

The Netherlands

2021

TOBACCO
INDUSTRY
INTERFERENCE
INDEX

Acknowledgements

The information contained in this report will form part of the Global Tobacco Industry Interference Index, a global survey of how public health policies are protected from the industry's subversive efforts, and how governments have pushed back against this influence. The Tobacco Industry Interference Index was initiated by the South-East Asia Tobacco Control Alliance (SEATCA) as a regional report and with support from Bloomberg Philanthropies' Stopping Tobacco Organizations and Products (STOP), is part of a global publication of the Global Centre for Good Governance in Tobacco Control (GGTC) at the School of Global Studies in Thammasat University.

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^a Collaboration between the Dutch Cancer Society (KWF), the Lung Fund (Longfonds) and the Dutch Heart Foundation (Hartstichting), previously known as Stichting Alliantie Nederland Rookvrij.

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, which have been drawn directly from the guidelines of implementation of Article 5.3 of the World Health Organization (WHO) Framework Convention of Tobacco Control (FCTC). These themes are: industry participation in policy development, industry CSR activities, benefits to the industry, unnecessary interaction, transparency, conflict of interest, and preventative measures. 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 2020 and 31 March 2021. The report is based on publicly available information, such as government documents, news articles and social media. Two researchers from the Trimbos Institute conducted the desk research and independently scored each indicator. Desk research took place between 23 March and 23 April 2021. More information about how desk research was carried out can be found in Annex I and on <https://seatca.org>.

To ensure that search strategies, indicators, and rating methodologies were well understood and used in the intended manner by the researchers involved in scoring each item, contact was kept with the international GGTC team.

A final score per indicator was based on consensus of the independently assigned scores by the two researchers that conducted desk research, another researcher from the Trimbos Institute, and the GGTC team.

Foreword

The manufactured cigarette is one of the deadliest consumer products on the market. And it has been so almost a century now. Over the years, various restrictions have been imposed so that cigarettes can no longer be freely advertised nor promoted and not be sold in ways the manufacturers want. However, despite such restrictions, cigarettes and other tobacco products are still widely available in supermarkets, convenience stores and gas stations. And industry lobbying against new regulations continues to exist.

Modern parliaments, and the Dutch parliament is no exception, are marketplaces in the sense that members of different political parties negotiate with each other and with policymakers over policy solutions for societal problems. During this process all kinds of interests groups, including those with a vested interest, are consulted. This process is problematic in the case of tobacco control. The tobacco control policy field is made up of two opposing groups with fundamental contradictory positions and interests: they are either motivated by the wish to protect commercial economic interests or the wish to pursue public health objectives. In tobacco control health and economics do not mix; compromises are not possible. The WHO has recognized this incompatible conflict of interests a long time ago, and in order to deal with this, drafted Article 5.3 as an integral part of its Framework Convention of Tobacco Control (FCTC) treaty. Without doubt, Article 5.3 is one of the treaty's most important cornerstones. It makes it possible for governments to draft strong and comprehensive tobacco control policies with no direct interference from the tobacco sector. It has made global and national tobacco control stronger and more effective, preventing much disease and many deaths from smoking.

In the Netherlands, tobacco industry lobby was very influential until the mid-1990s. It was normal practice that ministers from Economic Affairs and from the Health Department, supported by top civil servants, met in person with tobacco industry CEOs. Minister of Health Els Borst (1994-2002), an outspoken tobacco control advocate, opposed the – by then already stiffening – relationship between the government and the industry. Contacts were further challenged after the ratification of the WHO FCTC treaty by the Dutch government in 2005. However, the FCTC treaty was very much ignored by the government in the following years. Insistent industry pressure was difficult for government officials to ignore, particularly for ministers Ab Klink (2007-2010) and Edith Schippers (2010-2012) who saw little harm in listening to industry arguments. The Youth Smoking Prevention Foundation exposed the high frequency of contact between government and industry in 2013, and started to put blame and shame on having contacts with the tobacco industry. The government started to adhere to Article 5.3 FCTC in 2016, after a court case initiated by the aforementioned foundation. The tobacco industry since then lost much of its former insider position, and the balance between the tobacco control movement and the tobacco industry coalition finally shifted in favor of the health network.

