

KAZAKHSTAN

2020

TOBACCO
INDUSTRY
INTERFERENCE
INDEX

Background and Introduction

Overall, the current tobacco use prevalence among Kazakstani adults is 22.9% (almost 3 million) where 22.2% are cigarette smokers. Cigarette smoking was far greater among males (42.2%) than females (4.2%) (GATS 2014)¹. Each year about 18,000 people die due to tobacco related diseases as per World Bank informal projection of 2019 year morbidity and mortality rates to the Ministry of health.

Since Health Act adoption in 2009 which allowed pioneering of the health pictorial warnings in post-Soviet region and 200% tax increase in 2013 year, no other tobacco control initiatives were undertaken in Kazakstan. Tobacco control measures according to the WHO Framework Convention on Tobacco Control (FCTC) as 100% smoke free policy and excise tax policy had been the most attacked by tobacco industry (TI) since 2009 year till nowadays.

The period of 2014 – 2018 was extremely challenging for advocating FCTC based interventions and resulted with postponement of any tobacco control initiatives in Kazakstan due to new appointment of minister of health as the result of merging 2 ministries (minister of health and minister of labor and social defence) in 2014 year. As economist with non-health background, she was known as a supporter of business union so called “Atakemen” where TI impacts regular annual fees. It was a difficult period when tobacco industry interference became very obvious and brought severe blocks/barriers to progress any public health policy in the country.

Only new appointed Minister of Health (2018 year) was able to re-focus national agenda to public health and tobacco control as a risk factor (but still not the major) for NCDs. Even with highly professional Minister of health, TI domination in Kazakstan is significant and exposed to key politicians in every level and media.

There are two major transnational tobacco producers – Philip Morris Kazakstan and Japan tobacco international with 44% market share², the rest six small local producers do not impact to market³. There are two major exporters - British American tobacco and Imperial tobacco.

Legal consumption of cigarettes in Kazakhstan continued to decline in 2017 - as per Euromonitor report from 21,2 bln sticks in 2018 year with further prognoses of 16 bln sticks by 2022⁴. This tendency was attributed to two major factors: the increase in excise duty and a desire for healthy living. As per Euromonitor report PMI introduced its heated tobacco product (IQOS)⁵ in 2016 and GLO by British American followed by its extremely fast market growth in 2018 year⁶. Heated tobacco is expected to record a retail value CAGR of 119% over the forecast period as these products are heavily promoted as less harmful than cigarettes in 2018, while e-vapour products records a retail value decline of 10%. Meanwhile smokeless tobacco (snus) was banned in Kazakstan since July 2020.

FCTC in general and Article 5.3 FCTC guidelines especially, are neglected in Kazakhstan and not even considered as country obligation. Therefore, this TI Interference Index is a first attempt of providing civil society report on current Article 5.3 FCTC situation, government response to TI

¹ <https://publish.kne-publishing.com/index.php/ijph/article/view/1799/1238>

² <https://www.euromonitor.com/tobacco-in-kazakhstan/report>

³ <https://kursiv.kz/news/tendencii-i-issledovaniya/2019-11/kazakhstancy-kuryat-odni-iz-samykh-deshevykh-sigaret-v-mire?page=32>

⁴ <https://www.euromonitor.com/tobacco-in-kazakhstan/report> (attached summary)

⁵ <https://www.minexkazakhstan.com/2019/en/exhibitors/philip-morris-international-pmi/>

⁶ <https://www.euromonitor.com/tobacco-in-kazakhstan/report>

interference and related policy challenges. This report uses the questionnaire developed by the Southeast Asia Tobacco Control Alliance based on the Article 5.3 guidelines. Information used in this report is obtained from the public domain. A scoring system is applied to make the assessment. The score ranges from 0 - 5, where 5 indicates highest level of industry interference, and 1 is low or no interference. Hence the lower the score, the better for the country.

Summary Findings

Overall findings: This report has found that there are many ways in which the tobacco industry conducts its interference starting from major scientific institution which openly receives sponsorship by Philip Morris (for heated tobacco product advocacy) and regular Japan tobacco international (JTI) sponsorship of charity fund⁷ where senior politician registered as the only founder⁸. TI is actively using front groups – business associations and unions, popular media and opinion leaders to confront public health messaging. As the result TI is very successful in undermining, postponing or blocking any of tobacco control initiatives in Kazakhstan.

