

The Netherlands

2020

TOBACCO
INDUSTRY
INTERFERENCE
INDEX

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Introduction

The Global Tobacco Industry Interference Index, produced by the Global Center for Good Governance in Tobacco Control (GGTC), is based on a regional index initiated by the Southeast Asia Tobacco Control Alliance (SEATCA), which measures the efforts by governments to tackle and limit tobacco industry interference in tobacco control policy making. The index consists of twenty indicators, grouped in seven themes, drawn directly from Article 5.3 guidelines of the Framework Convention of Tobacco Control (FCTC). Scores for each indicator are accumulated to a final score, which can range from eight to one hundred. A low score on the index implies good government performance in implementing Article 5.3 and subsequent low tobacco industry interference.

Method

This report presents the tobacco industry inference (TII) in the Netherlands, for the period between 1 January 2018 and 31 December 2019. A team of four researchers from the Trimbos Institute conducted the desk research and performed scoring independently. Desk research took place from 13 March – 23 April 2020. Two external specialists were consulted to review the findings. To ensure that search strategies, indicators, and rating methodologies were well understood and used in the intended manner, regular contact was kept with the international GGTC team. A final score per indicator was based on consensus of the independently assigned scores by the four researchers and the GGTC team.

Due to the Covid-19 outbreak, no public hearings were attended in 2020, further, no meetings with the Ministry of Health, Welfare and Sports were held or attended. All information in this report stems from (online) open sources. More information on search strategies and scoring can be found in Annex I and on <https://seatca.org/>

Note

In August 2020, new information was made public about tobacco industry influence on the tobacco chapter in the National Prevention Agreement (2018). This information was added to the Index in September 2020. As of September 2020, the information contained in this Index is true to the best of our knowledge; any gaps or missing information unintentional.

Effort was taken to review all potentially relevant data from a variety of sources, including but not limited to governmental documents, press reports, tobacco manufacturers and sellers, hospitality associations, food seller and grocery associations, and academic literature.

Background

The tobacco industry in the Netherlands

The tobacco industry in the Netherlands is dominated by four tobacco producers: British American Tobacco (BAT), Imperial Brands (previously Imperial Tobacco), Japan Tobacco International (JTI) and Philip Morris International (PMI)ⁱ. There are four tobacco factories in the Netherlands: three produce rolling and/or pipe tobacco and one produces e-cigarettes and heated tobacco (PMI). The three rolling tobacco and/or pipe tobacco producing factories are: Koninklijke Theodorus Niemeyer (BAT), Joure (Imperial Tobacco) and Heupink & Bloemen (independent producer)ⁱⁱ. The Association for Dutch cigarette and fine cut tobacco manufacturers (*Vereniging Nederlandse sigaretten- & kerftabakfabrikanten* (VSK)) is the branch organization and representation of both the roll-your own tobacco manufacturers and cigarette manufacturers. PMI operates independently and is not affiliated with VSK. Two other lobby organizations are the Dutch association for the cigar industry (*Nederlands Vereniging voor de Sigarenindustrie* (NVS)) and the branch organization for tobacco retail (NSO retail).

The Dutch Tobacco market is dominated by Marlboro (PMI), followed by Camel (BAT) (figure 1)ⁱⁱⁱ. Both brands are in the top five of largest companies by revenue in the Netherlands. According to the ranking, Marlboro's revenue in the Netherlands was 477.3 million euros in 2018, more than 150 million euros more than number two on the list (Coca-Cola). Camel, ranked fifth, had a revenue of 244.1 million euros.^{iv}

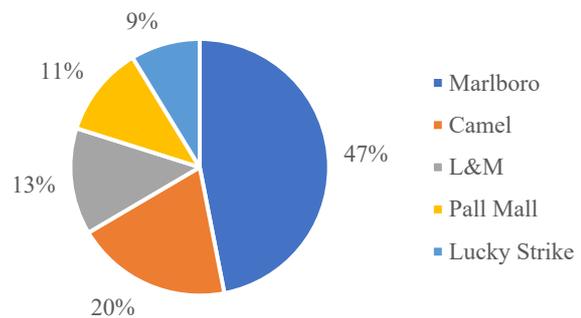


Figure 1: top five tobacco brands in the Netherlands by volume share in 2017 (IRI worldwide, 2018).

The National Prevention Agreement

In 2018, the Dutch government presented the National Prevention Agreement: a bundle of three separate binding agreements between government and civil society to reduce tobacco consumption (1), overweight (2) and problematic alcohol consumption (3). The English version of the agreement can be found [here](#). The tobacco agreement details a set of measures and actions to achieve a smoke-free generation and reduce the prevalence of adult smoking to 5% by 2040. The agreement tries to limit the influence of the tobacco industry through active exclusion of the industry in the process of developing and implementing the agreement and encouraging divestment in the tobacco industry.

Summary of Findings & Recommendations

The index resulted in a final score of 39 points for the Netherlands. The Netherlands thus performs relatively well. However, there is some room for improvement. Aspects where the Dutch government can still improve are: 1) reducing unnecessary interaction and 2) transparency. Below, we summarize the main findings per theme.

