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An Inherent Contradiction: The Tobacco Industry's Environmental, Social & Governance (ESG) Activities

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The combination of tobacco and environmental, social and governance (ESG) activities is as fundamentally flawed as “tobacco and corporate social responsibility” or “tobacco and human rights.”

Tobacco companies profit from products that kill consumers, addict new generations of young people and damage the environment.

To truly reflect social responsibility, tobacco companies should end any form of product or brand marketing and compensate for the harms they have caused, in accordance with the global tobacco control treaty, the World Health Organization Framework Convention on Tobacco Control (WHO FCTC). Allowing tobacco companies to use ESG reporting to document and promote their so-called CSR activities, without qualifications, sends a message to tobacco companies that they can continue their harmful business as usual.

KEY POINTS:

- Environmental, social and governance (ESG) reporting is an increasingly popular tool tobacco companies are using to secure investor, policymaker and consumer approval.
- ESG reporting lets tobacco companies promote their corporate social responsibility (CSR) initiatives, while obscuring the significant health, economic and environmental damage they cause.
- “Tobacco industry CSR” is an inherent contradiction because the industry fundamentally violates human rights. It sells products it knows to be lethal. The production of these products can involve minimizing payments to workers and the use of child labor to maximize profits, and always involves severe environmental and health harms.

KEY POINTS CONTINUED

- Tobacco industry CSR violates the global tobacco control treaty, the WHO FCTC, as well as many countries' national laws, as tobacco's so-called CSR is universally defined as a form of tobacco promotion.
- The deadly nature of tobacco products requires the tobacco industry to remain part of exclusionary rules.
- Tobacco industry CSR/ESG, should be banned and the tobacco industry should be excluded from ESG reporting.
- In instances where tobacco industry CSR/ESG cannot be comprehensively banned due to Constitutional restrictions, any mandatory ESG reporting should align with the global tobacco control treaty.

BACKGROUND:

I. ESG reporting is an increasingly popular tool to secure investor, policymaker and consumer approval and to demonstrate alignment with the Sustainable Development Goals (SDGs).

Reporting or publicizing CSR activities¹ can enhance company perception and stock performance. The trend in reporting CSR activities has shifted toward more emphasis in the use of environmental, social and governance (ESG) factors,² and frameworks due to the rapidly escalating interest in ESG-rated stocks or ESG funds.³ ESG factors have also been incorporated into the United Nations (UN) through the Principles for Responsible Investment (PRI), which started as an initiative to bring together a network of investors committed to "responsible investing," and is sometimes linked with SDG-alignment.

What "ESG" Covers

"Environment" involves climate risks and environmental concerns.

"Social" includes labor issues, human rights and consumers' and stakeholders' concerns.

"Governance" refers to corporate governance and behavior including board effectiveness.

II. ESG reporting will be subject to more stringent regulations that could encourage more impactful CSR activities.

Regulators in the EU and the U.S. are working on reporting standards for ESG reporting, such as the European Commission's (EC) Proposed Corporate Sustainability Reporting Directive⁴ and the U.S. Securities and Exchange Commission's Rules and Forms amendment.⁵ These will help define the scope of ESG reporting, align reporting with SDG and climate change goals⁶ and improve data collection and analysis. By defining metrics, these regulations will effectively encourage more impactful CSR activities to take place. They will also affect legal responsibilities of all major transnationals, including how they operate in developing nations. The tobacco industry currently self-reports its ESG metrics, which allows it to obscure some relevant information, such as violations of human rights throughout the supply chain.⁷

III. Tobacco companies' ESG reports falsely portray them as socially responsible.

Because tobacco companies' promotion of their CSR activities, including ESG, has the likely effect of promoting tobacco products or the tobacco companies even if they are fundamentally incapable of being "socially responsible,"⁸ tobacco company ESG reports tend to deceive their primary audience, investors, into thinking that tobacco companies can be "sustainable" and ESG-rated. These reports are also disseminated to the public.⁹

The fact is that activities reported cannot offset the tremendous harms that the tobacco industry causes. Activities championed by the tobacco industry in these reports fail to mention relevant information, for example:

- Providing token donations and water stewardship programs to farmer communities while keeping the price of tobacco low so farmers remain impoverished;¹⁰
- "Collaborating with governments"¹¹ on child labor issues and portraying itself as a good employer, while avoiding direct efforts to address child labor by creating multiple third-party contracts that shield it from liability;⁹
- Conducting tree-planting activities and limiting the industry's focus on factory waste, while keeping

tobacco leaf prices low (despite high margins), forcing farmers to resort to practices that cause deforestation;¹²

- Sponsoring anti-littering activities and coastal clean-ups instead of eliminating cigarette filters, which contain plastic fibers that cause more aggressive forms of lung cancer and pollute the oceans and kill marine life;¹³
- Investing in “novel products” and wellness companies to support a corporate transformation narrative, while continuing to profit primarily from cigarettes and exploiting laws in developing countries to sell more;¹⁴
- Providing funding for anti-smuggling projects (e.g. PMI Impact) which obscure findings that it continues to be complicit in smuggling;¹⁵ and
- Providing funding for a foundation (e.g. PMI's Foundation for a Smoke-Free World) that provides subgrants, effectively increasing the number of actors lobbying on behalf of tobacco industry interests.¹⁶

ISSUE: Principles to consider with tobacco industry ESG reports

I. Tobacco industry CSR, featured in tobacco industry ESG reporting, is an inherent contradiction.

Tobacco products are classified as uniquely harmful. They claim 8 million lives per year and cost the global economy at least US \$1.4 trillion USD annually.¹⁷

Unlike other industries, where corporate contributions are viewed as part of corporate ethics, the CSR activities of the tobacco industry inherently contradict the tobacco industry's core functions,¹⁸ which conflict with the goals of public health policies.¹⁹ Human rights experts have assessed the tobacco industry to be incapable of complying with human rights principles because it is fundamentally violating human rights by profiting from lethal products.²⁰ This view aligns with the WHO FCTC, which is based on the fundamental human right²¹ of everyone to the highest attainable standard of physical and mental health ([ICESCR 1966](#)),²² with emphasis on women ([CEDAW, 1979](#))²³ and children ([CRC, 1989](#)).²⁴

II. Tobacco industry CSR, including that found in tobacco industry ESG reporting, is banned by the WHO FCTC and national laws.

The WHO FCTC defines tobacco industry CSR as a form of promotion. As such, the treaty recommends that this CSR, whether in the form of donations/sponsorships or where “tobacco companies seek to engage in ‘socially responsible’ business practices (such as good employee–employer relations or environmental stewardship)” should be comprehensively banned, as promotion of these activities would have the “aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly.”²⁵

The guidelines emphasize that the tobacco industry uses these activities for two purposes: to distance its image from the lethal nature of the products it produces, or to interfere with the implementation of public health policies. Similarly, researchers have concluded that the tobacco industry used CSR activities to gain access to policymakers to undermine health laws or to appease policymakers to preclude regulation,²⁶ and that these activities were helpful in gaining a positive public image for tobacco companies,²⁷ especially among young people.²⁸

Hence, the treaty has been adopted by over 180 Parties, and requires its members to protect their policies from tobacco industry interference and, within five years of joining the treaty, to comprehensively ban tobacco advertising, promotions and sponsorship. And where it is not constitutionally possible to ban, raise awareness about the true nature and scope of tobacco CSR among branches of government, and restrict and denormalize the same then prohibit its publicity or public disclosure.²⁹ (See Annex 4)

To achieve the objectives of the WHO FCTC, over 70 countries already ban all forms of marketing by the tobacco industry including so-called CSR.³⁰ These bans have been implemented by outrightly rejecting tobacco industry contributions, denouncing so-called CSR activities of the tobacco industry and exposing the incongruity between the CSR activities and the reality. (See Annex table on Country Efforts)

III. In cases where it is not Constitutionally possible to ban tobacco industry CSR, such CSR and its coverage in ESG materials should be subject to strict regulation.

The treaty guidelines envision that the only case in which a tobacco company can disclose its CSR activities or related expenditures is when it is legally required to report on such expenditures, such as in an annual report,³¹ in cases where these are not banned due to Constitutional restrictions.³²

Treaty guidelines provide that Parties should require information from the tobacco industry and those working to further its interests³³ in order to be informed of activities (production, manufacture, market share, marketing expenditures, revenues, lobbying, philanthropy, political contributions and all other activities)^{34,35} of the tobacco industry that “have a negative impact on tobacco control efforts.”³⁶ This information should be transparent, accurate³⁷ and “made publicly accessible,”^{38,39} but does not justify public dissemination or promotion of such activities. Notably, the tobacco industry should also be subject to mandatory penalties for false and misleading information.⁴⁰

IV. The tobacco industry's reporting should be consistent with treaty objectives.

The tobacco industry has taken action to undermine the objectives of the WHO FCTC, and is recognized as the single greatest barrier in achieving target 3A of the SDGs (implementing the FCTC).⁴¹ The tobacco industry must remove itself as a barrier to Parties' attainment of treaty objectives, including efforts to:

- A.** Protect public health policies from the commercial and vested interests of the tobacco industry. This implies that the tobacco industry must prove how it has stopped interfering in public policy development (e.g. by showing the reduction or removal of lobby funds) in order to allow for the most stringent forms of regulations possible.¹

- B.** Take legislative action to deal with criminal and civil liability, including compensation where appropriate.

This suggests that the tobacco industry must make it easy for victims to claim compensation and avoid challenging governments with lawsuits.

- C.** Promote economically viable alternatives for tobacco workers, growers and individual sellers.⁴²

The tobacco industry must allow for economically viable alternatives by disincentivizing tobacco production, and avoid enticing low-income tobacco growers with loans which they struggle to pay off.

- D.** Have due regard for the protection of the environment and health of persons in respect of tobacco cultivation and manufacture within their territories.⁴³

Tobacco products wreak environmental havoc throughout the industry's supply chain. The tobacco industry must ultimately stop producing tobacco products and among others, can start by removing cigarette filters which cause more health risks and result in toxic litter.

V. The tobacco industry should be subject to exclusionary rules, and ESG reports should not be the way tobacco companies gain a seat at the policy table.

ESG reporting may be viewed as a means for the private sector to partner with governments in achieving sustainable development, but the tobacco industry is not a partner in sustainable development. The treaty recommends that the tobacco industry must not be given a seat at the table, as this would undermine the government obligation to protect public health policy from tobacco industry interference. Policies informing ESG reporting rules should also be protected from tobacco industry interference.

