

2022 TOBACCO INDUSTRY INTERFERENCE INDEX

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



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on Tobacco Control

October 2023



Editorial Team

HealthJustice Philippines

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SEATCA promotes health and saves lives by assisting Association of Southeast Asian Nations (ASEAN) countries in accelerating and effectively implementing the evidence-based tobacco control measures contained in the World Health Organization Framework Convention on Tobacco Control (WHO FCTC).

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About HealthJustice

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Abbreviations

AFP	Armed Forces of the Philippines
AO	Administrative Order
APPG	All-Party Parliamentary Group for Vaping Inquiry
ASEAN	Association of Southeast Asian Nations
BES	Bisita sa Eskwela
BPS`	Bureau of Philippine Standards
BIR	Bureau of Internal Revenue
COP	Conference of Parties
CSC	Civil Service Commission
CSR	Corporate Social Responsibility
DepEd	Department of Education
DOH	Department of Health
DSWD	Department of Social Welfare and Development
DTI	Department of Trade and Industry
ENDS	Electronic Nicotine Delivery Systems
ENNDS	Electronic Non-Nicotine Delivery Systems
FCA	Framework Convention Alliance
FDA	Food and Drugs Administration
FFF	Federation of Free Farmers
HB	House Bill
HR	House Resolution
HTP	Heated Tobacco Product
IRR	Implementing Rules and Regulations

Abbreviations

JMC	Joint Memorandum Circular
JTI	Japan Tobacco International
JTI-AMC	Japan Tobacco International -Asia Manufacturing Corporation
JVOFI	Jaime V. Ongpin Foundation Inc.
LTG	LT Group, Inc.
MMDA	Metro Manila Development Authority
NGO	Non-governmental Organization
NTA	National Tobacco Administration
NTPCS	National Tobacco Prevention and Control Strategy
PEZA	Philippine Economic Zone Authority
PMFTC	Philip Morris Fortune Tobacco Corporation Inc.
PNB	Philippine National Bank
PNP	Philippine National Police
PTGA	Philippine Tobacco Growers Association
RA	Republic Act
RAH	Rise Against Hunger
SB	Senate Bill
SEATCA	Southeast Asia Tobacco Control Alliance
TPP	Trans-Pacific Partnership
USAID	United States Agency for International Development
VIBES	Virtual Bisita sa Eskwela
VNP	Vaporized Nicotine Product
WHO FCTC	World Health Organization Framework Convention on Tobacco Control

Introduction

This report comes at a crossroads for public health in the Philippines.

On 13 July 2021, the Supreme Court affirmed the authority of the Food and Drugs Administration (FDA) in regulating tobacco products in the case of *Department of Health v. Philippine Tobacco Institute*.¹ On the other hand, both houses of Congress approved a bill which took away e-cigarettes and heated tobacco products (HTPs) from the FDA's jurisdiction. On 25 July 2022, said bill lapsed into law and became Republic Act (RA) No. 11900 or the Vaporized Nicotine and Non-Nicotine Products Regulation Act (the "Vape Regulation Law"). These two events — polar opposites of each other — mark the state of the implementation of Article 5.3 in the Philippines from 2021 to the early part of 2022 and the constant battle that tobacco control advocates face.

This report also comes at an

important period for policy reform and development nationwide. In May 2022, the country elected a new President who had once been a proponent of the tobacco industry's legislative interests in the Senate.

A homegrown politician from the "Solid North" and member of the tobacco-growing "Northern Bloc," President Ferdinand Romualdez Marcos, Jr. sits as the Chief Executive with much uncertainty for tobacco control. However, the lapse of the aforesaid bill into the Vape Regulation Law, despite the series of vetoes that preceded it for other enrolled bills, sends a signal that tobacco industry interference may grow stronger.

Based on the evidence gathered, this was indeed the case. Public health in the Philippines suffered a setback with the enactment of the Vape Regulation Law, as e-cigarettes and heated tobacco

¹ G.R. No. 200431, 13 July 2021.

products are now under the authority of the Department of Trade and Industry (DTI), and are now treated as ordinary household products despite the increasing scientific and medical consensus as to their adverse health effects. Tobacco advocates from the Department of Health (DOH) and Civil Service Commission (CSC) faced attacks for partnerships aimed at meaningfully implementing the WHO FCTC. The plight and suffering of our fellow Filipinos because of the COVID-19 pandemic have been exploited to normalize the tobacco industry through front groups and corporate social responsibility (CSR) activities.

The state of Article 5.3 implementation has therefore taken a turn for the worse. However, there is a silver lining in the Supreme Court's decision in *Department of Health v. Philippine Tobacco Institute*, as it gives the categorical pronouncement that the WHO FCTC is part of the law of the land, and legislators must heed the treaty's call to promote public health over the vested commercial interests of the tobacco industry.

In many ways, therefore, this report demonstrates the ongoing conflicting forces surrounding

tobacco control in the Philippines: although the tobacco industry continues to exert strong influence over public health policies, the effects of which are relentlessly countervailed by advocates in both the public and private sectors.

Methodology

This is the ninth report reviewing the implementation of the Philippines of Article 5.3 of the WHO FCTC based on the Tobacco Industry Interference Index.

Covering incidents of tobacco industry interference from January 2021 to June 2022, relevant pieces of evidence were gathered, reviewed, and scored based on the questionnaire provided by Global Center for Good Governance in Tobacco Control.

Information sources for the research were based on publicly available or commonly known information. The research was limited to information sourced from official websites, news reports, tobacco company reports, and verifiable anecdotal reports. The results were shared with a core group of civil society groups for review and subjected to their validation.

The report was revised and finalized based on the inputs gathered from the core group. The questions were based on the top 20 most commonly reported incidents of tobacco industry

interference and referenced to specific recommendations in the Article 5.3 Guidelines. The questionnaire for the report was updated in 2015 to quantify the intensity, frequency, or severity of a given incident of interference by providing specific guides or assessment tools on how to assess specific situations. The intent was to remove the subjectivity by assigning a number, and to bring all respondents or researchers on the same page when assigning a score.

Tobacco Industry Interference Index

The Tobacco Industry Interference Index is a civil society review of the implementation of the FCTC Article 5.3 in the Philippines.

This report provides evidence of tobacco industry interference and situations that reveal weaknesses or loopholes that the industry exploits. It is an attempt to define the measures and elements that contribute to the ability of the tobacco industry to interfere with public health policy making.

The questionnaire was designed based on specific situations that the WHO FCTC Article 5.3 Guidelines seek to address.



Using the index can be a tool to monitor whether the Philippines is making progress, maintaining the status quo, or sliding in its efforts to combat tobacco industry interference.

The scores are based on a particular indicator on the level of industry interference, and on the responses of the government in addressing them based on publicly available evidence.

As compared with the previous years, there is a steady increase in the score of the Philippines in the index with the biggest jump of the scores in the years 2017 to 2019. The tobacco industry interference score jumped from 45 in 2017 to 54 in 2018, then 57 in 2019, and 58 in 2020. The country's rising score every year reflects a gradual decline in countering tobacco industry interference. This trend could be attributed to heightened influence of the tobacco industry coupled with a diminished government capacity to forestall such interference.

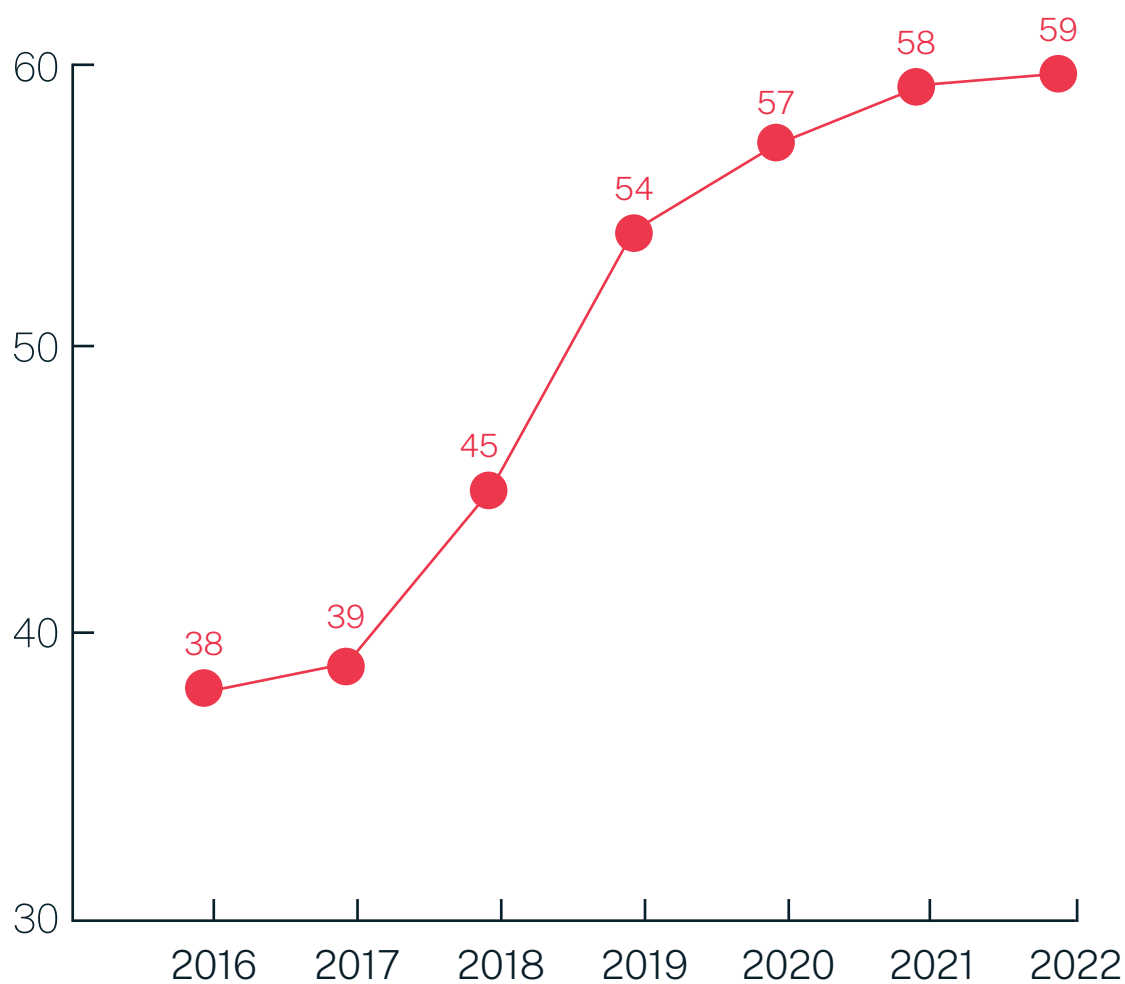


Figure 1. Philippines' score over time on the Tobacco Industry Interference Index

