

TURKEY

2020

TOBACCO
INDUSTRY
INTERFERENCE
INDEX

Background and Introduction

In 2019, The Health Minister Fahrettin Koca reported the incidence of smoking had increased from 27 percent to 32 percent in recent years, despite a ban on smoking in public places. The incidence of smoking among men had increased to 44 percent, while that among women had risen to 19 percent. The Health Ministry identified ways in which the tobacco industry attempted to increase tobacco use, such as pushing for water pipes after inspections against smoking in cafes or restaurants intensified, claiming electronic cigarettes are harmless, and promoting slim cigarettes to women.

Domestic cigarette sales in 2019 have reached 119,747 billion sticks, which is an increase of 1% in one year, and 28% since 2010. Domestic cigarette sales was 118,541 billion sticks in 2018. Against 1% increase in the amount of sticks, taxable sales value increased by 23%. Domestic sales of macarons (empty cigarette shells) reached 19 billion sticks, an increase of 116.67 % in one year. Water-pipe tobacco production increased by 44% in one year and reached 8,22 million tons, domestic sales increased by 52% -while total taxable value increased by 72%. Turkey exported 8,122 million tons of water-pipe tobacco in 2019. In 2019, roll-your-own tobacco production increased by 103% and reached 780,9 tons. Domestic sales (ton) increased by 107% and total taxable sales value increased by 202%. Macaron production increased by 117% in one year and reached 3,693 billion pieces.¹

Five foreign tobacco companies control the market in Turkey: British American Tobacco (BAT) Turkey, Japan Tobacco International (JTI), Philip Morris Phillip Morris Sabancı (PHILSA), Imperial (Tobacco) Brands and China National Tobacco Corporation.

BAT announced plans in 2019 to cut 2,300 jobs globally including BAT Turkey as it seeks to drive revenues in controversial e-cigarette to “new category” -such as vapour, tobacco heating products and oral tobacco. Also declared that along with the industry, governments and the public health community have a key role to play in maximising the potential for potentially reduced-risk products (PRRPs) to contribute to harm reduction. For these products to be a success, they must be supported by effective regulatory and policy regimes that enable responsible growth and promote informed consumer choice.²

In 2019, PHILSA (PMI Turkey) also declared a transformation that they’re building PMI’s future on smoke-free products that are a much better choice than cigarette smoking, and these products will one day replace cigarettes -delivering a smoke free future.³

The WHO Framework Convention on Tobacco Control (FCTC) Article 5.3 calls upon government to protect itself from influence from commercial and other vested interests of the tobacco industry. Article 5.3 guidelines⁴ provides the steps on how to go about this. This report reviews how the government is implementing Article 5.3 guidelines. It uses the questionnaire on Tobacco Industry Interference Index developed by the Southeast Asia Tobacco Control Alliance.⁵ It covers the period January 2019 – December 2019. This report is based on publicly available evidence.

¹ The Ministry of Agriculture and Forestry – Tobacco and Alcohol Department

² https://www.bat.com/group/sites/uk_9d9kcy.nsf/vwPagesWebLive/DO9DFFYA

³ <https://www.pmi.com/our-transformation/delivering-a-smoke-free-future>

⁴ Framework Convention on Tobacco Control. Guidelines for implementation of FCTC Article 5.3, Geneva 2008, [decision FCTC/COP3(7)] http://www.who.int/fctc/treaty_instruments/Guidelines_Article_5_3_English.pdf?ua=1

⁵ Assunta M. Dorotheo E.U. SEATCA Tobacco Industry Interference Index: a tool for measuring implementation of WHO Framework Convention on Tobacco Control Article 5.3; Tob Control <http://dx.doi.org/10.1136/tobaccocontrol-2014-051934>

Summary Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

Tobacco Industry has a voice in policy development in Turkey.

Mr. Riza Tuna Turagay (previously a public official), board member of British American Tobacco Turkey (BAT) has been appointed as Vice Minister of Commerce by Presidential Decision in Turkey in January 2019.