Excluding the tobacco industry from policy and regulation conversations is commonplace. Tobacco representatives have been consistently shunned at tobacco treaty meetings. Many governments have adopted rules to prevent conflicts of interests with the tobacco industry,⁴⁴ have withdrawn from events sponsored by tobacco

i. For example, stop opposing advertising bans, smoke free policies, price and tax measures, plain packaging/graphic labeling, product restrictions, illicit trade elimination, access restrictions

companies⁴⁵ and have rejected tobacco partnerships. For example, the 2011 UN High-Level Political Declaration on Noncommunicable Diseases, which acknowledges private sector input, specifically isolated the tobacco industry, stating that “There is a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health policy interests.” This reflects the global consensus on the tobacco industry. Aside from governments that have adopted measures to exclude or limit interactions with the tobacco industry to avoid conflicts of interest, special rules have been adopted by international institutions and global asset management companies to exclude the tobacco industry from sustainable development initiatives.

The UN’s rules on partnerships consistently exclude the tobacco industry because its operations violate the UN’s core values. UN Sustainable Development Group (UNSDG) [Common Approach to Due Diligence for Private Sector Partnerships](#)⁴⁶ adopted in 2019 places tobacco in the exclusionary criteria. This embodies guidance from the UN Global Compact, which excludes tobacco companies, and the UN Guiding Principles on Business and Human Rights. It also reflects [WHO FENSA \(2016\)](#) which was negotiated and adopted by Member States⁴⁷ as well as the [UN ECOSOC Resolution \(2017\)](#) that adopts a Model Policy for UN Agencies.ⁱⁱ

Private Sector Exclusions

Many investment and financial companies, a primary audience for ESG reports, have also excluded tobacco companies from their portfolio,⁴⁸ including ABN AMRO, AXA,⁴⁹ First State Investments,⁵⁰ APG Capital,⁵¹ Bentham Capital,⁵² La Francais group,⁵³ AGR La Mondiale⁵⁴ and KFW Capital.⁵⁵ Over US \$16 trillion of assets under management are currently covered by this exclusion.

RECOMMENDATIONS:

To date, it could be interpreted that the tobacco industry’s ESG reports have provided false and misleading information and have obscured the real impact of tobacco products. The tobacco industry is incapable of undertaking any socially responsible activities because their products and core business violate human rights and bring no benefit to humankind. The industry has also been consistently excluded by the UN and other international agencies, as well as from numerous ESG portfolios.

To be consistent with these principles and precedent, the tobacco industry’s so-called CSR activities as well as promotion of these activities in ESG materials must be banned as part of comprehensive advertising, promotion and sponsorship bans. The tobacco industry must be excluded from ESG reporting and instead be required to provide governments with the information required by the WHO FCTC and its guidelines.

Nevertheless, the treaty recognizes that some jurisdictions may have Constitutional restrictions on banning CSR activities and ESG reporting. In these instances, any regulation pertaining to tobacco industry CSR and ESG reporting should ensure compliance with global consensus relating to the tobacco industry and tobacco sponsorships. At the minimum:

I. Tobacco industry ESG reports should reveal the full extent of tobacco harms and provide other required information.

In order to avoid misleading investors, tobacco companies should provide an accurate and independent assessment of its harms, such as metrics for persons killed, economic losses sustained, children harmed, farmers impoverished, youth addicted, natural resources killed or polluted, and other core impact areas. The truth, accuracy and independent verification of the reports may

ii. Many UN agencies have adopted a similar policy to exclude tobacco companies in relation to partnerships with the business sector (for example, UNEP, UNDP, UNESCO; See Annex 4). Non-UN intergovernmental organizations such as the World Bank also provide [exclusionary rules](#) to ensure that loans and investments of the bank do not go into tobacco production, marketing or importation because the bank seeks to help countries diversify from tobacco. The International Finance Corporation provides for [similar rules](#).

reduce the risk that the report will be used as a tool to entice tobacco use or lend positive perspectives about the tobacco company or brand.

In addition, the tobacco industry must share information on research, market share, marketing expenditures, revenues, and any other activity, including lobbying, policy submissions, philanthropy, political contributions, third party funding made directly or indirectly, and other activities that could help governments achieve the objectives of the treaty.⁵⁶

The tobacco industry must be required to be accountable and transparent about the information it submits, subject to mandatory penalties for false or inaccurate information.

II. Tobacco industry ESG reporting should not undermine bans on tobacco sponsorships.

The tobacco industry's business and its CSR activities are found to be contradictory to human rights,⁵⁷ sustainable development goals,⁵⁸ and hence, ESG. According to the treaty guidelines, even promoting the tobacco industry's "environmental stewardship" (that is reflected in EPR schemes) would have the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly.⁵⁹ Thus, many countries have banned tobacco industry CSR and taken efforts to challenge this so-called CSR.

In instances where the tobacco industry is required to report its ESG activities government discussion and regulation of the same should be carefully communicated, to avoid giving the impression that CSR activities are encouraged and that the tobacco companies are to be trusted to undertake genuine CSR activities.

Although investors are the main audience of ESG reports, the tobacco industry has promoted these to a wide audience, including the media, policymakers and the general public. Hence, the tobacco industry's communication about its ESG or related reports should be strictly regulated and any form of direct or indirect publicity

should be prohibited. The only exception provided by the treaty's guidelines are "corporate reports" or "necessary business administration," because these are understood to be routed to a specific audience in the course of business (e.g. actual and potential stockholders, suppliers or employees). To this end, reports should simply provide the necessary data and should not be presented in a manner that is appealing. Although the public may access reports on tobacco industry activities, a tobacco company's ESG reporting should not be used as means of self-promotion, as this would have the "aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly."⁶⁰

III. Tobacco industry ESG reports should show how the tobacco industry has stopped interfering in public policy relating to tobacco control.

Implementation of the WHO FCTC is a specific goal highlighted in the SDGs, thus the tobacco industry should be required to report additional information to demonstrate how it prevented itself from being the biggest barrier to treaty implementation. This includes:

- Ensuring that there is no publicity of its CSR or ESG reports (only direct communication that is necessary for business administration). For purposes of transparency, the government should make the data publicly accessible.⁶¹
- Avoiding engagements with any government official or agency unless it is called on as part of government effort to effectively regulate it or its products.⁶²
- Not entering into partnerships or agreements with governments.⁶²
- Not undertaking any advertising, promotion or sponsorship, including so-called CSR activities.
- Not becoming a member of a body, committee or group that has the task of developing or implementing policies related to tobacco control.⁶²
- Not making contributions, including political contributions.^{62,63}
- Not exploiting less stringent laws, especially in countries where legislation has loopholes, and in developing nations where enforcement may be

weaker.⁶²

- Not interfering in tobacco control policy development or implementation and legally challenging governments on the same.⁶²
- Removing cigarette filters to end consumer deception, as filters cause more health risks and result in toxic plastic litter.⁶⁴
- Making it easier for its victims to claim compensation for harms, and for governments to disincentivize tobacco production.^{65,66}

IV. The tobacco industry must be excluded from the development of policies affecting tobacco industry ESG reporting.

Governments have a duty to protect tobacco-related policies from tobacco industry interference. There is a recognized practice of not engaging with the tobacco industry in international agencies working on sustainable development.⁶⁷ At the national level, treaty guidelines provide that government officials should avoid interacting with the tobacco industry unless strictly necessary to effectively regulate the tobacco industry or tobacco products⁶⁸ (i.e. the tobacco industry should be informed of the policy the government will be implementing, but should not have a seat at the table when deciding policies relating to it).

The above recommendations are the bare minimum that governments can do to align ESG and sustainability reporting initiatives with the WHO FCTC, in cases where tobacco industry CSR/ESG reporting is not comprehensively banned. According to the treaty, governments should be encouraged to adopt measures beyond those described in the tobacco control treaty.⁶⁹ It bears stressing that these recommendations should apply not only to the tobacco industry, but also to those representing its interests.⁷⁰

Acknowledgements and Authorship

This brief was prepared by Deborah Sy for the Global Center for Good Governance in Tobacco Control (GGTC), a partner of STOP, a tobacco industry watchdog, with inputs from Chloe Momas of Smoke Free Partnership and STOP partners. Layout by Vital Strategies.

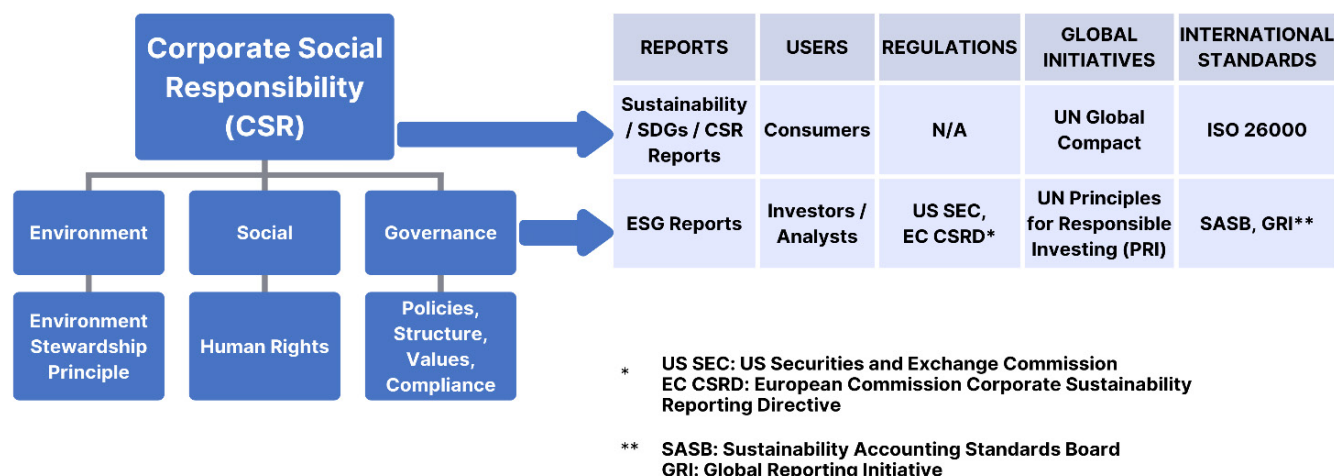
ANNEX 1: CSR/ESG Trends and Regulations

Corporate social responsibility (CSR) activities are business strategies to reflect a corporation's values and uplift its reputation^{71,72} by engaging in environmental, philanthropic, ethical (social, human rights) and sound financial or governance activities.⁷³ Company CSR activities are documented in CSR or sustainability reports⁷⁴ and have been observed to affect company perception and stock performance. Investment analysts increasingly incorporated CSR activities into their outlook in terms of environmental, social and governance (ESG) factors, so corporations are increasingly applying these ESG factors in their own reporting.⁷⁵

Investors' growing interest in ESG-rated stocks⁷⁶ has incentivized publicly-listed corporations to undertake regular self-reporting on ESG. Measurement of ESG activities is ambiguous. Since 2014, the EU has adopted a Non-Financial Reporting Directive which requires large companies to disclose how they manage social and environmental concerns.⁷⁷ The businesses tend to cherry pick what they report, obscuring some relevant information, for example, violations of human rights throughout supply chains.⁷⁸ These reports are actively disseminated to gain investor interest and improve public perception of the corporate reputation. Investors, investment analysts and consumers use these at their peril.

