



Africa Regional Tobacco Industry Interference Index



First edition,
October 2021

Implementation of Article 5.3 of the World Health Organization
Framework Convention on Tobacco Control in Africa.





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Quartier Adido-Adin, 08 BP 81586 Lome-Togo
info@atca-africa.org

ATCA is a non-profit, non-political Pan-African network of civil society organizations. With membership in 39 countries, it is dedicated to promoting public health and preventing the tobacco epidemic in the continent.

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Disclaimer

This Regional Interference Index is a civil society report based on publicly available information gathered by collaborators in their respective countries. If you have information that could strengthen the report, please contact us at: research@atca-africa.org

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This report was written by:

- Dr Arti Singh, School of Public Health, Kwame Nkrumah University of Science and Technology (KNUST), Kumasi, Ghana
- Leonard Baatiema: Department of Health Policy, Planning and Management, School of Public Health, University of Ghana, Legon, Ghana
- Divine Darlington Logo: School of Public Health, Kwame Nkrumah University of Science and Technology (KNUST), Ghana
- Labram Musah Massawudu: Vision for Alternative Development

Editorial and technical team

- Dr. Mary Assunta: Head of Global Research and Advocacy, Global Center for Good Governance in Tobacco Control (GGTC)
- Prof. Lekan Ayo-Yusuf: Director, Africa Centre for Tobacco Industry Monitoring and Policy Research (ATIM)
- Leonce Sessou: Executive Secretary, African Tobacco Control Alliance (ATCA)
- Caleb Ayong: Communication Officer, African Tobacco Control Alliance (ATCA)
- Yodhim Dela Rosa: Global Research Coordinator, Global Center for Good Governance in Tobacco Control (GGTC)

National collaborating partners

- **Botswana:** Anti Tobacco Network (ATN)
- **Burkina Faso:** Afrique Contre le Tabac (ACONTA)
- **Cote d'Ivoire:** Comité/ Club Universitaire Unesco pour la Lutte Contre la Drogue et les autres pandémies (CLUCOD)
- **Ethiopia:** Health Development & Anti Malaria Association (HDAMA)
- **Gabon:** Mouvement Populaire pour la santé au Gabon (MPS-Gabon)
- **Ghana:** Vision for Alternative Development (VALD)
- **Kenya:** Consumer Information Network (CIN)
- **Mozambique:** Association Mozambicaine de Santé Publique (AMOSAPU)
- **Nigeria:** Corporate Accountability and Public Participation Africa (CAPPA)
- **Senegal:** Ligue Sénégalaise contre le Tabac (LISTAB)
- **South Africa:** Vimla Moodley
- **Tanzania:** Tanzania Tobacco Control Forum (TTCF)
- **Uganda:** Hellen Neima
- **Zambia:** Tobacco-Free Association of Zambia (TOFAZA)

Graphic design and layout: Landscape (info@landscape-africa.com)

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Abbreviations

BAT	British American Tobacco
CGECI	Confederation of Côte d'Ivoire Companies
COP	Conference of the Parties
COSOTA	Copyright Society of Tanzania
CSR	Corporate Social Responsibilities
CTI	Confederation of Tanzania Industries
ECLT	Elimination of Child Labour in Tobacco Growing
EFDA	Ethiopian Food and Drug Administration
FCTC	Framework Convention on Tobacco Control
FDA	Food and Drugs Authority
GRA	Ghana Revenue Authority
IPPA	Investment Promotion and Protection Agreement
JTI	Japan Tobacco Industry
KCB	Kenya Commercial Bank
KPC	Kenya Pipeline Company
LAS	Lemang Agricultural Services
LMICs	Low-Middle-Income Countries
LSADA	Lagos State Agricultural Development Authority

MABUCIG	Manufacture Burkinabè de Cigarettes
MoU	Memorandum of Understanding
MPL	Minimum Price Level
NDoH	National Department of Health
NEMA	National Environment Management Authority
NTE	National Tobacco Enterprise
NYSC	National Youth Service Corps
PPA	Public Procurement Authority
PPB	Pharmacy and Poisons Board
PWDs	People with Disabilities
RGT	Régie Gabonaise de Tabacs
SAED	Skills Acquisition and Entrepreneurship Development Programme
SAPS	South African Police Services
SATTA	South Africa Tobacco Transformation Alliance
SON	Standards Organisation of Nigeria
TCC	Tanzania Cigarette Company
TCR	Tobacco Control Regulations
TI	Tobacco Industry
WHO	World Health Organisation
ZDA	Zambia Development Agency

The tobacco industry interferes in government efforts to promote public health in Africa

Forward

The Afro region played a leading role in the negotiations and eventual adoption of the WHO Framework Convention on Tobacco Control. However, since its entry into force in 2005, many countries of the region have been significantly slow in domesticating the treaty.

A lot is being done to raise awareness on the consequences of tobacco products and the very questionable actions of tobacco companies to protect their profits. Despite these efforts, tobacco industry influence on government policies to protect populations from the disastrous effects of tobacco remains high in the continent, seen by transnational tobacco companies as a relatively untapped market, where very little restrictions provide an opportunity for business growth.

As they expand into new African markets, tobacco multinationals exploit the continent's socio-political climate, characterised by political tensions, social inequality, and inadequate legislative frameworks, to wield political and economic influence on the continent. This helps to shape the business environment in Africa, rendering it profitable for the industry, even though this, unfortunately, happens at the detriment of the health and well-being of the African population. And while transnational tobacco companies always try to portray themselves as development partners, internal industry documents reveal that they have strategically planned their expansion across Africa for

over two decades, and have sought to “aggressively and consistently” exploit “profitable opportunities” in the region. This would be acceptable if tobacco was an ordinary product essential for daily existence; but **the product kills at least 8 million people globally every year.**

The Africa Tobacco Industry Interference Index is yet another instrument that provides tangible evidence of tobacco industry interference in governments' efforts to protect public health. Governments ought to embrace the information in it and use it to strengthen their efforts to contain tobacco industry interference in health policies. It also serves as a useful tool for Civil Society Organisations to accompany government efforts to keep the tobacco industry at bay.

The future of our continent is in our hands and we must do all we can to keep it safe and healthy. As a public health and tobacco control community, we can achieve this by adopting WHO FCTC-compliant legislations that protect our populations, and ensuring that their implementation is resolutely protected from external influence.

Documents like the Africa Tobacco Industry Interference Index should help reinvigorate our collective passion for tobacco control, just like was the case during the negotiations and eventual adoption of the WHO FCTC.



Akinbode M. Oluwafemi
Chairperson, Board of Directors
African Tobacco Control Alliance

Country abbreviations

COUNTRY	ACRONYMS
Burkina Faso	BFA
Botswana	BWA
Cote d'Ivoire	CIV
Ethiopia	ETH
Gabon	GAB
Ghana	GHA
Kenya	KEN
Mozambique	MOZ
Nigeria	NGA
Senegal	SEN
South Africa	ZAF
Tanzania	TZA
Uganda	UGA
Zambia	ZMB

Introduction

Over eight million deaths related to tobacco use occur annually worldwide, and the majority of these deaths occur in low- and middle-income countries (LMICs) particularly in Africa and the Middle East¹. Africa is home to many major tobacco-producing countries such as Zimbabwe, Malawi, Zambia, Mozambique, South Africa, as well as a major market for tobacco products especially cigarettes¹. The WHO Framework Convention on Tobacco Control (FCTC), which came into force in 2005, establishes evidence-based tobacco control measures that parties to the treaty are legally obliged to implement. Despite evidence that the FCTC has led to significant progress in tobacco control worldwide, progress in compliance in the African continent has been slow with modest achievement. Malawi, South Sudan and Eritrea, though major producers and consumers of tobacco, have not yet signed nor ratified the FCTC². Although 44 of 47 countries in the African region are party to the treaty, none have fully implemented FCTC compliant legislation. Among the countries that have ratified the FCTC in the Afro region, only a few have domesticated the treaty, mainly because of the influence of the tobacco industry. Nevertheless, some countries such as Kenya, Uganda, and

Senegal have made important progress in addressing the tobacco epidemic by strengthening the implementation of the WHO FCTC³.