Tobacco Industry is represented in two large industry organizations, the Turkish Exporters Assembly (The Vice Minister of Commerce was member of the Tobacco Sector Board in 2018) and The Union of Chambers and Commodity Exchanges of Turkey. Both organizations publicly declare that they participate in the Economic and Social Council of the nation and “submit opinions and comments to the political power, to concerned ministries and parliamentary commissions regarding laws and regulations in draft form or in force”, and “perform consultative functions, with specialization committees made up of experienced academicians and upper-level bureaucrats of concerned public and private agencies”.

2. INDUSTRY CSR ACTIVITIES

There is no proof noted to evaluate government officials participation in CSR activities.

3. BENEFITS TO THE INDUSTRY

There are pending Regulations like implementing FCTC 5.3 since 2004.

Concerning Plain packaging law; implementation date at the manufacturing level has been postponed from July 5, 2019 to Dec. 5, 2019 because The Ministry of Agriculture and Forestry which is responsible from the amendment regulation delayed adopting the regulation. Amendment Regulation can only be published on 27 June 2019. With the same amendment regulation further benefits were granted to the Industry. The location of the variant name has been changed from the bottom surface of the unit package of tobacco products, to the visible front surface of unit the package, below the brand name. Also, compliance with the provision that the health warnings in the unit package of tobacco products placed on the market shall not be partially concealed or covered by the banderole was postponed until 31 December 2020.

In Turkey, the fixed tax is imposed automatically twice a year on tobacco products in line with producer price inflation. This implementation was canceled by a presidential decision saying it would not be implemented in the first half of 2020 to keep the inflation rate low.

In 2019, Government supplied investment incentives in the form of either VAT or customs duty exemption to twelve (12) domestic tobacco companies. With these incentives, a total of 2547 tons/year waterpipe tobacco products, a total of 2447 tons/year production capacity of cigarette and other tobacco products and a total of 4.6 billion/year cigarette filter production capacity was created in addition to the existing production capacity in Turkey.

4. UNNECESSARY INTERACTION

Top level government officials including the President and the Commerce Minister attended social functions and events like presenting awards to tobacco industry representatives for their success in exports/sales.

5. TRANSPARENCY

The government does not publicly disclose its meetings or interactions with the tobacco industry. Any industry interference can only be noted through media monitoring by civil society actors.

6. CONFLICT OF INTEREST

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.

There is no evidence of retired senior government officials form part of the tobacco industry, nor any record of current government officials holding positions in the tobacco industry.

7. PREVENTIVE MEASURES

Law No. 4703 requires the tobacco industry to periodically submit information on tobacco production and manufacture. Revenues are in scope of Tax Procedure Law. Any other activity, including lobbying, philanthropy, political contributions and all other activities are not allowed by Law No 4207. However, the government does not have program or plan to consistently raise awareness within its departments on policies related to Article 5.3. Moreover, despite FCTC rules, the government does not publicly disclose its meetings or interactions with the tobacco industry.

Recommendations

Turkey should implement and enforce FCTC article 5.3 .

Turkey: 2020 Tobacco Industry Interference Index

Results and Findings

	0	1	2	3	4	5
INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government ⁶ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ⁷ in setting or implementing public health policies in relation to tobacco control ⁸ (Rec 3.1)						5
<p>Mr. Riza Tuna Turagay, board member of British American Tobacco Turkey (BAT) until January 2019, has been appointed as Vice Minister of Commerce by Presidential Decision in Turkey. (Official Gazette, 18 January 2019, No.30659)⁹ ¹⁰ The close association of the new minister with his previous position with BAT leaves a door open for influence from the industry. The appointment of a tobacco industry executive to a governmental position is a violation of Article 5.3 of the FCTC and undermines the government's duty to protect public health policy from undue influence from the tobacco industry.</p> <p>Vice Minister of Commerce (Former BAT Turkey board member) declares interaction with industries in his speech at Association of Customs Consultants meeting on 24 May 2019.¹¹ - which is his duty/responsibility by the Turkish Commerce Law. By nature, every industry interaction with an official may include draft legislation, technical input, recommendations or such proposals. Please see section 2, 3, 6, 7 for TI acquisitions.</p> <p>As the Parties to the WHO FCTC have agreed, "there is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests". Unless reported by The Ministry, details of any interactions with the tobacco industry remain confidential(!) and therefore must be treated with zero tolerance.</p>						
2. The government accepts, supports or endorses <u>policies or legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4)						5
<p>Any legislation amendment which brings benefits to the industry is considered as a solid evidence to show the government accepts or endorses policies or legislation drafted by or in collaboration with the tobacco industry.</p> <p>The fixed tax is imposed automatically each year and twice a year on alcohol and tobacco products in line with producer price inflation (Law No.4760, Article 12 (3)). But Turkey's Official Gazette published a presidential decision saying it would not be implemented in the first half of 2020. (The Official Gazette, December 31, 2019, No.30995)¹²</p>						

