



A GLOBAL
TOBACCO
INDUSTRY
WATCHDOG

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The Tobacco Industry and Corruption

1. What is “corruption”?

Corruption is any improper, usually illegal¹ conduct relating to **the abuse of public office for private gain.**² In as much as public office is abused when an official takes a bribe (or undue advantage),³ it is also “abused **when private agents actively offer or give bribes (or undue advantage)**⁴ to circumvent public policies and processes for competitive advantage and profit.”⁵

A more subtle form of corruption arises through “**undue influence,**”⁶ where companies “make use of legal mechanisms to influence the decision-making process”⁷ (e.g. donate to election campaigns, fund research and host meetings but “expect favorable decisions in exchange”).⁸

2. Why is the tobacco industry (TI) linked to corruption?

Tobacco companies’ efforts to interfere with public policy is widely documented. In many cases, tobacco companies have been found to exert undue influence to shape or relax regulation at the expense of public health. And in some instances where deeper investigations have been undertaken, evidence of tobacco companies’ bribery of public officials has come to light.

- A. Evidence shows that the major transnational tobacco companies continue to be complicit in smuggling⁹ which, according to leaked internal documents, involves bribery of public officials.¹⁰
 - Court documents also allege that major transnationals run “an ongoing global scheme to smuggle cigarettes, launder the proceeds of narcotics trafficking, obstruct government oversight of the tobacco industry, fix prices, bribe foreign public officials, and conduct illegal trade with terrorist groups and state sponsors of terrorism.”¹¹
- B. In 1999, the same transnationals¹² have been accused of violating the U.S. Racketeer Influenced and Corrupt Organizations Act (RICO) for having engaged in a scheme to defraud smokers and potential smokers for purposes of financial gain.¹³
- C. In 2014, a whistleblower showed evidence of bribery by British American Tobacco (BAT) in Africa and the case was filed in the anti-corruption agency in the U.K., although the case was subsequently dismissed.
- D. Other evidence and allegations of tobacco transnationals’ corrupt activities have been unearthed by journalists (see Annex B).

3. How does the United Nations Convention against Corruption (UNCAC) align with Article 5.3 of the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) and its Guidelines?

Countering tobacco industry interference requires solutions that are similar to combatting corruption. Hence, implementing Article 5.3 of the WHO FCTC amounts to adopting policies similar to those required to curb corruption (e.g., transparency, avoiding conflicts of interests) and could involve the same persons and entities involved in fighting corruption.

Both the WHO FCTC and the UNCAC have over 180 members and both entered into force in 2005. Article 5.3 of the WHO FCTC, a general obligation, mandates Parties to protect public health policies from tobacco industry interests and its elaboration under its Guidelines and spells out many recommendations that align with provisions of the UNCAC. Like corruption, the tobacco industry's interference in the public sector results in harmful and costly outcomes for the government. The UNCAC encourages efforts to prevent and combat corruption through measures which protect against tobacco industry influence under Article 5.3 Guidelines by urging governments to:

- A. Apply codes of conduct
- B. Raise awareness of risks and tactics to prevent corruption and tobacco industry interference
- C. Publish and allow access to information about government processes and decisions when dealing with the tobacco industry
- D. Promote civil society participation in raising public awareness and monitoring tobacco industry activities
- E. Require transparency from the tobacco industry
- F. Ensure prosecution and compliance
- G. Encourage and protect whistleblowers
- H. Promote international cooperation by sharing information

Article 5.3 Guidelines are more stringent and specific in the following areas, where Article 5.3 Guidelines encourage governments to:

- A. Ban,¹⁴ not just disclose, political donations
- B. Declare assets, employments, investments and other substantial gifts or benefits
- C. Divest any interests in the tobacco industry and ban any gifts or offers from the industry, instead of just declaring them
- D. Prohibit those working to further tobacco industry interests from joining tobacco control efforts, Conference of the Parties (COP) or similar bodies, instead of only restricting current and former public officials from being employed by the industry

The guidelines contain extensive recommendations on prohibiting and restricting interactions with the tobacco industry and those furthering its interests, and the UNCAC serves to ensure compliance and enforcement of the treaty. UNCAC provisions include ensuring that governments define and penalize specific offenses, identifying specialized authorities for enforcement, encouraging reporting and prosecution and dealing with the consequences of offenses including compensation and recovery of assets.¹⁵ Tobacco industry interference has been linked to corruption (see Annex B) and can be addressed in part by utilizing bodies and systems established under the UNCAC. Article 5.3 Guidelines provide further guidance on how UNCAC can be implemented in a manner that is consistent with Article 5.3 of the WHO FCTC.

4. What are examples of the tobacco industry's "corrupt" behavior?

Below are examples of actions by tobacco companies that constitute "corrupt" behavior or have been alleged as such. This includes giving bribes directly or indirectly or giving "undue advantage to circumvent public policies and processes for competitive advantage and profit." These illustrations are indicative and are not a complete list. More details are provided in Annex B.

While UNCAC provides general standards and obligations in relation to corruption, each jurisdiction defines the acts that constitute "corruption" differently. Whether the examples herein constitute an illegal or actionable offense, e.g. bribery, and whether the persons involved are covered by the sanctions will depend on the jurisdiction involved.

Bribery¹⁶

- A. Bribed customs officials in exchange for confidential information and delaying announcements regarding changes in tax rates¹⁷
- B. Paid a politician to secure government documents to gain a competitive advantage on anti-smuggling technology¹⁸
- C. Bribed officials in state-owned enterprises to obtain sales contracts with governments¹⁹
- D. Designated and paid an official as a "consultant" in exchange for representation in tobacco control-related meetings such as the Intergovernmental Negotiating Body (INB) on a Protocol on Illicit Trade in Tobacco Products, Conference of the Parties (COP) to the WHO FCTC²⁰

Indirect Bribery²¹

- A. Used a lobbyist, who claims to have been engaged as a consultant or employee, in giving cash gifts to parliamentarians²²

Undue advantage

Undue advantage is a broad term covering a wide range of benefits offered such as gifts, favors, consideration, service, "quid pro quo," and the like. This typically falls under corrupt practices if offered, given, or received in the context of abusing public office or circumventing policy. The following acts would likely be an element of the offense but other elements of corruption such as intent, abuse of authority, or circumvention of policy need to be present to constitute corruption. Categories of undue advantage in the context of tobacco include:

A. Political or charitable donations:²³

Tobacco control needs to be ramped up to prevent the public from suffering worse outcomes due to COVID-19, and governments have been called to increase tobacco taxes to contribute to COVID-19 recovery. The tobacco industry responded by resisting these measures, marketing its novel products, and providing donations to increase / strengthen access to policymakers.

- Personal protective equipment (PPE) given to public hospitals.²⁴
- sponsorship of government's COVID-19 awareness program.²⁵
- donation of US \$35,450 to the Prime Minister for a dam fund.²⁶

B. Community benefits and sponsorship while delaying and influencing policies:²⁷

The tobacco industry sponsors events and conducts corporate social responsibility (CSR) activities in communities attended by

government officials, which provide opportunities for the industry to present itself in a good light, win public favor and gain access to and nurture relationships with government officials. This strategy is part of a coordinated effort by tobacco companies to influence public health policies.

- Romania: sponsorship of an event on the benefits of heated tobacco products (HTPs), attended by the Minister of Health, the Romanian MP of the European Parliament and leaders of two health committees in its Parliament. The products were presented as a low-risk alternative to traditional cigarettes in an apparent effort to influence legislation.²⁸
- Sponsorship of school bags for grade school students with involvement from the Prime Minister's Office,³⁰ while lobbying to delay youth-friendly tobacco control measures such as significant tax increases and smokefree policies.
- Sponsorship of trolley push carts to street vendors, with involvement from the Prime Minister's Office,³¹ while the country continues to grapple with poor working conditions on tobacco farms.

