Big Tobacco can afford to hire the best lawyers and PR firms that money can buy. Big Money ... can trample even the most damning scientific evidence ... It is horrific to think that an industry known for its dirty tricks and dirty laundry could be allowed to trump what is clearly in the public’s best interest.

DR. MARGARET CHAN
DIRECTOR-GENERAL OF THE WORLD HEALTH ORGANIZATION
WHAT DOES THE ROADMAP TOOL OFFER?

2. All existing resources in one document.
3. Sample legislation, implementation regulations, and administrative policies.
4. Best practices and examples from around the world.

Use the Roadmap to harness Article 5.3’s power

No one said implementation would be easy. Article 5.3 is more than a public health measure—it is a good governance measure, an anti-corruption measure, and a transparency measure. All of these will involve authorities outside of public health. Furthermore, because implementation has been sporadic, there are few model laws to point to.

This is why Corporate Accountability International has developed a step-by-step guide that brings together technical, legal, and advocacy resources to assist public officials and advocates in translating Article 5.3 guidelines into laws, policies, and enforcement mechanisms.

Article 5.3 is the most powerful tool to protect lifesaving policies

The FCTC includes a critical provision—Article 5.3—that recognizes the tobacco industry’s irreconcilable conflict of interest with public health. The article is the backbone of the treaty; the treaty cannot succeed if industry interference is not rooted out. Together with its guidelines, Article 5.3 enables countries to end each of the dirty tactics the industry uses to interfere in policymaking.

When Article 5.3 is implemented, it saves lives

Governments from the Philippines to Thailand that have implemented Article 5.3’s guidelines have already started seeing results—from speeding up policymaking, approval, and enforcement of tobacco control measures to increasing the transparency and accountability of all of the processes involved in implementing the FCTC.
### Case Studies in Article 5.3 Implementation

