TOBACCO INDUSTRY INTERFERENCE INDEX

INDIA REPORT ON IMPLEMENTATION OF WHO FRAMEWORK CONVENTION ON TOBACCO CONTROL (FCTC) ARTICLE 5.3

HRIDAY

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This report has been developed by HRIDAY New Delhi, in collaboration with the review committee consisting of four leading Civil Society Organisations (CSOs) in India: Healis Sekhsaria Institute for Public Health, Mumbai; International Union Against Tuberculosis and Lung Disease – India; Institute of Public Health, Bengaluru, and Mary Anne Charity Trust, Chennai.

Objective of this report: To systematically measure the implementation of Article 5.3 of WHO FCTC with respect to severity and frequency of tobacco industry interference in India.

Methodology: A preliminary desk review was conducted for the year 2017, using a pre-defined broad search strategy to achieve the objective of this study. Southeast Asia Tobacco Control Alliance's (SEATCA) Tobacco Industry Interference (TII) Index and scoring guidelines were utilised to develop this Civil Society Organisation (CSO) report on monitoring the implementation of Article 5.3 of FCTC in India. For more details on the tool, please refer to: https://tobaccocontrol.bmj.com/content/25/3/313

Key sources of data: Newspapers dailies, Government websites, Tobacco industry websites and other sources.

HRIDAY. Tobacco Industry Interference Index: India report on Implementation of WHO FCTC Article 5.3. HRIDAY; New Delhi, 2018.
CASCADE - Committee Against Smuggling and Counterfeiting Activities Destroying the Economy

COP - Conference of Parties

COTPA - Cigarette and Other Tobacco Product (Prohibition on Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act.

CSR - Corporate Social Responsibility

CTRI - Central Tobacco Research Institute

FAIFA - Federation of All India Farmer Associations

FCTC - Framework Convention on Tobacco Control

GATS - Global Adult Tobacco Survey

GoI - Government of India

GST - Goods and Services Tax

ITB - Indian Tobacco Board

MLA - Member of Legislative Assembly

MoFPI - Ministry of Food Processing Industries

MoHFW - Ministry of Health and Family Welfare

MoU - Memorandum of Understanding

MP - Member of Parliament

NCDs - Non-Communicable Diseases

NGO - Non-Governmental Organisation

NTCP - National Tobacco Control Programme

PHC - Primary Health Centre

PHWs - Pictorial Health Warnings

PIL - Public Interest Litigation

RBI - Reserve Bank of India

SDGs - Sustainable Development Goals

SEATCA - Southeast Asia Tobacco Control Alliance

UN - United Nations

WHO - World Health Organization
1. **Level of industry participation in policy development**
   The Government of India (GoI) does not allow the Tobacco Industry to participate in the policy development, however, the industry interferes by collaborating with its allied organisations. On one hand, where the Ministry of Health and Family Welfare (MoHFW) has been consistently working towards strengthening tobacco control policies in the country, the Ministry of Commerce and Industry has an objective to capitalise the tobacco crop. In 2017, the Ministry of Finance revised the tax structure to impose taxes on previously unlevied bidi, bidi wraps (tendu leaves) and other tobacco products. Bidis were finally taxed at 28% but were exempted from additional cess taxes after hearing pleas in the Goods and Service Tax (GST) Council meetings. Further, the GoI does not allow tobacco industry to attend Conference of Parties (COP). However, the tobacco industry has diversified as food industry and regularly attend meetings of an autonomous body working under MoHFW, as a food industry representatives.

2. **Tobacco industry related CSR activities**
   Article 5.3 guides Member States to regulate Corporate Social Responsibility (CSR) activities by tobacco industry to counteract industry's vested interests. However, in India, in accordance with the Company's (Amendment) Act 2017, it is mandatory for companies to invest 2% of their benefits into CSR activities. Consequently, big tobacco companies in India do invest in primary education, sanitation schemes, health promotion programmes etc., by funding various Non-Governmental Organisations (NGOs). They also support government schemes by funding partners to work in alignment with government programmes.