C. Gifts, employment and travel (e.g. in anticipation of policy influence)

- 1. Gifts, hospitality and entertainment:**³²
- Funding of Parliament
members' coastal retreat workshop in anticipation of a tobacco control bill, with pro-industry proposed amendments afterwards.^{33, 34}

2. Employment opportunity:

- **Hiring of a** relative of a public official in exchange for postponing an upcoming price increase.³⁵
- Former TI employees sought to be hired as consultants for track and trace systems to be applied on tobacco products.³⁶

3. Travel:³⁷

- **Sponsorship of plant tours of e-cigarette factory in Switzerland** for health authorities and parliamentarians who will decide if the new products are approved for sale in the country.

5. What can be done to avoid corruption?

Practically all WHO FCTC Parties are Parties to the UNCAC which requires countries to establish measures to deal with corruption, including through anti-corruption infrastructure and agencies and through preventive measures like adopting codes of conduct. And through the WHO FCTC, the global health community has agreed on guidelines to prevent **the tobacco industry** from influencing policy and policymakers. In most jurisdictions, the policies and systems are in place to hold the tobacco industry liable for corruption.

Investigate

Across the world, the tobacco industry epitomizes the worst corporate conduct, including in terms of deception and

corruption; every act of tobacco industry interference undermines life-saving health measures. All available evidence of the tobacco industry's corruption must be used to prompt further investigation and prosecution. Its public relations and lobbying efforts must be scrutinized and investigated for indicators of corruption.

Raise awareness

The tobacco industry has invested heavily in being seen as an ally in the fight against corruption.³⁸ Increased awareness about the tobacco industry's nature, how it hinders the UN Sustainable Development Goals (SDGs) and promotes corruption is crucial:

- A. The tobacco industry cannot be viewed as an ally in combatting corruption.** The WHO FCTC calls on governments to protect policies from the commercial and vested interests of the tobacco industry. Article 5.3 Guidelines explicitly **recommended that** Parties reject partnerships offered by the tobacco industry.³⁹
- B. The tobacco industry is a perpetrator, not a victim, of corruption.** The private sector is generally viewed as both a victim and **a perpetrator** of corruption in the public sector, and is even seen as an ally in fighting corruption. However, the WHO FCTC characterizes the tobacco industry as a powerful, often dominant force more aligned with being the perpetrator of corruption. Furthermore, the WHO FCTC defines the tobacco industry's efforts to undermine tobacco control policy as interference, not simply lobbying.⁴⁰

Implement the WHO FCTC and UNCAC

Both the WHO FCTC and UNCAC outline measures to prevent situations that lead to corruption and ensure that the tobacco industry is held accountable and liable for corrupt behavior or conduct that may lead to corruption. Policy coherence requires anti-corruption laws to yield to specific prohibitions with respect to the tobacco industry (e.g. ban gifts, contributions, partnerships, unnecessary interactions):

- A. Avoid conflicts of interest. (Article 5.3 Guidelines, Recommendation 4)
- B. Ensure transparency of meetings with the tobacco industry if they are strictly necessary for regulation. (Article 5.3 Guidelines, Recommendation 2)
- C. Do not accept, support or endorse any voluntary code of conduct or instrument drafted by the tobacco industry that is offered as a substitute for legally enforceable tobacco control measures. (Article 5.3 Guidelines, Recommendation 3.3)
- D. Do not accept, support or endorse any offer for assistance or proposed tobacco control legislation or policy drafted by or in collaboration with the tobacco industry. (Article 5.3 Guidelines, Recommendation 3.4)
- E. Require public officials who have or have had a role in setting and implementing public health policies with respect to tobacco control to inform their institutions about any intention to engage in an occupational activity within the tobacco industry, whether gainful or not,

within a specified period of time after leaving service. (Article 5.3 Guidelines, Recommendation 4.4)

- F. Require government officials to declare and divest themselves of direct interests in the tobacco industry. (Article 5.3 Guidelines, Recommendation 4.6)
- G. Do not allow any government official or employee to accept payments, gifts or services, monetary or in kind, from the tobacco industry. (Article 5.3 Guidelines, Recommendation 4.10)
- H. Require that information provided by the tobacco industry be transparent and accurate. (Article 5.3 Guidelines, Recommendation 5)

Hold the tobacco industry accountable for corrupt actions

Monitoring by civil society organizations as well as investigative reports have revealed tobacco industry behavior that constitutes punishable offenses in many jurisdictions in accordance with the UNCAC. Some instances of undue influence and bribery are also linked to the [tobacco companies' complicity in smuggling](#) and tax avoidance schemes. These must not go unpunished in countries where they happen. The media and the anti-corruption or governance sector must be engaged to further investigate the tobacco industry's tactics. Through foreign bribery laws, the transnationals can be made liable in countries where their stocks are sold or where their principal companies sit.

Governments and international organizations

must cooperate in cracking down on corrupt behavior by the tobacco industry. The international cooperation and mutual legal assistance provisions of the UNCAC,⁴¹ as well as the international cooperation provisions⁴² and Articles 5.3 and 19 of the WHO FCTC, provide legal frameworks that facilitate sharing evidence to hold tobacco companies liable for corrupt acts or actions that lead to corruption.

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ANNEX A

United Nations Convention against Corruption (UNCAC) and WHO FCTC Article 5.3 Guidelines: Common provisions regarding measures against corruption

	UNCAC	WHO FCTC Article 5.3 Guidelines
Prevent corruption vis-à-vis industry interference by raising awareness	<p>Have bodies that “prevent corruption by such means as... Increasing and disseminating knowledge about the prevention of corruption.” (Article 6.1.b)</p> <p>“... adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants... That promote education and training programmes... to enhance their awareness of the risks of corruption inherent in the performance of their functions.” (Article 7.1.d)</p> <p>“... promote, inter alia, integrity, honesty and responsibility among its public officials” to fight corruption. (Article 8.1)</p>	<p>“... inform and educate all branches of government and the public about... the need to protect public health policies for tobacco control from commercial and other vested interests of the tobacco industry and the strategies and tactics used by the tobacco industry to interfere with the setting and implementation of public health policies with respect to tobacco control” (Recommendation 1.1) for the successful implementation of the whole WHO FCTC.⁴³</p> <p>“... raise awareness about the tobacco industry’s practice of using individuals, front groups and affiliated organizations to act, openly or covertly, on their behalf or to take action to further the interests of the tobacco industry.” (Recommendation 1.2)</p> <p>“... ensure that all branches of government and the public are informed and made aware of the true purpose and scope of activities described as socially responsible performed by the tobacco industry.” (Recommendation 6.1)</p>