<table>
<thead>
<tr>
<th>Party to the FCTC</th>
<th>Article 5.3 recommendations addressed*</th>
<th>Description</th>
</tr>
</thead>
</table>
| AUSTRALIA (WPRO)  | ➤ Limited and Transparent Interactions.  
➤ Avoid Conflicts of Interest. | Australia’s Future Fund, as well as the governments of New South Wales and South Australia, divested from the tobacco industry. In addition, Australia’s 2008 Lobbying Code of Conduct ensures that interactions between lobbyists and government representatives are posted on a searchable online register. The Australian Public Service Code of Conduct requires that all government officials “take reasonable steps” to avoid conflicts of interest. |
| BRAZIL (AMRO)     | ➤ Limited and Transparent Interactions.  
➤ Reject Partnerships.  
➤ Avoid Conflicts of Interest.  
➤ No Preferential Treatment. | Brazil’s law requires its multi-sectoral national committee for tobacco control, CONICQ, to avoid conflicts of interest, banning acceptance of gifts or offers of partnerships from the tobacco industry. In addition, it bans preferential treatment of the tobacco industry by CONICQ members. |
| BURKINA FASO (AFRO) | ➤ Raise Awareness.  
➤ Transparent Interactions.  
➤ Transparency of Tobacco Industry Information.  
➤ No Preferential Treatment. | Burkina Faso's tobacco control law requires the government to raise awareness about the harms of tobacco, as well as the industry's activities. Also mandated by law are the disclosure of tobacco industry information and its activities, the prohibition of preferential treatment, and transparent “relations” with the tobacco industry. |
| COOK ISLANDS (WPRO)  | ➤ Raise Awareness.  
➤ Transparency of Tobacco Industry Information.  
➤ Reject Partnerships.  
➤ Avoid Conflicts of Interest. | The Cook Islands’ Tobacco Products Control Act prohibits any contributions from the tobacco industry to public officials or candidates, whether directly or indirectly. It also requires the tobacco industry to test and report on the contents of its products. |
| KOSOVO (NON-PARTY) | ➤ Limited and Transparent Interactions.  
➤ Reject Partnerships.  
➤ Avoid Conflicts of Interest.  
➤ Transparency of Tobacco Industry Information.  
➤ Corporate Social Responsibility (CSR) Regulation.  
➤ No Preferential Treatment. | Kosovo’s tobacco control law currently provides the most extensive limits to tobacco industry interference. It requires the tobacco industry to disclose information about its activities and contains extensive provisions in line with the Article 5.3 guidelines, including requiring limited and transparent interactions with the tobacco industry, prohibiting participation in or support of partnerships with the tobacco industry, prohibiting tobacco industry donations, banning preferential treatment of the tobacco industry, and regulating conflicts of interest. |
| MONGOLIA (WPRO)   | ➤ Raise Awareness.  
➤ Limited and Transparent Interactions.  
➤ Reject Partnerships.  
➤ Transparency of Tobacco Industry Information.  
➤ CSR Regulation.  
➤ No Preferential Treatment. | Notably, Mongolia’s law on tobacco control grants the FCTC authority over Mongolian law; in the event of any conflict, the FCTC prevails. The law also requires transparency of the tobacco industry and its front groups. Moreover, it regulates the government, recommending against preferential treatment of the tobacco industry, banning partnerships in drafting tobacco control policies, and raising awareness of the tobacco industry’s abuses to government officials. Finally, the law bans tobacco industry CSR and requires the government to reject offers of CSR from the tobacco industry. |
| NAMIBIA (AFRO)    | ➤ Reject Partnerships.  
➤ Avoid Conflicts of Interest. | Namibia's tobacco control law contains provisions on conflicts of interest, barring individuals with connections to the tobacco industry from participating in the Tobacco Products Control Committee. It also forbids the tobacco industry from contributing financially to any organized activity, which could be interpreted to include any gift to a government official. |
| NORWAY (EURO)     | ➤ Avoid Conflicts of Interest. | A statement from the Ministry of Finance on pension fund management divests government pension funds from the tobacco industry. |
| PHILIPPINES (WPRO) | ➤ Raise Awareness.  
➤ Limited and Transparent Interaction.  
➤ Reject Partnerships.  
➤ Avoid Conflicts of Interest.  
➤ CSR Regulation.  
➤ No Preferential Treatment. | The Philippines’ Joint Memorandum: Protection of the Bureaucracy from Tobacco Industry Interference is arguably the most comprehensive Article 5.3 policy in the world for government conduct. The policy applies to all public servants, containing provisions in line with Article 5.3 guidelines on limiting interactions with the tobacco industry, rejecting partnerships, prohibiting preferential treatment, rejecting gifts from the tobacco industry, and protecting against conflicts of interest. It also creates a multi-sectoral committee to enforce the policy that includes awareness-raising activities and encourages civil society participation. |
| UNITED KINGDOM (EURO) | ➤ Limited and Transparent Interactions.  
➤ Reject Partnerships.  
➤ Avoid Conflicts of Interest.  
➤ CSR Regulation.  
➤ No Preferential Treatment.  
➤ Treatment of State-owned Tobacco Industry. | The UK’s guidelines for foreign diplomats include extensive guidelines in line with Article 5.3, including recommendations for how to limit interaction with the tobacco industry if a government body or official is approached. It also forbids any overseas post from any contact with the tobacco industry or any organization likely to be working with it. Moreover, the guidelines ensure that posts do not treat UK-owned tobacco corporations any differently. Finally, the guidelines lay out a commitment to transparency and public disclosure, pledging to publicize notes from any meeting with the tobacco industry except for those meetings which involve operations issues. |

*These refer to the eight recommendations in the guidelines for implementation of Article 5.3 of the WHO FCTC.
Global Progress in Article 5.3 Implementation

NOTE: These colors represent the total number of recommendations implemented, not how effectively they have been implemented. We also acknowledge that there are examples of implementation not included in this map because they have yet to be verified.
**INTRODUCTION**

This document presents a roadmap for comprehensive implementation (including compliance and enforcement) of Article 5.3 of the WHO Framework Convention on Tobacco Control (FCTC), which requires Parties to protect tobacco control policies against interference from the tobacco industry. The Guidelines for Implementation of Article 5.3 establish extensive Recommendations for comprehensive protection against tobacco industry interference, but do not provide best practices or step-by-step guidance for successful implementation.

