



STOPPING TOBACCO  
ORGANIZATIONS & PRODUCTS

# Global Tobacco Industry Interference Index 2019

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## Acknowledgements

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## Disclaimer

This Index is based solely on publicly available information obtained by researchers in their respective countries. If you have information that can strengthen this report, contact us at: [info@ggtc.world](mailto:info@ggtc.world)

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**"We are deeply concerned by the fact that the tobacco epidemic is shifting to the developing world, where less-well-resourced countries find themselves unable to counter tobacco industry exploitation of new markets often through blatant interference with public health policy-making."<sup>1</sup>**

**– Dr Vera Luiza da Costa e Silva,  
Head of the WHO FCTC Secretariat**

# Introduction

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**Tobacco use claims more than eight million lives worldwide every year.<sup>2</sup> According to the World Health Organization, about 80% of the 1.1 billion smokers worldwide live in low- and middle-income countries, where the burden of tobacco-related illness and death is heaviest.**

The poor bear the brunt of the problem as the expenditure of their limited household income is diverted from basic needs to tobacco. The cost to the economy of a country is also substantial as governments spend significant amounts on health care costs for treating the disease caused by tobacco use as well as loss of productivity.

The tobacco industry is responsible for perpetuating this global health problem. The industry works strategically to delay and defeat tobacco control measures across the globe in order to promote and protect the profitability of the tobacco business. The tobacco industry does this through various tactics that interfere in a government's effort to protect public health. In fact, governments have identified tobacco industry interference as the most serious barrier to the success of their efforts in passing strong tobacco control measures.<sup>3</sup> The key to tackle tobacco industry interference however lies in the hands of governments.

The World Health Organisation Framework Convention on Tobacco Control (WHO FCTC)<sup>4</sup> under general obligations in Article 5.3 requires 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."

Guidelines were adopted to empower governments with a set of recommendations to protect themselves from industry interference.<sup>5</sup> Article 5.3 is regarded as the backbone of the Convention and its importance cannot be over-emphasised.

This first Global Tobacco Industry Interference Index (Index) shows that governments' efforts to tackle tobacco industry interference have been progressing slowly and are far from satisfactory. Major improvement is needed across the countries. There is a lack of transparency in many countries when dealing with the tobacco industry. Non-health government departments remain vulnerable to industry interference. The tobacco industry continues to obtain incentives to conduct its business. Countries that scored well on the Index have prevailed against tobacco industry interference by implementing measures to protect themselves. These same countries are noted for their strong tobacco control achievement.

To ensure global representation, a total of 33 countries from Africa, Eastern Mediterranean region, Latin America, North America, Europe, South Asia, South East Asia and Western Pacific region were selected for this review. This Index used the same questionnaire and scoring method as the ASEAN Tobacco Industry Interference Index originally developed by the Southeast Asia Tobacco Control Alliance (SEATCA)<sup>6</sup> to assess how well governments have implemented WHO FCTC Article 5.3.

This Index is based only on publicly available information on tobacco industry interference in the countries and their respective governments' responses to these interferences for the period of January 2017 to December 2018 to support choice of scores. The 33 countries are ranked (Figure 1) according to total scores provided by civil society groups who prepared their respective country indices. The lower the score, the lower the over-all level of interference, which augurs well for the country. Disaggregated scores for each country are provided in Table 1.

# Key findings

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## 1. At least one country in each region successfully resisted tobacco industry interference while others have succumbed.

- **Successfully resisted industry interference:** The U.K., Iran, Kenya, Brazil and Uruguay fared well in resisting industry interference by adopting preventive measures provided in Article 5.3 guidelines to facilitate transparency and avoid conflict of interest. These countries did not collaborate with nor endorse the tobacco industry's activities.
- **Succumbed to industry interference:** Of the 33 countries, Japan faced the highest levels of industry interference and fared poorly in implementing Article 5.3 guidelines to protect its public health measures. Jordan, Bangladesh and Lebanon are also lagging far behind in implementing measures to protect themselves.

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## 2. Lack of transparency facilitated industry interference.

- **Lack of transparency:** The lack of transparency in dealing with the tobacco industry and the absence of procedures to record interactions

with it are a problem in many countries, and these have facilitated industry interference to influence policy. Many countries allow political contributions from the tobacco industry.

- **Banning political contribution:** Political contributions and gifts from the tobacco industry are banned in Brazil, Canada, France, Iran, Myanmar, Turkey, U.K., Uganda and Uruguay. Transparency on political contributions is required in Kenya and the U.S.

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## 3. The tobacco industry targeted non-health departments.

- Tobacco companies have used corporate social responsibility (CSR) activities and presentation ceremonies for frivolous awards to gain access and obtain endorsement from senior officials especially from the non-health departments.
  - Departments of Finance, Commerce, and Trade across countries are targeted by the tobacco industry and remain the most vulnerable to tobacco industry interference, particularly on decisions pertaining to taxation of tobacco.
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**Over the last decade tobacco control measures have saved nearly 35 million lives, but as more cities and countries take action, the tobacco industry is pushing to find new users, particularly among young people.**



Kelly Henning, Director of Public Health Programs at Bloomberg Philanthropies

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#### **4. Tax breaks benefit the industry and delayed legislation results in more tobacco sales.**

- **Incentives to the industry:** Incentives, such as tax exemptions and duty free tobacco, have benefited the tobacco industry. Duty free cigarettes for international travellers are allowed by all countries except Sri Lanka. The tobacco industry sought endorsement from top officials to manufacture new tobacco products in Lebanon and Turkey.

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#### **5. A whole government commitment (commitment by every department) is needed to withstand industry interference and better protect tobacco control measures.**

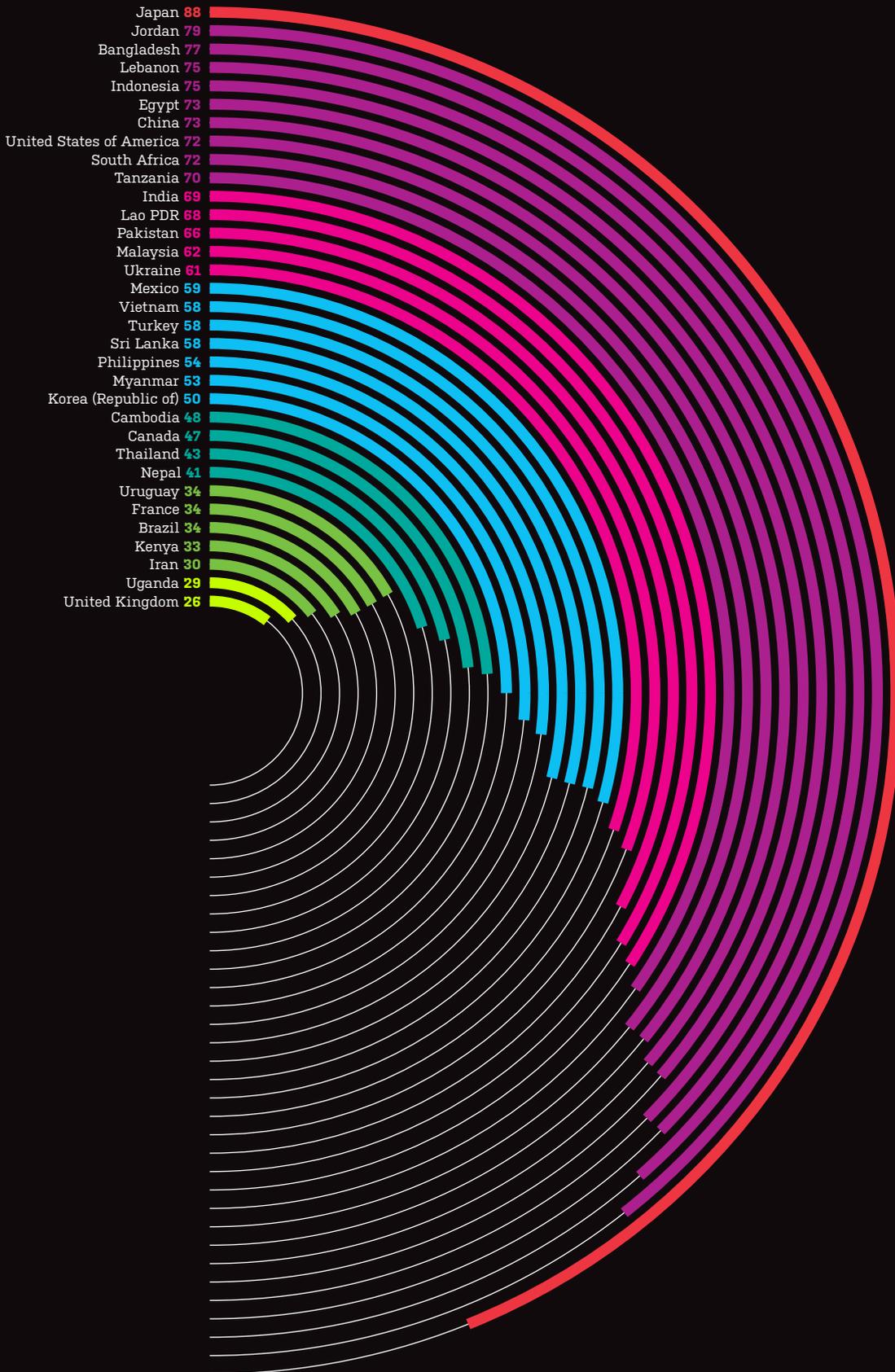
- **Avoid conflict of interest:** Retiring senior government officials must avoid conflict of interest situations with the tobacco industry. Former senior officials joining tobacco companies has been a problem in Bangladesh, Pakistan and Sri Lanka. In China, Japan, Lebanon and Vietnam, the trade and commerce arms of the government are inadvertently

conflicted in developing tobacco control measures according to the WHO FCTC because of their role in promoting the tobacco business.