	UNCAC	WHO FCTC Article 5.3 Guidelines
Ban or disclose political donations	"... consider taking... measures... to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties. " (Article 7.3)	"... have effective measures to 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." (Recommendation 4.11)
Ban any gifts or offers; declare and divest interests	"... endeavour... to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials." (Article 8.5)	<p>All "payments, gifts and services, monetary or in-kind, and research funding" offered by the tobacco industry can create conflict of interest.⁴⁴</p> <p>Gifts⁴⁵ "... not allow any official or employee of government or of any semi/quasi-governmental body to accept payments, gifts or services, monetary or in-kind, from the tobacco industry." (Recommendation 4.10)</p> <p>Interests "... require government officials to declare and divest themselves of direct interests in the tobacco industry." (Recommendation 4.6)</p>
Declare employment and other activities	"... endeavour... to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials." (Article 8.5)	<p>Employment "... develop clear policies that require applicants for public office positions which have a role in setting and implementing public health policies with respect to tobacco control to declare any current or previous occupational activity with any tobacco industry whether gainful or not." (Recommendation 4.5)</p>
Ensure transparency and avoid conflict of interest in obtaining employment after leaving public service	Public officials shall comply with measures established by law or by administrative policies in order that after leaving their official positions they will not take improper advantage of their previous office. ⁴⁶	"... develop clear policies that require public office holders who have or have had a role in setting and implementing public health policies with respect to tobacco control to inform their institutions about any intention to engage in an occupational activity within the tobacco industry, whether gainful or not, within a specified period of time after leaving service. " (Recommendation 4.4)

	UNCAC	WHO FCTC Article 5.3 Guidelines
Restrict and penalize employment of public officials with the private sector	Adopt measures and provide penalties for the failure to comply with measures to prevent corruption involving the private sector. (Article 12.1), which may include "... preventing conflicts of interest by imposing restrictions , as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure." (Article 12.2.e)	Tobacco Control Body "... not allow any person employed by the tobacco industry or any entity working to further its interests to be a member of any government body, committee or advisory group that sets or implements tobacco control or public health policy." (Recommendation 4.8) COP "... not nominate any person employed by the tobacco industry or any entity working to further its interests to serve on delegations to meetings of the Conference of the Parties, its subsidiary bodies or any other bodies established pursuant to decisions of the Conference of the Parties." (Recommendation 4.9)
Apply codes of conduct	"... apply... codes or standards of conduct for the correct, honourable and proper performance of public functions." (Article 8.2)	"... formulate, adopt and implement a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry." (Recommendation 4.2)
Ensure prosecution and compliance	"... ensure that any discretionary legal powers... relating to the prosecution of persons for offences established in accordance with [UNCAC] are exercised to maximize the effectiveness of law enforcement measures ... with due regard to the need to deter the commission of such offences." (Article 30.3) UNCAC provides for offenses and persons liable, measures in relation to prosecution, adjudication and sanctions, dealing with proceeds and consequences of crimes. ⁴⁷	"... use and enforce mechanisms to ensure compliance with these guidelines, such as the possibility of bringing an action to court , and to use complaint procedures such as an ombudsman system." ⁴⁸
Encourage and protect whistleblowers	Establish "measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions." (Article 8.4) "... provide effective protection ⁴⁹ from potential retaliation or intimidation for witnesses and experts who give testimony" ⁵⁰ (Article 32.1) and "protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts" ⁵¹ (Article 33) concerning offences established in accordance with the UNCAC.	Codes of conduct or staff regulations for all branches of governments should include a "whistleblower function," with adequate protection of whistleblowers. ⁵²

	UNCAC	WHO FCTC Article 5.3 Guidelines
Promote international cooperation by sharing information	<p>“... consider analysing, in consultation with experts, trends in corruption in its territory.” (Article 61.1)</p> <p>“... developing and sharing with each other and through international and regional organizations statistics, analytical expertise concerning corruption and information with a view to developing, insofar as possible, common definitions, standards and methodologies, as well as information on best practices to prevent and combat corruption.” (Article 61.2)</p> <p>“... exchange... information with other States Parties concerning specific means and methods used to commit offences.” (Article 48.d) ⁵³</p>	<p>Share “legal and strategic expertise for countering tobacco industry strategies.”⁵⁴</p> <p>“... cooperate with competent international organizations to establish progressively and maintain a global system to regularly collect and disseminate information on tobacco production and manufacture and activities of the tobacco industry which have an impact on the [WHO FCTC] or national tobacco control activities.”⁵⁵</p> <p>Promote and facilitate exchanges of information⁵⁶ about tobacco industry practices and the cultivation of tobacco.⁵⁷</p>
Allow access to information, and publish information	<p>Processes and Decisions Take measures... “to enhance transparency in its public administration,” which may include:</p> <p>(a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;</p> <p>...</p> <p>(c) Publishing information, which may include periodic reports on the risks of corruption in its public administration. (Article 10)</p>	<p>Tobacco Industry Activities “... adopt and implement effective ... measures to ensure public access, in accordance with Article 12(c) of the Convention, to a wide range of information on tobacco industry activities as relevant to the objectives of the Convention, such as in a public repository.” (Recommendation 5.5)⁵⁸</p>
Promote civil society participation (awareness raising/ monitoring)	<p>“... develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society” (Article 5.1)</p> <p>“... promote the active participation⁵⁹ of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption.” (Article 13.1)</p>	<p>Nongovernmental organizations and other members of civil society not affiliated with the tobacco industry could play an essential role in monitoring the activities of the tobacco industry.⁶⁰</p>

	UNCAC	WHO FCTC Article 5.3 Guidelines
Require transparency from private sector/ tobacco industry	<p>“... take measures... to prevent corruption involving the private sector... and... provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures” (Article 12.1), which may include... “promoting transparency among private entities, including... measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities.” (Article 12.2.c)</p>	<p>“... introduce and apply measures to ensure that all operations and activities of the tobacco industry are transparent.” (Recommendation 5.1)</p> <p>Require the tobacco industry and those working to further its interests to provide information for effective implementation of Article 5.3 Guidelines, and “to periodically submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions.”⁶¹ (Recommendation 5.2)</p> <p>“... require rules for the disclosure or registration of the tobacco industry entities, affiliated organizations and individuals acting on their behalf, including lobbyists.” (Recommendation 5.3)</p> <p>“... impose mandatory penalties on the tobacco industry in case of the provision of false or misleading information.” (Recommendation 5.4)</p>
Not award contracts vis-a-vis adoption of procurement system	<p>Provides for the development of a public procurement system based on transparency, competition, and objective selection criteria with legal recourse for violations. (Article 9)</p>	<p>“... not award contracts for carrying out any work related to setting and implementing public health policies with respect to tobacco control to candidates or tenderers who have conflicts of interest with established tobacco control policies.” (Recommendation 4.3)</p>
Avoid misuse of licenses and subsidies	<p>“... take measures... to prevent corruption involving the private sector... and... provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures,” (Article 12.1) which may include... “Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities.” (Article 12.2.d)</p>	<p>“... not grant incentives, privileges or benefits to the tobacco industry to establish or run their businesses” (Recommendation 7.1) and “not provide any preferential tax exemption to the tobacco industry.” (Recommendation 7.3)</p>