Lower scores show better implementation of Article 5.3, higher scores indicate higher levels of interference

Summary of tobacco industry interference indicators in the Philippines

INDICATOR		Score
1. Level of Industry Participation in Policy-Development		
1	The government ¹ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ² in setting or implementing public health policies in relation to tobacco control ³ (Rec 3.1)	5
2	The government accepts, supports or endorses policies or legislation drafted by or in collaboration with the tobacco industry. (Rec 3.4)	5
3	The government allows/invites the tobacco industry to sit in government interagency/multi-sectoral committee/advisory group body that sets public health policy. (Rec 4.8)	5
4	The government nominates or allows representatives from the tobacco industry (including State-owned) in the delegation to the COP or other subsidiary bodies or accepts their sponsorship for delegates. (i.e. COP 4 & 5, INB 4 5, WG) ⁴ (Rec 4.9 & 8.3)	1
Subtotal		16
2. Industry CSR activities		
5	A. The government agencies or its officials endorses, supports, forms partnerships with or participates in so-called CSR activities organized by the tobacco industry. (Rec 6.2)	4
	B. The government (its agencies and officials) receives contributions ⁵ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)	
Subtotal		4
3. Benefits to the Tobacco Industry		
6	The government accommodates requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law. (e.g. 180 days is common for PHW, Tax increase can be implemented within 1 month) (Rec 7.1)	5*
7	The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)	4
Subtotal		9

*Delay in veto

1 The term "government" refers to any public official whether or not acting within the scope of authority as long as cloaked with such authority or holding out to another as having such authority

2 The term, "tobacco industry" includes those representing its interests or working to further its interests, including the State-owned tobacco industry

3 "Offer of assistance" may include draft legislation, technical input, recommendations, and overseas study tours

4 Please see annex a list since 2009 so that the respondent can quantify the frequency:
<http://www.who.int/fctc/cop/en/>

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

INDICATOR		Score
4. Forms of Unnecessary Interaction		
8	Top level government officials (such as President/Prime Minister or Minister ⁶) meet with/ foster relations with the tobacco companies such as attending social functions and other events sponsored or organized by the tobacco companies or those furthering its interests. (Rec 2.1)	4
9	The government accepts assistance/offers of assistance from the tobacco industry on enforcement such as conducting raids on tobacco smuggling or enforcing smoke free policies or no sales to minors. (including monetary contribution for these activities) (Rec 4.3)	5
10	The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) NOTE: This must not involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.	3
Subtotal		12
5. Transparency		
11	The government does not publicly disclose meetings/interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation. (Rec 2.2)	0
12	The government requires rules for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists (Rec 5.3)	3
Subtotal		3
6. Conflict of Interest		
13	The government does not prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns or to require full disclosure of such contributions. (Rec 4.11)	5
14	Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)	3
15	Current government officials and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)	0
Subtotal		8
7. Preventive Measures		
16	The government has put in place a procedure for disclosing the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives. (Rec 5.1)	1
17	The government has formulated, adopted or implemented a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry. (Rec 4.2)	1
18	The government requires the tobacco industry to periodically submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and all other activities. (5.2)	2

⁶ Includes immediate members of the families of the high-level officials

10 PH TII Indicator Summary

INDICATOR		Score
19	The government has a program/system/plan to consistently ⁷ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)	2
20	The government has put in place a policy to disallow the acceptance of all forms of contributions/ gifts from the tobacco industry (monetary or otherwise) including offers of assistance, policy drafts, or study visit invitations given or offered to the government, its agencies, officials and their relatives. (3.4)	1
Subtotal		7
TOTAL		59

⁷ For purposes of this question, “consistently” means: a. Each time the FCTC is discussed, 5.3 is explained. AND b. Whenever the opportunity arises such when the tobacco industry intervention is discovered or reported.

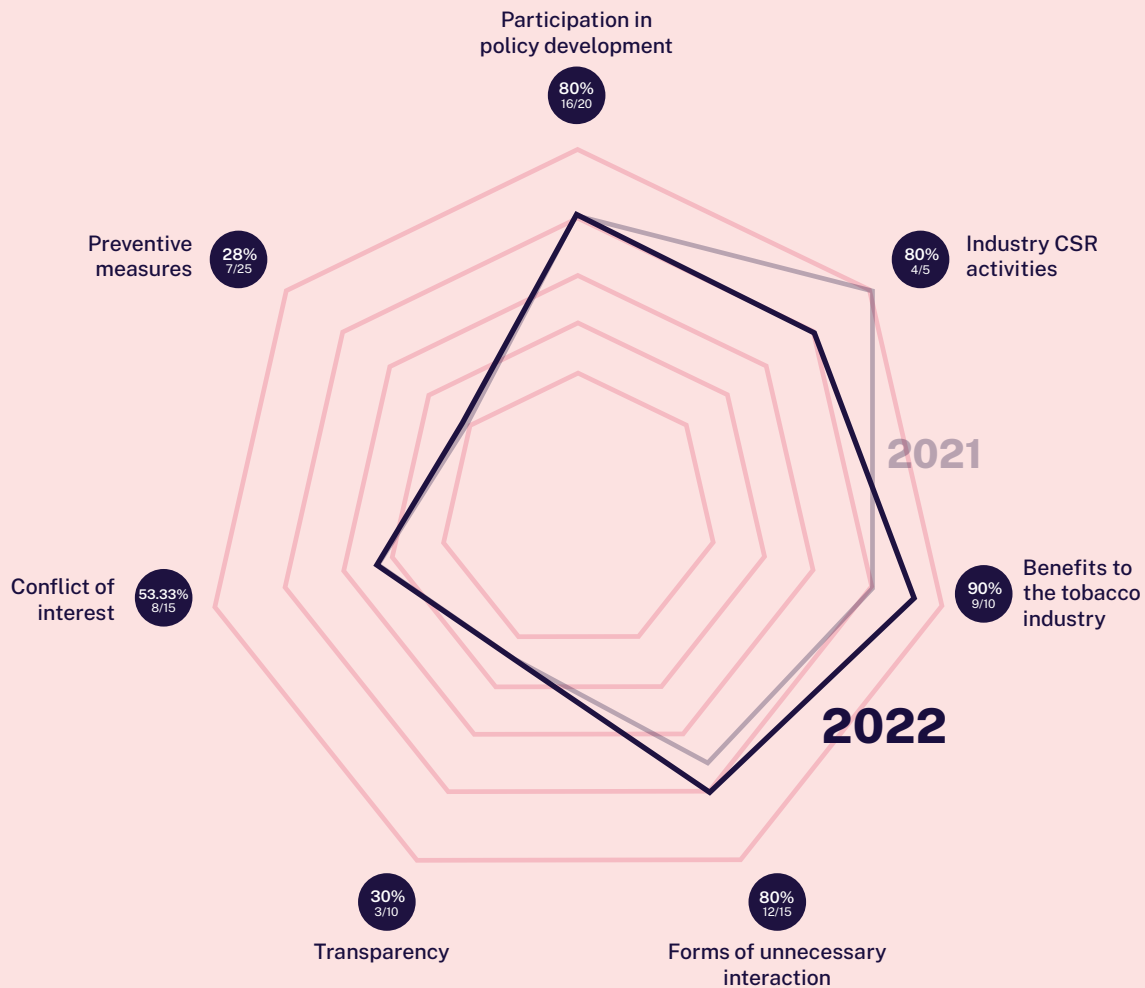
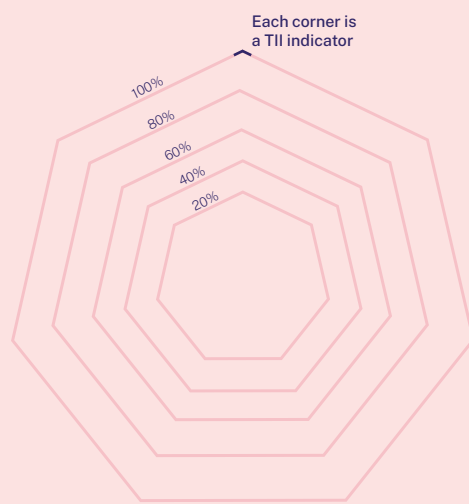


Figure 1. Philippines' score per category on the Tobacco Industry Interference Index 2022

The farther out from center, the higher the level of interference



Understanding the polygon chart

With all figures based on statistics in Table 1, all polygon charts represent tobacco industry interference in the Philippines. Each corner represents a category in Figure 2, or an indicator in Figures 3 to 5. Inner polygons represent the degree of interference, the level of interference increasing as one moves toward the outward corners of the biggest polygon. In Figure 2 above, each increase in size represents an increase of 20% from the center, the biggest polygon being 100% or the highest score. In Figures 3 to 5 in the following pages, they instead represent an increase in 1 point based on Table 1, with 5 represented by the biggest polygon being the highest score.

Computing interference percentages

All percentages in Figure 2 are computed based on the perfect score per indicator, as shown in Table 1. For example, for *Indicator 2: Industry CSR Activities*, the highest interference score is 5/5. The PH scores are exactly this, or 100%, and thus the sharpest corner in this indicator. In *Indicator 5: Transparency*, 10/10 is the perfect score, and the PH scores 3 here, making the percentage score for this indicator 30%. Lower scores are closer to the center, meaning a lower level of tobacco industry interference.

