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## Turning Tobacco Extended Producer Responsibility (EPR) into Extended Producer Liability (EPL): Critical Safeguards for the UN Plastics Treaty

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### ABSTRACT

Extended Producer Responsibility (EPR) is recognized as a valuable tool for environmental management of products' end-of-life impacts; it was featured in all the draft negotiating text for the future UN Plastics Treaty. However, when applied to the tobacco industry, its implementation faces significant challenges due to the industry's historical manipulation of health policies. This study explores the inherent contradictions in using EPR schemes for tobacco products, which are designed to make producers “stewards” for the life cycle of their products, including end-of-life impacts. The study highlights the potential for tobacco companies to exploit these schemes to weaken health regulations and greenwash their public image. By examining frameworks like the European Union (EU) Single-Use Plastics Directive alongside the UN Plastics Treaty negotiations, the study stresses the need for stringent safeguards to ensure EPR schemes do not serve as tools for greenwashing but support health and environmental objectives. The study also proposes enhanced regulatory measures, such as redefining EPR for tobacco as "Extended Producer

Liability" and integrating it with World Health Organization Framework Convention on Tobacco Control (WHO FCTC) guidelines.

## **OBJECTIVE**

To assess the challenges of implementing Extended Producer Responsibility (EPR) within the tobacco industry and to explore the risk that these schemes could be misused as tools for industry greenwashing. This study aims to propose strategic modifications to EPR frameworks that prevent such exploitation and align more closely with public health and environmental objectives.

## **WHAT THIS PAPER ADDS**

⇒ The negotiation towards a future UN Plastics Treaty provides a critical opportunity to standardize Extended Producer Responsibility globally, aligning plastic waste management with health frameworks like the WHO FCTC. This paper explores the inherent contradictions of EPR in the tobacco industry, and shows how it could serve as a facade for social responsibility. It proposes stringent safeguards and regulatory measures to prevent the tobacco industry from exploiting EPR schemes. Recommendations include rebranding EPR as "Extended Producer Liability" for tobacco products and integrating EPR with WHO FCTC principles to uphold public health and environmental interests effectively.

The future UN Plastics Treaty may play a crucial role in legitimizing and standardizing the definition of Extended Producer Responsibility (EPR)<sup>1</sup>. The Zero draft text of the future treaty provides the bracketed language: "Article x Plastic Waste Management. Each Party (shall/be encouraged to) establish and operate Extended Producer Responsibility (EPR) systems."<sup>2</sup> The subsequent texts, including the Chair's Text (December 2024)<sup>3</sup> used for the final round of negotiations, retains a version of this language.<sup>4</sup> Stakeholders representing industry interests seek

to harmonize global approaches to plastic waste management and set universal benchmarks for producer responsibilities<sup>5,6</sup>. Hence, the ongoing negotiations offer an unprecedented opportunity to ensure that EPR schemes are not used to bypass existing tobacco control measures and other critical health frameworks, such as the WHO FCTC.

Extended Producer Responsibility<sup>7</sup> is a concept that calls for producers, including importers, to extend their responsibility for the environmental, and by extension, public health impact of their products by undertaking to account for their entire lifecycle – from design to post-consumer use. EPR is widely recognized as a tool to hold industries “accountable” or “responsible” for their environmental impact.<sup>8</sup> At its core, an EPR scheme assigns producers the responsibility for managing their products at the end of their lifecycle, in some instances, with the effect of internalizing negative environmental externalities into the product's price.<sup>9</sup>

Sometimes mistaken for a “polluter pays” policy, the main effect of most EPR policies is to ensure that producers either provide or cover the costs of (to varying degrees), end-of-life management of their products/packages. More recently, some schemes, notably in the EU, have sought to incentivize improved design of products/packages through the so-called eco-modulation of fees – an approach where these fees are structured based on environmental considerations, i.e. lowered fees based on eco-design<sup>10</sup>, EPR schemes including those in the EU under the Single Use Plastics Directive, aim to incentivize producers to redesign products to minimize environmental impact and manage various environmental consequences, such as recycling and waste reduction/processing,<sup>11</sup> and setting targets thereto.<sup>12</sup>

