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TOBACCO
INDUSTRY
INTERFERENCE
INDEX

Acknowledgment

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Background and Introduction

With the success of the mass movement in 2005, the country came with the Constitution of Nepal in September 2015, transferring the country to the Federal Republic. The success of local, provincial and federal parliament has given mandate to the Nepal Communist Party to form the government in February 2018. Thus, the country is presently run by Nepal Communist Party with comfortable two-third majority in the parliament. It has still not been able to demonstrate any expected result. In this scenario, the effective implementation of Tobacco Control and Regulation Law is in a very weak state. It appears that the implementation of the Tobacco Control Law and Directives is not a priority of the government.

The year 1998 was a landmark in history of Tobacco Control in Nepal. As per commitments made during the National Consultation organized by Resource Centre for Primary Health Care (RECPHEC), tobacco advertisement was first stopped in TV during the telecast of World Football Match. This has paved the way to ban tobacco advertisement in electronic media in Nepal making it the first country in South Asia to do so.

Nepal became one of the top ten countries to sign the WHO Framework Convention on Tobacco Control (WHO FCTC) in March 2003. Due to the past political situation, Nepal could only ratify FCTC in 2007 by the Reinstated Parliament. Due to tobacco industry interference, it took almost 4 years to pass the Tobacco Control and Regulation Law in 2011. This law has been recognized as one of the most progressive law in the country.

A total of 11 lawsuits were filed by the tobacco industry and their allies against this law. Despite continued advocacy, pressure to government, and mass public awareness campaign by the tobacco control advocates, the implementation of the law remains to be weak.

a) Pictorial Health Warnings (PHWs): (Article 9) The government made “Directives” to increase PHWs from 75% of the total spaces to 90%. The domestic tobacco products are selling in the market with only 75%, disobeying government decision.

b) Tobacco Tax: Tobacco tax increase remains to be a best buy intervention that has

Some facts on tobacco and Nepal:

Nepal is one of the countries of high smoking rate. Moreover, it has the fourth highest rate of women smokers.

- 27,137 Nepali people die annually from tobacco consumption related causes.
- The overall tobacco use prevalence among adults (aged 10 and over) was 33%. 27% men and 6 % Women. Use of cigarettes has decreased slightly during 5 years, from 39% to 33 %.
- The overall smoking prevalence was estimated at 39.2% for rural areas and 29.3% for urban areas of Nepal.
- Among the three ecological regions the overall tobacco use prevalence is the highest in the mountain region 68.2%, followed by the Terai 42.2% and mid hills 40.9%.
- Among the smokers 98 % are well informed about hazards of smoking.
- Nepal passed Tobacco product Control and Regulation Act 2011.
- 28.9% of adults 15-69 years of age (48.3% of men, 11.6% of women) were current users of tobacco, in any form. This is equal to 3.8 million adults.
- 22.5% of adults (3.7 million) were exposed to second-hand smoke at work place.
- 33.5% of adults (5.5 million) were exposed to second-hand smoke at home.
- Average monthly expenditure on manufactured cigarettes was Rs.1049.
- Tobacco kills 27 ,137 people each year.
- 14.9% of all deaths.

Source: WHO, Nepal STEPS Survey 2019, Bureau of Statistics

significant public health impact and is highly cost-effective, inexpensive and feasible to implement by governments. However, Nepal has the lowest tobacco tax compared to South Asian countries, which comes to 33.7 percent.

- c) Tobacco Free Public Place: Article 3 of the law clearly defined the “Smoke Free Public Places.” However, due to the weakness in regular monitoring mechanism, this legal provision is not being strictly implemented in restaurants, hotels, bar, and pool houses.

Article 8 of the law clearly mentions:

- a) The Manufacturer, before making sales and distribution of tobacco-oriented substances, shall have to submit to ministry the detail of quantity of nicotine harmful substances including other required things having on such substances.
- b) Any person who manufactures and exports imports tobacco-oriented substances shall have to submit every year the details of his/her production and exports or imports before the Ministry.

However, this information have not been made public. In this national scenario, the tobacco control advocating organizations in Nepal have repeatedly called upon the government to implement the WHO FCTC Article 5.3 to protect public health policies from commercial and vested interest of tobacco industry.

Currently, there are three cigarette manufacturers in the country: Surya Nepal, Gorkha Lahari and Perfect Blends (Nepal). Surya Nepal, which operates two plants – one each in Bara and Tanahun – accounts for an 85 percent share of country’s cigarette market.¹ The remaining 15% requirement has been covered by Gorkha Lahari, Nepal Tobacco Company, Perfect Blends Nepal and other small industries including Bidi and chewing Tobacco.

