Lessons in how Parties are protecting health policies from tobacco industry interference: Case Study

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Global Tobacco Industry Interference Index
Implementation of WHO FCTC Article 5.3

TI remains a problem and has stepped up its interference.

TI may publicly claim it has changed, but behind the scenes it is fighting tooth and nail to sabotage effective regulation.
Countries Facing the Most Interference from TI

GLOBAL TOBACCO INDEX 2020
What has the tobacco industry been up to?

The TI blocks or delays efforts to develop tobacco control policies such as:

- comprehensive laws
- tax increase
- ban on new tobacco products

Important to document the evidence and provide it to the government to support policy on Article 5.3
TI stepped up its CSR activities during COVID-19 pandemic

- PMI owns one-third of Medicago; its former vice-president of regulatory affairs is the President and CEO of Medicago
- PMI immediately promoted its agreement with the Canadian government

PMI report to its shareholders – May 2020
Transparency matters

• Several governments signed MOUs with TI to tackle tobacco smuggling, mostly non-parties to the Illicit Trade Protocol.

• Countries fared better when they were more transparent in dealings with the industry, including recorded interactions and political donations.
Countries with the **LEAST** interference from the Tobacco Industry

1. Brunei Darussalam
2. France
3. Uganda
4. United Kingdom
5. New Zealand

*The lower the score, the better the ranking*
How Governments can protect themselves?

- Be transparent when interacting with the tobacco industry,
- Firewall government officials from the industry through code of conduct, guidelines or directive based on article 5.3
- Increase awareness across government agencies about tobacco industry tactics.
## What countries did right?

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<th>Whole of government protection</th>
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<td>United Kingdom</td>
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<td>Philippines</td>
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<td>Brunei</td>
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Uganda: TI interference against Tobacco Control Act: 1st Lawsuit

- November 2016: BAT filed a petition against the Gov’t, contesting constitutionality of the TC Act including sections under Art 5.3:
- State Attorney dismissed the injunction - it had no justification, Petition appeared to have been misconceived or brought in bad faith as part of a global strategy to fight tobacco control legislation.
- The Court awarded costs to the government.

Courtesy: MOH Uganda
Uganda: 2nd Lawsuit against the TCA Regulations

- 6 September 2019: TCA Regulations was gazette for its effective implementation
- 13 January 2020: TI (BAT and others) filed a temporary injunction on the enforcement of the TC regulations.
- The injunction was made ineffective because of the Minister of Health’s letter directing extension of commencement of the Regulations from 1st Feb to 1st April.

Courtesy: MOH Uganda
UK’s guidelines for overseas posts

- Posts should **limit interactions** with the tobacco industry, including any person/org working to further interests of tobacco industry.
- When interactions with the tobacco industry are necessary, conducted with **maximum transparency**;

**Posts must not:**

- Be involved in **promoting the sale of tobacco** or tobacco related products
- Encourage investment in the tobacco industry, or provide any assistance to **influence policies to their advantage** (e.g.: taxation, plain packaging;
Need to remain vigilant in implementing diplomatic guidance

The tobacco industry used the UK diplomatic missions despite its non-engagement guidance.

- Bangladesh – 2017 – unpaid VAT
- Pakistan – 2015 – health warning
- Panama – 2015 – e-cigarette, tax
- Hungary – 2015 – tax

• Role of civil society to monitor and media exposé is crucial
### What governments did right?

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<td>Ministry of Health and Family Welfare Code of Conduct for Public Officials in Compliance to Article 5.3 of WHO FCTC (July 2020)</td>
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• **Comprehensive definition** of who is the tobacco industry and includes those who “represent its interest”

• “Interference” to mean “broad array of tactics and strategies used directly or indirectly by the tobacco industry”

• Circumstances under which the interaction should take place. i.e. only when “strictly necessary to enable them to effectively regulate, supervise or control the tobacco industry and their products.” This component also limits the interaction to take place in the department.
Myanmar: BAT works through Eurocham

“Eurocham Myanmar strives to assist the government to eradicate illicit trade and promote the development of the country.”
Recommendation

It is in the hands of governments to address and halt tobacco industry interference
Apply maximum tobacco control measures for public health

Article 5.3 online course
https://untobaccocontrol.org/elearning/article53/login/

For more information:
Global Tobacco Index: globaltobaccoindex.org
STOP project: exposetobacco.org

GGTC website: https://ggtc.world/