The tobacco industry (TI) has interfered in the enactment and implementation of tobacco control legislation in many countries in the African region. For instance, the passage of the Tobacco Control legislation through Parliament in Kenya took almost 13 years, before it was finally passed and enacted into law in 2007. Lack of enforcement and the existence of weak institutions to facilitate this process is also a major concern. With declining smoking rates in high-income countries, Africa has become a prime market for the tobacco industry because of its economic and demographic contexts. This situation is further exacerbated by early youth initiation, the introduction of new tobacco products, and extensive marketing by the tobacco industry⁴. Tobacco companies such as British American Tobacco, a dominant tobacco company in many African countries, conducted corporate social responsibility initiatives with governments, which contravene Article 5.3 of the treaty. This situation was highly

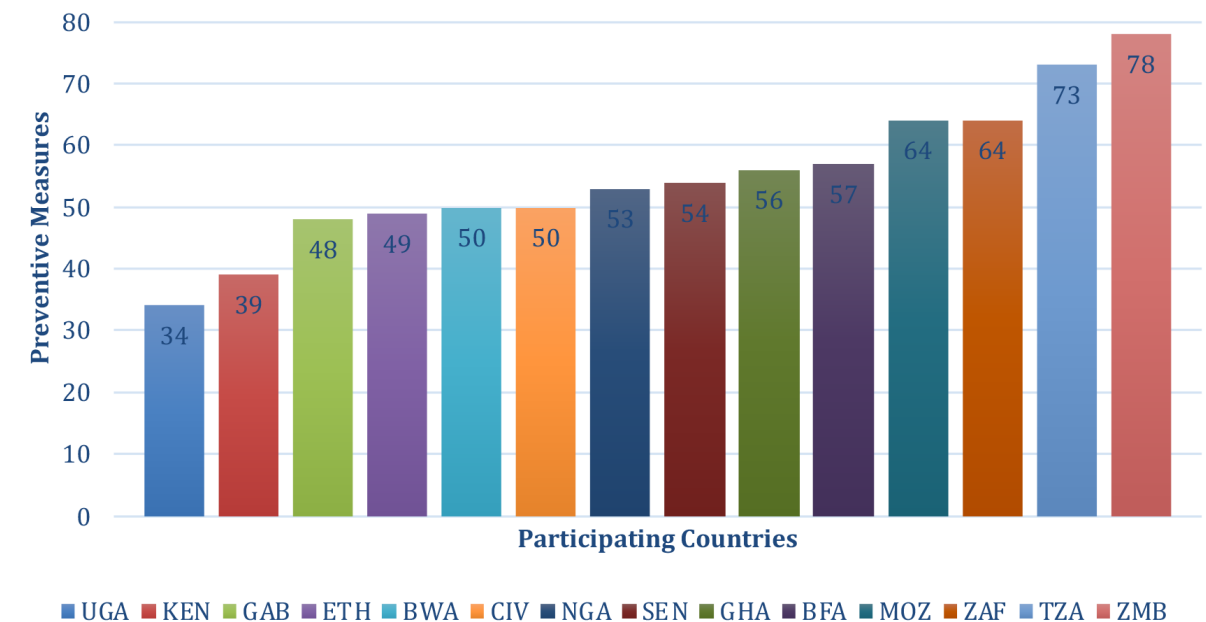


evident with the emergence of the COVID-19 pandemic⁵. The tobacco industry provided resources to countries (mainly LMICs) most in need of support, framing itself as being “part of the solution”—a classic tactic of the tobacco industry to get close to governments and enable it to interfere with, derail and undermine health policies aimed at reducing tobacco use.

Countering industry interference is fundamental to effective WHO FCTC implementation. Industry interference needs to be closely monitored and effectively countered if public health advocates and governments are to succeed in effectively implementing the WHO FCTC. Governments in the African Region need to implement the FCTC in its entirety and apply the

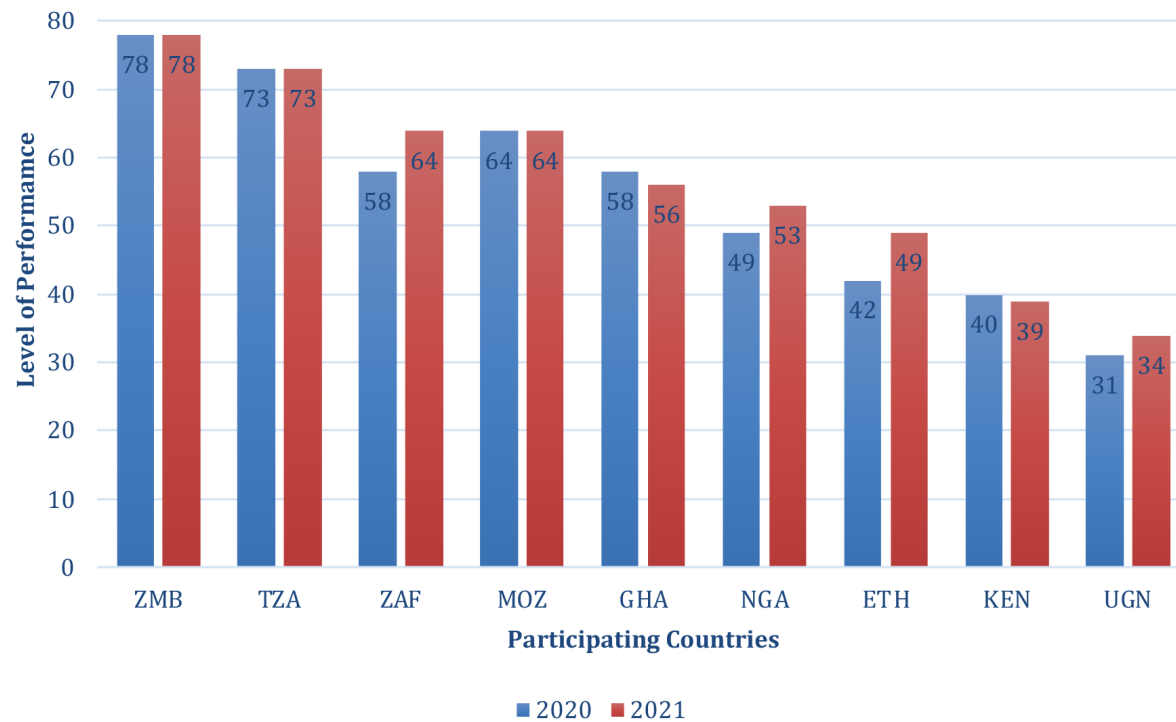
Guidelines for the Implementation of Article 5.3 to advance tobacco control and achieve the Sustainable Development Goals. The African Tobacco Industry Interference Index is a civil society report on how countries are implementing FCTC Article 5.3 Guidelines⁶. Scores are applied to the countries according to their governments' efforts to deal with tobacco industry interference. The higher the score, the poorer the performance of a country's government to deal with tobacco industry interference. Fourteen African countries participated in the survey and have been ranked as shown in **Figure 1**.

Figure 1: TI Interference Index 2021 - Africa



The African regional report is prepared based on publicly available information on tobacco industry interference on the continent for 2020. The report is classified in seven indicators, namely:

- a) Industry participation in policy development
- b) CSR activities
- c) Benefits to the tobacco industry
- d) Unnecessary interactions with the tobacco industry
- e) Lack of transparency leads to industry interference
- f) Conflict of Interest
- g) Preventive Measures.

Figure 2: Country Performance 2020 and 2021

Nine of the 14 countries were involved in the global index in 2020. In 2021, two of these countries, Ghana and Kenya, have improved, three show no change while others regressed in addressing tobacco industry interference as shown in **Figure 2**.



Key Findings

- 1 There were variations in country performances:** Zambia and Tanzania top the list in Africa with the highest level of tobacco industry interference on almost all indicators among the fourteen countries in 2021; as compared to the ranking of countries in the 2020 global index. Ethiopia dropped by 17% (from 42 to 49), and although modest, Ghana improved in 2021 (from 58 to 56).
- 2 Increased CSR enabled interaction with governments:** The tobacco industry stepped up corporate social responsibility (CSR) activities during the COVID-19 pandemic. The industry exploited opportunities provided by the pandemic to engage with government bodies and capitalized on the vulnerability of several African governments facing a shortage of resources during the pandemic.
- 3 Policy development was influenced:** Zambia, Tanzania and Nigeria had the highest tobacco industry influences on governments in policy development.
- 4 Interactions with the tobacco industry were not transparent:** Despite countries putting procedures in place to guide officials to report all meetings with

the tobacco industry, a lack of transparency which facilitated deals with the tobacco industry persisted, and was most significant in Zambia, Senegal, Mozambique and Cote d'Ivoire.

- 5 The industry received privileges from governments:** The tobacco industry benefitted through incentives from governments in many African countries. Tanzania, South Africa, Ethiopia, Gabon and Zambia top the list and received a variety of benefits including delays in tax increment or tax breaks for the industry, "endorsement" of sponsorships and promotion of the tobacco industry.
- 6 Countries continued to maintain unnecessary interactions with the industry:** The tobacco industry, in at least five countries, engaged in high levels of unnecessary interactions with governments. These took the form of trade and partnerships, enforcement of laws, social activities and economic development agenda.
- 7 Governments do not adequately address conflicts of interest:** There are instances of current and former public officials working for and in the interest of the

tobacco industry. The industry influences public policy through what is dubbed a “revolving door”, where former or current government officials take up jobs in the tobacco industry and vice versa.