ANNEX B

Reports of tobacco industry bribery/corruption

Year; country; company involved	Reported Act	Public office / Officials	Outcome	Year reported; Source; Other details
1999-2006; Kenya; BAT Kenya ⁶²	Maintained close relationships with officials, funded retreat for 40 Members of Parliament (MPs) at an exclusive coastal resort, industry lobbying, in order to dilute and delay the Tobacco Control Bill ⁶³	Ministry of Health and 40 MPs to delay and dilute the Tobacco Control Bill ⁶⁴	The Tobacco Control Bill was heavily diluted and its approval delayed; when a competitor emerged, a law was passed to compel farmers to sell tobacco to BAT rather than its competitor ⁶⁵	2004 to 2007; Tobacco Control
2000-2004; Thailand, China, Greece, Indonesia, Kyrgyzstan; Universal Leaf and Alliance One ^{66, 67}	Bribery of over US \$5 million to secure sales contracts. ^{68, 69, 70}	Officials from the government-owned Thailand Tobacco Monopoly	The tobacco companies paid approximately US \$15 million each in disgorgement and fines ^{71, 72}	2010; US Securities and Exchange Commission (SEC); US SEC Foreign Corrupt Practices Act portal
2009; Indonesia; PMI (Sampoerna) ⁷³ ⁷⁴	Undue influence to remove a clause in tobacco bill	Legislators	Missing clause reinserted. Media reported on the possibility that the incident may have been due to collusion between certain lawmakers and the tobacco companies that earlier unsuccessfully lobbied for its deletion from the bill. Investigators in the House of Representatives later found that the deletion was not due to error, but a deliberate attempt to remove such clause from the tobacco bill. ^{75, 76}	2010; Corruption Agency and NGO investigations
2011; Uganda; BAT (BATU) ⁷⁷ ⁷⁸	Lobbyist/employee paid cash gifts to “infiltrate, influence and spy” on tobacco control activists and accommodate BAT views in the tobacco control law	Members of Parliament	The UK Serious Fraud Office (SFO) investigated the alleged bribery activities of BAT in Africa, including this. ⁷⁹ In January 2021, the UK SFO closed its investigation into BATI, for failing to meet the “evidential test” for prosecution ⁸⁰	2017 to 2021; Whistleblower, former lobbyist
2011; Uganda; BAT	Bribe of US \$25,000 for sharing a report on a rival tobacco company and amending it ⁸¹	Member of Parliament	This formed part of the U.K. SFO investigation. ^{82, 83}	2015: Whistleblower via BBC
2012; Rwanda; BAT ⁸⁴	Paid US \$20,000 in exchange for draft regulations ⁸⁵	MOH official/ COP delegate	Included in U.K. SFO investigations; ^{86, 87, 88} Nine (9) U.S. Congressmen sought investigation by DOJ In 2020 ⁸⁹	2015; Whistleblower via BBC

Year; country; company involved	Reported Act	Public office / Officials	Outcome	Year reported; Source; Other details
2012; Burundi, BAT	Paid US \$3,000 to official to be a “consultant” ⁹⁰	Official at Burundi’s Ministry of Health, and one of its FCTC	Included in U.K. SFO investigations; ^{91, 92, 93} Nine (9) U.S. Congressmen sought investigation by DOJ in 2020 ⁹⁴	2015; Whistleblower via BBC
2012; Comoros Island, BAT	Paid US \$3,000 to public official for representations at FCTC meetings and accommodating changes to tobacco control bill ^{95, 96}	Delegate to FCTC meetings	Included in U.K. SFO investigations; ^{97, 98, 99} Nine (9) U.S. Congressmen sought investigation by DOJ in 2020 ¹⁰⁰	2015; Whistleblower via BBC
2012; Kenya, BAT	Paid an official a business class return flight to London for his wife ¹⁰¹	Minister of Trade	Included in U.K. SFO investigation ^{102, 103, 104}	2015; Whistleblower via BBC
2012; EU, Swedish Match	Offered “a considerable sum” to lift ban on snus and unauthorized secret meetings ¹⁰⁵	EU Health	Investigated by OLAF; ¹⁰⁷ Official involved resigned, in 2015; EU Ombudsman called for transparency in whole EU Commission ¹⁰⁸	2012; Guardian
2015; Kenya; BAT	Paid GB £50,000 for confidential information in re: GB £100 million contract for anti-smuggling technology; Listed “donations” as payments for management fees in anti-smuggling operations. ¹⁰⁹	Former Justice minister (to access Kenyan Revenue Authority)	Delayed anti-smuggling contract while “secretly lobbying to get their own system chosen”	2016; Whistleblower via Independent
2016; South Africa, BAT	Paid up to R 5,000 per month for cooperating “in disrupting a competitor’s operations” ^{110, 111}	Law enforcement officials in SA Revenue Office	Ensured that BAT retained its market share in South Africa’s tobacco market ^{112, 113}	2016; News 24; Based on court affidavit
2018; Italy; PMI (PM Italia, PMMTB ¹¹⁴) ¹¹⁵	Bribed to gain confidential information	Senior Customs official	Tax increase delayed; Customs official arrested.	2020; OCCRP Wiretap or based on complaint by BAT
2020; Pakistan, PMI, BAT, Pakistan Tobacco Company ¹¹⁶	Manipulated the tender process to award a contract for tracing illicit cigarettes to their preferred company	Tax official	Tobacco industry-preferred company was awarded the contract for tracing illicit cigarettes	2020; OCCRP

