



May 29, 2022

UN Working Group on the issue of human rights and transnational corporations and other business enterprises

In the matter of: Consultation on “Corporate Influence in the Political and Regulatory Sphere”

Dear Working Group Members,

Patricia Lambert, Vice-President, International Legal Consortium and Juan Carballo, Legal Coordinator of Food and Nutrition Policy, present this submission on behalf of the Campaign for Tobacco-Free Kids and the Global Health Advocacy Incubator. The Campaign for Tobacco-Free Kids (CTFK) is a leading advocacy organization working to reduce tobacco use around the world. The Global Health Advocacy Incubator (GHAI), a program of the Campaign for Tobacco-Free Kids, is a global public health non-governmental organization that supports civil society organizations who advocate for public health policies that reduce disease and death.

The purpose of this brief is to present to the Working Group important highlights to be considered for the multi-stakeholder consultation on “Corporate Influence in the Political and Regulatory Sphere.” As this submission will demonstrate, corporate influence is a pressing and concerning issue in the field of non-communicable diseases, and this working group has enormous potential to contribute to it. Our responses will show how tobacco and ultra-processed food products industries engage in several activities and strategies to influence the policy-making space to favor their private interests to the detriment of people’s human rights. We want to highlight that we refrain from using the term “corporate political activity”, as it intrinsically provides political legitimacy to these corporations, including industry-driven multistakeholder initiatives that can provide businesses with a backdoor to undue influence over the State actors involved in these spaces.

Following, we want to provide some responses to the questions posed by the Working Group.

(1) What is your understanding of undue corporate influence in policy and regulatory matters? What challenges have you observed? Could you think of any concrete examples in activities or operations of your organization?

In the field of non-communicable diseases (NCDs), corporate influence in policy development and implementation has been the main obstacle for passing and implementing public health regulations that promotes healthy nutrition and sustainable food systems. There are multiple unhealthy commodity industries, such as alcohol, breastmilk substitute, fossil fuel, tobacco, and the ultra-processed (UPP) food & beverage product industries, that delay, weaken, or impede these policies. In the regulatory area, the main answer to this question could be another query: Is there a “due” corporate influence in policy and regulatory matters or at the end of the day all corporate influence is to some extent undue?



There is mounting evidence about how these business sectors have influenced legal and political environments to delay, weaken or impede evidence-based regulations while threatening fundamental human rights.^{1,2,3,4,5,6,7,8,9,10,11} They deploy multiple strategies to interfere in policy making, many times through hidden efforts. These strategies are categorized differently by different authors, but they could be summarized in the following:

- (i) direct influence in policy-making scenarios through lobby, revolving doors, funding decision-makers' political campaigns, producing industry-funded research to advance weaker regulations, push legal threats or actions, positioning alternative and ineffective corporate solutions such as self-regulation schemes or corporate agreements, etc.^{12,13};
- (ii) indirect influence over regulatory landscapes that include: a. positioning and managing narratives related to economic panic to chill regulatory efforts (job losses, trade and investment threats, economic crisis etc.) through the media, front-groups, spokespersons or other industry allies; portraying themselves as an indispensable actor to solve social, economic, environmental and even health problems through corporate social responsibility actions that allow them to perform corporate washing practicesⁱ and legitimate themselves and their products before the general population.^{14,15}

Corporate influence does not only occur in policy-making but it is part of a broader issue of corporate capture occurring at every level of government activity. **Corporate capture** occurs when corporations or their allies exert significant influence over public institutions, decision-making processes and policy outcomes, manipulating regulatory agencies, law enforcement entities, legislatures or other spaces relevant for policy-making. This corporate capture is characterized by businesses and industry groups having *privileged access* to policy-making processes, communications and decision-making not happening in a transparent or public way, revolving doors and conflicts of interest, and regulated industries able to control decisions made by their regulators. The outcome of corporate capture is that policies and regulations are in industry's interests and often not in the public interest. While these practices are generally not illegal, they are illegitimate and undermine the integrity of public institutions and public trust in democratic decision-making processes.¹⁶ **Corporate autonomy** is a direct outcome of corporate capture and can be defined "as the ability of a corporation to "establish its internal and external decision rules, its freedom to act according to its own rules, and its power to sanction non-conformist behavior in its sphere of influence."^{17,18}

ⁱ **Corporate washing** is an umbrella term used to describe the set of brand-washing activities performed by the private sector, including the unhealthy commodity industries. These washing tactics occur when a company or organization spends more resources in publicizing its efforts toward a particular cause than minimizing its negative impact on society, the environment, and human health. These actions serve to polish industry image, distract the public, and generate a shield against criticism. Most frequent examples include green-washing (environmental pledges without real change), social-washing (promises around protecting labor rights, human rights, youth, small businesses, etc.), pink-washing (support of the LGBTQ+ community), nutri/health washing (generating a halo around their products and brands, and representing a legitimate voice on public health issues, etc.), and blue washing (companies leveraging their association with the United Nations "to enhance their image and shift attention from their controversial business practices"). Source: <https://uppindustrywatch.net/>



Concrete examples of challenges originated in “*undue*” corporate influence in the food and nutrition space and in the tobacco control space:

Healthy food and nutrition policy-making: impact of ultra-processed food and beverage product industry

1. Last year, the United Nations Food Systems Summit (UNFSS) was expected to become a historical milestone for the present and future of sustainable and healthy food systems for all and healthy food policy development. The UN called for “urgent action to feed the world’s growing population healthily, equitably, sustainably,”¹⁹ and convened the UNFSS under the scope of a partnership with the World Economic Forum. However, the event was entirely captured by private interests: the Summit was organized without considering other ongoing mechanisms working within the UN for improved food systems. Civil society organizations around the world denounced the agenda being decided behind closed doors, without genuine participation of rural and civil society groups, and favoring agrobusinesses-led solutions.^{20,21,22,23,24,25,26,27} The UNFSS suffered from 4 different types of corporate capture: (1) capture of governance of the food and nutrition security agenda; (2) capture of science, what involves an intense process of generating evidence contaminated by conflicts of interest to confirm their arguments and narratives to provide false solutions to the food systems problems; (3) capture of public policies attached to the capture of science that will support decisions; and lastly, (4) the capture of narratives: documents being circulated across the summit’s committees are mentioning terms, such as human rights, adequate food, food and nutritional security, among others.²⁸
2. In the last decade, many countries around the world have implemented (or attempted to implement) front-of-package warning labelling policies to inform people about ultra-processed products that contain an excess of nutrients of concern such as sodium, sugar, or fats.²⁹ This public health intervention has proven to be effective in changing consumers’ purchasing decisions towards healthier choices. However, this measure along with other healthy food policies have been explicitly considered a threat to the commercial and financial interests of UPP industry, as highlighted in companies’ reports.^{30,31,32,33,34} Consequently, corporations and related allies, front-groups and trade associations have deployed multiple strategies to block and undermine the development and implementation of these policies, as highlighted in this [regional case study focused in the experience from Chile, Peru, Mexico and Uruguay](#), and this [global case study that uncovered five of the main industry strategies to hamper front-of-package labeling regulations](#).³⁵
3. Moreover, as taxation on sweetened drinks represents one of the best buys from the World Health Organization to address diet-related NCDs³⁶, governments around the world also adopted taxes on sugary drinks with enormous opposition from the UPP industry. In South Africa, industry used multiple strategies to influence the parliamentary process around the tax, including positioning alternative solutions as an effective substitution to the policy, generating confusion around the evidence supporting the tax, and employing economic arguments to discourage the measure.³⁷ Similarly, Mexico faced strong corporate influence against the sugary drinks tax. Companies openly argued against the tax³⁸ while also funding scientists to generate research to prove the failure of the tax “to achieve health benefits while also harming the economy”.³⁹ A recent study also highlighted the strong ties of



Mexican policy-makers with Coca-Cola, representing individuals with conflicts of interest that while in power advocated for the company's interest against public health.⁴⁰ In this same line of action, as UK passed a comprehensive junk food advertising regulation to protect children, Kelloggs has recently legally challenged the measure.⁴¹