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

TI participate in the policy development indirectly through national business union “Atakemen”. Regular annual fees from transnational tobacco companies to union used as force to block different public health initiatives at the national policy level. For example, in preparation to new Health Act advocacy Ministry of health (MOH) team had to run special regulatory analysis review (RAR) which must be approved by “Atakemen”. MOH must discuss the content with every business association which applied as union expert to comment this initiative which made advocacy by health professionals extremely difficult, intense and sometimes almost impossible.

2. INDUSTRY CSR ACTIVITIES

CSR activities by tobacco companies is allowed in Kazakhstan and even stimulated by special CSR award «Paryz» established by President of Kazakhstan in 2008 year⁹. TI had often been highly appraised by «Paryz». As result, NGO sector openly receives CRS sponsorship from TI where some charity NGOs are well known as long-term partners¹⁰.

There are no publicly available official records of any direct endorsement, support and partnerships of TI with government agencies.

3. BENEFITS TO THE INDUSTRY

There is no time-line benefits for implementation or postponement of tobacco control law known or supported.

But as for excise taxes – the only effective tobacco control intervention, TI was able to influence Eurasia custom union which unifies 5 countries (Armenia, Russia, Belarus, Kazakhstan, Kyrgyzstan) for privileged of substantially low excise tax which was signed on 24 Dec 2019 year. As per Eurasia custom union Tax agreement only 35Euro per thousand sticks will be achieved in 2024 and not more 20% increase will be allowed which shows significant benefits to the tobacco industry¹¹.

⁷ <https://degdar.com/about/> , <https://degdar.com/projects/vremyen-svyazuyushchaya-nit/>

⁸ <https://degdar.com/about/>

⁹ https://online.zakon.kz/document/?doc_id=33497175

¹⁰ <https://degdar.com/about/> , <https://degdar.com/projects/vremyen-svyazuyushchaya-nit/>

¹¹ <http://www.eurasiancommission.org/ru/nae/news/Pages/24-12-2019-1.aspx>

4. UNNECESSARY INTERACTION

Unnecessary TI interaction happen on senior level within different cultural and musical activities of charity fund under JTI sponsorship¹² which might also serve as direct access to key decision makers at government and Parliament level.

Less senior but important TI interaction involve leading scientific institution which openly receive sponsorship by Philip Morris to block heated tobacco product advocacy in Health Act^{13, 14}.

5. TRANSPARENCY

FCTC provisions and Article 5.3 FCTC guidelines especially are neglected in Kazakstan. As the result there is no any official and informal regulation to disclose meetings/ interactions with TI or rules for the disclosure or registration of TI entities, affiliated organizations, and individuals acting on their behalf including lobbyists. Meeting with TI is a norm in Kazakstan and in some cases even required by law (Business Act).

6. CONFLICT OF INTEREST

FCTC provisions and Article 5.3 FCTC guidelines especially are neglected in Kazakstan. For example, well known ex-head of “Atameken” union who is currently work as MP and leader of “Akzhol” political party in Mazhilis regularly attempt to influence tobacco control and weaken the amendments^{15, 16}. He never discloses conflict of interest.

7. PREVENTIVE MEASURES

As Article 5.3 guidelines are neglected in Kazakhstan no preventive measures have been put in place by the government and in parliament.

Recommendations

It is urgent, vital need to:

1. Develop and implement special national rule or Code to implement Article 5.3 guidelines to stop TI collaboration with senior level politicians. Code should provide a transparent procedure of any TI interaction to all government officials and politicians, and public academic institutions including scientists.
2. Ban on all forms of tobacco related CSR TI activities.
3. Introduce and expand awareness campaign on Article 5.3 guidelines on senior political level and media.
4. Continue collecting and disclosing records of all TI interference.