The 2021 Tobacco Industry Interference Index Netherlands country report confirms that the Dutch government currently performs relatively well compared to many other countries when it comes to keeping industry lobbyists at a safe distance. However, this does not mean that tobacco industry lobby is weak or ineffective. The industry attempts to keep its

communication lines open, evidenced by the many lobby letters accessible via government websites, where they have to be published in line with Article 5.3 FCTC. Most concerning is that the industry tries to create the impression that they have changed, that they are genuinely moving away from traditional cigarettes and propagate a tobacco free world. This year, Philip Morris actively contacted Dutch politicians about their 'Unsmoke your world' campaign, promoting a new tobacco product which they claim is less hazardous. Politicians must realize that the industry is not part of the solution, but only continues to be part of the problem. What the industry is doing is first and foremost opportunistically broadening their market potential, by offering a wider range of addictive nicotine-containing products, putting even more young people at jeopardy of becoming addicted and life-long tobacco users.

This report testifies that recent efforts by the government to adhere to Article 5.3 FCTC have paid off: no evidence was found for direct industry participation in policy making, nor for government involvement in CSR activities or social events organized by the industry. However, there is still important room for improvement. It is especially concerning that Memorandums of Understanding (MoU) to combat fraud and smuggling between the Netherlands Customs and the industry were found to exist for an indefinite period of time. This MoU offers industry a point of entry to the Ministry of Finance, of which Customs is a part of, which controls tobacco taxation policy. Tobacco taxation was acknowledged in the National Prevention Accord as a cornerstone of Dutch tobacco control policy efficacy, indispensable to get to the long term goal of no more than 5% adult smokers and 0% children who smoke. Regrettably, a substantial rise in taxation level was not included in the 2022 national budget. It would be good to limit or terminate these MoU collaborations, so that collaboration can no longer result in interference. Another concern is the transparency register. This is still incomplete and sluggish, which is not in line with Article 5.3's intention for the government to be fully transparent and accountable.

I hope that this second report on how the Netherlands government handles tobacco industry interference in policy making will help to keep the Netherlands on the right track towards a smoke-free and tobacco industry free society. Hopefully, the new government, which is expected to come to office at the end of this year, will resume the National Prevention Accord and intensify its tobacco control policy.

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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)¹. 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* (an independent producer).² In November 2020, BAT announced that they would close *Koninklijke Theodorus Niemeyer* by the end of 2022.³

The Association for Netherlands 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 in the Netherlands. Philip Morris International operates independently and is not affiliated with VSK. Two other lobby organizations are the Netherlands Association for the Cigar Industry (*Nederlandse Vereniging voor de Sigarenindustrie* (NVS)) and the branch organization for tobacco retail (NSO retail).

Tobacco Control in the Netherlands

In 2018, the Netherlands government presented the National Prevention Agreement, which is a collection of three separate binding agreements between the government and civil society to reduce tobacco consumption, overweight, and problematic alcohol consumption. The English-language version of the agreement can be found [here](#). The tobacco agreement details a set of measures and actions that will be conducted to achieve a smoke-free generation and reduce the prevalence of adult smoking to 5% by 2040. The agreement seeks 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.⁴

Not all measures mentioned in the tobacco agreement have been implemented as of April 2021. The direction of tobacco control the next years, and whether the National Prevention Agreement will be renewed, depends on the what parties will become the governing parties^b. The tobacco agreement was set up by the previous government, which was in power from 2017 until January 2021.⁵ National elections took place in March 2021. It is anticipated that the new coalition will be announced by the end of 2021.

^b The Dutch electoral system is one of proportional representation, with many political parties. It is unlikely that one party receives a majority of the votes. Several parties work together in a *coalition*, to become the governing parties.

