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BANGLADESH

TOBACCO INDUSTRY INTERFERENCE INDEX

Report on Implementation of FCTC Article 5.3



2020

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INDUSTRY
INTERFERENCE
INDEX**

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PROGGA Knowledge for Progress

2020 Bangladesh Tobacco Industry Interference Index
Report on Implementation of FCTC Article 5.3

Cover Design and Layout

Razib Roy

Acknowledgement

This report is made possible with support from Bloomberg Philanthropies under the Stopping Tobacco Organizations and Products (STOP), and ThaiHealth Promotion Foundation. We acknowledge Mary Assunta for her technical advice in the preparation of this Index.

The information from this report will form part of the Global Tobacco Industry Interference Index, a global survey of how public health policies are protected from the industry's subversive efforts, and how governments have pushed back against this influence. The Tobacco Industry Interference Index was initiated by the South-East Asia Tobacco Control Alliance (SEATCA) as a regional report and with support from Bloomberg Philanthropies' Stopping Tobacco Organizations and Products (STOP), is part of a global publication of the Global Centre for Good Governance in Tobacco Control (GGTC) at the School of Global Studies in Thammasat University. We also wish to extend our thanks to Ms. Bungon Ritthiphakdee of GGTC, and Anti-Tobacco Media Alliance (ATMA) for their support and advice.

About PROGGA

PROGGA - Knowledge for Progress is a Bangladeshi non-profit organization for research, advocacy, and capacity building that started its journey in 2008. 'Tobacco Control' is one of the key initiatives of PROGGA, which the organization has been implementing with support from the Campaign for Tobacco Free Kids (CTFK) since 2009. PROGGA also works as the secretariat of Anti-Tobacco Media Alliance (ATMA), a network of 350 members in different chapters all over Bangladesh. The Center for Research and Advocacy to Fight Tobacco (CRAFT), a Bangladeshi tobacco industry monitoring center, is another initiative of PROGGA established in January 2020 with support from the WHO FCTC Secretariat through its Knowledge Hub for Art 5.3, Global Center for Good Governance in Tobacco Control (GGTC).

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BACKGROUND AND INTRODUCTION

“

The tobacco epidemic is entirely man-made, and it can be turned around through the concerted efforts of governments and civil society.¹

Dr. Margaret Chan
Former Director-General (2006-2017)
World Health Organization (WHO)

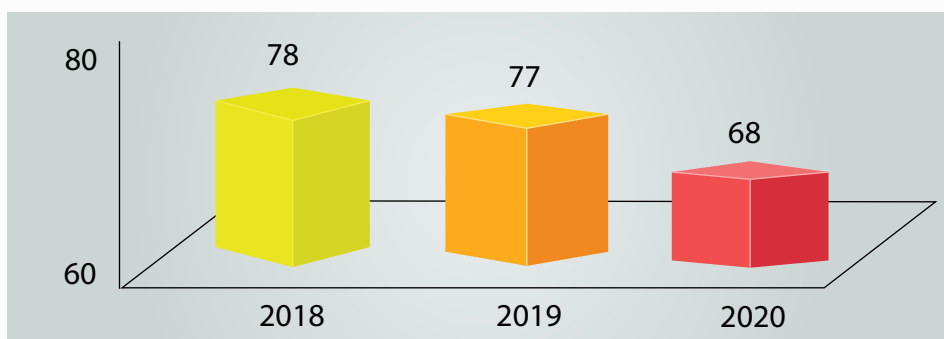
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The WHO Framework Convention on Tobacco Control (FCTC) binds signatory states to insulate their public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry, in accordance with national law. Bangladesh ratified the FCTC in 2004 and passed a tobacco control law in 2005 (later amended in 2013) based on the Framework.

Apart from FCTC obligation, Bangladesh has its own motivation to push for a public health policymaking, free from tobacco industry interference. In January 2016, the Prime Minister announced a long-term goal for a tobacco-free Bangladesh by 2040. However, four years have passed since and due to the current glacial pace in the developments of the country's tobacco control, the goal may never realize. The prevalence of tobacco use among adults in the country decreased to 35.3 percent in 2017 from 43.5 in 2009, as per

GATS 2017. This 18.5 percent relative reduction, as reported by GATS 2017, is undoubtedly a significant progress but not enough to build a tobacco-free country by 2040. In addition, the overall tobacco control activities of the country, in particular, measures to reduce the demand for and supply of tobacco, are being thwarted and debilitated by the repeated interference of the tobacco industry.