⁶ The term "government" refers to any public official whether or not acting within the scope of authority as long as cloaked with such authority or holding out to another as having such authority

⁷ The term, "tobacco industry" includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

⁸ "Offer of assistance" may include draft legislation, technical input, recommendations, oversees study tour

⁹ <https://www.resmigazete.gov.tr/eskiler/2019/01/20190118-3.pdf>

¹⁰ <https://ticaret.gov.tr/kurumsal>

¹¹ https://www.igmd.org.tr/ticaret-bakan-yardimcisi-riza-tuna-turagay-igmd-iftarindaki-konusmasi_video

(at 5:20 min)

¹² <https://www.resmigazete.gov.tr/eskiler/2019/12/20191231-28.pdf>

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In plain packaging legislation (amendments to Law no. 4207 on Prevention and Control of Hazards of Tobacco Products) published in 2018, the new rules should have taken effect at the manufacturer level on July 5, 2019. However, the plain packaging implementation date at the manufacturing level has been changed to from July 5, 2019 to Dec. 5, 2019. With the same amendment regulation, the location of the variant name has been changed from the bottom surface of the unit package of tobacco products, to the visible front surface of unit the package, below the brand name. Also, compliance with the provision that the health warnings in the unit package of tobacco products placed on the market shall not be partially concealed or covered by the banderole was postponed until 31 December 2020. ^{13 14}						
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)						5
Board member of British American Tobacco Turkey (BAT) presented at the Ministry of Commerce at Vice Minister level amounts to “the government allows/invites the tobacco industry to sit in government interagency/ multi-sectoral committee/ advisory group body that sets public health policy”.						
Tobacco Industry is represented at the Turkish Exporters Assembly (The Vice Minister of Commerce was member of the Tobacco Sector Board in 2018) and The Union of Chambers and Commodity Exchanges of Turkey. Turkish Exporters Assembly issue its bi-annual action reports. In these reports interactions between tobacco industry and government are listed and photographed. ¹⁵ Both organizations -representing tobacco industry among other sector actors-report that they “participate in the Economic and Social Council of the nation”, “submit opinions and comments to the political power in line with the requirements of the private sector”, “submit opinions to concerned ministries and parliamentary commissions regarding laws and regulations in draft form or in force”, “establish and maintain the Sectoral Assemblies for comprehensive and accurate identification of sectoral problems, transmission of findings to the Government and their timely finalization”, “constitute, for performing detailed studies on economic and social issues as a requirement of its consultative functions, ad hoc specialization committees made up of experienced academicians and upper-level bureaucrats of concerned public and private agencies”, ... ¹⁶						
Please note: The Turkish version of the reference 14 do not “include participation in the Economic and Social Council of the nation”, “establish and maintain the Sectoral Assemblies for comprehensive and accurate identification of sectoral problems, transmission of findings to the Government and their timely finalization”, “constitute, for performing detailed studies on economic and social issues as a requirement of its consultative functions, ad hoc specialization committees made up of experienced academicians and upper-level bureaucrats of concerned public and private agencies” statements. ¹⁷						
4. The government nominates or allows representatives from the tobacco industry (including State-owned) in the delegation to the		1				