Summary Findings

The index resulted in a final score of 35 points for the Netherlands. The Netherlands performed relatively well compared to other countries. However, there is room for improvement. Below are the main findings per theme. Two themes where the Dutch government can improve are: reducing unnecessary interaction, and transparency.

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

No evidence was found for industry participation in (health) policy development between January 2020 and March 2021. Tobacco industry and affiliates responded to two internet consultations in 2020, but it appears that these comments were not heard.

2. INDUSTRY CORPORATE SUSTAINABILITY AND RESPOSIBILITY (CSR) ACTIVITIES

No evidence was found of the Dutch government endorsing, supporting, forming partnerships with, or participating in so-called CSR activities with the tobacco industry between January 2020 and March 2021.

3. BENEFITS TO THE INDUSTRY

The government extended the sales period of tobacco products with old tax stamps from three to six months after a tax increase (up to June 1, 2021) for all brands and varieties. All but essential stores were closed from December 15, 2020 to March 16, 2021 due to the COVID-19 pandemic. This resulted in factories and resellers having a large(r) inventory of products with old tax-stamps, which would all have to be destroyed three months post-tax increase. The extension was given to avoid extra work for civil servants, who would have to be present to verify that all products have been destroyed accordingly.

4. UNNECESSARY INTERACTION

The Netherlands Customs and the tobacco industry have a Memorandum of Understanding (MoU) to combat fraud and the smuggling of tobacco products. This MoU was concluded for an indefinite period of time. No evidence was found of high-level public officials attending social events organized or sponsored by the tobacco industry between January 2020 and March 2021.

5. TRANSPARENCY

Interactions between the national government and tobacco industry are registered in the transparency registry. Individuals, both citizens and non-citizens, can request information that has not been included in the registry through the Freedom of Information Act (WOB). There are some shortcomings to the transparency registry: no minutes of telephone

meetings between government and the tobacco industry were uploaded until August 2020, and there is no timeframe for how soon the communication should be uploaded to the registry. As a result, it is not clear whether all communication with the tobacco industry - that has taken place in the timeframe - has been uploaded to the registry.

6. CONFLICT OF INTEREST

In the Netherlands, political parties are obligated to disclose all financial contributions over €4500. There are no laws or regulations in place prohibiting contributions from industries or entities, including the tobacco industry, to political parties and/or campaigns.

One provincial-level politician is on the supervisory board of a tobacco producer (PMI).

7. PREVENTIVE MEASURES

The Dutch government has multiple procedures, protocols, and code of conducts in place to limit contact with and influence from the tobacco industry. While no plan or system is in place to systematically raise awareness within the government on Article 5.3 of the FCTC, the article is mentioned frequently in (requests for) communication with or about the tobacco industry in the Netherlands.

Recommendations

1. Set up clear instructions and deadlines for the transparency registry

Article 5.3 of the WHO FCTC states that any interaction with the tobacco industry on matters related to tobacco control or public health should be transparent and accountable. There are some loopholes that undermine the efficiency and overall goal of the transparency registry. Examples of measures that could be taken to improve the registry are:

- Communication should be uploaded to the registry within reasonable time [for example: within 2 months].
- Minutes should be taken and uploaded after all communication. This also includes telephone and face-to-face meetings.

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

The Netherlands Customs and the tobacco industry signed a Memorandum of Understanding (MoU) in 2011 for an indefinite period of time. The lack of an endpoint in this collaboration is undesirable for two reasons. First, it means that the collaboration will continue until one of the parties actively retracts. The longer these parties work together, the less likely this will be. Second, the lack of an endpoint could result in less, or no, evaluation of the collaboration. An endpoint forces both parties to evaluate whether they would like to extend the Memorandum of Understanding.