There is fundamental conflict between the tobacco industry interest and public health. Hence, there is a need for strong solidarity at national, regional and global level for collective action to protect the people from tobacco and contribute in raising health status of the people.

This report has been developed to strengthen public health and halt tobacco industry interference. The tobacco Industry Interference Index was initiated by the South-East Asia Tobacco Control Alliance (SEATCA) and it answers 20 questions based on Article 5.3 recommendations. A scoring system (0 – 5) is used where the higher score indicates the stronger tobacco industry interference.²

Main Findings

Nepal has garnered a total score of 41 points for this year’s Tobacco Industry Interference Index, the same as last year. There has been no improvement in the implementation of Article 5.3.

¹ Tobacco Reporter. Nepal’s cigarette factories in taxing position (21 July 2015). From <https://tobaccoreporter.com/2015/07/21/nepals-cigarette-factories-in-taxing-position/>

² 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. April 2015 <http://tobaccocontrol.bmj.com/content/early/2015/04/23/tobaccocontrol-2014-051934>

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The government has not taken any kind of support from tobacco industries in relation to the enforcement of Tobacco Control Law.³ MoHP and Ministry of Home Affairs are the concerned officers for the implementation of Tobacco Control Law. The main work of MoHP is to make laws related to tobacco control, and conduct awareness programs against tobacco products. Assistant Chief District Officer of the District Administration Office under the Ministry of Home Affairs have the right to conduct necessary investigations, fines and inquiries in case of use of tobacco products in public places or if there is a complaint in this regard if the contents related to harm in health are included in textbooks and resource mobilization are brought into operation.⁴

Tobacco Control and Regulation Act has prohibited the government from taking any kind of help or contribution from the tobacco industry. The Rule 48 of Article 5 of Tobacco Products Control and Regulation Directive 2071 has prohibited giving and receiving gifts or free items and cash from any tobacco industry. The concerned officers of the government are well aware of this legal issue. Therefore, in relation to law enforcement on Tobacco Control, the government has not taken any support from any of the tobacco industries. It is unlikely to think for the government to think of getting any support from the tobacco industries for they have been campaigning to stop the consumption and production of tobacco products.⁵

The Former Secretary of MoHP, Dr. Pravin Mishra, who had played a leading role when passing the Tobacco Control and Regulation Act in the parliament, says, "This act would not have been made if the government had not caught up in the greed of the tobacco industries." Dr. Mishra explains that he is unaware of what is going on for the implementation of the Act anymore for he has retired from government service.⁶

After the enactment of the Act, the government may not have received any direct support from the tobacco industries. Jyoti Bania, one of the advocates who wrote the draft of the Act claims that the official of the MoHP, Komal Acharya, Deputy Secretary of the Law Section, felt that he was being influenced by the industries indirectly when the Act was being made. At that time, Acharya was in favor of the tobacco industry proposing programs, but according to him, there was no such arrangement in the Act. The tobacco industries could not come together in an organized way at that time. Therefore, the temptation of small amount of finances did not work.

The government does not enforce the policy prepared by the tobacco companies and has not done it so far. Apart from Tobacco Control and Regulation Act passed by the parliament elected by the people, directive to print warning messages and pictures on caskets, packets, wrappers, boxes and parcels, and Tobacco Products Control and Regulation Directive 2071, the government neither recognizes nor applies the policies made by any company or anyone.⁷

³ Interview with Puskarraj Nepal, Undersecretary, Law Section under Ministry of Health and Population (MoHP) and Member Secretary of Tobacco Products Control and Regulation Committee, 2076 Chaitra 1

⁴ Tobacco Control and Regulation Act 2068

⁵ Interview with Sunil Sharma, Director of the National Health Education, Information and Communication Center, 2076 Falgun 28

⁶ Interview with Former Health Secretary Dr. Praveen Mishra, 2076 Chaitra 2

⁷ Interview with Puskarraj Nepal, Undersecretary, Law Section under MoHP and Member Secretary of Tobacco Products Control and Regulation Committee, 2076 Chaitra 1.