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The tobacco industry is excluded from participation in public health policy development in the Netherlands. The national tobacco agreement (part of the National Prevention Agreement) specifically mentions the exclusion of the tobacco industry in the development of policies aimed at reducing tobacco use. However, through the Party of Freedom and Democracy (VVD) and lobby organizations, such as VNO-NCW (Dutch Employers Federation), the tobacco industry managed to influence the final outcomes of the national tobacco agreement, despite being explicitly excluded from the policy making process.

The industry and two government agencies were seated in the Tobacco Committee of the Netherlands Standardization Institute (*NEN* - a non-governmental organization that advises the International Organization of Standardization (ISO) technical committee on Tobacco and Tobacco products). In 2018, both government agencies stopped participating on the Tobacco Committee of the Netherlands Standardization Institute due to the large influence of the tobacco industry in the Committee.

2. INDUSTRY CSR ACTIVITIES

There is no evidence of the Dutch government endorsing, supporting, forming partnerships with or participating in so-called CSR (Corporate Social Responsibility) activities organized by the tobacco industry in 2018 or 2019. A collaboration between Japan Tobacco International and the Ministry of Infrastructure and Water Management to promote clean beaches was finalized in January 2018.

3. BENEFITS TO THE INDUSTRY

Except duty-free allowances, the government did not provide benefits - such as delaying implementation of tobacco control policies - to the industry in 2018 or 2019.

4. UNNECESSARY INTERACTION

Dutch Customs and the tobacco industry have signed a Memorandum of Understanding (MoU) in 2011 stating to collaborate in combatting fraud and smuggling of tobacco products. While the government does not attend events organized or sponsored by the tobacco industry, several social events were found where high-level public officials and representatives from the tobacco industry were present.

5. TRANSPARENCY

Interactions between the national government and tobacco industry are registered in the transparency registry. In 2018-2019, 93 interactions were publicly disclosed between the government and the tobacco industry or other parties that might favor tobacco-friendly policies [e.g. supermarkets]. Almost all face-to-face meetings were between customs and the industry. Early 2018, a news website uncovered that one third of the interactions between the industry and the government was not published in the registry.

6. CONFLICT OF INTEREST

There are no laws or regulations in place prohibiting contributions from specific industries or entities, including tobacco industry, to political parties and/or campaigns. One national level politician had a relative working for the tobacco industry, and one member of the

provincial council is seated in the supervisory board of a tobacco producer. Both are not involved in setting tobacco control or public health policy.

7. PREVENTIVE MEASURES

The Dutch government has multiple procedures, protocols and code of conducts put in place to limit contact and influence with the tobacco industry. No plan or system is in place to systematically raise awareness within the government on Article 5.3 of the FCTC, although the importance of full implementation of Article 5.3 has been re-communicated by the government to its government officials in 2019.

Recommendations

1. Reduce and/or limit collaboration between Dutch Customs and the Tobacco Industry

Dutch Customs and the Tobacco industry signed a Memorandum of Understanding in 2011. Dutch Customs is part of the Ministry of Finance, which drafts and sets taxation policy in the Netherlands. Multiple face-to-face meetings and (digital) interaction takes place between the parties on a yearly basis. Through collaboration between the two, the tobacco industry might try to influence tobacco control policies, especially taxation policy. In line with Article 5.3 of the FCTC, the MoU should be terminated.

2. Increase registration and/or transparency

Such as:

- Implementing a registry for tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists;
- Requesting additional information from tobacco producers, such as revenue and spending on lobbying;
- Obligating political parties to publish financial contributions by the tobacco industry.

Results and Findings

	0	1	2	3	4	5
INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government ² accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ³ in setting or implementing public health policies in relation to tobacco control ⁴ (Rec 3.1)	X					
No incidents in which the government accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry in setting or implementing public health policies in relation to tobacco control have been found for 2018-2019.						
2. The government accepts, supports or endorses <u>policies or legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4)			X			
<p>In November 2018, the government presented its tobacco control policy for the next four years, which is part of the National Prevention Agreement. All signatories of the tobacco chapter of the agreement stated that the interests of the tobacco industry are fundamentally opposed to those of public health, and thus were, in principle, actively excluded (both direct and indirectly) from the working group. There seems to be some one-sided communication on health policies from the tobacco industry towards the government. The <i>Vereniging Nederlandse sigaretten- & kerftabakfabrikanten (VSK)</i>, the Dutch association of cigarette and tobacco manufacturers, has sent two reports to the Ministry of Finance on taxation and requested a meeting. The government did not agree with this request^v.</p> <p>However, in August 2020, independent news platform Follow the Money broke the news that the tobacco industry had managed to influence the content of the tobacco chapter of the National Prevention Agreement through the Party of Freedom and Democracy (VVD) and influential lobby organizations such as VNO-NCW (Dutch Employers Federation), MKB-Nederland (largest entrepreneurs association) and CBL (trade association for Dutch supermarkets).^{vi} The tobacco chapter, established by the tobacco control working group of the National Prevention Agreement, had to be approved by the governing coalition before coming into effect</p> <p>Early July 2018, the Secretary of State shared the draft tobacco chapter with the House of Representatives. Between July and November, lobby organizations bombarded the ministries and political parties with objections to the proposed measures. They managed to influence and find support with the VVD party, which is the biggest governing party and a powerful force in the governing coalition. In the final tobacco chapter, several measures were softened, including the tax hikes, plain packaging (3 month delay), display bans and limiting of sales points. For example, in the final tobacco chapter, specialized tobacco shops were excluded from the display ban.^{vii}</p> <p>In 2019, the government opened an internet consultation for the amendment of the Tobacco Act regarding extension of the smoking ban. Internet consultations are held by the government before any implementation or adjustment of a law. Anyone – citizens, businesses, civil organizations – can share their opinion or concerns regarding the proposed</p>						