BAT British American Tobacco

BATU British American Tobacco Uganda

PMI Philip Morris International

PM Italia Philip Morris Italia

PMMTB Philip Morris Manufacturing & Technology Bologna

Sampoerna PT Hanjaya Mandala Sampoerna Tbk

Endnotes

1. Vast majority of countries have laws against corruption.
2. Chapter II (Corruption and Economic Development). In: The World Bank (September 1997). Helping countries combat corruption: The role of the World Bank. Available from: <http://www1.worldbank.org/publicsector/anticorrupt/corruptn/cor02.htm#note1> (accessed 20 April 2021).
3. UN Convention Against Corruption (2003), art. 15
4. UN Convention Against Corruption (2003), art. 15
5. Chapter II (Corruption and Economic Development). In: The World Bank (September 1997). Helping countries combat corruption: The role of the World Bank. Available from: <http://www1.worldbank.org/publicsector/anticorrupt/corruptn/cor02.htm#note1> (accessed 20 April 2021).
6. Bosso F, Martini M, Ardigó IA. Introduction to undue influence on decision-making (15 December 2014). Available from: <https://knowledgehub.transparency.org/guide/top-ic-guide-on-undue-influence/5191> (accessed 20 April 2021). – “Interest group influence is not a corrupt or illegitimate activity per se, but when opaque and disproportionate it may lead to undue influence, corruption and even state capture.”
See: Why Did Philip Morris Spend More Than Anyone Else Lobbying The E.U.? Trefis Team, Great Speculations.Forbes (3 October 2014). Available at: <https://www.forbes.com/sites/greatspeculations/2014/10/03/why-did-philip-morris-spend-more-than-anyone-else-lobbying-the-e-u/?sh=4e3ac8b42963> (accessed 3 May 2021). – The following describes the “disproportionate” nature of TI influence: In 2013 alone, Philip Morris International reportedly spent almost US\$7 million (EUR 5.25 million) to lobby Members of the European Parliament as they deliberated on the EU’s Tobacco Product Directive.
See: Integrity Watch – EU Lobbyists. Available at: <https://integritywatch.eu/organizations> (accessed 3 May 2021). – Information provided by lobby groups through the EU Transparency Register – and available on Integrity Watch – shows that, in 2018, pro-tobacco organisations had at least EUR 4 million available for their lobbying work with the Commission, including EUR 2.25-2.5 million that British American Tobacco had estimated for its costs that year. This is a sharp contrast from the mere EUR 25,000-50,000 registered organisations lobbying for stricter tobacco controls said they had available for the same period.³
7. Bosso F, Martini M, Ardigó IA. Introduction to undue influence on decision-making (15 December 2014). Available from: <https://knowledgehub.transparency.org/guide/topic-guide-on-undue-influence/5191> (accessed 20 April 2021). – “Undue influence is a more subtle form of corruption as interest groups often make use of legal mechanisms to influence the decision-making process.”
See also: Kaufmann et al. Seize the State, Seize the Day: State Capture, Corruption and Influence in Transition. The World Bank, World Bank Institute Governance, Regulation, and Finance Division and Europe and Central Asia Region Public Sector Group and European Bank of Reconstruction and Development Office of the Chief Economist (September 2000). Available at: https://openknowledge.worldbank.org/bitstream/handle/10986/19784/multi_page.pdf?sequence=1&isAllowed=y
8. Bosso F, Martini M, Ardigó IA. Introduction to undue influence on decision-making (15 December 2014). Available from: <https://knowledgehub.transparency.org/guide/topic-guide-on-undue-influence/5191> (accessed 20 April 2021). – “For instance, they may legally contribute to electoral campaigns; provide research and host receptions but expecting favourable decisions in exchange. Undue influence may also be achieved by promising decision-makers well-paid future jobs in exchange for support.”
See also: OECD Lobbyists, government and public trust: Promoting Integrity by self-regulation (20 September 2012). Available at: <https://www.oecd.org/governance/lobbyistsgovernment-and-public-trust-volume-2-9789264084940-en.htm>
9. Joossens L, Gilmore AB, Stoklosa M, et al. Assessment of the European Union’s illicit trade agreements with the four major Transnational Tobacco Companies Tobacco Control 2016;25:254-260 (21 April 2016). Available from: <https://tobaccocontrol.bmj.com/content/25/3/254.citation-tools> (accessed 20 April 2021).
10. OCCRP. Loose Tobacco. Available from: <https://www.occrp.org/en/loosetobacco/> (accessed 20 April 2021); Holland J, Jovanovic B, Dojčinović. Big trouble at Big Tobacco. OCCRP (November 2011). Available from: <https://www.reportingproject.net/troubleswithbigtobacco/> (accessed 20 April 2021).
11. Down A. The EU’s track & trace smokescreen. OCCRP (11 March 2020). Available from: <https://www.occrp.org/en/loosetobacco/without-a-trace/the-eus-track-trace-smokescreen> (accessed 20 April 2021).
“In U.S. court documents filed in 2000, the EU accused three tobacco companies of running “an ongoing global scheme to smuggle cigarettes, launder the proceeds of narcotics trafficking, obstruct government oversight of the tobacco industry, fix prices, bribe foreign public officials, and conduct illegal trade with terrorist groups and state sponsors of terrorism.”
12. Cigarette companies include: Philip Morris, Inc.; R.J. Reynolds Tobacco Company; Brown & Williamson Tobacco Corporation; Lorillard Tobacco Company, Inc.; Liggett Group, Inc.; American Tobacco Company. Parent companies of the foregoing that were included in the suit include: Philip Morris Companies, Inc.; British American Tobacco P.L.C. (formerly B.A.T. Industries P.L.C.); British American Tobacco (Investments) Ltd. (formerly British American Tobacco Company, Ltd.). Industry related groups that were also sued include: Council for Tobacco Research – U.S.A., Inc. (formerly, Tobacco industry Research Committee); The Tobacco Institute, Inc. For more information, see: US Department of Justice. 2 December 2014. Litigation against tobacco companies home. Available from: <https://www.justice.gov/civil/case-4> (accessed 6 April 2021).
13. United States v. Philip Morris (D.O.J. Lawsuit). Public Health Law Center (2021). Available from: <https://www.publichealthlawcenter.org/topics/commercial-tobacco-control/commercial-tobacco-control-litigation/united-states-v-philip> (accessed 4 February 2021). particularly, by: (i) denying the adverse health effects of active smoking; (ii) denying the addictiveness of nicotine and cigarette smoking; (iii) denying their manipulation of the nicotine content of cigarettes; (iv) misrepresenting the health risks attached to light and low tar cigarettes; (v) denying their marketing to youth; (vi) denying the adverse health effects of secondhand smoke; and (vii) suppressing, concealing, and destroying information and documents related to the adverse health effects of smoking
See also: United States v. Philip Morris USA Inc., 449 F. Supp. 2d 1 (D.D.C. 2006), aff’d in part & vacated in part, 566 F.3d 1095 (D.C. Cir. 2009) (per curiam), cert. denied, 561 U.S., 130 S. Ct. 3501 (2010). In: US Department of Justice. 2 December 2014. Litigation against tobacco companies home. Available from: <https://www.justice.gov/civil/case-4> (accessed 25 January 2021).
14. In the case of tobacco industry, ban or disclosure is recommended. In UNCAC, only disclosure is required.
15. UN Convention Against Corruption (2003), art. 34, 35, 36, 8.4, 8.6
16. UN Convention Against Corruption (2003), art. 15, 21 – Based on the UNCAC, Articles 15 and 21, both the public official and the private sector should be liable.
Article 15 (Bribery of national public officials) – Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally: (a) The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties; (b) The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.
Article 21 (Bribery in the private sector) – Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities: (a) The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting; (b) The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.
Note that abuse of functions (Article 19) and illicit enrichment (Article 20) are other acts that UNCAC seek to punish. These primarily involve the liability of the public officials and may not necessarily link to private sector complicity.
17. Clearing the smokescreen: The deadly consequences of undue influence. Transparency International (13 March 2020). Available from: <https://www.transparency.org/en/news/tobacco-smokescreen-deadly-consequences-of-undue-influence#> (accessed 11 January 2021).
See also: Cerantola A. Tobaccopolis: The secret battle to control Italy’s cigarette market. Loose Tobacco. Without a Trace. Organized Crime and Corruption Reporting Project (OCCRP) (11 March 2020). Available from: <https://www.occrp.org/en/loosetobacco/without-a-trace/tobaccopolis-the-secret-battle-to-control-italys-cigarette-market> (accessed 11 January

- 2021).
18. Connett D. British American Tobacco 'bribed' Kenyan politician Martha Karua to stop action against cigarette smuggling. The Independent (18 December 2015). Available from: <https://www.independent.co.uk/news/uk/crime/british-american-tobacco-bribed-kenyan-politician-martha-karua-stop-action-against-cigarette-smuggling-a6779236.html> (accessed 11 January 2021).
 19. US Securities and Exchange Commission. SEC charges two global tobacco companies with bribery (6 August 2010). Available from: <https://www.sec.gov/news/press/2010/2010-144.htm> (11 January 2021).
 20. The secret bribes of big tobacco paper trail. BBC Panorama. BBC News (30 November 2015). Available from: <https://www.bbc.com/news/business-34944702> (accessed 3 December 2020); Bilton R. The secret bribes of big tobacco. BBC Panorama. BBC News (30 November 2015). Available from: <https://www.bbc.com/news/business-34964603> (accessed 3 December 2020).
 21. See: 3.10 (Bribery through intermediaries). In: Corruption: A glossary of international criminal standards. OECD (2007). Available from: <https://www.oecd.org/corruption/anti-bribery/39532693.pdf> (accessed 20 April 2021). "All of the international conventions cover direct and indirect forms of bribery. Indirect bribery occurs when a briber gives, offers or promises a bribe to an official through an intermediary."
 22. The secret bribes of big tobacco paper trail. BBC Panorama. BBC News (30 November 2015). Available from: <https://www.bbc.com/news/business-34944702> (accessed 3 December 2020).
 23. Political and charitable donations. Global Infrastructure Anti-Corruption Centre (GIACC) (10 April 2020). Available from: <https://giaccentre.org/gifts-political-donations/> (accessed 20 April 2021).

"Political donations to a party or politician who has or could have direct influence over a decision which could affect the organisation. For example, an organisation makes a donation to a political candidate. The candidate wins office and is appointed Minister of Infrastructure. The Minister has direct influence over contract awards. The organisation is awarded a major contract shortly after the Minister is appointed."