8 Countries need adequate measures to prevent industry interference: Botswana made progress by publishing its tobacco control law which prohibits collaboration

with the tobacco industry. Countries such as Zambia, Tanzania, Senegal, and Mozambique have neglected to firewall their tobacco control efforts and have been particularly vulnerable to high levels of industry interference. No formal procedures to disclose and record interactions with the tobacco industry and its representatives exist.



Indicator Highlights

1. Industry Participation in Policy Development

Governments are obligated to protect their health policies from tobacco industry interference.

The 2021 Index shows a low level of tobacco industry interference in policy development in Kenya and Uganda. Countries such as Zambia, Nigeria, Ethiopia and Tanzania experienced the most industry interference. In the survey report they do not allow the tobacco industry a seat in policy development. An overview of how the participating countries performed is shown in **Figure 3**.



Extent of industry participation in policy development in some African countries

Ethiopia: The tobacco industry participated in the drafting process of the Tobacco Control Proclamation (Proclamation 11112) and provided some recommendations to influence key provisions which were accepted by the Ethiopian Food and Drug Administration (EFDA).

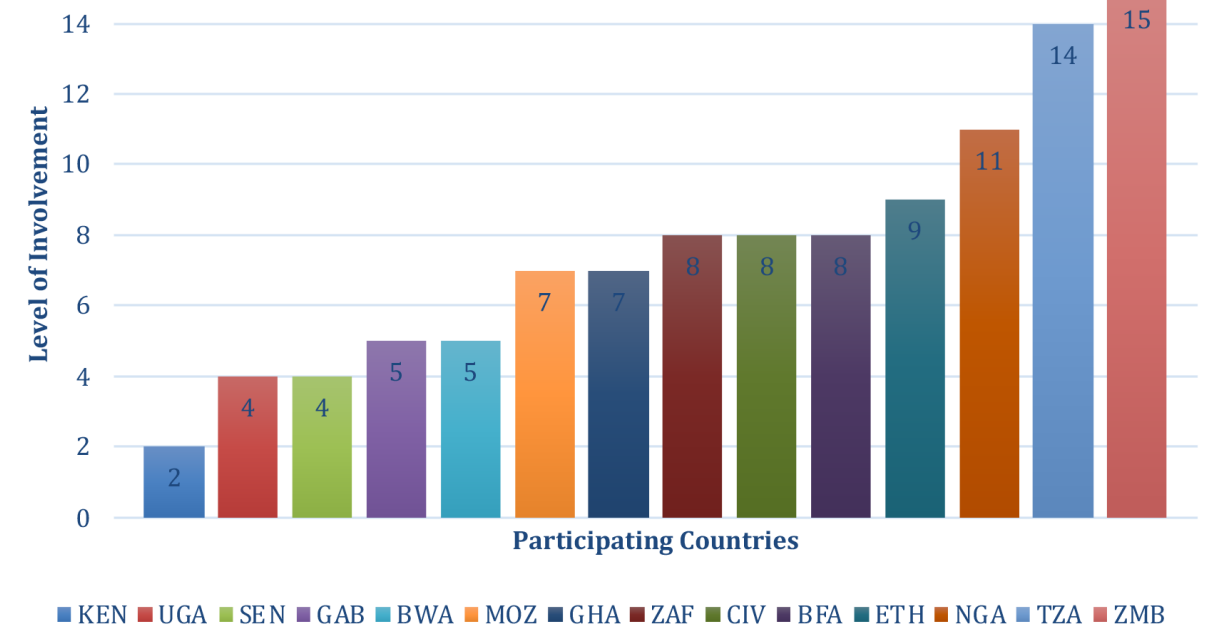
Nigeria: The Federal Ministry of Industry, Trade and Investment received a tobacco industry proposal on the need for a Policy on Conventional Tobacco and Non-Combusted Alternatives to Cigarette Smoking⁷.

Burkina-Faso: The tobacco industry provided financial support to the Ministry of Economy and Finance and the Ministry of Trade for the setting up of a system of authentication, track and trace, and fiscal verification of tobacco products⁸.

Zambia: Meetings between government officials and the industry were sometimes reported though not in detail.

Countries like **Botswana, Ghana, Cote d'Ivoire, Gabon, Kenya, Mozambique, Senegal, and Uganda**, do not accept, support or endorse any offer for assistance by or in collaboration with the tobacco industry in setting or implementing public health policies related to tobacco control. They also do not allow or invite the tobacco industry to sit in any government meetings on tobacco control. However, in **South Africa**, the tobacco industry made several unsuccessful attempts to communicate with the National Department of Health (NDoH) during the ban on the sale of tobacco products at the height of the COVID-19 pandemic.

Figure 3: Tobacco Industry Participation in Policy Development



Even though the **Zambian** government does not have the tobacco industry sitting in multi-sectoral committee meetings, they consults with the tobacco industry on tobacco control matters. While governments of **Botswana, Cote d'Ivoire, Gabon, Ghana, Kenya, Mozambique, Senegal, Uganda**, do not accept, support or endorse policies or

legislation drafted by or in collaboration with the tobacco industry, a contrary situation is registered in some other countries.

In **Nigeria**, the Standards Organisation of Nigeria (SON), a government agency, involved the tobacco industry in consultations and

drafting of policies on tobacco control. In 2020, the Federal Ministry of Industry, Trade and Investment also received a tobacco industry proposal on the need for a Policy on Conventional Tobacco and Non-Combusted Alternatives to Cigarette Smoking⁷. Timely advocacy from tobacco control groups prompted the Ministry to jettison its adoption.

In **South Africa**, the Fair Trade Independent Tobacco Association (FITA), an industry lobby group, negotiated a settlement with the Minister of Co-operative Governance and Traditional Affairs to not reintroduce a ban on the sale of tobacco products without a public participation process⁹. Additionally, the South Africa Tobacco Transformation

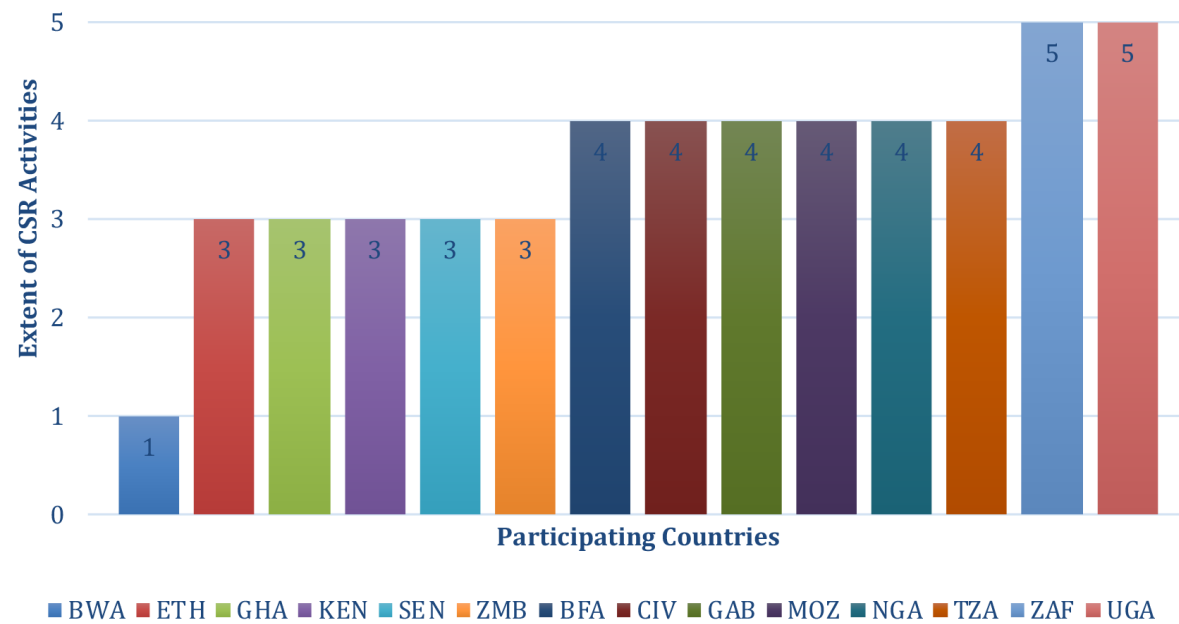
Alliance (SATTA) tried to influence policy by proposing the National Treasury adopt a Minimum Price Level (MPL) for cigarettes. SATTA claimed that MPL had significant success in other parts of the world, and the 40% excise incidence for cigarettes should remain unchanged¹⁰. Every two years, Parties to the WHO FCTC, convene at the Conference of the Parties (COP) to negotiate more effective implementation of the treaty. Article 5.3 Guidelines recommend that Parties attending the COP and other related meetings prohibit participation of representatives from the tobacco industry. The Index shows that about 90% of the countries surveyed do not include representatives of the tobacco industry in their delegations to the COP or its related meetings.