² The term “government” refers to any public official whether or not acting within the scope of authority as long as cloaked with such authority or holding out to another as having such authority

³ The term, “tobacco industry’ includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

⁴ “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

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law. ^{viii} Tobacco industry organizations that sell tobacco products and electronic cigarettes responded to the consultation. It is stated that in accordance with Article 5.3 of the FCTC, the tobacco industry and lobby is requested to only respond to technical implementation issues (of draft legislation) on internet consultations. ^{ix} ^x In the case of the extension of the smoking ban, no responses gave reason to amend the bill ^{xi} . Another internet consultation was opened for the amendment of the Tobacco Act concerning plain packaging in 2019. Similar to the smoking ban consultations, the reactions from the tobacco industry, organizations with an interest in the sale of tobacco products and organizations active in the electronic cigarette industry were not included as far as policy choices are concerned. None of the responses gave reason to amend the bill ^{xii} .						
3. The government allows/invites the tobacco industry to sit in government interagency/ multi-sectoral committee/ advisory group body that sets public health policy. (Rec 4.8)	X					
The government does not allow the tobacco industry to sit in government interagency, multi-sectoral committees or advisory groups that set public health policy. Two government agencies (<i>National Institute for Public Health and the Environment</i> (RIVM) and the <i>Netherlands Food and Consumer Product Safety Authority</i> (NVVM)) left the Tobacco Committee of the <i>Netherlands Standardization Institute</i> (NEN) in 2018 because of the major influence of the tobacco industry within this committee. The tobacco committee of the NEN advises the International Organization of Standardization (ISO) technical committee on Tobacco and Tobacco products. NEN and ISO are not bodies of the state, but (inter)national organizations that are separate from government and are free to contribute to the determination of (inter)national standards for the sampling of tobacco products and the determination of harmful substances therein ^{xiii} . Eight out of ten members of the Dutch committee were part of the tobacco industry ^{xiv} ^{xv} . A parliamentary question was asked about whether the tobacco industry's decisive influence on the ISO smoke machine and the ISO standards violates Article 5.3 of the WHO FCTC. The government indicated that Article 5.3 is addressed to the State and its organs to prevent contacts with the tobacco industry form leading to policy influencing.						
4. The government nominates or allows representatives from the tobacco industry (including State-owned) in the delegation to the COP or other subsidiary bodies or accepts their sponsorship for delegates. (i.e. COP 4 & 5, INB 4 5, WG) (Rec 4.9 & 8.3)		X				
No such incidents have been identified for the 4 th until the 8 th COP (2010-2018). ^{xvi} ^{xvii} ^{xviii} ^{xix} xx						
INDICATOR 2: Industry CSR activities						
5. A. The government agencies or its officials endorses, supports, forms partnerships with or participates in so-called CSR activities organized by the tobacco industry. (Rec 6.2) B. The government (its agencies and officials) receives contributions ⁵ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)		X				
There is no evidence of the government in the Netherlands endorsing, supporting, forming partnerships with or participating in so-called CSR activities organized by the tobacco industry. There is also no evidence that the national government receives contributions						

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

(monetary or otherwise) from the tobacco industry in 2018 and 2019 (including so-called CSR contributions).

In 2012, a collaboration between the Ministry of Infrastructure and Water Management and Japan Tobacco International (JTI) was formed called 'The Green Deal Clean Beaches'. JTI placed ashtrays with its logo on it on beaches to promote clean beaches (image 1). The ministry requested JTI voluntarily retract from 'The Green Deal Clean Beaches' collaboration in 2016 (oral request) and 2017 (written request). JTI had not replied to either requests. In January 2018, the collaboration was officially finalized. However, the 'Green Deal Clean Beaches' ashtrays with JTI's logo were still located at several beaches in 2018^{xxi}.



