

INDIA

TOBACCO
INDUSTRY
INTERFERENCE
INDEX
2020

A Report on Implementation of the WHO
Framework Convention on Tobacco Control
Article 5.3

CONTRIBUTORS

Lead contributors: Adhip Amin, Upendra Bhojani (Institute of Public Health, Bengaluru)

Co-contributors (Members of Tobacco Control Working Group in an alphabetical order)

Aastha Chugh (HRIDAY)

Akash Kasliwal (Marathwada Gramin Vikas Sanstha)

Awadhesh Kumar (Balajee Sewa sansthan)

Cyril Alexander (Mary Anne Charity Trust)

Deepak Mishra (Socio Economic and Educational Development Society)

Gopal Chauhan (Himachal Pradesh Department of Health and Family Welfare)

Mira Aghi (Healis Sekhsaria Institute for Public Health)

Monika Arora (HRIDAY; Public Health Foundation of India)

Mukesh Kumar Sinha (Madhya Pradesh Voluntary Health Association)

Muralidhar Kulkarni (Manipal Academy of Higher Education)

Nirmalya Mukherjee (Manbhum Ananda Ashram Nityananda Trust)

Opinder Preet Kaur Gill (Generation Saviour Association)

Pragati Hebbar (Institute of Public Health)

Prakash Gupta (Healis Sekhsaria Institute for Public Health)

Pranay Lal (International Union Against Tuberculosis and Lung Disease)

Praveen Kumar (Manipal Academy of Higher Education)

Rakesh Gupta (Strategic Institute for Public Health Education and Research)

Ranjit Singh (Legal professional)

Ravi Mehrotra (Program Lead, India Cancer Research Consortium)

Shalini Bassi (Public Health Foundation of India)

Shoba John (Sustainability professional, doctoral scholar)

Sonu Goel (Post Graduate Institute of Medical Education and Research)

Veena kamath (Manipal Academy of Higher Education)

Vivek Avasthi (Uttar Pradesh Voluntary Health Association)

ACKNOWLEDGEMENTS

This report has been produced through a collaborative work of several institutions and individuals active in tobacco control research and practice in India. We thank voluntary efforts of all the contributors. We thank Mary Assunta of the Global Centre for Good Governance in Tobacco Control for her encouragement and technical inputs to this Index. We received no specific funding for this Index. We acknowledge the DBT/Wellcome Trust India Alliance for supporting the time of the lead contributors through the fellowship awarded to Upendra Bhojani (IA/CPHI/17/1/503346).

Suggested citation: Adhip A, Bhojani U, Tobacco Control Working Group. India Tobacco Industry Interference Index 2020: A Report on Implementation of the WHO Framework Convention on Tobacco Control Article 5.3. 2020.

INTRODUCTION

Tobacco use and its impact on population health is a major public health challenge in India. About 28.6% of adults in India (266.8 million) are current users of tobacco in one or other form.¹ Over 1.3 million adults die prematurely every year from tobacco related diseases in India.^{2,3} The economic cost of diseases caused by tobacco among adults in India has been estimated to be 22.4 billion USD amounting to 1.16% of India's GDP and far exceeding the public expenditure on health in India.⁴

The World Health organization Framework Convention on Tobacco Control (FCTC) is the first global health treaty providing evidence-based supply- and demand-side measures to reduce tobacco use.⁵ India signed and fully ratified the FCTC in 2004. Governments in India have adopted several tobacco control measures leading to reduction in tobacco use prevalence by six percent points between 2010 and 2017.⁶ The Article 5.3 of the WHO FCTC states, "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".⁷ One of the principles of the Article 5.3 is that "There is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests".

Globally and in India, tobacco industry has been documented to interfere in tobacco control policy development and implementation. While there is no nation-wide policy to prevent tobacco industry interference in India as of yet, several states in India as well as more recently, the Ministry of Health and Family Welfare (Government of India) have adopted Protocols or Code of Conducts aimed at preventing industry interference and conflicts of interest among public officials. The Tobacco Industry Interference Index helps to assess the implementation of the FCTC Article 5.3 through standardized tool using a systematic inquiry and materials in public domain.

OBJECTIVE

To assess the implementation of the Article 5.3 of the FCTC in India during the year 2019.

METHODS

We used the SEATCA (South East Asia Tobacco Control Alliance) Tobacco Industry Interference Index⁸ tool to assess the implementation of the FCTC Article 5.3 in India for the year 2019. This tool uses 20 questions under the seven broad themes that capture the spirit and recommendations under the FCTC Article 5.3.

¹ GATS 2: Global Adult Tobacco Survey, factsheet India 2016-17. 2017.

² Jha P, Jacob B, Gajalakshmi V et al. A nationally representative case-control study of smoking and death in India. *N Engl J Med* 2008;358(11):1137-47.