Although definitions and best practices for Extended Producer Responsibility (EPR) vary, its core principle remains the same: requiring producers to bear the costs—partially or fully—of managing

their products' end-of-life impacts. While this positions the industry as part of the solution to environmental challenges, it frequently results in sharing the financial burden with consumers.<sup>13</sup>

In the case of the tobacco industry (TI), there lies an even more fundamental contradiction. The TI can never be “part of the solution” in health, which is inextricably linked to the environment. That “there is a fundamental and irreconcilable conflict between TI’s interests and public health policy interests” is a widely-accepted and recognized principle.<sup>14</sup> The TI has increasingly leveraged EPR schemes as a form of “corporate responsibility”;<sup>15</sup> and according to the WHO, the TI and corporate responsibility is an inherent contradiction. This flows from the WHO FCTC Article 13 recommendation to ban all forms of tobacco marketing activities, which according to its Guidelines, includes those classified as “socially responsible,”<sup>16</sup> and recommends to “ban publicity given to socially responsible” business practices of the TI. Treaty guidelines also recommend that governments denormalize the so-called corporate social responsibility activities of the tobacco companies.<sup>17</sup>

By promoting actions under EPR schemes, such as anti-litter, recycling, or clean-up campaigns, through public relations campaigns; the TI undermines national tobacco advertising and sponsorship bans that are in line with the WHO FCTC's guidelines on advertising, promotion, and sponsorship.<sup>18</sup> Notably, comprehensive EPR schemes typically include subsidies for product design improvements. Any measure that incentivizes the tobacco industry to improve its product design of the tobacco product could inadvertently result in making tobacco products more attractive, undermining product regulations that restrict “attractive” features<sup>19</sup>, further conflicting with the WHO FCTC obligations. It is unlikely that the tobacco industry would remove filters altogether and instead will just shift to biodegradable or eco-friendly filters.

In addition to the product design incentives/benefits incorporated in EPR schemes, the TI benefits from being "awarded" the task of undertaking an EPR scheme; to the extent that this allows the industry to foster the perception that the TI can be considered “stewards” of the environment and consequently, to influence its Environmental, Social, and Governance (ESG) ratings,<sup>20</sup> undermining comprehensive bans on tobacco marketing. Over 50 countries have enacted plastic or waste management laws<sup>21,22,23,24</sup> that may affect tobacco products and their packaging, with around 35 explicitly referencing tobacco or cigarette filters—creating opportunities for the tobacco industry to interfere in and leverage these policies including through tobacco EPR schemes.<sup>25</sup>

The Tenth session of the Conference of the Parties to the WHO FCTC (COP 10) adopted a landmark decision emphasizing the need to align efforts such as combating plastic pollution with tobacco control objectives. The COP10 Decision on Article 18 (Protection of the Environment) notes that the tobacco industry is “increasingly using actions related to environmental and sustainability claims to mask the damage it causes and to promote itself through extended producer responsibility systems.” It urges Parties to protect tobacco-related environmental policies from industry interference and ensure that WHO FCTC objectives are not undermined through industry implementation of EPR systems.<sup>26</sup>

The COP10 decision is empowered further in light of mention of WHO FCTC as one of the treaties listed in the negotiating text of the plastics treaty negotiations (i.e., the Second Session of the Intergovernmental Negotiating Committee to develop an international legally binding instrument on plastic pollution, including in the marine environment, INC-2).<sup>27,28</sup> This inclusion could facilitate cooperation between the two international instruments and avoid undermining tobacco control policies through the inclusion of mandatory EPR schemes. However, draft negotiating text

also contains numerous provisions, such as mandatory EPR schemes, that would risk undermining the objectives of the WHO FCTC.<sup>29</sup>

Box 1: EU Single Use Plastic Directive: Section III of Part E, and Section G, of Annex