Image 1: Clean Beaches ashtrays with JTI logo (picture by Onderzoeksredactie Tabak)

INDICATOR 3: Benefits to the Tobacco Industry

<p>6. The government accommodates requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law. (e.g. 180 days is common for PHW, Tax increase can be implemented within 1 month) (Rec 7.1)</p>				X		
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No cases were found where the government accommodates requests directly from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law in 2018 or 2019. However, three incidences were found where postponement of implementation of tobacco control policies was found. Two measures that were originally in the tobacco control policy were delayed after pressure from the coalition parties, especially the VVD (as mentioned in indicator 1[2]). Plain packaging was delayed by three months. Instead of yearly tax hikes resulting in a price of 10 euros per pack in 2023, the effects of the tax hikes will be evaluated before reaching 10 euros per pack.

Additionally, one incident was found where the government was obligated by the Supreme Court to expedite the dismantlement of smoking areas within the hospitality and catering industry. The Dutch State was sued by *Clean Air Nederland* (CAN) in 2018 claiming that the exception of smoking areas in hospitality and catering industry was unlawful (a complete smoking ban in hospitality has been in place since 2014)^{xxii}. The Dutch Supreme Court ruled in favor of CAN, stating that the exception was in violation of Article 8.2 of the FCTC and all smoking areas should be closed immediately^{xxiii}. The Secretary of State of the Ministry of Health, Welfare and Sport decided to appeal against this ruling to postpone the smoking ban to create a transitional period^{xxiv} ^{xxv}. In the tobacco chapter of the National Prevention Agreement [presented November 2019], the ministry stated that all smoking areas must be closed by 2022^{xxvi}. CAN went to court again, after which the Supreme Court once more ruled that smoking areas are not legal and must therefore be closed immediately^{xxvii}. After deliberation with the Dutch trade association for hotel and catering industry (KHN), VNO-NCW (Dutch Employers Federation) and municipalities, the Ministry of Health, Welfare and Sports stated that the ruling shall be enforced starting April 1st 2020. This postponement was rectified to give time for entrepreneurs to adjust their business, and for the NVWA (who is charged with enforcing the Tobacco Act and smoking ban) to prepare oversight accordingly^{xxviii} ^{xxix}. While KHN and VNO-NCW are not the tobacco industry, they frequently lobby in favor of the tobacco industry and/or postponement of tobacco control regulation.

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7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)			X			
<p>Based on various agreements, including the NATO Status of Forces Agreement (SOFA) and the NATO Paris Protocol, members of the force can purchase tax and duty-free items in the host country. As a result, members of the military who are stationed at the NATO-base in Brunssum do not have to pay taxes on cigarettes^{xxx}. The price they pay for a pack of cigarettes varies between 2.50 and 3.50 euros. The price is determined by the commercial commissary at the headquarters in Brunssum. In addition, <i>TabakNee</i> reported that duty-free cigarettes are sold to members of the Navy on naval ships as soon as they sail outside the 12-mile zone.^{xxxi}</p> <p>Duty-free allowances on tobacco products from inside and outside the European Union (EU) apply with limits of 800 cigarettes or 400 cigarillos or 200 cigars or 1 kilo tobacco from inside the EU^{xxxii} and 200 cigarettes or 100 cigarillos or 50 cigars or 250g tobacco from outside the EU^{xxxiii}.</p>						
INDICATOR 4: Forms of Unnecessary Interaction						
8. Top level government officials (such as President/ Prime Minister or Minister ⁶) meet with/ foster relations with the tobacco companies such as attending social functions and other events sponsored or organized by the tobacco companies or those furthering its interests. (Rec 2.1)		X				
<p>No incidents have been found where top level government officials attended social functions organized or sponsored by the tobacco companies. Top-level government officials did attend the One Young World conference, which is the largest youth conference in the world. This event was also attended by representatives from the tobacco industry^{xxxiv}. Additionally, PMI was one of the invitees for an exclusive lunch in 2018, where Prime Minister Rutte was a special guest^{xxxv}. No other relevant social events were found. However, representatives from the tobacco industry are present at music events and other social festivals as a sponsor or as a participant; this was done through event management and/or promotional companies.</p>						
9. The government accepts assistance/ offers of assistance from the tobacco industry on enforcement such as conducting raids on tobacco smuggling or enforcing smoke free policies or no sales to minors. (including monetary contribution for these activities) (Rec 4.3)						X
<p>The government of the Netherlands accepts offers of assistance from the tobacco industry related to tobacco smuggling. Dutch Customs and the Tobacco industry signed a MoU (Memorandum of Understanding) in 2011 focused on combatting fraud and smuggling of tobacco products^{xxxvi}. This includes accepting training from the tobacco industry on anti-smuggling activities and soliciting feedback on anti-smuggling strategies^{xxxvii}. A study on tobacco smuggling which was funded by Philip Morris was cited by the Minister of Justice and Security in a letter to the parliament^{xxxviii}.</p> <p>There is also evidence that local governments, such as Bergen op Zoom, solicit and accept assistance from the tobacco industry^{xxxix xl}.</p>						