³ Sinha DN, Palipudi KM, Gupta PC et al. Smokeless tobacco use: a meta-analysis of risk and attributable mortality estimates for India. *Indian J Cancer* 2014;51:73-7.

⁴ Ministry of Health and Family Welfare (Government of India), Public Health Foundation of India, WHO Country Office (India). Report on the economic burden of tobacco related diseases in India.

⁵ World Health Organization. WHO Framework Convention on Tobacco Control. 2005.

⁶ GATS 2: Global Adult Tobacco Survey, factsheet India 2016-17. 2017.

⁷ World Health Organization. WHO Framework Convention on Tobacco Control: guidelines for implementation Article 5.3; Article 8; Article 11; Article 13. 2009.

⁸ 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. 2015 <http://tobaccocontrol.bmj.com/content/early/2015/04/23/tobaccocontrol-2014-051934>

We systematically searched media reports by most national and some regional dailies in English and Hindi languages, and other electronic media in English language using search terms such as, 'tobacco industry', 'tobacco company', 'government', 'interference', and 'FCTC'. We also searched web portals of government agencies (health, agriculture, commerce and finance ministries and their agencies; press information bureau), tobacco companies and the known front groups of tobacco industry. We also reviewed annual reports of major tobacco companies and any relevant government reports. We searched within social media posts (Twitter and Facebook) of select tobacco entities. Based on any specific leads identified through such search, we also conducted free term search on Internet as needed to find more information.

We identified incidents of industry interferences through such search and based on available information, scored those incidents. Each incident was given a base score, which was adjusted based on the nature of the incident and any aggravating and mitigating circumstances. The score would range from 0 to 5. When there are more than one incidents under a given question, the final score for the question would be arrived at by averaging out the incident scores with some additional final adjustments based on the level (national, local) and frequency of incidents. The total score for the Index would be the sum total of the scores of 20 questions. Hence, the Index would have a maximum score of 100: bigger the score, greater the industry interference reflecting poorer implementation of the FCTC Article 5.3. For details on the tool and the scoring, please refer the SEATCA Tobacco Industry Interference Index.

A draft of the report was sent to a number of national and state level tobacco control experts in India seeking their inputs. This led to identification of some more incidents of industry interference that we subsequently included in the revised Index.

DISCLAIMER

Our aim was to assess the implementation of the WHO FCTC article 5.3 in India using an available, standardized tool so that it informs efforts at enhancing implementation of this article in India. We do not intend to make any legal judgment or malign any institution/ stakeholder. We relied on relevant material we could find in the public domain and on inputs from the select experts. The very nature of policy interference implies that not everything would be available in the public domain. We relied heavily on media reports and other reports in the public domain. We cite and (wherever possible) provide links to these sources. Any errors in those reports would also impact our assessment/index.

RESULTS

The overall score for the India 2020 Tobacco Industry Interference Index is 61 out of 100. This suggests a small but definite improvement in implementation of the FCTC Article 5.3 in 2019 compared to the year 2018⁹ (score 69/100) and 2017¹⁰ (score 72/100). We now provide details about the incidents and scores for the 20 questions under the seven broad themes.

⁹ HRIDAY. Tobacco Industry Interference Index: India report on implementation of WHO FCTC Article 5.3. New Delhi: HRIDAY 2019.

¹⁰ Chugh A, Bassi S, Nazar G P, Bhojani U, Alexander C, Lal P, Gupta P C, Arora M. Tobacco Industry Interference Index: Implementation of the World Health Organization's Framework Convention on Tobacco Control Article 5.3 in India. *Asia Pac J Public Health* 2020.

Score	0	1	2	3	4	5
INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry in setting or implementing public health policies in relation to tobacco control.		1				
<p>While the governments in India do not proactively seek, accept or support offers of assistance by the tobacco industry, the industry – directly or indirectly through its front groups – routinely reach out to governments to consider policy changes in favor of the industry.</p> <p>We identified at least 12 incidents where the industry or industry linked/supported groups reached out to governments with their demands concerning the Electronic Nicotine Delivery Systems (ENDS) or e-cigarettes, mainly asking governments not to ban such products and to consider regulating these products as ‘harm reduction’ products.</p> <p>The Confederation of All India Traders asked the “govt to set up panel to deliberate on e-cigarettes regulations”.¹¹ The Godfrey Phillips, in its Annual Report (2018-19) argued that ENDS “have emerged as a viable solution to reduce the harmful effect of traditional cigarettes”.¹² It urged the government to set up a panel to review global regulations and evidence around ENDS. It went on to highlight how “an industry association has requested the government to set up a panel to independently review the existing global regulations, supporting evidence showcasing the relatively less harmful impact of ENDS and the potential of these products to supplement tobacco control measures in India.” The Heart Care Foundation of India wrote, “to the Prime Minister’s Office highlighting the need for a regulatory framework for vaping products, so that they can be used as an alternative to combustible tobacco products like cigarettes”.¹³ It was also arguing for such a position based on a statement published in the Indian Journal of Clinical Practice. This journal, linked to this same foundation, had financial ties with the e-cigarette maker, Juul Lab.¹⁴ The Print “reported that more than 3,000 users of ENDS wrote to Prime Minister Narendra Modi, requesting him to legalise them”.¹⁵ In fact, the Chairman of this foundation and the Chief Editor of this journal was part of a committee constituted by the FDA of Madhya Pradesh Government to decide on ENDS regulations in the state.¹⁶</p> <p>Several industry representatives appealed to governments not to ban ENDS. The Trade</p>						