ESG investing is broadly referred to as “sustainable investing” and is sometimes linked generally with SDG-alignment; however, it is not as encompassing as the SDGs. “Environment” involves climate risks and environmental concerns. “Social” includes labor issues, human rights and consumers’ and stakeholders’ concerns. “Governance” refers to corporate governance and behavior including board effectiveness. Some argue that SDGs clarify what should be included in the scope of ESGs and there are efforts to make ESG ratings more holistic by considering SDG impact. ESGs mainstreamed into the United Nations (UN) through the Principles for Responsible Investment (PRI) PRI started as an initiative of the UN to bring together a network of investors who are committed to “responsible investing,” which means adhering to six principles including integrating ESGs into their investment decisions and processes, seeking ESG disclosures in the entities they invest in and reporting on their progress. Since PRI was launched in 2016, it has around 4,000 signatories representing over US \$120 trillion. The PRI network partners with the UN Environment Programme and UN Global Compact.

Excerpt from [Big Tobacco's Investments in and Acquisitions of Pharmaceutical Companies](#), STOP (2021).



Regulators in the EU and the U.S. are working on reporting standards (e.g. the EC's Proposed Corporate Sustainability Reporting Directive⁷⁹ and the U.S. Securities and Exchange Commission's Rules and Forms amendment⁸⁰) to define the scope of ESG reporting and align the same with SDG/climate change goals,⁸¹ improve the comparability, specificity and relevance of data collected, provide guidance on what will be included in brochures and prospectuses, and require all businesses to share information using a specified framework, metrics, and format. The EU intends for the standards to contribute to and build on international standardization initiatives, and the technical body, the European Financial Reporting Advisory Group (EFRAG), has established a working group to look into ESG reporting standards in the tobacco sector as this is one of the sectors that "highly contribute to climate change."^{82,83} Although international standards have previously been set for CSR,⁸⁴ it is the ESG frameworks and standards that have proliferated, which tend to include impact analysis and metrics.^{85,86}

The tobacco industry's business and its CSR activities are found to be contradictory to human rights, sustainable development goals, and hence, ESG.

THE LINK BETWEEN ESG AND EPR

Environmental CSR activities, including environmental stewardship (ES),⁸⁷ have emerged as an international norm⁸⁸ to portray the corporation's roles in protecting the planet. Businesses are urged to adopt ES to achieve the SDGs.⁸⁹ Many companies have embraced ES as a corporate ethic within the framework of their CSR and, particularly, Extended Producer Responsibility (EPR).⁹⁰ EPR, where producers take charge of managing their product throughout its life cycle,⁹¹ can be viewed as a means of demonstrating ES,⁹² and typically forms part of a company's CSR or ESG activities.

ANNEX 2: Relevant Provisions of the WHO FCTC and its Guidelines

A. The nature and purpose of the tobacco industry's CSR activities

According to the treaty, activities that are described as “socially responsible” by the tobacco industry, aiming at the promotion of tobacco consumption, are a marketing as well as public relations strategies that fall within the Convention's definition of advertising. (Article 5.3 Guidelines) So-called tobacco industry CSR comprises a broad range of activities that can include:

1. Direct or indirect contributions: contributions to community, health, welfare or environmental organizations⁹³ which fall within the definition of tobacco sponsorship in Article 1(g) of the Convention. These should be prohibited as part of a comprehensive ban, because the aim, effect or likely effect of such a contribution is to promote a tobacco product or tobacco use either directly or indirectly.⁹⁴ (Article 13 Guidelines)
2. Other forms of CSR: activities where “contributions” are not involved should also be prohibited, such as where “tobacco companies seek to engage in ‘socially responsible’ business practices (such as good employee–employer relations or environmental stewardship);” because “promotion to the public of such otherwise commendable activities” would have the “aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly.”⁹⁵ (Article 13 Guidelines) The tobacco industry conducts activities described as socially responsible to distance its image from the lethal nature of the product it produces and sells or to interfere with the setting and implementation of public health policies. promotion and sponsorship. (Article 5.3 Guidelines)

B. Banning (or restricting and denormalizing) tobacco industry CSR and prohibiting its publicity

The WHO FCTC and its guidelines provide that Parties:

1. Shall undertake a comprehensive ban on tobacco advertising, sponsorship and promotion (Article 13.4); “should ban contributions from tobacco companies to any other entity for ‘socially responsible causes’, as this is a form of sponsorship.” (Article 13 Guidelines)

2. Shall undertake a comprehensive ban on tobacco advertising, promotion and sponsorship in media, such as the internet, within a period of five years (Article 13.4); do “not allow public disclosure by the tobacco industry or any other person acting on its behalf of activities described as socially responsible or of the expenditures made for these activities, except when legally required to report on such expenditures, such as in an annual report⁹⁶.” (Article 5.3/13 Guidelines⁹⁷)
3. Shall prohibit tobacco sponsorship of international events, activities and or participants therein (Article 13.4f); “do not endorse, support, form partnerships with or participate in activities of the tobacco industry described as socially responsible,” and accordingly, “not allow acceptance by any branch of government or the public sector of political, social, financial, educational, community or other contributions from the tobacco industry or from those working to further its interests, except for compensations due to legal settlements or mandated by law or legally binding and enforceable agreements.” (Article 5.3 Guidelines)
4. Should “denormalize and, to the extent possible, regulate activities described as ‘socially responsible’ by the tobacco industry, including but not limited to activities described as ‘corporate social responsibility.’” (Article 5.3 Guidelines)
 - All branches of government and the public should be “informed and made aware of the true purpose and scope of activities described as socially responsible performed by the tobacco industry.”

C. Public disclosure and access (not promotion) of transparent and accurately reported CSR/ESG activities if these are not banned

The WHO FCTC and its Guidelines provide that Parties:

1. Shall require disclosure of expenditures on advertising, sponsorship (including CSR) not yet prohibited (Article 13); “require information from the tobacco industry and those working to further its interests to act in a manner that is accountable and transparent”⁹⁸ ... in order “to be informed of activities (production, manufacture, market share, marketing expenditures, revenues, and any other activity, including lobbying, philanthropy, political

- contributions and all other activities)^{99,100} of the tobacco industry that have a negative impact on tobacco control efforts.”¹⁰¹ (Article 5.3 Guidelines)
2. Require that such information is transparent and accurate,¹⁰² and made publicly accessible^{103,104}; subject to mandatory penalties for false and misleading information.¹⁰⁵ (Article 5.3 Guidelines)

D. Diversification from tobacco, and liability for harms, including for the environment

The WHO FCTC provides that Parties:

1. Shall consider taking legislative action or promoting their existing laws, where necessary, to deal with criminal and civil liability, including compensation where appropriate; and cooperate in exchanging information¹⁰⁶ and legal assistance¹⁰⁷ (with a view to considering international approaches to liability).¹⁰⁸ (Article 19)
2. Shall, in cooperation with international and regional IGOs, promote economically viable alternatives for tobacco workers, growers and individual sellers.¹⁰⁹ (Article 17)
3. Have due regard for the protection of the environment and health of persons in respect of tobacco cultivation and manufacture within their territories.¹¹⁰ (Article 18)

Notably, the treaty also encourages Parties to go beyond measures provided in the treaty,¹¹¹ especially obligations relating to advertising, promotion and sponsorship.¹¹²

The tobacco industry must be required to be accountable and transparent about the information it submits, subject to mandatory penalties for false or inaccurate information.

ANNEX 3: List of Information to Be Required From the Tobacco Industry¹¹³

Information that should be required from the tobacco industry

- 1. Persons:** Registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf, including lobbyists and entities where they hold memberships. (Article 5.3)
- 2. Manufacturing:** General information on market volumes, trends, forecasts, and other relevant information; quantities of tobacco products and manufacturing equipment in the licensee's possession, custody or control kept in stock, in tax and customs warehouses under the regime of transit or trans-shipment or duty suspension as of the date of the request; revenue and pricing. (Article 6)
- 3. Supply chain:** Information on manufacture, market share, and those listed in the Illicit Trade Protocol, including details on and from entities in the supply chain, e.g., those required for licensing, due diligence, and tracking and tracing purposes.
- 4. Marketing:** Information on marketing expenditures and details about tobacco advertising, promotion, and sponsorship (TAPS), including, but not limited to:
 - The kind of TAPS, including content, form, and type of media.
 - The placement and extent or frequency of TAPS.
 - The identity of all entities involved in TAPS, including advertising and production companies.
 - In case of cross-border TAPS originating from a Party's territory, the territory or territories in which it is intended to be or may be received.
 - The amount of financial or other resources used for TAPS (Article 13).
- 5. CSR/research:** Tobacco industry's so-called CSR activities and entities engaged in the same (Article 5.3); marketing expenditures and any other activity, such as research (research grants), policy submissions, funding of third parties/nongovernmental organizations (FCTC/COP8 (18)).
- 6. Lobbying:** Expenses or activities on lobbying, philanthropy, and political contributions; initiatives to engage government, directly or indirectly, such as meetings with public officials, proposed partnerships, draft or proposed legislation, policy papers or offers of assistance. Names of employees and consultants, including former government employees; gifts, services or contributions extended directly or indirectly to public officials or persons related thereto; any political contributions made.
- 7. Evidence:** Information that would support filing cases against the tobacco industry to hold it liable, e.g., revenue, scientific claims and studies, activities in foreign countries, scientific funding, public relations strategies, etc., in accordance with Article 19.
- 8. Production:** Information on tobacco production, including tobacco industry practices and cultivation of tobacco.
- 9. Other:** Activities of the tobacco industry that have an impact on the Convention or national tobacco control activities, or any information required to support tobacco control measures.

Source: Southeast Asia Tobacco Control Alliance, and Health Justice Philippines (2015). FCTC Article 5.3 Toolkit: Preventing Tobacco Industry Interference. Available at: <https://seatca.org/dmdocuments/5.3%20toolkit%202015.pdf>

ANNEX 4: Tobacco in the Exclusionary Criteria of United Nations' Key Development Agencies/Programmes

Since 2015, the [guidelines on a principle-based approach](#) to the cooperation between the United Nations and the business sector, is guided by the UN Global Compact, which excludes tobacco companies, and the UN Guiding Principles on Business and Human Rights,¹¹⁴ which elaborates on state and corporate responsibility to protect human rights as well as the need for victims' access to effective remedy.¹¹⁵ A [Common Approach to Due Diligence for Private Sector Partnerships](#)¹¹⁶ (Common Approach) adopted in 2019 reflects current practices for private sector engagement, and affirms common principles. The Common Approach revealed that there is currently no standard business engagements, but many UN agencies adopt an exclusionary criteria for those that

go against human rights or core UN resolution, and many exclude tobacco.^{117,118}

Hence the Common Approach identified a list of exclusionary criteria for which United Nations organizations will not engage in funding or co-branded partnerships, subject to strict and narrow exceptions. The list includes tobacco manufacturers, in addition to those involved in activities inconsistent with UN Sanctions or Resolutions, complicity in egregious or systemic human rights violations, systematically fail to demonstrate a commitment to meet the stipulated principles (human rights, labor, environment and anti-corruption); sale, distribution of manufacture of weapons or banned weapons. This aligns with the [WHO FENSA \(2016\)](#) which was negotiated and adopted by Member States as well as the [UN ECOSOC Resolution \(2017\)](#) that adopts a Model Policy for UN Agencies.¹²³

UNESCO: [International Guidelines for Private Fundraising in Favour of UNESCO and Content Validation and Quality Guidelines, 1997](#)

In general, UNESCO may not collaborate with private sector funding sources who are involved in the production or distribution of goods or provision of services which are likely to be perceived as contrary to UNESCO's, the United Nations' or any other UN agency's aims and principles. In particular, the fulfillment of one of the following criteria disqualifies private sector funding sources from any collaboration with UNESCO: "production or distribution of tobacco (products)..." This is listed along with arms, alcohol, environmentally damaging practices, non-respect of human rights and the like.

