Exaggerating the economic importance of the industry
3. Manipulating public opinion to gain the appearance of respectability
4. Faking support through front groups
5. Discrediting proven science
6. Intimidating governments with litigation or the threat of litigation

The tobacco industry employs a combination of tactics in these various domains to counter public health initiatives. Table 2 provides an overview of the most commonly documented tactics of the tobacco industry for interfering with tobacco control.<sup>6</sup>

4 *Tobacco industry interference with tobacco control*. Geneva, World Health Organization, 2008 ([http://whqlibdoc.who.int/publications/2008/9789241597340\\_eng.pdf](http://whqlibdoc.who.int/publications/2008/9789241597340_eng.pdf), accessed 7 May 2012).

5 National Cancer Institute. *Evaluating ASSIST – a blueprint for understanding state-level tobacco control*. Chapter 8: Evaluating tobacco industry tactics as a counterforce to ASSIST. Tobacco Control Monograph No. 17. Bethesda, MD, United States Department of Health and Human Services, National Institutes of Health, National Cancer Institute (NIH publication No. 06-6058) October 2006 ([http://cancercontrol.cancer.gov/tcrb/monographs/17/m17\\_complete.pdf](http://cancercontrol.cancer.gov/tcrb/monographs/17/m17_complete.pdf), accessed 7 May 2012).

6 *Tobacco industry interference with tobacco control*. Geneva, World Health Organization, 2008 ([http://whqlibdoc.who.int/publications/2008/9789241597340\\_eng.pdf](http://whqlibdoc.who.int/publications/2008/9789241597340_eng.pdf), accessed 7 May 2012).

Table 2. Examples of tobacco industry tactics that interfere with tobacco control

Tactic	Goal
Consultancy	To recruit supposedly independent experts who are critical of tobacco control measures
Corporate social responsibility	To promote voluntary measures as an effective way to address tobacco control, create an illusion of being a “changed” industry and establish partnerships with health and other interests
Creating alliances and front groups	To mobilize, or create the impression of mobilization of farmers, retailers, advertising agencies, the hospitality industry, grassroots and anti-tax groups, with a view to influencing legislation
Funding research, including universities	To create doubt about evidence of the health effects of tobacco use and the economic impact of tobacco control
Intelligence-gathering	To monitor opponents and social trends in order to anticipate future challenges
International treaties and other instruments	To use trade agreements to force entry into closed markets and to challenge the legality of proposed tobacco control legislation
Intimidation	To use legal and economic power as a means of harassing and frightening opponents who support tobacco control
Joint manufacturing and licensing agreements	To form joint ventures with state monopolies and subsequently pressure governments to privatize these monopolies
Litigation	To challenge laws and intimidate tobacco industry opponents through court action
Lobbying	To make deals and influence political processes
Philanthropy	To buy friends and social respectability from arts, sports, humanitarian and cultural groups
Political funding	To use campaign contributions to win votes and legislative favours from politicians
Pre-emption	To achieve the overruling of local or state government by removing its power to act
Programmes for youth smoking prevention and for education of retailers	To appear to support efforts to prevent children from smoking and to depict smoking as an adult choice
Public relations	To mould public opinion, using the media to promote positions favourable to the industry
Smokers’ rights groups	To create an impression of spontaneous, grassroots public support
Smuggling	To undermine tobacco excise tax policies, marketing and trade
Voluntary agreements with governments	To avoid enforced regulatory and legislative measures

In addition to the tactics listed in Table 2, the tobacco industry has the resources, economic motivation and fiduciary responsibility to its stakeholders to do all that is possible to profit from the trade of tobacco and tobacco products, however much its business kills people and damages society. The tobacco industry has worked in concert to weaken international tobacco control and undermine national tobacco control programmes. The evidence for these efforts has been relatively well documented in developed countries,<sup>7</sup> and there is growing evidence of industry interference in low- and middle-income countries.<sup>8</sup> There is also documented evidence of the industry's attempts to derail the negotiation of the WHO FCTC, which were not successful, as well as evidence of the tobacco industry's on-going efforts to hamper implementation of the treaty at the national and regional levels (see Annex 1 for resources and links, with reports and other documents addressing the tobacco industry's interference in the WHO FCTC process).

The tobacco industry reportedly reacted as follows to the approval of the Article 5.3 Guidelines:

*"... We fully agree that the manufacture, distribution and sale of tobacco products should be regulated. But these 'guidelines' raise serious questions about real best practice in policy-making. They are a potential recipe to vilify and marginalise legitimate, tax-paying, regulated businesses, employing thousands of people, and risk forcing tobacco products 'underground' where the illicit, non-taxpaying, unregulated trade is already flourishing ... despite the glamour for 'denormalisation,' exclusion and extremism being promoted by many anti-tobacco activists, many governments seek balanced regulation that is transparent, accountable, proportionate and properly targeted."*<sup>9</sup>

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7 Novotny T, Mamudu H. *Progression of tobacco control policies: lessons from the United States and implications for global action* (Health, Nutrition and Population (HNP) Discussion Paper). Washington, DC, International Bank for Reconstruction and Development/The World Bank, 2008 (<http://siteresources.worldbank.org/HEALTHNUTRITIONANDPOPULATION/Resources/281627-1095698140167/NovotnyPoliticalEconomy.pdf>, accessed 7 May 2012).

8 Lee S, Ling P, Glantz S. The vector of the tobacco epidemic: tobacco industry practices in low and middle-income countries. *Cancer Causes and Control*, 2012:1-13 (<http://dx.doi.org/10.1007/s10552-012-9914-0>, accessed 7 May 2012).

9 Paul Adams, Chief Executive, British American Tobacco ([http://www.bat.com/group/sites/uk\\_\\_3mnfen.nsf/vwPagesWebLive/DO7LLN5U?opendocument&SKN=1](http://www.bat.com/group/sites/uk__3mnfen.nsf/vwPagesWebLive/DO7LLN5U?opendocument&SKN=1), accessed 7 May 2012).

## Section 3.

### Practical steps for implementing the Article 5.3 Guidelines

This section offers practical steps which Parties can take to implement the Article 5.3 Guidelines. They need to take action to comply with both the letter and the spirit of the WHO FCTC to protect health policy against the commercial and other vested interests of the tobacco industry. Article 5.3 affects all other articles and guidelines of the WHO FCTC, and awareness of tobacco industry strategies is essential for full implementation of the rest of the treaty. The cross-cutting nature of Article 5.3 requires that it should be implemented in due consideration of the actions and provisions described in other articles of the WHO FCTC. These include, but are not limited to, the following.

1. Always verify whether a organization, body, group or institution interested in working or cooperating in tobacco control has any affiliation to or link with the tobacco industry (Preamble of the WHO FCTC).
2. Ensure that there is a routine mechanism for screening efforts from the tobacco industry to undermine or subvert tobacco control and for getting information on tobacco industry activities (Preamble).
3. Ensure that the definition of “tobacco industry” is widely known within government sectors (definition, Article 1).
4. Ensure that the tobacco control agenda includes holding the tobacco industry accountable and liable for any damaging practices (Article 4.5).
5. Introduce measures that require the tobacco industry to provide mandatory disclosure of contents and emissions of tobacco products (Article 10).
6. Ensure measures that promote public access to a wide range of information on the tobacco industry (Article 12 and its Guidelines).
7. Check whether a public, private or nongovernmental organization interested in working or cooperating in tobacco control has any affiliation to or link with the tobacco industry (Article 12 and its Guidelines).
8. Ensure that the tobacco industry discloses its expenditure on advertising, promotion and sponsorship. Consider making these figures available to the public (Article 13 and its Guidelines).
9. Gather information on the existing legal mechanisms dealing with civil and criminal liability; gather information on the health damage caused by tobacco and tobacco smoke; gather information on the existing legal action against the tobacco industry (Article 19).
10. Collect and disseminate information on the activities of the tobacco industry which have an impact on tobacco control (Article 20.4.c).
11. Ensure that the exchange of information on practices of the tobacco industry and cultivation of tobacco is promoted and facilitated (Article 20.4.c).

These actions need to be implemented as part of a coordinated approach by all sectors of government and are necessary for the implementation of the Article 5.3 Guidelines. This approach would include an assessment of the existing tobacco industry (growing, processing, manufacturing, etc.) in the country and its strategies. Capacity building and definition of roles is also essential, specifically to determine who will be responsible for implementing and enforcing the required actions. These practical steps are summarized in Box 1 and discussed in more detail below.

Box 1. Proposed framework of action for implementation of Article 5.3 Guidelines

**1. Vision-setting**

**2. Planning**

- a) Know who represents the tobacco industry in the country
  - a.1 Actors in the international and national tobacco production chain
  - a.2 Tobacco industry allies
- b) Know what the industry does
  - b.1 Where to start searching
  - b.2 What the search should cover
- c) Identify tobacco control partners and allies
- d) Know the government structures that address areas of interest to the tobacco industry

**3. Organizing executive action**

- a) Establish legal mechanisms to coordinate Article 5.3 implementation and support tobacco industry monitoring
  - a.1 Disclosure of information and transparency
- b) Coordinate Article 5.3 implementation within the Government and with civil society and the public

**4. Taking action**

- a) Monitor the strategies of the tobacco industry
  - a.1 Marketing mapping
  - a.2 Political mapping
  - a.3 Mapping interference in tobacco-growing regions
  - a.4 Mapping interference from State-owned tobacco companies
- b) Prepare the legal framework and instruments
  - b.1 Establish policies that prohibit any collaboration with the tobacco industry
  - b.2 Establish accountability mechanisms for compliance with Article 5.3 provisions and Guidelines within the government
  - b.3 Set up a firewall between government and the tobacco industry

**5. Including Article 5.3 as a strategic point in tobacco control programmes and plans of action**

**6. Communicating with stakeholders and the public**

**7. Building capacity to implement Article 5.3 provisions and Guidelines**

**8. Monitoring overall Article 5.3 implementation**

## Section 3.1 Vision-setting

Parties should first create their vision of what they want to achieve in relation to the protection of public health policies on tobacco control from the commercial and other vested interests of the tobacco industry. A vision statement answers the question “Where do we want to go?” It articulates dreams and hopes for the country and provides the framework for all strategic planning in this area.