Tobacco control policy-making: impact of the tobacco industry

Major tobacco companies have embarked on campaigns^{42,43} to promote emerging tobacco and nicotine products, including heated tobacco products (HTPs). As part of these campaigns, the tobacco industry has provided misleading information to the public and to governments that HTPs, as smokeless tobacco products, are less harmful than traditional tobacco products, such as cigarettes. The World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC) Conference of Parties (COP) has determined that HTPs are tobacco products and should be regulated as such.⁴⁴ In July 2020, the United States Food and Drug Administration (FDA) issued a Modified Risk Tobacco Product order (MRTP) which authorized Philip Morris Products S.A. (Philip Morris) to use specific “reduced exposure” claims due to evidence that demonstrated a substantial reduction in harmful chemicals in the aerosol produced by IQOS [Philip Morris brand HTP] compared to traditional cigarette smoke.⁴⁵ Notably, the FDA denied Philip Morris’ application to use “reduce harm” marketing claims because Philip Morris “has not demonstrated that [IQOS] will significantly reduce harm and the risk of tobacco-related disease.”⁴⁶ However, Philip Morris International (PMI) has continuously misrepresented the FDA’s authorization regarding the IQOS product and has repeatedly referenced the authorization to encourage other governments to relax regulations surrounding HTPs and welcome the products to their markets.^{47,48,49} Evidence of PMI’s influence can be seen through Uruguay lifting its ban on HTPs, while citing less exposure to toxic chemicals for users,^{50,51} and several countries drafting laws to regulate HTPs and referring to them as harm reduction products.^{52,53,54}

As a means of reducing the supply side of tobacco, the WHO FCTC and the FCTC Protocol to Eliminate Illicit Trade in Tobacco Products (Illicit Trade Protocol) requires parties to develop and implement measures to eliminate all forms of illicit trade in tobacco products.⁵⁵ The tobacco industry has entered agreements with governments to become a partner in tackling illicit trade and these agreements have included information sharing and training.^{56,57} An extensive investigation has demonstrated that British American Tobacco (BAT) Africa operations engaged in tactics intended to disrupt its competitors under the guise of countering smuggling and counterfeit products and did little to combat actual illicit trade.^{58,59} As will be discussed in more detail below, Article 5.3 of the FCTC and the Guidelines for the Implementation of Article 5.3 (Article 5.3 Guidelines)⁶⁰ prohibit partnerships and entering agreements with the tobacco industry.⁶¹ It was Article 5.3 which contributed to the Australian Competition & Consumer Commission (ACCC) denial of British American Tobacco Australia Limited, Imperial Tobacco Australia Limited and Philip Morris Limited’s request for approval of an arrangement between them to combat illicit trade.⁶² The ACCC found that such an arrangement could create the perception of a partnership with the government.⁶³ Instead States Parties should follow the measures set forth in the Illicit Trade Protocol to combat illicit trade.



Research suggests that “smoking is associated with increased severity of disease and death in hospitalized COVID-19 patients.”⁶⁴ Yet, the tobacco industry utilized the COVID-19 pandemic to further advance their own interests and continue to misinform the public. This includes acts of corporate social responsibility (for example, donating ventilators), lobbying against regulation (for example, taking action to have tobacco declared as an essential good in Bangladesh), and legally challenging South Africa’s ban on tobacco sales during the early days of the pandemic.^{65,66} Also, the industry has sought a role in vaccine development. Canada invested millions of dollars in a plant-based vaccine developed by a company in which PMI had an ownership interest.⁶⁷ However, the WHO placed the vaccine’s authorization on hold given the UN and WHO’s stance against engaging with the tobacco industry.⁶⁸

(2) Do you think there is a kind of political engagement by businesses that could be defined as appropriate or necessary? Could you please share concrete examples?

From the experience and knowledge of our organizations accompanying civil society organizations in advocacy processes for the implementation of public policies that address the modifiable risk factors of NCDs, we believe that there is **no way of political engagement that is appropriate or necessary, and above all, that is safe enough to ensure that the public interest, the common good, and human rights are protected all times.**

The interests of the private sector - coming either from the tobacco, the UPP industry or any other unhealthy commodity industry- will always be oriented to protect and maximize their profits and their economic assets at any cost, including protecting their products and activities from public health regulations aimed at protecting essential human rights. For this reason, we firmly believe that the industry **should not be part of the policy-making table when deciding matters of human rights and public health.** Governments must ensure that there is no privileged access to regulatory matters, not only through formal scenarios of decision-making but also through the known and currently popular public-private partnerships (PPP) and/or multi-stakeholder initiatives (MSI). **PPP** are problematic because they legitimize private actors as indispensable to solve problems that usually are under the regulatory scopes of States. **MSI** are mechanisms characterized by power imbalances among the different stakeholders, allowing private actors to exert and perpetuate unequal power relationships against communities, civil society organizations and other groups; moreover, they are designed without independent human rights assessments or precaution on real or perceived conflicts of interest. Both structures, sometimes overlapping with each other, allow the institutionalization of industry participation without addressing structural and systemic problems, and always push for industry-oriented solutions.

Along with the duties to respect and fulfil, States have an obligation to “safeguard persons within their jurisdiction from infringements of the right to health by third parties”, what includes being responsible for the failure to regulate the activities of corporations and other groups.⁶⁹ However, it’s important to mention that “although international human rights instruments refer to States as primary duty-bearers, non-State actors are also charged with the responsibility to respect the right to health”⁷⁰; therefore, political engagement from businesses weakening public health standard through different tactics represent a violation of the right to health.



In this sense, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health expressed in 2014:

*“Studies have shown that the food industry uses various strategies to undermine public health nutrition efforts. For example, the food industry hires prominent academics for their advisory boards, which may result in findings being more favourable towards the food industry, with the danger that the food industry may use such biased findings to support its claims on nutrition. Other tactics include the funding of front groups (that appear independent, yet are controlled by other organizations), lobbying and instituting lawsuits and threats thereof. It has also been shown that, under the guise of corporate social responsibility to meet their ethical obligations towards society at large, big soft drink companies have attempted to shift the burden of the responsibility to make healthier choices onto consumers instead of addressing their role in creating an unhealthy food environment. Furthermore, corporate social responsibility has also been used by the big soft drink industry as a means to thwart attempts at government regulation and increase sales of their products, particularly to children. **Such acts result in a negation of the right to health.**”⁷¹*

UPP industries may have a role in some consultation processes for policy development, in equality with other groups. For example, they can engage in regulatory processes through public, open and transparent **consultation processes**.

Regarding tobacco control, Article 5.3 of the WHO FCTC provides:

*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.*⁷²

The Article 5.3 Guidelines further detail what is expected of Parties in fulfilling their obligations under Article 5.3. It is important to note that the first Guiding Principle states “[t]here is a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policy interests.”⁷³ Yet, interactions with the tobacco industry may occur in extremely limited circumstances. The Article 5.3 Guidelines provide that “[p]arties should interact with the tobacco industry only when and to the extent strictly necessary to enable them to *effectively regulate the tobacco industry and tobacco products* [emphasis added].”⁷⁴ Furthermore, when such necessary interactions occur, “[p]arties should ensure that such interactions are conducted transparently.”⁷⁵

As the tobacco industry has exhibited relentless tactics to undermine and subvert tobacco control measures and pursues interactions with governments to further their agendas, governments should “elaborate criteria and establish safeguards for making proper determinations about whether a given interaction, including communication, is necessary, and if so, how transparency in the interaction is to be assured.”⁷⁶ Transparency may take place in the form of conducting interactions through public hearings and disclosing records of interaction to the public.⁷⁷ Parties may follow the Model Process Guidelines for Interaction with the Tobacco Industry⁷⁸ to ensure that their interactions with the tobacco industry take place only when strictly necessary and that interactions are transparent. Australia is a good example of a country that has issued “Guidelines for Public Officials on Interacting with the Tobacco Industry,”⁷⁹ and issues a “Report on significant



interactions between Health and the Tobacco Industry,”⁸⁰ which outlines the date of the meeting, the parties involved, and the reason for the meeting.

(3) What measures could States take to prevent and address corporate political activities that may undermine the State’s ability to protect human rights and businesses’ responsibility to respect human rights?

States should implement mandatory conflict of interest (COI) regulations, applicable on all individuals and organizations that are part of the policy-making processes or engage with public entities. However, it’s worth mentioning that these types of initiatives, as they are today, may not be efficient to address industry accountability of influencing policy making. COI is one of the consequences of corporate capture, but it usually spotlights the responsibility on one part (policymakers, researchers, etc.) and not the other (industry). There are not effective mechanisms of accountability for industry actors, as most of the sanctions are imposed to public officials. Even when public officials are sanctioned, and in many cases, removed from their positions and replaced by a new person, the problem is not solved. Industry can just start again to exert its influence in the new official and, as this often happens behind the scenes, the public will not know until it is very late.