"A charitable donation to a charity which is connected with a person who has or could have direct influence over a decision which could affect the organisation. For example, an organisation makes a donation to a charity. The charity is controlled by, or benefits, a person (or relative of a person) who has direct influence over contract awards. The organisation is awarded a major contract (with the award being supported by that person) shortly after the donation is made."
 24. Appendix A (COVID-19-related TI CSR activities and government response, March-May 2020). In: Assunta M. Global Tobacco Industry Interference Index 2020. Global Center for Good Governance in Tobacco Control (GGTC) (November 2020); 2020. p. 40. Available from: <https://globaltobaccoindex.org/upload/assets/OeQLgCFNDGH-fy6gBe6BM5xA5Q2Ciksf1EjzyWXQzwaDykgKMYJ.pdf> (accessed 6 April 2021).
 25. Appendix A (COVID-19-related TI CSR activities and government response, March-May 2020). In: Assunta M. Global Tobacco Industry Interference Index 2020. Global Center for Good Governance in Tobacco Control (GGTC) (November 2020); 2020. p. 40. Available from: <https://globaltobaccoindex.org/upload/assets/OeQLgCFNDGH-fy6gBe6BM5xA5Q2Ciksf1EjzyWXQzwaDykgKMYJ.pdf> (accessed 6 April 2021).
 26. Assunta M. Global Tobacco Industry Interference Index 2020. Global Center for Good Governance in Tobacco Control (GGTC) (November 2020); 2020. p. 40. Available from: <https://globaltobaccoindex.org/upload/assets/OeQLgCFNDGH-fy6gBe6BM5xA5Q2Ciksf1EjzyWXQzwaDykgKMYJ.pdf> (accessed 6 April 2021). Citing: British American Tobacco contributes Rs 5m in dam fund. The Nation (30 April 2019). Available from: <https://bit.ly/2DdlBB5>
 27. Sponsorship and community benefits. Global Infrastructure Anti-Corruption Centre (GIACC) (10 April 2020). Available from: <https://giaccentre.org/gifts-sponsorship/> (accessed 20 April 2021).

"**Sponsorship** is where the organisation gives cash or another benefit to an individual or organisation to assist that individual or organisation perform or pay for an act (e.g. an individual running a race, or an organisation holding a sporting or cultural event or a conference, or a sports team rebuilding its pitch).

Community benefits are where the organisation provides a benefit to a community, such as building a school, or providing sports clothing to a team, or books to a school.

Sponsorship or community benefits could be considered to be a bribe if they are given or received with the intention of influencing someone to act improperly, or as a reward for having acted improperly."

"The following are examples of where payment by the organisation of sponsorship or community benefits is more likely to be regarded as corrupt:

A public official responsible for awarding a contract to the organisation requests the organisation to provide sponsorship for an event being organised by a small local charity. The management and objectives of the charity, and potential use of funding are not clear to the organisation.

A public official running for re-election, and who has, and will after re-election continue to have, decision making influence over awards of contracts to the organisation, requests that the organisation makes a major donation to the construction of a library with which the official is openly connected, and which he is referring to in his campaign. In this case, the donation may help the library get built, which may help the official get re-elected, who may then award a contract to the organisation."
 28. Assunta M. Global Tobacco Industry Interference Index 2020. Global Center for Good Governance in Tobacco Control (GGTC) (November 2020); 2020. p. 40. Available from: <https://globaltobaccoindex.org/upload/assets/OeQLgCFNDGH-fy6gBe6BM5xA5Q2Ciksf1EjzyWXQzwaDykgKMYJ.pdf> (accessed 6 April 2021). Citing: Diana Scarlat. Solutions that can reduce the negative effects on smokers' health. Jurnalul.ro (11 July 2018). Available from: <https://bit.ly/3hRHPco>.
 29. Assunta M. Global Tobacco Industry Interference Index 2020. Global Center for Good Governance in Tobacco Control (GGTC) (November 2020); 2020. p. 40. Available from: <https://globaltobaccoindex.org/upload/assets/OeQLgCFNDGH-fy6gBe6BM5xA5Q2Ciksf1EjzyWXQzwaDykgKMYJ.pdf> (accessed 6 April 2021).
 30. Assunta M. Global Tobacco Industry Interference Index 2020. Global Center for Good Governance in Tobacco Control (GGTC) (November 2020); 2020. p. 40. Available from: <https://globaltobaccoindex.org/upload/assets/OeQLgCFNDGH-fy6gBe6BM5xA5Q2Ciksf1EjzyWXQzwaDykgKMYJ.pdf> (accessed 6 April 2021). Citing: Yayasan Salam Facebook post. (12 December 2018). Available from: <https://bit.ly/2ZCkpRL>
 31. Assunta M. Global Tobacco Industry Interference Index 2020. Global Center for Good Governance in Tobacco Control (GGTC) (November 2020); 2020. p. 40. Available from: <https://globaltobaccoindex.org/upload/assets/OeQLgCFNDGH-fy6gBe6BM5xA5Q2Ciksf1EjzyWXQzwaDykgKMYJ.pdf> (accessed 6 April 2021). Citing: TCC dishes 350M – To support street vendors. Daily News (11 Dec 2018). Available from: <https://bit.ly/2DdJNV5>.
 32. Gifts which are more likely to be regarded as corrupt include:
 - cash or cash equivalent vouchers;
 - assets with a re-sale value which is more than nominal, e.g. watches, jewellery, television, computer;
 - bottles of alcohol or perfume which are expensive.Hospitality which is more likely to be regarded as corrupt includes:
 - a. Meals or drinks at very expensive restaurants or bars.
 - b. Over frequent hospitality: For example, weekly meals at a restaurant.
 - c. Hospitality for family members. For example, a quality inspector is responsible for approving an equipment supplier's work on-site. The equipment supplier invites the supervisor to come to inspect the supplier's factory. The supplier pays the hotels and meals for the supervisor and members of the supervisor's family.

Entertainment which is more likely to be regarded as corrupt includes:

- a. Entertainment at night clubs.
- b. Provision of sexual favours.
- c. Over frequent entertainment: For example, a plant hire company is one of several plant hire companies on the contractor's approved list. The contractor's project managers have delegated authority from the contractor to place orders with the plant hire companies for the supply of excavators, cranes, generators, and other construction plant. A plant hire company provides a project manager with free weekly tickets to the local football club.
- d. Extravagant or disproportionate circumstances: For example, the fleet manager of an organisation is responsible for purchasing or leasing all the organisation's vehicles. A car supplier invites the manager to test drive the car. The test drive could take place near the manager's office. However, instead, the car supplier pays for the manager to participate in a three day visit to a racing circuit in another country, where the manager not only test drives the car, but is also able to drive various high performance sports cars.
- e. Entertainment for family members. For example, a sub-contractor providing tickets for a sporting event to a contractor's project manager and his family.

33. Simpson D. Kenya: beach party "helps" tobacco bill. Tobacco Control (25 February 2005). 2005;14:4. Available from: <https://tobaccocontrol.bmj.com/content/14/1/4.1.info> (accessed 20 April 2021).

34. Patel P, Collin J, Gilmore AB. "The law was actually drafted by us but the Government is to be congratulated on its wise actions": British American Tobacco and public policy in Kenya. Tobacco Control (February 2007). 2007;16(1):e1. Available from: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2598451/> (accessed 20 April 2021). Anticipating the bill's re-emergence, tobacco companies, including BAT and Mastermind, funded a retreat for over 40 Members of Parliament at an exclusive coastal resort. There are now indications that the bill has been so heavily diluted after industry lobbying that some of its original advocates are seeking to delay its passage."