3. **Benefits to the tobacco industry**
   As per WHO FCTC Article 5.3, the government should not give benefits to the tobacco industry in any way. While the tobacco industry tried to derail the implementation of 85% pictorial health warnings (PHWs) on tobacco packs by making appeals in the Court, GoI remained firm with their decision to implement large PHWs. Conversely, benefits have been provided to the bidi industry for additional cess (tax) exemption, and benefits and subsidies given to tobacco growers.
4. **Unnecessary interactions with the tobacco industry**
   The Indian Tobacco Board (ITB) works with a motive to support tobacco growers (Flue-cured Virginia tobacco growers) and industry. In fact, representatives from the tobacco industry have been awarded with prestigious awards. According to a media report, the Agriculture Minister of a state in India, Members of Parliament (MPs), Members of Legislative Assemblies (MLAs) along with Tobacco Institute of India and ITB, were not only present at an award function organised by the tobacco industry but also encouraged tobacco growers to interact with state and central government and raise voice for decreasing tobacco taxes and increasing tobacco production.

5. **Transparency measures**
   There are no rules at the national level in India which require disclosure of meetings between government officials and the industry representatives.

6. **Conflict of interest**
   There is no law in the country which restricts officials or other organisational bodies from taking contributions from the tobacco industry in any form (monetary or otherwise).

7. **Preventive measures**
   While eight states (Tamil Nadu, Bihar, Punjab, Mizoram, Himachal Pradesh, Jammu & Kashmir, Maharashtra and Jharkhand) and two districts – Darjeeling (West Bengal) and Udupi (Karnataka), in India have issued Article 5.3 notifications in their jurisdictions, national level guidelines for Article 5.3 do not exist.

The report underscores an urgent need to introduce Article 5.3 guidelines at National level to avoid Tobacco Industry Interference in India. It also highlights the need to sensitise health and development sector and NGOs on the Conflict of Interest in accepting partnership with tobacco industry due to interlinkages between the Non-Communicable Disease (NCD) targets adopted by the country and Sustainable Development Goals (SDGs).
As per Article 5.3 of World Health Organisation (WHO) Framework Convention on Tobacco Control (FCTC), countries’ public health policies with respect to tobacco control must be protected the commercial and other vested interests of the tobacco industry, in accordance with the national law.

India ratified the WHO FCTC in 2004 and is obligated to adopt and implement effective legislation aimed at reducing tobacco use and tobacco smoke exposure. The FCTC also recognizes that “there is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests”. Being a Party to the WHO FCTC, the Government of India (GoI) is required to implement recommendation 4.9 (i.e. Parties should not nominate any person employed by the tobacco industry or any entity working to further its interests to serve on delegations to meetings of the Conference of Parties (COP), its subsidiary bodies or any other bodies established pursuant to decisions of the COP) and recommendation 8.3 (i.e. Parties should ensure that representatives of state-owned tobacco industry do not form part of delegations to any meetings of the COP, its subsidiary bodies or any other bodies established pursuant to decisions of the COP of the Article 5.3 Guidelines).

While India currently does not have any specific laws for the implementation of Article 5.3, some civil society groups have submitted guidelines (draft code of conduct) aligned with Article 5.3 to the MoHFW, GoI, for further action. This draft is currently being reviewed by various government departments and has not yet been adopted. One of the areas of broad contention which exists within GoI policies is the conflicting nature of the MoHFW's tobacco control law and the mandate of the Indian Tobacco Board (ITB), under the Ministry of Commerce and Industry which promotes tobacco growth. While this draft is under review at the GoI level, ten states have already issued Article 5.3 notification at the sub-national level.

These states include: Tamil Nadu, Bihar, Punjab, Mizoram, Himachal Pradesh, Jammu & Kashmir, Maharashtra, Jharkhand and two districts – Darjeeling (West Bengal) and Udupi (Karnataka).
This report draws on a comprehensive review conducted to measure the frequency and severity of incidents of Tobacco Industry Interferences (TII) reported in India for the time period from January - December, 2017, using Southeast Asia Tobacco Control Alliance's (SEATCA) Tobacco Industry Interference (TII) Index and scoring guidelines. The SEATCA TII Index was developed by the SEATCA group to have a definite tool in order to measure the implementation of Article 5.3 in various countries. Based on the eight main recommendations and 34 sub-recommendations of Article 5.3 guidelines of WHO FCTC, the SEATCA TII Index consists of seven key themes with 20 indicators, which were utilised for conducting this study.