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2. Corporate Social Responsibility Activities

According to the WHO, there is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests¹¹. FCTC Article 13 calls for a ban on tobacco-related CSR activities and Article 5.3 Guidelines call on Parties to denormalise them. Tobacco companies handed scholarships to poor students, funded poverty alleviation projects and supported governments during natural disasters. They also supported research. Evidence from several country reports including **Kenya, Ghana, Nigeria, Uganda, and South Africa** reveals that CSR activities are banned in their national laws. However, some countries faced challenges implementing the ban as CSR activities involving government officials was reported in **Burkina Faso, Mozambique, Nigeria, Senegal, South Africa, Tanzania, and Zambia**. See **figure 4** on tobacco-related CSR activities endorsed by public officials.



Figure 4: Tobacco Related CSR Activities

In **Burkina Faso** for example, the commander of the Second Gendarmerie region is reported to have stated, “the Manufacture Burkinabè de Cigarettes (MABUCIG)¹², a local subsidiary of Imperial Brands has given us a second life” when the TI constructed a drinking water facility on January 7, 2021¹².

Despite Decree No. 0285/PR/MSPSSN of May 17, 2016, which bans sponsorship of tobacco and its derivative products in **Gabon**, the tobacco industry sponsored the renovation of the sports facilities of the

National Gendarmerie School as well as a soccer tournament in 2017.

In June 2018, the Ministry of Labour of **Mozambique** signed a 3-year Memorandum of Understanding (MoU) with the tobacco industry-funded ECLT Foundation for US\$1.2million to address child labour and strengthen children’s rights, particularly those in rural areas where tobacco is grown¹³. The MoU which is valid till 2021 aims to get children out of child labour, community education and training, awareness and

communication, and at the same time have a role in revising legal frameworks¹⁴.

In March 2020, **Lagos** State Agricultural Development Authority (LSADA) officials received 250kg coal smoking kilns from the BAT Nigeria (BATN) Foundation. At that event, the Lagos State Commissioner for Agriculture commended BATN Foundation for its “continuous support to agriculture in Lagos State”. The Foundation in July 2020, further partnered with the Abia State FADAMA to distribute certified rice seedlings to smallholder farmers¹⁵.

The BATN Foundation partnered with the National Youth Service Corps (NYSC) in its Skills Acquisition and Entrepreneurship Development (SAED) Programme¹⁶ which began in 2019. Under the scheme, the youth corps members and young people with viable agri-business ideas are supported with equity-free capital and other associated support they may require to scale up their businesses. In the 2021 edition, the Foundation continued its CSR with the Corps through a financial commitment of N16 million in cash and business support for grantees¹⁷.

Similarly, in **South Africa**, Lemang Agricultural Services (LAS), funded by

BATSA¹⁸ supported emerging farmers in partnership with the Department of Economic Development, Department of Trade and Industry and Department of Agriculture, Rural Development and Land Reform. Furthermore, AFGRI Agri Services promoted and sponsored the Gauteng Provincial Rugby team, the Vodacom Bulls¹⁸.

In 2020, **Tanzania** Cigarette Company (TCC) reported in its annual report of supporting several programs on Poverty Alleviation, People with Disabilities (PWDs), Natural Environment, Visual & Performing Arts and older persons. All these activities were endorsed by public officials¹⁹. TCC further, presented equipment worth TZS 14,367,500 to PWDs, which was presented to Nyasa District Commissioner Hon Isabela Chilumba. The equipment was requested by the MP of the area¹⁶.

Despite countries passing legislation to prohibit tobacco-related CSR activities, the emergence of COVID-19 saw yet another display of disregard for national laws and the FCTC, notably the tobacco industry’s donating to COVID-19 trust funds established by countries to support the pandemic in **Ethiopia, Kenya, Nigeria, Senegal and Uganda**.

The tobacco industry and COVID-19

The devastating impact of the COVID-19 pandemic has underscored the fundamental importance of health and tobacco control. The most visible activities have involved so-called corporate social responsibility, largely in the form of donations of equipment or cash in several countries in the African region. The industry has keenly exploited the opportunities provided by the pandemic to engage with government bodies and contribute to relief efforts. Table 1 summarises tobacco industry-related CSR activities during the COVID-19 period in eight countries.

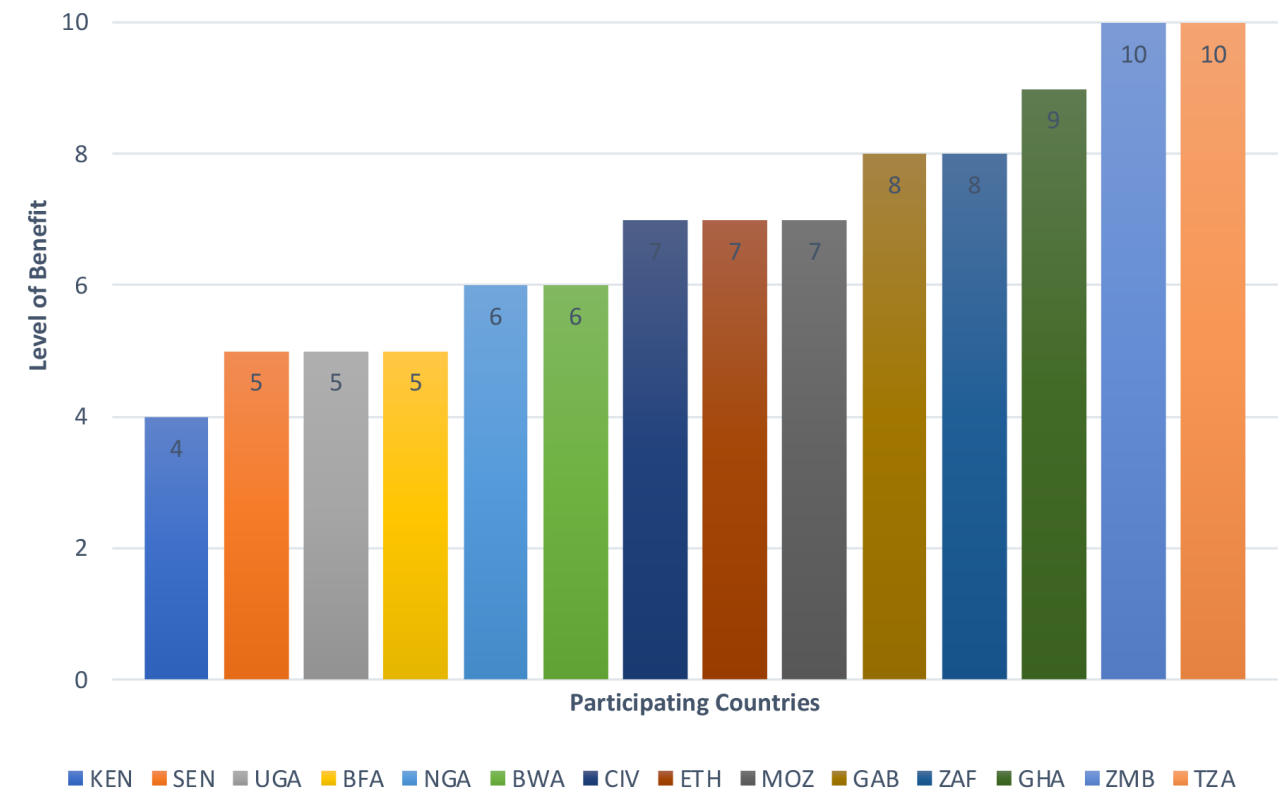
Table 1: CSR activities by the tobacco industry during COVID-19 in Africa

Country	Tobacco industry COVID-19 related activities
Ethiopia	The National Tobacco Enterprise (NTE) donated sanitizers and personal protective equipment (PPE) to residents of Addis Ababa for the prevention and control of the COVID 19 pandemic.
Kenya	British American Tobacco (Kenya) Ltd donated Kshs.10.6m (US\$100,000) to the COVID-19 Emergency Response Fund ²⁰ .
Senegal	The government received a donation of about 1 billion CFA francs (\$1.6 million) from Mauritanian billionaire Mohamed Ould Bouamatou, to fight the COVID 19 epidemic, who made his fortune selling cigarettes.
Nigeria	The Kwara State government announced receipt and appreciation of the donation of hand sanitizers and facemasks from International Tobacco Company – the local producer of Philip Morris International brands in Nigeria to tackle the spread of the virus ²¹ .
Uganda	During the National address by the President of Uganda, he acknowledged Meridian and Leaf Tobacco and Merchandise Ltd among other companies that contributed to the fight against COVID-19 ²² .
Zambia	Japan Tobacco International (JTI) spent US\$300,000 providing materials towards the government’s fight against the COVID-19 pandemic in public health facilities and schools in the Western and Eastern provinces.
Botswana	The government lifted the ban on tobacco sales before that of alcohol sales during the COVID-19 lockdown period.
Tanzania	The government received medical equipment worth TZS 38m from nine institutions including Tanzania Cigarette Company (TCC).