Former Chairman of Nepal Cancer Relief Society, Karna Shakya, says that the government officials have not accepted the policies made by tobacco industries but it is doubtful that the government must have supported the policy of tobacco industries in some or any manner because the government had taken a long time to prepare the act. According to him, the act was introduced on 2068 after the pressure of the voice of consumers and rights activists could not be stopped who supported the act should be regulated on 2060.⁸

Rights activist Jyoti Baniya has claimed that the policies made by tobacco industries affected the government officials however, the government has not accepted their policies. According to him, tobacco industries had huge impact to the government officials for having no preparations for the directive for three years. Due to which the directive was prepared only after 3 years of enactment. The government officials were influenced by the tobacco industries. Tobacco Products Control and Regulation Directive 2071 came after three years after the act came into effect on 2068 B.S. The tobacco entrepreneurs could have slowed down the directive while passing tobacco products act affecting The Health Minister Rajendra Mahato.⁹

The government has not invited any representatives from the tobacco industries or anyone belonging to the tobacco industries in the government committee constituted for public health policy. The health policy focuses more on how to control harmful substances for the health of the people, so there is no question of calling authorities of the tobacco industries. The representatives of the tobacco industries have not been invited to form public health policy, as MoHP and all the concerned bodies are well aware of the various provisions in the Tobacco Control and Regulation Act.¹⁰

According to Puskar Raj Nepal, Undersecretary, Law Section under MoHP and Member Secretary of Tobacco Products Control and Regulation Committee the government has not appointed the officials of tobacco industries as the member of Nepali delegation in the COP conference of the World Health Organization (WHO) in Geneva. He said, 'As far as I know, no.'

Tobacco Industry Representative and COPs

Mr. Puskarraj Nepal, Undersecretary, Law Section under MoHP and Member Secretary of Tobacco Products Control and Regulation Committee says that he is unaware about high government officials attending the meetings, ceremonies and parties organized by tobacco industries. They may have been involved before Tobacco Products Control and Regulation Act was made. Nepal says that the tobacco industry has not done much work in social sector in the previous years.

But with the billions of revenues generated from tobacco products and thousands of jobs being created, the new Ministers of Industry also express their views in favor of the tobacco industry. Last year, Former Minister for Industry, Commerce and Supplies, Matrika Yadav, had expressed the hope that the Janakpur cigarette factory would be reopened. Five foreign investment Sections were interested in reviving Janakpur Cigarette Factory.¹¹ There were news articles reported in the Business Page of newspapers and online.

⁸ Interview with Karna Shakya, Former Chairman of Nepal Cancer Prevention Association

⁹ Interview with Jyoti Baniya

¹⁰ Interview with Dr. Gunraj Lohani, Director of Policy Planning Division, 2076 Chaitra 2

¹¹ According to Ajit Tiwari, Kathmandu Post Daily, Janakpur, January 28, 2019

Mr. Pushkar Raj Nepal, Undersecretary, Law Section under MoHP claims that the government has not obtained any assistance from the tobacco industry to stop the black market or smuggling of tobacco products. Dr. Bikash Devkota, the spokesperson of Health Ministry also stated that he has not heard of such reports. Dr. Devkota claims such things are unlikely to occur after the enactment of Tobacco Products Control and Regulation Act.

The Undersecretary, Law Section under MoHP and Member Secretary of Tobacco Products Control and Regulation Committee, Mr. P.R. Nepal claimed that the government has not signed any letter of cooperation or agreement with the tobacco industry. The Health Journalist Mr. Atul Mishra states that the Minister of Industry expresses publicly reopen the tobacco industry from time to time due to the influence of the industries. The Minister of Health and Population and the officials are knowledgeable about the health problems caused by tobacco and because the Ministry of Health is responsible for the health of the people, the Health Minister refuses to give a statement in favor of the industries, states journalist Mishra.

2. TOBACCO RELATED CSR ACTIVITIES

Puskarraj Nepal, Undersecretary, Law Section under MoHP and Member Secretary of Tobacco Products Control and Regulation Committee claims that MoHP has not participated in any CSR event organized by the tobacco industry (prize distribution, donation, etc.).¹² Similarly, Secretary of the Ministry of Industries Chandra Ghimire, also insists that high government officials are not involved in such events. Secretary Ghimire claims that the high government officials are knowledgeable about the Tobacco Control Act and hence they don't take part in such events. He says, "I had the opportunity to work for five months last year as a secretary in MoHP. I had the opportunity to learn, understand and apply a lot about the Tobacco Control Act in that period. I am very aware regarding this subject in the Ministry of Industry."¹³

Puskar Raj Nepal, undersecretary, Law Section under MoHP and Member Secretary of Tobacco Products Control and Regulation Committee claims that the government has not taken any kind of support for the political, social, educational, community welfare, technical support or training of the country from the tobacco industry. He says, "Nobody under MoHP has taken any support." Consumer rights activist Jyoti Bania says that these statements from government officials cannot be fully trusted. The officials of the Health Ministry may not take the support directly but we cannot be confident that indirect help is being taken. However, except Health Ministry, the officials from other ministries might have taken indirect support. Moreover, the police administration here also cannot be completely trusted." Bania says.