The Guiding Principles of the Article 5.3 Guidelines (pp. 2 and 3) provide a basis for the vision and direction of the Article 5.3 implementation agenda in order to ensure transparency, ethical standards and accountability in interactions with, and the practices of, the tobacco industry.<sup>10</sup> The vision should be set by the government officials who are responsible for the tobacco control agenda at national level with the input of relevant sectors of the government, academia and civil society (but not the tobacco industry or its allies). A multisectoral steering committee or commission that is officially designated to coordinate the implementation of the WHO FCTC might be the ideal forum to establish a vision for the implementation of Article 5.3 and its Guidelines. Countries such as Brazil and Thailand have established such committees. The vision statement should be supported at the highest political level.

An example of a vision statement could be:

*Tobacco control and other public health policies will be adopted and implemented by the government without interference from the tobacco industry or organizations and individuals that work to further the interests of that industry.*

This statement can be supplemented by a list of specific roles, such as:

*To this end, all civil servants and appointed and elected officers of government's branches will:*

- *acknowledge that there is a fundamental and irreconcilable conflict between the tobacco industry's interests and health policy interests;*
- *keep contacts with the tobacco industry or those working to further its interests to a minimum, occurring only in relation to institutional business and always in an accountable and transparent manner;*
- *require the tobacco industry and those working to further its interests to operate and act in a manner that is accountable and transparent;*
- *not grant the tobacco industry incentives to establish or run its businesses;*
- *not engage in partnerships with the tobacco industry or any of its allies;*
- *avoid conflicts of interest for government officials and employees;*
- *work to denormalize the tobacco industry.*

<sup>10</sup> According to the WHO FCTC Implementation Database (<http://apps.who.int/fctc/reporting/database/>, accessed 7 May 2012), 108 Parties have established, or reinforced and financed, a national coordinating mechanism for tobacco control, while 85 have reported having adopted and implemented legislative, executive, administrative or other measures or programmes protecting public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry.

## Section 3.2 Planning

In order to implement the vision, government officers responsible for the tobacco control agenda at national level should plan how to prevent interference by the tobacco industry. For this purpose, mapping and maintaining an updated file of relevant information about the tobacco industry is essential. With a thorough understanding of the tobacco industry presence at country level, the link between the national and the international tobacco business and a clear identification of its influence on tobacco control, the vision can be drawn up and plans can be prepared and implemented. Identifying key partners and allies of the tobacco industry is of utmost relevance, as is identifying the different agencies that undertake activities requiring regular contact with the tobacco industry. Some countries have established advisory or planning groups devoted to implementing and monitoring compliance with Article 5.3 provisions and Guidelines and preparing a plan appropriate to national needs and circumstances. Several steps (outlined below) should be included in the planning process.

### **a) Know who represents the tobacco industry in the country**

The following is a discussion of areas where minimum information is needed to plan for the implementation of Article 5.3. This is an initial step in the establishment of the monitoring process described later in this document.

#### ***a.1 The international and national actors in the tobacco production chain***

An initial mapping of tobacco growers' groups, leaf buyers and processors, manufacturers, wholesale distributors and importers of tobacco products operating in the country is essential to identify the network of key players in the tobacco production chain. These actors are engaged in a legal business and are therefore usually registered as taxpayers (or perhaps as tax-exempt trade associations) and should therefore appear in government records, for example those of the ministry of finance, industry or trade. This information can also be retrieved from specific government reports or the records of a regulatory authority. It is important to determine which businesses are national and which are linked with multinational corporations or conglomerates. In countries with partly or fully State-owned tobacco companies, information may be obtained directly from the government administrative authority in charge of the State-owned tobacco business. However, in these countries, multinationals or other private businesses are often involved as well; these need to be mapped and the relationship between these businesses and the State-owned company should be established.

#### ***a.2 Tobacco industry allies***

It is also relevant to identify the groups and businesses that might act as front groups or allies of the tobacco industry. These groups are mobilized to obstruct, change or delay tobacco control policies, and their role is closely tied to specific measures proposed by the government. It is important to note that the links between these groups and the tobacco industry are often not obvious or transparent; in some instances, groups may not be aware that they are being manipulated by the tobacco industry. Box 2 provides examples of entities that have reportedly defended industry interests in the past in various countries – often, these are groups not directly related to tobacco. Usually, implementing tobacco control measures and regulations leads to reactions from these groups that can then be identified and monitored as part of a monitoring strategy for the tobacco industry.

## Box 2. Examples of tobacco industry allies

- Hospitality (bar, restaurants, hotels)
- Gambling and gaming
- Advertising
- Packaging
- Transport
- Chemical production
- Tobacco retailing
- Agriculture suppliers
- Tobacco growers' associations
- Labour unions
- Investment advisers
- Recipients of tobacco sponsorship
- Recipients of tobacco research funds

Box 3 provides a list of characteristics of a front group that may make such groups easier to recognize.

## Box 3. How to recognize a front group

A front group typically has some (but not necessarily all) of the following characteristics.

1. Engages in actions that consistently and conspicuously benefit the tobacco industry.
2. Avoids mentioning its main sources of funding. Note that this does not necessarily mean absolute concealment of sponsorship. Some front groups do indeed go to great lengths to conceal their origins, funders and personnel links to sponsors. However, the likelihood that these will be exposed anyway, with embarrassing consequences for a group's credibility, has led many companies and their sponsored organizations to opt for a strategy of selective disclosure, in which funders are mentioned in an annual report or other obscure publication, but are not mentioned in the communications that reach the largest audience.
3. It is set up by and/or operated by another organization (particularly a public relations, legal or consultancy firm).
4. Effectively shields a third party from liability / responsibility / culpability.
5. Diverts the debate about an issue to a new or suspiciously unrelated topic (e.g. second-hand smoke as an issue of property rights or personal freedom).
6. Has a misleading name that disguises its real agenda, such as "smoker's rights association". Sometimes a front group's name may seem to suggest academic or political neutrality ("Consumers' Research", "Policy Centre") while, in fact, it consistently churns out opinions, research, surveys, reports, polls and other declarations that benefit the interests of the tobacco industry.
7. Has the same address or phone number as a sponsoring corporation, or a similar group that has since disbanded or been forced out of business by exposure, lawsuits, etc.
8. Consists of a group of vocal "esteemed" academic "experts" who go on national tours, put on media events, give press conferences, seminars or workshops, attend editorial board meetings around the country, etc., who ordinarily would not be likely to have the budget or financing to carry out such events.
9. Claims repeatedly in communications that it is "independent", "esteemed", "credible", etc.
10. Has remarkably low individual membership fees, or free membership. Front groups typically need individual members to bolster their claims of being a "grassroots" organization. They need these individuals' representation more than their money – since they are already well-funded by corporations – so individual dues will typically be very low, while group or corporate dues are much higher.

## **b) Know what the tobacco industry does**

Having a clear picture of tobacco industry positions, plans and strategies in your own country, in other countries and internationally is the second step in understanding the setting in which Article 5.3 will be implemented. This identification process should take place in parallel with the implementation of the WHO FCTC and guidelines.

### ***b.1 Where to start searching***

Information can be found both in the tobacco industry's own materials and in other sources, especially interest groups related to the tobacco industry, such as financial analysts, as well as the government, academia, nongovernmental organizations and the media. Searching the Internet is one of the most simple and inexpensive ways of assessing and monitoring the activities of the tobacco industry and its partners.

#### *b.1.i Tobacco industry own materials*

- *Web site:* In general, companies have a Web site that can be consulted and provide some links to allies' Web sites. A simple search on the Internet can provide the link of the tobacco company sites in the country. Shareholders and investment groups' Web sites can also be consulted.
- *Publications, annual reports:* Regular publications, trade publications, newsletters and promotional materials can be important sources of information and may be available both in electronic and printed media.
- *Internal tobacco industry documents from depositories and related research studies:* Tobacco industry internal documents can be searched in the online archives that were made available to the public as a result of legal action. A practical manual on searching the industry documents is available,<sup>11</sup> as well as tutorials on the online archives.<sup>12</sup> There are several reports and academic studies on the tobacco industry internal documents that can be used as well.<sup>13</sup>

#### *b.1.ii Information on the tobacco industry from other sources*

Other sources of information are relevant when collecting information about the tobacco industry. Relevant information can be collected from the Internet, printed media and other sources. They include inquiries, reports from civil society, peer-reviewed scientific articles and specialized publications. Below are a few examples of possible sources of information. These vary from country to country depending on the political structure and the nature of the tobacco trade.

- *Government agencies:* Government agencies that collect taxes or regulate tobacco manufacture and trade usually have information about the tobacco industry (online or in print). This includes public records from regulatory authorities. In Brazil, for example, information is gathered on a regular basis about tobacco products available on the market (Box 4).

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11 *The tobacco industry documents. What they are, what they tell us, and how to search them. A practical manual*, 2nd ed. Geneva, World Health Organization, ([http://www.who.int/tobacco/publications/industry/TI\\_manual\\_content.pdf](http://www.who.int/tobacco/publications/industry/TI_manual_content.pdf), accessed 7 May 2012).

12 Legacy Tobacco Documents Library (<http://legacy.library.ucsf.edu/>, accessed 7 May 2012).

13 A listing is available on the Web site of the University of California, San Francisco (<http://www.library.ucsf.edu/tobacco>, accessed 7 May 2012).