The Tobacco Industry Interference Index is a global index conceptualized and initiated by the Southeast Asia Tobacco Control Alliance (SEATCA) to promote the implementation of Article 5.3 of the WHO FCTC. The Index attempts to gauge how the government was responding to the tobacco industry's tactics by using the FCTC Article 5.3 Guidelines² based on the model questionnaire developed by SEATCA.³ Information is collected on 20 questions, divided into seven categories and only from publicly available sources including govt. websites, reports published in mass media, reports and websites of tobacco companies. The scoring range for most questions is from 1 to 5. The lower the score is, the better compliance with FCTC Article 5.3 it suggests. The purpose that drives PROGGA to prepare and release TI Index report every year since 2018 is to push for the FCTC-compliant government policies that can safeguard the tobacco control measures of the country from the growing interference of tobacco industry.



Lower score shows lower interference and better implementation of Article 5.3

PROGGA is now releasing the third TI Interference Index for Bangladesh covering incidents from January to December 2019. Considering the stagnant position of Bangladesh in the previous two Interference Indexes (78 in 2017 and 77 in 2018), the latest 2019 tobacco industry interference index shows improvement and hope for future. The score for Bangladesh stands at 68 which was 77 in the previous year. This improvement owes to the firm commitment of MoHFW since it has not accommodated tobacco industry's unsolicited opinions on the draft National Tobacco Control Policy 2019. Besides, there was no new government collaboration with tobacco industry during the year 2019. However, the total score is still high despite the improvement, which indicate that the country still remains vulnerable to tobacco industry tactics to undermine efforts to protect public health.

The COVID-19 pandemic has also exposed how efficiently the industry can thwart any pro-public government response to crisis situation. Utilizing the liaison formed due to government investment in British American Tobacco Bangladesh (BATB) and playing the so-called 'largest tax-payer' card, two multinational companies^{4,5} have managed to get the Ministry of Industries (MoI) issue letters ordering the local administrative bodies and law enforcement agencies to take step so that the tobacco business runs smoothly despite the countrywide shutdown. When the Ministry of Health and Family Welfare (MoHFW)⁶ called for a temporary ban on tobacco production and sale and the withdrawal of MoI letters and MoI was quick to turn down such request.⁷ The mounting pressure on MoHFW forced the ministry to even withdraw its letter of request.⁸ So, at this stage, ending tobacco industry interference is a must not only for building a tobacco-free Bangladesh but also for creating a competent policymaking environment that does not get immobilized by industry lobby at time of crisis.

SUMMARY FINDINGS

Bangladesh has an overall score of 68 points

INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The government has not invited tobacco industry or its representatives to sit in government interagency/ advisory group body that sets public health policy. While the Ministry of Health and Family Welfare (MoHFW) has shown commitment to advance tobacco control, the Ministry of Finance, especially the National Board of Revenues (NBR), has been utilized by the tobacco industry as its conduit to influence policy. The Bangladesh Cigarette Manufacturers' Association (BCMA) sent letters to the Finance Minister opposing the proposed draft National Tobacco Control Policy 2019. Copies of the letter were also sent to high-level officials including Secretary of Department of Finance, Secretary of Health Services Department, MoHFW; Senior Secretary of Internal Resources Division and Chairman of National Board of Revenues. Following the request from the cigarette manufacturers association at a meeting in October 2019, the NBR requested the MoHFW to consider the industry's opinion before finalizing the National Tobacco Control Policy 2019.

INDUSTRY CSR ACTIVITIES

In continuation of previous years, on 25 September 2019, BAT Bangladesh donated a hefty sum of money to Bangladesh Labour Welfare Foundation. BATB representatives handed the cheque over to State Minister for Labour and Employment. The news and picture of the donation acceptance event was later publicized on the Ministry's official Facebook page.

BENEFITS TO THE INDUSTRY

The existing 10% export duty on unmanufactured tobacco was withdrawn in the budget FY 2018-19. The National Board of Revenue (NBR) amended the VAT and Supplementary Duty Act 2012 and offered tax credit to tobacco companies from the budget FY 2018-19. The NBR reduced the supplementary duty on non-filter bidi from 35% to 30% by issuing a Statutory Regulatory Order (SRO) to accommodate the demands raised by the bidi industry.

The implementation of pictorial health warnings (PHW) on cigarette packs has been delayed since the High Court postponed the government order dated July 4, 2017, following the further review petition by Bangladesh Cigarette Manufacturers' Association. Implementation of PHW remains uncertain to this date.