Furthermore, Dutch Customs is part of the Ministry of Finance, which drafts and sets taxation policy in the Netherlands. The tobacco industry might try to influence tobacco control policies, especially taxation policy, through the partnership. In line with Article 5.3 of the FCTC, the MoU should be terminated.

2021 Tobacco Industry Interference Index Results and Findings

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INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government ^c accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ^d in setting or implementing public health policies in relation to tobacco control ^e (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 between January 2020 and March 2021.						
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 June 2020, the government opened an internet consultation^f to include heat-not-burn tobacco products, such as the IQOS, in the Dutch Tobacco Act. Internet consultations are held by the government before any implementation or adjustment of a law. During consultations, anyone - citizens, businesses, civil organizations - can share their opinion or concerns regarding proposed laws. The consultation closed at the end of July 2020. It is stated that in accordance with Article 5.3 of the FCTC, the tobacco industry and the tobacco lobby are requested to only respond to technical implementation issues (of draft legislation) during internet consultations. The consultation received several reactions from the tobacco industry and tobacco retailers. None of these responses have resulted in amendments of the bill.⁶</p> <p>In December 2020, the government opened another internet consultation regarding the regulation of e-cigarette flavours. The consultation closed in February 2021. In May 2021 a report regarding this internet consultation has been published. The consultation received several critical reactions from individuals, sellers and organizations from the e-cigarette and tobacco branch. Their arguments not to ban e-cigarette flavours other than tobacco flavour were all refuted by the government⁷. In the beginning of April 2021, the Secretary of State announced to parliament that he wants to ban flavours for e-cigarettes, except for tobacco flavour. This ban has been worked out in an Order in Council. As of the writing of this Tobacco Industry Interference Index report (April 2021), parliament had not approved the Order in Council, yet.⁸</p>						
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				

^c 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

^d The term, "tobacco industry" includes those representing its interests or working to further its interests

^e "Offer of assistance" may include draft legislation, technical input, recommendations, oversees study tour

^f Citizens, organisations and institutions are able to respond tot he majority of proposed bills via the government website <https://www.internetconsultatie.nl/> .

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No evidence was found of the tobacco industry being invited or allowed to sit in a government interagency, multi-sectoral committee, or advisory group that sets public health policy between January 2020 and March 2021.						
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) ^g (Rec 4.9 & 8.3)		X				
No such incidents have been identified for the 4 th until the 8 th COP (2010-2018). ^{9 10 11 12 13}						
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 ^h (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)		X				
<p>There is no evidence of the Netherlands government 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 (monetary or otherwise) from the tobacco industry in 2020 and up to March 2021, including so-called CSR contributions.</p> <p>We did find two CSR related activities in which the tobacco industry in the Netherlands was involved: a partnership with an anti-litter initiative and one webinar hosted by a European CSR business network. However, in both cases no government organizations were involved.^{14 15 16}</p>						
INDICATOR 3: Benefits to the Tobacco Industry						
6. The government accommodates requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law. (e.g. 180 days is common for PHW, Tax increase can be implemented within 1 month) (Rec 7.1)			X			
One incident was found where postponement was granted. In January 2021, VSK reached out to the tax authorities requesting an extension on the sales timeframe of tobacco products with outdated tax stamps due to the COVID-19 lockdown. Dutch tobacco law states that factories and wholesalers are allowed to sell cigarettes and roll-your-own tobacco to resellers, such as supermarkets or tobacco specialty shops, with the old tax stamps up to two months after a tax increase, provided they were produced before the tax						