## Box 4. Brazil's ANVISA: information gathered annually

Brazil's National Health Regulatory Agency, ANVISA, is responsible for the regulation of tobacco products. By virtue of resolution RDC 320/199911, ANVISA determines mandatory registration of all tobacco products manufactured in, imported into and exported from Brazil. The tobacco industry is required to submit annual reports that identify and list by brand all ingredients and additives used in every tobacco product manufactured in the country. ANVISA has a Tobacco Products Management Unit whose tasks include:

- monitoring the submission of annual reports by the tobacco industry and managing the database which collects information on tobacco products (RDC 320/199911, ANVISATAB);
- guiding the tobacco industry on registration mechanisms and procedures to comply with existing legislation;
- informing the public about government tobacco control action;
- monitoring companies which do not comply with existing legislation and penalizing those which violate Brazil's tobacco laws; the results of the annual registration are updated and posted on ANVISA's Web site, under the heading of cigarettes or other tobacco products (cigars, cigarillos, tobacco for pipes, tobacco for water pipes, snuff) – an important source of information on the legal market and companies for various sectors and levels of government.

- *Government officials and political parties:* The tobacco industry has supporters in government at national and subnational levels, often in – although not limited to – the agrobusiness and trade areas. Elected representatives working to further tobacco industry interests can be recognized by their defence of tobacco industry positions. Identifying industry supporters within the legislative branch and monitoring their activities can provide useful information for mapping tobacco industry strategies. Political parties that accept contributions and donations from the tobacco industry should also be identified, and their conflict of interest with regard to the tobacco control agenda should be made public. Many countries have strategies to address transparency in this regard. For example, in Canada, lobbying at the federal level is regulated under the Lobbyists Registration Act (see Annex 2), and it is illegal for corporations of any kind to make political campaign contributions for electoral purposes. Furthermore, the Lobbyists Registration Act introduced a requirement that consultant lobbyists (e.g. those for tobacco-related activities) file a return with the Commissioner of Lobbying if they communicate with a designated public office holder (DPOH) in certain circumstances. The associated register can be searched by anyone through a publicly accessible Web site. Mapping the public positions of representatives of other branches of government can also be useful.
- *Growers' associations, trade unions and chambers of commerce:* Groups related to the tobacco production chain, from growing to manufacturing and distribution, can provide relevant information on tobacco industry strategies. These groups include industry-funded tobacco growers' groups, trade unions and retail chambers of commerce.
- *Front groups:* Groups that are also allies of the tobacco industry (see Box 3), such as those in the hospitality sector, can provide relevant information on the strategies of the tobacco industry, especially in relation to common projects, e.g. opposition to smoke-free laws which implement Article 8 of the WHO FCTC. Other groups that can be monitored include sites and communication materials from lobbyists, legal advisers and consultants, think tanks, advertising agencies and smokers' rights groups.

- *Print, images and electronic media*: Articles and interviews, paid-for media and entertainment media should be included in routine screening of tobacco industry activities. Examples of industry activities that can be tracked in the media can be found in the WHO Tobacco Industry Monitoring database.<sup>14</sup> Other sources include talk shows, especially on political and economic subjects, social media sites and proceedings of trade congresses.

### ***b.2 What the search should cover***

Relevant information to be used for planning purposes and to be shared with tobacco control groups includes tobacco industry strategies and actions for interfering with the policy-making process, the names of chief executive officers, members of boards of directors and other decision-makers in the tobacco industry, the names of key groups that further the industry's interests and the activities of legislators who support their cause. Key information and all links to Web sites of the tobacco industry and its supporters should be collected, listed and made publicly available. This includes information and links for international tobacco industry activities.

A dedicated “tobacco industry watch” Web site would be useful to provide regular information. This site could be created by the governmental tobacco control programme or in partnership with a nongovernmental organization or academia.

### **c) Identify tobacco control partners and allies**

Identifying partners and allies in implementing Article 5.3 is crucial, as noted in the Article 5.3 Guidelines. Parties may consider all traditional public or governmental agencies and nongovernmental organizations that play a significant role in the tobacco control movement, and may also consider new allies, for example: governmental agencies and nongovernmental organizations focused on human rights or, more specifically, women's and children's rights, or on environmental protection or non-health professional associations. The hospitality sector and other businesses may become allies if they are regularly briefed and informed of the benefits of tobacco control interventions for their businesses.

It is important to go beyond the health sector and find out whether multisectoral resources exist and should be included. For example, the governmental office of ethical conduct could be a partner in ensuring that a code of conduct is applied, if one exists or is being developed, that it includes the disclaimer of conflict of interests and is disseminated to all governmental sectors and agencies, including the ministries of labour, trade, justice, finance and communications.

Cooperation between government and civil society is essential in monitoring and countering tobacco industry interference by means of sound tobacco control measures, especially since civil society is in a privileged position to ensure that information about the tobacco industry is collected on a regular basis and is clearly and promptly disseminated to stakeholders and the public. Ongoing initiatives by nongovernmental organizations should be identified as well. Several nongovernmental organizations maintain Web sites with tobacco industry monitoring components (Box 5). Annex 1 provides a list of additional resources.

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<sup>14</sup> <http://www.who.int/tobacco/industry/monitoring/en/index.html>, accessed 7 May 2012.

## Box 5: Examples of Web sites with tobacco monitoring information from nongovernmental organizations\*

- Ash Australia:  
[http://www.ashaust.org.au/v3/action\\_accountability.htm](http://www.ashaust.org.au/v3/action_accountability.htm)
- Tobacco Control Alliance, Brazil:  
<http://actbr.org.br/>
- Southeast Asia Tobacco Control Alliance:  
<http://www.seatca.org/>
- Corporate Accountability International, United States of America:  
<http://www.stopcorporateabuse.org/tobacco-campaign>
- Campaign for Tobacco-Free Kids, United States of America:  
[http://www.tobaccofreekids.org/what\\_we\\_do/industry\\_watch/](http://www.tobaccofreekids.org/what_we_do/industry_watch/)
- Action on Smoking and Health, United Kingdom:  
<http://www.ash.org.uk/>

\* All sites accessed 7 May 2012.

In several countries, the role of disseminating tobacco industry-related information to the public, media, government employees and elected officials falls upon civil society, which develops and or disseminates research and advocacy materials informing about industry tactics. Civil society also has an important watchdog role in attending meetings between tobacco industry representatives and elected officials and civil servants, particularly at times where tobacco control measures are being debated in the legislature or considered for implementation.

Several countries report that they have provided public access to tobacco industry information, and work in partnership with nongovernmental organizations to inform the public, the media and policy-makers.<sup>15</sup> Canada is one such country. In Germany, a tobacco products database is available on the Web site of the Federal Ministry of Food, Agriculture and Consumer Protection.<sup>16</sup> In Thailand, governmental and non-governmental organizations collaborate to provide the public with information on tobacco industry activities through publications, a Web site, meetings and the media (press releases, press conferences). In Hungary, the National Institute for Health Development Web site provides information on tobacco industry strategies and tactics designed to interfere with public health.<sup>17</sup>

#### d) Know the government structures that address areas of interest to the tobacco industry

It is essential for a coordinating unit or focal point on Article 5.3 to identify and receive regular information from governmental agencies which are responsible for coordination and regulation of activities that affect the tobacco industry's business or are of interest to the tobacco industry. They include the finance and trade authorities. In countries that manufacture tobacco products, labour and industry authorities are equally relevant. In countries that grow tobacco, agriculture and agrarian development authorities are usually in charge of regulating agrobusiness initiatives. In countries with a State-owned company, it is important to map out the governmental structure in charge of the tobacco industry and the decision-making and reporting lines in place. An additional area of monitoring is to identify government investment in the privately-owned tobacco industry. Countries that have large stakes in privately owned domestic or multinational tobacco companies may be in conflict when implementing the Article 5.3 Guidelines, which recommend divestment from direct interests in the tobacco industry. For example, the Norwegian Parliament has passed ethical standards that determine that Government Pension Fund Global (GPF) can no longer invest in the tobacco industry.<sup>18</sup>

15 WHO FCTC Party reports ([http://www.who.int/fctc/reporting/party\\_reports/en/index.html](http://www.who.int/fctc/reporting/party_reports/en/index.html), accessed 7 May 2012).

16 German Federal Ministry of Food, Agriculture and Consumer Protection ([http://service.ble.de/tabakerzeugnisse/index2.php?site\\_key=153&site\\_key=153](http://service.ble.de/tabakerzeugnisse/index2.php?site_key=153&site_key=153), accessed 7 May 2012).

17 Hungarian National Institute for Health Development (<http://color.oefi.hu/konyv.htm>, accessed 7 May 2012).

18 Norwegian Ministry of Finance. Ansvarlig forvaltning av oljeformuen [New guidelines on responsible investment practices in the Government Pension Fund Global (GPF)] (<http://www.regjeringen.no/en/dep/fin/press-center/Press-releases/2010/Newguidelines-Pension-Fund-Global-GPF.html?id=594246>, accessed 7 May 2012).

## Section 3.3 Organizing executive action

### a) Establishing legal mechanisms to coordinate Article 5.3 implementation and support the tobacco industry monitoring process

Just as governments regulate other consumer products such as drugs, foods and pesticides, a governmental authority should be charged with regulating tobacco. Ultimately, a regulatory authority will provide a legal framework for monitoring the tobacco industry presence in the market and ensuring compliance with existing tobacco control regulation and legislation.

#### *a.1 Disclosure of information and transparency in conduct*

A regulatory authority can be empowered by law to mandate the tobacco industry to provide regular and relevant information about tobacco production, marketing, trade and old and new products and brands on the market, as proposed by the Article 5.3 Guidelines.