COI regulations should apply to all types of ties of companies or their allies to any sector or the State,⁸¹ including – but not limited to- the following measures⁸²:

- Adopt comprehensive legal frameworks to mitigate the influence of secondary interests motivated by conflicts of interest, especially when they may negatively affect, directly or indirectly, public health policies. The comprehensive frameworks should be established under the following general principles:
 - The protection of human rights and public interests must be priority issues.
 - The integrity, independence and reputation of the State must not be put at risk at any time.
 - All actions must be in line with internationally recognized human rights standards and guaranteeing the participation of CSO in all discussions.
 - All measures must be developed based on the best available scientific evidence, under independent monitoring, accountability regimes, and risk assessment of actors with potential conflicts of interest with the matter under discussion.
- According to the WHO, it is essential to consider the following minimum principles of reference:
 - Principles to prevent COI
 - Promote government leadership in all phases of formulation, implementation, and monitoring of public policies.
 - Require the disclosure of actual or apparent conflicts of interest, financial, personal, institutional, or of any kind, that may affect the ability of public officials to perform their functions independently, and where appropriate, take measures to avoid and deal with them.
 - Promote public officials and staff on issues of transparency, anti-corruption and prevention and management of conflicts of interest.



- Provide a clear framework on hiring spouses, relatives, acquaintances and acceptance of gifts, decorations and honors. Also include pre- and post-employment obligations, including knowing the previous occupations of staff members, and requiring a "reflection period" for those leaving the public sector.
- Ensure mechanisms to denounce identified COI on reasonable grounds and quick mechanisms to act, investigate and address the situation.
- Provide a protective framework for those who report irregularities regarding conflicts of interest against possible reprisals.
- Interact with the unhealthy commodity industries transparently, keeping records only when strictly necessary. This means rejecting partnerships in areas such as health, nutrition, education, youth, environment, and others that could legitimize the industry to position itself as a legitimate actor or as a solution through corporate social responsibility or similar initiatives.
- Principles to manage COI
 - Exclude public officials in those functions where there are conflicts of interest between their primary interests as representatives and a secondary interest.
 - Establish compliance and enforcement mechanisms for COI policies such as fines, delays in promotion or dismissal. Likewise, non-punitive systems such as counseling can be established.
 - Incorporate the human rights approach in the formulation of policies to address conflicts of interest, including the protection of democratic values, the principles of transparency, integrity and independence of public servants, and the public good.

In the tobacco control field, the WHO FCTC provides an essential orientation to protect public policies from vested interests in its article 5.3. Nevertheless, there is not a framework convention or international treaty on food policy that mandates this in such a direct manner. However, from a straightforward interpretation of the Convention on the Rights of the Child, the Convention of Economic, Social and Cultural Rights, the United Nations Convention against Corruption, and other international and regional hard and soft law instruments, protection of public policies from COI is an essential mandate to States. The Special Rapporteur on the right to food has claimed in different opportunities that:

- *“States cannot place civil society on the same footing as State and market actors or ignore the concentrated power and conflicts of interest embedded in the private sector. Promoting a more balanced, inclusive and participatory governance space must start with **States asserting greater regulatory authority over industry to ensure that human rights, environmental protections and labour standards are respected and protected according to the United Nations Guiding Principles on Business and Human Rights. It also requires guaranteeing access to justice, especially for those who are often left behind.** (2019)⁸³*
- *With a view to respecting, protecting and fulfilling the right to adequate food and nutrition, the Special Rapporteur recommends that:*



(c) International regulations be implemented to curb the unchecked actions of powerful economic actors that have lately been flooding global markets with junk food. (...)

(d) The Guiding Principles on Business and Human Rights be implemented to ensure corporate responsibility of the food and nutrition industry and enforce the rights of victims to redress human rights violations, including cross-border cases;

(e) Internationally agreed guidelines on how to manage public-private partnership and monitor accountability be established, based on independent assessments of the impact of commercial sector engagement in nutrition;

(f) International trade and investment agreements be re-evaluated to ensure that they do not undermine health and nutrition policies. For example, food taxes, tariffs and other market restrictions or incentives that justifiably form part of national nutrition policies should be exempt from World Trade Organization rules and should not lead to penalties for violating trade agreements;

(g) States be encouraged to use existing tools established by the United Nations, as well as by non-governmental organizations and academic networks, to create a “national master plan for nutrition” with a time frame and budgetary targets specifically tailored to meet domestic needs; (...)

(i) States adopt an initiative similar to the WHO Framework Convention on Tobacco Control to regulate the food and beverage industry and protect individuals from the negative health and nutrition effects of highly processed foods;

(j) Recognizing the particular vulnerability of women to malnutrition, the international human rights framework protect women’s right to adequate food and nutrition, beyond pregnancy and breastfeeding; (...)

(l) All States incorporate the International Code of Marketing of Breast-milk Substitutes in its entirety into their legal systems and ensure adequate monitoring to ensure implementation; (...). (2016)⁸⁴

As stated above, Article 5.3 of the WHO FCTC requires Parties to protect tobacco control policies from commercial and other vested interests of the tobacco industry. Article 5.3 applies to all officials, representatives, employees and persons working on their behalf, of any government or quasi-government body, at any level of government. The Article 5.3 Guidelines assist Parties with meeting their obligations under Article 5.3 and urges the application of not only the recommendations contained in the Guidelines but also measures that go beyond the recommendations, when applicable. The eight (8) recommendations made in Article 5.3 Guidelines are:

1. Raise awareness about the addictive and harmful nature of tobacco products and about tobacco industry interference with Parties’ tobacco control policies.
2. Establish measures to limit interactions with the tobacco industry and ensure transparency of those interactions that occur.



3. Reject partnerships and non-binding or non-enforceable agreements with the tobacco industry.
4. Avoid conflicts of interest for government officials and employees.
5. Require that information provided by the tobacco industry be transparent and accurate.
6. Denormalize and, to the extent possible, regulate activities described as “socially responsible” by the tobacco industry, including but not limited to activities described as “corporate social responsibility”.
7. Do not give preferential treatment to the tobacco industry.
8. Treat State-owned tobacco industry in the same way as any other tobacco industry.

Some Parties have taken steps to implement Article 5.3 into their tobacco control laws. For instance, Part VIII of Uganda’s Tobacco Control Act, 2015 is titled “Protection of Tobacco Control Policies from Commercial and Other Vested Interests of the Tobacco Industry.”⁸⁵ The law includes sections that govern government interaction with the tobacco industry, prohibition on partnerships and contributions from the tobacco industry, and prevention and management of conflict of interests. Breaches of certain sections of Part VIII of the law are a criminal offense. Furthermore, the law established a Tobacco Control Committee which was responsible for monitoring interference and insulting tobacco control policies from the tobacco industry. Any person affiliated with the tobacco industry may not be part of the Tobacco Control Committee. Portions of the Article 5.3 provisions of the law were unsuccessfully challenged by British American Tobacco Uganda.⁸⁶ Other Parties that have laws, policies or other measures to address tobacco industry interference include the Philippines,⁸⁷ Kenya,^{88,89} and Senegal.^{90,91} A summary of good country practices on Article 5.3 implementation has been issued by the WHO.⁹²

Still, there are challenges in implementing Article 5.3. These include 1) lack of coordination between government agencies and limited knowledge of the requirements of Article 5.3 beyond the health ministries;^{93,94} 2) competing ideas within wider government agencies about COI and misunderstandings about the tobacco industry’s role as a stakeholder (i.e., customs officials often think it is beneficial to partner with the tobacco industry to combat illicit trade);^{95,96,97} 4) lack of resources and lack of capacity of the oversight mechanism;⁹⁸ and 5) challenges in coordination among all levels of government (national, state, and local).⁹⁹

To effectively implement Article 5.3, Parties should create a cross-government committee or agency which: 1) assists with government-wide departmental and agency implementation; 2) disseminates information about the harms of tobacco and industry interference; 3) monitors implementation process (with mandatory reporting); 4) acts as reporting agency for complaints or breaches of codes of conduct related to Article 5.3; and 5) acts as a reporting agency for mandatory industry reporting on tobacco production, market share, marketing expenditures, revenues, lobbying, etc.



(4) What are good practices that business could implement to avoid undue political influence or engaging in political activities that negatively impact human rights?

The primary duty to prevent undue political influence is on the side of States and, as pointed out in the answer to question number 2, there is no way of political engagement that is appropriate or necessary. Thus, this answer is not fully developed but we simply suggest good practices that would allow to prevent and identify undue political influence.