UN Environment Programme: [Partnership Policies and Procedures 2011](#)

UN entities are, however, encouraged to be consistent across the UN system, and the responsible Officer needs to consider exclusion in cases where the potential partner organization originates from industries such as arms, tobacco and alcohol manufacturing, and/or gambling.

UN Development Programme (UNDP): [Policy on Due Diligence and Partnerships with the Private Sector, 2013;](#)

UNDP has defined a set of exclusionary criteria outlining those business practices considered unacceptable to the organization. This list includes issues widely viewed as being unacceptable, such as human rights violations. However, it also includes issues or sectors that might be considered by sections of the general public as legitimate (e.g. production of defense equipment), but from which UNDP has decided to refrain as they are not in line with the organization's values. The application of the exclusionary criteria will determine to a large extent the perception the general public has of UNDP. All partnerships, no matter how limited in nature they are, should therefore be screened against these criteria. The table below contains UNDP's [exclusionary criteria](#):
Exclusionary criteria: "Manufacture, sale or distribution of tobacco or tobacco products." This is listed along with involvement in human rights abuses, weapons, pornography, products subject to international bans or phase outs, etc.

World Health Organization: [WHO Framework for Engagement with Non-State Actors, 2016:](#)

“WHO does not engage with the tobacco industry or non-State actors that work to further the interests of the tobacco industry.” Footnotes include: Nongovernmental organizations/ Academic institutions/ Private sector entities/ Philanthropic Foundations working with WHO will be expected to conform to WHO's public health policies in areas such as food safety, chemical safety, ethical promotion of medicinal drug products, tobacco control, noncommunicable diseases, as well as health and safety at work.

UNITAID: [Proposal Process, 2017](#)

4.2. Conflict of interest: As part of the proposal process the applicant will be asked to provide evidence that it has appropriate policies and practices in place for identifying and managing conflicts of interest, with a view to ensuring proper management of any potential conflicts with respect to the selection of the proposal, grant agreement development and/or implementation of the project.

4.5. Tobacco entities: The grantee shall inform and keep UNITAID informed of any relationships that it has with tobacco entities or their affiliates.

UNITAID: [Application for Funding](#)

Annex 8: Declaration regarding tobacco entities
In compliance with the World Health Assembly resolution WHA54.18 on transparency in tobacco control process, please confirm that your institution/entity has not entered and is not planning to enter in a partnership or cooperation with tobacco industry and does not have any commercial or vested interests in the tobacco industry.

UN Global Compact: [Integrity Policy Update, 2017](#)

“As of 15 October 2017, the UN Global Compact will de-list participating companies which fall under the tobacco

exclusion. This new exclusionary criterion is strictly limited to companies that produce and/or manufacture tobacco or are part of a joint venture, have a subsidiary or affiliate stake in a company that produces and/or manufactures tobacco. It does not apply to: sale and distribution of tobacco; production, sale and distribution of tobacco-related products (including filters, packaging, chemicals such as acetate used in tobacco filters); financing of tobacco or tobacco-related products through investment portfolios.”

*According to the UNGC, organizations that meet the following exclusionary criteria cannot be recognized as participants of the UN Global Compact: Subject to a UN sanction; Listed on the UN Ineligible Vendors List for ethical reasons; Derive revenue from the production, sale and/or transfer of antipersonnel landmines or cluster bombs; Derive revenue from the production and/or manufacturing of tobacco.

UNESCO: [Follow-up to Decisions and Resolutions Adopted by the Executive Board and the General Conference at their Previous Sessions \(EB 209EX/5. II.A\) 2020](#)

Due Diligence Criteria: Consistent with the United Nations Common Approach, UNESCO's due diligence process considers both risks and opportunities of an engagement with a private sector donor. ...A small set of exclusionary criteria which refer to business categories and/or practices considered inherently incompatible with values of the UN, its treaties, or other international standards. Partnerships with prospects falling within the exclusionary criteria should not be pursued. Entities for whom the core business* is the production and wholesale distribution of tobacco products...

*Core business refers to the primary area or activity that a company was founded on or focuses on in its business operations.

As a common standard, United Nations organizations will not engage in funding or co-branded partnerships with companies falling under the above criteria.

Endnotes

1. With the UN's adoption of the Sustainable Development Goals (SDGs), businesses and institutions have used SDGs to support, develop, or update their framework for defining their CSR activities or framing their ESG factors. With the "sustainability" buzz word, interchanging and interspersing terms sustainability with social responsibility in CSR reporting has become a trend; reports on CSR are also named Sustainability Reports with some references to SDGs, and are dubbed ESG Reports whenever ESG frameworks are used.
2. CFA Institute. (2022). ESG Investing and Analysis. Available at: <https://www.cfainstitute.org/en/research/esg-investing#:~:text=ESG%20stands%20for%20Environmental%2C%20Social%2C%20material%20risks%20and%20growth%20opportunities>
3. Paradis, G.; Schiehl, E. ESG Outcasts: Study of the ESG Performance of Sin Stocks. Sustainability 2021, 13, 9556. <https://doi.org/10.3390/su13179556>
4. Council of the European Union. (2022). New rules on corporate sustainability reporting: provisional political agreement between the Council and the European Parliament. Available at: <https://www.consilium.europa.eu/en/press/press-releases/2022/06/21/new-rules-on-sustainability-disclosure-provisional-agreement-between-council-and-european-parliament/>
5. U.S. Securities and Exchange Commission. (2022). SEC Proposes to Enhance Disclosures by Certain Investment Advisers and Investment Companies About ESG Investment Practices. Available at: <https://www.sec.gov/news/press-release/2022-92>
6. This would improve transparency and integrity of ESG reporting and restore investor confidence in these reports as well as establish corporate impact on climate change, among other sustainable development goals.
7. E.g. Boohoo.com found to be paying less than minimum wages despite high ESG ratings. Source: Matety, V. (2020). Boohoo's sweatshop suppliers: 'They only exploit us. They make huge profits and pay us peanuts'. The Sunday Times. Available at: <https://www.thetimes.co.uk/article/boohoos-sweatshop-suppliers-they-only-exploit-us-they-make-huge-profits-and-pay-us-peanuts-lwj7d8fg2>.
8. Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: https://apps.who.int/iris/bitstream/handle/10665/80510/9789241505185_eng.pdf?sequence=1 See also: Guidelines for Implementation of Article 13 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: https://apps.who.int/iris/bitstream/handle/10665/80510/9789241505185_eng.pdf?sequence=1
9. Can a tobacco firm really be sustainable? Yes, according to flawed ESG ratings. ESG Clarity; March 3, 2021. Available at: <https://esgclarity.com/can-a-tobacco-firm-really-be-sustainable-yes-according-to-flawed-esg-ratings/>
10. The Tobacco Industry: A Hindrance to the Elimination of Child Labor. STOP, June 2021. Available at: <https://exposetobacco.org/wp-content/uploads/Child-Labor-Brief.pdf> See also: How tobacco industry interference hinders the UN Sustainable Development Goals. STOP, September 2020. Available at: <https://exposetobacco.org/resource/ti-hinders-sdgs/>
11. PMI established a working group upon finding that in Turkey, there is child labor in tobacco fields, farmers are not getting minimum wage and there are environmental risks. Instead of computing the harms and paying for these, PMI promised to fix the payment issue by 2025 and to collaborate with stakeholders on other matters: The report states " Collaboration is key to best address common challenges of child labor, labor conditions, and a safe working environment, as well as the payment of minimum wages. As an example, to expand impact, we are taking our learnings on the field to encourage the industry to- ward more effective monitoring of wage payments by providing sample templates to record payment-related information for workers." See: Assessing human rights impacts in the tobacco supply chain in Turkey. (2022, May 17). Retrieved September 27, 2022, from <https://www.pmi.com/sustainability/case-studies/collaborating-to-improve-social-conditions-in-turkish-tobacco-supply-chain>
12. The Tobacco Industry and the Environment. STOP, 2021. Available at: <https://exposetobacco.org/resource/ti-and-environment/> See also: The Tobacco Industry: A Hindrance to the Elimination of Child Labor. STOP, June 2021. Available at: <https://exposetobacco.org/wp-content/uploads/Child-Labor-Brief.pdf>
13. Tobacco's Toxic Plastics: A Global Outlook. GGTC, May 2022. Available at: <https://ggtc.world/library/tobaccos-toxic-plastics-a-global-outlook> See also: The Tobacco Industry and the Environment. STOP, 2021. Available at: <https://exposetobacco.org/resource/ti-and-environment/>