- **Enduring legal challenges:** Uganda and Kenya have endured protracted court challenges from the tobacco industry against their tobacco control legislation which have strong elements of Article 5.3. The challenges are used to delay or derail their implementation of the legislation. Court cases have also been used to challenge other effective tobacco control measures in Brazil and India. These governments did not back down from the legal challenges.
  - **Partial measures are ineffective leaving loopholes that the industry can exploit:** Partial measures such as a code of conduct only for the health department is limited in its effectiveness. The findings of the Index shows adopting a Code of Conduct that applies to all government officials is more effective as this will provide a firewall and enable officials to conduct tobacco control efforts without interference from the tobacco industry.
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The lower the score, the better the ranking

**Figure 1: Tobacco Industry**  
Interference overall country ranking



# 1. The tobacco industry interferes in policy development

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**The tobacco industry undermines, blocks or delays government efforts to develop tobacco control policies, such as enacting comprehensive legislation, or strengthen measures, such as adopting more prominent graphic warnings on packs or increasing tobacco tax. Korea, Nepal, U.K. and Uruguay (Figure 2) show low level of tobacco industry interference in policy development, while Japan, China and Philippines experienced the most interference.**

Several countries entirely reject tobacco industry participation in policy development. For example, the governments of Iran, Korea, Nepal, Kenya, UK, Uganda and Uruguay do not accept, support or endorse any offers for assistance from or collaboration with the tobacco industry in setting or implementing public health policies in relation to tobacco control. These governments do not allow or invite the tobacco industry to sit in any

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government interagency/multi-sectoral committee/advisory group/body that sets public health policy. The Kenya Tobacco Control Regulations 2014<sup>7</sup> has this component enshrined in the law. Similarly, Iran's National Tobacco Control law<sup>8</sup> and its bylaws ban any support of tobacco manufacturers to its programs. None of the representatives of the Iranian Tobacco Company, a state monopoly, are allowed to attend tobacco control policy making sessions.

Once every two years, 181 countries who are Parties to the WHO FCTC, come together to negotiate more effective implementation of the treaty through a process called the Conference of the Parties (COP). Article 5.3 guidelines recommends that Parties to the WHO FCTC not include tobacco industry representatives to the COP and other related meetings. The Index found about 90% of the countries surveyed do not include representatives of the tobacco industry in their delegations to the COP or its related meetings. However, China and Japan continue to include industry representatives. In 2018, at the eighth session of the COP, Japan included four representatives from the Tobacco and Salt Industries Office, more than in previous years.<sup>9</sup> China's delegation included industry representatives from the Center for Tobacco Safety and Control, Academy of Inspection and Quarantine.<sup>10</sup>

In several countries, including Japan and China, governments own some share of the country's largest tobacco companies. Japan's *Tobacco Business Act*, enacted to protect the tobacco business, establishes a direct link between Japan Tobacco (JT) and the Government (through 33% ownership of JT) and policy makers, and enables JT to interfere in policy development and weaken or derail tobacco control policies. For example a proposal for pictorial health warnings on packs was dismissed by a pro-industry committee under the Ministry of Finance, which recommended a 50% text-only warning instead, announced by the Government in late 2018.<sup>11</sup> Draft legislation proposing 100% smoke-free public places was defeated in 2017;<sup>12</sup> however, in 2018, Tokyo Governor Yuriko Koike, in consultation with experts from the public health community, successfully implemented a Passive Smoking Prevention Ordinance in Tokyo. The federal government has since followed through with a 100% smoke-free indoor law.

Similarly, in China, through the influence of the State Tobacco Monopoly Administration and General Administration of Quality Supervision, Inspection

and Quarantine there are no pictorial warnings on cigarette packs. Instead the tobacco industry applies the 2015 legislation requiring the minimum 35% text-only warning at the bottom surface of the cigarette pack.<sup>13</sup>

In the Philippines, the government has made strides towards limiting tobacco industry involvement in decision-making. The Tobacco Regulation Act 2003 (RA9211) has given tobacco industry representatives a seat in the Inter-Agency Committee - Tobacco (IAC-T) tasked to implement the tobacco control law. In 2018, the Committee on Health of the House of Representatives discussed seven bills to amend the Act. One of the key amendments is to restructure the IAC-T, including removal of the Philippine Tobacco Institute (PTI) from the Committee and assigning the Department of Health as chair of the Committee. The PTI, an umbrella organization of tobacco companies in the Philippines, Philip Morris Fortune Tobacco Corporation, and Japan Tobacco International (JTI) attended the hearings as resource persons and provided their comments on the proposed measures. The bills are still under consideration.

## INEFFECTIVE IMPLEMENTATION WHEN TOBACCO INDUSTRY IS INVOLVED IN ENFORCEMENT

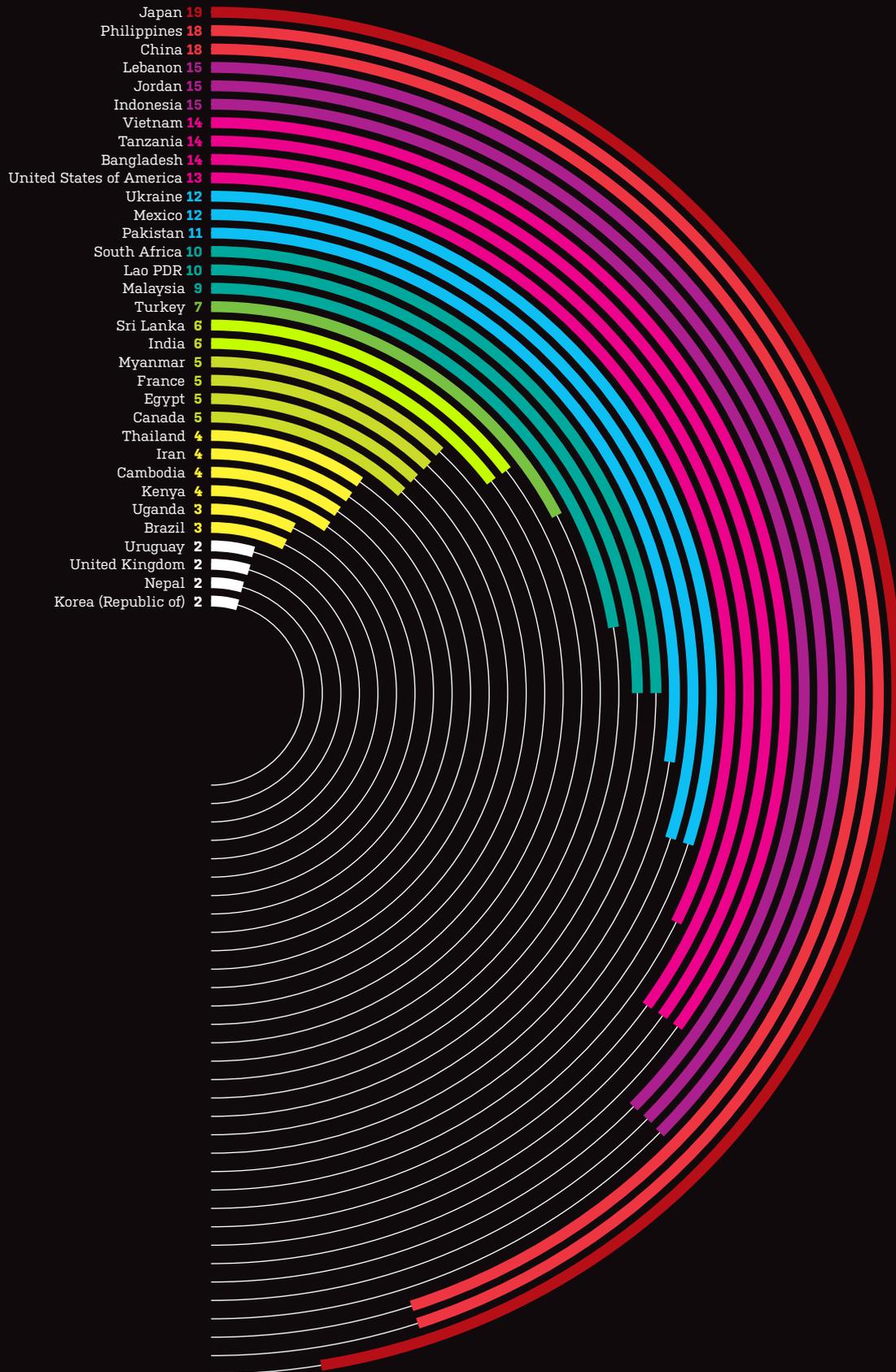
**When industry is involved in enforcement, tobacco control implementation is ineffective: This is the case in the Philippines and in Jordan. In the Philippines, the Philippine Tobacco Institute sits in the Inter-Agency Committee - Tobacco, the implementing body of the Tobacco Control Act. With the tobacco industry represented in this Committee, there has not been any instance since its inception in 2003, when a complaint brought against the tobacco industry has resulted in action taken against it.**

In Jordan, a well-known pro-industry group, the Jordan Restaurant Association (JRA), successfully lobbied to be part of the committee that oversees public health law implementation through the joint committee of Ministry of Tourism.<sup>14</sup> JRA is included in the National Joint Committee that decides on tobacco control and WHO FCTC implementation across the government.<sup>15</sup> As a member of the Committee the JRA intervened and lobbied for amendment to a tourism law for the adoption of an inspection law which restricts inspections of tourist establishments to the joint committee.<sup>16</sup>

Since the adoption of the public health law, the JRA has been vocal in calling for extensions several times, and successfully lobbied to give new licenses for shisha places on multiple occasions. As a result, more than 700 shisha places (touristic and non-touristic) have been licensed in the country.<sup>17</sup>

The lower the score, the better the ranking

**Figure 2:** Tobacco industry interferes in policy development



Non-health departments in national governments such as departments of finance, commerce and trade, as well as parliamentarians, remain particularly vulnerable to interference to block or undermine tobacco control policies, especially on tobacco tax increases. Tax increase is among the most effective measures to reduce tobacco use, especially among the poor and the young.<sup>18</sup> Several countries have faced this type of interference. For example:

- In the **Philippines** in 2018, the Committee on Ways and Means of the House of Representatives held several hearings on increasing tobacco taxes. Among the Committee's resource persons invited for the hearings on the proposed bills included representatives of tobacco companies, the PTI, retailers' associations, and farmers groups, who repeated often used pro-industry arguments that tax increase will exacerbate illicit tobacco trade and cause farmers and small retailers to lose their livelihood.
- The bidi industry in **Bangladesh** and **India** interfered in government attempts to apply tax on bidis. The Bangladesh Bidi Owners Association met the Finance and Commerce Ministers and submitted their proposals for the budget for Financial Year 2018-19 that included tax reduction and a request for cottage industry status for bidi industry. As a result, the bidi price (non-filter) remained unchanged in the FY 2018-19 budget.<sup>19</sup> In India, the decision to impose additional cess (tax) on Bidi was postponed in 2017<sup>20</sup> after the Goods and Services Tax Council considered appeals from the tobacco lobby<sup>21</sup> and questioned the proposal for high taxes on tobacco products, especially bidi.
- In **Kenya**, the Kenya Revenue Authority (KRA) adopted a flat rate tax system in 2015, taxing at KSh 2.50 per cigarette, which led to a 17% drop in consumption of cigarettes and a revenue increase of KSh 7.3 billion.<sup>22</sup> Manufacturers reportedly lobbied against the flat rate, and in 2017 the National Treasury Cabinet Secretary ordered the KRA to revert to the old tiered system. In his budget speech, the treasury's cabinet secretary stated that the needs of the tobacco industry were taken into account for the taxation, and the current single tax structure had been "inequitable and has adversely affected demand for locally produced low value cigarette."<sup>23</sup>

While the tobacco industry may not be a member of an inter-departmental committee on tobacco control, it may be consulted on policies that affect it.