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

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10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) <i>NOTE: This must <u>not</u> involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.</i>		X				
Please see Question 9. As noted, the government forms partnerships with the tobacco industry related to smuggling.						
INDICATOR 5: Transparency						
11. The government does not publicly disclose meetings/ interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation. (Rec 2.2)			X			
<p>The government has stated that the following meetings and/or interactions are allowed^{xlii}:</p> <ul style="list-style-type: none"> • Ministry of Health, Welfare and Sports: interaction relating to technical implementation based on policies and laws that have been approved/established. • Ministry of Finance: interaction that is deemed necessary relating to taxation, technical questions relating to implementation of new laws and/or regulation or consequences of these laws and regulations on factories and/or industry. <p>The Ministry of Finance meets once a year with the tobacco industry [if deemed necessary that year]. Examples of subjects that are allowed to discuss during these meetings are: changing tariff codes, tax-stamps or transitional agreements.</p> <p>In 2018-2019, 93 interactions were publicly disclosed between the government and the tobacco industry or other parties that might favor tobacco-friendly policies (e.g. supermarkets)^{xliii}. From these 93 documented interactions, 7 took place between 2015 and 2017 [but were uploaded in 2018], 2 did not contain the right information [the wrong document was uploaded] and 10 referenced meetings between the government and industry. From these 10 meetings, 7 concerned meetings between customs and the tobacco industry, 2 interactions implied face-to-face meetings between a government agency (Netherlands Foreign Investment Agency) and industry, and only one [1] interaction led to a face-to-face meeting between a ministry [of Finance] and a representative from the industry. The meetings between the industry and customs are registered as MOU-related meetings. However, these minutes often do not cover more information than the agenda, and do not include minutes of telephone meetings and training sessions^{xliiii}.</p> <p>According to research done by the <i>Onderzoeksredactie</i> in 2018, approximately one third of the communication between the ministries and the tobacco industry were not made public (35 out of 110 interactions)^{xliv}. None of the three meetings with the Ministry of Economic Affairs and Climate were registered, after which the ministry announced that they would publish their interaction with the industry on their own website. For the selected time period, no interactions from the Ministry of Economic Affairs and Climate were published on their website, and only two written interactions (with the Netherlands Foreign Investment Agency) were published in the transparency registry^{xlvi}.</p>						
12. The government requires rules for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists (Rec 5.3)						X
There is no existing requirement for tobacco industry and affiliated entities to register with the government. Lobbyists registered in the lobby registry can require entry to the parliament ^{xlvii} . No lobbyists for tobacco industry and affiliated entities were registered for 2018-2019 ^{xlviii} ^{xlix} .						

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INDICATOR 6: Conflict of Interest						
13. The government does not prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns or to require full disclosure of such contributions. (Rec 4.11)						X
<p>There are no laws or regulations in place that prohibit contributions from specific industries or entities including the tobacco industry. Political parties that operate on the national level are required by law to annually publish their financial report and all contributions and/or donations of €4500 or moreⁱ. Local political parties are not obligated to publish their contributions publicly. In 2019, it became apparent that many political parties were willing to not publish names of big contributors [if the contributor requests to remain anonymous], despite it being illegalⁱⁱ. As a result, a political discussion arose on lowering threshold of €4500 and the lack of transparency of donations to political partiesⁱⁱⁱ. This issue was not yet resolved by the end of 2019.</p> <p>In 2019, <i>Onderzoeksredactie</i> revealed that British American Tobacco had donated €500.000 to the municipality of Zevenaarⁱⁱⁱⁱ. The donations were made between 2008 and 2011^{liv}, and will therefore not be considered in this report.</p>						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)		X				
<p>No such cases have been identified for the 2018-2019 period. A former Minister of Health and chairman of a political party who is a member of the Senate, was part of the supervisory board of a tobacco producer in between the abovementioned functions^v. This former government official retired in 2019, and has had no (publicly) known function in the tobacco industry after resigning from the board of the tobacco producer in 2011^{vi}.</p>						
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)		X				
<p>Two incidents have been found for the 2018-2019 time period. A relative of a chairman from a national political party (which is currently in opposition) took place in the supervisory board of a tobacco producer from 2002 until 2019^{vii}. Additionally, a member of the provincial council from a national political party was appointed a position in the supervisory board of a tobacco producer in 2019^{viii}. Tobacco control is not a matter that is dealt with at the Dutch provincial level.</p>						
INDICATOR 7: Preventive Measures						
16. The government has put in place a procedure for disclosing the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives. (Rec 5.1)		X				
<p>The national government has a number of procedures for disclosing the records of interaction with the tobacco industry and its representatives. A protocol was put in place in 2016^{ix}. Dutch government - both on the national and local level - are obligated to publish the records of the approved meetings with the tobacco industry and their representatives^{ix}. The tobacco industry has to approve the records before publishing. The national government strongly advises all levels of government to publish all written contact with the industry. There are no sanctions in place for when a government (agency) does not publish their contacts with the industry^{xii}.</p> <p>Under the Freedom of Information Act (<i>Wet Openbaarheid van Bestuur</i>) the public can request information from the government that is not (yet) made public^{xiii}. However, the</p>						