#### TOBACCO PRODUCTS

*Art 8(3) - 3. Member States shall ensure that the producers of the single-use plastic products listed in Sections II and III of Part E of the Annex cover at least the following costs:*

- (a) the costs of the awareness raising measures referred to in Article 10 regarding those products;*
- (b) the costs of cleaning up litter resulting from those products and the subsequent transport and treatment of that litter; and*
- (c) the costs of data gathering and reporting in accordance with point (c) of Article 8a(1) of Directive 2008/98/EC. With regard to the single-use plastic products listed in Section III of Part E of the Annex to this Directive, Member States shall ensure that the producers cover, in addition, the costs of waste collection for those products that are discarded in public collection systems, including the infrastructure and its operation, and the subsequent transport and treatment of that waste. The costs may include the setting up of specific infrastructure for the waste collection for those products, such as appropriate waste receptacles in common litter hotspots.*

*Art 10: Member States shall take measures to inform consumers and to incentivise responsible consumer behaviour, in order to reduce litter from products covered by this Directive, and shall take measures to inform consumers of the single-use plastic products listed in Part G of the Annex and users of fishing gear containing plastic about the following:*

- (a) the availability of re-usable alternatives, re-use systems and waste management options for those single-use plastic products and for fishing gear containing plastic as well as best practices in sound waste management carried out in accordance with Article 13 of Directive 2008/98/EC;*

*(b) the impact of littering and other inappropriate waste disposal of those single-use plastic products and of fishing gear containing plastic on the environment, in particular on the marine environment; and*

*c) the impact of inappropriate means of waste disposal of those single-use plastic products on the sewer network.*

*Art 15(4) - As part of the evaluation\* carried out pursuant to paragraph 1, the Commission shall review the measures taken under this Directive as regards single-use plastic products listed in Section III of Part E of the Annex and shall submit a report on the main findings. The report shall also consider the options for binding measures for the reduction of the post-consumption waste of single-use plastic products listed in Section III of Part E of the Annex, including the possibility of setting binding collection rates for that post-consumption waste. The report shall, if appropriate, be accompanied by a legislative proposal.*

*\*Note also (regarding evaluation and review - review by July 2027)*

In the implementation of the recent European Union’s Single Use Plastics Directive, Extended Producer Responsibility, as undertaken by the TI,<sup>30,31</sup> members of civil society have raised concerns about compromising a Party’s commitment to the WHO FCTC's obligations, particularly Article 5.3 and related guidelines on TI interference, Article 13 on advertising, promotion, and sponsorship, and Article 9 on product regulation<sup>32</sup> (refer to Box 1). The Directive which gave rise to obligations for ‘*Tobacco products with filters and filters marketed for use in combination with tobacco products*’ requires, inter alia, that Member States ensure producers of those products cover various costs, including in relation to clean-up of litter, and in respect of awareness raising

measures. It also requires that the member States ‘*take measures to inform consumers and to incentivise responsible consumer behaviour*’.<sup>30</sup> The role of Member States is to ensure these costs are covered by producers, not that the activities should be undertaken by them, yet some Member States have chosen to allow industry to take responsibility for awareness campaigns, rather than designing developing campaigns the costs of which are covered by the producers. For example, the TI is allowed to lead consumer awareness campaigns in Spain<sup>33</sup>, Germany<sup>34</sup> and Italy<sup>35</sup> and take part in public cleanup campaigns in Italy<sup>36</sup> and Slovakia<sup>37</sup>; in direct violation of advertising bans and Article 5.3 which seeks to reject TI partnerships and participation. Notably, this involves anti-littering campaigns that have proven to be counter-productive<sup>38,39</sup> due to the unique nature of the litter<sup>40</sup>, yet the TI relishes such campaigns<sup>41,42,43,44</sup> to distract the public from the intrinsic design flaw of the cigarette filter itself.<sup>45</sup> Allowing producers to design such campaigns prioritizes public relations gains over achieving objectives. For the tobacco industry, this promotes publicity, which must be banned.