To complete the TII Index of 20 indicators under 7 key themes of SEATCA TII Index for India, a comprehensive review of literature was undertaken using a pre-defined broad search strategy with key words including “tobacco industry”, “Article 5.3 FCTC” and “Government agencies”. Other Publicly available evidence in the Indian newspaper dailies (restricted to Hindi and English language only), Government websites and tobacco industry websites were also reviewed for data collection. Two reviewers separately searched for evidence and discussed them before scoring. As per the SEATCA TII Index scoring guidelines, each incident was scored based on the severity and frequency of the incident. Each incident was scored independently and then these scores were averaged. The base score of “3” was given for any incident of interference. This number was then adjusted based on the severity of the interference. 1 point (+1) was added for any aggravating circumstance that supported industry interference and 1 point (-1) was subtracted for any mitigating circumstances that reduced industry interference. Please refer to Annexure 1 for further details on scoring.

To avoid subjectivity, regular communication was maintained with SEATCA team to ensure that each indicator was well understood by the reviewers and the scoring was done with accuracy. The scores and incidences were also reviewed and verified by the members of Review committee comprising of representatives from leading civil societies working on tobacco control in India.
While the GoI does not directly accept or support any offer of assistance, the tobacco industry through varied allied organisations impedes the development and implementation of public health policies in India.

According to the website of the Tobacco Institute of India, "various government agencies in India, such as Indian Tobacco Board (ITB), under the Ministry of Commerce and Industry, and Central Tobacco Research Institute (CTRI), are inseparable from the tobacco growers and trade due to interlinked objectives and organisational mandate." Though the tobacco industry does not directly influence the enactment of laws and implementation of policies, but shares bond with these groups which are part of various Ministries in GoI. Infact, the Ministry of Commerce and Industry endorses and supports capitalising on tobacco crop growth to make profits. 

(Score: 3 base score – 2 Ministry of Commerce and Industry = 1)

In 2017, GoI launched a new taxation system in the country, where it was proposed to impose 5% Goods and Services Tax (GST) on raw tobacco and 28% GST on other forms of tobacco including cigarettes, smokeless tobacco products and bidi, with additional compensation cess and state GST. GST is an indirect tax (or consumption tax) levied in India on the supply of goods and services. The tax replaced existing multiple cascading taxes levied by the central and state governments.

However, according to media reports, tobacco front groups and tobacco industry representatives allegedly appealed to the Ministry of Finance, GoI to obliterate such proposals and continue to exempt bidi and raw tobacco leaves from any form of taxation. This issue was also discussed during the 15th round of GST Council meeting, held on June 3rd 2017 at New Delhi, where national and state representatives in the GST council meeting suggested reconsidering the implications of imposing taxation on previously unlevied tobacco products, such as bidi wraps (tendu leaves) and tobacco leaves. Members in the other GST Council meetings also questioned considering high taxes on tobacco products, especially bidis. Pleas from tobacco lobbying bodies were also taken into consideration. Though the tobacco industry tried to lobby against implementation of taxes on tobacco leaves and bidi products, the government went ahead and implemented laws to impose 28% GST on these previously unlevied tobacco products. However, the decision was postponed to impose additional cess on bidi in 2017.

(Score: 3 base score + 1 pleas from lobbying bodies accepted = 4)
2. The government accepts, supports or endorses policies or legislation drafted by or in collaboration with the tobacco industry.

No such data was found in the public domain or any report or media coverage.  
(Score: 0)

3. The government allows/invites the tobacco industry to sit in government interagency/multi-sectoral committee/advisory group body that sets public health policy.