Tobacco related CSR Activities

According to the MoPH, the government has not had any formal or informal conversations with the tobacco industry. "We haven't had any conversations", says Puskarraj Nepal, Undersecretary, Law Section under MoHP, and Member Secretary of Tobacco Products Control and Regulation Committee.

Dr. Bikash Devkota, the spokesperson of MoHP said that the government has not kept records of the person or organization who favor or lobby the tobacco industry. Whatever

¹² Interview with Nepal Chaitra 1

¹³ Telephone conversation with Chandra Ghimire, Secretary of the Ministry of Industry, 2076 Falgun 28

was done before Tobacco Control and Regulation Act and Directive is not known. But after the enactment of the act and the directive, no records have been kept.

There has been speculation that Japan Tobacco International supported participants of Junior Tennis Tournament. As per our interview with Mr. Manohar Das, Gen. Secretary Nepal Tennis Association and Administrative Officer Mr. Jaydep Hada, they did not receive any support from Japan Tobacco International and other tobacco companies. The Coach was sponsored by the Association whereas all the 6 (3 boys and 3 girls) were sponsored by their parents all the cost in Japan was made by Japanese Tennis Association. Hence, there is no support from Japanese tobacco industry.

It was observed Surya Tobacco Company is still using its logo in various CSR activities in Nepal which includes awareness raising activities for women, Surya Golf Tournament, tree plantation and health for disabilities. But the government showed its ignorance about these initiatives.

3. **BENEFITS TO THE INDUSTRY**

Dr. Bikash Devkota, the spokesperson of MoHP, claims that the government did not accept the appeal from the tobacco industry to delay the tobacco control law or other related laws. He says that the government brought up the laws related to control of tobacco products concerning the health of the public more than the influence or pressure of tobacco industry. Dr. Devkota says it is the universal truth that it takes time for any law to be made, adjusted and implemented; it is not always the influence of the tobacco industry that is responsible for the directive to be delayed after the enactment of tobacco product act.

He says, "The Government of Nepal finalised the directive within three years of the Tobacco Control Act. It takes time to come up with other rules as well. It has been two years since the enactment of the Reproductive Health Right Act but the directive has not been made."¹⁴

However, the Consumer Rights Activist Jyoti Bania does not agree with spokesperson Devkota's statement. According to Bania, the tobacco industries unified to face the government in opposition after the enactment of Tobacco Control and Regulation Act and it took three years to prepare the directive due to the direct or indirect pressure and influence made on the officials of Health Ministry involved in making law. The then Minister of Health, Rajendra Mahato believes that the delay for the directive to come up was due to the influence of the officials of the tobacco industry. He says, "The then Minister of Health Rajendra Mahato did not even try to bring the Act. But he pursued it due to the force the then Chief Secretary, Lilamani Poudel and Secretary of the Ministry of Health Dr. Pravin Misra."¹⁵

Mr. Vivek Acharya, Internal Revenue Department Officer, says that the taxes are being raised every year for tobacco related products rather than providing any facilities to them. The government has levied a 33 percent tax on the sales and distribution of tobacco products. He said the tax rate is sure to increase in the coming years, as tobacco products are hazardous to public health. Various organizations working in the field of tobacco control, such as RECPHEC, Nepal Cancer Relief Society, Action Nepal who are demanding that the government raise the tax on tobacco products and that amount to be

¹⁴ Conversation with Dr. Bikash Devkota, Spokesperson of the MoHP, 2076 Falgun 27

¹⁵ Conversation with Consumer Rights Activist Bania

spent on treating diseases caused by tobacco products and on raising public awareness.¹⁶ Puskarraj Nepal, Undersecretary, Law Section under MoHP and Member Secretary of Tobacco Products Control and Regulation Committee also said that the Ministry of Health has not provided any facilities to the tobacco industry. Dr. Prakash Neupane, expert on cancer disease, however, expressed the possibility that the finance ministry official might be connected with the tobacco industrialists in some or any way. He fears that there must be some confidential reason behind the small percentage tax increase when the tax should have been increased to 100 percent.¹⁷