- In **Egypt**, for example, intensive closed meetings were held in 2017 at the Ministry of



**The governments of Iran, Korea, Nepal, Kenya, UK, Uganda and Uruguay do not accept, support or endorse any offers for assistance from or collaboration with the tobacco industry in setting or implementing public health policies in relation to tobacco control. These governments do not allow or invite the tobacco industry to sit in any government interagency/ multi-sectoral committee/ advisory group/body that sets public health policy.**



Supply between the ministry's officials and the head of Eastern Tobacco Company to determine the final prices for the three segments of local and foreign cigarettes.<sup>24</sup>

- In **Ukraine**, members of Parliament have been lobbied by the tobacco industry resulting in the delayed passage of an effective tobacco control law. In March 2017 the Cabinet of Ministers approved a draft bill on ratification of the WHO FCTC Protocol to Eliminate Illicit Trade in Tobacco Products<sup>25</sup> and the Ministry of Health submitted the draft bill to the Presidential Administration (now called Office of the President of Ukraine) for ratification; however, the Administration returned the draft bill twice citing "some technical issues"<sup>26</sup> and it still remains unratified. In 2018, the State Fiscal Service signed a memorandum of understanding with "Ukrutiutun" (Ukrainian Association of Tobacco Producers, which represents Philip Morris International (PMI), British American Tobacco (BAT), JTI, and Imperial Tobacco), showing the Government accepted the tobacco industry's assistance to tackle illicit trade in tobacco.<sup>27</sup>

## A NEW THREAT: LOBBYING FOR LESS REGULATION OF NEW PRODUCTS

**Controlling electronic nicotine delivery system (ENDS), more commonly referred to as e-cigarettes, is a new arena where the tobacco industry and ENDS industry lobbied governments for leniency in regulation. In 2018, Philippines, Mexico, Turkey and Lebanon experienced interference so that companies would be allowed to promote these products or be treated less restrictively than combustible tobacco products.**

- In the **Philippines**, in 2018, nine bills involving ENDS were proposed and deliberated by the Joint Committees of Health and Trade at the House of Representatives. Organizations representing the e-cigarette industry and tobacco industry attended the hearings as resource persons. A report published by health non-governmental organization, HealthJustice Philippines, showed that the tobacco industry and the ENDS industry played a large role in influencing policy formulation for ENDS in the Philippines.<sup>28</sup> The study shows that from the nine bills proposing ENDS regulation in Congress, six were oriented to adopting ENDS industry positions. Three bills, two in the House of Representatives and one in the Senate, showed the involvement of PMI. The Philippine E-Cigarette Industry Association (PECIA) and Vapers Philippines were vocal during the meetings, arguing that regulation should be assigned to the Department of Trade and Industry, promoting the harm reduction argument, and claiming that e-cigarettes are an effective smoking cessation tool.
- In **Mexico**, in 2019 two initiatives to reform the General Law on Tobacco Control to regulate ENDS were presented in the Senate. There was no open or public discussion. Within a few days after the second reading was presented, the Health Committee had a resolution which was supportive of the industry position, and far removed from the original content of the initiatives. In 2018 the lower chamber held a forum on new products to discuss the legislative proposal presented by a congressman who sought to eliminate the regulations on ENDS. In March 2018, Philip Morris México was invited as a principal speaker to this discussion.<sup>29</sup>
- In November 2017, **Lebanon's** state-owned enterprise (SOE), La Regie Libanaise Des Tabacs Et Tombacs (Regie) signed a memorandum of understanding with PMI to begin manufacturing its cigarette brands in Lebanon.<sup>30</sup> The agreement also includes manufacturing e-cigarettes in the future.
- In **Turkey**, the President announced in 2018 that the tobacco and ENDS industry had approached the government to promote their new products promising high investment as beneficial for the nation's economy. The industry claimed that they are promoting non-nicotine products.<sup>31</sup>

# 2. The tobacco industry ensnares senior officials through its so called socially responsible activities

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**The tobacco industry spends millions of dollars on so-called corporate social responsibility (CSR) activities each year, ranging from handing out scholarships to poor students, to funding poverty alleviation projects, to giving aid during natural disasters.**

The tobacco industry must be denormalized and its CSR activities banned, because the industry uses these activities to clean its image, buy public goodwill and win political mileage.

Several countries have banned CSR activities entirely including: Brazil, France, Iran, Kenya, Myanmar, Nepal, Thailand, Uganda and Uruguay.

The tobacco industry's CSR activities remain a problem in about a quarter of the countries in this report, especially in Bangladesh, China, Egypt, India, Japan, Jordan, Philippines and South Africa. In those countries, the industry focused on poverty alleviation, student aid, disaster relief, and environmental protection, all of which facilitate contact with senior government officials. In several countries, non-health ministers were involved in endorsing tobacco-related CSR activities.

- **South Africa's** Minister of Water and Sanitation visited and commended the British American Tobacco (BAT) factory for "best water saving initiative." BAT Bangladesh (BATB) deposited BDT 8.82 crore (about USD \$1 million) to the Bangladesh Labour Welfare Foundation (BLWF) fund under the Ministry of Labour and Employment. When BATB representatives handed over the check to the State Minister for Labour and Employment,<sup>32</sup> the ministry promoted this news of the donation on its official Facebook page,<sup>33</sup> while BLWF acknowledged BATB as its partner organization.<sup>34</sup>
- In **India**, to spread awareness about waste segregation among school children, the Indian Tobacco Co Ltd (ITC) launched a CSR program in schools, which was supported by the Ministry of Urban Development and Greater Hyderabad Municipal Corporation.<sup>35</sup>
- In **Jordan**, the Ministry of Education and Naour municipality (region of Amman) accepted sponsorship from Philip Morris to fix the buildings of ten schools and provide school bags students in 25 schools. The sponsorship was celebrated to award graduates and beneficiaries from its capacity-building program under the patronage of the Minister of Labor, attended by the deputy mayor of Naour, Parliament members, and the police force.<sup>36</sup>

## ENDORSEMENT FOR TOBACCO FROM SEVERAL MINISTERS

**In 2018, four ministers of non-health departments fostered relationships with and endorsed events sponsored by tobacco companies. The Minister of Social Affairs granted the "Padmamitra Award 2018" to PMI's local subsidiary, PT HM Sampoerna, for its CSR programs on disaster alert systems.**

The Minister of Industry and the Minister of Labor attended Sampoerna's CSR program for tobacco retailers,<sup>43</sup> "SRC National Retail Festival" and were photographed with the President of Sampoerna while they were wearing SRC jackets with a logo that said "Let's go SRC" The Minister of Labor promoted the tobacco industry as an important employer and source of finance. The Minister of Cooperatives and Small and Medium Scale Enterprises attended a Sampoerna Entrepreneurship Training Center in Bali, endorsing its contribution to small entrepreneurs.<sup>44</sup>

Two of these ministries come under the Coordinating Ministry of Economic Affairs, which made important decisions in 2018 that undermined tobacco control. The Coordinating Ministry appointed a think tank, Independent Research and Advisory Indonesia, headed by the former CEO of Sampoerna Foundation,<sup>45</sup> to develop a new *Tobacco Roadmap* to promote the growth of the tobacco industry through 2045. Four months after the *Tobacco Roadmap* was released, the government announced there would be no tobacco tax increase in 2019 and revoked a tobacco excise simplification policy.<sup>46</sup> The cancellation of the tax increase and annulment of the tobacco excise simplification plan illustrate the extent of influence of the industry on the government.

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- In **Egypt**, JTI sponsored "Be happy, Bride" for orphans and disadvantaged girls, the largest charity project for brides in Qalioubia governorate, endorsed by the Minister of Investment and International Cooperation.<sup>37</sup>

In both China and Japan the tobacco industry takes CSR activities to a different level by conducting public education on how smokers can exercise "good manners" in smoking to reconcile with public health.<sup>38</sup> In **Japan**, Japan Tobacco (JT) has established "smoking spaces" giving the impression that this is how to satisfy both smokers and non-smokers. Currently, JT has implemented this initiative at 943 locations in collaboration with 212 municipalities around the country. As in Japan, the Chinese National Bureau issued guidance on the creation of a "civilized smoking environment" to help develop "beautiful China" over five years, to fulfill both governmental requirements and satisfy public health needs.<sup>39</sup> This initiative is run at both national and sub-national levels.<sup>40,41</sup>

In some countries, the tobacco industry's CSR activities are even rewarded with awards. In China for example, the Shanghai Tobacco Company, which donated RMB 10 million (USD 1.5 million) to the Shanghai Charity Foundation for education in 2017, was awarded China's Charity Award for outstanding corporate social responsibility by China Charity Foundation.<sup>42</sup>

# 3. Benefits enjoyed by the tobacco industry

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**Benefits to the tobacco industry can be in various forms. Direct benefits include privileges, incentives, tax exemptions or even endorsement to encourage the business. Accommodating requests from the tobacco industry for longer implementation time or postponement of tobacco control measures also benefit the tobacco business.**

→ **Lao PDR's** joint venture agreement with Imperial Brands gives preferential treatment to the tobacco industry. This lopsided 25-year agreement grants a tax rate of 15% if production cost is less than LAK 1,500 per pack of 20 units and 30% if production cost is more than LAK 1,500 per pack of 20 units causing the government to forego about USD 144 million in tax revenues between 2002-2017. The close relationship between the business and the

government through the contract works to the advantage of the company, such that no action is taken against the company for non-compliance of pictorial health warnings on its packs.<sup>47</sup>

- The **Pakistan** Tobacco Board conducts export promotion of tobacco, sending trade delegations abroad and participating in domestic and foreign exhibitions.<sup>48</sup> In 2018, the Pakistan government secured a preferential trade agreement with Indonesia to export tobacco with duty-free access.<sup>49</sup>
- In November 2017, **Lebanon's** state owned enterprise, Regie, signed an agreement with PMI to begin manufacturing PMI's cigarette brands<sup>50</sup> and also, a similar agreement with BAT to produce Kent and Viceroy in Lebanon.<sup>51</sup> High-ranking government officials were present at the signing ceremonies indicating their endorsement of increasing the tobacco business in Lebanon.
- In **Bangladesh**, the government is committed to reduce tobacco use on one hand, but they also endorsed the tobacco industry's expansion of its business. In 2018 the government endorsed JTI



**International travellers purchasing tobacco products at lower prices through duty-free is an incentive to purchase more tobacco, hence a benefit enjoyed by the tobacco industry.**



to expand its business in Bangladesh through foreign direct investment (FDI) when it acquired local company Akij Group for USD1.47 billion. In August, the executive chairman of Bangladesh Investment Development Authority (BIDA), the government agency responsible for encouraging and facilitating private investment, was present at the deal signing ceremony.<sup>52</sup>

- In a bilateral agreement, **Cambodia** has waived duties on tobacco leaves exported to Vietnam for registered farmers producing more than 3,000 tons of tobacco.<sup>53</sup> This incentive has been in place for several years.