In addition, Article 5.3 implementation around the world has been slower than other FCTC Articles and piecemeal. Comprehensive implementation of Article 5.3 requires an overarching legal framework that enacts all Recommendations and lays the groundwork to implement any remaining Recommendations. In countries where implementing regulations are required to supplement laws, these should be enacted as well, followed by administrative policies applicable to all levels of civil servants, at the national and subnational levels.

The intent of this document is to supplement the Guidelines and support Parties with practical steps for comprehensive implementation of Article 5.3. For this reason, we call this tool a “roadmap for comprehensive implementation.” The roadmap incorporates many existing resources on Article 5.3 implementation (see endnotes). It is not designed as an exhaustive or universal resource, but rather to provide best practices that can be adapted to a wide range of legal frameworks. It should also be noted that this roadmap should be incorporated into a broader awareness-raising and advocacy campaign to educate policymakers and the public about tobacco industry interference and the pressing need for policies in line with Article 5.3.

The intended audience includes government officials, civil society organizations (CSOs), tobacco control advocates and anyone else involved in advancing Article 5.3 implementation.

**COMPREHENSIVE SET OF ARTICLE 5.3 LEGAL MEASURES**

**PHASE 1 - ASSESSMENT**

**STEP 1 - REVIEW IMPLEMENTATION STATUS**

1. **Objectives:**
   a. Assess government enactment of legal measures to implement each Recommendation of the Article 5.3 Guidelines, including enforcement mechanisms.
   b. Identify all Recommendations that require further action to achieve full implementation.

2. **Process:**
   a. Review the Article 5.3 Guidelines and cross-reference each Recommendation with all existing policies related to government conduct, tobacco control and the tobacco industry.

3. **Guiding questions:**
   a. Which Recommendations are already implemented and how (e.g., law, policy, documentation)?
   b. What enforcement mechanisms (if any) and oversight body are in place for each Recommendation?
   c. Which Recommendations have yet to be implemented?

4. **Tools:**
   a. Factsheet 5 of The Union’s Article 5.3 Toolkit – Compliance Template.

5. **Outcomes:**
   a. A comprehensive assessment of the Party’s compliance with the Article 5.3 Guidelines, along with its implementation and enforcement mechanisms.
   b. A list of the Recommendations that still require implementation.

**STEP 2 - ANALYZE OTHER EXISTING RELEVANT LEGAL MEASURES**

1. **Objectives:**
   a. Identify existing legal measures on related topics that can be adapted to advance implementation of Article 5.3 and/or that could be used to partially implement Article 5.3 until comprehensive legal measures are enacted and operationalized.
   b. Identify models, best practices and mechanisms from unrelated legal measures that can be replicated in the design of Article 5.3 legal measures.

2. **Process:**
   a. Review current national- and subnational-level laws and policies that address issues related to the Recommendations, for example:
      i. Government accountability.
      ii. Transparency.
      iii. Anti-corruption.
      iv. Revolving doors.
      v. Conflicts of interest.
      vi. Political contributions.

**STEP 3 - DETERMINE OVERSIGHT MECHANISM**

1. **Objectives:**
   a. Identify government bodies equipped with the knowledge, legal authority, political will, and resources to assume the duties of monitoring, investigating and/or enforcing Article 5.3 legal measures.
   b. Having reviewed existing measures, determine the most effective oversight mechanism(s) for Article 5.3 legal measures.

   i. Note that while a dedicated, independent government body with broad authority specifically mandated for Article 5.3 oversight is ideal (i.e., establishment of an Article 5.3 Council), this is not an option, a similar purpose can be served by either:
      1. Entrusting these duties to an existing government agency.
      2. Establishing a new interagency committee.
   c. Identify the high-level and specific roles and responsibilities of an oversight body.