- Full transparency and disclosure of their corporate political activity at international, national and subnational levels, including funding, donations or any type of support provided to political parties, individual policymakers, media or researchers generating evidence, front-groups, spokespeople, lobbyists, multilateral bodies, etc.
- Mandatory implementation of the UN Guiding Principles of Human Rights: “the Corporate Responsibility to Respect”, considering that the *due diligence* standard may not be enough and that a *duty of care* standards should be positioned for unhealthy commodities industries that are exploiting natural resources and targeting their products to children, leading food systems to collapse.
- Comply with implemented public health regulations to avoid violating human rights.
- Refrain from:
 - Pushing for self-regulatory initiatives or voluntary agreements as alternatives to public health policies such as marketing restrictions on unhealthy products.
 - Partnering with governments or claiming “stakeholder” status in public health policy-making processes.
 - Promoting *corporate social responsibility* initiatives as marketing strategies and to solve the problems they are creating (E.g. Big Soda partnering with public institutions to address plastic pollution).
 - Hiding behind industry allies.

(5) What are the specific human rights risks posed by corporate influence in the political and regulatory sphere to groups in most vulnerable situations such as women and girls, indigenous communities, human rights defenders, persons with disabilities, persons with different sexual orientation or gender identity or migrant workers?

An entire catalog of rights is affected by corporate influence in political and regulatory spheres by the tobacco industry, the ultra-processed product industry, and other unhealthy commodity industries. Given that these corporations affect regulatory processes aimed at issuing public policies that will benefit the population as a whole, the right to the highest attainable level of health, the right to life, the right to information, the right to adequate food and nutrition, the overarching best-interest of the child principle are just some of the affected areas of people’s lives. However,



it is worth mentioning that these corporations perform some practices that specifically affect vulnerable groups.

Ultra-processed food & beverage product industry

The UPP industry affects a myriad of human rights through the process of producing and distributing its unhealthy products, influencing policies that intend to protect groups that are in vulnerable situation and overall turning healthier choices more difficult and less accessible. As highlighted in the response to question No. 1, the industry performs *corporate washing* practices targeting their marketing strategies (including corporate social responsibility) to specific groups, exploiting specific conditions that make them vulnerable. For instance, they spend billions of dollars a year targeting their unhealthy products to children and adolescents, exploiting them commercially, while also avoiding and hampering regulations and choosing ineffective corporate solutions such as self-regulation schemes.

Moreover, the way in which food is produced, transformed, manufactured, and distributed has an enormous impact on people's lives, and this industry has ensured an advantageous legal landscape to maximize profits across the food supply chain. The UPP industry is very aligned with the agro-industrial business that encourages and facilitates hegemonic corporate diets, and this is one of the reasons why the entire food systems' approach and narrative have been pushed by the industry leaving the human right to adequate food and nutrition behind. The food system's approach can be problematic because of the following reasons, perfectly summarized in the article on "[The Emergence of the 'Food Systems' discourse and Corporate Solutions to Hunger and Malnutrition](#)"¹⁰⁰:

1. *"Human rights are used only marginally or superficially", ignoring states' obligations around them. "People are seen as consumers and not as rights holders", focusing on market-based approaches as solutions.*
2. *Food is considered a commodity, so food systems do not represent a matter of public interest and policy convergence.*
3. *"It does a partial analysis of the unsustainability of the current agro-industrial model", perpetuating the exclusion of indigenous peoples, peasants' communities, and marginalized groups.*
4. *"It does not recognize power relations and the structural determinants of food injustice such as trade and investment and ignores the power of ensuring democratic accountability and safeguarding policy-making from conflicts of interest.*
5. *"It uses an individualistic and fragmented approach. Because people are considered consumers first and foremost, they are perceived as 'windows for business opportunities' and not as part of society and nature".*
6. *"It adopts a narrow view of 'nutritious' diets, instead of healthy and sustainable diets. (...) This means that diets are conditioned by power relations, gender balance and equity, culture, spiritual values, planetary health, working conditions, and migration, among other issues."*



7. “It pretends to be the result of scientific neutrality.”¹⁰¹

Tobacco industry

The tobacco industry’s actions negatively impact a myriad of human rights, in particular the right to the highest attainable standard of health. It is undisputed that smoking causes disease, and that tobacco use is the leading cause of preventable death.¹⁰² By continuing to target new users and to promote and misrepresent emerging tobacco and nicotine products, such as HTPs, e-cigarettes or oral nicotine pouches as less harmful than traditional cigarettes, or as cessation methods, the industry has continued to display its blatant disregard for the right to health and life.

Furthermore, children’s rights are affected in a variety of ways by the tobacco industry. Children are exploited and exposed to hazardous conditions while working in tobacco fields. Child labor is prevalent in certain countries, including Indonesia and Malawi, which have a large population working in tobacco estates. This violates international labor and human rights law, including the International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour^{ci} and the United Nations Convention on the Rights of the Child.^{cii} The tobacco industry has perpetuated the issue by refusing to provide fair prices for crops or fair wages to those working in the industry, which has forced families to require children to work to complete harvests.^{103,104,105} This has a significant impact on children’s rights to an adequate standard of living, health, life, survival and development, education, and rest, leisure, and play. Children suffer from acute nicotine poisoning (also known as green tobacco sickness) and miss school due to working in the tobacco fields.¹⁰⁶ Through the formation of the Eliminating Child Labour in Tobacco-Growing (ECLT) Foundation (an organization funded and governed by the tobacco industry), the tobacco industry has again engaged in CSR and presented itself as a solution to the problem of child labor.¹⁰⁷ The ECLT once partnered with the ILO and continues to be a part of the UN Global Compact.¹⁰⁸

Historically, the tobacco industry has used predatory marketing to target vulnerable communities¹⁰⁹ and that practice persists today. At the point of sale, tobacco products have been placed at eye level with candies to attract youth, and tobacco products are aggressively marketed near schools.¹¹⁰ The tobacco industry has also taken advantage of the lack of regulations in the digital world and uses social media to prey on youth and target young people with advertising.^{111,112} Such practices show that despite their claims of not targeting children and youth, the tobacco industry is actively trying to addict a new generation of tobacco and nicotine users. The tobacco industry’s tactics are contrary to international human rights law and the children’s right to information contained in the Convention on the Rights of the Child.¹¹³

The tobacco industry has also vehemently opposed efforts to ban menthol in tobacco products in the US. The evidence shows that Black Americans are the largest consumer of menthol-flavored tobacco in the US and that consumption has had a disparate impact on this group’s health.¹¹⁴ The tobacco industry has seized upon past incidents of racial injustice in the country and used it to stoke fear in the Black community about the impact of the menthol ban and social justice.¹¹⁵ In reality, the industry has targeted this group for decades and has shown little regard for their right to health.¹¹⁶



The tobacco industry's actions also have an immense negative impact on the environment. Cigarette butts containing plastic take decades to degrade, from electronic nicotine and tobacco products are not being disposed of properly, and the growth of tobacco leads to deforestation and desertification.^{117,118} Meanwhile, while failing to address the environmental harms caused by its products, the tobacco industry has engaged in greenwashingⁱⁱ and CSR by conducting clean-ups and engaging in anti-litter and forest preservation campaigns.^{119,120} The WHO and Stopping Tobacco Organizations and Products (STOP) have reminded governments that tobacco remains a leading cause of premature death and issued a call to action for governments to ban greenwashing activities.¹²¹

(6) How does corporate influence in the political and regulatory sphere impact the ability of victims of business-related human rights abuses to seek access to effective remedies? What specific challenges do rightsholders face in accessing effective remedy?

This is an area where the experience of our organizations is less developed. Nevertheless, we offer a recommendation related to access to justice. In the matters related to UPP and tobacco industries, a great deal of the human rights impact is done at a population level. Individual victims suffering harm from the actions of the industry very rarely have the resources to challenge them in courts. Also, because many of these impacts are connected to individual choices, industries tend to argue that this is beyond their responsibility.

Taking into account these difficulties to access to justice, health-care cost recovery claims are a form of civil litigation brought by either public or private health-care providers or funders in order to recover the health-care costs of harms that can be connected to the actions of these industries. Such litigation may require enabling legislation to ensure a cause of action. Health-care cost recovery claims can counter many of the obstacles common to litigation against these industries, by addressing the power and resource imbalance usually inherent in individual claims by giving standing to large bodies such as governments and private health insurers. In addition, claims brought by governments and health insurers remove the industry's ability to argue that the victim voluntarily consented to the risk or is partially responsible for the injuries he or she suffered as they were the one making these choices. Enabling legislation for health-care cost recovery claims can also be used to address procedural and evidentiary challenges in the pursuit of liability claims.