Rs. 7 billion was collected from tax on tobacco products last year. Of the taxes collected, Rs. 400 billion was received by the MoHP. The Ministry has allocated the majority of the proceeds to the Cancer Hospital. Only ten million has been spent on public awareness programs. Most of the share of the amount received by the ministry has been spent on cancer hospital. On the other hand, there are Tobacco Products Control and Regulation Act and Directives, but it has a weak implementation phase. The World Health Organization has urged its member countries to levy up to 70 percent tax on tobacco products. Only 33 percent tax is collected on the production and sale of these products in Nepal. The tax has been raised to 33 percent after 2003 A.D.¹⁸

4. UNNECESSARY INTERACTION

The government has not had any meeting or interaction with the tobacco industry. It would have been publicized if there had been any meeting.¹⁹

Rule 48 of Article 5 of Tobacco Products Control and Regulation Directive 2071, prohibits giving and receiving presents or free items and cash from any tobacco industry. It is mentioned that the government official should not consult with the officials of the tobacco industry and should not take presents. The Ministry of Health and Population has not made any code of conduct.²⁰ Jyoti Bania, advocate and general secretary of Forum for Protection of Consumers' Rights, says that there is no separate code of conduct hence should be prepared now.

The tobacco industry does not submit reports on the production and trade of tobacco every month to the government. Even no arrangements have been made to provide the details of the product.²¹ No rights have been provided to the Ministry of Health to take action for not submitting. That right has been provided to the Assistant Chief District Officer and Supervisor.

Raising awareness to the employees have been done from time to time. According Dr. Bikash Devkota, the spokesperson of MoHP, he interacts with the chief ministers, ministers, state lawmakers, city chiefs, deputy chiefs and local officials every year. Dr. Devkota informed to continue this in the future.²²

The government has no separate policy on any kind of support provided by the tobacco industry. However, Tobacco Products Control and Regulation Directive has arranged to

¹⁶ News published on various dates in daily newspapers, Kantipur, Nagarik, Annapurna, Gorkhapatra, Naya Parika, etc.

¹⁷ Conversation with Dr. Prakash Tobacco Products Control and Regulation Neupane, 2076 Falgun 23

¹⁸ News published on swasthyakhabar.com on 2076 Mangsir 11

¹⁹ (Conversation with Pushkaraj Nepal, Chief of Law Section of MoHP)

²⁰ Conversation with Pushkaraj Nepal, Chief of Law Section of MoHP)

²¹ Conversation with Pushkaraj Nepal, Chief of Law Section of MoHP)

²² Conversation with Dr. Bikash Devkota, Spokesperson of the MoHP, 2076 Falgun 27)

not accept any kind of presents and honors from the industries. This is some kind of policy of the government. The Rule 48 of Article 5 of Tobacco Products Control and Regulation Directive 2071, has prohibited receiving presents or free items and cash from any tobacco industry.²³

5. **TRANSPARENCY**

The government has not had any meetings with the tobacco industry for the last three years. However, there is also no mechanism to verify or disclose these meetings, if they happened. There is no statutory requirement for the disclosure. The government has no record of meeting with affiliated organizations and individual lobbyists or representatives of tobacco industry.

6. **CONFLICT OF INTEREST**

MoHP has done nothing on this issue. After the enactment of the Act, no tobacco industry has supported financially to fulfill any political party's interests in transparent manner. Pushkarraj Nepal, Undersecretary of Law Section, says, "tobacco industry has not appear to have supported the political party directly. It is unknown if done indirectly." But it cannot be assumed that political parties and their leaders have not receive donations or assistance from the industrialists during the elections. He says, "It is like an open secret during elections. But there is no evidence as to who received or provided anything."²⁴

The available report indicates that the Prime Minister and the Attorney General are so far not been involved with any tobacco industry. However, retired employees of the Ministry of Finance and Industry may be working hiding their names and addresses. According to the officer, Jyoti Bania, the retired employee should have hidden their real name and address. This topic needs deep investigation.²⁵ Apparently, no government employee is working transparently. So, it is unknown.²⁶

7. **PREVENTIVE MEASURES**

No disclosure of interaction or related systems in place. There is a policy prohibiting the acceptance of gifts or rewards from the tobacco industry. However, the lack of proper monitoring from the government which provides a conducive environment for the tobacco industry to target groups and interfere.

