

# Addressing Conflict of Interest in implementing Health policies: What reference can we draw from the Article 5.3 FCTC?

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## FCTC Article 5.3



- Article 5.3 of the FCTC provides the **international legal framework** to effectively face the tobacco industry interference challenges
- Tobacco **industry interference** cuts across a number of tobacco control policy areas, Article 5.3 provision has been considered as one of the **treaty's backbone**
- The full **toolbox** used by the industry includes:<sup>2</sup>
  - Demanding a seat at government negotiating tables
  - Promoting voluntary regulation instead of legislation
  - Drafting and distributing sample legislation that is favorable to the tobacco industry
  - Directly lobbying and influencing policymaking
  - Arguing against the effectiveness of tobacco control policies using legal and economic arguments
  - Exploiting legislative loopholes
  - Challenging and stretching government timetables for implementing laws
  - Litigating or threatening litigation
  - Gaining favor by financing government initiatives on other health issues and public demands
  - Producing and disseminating misleading research and information
  - Building increasingly elaborate alliances and front groups to represent its case the “third party technique”

WHO FRAMEWORK  
CONVENTION ON  
TOBACCO CONTROL





## FCTC Article 5.3

**Article 5.3**, *In setting and implementing their public health policies with respect to tobacco control, Parties shall act to **protect these policies from commercial and other vested interests of the tobacco industry** in accordance with national law.*

Governments should make **every possible effort** to **protect the formulation and implementation of public health policies** for tobacco control from the tobacco industry to the greatest extent possible, given the fundamental and irreconcilable conflict between the interests of the two.

# Provisions to implement Article 5.3 FCTC



WHO FRAMEWORK  
CONVENTION ON  
TOBACCO CONTROL



Guidelines  
for implementation  
article 5.3



Implementing **Article 5.3 mandate**, State Parties have full flexibility to enact all sort of measures to protect their public health policies from undue industry interference. To effectively do so, they must work implementing at national level measures to:

- **Effectively communicate** the real harms and dangers of [the product promoted by the industry] and about tobacco industry interference with Parties.
- **Adopt** the best set of **governance practices** to avoid conflict of interest when dealing with tobacco interest, and
- **Regulate** the public official's interaction with tobacco industry representatives increases transparency and ethical behavior.



# Addressing tobacco industry interference

The **Guidelines for Implementation of Article 5.3** of the FCTC recommends that countries should perform, at least, the following important activities for addressing tobacco industry interference in public health policies:

1. **Raise awareness** about the addictive and harmful nature of tobacco products and about tobacco industry interference with Parties' tobacco control policies.
2. **Establish measures to limit interactions** with the tobacco industry and ensure the transparency of those interactions that occur.
3. **Reject partnerships** and non-binding or non-enforceable agreements with the tobacco industry.
4. **Avoid conflicts of interest** for government officials and employees.
5. **Require that information** provided by the tobacco industry be transparent and accurate.
6. **Denormalize and regulate activities described as “socially responsible”** by the tobacco industry, including but not limited to activities described as “corporate social responsibility”.
7. **Do not give preferential** treatment to the tobacco industry.
8. **Treat State-owned tobacco** industry in the same way as any other tobacco industry.



# Strategy and Action Plan to Strengthen Tobacco Control in the Region of the Americas 2018 – 2022: Strategic lines of action



1.

Implementation of measures for the creation of completely smoke-free environments and the adoption of effective measures on the packaging and labeling of tobacco products as a priority for the Region.

2.

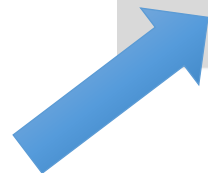
Implementation of a ban on the advertising, promotion, and sponsorship of tobacco products and the adoption of measures to reduce their affordability.

3.

Ratification of the FCTC and the Protocol to Eliminate Illicit Trade in Tobacco Products by Member States that have not yet done so.