(7) What recommendations on this topic would you like the Working Group to include in its report?

We respectfully request the Working Group to consider the following recommendations to include in the report:

ⁱⁱ Oxford Dictionary defines greenwashing as “the creation or propagation of an unfounded or misleading environmentalist image.”

<https://www.oed.com/viewdictionaryentry/Entry/249122#:~:text=The%20creation%20or%20propagation%20of%20an%20unfounded%20or%20misleading%20environmentalist%20image.>



- Include specific recommendations regarding government relationships with unhealthy commodity industries, as the many experiences show that their actions have the goal of weakening and delaying the approval of effective public health measures.
- Restrict to the absolute minimum the accepted interactions between governments and industries, always assuring transparency in those interactions.
- Promote government leadership in all phases of formulation, implementation, and monitoring of public policies. Recommend avoiding private-public partnerships, as these instruments have proved to lack accountability and not to meet expected goals.
- Require the disclosure of actual or apparent conflicts of interest, financial, personal, institutional, or of any kind, that may affect the ability of public officials to perform their functions independently, and where appropriate, take measures to avoid and deal with them.
- Stress the need to limit marketing strategies of unhealthy products that target children as this impacts their ability to enjoy their human rights to health. Also, stress the need to avoid voluntary approaches to the marketing restrictions.
- Recommend avoiding multi-stake dialogues for decision making processes. If using them, recommend considering the power imbalances among the different stakeholders.
- Recommend creating enabling legislation for health-recovery cost litigation to allow a population level access to justice related to the actions of the UPP and tobacco industries.

Best regards,

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¹ Hoe et al. Globalization and Health (2022) 18:17. Available at: <https://globalizationandhealth.biomedcentral.com/track/pdf/10.1186/s12992-022-00811-x.pdf>.

² Corporate Accountability. Partnership for an unhealthy planet: how big business interferes with global health policy and science. Available at: <https://www.corporateaccountability.org/resources/partnership-for-an-unhealthy-planet/>.

³ Rinaldi, C. Public-Private Partnerships With Unhealthy Commodity Industries: Are They Undermining Real Progress in Non-Communicable Disease Prevention? Comment on “Competing Frames in Global Health Governance:



An Analysis of Stakeholder Influence on the Political Declaration on Non-communicable Diseases.” *Int J Health Policy Manag* 2021, x(x), 1–3. Available at: https://www.ijhpm.com/article_4112_4e47085d1bfd86c767ac63f52696b43a.pdf.

⁴ Clapp, J. The problem with growing corporate concentration and power in the global food system. *Nat Food* 2, 404–408 (2021). <https://doi.org/10.1038/s43016-021-00297-7>.

⁵ Legg T, Hatchard J, Gilmore AB. The Science for Profit Model-How and why corporations influence science and the use of science in policy and practice. *PLoS One*. 2021 Jun 23;16(6). Available at: <https://pubmed.ncbi.nlm.nih.gov/34161371/>.

⁶ Mialon M, Ho M, Carriedo A, Ruskin G, Crosbie E. Beyond nutrition and physical activity: food industry shaping of the very principles of scientific integrity. *Global Health*. 2021 Apr 20;17(1):37. Available at: <https://pubmed.ncbi.nlm.nih.gov/33879204/>.

⁷ Lauber K, Rutter H, Gilmore AB. Big food and the World Health Organization: a qualitative study of industry attempts to influence global-level non-communicable disease policy. *BMJ Glob Health*. 2021 Jun;6(6):e005216. doi: 10.1136/bmjgh-2021-005216. PMID: 34117011; PMCID: PMC8202098. <https://pubmed.ncbi.nlm.nih.gov/34117011/>

⁸ Tangcharoensathien V, Chandrasiri O, Kunpeuk W, Markchang K, Pangkariya N. Addressing NCDs: Challenges From Industry Market Promotion and Interferences. *Int J Health Policy Manag*. 2019;8(5):256-260. Published 2019 May 1. doi:10.15171/ijhpm.2019.02

⁹ Lauber K, Rutter H, Gilmore AB. Big food and the World Health Organization: a qualitative study of industry attempts to influence global-level non-communicable disease policy. *BMJ Global Health* 2021;6:e005216. <https://gh.bmj.com/content/6/6/e005216>

¹⁰ Tobacco tactics from the University of Bath. Available at: <https://tobaccotactics.org/topics/industry-tactics/>

¹¹ Amit Yadav, Stanton A. Glantz, Tobacco industry thwarts ad ban legislation in India in the 1990s: Lessons for meeting FCTC obligations under Articles 13 and 5.3, *Addictive Behaviors*, Volume 130, 2022, 107306, ISSN 0306-4603, <https://doi.org/10.1016/j.addbeh.2022.107306>. <https://www.sciencedirect.com/science/article/pii/S030646032200727?via%3Dihub>.

¹² Milsom P, Smith R, Modisenyane SM, Walls H. Do international trade and investment agreements generate regulatory chill in public health policymaking? A case study of nutrition and alcohol policy in South Africa. *Global Health*. 2021 Sep 6;17(1):104. doi: 10.1186/s12992-021-00757-6. PMID: 34488811; PMCID: PMC8422681. <https://pubmed.ncbi.nlm.nih.gov/34488811/>.

¹³ Tobacco tactics from the University of Bath. Available at: <https://tobaccotactics.org/topics/industry-tactics/>.

¹⁴ Howse E, Hankey C, Bauman A, Freeman B. Are young adults' discussions of public health nutrition policies associated with common food industry discourses? A qualitative pilot study. *Aust N Z J Public Health*. 2021 Apr;45(2):171-180. doi: 10.1111/1753-6405.13074. Epub 2021 Feb 22. PMID: 33617122. <https://pubmed.ncbi.nlm.nih.gov/33617122/>

¹⁵ Tobacco tactics from the University of Bath. Available at: <https://tobaccotactics.org/topics/industry-tactics/>.

¹⁶ Global Health Advocacy Incubator. Industry Interference Policy Briefs No. 1: Industry Interference in Food Policy. Available at: <https://advocacyincubator.org/wp-content/uploads/2021/06/Policy-Brief-Industry-Interference.pdf>.

¹⁷ Stevens D. Corporate autonomy and institutional control: The crown corporation as a problem in organization design. 1991. Available at: <https://onlinelibrary.wiley.com/doi/10.1111/j.1754-7121.1991.tb01464.x>.

¹⁸ Michael S. Asslander and Julia Roloff. Endangering social and economic sustainability: supplier management in the automobile industry. Published Online: January 31, 2011 pp 256-273. Available at: <https://www.inderscienceonline.com/doi/abs/10.1504/IJSSM.2010.0383>.

¹⁹ XinHuanNet. UN calls for urgent action to feed world's growing population healthily, equitably, sustainably. 2021-04-20 00:18:32. Available at: http://www.xinhuanet.com/english/2021-04/20/c_139891497.htm.