UNNECESSARY INTERACTION

Compared to previous years, in 2019 the government did not enter into new collaborative agreements with the tobacco industry on enforcement or public education programs such as conducting raids on tobacco smuggling or enforcing rules on no sales to minors. However, the Ministry of Finance continued to hand out awards to tobacco entities. For example, the Minister of Finance

awarded bidi companies for being top VAT payers and smokeless tobacco companies for being top taxpayers on behalf of the NBR. In November 2019, the Japanese Ambassador to Bangladesh in a bi-lateral meeting with the Industry Minister requested him to bring "rational" changes in the country's excise tax on tobacco based on the fact that Japan Tobacco generates large amounts of revenue for the government.

BATB's partnership with the Department of Agriculture Extension continued in 2019.

TRANSPARENCY

In April 2019, the NBR held a pre-budget meeting with Bangladesh Cigarette Manufacturers Association. In October 2019, NBR conducted a meeting with tobacco company representatives as revenue collection from tobacco sector declines during July to August 2019 compared to previous year. However, details of these meetings are not disclosed.

CONFLICT OF INTEREST

The newly retired former Managing Director of Investment Corporation of Bangladesh (ICB) Mr. Kazi Sanaul Hoq took up the position of Non-Executive Director of BATB.

The government continues to hold 9.61% investment in BATB. There is no policy in place to prohibit contributions from the tobacco industry. However, in general, election candidates are required to disclose contributions received to bear election expense at the time of submitting nomination paper, according to section 44A of the Representation of the People Order, 1972.

PREVENTIVE MEASURES

The government has made efforts towards preventive measures, leading to some progress. The National Tobacco Control Cell (NTCC) drafted two code-of-conducts based on Article 5.3, one for NTCC and another for all government officials. A meeting was conducted by NTCC with committee members to review the drafts on 22 January 2019. These codes, however, were yet to be finalized.

The government requires the tobacco industry to submit monthly revenue statements (company wise) only. These statements are submitted as a requirement under the National Board of Revenue. In addition, tobacco companies must submit monthly statements of health surcharge deposit, according to the form attached with the “Health Development Surcharge (Collection and Payment) Rules 2017”. However, the tobacco companies are not required to submit information on their market share, marketing expenditures, revenues, philanthropy and political contributions.

LIMITATIONS OF STUDY

This survey is based on information available only on the public domain. It is probably not comprehensive in providing all the information, particularly for questions on benefits given to the tobacco industry (Q6, Q7) and transparency (Q11, Q12). Further research is needed for a better corroboration of this information.

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DETAILED FINDINGS

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1. Tobacco Industry Participation in Policy Development

INDICATOR	0	1	2	3	4	5
1. The government ⁹ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ¹⁰ in setting or implementing public health policies in relation to tobacco control. ¹¹ (Rec 3.1)					✗	

- Bangladesh Cigarette Manufacturers' Association (BCMA) sent a letter to the Finance Minister on 15 September 2019 where it attempted to discredit effective and scientifically proven tobacco control measures proposed in the draft National Tobacco Control Policy 2019 (NTCP). Copies of the letter were also sent to high-level govt. officials including Secretary, Department of Finance, Ministry of Finance; Secretary, Health Services Department, Ministry of Health and Family Welfare (MoHFW); Senior Secretary, Internal Resources Division and Chairman, National Board of Revenues.¹²
- Following a request and list of objections/counter-arguments from the association of cigarette manufacturers of Bangladesh during a meeting on 10 October 2019, the National Board of Revenue (NBR) consequently sent a letter to the MoHFW to consider industry opinion before finalizing the National Tobacco Control Policy 2019.^{13,14}

INDICATOR	0	1	2	3	4	5
2. The government accepts, supports or endorses policies or legislation drafted by or in collaboration with the tobacco industry. (Rec 3.4)	✗					

- There was no incidence of the government accepting, supporting or endorsing any legislation drafted by or in collaboration with the tobacco industry.

INDICATOR	0	1	2	3	4	5
3. The government allows/invites the tobacco industry to sit in government interagency/ multi-sectoral committee/ advisory group body that sets public health policy. (Rec 4.8)		✗				

- The government has not invited tobacco industry or its representatives to sit in government interagency/ multi-sectoral committee/ advisory group body that sets public health policy.