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

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

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<p>increase.¹⁷ Tax increases on both products took place on 1 January 2021, meaning that wholesalers would have until 1 March 2021 to sell their supply of 'old' packs. VSK sent a request to the tax authorities for an extension of this timeframe, since all but essential stores were closed from December 15th, 2020 until March 16th, 2021 due to the COVID-19 pandemic. As a result, VSK claims that less tobacco was bought, and "large quantities of products, of good quality products, would need to be destroyed". The Secretary of State of the Ministry of Finance granted the request, stating that such an extension would avoid extra work for the civil servants who would oversee the destruction of tobacco products with outdated stamps.¹⁸ The sales period was extended until 1 June 2021 for all brands and varieties.¹⁹ PMI – which is not part of VSK – reached out to the tax authorities stating that this would lead to an unfair advantage for members of VSK, as PMI's supply was "carefully planned keeping in mind the expected market developments and the legal timeframe" and thus did not need the extension. PMI proposed that the extension would only be granted for tobacco products that are exclusively sold in tobacco specialty shops. This request was denied by the Ministry of Finance.²⁰</p> <p>Furthermore, we found one incident where a party says an extension was granted, but no public documents support this. The branch organization for gas stations (BETA – <i>belangenvereniging Tankstations</i>) said in an interview that the proposed end date for sale of tobacco at gas stations was postponed from 2028 to 2030.²¹ No public documents were found that support this postponement nor that the initial end date for sale was in 2028. The Ministry of Health, Welfare and Sports informed the researchers of this report by mail that the branch organization for gas stations was informed by the Ministry of Health, Welfare and Sports about the upcoming ban in 2030, but no postponement was granted. No evidence for communication between BETA and other ministries was found.</p>						
<p>7. The government gives privileges, incentives, tax exemptions or benefits to the tobacco industry (Rec 7.3)</p>			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.²² The price they pay for a pack of cigarettes varies between 2.50 and 3.50 euros compared to 7 and 8 euros in a regular store in the Netherlands. 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.²³</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 EU²⁴ and 200 cigarettes or 100 cigarillos or 50 cigars or 250g tobacco from outside the EU²⁵.</p>						
INDICATOR 4: Forms of Unnecessary Interaction						
<p>8. Top level government officials (such as President/ Prime Minister or Ministerⁱ) meet with/ foster relations with the tobacco companies such as attending social functions and</p>		X				

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

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other events sponsored or organized by the tobacco companies or those furthering its interests. (Rec 2.1)						
No incidents have been found where top level government officials attended social functions organized or sponsored by the tobacco companies between January 2020 and March 2021.						
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
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 the smuggling of tobacco products ²⁶ . This includes accepting training from the tobacco industry on anti-smuggling activities and soliciting feedback on anti-smuggling strategies ²⁷ . The MoU is valid for an indefinite time, meaning that the cooperation between customs and the industry does not have a set end date.						
10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) NOTE: This must <u>not</u> involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.	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			
From 7 March 2016 on, the government discloses communication and/or minutes from interactions with the tobacco industry in the transparency registry. The government has stated that the following meetings and/or interactions are allowed ²⁸ : <ul style="list-style-type: none"> • Ministry of Health, Welfare and Sports: interaction related to the technical implementation of policies and laws that have been approved/established. • Ministry of Finance: interaction that is deemed necessary related 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. 						