3. Benefits to the Tobacco Industry

Several governments in the African continent accommodated requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control policies, including delay in the implementation of taxes on tobacco products. The tobacco industry received a variety of incentives while conducting business in Africa. These included tax exemptions, low or no tax increases on tobacco products and longer duration to apply mandatory health warnings on cigarette packs. **Figure 5** shows countries that provided benefits or promoted the tobacco industry.

Figure 5: Benefits to the Tobacco Industry



The tobacco industry in **Tanzania, South Africa, Ethiopia, Gabon,** and **Zambia** received a variety of benefits as evident in delays in the implementation tax increment, or in tax breaks accorded the industry, and allowing of sponsorships and promotion by the tobacco industry. Benefits to the industry also took the form of non-enactment of laws to ban smoking in public spaces as required by the WHO FCTC. On the other hand, **Kenya, Uganda, Senegal,** and **Burkina Faso** performed relatively better in not providing incentives to the industry.

Delays in tax increase or tax breaks incentives for the tobacco industry

In **Cote d'Ivoire**, the Confederation of Côte d'Ivoire Companies (CGECI) negotiated tax breaks that benefited tobacco companies and potentially influenced the government to increase tobacco taxes by only a single point (from 38% to 39% in 2020)²³, way below public expectations. In **Nigeria**, tobacco companies were given exemptions from the ECOWAS tax directives which prescribed a minimum of 50% duty plus a specific excise tax of only 0.02 dollars per stick of cigarette. Similarly, in **Senegal**, the tobacco industry continues to benefit from government investment package established to attract foreign investors, and benefits from tax



exemption from specific taxes both on export products and resale of raw tobacco. On the other hand, since 2015, **Ghana** has been struggling with little success to implement an ad valorem tax system, resulting in low prices and increased affordability of tobacco products. This has attracted more demand for the products which points to a potential benefit to the tobacco industry. In **Uganda**, it was reported that the government sought a supplementary budget of approximately 11.2 billion Uganda shillings (3.08 million USD) to compensate disgruntled tobacco farmers who supplied leaves to two tobacco companies (Nimataback Ltd and Continental

Tobacco) but were never paid²⁴. This action, inconsistent with the spirit and stipulations of Article 5.3. Guidelines, benefited the tobacco industry.

In **Gabon**, despite the fact that the Parliament implemented measures to dissociate the activities of the Régie Gabonaise de Tabacs (RGT) from those of Compagnie d'Exploitations Commerciales Africaines (CECA GADIS) and its other allies, the Minister in charge of the economy suspended taxation of tobacco products voted by the 2018 finance law and also demanded the lifting of the suspension²⁵. Imperial Tobacco, British American Tobacco and Philips Morris International also requested and obtained from the Government, a longer period (12 months) to implement the taxes on tobacco products contrary to the provisions of the above-mentioned decree²⁶. An Executive Order prescribing health warning has not yet been issued. Gabon implements a 10.45% excise tax for cigarettes as opposed to the

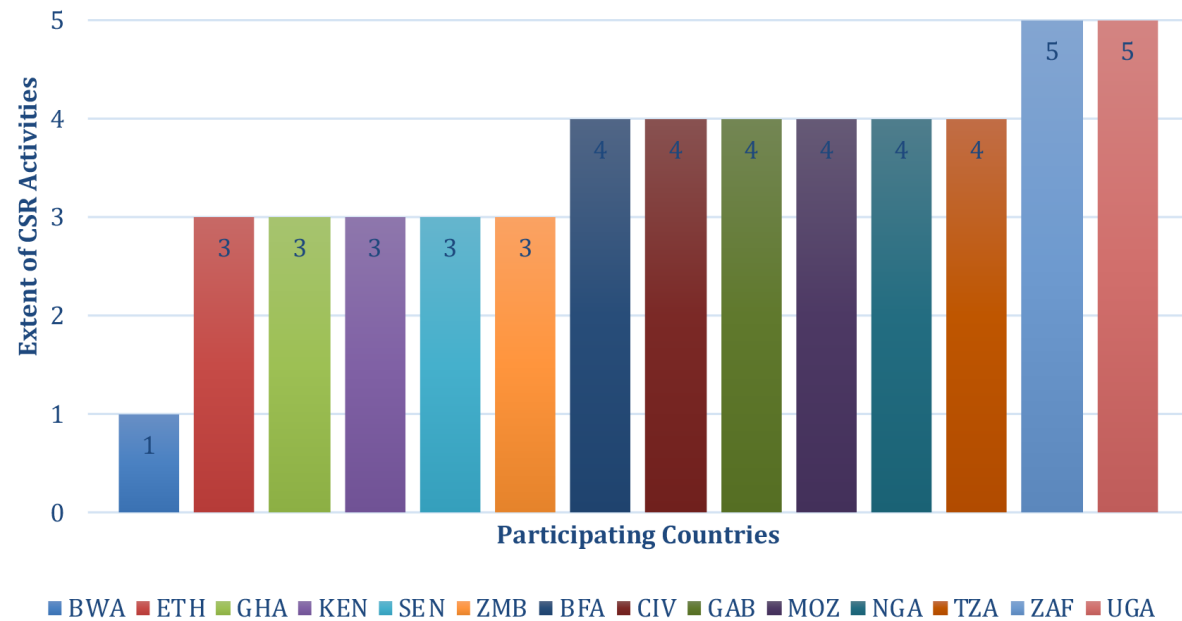
minimum 70% excise tax for retail cigarette prices recommended by the FCTC²⁷.

Delay, postponement and deferment of tobacco control measures by governments

In **Tanzania**, the tobacco industry is currently benefiting from the delay in the enactment of new smoke-free law which contributes to an increase in cigarette sales. A similar observation is made in **Zambia** where a long delay in the passing of an FCTC compliant Tobacco Products Control Bill has benefited the tobacco industry to increase its business. In **Burkina Faso**, tobacco companies have been granted an extension by the Ministry of Trade to continue to supply and sell tobacco products without graphic health warnings.

4. Unnecessary interactions with the tobacco industry

As presented in **Figure 6**, **Gambia, Uganda, Kenya,** and **Senegal** had limited interaction with the industry. On the other hand, **Burkina Faso, Ethiopia, Nigeria, South Africa** and **Zambia** recorded high levels of unnecessary interactions with the industry.

Figure 6: Unnecessary Interaction

The tobacco industry engages in enforcement and capacity building activities

In **South Africa**, members of the South African Police Services (SAPS) and South African Revenue Service (SARS) collaborated with the tobacco industry to tackle the illicit trade of tobacco products. A similar report was also documented in **Ethiopia** where the tobacco industry provides training for customs commission staff and members of the police and army on illicit tobacco trade. Interaction through trade and partnership

In **Ghana**, the government, through the Ghana Revenue Authority (GRA) recently entered

into a partnership with De La Rue to create a track-and-trace tax stamp system to combat the illicit tobacco trade. De La Rue outsourced the contract to IT giant Atos, a longstanding tobacco industry partner. However, this was subsequently temporarily suspended by the Public Procurement Authority (PPA) in response to public outcry²⁸. The contract was a clear conflict of interest situation since one of the WHO's fundamental requirements for providers of anti-illicit trade systems is a demonstration of complete independence from the tobacco industry - a sector which was reportedly complicit in the smuggling

of its products²⁹. Evidence of forms of unnecessary interaction was also noted in **Nigeria**. In November 2020, the Lagos Commissioner for Agriculture commended BATNF for its continuous support to the development of agriculture in Lagos at an event organised by the Lagos State Agricultural Development Authority (LSADA) in collaboration with the BATN Foundation to train catfish farmers³⁰ in the state. In **Kenya**, during the World Environment Day 2020, a team from the National Environment Management Authority (NEMA) led by the Nairobi County Director of Environment, joined BAT (Kenya) Ltd at its headquarters in

Nairobi for activities to mark the day³¹. BAT also publicised another collaboration with the county government of Migori on a project to plant 200,000 trees. In **Zambia** in 2020, the acting Minister of Commerce, Trade and Industry toured the BAT processing plant. After the visit, BAT claimed that it has invested an additional US\$800,000 in its production to contribute towards Zambia's economic development agenda³². Senior government officials in **Burkina Faso** were also reported to have participated in social activities and events sponsored or organized by tobacco companies.