The structure of an authority to regulate tobacco products depends on the structure of the government. Brazil, the United States of America, the Philippines and Mexico have health regulatory agencies that regulate tobacco products as part of their mandate. In Turkey, a specific authority has been established for alcohol and tobacco. Other countries like Canada, Norway and Japan rely on the ministry of health to regulate tobacco products. In all cases, these regulatory authorities must meet the tobacco industry regularly; this communication cannot be avoided, so it must be controlled by a clear code of conduct. As per the Article 5.3 Guidelines, Parties should interact with the tobacco industry only when strictly necessary and only to the extent necessary to enable them to regulate the tobacco industry and tobacco products effectively. Where interactions with the tobacco industry are necessary, they should be conducted transparently and, whenever possible, in public (e.g. public hearings, public notice of interactions, disclosure of records of such interactions to the public). Thus, while some interactions are necessary, clear guidance on how and when any public official should interact with the tobacco industry is an essential component of implementation of Article 5.3. Several models exist (Table 3).

A few governments require the tobacco industry to disclose limited information on lobbying activities, campaign contributions, advertising and promotional expenditures (e.g. the United States of America), smoke emissions and additives (e.g. Canada), demonstrating that this is an invaluable mechanism for collecting relevant information on new marketing strategies and trends of products offered to consumers. For example, in its Law on Tobacco Control, the Lao People's Democratic Republic obliges the tobacco industry to comply with principles of transparency (see Annex 3).

Table 3. Examples of countries with established guidelines for interaction with the tobacco industry

Country	Guideline
Australia	Meetings held between the Australian Department of Health and Ageing and the tobacco industry are notified on the Australian Government Web site.
Canada	The primary channels of communication between government and the tobacco industry are limited to (i) technical discussions as required by national law with regard to both health and tax-related regulations and (ii) litigation-related responses, as required by national law and practice.
Finland	Interaction with the industry is limited mainly to open requests for comment.
Mexico	The public has access to details on meetings between government and the tobacco industry through the Instituto Federal de Acceso a la Información (Federal Institute for Access to Information).
Panama	All meetings between the Ministry of Health and the tobacco industry take place on the premises of the Comisión Nacional para el Estudio del Tabaquismo (National Commission for the Study of Tobacco Use) and the meetings are minuted.
Philippines	Adopted a policy limiting health department interaction with the tobacco industry.
Singapore	The Health Promotion Board has guidelines governing interaction with the tobacco industry. Meetings are minuted and discussions follow a previously agreed agenda.
Thailand	The Department of Disease Control of the Ministry of Public Health issued a regulation on how to interact with the tobacco industry, “in order to prevent the sanction of public policy on tobacco control by tobacco entrepreneurs and related persons, and to determine measures for contacting and coordinating with tobacco entrepreneurs and related persons to ensure transparency”. All correspondence is recorded, discussions follow a previously agreed agenda, and meetings are minuted and made public.

Note: While these measures represent progress, most apply only to health departments' interactions with the tobacco industry, whereas the Article 5.3 Guidelines should be applied to all governmental sectors which interact with the tobacco industry.

Additionally, several countries have codes of conduct for civil servants, which could be applied to the implementation process for Article 5.3.<sup>19</sup>

At the intergovernmental level, WHO has distributed Organization-wide *Guidelines for responding to requests made by the tobacco industry to meet with WHO* (see Annex 4) to ensure the integrity of health policy development at any WHO meeting.

WHO has published a guide on identifying conflicts of interest between its Collaborating Centres and the tobacco industry, as well as a declaration of interests for experts providing consultation services for WHO (see Annexes 5 and 6). As per the Article 5.3 Guidelines, Parties should ensure that such conflict-of-interest disclosures are included in the bidding and contractual process with all companies and groups with whom the government does business.

<sup>19</sup> For one example, see the Code from New Zealand available at <http://www.ssc.govt.nz/code>, accessed 7 May 2012.

### **b) Coordinating Article 5.3 implementation within the government and with civil society and the public**

It is fundamental to identify a focal point in the government with a mandate to integrate initiatives from different sectors to ensure that Article 5.3 is implemented and that a firewall is established between the government and the tobacco industry. It is also important to identify the agency or institution that will be in charge of monitoring tobacco industry activities and strategies and will disseminate information regularly to tobacco control stakeholders. The Article 5.3 focal point and the agency or institution in charge of monitoring tobacco industry activities (which may or may not be the same, but should coordinate closely in any case) could link to, or be part of, an interagency or interministerial advisory group or steering committee, such as the ones established in many countries in order to implement the WHO FCTC.

The focal point can engage in consultations with and within the government and with civil society to collect information from governmental agencies engaging in direct tobacco-related activity and all others, and provide feedback and guidance on ways of preventing tobacco industry interference and ensuring compliance with Article 5.3.

## **Section 3.4** Taking action

According to Article 5.2.b of the WHO FCTC, every Party has the obligation to adopt and implement effective legislative, executive, administrative and/or other measures and cooperate, as appropriate, with other Parties in developing appropriate policies for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke. A tobacco control act usually includes provisions regulating the manufacture, distribution and marketing of tobacco products, as well as other specific provisions for protecting public health (e.g. comprehensive bans on indoor smoking, tobacco advertising, promotion, sponsorship, etc.). When considering these legislative, executive, administrative and/or other measures, Parties need to take into account Article 5.3 and the recommendations included in its Guidelines. Some of these considerations are discussed below. Additionally, some Parties may need to adopt legislation to ensure that all sectors of government comply with all recommendations of the Article 5.3 Guidelines.

### **a) Monitoring the strategies of the tobacco industry**

When Parties possess the necessary information about the tobacco industry presence in the country, with the links and other background materials listed above, they can identify the different strategies used by the tobacco industry and monitor its activities regularly. The Article 5.3 Guidelines recommend that Parties institute measures whereby the tobacco industry is required fully to disclose its activities and the amount it spends on each activity.

In Canada, the tobacco industry must report to the Government on its research and marketing activities under regulations of the Tobacco Act. Public access to information about the tobacco industry which is reported to the Government is controlled by these regulations and by the Access to Information Act and Privacy Act, which take into consideration confidential business information, among other things. Table 4 provides suggestions for setting up industry monitoring in some areas, but Parties should identify any additional areas which need to be monitored.

Table 4. Monitoring of tobacco industry strategies and interference

<b>a) Marketing mapping</b>		
	Examples of information gathered	Examples of sources of information
1. Price marketing strategies	Interference with tax and price policies, price promotions, distribution of free samples, etc.	Finance ministry Web site, regulatory agency Web site, point-of-sale information sheets and advertisements, Google, media news
2. Product marketing strategies	Interference with product regulation, new product designs, new brands	Regulatory initiatives in the legislative authority or regulatory agency, industry Web sites, advertising agencies, newspapers, search engines
3. Placement marketing strategies	Interference with placement regulation, media news about interference, placement promotion strategies	Retailers' Web sites, industry Web sites, advertising agency Web sites
4. Publicity marketing strategies	Interference with legislation banning tobacco advertising, promotion and sponsorship, industry arguments and marketing strategies in countering tobacco control measures	Advertising agencies Web sites, media news, Google, corporate marketing
<b>b) Political mapping</b>		
1. Legislators, ministries, judges and other authorities	Government and elected officials funded by the industry; activities in legislative authority and government; key parliamentarians, judges and government officials favouring the tobacco industry	Congress and parliamentarians' Web sites, government Web sites, media, Google
2. Organizations receiving contributions from the tobacco industry	Who, where and what has been funded; use of arguments by front groups to oppose tobacco control measures	Web sites, university or charity Web sites, tobacco industry, media, political party information, seminars and meetings on selected topics
<b>c) Mapping of tobacco-growing regions</b>		
	Types of information conveyed to tobacco growers, how they are reacting to tobacco control measures; key players on the side of the tobacco industry	Tobacco-growing region Web sites, tobacco growers' associations, tobacco industry Web sites, Google, media, interviews with tobacco growers
<b>d) Mapping of State-owned tobacco companies</b>		
	Influence of the tobacco sector on tobacco control measures; key players who promote misleading information	Government Web site (trade sector), transnational tobacco companies' Web sites, Google

## **b) Preparing the legal framework and instruments**

### ***b.1 Establishing policies prohibiting any collaboration with the tobacco industry***

Any government initiatives that do not comply with Article 5.3 should be identified, specifically relating to provisions in formal and informal agreements or collaboration with the tobacco industry, including State-owned tobacco companies. This includes collaborations that may not be perceived as being in flagrant opposition to Article 5.3 provisions and Guidelines, such as endorsement of industry-funded youth programmes, scholarship initiatives, etc. Also policies that make compliance with Article 5.3 provisions and Guidelines mandatory should be introduced as part of the code of conduct of public servants, policy-makers, decision-makers and dignitaries. This includes the disclosure and management of conflicts of interest (including a Conflict of Interest form for governmental meetings, government employees and elected officials) and policies for any sort of interaction with the tobacco industry or any entity working to further its interests, as previously discussed. Thailand has developed a policy on interaction with the tobacco industry (see Annex 7).

Canada has adopted administrative measures, such as Health Canada's policy of not collaborating with the tobacco industry on tobacco control programming (the Article 5.3 Guidelines recommend that no sector in government should make a partner of the tobacco industry, so the Health Canada policy would need to be expanded to other governmental agencies).

### ***b.2 Establishing accountability mechanisms for compliance with Article 5.3 provisions and Guidelines within the Government***

- Code of conduct for public servants, policy-makers, decision-makers and dignitaries.