International travelers purchasing tobacco products at lower prices through duty-free is an incentive to purchase more tobacco, hence a benefit enjoyed by the tobacco industry.

- Currently **Sri Lanka** is the only country surveyed that does not provide duty-free status for tobacco to international travellers arriving in Sri Lanka (Table 2).
- **India** limits the allowance to 100 sticks while the bulk of the countries allow 200 sticks.

**Table 2: Duty-free cigarette allowance for international travellers**

	<b>No duty-free allowance</b>	Sri Lanka
	<b>Maximum 100 sticks</b>	India
	<b>Maximum 200 sticks</b>	Bangladesh, Brazil, Cambodia, Canada, Egypt, France (non-EU members), Indonesia, Iran, Japan, Jordan, Lao PDR, Kenya, Korea, Malaysia, Mexico, Nepal, Pakistan, Thailand, South Africa, Tanzania, Thailand, Uganda, Ukraine, U.K., U.S., Vietnam
	<b>Maximum 400 sticks</b>	China, Myanmar, Philippines, Uruguay
	<b>Maximum 800 sticks</b>	EU, Lebanon, Turkey (600 max)

European Union travelers have a high allowance of 800 cigarettes, 400 cigarillos (cigars weighing maximum 3 grams each), 200 cigars and 1 kg of tobacco.<sup>54</sup> This high level promotes cross border purchases and an oversupply by the tobacco industry which undermines health policies to reduce tobacco consumption through higher taxation. In the past, France attempted to limit this quantity to a lower level but failed.

## Delay in implementation

In **Bangladesh**, with interference from the Bangladesh Cigarette Manufacturers' Association (BCMA), the law ministry gave the tobacco industry temporary permission on March 16, 2016 to print pictorial health warnings (PHW) on the lower part of packs until 2017. On July 4, 2017, the health ministry then ordered tobacco companies to print PHW on the more prominent upper half of tobacco packs from 19 September 2017, revoking the earlier order.<sup>55</sup> However, following a petition by the BCMA, the High Court postponed the order to May 2018. More prominent PHWs on the upper part of packs were therefore delayed by two years.

In **Canada**, due to opposition from the tobacco industry, the implementation of slide-and-shell packaging was postponed in favour of pop-top packaging which dissect the health warnings when opened.<sup>56</sup> Following vigorous opposition from the tobacco industry, a ban on menthol flavored tobacco products was delayed for several years.<sup>57</sup>

## Lawsuits by the tobacco industry delay legislation

In several countries, the tobacco industry has sued the government to derail laws entirely or delay their implementation.

- The implementation of **Brazil's** ban on flavours and additives in tobacco products, passed in 2012, was delayed for about six years through a judicial claim brought by the tobacco industry which argued that the National Health Surveillance Agency (ANVISA) lacked legal authority to regulate tobacco products. In February 2018, the Supreme Court upheld ANVISA's authority to enact regulatory measures and rejected the tobacco industry request to strike down the ban on additives in tobacco products.<sup>58</sup>
- **Kenya's** 2014 Tobacco Control Regulations include elements of Article 5.3, setting out

the procedure for all interactions between government officials and the tobacco industry and requiring any industry affiliation by a member of the tobacco control board to be declared for potential conflict of interest. Implementation of the law was given six months but was delayed due to a court case brought by British American Tobacco (BAT). On Feb 17, 2017, the Court of Appeal in Nairobi upheld the Kenya High Court 2016 dismissal of BAT's challenge.<sup>59</sup> The industry's continuous appeals on the case through the court ranks is a clear delay tactic for postponing implementation of the regulations.

- **Uganda's** Tobacco Control Act 2015<sup>60</sup> includes a component on Article 5.3, regarded to be comprehensive and compliant with the WHO FCTC. However, in 2016, BAT Uganda filed a petition against the Government challenging the constitutionality of 22 clauses in the Act.<sup>61</sup> The court also heard another petition by BAT seeking a temporary injunction on the implementation of tobacco control activities, pending disposal of the petition. Three years later in May 2019, the Constitutional Court rejected BAT's challenge and upheld the Act as being constitutional.<sup>62</sup> In the ruling the Judge said that just like many other tobacco companies around the world, BAT Uganda had brought the petition as one of its strategies to frustrate laws against tobacco smoking, and ordered the company to pay for legal costs.
- In **India** in 2015, the Ministry of Health, Family and Welfare announced implementation of 85% pictorial health warnings (PHWs) on both sides of tobacco packs;<sup>63</sup> however, big tobacco companies and their allied organizations lobbied against the implementation of these new warnings and filed 27 cases against the federal rule across various state jurisdictions. The tobacco industry challenged the warnings as untruthful, unsubstantiated and unconstitutional. Consequently, the implementation of larger PHWs was delayed and not effectively implemented in many states.<sup>64</sup> The supreme court transferred all these petitions to the Karnataka High Court,<sup>65</sup> which struck down the 85% PHW amendment rules in December 2017. However, in January 2018, the Supreme Court stayed the order passed by the Karnataka High Court thereby enabling the government to, finally, proceed to implement 85% PHWs on tobacco products.<sup>66</sup>

# 4. Governments unnecessarily interact with the tobacco industry

**Unnecessary interactions occur when, for example, top level government officials attend social functions hosted by tobacco companies or when the government accepts offers of assistance or enters into partnership with the tobacco industry. Figure 3 shows how countries fared in unnecessary interactions with the tobacco industry. Jordan, Lao PDR, U.S. and South Africa have faced high levels of unnecessary interactions, while Uruguay has done exceptionally well to curb this problem.**

In Uruguay, senior government officials do not meet with tobacco companies. The government only contacts the tobacco industry when strictly necessary and in the presence of representatives

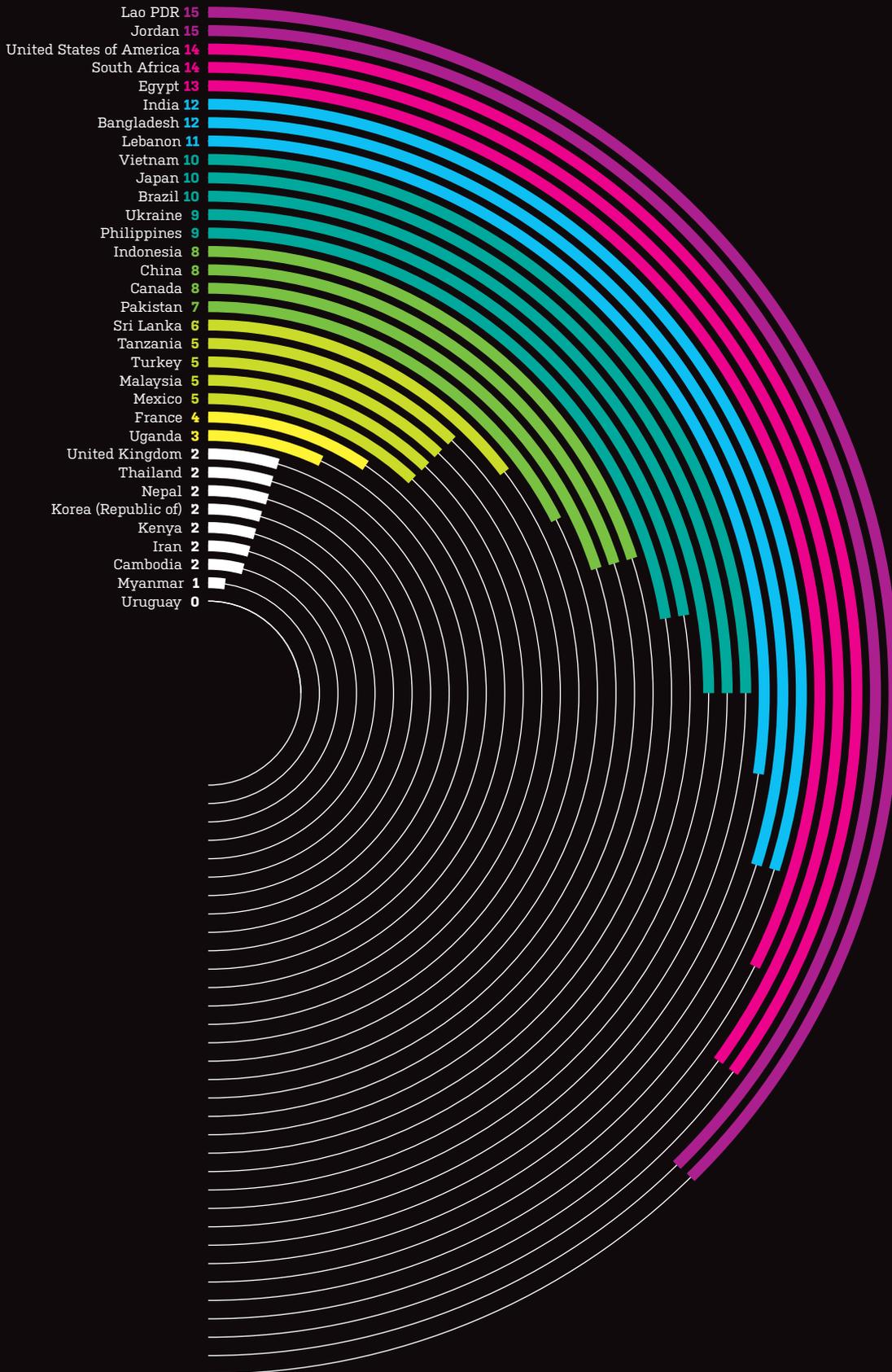
of civil society. The government does not enter into partnerships or agreements with the tobacco industry nor accept any assistance from the tobacco industry on enforcement activities including monetary contribution for these activities.