¹¹ CAIT asks govt to set up panel to deliberate on e-cigarettes regulations. Business Standard, July 16, 2019.

¹² Godfrey Phillips Annual Report 2018-19.

¹³ In Letter to Govt, NGO Highlights Need for Policy on Vaping Products. Business Standard, 6 Apr. 2019,

¹⁴ Pulla, Priyanka. Medical Journals’ Publisher under Fire. The Hindu, 7 Feb. 2019.

¹⁵ Forget Loans, over 3,000 Write to PM Modi to Legalise Flavoured Hookahs & e-Cigarettes. The Print, 15 May 2019.

¹⁶ On July 2019, the Government of Madhya Pradesh issued a notification forming an Expert Committee whose purpose was to “examine the current research and knowledge related to the use of ENDS...examine current regulatory provisions with respect to the manufacture, distribution and sale of ENDS” and then recommend proposals.

Representatives of Electronic Nicotine Delivery Systems had sent representations to governments countering the health ministry's arguments for banning the ENDS.^{17,18} They sent such representations to the Parliamentary Standing Committee on Health and Family Welfare. They also wrote "to CMs seeking help against ban"¹⁹ on ENDS which had been initiated by the Centre. They wanted state governments to do an independent study to "evaluate the effects of e-cigarettes and arrive at a "rational" decision".²⁰ The Association of Vapers India also argued that e-cigarettes are less harmful and alleged that the government had a conflict of interest in banning the ENDS as the government is profiting from cigarette sales. They sought "GoM hearing over bringing ordinance to ban ENDS".²¹ There were others, "Ficci, CII among 30 groups urging govt not to ban online content relating to vaping".²² There were attempts at bringing international voices/influence in favor of e-cigarettes through members of British Parliament and industry linked experts or 'think tanks' writing to Indian governments.^{23,24,25}

There were industry voices for reducing taxes on tobacco. In its Annual Report (2018-19), the Godfrey Phillips stated a position against stringent taxation of cigarettes by saying that "High level of taxation" has "led to the rise in illicit cigarette trade", and conveniently linked that to "consequent loss of revenue to the government."²⁶ It said "various industry bodies and corporates have urged the government to consider bringing the taxation on cigarettes to pre-GST levels." This very rhetoric of decreasing tax rates so as to tackle illicit trade has been exercised by various tobacco companies: Golden Tobacco Limited,²⁷ Godfrey Phillips,²⁸ and ITC Ltd.²⁹ The Federation of All India Farmers Association had appealed to "government to adopt a consultative approach and include tobacco farmers while framing tobacco control regulations".³⁰ This appeal was made specifically in the

¹⁷ E-cigarette promoters' body counters health ministry's arguments. Indiatvnews, October 10, 2019.

<https://www.indiatvnews.com/news/india/e-cigarette-promoters-body-counters-health-ministry-arguments-555608>

¹⁸ E-cigarette promoters" body counters health ministry"s arguments. Outlook, October 10, 2019.

<https://www.outlookindia.com/newscroll/ecigarette-promoters-body-counters-health-ministrys-arguments/1637606>

¹⁹ E-Cigarette Traders Write to CMs Seeking Help against Ban. Business Today, October 27, 2019.

²⁰ HRIDAY. Tobacco Industry Interference Index: India report on implementation of WHO FCTC Article 5.3. New Delhi: HRIDAY 2019.

²¹ Trade Representatives Seek GoM Hearing over Bringing Ordinance to Ban ENDS. Healthworld, September 4, 2019. <https://health.economictimes.indiatimes.com/news/industry/trade-representatives-seek-gom-hearing-over-bringing-ordinance-to-ban-ends/70969399>

²² Home News Technology Article Ficci, CII among 30 Groups Urging Govt Not to Ban Online Content Relating to Vaping. Devdiscourse, February 28, 2019. www.devdiscourse.com/article/business/429376-ficci-cii-among-30-groups-urging-govt-not-to-ban-online-content-relating-to-vaping.