INDICATOR	0	1	2	3	4	5
4. The government nominates or allows representatives from the tobacco industry (including State-owned) in the delegation to the COP or other subsidiary bodies or accepts their sponsorship for delegates. (i.e. COP 4 & 5, INB 4 5, WG) ¹⁵ (Rec 4.9 & 8.3)		✗				

- There was no tobacco industry representative in the government delegation to the COP in previous years, to COP8 session in 2018.¹⁶

2. Tobacco Industry Related CSR Activities

INDICATOR	0	1	2	3	4	5
5. A. The government agencies or its officials endorses, supports, forms partnerships with or participates in so-called CSR activities organized by the tobacco industry. (Rec 6.2) B. The government (its agencies and officials) receives contributions (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). ¹⁷ (Rec 6.4)						✗

- In continuation of previous years, on 25 September 2019, BATB donated a hefty sum of money to Bangladesh Labour Welfare Foundation (BLWF). BATB representatives handed over the cheque to

State Minister for Labour and Employment.¹⁸ The news and picture of the donation acceptance event was later publicized by the Ministry of Labour and Employment through its official Facebook page.¹⁹

3. Benefits to the Tobacco Industry

INDICATOR	0	1	2	3	4	5
6. The government accommodates requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law. (e.g. 180 days is common for PHW, Tax increase can be implemented within 1 month) (Rec 7.1)						✘

- The lawful implementation of GHW was delayed since on 23 August 2017, the High Court postponed the government order dated July 4, 2017, following the further review petition by Bangladesh Cigarette Manufacturers' Association (BCMA). The proper implementation of GHW is still uncertain to this date.

INDICATOR	0	1	2	3	4	5
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry. (Rec 7.3)						✘

- The existing 10% export duty on unmanufactured tobacco was withdrawn in the budget FY 2018-19.²⁰
- NBR amended the VAT and Supplementary Duty Act 2012 and offered input tax credit to tobacco companies from the budget FY 2018-19.²¹
- On 13 October 2019, NBR reduced the supplementary duty on non-filter bidi from 35% to 30% by issuing a Statutory Regulatory Order (SRO) to accommodate the demands raised by the owners and labours of bidi industry.^{22,23}

- Bangladesh customs continued to allow international travellers to bring 200 sticks of cigarettes or 50 cigars or 225 gm of tobacco without any duty or tax into the country.²⁴

4. Forms of Unnecessary Interaction

INDICATOR	0	1	2	3	4	5
8. Top level government officials (such as President/ Prime Minister or Minister ²⁵) meet with/ foster relations with the tobacco companies such as attending social functions and other events sponsored or organized by the tobacco companies or those furthering its interests. (Rec 2.1)						✘

- National Board of Revenue (NBR) awarded 10 bidi companies for being the top VAT payers at the district level. On 10 December 2019, the awards were handed over by the Finance Minister to the representatives of bidi companies.²⁶
- On 28 July 2019, the Ministry of Industry awarded “National Productivity and Quality Excellence Award 2018” to BATB. The Industry Minister presented the award in a ceremony that was also attended by the State Minister of Industry and Industry Secretary.²⁷
- On 15 December 2019, the Institute of Cost and Management Accountants of Bangladesh (ICMAB) awarded “ICMAB Best Corporate Award 2018” to BATB, based on a review of the company’s annual report. The Planning Minister handed over the award.²⁸
- On 14 November 2019, NBR honoured top taxpayers which included smokeless tobacco factory (jarda) owner Mr. Kaus Mia. Mr. Kaus Mia received the award from the Minister of Finance and the NBR Chairman.²⁹
- On 22 December 2019, in presence GOC of the 9th Infantry Division of Bangladesh Army, BAT Bangladesh awarded for their contribution in the Victory Day Parade of 2019. BAT Chairman and Head of

Legal & External Affairs received the crest from the Minister of Liberation War Affairs.³⁰

- On 28 November 2019, in a bi-lateral meeting, the Japanese ambassador to Bangladesh requested the Industry Minister to consider large amount of govt. revenues generated by Japan Tobacco and urged the Minister to bring "rational" changes in the country's excise tax on tobacco based on that consideration.

INDICATOR	0	1	2	3	4	5
9. The government accepts assistance/ offers of assistance from the tobacco industry on enforcement such as conducting raids on tobacco smuggling or enforcing smoke free policies or no sales to minors. (including monetary contribution for these activities) (Rec 4.3)	✘					

- No such instance was found in public domain.

INDICATOR	0	1	2	3	4	5
10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) NOTE: This must not involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.				✘		

- BATB's partnership with the Department of Agriculture Extension (DAE) continued in 2019.³¹

5. Transparency

INDICATOR	0	1	2	3	4	5
11. The government does not publicly disclose meetings/ interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation. (Rec 2.2)				✘		

- On 10 October 2019, NBR conducted a meeting with tobacco company representatives as revenue collection from tobacco sector declines during July to August 2019 compare to previous year.^{32,33}
- On 21 April 2019, the NBR held a pre-budget meeting with Bangladesh Cigarette Manufacturers Association (BCMA).³⁴

INDICATOR	0	1	2	3	4	5
12. The government requires rules for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists. (Rec 5.3)						✘

- Rules for the disclosure or registration of tobacco industry entities, affiliated organizations/ individuals/ lobbyists do not exist.