2. **Process:**
   a. Review and create a list of relevant government bodies that have the capacity to or already monitor and regulate government and tobacco industry compliance and a list of CSOs that can play a contributing oversight role.
   b. Create a list of roles and responsibilities necessary for Article 5.3 monitoring, investigation and enforcement not covered under the mandates of existing government bodies, and which must be established through legislation.
   c. Examples of relevant government bodies that could be tasked to take on Article 5.3 investigation and/or enforcement as part of an interagency committee include but are not limited to:
      1. Ombudsman.
      2. Anti-corruption council or commission.
      3. Heads of government bodies.
      5. Information commission.
      6. Customs agency.
      7. Parliament, senate, etc.

3. **Guiding questions:**
   a. Which government bodies have the legal authority, resources, and relevant expertise and could be tasked with Article 5.3 oversight, investigation, and enforcement?
   b. What are the relevant sectors that must be monitored to ensure compliance, and what are their relevant oversight bodies (e.g. Ministry of Health, anti-corruption agencies)?
to follow the procedures of the national policymaking process, or until that is possible,
  b. include in that longer-term plan a shorter-term plan for the steps needed to follow the national policy
  amendment process.

3. Guiding questions:
  a. At what level should each Recommendation be implemented (law, implementing regulation or administrative policy)?
  b. What are potential loopholes (language, scope) to look for and avoid in these legal measures?
  c. What legal measures should be referenced in the policy?
  d. What should the structure and powers of the oversight body be?
  e. If it’s an interagency committee, what are the relevant government entities that should be included? How often should it meet, etc.?  
  f. How will this initiative be financed?
  g. Platform for engaging civil society/the public?
  h. Which Recommendations could be strengthened or adopted by modifying existing laws and policies?

4. Outcome: A framework that details what is needed to pass this law, implementing regulations and policies for comprehensive implementation of Article 5.3, including a step-by-step plan to get there.

PHASE 3 - IMPLEMENTATION

STAGE 5 - ENACT LEGAL MEASURES

1. Objective: Comprehensive implement all remaining Recommendations through legislation, regulations, and policies to ensure all government bodies and personnel at all levels of the government are protected from tobacco industry interference.

2. Process: Following the plan you have devised, initiate and follow the national policymaking process. For example:
  a. Draft and enact (primary) legislation to implement all Article 5.3 Recommendations to the fullest extent possible (including CFO engagement, oversight and enforcement), creating an overarching legal framework under which further legal measures (subsidiary implementing regulations and policies) can be enacted.
  b. Draft and enact regulations (also called secondary or policies include:
   a. Create a long-term plan that details the steps needed
directives and other instruments with legal force and effect to provide detailed procedures and processes to be followed for government bodies and personnel at national and subnational levels, as well as the tobacco industry. Relevant issues to be addressed in regulations or policies include:
   i. Code of conduct for government officials.
   ii. Conflict of interest disclosure forms.
   iii. Recording and publicizing engagements.
   iv. Managing requests for engagement from the tobacco industry.
   v. Approval processes for interaction between the government and the tobacco industry.

3. Guiding questions:
  a. Which provisions in the overarching law require further clarification to implement successfully?
  b. What kind of details and language in these policies are necessary to avoid loopholes that could be exploited by the tobacco industry?
  c. Which policies can be implemented on the national level, applicable to all government bodies at the national and subnational level?

4. Toolkit:
   a. Law:  
      i. Factsheet 6 of the Union’s Article 5.3 Implementation Toolkit.

Endnotes for Table: Case Studies in Article 5.3 Implementation