¹² <https://degdar.com/projects/vremyen-svyazuyushchaya-nit/>

¹³ <http://nosmoke.kz/2019/05/20/>

¹⁴ https://m.facebook.com/story.php?story_fbid=680719462361692&id=100012709323874

¹⁵ <https://rus.azattyq-ruhy.kz/analytics/9187-azata-peruasheva-ustravaet-cto-deti-pokupaiut-elektronnye-sigarety-obshchestvennitsa-vyskazalas-o-provalnom-tabachnom-lobbi-mazhilismena>

¹⁶ <https://rus.azattyq-ruhy.kz/analytics/3728-tabachnoe-lobbi-kto-iz-mazhilismenov-prodvigaet-elektronnye-sigarety>

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Results and Findings

	0	1	2	3	4	5
INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government ¹⁷ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ¹⁸ in setting or implementing public health policies in relation to tobacco control ¹⁹ (Rec 3.1)			2			
<p>There is no official or known evidence that any ministry or state agency receive direct offers or support from the tobacco industry.</p> <p>It is known that the “Atameken” (National Chamber of Entrepreneurs of the Republic of Kazakhstan)²⁰ which has a membership of 180 business associations including tobacco companies, routinely provides expert technical support to policy development. TI regular annual fees as “Atameken” members built it as a driving force for different initiatives at the national policy level, where union experts are considered as a source of pro-tobacco technical support. Although its website does not show regular annual TI fees as an official member of “Atameken”, this particular strong connection is well known.</p> <p>In preparation to new Health Act initiatives, the Ministry of Health (MOH) conducted special regulatory analysis review (RAR) which must be approved by “Atameken”. Thus, MOH had to discuss the content with every business association which provided expert comments on this initiative which made advocacy campaign by public health professionals difficult, intense and sometimes almost impossible. The RAR is used to delay tobacco control measures. For example, before final approval by Ministry of Economy the RAR on tobacco display ban at point-of-sale was discussed 9 times and yet later was blocked by Vice-Prime Minister in October 2019. It took 6 months of active advocacy of MOH, supported by Kazakstan Smokefree Coalition, in the Mazhilis (low chamber of the Parliament) to defend amendments for tobacco display ban in Health Act, scheduled for approval in 2020. At the same time RAR on 100% smoke-free, which includes elimination of designated smoking rooms from food-serving venues, was re-submitted 12 times and was still not approved, similar to how “Atameken” used aggressive challenges to disregard display ban.</p> <p>In another example – already in Mazhilis - the member of the parliament (MP), who was the former head of “Atameken” and TI supporter, insisted the working group send all tobacco control amendments for additional government re-approval two times with the aim to weaken it significantly. Only due to MOH principal position all amendments had passed all barriers and had been finally approved on 13 May 2020 at the second Mazhilis hearing.</p>						

¹⁷ 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

¹⁸ The term, “tobacco industry” includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

¹⁹ “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

²⁰ <https://atameken.kz/ru/pages/39-missiya-palaty>

	0	1	2	3	4	5
2. The government accepts, supports or endorses <u>policies or legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4)			2			
<p>There is known public records on drafting government accepts, supports or endorses <u>policies or legislation</u> in collaboration with the tobacco industry.</p> <p>As it is required by the Business Code,²¹ Ministry of Economy and Ministry of Finance must discuss excise tobacco policy with TI and “Atameken” members. Therefore, most of tax and economic related decision are drafted and shaped by the TI. For example, Kazakhstan applied only 25% annual tobacco tax increase which was approved by TI and “Atameken”²². The Ministry of Health’s opinion on major tobacco excise increase is usually ignored.</p> <p>The TI’s interference has been exposed for its with direct access to decision makers in national policy on taxation – Tax Code. For example, the long-term MP - head of finance committee in Mazhilis who is responsible for national tax policy had been connected to International Tax and Investment Center (ITIC) company where the top transnational tobacco companies were represented²³.</p> <p>As per media investigation by 2015 there were around 1000 key Kazakhstani politicians who had been trained by ITIC on various European (mostly Austria) platforms²⁴. They participated in numerous ITIC activities and provided speeches at ITIC related series of seminar in Austria on tobacco and alcohol tax policies up till 2013 year. During that period, tobacco companies were sponsoring the ITIC and Philip Morris International funded its annual reports on illicit trade on tobacco.²⁵</p> <p>In 2014, Kazakhstan’s Ministry of Finance representative participated at ITIC Tax Forum just before COP6 in Moscow which was sharply criticized in media²⁶. As a result, Smokefree Kazakhstan Coalition gave a symbolic “Dirty Ashtray” award to ITIC office in Kazakhstan for attempt to weaken implementation of Article 5.3 guidelines at COP5 through “Tax Forum” in Moscow²⁷ in 2014.</p>						
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)				3		
<p>Yes, it is almost obligatory for state bodies (ministries, agencies) to have experts endorsed by “Atameken” business union²⁸. According to Business Act every law, norm and government initiative related to business should go through “Atameken” review and official approval. Also, members of “Atameken” can personally participate in every state committee and documents review as nominated experts. TI as “Atameken” members submit regular annual fees which allows them to participate in any multi-sectoral committees, advisory and working groups. Given such monitoring position, “Atameken” became biggest influence platform and extreme barrier for any social and health intervention in Kazakstan.</p>						