There is no code of conduct for public officials which sets standards when dealing with the tobacco industry. However, the government regularly organizes orientation training to government employees on Tobacco Control and Regulation Law as well as the moral ethics of civil servants. Article 48 (Chapter 5) of the Tobacco Control and Regulation Law prohibits government officials and employees to receive any gifts in terms of object and money from tobacco industry or its representatives.

The Nepal Health Education, Information and Communication Centre of the Ministry of Health is responsible to provide trainings to government officers and to raise public

²³ Conversation with Pushkarraj Nepal, Chief of Law Section of MoHP)

²⁴ Chief Prof. Chiranjibi Khanal, Head of Journalism Department, Tribhuwan University

²⁵ Conversation with Interview with Right Activist Bania, Falgun 28, 2076

²⁶ Conversation with Dr. Bikash Devkota, Spokesperson of the Ministry of Health and Population

awareness through print, TV, radio and social media. There is sufficient budget allocated for this purpose.

Recommendations

We make the following recommendations:

1. The government must adopt a code of conduct for all government officials when interacting with the tobacco industry. Interactions with the tobacco industry must only be when strictly necessary and it must be disclosed.
2. The MoHP must implement a plan to consistently raise awareness on Article 5.3 issues with the non-health government departments.
3. The tobacco industry must be required to submit reports on their production, revenue, expenditure on marketing and philanthropy.
4. Revenue Department should regularly monitor the Tobacco Industry regarding the production and sell of the tobacco products in Nepal and outside.
5. The Home Ministry, being law enforcement agency of Nepal should strictly implement government decision of making 90% Pack warning in all tobacco products including chewing tobacco.
6. Allocate more financial resources from the Health Tax for preventive and promotive activities against tobacco.

Results and Findings

	0	1	2	3	4	5
INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government ²⁷ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ²⁸ in setting or implementing public health policies in relation to tobacco control ²⁹ (Rec 3.1)	0					
The government did not receive any assistance from tobacco industry while developing its public health policy.						
2. The government accepts, supports or endorses <u>policies or legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4)	0					
No legal provisions were drafted in collaboration with any tobacco company. The government does not do this in practice.						
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)		1				
There is no provision inviting or allowing the tobacco industry to committee meetings related to developing health and other policies.						
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				
The government does not invite or include tobacco industry representatives in its delegation to WHO FCTC COP and other related meetings.						
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) B. The government (its agencies and officials) receives contributions ³⁰ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)			2			
A) No. There is no evidence of accepting donation from tobacco industry in the State Fund. B) There is no any evidence of receiving contribution from tobacco industry to the government. C) Surya Nepal held CSR activities including environment awareness campaign and sports. Surya Nepal was awarded the best company for environmental protection on World						

²⁷ 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

²⁸ The term, “tobacco industry” includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

²⁹ “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

³⁰ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

	0	1	2	3	4	5
Environmental Day. They received Rs. 50,000 cash prize and a certificate signed by the Minister for Forests and Environment, Secretary for Forests and Environment and the Director General of the Department of Environment. ³¹						
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)				3		
Government has not fully implemented the agreed 90% PHW to the domestic tobacco products. In addition, the delay of court cases further demonstrates benefits and accommodation to tobacco industry. The government came with directives of 90% pack warnings effective from 15 May, 2015.						
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)				3		
There are no incentives provided to tobacco industry. However, despite public pressure, the government has only levied 35% tax to tobacco industry. Nepal thus has the lowest tobacco tax in South Asia, privileging tobacco industry. (The Himalayan Times, 20 th April, 2018)						
International travellers can bring 250 cigarettes and 50 cigars and 20g of tobacco into Kathmandu from duty free shop. ³²						
INDICATOR 4: Forms of Unnecessary Interaction						
8. Top level government officials (such as President/ Prime Minister or Minister ³³) 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)				2		
Surya Tobacco was still recognized as the Best Tax-payer in 2019. This award event was attended by the Minister of Finance thereby endorsing the tobacco industry's business.(www.ekantipur.com)						
The minister who advocated to re-establish Janakpur Cigarette Factory has been removed by the Prime Minister in November 2019. In addition, the total factory complex was handed over to the Provincial Government and now most of the Provincial Administrative office including Ministries are located in this complex. Hence now there is no possibility of re- opening this state-run tobacco industry.						
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					

³¹ MyRepublica. Surya Nepal awarded for environment protection. 13 June 2018 <https://bit.ly/3dJacrr>

³² <https://www.iatatravelcentre.com/NP-Nepal-customs-currency-airport-tax-regulations- details.htm>