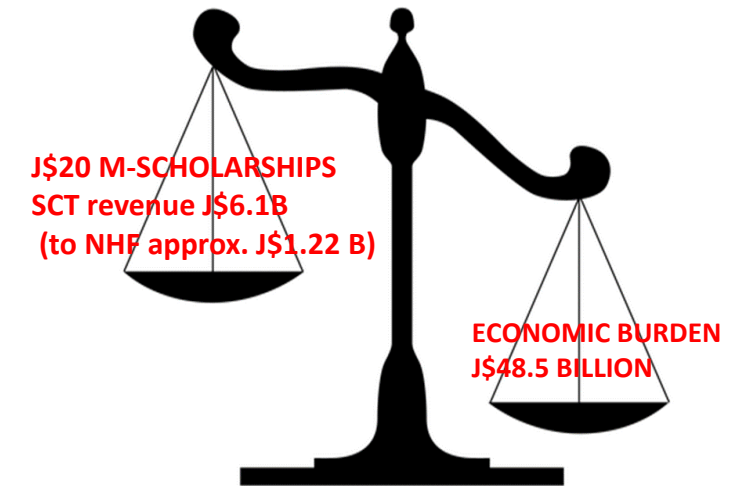
4.

Strengthening of Member States' capacity in terms of public health policies to counter attempts at interference by the tobacco industry and those who work to further its interests.



# Rejecting Corporate social responsibility (CSR)

- CSR has been used as an effective **political strategy** by industry to build support for policy positions that favor industry interests and to weaken opposition
- CSR also serves to **facilitate access to policymakers, enhance companies' reputations as a source of credible information and disincentivize evidence-based interventions**
- WHO defines CSR measures in the context of the industry as the promotion of “voluntary measures which create an **illusion of being a 'changed' company** and to establish partnerships with health interests”
- The economic burden of the loss of productivity due to illnesses and costs to treat the various health conditions associated with NCD risk factors far outweighs the suggested value of the **scholarships/sponsorship initiatives**.



# Examples of Industry interference and partnership with govt sectors across the Caribbean



## Corporate Hands | Carreras awards \$20m in scholarships

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Published: Thursday | February 2, 2023 | 12:11 AM



Trinidad and Tobago: The recommissioning of WITCO's factory with the Minister of Trade Industry





**Caribbean Maritime University students receive Pepsi-Cola Jamaica scholarship valued at \$500,000 (Loop Jamaica)**



**Carreras leads Palisadoes clean-up, tree planting across Jamaica on Labour Day 2023**



May 24, 2023 12:00 am · [Make a comment](#)



Members of the Carreras Ripon Road Corporate Office and Hagley Park depot pause for a group shot after successfully collecting bags of garbage along the Palisadoes strip.

Pandemic relief care package program.  
The industry donated 9.5M

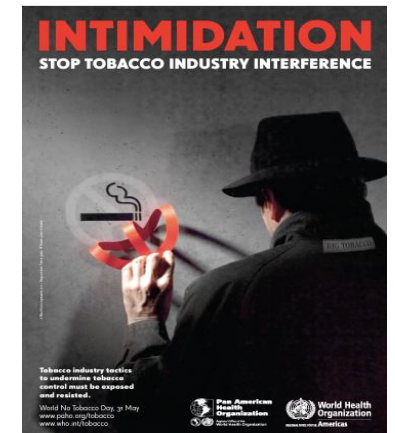


# What lessons can we learn from Article 5.3?

# Lessons learned

Despite having an international treaty and a specific article on conflict of interest management, **Member States continue to highlight that one of the major challenges in advancing the tobacco control agenda is industry interference.**

Therefore, having **specific agreements on conflict of interest management** is crucial.



# Lessons learned

Article 5.3 provides a tool to assess, monitor, and transparentize industry actions. A clear example is their continued effort to **position themselves as part of the solution.** e.g., claiming to be part of the solution to a pandemic (COVID-19) while exacerbating an epidemic (e.g., Medicago vaccine).

HEALTH

**Medicago's Canada-made COVID-19 vaccine faces WHO rejection due to tobacco industry ties**



By Kalina Laframboise · Global News  
Posted March 17, 2022 10:39 am



# Lessons learned

National **instruments/tools aligned with Article 5.3** already exist and can assist States in better managing conflicts of interest.