In European countries where service providers in an EPR scheme<sup>46</sup> allow the involvement of tobacco companies (such as in a consortium in Italy<sup>47</sup>, or eco-organization in France<sup>48</sup>, collective or individual for developing litter management plans in Belgium<sup>49,50,51</sup>) (also refer to the Annex); the TI have used the activity to influence policy implementation, enhance its public image, and/or engage directly with local governments, in contravention of Article 5.3.<sup>52</sup>

In Netherlands, specific safeguards in line with Article 5.3 are in place such as codes of conduct and protocols, that could effectively prevent the TI from using single use plastics for greenwashing purposes. The TI covers the costs of the clean-up, collection, and awareness-raising campaigns,<sup>53</sup> by paying annual charges to a fund, but the Dutch government independently manages the fund and uses it to address the environmental concerns. Similarly, Finland adopted a policy aligned with

Article 5.3 and does not allow direct participation by the tobacco industry in the EPR, other than to pay for the costs; while Republic of Korea, which excludes tobacco from EPR schemes after finding that fertilizer from recycled butts caused cancer, charges an Advance Disposal Fee.<sup>54</sup> This appears to be a step in the right direction, and is consistent with WHO FCTC Article 5.3. EPR policies should clearly distinguish between producers covering costs and entities running campaigns and programs. In summary, the tobacco industry should be restricted to paying the costs and should not be allowed to market its EPR obligations as corporate social responsibility.

Ultimately, the solution lies in recognizing, and anticipating, the potential for problems to arise: in extending its application to tobacco products, the scope of EPR now includes an industry which cannot be allowed to generate reputational utility from compliance with its newly acquired legal obligations. It is important to ensure that EPR schemes of the TI do not transform into tools to undermine public health.

The first step may be to create a clear set of rules on dealing with TI liability in the field of environment. Given that there are differing views on EPR's definition and purpose,<sup>55</sup> there may be room to redefine it such that the<sup>56</sup> term can be demystified in the context of tobacco, by referring simply to 'Ensuring producers cover the costs of managing their (plastic) waste'.<sup>57</sup>

Alternatively, tobacco EPR could be re-badged as "Extended Producer Liability" so that it is consistent with the WHO FCTC obligation to deal with the TI liability as well as the principle that the TI should not be expected to undertake socially responsible activities. Governments can benefit from having a specific set of guidelines to exclude tobacco from EPR systems and in cases where this is not feasible, help align an existing EPR scheme with the WHO FCTC and this includes:

- a. Manufacturers of tobacco products must bear financial costs (for end-of-life management of their products, harms, and other costs) with payments made to an independent fund through a levy or charge (Article 6 WHO FCTC).<sup>58</sup>
- b. This includes funds for clean-up, legacy waste, and future harm. The concept of making the tobacco polluters pay is in accordance with the WHO FCTC mandate of dealing with the liability of the tobacco industry under Article 19. The tobacco control treaty does not frame the tobacco industry's role in terms of social responsibility—it recognizes its liability, thus the term “Extended Producer *Responsibility*” can be viewed as a misnomer when applied to tobacco. The tobacco manufacturers ought not to exert any control over any ‘EPR-related’ communications, awareness raising campaigns, or other forms of publicity (Article 13 WHO FCTC). To that end, legislation that introduces new requirements on the TI in the spirit of EPR should clarify that although the producers will be required to cover costs (see above), they must be prohibited from being involved in the relevant activities and communications. Specifically, such law could specify (or give effect to this) that no marketing or publicity or communication can take place that relates, directly or indirectly, to a company’s obligations under the law to pay for what it is required to pay for.
- c. Governments and service providers should ‘reject partnerships and non-binding or non-enforceable agreements with the TI (Article 5.3 of the WHO FCTC). Logically, it would follow that the TI should not be directly involved in an EPR scheme. Furthermore:
  - Any EPR scheme and outcome should not inure to the benefit of the TI; it should not be a platform to promote its corporate reputation. (Article 13 Guidelines)

- Any EPR-related obligation must be imposed as mandatory obligations and regulations; voluntary agreements and contributions should be prohibited (Article 5.3 Guidelines)