Representatives from the tobacco industry and its allied organisations in India are members of the Board of Trade under Ministry of Commerce and Industry, members of the National Food Processing Development Council, Ministry of Food Processing Industries (MoFPI), under the GoI. Though the industry representatives are not directly involved in setting public health policies, their interactions with the above mentioned authorities may indirectly influence this process. Media reported several occasions where the tobacco industry sent repeated representations to not only the MoHFW but also other ministries, and Parliamentary Committees, asking to withdraw the large mandatory PHWs.  
(Score: 3 base score – 2 Ministry of Commerce and Industry = 1)

An autonomous body directly working under MoHFW, partners with a leading tobacco company (as food industry) in India on its projects and activities. From a public health perspective, as an apex national regulatory authority, the role of such autonomous body is critical in implementation of health policies, particularly related to Non-Communicable Diseases (NCDs) that arise majorly from risk factors such as, unhealthy foods, sugar-sweetened beverages, tobacco and alcohol use and lack of physical activity. Gutkha (a type of smokeless tobacco) ban in India is also implemented through this autonomous body under the Food Safety and Standards (Prohibition and Restrictions on Sales) Regulations, 2011. However, minutes of meetings reported that a representative from a leading tobacco company in India, has consistently attended gatherings with other advisory board members to suggest recommendations for planning, implementation and progressing on various programmes and projects under this autonomous body.  
(Score: 3 base score + 1 tobacco industry involvement in meetings of an autonomous body, which works under MoHFW = 4)
On June 15th 2017, a media report indicated that few states in India, including Himachal Pradesh, Punjab and Maharashtra may disassociate themselves from any sponsorships, donations or CSR initiatives offered by the tobacco industries. All these states are among those ten states in India, which have issued notifications for implementation of Article 5.3.

Contrary to this, the Company's (Amendment) Act 2017 in India, mandates corporate companies to spend 2% of their profit in the last three years on CSR activities. Consequently, some of the tobacco companies use this law to spread their manipulative motives and to build public-private partnerships.

II. So-called CSR Activities

5. A. The government agencies or its officials endorse, support, form partnerships with or participate in so-called CSR activities organised by the tobacco industry.
Nevertheless, two major Indian tobacco companies with market shares of 78% and 8%, engage in CSR activities revolving around education, health, welfare programmes for women and sanitation. CSR activities report of a leading tobacco company in India shows that it provided infrastructure support to 162 primary government schools, entered into public-private partnership with several state governments, NGOs for health and sanitation schemes and watershed projects in the Fiscal Year 2017-18.

(Score: 3 base score + 1 multiple agencies involved = 4)

According to this leading tobacco company's Annual Report (2017-18), for supporting primary education, the company works in collaboration with a Mumbai-based NGO, which is working towards promoting education and child development programmes and has been endorsed by various international health and development agencies. Moreover, according to a media report, a CSR programme launched by this leading tobacco company to spread awareness about waste segregation in school children is supported by the Ministry of Urban Development and Greater Hyderabad Municipal Corporation.

(Score: 3 base score + 1 continuing engagement is anticipated with the health and non-health agencies = 4).

Moreover, the same tobacco company, under its CSR activities also explicitly states that it efficiently works to promote agriculture, solid waste management, women empowerment, health and sanitation programmes and overall development in alignment with varied government schemes at national and state levels, in India. Though such tobacco companies often do not get direct support from GoI to promote such schemes but they work in partnership with various renowned NGOs.

(Score: 3 base score + 1 involvement of multiple agencies = 4)

Another big tobacco company's (market share of 8%) CSR report (2016-2017) reveals that it has equipped Primary Health Centers (PHCs) and contributed to infrastructural improvements in health centres (Anganwadis) and primary schools apart from setting up health camps and after-school programmes for children. The company's CSR initiatives also work in HIV/AIDS prevention work.

(Score: 3 base score + 1 involvement in health and education departments = 4)

B. The government (its agencies and officials) receives contributions (monetary or otherwise) from the tobacco industry (including so-called CSR contributions).

According to a press report, a leading tobacco company in India signed a Memorandum of Understanding (MoU) to invest 10,000 crore INR with the MoPFI, GoI. The report specifies that "the tobacco company was the Platinum Sponsor for World Food India 2017." Therefore, it can be evidently ascertained that certain ministries of the GoI accept proposals/investments from these tobacco industries as food industry to implement their programmes.