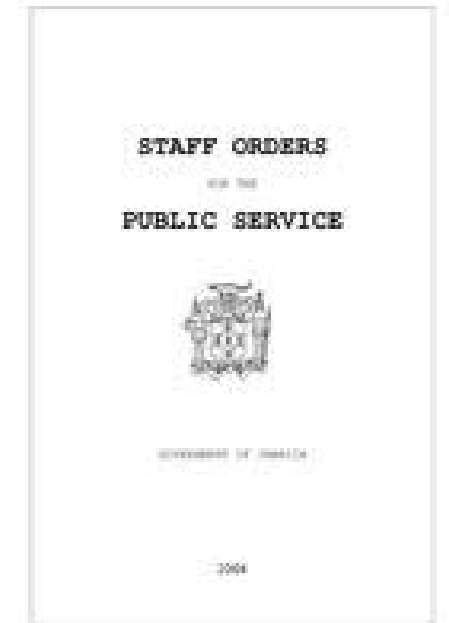


# Staff Orders for the public service



*Staff orders regulate interaction of government officials with private entities and includes provision regarding:*

- *Disclosure*
- *Conflict Of Interest: All personnel involved in the procurement process are expected to observe the Code of Conduct for Civil Servants outlined in the Staff Orders.*
- *Government officials being free from interests or relationships that are **actually or potentially detrimental** to the best interests of the Government.*





# Existing regulation on access to Information

- Antigua and Barbuda
- Belize
- Guyana,
- Jamaica
- St. Vincent
- Trinidad and Tobago  
(first to pass)

## Draft Law/ Bills

- Bahamas
- Barbados
- Grenada
- St. Kitts
- St. Lucia

### Freedom of information legislation ensures:

- Greater accountability of government to the people
- More transparent government

- **The ATI Act (2002) JAM:**

THE ACCESS TO INFORMATION ACT

JAMAICA

No. 21–2002



- Gives the public access to information held by Government and promotes accountability and transparency in Government decision-making.
- Gives a right for persons to request information from Government in the form of official documents
- Makes provision for appeal to a Tribunal where information is refused
- The public may request documents held by Government Authorities. It includes all type of information including copies of documents, computerized records, emails, maps, audio-visual etc. One may also ask to view or listen to the document



# Lessons learned

Tobacco control interference encompasses **arguments beyond health and the effectiveness of measures; it involves diverse economic and legal arguments.** Therefore, our response should be based on multidisciplinary and multisectoral approach.



**Webinar 1: The economic and social impact of tobacco**

Thursday, June 3rd - 11:00am EST



**Session 3: Multisectoral action: autonomy of health policies and their coherence with trade and customs policies**

Thursday, September 30, 2021 - 11:00 EDT

## Lessons learned

**Impeding (positive) change but also Promoting setbacks:** Tax reforms can create opportunities for health taxes, but there is also the potential for setbacks (particularly when new administration start). These setbacks can involve a reduction in the tax rate—for example, Suriname (although it was ultimately avoided).



# Lessons learned

Having **repositories of reports and databases showing TII** (e.g., Corporate Accountability/STOP). These resources are invaluable for monitoring and holding the industry accountable continuously.

## STOP is a global tobacco industry watchdog

Our mission is to expose and counter industry behavior that undermines public health. Through robust monitoring, research and reporting, STOP holds the tobacco industry accountable and supports efforts around the world to address industry interference in policy.

[ABOUT US →](#)

# Civil Society groups in the Caribbean



The participation of CSOs in holding Caribbean governments **accountable** to their global, regional, and national health-related commitments is seen in High-level advocacy through open and closed letters to CARICOM Heads of Govt, Ministers, social media, attendance at high-level regional meetings, membership on regional working groups

# Final thoughts

- ✓ According to Member States themselves, the **difficulty in moving forward with the tobacco control agenda** is largely explained by lack of adequate funding (capacity), **persistent interference by the tobacco industry**, and difficulties in establishing a multisectoral approach.
- ✓ **Lessons in tobacco control can be applied to addressing other NCD risk factors**, such as harmful use of alcohol and unhealthy diets, **where industries implement strategies very similar to those of the tobacco industry** in order to encourage consumption and influence regulatory decision-making.
- ✓ It is necessary and urgent to engage in **interprogrammatic work aimed at protecting the design, implementation, and evaluation of health policies** from undue interference in order to advance in a coordinated manner in the prevention of NCDs.



# Avoiding Conflicts of Interest at COP

Delegation Form





Thank you!