²¹ <http://adilet.zan.kz/rus/docs/K1500000375>

²² <http://nosmoke.kz/2014/11/26/>

²³ <https://www.iticnet.org/who-we-are>

²⁴ <https://time.kz/articles/strana/2014/10/14/cherti-iz-tabakerki>

²⁵ http://seatca.org/dmdocuments/Asia%2014%20Critique_Final_20May2015.pdf

²⁶ <https://time.kz/articles/strana/2014/10/14/cherti-iz-tabakerki>

²⁷ <http://nosmoke.kz/2014/11/25/>

²⁸ <https://atameken.kz/ru/pages/39-missiya-palaty>

	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) (Rec 4.9 & 8.3)		1				
No facts known.						
In 2018 there was an attempt by “Atameken” to include JTI representative to the COP in Geneva but it was not supported by Vice Ministry of Health and candidate was not included as expert.						
INDICATOR 2: Industry related Corporate Social Responsibility 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) B. The government (its agencies and officials) receives contributions (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)						5
CSR activities by tobacco companies is allowed in Kazakhstan but it is NOT officially known of any direct endorses, supports and partnerships by government agencies.						
Most CSR are conducted within the special CSR «Paryz award» established by President of Kazakstan in 2008 to stimulate business for true CSR. The Order requires the Ministry of Labor, Ministry of Ecology and city’s councils to conduct «Paryz award» and accept all CSR proposals for award commission review, including tobacco industry ²⁹ .						
In December 2019, PMI received special CSR “Paryz” award for ecological approach for the best “green office” ³⁰ . In 2018, PMI has received recognition from the President "For charitable and sponsorship activities in the cultural and humanitarian spheres" ³¹ . PMI conducts charity programs and spent about US\$252,000 in 2018 ³² .						
JTI’s project with the Social Adaptation Center for Seniors in Astana, for elderly people is run in partnership with the Astana Organization of Veterans, Astana City Council, and Astana Employment Center. ³³						
Meanwhile, NGO sector openly receives CRS sponsorship from TI. The most known is charity fund “Degdar” ^{34,35} where JTI is quoted as a partner which is sponsoring cultural activities on annual basis. Given charity activities TI may have access to very senior political level to influence or postpone tobacco control policies.						
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)	0					
There is no official TI requests for longer time frame of implementation or postponement of						

²⁹ https://online.zakon.kz/document/?doc_id=33497175

³⁰ <https://www.zakon.kz/4998948-filip-morris-kazahstan-laureat-konkursa.html>

³¹ https://online.zakon.kz/document/?doc_id=33497175

³² https://www.pmi.com/resources/docs/default-source/kazakhstan-market/crs_programs_pmk_en.pdf?sfvrsn=e1f283b5_2

³³ <https://www.jti.com/our-views/investing-our-communities>

³⁴ <https://degdar.com/about/> , <https://degdar.com/projects/vremyen-svyazuyushchaya-nit/>