### ***b.3 Setting up a firewall between government and the tobacco industry***

- *Countries that do not have State-owned tobacco companies.*

Establishment of clear and well-framed firewall mechanisms to avoid interference by the tobacco industry is paramount in facilitating the implementation of sound tobacco control measures, activities and regulations and ensuring compliance with Article 5.3 provisions and Guidelines. Several countries have established policies excluding tobacco industry participation in certain policy-making arenas. The Seychelles' Tobacco Control Act, 2009 (Act No. 14 of 2009) creating the National Tobacco Control Board specifically excludes from participating in the Board anyone with interests in the tobacco industry ("A person shall not be appointed as a member of the Board if the person is – (a) a representative of, or a person involved in the business of manufacturing, importing, exporting or selling of tobacco or tobacco products or smoking accessories; (b) an owner or shareholder or representative of, or has any other interest in, an entity that manufactures, imports, exports, or sells tobacco or tobacco products or smoking accessories").<sup>20</sup> Latvia excluded the tobacco industry's representative from the State Committee on Restriction of Smoking, amending previous legislation that included such a representative.<sup>21</sup>

<sup>20</sup> Available at <http://www.tobaccocontrolaws.org/legislation/country/Seychelles>, accessed 7 May 2012.

<sup>21</sup> The Latvia WHO FCTC implementation report is available at: [http://www.who.int/fctc/reporting/party\\_reports/lva/en/index.html](http://www.who.int/fctc/reporting/party_reports/lva/en/index.html), accessed 7 May 2012.

Several research and civil society organizations (for example, Cancer Research UK, Finnish Lung Health Association) have implemented policies of no interaction with the tobacco industry – such initiatives should be expanded to governmental sectors.

- *Countries with State-owned tobacco companies*

These countries should ensure a separation of roles, so that the agency responsible for management or oversight of the goal of ensuring a commercial return from tobacco businesses for the government is completely separate from the agency responsible for regulatory control of the industry and for implementing the national tobacco control programme (e.g. corporate governance, tobacco control). (See Box 6.)

Box 6. Proposed framework for implementation of Article 5.3 Guidelines in countries which have ownership in the tobacco industry

The following approaches should be considered by countries to implement the Article 5.3 Guidelines as they relate to the protection of governmental decision-making, policy-making and implementation from tobacco industry and similar conflicting interests.

- ✓ Ensure that separate State agencies are made responsible (preferably through legislation, with a clear division of roles) for each of the following:
  - oversight, management or promotion of the commercial goals of government aimed at ensuring a return on the State-owned tobacco industry;
  - regulation of industry and in particular, tobacco control.
- ✓ Consider implementing, through legislation, parameters within which State-owned tobacco companies must act, e.g. the ability of the Government, via the agency that oversees the commercial mandate of State-owned tobacco companies (“the regulator”), to impose a requirement to consider social and environmental consequences and to take certain steps to address those consequences.
- ✓ Ensure that any ministerial directions to State-owned tobacco companies are declared to a representative body (e.g. Parliament) and are otherwise made public.
- ✓ Establish clear reporting requirements by all State-owned tobacco companies to the regulator.
- ✓ Consider means by which freedom-of-information legislation could enable nongovernmental organizations and civil society to secure further information (with appropriate safeguards for commercially-sensitive information).
- ✓ Ensure that the regulator provides an annual report to a representative body on its directions and guidance to those companies and all policies relating to the expectations placed on, and the monitoring of, those companies.
- ✓ Exclude the regulator from participation in any committees overseeing the implementation of the WHO FCTC or the development of policy and legislation on tobacco control and from participation in delegations to the Conference of the Parties of the WHO FCTC or other meetings related to the treaty.
- ✓ Otherwise ensure that all requirements are applied to all State-owned tobacco companies in the same way as they are applied to private industry interests.

Source: Matt Allen, 2009

### **Section 3.5** Including Article 5.3 as a strategic point in tobacco control programmes and plans of action

The Article 5.3 provisions and Guidelines should not only be taken into account in all areas of the national plan of action, but should also have their own separate area in the workplan, showing the various activities needed to implement Article 5.3.

Including tobacco industry monitoring activities as part of the tobacco control surveillance system is crucial in order to ensure that a structured mechanism for collecting information is in place.

Any organization (regardless of governmental or nongovernmental status) working in any form of tobacco control partnership or alliance and/or implementing common programmes, plans of action, etc. should consider adopting internal policies for preventing tobacco industry interference, including codes of conduct and accountability mechanisms.

### **Section 3.6** Communicating with stakeholders and the public

Communicating relevant information to policy-makers, decision-makers, tobacco control stakeholders and the public is essential in order to address the interference of the tobacco industry in tobacco control policies. Suggested actions include the following.

- Provide regular and relevant information to show what the industry is doing against the interests of public health. A dedicated Web site will ensure that information is available and accessible to the various target groups.
- Establish a mechanism for regular dissemination of information. Industry watches, news bulletins and mailing lists are among the existing ways to keep relevant stakeholders informed.
- Conduct awareness-raising and media campaigns about the strategies the industry is using to mislead the public about its products and the strategies it is using to interfere with, delay or prevent tobacco control measures. Use blogs, social media and various information tools to ensure that the information reaches the intended audience.
- Use the media to disseminate information every time a new tobacco industry strategy is identified.
- Conduct public consultations and hearings when there is a mandatory consultation process. This will ensure the transparency and visibility of the opposing strategies of the tobacco industry.

### **Section 3.7** Building capacity to implement the Article 5.3 provisions and Guidelines

It is fundamental to introduce information and action plans for the Article 5.3 provisions and Guidelines into all initiatives intended to build capacity in tobacco control. These include training workshops, distance learning materials, tobacco control courses and all other capacity-building initiatives.

It is relevant to include both national and international strategies of the tobacco industry to derail tobacco control measures. Scientific papers, guidelines and handbooks and “How to” publications should be used as background materials. WHO information materials on countering tobacco industry interference should be also made available as part of the background materials prepared for capacity-building activities.

### **Section 3.8** Monitoring overall Article 5.3 implementation

The focal point for implementation of Article 5.3 should prepare a plan for monitoring the enforcement of Article 5.3 provisions and Guidelines. This includes enforcement of codes of conduct, monitoring of any partnerships and collaboration between the tobacco industry and government and other relevant regulations or legislation.

One important component of enforcement and compliance with Article 5.3 is for the government focal point to conduct a periodic assessment of how well existing policies and regulations address implementation of Article 5.3. Table 5 offers examples of self-assessment questions, with their rationale.

Table 5. Examples of self-assessment questions and rationale for determining compliance with Article 5.3 provisions and Guidelines

Self-assessment questions	Rationale
<p>Are there government employees, elected officials, journalists, and members of the public who are unaware that the tobacco industry is an obstacle to achieving public health?</p> <p>Are there government employees, elected officials, journalists, and members of the public who are unaware of the role of the industry in financing front groups and building alliances?</p>	<p>At present, the vast majority of the public, civil servants, elected officials, and the media in many countries are not aware of the fact that the tobacco industry exerts a negative influence on the development of public health policies and are, therefore, more vulnerable to such influence. Furthermore, the role of the tobacco industry in creating and/or financing front groups and building alliances with other business and groups in order to foster its interests and interfere with tobacco control is equally unknown to the majority of the public, civil servants, elected officials and the media. Awareness of the role of the industry and its history of interfering with tobacco control will assist in the enforcement and promotion of measures to promote public health and protect these measures against undue industry influence.</p>
<p>Do tobacco industry representatives have wide-ranging access to government personnel and elected officials?</p> <p>Are the context and content of such interactions made public?</p>	<p>Evidence demonstrates that the tobacco industry takes advantage of access to elected officials and government employees, through business, administrators or any other connection, to provide input into public policies and measures. Such input aims to protect the industry's interests and not the public's health. Interactions that are limited to matters on public record and full disclosure of the content and context of such interactions will allow those who work for the public's health and tobacco control to counter any negative interference created by the tobacco industry. It will also remove the element of secrecy in interactions between the industry and government.</p>
<p>Is there a partnership or voluntary agreement between the government (any department or sector) and the tobacco industry?</p> <p>Has the tobacco industry in your country ever launched any kind of youth smoking prevention campaign or public education campaign?</p> <p>Have representatives of the tobacco industry ever helped to write legislation or offered language advice?</p>	<p>Evidence demonstrates that voluntary agreements with the tobacco industry, in any aspect of tobacco control, are detrimental to public health in the short or long term. The main objective of these agreements, from the industry's perspective, is to delay or avoid legislation and regulations that promote effective tobacco control (and subsequently decrease industry sales and profits). Examples abound in the area of voluntary marketing codes, youth smoking prevention programmes and other public campaigns that serve to enhance the industry's image with no positive health impact. This negative impact of voluntary agreements and partnerships extends to non-tobacco-related campaigns and efforts, where at first they may be perceived as positive but in the long term will serve to foster tobacco industry interference in public health policy.</p> <p>Similarly, experience shows that legislative or regulatory language proposed by the tobacco industry, or those acting on its behalf, promotes weaker tobacco control legislation and regulations that are not in compliance with the evidence-based articles of the WHO FCTC.</p>
<p>Has any government employee or elected official received any financial benefits from the tobacco industry, through previous employment or other means?</p> <p>Has a university, research or a government institute report been funded by the tobacco industry and such funding been disclosed?</p> <p>Are there situations where a government contract was issued to a company or consultant that may also perform services for the tobacco industry?</p> <p>Has any political party, candidate for office or elected official received contributions from the tobacco industry?</p> <p>Has any government body, committee, or advisory board that discussed tobacco control or public health policy included members of the tobacco industry?</p>	<p>Research demonstrates that the tobacco industry has frequently used its significant economic power to fund political campaigns, research and social causes espoused by elected officials. Disclosure, at a minimum, of some of these contributions will facilitate the detection of pro-industry positions taken by government officials.</p> <p>Additionally, the tobacco industry has used its power and influence to infiltrate government bodies with the twin intent of gathering information and influencing decision-making in such a way that any regulatory or legislative measures do not negatively impact its sales and profits. Such access to power is gained by hiring or otherwise engaging former government officials as members of boards and in other capacities within the industry.</p> <p>Real and perceived conflicts of interest of government officials must be publicly disclosed, and these officials should not participate in the development of tobacco control measures or policies that affect tobacco control. Officials with a fiduciary interest in the financial well-being of the industry should never participate in the development of tobacco control policies.</p>

