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## THE DYNAMICS OF INDONESIA'S REJECTION OF THE FRAMEWORK CONVENTION ON TOBACCO CONTROL (FCTC) RATIFICATION: A TWO-LEVEL GAMES THEORY ANALYSIS

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### **Abstract**

*This paper will examine the reasons why Indonesia has not ratified the Framework Convention on Tobacco Control (FCTC) into its Tobacco Control policy in Indonesia. Indonesia is one of the largest tobacco producing countries in the world with a large number of smokers and a large tobacco industry. A study by the Indonesian Ministry of Health found that tobacco-related deaths increased from 190,260 in 2010 to 240,618 in 2013. Initially, Indonesia was one of the 20 full drafting members for the formation of the FCTC since its initial formulation in 1996. However, until now Indonesia has become one - the only country in Southeast Asia that has not ratified the Framework Convention on Tobacco Control (FCTC) into its Tobacco Control policy in Indonesia. Using Robert Putnam's Two Level Games Theory, the aim is to see the interaction between level I (international level) and level II (domestic level). The research results show that the Indonesian government did not ratify the FCTC because the level II win-set size was small and did not overlap. Clearer national economic considerations for the tobacco sector as well as strong lobbying from related interest groups are the main factors in rejecting ratification. Therefore, this paper seeks to explain the research question: "Why does Indonesia not ratify the Framework Convention on Tobacco Control (FCTC)?" This research uses secondary data collection methods, namely through books, journals and documentation.*

*Keywords: FCTC, Indonesia, Tobacco Control policy.*

### **Abstrak**

Tulisan ini akan mengkaji alasan Indonesia tidak meratifikasi *Framework Convention on Tobacco Control* (FCTC) kedalam kebijakan *Tobacco Control* di Indonesia. Indonesia merupakan salah satu negara penghasil tembakau terbesar di dunia dengan jumlah perokok dan industri tembakau yang besar. Sebuah studi oleh Kementerian Kesehatan Indonesia menemukan bahwa kematian terkait tembakau meningkat dari 190.260 pada tahun 2010 menjadi 240.618 pada tahun 2013. Pada awalnya Indonesia menjadi salah satu dari 20 *drafting member* penuh pembentukan FCTC sejak awal perumusannya pada tahun 1996. Namun hingga saat ini Indonesia menjadi satu-satunya negara di Asia Tenggara yang belum meratifikasi *Framework Convention on Tobacco Control* (FCTC) kedalam kebijakan *Tobacco Control* di Indonesia. Menggunakan *Two Level Games Theory* Robert Putnam, bertujuan untuk melihat interaksi antara level I (tingkat internasional) dan level II (tingkat domestik). Hasil penelitian menunjukkan bahwa Pemerintah Indonesia tidak meratifikasi FCTC karena ukuran *win-set* level II yang kecil dan tidak tumpang tindih. Lebih jelasnya pertimbangan ekonomi nasional dari sektor tembakau serta lobi kuat dari kelompok kepentingan terkait menjadi faktor utama penolakan ratifikasi. Oleh karena itu tulisan ini berupaya menjelaskan pertanyaan penelitian: "**Mengapa Indonesia tidak meratifikasi *Framework Convention on Tobacco Control* (FCTC)?**". Penelitian ini menggunakan metode pengumpulan data sekunder yaitu melalui buku, jurnal dan dokumentasi.

Kata Kunci : FCTC, Indonesia, kebijakan Pengendalian Tembakau.

## 1. Introduction

Indonesia is a country listed in the 10 countries with the largest tobacco production in the world. In addition, Indonesia is one of the countries with the highest cigarette consumption rate and the largest cigarette industry in the world. Tobacco has been considered to have an impact on health, the death rate due to smoking in Indonesia has reached 57,000 people each year and 4,000,000 deaths in the world each year. By 2030 it is estimated that the death rate in the world due to tobacco consumption will reach 10,000 people per year, about 70% of which occur in developing countries including Indonesia (Ode, 2023). Other health data also shows that one in eight people who die is due to non-smokers, or at least about 25,000 deaths are passive smokers. Premature deaths experienced by half of the number of smokers in Indonesia will have an impact on the relative reduction of the labor force, which in the long run has an important impact on the economy due to the reduction in income (Data and Information Center of the Ministry of Health of the Republic of Indonesia, 2013).

However, based on this, until now Indonesia is the only country in Southeast Asia that has not ratified the *Framework Convention on Tobacco Control* (FCTC) (Hikmahanto Juwana, 2016) and only 8 WHO member countries have not ratified and not signed the FCTC, including Indonesia (Kemenkes RI, 2013). Historically, the FCTC was initiated in 1996, then followed up in 1999 by establishing the *Intergovernmental Negotiating Body* (INB) as a negotiating space to draft the WHO FCTC text. This process involves 192 WHO member countries, including Indonesia, which is listed as one of 20 countries with full drafting member status (Saly, 2011). Indonesia's active involvement was also shown when Indonesia hosted the INB WHO FCTC in 2001 which resulted in the Jakarta Declaration (Faiz, 2019).