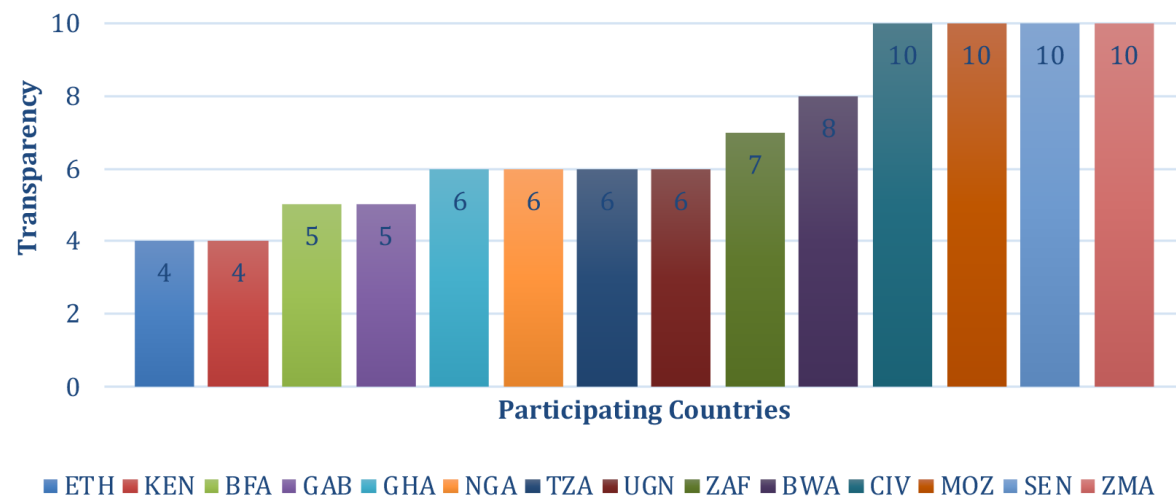


Photo: World Health Organization, 2012

5. Lack of transparency leads to industry interference

Article 5.3 Guidelines recommend governments ensure transparency by requiring periodic disclosures from the tobacco industry about its activities and practices. When procedures to obtain such information are in place, the information can guide officials in preventing tobacco industry interference. **Figure 7** shows countries' ranking in putting in place transparency measures when interacting with the tobacco industry.

Figure 7: Transparency



Of the fourteen (14) countries surveyed, five, **Ethiopia, Gabon, Kenya, Nigeria, and Uganda**, have set out guidelines and procedures for all interaction between government officials and the tobacco industry.

In **Ethiopia**, a clear guideline has been developed for all interactions between government officials and the tobacco industry. This limits such interactions to

only those strictly necessary for effective regulation of the tobacco industry or tobacco products, or to ensure honesty and transparency with appropriate documentation. Consistent with this, during the review period, all meetings conducted by the NTE with EFDA on the draft tobacco control directive and pictorial health warning were made public, full minutes recorded and

all corresponding email conversations were shared with tobacco control committees. This is consistent with Article 5.3 Guidelines and can be recommended to other countries as best practice. However, there is no registry of entities and individuals acting on behalf of the tobacco industry such as lobbyists.

In **Gabon**, even though there is a clear guideline on the prevention of tobacco industry interference in health policies and disclosures, the government does not make public its meetings with the tobacco industry. Similarly in **Kenya**, despite the existence of guidelines for interaction, information on meetings between public officials and the tobacco industry is not readily accessible.

Nigeria specifies in its guidelines on transparency, openness and making public records of meetings and all interactions with the tobacco industry. However, most government ministries, do not disclose information, citing the Official Secrets Act which prohibits some branches of government from disclosing “unauthorized information” as an explanation for non-disclosure.

In **Uganda**, there is a comprehensive Tobacco Control Act (TCA) with a section in favour of Article 5.3³³ which is highly

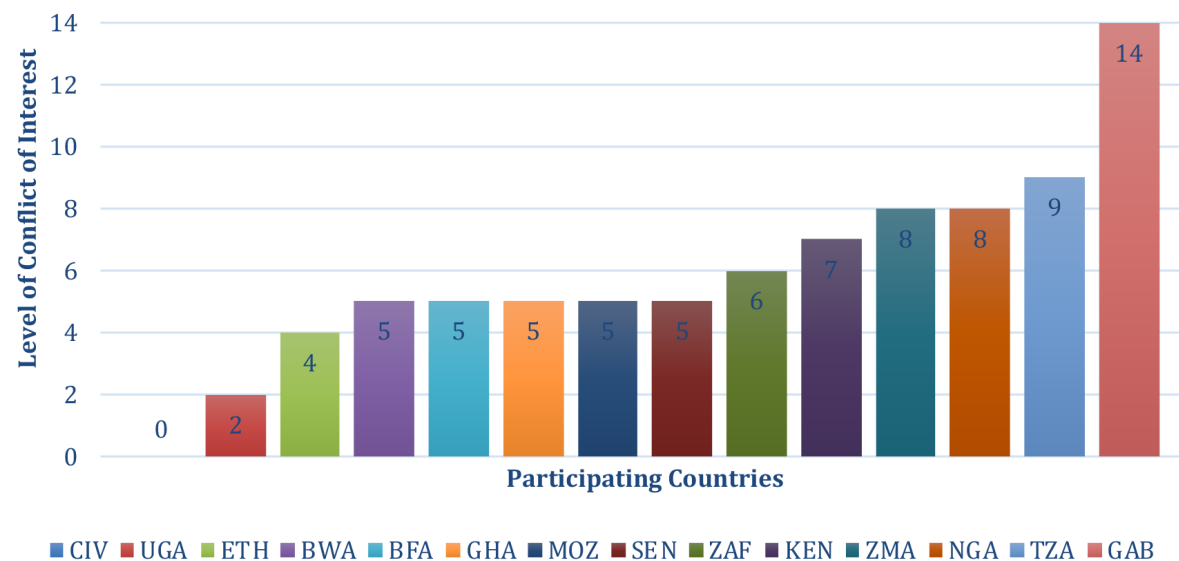
commendable, however, there are no guidelines for the disclosure of records of interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives. As a result of this, BAT met with the Prime Minister on the TCA and the regulations. Details of this meeting were not made public.

Currently, there are no clear guidelines for disclosure of government officials' engagement with the tobacco industry for other countries. In **Ghana**, the tobacco industry and its entities are mandated to disclose or display health warnings and messages, as well as information on the constituents and emissions of their products. But there is no specific regulation that obligates the government to disclose details of meetings and interactions with the tobacco industry, except where it stated in L.I. 2247, that all interactions between the regulator (Food and Drugs Authority) and industry must be limited to tobacco control and enforcement. However, there has not been any notification about pending meetings between the two parties or any reports about engagement made available to the public. Likewise, in **South Africa**, there are no guidelines that specifically apply to the disclosure of meetings and interactions with the tobacco industry, and this applies to the rest of the countries surveyed.

6. Avoiding conflict of interest to protect public health policy

All parties to the WHO FCTC are required by Article 5.3 Guidelines to ensure no conflicts of interest with the tobacco industry for all government officials and employees, and establish rules in protecting public health policies from interference from the industry. Findings from this survey show both current and former public officials working for and in the interest of the tobacco industry. **Figure 8** shows the ranking of conflict of interest by country, the lower the score the better the ranking.

Figure 8: Conflict of Interest



Some government officials, while still holding their official position, also work for the tobacco industry. For instance, in **Gabon**, the current Chairman of the Board of Directors of CECA-GADIS (representing the interests of the tobacco industry in Gabon) is the Political Advisor to the Head

of State³⁴. He formally served as Minister and High Representative of the Head of State. Evidence also suggests some current appointees were previously working for the tobacco industry, as seen in **Ghana**, where the current Minister for Information³⁵, the current Managing Director of the New Times

Corporation³⁶, and the Managing Director of Ghana Post³⁷ were former employees of BAT Ghana.

In **Kenya**, both past and present government appointees hold positions in the tobacco industry as follows:

- a current Board Member at BAT (Kenya) Ltd^{38,39} was Permanent Secretary at the Ministry of Finance from 1999 to 200140. He also served as the Chief Executive Officer of the Kenya Commercial Bank (KCB) between 2007 and 2012⁴¹.

- a current member of the Board of Kenya Vision 2030, which is the country's development plan from 2008 to 2030, launched by the President, was the Independent Non-executive Chairperson of British American Tobacco (Kenya) Ltd in September 2020⁴². Similarly, a current Independent Non-executive Director of BAT Kenya Ltd since February 2011⁴³, is also the Chairperson of the Board of Directors of Business Registration Services (BRS) which is a department under the Office of the Attorney General, with the mandate is to oversee the operations of Companies' Registry⁴⁴. Also, a member of the BAT Kenya Ltd Board of Directors since 2019⁴⁵ is the current Managing Director of Kenya Pipeline Company (KPC)⁴⁶ which is 100% owned by the Government.