6. Conflict of Interest

INDICATOR	0	1	2	3	4	5
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. (Rec 4.11)						✘

- In continuation of previous years, the government continued to hold

In continuation of previous years, the government continued to hold investment in BATB, which is now 9.61%.³⁵ There was not any policy in place to prohibit contributions from the tobacco industry. However, in general, election candidate required disclosing contributions received to bear election expense at the time of submitting nomination paper, according to section 44A of the Representation of the People Order, 1972.³⁶

INDICATOR	0	1	2	3	4	5
14. Retired senior government officials form part of the tobacco industry. (former Prime Minister, Minister, Attorney General) (Rec 4.4)					✗	

- The newly retired former Managing Director of Investment Corporation of Bangladesh (ICB) Mr. Kazi Sanaul Hoq held the position of Non-Executive Director of BATB.³⁷
- The former Secretary of the Ministry of Industries of Government of Bangladesh Mr. K. H. Masud Siddiqui remained as an Independent Director of BATB throughout 2019.³⁸

INDICATOR	0	1	2	3	4	5
15. Current government officials and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)					✗	

- According to the BATB website, the Secretary³⁹ of the Ministry of Industries and Additional Secretary⁴⁰ of the Ministry of Finance held positions as Non-Executive Directors of BATB.
- The Director⁴¹ of the Board of Bangladesh Bank, the central Bank of Bangladesh, also held the position of Independent Director of BATB.
- The Managing Director⁴² of Palli Karma Sahayak Foundation (PKSF), is an Independent Director⁴³ of BATB.

7. Preventive Measures

INDICATOR	0	1	2	3	4	5
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. (Rec 5.1)					✘	

- There is no procedure in place for disclosing the records of the interaction with tobacco industry in particular. However, there was a provision under the Right to Information Act, 2009 to get information by submitting application.

INDICATOR	0	1	2	3	4	5
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. (Rec 4.2)				✘		

- The National Tobacco Control Cell (NTCC) drafted two code-of-conducts based on FCTC Article 5.3, one for NTCC and another for all government officials. A meeting was conducted by NTCC with committee members to review the drafts on 22 January 2019.^{44,45} These codes, however, were yet to be finalized.

INDICATOR	0	1	2	3	4	5
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. (5.2)			✘			

- The government required the tobacco industry to submit monthly

revenue statements (company wise) only. These statements was provided since it was a requirement as per the form KHA and GA of National Board of Revenue .⁴⁶

- In addition, tobacco companies had to submit monthly statements of health surcharge deposit, according to the form attached with the “Health Development Surcharge (Collection and Payment) Rules 2017”.⁴⁷
- However, the tobacco companies are not required to submit information on their market share, marketing expenditures, revenues, philanthropy and political contributions.

INDICATOR	0	1	2	3	4	5
19. The government has a program / system/ plan to consistently ⁴⁸ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)						✘

- The National Tobacco Control Cell (NTCC) of Ministry of Health and Family Welfare (MoHFW) did not have any program/ system/ plan to raise awareness on FCTC Article 5.3 guidelines in 2019.

INDICATOR	0	1	2	3	4	5
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. (3.4)					✘	

- The government had no specific policy to disallow the acceptance of contributions/ gifts from the tobacco industry. However, general orders and anti-corruption laws exist and this should apply overall .⁴⁹

RECOMMENDATIONS

The government must fully implement Article 5.3 guidelines. Following measures should be undertaken immediately to fulfill the requirements of Article 5.3:

- 1.** The Health and Family Welfare Ministry should undertake awareness raising of non-health sectors, particularly in vulnerable ministries such as Finance Ministry, Industries Ministry and Commerce Ministry about Article 5.3 obligations.
- 2.** The government must halt all participation in award ceremonies involving the tobacco industry. Tobacco related CSR activities should be banned as required in the Article 5.3. To prevent conflict of interest, government officials must terminate their positions in tobacco companies.
- 3.** The government must formulate and implement a simple tobacco price and tax policy in line with the WHO FCTC Article 6 in order to reduce the demand for tobacco.
- 4.** The government must divest its investment from tobacco companies within a specific period of time by 2022.

5. The government must disclose all interactions with the tobacco industry and its representatives.
6. The government must remove all incentives provided to the tobacco industry including the exemption of export duty and VAT in national budget. The ban on the use of subsidized fertiliser for tobacco cultivation should be implemented effectively.
7. The government must not allow new foreign tobacco companies to invest in Bangladesh.
8. The government must expedite the adoption of a code of conduct for all officials in dealing with the tobacco industry by 2021.

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