14. Addiction At Any Cost: Philip Morris International Uncovered. STOP, 2020. Available at: https://exposetobacco.org/wp-content/uploads/STOP_Report_Addiction-At-Any-Cost.pdf See also: New Voices Championing New Tobacco Products. STOP; September 29, 2022. Available at: <https://exposetobacco.org/resource/new-voices-new-tobacco-products/>
15. Gilmore AB, Gallagher AWA, Rowell A. Tobacco industry's elaborate attempts to control a global track and trace system and fundamentally undermine the Illicit Trade Protocol. Tobacco Control 2019;28:127-140; available at: <https://tobaccocontrol.bmj.com/content/28/2/127> See also: Sabotage, Deceit and Duplicity: British American Tobacco Uncovered. STOP, September 2021. Available at: <https://bat-uncovered.exposetobacco.org/>
16. WHO Statement on Philip Morris funded Foundation for a Smoke-Free World. WHO News; September 28, 2017. Available at: <https://www.who.int/news/item/28-09-2017-who-statement-on-philip-morris-funded-foundation-for-a-smoke-free-world>
17. Tobacco Facsheet, World Health Organisation; updated May 24, 2022. Available at: <https://www.who.int/news-room/factsheets/detail/tobacco#:~:text=Key%20facts,exposed%20to%20second%2Dhand%20smoke.>
18. The tobacco industry's core purpose is to make profit. Its most profitable product is cigarettes. The more profitable and successful they are, the more people will die. Source: Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: [https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3.](https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3)
19. WHO, as cited in Article 5.3 Guidelines for Implementation. Source: Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: [https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3.](https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3)
20. In 2017, the Danish Human Rights Institute, in view of PMI's corporate transformation narrative, had agreed to carry out a human rights assessment of the company, as an exception to its exclusion criteria, which is adopted from the UNGC.20 The Institutes' assessment is that PMI despite its assertions remains a tobacco company that profits from suffering and deaths, and at its core, its operations violate fundamental human rights. Source: The Danish Institute for Human Rights. (2017). Human rights assessment in Philip Morris International. Available at: [https://www.humanrights.dk/news/human-rights-assessment-philip-morris-international.](https://www.humanrights.dk/news/human-rights-assessment-philip-morris-international)
21. WHO FCTC Preamble: "Recalling also the preamble to the Constitution of the World Health Organization, which states that the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition," Source: WHO Framework Convention on Tobacco Control. (2003). World Health Organization. Available at: [https://fctc.who.int/publications/i/item/9241591013.](https://fctc.who.int/publications/i/item/9241591013)
22. WHO FCTC Preamble: "Recalling Article 12 of the International Covenant on Economic, Social and Cultural Rights, adopted by the United Nations General Assembly on 16 December 1966, which states that it is the right of everyone to the enjoyment of the highest attainable standard of physical and mental health," Source: WHO Framework Convention on Tobacco Control. (2003). World Health Organization. Available at: [https://fctc.who.int/publications/i/item/9241591013.](https://fctc.who.int/publications/i/item/9241591013)
23. WHO FCTC Preamble: "Recalling that the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly on 18 December 1979, provides that States Parties to that Convention shall take appropriate measures to eliminate discrimination against women in the field of health care," Source: WHO Framework Convention on Tobacco Control. (2003). World Health Organization. Available at: [https://fctc.who.int/publications/i/item/9241591013.](https://fctc.who.int/publications/i/item/9241591013)
24. WHO FCTC Preamble: "Recalling further that the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989, provides that States Parties to that Convention recognize the right of the child to the enjoyment of the highest attainable standard of health," Source: WHO Framework Convention on Tobacco Control. (2003). World Health Organization. Available at: <https://fctc.who.int/publications/i/item/9241591013>
25. "Promotion to the public of such otherwise commendable activities should be prohibited, as their aim, effect or likely effect is to promote a tobacco product or tobacco use either directly or indirectly." Source: Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: [https://fctc.who.int/docs/librariesprovider12/default-document-library/who-fctc-article-13.pdf?sfvrsn=345fb387_16&download=true.](https://fctc.who.int/docs/librariesprovider12/default-document-library/who-fctc-article-13.pdf?sfvrsn=345fb387_16&download=true)
26. Fooks, G. J., Gilmore, A. B., Smith, K. E., Collin, J., Holden, C., & Lee, K. (2011). Corporate social responsibility and access to policy élites: an analysis of tobacco industry documents. PLoS medicine, 8(8), e1001076. [https://doi.org/10.1371/journal.pmed.1001076.](https://doi.org/10.1371/journal.pmed.1001076)

27. Kim, Y., & Choi, Y. (2012). College Students' Perception of Philip Morris's Tobacco-Related Smoking Prevention and Tobacco-Unrelated Social Responsibility. *Journal of Public Relations Research*, 24, 184 - 199. <https://doi.org/10.1080/1062726X.2012.626138>
28. U.S. Food and Drug Administration. (2019). The Public Health Rationale for Recommended Restrictions on New Tobacco Product Labeling, Advertising, Marketing, and Promotion. Available at: <https://www.fda.gov/media/124174/download>.
29. WHO Framework Convention on Tobacco Control, Article 13, referring to "for those Parties that are not in a position to undertake a comprehensive ban owing to their constitutions or constitutional principles" Source: Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview/treaty-instruments/tobacco-advertising-promotion-and-sponsorship>.
30. Afghanistan, Albania, Antigua and Barbuda, Azerbaijan, Bahrain, Benin, Brazil, Chad, Colombia, Congo, Democratic Republic of the Congo, Djibouti, Eritrea, Gambia, Ghana, Guinea, Guyana, Iran (Islamic Republic of), Kenya, Kiribati, Kuwait, Libya, Madagascar, Maldives, Mauritius, Mongolia, Nepal, Niger, Nigeria, Niue, Panama, Qatar, Republic of Moldova, Russian Federation, Saudi Arabia, Senegal, Seychelles, Slovenia, Spain, Suriname, Togo, Turkey, Tuvalu, Uganda, United Arab Emirates, Uruguay, Vanuatu, and Yemen, and more. Source: WHO Report on the Global Tobacco Epidemic, 2019. Geneva: World Health Organization; 2019. Licence: CC BY-NC-SA 3.0 IGO. Available at: <https://www.who.int/publications/i/item/9789241516204>
31. "Public dissemination of such information should be prohibited, except for the purposes of required corporate reporting (such as annual reports) or necessary business administration (e.g. for recruitment purposes and communications with suppliers). Source: Guidelines for implementation of the Who Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: https://apps.who.int/iris/bitstream/handle/10665/80510/9789241505185_eng.pdf?sequence=1.
32. "For those Parties that are not in a position to undertake a comprehensive ban owing to their constitutions or constitutional principles." Article 13 Guidelines for Implementation. (eg Some jurisdictions may have near-absolute freedom of speech in their Constitutions, and may face challenges in adopted an absolute ban on tobacco CSR) Source: Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview/treaty-instruments/tobacco-advertising-promotion-and-sponsorship>.
33. Article 5.3 Guidelines for Implementation Principle 3 Source: Guidelines for Implementation of the Who Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: https://apps.who.int/iris/bitstream/handle/10665/80510/9789241505185_eng.pdf?sequence=1.
34. Article 5.3 Guidelines for Implementation: "Recommendation 5.2 Parties should require the tobacco industry and those working to further its interests 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 not prohibited or not yet prohibited under Article 13 of the Convention; 5.3 Parties should require rules for the disclosure or registration of the tobacco industry entities, affiliated organizations and individuals acting on their behalf, including lobbyists."- Source: Guidelines for Implementation of the Who Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: https://apps.who.int/iris/bitstream/handle/10665/80510/9789241505185_eng.pdf?sequence=1.
35. Article 5.3 Guidelines for Implementation Recommendation 5: "In accordance with Article 20.4(c) of the Convention, each Party should endeavour to cooperate with competent international organizations to establish progressively and maintain a global system to regularly collect and disseminate information on tobacco production and manufacture and activities of the tobacco industry which have an impact on the Convention or national tobacco control activities." Source: WHO Framework Convention on Tobacco Control Guidelines for Implementation. (2013). World Health Organization. Available at: https://apps.who.int/iris/bitstream/handle/10665/80510/9789241505185_eng.pdf?sequence=1.
36. WHO FCTC Preamble: "Recognizing the need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts and the need to be informed of activities of the tobacco industry that have a negative impact on tobacco control efforts," Source: WHO Framework Convention on Tobacco Control. (2003). World Health Organization. Available at: <https://fctc.who.int/publications/i/item/9241591013>.
37. Article 5.3 Guidelines for Implementation Recommendation 5: "Require that information provided by the tobacco industry be transparent and accurate. To take effective measures preventing interference of the tobacco industry with public health policies, Parties need information about its activities and practices, thus ensuring that the industry operates in a transparent manner." Source: Guidelines for Implementation of the Who Framework Convention on Tobacco Control. (2013). World Health

- Organization. Available at: https://apps.who.int/iris/bitstream/handle/10665/80510/9789241505185_eng.pdf?sequence=1.
38. Article 5.3 Guidelines for Implementation Recommendation 5: "Article 12 of the Convention requires Parties to promote public access to such information in accordance with national law." Source: Guidelines for Implementation of Article 5.3 of the Who Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: https://apps.who.int/iris/bitstream/handle/10665/80510/9789241505185_eng.pdf?sequence=1.
 39. Article 5.3 Guidelines for Implementation Recommendation 5: "Parties should adopt and implement effective legislative, executive, administrative and other measures to ensure public access, in accordance with Article 12(c) of the Convention, to a wide range of information on tobacco industry activities as relevant to the objectives of the Convention, such as in a public repository." Source: Guidelines for Implementation of Article 5.3 of the Who Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: https://apps.who.int/iris/bitstream/handle/10665/80510/9789241505185_eng.pdf?sequence=1.
 40. Article 5.3 Guidelines for Implementation: "Recommendations 5.1 Parties should introduce and apply measures to ensure that all operations and activities of the tobacco industry are transparent. 5.2 Parties should require the tobacco industry and those working to further its interests 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 not prohibited or not yet prohibited under Article 13 of the Convention... 5.4 Parties should impose mandatory penalties on the tobacco industry in case of the provision of false or misleading information in accordance with national law. 5.5 Parties should adopt and implement effective legislative, executive, administrative and other measures to ensure public access, in accordance with Article 12(c) of the Convention, to a wide range of information on tobacco industry activities as relevant to the objectives of the Convention, such as in a public repository." Source: Guidelines for Implementation of Article 5.3 of the Who Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: https://apps.who.int/iris/bitstream/handle/10665/80510/9789241505185_eng.pdf?sequence=1.
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 42. WHO Framework Convention on Tobacco Control Policy Options and Recommendations on Articles 17 and 18. (2013). World Health Organization. Available at: <https://fctc.who.int/publications/m/item/policy-options-and-recommendations-on-economically-sustainable-alternatives-to-tobacco-growing>.
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 44. Handbook on Implementation of WHO FCTC Article 5.3: Policies and Practices that Protect Against Tobacco Industry Interference, Global Center for Good Governance in Tobacco Control (GGTC), updated December 2021 (third edition). Available at: <https://ggtc.world/library/handbook-on-implementation-of-who-fctc-article-53-policies-and-practices-that-protect-against-tobacco-industry-interference-2021>.
 45. STOP. (2021). STOP Welcomes the Withdrawal of the Tobacco Industry from the "Future of Asia" International Conference. Available at: <https://exposetobacco.org/news/withdrawal-future-of-asia/>