In **Nigeria**, former government officials are currently holding positions in the tobacco industry. For example, the current Chairman of BATNF⁴⁷ used to be the Minister of Trade and Industry. Also the Minister for Foreign Affairs from 2014 to 2015⁴⁸ is currently the Chairman for International Tobacco Company⁴⁹.

In **Tanzania**, there is a similar conflict of interest where the current TCC Non-Executive Chairman of the Board⁵⁰ also holds a government-appointed position as the Chairman for the Confederation of Tanzania Industries (CTI) and Tanzania Start-up Association (TSA). He is also Vice-Chairman of the Tanzania Private Sector Foundation (TPSF). Similarly, the current TCC Non-Executive Director was appointed Financial Officer at Tanzania Standard (Newspapers) Ltd (TSN), and has been serving as a Finance and Administration Manager in the Copyright Society of Tanzania (COSOTA)⁵¹ since October 2020.

As enshrined in Article 5.3 Guidelines, parties shall not accept political donations from the tobacco industry as they constitute a conflict of interest. Where such donations are allowed by law, parties shall require the tobacco industry to declare its political contributions. Despite this, some countries still either do or do not have any guidelines

to make this information public. Among the fourteen (14) countries surveyed, only five; **Cote, d'Ivoire, Ethiopian, Kenya, Nigeria** and **Uganda** have some form of guidelines to prevent the funding of political parties by the tobacco industry. In **Kenya** however, even though there is an existing law requiring public declaration of "any lobbying, philanthropy, political contributions and all other activities by the tobacco industry" this provision has not been implemented. In **South Africa**, the government does not have a policy to prohibit contributions from the tobacco industry, however political parties will need to disclose the sources and amounts of private funding received and make it public. This was signed into law (Act no. 6 of 2018) by the President and it came into force from 1 April 2021 to regulate public and private funding of political parties⁵².

To avoid conflict of interest, the government of **Ethiopia** has fully withdrawn from the tobacco industry through full privatization of its share in JTI since 2016, conforming to Article 5.3 recommendation to Parties to treat a state-owned tobacco enterprise in the same way as any other tobacco company. In the case of **Tanzania Cigarette Company (TCC)** who had sold 75% of its share to JTI however, there is no full disclosure on their business, such as their expenditure on marketing, advertising or philanthropic activities, or how they are likely to influence tobacco control policy. The industry influences public policy through what is referred to as "revolving door", where former or current government officials take up jobs in the tobacco industry⁵³ as shown in Table 2.



Table 2: Revolving door between former government officials and the Tobacco industry

	Government	Tobacco industry
Ghana	Minister for Information ³⁵ , Managing Director of the New Times Corporation ³⁶ Managing Director for Ghana Post ³⁷	BAT ⁵⁴⁻⁵⁷
Kenya	Former Permanent Secretary Ministry of Finance 1999 – 2001 ⁵⁸ , Former Chief Executive Officer of the Kenya Commercial Bank (KCB) between 2007 and 2012 KCB ⁵⁹	Now Board Member of BAT (Kenya) Ltd ^{39,41}
	Currently: Board of Kenya Vision 2030 ⁴² , Chairperson of the Kenya Roads Board and a member of the board of National Transport and Safety Authority (NTSA).	Independent Non-executive Chairperson of British American Tobacco (Kenya) Ltd in September 2020 ⁶³
	Chairperson of the Board of Directors of Business Registration Services (BRS) ⁶⁰ which is a department under the Office of the Attorney General, and at the same time, a board member of Industrial & Commercial Development Corporation (ICDC) ^{44,61}	Current independent non-executive director of BAT (Kenya) Ltd since February 2011 ^{43,64}
Gabon	Current Managing Director of Kenya Pipeline Company (KPC) ⁶²	Member of the BAT (Kenya) Ltd Board of Directors since 2019 ⁶⁴
	Former Minister and High Representative of the Head of State, and Political Advisor to the Head of State ³⁴	Current Chairman of the Board of Directors of CE-CA-GADIS (TI) ⁶⁵

	Government	Tobacco industry
Nigeria	Former President of the Nigerian Senate (2015-2019) ⁶⁶	Currently works for Orion Agro-Industries Nigeria Limited, manufacturing cigarettes in Ilorin Kwara state ⁶⁷
	Former Minister of Trade and Industry ⁴⁷	The current Chairman of BATNF ⁶⁸
	Minister for Foreign Affairs 2014-2015 ⁴⁹	Current Chairman International Tobacco Company ⁴⁸
Ethiopia	CEO for NTE 23years ⁶⁹	Works now as external Consultant for (NTE & JTI) ⁷⁰
Tanzania	Chairman of the Confederation of Tanzania Industries (CTI), Tanzania Start-up Association (TSA), Vice Chairman of the Tanzania Private Sector Foundation (TPSF) ⁷¹	Current TCC Non-Executive Chairman of the Board ⁵⁰
	Financial Officer at Tanzania Standard (Newspapers) Ltd (TSN) for 3 years until September 2020 Finance and Administration Manager in the Copyright Society of Tanzania (COSOTA) since October 2020 ^{51,72}	TCC Non-Executive Director ⁵⁰

Duty-Free Allowance

Despite the potential to contribute to tobacco control as well as fiscal goals, international obligations to restraint duty-free sales of tobacco under the WHO FCTC have been largely unsuccessful⁷³. The decline in international travel and duty-free sales during the Covid-19 pandemic provides a window of opportunity for policymakers to salvage the situation. In doing so, governments would be generating extra tobacco tax revenues of \$7 billion a year which would help finance the fight against COVID-19 and other tobacco-related diseases⁷³.

This is a missed opportunity and not acting:

- undermines national public health and tobacco control goals
- provides a large regressive subsidy to consumption of a product that is known to be harmful
- reduces tobacco tax revenues by about US\$7 billion per year
- fosters illicit trade

The WHO FCTC recognizes the sovereign right of countries to regulate tax policies while taking note of national health objectives and recommends that parties:

“Adopt or maintain measures which may include ... prohibiting or restricting, as appropriate, sales to and/or importations by international travellers of tax- and duty-free tobacco products. (Article 6. 2(b))”

It is a concern because very little progress has been made in implementing tax policies aimed at reducing or eliminating duty-free tobacco consumption. The table below depicts some duty-free sales across the African region. The most direct approach to tackling duty-free tobacco is to ban duty-free allowances for tobacco importation, something which countries like Brunei, and Sri Lanka have done⁵³.



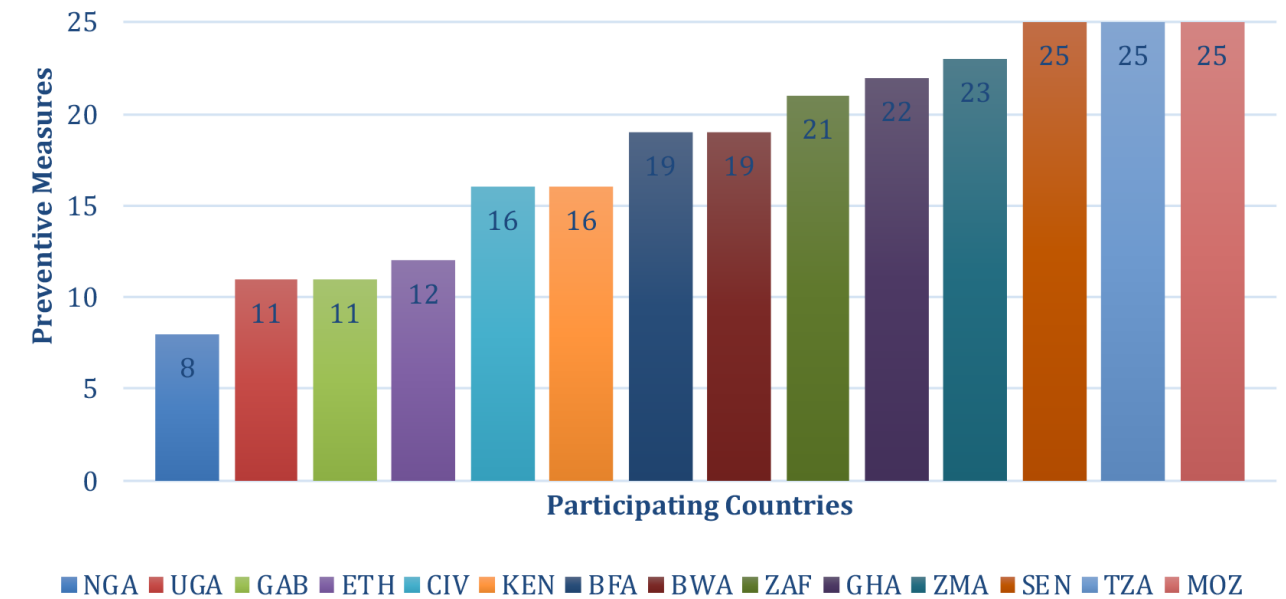
Table 3: Duty-Free- Allowances Across the African Region