-
- ²⁰ Alimentando Políticas. Why IDEC, the Brazilian Institute of Consumer Protection, will not formally participate in the 2021 Food Systems Summit. June 16, 2021. Available at: <https://alimentandopoliticas.org.br/en/2021/06/why-idec-the-brazilian-institute-of-consumer-protection-will-not-formally-participate-in-the-2021-food-systems-summit/>.
- ²¹ The Guardian. Farmers and rights groups boycott food summit over big business links. March 4, 2021. Available at: <https://www.theguardian.com/global-development/2021/mar/04/farmers-and-rights-groups-boycott-food-summit-over-big-business-links>.
- ²² CSM Positioning on the Voluntary Guidelines on Food Systems and Nutrition endorsed by Member States on the 47th Plenary Session of the CFS. April 2021. Available at: https://www.csm4cfs.org/wp-content/uploads/2021/07/EN_CSMPositioningVGFSyN_FINAL.pdf.
- ²³ The new humanitarian. Can a first-ever Food Systems Summit help reduce rising hunger? April 22, 2021. Available at: <https://www.thenewhumanitarian.org/analysis/2021/4/22/what-is-the-food-systems-summit>.
- ²⁴ Calvillo A. La Cumbre de Sistemas Alimentarios de ONU, un tren al desfiladero. Sin embargo, March 25, 2021. Available at: <https://www.sinembargo.mx/25-03-2021/3955181>.
- ²⁵ But Lat. Why is the Food Systems Summit silent on corporate land grabs? March 30, 2021. Available at: <https://www.bulatlat.com/2021/03/30/why-is-the-food-systems-summit-silent-on-corporate-land-grabs/>.
- ²⁶ Civil Eats. Is Agroecology Being Co-Opted by Big Ag? April 20, 2021. Available at: <https://civileats.com/2021/04/20/is-agroecology-being-co-opted-by-big-ag/>.
- ²⁷ A growing culture. We Should All Be Worried About the United Nations Food Systems Summit. May 1, 2021. Available at: <https://agrowingculture.medium.com/we-should-all-be-worried-about-the-united-nations-food-systems-summit-803159ee9903>.
- ²⁸ Youtube. Encontro Autônomo O que está em jogo na Cúpula de Sistemas Alimentares. Available at: <https://www.youtube.com/watch?v=cpBt7CquYUE>.
- ²⁹ University of South Carolina at Chapel Hill, Global Food Research Program. Map of countries with mandatory or voluntary interpretive label on packaged foods and drinks. Available at: https://www.globalfoodresearchprogram.org/wp-content/uploads/2022/02/FOP_Regs_maps_2022_02.pdf.
- ³⁰ PepsiCo. Annual Report 2020. p. 20. Available at: https://www.pepsico.com/docs/album/annual-reports/pepsico-inc-2020-annual-report.pdf?sfvrsn=d25439e4_4.
- ³¹ Nestlé. Annual Review 2020. p. 20, 61, Available at: <https://www.nestle.com/sites/default/files/2021-03/2020-annual-review-en.pdf>
- ³² Kellogg's Company. 2020 Annual Report, SEC Form 10-K and Supplemental Information. p. 11, 20, 21, Available at: https://s1.q4cdn.com/243145854/files/doc_downloads/2020/K_FY2020_Annual-Report.pdf.
- ³³ Coca-Cola FEMSA. Integrated Report 2020. p.134 Available at: https://coca-colafemsa.com/wp-content/uploads/2021/03/KOF_2020_Esp.pdf.
- ³⁴ Grupo Bimbo. Quarterly Financial Information 2021. P. 5 Available at: https://grupobimbo-com-custom01-assets.s3.amazonaws.com/s3fpublic/Reporte_Definitivo_BMV_XBRL_Espanol_Jun_21.pdf.
- ³⁵ Global Health Advocacy Incubator. Behind the Labels: Big Food's War on Healthy Food Policies. Available at: https://uppindustrywatch.net/Behind_the_Labels_Report.pdf See also: <https://uppindustrywatch.net/>.
- ³⁶ WHO. Taxes on sugary drinks: Why do it? Available at: <http://apps.who.int/iris/bitstream/handle/10665/260253/WHO-NMH-PND-16.5Rev.1-eng.pdf>.
- ³⁷ Abdool Karim S, Kruger P, Hofman K. Industry strategies in the parliamentary process of adopting a sugar-sweetened beverage tax in South Africa: a systematic mapping. *Global Health*. 2020 Dec 10;16(1):116. doi: 10.1186/s12992-020-00647-3. PMID: 33302993; PMCID: PMC7725882. <https://pubmed.ncbi.nlm.nih.gov/33302993/>
- ³⁸ Id. 37.



- ³⁹ Pedroza-Tobias A, Crosbie E, Mialon M, Carriedo A, Schmidt LA. Food and beverage industry interference in science and policy: efforts to block soda tax implementation in Mexico and prevent international diffusion. *BMJ Glob Health*. 2021 Aug;6(8):e005662. doi: 10.1136/bmjgh-2021-005662. PMID: 34413076; PMCID: PMC8378381. <https://pubmed.ncbi.nlm.nih.gov/34413076/>
- ⁴⁰ Pop Lab. Las fichas de Coca Cola. Tácticas comerciales para incidir en políticas de salud pública. Available at <https://poplab.mx/especiales/las-fichas-de-coca/>.
- ⁴¹ The Guardian. Kellogg's to challenge new UK rules for high-sugar cereals in court. April 27, 2022. Available at: https://www.theguardian.com/business/2022/apr/27/kelloggs-court-challenge-new-uk-rules-high-sugar-cereals?CMP=share_btn_tw
- ⁴² Philip Morris International. Unsmoke your world. Available at: <https://www.unsmokeyourworld.com/en/>.
- ⁴³ British American Tobacco. Building a Better Tomorrow. Available at: https://www.bat.com/group/sites/UK_9D9KCY.nsf/vwPagesWebLive/DOBNRDVZ.
- ⁴⁴ FCTC. Decisions. FCTC/COP8(22) Novel and emerging tobacco products. Available at: [https://fctc.who.int/who-fctc/governance/conference-of-the-parties/eight-session-of-the-conference-of-the-parties/decisions/fctc-cop8\(22\)-novel-and-emerging-tobacco-products](https://fctc.who.int/who-fctc/governance/conference-of-the-parties/eight-session-of-the-conference-of-the-parties/decisions/fctc-cop8(22)-novel-and-emerging-tobacco-products)
- ⁴⁵ US FDA. Scientific Review of Modified Risk Tobacco Product Application (MRTPA) Under Section 911(d) of the FD&C Act -Technical Project Lead. Available at: <https://www.fda.gov/media/139796/download>.
- ⁴⁶ US FDA. Scientific Review of Modified Risk Tobacco Product Application (MRTPA) Under Section 911(d) of the FD&C Act -Technical Project Lead. Available at: <https://www.fda.gov/media/139796/download>.
- ⁴⁷ Gilmore A and Braznell S. US regulator adds to confusion around heated tobacco products. *BMJ* 2020; 370 doi: <https://doi.org/10.1136/bmj.m3528> (Published 16 September 2020). Cite this as: *BMJ* 2020;370:m3528
- ⁴⁸ Despejando Dudas. “En América Latina se prohíben los productos como IQOS, pero sí están aprobados los cigarrillos tradicionales que se sabe causan más daño”: Mario Masseroli, presidente de PMI en América Latina y Canadá. July 18, 2020. Available at: <https://www.despejandodudas.co/index.php/especiales/marcas/2064-en-america-latina-se-prohiben-los-productos-como-iqos-pero-si-estan-aprobados-los-cigarrillos-tradicionales-que-se-sabe-causan-mas-dano-mario-masseroli-presidente-de-pmi-en-america-latina-y-canada>.
- ⁴⁹ Tobacco tactics from the University of Bath. PMI Promotion of IQOS Using FDA MRTP Order. Available at: <https://tobaccotactics.org/wiki/pmi-iqos-fda-mrtp-order/>
- ⁵⁰ https://www.tobaccocontrollaws.org/files/live/Uruguay/Uruguay%20-%20Decree%20No.%2087_2021.pdf
- ⁵¹ El País. IQOS tiene aval de FDA, pero es ilegal en Uruguay. July 19, 2020. Available at: <https://www.elpais.com.uy/vida-actual/iqos-aval-fda-ilegal-uruguay.html>.
- ⁵² Asamblea Nacional de Panamá. Anteproyecto de Ley 209. 27 de octubre de 2020. https://www.asamblea.gob.pa/APPS/SEG_LEGIS/PDF_SEG/PDF_SEG_2020/PDF_SEG_2020/2020_A_209.pdf
- ⁵³ Cámara de Representantes de Colombia, <https://www.camara.gov.co/camara/visor?doc=/sites/default/files/2021-06/Texto%20Definitivo%20Proyecto%20No.%20493%20de%202020%20C%C3%A1mara.docx>
- ⁵⁴ Chile. Cámara de Diputadas y Diputados. Proyecto de Ley: Regula el consumo, publicidad, comercialización, calidad y seguridad de los cigarrillos electrónicos, vaporizadores u otros, que operen como sistemas electrónicos de administración de nicotina, o sistemas similares sin nicotina. Available at: <https://www.camara.cl/legislacion/ProyectosDeLey/tramitacion.aspx?prmID=13231&prmBOLETIN=12694-11>
- ⁵⁵ WHO. FCTC. <https://fctc.who.int/>
- ⁵⁶ Hirpa et al. ‘They have a right to participate as a stakeholder’: Article 5.3 implementation and government interactions with the tobacco industry in Ethiopia. *Tobacco Control*, Volume 31, Issue Suppl 1. Available at: https://tobaccocontrol.bmj.com/content/31/Suppl_1/s5.
- ⁵⁷ Crosbie et al. Memoranda of understanding: a tobacco industry strategy to undermine illicit tobacco trade policies. *Tobacco Control*, Volume 28, Issue e2 <http://dx.doi.org/10.1136/tobaccocontrol-2018-054668>.