35. Cerantola A. Tobaccopolis: The secret battle to control Italy's cigarette market. Loose Tobacco. Without a Trace. Organized Crime and Corruption Reporting Project (OCCRP) (11 March 2020). Available from: <https://www.occrp.org/en/loosetobacco/without-a-trace/tobaccopolis-the-secret-battle-to-control-italys-cigarette-market> (accessed 11 January 2021).

"Checcagliani showed just how close their relationship was when he allegedly set up a job interview for Di Pietro's nephew at Fata Logistic Systems in return for her help postponing a price increase, according to a police report. (He ultimately could not move forward in the recruitment process due to issues with his previous job.)"

36. Down A and Cheema U. Pakistan's Big Tobacco problem (11 March 2020). Available from: <https://www.occrp.org/en/loosetobacco/without-a-trace/pakistans-big-tobacco-problem> (accessed 20 April 2021).

"First it offered the job to Dave Anderson, whose LinkedIn profile shows he had left BAT, where he was Regional Operations Director for Eastern Europe, Middle East, and Africa, a year before. But, said Sarwar, it dropped him soon after because the World Bank pointed out his ties to the tobacco industry.

Despite that, the FBR next hired Jeannie Cameron, who was head of international advocacy and regulatory affairs for British American Tobacco in London from 2001 to 2011. Hamid Ateeq Sarwar, the head of the inland revenue department member of the board of the FBR, was unclear whether FBR was aware of the consultants' connection to British American Tobacco. However, he said, there wasn't much choice."

"International consultants are not keen to come over to Pakistan," he said. "Everyone... whom we hired was either linked to BAT or to the other company, Philip Morris." Anderson said he had never actually taken the job. Cameron confirmed she worked for the FBR for six months, and that she had tried to create a fair tender process. Asked about FBR's selection of the final winner, she said: "In my view, all possible participants were close to the tobacco industry."

37. Client and public official travel. Global Infrastructure Anti-Corruption Centre (GIACC) (10 April 2020). Available from: <https://giaccentre.org/gifts-client-travel/> (accessed 20 April 2021). "Client or public official travel is where the organisation pays the travel and related expenses of a client employee or of a public official. In this case, there is a risk that the payment by the organisation of these expenses may be an attempt to influence improperly, or could be perceived as an attempt to influence improperly, the client employee or public official to make a decision in favour of the organisation."

38. STOP. 10 March 2020. An open letter to the Secretary-General of the Organization for Economic Co-operation and Development. Available from: <https://exposetobacco.org/news/an-open-letter-to-oecd/> (accessed 29 April 2021).

39. Article 5.3 Guidelines, Recommendation 3. See: Guidelines for implementation of Article 5.3 of the WHO FCTC (22 November 2008), par. 23. In: WHO FCTC. 22 November 2008. Decisions and Ancillary Documents. FCTC/COP3(7). Third session of the Conference of the Parties to the WHO FCTC, Durban, South Africa, 17-22 November 2008. Available from: https://apps.who.int/gb/fctc/PDF/cop3/FCTC_COP3_REC1-en.pdf (accessed 29 April 2021).

40. 10 March 2020. An open letter to the Secretary-General of the Organization for Economic Co-operation and Development. Available from: <https://exposetobacco.org/news/an-open-letter-to-oecd/> (accessed 29 April 2021).

41. Article 5.3 Guidelines, Recommendation 3. See: Guidelines for implementation of Article 5.3 of the WHO FCTC (22 November 2008), par. 23. In: WHO FCTC. 22 November 2008. Decisions and Ancillary Documents. FCTC/COP3(7). Third session of the Conference of the Parties to the WHO FCTC, Durban, South Africa, 17-22 November 2008. Available from: https://apps.who.int/gb/fctc/PDF/cop3/FCTC_COP3_REC1-en.pdf (accessed 29 April 2021).

42. From the Status of Implementation UNCAC Despite the fact that several countries can rely on a wide spectrum of normative tools and are members of multiple law enforcement co-operation networks and platforms, considerable challenges remain in terms of the substantive implementation of article 48. In the same vein, the conclusion of bilateral or multilateral cooperation agreements or arrangements does not guarantee their application in practice. This is especially true in countries with weak institutional frameworks, whose ability to effectively cooperate with foreign countries in the law enforcement field is restricted by issues of inter-agency coordination, limited human resources and inadequate technological and institutional capacities. In one review, for example, the need was stressed of circulating existing agreements among the competent authorities of all parties and emphasizing their importance, in order to gradually bring about their practical implementation.

43. WHO Framework Convention on Tobacco Control (2003), art. 4.3, 15.6, 17, 20, 21, 22

44. Article 5.3 Guidelines, Recommendation 1. See: Guidelines for implementation of Article 5.3 of the WHO FCTC (22 November 2008), Recommendation 1. In: WHO FCTC. 22 November 2008. Decisions and Ancillary Documents. FCTC/COP3(7). Third session of the Conference of the Parties to the WHO FCTC, Durban, South Africa, 17-22 November 2008. Available from: https://apps.who.int/gb/fctc/PDF/cop3/FCTC_COP3_REC1-en.pdf (accessed 29 April 2021).

45. Guidelines for implementation of Article 5.3 of the WHO FCTC (22 November 2008), par. 23. In: WHO FCTC. 22 November 2008. Decisions and Ancillary Documents. FCTC/COP3(7). Third session of the Conference of the Parties to the WHO FCTC, Durban, South Africa, 17-22 November 2008. Available from: https://apps.who.int/gb/fctc/PDF/cop3/FCTC_COP3_REC1-en.pdf (accessed 29 April 2021).

46. Gifts in order for a public official to act or refrain from acting on his/her duty amounts to Bribery and must be criminalized in accordance with Article 15 (Bribery of national public officials) and 16 (Bribery of Foreign Public officials) of UNCAC.

47. International Code of Conduct for Public Officials, clause II(7). In: United Nations General Assembly. 28 January 1997. Resolution adopted by the General Assembly. A/RES/51/59. Fifty-first session of the United Nations General Assembly, 28 January 1997. Available from: <https://undocs.org/pdf?symbol=en/A/RES/51/59> (accessed 29 April 2021).

48. UN Convention against Corruption (2003), articles 31, 32, 34. Available from: https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf (accessed 29 April 2021).

49. Guidelines for implementation of Article 5.3 of the WHO FCTC (22 November 2008), paragraph 34. In: WHO FCTC. 22 November 2008. Decisions and Ancillary Documents. FCTC/COP3(7). Third session of the Conference of the Parties to the WHO FCTC, Durban, South Africa, 17-22 November 2008. Available from: https://apps.who.int/gb/fctc/PDF/cop3/FCTC_COP3_REC1-en.pdf (accessed 29 April 2021).

50. And as appropriate, including protection for "their relatives and other persons close to them."

51. UN Convention Against Corruption (2003), art. 32.1

52. UN Convention Against Corruption (2003), art. 33. Includes encouraging anonymous reporting as provided under the UN Convention Against Corruption, art. 13.2, to wit: - "2. Each

State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.”