Generating revenue from producers so as to cover the end-of-life costs of managing their products and packages holds great potential to support the improvement of waste management for most consumer products. However, its recent extension to products from the TI is already raising significant concerns related to the apparent opportunity it affords for businesses to gain reputational utility from complying with newly promulgated laws. The EU Single-Use Plastics (SUP) Directive exemplifies how, if the rules related to EPR are not specified with sufficient accuracy, they can be leveraged to undermine tobacco control, particularly concerning cigarette butts, where EU Member State implementation is not aligned with the WHO FCTC. In particular, the TI's involvement in EPR governance can lead to misalignment with international legal commitments, notably the WHO FCTC.

As global efforts to address environmental challenges intensify, it is imperative to learn from these experiences, and ensure that EPR is designed from the outset in such a way that it cannot be exploited by the TI, preventing it from evading its responsibilities and contributing to a healthier, more sustainable future. We recommend that in developing an international legally binding instrument in relation to plastic pollution and national/ regional level plastics policies, due care and attention is given when introducing cost recovery measures for tobacco products along the lines proposed above. The INC Secretariat and the environment sector is well-placed to benefit from advice from the appropriate health agencies including that of the UN such as the WHO and the WHO FCTC Secretariat.

*It bears stressing that while WHO, in line with Article 9 Guidelines, have recommended immediately banning all tobacco filters and some jurisdictions like Korea and Finland managed to impose clean-up/ disposal fees on the tobacco industry, thus creating exceptions in the EPR frameworks; the global trend toward EPR implementation—particularly through the UN Plastics Treaty—appears inevitable. This paper therefore focuses on essential safeguards within EPR schemes rather than examining alternative approaches.*

## ANNEX

### REFERENCE CASE STUDIES FROM EU

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#### I. TI influencing waste management policies: Belgium

Belgium, a federal state, entrusts environmental matters to regional governments. In the summer of 2023, the three regions—Wallonia, Brussels, and Flanders—reached a draft interregional agreement aimed at achieving a balance between regional autonomy and cooperation in waste policy.<sup>59</sup>

Under this agreement, tobacco producers can fulfill their Extended Producer Responsibility (EPR) obligations individually or collectively. On an individual basis, they must create an approved litter management plan. In the collective approach, they join a collective body, which offers either a purely financial or an organizational and financial option. The purely financial option maintains public authorities' full responsibility for litter policies, with producers covering the costs. In the

organizational and financial option, tobacco producers collaborate with authorities in implementing concrete litter policies, subject to certain conditions.

This means that when tobacco producers opt for the collective approach, they have a say in the implementation of local litter policies and, by extension, influence in determining these policies.

Local governments need to stand firm against any undue influence from the TI.

However, there are concerns with the legislation. The composition and powers of the EPR decision-making body raise questions about whether producers might have undue influence.

Additionally, the creation of internal regulations for this body is left to the umbrella Interregional Commission for the EPR, which may not provide sufficient transparency.<sup>60</sup> There are also issues with calculating the actual cost of litter policies for producers opting for the purely financial option.<sup>61</sup>

To address these concerns, the Alliance for a Smoke-Free Society calls for a more stringent ban on interference by tobacco manufacturers and the development of guidelines for Article 5.3 of the Framework Convention on Tobacco Control (FCTC), which is currently lacking in Belgium.<sup>62</sup>

## II. Tobacco Consortiums “entrusted” to manage waste: Italy and Ireland

In Italy, the responsibility for managing cigarette waste has been assigned to Erion Care, a consortium formed through an agreement among major tobacco multinationals: BAT (British American Tobacco), Imperial Brands, JT International, and Philip Morris.<sup>63</sup> This delegation raises significant concerns and unquestionably violates the principles of Article 5.3 of the WHO Framework Convention on Tobacco Control (FCTC).

Erion Care places exclusive blame on consumers through consumer education, providing the TI with a platform disguised as Corporate Social Responsibility (CSR). This platform not only serves

to enhance the TI's public image but also subtly influences discussions on health and the environment.