46. "The United Nations Sustainable Development Group (UNSDG) was tasked to develop a common approach to partnerships with the private sector, to facilitate contributions in support of the SDGs An inter-UN agency group developed a Common Approach to Due Diligence for Private Sector Partnerships (Common Approach) which reflects current practices for private sector engagement, and affirms common principles." citing 4 Repositioning the UN development system to deliver on the 2030 Agenda – Ensuring a Better Future for All (A/72/124–E/2018/3) 5 Repositioning the United Nations development system to deliver on the 2030 Agenda: our promise for dignity, prosperity and peace on a healthy planet [A/72/684] Source: United Nations Sustainable Development Group. (2019). 2019 ECOSOC Partnership Forum "Partnerships Driving Inclusive Implementation of the SDGs" Concept Note. Available at: https://sustainabledevelopment.un.org/content/documents/21335Final_Concept_Note_2019_ECOSOC_Partnership_Forum.pdf. Furthermore, the Secretary-General has recently initiated an ambitious reform to reposition the United Nations Development System (UNDS)³ with the aim of re-aligning its leadership, capacities and accountability mechanisms including in the area of partnerships to meet the demands in delivering on the 2030 Agenda. As per the two Reports of the Secretary-General in June 2017⁴ and December 2017⁵ on the UNDS reform, the United Nations Sustainable Development Group (UNSDG) is currently leading a system-wide effort on this regard. In his December 2017 report, the Secretary-General further committed to six partnership related work streams: i. UNSDG to agree on a system-wide approach to partnership ii. Strengthen system-wide integrity, due diligence and risk management, including the 10 Global Compact principles on for private sector engagement iii. Improved global level governance from the Global Compact iv. Reinvigoration of UNOP as the global gateway for partnership v. A system-wide compact with IFIs vi. Efforts to invigorate UN support for South-South cooperation Source: United Nations General Assembly Economic and Social Council. (2017). Repositioning the United Nations development system to deliver on the 2030 Agenda: ensuring a better future for all. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/210/35/PDF/N1721035.pdf?OpenElement>.
47. "In response to the 2017 Report of the United Nations Secretary-General on repositioning the United Nations development system,¹ which called for a coherent and streamlined approach on due diligence standards and procedures across the United Nations system as part of stepping up the scale and scope of partnerships with the business community to accompany the requirements of the 2030 Agenda, WHO has actively participated in the consultative process and provided inputs to the United Nations Sustainable Development Group on a proposed common approach to prospect research and due diligence for business sector partnerships. In its contributions towards increasing harmonization, efficiency and transparency across the United Nations family, the WHO Secretariat has sought to ensure that the common approach respects the Organization's policies regulating engagement with private sector entities and its due diligence and risk assessment, which Member States have explicitly negotiated and approved through governing bodies." Source: World Health Organization. (2019). Engagement with non-State actors Report on the implementation of the Framework of Engagement with Non-State Actors. Available at: https://apps.who.int/gb/ebwha/pdf_files/EB146/B146_34-en.pdf.
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56. COP8 Decision: "to foster international cooperation by requiring the tobacco industry to provide information on its activities such as research, marketing, lobbying including policy submissions, funding of third parties/nongovernmental organizations, and by making such information publicly accessible, in accordance with Article 5.3 of the WHO FCTC and its guidelines;" Source: Decision: FCTC/COP8(18) Protection of public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry. (2018). WHO Framework Convention on Tobacco Control. Available at: [https://fctc.who.int/publications/m/item/fctc-cop8\(18\)-protection-of-public-health-policies-with-respect-to-tobacco-control-from-commercial-and-other-vested-interests-of-the-tobacco-industry](https://fctc.who.int/publications/m/item/fctc-cop8(18)-protection-of-public-health-policies-with-respect-to-tobacco-control-from-commercial-and-other-vested-interests-of-the-tobacco-industry).
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61. Article 5.3 Guidelines for Implementation Recommendation 5: "Require that information provided by the tobacco industry be transparent and accurate... Article 12 of the Convention requires Parties to promote public access to such information in accordance with national law." Source: Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3>
62. Article 5.3 Guidelines for Implementation Recommendations: "5.1 Parties should introduce and apply measures to ensure that all operations and activities of the tobacco industry are transparent. 5.2 Parties should require the tobacco industry and those working to further its interests 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 not prohibited or not yet prohibited under Article 13 of the Convention. 5.3 Parties should require rules for the disclosure or registration of the tobacco industry entities, affiliated organizations and individuals acting on their behalf, including lobbyists. 5.4 Parties should impose mandatory penalties on the tobacco industry in case of the provision of false or misleading information in accordance with national law. 5.5 Parties should adopt and implement effective legislative, executive, administrative and other measures to ensure public access, in accordance with Article 12(c) of the Convention, to a wide range of information on tobacco industry activities as relevant to the objectives of the Convention, such as in a public repository." Source: Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3>
63. Core Questionnaire of the Reporting Instrument of WHO FCTC. WHO FCTC, 2016. Available at: <https://fctc.who.int/publications/m/item/who-fctc-core-questionnaire-2020>
64. Tobacco's Toxic Plastics: A Global Outlook Page 9: "Around 5.5 trillion cigarettes are produced annually in the world, amounting to about 1.2 million tons of cigarette filters. Smoked and discarded cigarette filters have higher metal content and toxicity than other plastics[30] (and even asbestos)[31] and a study conducted in the Persian Gulf demonstrated the high amounts of lead and mercury that could enter the food chain through discarded and consumed plastic waste and thus, the human body, though more evidence is needed to confirm these findings.[32]" Source: Sy, D. (2022). Tobacco's Toxic Plastics: A Global Outlook. Global Center for Good Governance in Tobacco Control. Available at: <https://ggtc.world/knowledge/sustainability-and-human-rights/tobaccos-toxic-plastics-a-global-outlook>.
65. WHO Framework Convention on Tobacco Control Article 19: "For the purpose of tobacco control, the Parties shall consider taking legislative action or promoting their existing laws, where necessary, to deal with criminal and civil liability, including compensation where appropriate." Source: WHO Framework Convention on Tobacco Control. (2003). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview>.

66. WHO Framework Convention on Tobacco Control Article 17: "Parties shall, in cooperation with each other and with competent international and regional intergovernmental organizations, promote, as appropriate, economically viable alternatives for tobacco workers, growers and, as the case may be, individual sellers." Source: WHO Framework Convention on Tobacco Control. (2003). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview>.
67. The United Nations Sustainable Development Group (UNSDG) was tasked to develop a common approach to partnerships with the private sector, to facilitate contributions in support of the SDGs. An inter-UN agency group developed a Common Approach to Due Diligence for Private Sector Partnerships (Common Approach) which reflects current practices for private sector engagement, and affirms common principles. Source: United Nations Sustainable Development Group. (2019). 2019 ECOSOC Partnership Forum "Partnerships Driving Inclusive Implementation of the SDGs" Concept Note. Available at: https://sustainabledevelopment.un.org/content/documents/21335Final_Concept_Note_2019_ECOSOC_Partnership_Forum.pdf
68. Article 5.3 Guidelines for Implementation: Recommendations 2.1 Parties should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products." Source: Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3>.
69. WHO Framework Convention on Tobacco Control: "Article 2.1 In order to better protect human health, Parties are encouraged to implement measures beyond those required by this Convention and its protocols, and nothing in these instruments shall prevent a Party from imposing stricter requirements that are consistent with their provisions and are in accordance with international law." Source: WHO Framework Convention on Tobacco Control. (2003). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview>.
70. Article 5.3 Guidelines for Implementation: "The measures recommended in these guidelines aim at protecting against interference not only by the tobacco industry but also, as appropriate, by organizations and individuals that work to further the interests of the tobacco industry." Source: Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3>.
71. "Corporate social responsibility (CSR) refers to strategies that companies put into action as part of corporate governance that are designed to ensure the company's operations are ethical and beneficial for society." Source: Corporate Finance Institute. (2022). Corporate Social Responsibility. Available at: <https://corporatefinanceinstitute.com/resources/knowledge/other/corporate-social-responsibility-csr>.
72. Businesses benefit from CSR in terms of employee sense of fulfilment, savings on operational costs, improved reputation and brand image, increased customer loyalty and sales, increased access to investments/ funding, reduced regulatory burden. Source: Corporate Finance Institute. (2022). Corporate Social Responsibility. Available at: <https://corporatefinanceinstitute.com/resources/knowledge/other/corporate-social-responsibility-csr>.
73. CSR can be categorized into four sectors: environmental, ethical or human rights, philanthropic, economic/ financial responsibilities fulfilment of financial or governance responsibilities including transparency and compliance with corporate or financial regulations Source: Corporate Finance Institute. (2022). Corporate Social Responsibility. Available at: <https://corporatefinanceinstitute.com/resources/knowledge/other/corporate-social-responsibility-csr>.
74. With the UN's adoption of the SDGs, businesses and institutions have used SDGs to support, develop, or update their framework for defining their CSR activities or framing their ESG factors. With the "sustainability" buzz word, interchanging and interspersing terms sustainability with social responsibility in CSR reporting has become a trend; reports on CSR are also named Sustainability Reports with some references to SDGs, and are dubbed ESG Reports whenever ESG frameworks are used.
75. CFA Institute. (2022). ESG Investing and Analysis. Available at: <https://www.cfainstitute.org/en/research/esg-investing#:~:text=ESG%20stands%20for%20Environmental%2C%20Social%2C%20material%20risks%20and%20growth%20opportunities>
76. Boffo, R., and R. Patalano (2020), "ESG Investing: Practices, Progress and Challenges", OECD Paris, www.oecd.org/finance/ESG-Investing-Practices-Progress-and-Challenges.pdf
77. European Commission.(n.d.). Corporate sustainability reporting. Available at: https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/company-reporting-and-auditing/company-reporting/corporate-sustainability-reporting_en
78. E.g. Boohoo.com found to be paying less than minimum wages despite high ESG ratings. Source: Matety, V. (2020). Boohoo's sweatshop suppliers: 'They only exploit us. They make huge profits and pay us peanuts' The Sunday Times. Available at: <https://www.thetimes.co.uk/article/boohoos-sweatshop-suppliers-they-only-exploit-us-they-make-huge-profits-and-pay-us-peanuts-lwj7d8fg2>.