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<p>The Ministry of Finance meets once a year with the tobacco industry - if deemed necessary that year. Examples of subjects in which discussion is permitted during these meetings are changing tariff codes, tax-stamps or transitional agreements.</p> <p>Between January 2020 and March 2021, 41 interactions were disclosed on the government transparency registry. Of these 41 registered interactions, 3 are sets of documents that were released as the result of the Freedom of Information Act (<i>WOB-verzoek</i>), one [1] concerns minutes and PowerPoint presentations from a MOU-meeting (October 2020), one [1] concerns minutes from a phone call, and one [1] does not include the attachment concerning the interaction(s).</p> <p>Not all communication that has taken place between the government and (affiliates of) the tobacco industry has been uploaded. For example, several government and industry documents indicate that the Secretary of State met with the branch organizations for supermarkets and gas stations in summer 2020 regarding limiting the number of tobacco sales points.^{29 30} However, no minutes or agenda of this meeting have been uploaded to the transparency registry (as of 29 April 2021). The Ministry of Health, Welfare and Sports has stated that these minutes will be uploaded soon. Nonetheless, this example highlights two shortcomings of the registry: it is not clear whether all communication that has happened has been uploaded, and there is no timeframe for how soon something should be uploaded.</p> <p>Three requests, and the consequences thereof, for more information through the Freedom of Information Act are worth mentioning. In chronological order:</p> <ul style="list-style-type: none"> - In June 2020, the Youth Smoking Prevention Foundation went to court to demand more documents to be made public under the Freedom of Information Act. They had previously requested documents of the NEN committee (Netherlands Standardization Institute)^l, but only a fraction of the requested information was made public.³¹ No decision has been made by the court as of April 2021. - In July 2020, a news article was published stating that the transparency registry was being undermined by the lack of minutes taken by government officials. A request under the Freedom of Information Act regarding communication with the industry could not be granted since the communication was done by phone and no minutes were taken.³² A month later, in August 2020, the first ever telephone minutes of a conversation with the tobacco industry were uploaded. - In August 2020, journalists from <i>the investigative desk</i> and independent news platform <i>Follow the Money</i> broke the news that the tobacco industry had managed to influence the content of the tobacco chapter in the National Prevention Agreement^{k 33}. The journalists used multiple open and closed sources, amongst which documentation that was released following a request under the Freedom of Information Act. 						
<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)</p>						X

^l see 2020 Netherlands Tobacco Industry Interference Index

^k see 2020 Netherlands Tobacco Industry Interference Index

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<p>In the Netherlands, lobbyists need to register to gain access to the House of Representatives. Access is given to the semi-public areas of the House of Representatives.³⁴ No tobacco industry lobbyists were registered in 2020. There were lobbyists registered that are known for lobbying in favour of the tobacco industry, such as VNO-NCW (confederation of Netherlands Industry and Employers).³⁵ It should be noted that the registry has not been updated since November 2020.</p> <p>There is no additional registration for tobacco industry entities, affiliated organizations and individuals acting on their behalf.</p>						
INDICATOR 6: Conflict of Interest						
<p>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 4.1.1)</p>						X
<p>There are no laws or regulations in place that prohibit contributions from specific industries or entities including the tobacco industry.</p> <p>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 more³⁶. For each donation of this threshold, name and address are noted. The majority of contributions are made by individuals.³⁷ A few weeks before the 2021 national elections, the news broke that the Party of Freedom and Democracy (VVD) had not publicly disclosed all gifts or endowments.³⁸ As of April 2021, it remains unclear what organizations and individuals have financially supported the VVD.</p>						
<p>14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)</p>		X				
<p>No such cases have been identified for the 2020-2021 time period.</p>						
<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)</p>		X				
<p>One incident was found for the 2020-2021 time period. A member of the provincial council from a national political party holds a position in the supervisory board of PMI.³⁹ ⁴⁰ This member was on the electoral list for the House of Representatives during the 2021 elections, but did not secure a seat.⁴¹ ⁴² The provincial council member is part of the Nature, Agriculture and Health Committee of the provincial council.⁴³ However, tobacco control is not a matter that is dealt with at the Dutch provincial level.</p>						
INDICATOR 7: Preventive Measures						
<p>16. The government has put in place a procedure for disclosing the records of the interaction (such as agenda, attendees,</p>		X				

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minutes and outcome) with the tobacco industry and its representatives. (Rec 5.1)						
<p>The national government has several procedures for disclosing the records of interaction with the tobacco industry and its representatives. A protocol was put in place in 2016⁴⁴. The Netherlands government - both at the national level and at the local level - are obligated to publish the records of the approved meetings with the tobacco industry and their representatives^{45 46}. 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 industry⁴⁷.</p> <p>Under the Freedom of Information Act (<i>Wet Openbaarheid van Bestuur</i>), the public can request information from the government that has not (yet) been made public⁴⁸. However, the Freedom of Information Act provides leeway with regard to 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)⁴⁹.</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)		X				
<p>The government has a protocol for civil servants regarding their contact with the tobacco industry and its representatives³.</p> <p>Additionally, all civil servants and other government employees are obliged to comply with the 'Code of Conduct Integrity' of the Dutch government⁵⁰. 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.</p> <p>It should be noted that the Presidium of the Dutch parliament has expressed the opinion that parliamentarians are not bound by Article 5.3 FCTC.⁵¹</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)			X			
<p>Tobacco producers, importers, suppliers or wholesalers are obligated by law to submit the following information to the Ministry of Health, Welfare and Sports⁵²⁵³⁵⁴:</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 						