²³ UK Health Policy Body Says E-Cigarettes Less Harmful: Trade Representatives' Letter to Harsh Vardhan. Devdiscourse, November 5, 2019. www.devdiscourse.com/article/health/732753-uk-health-policy-body-says-e-cigarettes-less-harmful-trade-representatives-letter-to-harsh-varadhan.

²⁴ Trade Representatives Seek GoM Hearing over Bringing Ordinance to Ban ENDS. Healthworld, September 4, 2019. <https://health.economictimes.indiatimes.com/news/industry/trade-representatives-seek-gom-hearing-over-bringing-ordinance-to-ban-ends/70969399>

²⁵ Traders Body Urges Govt Not to Ban but Regulate E-Cigarettes. The Economic Times. September 13, 2019.

²⁶ Godfrey Phillips Annual Report 2018-19.

²⁷ Golden Tobacco Limited. 63rd Annual Report 2018-2019: page 31.

²⁸ Godfrey Phillips Annual Report 2018-19: page 6.

²⁹ ITC Limited Report and Accounts 2019: page 41.

³⁰ Include Farmers While Framing Tobacco Control Regulations: FAIFA Appeals to Government on World Tobacco Growers Day. Press Release. <https://www.protectourlivelihood.in/wp-content/uploads/2019/10/FAIFA-Release-Growers-Day-28102019-1.pdf>

light of “higher taxation, smuggled, illicit and contraband cigarettes along with one sided WHO regulations”.

Final Score=0 (average incidents score) + 1 (more than three incidents) =1

2. The government accepts, supports or endorses policies or legislation drafted by or in collaboration with the tobacco industry.

0

While industry groups do reach out to governments offering policy suggestions (see Q.1), governments in India do not seem to endorse or accept them as such. We did not find any evidence in our search for materials in the public domain indicating such endorsement/acceptance of industry-drafted policy.

Final Score=0 (no incidents)

3. The government allows/invites the tobacco industry to sit in the government interagency/ multi-sectoral committee/advisory group body that sets public health policy.

5

We find the inclusion of industry representatives in government boards/committees that may not be directly setting public health policies but exercise influence on such policies indirectly. Involvement of tobacco industry representatives in the Board of Trade (Ministry of Commerce and Industry); the National Food Processing Development Council (Ministry of Food Processing Industry); and the Food Safety and Standard Authority of India (Ministry of Health and Family Welfare) identified in the earlier Tobacco Industry Interference Index³¹ continued in the year 2019. The Tobacco Board (Ministry of Commerce and Industry includes) had a representative of the Deccan Tobacco Company as a member.³²

Final score= 5 (presence of incidents)

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.

1

The Government of India did not involve representatives of tobacco industry or industry-linked bodies, including representatives from state-owned bodies (like, tobacco board of India, CTRI) in the delegations to the COP. The government has not taken sponsorships from the tobacco industry for this purpose.

Final score=1

INDICATOR 2: Industry CSR activities

5. A. The government agencies or its officials endorses, supports, forms partnerships with or participates in so-called CSR

4

³¹ HRIDAY. Tobacco Industry Interference Index: India report on implementation of WHO FCTC Article 5.3. New Delhi: HRIDAY 2019.

³² For a list of members of the Tobacco Board, See: <http://tobaccoboard.com/bmembers.php>

activities organized by the tobacco industry.							
B. The government (its agencies and officials) receives contributions (monetary or otherwise) from the tobacco industry (including so-called CSR contributions).							

We identified at least eight incidents where the tobacco industry through so-called CSR activities exerted its influence on the government. Tobacco companies often collaborated with or contributed towards government initiatives. The Times of India reported that the Karnataka government might revive ITC's waste project in Chikamangaluru district as part of ITC's CSR activities.³³ The VST Industries sought to undertake activities in the areas of health and environment, "including contribution to the Swachh Bharat Kosh".³⁴ The Godfrey Phillips' making a case for its CSR program argue that, due to the tobacco industry being highly regulated – and therefore given the economic costs of these regulations on the marginal farmers – the company is committed to these marginalized groups and "focuses on sustainable development and livelihood, for communities linked to the tobacco industry".³⁵ During times of disasters, the tobacco industry is known to contribute money for relief to the government. Often, these donations are publicized.³⁶ It is important to note that COVID19 has opened more space for tobacco companies to collaborate with the state: for example ITC's health brand, Savlon, has partnered with the Government of Kerala "on its recently announced mass handwashing campaign 'Break The Chain'. The campaign is a state-wide initiative to contain the spread of COVID-19".³⁷

Further, as per the release by the Press Information Bureau the Tobacco Board (Ministry of Commerce and Industry) had won the 2019 Golden Leaf Award by the Tobacco Reporter, which is an entity representing the tobacco industry's interests.³⁸

Final score= 3 (average incidents score) + 1 (more than three incidents) =4

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.	0						
---	----------	--	--	--	--	--	--

We did not find any evidence. In fact, the Government of India, to its credit, rejected all attempts made by the industry to influence and stall the legislation enacted in 2019 banning e-cigarettes in India.