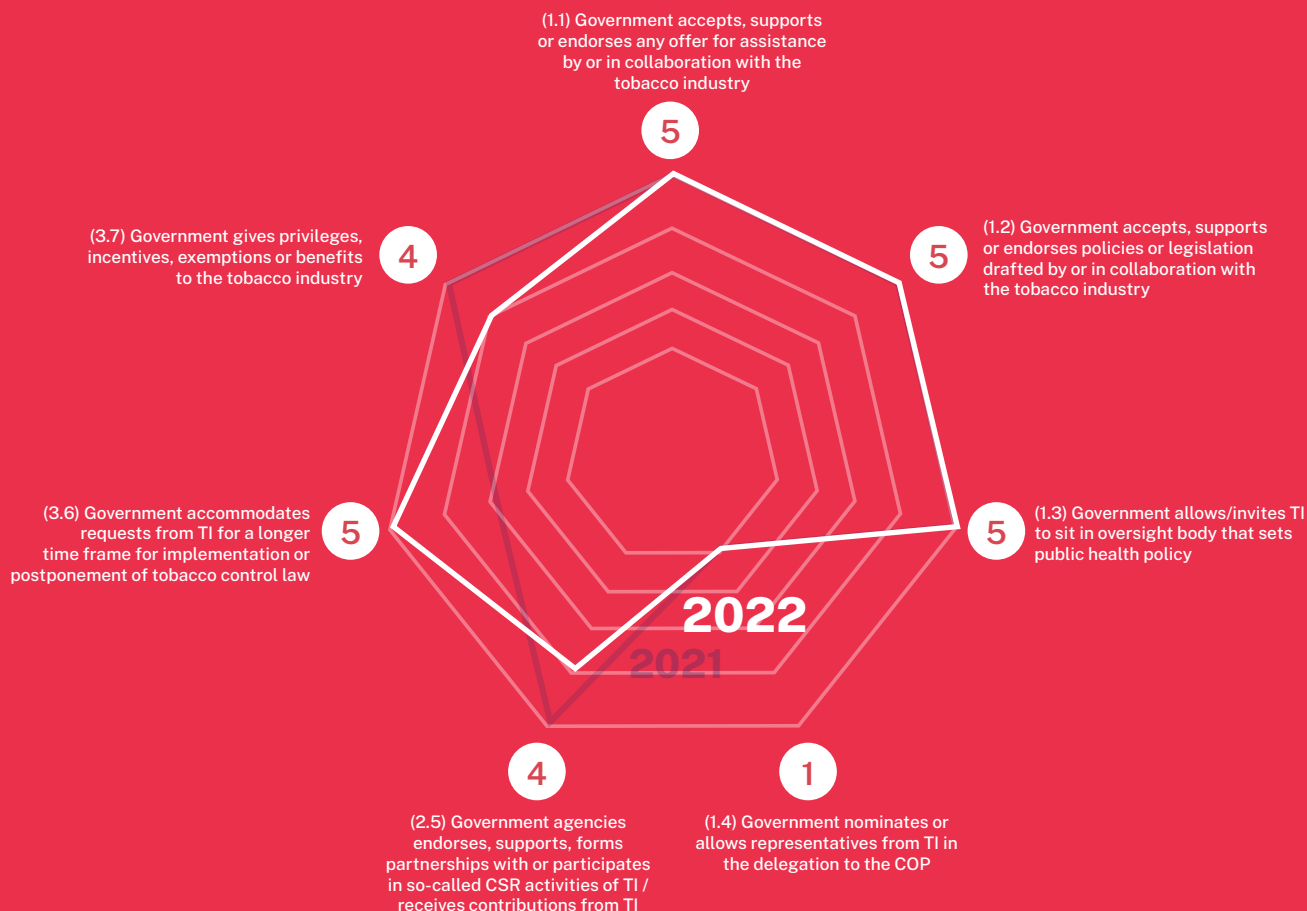


Figure 2. PH TII score per indicator in Industry Participation in Policy Development (1.1-1.4), Industry CSR Activities (2.5), and Benefits to the Tobacco Industry (3.6-3.7)

*The higher the score and the farther out from center, the higher the level of interference
Scores displayed above are out of 5 per indicator*

1 Industry Participation in Policy Development

Congress passed bills which adopted the position of the tobacco industry, allowing harm reduction and lowering the age of access regarding the regulation of e-cigarettes and heated tobacco products.

In the first quarter of 2021, members of the tobacco and vape industries, including their supporters, attended public hearings on the following Senate Bills (SBs): the Vaporized Nicotine Products (VNPs) Regulation Act,⁸ the E-Cigarette Regulation Act of 2019,⁹ and a similarly titled VNPs Regulation Act.¹⁰

Based on their texts and foreseeable impacts, these bills aim to weaken the country's tobacco control policies through the following: the inclusion of harm reduction as a strategy in tobacco control;¹¹ lowering the age of access from 21 years old to 18 years old;¹² allowing point of sale and

online marketing;¹³ and transferring the regulatory mandate of the FDA¹⁴ to the DTI.¹⁵

In the House of Representatives, several legislators deliberated on their version of the e-cigarettes and vape regulations bill. In May 2021, the House of Representatives passed House Bill (HB) No. 9007 or the proposed Non-Combustible Nicotine Delivery Systems Regulation Act on its third and final reading.

HB No. 9007 adopted mainly the aforementioned proposals and positions of the tobacco industry, such as the inclusion of harm reduction as a strategy in tobacco control and the lowering the age of access, despite opposition from child¹⁶rights and public health advocates.

8 SB No. 496. https://legacy.senate.gov.ph/lis/bill_res.aspx?congress=18&q=SBN-496.

9 SB No. 541. https://legacy.senate.gov.ph/lis/bill_res.aspx?congress=18&q=SBN-541.

10 SB No. 1951. https://legacy.senate.gov.ph/lis/bill_res.aspx?congress=18&q=SBN-1951.

11 Section 15, SB No. 496; Section 2 of SB No. 1951.

12 Section 6 of SB No. 496; Section 5 of SB No. 541; and Section 16 of SB No. 1951.

13 Sections 7 and 9 of SB No. 496; and Sections 8, 10, 11, and 12 of SB No. 1951.

14 Implementing Rules and Regulations of the HTPs and Vapor Products as prescribed by RA Nos. 11346 and 11467.

15 Section 14 of SB No. 496; Sections 11 and 12 of SB No. 541; and Sections 16, 17, 18, 21, and 24 of SB No. 1951.

16 Sections 2, 8, 11, 17, and 18 of HB No. 9007.

In the same month, the Senate Committees on Trade, Commerce, and Entrepreneurship; Health and Demography; and Finance submitted Committee Report No. 265 which recommended the approval of SB No. 2239, which is a consolidation of all the vapor product regulation bills in the upper chamber.¹⁷

Across August to September 2021, the Senate continued its deliberations on SB No. 2239 or the proposed legislation regulating the use, importation, and sale of VNPs and electronic-cigarettes.

This culminated in December 2021 when the Philippine Senate approved SB No. 2239 or the Vaporized Nicotine Products Regulation Bill. Only two Senators, namely Senator Pia Cayetano and Senator Francis Pangilinan, voted “No” to the bill.

In effect, these bills shall reverse fully the public health policies provided under RA No. 11467 (the “Sin Tax Law”), which provided for an increased excise tax on HTPs, Electronic Nicotine Delivery Systems (ENDS) and Electronic Non-Nicotine Delivery Systems (ENNDS) or e-cigarettes or vapor products.

¹⁷ “Committee Report No. 265 VAPORIZED NICOTINE PRODUCTS REGULATION ACT.” Senate of the Philippines. Eighteenth Congress. https://legacy.senate.gov.ph/lis/committee_rpt.aspx?congress=18&q=265.

Members of Congress impugned the presence of Bloomberg Philanthropies/Bloomberg Initiative grants in the Philippines.

The Committee on Good Government and Public Accountability of the House of Representatives (the “CGGPA”) conducted its first hearing on House Resolution (HR) No. 1396 on 16 March 2021.¹⁸

The resolution called for an investigation of the alleged questionable receipt of private funding by the FDA and other government agencies from foreign groups in exchange for the issuance of specific and pre-defined policies against a legitimate industry in complete disregard of the rights and welfare of consumers.

Further, until such investigation is concluded, the House of Representatives urged the FDA and other recipient-government agencies to immediately cease all contact with such foreign groups and return any foreign monies said agencies have received. To implement the WHO FCTC,

¹⁸ Committee Report No. 1304. House of Representatives. Eighteenth Congress. https://hrep-website.s3.ap-southeast-1.amazonaws.com/legisdocs/first_18/CR01304.pdf.

the DOH mapped the National Tobacco Prevention and Control Strategy (NTPCS) which is the country's framework on tobacco control. It engages all relevant sectors of government, civil society, and non-governmental organizations (NGOs) to control the use of tobacco.¹⁹

On 8 October 2020, a public consultation for the crafting of regulations for HTPs was held by the FDA which was attended by stakeholders of the tobacco industry. During this hearing, the matter on FDA being a recipient of grants from foreign entities known for their stance against tobacco, such as Bloomberg Philanthropies/ Bloomberg Initiative ("Bloomberg") and the International Union Against Tuberculosis and Lung Diseases (the "Union"), were put into question.

Representatives Savellano and Suansing claimed that these grants, which support public health initiatives and the country's commitment in the WHO FCTC, may have exerted undue influence on the FDA in crafting the guidelines for ENDS and ENNDS and undermined the country's sovereign power.

Said representatives urged the CGGPA to review whether the actions of the FDA would make them liable for malfeasance, misfeasance, and nonfeasance.²⁰ In response to this, then FDA Director General Domingo ("DG Domingo") discussed the FDA's mandate, and that the former President Rodrigo Roa Duterte instructed the FDA to regulate ENDS, HTPs, and vapor products, and implement the provisions of the Sin Tax Law.