79. Council of the European Union. (2022). New rules on corporate sustainability reporting: provisional political agreement between the Council and the European Parliament. Available at: <https://www.consilium.europa.eu/en/press/press-releases/2022/06/21/new-rules-on-sustainability-disclosure-provisional-agreement-between-council-and-european-parliament/>.
80. U.S. Securities and Exchange Commission. (2022). SEC Proposes to Enhance Disclosures by Certain Investment Advisers and Investment Companies About ESG Investment Practices. Available at: <https://www.sec.gov/news/press-release/2022-92>.
81. This would improve transparency and integrity of ESG reporting and restore investor confidence in these reports as well as establish corporate impact on climate change , among other sustainable development goals.
82. Along with textiles and apparel, coal, metals, petroleum, mining, beverages, food products. Source: European Sustainability Reporting Standards. (2022). European Financial Reporting Advisory Group. Available at: <https://www.efrag.org/Assets/Download?assetUrl=%2Fsites%2Fwebpublishing%2FSiteAssets%2FFinancial%2520Institutions%2520slides.pdf>.
83. Corporate sustainability reporting. (n.d.). European Commission. Available at: https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/company-reporting-and-auditing/company-reporting/corporate-sustainability-reporting_en.
84. Standards have been established for CSR such as ISO 26000 Source: ISO. (n.d.). ISO 26000 Social Responsibility. Available at: <https://www.iso.org/iso-26000-social-responsibility.html>.
85. OECD Business and Finance Outlook 2020 : Sustainable and Resilient Finance. Available at: <https://www.oecd-ilibrary.org/sites/b854a453-en/index.html?itemId=/content/component/b854a453-en>
86. United Nations Environment Programme Finance Initiative, & United Nations Global Compact. (2021). Principles for Responsible Investment. Available at: <https://www.unpri.org/download?ac=10948>
87. Arose from the concept of 'custodial responsibility for the planet'. Source: Falkner, R., & Buzan, B. (2019). The emergence of environmental stewardship as a primary institution of global international society. *European Journal of International Relations*, 25(1), 131–155. <https://doi.org/10.1177/1354066117741948>
88. Falkner, R., & Buzan, B. (2019). The emergence of environmental stewardship as a primary institution of global international society. *European Journal of International Relations*, 25(1), 131–155. <https://doi.org/10.1177/1354066117741948>
89. By adopting stewardship, companies are able to make a positive contribution to improved water and sanitation management and governance that addresses their risks while contributing to sustainable development. This means adopting values and practices that aim to safeguard long-term availability of clean water and the provision of sanitation for all stakeholders in a watershed. Source: Global Reporting Initiative, United Nations Global Compact, World Business Council for Sustainable Development. (2015). SDG 6: Ensure availability and sustainable management of water and sanitation for all. *SDG Compass*. Available at: <https://sdgcompass.org/sdgs/sdg-6/>
90. "Extended Producer Responsibility is an environmental protection strategy to reach an environmental objective of a decreased total environmental impact from a product, by making the manufacturer of the product responsible for the entire life-cycle of the product and especially for the take-back, recycling and final disposal of the product. The Extended Producer Responsibility is implemented through administrative, economic and informative instruments. The composition of these instruments determines the precise form of the Extended Producer Responsibility. Lindhqvist's proposal came at a time when several European countries were initiating strategies to improve the end-of-life management of products, which resulted in almost all members of the Organization for Economic Co-operation and Development (OECD) establishing EPR policies as an approach to pollution prevention and waste minimisation. Germany introduced the first example of EPR in Europe in 1991 with a requirement that manufacturers assume responsibility for recycling or disposing of packaging material they sold. In response, German industry set up a 'dual system' for waste collection, picking up household packaging alongside municipal waste collections." Source: Multi-Material Stewardship Western. (2022). History of EPR. Available at: <https://www.mmsk.ca/residents/history-epr/>
91. "In 1990, Swedish academic Thomas Lindhqvist created the concept of Extended Producer Responsibility (EPR) as a strategy to decrease the environmental impacts of manufactured products. He proposed making manufacturers responsible for the goods' entire life cycles – especially for takeback, recycling and final disposal. Call it, "polluter pays." In the current business model, the end user—we the consumer—are pegged as "the polluter" because it's up to us to dispose of packaging trash. EPR flips the script on the current business model and designates the manufacturer as the polluter and puts the onus of recycling packaging and other materials back on them." Source: The Climate. (2021). All EPR, All the Time. So, What's EPR? Maine's EPR Law Makes History, Oregon's #2, on the EPR Law Tip That Is! Available at: <https://thecclimate.org/all-epr-all-the-time-so-whats-epr-maines-epr-law-makes-history-oregons-2-on-the-epr-law-tip-that-is/>

92. Davis, G., & Wilt, C. (1997). Extended Product Responsibility: A New Principle for Product-Oriented Pollution Prevention. United States Environmental Protection Agency. Available at: <https://archive.epa.gov/wastes/conservation/tools/stewardship/web/pdf/eprn.pdf>.
93. Article 13 Guidelines for Implementation: "It is increasingly common for tobacco companies to seek to portray themselves as good corporate citizens by making contributions to deserving causes or by otherwise promoting "socially responsible" elements of their business practices. Some tobacco companies make financial or in-kind contributions to organizations, such as community, health, welfare or environmental organizations, either directly or through other entities." Source: Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview/treaty-instruments/tobacco-advertising-promotion-and-sponsorship>.
94. Article 13 Guidelines for Implementation provide an example: "Tobacco industry public education campaigns, such as "youth smoking prevention campaigns" should be prohibited on the basis that they involve "contributions" when implemented by other parties or represent corporate promotion if conducted by the industry itself." Source: Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview/treaty-instruments/tobacco-advertising-promotion-and-sponsorship>.
95. Article 13 Guidelines for Implementation: "Promotion to the public of such otherwise commendable activities should be prohibited, as their aim, effect or likely effect is to promote a tobacco product or tobacco use either directly or indirectly" Source: Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview/treaty-instruments/tobacco-advertising-promotion-and-sponsorship>.
96. Article 13 Guidelines for Implementation: prohibit "public dissemination of such information" "...except for the purposes of required corporate reporting (such as annual reports) or necessary business administration (e.g. for recruitment purposes and communications with suppliers)." Source: Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview/treaty-instruments/tobacco-advertising-promotion-and-sponsorship>.
97. Article 13 Guidelines for Implementation: "Publicity given to "socially responsible" business practices of the tobacco industry should be banned, as these constitute advertising and promotion." Source: Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview/treaty-instruments/tobacco-advertising-promotion-and-sponsorship>.
98. Article 5.3 Guidelines for Implementation Principle 3 Source: Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: https://apps.who.int/iris/bitstream/handle/10665/80510/9789241505185_eng.pdf?sequence=1.
99. Article 5.3 Guidelines for Implementation: "Recommendation 5.2: Parties should require the tobacco industry and those working to further its interests 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 not prohibited or not yet prohibited under Article 13 of the Convention... 5.3 Parties should require rules for the disclosure or registration of the tobacco industry entities, affiliated organizations and individuals acting on their behalf, including lobbyists." Source: Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5-3>
100. Article 5.3 Guidelines for Implementation Recommendation 5: "In accordance with Article 20.4(c) of the Convention, each Party should endeavour to cooperate with competent international organizations to establish progressively and maintain a global system to regularly collect and disseminate information on tobacco production and manufacture and activities of the tobacco industry which have an impact on the Convention or national tobacco control activities." Source: Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5-3>
101. Article 5.3 Guidelines for Implementation: Recognizing "the need to be alert to any efforts by the tobacco industry to undermine or subvert tobacco control efforts and the need to be informed of activities of the tobacco industry that have a negative impact on tobacco control efforts" Source: Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5-3>

102. Article 5.3 Guidelines for Implementation: "Recommendation 5 Require that information provided by the tobacco industry be transparent and accurate. To take effective measures preventing interference of the tobacco industry with public health policies, Parties need information about its activities and practices, thus ensuring that the industry operates in a transparent manner." Source: Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3>
103. Article 5.3 Guidelines for Implementation Recommendation 5: "Article 12 of the Convention requires Parties to promote public access to such information in accordance with national law." Source: Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3>
104. Article 5.3 Guidelines for Implementation Recommendation 5.5: "Parties should adopt and implement effective legislative, executive, administrative and other measures to ensure public access, in accordance with Article 12(c) of the Convention, to a wide range of information on tobacco industry activities as relevant to the objectives of the Convention, such as in a public repository." Source: Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3>
105. Article 5.3 Guidelines for Implementation: "Recommendations 5.1 Parties should introduce and apply measures to ensure that all operations and activities of the tobacco industry are transparent. 5.2 Parties should require the tobacco industry and those working to further its interests 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 not prohibited or not yet prohibited under Article 13 of the Convention... 5.4 Parties should impose mandatory penalties on the tobacco industry in case of the provision of false or misleading information in accordance with national law. 5.5 Parties should adopt and implement effective legislative, executive, administrative and other measures to ensure public access, in accordance with Article 12(c) of the Convention, to a wide range of information on tobacco industry activities as relevant to the objectives of the Convention, such as in a public repository." Source: Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control. (2013). World Health Organization. Available at: <https://fctc.who.int/publications/m/item/guidelines-for-implementation-of-article-5.3>.
106. WHO Framework Convention on Tobacco Control Article 19 paragraph 2: "Parties shall cooperate with each other in exchanging information through the Conference of the Parties in accordance with Article 21 including: (a) information on the health effects of the consumption of tobacco products and exposure to tobacco smoke in accordance with Article 20.3(a); and (b) information on legislation and regulations in force as well as pertinent jurisprudence" Source: WHO Framework Convention on Tobacco Control. (2003). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview>.
107. WHO Framework Convention on Tobacco Control Art 19 paragraph 3-4: 3. "The Parties shall, as appropriate and mutually agreed, within the limits of national legislation, policies, legal practices and applicable existing treaty arrangements, afford one another assistance in legal proceedings relating to civil and criminal liability consistent with this Convention. 4. The Convention shall in no way affect or limit any rights of access of the Parties to each other's courts where such rights exist." Source: WHO Framework Convention on Tobacco Control. (2003). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview>.
108. WHO Framework Convention on Tobacco Control Art 19 paragraph 5:"The Conference of the Parties may consider, if possible, at an early stage, taking account of the work being done in relevant international fora, issues related to liability including appropriate international approaches to these issues and appropriate means to support, upon request, the Parties in their legislative and other activities in accordance with this Article." Source: WHO Framework Convention on Tobacco Control. (2003). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview>.
109. WHO Framework Convention on Tobacco Control Article 17: "Parties shall, in cooperation with each other and with competent international and regional intergovernmental organizations, promote, as appropriate, economically viable alternatives for tobacco workers, growers and, as the case may be, individual sellers." Source: WHO Framework Convention on Tobacco Control. (2003). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview>.
110. WHO Framework Convention on Tobacco Control Article 18: "In carrying out their obligations under this Convention, the Parties agree to have due regard to the protection of the environment and the health of persons in relation to the environment in respect of tobacco cultivation and manufacture within their respective territories." Source: WHO Framework Convention on Tobacco Control. (2003). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview>.