³³ Rao, Sunitha. Govt May Revive ITC's Waste Project in Cmagaluru. The Times of India, December 8, 2019.

³⁴ VST Industries Annual Report (2018-19)

³⁵ Godfrey Phillips CSR Report 2018-19.

³⁶ For example, Tweet by Devendra Fadnavis on September 11, 2019

https://twitter.com/Dev_Fadnavis/status/1171693333665574912; ITC CMD, Mr Sanjiv Puri Meets Odisha CM Naveen Patnaik; Presents a Cheque of Rs 5 Crores for the Cyclone Affected Victims. OdishaDiary, May 29, 2019. <https://orissadiary.com/itc-cmd-mr-sanjiv-puri-meets-odisha-cm-naveen-patnaik-presents-cheque-rs-5-crores-cyclone-affected-victims/>

³⁷ ITC Savlon partners with the Kerala to help 'Break the Chain. India EducationDiary March 23, 2020. <https://indiacr.in/csr-its-savlon-partners-with-the-kerala-to-help-break-the-chain/> :

³⁸ See, Press Information Bureau release <https://pib.gov.in/PressReleasePage.aspx?PRID=1591620>; Tobacco Board Gets Golden Leaf Award in Netherlands. The New Indian Express, November 15, 2019.

Final Score=0 (no incidents)					
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry.					5
<p>Tobacco industry continues to receive certain privileges. The exemption on cess (on top of GST) on bidis and exemption from GST for smaller manufacturers (having less than INR four million annual turnover; registered manufacturing companies with less than 20 workers) reported in earlier Index³⁹ continued in 2019. While GST rate for all types of tobacco products is 28%, tobacco leaves attracts only 5% GST under reverse charge.⁴⁰</p> <p>Furthermore, certain statutory agencies provide much support to the tobacco industry. The Chief of the Tobacco Board (Ministry of Commerce and Industry) promoted measures for cost-effective cultivation practices including a device named transplanter on an experimental basis to boost land productivity.⁴¹ The Central Tobacco Research Institute (Ministry of Agriculture)'s several research initiatives aimed at enhancing productivity of tobacco (greater leaf yield and quality).⁴² In collaboration with tobacco companies, the Institute had conducted research and development activities (focusing on varietal release)⁴³ and trainings (on crop management).⁴⁴</p> <p>ITC Ltd reported receiving incentives under various government schemes such as the Export Promotion of Capital Goods, Service Export from India Scheme, and Merchandise Export from India Scheme.⁴⁵</p> <p>Final score= 4.4 (average incidents score) + 1 (more than three incidents)=5.5 However, the maximum score allowed is 5.</p>					
INDICATOR 4: Forms of Unnecessary Interaction					
8. Top level government officials (such as President/ Prime Minister or Minister) 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.		2			
<p>We found a few such incidents. The president of the Foundation for a Smoke-Free World, an entity funded by the Philip Morris International and hence flagged by the WHO⁴⁶ for its</p>					

³⁹ HRIDAY. Tobacco Industry Interference Index: India report on implementation of WHO FCTC Article 5.3. New Delhi: HRIDAY 2019.

⁴⁰ See, GST rate and cess on tobacco and cigarettes. <https://www.indiafilings.com/learn/gst-rate-cess-tobacco-cigarettes/>

⁴¹ Tobacco Board Chief Urges Farmers to Opt for Mechanisation. The New Indian Express, November 5, 2019.

⁴² The Annual Report of ICTR 2019: page 20-62. Further Research Highlights can be found here:

<https://ctri.icar.gov.in/files/RESEARCH.pdf>

⁴³ Central Tobacco Research Institute Annual Report 2019: page 86

⁴⁴ Central Tobacco Research Institute Annual Annual Report 2019: Page 68

⁴⁵ ITC Ltd Reports and Accounts 2019: Page 66.