¹³ <https://www.resmigazete.gov.tr/eskiler/2019/06/20190627-28.htm>

¹⁴ https://members.wto.org/crnattachments/2019/TBT/TUR/19_3759_00_x.pdf

¹⁵ https://tim.org.tr/files/downloads/Raporlar/TIM_Faaliyet_Raporu_2018-2019.pdf

¹⁶ <https://www.tobb.org.tr/Sayfalar/Eng/AmaciveYapisi.php>

¹⁷ <https://www.tobb.org.tr/Sayfalar/AmaciveYapisi.php>

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COP or other subsidiary bodies or accepts their sponsorship for delegates. (i.e. COP 4 & 5, INB 4 5, WG) ¹⁸ (Rec 4.9 & 8.3)						
Board member of British American Tobacco Turkey (BAT) represented in the Ministry of Commerce at Vice Minister level can now be included as a member of the government delegation to participate in the delegation to any FCTC related meetings in COP9.						
INDICATOR 2: Industry CSR activities						
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)	0					
B. The government (its agencies and officials) receives contributions ¹⁹ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)						
Government officials do not participate in CSR activities.						
INDICATOR 3: Benefits to the Tobacco Industry						
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)					4	
<p>Concerning;</p> <p><u>Law 5261 on the Implementation of WHO FCTC</u></p> <p><u>Law 4733 on the Regulation of Tobacco, Tobacco Products and Alcohol Market</u></p> <p><u>Law 4207 on the Prevention and Control of Hazards of Tobacco Products</u></p> <p>There are pending Regulations like implementing FCTC 5.3 since 2004.</p> <p>Plain packaging policy was adopted in Action Plan 2015-2018. With the amendments dated December 12, 2018 to the Law no. 4207 on Prevention and Control of Hazards of Tobacco Products, Turkey started applying plain packaging for cigarette and tobacco products.</p> <p>The new rules should have taken effect at the manufacturer level on July 5, 2019. However, the plain packaging implementation date at the manufacturing level has been changed to from July 5, 2019 to Dec. 5, 2019. The amendment regulation was adopted and published on 27 June 2019. With the same amendment regulation, the location of the variant name has been changed from the bottom surface of the unit package of tobacco products, to the visible front surface of unit the package, below the brand name. Also, compliance with the provision that the health warnings in the unit package of tobacco products placed on the market shall not be partially concealed or covered by the banderole was postponed until 31 December 2020.^{20 21}</p>						

¹⁸ Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

¹⁹ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

²⁰ <https://www.resmigazete.gov.tr/eskiler/2019/06/20190627-28.htm>

²¹ https://members.wto.org/crnattachments/2019/TBT/TUR/19_3759_00_x.pdf

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International travellers can bring 600 cigarettes, 100 cigarillos, 50 cigars and 250g of tobacco into Istanbul. Law change for plain packaging does not specifically apply to cigarettes sold in duty free shops. The fixed tax is imposed automatically each year and twice a year on alcohol and tobacco products in line with producer price inflation (Law No.4760, Article 12 (3)). But Turkey's Official Gazette published a presidential decision saying it would not be implemented in the first half of 2020. (The Official Gazette, December 31, 2019, No.30995)						
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)						5
In 2019, Government supplied investment incentives in the form of either VAT or customs duty exemption to twelve (12) domestic tobacco companies for projects with a fixed investment value of 51 million TL. The average investment value is 4.3 million TL. Supported projects include manufacturing of cigarettes, waterpipe tobacco, macarons/RYO tobacco, cigarette paper and filters, tobacco processing machines and processed tobacco. In addition to the existing production capacity in Turkey, with these incentives, a total of 2547 tons/year waterpipe tobacco products, a total of 2447 tons/year production capacity of cigarette and other tobacco products and a total of 4.6 billion/year cigarette filter production capacity was created. The Official Gazette links for details of Investment Incentive Permit lists (in Turkish) ^{22 23 24 25 26 27 28 29 30}						
INDICATOR 4: Forms of Unnecessary Interaction						
8. Top level government officials (such as President/ Prime Minister or Minister ³¹) 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)						5
Top level government officials attend social functions and events like presenting awards to tobacco industry representatives for their success in exports/sales. Turkish Exporters Assembly announced; "Tobacco and tobacco products exports exceeded \$ 1 billion." ^{32 33}						