³³ Includes immediate members of the families of the high-level officials

	0	1	2	3	4	5
No report was found on this. The open border between India and Nepal has multiple chances for illegal trade and smuggling of tobacco products.						
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>		1				
There is no formal agreement signed between the tobacco industry and the government. However since the Nepal government publicly called for the cooperation of the business sector in the national campaign of 'Visit Nepal Year 2020', there is high chance of getting tobacco industry involved in this national campaign. There is no evidence of involving tobacco industry in this campaign as yet.						
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
There is no formal meeting of the government with tobacco industry for the last three years. However, there is also no mechanism to verify or disclose these meetings, if they happened.						
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)				3		
There is no statutory requirement for the disclosure. The government has no record of meeting with affiliated organizations and individual lobbyists or representatives of tobacco industry.						
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
xx Hence, there is high chance of receiving donation from tobacco industry to political parties.						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)	0					
No recorded evidence. However, the government does not prohibit officials, after retirement, to join the tobacco industry.						
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy position. (Rec 4.5, 4.8, 4.10)	0					
No evidence on this.						
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

	0	1	2	3	4	5
No disclosure of interaction or related systems in place.						
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)					4	
There is no code of conduct for public officials which sets standards when dealing with the tobacco industry. However, the government regularly organizes orientation training to government employees on Tobacco Control and Regulation Law as well as the moral ethics of civil servants. Article 48 (Chapter 5) of the Tobacco Control and Regulation Law prohibits government officials and employees to receive any gifts in terms of object and money from tobacco industry or its representatives.						
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
At the district level, Assistant Chief District Officer is the main responsible person. Tobacco products cannot be sold without the sticker of Revenue Department pasted on the packs. This department is legally responsible to ask the periodical report from Tobacco Industry. The periodical disclosure to the public is not in practice.						
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)			2			
The Nepal Health Education, Information and Communication Centre of the Ministry of Health is responsible to provide trainings to government officers and to raise public awareness through print, TV, radio and social media. There is sufficient budget allocated for this purpose. In 2018, in line with the existing Tobacco Product (Control and Regulatory) Act, Kathmandu's metropolitan authorities have implemented an 18-month 'Healthy City Program', which was aimed at cracking down on the use of tobacco in public places. ³⁵ In addition, tobacco control advocacy organizations have been playing an active part to educate the people. They even organized a tobacco law orientation program to the Assistant District Administration Officer being responsible person to implement the law.						
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)		1				
Yes. There is a policy prohibiting the acceptance of gifts or rewards from the tobacco industry. However, the lack of proper monitoring from the government which provides a conducive environment for the tobacco industry to target groups and interfere.						

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.

³⁵ Tobacco Reporter. Nepal to enforce ban (26 February 2018). From <https://tobaccoreporter.com/2018/02/26/nepal-to-enforce-ban/>

	0	1	2	3	4	5
TOTAL	43					

How this 2020 report is different from the first 2019 report

When the report of an investigative research on tobacco use in Nepal, conducted by Nepal Health Research Council (NHRC), was publicized, it was the highlight for tobacco control this year and caught everyone's attention. Over the last five years cigarette smokers have decreased by 1.4 percent in Nepal. The fact was highlighted by the survey regarding factors related to non-communicable diseases (Steps Survey) in Nepal was publicized on Bikram Era 2076 Kartik 29 (2019) by NHRC. The survey to be held every five years was led by NHRC last time from February to May 2019. The survey was conducted among 5593 diminutives of age 15 to 69 years. The survey conducted on 2019 showed that 17.1 percent were smokers on average, where 28 percent are males and 7.5 percent females. The previous survey conducted on 2013 showed that 27 percent of the male and 10 percent of the female smoke with 15.5 percent on average. On this basis, the percentage of smokers is estimated to have decreased by 1.4 percent compared to five years ago.

Review of the details of male and female smokers, the percentage of male has increased in 2019 compared to 2013 whereas that of female has decreased.

The survey showed that 29 percent of the people used tobacco products in Nepal. The 2019 STEPS Survey 2019 shows that the people consuming tobacco products (smoke and smokeless) in Nepal is 28.9 percent; of which male is found to be 48.3 percent and female to be 11.6 percent. Similarly, the consumption of electronic cigarettes is found to be 0.8 percent. In recent times, in the urban areas, the use of electric cigarettes/e-cigarettes has become fashionable. The people in urban areas, especially young people, are addicted to e-cigarettes. The survey conducted this time has tried to include data regarding this.