Self-assessment questions	Rationale
<p>Do the government and the public know how much money the tobacco industry spends on marketing (for example, advertisements, promotion or sponsorship, if these are not yet banned)?</p> <p>Do the government and the public know how much money the tobacco industry spends on corporate social responsibility (CSR) programmes, if these are not yet banned?</p> <p>Do the government and the public know how much money the industry makes in your country, and from what brands and what population segments?</p>	<p>Even in countries with comprehensive bans on tobacco marketing, marketing in some forms still occurs, for example, through retailer incentives or CSR activities, and the promotion of such activities. Knowledge of the amount of money spent on marketing offers a measure of the importance of the market for the industry and the need for funds to counter the industry through tobacco control. Knowledge of the areas on which marketing is focused also provides information on loopholes and other segments of tobacco control where legislation or regulation need to be revised. Similarly, knowing the brands and population segments that generate revenue on a country basis helps when targeting counter-measures and holding the industry accountable for differences in smoking prevalence, for example, in the case of brands largely consumed by minors and young people, subgroups, etc.</p>
<p>Does one or more branches of government approve of the tobacco industry's CSR activities (to the extent that it promotes/supports such activities)?</p> <p>Does any government sector or official endorse and/or act as a partner in tobacco industry programmes and initiatives?</p> <p>Do tobacco industry press releases and other marketing materials about contributions to "worthy" causes amount to promotion of the tobacco industry as a "good" or responsible industry?</p>	<p>Research has demonstrated that the tobacco industry engages in CSR activities with the intent of presenting itself as "just" another good corporation and that these activities amount to no more than another form of marketing. There is an inherent contradiction between the tobacco industry and social responsibility, given the global scope of the harm caused by tobacco products. While on the surface some of these activities might appear to promote social welfare, environmental and other causes, in essence the tobacco industry engages in these activities in order to infiltrate a country's social fabric, building alliances that are called upon to side with the tobacco industry when government promotes regulatory measures that restrict such marketing activities.</p> <p>The tobacco industry, in its promotional materials, takes ample advantage of any government support provided for its CSR activities and reinforces its image as a partner of government. Such partnerships, however, are inherently contradictory.</p>
<p>Does the tobacco industry receive government subsidies, tax breaks and other forms of relief or incentive?</p>	<p>The tobacco industry is highly profitable and in a position to pay the same taxes and tariffs as any other industry. Additionally, as an industry whose products cause immense harm to the health, economic and environmental well-being of nations, it should not be granted any special favours.</p> <p>Often such relief and incentives are granted in exchange for promises of job creation. Experience demonstrates that such promises are often short-lived – as a globalized industry, tobacco companies often move to regions or countries where the market economy will minimize their costs and enhance their profits.</p> <p>Government investment in tobacco companies creates a perverse incentive, where success of tobacco control measures will adversely affect revenues, creating a conflict of interest that needs to be avoided.</p>
<p>Does the State-owned tobacco company or its products receive any advantage or protection not granted to non-State tobacco companies?</p> <p>Do the governmental agency or employees in charge of State-owned companies have a role in setting tobacco control policy or participate in the Conference of the Parties of the WHO FCTC?</p> <p>Has the government established any mechanisms to prevent the setting and implementing of tobacco control policies by the State-owned tobacco company management?</p>	<p>Parties that have fully or partly State-owned tobacco companies have to take additional care to ensure that their tobacco control and public health policy-setting and decision-making have a mechanism to protect them from the interests of the tobacco industry. Tobacco products manufactured by State-owned tobacco companies are as harmful as products manufactured by private companies, and should receive the same treatment when the public's health is at stake. Similarly, employees of State-owned tobacco companies have their companies' best interests to protect, and any regulatory or legislative measures for tobacco control that may affect the economic well-being of the company will be opposed, therefore creating a conflict of interest that is similar to that of employees of private companies. Therefore, under the Guidelines, State-owned companies and employees should be treated in the same manner as their privately owned counterparts, and policies affecting the behaviour of government officials in relation to conflict of interests, for example, are equally applicable.</p>

# Annex 1.

## Where to find additional information about tobacco industry interference with public health

### World Health Organization

*Tobacco industry interference with tobacco control*. Geneva, World Health Organization, 2009 (<http://www.who.int/tobacco/publications/industry/interference/en/index.html>)<sup>22</sup>

World Health Organization. Watching and countering the industry (<http://www.who.int/tobacco/industry/en/>).

Pan American Health Organization/WHO Region of the Americas tobacco-industry-related publications (<http://www.paho.org/english/ad/sde/ra/Tobindustry.htm>)

WHO Regional Office for the Eastern Mediterranean publications (<http://www.emro.who.int/tfi/InPrint.htm>)

WHO Regional Office for Europe publications (<http://www.euro.who.int/en/what-we-do/health-topics/disease-prevention/tobacco>)

WHO Regional Office for the Western Pacific tobacco materials (<http://www.wpro.who.int/topics/tobacco/en/>)

### Academic articles

This is a collection of articles and reports that discuss tobacco industry interference in different realms of public health policy-making and provide examples of a vast array of strategies in different areas and countries. University of California at San Francisco, Tobacco Control Archives, Research into Tobacco Industry Activity (<http://www.library.ucsf.edu/tobacco/activity>, accessed 7 May 2012).

### Civil society

A large number of civil society groups produce regular reports on tobacco industry activities from different countries and regions. A few examples are provided below.<sup>23</sup>

Action on Smoking and Health – United Kingdom (<http://www.ash.org.uk/>)

Action on Smoking and Health – Australia (<http://www.ashaust.org.au/>)

Action on Smoking and Health – New Zealand (<http://www.ash.org.nz/?t=25>)

Action on Smoking and Health – Scotland (<http://www.ashscotland.org.uk/>)

Campaign for Tobacco Free Kids Tobacco Industry Watch ([http://www.tobaccofreekids.org/what\\_we\\_do/industry\\_watch/](http://www.tobaccofreekids.org/what_we_do/industry_watch/))

Campaign for Tobacco Free Kids International Issues – Advertising and Promotion ([http://www.tobaccofreekids.org/what\\_we\\_do/international\\_issues/advertising\\_promotion/](http://www.tobaccofreekids.org/what_we_do/international_issues/advertising_promotion/))

Corporate Accountability International tobacco campaign (<http://www.stopcorporateabuse.org/tobacco-campaign>)

Framework Convention Alliance (including publications on tobacco industry activities from member organizations) ([http://www.ftc.org/index.php?option=com\\_content&view=article&id=313&Itemid=20](http://www.ftc.org/index.php?option=com_content&view=article&id=313&Itemid=20))

International Union Against Tuberculosis and Lung Disease (The Union) (<http://www.tobaccofreeunion.org/>)

Southeast Asia Tobacco Control Alliance (SEATCA) (<http://www.seatca.org/>)

SEATCA Industry Surveillance ([http://www.seatca.org/index.php?option=com\\_content&view=section&layout=blog&id=14&Itemid=48](http://www.seatca.org/index.php?option=com_content&view=section&layout=blog&id=14&Itemid=48))

SEATCA. Preventing tobacco industry interference: a toolkit for policy-makers and advocates (<http://seatca.org/dmdocuments/Article%205.3%20Toolkit%20Oct%202010.pdf>)

<sup>22</sup> All sites accessed 7 May 2012.

<sup>23</sup> All sites accessed 7 May 2012.

## Annex 2.

# Canada Lobbying Act, Regulations and Code of Conduct, 2008

On 30 April 2008, the Designated Public Office Holder Regulations and proposed Lobbyists Registration Regulations relating to the new Lobbying Act<sup>24</sup> were published in the Canada Gazette, Part II. A preliminary version of the Regulations was published for consultation in Part I of the Canada Gazette on 5 January 2008. Interested individuals had until 4 February 2008 to submit their views on the proposed regulations.

The draft regulations concern changes to the registration system and reporting requirements for lobbyists communicating with the federal Government. They include, but are not limited, to:

- the form and manner of all returns to be filed, including the new monthly returns for consultant and in-house lobbyists;
- the type of lobbying activity to be reported on in a monthly return;
- the details on the subject-matter and other information that may be required in a monthly return.

The only parts of the Federal Accountability Act relating to lobbyists that came into force when the Act received Royal assent on 12 December were sections 88.1, 88.11 and 88.2, which contained provisions concerning members of transition teams.

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<sup>24</sup> Available at: <http://laws-lois.justice.gc.ca/eng/acts/L-12.4/>, accessed 7 May 2012.

See also: [http://www.ocl-cal.gc.ca/eic/site/lobbyist-lobbyiste1.nsf/eng/h\\_nx00269.html](http://www.ocl-cal.gc.ca/eic/site/lobbyist-lobbyiste1.nsf/eng/h_nx00269.html), accessed 7 May 2012.