(Score: 3 base score + 1 MoU signed + 1 MoPFI = 5)
Prior to the introduction of GST in India from July 1st 2017, the taxes on bidi were substantially lower than taxes on cigarettes. Even after the introduction of GST, differential tax rates continue to exist. Both cigarettes and bidis are taxed at 28% (GST). However, unlike cigarettes and smokeless tobacco, no cess is levied over and above GST for bidis. The Global Adult Tobacco Survey-2 (GATS-2) 2016-2017, shows that the prevalence of current bidi smoking is almost double the prevalence of cigarette smoking in the country. Tax exemption for bidi manufacturers has effectively widened under the GST regime from the units that produced less than two million sticks to units with less than Rs. 2 million annual turnover. Moreover, tax exemption is also available for small registered manufacturing companies with less than 20 workers.

(Score: 3 base score + 1 exemption from additional cess = 4)
In addition to this, the ITB, under the Ministry of Commerce and Industry, provides incentives to tobacco growers and exporters. ITB provides incentives under welfare scheme “Tobacco Board's Grower's Welfare Fund” to tobacco growers and their family members. The welfare scheme is aimed to provide financial assistance (loan/grants) to tobacco growers and their families, to support their educational, social and health needs.

(Score: 3 base score + 1 incentive specific to tobacco growers and exporters + 1 indefinite period {since, there is no plan to face out these incentives} = 5)

IV. Forms of Unnecessary Interaction

8. Top level government officials (such as President/ Prime Minister or Minister) meet with/foster relations with the tobacco companies such as attending social functions and other events sponsored or organised by the tobacco companies or those furthering its interests.

The ITB, an arm of Ministry of Commerce and Industry, GoI works with a mission “to strive for the overall development of tobacco growers and the Indian Tobacco Industry”. The ITB also sponsors, assists, coordinates and encourages research and activities for the promotion of the tobacco industry. The CTRI, funded by the GoI, conducts research to enhance productivity and manufacturing of tobacco.

(Score: 3 -2 Ministry of Commerce and Industry = 1)

Chairman & Non-Executive Director of a leading tobacco company in India was conferred the prestigious Banga Bibhushan award, the highest state civilian honor in 2017 and the Padma Bhushan, the 3rd highest national civilian award in 2011.

(Score: 3 base score + 1 tobacco industry representative awarded with prestigious awards = 4)

According to a media report released on January 21st 2017, an award function was organised by the Tobacco Institute of India where a state Agriculture Minister, MPs, MLAs, and members of Tobacco Institute of India and ITB were not only present but reportedly felicitated 17 "best tobacco farmers" of three states in India. During the award function, a state Minister for Agriculture also encouraged the farmers to submit their representation to the Ministers of state and central government on various tobacco-related issues for them, for example, the illegal sale of tobacco products and decreasing price and taxes on cigarettes.

(Score: 5 direct involvement of MLAs in an event organised by the tobacco industry and also an MLA propagating direct links between the tobacco growers and the government).
According to a media report, industry bodies claim that there is a rise in illicit trade of tobacco in India.\textsuperscript{xliii} Industry bodies are carrying out extensive research and activities to address issues regarding illicit trade and tobacco smuggling in India. In fact, an industry body conducted a study entitled “Illicit Markets a Threat to our National Interests”.\textsuperscript{xliv} Evidence shows that these reports have exaggerated issues regarding illicit trade in India to compel the government to reduce levying high taxes on tobacco products. Moreover, the GoI even formed a CASCADE (Committee Against Smuggling and Counterfeiting Activities Destroying the Economy), which is headed by the Vice Chairman of a leading tobacco company in India, to counter the menace of illicit trade and smuggling. In fact, to encourage and acknowledge the work of law-enforcement agencies, CASCADE also felicitated the best-performing officers for the period 2016-17 for their outstanding achievement in the prevention of counterfeiting and smuggling and enforcement of anti-smuggling and anti-counterfeiting laws from several government agencies.  

\textbf{(Score: 5)}

The industry also influences companies including government-owned companies to invest by building a positive image of itself. Five insurance companies, along with a government-owned company have 32% stake in a leading tobacco company in India.\textsuperscript{xlvii} Investment by such government-owned and recognised organisations/companies directly conflicts with the government’s tobacco control agenda.\textsuperscript{xlviii} According to media reports, dated on June 9th 2017, the government sold its stake in a leading tobacco company but reinvested through government-owned insurance corporation, which shows shifting of investment/stakes from one government organisation to another instead of complete dis-investment.\textsuperscript{xlix} Insurance companies can hold up to 15% of shares in tobacco companies in India.
however, a government’s life insurance company holds up to 16.27% stakes in a leading tobacco company of India. Six of the top 10 shareholders in India’s top tobacco company, are insurance companies owned by the state or the central Government of India. Such activities contradicts the intent of Article 5.3.