-
- ⁵⁸ Tobacco tactics from the University of Bath. British American Tobacco: Dirty Deeds in Africa. Available at: <https://tobaccotactics.org/wiki/bat-africa-dirty-deeds/>
- ⁵⁹ Tobacco tactics from the University of Bath. British American Tobacco in Africa: Continuing Allegations of Misbehaviour. Available at: <https://tobaccotactics.org/wiki/bat-africa-continuing-allegations-misbehaviour/>.
- ⁶⁰ FCTC. Guidelines for implementation of Article 5.3. Available at: <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3>.
- ⁶¹ FCTC. Guidelines for implementation of Article 5.3. Recommendation 3. Available at: <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3>.
- ⁶² Australian Competition and Consumer Commission. British American Tobacco Australia Limited & Ors - Authorisation - A91550. Available at: <https://www.accc.gov.au/public-registers/authorisations-and-notifications-registers/authorisations-register/british-american-tobacco-australia-limited-ors-authorisation-a91550>.
- ⁶³ Australian Competition and Consumer Commission. Determination. Application for authorization lodged by British American Tobacco Australia Limited, Imperial Tobacco Australia Limited and Philip Morris Limited in respect of a proposed agreement to cease supply of tobacco products to retailers and wholesalers that supply illicit tobacco products. Paragraph 186. June 23, 2017. Available at: <https://www.accc.gov.au/system/files/public-registers/documents/D17%2B85182.pdf>.
- ⁶⁴ WHO. Smoking and COVID-19. Scientific Brief. June 30, 2020. Available at: <https://www.who.int/news-room/commentaries/detail/smoking-and-covid-19>.
- ⁶⁵ Tobacco tactics from the University of Bath. Tobacco industry COVID-19 monitoring database. Available at: <https://tobaccotactics.org/wiki/covid-19/#database>.
- ⁶⁶ Abdullah at all. 'A contradiction between our state and the tobacco company': conflicts of interest and institutional constraints as barriers to implementing Article 5.3 in Bangladesh. Tobacco Control, Volume 31, Issue Suppl 1. Available at: https://tobaccocontrol.bmj.com/content/31/Suppl_1/s33.
- ⁶⁷ The Washington Post. Tobacco ties hinder WHO authorization of Canada's coronavirus vaccine. March 25, 2022. Available at: <https://www.washingtonpost.com/world/2022/03/25/world-health-organization-medicigo-philip-morris/>.
- ⁶⁸ WHO. COVID-19, Ukraine & Other Global Health Emergencies Virtual Press conference transcript. March 16, 2022. Available at: <https://www.who.int/publications/m/item/covid-19-ukraine-other-global-health-emergencies-virtual-press-conference-transcript--16-march-2022>.
- ⁶⁹ UN Committee on Economic, Social and Cultural Rights. General Comment No. 14 (2000)The right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights). Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f2000%2f4&Lang=en
- ⁷⁰ Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health: Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, A/HRC/26/31, (2014). Par. 30. Available at: <https://undocs.org/A/HRC/26/31>
- ⁷¹ Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health: Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, A/HRC/26/31, (2014). Par. 30. Available at: <https://undocs.org/A/HRC/26/31>
- ⁷² WHO. FCTC. <https://fctc.who.int/>



⁷³ FCTC. Good country practices in the implementation of WHO FCTC Article 5.3 and its guidelines. January 15, 2018. Guiding Principle 1. Available at: <https://fctc.who.int/publications/m/item/good-country-practices-in-the-implementation-of-who-fctc-article-5.3-and-its-guidelines>.

⁷⁴ FCTC. Good country practices in the implementation of WHO FCTC Article 5.3 and its guidelines. January 15, 2018. Recommendation 2.1. Available at: <https://fctc.who.int/publications/m/item/good-country-practices-in-the-implementation-of-who-fctc-article-5.3-and-its-guidelines>.

⁷⁵ FCTC. Good country practices in the implementation of WHO FCTC Article 5.3 and its guidelines. January 15, 2018. Recommendation 2.2. Available at: <https://fctc.who.int/publications/m/item/good-country-practices-in-the-implementation-of-who-fctc-article-5.3-and-its-guidelines>.

⁷⁶ Tobacco Control Laws, Essential Elements of FCTC article 5.3 implementing measures. Available at: https://www.tobaccocontrollaws.org/files/Essential%20Elements%20of%20Article%205.3_Level%201_Nov.%202014.pdf.

⁷⁷ FCTC. Good country practices in the implementation of WHO FCTC Article 5.3 and its guidelines. January 15, 2018. Recommendation 2.2. Available at: <https://fctc.who.int/publications/m/item/good-country-practices-in-the-implementation-of-who-fctc-article-5.3-and-its-guidelines>.

⁷⁸ The Union. <https://theunion.org/sites/default/files/2020-08/The%20Union%20Toolkit%20for%20FCTC%20Article%205.3.pdf>, Fact Sheet 7.

⁷⁹ Australia. Department of Health. Guidance for Public Officials on Interacting with the Tobacco Industry. Available at: https://www.health.gov.au/sites/default/files/documents/2019/11/guidance-for-public-officials-on-interacting-with-the-tobacco-industry_1.pdf.

⁸⁰ Australia. Department of Health. Report on significant interactions between Health and the tobacco industry. Available at: https://www.health.gov.au/sites/default/files/documents/2019/10/report-on-interactions-between-health-and-the-tobacco-industry-report-on-significant-interactions-between-health-and-the-tobacco-industry_0.pdf.

⁸¹ Informe sobre Empresas y Derechos Humanos: Estándares Interamericanos. Aprobado por la Comisión Interamericana de Derechos Humanos, el 1 de noviembre de 2019 / [Preparado por la Relatoría Especial sobre Derechos Económicos, Sociales, Culturales y Ambientales de la Comisión Interamericana de Derechos Humanos], p. 265 y 266.

⁸² Organización Mundial de la Salud, Informe del Director General. Marco de protección contra posibles conflictos de intereses en programas de nutrición - Proyecto de enfoque para la prevención y gestión de conflictos de interés en el desarrollo de políticas y la implementación de programas de nutrición a nivel de país, 2017. Disponible en: <https://www.who.int/nutrition/consultation-doi/nutrition-tool.pdf?ua=1>

⁸³ Special Rapporteur on the right to food, Interim report of the Special Rapporteur on the right to food, A/74/164, (2019). Par. 71. Available at: <https://undocs.org/A/74/164>.

⁸⁴ Special Rapporteur on the right to food, Interim Report on the right to food, A/71/282, (2016). Par. 99. Available at: <https://undocs.org/A/71/282>.

⁸⁵ Uganda. Tobacco Control Act, 2015. Available at: <https://www.tobaccocontrollaws.org/files/live/Uganda/Uganda%20-%20TCA%20-%20national.pdf>

⁸⁶ FCTC. Good country practices in the implementation of WHO FCTC Article 5.3 and its guidelines. January 15, 2018. Available at: <https://fctc.who.int/publications/m/item/good-country-practices-in-the-implementation-of-who-fctc-article-5.3-and-its-guidelines>.

⁸⁷ Republic of Philippines. Joint memorandum circular no. 2010-01. Available at: <https://www.tobaccocontrollaws.org/files/live/Philippines/Philippines%20-%20JMC%202010-01%20-%20national.pdf>.