DG Domingo explained as well that the RA No. 9711 or the FDA Act of 2009 allows FDA to accept grants and donations as long as pertinent rules and regulations are followed. DG Domingo further assured the CGGPA that the FDA keeps up to date with the findings of international research groups and undertakes its own scientific evaluation of such.²¹

Several lawmakers concede that the FDA has the authority to accept funding, but they zeroed in on the extent of Bloomberg's influence on policy making.

These attacks increased in the middle of 2021. On 9 June

¹⁹ Id.

²⁰ Id.

²¹ Id.

2021, certain lawmakers held positions against the FDA, DOH, and Bloomberg during the congressional inquiry.

They reiterated their allegations that Bloomberg gave grants to government agencies in order for the former to dictate on the latter's tobacco control policies and influence the formulation of the regulatory framework on ENDS and HTPs.²²

Vape consumer groups also continued their attacks on health advocates by calling on the Bureau of Internal Revenue (BIR) to look into the tax filings of NGOs that have been a recipient of grants from the Bloomberg.

By November 2021, the Federation of Free Farmers (FFF) released a statement expressing their apprehension over the so-called “meddling” of Bloomberg on the tobacco regulations of the Philippines.

The group quoted the tobacco industry-linked report by the All-Party Parliamentary Group for Vaping Inquiry (APPG) in the United Kingdom.²³

²² Id.

²³ “Farmers Group Expresses Alarm on Bloomberg’s Meddling in Int’l Tobacco Control Conference,” Manila Bulletin, November 1, 2021. <https://mb.com.ph/2021/11/01/farmers-group-expresses-alarm-on-bloombergs-meddling-in-intl-tobacco-control-conference/>.

Ultimately, the House of Representatives approved on second reading the report submitted by the CGGPA on HR No. 1396 in December 2021.

Legislators have questioned the validity of the CSC-DOH Joint Memorandum Circular No. 2010-01 and have pushed for its amendment or withdrawal.

Similar to the attacks against the FDA for its policy development that was supported by external grants, legislators who are allied with the industry questioned on how the CSC-DOH Joint Memorandum Circular (JMC) No. 2010-01 (the “JMC 2010-01”) on the Protection of the Bureaucracy Against Tobacco Industry Interference was developed and called for its review.²⁴

In June 2021, certain lawmakers denounced the Department of Health (DOH) rejection of donations from a tobacco company and questioned the validity and regularity of the issuance of the JMC 2010-01.

A CSC Commissioner even issued an opinion, aside from issuing a written one addressed to the Committee, that said JMC seemed

²⁴ Committee Report No. 1304. House of Representatives. Eighteenth Congress. https://hrep-website.s3.ap-southeast-1.amazonaws.com/legisdocs/first_18/CR01304.pdf.

to be irregularly issued given that there are allegedly no written records conferring authority on the then CSC Chairman Francisco Duque to sign it.²⁵

The statement of the Commissioner reinforced the opinion of FDA's Legal Officer who stated that the JMC was irregularly issued because the Chairman was not authorized by the Commission.²⁶

Tobacco control advocates argued that the statement of the FDA Legal officer was based on hearsay because he was not part of the CSC nor privy to the Commission's operations at the time the JMC was signed.

Legislators pushed the CSC to either amend or withdraw the JMC by lawyering that the CSR activities of the tobacco industry are necessary under the current pandemic.²⁷

The DOH responded to the questions of the legislators through a press statement, particularly on the medical equipment donated by a company connected to the tobacco industry.

The Philippine delegation was awarded three Dirty Ashtray Award for accepting, supporting, and endorsing policies in collaboration with the tobacco industry.

The Dirty Ashtray Award is an award given by the Framework Convention Alliance, an alliance of 300 civil society groups in 100 countries, presented to country delegations participating in the WHO FCTC Conference of the Parties (COP) who are believed to prioritize the interests of the tobacco industry. This recognition aims to draw attention to delegations that impede or hinder the progress of FCTC implementation.

The Philippine delegation to the WHO FCTC COP 9 was given the Dirty Ashtray for "multiple statements insisting on unhelpful language that has severely delayed adoption of the COP 9 agenda and is obstructing the work ahead".²⁸

In fact, the Philippines received three Dirty Ashtray Awards – the most for any country in the five-day conference: one for insisting on amendments "with

²⁵ Id.

²⁶ Public hearing of the House Committee on Transparency and Accountability (June 2021). <https://fb.watch/nlC0D4dVhy/?mibextid=Nif5oz>.

²⁷ Id.

²⁸ "Philippine Delegation Earns Second 'Dirty Ashtray Award' for Supporting Tobacco Industry Interests at Global Tobacco Control Treaty Negotiations." Southeast Asia Tobacco Control Alliance (SEATCA). <https://seatca.org/philippine-delegation-earns-second-dirty-ashtray-award-for-supporting-tobacco-industry-interests-at-global-tobacco-control-treaty-negotiations/>.

unhelpful and often confusing wording,” another for attempting to block progress at COP on the eleventh hour, and a third for using COVID-19 burden management to excuse its noncompliance with the FCTC despite the “links between tobacco, non-communicable diseases, and COVID-19.”²⁹

This delegation was led by 10 co-heads: the Secretary of Foreign Affairs, Secretary of Trade and Industry, Secretary of Health, Permanent Representative to the United Nations in Geneva, Deputy House Speaker and Representative of the First District of Ilocos Sur, Permanent Representative to the World Trade Organization, Undersecretary of Agriculture, Undersecretary of Finance Revenue Operations Group, Director-General of the Food and Drug Administration, and Director-General of the DTI Intellectual Property Office and alternate representatives from the DTI, DOF, DA, and National Tobacco Administration (NTA).

The Department of Foreign Affairs (DFA), which led the

delegation, issued statements which advanced the interests of the tobacco industry over public health, stating that “as a source of bad health, tobacco is also a source of good through taxation” and that “the benefit of continuing taxation of a revenue-rich activity” must be acknowledged. They also downplayed the harm of e-cigarettes, stating that the tobacco industry has “created products that delivered a similar satisfaction, but with far less harm.”³⁰

It is noted that the Philippine delegation contained a representative from the NTA, an agency mandated to promote tobacco production and has a history of echoing the sentiments of the tobacco industry.

It is also noted, however, that the DOH immediately disassociated itself from and opposed the “pro-tobacco industry statements” made by the Philippine delegation during the COP.³¹ The DOH maintained that the Philippine delegation made statements “that

²⁹ “Vera Files Fact Sheet: PH Gov’t Stance on Tobacco Industry Novel” VERA Files. <https://verafilms.org/articles/vera-files-fact-sheet-ph-govt-stance-tobacco-industry-novel>.

³⁰ Id.

³¹ “DOH Distances from PH Delegation’s Pro-Tobacco Statements in WHO Conference.” Inquirer News. <https://newsinfo.inquirer.net/1513135/doh-distances-from-ph-delegations-pro-tobacco-statements-in-who-conference#ixzz7EQAwj3mC>.

promoted the interest of tobacco industries, including those of vapor products and heated tobacco products.” Further, the DOH also declared that “continued tobacco industry interference diminishes our efforts in promoting public health” and that “there is no good in tobacco”.

2 Industry CSR Activities

The proposed Corporate Social Responsibility Act of 2019 allows and incentivizes CSR activities of the tobacco industry.

In the first quarter of 2021, the Senate Committee on Trade, Commerce, and Entrepreneurship called for a technical working group hearing on SB No. 656 of the 18th Congress introduced by Senator Ramon Bong Revilla, Jr. entitled “The Corporate Social Responsibility Act of 2019”, this bill aims to encourage and provide incentives to companies that will conduct CSR activities, such as deductions from unrestricted retained earnings, recognitions from the State, and assistance from local government units. A similar bill was introduced in the House of Representatives by former President Gloria Macapagal-Arroyo.

While the intention of the foregoing bills looked harmless, the absence of an exemption clause on industries that have conflict of interest with

public health raised serious concerns on the negative impact the proposed bill may have on existing policy measures protecting the health policies from interference of those industries.

It has been mentioned that these bills “provide a legal and public relations cover for companies in highly regulated industries such as tobacco, infant formula, mining and coal power.”³² The proposed deduction in unrestricted retained earnings leads to a deduction in taxes due from the tobacco industry for their CSR activities. It must further be noted that a repealing clause is included in these bills, overturning all inconsistent provisions.

The CSR bill run counter to the public health policy of the CSC DOH JMC 2010-01 which prohibits public officials from providing incentives, privileges, benefits, and exemptions.

³² “Is the Philippines CSR Bill a Trojan Horse for Corporate Interests?” Southeast Asia Tobacco Control Alliance (SEATCA). <https://seatca.org/is-the-philippines-csr-bill-a-trojan-horse-for-corporate-interests/>.

It is also contrary to the government's efforts to reduce tobacco use through raising taxes, imposing graphic health warnings, and banning smoking in public places. Aside from tobacco control, breast milk advocacy networks have also expressed concerns on the scope of the bill. The Philippine Coalition of Advocates for Nutrition Security also released a position paper stating that the CSR bill may be too encompassing as it involves regulated products and may conflict with the spirit of social responsibility.³³

The importance of the private sector in the development of the nation and the ongoing initiatives undertaken by various institutions in this regard is recognized. Although CSR should be encouraged, it is crucial for the government to avoid providing any opportunity for the tobacco industry to promote their agenda, as it contradicts the government's objective of safeguarding public health.

With the economic cost of just the top four tobacco use-related illnesses amounting Php 210 billion, the harm of tobacco products cannot

be understated.³⁴ Especially with the pandemic, any proposed legislation must be heavily scrutinized of its possible effects on public health and safety. The struggle of the country's economy should not be exacerbated by providing incentives to the tobacco industry.

The tobacco industry has conducted numerous CSR activities through its foundations by providing contributions to the government.

Throughout 2021, various foundations associated with the tobacco industry have been active in conducting relief operations in relation to the COVID-19 pandemic.