Country	Duty-free allowance for tobacco products
Uganda	Allows International travellers to bring 200 sticks of cigarettes or 250gm of tobacco ⁷⁴
Zambia	International travellers are allowed to bring in 400 sticks of cigarettes or 0.5 grams of pipe tobacco or 0.5 kg. cigars duty-free ⁷⁵
Burkina-Faso	Tourists over 15 years of age freely import 200 cigarettes or 100 cigarillos or 25 cigars or 250 grams ⁷⁶
Botswana	International travellers can import duty-free 200 cigarettes and 20 cigars and 250g of tobacco ⁷⁷
Ghana	International travellers aged 18 years and over are allowed to bring in duty-free tobacco products, 200 sticks of cigarettes, 100 cigarillos, 50 cigars, and 250gms of tobacco ⁷⁸
Nigeria	International travellers are allowed duty-free 200 cigarettes or 50 medium-sized cigars or 200 grammes of tobacco.
South Africa	International travellers are allowed not more than 200 cigarettes and 20 cigars per person, and not more than 250g of cigarette or pipe tobacco per person.
Senegal	International travelers are allowed duty-free 200 cigarettes or 50 cigars or 250 grammes of tobacco or tobacco products ⁷⁹
Cote d'Ivoire	International passengers over 15 years of age are free to import 200 or 100 cigarillos or 25 cigars or 250 grams of tobacco ⁸⁰

7. Protection of governments from tobacco industry interference.

Article 5.3 Guidelines provide a range of preventive actions governments can take to protect their tobacco control policies from being undermined by commercial and vested interests of the industry entities working on its behalf. Governments require information periodically on activities and practices of the industry to ensure transparency and accountability of its actions.

Figure 5: Preventive Measures



Some governments are doing better than others in protecting themselves

Countries such as **Gabon, Nigeria, Ethiopia,** and **Uganda** have made progress in drawing up measures to guide officials in their interactions with the tobacco industry.

Nigeria's National Tobacco Control Act (Section 27)⁸¹ forbids the tobacco industry from offering donations to any public entity and forbids government agencies/entities from accepting or soliciting contributions of any kind from the industry. Section 28 of the Act provides for the prevention and management of conflict of interest in dealings between public officials and the tobacco industry.

In **Gabon**, the 2016 Decree 0286/PR/MSPSSN prohibits interactions between public authorities and the tobacco industry. The decree also partially covers the issue of periodic submission of information on production, manufacturing, market share, marketing expenditures, revenues and other activities, including lobbying, philanthropy, and political contributions.

In **Ethiopia**, a National Tobacco Control Coordination Committee and Tobacco Industry Monitoring and Response team exist. Coordination committee seeks to realize multisectoral responses, under the aegis of the Ethiopian Food and Drug

Administration (EFDA). The committee also sets a code of conduct prescribing standards for any public officer, including service providers, contractors, and consultants involved in setting or implementing public health policies for tobacco control. The EFDA collaboratively works with civil society organizations, the World Health Organization, and other partners to enhance its effort on awareness-raising.

In **Uganda**, the Tobacco Control Act provides for procedures for disclosing the records of interactions (agenda, attendees, minutes and outcome) between the government and the tobacco industry and its representatives³³. There is also a draft tobacco control communication plan to raise awareness on tobacco control issues as they exist or as may arise including awareness on Article 5.3 of the WHO FCTC and Part VIII of the Tobacco Control Act.

Some countries remain highly vulnerable to industry interference

Countries such as **Mozambique, Senegal, Tanzania** and **Zambia** have neglected firewalling their tobacco control efforts and have been particularly vulnerable to high levels of industry interference.

Currently, the government of **Senegal** has no program, system or plan to systematically sensitize its political departments to the Guidelines of Article 5.3 of the FCTC. There is also no policy in place to prohibit the acceptance of any form of contribution/gift from the tobacco industry. Similarly, in **Zambia**, there is no evidence that the government has put in place any procedure for disclosing the records of its interaction with the tobacco industry and its representatives.

The government of **Tanzania**, similar to **Senegal** and **Zambia**, does not have a program or plan to consistently raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. There is also no code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry. The tobacco industry is not required to periodically submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and other activities such as philanthropy. The government has not put in place a policy to disallow the acceptance of all forms of contributions/gifts from the tobacco industry.

In **Mozambique**, despite the presence of a code of conduct, there is nothing specific

for implementation of Article 5.3. The government does not also have a procedure for disclosing the records of its interactions (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives. The tobacco industry is not required to submit information on tobacco production, manufacture, market share, marketing expenditures, revenues or any other activity, including lobbying, philanthropy and political contributions.

Some countries could do better to stop tobacco industry interference

In **South Africa**, though the draft code of conduct on Article 5.3 Guidelines for public officials has been discussed, there is no progress. Also, despite the SARS requiring the tobacco industry to submit information on production, manufacture, market share, expenditures, and revenue, the National Department of Health does not require information on lobbying, philanthropy, or political contributions. Similarly, in **Ghana**, the code of conduct for public officials, prescribing the procedure government dealings with the tobacco industry is yet to be formulated despite a provision in the Tobacco Control Regulations (L.I 2247) that authorises the Minister of Health to develop such a code of conduct⁸².

South Africa and **Ghana** also lack a dedicated awareness-raising programme within government departments on policies relating to Guidelines on WHO FCTC Article 5.3. Both countries do not have protocols or policies in place to record interactions with the tobacco industry. There are also no formal procedures to disclose and record interactions (such as agendas, attendees' registers, or meeting minutes) with the tobacco industry and its representatives, that are in accordance with the recommendations of FCTC Article 5.3.

Some countries despite protecting themselves fall into the trap of the industry

In **Kenya**, although government officials are not allowed to endorse or accept donations from the tobacco industry, they accepted a donation from the industry to the COVID-19 Emergency Response Fund established by the President. There was deterioration in unnecessary interactions while there has been no progress in the implementation of preventive measures as Kenya waits for its Cabinet to prescribe a code of conduct for public officials. In **Burkina Faso**, the recent adoption of Order No. 2021-029/MFPTPS/CAB on the adoption of the public service quality charter of the Ministry of Public Service, Labor and Social Protection does not address the collaboration between

civil servants and the tobacco industry. In **Cote d' Ivoire**, the 2019 Law No. 2019-676 in its Article 5 requires tobacco companies to communicate annually to the Ministry of Health any information relating to the quality, quantity, composition and emissions of tobacco products⁸³. However, the tobacco companies do not comply with this requirement.



Recommendations

1. Denormalise and ban socially responsible activities:

The tobacco industry should be excluded and not be recognized as a stakeholder at any level or stage of health measures including the COVID-19 pandemic and social policy development.

2. Disclose and communicate interactions with the tobacco industry:

Clear communication and disclosure should be made to clarify the motivations of funding of research institutions, academics, and scientific studies to prevent unseen biases in science on which policy may be based. This should also be applied to nongovernmental organizations, business and trade associations, consumer groups, think tanks, professional associations and others seeking involvement or input in tobacco control policies.

3. The Protocol to Eliminate Illicit Trade in Tobacco Products should be ratified:

Countries in the region that have not ratified the Protocol to Eliminate Illicit Trade in Tobacco Products should do so as soon as possible to protect their tobacco control efforts from interference by the tobacco industry.

4. Tobacco control sensitization should be heightened:

Efforts should be made to increase awareness raising among all sectors of government on the obligation to protect tobacco control policies and what they can do to counteract industry interference.

5. Governments must ensure transparency in interactions with the tobacco industry:

All actions, communications and interactions between the government and the industry should be transparent.

6. Governments should adopt a code of conduct for dealing with the tobacco industry:

Countries in the African region should adopt a code of conduct that protects officials from industry influence and limits interactions to only when strictly necessary. Alternatively, countries should strengthen their tobacco control law with a provision on Article 5.3 as Uganda and Botswana have done.

7. Governments should enforce their tobacco control laws:

Government should be more committed and engaged to stop tobacco industry interference. In Kenya, for example, it is recommended that action be taken on tobacco industry players and public officials who continue to flout the provisions protected tobacco control policies from tobacco industry interference (Part V of Tobacco Control Regulations (TCR) 2014, Tobacco Control Act 2007 and Article 5.3 of the WHO FCTC).



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