Increasingly, tobacco companies have been reported to receive frivolous awards, such as "Dream Company", "Highest Income Taxpayer", "Export champion" and other similar awards (Table 3). The awarding ceremonies are attended by top level officials who provide endorsement and photo opportunities for tobacco companies.

→ In **Bangladesh**, most of the unnecessary interactions of government officials with BAT revolved around award ceremonies, such as the "Most Female-Friendly Organization" at the Women Leadership Summit, where the International Affairs Adviser to the Prime Minister handed over the awards; "Bangladesh Supply Chain Excellence Award" involving the Executive Chairman of the Bangladesh Investment Development Authority (BIDA) and the Institute of Chartered Accountants of Bangladesh "Best presented annual report" award handed over by the Finance Minister.<sup>67</sup>

The lower the score, the better the ranking

**Figure 3:** Governments engage in unnecessary interaction with the tobacco industry



**Table 3: Frivolous awards to tobacco industry 2017-2018**

Country	Officials who attended	Awards
 Bangladesh	Executive Chairman of the Bangladesh Investment Development Authority	BAT: Supply Chain Excellence Award
	Finance Minister	BAT: Best presented annual report
	ICT State Minister	BAT: Dream Company to Work for
	Minister of Commerce	BAT: Corporate Governance Excellence Award 2017
	State Minister for Finance and Planning	BAT: Highest income tax payer
	International Affairs Advisor to the Prime Minister	BAT: Most Female-Friendly Organization
 Nepal	Finance Minister	SNPL - subsidiary of ITC Ltd, India: Highest Tax Payers award
 Kenya	Cabinet Secretary for Youth & Gender	BAT: Best Employer of the Year Award
 Korea	Minister of Industry and Commerce	BAT: USD \$300 million Export Tower
 Turkey	Prime Minister	Philip Morris: 2018 export champion award

Interaction with the tobacco industry is inevitable in countries with state-owned enterprises such as in China, Egypt, Japan, Lao PDR, Lebanon, Thailand and Vietnam.

- In **Lebanon** top-level government officials attend tobacco-related functions organized by their state-owned tobacco enterprise, Regie. In December 2018, the Finance Minister attended a ceremony where the Association of Tobacco Farmers in South Lebanon honored farmers' children for their academic achievement for 2017-2018 in Sidon and Tyr. The ceremony was co-organized by Regie and the Confederation of Unions of Tobacco.<sup>68</sup> In October 2018, the Minister of Defense received Regie executives at his office where the Minister presented an honorary shield to Regie for its contribution. In turn, Regie presented the Minister with a photograph of tobacco plants.<sup>69</sup>

Tobacco companies may still gain access to senior government officials through a third-party platform<sup>70</sup> such as chambers of commerce or other institutions.

- BAT **Myanmar** for example co-chairs the American Chamber of Commerce (AMCHAM)

Myanmar's Government Affairs Committee, whose objective is to "strengthen relationships between American companies and the Myanmar Government and its related Ministries."<sup>71</sup> EUROCHAM Myanmar has an Anti-illicit Trade Group, which has BAT as a member and whose stated objective is to "coordinate regular consultation meetings between the group and the authorized government officials to develop a shared understanding of challenges and issues."<sup>72</sup>

- In **Malaysia**, Philip Morris International (PMI) which is a board member of AMCHAM, routinely meets with government officials through activities of the chamber. In October 2018, officials from the Malaysian Ministry of Finance and Inland Revenue Board briefed AMCHAM's Investment and Taxation Committee.<sup>73</sup> Also present at this briefing were officials from the Ministry of International Trade and Industry and the Malaysian Investment Development Authority. This presents challenges for government officials to avoid meeting with PMI executives at these AMCHAM events.

# 5. Lack of transparency facilitates industry interference

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**Lack of transparency in interactions with the tobacco industry is a problem across most countries. Two thirds of the countries have not put in place rules or procedures for disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf.**

Non-health departments, such as departments of commerce, customs and trade remained most vulnerable to influence from the tobacco industry. Often, the interaction comes to light after the fact. Closed door meetings with the Finance Ministry on taxation issues, without health officials present and without disclosure of the agenda, occurred in Bangladesh, Indonesia, Malaysia and South Africa. Several governments have bought into the industry's arguments that any tax increase will lead to worsening of tobacco smuggling. This has encouraged governments to enter into collaboration with the industry in a non-transparent manner.

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In 2017, **Bangladesh** Customs Intelligence and Investigation Directorate received funds from the Bangladesh Cigarette Manufacturers Association to observe a "Cigarette Smuggling Prevention Week,"<sup>74</sup> which was halted after exposure in the press. However, it was replaced with BAT providing information to the National Bureau of Revenue to reduce illegal cigarette trade.<sup>75</sup>

Several governments have signed a memorandum of understanding with or accepted technical assistance from the tobacco industry to address illicit trade (Table 4) but they are not parties to the Protocol to Eliminate Illicit Trade in Tobacco Products. The Protocol's General Obligations,<sup>76</sup> in Article 4 requires that "Parties shall ensure the maximum possible transparency with respect to any interactions they may have with the tobacco industry." The Protocol also states under "tracking and tracing" that obligations assigned to a party shall not be performed by or delegated to the tobacco industry.

In India, an industry-related body, Committee Against Smuggling and Counterfeiting Activities Destroying the Economy (CASCADE) was formed to counter illicit trade and smuggling of tobacco. CASCADE is currently headed by Indian Tobacco Company's senior vice president for corporate affairs. The government through a closed-door agreement has collaborated with CASCADE to fight against illicit trade, endorsed by the Union Commerce and Industry Minister.<sup>77</sup>



**Non-health sectors, such as Departments of Commerce, Customs and Trade remained most vulnerable to influence from the tobacco industry. Often, the interaction comes to light after the fact.**



**Table 4: Governments in non-transparent collaboration with the tobacco industry**

		Memorandum of Understanding (MOU)/ Technical assistance	Party to Protocol to Eliminate Illicit Trade in Tobacco Products <sup>78</sup>
	Bangladesh	Technical assistance	
	Brazil	2017 – Technical assistance	June 14, 2018 (Accession)
	China (state enterprise)	MOU	Signatory - 10 Jan 2013
	India	Technical assistance	5 June 2018 (Accession)
	Jordan	Technical assistance	Not a Party
	Lao PDR	Technical assistance	Not a Party
	Lebanon	Anti-Smuggling Conference	Not a Party
	South Africa	Technical assistance	Not a Party
	Ukraine	MOU	Not a Party

Although governments may have a policy of non-engagement with the tobacco industry, tobacco companies can still gain access to senior level officials as experienced by the European Union. In 2018 in Brussels, Tobacco Watch Blog reported that commissioners, members of the European Parliament and directors of administration took part in a symposium funded by PMI, which could put pressure on Brussels. The symposium entitled "smuggling, counterfeiting and financing of terrorism" was organized by the Robert Schuman Foundation. Among the speakers were Pierre Moscovici, Commissioner for Economic and Financial Affairs, Taxation and Customs, and Julian King, Union Security Commissioner. According to Tobacco Watch, Moscovici later reported, "We were not aware of this funding, .... Information taken, it is preferable that the Commissioner does not participate in this conference. We sincerely take this opportunity to thank you for this information that we had missed."<sup>79</sup>

There are countries with good practice in applying a procedure to record interactions with the tobacco industry. In Kenya, the Tobacco Control Regulations set out the mechanism for all interactions between government officials and the tobacco industry.<sup>80</sup> The procedure requires:

1. Any interactions between public authorities or public officers and the tobacco industry shall be limited to the extent strictly necessary for effective tobacco control and enforcement of relevant laws.
2. A minimum of two public officers shall be present in any interactions with the tobacco industry.
3. Before commencing any interaction with the tobacco industry, the public officers shall state, in writing, that the interaction does not imply an endorsement of tobacco industry practices and that no relationship, collaboration or partnership shall be construed whatsoever from the interaction.

## DISCLOSURE OF MEETINGS WITH THE INDUSTRY

**Health Canada discloses meetings with the tobacco industry in providing the date, subject matter, attendees and outcome.<sup>81</sup> The Department has launched a website that contains details of meetings with representatives from the tobacco and the electronic nicotine delivery system (ENDS) industry.**

In France, Article 26 of the 2016 health law has established a principle of transparency of relations of influence by the tobacco industry. Application of this article requires that tobacco manufacturers, importers and distributors, as well as businesses, professional organizations or associations representing them, report annually to the Ministry of Solidarity and Health all expenditures related to activities of influence or representation of interests.<sup>82</sup> These include:

- Remunerations of personnel employed full time or partly to exercise influence or represent interests;
- Purchase of services from consulting companies in influencing or representation activities;
- Benefits in kind or in cash, worth more than €10 (USD \$11.15), provided to:
  - + members of the government;
  - + members of ministerial offices or collaborators of the President of the Republic;
  - + collaborators of the President of the National Assembly or the President of the Senate;
  - + parliamentarians;
  - + persons entrusted with a public service mission which their mission or the nature of their function calls for taking or preparing the decisions and opinions of the public authorities relating to tobacco products.

A register of lobbyists would identify those speaking on behalf of the tobacco industry. In the U.S., lobbyists are required to register according to the Lobbying Disclosure Act.<sup>83</sup> Lobbying firms and organizations employing in-house lobbyists must register when they meet income/expense minimums, have an employee who meets the definition of a lobbyist, and/or when they make more than one lobbying contact with a government official. All 50 states have similar registration requirements and provide public access to registration information for lobbyists and/or entities who contract for lobbying services (Table 5).

Access to information on the number of lobbyists and lobbying expenditure will be helpful in several ways. For example, comparing the number of lobbyists promoting the tobacco industry's interest against the number of full-time staffs working in tobacco control, and a comparison on the differences in the expenditure, would be an exposé and a reality check on what the government is up against. For example, in 2017, Altria and RJ Reynolds paid lobbyist to stop a tobacco tax bill in Montana.<sup>86</sup> About USD 26 million was spent on the defeated tobacco tax measure.<sup>87</sup>

**Table 5: U.S. lobbying totals for 2017 and 2018**

	2017 <sup>84</sup>	2018 <sup>85</sup>
Total for Tobacco	\$21,825,111	\$23,361,000
Total Number of Clients Reported	28	28
Total Number of Lobbyists Reported	218	232



**Health Canada discloses meetings with the tobacco industry in providing the date, subject matter, attendees and outcome. The Department has launched a website that contains details of meetings with representatives from the tobacco and the ENDS industry.**



# 6. Senior government officials working for the industry present a conflict of interest problem.

**The Index reviewed whether current or retired officials joined the tobacco industry and whether governments had a policy rejecting contributions, including political contributions, from the tobacco industry (Figure 4).**

Retired senior government officials joining tobacco companies is a problem in several countries. Tobacco companies appoint former senior officials to benefit from their previous senior position which can facilitate lobbying the bureaucracy and influence policy.