The Embrace Program of the Philip Morris Fortune Tobacco Corporation Inc. (PMFTC), the Philippine affiliate of Philip Morris International, through the Jaime V. Ongpin Foundation Inc. (JVOFI), distributed medical supplies, food packs, and office supplies to various local government units and communities. There were 20 recorded CSR activities in the first quarter of 2021. Most of the goods were coursed through the JVOFI, in collaboration with local politicians or law enforcement agencies like the

³³ Philippine Coalition of Advocates for Nutrition Security. Letter to Senator Aquilino Pimentel III, Chairperson, Committee on Trade, Commerce, and Entrepreneurship. Position Paper of the Philippine Coalition of Advocates for Nutrition Security, Inc. on Senate Bill No. 656, "An Act Encouraging Corporate Social Responsibility, Providing Incentives Therefore, and for Other Purposes". Manila; 2020.

³⁴ "DOF to Urge Congress to Pass Higher Tobacco Tax Rates to Further Discourage Smoking, Raise More Healthcare Funds." Department of Finance, Republic of the Philippines. https://taxreform.dof.gov.ph/news_and_updates/dof-to-urge-congress-to-pass-higher-tobacco-tax-rates-to-further-discourage-smoking-raise-more-healthcare-funds/.

Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP).

In May 2021, Rise Against Hunger (RAH), an NGO partnered with Japan Tobacco International (JTI) Philippines, conducted food distribution and disaster relief operations. With JTI's help, RAH was able to go to 49 locations, distribute and turnover the goods from up north to down south in the country despite travel restrictions.

RAH claimed that the partnership with JTI allegedly benefited about 1.5 million individuals who received rice and relief goods, with more than 400,000 families nationwide as recipients.³⁵

In the same month, PMFTC and JVOFI, in partnership with Junior Chamberlain International donated a temporary Provincial Health Office located at Provincial Capitol Grounds in Misamis Oriental. High-level local officials led the Provincial

Government during the blessing and turnover of the temporary provincial health office.³⁶

In June 2021, JTI in partnership with RAH Philippines and An-Waray Party-list worked together to provide food items, such as rice and canned goods, and medicines for targeted communities.

In line with the Solar Electrification Project dubbed as “Light of Peace Project” and in collaboration with the One Arellano Builders, JVOFI, PMFTC, and the Philippine Army soldiers installed at least 60 solar panels in the conflict-affected Indigenous People's Community in Sitio Batayan, Barangay Alangtin, Tubo, Abra.³⁷

JVOFI and the Lucio Tan Group donated various medical supplies and equipment through MMDA

35 “NGO Calms Empty Stomachs with Corporate Partners.” BusinessMirror. <https://businessmirror.com.ph/2021/05/11/ngo-calms-empty-stomachs-with-corporate-partners/>.

36 “Misamis Oriental: New Temporary Provincial Health Office.” About Cagayan de Oro. <https://aboutcagayandeoro.com/misamis-oriental-new-temporary-provincial-health-office/>.

<https://www.facebook.com/AnWarayOfficial/posts/10159113540549344>.

37 “Conflict-Affected IP Community Benefits from Solar Electrification Project in Abra.” AFP Civil Relations Service. <https://www.afpcrs.com/post/conflict-affected-ip-community-benefits-from-solar-electrification-project-in-abra>.



500 vials of Moderna vaccines donated. Vaccine vials donated to the City Government of Bacolod from Lucio Tan Group of Companies. Photo courtesy of Progreso Garantizado 2022 & Beyond Facebook page.

Chairperson for the MMDA's vaccination program in 29 June 2021. The donation was directly turned over to the Chairperson without undergoing the acceptance process of the agency. On the same day, the Kaibigan Battalion CSP team conducted a school outreach activity in partnership with JCI Manila and the Embrace Program of PMFTC at Barangay Alangtin, Tubo, Abra where at least 80 pupils of Batayan Elementary School and Alangtin Elementary School received school bags, slippers, and school supplies, while the teachers received bond papers, boxes of chalk, and volleyball equipment.³⁸

In July 2021, PMFTC donated ten kilograms of rice to each of the 1,000 households in Barangay Pantay Bata, Tanauan City, Batangas which was coursed through its barangay captain Mr. Miguel P. Manalo.³⁹ PMFTC also hosted the virtual awarding of the 14th Bright Leaf Agriculture Awards for Journalism that gives recognition to journalists who excel in featuring or writing about agriculture. Said activity was initiated by PMFTC since 2007, and prominent personalities from both politics and the media have been invited as guest judges or speakers.⁴⁰

In the same month, LT Group, Inc. (LTG), of which PMFTC is an indirect

subsidiary, opened a vaccination center in Pasay City.⁴¹

In August 2021, the Embrace Program and JVOFI provided the Municipality of Maasin in Iloilo province with medical supplies for the latter's Rural Health Unit.⁴²

In September 2021, the Embrace Program of PMFTC provided medicines and medical supplies to various barangays in Quezon City through the Jaime Ongpin Foundation and Rep. Bong Suntay.⁴³

In October 2021, hygiene kits were distributed to elementary school students of Bahay Pasacao, Camarines Sur and Palayan City, Nueva Ecija by the JVOFI in partnership with the PNP through the Project Virtual Bisita Eskwela (VIBES).⁴⁴ Doña Josefa Elementary School Iso received a computer unit from JVOFI.⁴⁵

In November 2021, LTG donated 15,000 doses of COVID-19 vaccines to Pasig City residents.⁴⁶ Around

38 "71st IB Implements Bayanihan Projects in Eastern Visayas." 71st Infantry "Kaibigan" Battalion. <https://www.facebook.com/71stkaibiganbattalion/posts/4048425595194115>.

39 <https://www.facebook.com/kuyamike.manalo/posts/555462605468261>.

40 <https://www.brightleafawards.com/>.

41 <https://newsinfo.inquirer.net/1454928/lt-group-opens-vaccination-facility>.

42 <https://www.facebook.com/maasin.lgu/posts/540555523922681>.

43 https://www.facebook.com/permalink.php?story_fbid=2619650311677003&id=100008961799490.

44 "Palay Naman Para Sa Mga Magsasaka." PNP Palayan City Police Station. <https://www.facebook.com/pasacaonpn.csppo/posts/877448503132445> and <https://www.facebook.com/palayancitypnnpneppo/posts/3050655015203180>.

45 <https://www.facebook.com/nidz.agpawa/posts/4362621267118195>.

46 <https://www.philstar.com/headlines/2021/11/06/2139297/lt-group-donates-covid-19-vaccines-pasig-city>.

500 indigent residents of Angeles City also received food packs and other basic commodities from Clark Development Corporation's (CDC) community pantry, of which Gold Tree Tobacco Manufacturing Corporation was a contributor.⁴⁷

On December 2021, LTG's "Help Flows" Program donated bottled water with white labels stating that these are "Donated by the Lucio Tan Group of Companies"⁴⁸ to residents of Mandaue, Cebu and Tagbilaran, Bohol to aid disaster relief efforts in areas affected by Typhoon Odette.⁴⁹ 'Help Flows' is supported by LTG's member firms: Asia Brewery Inc., Eton Properties Inc., PMFTC's Embrace CSR Program, Tanduary Distiller's Inc., and Philippine National Bank.

LTG's Help Flows Program donated mineral water and mobile water stations in Surigao City on January 2022⁵⁰ and in Ubay, Bohol on February 2022.⁵¹ LTG also donated Moderna vaccines to be used as booster shots for 2,000 eligible residents of Dumaguete City on

March 2022⁵² and 5,000 eligible residents of Bacolod City on April 2022.⁵³

In May 2022, JTI Philippines Inc. donated 100 five-kilogram sacks of rice to the Quezon Police Provincial Office.⁵⁴ In the same month, LTG and JVOFI donated solar panels and water filtration systems that were installed at Masi Elementary School in Masi, Zinundungan Valley, Rizal, Cagayan.⁵⁵

In June 2022, Singapore Ambassador Gerard Ho attended the handover ceremony of Temasek Foundation and LTG's contribution of 200,000 face masks to the Province of Sorsogon and 500,000 face masks to the City of Makati. The donations were received by Sorsogon Governor Francis Escudero and Makati City Mayor Abigail Binay.⁵⁶

In 9 June 2022, the groundbreaking ceremony for the installation of 200 units of solar streetlights along the Aguang Bridge, SETA area of Sabang and Diguisit area of Zabali was led by Congressman Rommel Angara and Mayor Rhett Angara. These solar streetlights were donated to the local government of Baler as a donation from the JVOFI with the help of

47 <https://centralluzon.politics.com.ph/500-indigents-get-food-packs-groceries-from-cdcs-community-pantry/>.

48 <https://www.facebook.com/AsiaBreweryIncOfficial/photos/pcb.5057092220991944/5057091187658714/>

49 <https://eton.com.ph/2021/12/29/ltg-extend-aid-to-typhoon-odette-victims-in-cebu-and-bohol/>.

50 <https://www.facebook.com/allan.bucog.5/posts/10220170783407553> and <https://www.facebook.com/allan.bucog.5/posts/10220180587252643>.

51 https://www.facebook.com/permalink.php?story_fbid=300887498804787&id=107957898097749.

52 <https://www.facebook.com/LupadDumaguete2016/posts/1778283545711255>.

53 https://www.facebook.com/100076050554712/posts/134746872403664/?_rdc=1&_rdr.

54 <https://www.facebook.com/photo?fbid=534691404959525&set=pcb.534691478292851>

55 https://web.facebook.com/5idstartroopers/posts/387099703463763?_rdc=1&_rdr.

56 https://web.facebook.com/SingaporeEmbassyManila/posts/392341509604137?_rdc=1&_rdr.

Sen. Sonny Angara.⁵⁷ JVOFI, in coordination with the Municipal Social Welfare and Development Office, also distributed five kilogram sacks of rice to senior citizen beneficiaries of Barangay Manocmanoc and Yapak, Malay, Aklan.⁵⁸

The Quezon City Field Office of the Department of the Interior and Local Government, through its Cluster Heads, participated in the barangay fairs organized by the JVOFI on 18 June 2022 at the following barangays: Batasan Hills, Commonwealth, Culiati, Talipapa, South Triangle, Paltok. These fairs aimed to jumpstart economic activities and promote socio-civic programs.⁵⁹

Based on the foregoing, the tobacco industry has been continuously providing CSR contributions to the government. It must be noted, however, that additional investigation by the appropriate government agencies must be conducted to determine whether there was any violation of the prohibition against tobacco industry interference. The State needs to be wary and steadfast in upholding its commitment to the WHO FCTC.