53. Guidelines for implementation of Article 5.3 of the WHO FCTC (22 November 2008), paragraph 34. In: WHO FCTC. 22 November 2008. Decisions and Ancillary Documents. FCTC/COP3(7). Third session of the Conference of the Parties to the WHO FCTC, Durban, South Africa, 17-22 November 2008. Available from: https://apps.who.int/gb/fctc/PDF/cop3/FCTC_COP3_REC1-en.pdf (accessed 29 April 2021).
54. See also: UN Convention Against Corruption (2003), art. 61 and 63.4(b).
55. Guidelines for implementation of Article 5.3 of the WHO FCTC (22 November 2008), paragraph 36. In: WHO FCTC. 22 November 2008. Decisions and Ancillary Documents. FCTC/COP3(7). Third session of the Conference of the Parties to the WHO FCTC, Durban, South Africa, 17-22 November 2008. Available from: https://apps.who.int/gb/fctc/PDF/cop3/FCTC_COP3_REC1-en.pdf (accessed 29 April 2021).
See, in relation thereto: WHO Framework Convention on Tobacco Control (2003), art. 21.4, which provides that information exchange should be subject to national laws regarding confidentiality and privacy
56. Guidelines for implementation of Article 5.3 of the WHO FCTC (22 November 2008), paragraph 25. In: WHO FCTC. 22 November 2008. Decisions and Ancillary Documents. FCTC/COP3(7). Third session of the Conference of the Parties to the WHO FCTC, Durban, South Africa, 17-22 November 2008. Available from: https://apps.who.int/gb/fctc/PDF/cop3/FCTC_COP3_REC1-en.pdf (accessed 29 April 2021).
57. Guidelines for implementation of Article 5.3 of the WHO FCTC (22 November 2008), paragraph 35. In: WHO FCTC. 22 November 2008. Decisions and Ancillary Documents. FCTC/COP3(7). Third session of the Conference of the Parties to the WHO FCTC, Durban, South Africa, 17-22 November 2008. Available from: https://apps.who.int/gb/fctc/PDF/cop3/FCTC_COP3_REC1-en.pdf (accessed 29 April 2021). – 35. International cooperation is essential for making progress in preventing interference by the tobacco industry with the formulation of public health policies on tobacco control. Article 20.4 of the Convention provides the basis for collecting and exchanging knowledge and experience with respect to tobacco industry practices, taking into account and addressing the special needs of developing country Parties and Parties with economies in transition.
58. WHO Framework Convention on Tobacco Control (2003), art. 20.4
59. See also: Guidelines for implementation of Article 5.3 of the WHO FCTC (22 November 2008), paragraph 24. In: WHO FCTC. 22 November 2008. Decisions and Ancillary Documents. FCTC/COP3(7). Third session of the Conference of the Parties to the WHO FCTC, Durban, South Africa, 17-22 November 2008. Available from: https://apps.who.int/gb/fctc/PDF/cop3/FCTC_COP3_REC1-en.pdf (accessed 29 April 2021). – 24. To take effective measures preventing interference of the tobacco industry with public health policies, Parties need information about its activities and practices, thus ensuring that the industry operates in a transparent manner. Article 12 of the Convention requires Parties to promote public access to such information in accordance with national law
60. See: UN Convention Against Corruption (2003), art. 13.1 –
“... This participation should be strengthened by such measures as:
(a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
(b) Ensuring that the public has effective access to information;
(c) Undertaking public information activities that contribute to nontolerance of corruption, as well as public education programmes, including school and university curricula;
(d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:
(i) For respect of the rights or reputations of others;
(ii) For the protection of national security or ordre public or of public health or morals”
61. Guidelines for implementation of Article 5.3 of the WHO FCTC (22 November 2008), paragraph 33. In: WHO FCTC. 22 November 2008. Decisions and Ancillary Documents. FCTC/COP3(7). Third session of the Conference of the Parties to the WHO FCTC, Durban, South Africa, 17-22 November 2008. Available from: https://apps.who.int/gb/fctc/PDF/cop3/FCTC_COP3_REC1-en.pdf (accessed 29 April 2021).
62. Article 5.3 Guidelines, Recommendation 5.2. See: Guidelines for implementation of Article 5.3 of the WHO FCTC (22 November 2008), Recommendation 5.2. In: WHO FCTC. 22 November 2008. Decisions and Ancillary Documents. FCTC/COP3(7). Third session of the Conference of the Parties to the WHO FCTC, Durban, South Africa, 17-22 November 2008. Available from: https://apps.who.int/gb/fctc/PDF/cop3/FCTC_COP3_REC1-en.pdf (accessed 29 April 2021).
63. Patel P, Collin J, Gilmore AB. “The law was actually drafted by us but the Government is to be congratulated on its wise actions”: British American Tobacco and public policy in Kenya. Tobacco Control (February 2007). 2007;16(1):e1. Available from: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2598451/#ref41> (accessed 20 April 2021). Citing: van Waay A, Visit Note Kenya – 29th March to 7th April 1989, Secret, BAT, Guildford Depository, 18 Apr 1989 (Bates Range 400549659/9665)
64. Patel P, Collin J, Gilmore AB. “The law was actually drafted by us but the Government is to be congratulated on its wise actions”: British American Tobacco and public policy in Kenya. Tobacco Control (February 2007). 2007;16(1):e1. Available from: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2598451/#ref41> (accessed 20 April 2021). Citing: van Waay A, Visit Note Kenya – 29th March to 7th April 1989, Secret, BAT, Guildford Depository, 18 Apr 1989 (Bates Range 400549659/9665)
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90. Nine (9) members of the United States (US) Congress called on the US Department of Justice to investigate whether BAT engaged in widespread bribery of foreign officials in Central and East Africa, in violation of the US Foreign Corrupt Practices Act.
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96. Burundi, July 2012: BAT allegedly paid USD 3,000 to Godefroid Kamwenubusa, an FCTC representative from Burundi and a senior civil servant in said country, particularly, an official at Burundi's Ministry of Health and one of its representatives to the FCTC. The payment was allegedly because he "supported us at the INB" – a reference to the FCTC's Intergovernmental Negotiating Body (INB). The fifth session of the INB met in Geneva between March 29 and April 4, 2012 to agree on a draft protocol on illicit trade of tobacco products. The payment was also for a draft copy of the country's Tobacco Control Bill. An email from a contractor working for BAT says he would be able to "accommodate any amendments before the president signs". Kamwenubusa later emailed a copy of the draft tobacco control bill to BAT.
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"BAT allegedly paid GBP 50,000 to Kenyan politician Martha Karua, a former Justice Minister, to prevent a rival company supplying Kenya with technology to combat cigarette smuggling.
In return for the donations, paid in cash via a middle man, BAT obtained key confidential Kenyan Revenue Authority (KRA) documents outlining the £100m five-year contract for new technology designed to stamp out tobacco smuggling. They then had the contract deliberately delayed while they secretly lobbied to get their own system chosen.
The secret donations were falsely listed in BAT accounts as payments for management fees or as expenses incurred in anti-smuggling operations.
The serious allegations are contained in a dossier of BAT bribery and corruption claims passed to Britain's Serious Fraud Office (SFO) by Paul Hopkins, a company whistleblower who worked in Africa for BAT for 13 years."
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 112. South Africa: BAT South Africa (BATSA) and its private security firm Forensic Security Services (FSS) were accused of running a scheme of bribing South African police officers, spying on competitors using police cameras and even sourcing confidential business information on one of its rivals from officials in the South Africa Revenue Service (SARS). According to a former FSS employee, BAT and FSS ran a secret bribery program whereby law enforcement officials were paid up to R 5,000 per month for cooperating with FSS and BATSA in disrupting a competitor's operations.
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About STOP (Stopping Tobacco Organizations and Products)

STOP is a global tobacco industry watchdog whose mission is to expose the tobacco industry strategies and tactics that undermine public health. STOP is funded by Bloomberg Philanthropies and comprised of a partnership between the Tobacco Control Research Group (TCRG) at the [University of Bath](#), [The Global Center for Good Governance in Tobacco Control \(GGTC\)](#), the [International Union Against Tuberculosis and Lung Disease \(The Union\)](#) and [Vital Strategies](#). For more information, visit exposetobacco.org.





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