²² <https://www.resmigazete.gov.tr/eskiler/2019/12/20191231M5-4.pdf>

²³ <https://www.resmigazete.gov.tr/eskiler/2019/12/20191204-6.pdf>

²⁴ <https://www.resmigazete.gov.tr/eskiler/2019/11/20191101-3.pdf>

²⁵ <https://www.resmigazete.gov.tr/eskiler/2019/10/20191017-2.pdf>

²⁶ <https://www.resmigazete.gov.tr/eskiler/2019/09/20190913M1-3.pdf>

²⁷ <https://www.resmigazete.gov.tr/eskiler/2019/08/20190807-10.pdf>

²⁸ <https://www.resmigazete.gov.tr/eskiler/2019/07/20190728-6.pdf>

²⁹ <https://www.resmigazete.gov.tr/eskiler/2019/06/20190619-3.pdf>

³⁰ <https://www.resmigazete.gov.tr/eskiler/2019/06/20190616-4.pdf>

³¹ Includes immediate members of the families of the high-level officials

³² <https://www.aa.com.tr/tr/ekonomi/ihracatin-yildizlari-odulleri-sahiplerini-buldu-/1757568>

³³ <https://www.ticaret.gov.tr/haberler/tim-genel-kurulu-ve-ihracatin-sampiyonlari-odul-toreni>

	0	1	2	3	4	5
The President Erdogan and the Trade Minister Pekcan congratulated and presented their awards to business people who received Export Champions of 2019 awards at the ceremony. Please see photos in the related article in reference 30 and 31.						
The British American Tobacco has been the industry leader in 2019 with its 197.3 million dollars in exports.						
PHILSA (PHILIP Morris Sabancı Cigarette and Tobacco Industry and Trade Inc.) received export 2 nd champion award in 2019.						
JTI received export 3 rd champion award in 2019.						
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)	0					
There is no publicly available evidence of the government accepting any assistance from the tobacco industry.						
10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) <i>NOTE: This must not involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.</i>	0					
There is no publicly available evidence that the government accepts, supports, or endorses, or enters into partnerships or agreements with the tobacco industry.						
INDICATOR 5: Transparency						
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)						5
The government does not publicly disclose its meetings or interactions with the tobacco industry.						
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)						5
There is no requirement for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists.						
INDICATOR 6: 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. (Rec 4.11)						5
There is no prohibition on contributions from the tobacco industry.						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)	0					

	0	1	2	3	4	5
There is no evidence of retired senior government officials form part of the tobacco industry.						
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)	0					
There is no record of current government officials holding positions in the tobacco industry.						
INDICATOR 7: 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. (Rec 5.1)						5
The government has not put in place a procedure for disclosing the records of the interaction with the 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. (Rec 4.2)						5
The government has not adopted or implemented a code of conduct for public officials, prescribing the standards they should comply in their dealings with the tobacco industry.						
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)			2			
Law No. 4703 requires the tobacco industry to periodically submit information on tobacco production and manufacture. Revenues are in scope of Tax Procedure Law. Any other activity, including lobbying, philanthropy, political contributions and all other activities are not allowed by Law No 4207.						
19. The government has a program / system/ plan to consistently ³⁴ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)						5
The government does not have program or plan to consistently raise awareness within its departments on policies related to Article 5.3.						
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)						5
There is no specific regulation disallowing acceptance of such contributions from tobacco industry. In general, public officials are not allowed to receive any contributions while performing their duties by Civil Servants Law No. 657 - There is no control mechanism.						
TOTAL						67

³⁴ For purposes of this question, “consistently” means: a. Each time the FCTC is discussed, 5.3 is explained. AND b. Whenever the opportunity arises such when the tobacco industry intervention is discovered or reported.