⁵⁷ https://web.facebook.com/LGUBaler/posts/2125225180985150?_rdc=1&_rdr.

⁵⁸ https://web.facebook.com/brgymanocmanoc/posts/5186406508061720?_rdc=1&_rdr and https://web.facebook.com/girliesiera/posts/10160318910623969?_rdc=1&_rdr.

⁵⁹ https://web.facebook.com/DILGQCFO/posts/554690316262392?_rdc=1&_rdr.



JVOFI donates solar streetlights.
Groundbreaking ceremony for the installation of 200 units of solar streetlights, donated to the local government of Baler from the JVOFI, along the Aguang Bridge on 9 June 2022. Photo courtesy of Baler LGU Facebook page.

3 Benefits to the Tobacco Industry

The vape bill, which includes the relaxed regulations on e-cigarettes lobbied for by the tobacco industry, lapsed into law.

On January 2022, the House of Representatives and Senate ratified the bicameral conference committee report on a bill that allegedly will regulate the importation, manufacture, sale, packaging, distribution, use, and advertisement of vaporized nicotine and non-nicotine products, as well as novel tobacco products on 26 January 2022.⁶⁰

During the 26 January 2022 Senate session, Senator Pia Cayetano manifested her continuing objections to the bill. She expressed disappointment that she was not given the time to question the sponsor about her reservations on the bicameral conference report.⁶¹

⁶⁰ <https://www.bworldonline.com/economy/2022/01/26/426104/congress-approves-bicameral-committee-report-on-vaping-regulation/>.
⁶¹ <https://piacayetano.ph/tag/vape-bill/>.

Further, she pointed out that a bicameral conference report inserted provisions that further relax the regulations on e-cigarettes. Among these insertions are the allowance of sponsorships beyond industry associations and trade events, and for companies to conduct corporate social related activities.

DOH Secretary Francisco Duque III also reiterated the agency's strong opposition to the bill, as it is retrogressive, contains several provisions that contradict public health goals and international standards, and undermines the country's progress in tobacco control. The DOH maintains that vape products are harmful and not risk-free, and should be regulated as health products due to their toxic substances and effects.⁶² Meanwhile, the administration assured the public that the proposed Vaporized Nicotine Products Regulation Act will

⁶² <https://www.onenews.ph/articles/duque-backs-medical-groups-call-for-vape-bill-veto>.

undergo a rigorous vetting process before it will be sent to President Rodrigo Duterte for approval. Cabinet Secretary and acting presidential spokesman Karlo Nograles made the assurance as medical groups have called on Duterte to veto the proposed measure. “As with any bill, this will undergo a vetting process so let’s just let it be vetted. After the vetting process, this will be given to the President for his final decision,” Nograles said.⁶³

The bill eventually lapsed into law after the May 2022 elections, presenting a reversal of public health gains made by the Sin Tax Law with respect to HTP and ENDS regulation.⁶⁴

⁶³ <https://newsinfo.inquirer.net/1544895/palace-assures-vape-bill-to-undergo-strict-vetting-process>.

⁶⁴ <https://www.pna.gov.ph/articles/1179761>.





“I will not be a party to a bill that is masquerading as a health regulation,”

stressed Senator Pia S. Cayetano as she manifested her opposition to the bicameral version of the Vape Bill that was adopted by the Senate. 28 January 2022. Photo courtesy of the official website of Sen. Cayetano.



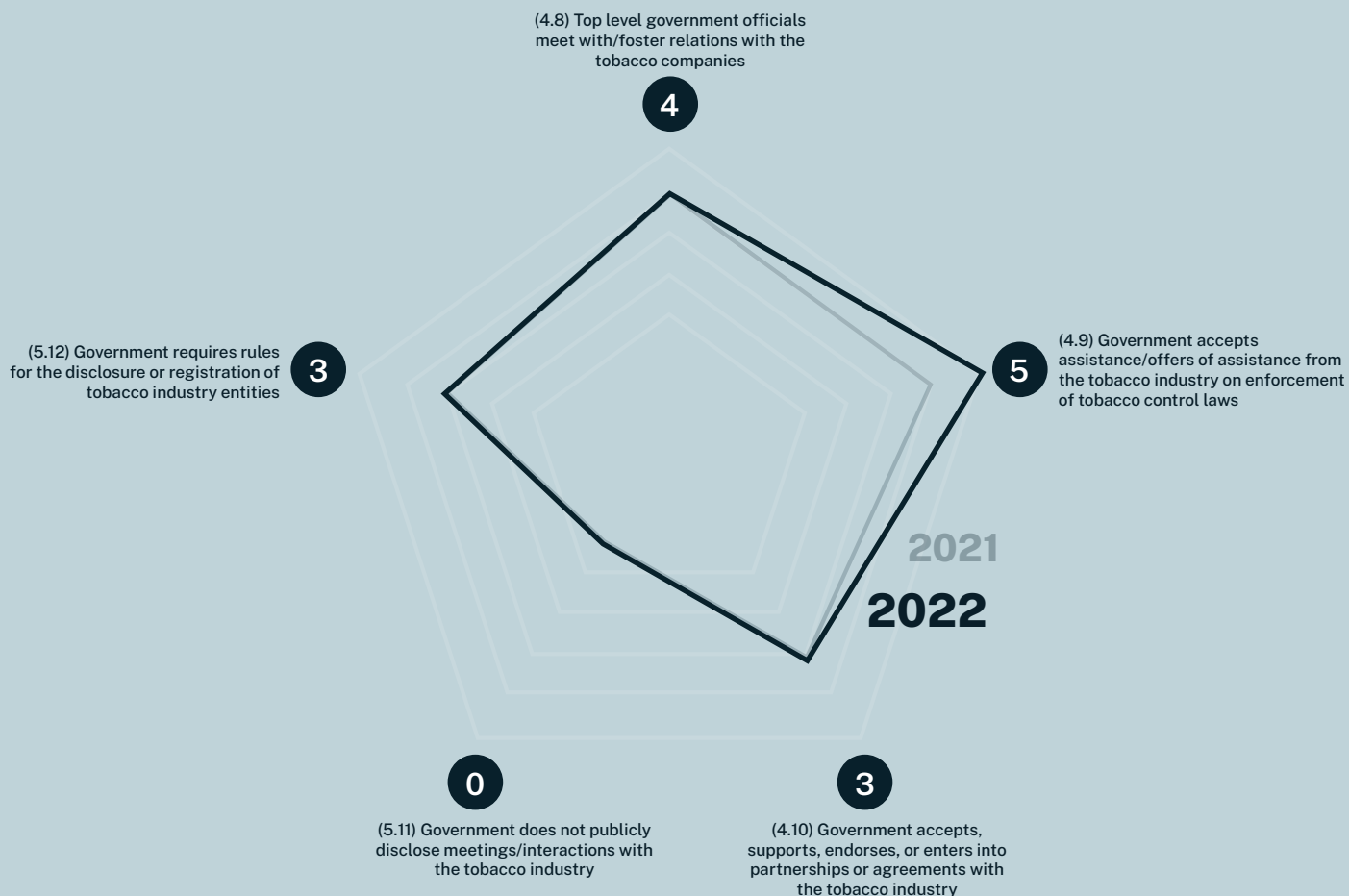


Figure 3. PH TII score per indicator in Forms of Unnecessary Interaction (4.8-4.10), and Transparency (5.11-5.12)

The higher the score and the farther out from center, the higher the level of interference
 Scores displayed above are out of 5 per indicator

4 Unnecessary Interaction

The tobacco industry lobbied for more reasonable regulations regarding HTPs during the US-ASEAN Business Council.

In May 2021, the US-ASEAN Business Council held a Virtual Philippines Business Mission. Among its objectives was to give their member companies an opportunity to discuss priority trade and investment policy issues with key Philippine government officials including leading members of the Duterte Cabinet and members of the bicameral Philippine legislature.⁶⁵

It was reported that PMFTC, being the Vice-Chairperson of the said business council, included an agenda item on “Asking for support to pass and implement a reasonable regulatory framework for HTPs”.

It must be noted that this business council had a history of lobbying for the inclusion of tobacco in the Trans-Pacific Partnership

(TPP) and other trade-related agreements.⁶⁶

The PNP continued its partnership with a tobacco industry foundation.

In the same month, the PNP continued its partnership with the JVOFI with the rebranding of their 2018 “I am Strong Oplan Bisita sa Eskwela (BES)” program as the “Virtual Bisita sa Eskwela (VIBES) program”. The program was formed to shape and influence the students to be “STRONG” (Smart, Talented, Responsible, Obedience, Nice and God-fearing) and generate active support and participation in the crime prevention efforts of the PNP.⁶⁷

Certain farmers’ groups affiliated with the tobacco industry lobbied for the government for representation in the WHO FCTC COP.

In the fourth quarter of 2021, alleged “farmers’ groups” in the

⁶⁵ <https://tobaccotactics.org/article/us-asean-business-council/>.

⁶⁶ Id.

⁶⁷ <https://journalnews.com.ph/pnp-launches-project-vibes/>

Philippines asked the government to give the agriculture sector an equal representation in the country's delegation to the WHO FCTC COP 9.⁶⁸

The Philippine Tobacco Growers Association (PTGA) and the Federation of Free Farmers (FFF) claimed they were left out in the previous COP meetings because of the DOH's alleged lobbying to exclude industry representatives and tobacco farmers. Both PTGA and the Federation of Free Farmers consistently opposed the proposals to increase the taxes on tobacco products in the past.⁶⁹

Additionally, it must be noted that the PTGA is considered a front group because of its close affiliation with the International Tobacco Growers Association which is known to be funded by tobacco manufacturers.⁷⁰

The British Chamber of Commerce released a statement addressed to the Department of Trade and Industry regarding smoking regulations.