A press report, April 13th 2017, also reveals that a Public Interest Litigation (PIL) was filed in the Bombay High Court, which challenged investment of government-owned insurance companies in the tobacco industry. The petitioners claim that such an act by state-owned life insurance companies violates Article 21 of the Constitution of India, which guarantees the right to life. Article 47 is also violated as it directs states to take steps to prohibit the use of intoxicants and to improve health. The petition mentions that there is an “inherent, undeniable and irreconcilable contradiction between the nature and objective of life insurance companies and the tobacco industry.” (Score: 3 base score + 1 continuing engagement with tobacco industry = 4)

V. Transparency

11. The government does not publicly disclose meetings/ interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation.

No media reports on government websites were found that disclose meetings with the tobacco industry

(Score: 5)

12. The government requires rules for the disclosure or registration of tobacco industry entities, affiliated organisations, and individuals acting on their behalf including lobbyists

Rules for the disclosure or registration of tobacco industry entities, affiliated organisations, and individuals acting on their behalf including lobbyists do not exist in India.

(Score: 5)
VI. Conflict of Interest

13. The government does not prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns or to require full disclosure of such contributions.

(Score: 5)

14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General)

The Chairman of a leading tobacco company served as a Director on Central Board of the Reserve Bank of India (RBI), GoI and as a Member of the National Foundation for Corporate Governance (NFCG). According to tobacco company’s website their Chairman served as a Board Member or Committee Member of various national and state governing bodies in India. In fact, the company’s profile shows that most of the Board of Directors were linked or are currently associated with various departments, ministries and governing bodies under GoI.

(Score: 3 base score + 1 Chairman of the tobacco company = 4)

15. Current government officials and relatives hold positions in the tobacco business including consultancy positions.

According to the website of a leading tobacco company in India, several officials from government organisations are their Board Members holding positions like Chairman and Managing Director.

(Score: 4 base score + 1 high level officials = 5)
VI. Preventive Measures

16. The government has put in place a procedure for disclosing the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives.

(Score: 4)

India currently does not have any specific laws for the implementation of Article 5.3. Nevertheless, ten state governments have made rapid strides in enforcing Article 5.3 of FCTC by issuing Article 5.3 notifications. In these guidelines, six, out of these ten states have explained meeting procedures to limit interaction/transparency of interaction with tobacco industry.

17. The government has formulated, adopted or implemented a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry.

(Score: 4)

India currently does not have any specific laws for the implementation of Article 5.3. However, the Prevention and Management of Conflict of Interest Bill, 2011, which was introduced in the year 2012, clearly mentions in its statement of objectives and reasons that it is the duty of the state to protect the health of its citizens and also discusses the significance of implementing Article 5.3. Under this Prevention and Management of Conflict of Interest Bill, 2011 it is stated that - "International and multilateral agencies and bodies have also accepted and recognised the need to protect public decision making from private conflicts of interest. For example, Article 5.3 of the FCTC spells out clearly the duty of the state: when Parties are setting and implementing public health policies related to tobacco control, they shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law." Similarly, the various agencies and bodies constituted under the aegis of the United Nations, including WHO and other agencies, have framed guidelines to prevent conflicts of interest.

(Score: 4)
18. The government requires the tobacco industry to periodically submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and all other activities.

No specific law in India that requires the tobacco industry to periodically submit the information to GoI.  
(Score: 5)

19. The government has a program / system/ plan to consistently raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines.