111. WHO Framework Convention on Tobacco Control Article 2 paragraph 1: "In order to better protect human health, Parties are encouraged to implement measures beyond those required by this Convention and its protocols, and nothing in these instruments shall prevent a Party from imposing stricter requirements that are consistent with their provisions and are in accordance with international law." Source: WHO Framework Convention on Tobacco Control. (2003). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview>.
112. WHO Framework Convention on Tobacco Control Article 13.5 in relation to obligations set out in 13.4. Source: WHO Framework Convention on Tobacco Control. (2003). World Health Organization. Available at: <https://fctc.who.int/who-fctc/overview>.
113. Southeast Asia Tobacco Control Alliance, and HealthJustice Philippines. (2015). FCTC Article 5.3 Toolkit: Preventing Tobacco Industry Interference. Available at: <https://seatca.org/dmdocuments/5.3%20toolkit%202015.pdf>
114. "Cooperation between the United Nations and the business sector is principled-based. These principles are included in the United Nations Global Compact and the United Nations Guiding Principles on Business and Human Rights. The United Nations Global Compact provides an overall value framework for cooperation with the business sector. The principles of the Global Compact on human rights, labour, the environment and anticorruption are based on intergovernmental agreements and are specifically relevant for business. Similarly, the United Nations Guiding Principles on Business and Human Rights, which have been unanimously endorsed by the Human Rights Council, serve as the baseline reference point for expected business conduct, and as a benchmark for responsible business implementation." Source: United Nations. (2015). Guidelines on a principle-based approach to the Cooperation between the United Nations and the business sector. Available at: <https://www.unglobalcompact.org/library/3431>.
115. "The Guiding Principles "elaborate on the three pillars of the UN "Protect, Respect and Remedy" Framework that Prof. Ruggie proposed to the Human Rights Council in 2008. The three pillars of the Framework are:
- The state duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation, and adjudication;
 - The corporate responsibility to respect human rights, that is, to act with due diligence to avoid infringing on the rights of others and address adverse impacts with which they are involved; and
 - The need for greater access by victims to effective remedy, both judicial and non-judicial."
- Source: United Nations. (2015). Guidelines on a principle-based approach to the Cooperation between the United Nations and the business sector. Available at: <https://www.unglobalcompact.org/library/3431>.
116. The United Nations Sustainable Development Group (UNSDG) was tasked to develop a common approach to partnerships with the private sector, to facilitate contributions in support of the SDGs An inter-UN agency group developed a Common Approach to Due Diligence for Private Sector Partnerships (Common Approach) which reflects current practices for private sector engagement, and affirms common principles, citing Repositioning the UN development system to deliver on the 2030 Agenda – Ensuring a Better Future for All (A/72/124–E/2018/3) 5 Repositioning the United Nations development system to deliver on the 2030 Agenda: our promise for dignity, prosperity and peace on a healthy planet [A/72/684]. Source: United Nations Sustainable Development Group. (2019). 2019 ECOSOC Partnership Forum "Partnerships Driving Inclusive Implementation of the SDGs" Concept Note. Available at: https://sustainabledevelopment.un.org/content/documents/21335Final_Concept_Note_2019_ECOSOC_Partnership_Forum.pdf Furthermore, the Secretary-General has recently initiated an ambitious reform to reposition the United Nations Development System (UNDS)³ with the aim of re-aligning its leadership, capacities and accountability mechanisms including in the area of partnerships to meet the demands in delivering on the 2030 Agenda. As per the two Reports of the Secretary-General in June 2017⁴ and December 2017⁵ on the UNDS reform, the United Nations Sustainable Development Group (UNSDG) is currently leading a system-wide effort on this regard. In his December 2017 report, the Secretary-General further committed to six partnership related work streams: i. UNSDG to agree on a system-wide approach to partnership ii. Strengthen system-wide integrity, due diligence and risk management, including the 10 Global Compact principles on for private sector engagement iii. Improved global level governance from the Global Compact iv. Reinvigoration of UNOP as the global gateway for partnership v. A system-wide compact with IFIs vi. Efforts to invigorate UN support for South-South cooperation. Source: United Nations General Assembly Economic and Social Council. (2017). Repositioning the United Nations development system to deliver on the 2030 Agenda: ensuring a better future for all. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/210/35/PDF/N1721035.pdf?OpenElement>.

117. "Principles and exclusionary criteria: most UN organizations sampled have a similar core set of guiding principles³ for engagement with the business sector, with a few additional ones uniquely reflecting their own mandates. Most of the agencies also have a set of exclusionary criteria for partnerships or other types of collaboration, some of which are common to virtually all (e.g. business practices colliding with UN Resolutions), some are adopted by many (e.g. tobacco and alcohol), while others are specific to individual agencies and mandates (e.g. company practices not compliant with the International Code of Marketing of Breast-milk Substitutes). In addition to exclusionary criteria, most of the mapped UN entities have identified some sectors considered "high risk" for which they apply more rigorous risk assessment." Source: United Nations Sustainable Development Group. (2020). UNSDG Common Approach to Prospect Research and Due Diligence for Business Sector Partnerships. Available at: <https://unsdg.un.org/sites/default/files/2020-03/Annex-1-UNSDG-Common-Approach-to-Due-Diligence.pdf>
118. "currently there is no alignment and little clarity within the UN family on when and for which types of engagement with business due diligence shall be exercised. In addition, the definition of "partnerships" itself seems to be different across different organizations, making coordination in approach and practice difficult, especially in case of multi-agency collaborations." Source: United Nations Sustainable Development Group. (2020). UNSDG Common Approach to Prospect Research and Due Diligence for Business Sector Partnerships. Available at: <https://unsdg.un.org/sites/default/files/2020-03/Annex-1-UNSDG-Common-Approach-to-Due-Diligence.pdf>
119. "As a common standard, United Nations organizations will not engage in funding or co-branded partnerships with companies falling under the above criteria. For companies indirectly linked to exclusionary business activities (e.g. via subsidiary, or parent company) such engagements may be considered, but only under certain conditions: the core business of such business entity does not itself meet the exclusionary criterion, and the two entities are sufficiently separated both in terms of corporate structure and from a public perception perspective. Each UN organization can develop its threshold policy to determine "separation, or agree to adopt an existing one from another UN organization. Examples of thresholds currently used to determine degree of separation include ownership level (e.g. >50% of direct ownership) while for the public perception proxy branding indicators are used (e.g. subsidiary and parent company using the same brand and being publicly promoted as part of the same business strategy). In exceptional cases, interactions may still be possible with some companies falling in the above categories, for example when the purpose of the engagement is specifically to address the issue identified as exclusionary (e.g. interaction aimed at addressing violations of human and labour rights in the supply chain, or in the workplace)" Source: United Nations Sustainable Development Group. (2020). UNSDG Common Approach to Prospect Research and Due Diligence for Business Sector Partnerships. Available at: <https://unsdg.un.org/sites/default/files/2020-03/Annex-1-UNSDG-Common-Approach-to-Due-Diligence.pdf>
120. "In response to the 2017 Report of the United Nations Secretary-General on repositioning the United Nations development system,¹ which called for a coherent and streamlined approach on due diligence standards and procedures across the United Nations system as part of stepping up the scale and scope of partnerships with the business community to accompany the requirements of the 2030 Agenda, WHO has actively participated in the consultative process and provided inputs to the United Nations Sustainable Development Group on a proposed common approach to prospect research and due diligence for business sector partnerships. In its contributions towards increasing harmonization, efficiency and transparency across the United Nations family, the WHO Secretariat has sought to ensure that the common approach respects the Organization's policies regulating engagement with private sector entities and its due diligence and risk assessment, which Member States have explicitly negotiated and approved through governing bodies." Source: World Health Organization. (2019). Engagement with non-State actors Report on the implementation of the Framework of Engagement with Non-State Actors. Available at: https://apps.who.int/gb/ebwha/pdf_files/EB146/B146_34-en.pdf.
121. United Nations Social and Economic Council. (2017). E/2017/L.21 United Nations Inter-Agency Task Force on the Prevention and Control of Non-communicable Diseases. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/LTD/N17/153/40/PDF/N1715340.pdf?OpenElement>.
122. "Violation or complicity in human rights abuses, including the rights of indigenous peoples. Use or toleration of forced or compulsory labor. Use or toleration of the worst forms of child labor. Involvement in the manufacture, sale or distribution of any armaments, and/or weapons or their components, and replica weapons marketed to children. Violations of UN sanctions and the relevant conventions, treaties, and resolutions, and inclusion in UN ineligibility lists. Manufacture, sale or distribution of tobacco or tobacco products. Manufacture, sale or distribution of alcohol (except wine and beer). Involvement in the manufacture, sale and distribution of pornography. Manufacture, sale or distribution of pharmaceuticals pesticides/herbicides, asbestos, ozone-depleting substances and persistent organic pollutants subject to international bans or phase-outs, and wildlife or products regulated under the CITES" Source: United Nations Development Programme. (2013). New Due Diligence Policy to work with the Private Sector. Available at: [https://popp.undp.org/UNDP_POPP_DOCUMENT_LIBRARY/Public/UNDP%20Policy%20for%20Due%20Diligence%20and%20Partnerships%20with%20the%20Private%20Sector%20\(2013\).pdf](https://popp.undp.org/UNDP_POPP_DOCUMENT_LIBRARY/Public/UNDP%20Policy%20for%20Due%20Diligence%20and%20Partnerships%20with%20the%20Private%20Sector%20(2013).pdf).

123. "For the purposes of this statement: - tobacco industry means any entity involved in the manufacture, sale or distribution of tobacco and related products, and any affiliate of such entity; and - arms industry means any entity involved in the manufacture, sale or distribution of arms, and any affiliate of such entity. This disclosure statement needs to be provided by any nongovernmental organization, private sector entity, philanthropic foundation and academic institution prior to engaging with Unitaid." Source: Unitaid. (n.d.). Annex 8: Declaration regarding tobacco and arms industry. Available at: <https://unitaid.org/assets/Annex-8.-Tobacco-and-Arms-Industries.docx>.
124. "Due Diligence Criteria: Consistent with the United Nations Common Approach, UNESCO's due diligence process considers both risks and opportunities of an engagement with a private sector donor. In doing so, the due diligence process will use the following criteria to help ensure that potential risks and opportunities related to the integrity of prospective partners are considered at the earliest stages: A small set of exclusionary criteria which refer to business categories and/or practices considered inherently incompatible with values of the UN, its treaties, or other international standards. Partnerships with prospects falling within the exclusionary criteria should not be pursued. A set of preferred partner attributes to help identify business sector actors who demonstrate their commitments and efforts in support of the SDGs or responsible citizenship and alignment with international and sectoral standards, including the UN Global Compact 10 principles and the UN Guiding Principles on Business and Human Rights, in a consistent manner. Criteria for disengagement are also defined" Source: United Nations Educational, Scientific and Cultural Organization. (2020). Follow-up to decisions and resolutions adopted by the Executive Board and the General Conference at their previous sessions, Part II: management issues. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000372858?locale=en>.
125. "For companies indirectly linked to exclusionary business activities (e.g. via subsidiary, or parent company) such engagements may be considered, but only under certain conditions: the core business of such business entity does not itself meet the exclusionary criterion, and the two entities are sufficiently separated both in terms of corporate structure and from a public perception perspective*.
* For the public perception proxy branding indicators are used (e.g. subsidiary and parent company using the same brand and being publicly promoted as part of the same business strategy)." Source: United Nations Educational, Scientific and Cultural Organization. (2020). Follow-up to decisions and resolutions adopted by the Executive Board and the General Conference at their previous sessions, Part II: management issues. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000372858?locale=en>.



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About STOP (Stopping Tobacco Organizations and Products)

STOP is a global tobacco industry watchdog whose mission is to expose the tobacco industry strategies and tactics that undermine public health. STOP is funded by Bloomberg Philanthropies and comprised of a partnership among the Tobacco Control Research Group (TCRG) at the University of Bath, The Global Center for Good Governance in Tobacco Control (GGTC), the International Union Against Tuberculosis and Lung Disease (The Union) and Vital Strategies. For more information, visit exposetobacco.org.