⁴⁶ WHO statement on Phillip Morris funded Foundation for a Smoke-Free World. September 13, 2017 <https://www.who.int/news-room/detail/28-09-2017-who-statement-on-philip-morris-funded-foundation-for-a-smoke-free-world>

conflicting interests with tobacco industry, had meetings with the Vice Chairman of the NITI Ayog⁴⁷ and the Minister of State, Commerce and Industry who also happen to be in-charge Union Minister for Housing and Urban Affairs and Civil Aviation.⁴⁸ The Chief Minister of Punjab and the Chief Minister of West Bengal inaugurated hotels of ITC group (a largest cigarette manufacturer) in Amritsar⁴⁹ and Kolkata⁵⁰ respectively. The Union Minister for Law & Justice and for Communications & Information Technology participated as a Chief Guest inaugurating the Times Litfest Delhi 2019. The Lifest had Rajnigandha⁵¹ (a pan masala manufacturer) as its title sponsor.

Final score=1.2 (average incidents score) + 1 (more than three incidents)=2.2 rounded to 2.

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).

3

There seems to be much influence of tobacco industry and associated bodies in matter of regulations and law enforcement concerning illicit trade. The Committee Against Smuggling and Counterfeiting Activities Destroying the Economy of the Federation of Indian Chambers of Commerce and Industry (FICCI CASCADE) led by the Head of Corporate Affairs at ITC Ltd, has been active in advocating against the illicit trade in tobacco with governments.

In its report titled, “Invisible Enemy: Impact of Smuggling on Indian Economy and Employment” in 2019, several high ranking public officers (such as Former Lokayukta NCT of Delhi, Chief Justice High Court of Jammu & Kashmir, Judge Delhi High Court, the Former Secretary Ministry of Consumer Affairs, Food and Public Distribution, Former Chief Commissioner of Central Excise, Customs and Service Tax) were named for their “comments, observation and direction” in the course of research.⁵² The FICCI CASCADE press releases reveal various activities of CASCADE that were conducted in collaboration with various governmental authorities.^{53,54,55}

In an international conference, Mascrade 2019 (Movement Against Smuggling and Counterfeit Trade)⁵⁶ by FICCI, the theme address was given by the Head of Corporate Affairs, ITC Ltd. In this event, the Minister of State, Finance and Corporate Affairs, Government of India, also spoke⁵⁷, where he “said that the government along with

⁴⁷ See tweet post by Rajiv Kumar on September 11, 2019. <https://twitter.com/RajivKumar1/status/1171764128140021761?s=08>

⁴⁸ See tweet by Hardeep Singh Puri on September 11, 2019. <https://twitter.com/HardeepSPuri/status/1171723108736045056>

⁴⁹ Chief Minister of Punjab Capt Amarinder Singh Inaugurates Welcomhotel Amritsar - Member ITC’s Hotel Group. Business Standard, December 24, 2019.

⁵⁰ ITC Launches New Hotel in Kolkata. The Economic Times, June 11, 2019.

⁵¹ See, <https://timesofindia.indiatimes.com/timeslitfest/delhi>

⁵² The report can be found here: <http://ficci.in/spdocument/23132/Invisible-Enemy-MASCRADE-2019.pdf>

⁵³ FICCI CASCADE press releases (2019): <http://ficci.in/sector-PressRelease.asp?sectorid=5>

⁵⁴ FICCI CASCADE press releases (2019): <http://ficci.in/pressrelease-page.asp?nid=3499>

⁵⁵ FICCI CASCADE press releases (2019): <http://ficci.in/pressrelease-page.asp?nid=3506>

⁵⁶ For details on this event, see: <https://www.ficcicascade.in/mascrade2019/> and <http://www.gacg.org/media/MASCRADE%202019-July19.pdf>

⁵⁷ FICCI CASCADE press release: <http://ficci.in/pressrelease-page.asp?nid=3515>

organisations like FICCI must fight against counterfeit trade, smuggling and piracy to save jobs and money.” Furthermore, the Minister of State, Home Affairs, Government of India said that "FICCI CASCADE should send recommendations on curbing this problem to all ministries in the government to further strengthen these measures". The Chairman, Central Board of Indirect Taxes and Customs too reiterated point about illicit trade funding “organized crime and nurtures illegal drugs trade." During this event various awards were given to police, and law and order, personnel. The matter of illicit trade is indeed important but ought to be tackled by regulators without influence from industry. The Government of India ratified the Protocol to Eliminate Illicit Trade in Tobacco Products in June 2018.⁵⁸ The Protocol requires parties to apply Article 5.3 in the implementation of efforts to tackle illicit trade in tobacco.