There is no defined programme or training at the national level in India for Article 5.3 of FCTC. However, training workshops organised under the National Tobacco Control Programme (NTCP) for various stakeholders, including health professionals, nodal officers, district officials, NGOs and enforcement officers include sessions on Article 5.3.  
(Score: 3)

No other evidence was found where other ministries (as such Ministry of Human Resource and Development, Ministry of Women and Child Development, Ministry of Information and Broadcasting, Ministry of Social Justice and Empowerment etc.) seek assistance from MoHFW, GoI to counteract tobacco industry interference and for following Article 5.3 Guidelines.
20. The government has put in place a policy to disallow the acceptance of all forms of contributions/gifts from the tobacco industry (monetary or otherwise) including offers of assistance, policy drafts, or study visit invitations given or offered to the government, its agencies, officials and their relatives.

The government has no specific policy to disallow the acceptance of contributions/gifts from the tobacco industry. Some of the notifications issued by the state governments restrict accepting scholarships, rewards or gifts given by cigarette and tobacco-producing companies/sponsorship companies/organisations. (Score: 5)

| TOTAL | 72 |

CONCLUSIONS

The results of this India report on tobacco control interference have been included in the Asia TII Index 2018. The Asia report highlights the implementation of WHO FCTC Article 5.3 in 9 ASEAN countries (Brunei, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Thailand and Vietnam) and Bangladesh, India, Japan, Republic of Korea and Sri Lanka.

Of 14 countries, included in this Asia Report on TII, India got a score of 72 on the implementation of WHO FCTC Article 5.3, indicating that though it is encouraging that some states in India have issued Article 5.3 notifications, there is a need for comprehensive guidelines at the national level which would be implemented and enforced across all departments, in all the States/Union Territories across India. This score shows need for curbing TII in India to reach a lower score (better implementation) as reported in countries like Thailand, Philippines, Cambodia and Sri Lanka.
This Index is an attempt by the CSOs working on tobacco control in India to systematically measure the implementation of WHO FCTC Article 5.3 with respect to severity and frequency of tobacco industry interferences in India. Based on the findings of this report, following are some recommendations which can help strengthen the implementation of Article 5.3 of FCTC in the country:

1. **Raise awareness and adequate sensitisation:** The India TII Index highlighted that various organisations collaborate with the tobacco industry. Consequently, directly or indirectly the tobacco industry gets involved in public health policy making or programming. Thus, it becomes important for the government to raise awareness about the deadly health and economic consequences of tobacco use and caution them on the tobacco industry’s tactics and interference in the public health policymaking process.

In addition, this report has shown that the tobacco industry has diversified into food and other industry and legitimates its interactions with the government and other credible stakeholders of being a non-tobacco corporation. There is thus an urgent need to sensitise various departments in government, the United Nations (UN) bodies and NGOs that deal with both health and non-health issues. Also, any interactions between NGOs and the tobacco industry should be monitored regularly. NGOs too, should stay away from any interaction with the industry itself or pro-industry groups even if the agenda of the meeting is a non-health issue.

2. **De-normalise and regulate activities described as “socially responsible” by the tobacco industry, including CSR:** The report highlighted that industry’s CSR activities have a hidden agenda of promoting and marketing their products and promoting a positive image and perception. In India, tobacco industry initiated CSR must be treated as an activity that industry undertakes to maintain its credibility with the public and the government and these need to be de-normalised for effective implementation of WHO FCTC Article 5.3.

3. **Dis-incentivise tobacco industry:** It is well established that the only sector that benefits from tobacco growing, rolling, manufacture and use is the tobacco industry itself. The benefits do not reach the poor workers involved in rolling or growing tobacco. This all the benefits given to the tobacco industry should be phased out. Thus, all the tobacco products should be uniformly and highly taxed to achieve public health benefit and to protect the poor and children from the tobacco menace.

4. **Establish measures to limit interactions with the tobacco industry:** The report highlighted that there is a lack of national guidelines in India to limit interactions of Government officials and departments with the tobacco industry. This underscores a need for a law to limit interactions of government bodies and NGOs with the tobacco industry. Interactions with pro-industry groups or industry front groups should also be avoided at all times.
5. **Ensure the transparency:** As mentioned-above, there is a need to limit any interaction with the tobacco industry in India. However, if at all for some reason interactions are necessary, a code of conduct for officials should be in place and the interactions should be transparent and should be declared publicly.