According to the 2019 STEPS Survey, among the seven provinces, Province 5 has the highest number of tobacco users with 36.6 percent of the population while the country's average percentage is 28.9. The consumption is lowest in Province 3. It is reported that there are only 22.2 percent of tobacco product users in the province. This is followed by Province 1, with 22.8 percent, Gandaki province with 25.9 percent, Karnali and Province 2 with 29.7 percent. In the Far Western Province, the consumption of tobacco products has been found to be one third, that is 33.8 percent.³⁶

Positive Initiatives

Bharatpur Municipality of Chitwan is being made a smokeless city. The municipality is preparing for the formal announcement during a special program in December. According to the Metropolitan Chief Renu Dahal, a committee has been formed to declare the metropolitan city a smokeless city and a homework has been started by meeting one day every month. At a program held in Bogar city, Indonesia, Chief Dahal committed to making Bharatpur Metropolitan City a 'smoke free city'. The heads of 40 cities of 12 countries attended the program. Metropolitan Chief Dahal said that the commitment made in Bogar would be implemented. She said that it is prohibited to use and trade tobacco

³⁶ Report publicized by Nepal Health Research Council on the last week of Kartik 2076

products in Bharatpur Metropolitan city.

Bharatpur Municipality has prohibited the use and trade of tobacco products within the municipality by publishing the information in different media. According to the Chief Dahal, Article 4 of tobacco products (control and regulation) act says that the use of tobacco products is strictly prohibited in the public places, government offices, educational institutions, public vehicles, children's homes, public toilets, industrial factories, entertainment sites, hotel restaurants, sports venues, places of business, religious places, public transport and waiting rooms in Bharatpur Municipality. Smoking can only be done at a designated hotels and restaurants.³⁷

Minister of Social Development of Province 1, Jivan Ghimire said that smoking is pushing society down in a negative way and said that its sale should be banned. Expecting everyone's help and cooperation, Minister Ghimire has planned to declare Province 1 a smoke-free province next year. Province 1 is going to conduct 'Tobacco Products Control and Regulation for healthy living' campaign. The campaign, to be launched by the Ministry of Social Development of Province 1, has given the key message, "Choose a healthy lifestyle, not unhealthy substance."

The Chief of Biratnagar Metropolitan City, Bhim Parajuli said that the campaign would be successful only if the tobacco products are banned from sales to production. One of the participants expressed the view that if possible, prohibiting the sale of such goods in sensitive places like schools and colleges; and punishing the distributors in accordance with the law would make the society clean.³⁸

Challenges that have hampered tobacco control measures

The hearing of a writ petition challenging-supporting the provision coloured pictorial health warnings on 90 percent of the packet of tobacco products continued to be postponed. The government issued the Directive-2071 to print and mark warning messages and pictures on packet wrappers/boxes and parcel packaging of tobacco products amending the old directive pursuant to Article 9 of the Tobacco Control and Regulation Act 2068, with effect from 1 Jestha 2072.

The revised directive increased the size of the printed warning colored picture from 75 to 90 percent of the packet of tobacco products. A writ was filed by Perfect Blends against the directive on 15 Magh 2071 and on behalf of the application of 90 percent warning by Advocate Hutaraj Koirala on 15 Bhadra 2072 and Action Nepal on 2 Chaitra 2072. It has been almost five years since the writ was filed; but the Supreme Court has not been able to deliver a verdict. This was the 31st time that the writ filed by Advocate Hutaraj in the case to date. Action Nepal filed its action 21 times but deferred.

Government regulated the law regarding the use of tobacco products as it had a direct impact on public health. So, it was expected that the decision would be finalized quickly. However, it has been delayed. This is a matter of concern.

In Nepal, tobacco use claims over 27,000 lives annually. The government issued the Tobacco Products Control and Regulation Act, Directive 2012 A.D. to reduce its use. The

³⁷ News published on 2076 Falgun 6 on National News Committee

³⁸ News published on 2076 Falgun 6 on National News Committee

75 percent health warning on the packets of tobacco products was aimed to help smokers quit. At that time, tobacco entrepreneurs had filed a case against the Supreme Court. The decision of the case was settled after 26 months. But this time round the postponement of the petition has been stretched to 58 months.³⁹

³⁹ Published on 2076 Mangsir 16 on Nepali Health

Annex

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15. Focal persons of Health Right and Tobacco Control District Network (HRTC)

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2. www.MOHP.gov.np
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