In Haryana, the representatives of Tobacco Institute of India requested Principal Secretary Health “to pass necessary instructions to enforcement officials to take action on illicit cigarettes in the State”.⁵⁹

Final score=3 (average incidents score)

10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry.					4
---	--	--	--	--	---

As per a media report, in April 2018, ITC partnered with NITI Aayog to train two lakh farmers to increase their income and raise productivity of major crops. In these efforts, “NITI Aayog will work in close collaboration with district administrations and ITC”.⁶⁰ The ITC CEO and MD had discussion with the CM of Madhya Pradesh with regard to the ITC setting up a factory unit of incense sticks in the state.⁶¹ In July 2019, the Press Information Bureau issued a statement that a delegation of six major tobacco exporters led by the Chairperson of Indian Tobacco Board visited China for the purpose of exporting Indian produced tobacco.⁶²

Several government entities have financial stake in the ITC and other tobacco companies. Pas per the ITC’s Annual Report 2019 public sector insurance companies such as the LIC, the UTI, the General Insurance Corporation of India, the New India Insurance Company and the Oriental Insurance Company had second, third, fifth, sixth and tenth largest share holding respectively in ITC Ltd.⁶³ The Investor Education and Protection Fund Authority (Ministry of Corporate Affairs) under "Non-Institutions” category held 0.17% of total shares.⁶⁴ In VST Industries Ltd, “nationalized banks and other banks” held 13597 shares as on March 31, 2019.⁶⁵

⁵⁸ United Nations. Treaty Collection. Protocol to Eliminate Illicit Trade in Tobacco Products https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IX-4-a&chapter=9&lang=en

⁵⁹ Generation Saviour Association Tobacco Industry Interference Report Punjab, Haryana & Chandigarh.

⁶⁰ ITC ties up with NITI Aayog to train 2 lakh farmers to increase their income. <https://currentaffairs.gktoday.in/itc-ties-niti-aayog-train-2-lakh-farmers-increase-income-04201854841.html>

⁶¹ ITC to set up unit in MP. United News of India. August 29, 2019. <http://www.uniindia.com/itc-to-set-up-unit-in-mp/north/news/1713162.html>

⁶² Delegation of Indian Tobacco Exporters Visits China. PIB New Delhi. June 29, 2019.

<https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1576312>

⁶³ ITC Ltd. Report and Accounts 2019: page 106.

⁶⁴ ITC Report and Accounts 2019: page 105.

⁶⁵ VST Industries Annual Report 2019: Page 40.

Total score= 4.2 (average incidents score) rounded to 4.

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.									5
---	--	--	--	--	--	--	--	--	----------

We could not locate publicly available record of disclosure of meetings/interactions between the government and tobacco industry. Also, there is no such policy at national level requiring government to disclose meetings/interactions with the tobacco industry.

Final score=5 (absence of a national policy)

12. The government requires rules for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists.									5
---	--	--	--	--	--	--	--	--	----------

While the Ministry of Corporate Affairs regulates registration of all companies in India, there is no specific mechanism for the tobacco industry entities. Many units in the bidi and smokeless tobacco sectors remain unregistered.⁶⁶ There appears no regulation or clarity concerning disclosure or registration of lobbyists.

Final score=5 (absence of a national policy)

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.									5
--	--	--	--	--	--	--	--	--	----------

There is no prohibition on contributions by the tobacco industry to political parties/candidates, and no mandated full disclosure (except for the amount contributed) of such contributions. In fact, with the introduction of the Finance Bill (2017) a system of electoral bonds was introduced wherein an Indian citizen or a company incorporated in India can buy the bond from an authorized bank, and donate it to a political party of their choice.⁶⁷ Such bonds do not carry the name of the contributors and the contributors also do not need to disclose which parties they contributed to. This makes it even more difficult for the public to scrutinize the agendas and proposed policies of parties in light of their financial interests.

Final score=5 (absence of a national policy)

14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General etc.)									5
---	--	--	--	--	--	--	--	--	----------

⁶⁶ John, Priya. Beedi Industry and Welfare of Workers InIndia: Review of Policies and Literature. Centre for Health & Social Justice. http://www.chsj.org/uploads/1/0/2/1/10215849/policy_review.pdf

⁶⁷ See: “What is an electoral bond”, Business Standard: <https://www.business-standard.com/about/what-is-electoral-bond>

We found instances of retired senior government officials serving on the board of ITC Ltd. They included two IFS officers (Nirupama Rao and Meera Shankar) and one IAS officer (Shilabhadra Banerjee).⁶⁸

Final score=3 (base score) + 2 (prominent positions within companies)=5

15. Current government officials and relatives hold positions in the tobacco business including consultancy positions.

0						
---	--	--	--	--	--	--

We did not find any evidence of current government officials holding positions in the tobacco business.

Final score=0 (no incidents)

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.

					4	
--	--	--	--	--	---	--

Such policy or procedure did not exist at national level in 2019. Several state governments had adopted a policy requiring such a procedure in 2019. As of now, 13 states in India have adopted a policy that mandates disclosure of interactions with tobacco industry.

Final score=5 (absence of national policy) – 1 (presence of such policy in select states)=4

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.