³⁵ <https://degdar.com/about/>

	0	1	2	3	4	5
tobacco control law known or supported. Most deadline postpones happen either internal bureaucracy or severe fights between MOH and TI which always happens. For example, TI strongly opposed the Health Act tobacco control amendments which was postponed for 2 months in Mazhilis approval in 2020.						
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)				4		
<p>Within the Eurasia custom union which unites 5 countries (Armenia, Russia, Belarus, Kazakhstan, Kyrgystan) governments gave privileges for extremely low excise tax (35 Euro per thousand sticks in 2024) and not more 20% tax range which certainly serve as significant benefit to the tobacco industry³⁶. Eurasia custom union Tax agreement was signed on 24 Dec 2019 year and MOH did not participate as reviewer.</p> <p>Due to Eurasian Tax agreement the tobacco industry will continue cigarette production with lower tax regime, not just in Kazakhstan, but in 4 countries of the Custom union.</p>						
INDICATOR 4: Forms of Unnecessary Interaction						
8. Top level government officials (such as President/ Prime Minister or Minister ³⁷) 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)					4	
<p>Given charity activities^{38, 39} TI might have direct access to very senior politicians at government and Parliament level. Most of officials use to visit opera performances provided under JTI sponsorship.</p> <p>Also, tobacco industry is actively involved in major scientific institutions which openly receive sponsorship by Philip Morris to block heated tobacco product advocacy in Health Act^{40, 41}. It attracted media coverage and MOH's attention which resulted with special Memorandum for medical universities to stop of any partnership with TI on scientific matters.</p>						
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)			2			
<p>Not officially reported.</p> <p>However JTI reports on its website that it “works closely with law enforcement and government agencies, sharing information and expertise. We inform retail and wholesale outlets of the possible penalties for dealing in illegal cigarettes.”⁴²</p>						
10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) <i>NOTE: This must <u>not</u> involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.</i>	0					

³⁶ <http://www.eurasiancommission.org/ru/nae/news/Pages/24-12-2019-1.aspx>

³⁷ Includes immediate members of the families of the high-level officials

³⁸ <https://degdar.com/about/> , <https://degdar.com/projects/vremyen-svyazuyushchaya-nit/>

³⁹ <https://degdar.com/about/>

⁴⁰ <http://nosmoke.kz/2019/05/20/>

⁴¹ https://m.facebook.com/story.php?story_fbid=680719462361692&id=100012709323874

⁴² <https://www.jti.com/our-views/taking-action-illegal-trade>

	0	1	2	3	4	5
No official record of such partnership.						
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
FCTC provisions and Article 5.3 guidelines especially are neglected till nowadays. There is no official and informal regulation to disclose meetings/ interactions with the tobacco industry. Meeting with TI is a norm in Kazakhstan and in some cases even required by law (Business Act).						
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
Article 5.3 guidelines are not implemented in Kazakhstan. There is no regulation to disclose or register tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists. For example, at the beginning of Health Act working group (WG) in Mazhilis, TI employers participated as “Atameken” experts. Only after Smokefree Kazakstan Coalition wrote special letter to the head of WG, they had to reveal the TI representatives in the list. But they still continued to participate at every discussion of Health Act amendments and weaken tobacco control amendments.						
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
As Article 5.3 guidelines are not implemented, there is no official prohibition of contributions from the tobacco industry. The ex-head of “Atameken” who is currently serves as MP of “Akzhol” political party in Mazhilis continues to weaken tobacco control policy. “Akzhol” political party tries to influence current Health Act advocacy ^{43 44} . MP did not disclose conflict of interest, as government and parliament do 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.						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)	0					
No official facts are known						
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					
No official facts are known						

⁴³ <https://rus.azattyq-ruhy.kz/analytics/9187-azata-peruasheva-ustraiuaet-cto-deti-pokupaiut-elektronnye-sigarety-obshchestvennitsa-vyskazalas-o-provalnom-tabachnom-lobbi-mazhilismena>

⁴⁴ <https://rus.azattyq-ruhy.kz/analytics/3728-tabachnoe-lobbi-kto-iz-mazhilismenov-prodvigaet-elektronnye-sigarety>

	0	1	2	3	4	5
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
No procedure for disclosing the records of the interaction with TI put in place, as Article 5.3 FCTC guidelines are not implemented in Kazakhstan.						
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
Government never 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.						
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)						5
The government does not require the tobacco companies to report on their market share, marketing expenditure, philanthropy or lobbying.						
19. The government has a program / system/ plan to consistently ⁴⁵ 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 a program, system or plan to consistently raise awareness within its departments on policies relating to Article 5.3 Guidelines.						
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
Article 5.3 guidelines are neglected in Kazakhstan.						
TOTAL						63

⁴⁵ 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.