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<p>Freedom of Information Act provides leeway in what information can and has to be made public. Examples in which the government can decide to withhold information from the public are: for economic and financial interest of the State of the Netherlands (Article 10.2.b) and if information from private entities has been shared confidentially (Article 10.1.c)^{lxiv}.</p> <p>Not every governmental level or agency is as transparent as required by national procedure and law. In 2018, through the Freedom of Information Act, <i>Onderzoeksredactie</i> requested a municipality to publish their interaction with PMI. This municipality was required to publish over 1300 documents concerning their contact with the tobacco company^{lxv}^{lxvi}.</p>						
<p>17. The government has formulated, adopted or implemented a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry. (Rec 4.2)</p>		X				
<p>The government has a protocol for civil servants regarding their contact with the tobacco industry and its representatives¹. Additionally, all civil servants and other government employees are obliged to comply with the ‘Code of Conduct Integrity’ of the Dutch government^{lxvii}. This code of conduct includes a paragraph aimed specifically at lobbyists from the tobacco industry. Said paragraph explicitly refers to Article 5.3 from the FCTC. It should be noted that parliamentarians are not seen as civil servants in the Netherlands. As a result, they have to comply with the code of conduct, but not with the protocol regarding contact with the tobacco industry and their representatives (Article 5.3 FCTC)^{lxviii}.</p>						
<p>18. The government requires the tobacco industry to periodically submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and all other activities. (5.2)</p>			X			
<p>Tobacco producers, importers, suppliers or wholesalers are obligated by law to submit the following information to the Ministry of Health, Welfare and Sports^{lxix}^{lxx}^{lxxi}:</p> <ul style="list-style-type: none"> • A list of all brands and types of tobacco and/or related products (such as electronic cigarettes and [liquid] refills with or without nicotine) that are produced/imported/supplied/sold; • Emission levels and ingredients for each new or modified product that is destined to be for sale in the Netherlands. This concerns tobacco and tobacco related products, such as electronic cigarettes and liquid refills. Each type of product has a different timeline on when to submit the information, as can be found in Article 4.5 of the <i>tabaks- en rookwarenregeling</i>; • A yearly overview of sales volumes per brand and type [to be submitted before 15 June]; • All internal and external studies that have been conducted, including: <ul style="list-style-type: none"> ○ Information regarding the preferences of consumer groups (incl. young and current smokers); ○ Ingredients and emission levels; ○ Summaries of market studies that have been conducted. <p>These documents need to be communicated to the government within ‘reasonable’ time of coming to the attention of the producer or importer. Reasonable time is defined as within two months;</p> • In-depth studies including the toxicity and compliance with the Tobacco Products Directive by the European Parliament^{lxxii}. <p>The tobacco industry is not obligated to periodically submit information on marketing expenditures, revenue and other expenditures such as lobbying or CSR activities.</p>						

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19. The government has a program / system/ plan to consistently ⁷ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)					X	
No specific program, plan or system to consistently raise awareness within the ministries relating to FCTC Article 5.3 guidelines can be found in public sources. In 2015, the Ministry of Health, Welfare and Sports and the Ministry of Finance created the document ' <i>Verduidelijking invulling artikel 5.3 WHO-kaderverdrag</i> ' (Clarification interpretation Article 5.3 WHO FCTC) and communicated this to all levels of government. On June 26 th (2019) this document was re-sent to all levels of government to re-emphasize the importance of limiting all contact with the tobacco industry ^{lxxiii} .						
20. The government has put in place a policy to disallow the acceptance of all forms of contributions/ gifts from the tobacco industry (monetary or otherwise) including offers of assistance, policy drafts, or study visit invitations given or offered to the government, its agencies, officials and their relatives. (3.4)		X				
The Code of Conduct for Integrity prohibits accepting gifts that are worth more than 50 EUR, to critically think whether it is acceptable to accept the gift, and to notify colleagues and/or their superior on gifts that are offered and/or accepted ^{lxxiv} . Additionally, trips (both abroad as within the country), dinners, lunches and the like are not allowed to be financed by other parties than the government self. However, the code of conduct and law do not specify that no gifts at all from the tobacco industry are allowed.						
TOTAL						39

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

Endnotes

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Annex I – search strategies

This annex provides an overview of the (web)sources and queries used.