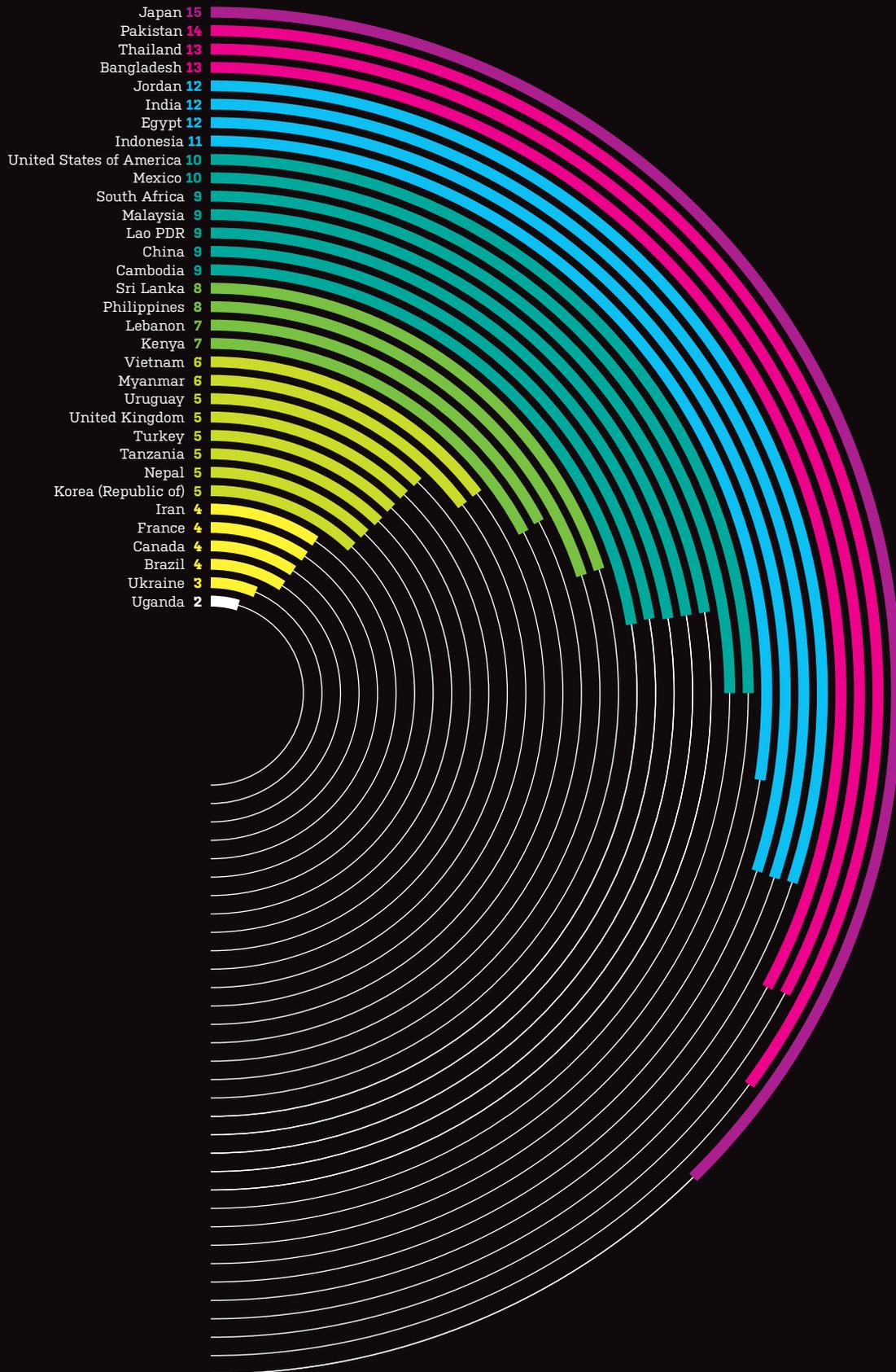
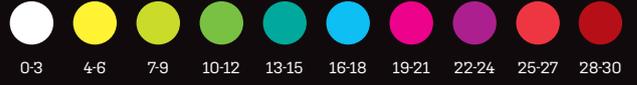
- In Japan, when senior finance officials retire from government service, they move to top leadership positions in Japan Tobacco (JT). For example, the current Chairman of JT started his career in the Ministry of Finance, rising to the position of Administrative Vice Minister in 2009, was promoted as Special Advisor to the Cabinet (2012 – April 2014), and then appointed as Chair of JT in June 2014.<sup>88</sup>
- In Pakistan, a senior government official who previously was the Finance Secretary and Secretary General, Finance and Economic Affairs, upon his retirement, became the Chairman of the Board of Pakistan Tobacco

Co (PTC) the local affiliate of BAT.<sup>89</sup> Another official who served the government for 38 years in policy formation and implementation joined PTC as its Non-Executive Director and Chairman of Audit Committee.<sup>90</sup>

- In Bangladesh, the former Senior Secretary of the Ministry of Agriculture (2016) and the former Secretary of the Ministry of Industries (since 2012) are both Independent Directors of BATB.<sup>91</sup> In Cambodia, the owner of a cigarette business was appointed a Senator in 2018.<sup>92</sup>
- France has legislation to prevent former ministers, former presidents of local councils as well as former members of independent administrative or public authorities entering the private sector.<sup>93</sup> The High Authority checks if these officials enter the private sector at the end of their public functions or mandates. For a period of three years, anyone who has held one of these positions must submit a request to the High Authority to examine whether the new private activities that they plan to pursue are compatible with their former functions; however, the legislation applies only to some public authorities<sup>94</sup> which provides a loophole where former officials can still join the tobacco industry. For example, a past Intelligence Director of the General Directorate for External Security (DGES) of the French Ministry of Defense, who was also senior official in charge of economic intelligence to the Prime Minister's office, was recruited to the expert council of PMI's IMPACT program on illicit trade.<sup>95</sup>

The lower the score, the better the ranking

**Figure 4:** Conflict of interest problem persists



## Political contributions and gifts from the tobacco industry

Two thirds of the 33 countries allow political contributions from the tobacco industry. In the U.S., the law requires that direct contributions to political campaigns must be declared and made public, although money spent on electioneering without donating to campaigns is not subject to reporting. In the 2018 (non-presidential) election cycle, the tobacco industry contributed USD \$5,447,028 in total campaign donations according to public records.<sup>97</sup> The Kenya Tobacco Control Regulations require full disclosure of political contributions from the tobacco industry. A report must be submitted to the Board, responsible for monitoring and reporting, any lobbying, philanthropy, political contributions and all other activities by the tobacco industry. The U.K. also has general rules (not specific to tobacco) regulating political contributions and the disclosure of such contributions. Donations over £7,500 (USD \$9,130) to national political parties must be declared.<sup>98</sup>

Contributions from the tobacco industry are banned in 10 countries. In Turkey, activities including lobbying, philanthropy, political contributions and all other activities are prohibited by the

tobacco control law.<sup>99</sup> In Canada donations to political campaigns for electoral purposes are banned. This ban applies to all corporations, trade unions and non-governmental organizations, not just the tobacco industry. Other measures to reduce conflicts of interest between government and any commercial interest include the federal Conflict of Interest Act, Treasury Board policies on Conflict of Interest and Post-Employment, and the Departmental Code of Conduct which significantly limits the acceptance of gifts, hospitality or any benefits. These apply a high standard of protection against conflicts of interest.

The French government disallows the acceptance of all forms of contributions/ gifts from the tobacco industry including offers of assistance, policy drafts, or study visit invitations given or offered to the government, its agencies, officials and their relatives.<sup>100</sup> Similarly, the Ugandan Tobacco Control Act prohibits contributions/gifts from the tobacco industry including offers of assistance, policy drafts, or study visit invitations.<sup>101</sup>

## STATE-OWNED ENTERPRISES AND CONFLICT OF INTEREST

**Governments with state owned enterprises (SOEs) or joint ventures such as China, Egypt, Japan, Lao PDR, Lebanon, Thailand and Vietnam, protect their tobacco business interests; so government officials find themselves inadvertently conflicted in adopting stringent tobacco control measures.<sup>96</sup> Some of these countries have been found at the lower end of the Index scale.**

SOEs allow the tobacco industry to be viewed positively as a stakeholder, pressure government officials to give preference to its business interests over tobacco control and create revolving door situations with senior officials moving from government to the industry. Both foreign and local tobacco companies in these countries tend to approach departments responsible for trade and investment with their business concerns. Decisions that accommodate the tobacco industry's requests often result in delays and watering down of tobacco control policies to the detriment of public health.

Hence Article 5.3 guidelines call on parties to the WHO FCTC to treat state-owned tobacco industry in the same way as any other tobacco industry and to ensure that the setting and implementing of tobacco control policy are separated from overseeing or managing the tobacco industry.

# 7. Preventive measures to protect the government

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**Governments can proactively take several preventive measures to protect their officials from being exposed to interference such as adopting a code of conduct for officials when dealing with the tobacco industry, applying transparency and accountability procedures for interactions, and prohibiting acceptance of any form of contributions including technical assistance from the tobacco industry.**

Unfortunately, Tanzania, Lebanon, Korea, South Africa, Japan, Egypt, and several other countries have done little to protect their officials from industry interference (Figure 5).

Most countries have taken some form of preventive action, but these are insufficient to provide an effective firewall. Some countries have instituted partial action by just one agency, usually the health department, which is insufficient, as it leaves the door wide open for the industry to seek support from the non-health departments.