⁸⁸ Kenya. The Tobacco Control Act No. 4 of 2007. Available at: <https://www.tobaccocontrollaws.org/files/live/Kenya/Kenya%20-%20Tobacco%20Control%20Act%20-%20national.pdf>



- ⁸⁹ Kenya. The Tobacco Control Act No. 4 of 2007. Available at: <https://www.tobaccocontrollaws.org/files/live/Kenya/Kenya%20-%20TC%20Regs%202014%20-%20national.pdf>
- ⁹⁰ Republic of Senegal. Ministry of Health and Social Action. Law concerning the manufacture, packaging, labeling, sale and use of tobacco. Explanatory Memorandum. Available at: <https://www.tobaccocontrollaws.org/files/live/Senegal/Senegal%20-%202014%20TC%20Law.pdf>
- ⁹¹ Republic of Senegal. Ministry of Health and Social Action. Draft Decree concerning the implementation of Law n° 2014-14 of March 28, 2014, on the manufacture, packaging, labeling, sale and use of tobacco. Available at: <https://www.tobaccocontrollaws.org/files/live/Senegal/Senegal%20-%20Decree%20No.%202016-1008.pdf>
- ⁹² FCTC. Good country practices in the implementation of WHO FCTC Article 5.3 and its guidelines. January 15, 2018. Available at: <https://fctc.who.int/publications/m/item/good-country-practices-in-the-implementation-of-who-fctc-article-5.3-and-its-guidelines>.
- ⁹³ Hirpa et al. 'They have a right to participate as a stakeholder': Article 5.3 implementation and government interactions with the tobacco industry in Ethiopia. Tobacco Control, Volume 31, Issue Suppl 1. Available at: https://tobaccocontrol.bmj.com/content/31/Suppl_1/s5.
- ⁹⁴ Barry et al. Advancing whole-of-government approaches to tobacco control: Article 5.3 and the challenge of policy coordination in Bangladesh, Ethiopia, India and Uganda. Tobacco Control. Volume 31, Issue Suppl 1. Available at: https://tobaccocontrol.bmj.com/content/31/Suppl_1/s46.
- ⁹⁵ Hirpa et al. 'They have a right to participate as a stakeholder': Article 5.3 implementation and government interactions with the tobacco industry in Ethiopia. Tobacco Control, Volume 31, Issue Suppl 1. Available at: https://tobaccocontrol.bmj.com/content/31/Suppl_1/s5.
- ⁹⁶ Ralston et al. Norms, rules and policy tools: understanding Article 5.3 as an instrument of tobacco control governance. Tobacco Control, Volume 31, Issue Suppl 1. Available at: https://tobaccocontrol.bmj.com/content/31/Suppl_1/s53.
- ⁹⁷ Abdullah et al. 'A contradiction between our state and the tobacco company': conflicts of interest and institutional constraints as barriers to implementing Article 5.3 in Bangladesh. Tobacco Control, Volume 31, Issue Suppl 1. Available at: https://tobaccocontrol.bmj.com/content/31/Suppl_1/s33.
- ⁹⁸ Barry et al. Advancing whole-of-government approaches to tobacco control: Article 5.3 and the challenge of policy coordination in Bangladesh, Ethiopia, India and Uganda. Tobacco Control. Volume 31, Issue Suppl 1. Available at: https://tobaccocontrol.bmj.com/content/31/Suppl_1/s46.
- ⁹⁹ Barry et al. Advancing whole-of-government approaches to tobacco control: Article 5.3 and the challenge of policy coordination in Bangladesh, Ethiopia, India and Uganda. Tobacco Control. Volume 31, Issue Suppl 1. Available at: https://tobaccocontrol.bmj.com/content/31/Suppl_1/s46.
- ¹⁰⁰ Elisabetta Recine, Ana María Suárez Franco and Colin Gonsalves. The Emergence of the 'Food Systems' discourse and Corporate Solutions to Hunger and Malnutrition. Available at: https://www.righttofoodandnutrition.org/files/rtn_watch_art.01-2021_eng_web.pdf
- ¹⁰¹ Elisabetta Recine, Ana María Suárez Franco and Colin Gonsalves. The Emergence of the 'Food Systems' discourse and Corporate Solutions to Hunger and Malnutrition. Available at: https://www.righttofoodandnutrition.org/files/rtn_watch_art.01-2021_eng_web.pdf
- ¹⁰² CDC. Smoking and Tobacco use. Available at: https://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/index.htm#:~:text=Smoking%20is%20the%20leading%20cause,7%20million%20deaths%20per%20year.&text=If%20the%20pattern%20of%20smoking,to%20tobacco%20use%20by%202030.
- ¹⁰³ The Guardian. Child labour rampant in tobacco industry. June 25, 2018. Available at: <https://web.archive.org/web/20200707144535/https://www.theguardian.com/world/2018/jun/25/revealed-child-labor-rampant-in-tobacco-industry>



-
- ¹⁰⁴ The Guardian. The children labouring in Malawi's fields for British American Tobacco. October 31, 2019. Available at: <https://web.archive.org/web/20200707155048/https://www.theguardian.com/global-development/2019/oct/31/the-children-labouring-in-malawi-fields-for-british-american-tobacco>
- ¹⁰⁵ Human Rights Watch. "The Harvest is in My Blood" Hazardous Child Labor in Tobacco Farming in Indonesia. May 24, 2016. Available at: <https://www.hrw.org/report/2016/05/24/harvest-my-blood/hazardous-child-labor-tobacco-farming-indonesia>.
- ¹⁰⁶ Human Rights Watch. "The Harvest is in My Blood" Hazardous Child Labor in Tobacco Farming in Indonesia. May 24, 2016. Available at: <https://www.hrw.org/report/2016/05/24/harvest-my-blood/hazardous-child-labor-tobacco-farming-indonesia>.
- ¹⁰⁷ Tobacco tactics from the University of Bath. Eliminating Child Labour in Tobacco-Growing Foundation (ECLT). Available at: <https://tobaccotactics.org/wiki/eclt/>.
- ¹⁰⁸ Tobacco tactics from the University of Bath. Eliminating Child Labour in Tobacco-Growing Foundation (ECLT). Available at: <https://tobaccotactics.org/wiki/eclt/>.
- ¹⁰⁹ Campaign for Tobacco Free Kids. New Report Details Tobacco Industry's Predatory Marketing to Women and Girls and the Devastating Health Consequences. May 26, 2021. Available at: <https://www.tobaccofreekids.org/womensreport>.
- ¹¹⁰ Human Rights Watch. "The Harvest is in My Blood" Hazardous Child Labor in Tobacco Farming in Indonesia. May 24, 2016. Available at: <https://www.hrw.org/report/2016/05/24/harvest-my-blood/hazardous-child-labor-tobacco-farming-indonesia>.
- ¹¹¹ Campaign for Tobacco Free Kids. New Investigation Exposes How Tobacco Companies Market Cigarettes on Social Media in the U.S. and Around the World. August 27, 2018. Available at: https://www.tobaccofreekids.org/press-releases/2018_08_27_ftc.
- ¹¹² The New York Times. Big Tobacco's Global Reach on Social Media. August 24, 2018. Available at: <https://www.nytimes.com/2018/08/24/health/tobacco-social-media-smoking.html>
- ¹¹³ UN Convention on the Right of the Child, article 17. Available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.
- ¹¹⁴ Action on Smoking and Health submission. Available at: <https://2bark924ef5o2dk1z21reqtf-wpengine.netdna-ssl.com/wp-content/uploads/2021/04/CERD-Report-w-signatories-FINAL-1.pdf>
- ¹¹⁵ Los Angeles Times. How big tobacco used George Floyd and Erica Garner to stoke fear among Black smokers. April 25, 2022. Available at: <https://www.latimes.com/world-nation/story/2022-04-25/inside-big-tobaccos-strategy-to-stoke-fear-among-black-smokers-facing-menthol-bans>
- ¹¹⁶ Campaign for Tobacco Free Kids. Marketing Menthol: the history of tobacco industry targeting of African Americans. Available at: <https://www.tobaccofreekids.org/assets/factsheets/0400.pdf>
- ¹¹⁷ The Guardian. Big Tobacco is killing the planet with plastics. No smokescreen should be allowed to hide that. May 26, 2022. Available at: <https://www.theguardian.com/global-development/2022/may/26/big-tobacco-is-killing-the-planet-with-plastics-no-smokescreen-should-hide-that-acc>
- ¹¹⁸ STOP. Talking Trash: Behind the Tobacco Industry's "Green" Public Relations. May 22. Available at: https://exposetobacco.org/wp-content/uploads/Talking_Trash_EN.pdf
- ¹¹⁹ The Guardian. Big Tobacco is killing the planet with plastics. No smokescreen should be allowed to hide that. May 26, 2022. Available at: <https://www.theguardian.com/global-development/2022/may/26/big-tobacco-is-killing-the-planet-with-plastics-no-smokescreen-should-hide-that-acc>.
- ¹²⁰ STOP. Talking Trash: Behind the Tobacco Industry's "Green" Public Relations. May 22. Available at: https://exposetobacco.org/wp-content/uploads/Talking_Trash_EN.pdf.
- ¹²¹ STOP. Talking Trash: Behind the Tobacco Industry's "Green" Public Relations. May 22. Available at: https://exposetobacco.org/wp-content/uploads/Talking_Trash_EN.pdf.