Additionally, the Italian government's partnership with Erion Care exemplifies the TI's encroachment into public domains. Entrusting Erion Care with the responsibility of leading public awareness campaigns is a blatant violation of the WHO FCTC guidelines. This move grants the TI an unrestricted avenue to shape public discourse in their favor.

In Ireland, the government has assigned the Tobacco Product Plastic Filter Group (TPPFG),<sup>64</sup> a consortium of producers operating within the Republic of Ireland, with the responsibility to finance the proper disposal and treatment of tobacco product filters. TPPFG received approval on December 23, 2022, to function as the compliance scheme for this sector, as sanctioned by the Minister for Environment, Climate, and Communications.

The arrangement involves a partnership between producers within the group and places the sole responsibility for raising awareness on the group's members. Moreover, the responsibility for compliance is delegated to an appointed representative of the producer, which can be seen as a form of Corporate Social Responsibility (CSR).

### III. TI Managing an Eco-organization for Awareness, Partnerships, and Research: France

In France, the Extended Producer Responsibility (EPR) scheme, which aligns with the European directive of June 5, 2019 (SUP directive), is underpinned by several legal texts including order detailing the specifications for eco-organizations and individual systems in the EPR sector for tobacco products<sup>65</sup>: The objectives of the EPR system for the tobacco sector in France encompass reducing littered cigarette butts by 40% within six years, offering street ashtrays, covering the cost of cleaning up cigarette butts, conducting awareness campaigns on their environmental impact, and providing financial support for R&D projects.

However, the French EPR system seems to be perceived as a public relations tool for the TI, portraying it as a responsible stakeholder. This portrayal contrasts with the industry's role in contributing to the damage caused by its products and its actions against public policy. The eco-organization, ALCOME, is directed by representatives of the TI<sup>66</sup> and is approved by the state, which adds a level of credibility. Additionally, ALCOME promotes various partnerships, which may not align with the provisions of the WHO FCTC (Article 5.3) and the French Public Health Code.

ALCOME's communication efforts seem to focus on uncivil behavior by smokers regarding discarded cigarette butts, rather than addressing the TI's direct role in plastic pollution and the marketing of plastic filters.<sup>67</sup> The provided measures, such as distributing pocket ashtrays, are considered counterproductive in terms of tobacco denormalization and consumption reduction. Furthermore, the EPR scheme lacks effective measures to eliminate waste at its source, such as reducing tobacco consumption and encouraging smoking cessation. Research supported by ALCOME does not adequately address measures proven to be effective in reducing plastic pollution, seemingly favoring alternatives that may not yield the best results.

The French Council of State validated in November 2024<sup>68</sup> the legally mandated objectives imposed on ALCOME, to reduce the cigarette butts in the public environment. The ruling follows several sanctions previously imposed on ALCOME by the Ministry of Ecological Transition, totaling €1.16 million<sup>6970</sup>. These fines were issued for non-compliance with ALCOME's obligations, particularly delays in implementing effective collection and treatment systems for cigarette butts, such as street ashtrays. The Ministry's actions highlight the government's commitment to ensuring that eco-organization meet their targets and deadlines under EPR obligations.<sup>71</sup>

The Council of State's decision also emphasizes the legal foundation for such measures, referencing Articles L.541-10-1 and L.541-10-10 of the Environmental Code, which stipulate producers' responsibilities to finance and organize the collection, treatment, and reduction of waste linked to their products. ALCOME had challenged these obligations, arguing that they were excessively stringent and disproportionate. However, the court underscored the significant environmental harm caused by cigarette butts, which are a leading source of litter and contain toxic substances that pollute ecosystems.

These developments are taking place in an international context still marked by negotiations on a global treaty aimed at combatting plastic pollution and developing EPR schemes. They underline how the tobacco manufacturers try to block and delay the enforcement of measures and the difficulties beyond the financial dimension to associate them in an ERP system, their interests being opposed to the public interest including at the level of environment.