					4	
--	--	--	--	--	---	--

Such policy or procedure did not exist at national level in 2019. Several state governments had adopted a protocol prescribing standards with which public officials shall comply while dealing with tobacco industry in 2019. As of now, 13 states in India have adopted such protocols. In July 2020, the Ministry of Health and Family Welfare (Government of India) also adopted such a protocol for officials working at the ministry and institutions under the ministry.⁶⁹

Final score= 5 (absence of national policy) – 1 (presence of such policy in select states)=4

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.

	2					
--	---	--	--	--	--	--

⁶⁸ ITC Report and Accounts 2019: pages 4-8.

⁶⁹ The Union congratulates India’s Ministry of Health and Family Welfare for adopting measures to prevent tobacco industry interference in health policy. The Union. July 21, 2020. <https://www.theunion.org/news-centre/news/the-union-congratulates-indias-ministry-of-health-and-family-welfare-for-adopting-measure-to-prevent-tobacco-industry-interference-in-health-policy>

The sector-wide regulations from the Ministry of Corporate Affairs require all the registered companies to disclose limited parameters. So, while some information is reported, the tobacco industry specifically is not required to report what it spends on marketing, lobbying and political contributions.

Final score= 3 (base score) – 1 (regulations requiring reporting of select parameters exist)= 2.

19. The government has a program / system/ plan to consistently raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines.

2

There is no publicly available information on the government’s specific measures or plan to consistently raise awareness on FCTC Article 5.3 guidelines among public officials across departments. However, the National Tobacco Control Program launched in 2007 does include awareness activities (workshops and training) about the provisions of the Cigarette and Other Tobacco Products Act, other tobacco control regulations in India and the FCTC article 5.3 – via its “whole-of-government approach” wherein efforts are “directed to involve all the state government departments for tobacco control”.⁷⁰ For example, a sensitization workshop for program implementers of the National Tobacco Control Program was held in Odhisa in January 2019 wherein “participants were addressed and sensitised by the Guests, Dignitaries and Resource Faculties on important components under NTCP like COTPA Law, MPOWER, FCTC – Article 5.3 / Tobacco Industry Interference...”.⁷¹ In general, this program is still aimed at a limited set of stakeholders, primarily (but not exclusively) dealing with tobacco control.

Final score =3 (base score) – 1 (as some awareness activities happen for limited stakeholders) =2

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.

4

There was no national policy as such prohibiting contributions from tobacco industry. Several state governments had adopted protocols prohibiting partnerships with and contributions from tobacco industry in 2019. As of now, 13 states in India have adopted such protocols. In July 2020, the Ministry of Health and Family Welfare (Government of India) also adopted such a protocol for officials working at the ministry and institutions under the ministry.⁷²

⁷⁰ See, National Tobacco Control Program Operational guidelines 2015

http://pbhealth.gov.in/Letter_tob%20.pdf; NTCP web portal <http://ntcp.nhp.gov.in>

⁷¹ Notes for Press Release of NTCP Workshop held on 30th January, 2019 at AIIMS, Bhubaneswar. OrissaDiary, February 1, 2019: <https://orissadiary.com/notes-press-release-ntcp-workshop-held-30th-january-2019-aiims-bhubaneswar/>

⁷² The Union congratulates India’s Ministry of Health and Family Welfare for adopting measures to prevent tobacco industry interference in health policy. The Union. July 21, 2020. <https://www.theunion.org/news-centre/news/the-union-congratulates-indias-ministry-of-health-and-family-welfare-for-adopting-measure-to-prevent-tobacco-industry-interference-in-health-policy>

Final score= 5 (absence of national policy) – 1 (presence of such policy in select states)=4

TOTAL Score

61 out of 100

RECOMMENDATIONS

- 1. Need for a nationwide policy in line with the WHO FCTC Article 5.3 including a Code of Conduct for public officials on their dealings with tobacco industry that applies to the whole-of-government.** Such a policy could build on the already existing policies in several Indian states as well as the policy recently adopted by the Ministry of Health and Family Welfare (Government of India).
- 2. Need for the strict enforcement of existing policies in line with the WHO FCTC Article 5.3 (Protocols and Code of Conducts)** by respective state governments and the Ministry of Health and Family Welfare (Government of India). This Index shows many tobacco industry interference incidents despite these policies being in place.
- 3. Going beyond the Code of Conducts for public officials, there is need for regulations that prohibit political donations and so-called corporate social responsibility activities in public domain by tobacco industry as well as investment of public funds in tobacco industry.**
- 4. Need for Health-In-All-Policy approach for tobacco control** wherein policies in agriculture, finance, commerce, industry and other related sectors are aligned with the public health goals concerning tobacco control and non-communicable diseases control that India committed to as part of the National Monitoring Framework for Prevention and Control of Non-Communicable Diseases, the WHO FCTC, and the Sustainable Development Goal 3.