

South Africa

Overall score:

74

I. Industry participation in policy development: The tobacco control measures are primarily led and implemented by the Ministry of Health (MOH) / National Department of Health (NDOH). However, the tobacco industry interference continues to occur in many of the non-health government departments. Various consultations and meetings take place between the tobacco industry and the National Department of Finance/ Treasury, South African Revenue Services (SARS), South African Police Services (SAPS), Department of Trade and Industry (DTI), Department of Agriculture, Forestry and Fisheries (DAFF), etc.

However, the government fully implements Recommendation 4.9 and 8.3 of the Article 5.3 Guidelines by excluding tobacco industry representatives in the government delegation to the FCTC Conference of the Parties (COP) sessions and its related meetings.

II. Tobacco industry-related CSR activities: The current Tobacco Control Act does ban contributions. However, charitable contributions are permitted provided they are not for the purpose of advertising [Section 3(2)]. This is a loophole in the current Tobacco Control Act that will be removed, once the new Tobacco Bill is introduced.

Politicians, government departments and officials have actively engaged, supported, formed partnerships, participated in and received contributions (monetary or otherwise) from "so-called" Corporate Social Responsibility activities and programmes organized by the tobacco industry.

III. Benefits given to the tobacco industry: The National Treasury and SARS have not made any significant increases in excise taxes in the past few years (aside from inflation increases). In 2018, the minimum collectable tax rate on a pack of

20 cigarettes was set at R17.85 (about USD1.20), a total tax burden of somewhat more than 52% of the retail price (for the popular brands). This is much lower than the WHO recommendation of a minimum of 70% of retail price. The industry has argued that if tobacco taxes are increased, people will switch to cheaper illicit cigarettes (taxes not paid), and the government will therefore receive less revenue. This argument has worked well in South Africa. Excise revenue collected from tobacco products dropped from R13 billion in the 2015/16 fiscal year to R12.1 billion in 2016/17 and to R10.9 billion in 2017/18. This is a 16% drop over the period and there has been a 20% decrease in the number of declared cigarettes in South Africa over two years.

Travellers into South Africa still continue to enjoy "Duty-free allowances" on tobacco products in accordance with SARS regulations. Tobacco products may be brought into the country (up to 200 cigarettes, 20 cigars per person, 250g of cigarette or pipe tobacco per traveller) without the payment of customs duty and VAT.

IV. Unnecessary interaction with the tobacco industry: In the absence of a Code of Conduct for politicians and government officials in South Africa, high-ranking politicians and officials continue to unnecessarily engage with the tobacco industry, for example, the Minister of Water and Sanitation fostered relations with the tobacco industry by visiting the BATSA factory and meeting with tobacco industry officials. The Minister heralded the water saving initiative at BATSA Heidelberg factory as one of the best water saving initiatives in 2017.

V. Procedure for transparency measures: The government does not disclose meetings and or interactions with the tobacco industry in cases

where such interactions are strictly necessary for regulation. In contrast, the government openly accepts assistance from the tobacco industry, particularly on enforcement issues. The tobacco industry proudly announces its partnership with government and continues to work closely with law enforcement officers, crime intelligence, prosecuting authorities and government officials from SARS and SAPS to raid BATSA's opposition factories, warehouses and places that sell their competitor's cigarettes under the guise that they are assisting the government to curb the illicit trade of tobacco products.

VI. Avoiding conflicts of interest: Presently the government does not prohibit the tobacco industry from making contributions to political parties/ candidates or political campaigns to further their vested interests. The recipients are also not required to fully disclosure such contributions. The media has exposed how some politicians have received substantial contributions from the tobacco industry.

VII. Preventive measures: The government has not put in place a protocol or policy to record interactions with the tobacco industry. There are no formal procedures to disclose and record interactions (such as agenda, attendees register, minutes and outcomes) with the tobacco industry and its representatives, in accordance with the recommendations of FCTC Article 5.3. A code of conduct for public officials was drafted and discussed many years ago, however, this was not finalised and approved for implementation.

The current Tobacco Control Act empowers the Minister to request information on, inter alia, on ingredients and additives in tobacco products. However, regulations for FCTC Article 9 & 10 have not yet been developed and implemented. Although SARS requires the tobacco industry to submit information on production, manufacture, market share, expenditures and revenue, it excludes information on lobbying, philanthropy, political contributions and all other activities. There is no plan with a dedicated program to consistently raise awareness within the government departments on policies relating to guidelines on FCTC Article 5.3

Recommendations

The government must fully implement the Guidelines on FCTC Article 5.3:

1. Advocate for the 2018 Tobacco Bill to be urgently passed by parliament with minimum change [inclusive of a ban on all forms of contributions (CSR and political)] from the tobacco industry.
2. Permanently remove all tobacco industry representatives from government / official committees and ban future involvement in decision making platforms and meetings.
3. Develop and implement a policy (for government officials and politicians) with protocols and procedures to record all tobacco industry interactions.
4. Develop and implement an immediate and comprehensive awareness campaign for government officials, decision makers and political leaders on FCTC obligations with a special focus on Guidelines on Article 5.3; tobacco industry tactics and tobacco CSR activities and programmes.
5. Develop and implement a code of conduct for government officials and political leaders.