

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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Contents

Introduction	4
Section 1. Who are those that represent the commercial and other vested interests of the tobacco industry?.....	5
Section 2. Forms of tobacco industry interference	6
Section 3. Practical steps for implementing the Article 5.3 Guidelines.....	9
Section 3.1 Vision-setting.....	11
Section 3.2 Planning	12
Section 3.3 Organizing executive action.....	18
Section 3.4 Taking action	20
Section 3.5 Including Article 5.3 as a strategic point in tobacco control programmes and plans of action.....	24
Section 3.6 Communicating with stakeholders and the public	24
Section 3.7 Building capacity to implement the Article 5.3 provisions and Guidelines.....	25
Section 3.8 Monitoring overall Article 5.3 implementation.....	25
Annex 1. Where to find additional information about tobacco industry interference with public health	28
Annex 2. Canada Lobbying Act, Regulations and Code of Conduct, 2008.....	29
Annex 3. Lao People’s Democratic Republic Law on Tobacco Control (26 November 2009)	30
Annex 4. Guidelines for responding to requests made by the tobacco industry to meet with WHO.....	31
Annex 5. Guide for WHO Collaborating Centres – avoiding real or perceived conflicts of interest.....	34
Annex 6. Guide for WHO Collaborating Centres – Declaration of interests for WHO experts	35
Annex 7. Thailand – Regulation of Department of Disease Control B.E. 2553 (2010)	36
Annex 8. Philippines regulatory framework to prevent tobacco industry interference.....	37
Acknowledgements	38

Introduction

The WHO Framework Convention on Tobacco Control (WHO FCTC)¹ 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 guidelines² 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.

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

2 http://www.who.int/fctc/guidelines/article_5_3.pdf, accessed 3 May 2012.

Section 1.

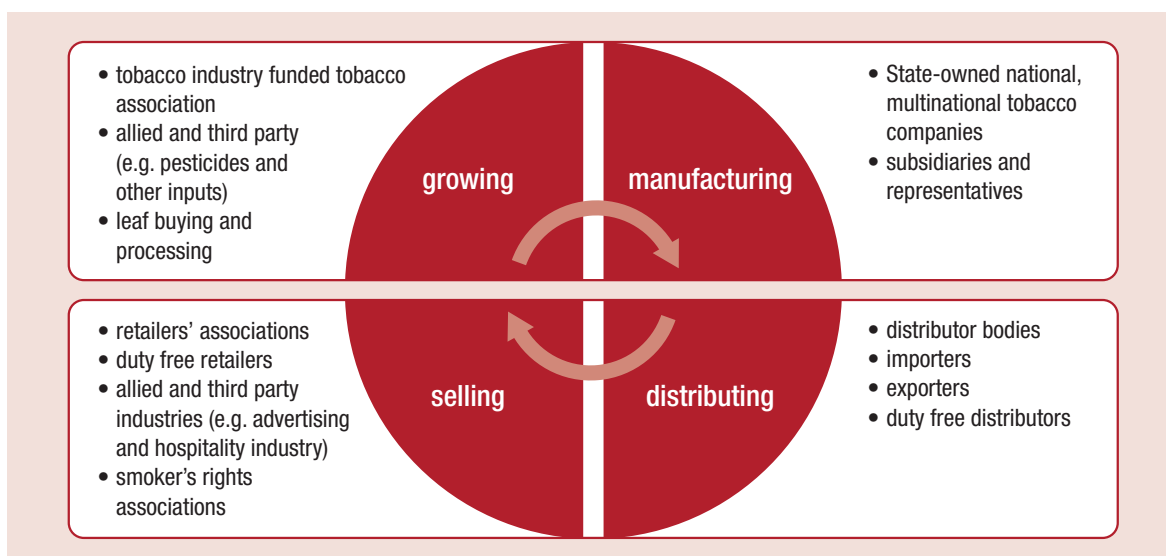
Who are those that represent the commercial and other vested interests of the tobacco industry?

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,³ 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



³ 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.^{4,5}

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.⁶

4 *Tobacco industry interference with tobacco control*. Geneva, World Health Organization, 2008 (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, 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, 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

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