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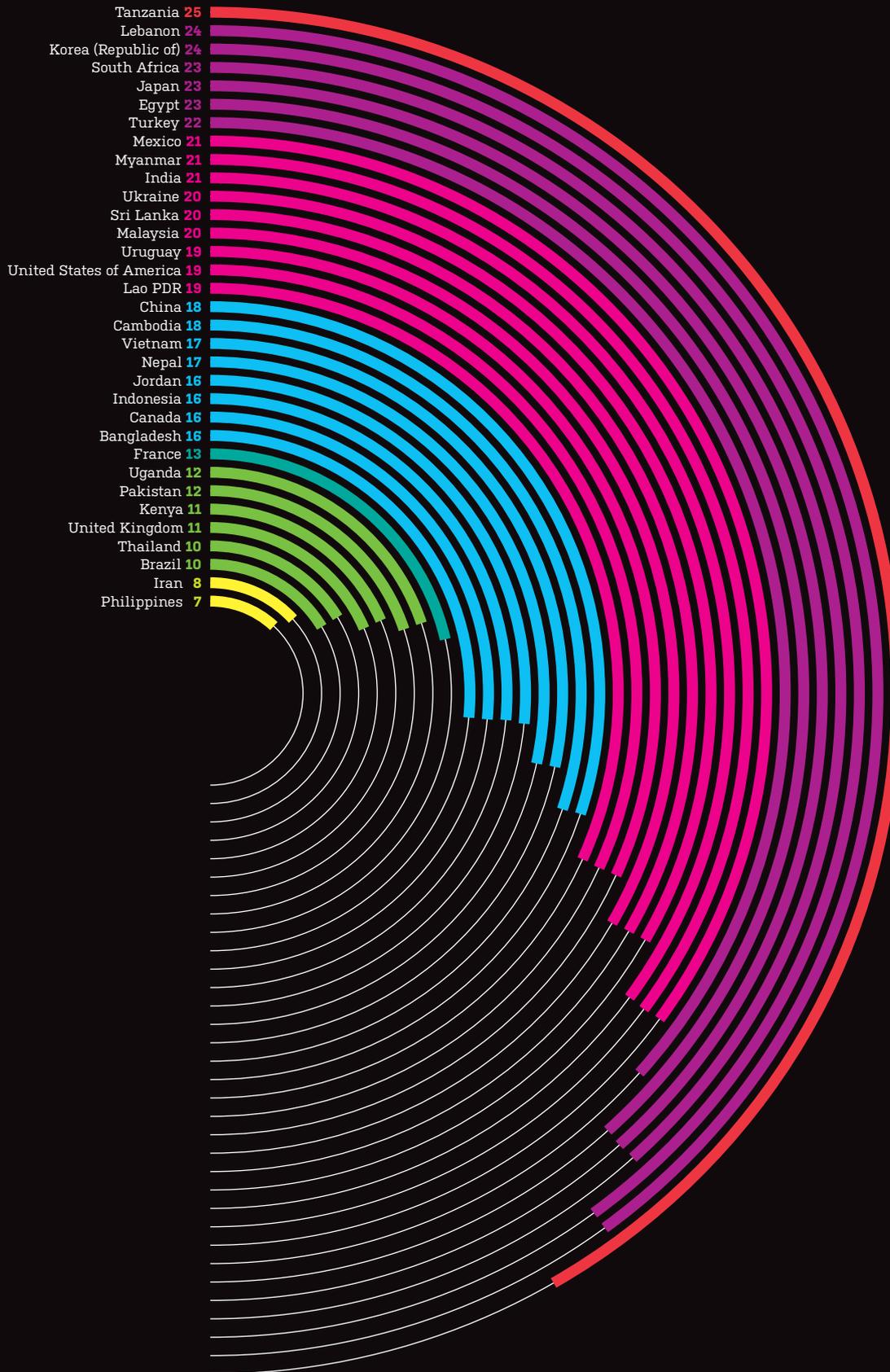
A basic activity for governments to undertake is to implement a program to consistently raise awareness across the departments on policies relating to WHO FCTC Article 5.3 Guidelines. Many countries, including China, Egypt, Japan, Korea, Tanzania, South Africa and Turkey, do not have such a specific policy awareness program in place.

Countries such as Brazil, Kenya and the U.K. have adopted programs to raise awareness on protecting their tobacco control measures from industry interference. Brazil used an information sheet, ("How much it costs to receive donations from the tobacco industry") to conduct awareness programs with various ministries of the National Commission for WHO FCTC implementation and other bodies, including parliamentarians.<sup>102</sup>

The U.K.'s Department of Health and Social Care (DHSC) has committed to issuing active reminders in the officials and delivery groups to limit contact with the tobacco industry.<sup>103</sup> In February 2019, the All Party Parliamentary Group on Smoking and Health recommended that the DHSC "should provide all parts of Government [...] with advice on their responsibilities to protect public health policy from the commercial and vested interests of the tobacco industry based on the WHO FCTC Article 5.3 guidelines."<sup>104</sup>

The lower the score, the better the ranking

**Figure 5:** Governments that have acted to protect themselves with preventive measures



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While Kenya's tobacco control legislation<sup>105</sup> requires the authorities to adopt mechanisms to raise awareness about the interference and vested interests of tobacco industry and enforcement of tobacco control legislations and policies, the implementation was delayed due to the court challenge brought by BAT.

## Code of conduct as a firewall

Indonesia and Lao PDR have issued a Code of Conduct for their health ministries. In 2018, the Ministry of Health Lao PDR issued a Code of Conduct for the Health Sector to provide guidance on interacting with the tobacco industry.<sup>106</sup> The Code includes the following clauses:

1. Should not accept legislation, policy, work plan, action plan and any document offer by tobacco industry or tobacco industry front groups including ex-government officials and retirees.
2. Should not accept direct and indirect support from tobacco industry such as cash, loan, present, gifts, in-kind, monetary, survey fund, study fund, equipment-technology including Corporate Social Responsibility, except payment made to the government according to the obligations under the law and regulations.<sup>107</sup>

Jordan has a code of conduct for ministers and public officials however, the Parliament and the House of Representative are not required to disclose any relationship with the tobacco industry.<sup>108,109</sup>

## Record interactions with industry

Uganda, U.K., Uruguay and France have instituted a policy and/or a procedure for disclosing records of interactions with the tobacco industry and its representatives. Uganda's legislation requires all nominated members of the Tobacco Control Committee to sign a declaration of interest form before being appointed. This committee is guided by an internal code of conduct on its dealings with the tobacco industry.<sup>110</sup> Uruguay has a procedure for disclosing the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry.

## PHILIPPINES: A CODE OF CONDUCT ACROSS ALL CIVIL SERVANTS

**In 2010, the Philippines Department of Health and the Civil Service Commission issued a Joint Memorandum Circular (JMC)<sup>111</sup> which applies to all officials and employees of the government.**

The JMC prohibits interaction with the tobacco industry unless strictly necessary for its effective regulation. Where a strictly necessary interaction with the tobacco industry is warranted, the JMC requires transparency in interactions with the industry through submission of reports or minutes of meetings that can be made publicly accessible.

The JMC prohibits the following:

- unnecessary interaction with the tobacco industry
- preferential treatment to the tobacco industry
- accepting gifts, donations, and sponsorship
- financial interest in the tobacco industry
- accepting other analogous favors
- conflict of interest with the tobacco industry

The circular specifies that any violation covered under the JMC is a ground for administrative disciplinary action. Constant raising awareness of the JMC to government agencies and effective monitoring of the tobacco industry is needed to ensure its successful implementation.

## Requiring the tobacco industry to be transparent and accountable

According to recommendations of the guidelines, the tobacco industry should be required to periodically submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and other activities, including lobbying and philanthropy. Thailand, the U.K. and the EU provide good examples of how to obtain industry information.

→ In 2017, **Thailand** passed the Tobacco Product Control Act<sup>117</sup> which requires the tobacco industry to submit information on volume of manufacturing, imports, marketing expenses and earnings. It is the first country in Asia to require this level of detailed reporting from the tobacco industry.

- The **U.K.** Revenue & Customs and the Department of Health and Social Care collect information from tobacco manufacturers on profits, taxes paid, product prices, marketing and research spending, and local data on sales of all products;<sup>118</sup> however, the government is not allowed to publish the sales and marketing data.<sup>119</sup> Civil society organizations have urged for greater transparency requiring the information to be made public.<sup>120</sup>
- The **EU** Tobacco Products Directive of 2016 has imposed reporting requirements on the tobacco industry.<sup>121</sup>

## DIPLOMATIC MISSIONS SHOULD NOT PROMOTE TOBACCO

**Parties to the WHO FCTC at the sixth session of the COP (COP6) agreed to “raise awareness and adopt measures to implement Article 5.3 and its implementing Guidelines among all parts of government including diplomatic missions.”<sup>112</sup> The Philippines,<sup>113</sup> U.K.<sup>114</sup> and U.S.<sup>115</sup> have measures to ensure their diplomatic missions do not promote tobacco.**

The U.K.'s specific guidelines on tobacco for their diplomatic missions prohibits the following:

- involvement in activities with the specific purpose of promoting the sale of tobacco or tobacco-related products;
- encouraging investment in the tobacco industry, or providing any assistance in helping tobacco companies influence non-discriminatory local business policies to their advantage (e.g.: taxation, plain/standardized packaging, etc.);
- attendance or otherwise supporting receptions or high-profile events, especially those where a tobacco company is the sole or main sponsor and/or which are overtly to promote tobacco products or the tobacco industry (such as the official opening of a United Kingdom tobacco factory overseas); and
- lobbying against any local administration's policies that are aimed at improving public health.

In Pakistan, the importance of these guidelines was demonstrated when British American Tobacco (BAT) was exposed in using the British High Commission in Pakistan to lobby the Finance Minister and the Minister of State for National Health to drop the government's plan to apply 85% pictorial health warnings on cigarette packs.<sup>116</sup>

# Conclusion and recommendations

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**This report has revealed that countries that scored well on the Index have prevailed against tobacco industry interference by implementing measures to protect themselves. These are the same countries noted for their strong tobacco control achievement.**

Article 5.3 appears under General Obligations of the WHO FCTC, however its implementation is progressing slowly and is far from satisfactory. Major improvement is needed across most countries. Non-health sectors remain vulnerable to tobacco industry interference. The tobacco industry continues to receive incentives to do its business in several countries.

Actions outlined in sub-recommendations of Article 5.3 guidelines can put a firewall around the government and enable officials to protect and advance public health policies. It is vital that Article 5.3 is implemented in its entirety to plug loop holes the tobacco industry can exploit. Examples of good country practices<sup>122</sup> have been recorded and provide a menu of actions governments can adopt.