In the same month, the British Chamber of Commerce in the

Philippines released a statement appealing to the Department of Trade and Industry (DTI) to follow the lead of the United Kingdom in adopting a "science-based approach" in dealing with the smoking problem.⁷¹

The British Chamber of Commerce, which is affiliated with the International Chamber of Commerce, is known to be a long-time ally of the tobacco industry. Its current Executive Director was a former corporate officer of PMFTC.⁷²

The Philippines earned three Dirty Ashtray Awards for their actions which indicate support for the tobacco industry.

In the November 2021 virtual COP of the WHO FCTC, the Philippine delegation headed by the Foreign Affairs Secretary encouraged the WHO to consider "evolving and use latest scientific information" to accelerate the reduction in the global smoking incidence.⁷³

The statement, together with actions that delayed the COP 9

68 <https://mb.com.ph/2021/10/17/farmers-appeal-for-representation-in-tobacco-control-confab-next-month/>.

69 Id.

70 https://www.tobaccofreekids.org/assets/global/pdfs/en/IW_interference_ITGA_fact_sheet.pdf.

71 <https://manilastandard.net/business/biz-plus/369340/british-chamber-asks-ph-to-adopt-a-science-based-approach-in-addressing-smoking.html>.

72 <https://www.philstar.com/business/2013/04/25/934515/pmftc-gets-new-president>.

73 <https://mb.com.ph/2021/11/09/ph-commits-to-science-in-solving-smoking-problem/>.

Agenda, earned the Philippines three (3) consecutive Dirty Ashtray Awards from the Framework Convention Alliance (FCA). The award is given by the FCA to parties/countries that are perceived to be supportive of the tobacco industry instead of public health.⁷⁴

The DOH immediately disassociated itself from the pro-tobacco industry statements made by the Philippine delegation during the COP and expressed their opposition. The DOH further maintained that “there is no good in tobacco” and that “giving misleading information that dilutes the risks of tobacco products and undue recognition to tobacco industries, including those of vapor products and heated tobacco products, is harmful.”⁷⁵

The Philippine Economic Zone Authority recognized and awarded a tobacco corporation.

In January 2022, JTI’s manufacturing arm, JTI Asia Manufacturing Corp (JTI-AMC), was conferred anew by the Philippine Economic Zone Authority (PEZA) the Outstanding Employer Award for 2020, the second consecutive year it has

been awarded.⁷⁶ PEZA also cited JTI-AMC for its Outstanding Community Project (CSR), the first time it has bestowed this award to JTI under the CSR category.⁷⁷

Government-industry interactions in the covered period were unnecessary.

There was no strict necessity for any of the foregoing interactions, partnerships, and even recognition between the tobacco industry and the government.

⁷⁴ <https://verafiles.org/articles/vera-files-fact-sheet-ph-govt-stance-tobacco-industry-novel>

⁷⁵ <https://seatca.org/philippines-doh-opposes-and-dissociates-from-statement-of-ph-delegation-in-fctc-cop9/>.

⁷⁶ <https://www.philstar.com/business/2022/01/02/2151280/jti-batangas-factory-bags-peza-award-outstanding-employer>.

⁷⁷ Id.

5 Transparency

The CSC did not receive any reports of tobacco industry interaction with the government as required in the JMC 2010-01 and other relevant rules and regulations.

Section 3.1 of the JMC 2010-01 requires transparency in all interactions with the tobacco industry. Annex A of the said circular provides that public officials and employees shall limit interactions with the tobacco industry to those strictly necessary for its regulation. To achieve the objective of transparency, the procedure includes documenting the meeting and distributing information as appropriate.⁷⁸

Section 5.2 of the same JMC requires government agencies to provide information about any interaction they had with the tobacco industry to the CSC. To ensure transparency and accountability, the government agency shall ensure that copies

of these documents will be accessible to the public.

The CSC has not received any reports or disclosures of any meetings or interactions between the tobacco industry and government as required in the JMC 2010-01. There has been anecdotal information from tobacco control advocates about tobacco industry meetings in different government agencies and news reports. CSR activities also show interactions of the tobacco industry with different government agencies. However, we do not have any publicly available reports that can confirm these meetings.

Government agencies have issued rules and regulations for the registration of tobacco industry entities and penalizing the failure to disclose financial interest in the tobacco industry.

There are rules for tobacco companies to register tobacco industry entities, such as the rules

⁷⁸ Annex A of JMC 2010-01.

promulgated by the BIR,⁷⁹ the National Tobacco Administration (NTA),⁸⁰ FDA,⁸¹ etc. All corporations registered with the Securities and Exchange Commission that are required to submit their General Information Sheet must also disclose their beneficial ownership information.⁸²

The Department of Education (DepEd) has also issued rules prohibiting and penalizing DepEd officials as well as public and private elementary and secondary schools for the failure to disclose any financial interest in the tobacco industry, engagement in any occupational activity within the tobacco industry, or any intention to engage in the same to past and current superiors.⁸³

The Department of Social Welfare and Development (DSWD) issued AO No. 11, series of 2019, which prohibits the DSWD and its personnel from soliciting or

accepting, directly or indirectly, any gift, gratuity, favor, loan, or anything of monetary value in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office, from any person or business related to the tobacco industry.⁸⁴

However, the current laws do not require the disclosure of lobbyists of tobacco industry entities. Except for specific industries, there is no prohibition on domestic corporations to give donations in aid of any political party or candidate or for purposes of partisan political activity.⁸⁵ Thus, individuals, including representatives of the tobacco industry, are allowed to contribute to political parties, candidates, or campaigns.

⁷⁹ BIR Revenue Regulation Nos. 3-2006, 17-2012, and 7-2021.

⁸⁰ Executive Order No. 245 and the Rules and Regulations Governing the Manufacture/Processing of Tobacco Products accessible at <https://www.nta.da.gov.ph/wp-content/uploads/2021/07/RULES-AND-REGULATION-GOVERNING-THE-MANUFACTURE.pdf>.

⁸¹ FDA Circular No.2021-016.

⁸² https://www.sec.gov.ph/wp-content/uploads/2021/09/2021FAQs_Beneficial-Ownership.pdf.

⁸³ DepEd Order No. 28, s. 2016. Accessible at https://www.deped.gov.ph/wp-content/uploads/2016/06/DO_s2016_048.pdf.

⁸⁴ Accessible at https://www.dswd.gov.ph/issuances/AOs/AO_2019-011.pdf.

⁸⁵ Section 35(i), RA No. 11232.

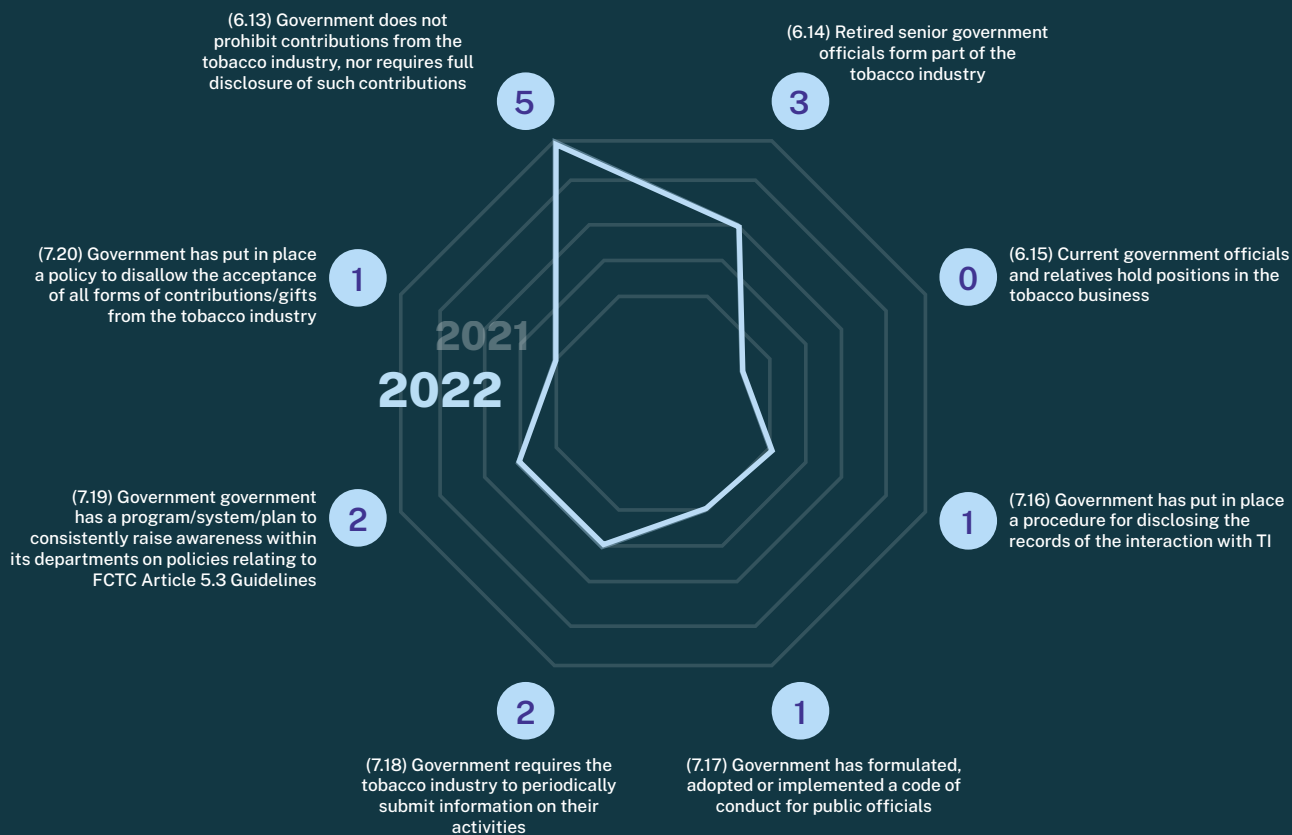


Figure 4. PH TII score per indicator in Conflict of Interest (6.13-6.15), and Preventive Measures (7.16-7.20)

The higher the score and the farther out from center, the higher the level of interference
 Scores displayed above are out of 5 per indicator

6 Conflict of Interest

The management of tobacco industry entities include former top government officials.