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<p>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>;</p> <ul style="list-style-type: none"> • A yearly overview of sales volumes per brand and type; • In-depth studies including the toxicity and compliance with the Tobacco Products Directive of the European Parliament; and • All internal and external studies that have been conducted, including: <ul style="list-style-type: none"> ○ Information regarding the preferences of consumer groups (including young and current smokers); ○ Ingredients and emission levels; and ○ 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.⁵⁵</p> <p>The tobacco industry is not obligated to periodically submit information on marketing expenditures, revenue, or other expenditures, such as lobbying or CSR activities.</p>						
<p>19. The government has a program / system/ plan to consistently¹ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)</p>						X
<p>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. In 2019, this document was re-sent to all levels of government to re-emphasize the importance of limiting all contact with the tobacco industry.</p> <p>The government mentioned FCTC Article 5.3 in six out of ten written replies to the tobacco industry or affiliated organisations that were uploaded to the transparency register.⁵⁶ This excludes documents uploaded related to: the MOU meeting, the documents uploaded because of the Freedom of Information Act, and an e-mail from the petrol industry.</p>						
<p>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)</p>		X				
<p>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 accepted⁵⁷. Additionally, trips (both</p>						

¹ 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.

	0	1	2	3	4	5
abroad as well as within the country), dinners, lunches, and the like are not allowed to be financed by other parties than the government. The code of conduct does not explicitly mention the tobacco industry.						
TOTAL						35

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ANNEX A: SOURCES OF INFORMATION

TOBACCO INDUSTRY ACTIVITY

TOBACCO COMPANIES

Top 4 Tobacco Companies/distributors	Market Share and Brands	Source
Philip Morris International (PMI)	Main brands: Marlboro, L&M, Chesterfield, IQOS and HEETS	link
British American Tobacco (BAT)	Main brands: Lucky Strike, Kent, Dunhill and Pall Mall	link
Imperial Brands (previously Imperial Tobacco)	Main brands : John Player Special, Gauloises, Bastos, Drum, News, Van Nelle and RizLa+	link
Japan Tobacco International (JTI)	Main brands: Camel, Winston, Mevius and LD.	link

TOBACCO INDUSTRY FRONT GROUPS

Top 4 Tobacco Industry Representative	Type (Front Group/ Affiliate/ Individual)	URL
Vereniging Nederlandse Sigaretten- en Kerftabakfabrikaten (VSK)	Branch organization	www.vsk-tabak.nl
Nederlandse Vereniging voor de Sigarenindustrie (NVS)	Branch organization	www.sigaar.nl
Branche organisation voor de tabaksdetailhandel (NSO)	Branch organisation	www.tabaksdetailhandel.nl
VNO-NCW	Confederation of employers	www.vno-ncw.nl

NEWS SOURCES

Top 5 Newspaper/Dailies	Type (Print/Online)	URL
NOS (Nederlandse Omroep Stichting)	Online	www.NOS.nl
Telegraaf	Print and online	www.telegraaf.nl
Trouw	Print and online	www.trouw.nl
The investigative desk	Online	www.investigativedesk.com/nl
Tabaknee	Online	www.tabaknee.nl

Basis of ranking: from most popular (NOS and telegraaf) to most specialized (the investigative desk and tabaknee). Ranked by Prof. Dr. Marc Willemsen and Cloé Geboers, MSc.