## Annex 3.

### Lao People's Democratic Republic Law on Tobacco Control (26 November 2009)

In Section 3, Obligation of Manufacturers, Importers, Distributors and Users of Tobacco Products, Article 21 (General Obligation) states: “Manufacturers, importers, and distributors of tobacco products shall have the following general obligation: 1. To strictly comply with Tobacco Control Law; 2. To contribute a sum of money into Tobacco Control Fund mentioning in clause 2 of Article 46 of this Law; 3. To run a business transparently and in an accountable manner. For the buyers-sellers of tobacco products, they shall comply with clause 1 of this Article.”<sup>25</sup> Also Article 22, Obligation of Manufacturers, states that “... the manufacturers of tobacco products shall also have the following obligation: 1. To print label and health warning in texts on tobacco product packaging; 2. To protect the environment, especially in their production area; 3. To protect and promote the health of workers in the production of tobacco, according to regulations.” Article 23, Obligations of Importers, obliges importers: “to ensure that imported tobacco products are bearing the printed label and health warning in texts on tobacco product packaging, in accordance with regulations”. The distributors of tobacco also have obligations, stated in Article 24 (Obligation of Distributors): “... distributors, buyers-sellers shall also have the following obligation: 1. To ensure that suitable places for the distribution and sale-purchase of tobacco products are available; 2. To distribute, sell-purchase only tobacco products with printed label and health warning in texts mentioning in regulations. “Article 25 states the obligation of tobacco product users: “1. To smoke only in authorized areas; 2. To protect the environment, e.g. by do not throw cigarette butts in a disorderly manner; 3. To respect the rights of non-smokers and neighbors.”

According to Article 49 (Prohibition for Civil Servants and Officials): “Civil servants and officials are prohibited to act as follows: 1. To abuse one’s power, to use violence, coercion, threat to give or receive bribes causing losses to the interests of State, collectives and individuals resulting from tobacco control work; 2. To disclose State secrets, retain, delay or falsify documents, lack responsibility to accomplish assigned tobacco control works; 3. To protect and to be accomplices of unlawful tobacco business operators; 4. To commit other acts violating laws and regulations.”

Also, according to Article 50 (Prohibition for Individuals and other Organizations): “Individuals and other organizations are prohibited to act as follows: 1. To support advertisement for tobacco product promotion; 2. To smoke in prohibited places; 3. To induce and use others, e.g. children under eighteen years old to smoke and purchase sell tobacco products; 4. To participate in illicit tobacco product production, importation and distribution; 5. To commit other acts violating laws and regulations.”

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<sup>25</sup> [http://www.who.int/fctc/reporting/Annex4\\_Tobacco\\_Control\\_Law\\_2009.pdf](http://www.who.int/fctc/reporting/Annex4_Tobacco_Control_Law_2009.pdf), accessed 7 May 2012.

## Annex 4.

# Guidelines for responding to requests made by the tobacco industry to meet with WHO

The purposes of these guidelines are as follows:

- 1) to inform all WHO staff worldwide that any meetings with representatives of the tobacco industry should be avoided, and if unavoidable, should occur only when necessary;
- 2) that meetings are only deemed necessary when their purpose as assessed by WHO staff, is to promote public health;
- 3) to set appropriate meeting guidelines between WHO staff and those closely related to, or directly / indirectly representing the tobacco industry, and;
- 4) to inform all WHO staff that TFI/HQ should be informed in a timely manner when such a meeting request is received from the tobacco industry.

Tobacco use is one of the most significant preventable causes of premature death and disease in the world. The goals of tobacco control are to reduce tobacco-related morbidity and mortality through sustained reductions in tobacco use initiation and consumption; through a reduction in exposure of non-smokers to tobacco smoke; and through a denormalization of tobacco use. As the tobacco industry uses its power to oppose any measures that might limit its activity, the WHO FCTC warns of the threat posed by the industry to global tobacco control. This need to be wary of subversive industry efforts is both recognized in the Preamble of the Convention and in Article 5(3), which actually obligates WHO FCTC parties to protect their public tobacco control policies from industry manipulation. As befits the special gravity of this situation, the WHO FCTC is the only international Convention to explicitly address the potential for corporate undermining of the objectives of the Convention.

For the above reasons, paragraph 9 of WHO's "Guidelines on interaction with commercial enterprises to achieve health outcomes" (EB107/20, ANNEX) provides that relationships with the tobacco industry should be avoided. Furthermore, paragraph 1 of Resolution WHA54.18 urges WHO and Member States to be alert to any efforts by the tobacco industry to subvert government and WHO implementation of anti-tobacco public health policies, and to ensure the integrity of WHO and government policy-making processes.

The following guidelines should apply to the fullest extent possible, though it is recognized that all prescriptions/proscriptions cannot apply in all situations. For instance, in furtherance of public health it may sometimes be appropriate to receive certain information from the tobacco industry, and to present the industry with WHO's policy on tobacco control and WHO's views on tobacco related health issues, provided always that the interaction is strictly limited to an exchange of this nature.

For the purposes of these guidelines, and taking into account Article 1 of the WHO FCTC, the term "tobacco industry" means tobacco manufacturers, wholesale distributors, and importers of tobacco products. In addition, the term "tobacco industry" includes tobacco growers, associations or other entities representing any of the above, as well as industry lobbyists.

## Guidelines

In order to comply with Resolution WHA54.18, which calls on the Director-General to continue to inform Member States of activities of the tobacco industry that have a negative impact on tobacco control efforts, all WHO staff worldwide should report to WHO TFI/HQ any requests by the tobacco industry to meet with WHO staff -- in the case of Regional Directors, the Assistant Director General of NMH should be made aware of any requests and/or meetings between the tobacco industry and respective Regional Directors. Where possible, all such meeting requests should be denied. In order to establish a consistent response and to limit WHO exposure to the tobacco industry, those who by necessity have to meet with the industry have to do so in a manner consistent with these guidelines. WHO staff meetings with the tobacco industry should only take place for the purpose of health-related information exchange, i.e. to receive certain information relevant for public health from the tobacco industry, and to present to the tobacco industry WHO's policy on tobacco control and WHO's views on tobacco related health issues. An example of such a meeting is when representatives from the tobacco industry are invited to speak during meetings of the WHO Study Group on Tobacco Product Regulation. All other interaction with the tobacco industry should be avoided.

The types of acceptable interactions with the tobacco industry can be divided into two general categories:

*a. National level third-party mediated exchanges:* those where both national organizations and the tobacco industry are present. Such meetings can arise when WHO staff at country or regional offices meet in a common forum with tobacco monopoly representatives, and the meeting occurs with the aid of a third-party "mediator", such as a national multisectoral coordinating committee. National or regional stakeholders' meetings are an example of these types of exchanges.

*b. International mediated face-to-face exchanges:* those where WHO staff interact with tobacco industry representatives. For example where WHO staff participate in technical meetings of international bodies such as the International Standardization Organization (ISO).

At the types of meetings described in 3(a) and 3(b), the following guidelines apply to the maximum extent possible:

- i.) The goals of the meeting, and how the meeting will advance the goals of WHO, should be determined in advance via an internal WHO consultation.
- ii.) There should be a minimum of two WHO staff at these meetings.
- iii.) Before the meeting, WHO staff should clearly indicate in writing to the tobacco industry representatives that they may not mischaracterize the nature of the meeting, such that it implies that there is any relationship, collaboration or partnership between WHO and the tobacco industry.
- iv.) Official minutes should be taken and shared afterwards to ensure transparency. WHO staff should prepare and distribute the only official minutes of the meeting. This should be agreed upon in writing in advance of the meeting.
- v.) The meeting should not take place in any WHO premises, but rather, should occur at a neutral venue selected by WHO. WHO staff may terminate the meeting anytime they deem appropriate unless a unilateral termination is not feasible. Under no circumstances should a meeting take place in the offices of the tobacco industry (including the offices of the groups, persons or entities included in the definition of "tobacco industry" for the purposes of these guidelines). And, under no circumstances should a WHO staff member accept any offers of hospitality from tobacco industry representatives, for example, dinners, tickets to shows, etc.

All non-mediated exchanges (in person, phone or email) between WHO staff and the tobacco industry should be avoided. Regardless of the type of interaction as mentioned above, once the meeting is concluded, the WHO staff should:

- a) re-emphasize that the tobacco industry representatives may not mischaracterize the nature of the meeting such as to imply that there is any relationship, collaboration or partnership between WHO and the tobacco industry;
- b) decide on follow-up questions that may have to be answered after the meeting;
- c) correct via official letter any public misconception or misinformation regarding the meeting; and
- d) provide a copy of the meeting minutes or report to the Director of TFI, along with any necessary briefing notes, and contact information in the event that a follow-up or de-briefing is deemed desirable.

No WHO programme should accept any direct or indirect funding from the tobacco industry.

No WHO programme should endorse projects which are funded directly or indirectly by the tobacco industry.

All WHO staff should inform TFI/HQ in a timely manner when a meeting request is received from the tobacco industry.

These guidelines are subject to annual review in order to continuously assist WHO staff worldwide to respond appropriately to tobacco industry requests to interact with WHO.