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**Article 5.3 appears under General Obligations of the WHO FCTC, however its implementation is progressing slowly and is far from satisfactory.**

# Recommendations

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**Governments have the tools in their hands to short-circuit the tobacco industry's interference. They need to act fast and do the following:**

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- 1. Create awareness on Article 5.3:** A whole-of-government approach is vital to effectively counter tobacco industry interference. More needs to be done to increase awareness on the obligation to protect tobacco control among the non-health sector to stop industry influence in thwarting and delaying policy development. Efforts to increase awareness should also include parliamentarians and all local government officials.
- 2. Stop unnecessary interactions:** Interactions must be limited to only when strictly necessary for the purposes of controlling, regulating and

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supervising the tobacco industry. This will halt unnecessary interactions through awards ceremonies.

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- 3. Firewall government officials:** Adopting a Code of Conduct or guidelines for all government officials will firewall the bureaucracy so that public health policy is developed free from interference. To be more effective, the code must apply to the whole government rather than just the Department/Ministry of Health.
  - 4. Ensure transparency:** Greater transparency when dealing with the tobacco industry will reduce opportunities for interference. All meetings with the tobacco industry and their outcomes must be recorded and made publicly available.
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**"The tobacco industry should be required to provide information in a transparent and accurate manner regularly, about production, market share, marketing expenditures, revenues and any other activity, including expenditure on research and philanthropy."**

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**5. Denormalize so called "socially responsible" activities by the tobacco industry:** A ban on tobacco related CSR activities can reduce opportunities for top level officials to participate and endorse industry activities.

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**6. Remove benefits to the tobacco industry:** Departments/ministries of health must work more closely with non-health departments.

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**7. Treat state-owned tobacco enterprises like any other tobacco business:** As stated explicitly in the recommendations of the guidelines, SOE should be treated like any other tobacco business and not be given any incentives or privileges to conduct their business.

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**8. Require information on production, marketing and revenue from the tobacco industry:** The tobacco industry should be required to provide information in a transparent and accurate manner regularly, about production, market share, marketing expenditures, revenues and any other activity, including expenditure on research and philanthropy. Best practice would be to ban the tobacco industry from providing any contributions including political contributions, gifts, technical advice, scholarships or study visits.

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**9. Require disclosure:** Require a registry of lobbyists and the tobacco industry's lobbying expenditure. The registry should also have a record of the representatives of the tobacco industry.

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# Summary table

	BD	BR	KH	CA	CN	EG	FR	IN	ID	IR	JP	JO	KE
<b>Level of Participation in Policy-Development</b>	<b>14</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>18</b>	<b>5</b>	<b>5</b>	<b>6</b>	<b>15</b>	<b>4</b>	<b>19</b>	<b>15</b>	<b>4</b>
The government accepts, supports or endorses offer for assistance by or in collaboration with the tobacco industry in implementing tobacco control policies (Rec 3.1)	5	1	1	2	5	2	2	2	5	1	4	5	1
The government accepts, supports or endorses legislation drafted by/ collaboration with the tobacco industry (Rec 3.4)	3	0	1	1	3	1	1	0	5	1	5	4	1
The government allows the tobacco industry to sit in multi-sectoral committee/ advisory group that sets public health policy (Rec 4.8)	5	1	1	1	5	1	1	3	5	1	5	5	1
The government allows representatives from the tobacco industry (including State-owned) in the delegation to the COP or subsidiary bodies or accepts their sponsorship for delegates. (Rec 4.9 & 8.3)	1	1	1	1	5	1	1	1	0	1	5	1	1
<b>Tobacco related CSR activities</b>													
The government receives contributions from the tobacco industry (including so-called CSR contributions) (Rec 6.4) The government agencies/officials endorses, forms partnerships with/ participates in tobacco industry CSR activities (Rec 6.2)	5	0	3	3	5	5	1	4	5	1	5	5	0
<b>Benefits to the tobacco industry</b>													
The government accommodates requests from the industry for longer implementation time or postponement of tobacco control law (Rec 7.1)	4	0	1	4	4	1	1	0	5	1	3	5	2
The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)	5	2	4	3	3	4	3	5	5	3	5	4	3

	KR	LA	LB	MY	MX	MM	NP	PK	PH	ZA	LK	TZ	TH	TR	UG	UA	UK	US	UY	VN
	2	9	15	9	12	5	2	11	18	10	6	14	4	7	3	12	2	13	2	14
	0	4	5	0	1	1	0	3	5	3	3	3	1	5	1	2	1	5	0	4
	0	3	5	3	5	2	0	2	5	1	2	5	1	0	0	4	0	5	0	4
	1	1	4	5	5	1	1	5	5	5	0	1	1	1	1	5	0	3	1	5
	1	1	1	1	1	1	1	1	3	1	1	5	1	1	1	1	1	0	1	1
	4	0	2	3	2	4	2	4	4	5	1	4	2	0	3	3	1	0	0	4
	0	3	5	5	0	4	2	4	0	0	4	5	3	4	0	3	0	4	2	0
	3	5	1	3	1	3	3	4	5	4	4	4	2	5	1	3	1	5	1	1

# Summary table cont.

	BD	BR	KH	CA	CN	EG	FR	IN	ID	IR	JP	JO	KE
<b>Forms of unnecessary interaction</b>	<b>12</b>	<b>10</b>	<b>2</b>	<b>8</b>	<b>8</b>	<b>13</b>	<b>4</b>	<b>12</b>	<b>8</b>	<b>2</b>	<b>10</b>	<b>15</b>	<b>2</b>
Top-level government officials meet with/ foster relations with the tobacco companies such as attending social functions and events sponsored or organized by the tobacco companies. (Rec 2.1)	5	4	1	3	0	3	2	3	5	1	3	5	2
The government accepts assistance/ offers of assistance from the tobacco industry on enforcement (Rec 3.1 & 4.3)	4	3	0	3	5	5	0	5	1	1	3	5	0
The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry (Rec 3.1)	3	3	1	2	3	5	2	4	2	0	4	5	0
<b>Transparency</b>													
The government does not publicly disclose meetings/ interactions with the tobacco industry where such interactions are strictly necessary for regulation. (Rec 2.2)	3	2	2	2	5	5	2	5	5	4	3	5	1
The government requires rules for the disclosure or registration of tobacco industry entities, affiliate organizations, and individuals acting on their behalf including lobbyists.	5	3	5	2	3	5	1	4	5	3	5	2	3
<b>Conflict of Interest</b>	<b>13</b>	<b>4</b>	<b>9</b>	<b>4</b>	<b>9</b>	<b>12</b>	<b>4</b>	<b>12</b>	<b>11</b>	<b>4</b>	<b>15</b>	<b>12</b>	<b>7</b>
The government does not have a policy (whether or not written) to prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns or to require full disclosure of such contributions (Rec 4.11)	5	1	5	1	1	5	1	4	5	1	5	5	1
Retired senior officials work for the tobacco industry (Rec 4.4)	4	3	0	2	3	5	2	4	5	2	5	2	3
Current government officials and their relatives hold positions in the tobacco business including consultancy positions (Rec 4.5, 4.8 & 4.10)	4	0	4	1	5	2	1	4	1	1	5	5	3

	KR	LA	LB	MY	MX	MM	NP	PK	PH	ZA	LK	TZ	TH	TR	UG	UA	UK	US	UY	VN
	2	15	11	5	5	1	2	7	9	14	6	5	2	5	3	9	2	14	0	10
	2	5	4	3	3	0	2	3	4	4	4	5	0	5	2	0	1	5	0	5
	0	5	4	2	2	0	0	4	0	5	2	0	2	0	0	5	1	4	0	5
	0	5	3	0	0	1	0	0	5	5	0	0	0	0	1	4	0	5	0	0
	5	4	5	3	3	4	5	5	0	4	5	5	3	5	2	4	0	5	0	1
	5	4	5	5	5	5	3	5	3	3	4	3	4	5	3	4	4	2	5	5
	5	9	7	9	10	6	5	14	8	9	8	5	13	5	2	3	5	10	5	6
	5	1	5	5	5	1	5	5	5	4	5	5	4	5	1	0	4	5	5	1
	0	3	1	4	3	3	0	5	3	1	0	0	5	0	1	0	1	1	0	0
	0	5	1	0	2	2	0	4	0	4	3	0	4	0	0	3	0	4	0	5

# Summary table cont.

	BD	BR	KH	CA	CN	EG	FR	IN	ID	IR	JP	JO	KE
<b>Preventive measures</b>	<b>16</b>	<b>10</b>	<b>18</b>	<b>16</b>	<b>18</b>	<b>23</b>	<b>13</b>	<b>21</b>	<b>16</b>	<b>8</b>	<b>23</b>	<b>16</b>	<b>11</b>
The government has a procedure for disclosing records of the interaction with tobacco industry and its representatives. (Rec 5.1)	4	2	5	3	4	5	2	4	5	1	5	4	4
The government has formulated, adopted or implemented a code of conduct for public officials, prescribing the standards they should comply when dealings with the tobacco industry (Rec 4.2)	3	2	3	4	4	5	3	4	2	1	5	3	4
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, and political contributions. (Rec 5.2)	2	2	5	3	2	3	2	5	2	2	3	3	1
The government has a program / system/ plan to consistently raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)	3	2	3	4	5	5	4	3	5	3	5	4	1
The government has a policy prohibiting the acceptance of all forms of contributions from the tobacco industry (monetary or otherwise) including offers of assistance, policy drafts, or study visit invitations to the government, officials and their relatives. (Rec 3.4)	4	2	2	2	3	5	2	5	2	1	5	2	1
	<b>77</b>	<b>34</b>	<b>48</b>	<b>47</b>	<b>73</b>	<b>73</b>	<b>34</b>	<b>69</b>	<b>75</b>	<b>30</b>	<b>88</b>	<b>79</b>	<b>33</b>

	KR	LA	LB	MY	MX	MM	NP	PK	PH	ZA	LK	TZ	TH	TR	UG	UA	UK	US	UY	VN
	24	19	24	20	21	21	17	12	7	23	20	25	10	22	12	20	11	19	19	17
	5	5	5	5	4	5	5	4	1	5	4	5	2	5	4	5	2	2	2	5
	4	2	5	5	5	2	4	2	1	5	4	5	2	5	2	5	3	5	5	4
	5	4	4	5	2	5	5	2	2	4	4	5	2	2	1	4	2	2	2	2
	5	3	5	2	5	5	2	2	2	5	5	5	2	5	4	4	2	5	5	4
	5	5	5	3	5	4	1	2	1	4	3	5	2	5	1	2	2	5	5	2
	50	68	75	62	59	53	41	66	54	72	58	70	43	58	29	61	26	72	34	58

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