Article 5.3 of the WHO FCTC provides that in setting and implementing their public health policies with respect to tobacco control, parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.

When the vested interest of an individual or institution gives rise to doubts on whether their actions, judgment, and/or decision-making can be unbiased, a conflict of interest is present.⁸⁶

Former Solicitor General Estelito Mendoza is the counsel of Lucio Tan, the Chairman of PMFTC.⁸⁷

He is also a new director in the Philippine National Bank (PNB),⁸⁸ a former government-owned banking institution which became privatized in 2007, and is currently a corporation that forms part of the LTG.⁸⁹

The following retired government officials form part of the Board of Trustees of Tan Yan Kee Foundation Inc., the CSR arm of LTG: Former Chief Justice Artemio Panganiban, Former Prime Minister Cesar E.A. Virata, and Former Governor of Bangko Sentral ng Pilipinas Amando Tetangco.⁹⁰

Salvador Mison, the President of Fortune Tobacco Corporation, is a former Bureau of Customs Commissioner.⁹¹ LTG conducts its tobacco business through

⁸⁶ Reyes, JL. SEATCA Tobacco Industry Interference Index: Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control in Asian Countries, 2021. December 2021. Southeast Asia Tobacco Control Alliance (SEATCA). Bangkok, Thailand. Accessible at <https://seatca.org/dmdocuments/AsianTIIIndexReport2021.pdf>.
⁸⁷ <https://www.philstar.com/headlines/2007/02/03/383130/145gov146t-can146t-go-after-tan-firms146>.

⁸⁸ https://www.pnb.com.ph/wp-content/uploads/docs/Updates_in_the_2015_ACGR_of_PNB_November_22_2016_p81_itemiii.pdf.

⁸⁹ <https://www.pnb.com.ph/index.php/history>.

⁹⁰ <http://www.tanyankee.org/about-us.html>.


⁹¹ <https://www.philstar.com/business/2022/02/21/2162136/knight-kapitans-army-retires>.

40 Conflict of Interest

its 99.6% ownership in Fortune Tobacco Corporation, which in turn owns 49.6% of PMFTC.⁹²

Through these connections, these parties may exert influence over the formation of public health policies regarding tobacco control.

⁹² <https://business.inquirer.net/316425/pmftc-sets-merger-with-philip-morris-ph>.

A photograph showing a soldier in a green military uniform and helmet handing a tray of eggs to a civilian. The soldier is standing on the back of a military vehicle, and the civilian is reaching up to receive the tray. The background shows a building and some foliage.

Tobacco-funded relief. LTG, PMFTC, JVOF Inc. and other tobacco CSR organizations donated relief items through the Civil-Military Operations Regiment of the Philippine Army. 26 September 2022. Photo courtesy of Philippine Army Civil and Public Affairs Center Facebook page.

7 Preventive Measures

The DOH-CSC JMC 2010-01 regulates interactions of the tobacco industry with the government.

There are preventive measures in place to implement Article 5.3 of the FCTC. The DOH and the CSC issued JMC 2010-01 which applies to all officials and employees of the government.

JMC 2010-01 prohibits interaction with the tobacco industry unless strictly necessary. Article 3.1 and Annex A of the said circular provides that when there is a necessary interaction with the tobacco industry, transparency is required in all interactions through submission of reports or minutes of meetings that should be publicly accessible.

Article 3 of JMC 2010-01 prohibits the following:

1. Unnecessary interaction with the tobacco industry
2. Preferential treatment to the tobacco industry

3. Accepting gifts, donations, and sponsorship
4. Financial interest in the tobacco industry
5. Accepting other analogous favors
6. Conflict of interest with the tobacco industry

The JMC prohibits public officials and employees from soliciting, or accepting any gift, gratuity, favor, entertainment, loan, or anything of monetary value from the tobacco industry. Acceptance of policy drafts is also covered under the prohibition for unnecessary interaction with the tobacco industry, and the avoidance of the creation of real or perception of partnership with the tobacco industry.

In addition, its Article 5.2 requires agencies to give information on interactions with the tobacco industry, any preferential treatment given, any offer of donation to the public official or employee by the tobacco industry, and to make copies of

these documents accessible to the public. Further, its Article 6.1 requires agencies to include its compliance with JMC 2010-01 in its Annual Report.

JMC 2010-01 also requires heads of agencies to inform officials and employees of the policy against tobacco industry interference and to amend their respective Codes of Conduct by incorporating the rules provided in its Annex A.

To help enforce its provisions, JMC 2010-01 specifies that any violation of its provisions is grounds for administrative disciplinary action.

The DOH issued Administrative Order (AO) 2021-0022 or the Guidelines on the Facilitation and Management of Donations to the Health Sector During the COVID-19 Pandemic. AO 2021-0022 outlined the rules for the DOH, its officials, and its employees in their treatment of donations from the tobacco industry. In its Annex G, it reiterates that donations from the tobacco industry are not allowed as per JMC 2010-01.

The Implementing Rules and Regulations (IRR) of RA No. 9711 or the Food and Drug Law contains a provision that empowers the FDA to require information from

the tobacco industry. Section 5 of the IRR authorizes the Product Research and Standards Development Division to conduct post-market surveillance programs, fact-finding activities or gathering and monitoring information on tobacco product risks and actions. It is noted that there is no law that requires disclosure of marketing expenditures, and activities such as lobbying, philanthropy, political contributions.

Monitoring and countering tobacco industry interference is essential to effectively implement JMC 2010-01. This systematic action was shown in the past when the DOH and the CSC, with strong civil society support, held monthly meetings to identify violations of Article 5.3 of the WHO FCTC and discussed steps to address these violations, planned activities to disseminate information, held workshops, engaged and met with different government agencies, and even created a communication plan for Article 5.3 implementation.

However, the Article 5.3 Committee has not met regularly in the past few years. The Committee faces budget constraints, and thus affects the conduct of activities

related to Article 5.3 of the CSC. The dissemination of the policy is also then restricted. This reality is also mirrored in other government agencies.

Therefore, while there are policies in place, there seems to be no systematic program or plan to raise awareness about JMC 2010-01 or Article 5.3, and there remains no effective system to monitor and counteract tobacco industry interference.

Recommendations

The lapse of the vaping bills into the Vape Regulation Law marks a regrettable setback, unraveling the painstaking strides achieved in public health following the enactment of the recent Sin Tax Law. The tobacco industry remains opportunistic in leveraging the ongoing public health crisis, exploiting it for their CSR ventures and further meddling in tobacco control affairs. In response, the tobacco control advocacy must not only adapt but fortify its endeavors, empowering our nation to honor its pledge to the WHO FCTC, and to safeguard and protect the health of its people.

There is a need to protect the JMC 2010-01 and further strengthen its implementation.

The Philippines has been lauded by countries around the world as a trailblazer in the implementation of the Article 5.3 Guidelines of the WHO FCTC with the JMC 2010-01.

Unfortunately, based on the deliberations of the legislative regarding the passage of the Vape Regulation Law, there seems to be a concerted effort to reverse or weaken JMC 2010-01.

Tobacco control advocates should remain vigilant for any attack against the JMC. and to ensure that it is protected from tobacco industry interference.

There is a need to strengthen the implementation of transparency and accountability in the formulation of tobacco control policies.

There are already numerous laws, rules, and regulations in place requiring transparency and accountability in the formulation of tobacco control policies. Public disclosure of interactions between policymakers and the tobacco industry, including meetings, correspondence, and financial support are already required by existing legal systems.

Despite this, it is apparent that conflicts of interest in the tobacco industry continue to exist. Stronger

implementation of transparency and accountability mechanisms can help identify and prevent undue influence, fostering a more objective and evidence-based policy-making process.

There is a need to strengthen the regulation of tobacco industry activities.

The enactment and enforcement of more stringent regulations on tobacco industry activities to prevent interference is recommended. Through the numerous CSR initiatives conducted, tobacco companies may exert influence on certain policy decisions.

It is thus necessary to ban or strictly regulate CSR activities and sponsorship of public events by tobacco companies altogether. By limiting the industry's ability to exert influence through these channels, governments can safeguard the integrity of their tobacco control policies.

Though there may be existing laws, rules, and regulations on tobacco industry interference, the tobacco industry is viewed as a stakeholder

and is invited to attend legislative hearings and meetings of the government to provide inputs on proposed policies.

It is clear from Article 5.3 that the tobacco industry should be excluded from contributing to public health laws.

Further, there are no laws that prohibit campaign donations from the tobacco industry as recommended by the 5.3 Guidelines. There is also no law that requires crucial information from the industry, such as their expenditures on marketing, lobbying, and philanthropy.

There is a need to review communication strategies on raising awareness on tobacco industry interference.

Over the years, we have observed that the tobacco industry has identified certain partners in civil society, and government agencies and officials.

Tobacco control advocates have a role to engage with agencies, groups, or government officials which have been partnering with

tobacco companies in certain endeavors to brief or remind them about Article 5.3 and/or the JMC 2010-01.

It is important to raise awareness of the entities that are closely monitoring these collaborations, and to emphasize the potential damage to their reputation by associating with the tobacco industry.

This has proven to be effective, as government agencies and foundations that have received donations from the tobacco industry have subsequently rejected partnerships with tobacco companies after being engaged and informed.

Moreover, a more systematic approach to heightening awareness about tobacco industry interference is imperative. Regular reminders through media channels can cultivate public awareness.

Sharing compelling content on social media platforms serves as another viable strategy. In the current landscape, marked by competing health priorities and strong tobacco industry interference, it is crucial to keep

the public informed and to garner their support for tobacco control endeavors.

It is important to continuously monitor and evaluate the effectiveness of these recommendations. Tobacco control advocates must continuously adapt and refine their strategies to counter the ever-shifting tactics employed by the tobacco industry to influence policy-making processes.