The situation in France underlines the importance of the exclusion of the TI from the introduction of EPR schemes for tobacco products, in line with Article 5.3 of the FCTC.

#### IV. TI incentives for improving “filter design:” Spain

In Spain, the "Law No. 7/2022<sup>72</sup> on Waste and Contaminated Land for a Circular Economy" permits the financial contributions made by producers to the Extended Producer Responsibility (EPR) scheme to be channeled into research and development for more sustainable alternatives and initiatives aimed at waste prevention or reduction. However, this funding approach raises concerns related to the financial incentives mentioned in Article 5.3 of the WHO Framework Convention on Tobacco Control (FCTC). It opens the door for the TI to engage in activities that may appear as Corporate Social Responsibility (CSR). These CSR initiatives by the TI contradict the guidelines of Article 5.3, which seek to safeguard health policies from the influence of the TI.

Additionally, a proposed royal decree<sup>73</sup>, open for consultation from April 20 to May 2023, includes exemptions for certain types of tobacco filters, such as refillable or reusable filters, those made from unmodified natural polymers like bamboo, and biodegradable filters that do not contain chemically modified plastics. This indirectly allows the TI to develop visually appealing designs that may contravene the guidelines of Article 9 of the WHO FCTC regarding tobacco product regulation and enables them to make CSR claims.

The decree also suggests adjusting EPR fees for tobacco filter producers based on factors like plastic content, recyclability, and reusability. While this appears environmentally responsible, it indirectly encourages the TI to present these efforts as "sustainable" designs within the framework of their CSR initiatives, potentially conflicting with the WHO FCTC guidelines.

Of particular concern is the final proposal, which allows producers to lead awareness-raising campaigns. Entrusting the TI with such responsibilities is a direct violation of Article 5.3, as the WHO guidelines explicitly warn against TI interference or partnerships in public health campaigns.

#### V. TI to lead litter awareness and clean up campaigns: Germany

In Germany, the government has launched a single-use plastic fund, (EWKFondsG) supervised by the nation's environmental agency. Under the Act, manufacturers must record the quantity of single-use plastics they place on the market for their first annual report in May 2025. Annex 1 of the Act, which lists the type of materials/packing subject to this new act, includes “tobacco products with filters and the filters themselves.”<sup>74</sup>

Starting in spring 2025, companies, including the TI, will be required to make annual contributions to this fund. The fund's purpose is to support municipalities in covering cleanup expenses and funding campaigns focused on tackling plastic pollution.

However, a notable concern arises. Germany anticipates that plastic producers, including the TI, will take the lead in organizing awareness campaigns<sup>75</sup> as part of their extended producer responsibility. Unfortunately, these campaigns primarily concentrate on consumer littering and cleanup efforts. This approach, as highlighted in a Surfrider report<sup>76</sup>, falls short of addressing business practices or advocating for plastic reduction. Consequently, it may not fully align with the intended goals of the initiative.

#### VI. Independent Funds in accordance with Article 5.3: Netherlands

In the Netherlands, the responsibility for collecting cigarette butts falls on local and regional governmental bodies. The government has established a fund, managed by the government itself, to which tobacco manufacturers are obligated to make annual payments for the collection of cigarette butts.<sup>778</sup> These payments are retrospective and occur on an annual basis, with the fees determined annually. Every four years, the government assesses the costs incurred by the responsible governmental bodies in cleaning up the cigarette butts. The fee also depends on the plastic content of cigarette butts and the quantity of cigarettes released for commercial purposes. Awareness campaigns related to tobacco products and their filters are carried out by the Dutch government to prevent the TI from potentially using Single-Use Plastics (SUP) initiatives for greenwashing.<sup>79</sup> This government stance is explicitly mentioned in the explanatory documents linked to the relevant legislation, with a reference to Article 5.3.<sup>8081</sup> The TI is obligated to cover the expenses of these awareness-raising campaigns. For other products falling under the SUP Directive, such as fishing gear and balloons, manufacturers are responsible for conducting awareness-raising campaigns.

## DECLARATIONS

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