1. Sources

Category	Agency	Website
Key government agencies	Ministry of Health, Welfare and Sports*	https://www.rijksoverheid.nl/
	Ministry of Economic Affairs and Climate*	https://www.rijksoverheid.nl/
	Ministry of Finances (incl. customs) *	https://www.rijksoverheid.nl/
	Taxation agency (part of finances) *	https://www.belastingdienst.nl/wps/wcm/connect/nl/home/home https://www.rijksoverheid.nl/
Additional government sources	House of Representatives / news from the house of representatives	https://www.officielebekendmakingen.nl/
	Laws (all Dutch laws)	Wetten.overheid.nl
	Senate	www.eerstekamer.nl
	Netherlands Food and Consumer Product Safety Authority (NVWA)	https://www.nvwa.nl/onderwerpen/roken-en-tabak
	National institute for Public Health and the Environment (RIVM)	www.rivm.nl
News sources	Tabaknee.nl	www.tabaknee.nl
	Onderzoeksredactie.nl	www.onderzoeksredactie.nl
	Trouw	www.trouw.nl
	Telegraaf	www.telegraaf.nl
	NOS	www.nos.nl
Tobacco front groups	Vereniging Nederlandse Sigaretten-Kerftabakfabrikaten (VSK)	www.vsk-tabak.nl
	Nederlandse Vereniging voor de Sigarenindustrie (NVS)	http://www.sigaar.nl/
	Branche organisatie voor tabaksdetailhandel (NSO)	https://www.tabaksdetailhandel.nl/
	VNO-NCW	https://www.vno-ncw.nl/over-vno-ncw/bestuur-VNO-NCW
Local tobacco companies	Koninklijke Theodorus Niemeyer (local manufacturer for BAT)	http://www.batbenelux.com/
	Imperial Tobacco Joure	https://www.imperial-tobacco-joure.nl/
	Heupink & Bloemen (independent manufacturer)	https://www.heupink-bloemen.com/
	Philip Morris Holland	https://www.pmi.com/markets/netherlands/nl/about-us/overview

* All information from the ministries is gathered on the website of the Rijksoverheid. The website also contains a database of all contact the government has had with the tobacco industry. An overview of all (published) contact can be found [here](#).

1.1 Selection of news sources

Top 5 Newspaper/Dailies*	Type (Print/Online)	Information
Tabaknee.nl	Online	Collects and investigates tobacco industry related news
Onderzoeksredactietabak.nl	online	Independent investigative journalism website, focuses on tobacco industry
Trouw	Print and online	National Newspaper
Telegraaf	Print and online	Most read newspaper in NL
NOS	Online and on television	National news (comparable to BBC)

Basis of Ranking: most specialised (tabaknee.nl) to most popular (NOS / Telegraaf).
Ranked by Prof. Dr. Marc Willemsen and Cloé Geboers, MSc.

1.2 Laws

All laws (including health laws):

[link](#)

All news (laws and policies) and issuances:

[link](#)

Overview of all health laws (not specific to tobacco):

[link](#)

Specific tobacco laws (applicable) in the Netherlands:

- [Tobacco Product Directive](#) (European Union)
- [Tabaks- en rookwarenwet](#)
- [Tabaks- en rookwarenregeling](#)
- [Tabaks- en rookwarenbesluit](#)

2. Queries

2.1 Queries for government websites

Queries in Dutch	Translation to English
FCTC AND artikel 5.3	FCTC AND article 5.3
Protocol AND contact AND tabaksindustrie	Protocol AND contact AND tobacco industry
Gedragscode AND geschenken	Behavioral code / code of conduct AND gifts
Gedragscode AND integriteit	Behavioral code / code of conduct AND integrity
Gedragscode AND lobby	Behavioral code / code of conduct AND lobby
Tabak OR tabaksindustrie AND rapportage	Tobacco OR tobacco industry AND report
Tabak OR tabaksindustrie AND melding	Tobacco OR tobacco industry AND notification
Tabaks- en rookwarenwet (law)	tobaccolaw
Tabaks- en rookwarenregeling (law)	tobacco regulation
Tabaks- en rookwarenbesluit (law)	tobacco act
Tabak AND rapportageverplichting	Tobacco AND obligation to report
Tabaksindustrie AND openbaarheid van bestuur	Tobaccoindustry AND freedom of information act
Tabaksindustrie AND wob	tobaccoindustry AND FIA

Lobbyistenregister	lobbyist registry
Lobbyistenregister AND 2018	lobbyist registry AND 2018
Lobbyistenregister AND 2019	lobbyist registry AND 2019
Financiering AND politieke partijen	financing AND political parties
Wet financiering politieke partijen	Law financing political parties
Tabak invoeren EU	tobacco AND import AND EU
Tabaksindustrie	tobacco industry
Rookverbod	smoking ban
Internetconsultaties	internetconsultations
Neutrale verpakkingen	neutral packaging / plain packaging
Tabak "Maatschappelijk verantwoord ondernemen"	Tobacco AND corporate social responsibility
"Philip Morris" "Maatschappelijk verantwoord ondernemen"	Philip Morris AND corporate social responsibility
"British American Tobacco" "Maatschappelijk verantwoord ondernemen"	British American Tobacco AND corporate social responsibility
"Imperial Brands" "Maatschappelijk verantwoord ondernemen"	Imperial Brands AND corporate social responsibility
"Japan Tobacco International" "Maatschappelijk verantwoord ondernemen"	Japan Tobacco International AND corporate social responsibility
tabaksindustrie "Maatschappelijk verantwoord ondernemen"	tobacco industry AND corporate social responsibility
Tabak EN "Maatschappelijk verantwoord ondernemen"	Tobacco AND corporate social responsibility
FCTC AND artikel 5.3	FCTC AND article 5.3
"smoke-free future"	smoke-free future
Tabak	tobacco
Tabaksindustrie	tobacco industry
Philip morris	philip morris
JTI OR Japan Tobacco International	JTI or japan tobacco international
British American Tobacco OR BAT	british american tobacco OR BAT
Roken	smoking
tabak AND voorwaarden	tobacco AND requirements
tabak AND jaarverslag OR jaarverslagen	tobacco AND annual report OR annual reports
"Philip Morris" AND oud-minister	Philip Morris AND former minister
"British American Tobacco" AND oud-minister	British American Tobacco AND former minister
"Imperial Brands" AND oud-minister	Imperial Brands AND former minister
"Japan Tobacco International" AND oud-minister	Japan Tobacco International AND former minister
tabaksindustrie AND oud-minister	tabaksindustrie AND oud-minister
Tabak AND oud-minister	Tabak AND oud-minister AND former minister
"Philip Morris" AND minister	Philip Morris AND minister
"British American Tobacco" AND minister	British American Tobacco AND minister
"Imperial Brands" AND minister	Imperial Brands AND minister