6. **Avoid conflicts of interest:** The report ascertained that there is no law in the country to restrict authorities and organisations from taking contributions from the tobacco industry. Also, the tobacco industry is partnering on prestigious Government programmes by supporting NGOs or programmes directly. This clearly is a conflict of interest when India is a signatory to WHO FCTC and also MoHFW, GoI is steering efforts to curb the tobacco menace through National Tobacco Control Programme (NTCP). Thus, all such partnerships and collaborations should be disallowed under the Conflict of Interest.

7. **Prevention through Whole-of-government approach:** As the report deliberated that ten states in India have issued Article 5.3 notifications in the country at the sub-national level, however a whole-of-government approach is required for preventing public health from vested interests of the tobacco industry. The implementation of Article 5.3 of FCTC at a national level should be propagated by the MoHFW. Other departments in the government too should realise the significance of Article 5.3 for which a process needs to be established to address any violations of WHO FCTC Article 5.3 at national and sub-national level. This reiterates the need for adopting national guidelines for Article 5.3 of FCTC in the country. Also, states that have already issued Article 5.3 notifications, need to set up a monitoring mechanism to address any violations of these notifications within their jurisdiction.
REFERENCES


3. Notifications for implementation of Article 5.3 collected from state health departments, India


Instructions on Scoring:

In general, scoring depended on the number of incidents and the severity/frequency. Each incident was scored independently then these scores were averaged.

The base score was “3” for any incident of interference. This number was adjusted based on the severity of the interference. As a rule, add 1 point (+1) for any aggravating circumstance, reduce by 1 point (-1) for mitigating circumstances, unless a specific “recommended adjustment” applies. On the other hand, a correction or a counter-action was sufficient to remove a base score.

The following section on Standard Recommended Adjustments provide an illustration of how severity is taken into account. These may differ for each question. The adjustments below was only applied while scoring:

**Standard Recommended Adjustments:** *(applied to Q1, 5, 9, 10)*

Scores are cumulative but the maximum score is 5.

1. **Level of Public Official**
   - +1 if a high level official (Deputy Minister and up) is involved in receiving, -1 if a low level or local level official is involved,

2. **Level of Support**
   - -1 if mere participation/attendance +1 if there is also an acknowledgement (speech) or role assigned/fulfilled, endorsement (support), or partnership/non-rejection, +1 if money or something of value was accepted, -3 if there was a rejection of the offer, +1 if there is a contract, obligation committed, apparent commitment of government resources involved, or further/continuing engagement is anticipated
   - -1 if the draft/letter/policy paper was merely received or accepted but not endorsed or acted on

3. **Type of Health Policy / Type of Government Agency Involved**
   - -1 if related to local government, -2 if related to agriculture, -2 if related to trade, +1 if referring to a policy of the health department, women, children, or education

4. **Type of Tobacco Industry:**
   - -1 if tobacco industry identity is unclear to the public or government agency (e.g. not widely known front group etc.)

5. **Other circumstances:**
   - +1 if multiple government agencies are involved

**Average Scores**

1. If many incidents are involved, the score should be averaged.

2. If actions of both local and national government are involved, a weighted average should be applied. If proportionate-rating (based on population) is not possible, using a 90% (national)-10% (local) weight is recommended unless a single incident covers many local governments (then a weight of more than 10% should be assigned). ¹

**Adjustment of Final Scores**

The final score is the average of the scores (weighted if both local and national government is involved) with adjustments. The adjustments will account for overall assessments such as frequency and pervasiveness. The average should be adjusted according to the following unless other specific scoring instruction is provided for FINAL SCORES in the question:

-1 if all examples are local level
+1 if there are more than 3 incidents
+1 if only one incident is involved

**Scores of 0:**

Except for Q6, if no incident is found despite a diligent search (e.g. search of identified keywords in all sources listed), then the score should be “0” If a diligent search was not or cannot be made, please include a notice in the answer sheet that the proper search was not done and provide the reasons for it. The question will remain unanswered in such a case.

For Detailed Scoring please refer: [https://seatca.org/](https://seatca.org/)

¹ Distinction between National and Local: Actions of the local government, including its district representatives, are not representative of the actions of the national government. Hence, local government level interference must be separated from national government incidents. An average of the scores for local incidents should be weighted against the average of the scores for national incidents.