## Annex 5.

### Guide for WHO Collaborating Centres – avoiding real or perceived conflicts of interest

Below are examples of the types of interaction that may lead to a real or perceived conflict of interest in respect of the work of the WHO Collaborating Centres (WHO CC) and should therefore be avoided:<sup>26</sup>

- a) Support from companies with incompatible business activities: The institution should not accept funding or other support (e.g. in kind or through secondment of employees) from companies whose business activities are incompatible with WHO's work (e.g. tobacco companies). This applies to both the activities of the institution as a WHO CC and any other activities of the institution as a whole.
- b) Support from companies with direct commercial interest: The WHO CC should not accept funding or other support (e.g. in kind or through secondment of employees) from a company that has, or may be perceived as having, a direct commercial interest in the outcome of that activity. For example, funds or other support should not be accepted from a manufacturer of insulin for an activity that relates (even generically) to the treatment of diabetes.
- c) Support from companies with indirect commercial interest: A WHO CC should exercise caution in accepting financing or other support from a company that has even an indirect interest in the outcome of an activity. For example, in the case of an activity relating to the epidemiology of a disease, caution should be exercised in accepting funds or other support from a manufacturer of drugs for that disease. In such cases, it is preferable to secure funding from multiple competing sources, to avoid a perceived close association with one particular company.
- d) Support for the production of WHO guidelines or recommendations: As a general rule, a WHO CC should not accept any funds or other support from companies, regardless of their business interests, for activities related to the production of WHO guidelines or recommendations.
- e) Commissioned research or other work: The activities that an institution conducts as a WHO CC (as part of the WHO CC's terms of reference or workplan) should not include any research or other work commissioned or contracted by companies.
- f) Unspecified donations from companies: In the event of an unspecified donation for the activities of a WHO CC in general (i.e. not for a specific activity), the donation should not be allocated to support activities in which the company, or group of companies, has a direct commercial interest. In the case of an indirect commercial interest, donations should be sought from various sources having a similar interest; and it is preferable that support from multiple competing sources is secured. In addition, the overall amount of unspecified support provided by the company, or group of companies, should not be so large that the WHO CC would become dependent on it for its continued operations.
- g) Support for salary of specific staff or posts: A WHO CC should not accept funds from companies to support the salary of specific staff or posts designated to the activities of the WHO CC (including short-term consultants) if the financial support could give rise to a real or perceived conflict of interest. For example, a conflict of interest would arise if the responsibilities of the staff member or post were directly or indirectly related to the business interests of the commercial contributor.
- h) Secondment of company employees: A WHO CC should not accept the secondment of company employees to work on the activities of the WHO CC if the company has a direct or indirect commercial interest in all or part of those activities.
- i) Interactions, affiliations, relations and interests of staff: The institution should ensure and attest to WHO that the head of the WHO CC and staff designated to work on the activities of the WHO CC do not have any interactions, affiliations or relations with, or financial or other interests in, companies that could give rise to, or could be seen as giving rise to, a conflict of interest in respect of any of the activities.

<sup>26</sup> See [http://www.who.int/collaboratingcentres/Guide\\_for\\_WHO\\_collaborating\\_centres\\_2011\\_FINAL\\_OCT.pdf](http://www.who.int/collaboratingcentres/Guide_for_WHO_collaborating_centres_2011_FINAL_OCT.pdf), accessed 7 May 2012, Section 7.1.

## Annex 6.

### Guide for WHO Collaborating Centres – Declaration of interests<sup>27</sup>

In these guidelines, it is mentioned that before being designated or redesignated, each institution must provide information to WHO about its interactions with the commercial private sector (e.g. tobacco industry) in the relevant sections of the designation or redesignation form. Where interactions are identified, this information includes details of any contributors; their business interests; the activities, research, staff and posts concerned; and any other details or clarification that WHO may reasonably require. In addition, the institution must ascertain whether the head of the WHO CC or staff designated to work on the activities of the WHO CC have any interactions, affiliations or relations with, or financial or other interests in, companies that could give rise to a real or perceived conflict in respect of any of the activities of the WHO CC. The institution is required to attest to WHO that the head and staff designated to work on the activities of the WHO CC have been required to declare any such interactions, affiliations, relations and financial or other interests; and either no conflicts exist, or appropriate measures have been taken to address and remove them.

Examples of the type of interactions, affiliations, relations and financial or other interests that could give rise to, or be seen as giving rise to, a conflict of interest, can be found in the declaration of interest (DOI) for WHO experts. The institution should make its own arrangements to ascertain, address and remove any possible conflicts that the head of the WHO CC or other staff may have.

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<sup>27</sup> See: [http://www.who.int/collaboratingcentres/Guide\\_for\\_WHO\\_collaborating\\_centres\\_2011\\_FINAL\\_OCT.pdf](http://www.who.int/collaboratingcentres/Guide_for_WHO_collaborating_centres_2011_FINAL_OCT.pdf), accessed 7 May 2012, Appendix A.

## Annex 7.

### Thailand – Regulation of Department of Disease Control B.E. 2553 (2010)<sup>28</sup>

This regulation, entitled “How to Contact Tobacco Entrepreneurs and Related Persons”, has been established specifically for implementation of WHO FCTC Art 5.3, “in order to prevent the sanction of public policy on tobacco control by tobacco entrepreneurs and related persons and to determine measures for contacting and coordinating with tobacco entrepreneurs and related persons to ensure transparency”.

The regulation requests that in the event of a contact with an entrepreneur or related person, any official (i.e. civil servants, civil staff, and Disease Control Department employees, including those persons under other entities coming to perform their civil service within the Department) shall procure that their correspondence be recorded as evidence with at least Date and time of contact; Name and title of the responsible official; Name, title and address of the entrepreneur or related person; and (4) Record of summarized issues of contact (Article 6). In case an entrepreneur (tobacco entrepreneurs or agents comprising manufacturers, suppliers, importers, and exporters of tobacco products) or related person “wishes to make a contact to meet with an official for an action in pursuant of the tobacco products control law or for whatsoever purposes, with the exception of some cases specifically mentioned in the regulation, the entrepreneur or related person shall send a letter of intent describing the purposes of the requested meeting to the Director of Office of Tobacco Control or the Director of Office of Disease Prevention Control, as the case may be” (Article 7).

Also, “in the event of permitted meeting, the official shall have a letter of appointment in appropriate time to the entrepreneur or related person detailing at least the day, time, venue and agendas of the meeting. The official shall fix a date and time within governmental working hours, and the appointment shall be made at a governmental venue.” (Article 9). Strict instructions are provided on how a meeting between an official and an entrepreneur or related person shall be conducted: (1) The official shall fix the agendas and attendees clearly. (2) The entrepreneur or related person shall notify its name together with personnel identification evidence. (3) Before the meeting starts, the official shall have the entrepreneur or related person sign a letter certifying that they will neither take a photograph, record sounds in the meeting, nor put the meeting essence into publicity for commercial benefits. (4) The official shall produce the minutes of meeting. (5) The meeting essence shall, by the official, be revealed and made available to the public.” The form of the certificate is also laid down in the regulation.

28 Department of Disease Control, Thailand. Re: *How to Contact Tobacco Entrepreneurs and Related Persons* (Regulation of Department of Disease Control B.E. 2553 (2010)) ([http://btc.ddc.moph.go.th/cms/uploads/content/doc/Regulation\\_of\\_DDC\\_Eng.pdf](http://btc.ddc.moph.go.th/cms/uploads/content/doc/Regulation_of_DDC_Eng.pdf), accessed 7 May 2012).

## Annex 8.

### Philippines' regulatory framework to prevent tobacco industry interference

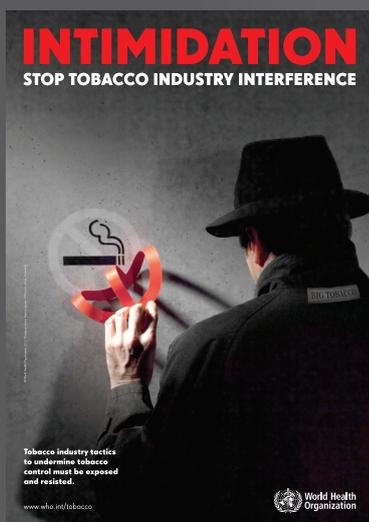
Documents and policies related to the coordination of tobacco control in the Philippines, with an emphasis on measures that prevent interference from the tobacco industry.<sup>29</sup>

Year	Document	Detail
2003	RA 9211	Establishes the Interagency Tobacco Committee.
2008	DOH Health Policy Notes 3:2	Recommends the creation of the Sector-Wide Anti-Tobacco Council.
2009	AO 2009-0004 (administrative order)	Revised DOH policy - Code of Conduct stipulating that DOH officials and employees should not accept any direct or indirect offer (gift, donation, sponsorship) from tobacco companies.
2009	DOH DM 2009-0142 (department memorandum)	
2010	DOH DM 2010-0126 (department memorandum)	Prohibits DOH and its attached agencies' interactions (unless strictly necessary for regulatory purpose), partnerships and contributions through corporate social responsibility activities (CSR) of the tobacco industry, and sets the frame for conflict of interest; for regulatory purpose only specific protocols for meeting tobacco industry are provided.
2010	CHED Memorandum from the Executive Director (14.01.2010)	Commission on Higher Education Executive Office directed all central and regional office directors to reject any contribution from the tobacco industry and avoid partnerships with them.
2010	CSC-DOH No. 2010-01 (Joint Memorandum Circular Civil Service Commission and DOH)	It promulgates the policy on protection of the bureaucracy against tobacco industry interference, covering all national and local government officials and employees, including government-owned and controlled corporations, original charters, state colleges and universities.
2010	DOH CHD4A and DILG 4A Joint Memorandum Circular No. 2010-01	First memorandum circular jointly issued by the DOH and Department of Interior and Local Government Unit (LGU) enjoining provinces, cities and municipalities in Region 4A to address the inadequacies of the national law on tobacco control to make it more protective of public health.
2011	DOH DO 2011-0029 (department order)	Appoints the National Centre for Health Promotion (NCHP) as the lead office for the newly established National Tobacco Control Coordinating Office (NTCCO). Establishes Sector Wide Anti Tobacco Committee (SWAT) which is responsible for implementing the WHO FCTC provisions and its sub-committees (some of which are already operational, e.g. Subcommittee for Art. 5.3). The members of SWAT are government stakeholders, civil society and academia. The tobacco industry and its front groups were not invited to be part of the Committee.
2011	DC 2011 – 0101	Sets rules and regulations of the FDA (compliant with RA 9711 or the Federal Drug Agency (FDA) Act of 2009) tasking FDA under Article III to regulate tobacco and tobacco products.

<sup>29</sup> Joint national capacity assessment on the implementation of effective tobacco control policies in the Philippines. Geneva, WHO/Government of the Philippines, 2011 ([http://www.who.int/tobacco/control/capacity\\_building/assessments/en/index.html](http://www.who.int/tobacco/control/capacity_building/assessments/en/index.html), accessed 7 May 2012).

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