"Japan Tobacco International" AND minister	Japan Tobacco International AND minister
tabaksindustrie AND minister	tabaksindustrie AND minister
Tabak AND topambtenaar	Tabak AND topambtenaar AND high-level government official
"Philip Morris" AND topambtenaar	Philip Morris AND high-level government official
"British American Tobacco" AND topambtenaar	British American Tobacco AND high-level government official
"Imperial Brands" AND topambtenaar	Imperial Brands AND high-level government official
"Japan Tobacco International" AND topambtenaar	Japan Tobacco International AND high-level government official
tabaksindustrie AND topambtenaar	tabaksindustrie AND high-level government official

2.2 Queries for news sites

Queries in Dutch	Translation to English
Philip Morris AND bergen op zoom	Philip Morris AND bergen op zoom
Philip Morris OR tabaksindustrie	Philip Morris OR tobacco industry
Tabaksbeleid + regulering	Tobacco policy + regulation
Tabakslobby AND beleid	Tobacco lobby AND policy
Raad van commissarissen AND Philip morris	Supervisory Board AND Philip Morris
Raad van commissarissen AND Philip morris Holland	Supervisory Board AND Philip Morris Holland
Overheid AND tabaksindustrie (OR lobby)	Government AND tobaccoindustry OR lobby
Tabaksindustrie AND gezondheidsbeleid	Tobacco industry AND health policy
Tabaksindustrie AND rookbeleid	Tobacco industry AND tobacco policy
Tabaksindustrie AND anti-rookbeleid	Tobacco industry AND Tobacco control policy
VNO-NCW AND tabak	VNO-NCW AND tobacco
Overheid AND 5.3	Government AND 5.3
Overheid AND VSK AND tabak	Government AND VSK AND Tobacco
"Nationaal Preventieakkoord"	National Prevention Agreement
"Nationaal Preventieakkoord" AND Tabaksindustrie (OR lobby)	National Prevention Agreement AND tobacco industry OR tobacco lobby
FCTC (TabakNee.nl)	FCTC
Defensie (TabakNee.nl)	Defense
Jolande Sap	Jolande Sap
Internetconsultaties AND tabaksindustrie	Internet consultations AND tobacco industry
Tabaksindustrie AND (NEN OR RIVM OR NVWA)	Tobacco Industry AND (NEN OR RIVM OR NVWA)
Rookverbod	Smoking ban
Neutrale verpakkingen OR display ban	Neutral packaging OR plain packaging OR display ban
Accijnsvrije tabak	Duty-free tobacco

Tabak "Maatschappelijk verantwoord ondernemen"	Tobacco AND corporate social responsibility
"Philip Morris" "Maatschappelijk verantwoord ondernemen"	Philip Morris AND corporate social responsibility
"British American Tobacco" "Maatschappelijk verantwoord ondernemen"	British American Tobacco AND corporate social responsibility
"Imperial Brands" "Maatschappelijk verantwoord ondernemen"	Imperial Brands AND corporate social responsibility
"Japan Tobacco International" "Maatschappelijk verantwoord ondernemen"	Japan Tobacco International AND corporate social responsibility
tabaksindustrie "Maatschappelijk verantwoord ondernemen"	tobacco industry AND corporate social responsibility
Tabak EN "Maatschappelijk verantwoord ondernemen"	Tobacco AND corporate social responsibility
FCTC AND artikel 5.3	FCTC AND article 5.3
"smoke-free future"	smoke-free future
Jan Hein Sträter	Jan Hein Sträter
Provinciale Staten AND Philip Morris	Provincial council AND philip morris
Fractievoorzitter AND Philip Morris	party leader AND philip morris
Jos Draijer AND PMI	Jos Draijer AND PMI
Jos Draijer AND Philip Morris	Jos Draijer AND Philip Morris
Jos Draijer AND tabak	Jos Draijer AND tabak
Jos Draijer AND consultant	Jos Draijer AND consultant
Elco Brinkman AND PMI	Elco Brinkman AND PMI
Elco Brinkman AND Philip morris	Elco Brinkman AND Philip morris
Elco Brinkman AND tabak	Elco Brinkman AND tobacco