The Framework Convention on Tobacco Control (FCTC) is an international agreement prepared by the World Health Organization (WHO) to address global health problems related to tobacco use. This agreement was adopted in 2003 and is the foundation for joint efforts of countries around the world to control the negative impacts of tobacco. The FCTC is designed to combat adverse tobacco epidemics, such as heart disease, cancer, and lung diseases caused by tobacco consumption. The agreement provides a comprehensive framework, covering a wide range of aspects, from tobacco production and distribution control to public health promotion and health warnings on tobacco products (FCTC, 2009).

The FCTC (2009) also emphasized the importance of international cooperation in addressing global challenges faced by countries in controlling tobacco. The agreement demonstrates a shared commitment to counter the tobacco industry, which often has economic interests that are at odds with public health. The FCTC has a significant impact on economic and political aspects, especially in the context of the tobacco industry. This agreement could present challenges for countries that depend on tobacco production and exports. The tobacco industry is often one of the main economic sectors for some countries, and the FCTC can trigger changes in their policies and economic structures. Changes in policies related to tobacco production, distribution, and promotion mandated by the FCTC may affect employment and income related to the tobacco industry. Countries that are highly dependent on this sector may experience negative economic impacts, while countries with economic diversification may have an easier time adapting (Janet Chung-Hall, Lorraine Craig et al, 2019).

On the other hand, in Indonesia, excise revenue is one of the important components in the Indonesian State Budget (APBN). As of July 2024, the Ministry of Finance (Kemenkeu) reported an increase in excise revenue, albeit in a relatively small percentage compared to

the same period the previous year. Minister of Finance, Sri Mulyani Indrawati, explained that excise revenue has reached IDR 116.1 trillion, growing slightly by 0.5% *year on year* (YoY). However, this realization only reached 47.2% of the 2024 State Budget target. Excise on tobacco products (CHT) or cigarette excise is the largest contributor to Indonesia's excise revenue. As of July 2024, revenue from CHT was recorded at IDR 111.3 trillion, growing only 0.1% YoY. This minimal growth was influenced by increased production, especially in groups II and III. However, this slight growth reflects the challenges faced by the tobacco industry, including regulatory changes and excise tariff increases (Suryani Suyanto & Associates, 2024).

The tobacco industry has also provided opportunities for the absorption of labor in the cigarette industry directly, as well as associated labor in the cigarette trade sector, retailers and other non-formal (retail). In addition, it also supports tobacco farmers and clove farmers in various regions, which number in the millions. Based on data from the Ministry of Industry (2019), the total workforce absorbed by the cigarette industry sector is 5.98 million people, consisting of 4.28 million workers in the manufacturing and distribution sectors, and the remaining 1.7 million working in the plantation sector. In 2018, the export value of cigarettes and cigars reached USD 931.6 million, an increase of 2.98 percent compared to 2017 of USD 904.7 million.

The FCTC aims to protect public health, but concerns over its impact on state revenues from tobacco excise reflect Indonesia's economic dependence on the industry. Pressure to increase regulation and taxes on cigarettes could potentially reduce these revenues, even though public health remains a priority. Based on this, this paper asks the question: **"Why does Indonesia not ratify the Framework Convention on Tobacco Control (FCTC)?"**

## 2. Literature Review

The Framework Convention on Tobacco Control (FCTC) as a global tobacco control instrument has demonstrated significant impact across various ratifying countries. A comprehensive study conducted by Craig et al. (2019) examining 12 countries revealed that FCTC has successfully strengthened tobacco control policies, enhanced public awareness about smoking hazards, and facilitated shifts in social norms regarding tobacco use. These findings are further corroborated by Ahsan et al. (2022), who analyzed the relationship between FCTC ratification, smoking prevalence, and GDP per capita. Their study demonstrated that countries that ratified FCTC experienced more significant declines in smoking prevalence compared to non-ratifying nations, without adverse effects on GDP per capita growth.

In the Indonesian context, the implementation of tobacco control policies faces various complex challenges. Kramer et al. (2023) in their analysis found that Indonesia maintains inconsistent and relatively weak tobacco control policies compared to international standards. Their research identified misalignment between public health policies and economic policies related to the tobacco industry, reflecting the complexity of challenges in implementing effective tobacco control policies in Indonesia.

Indonesia's reluctance to ratify FCTC encompasses dimensions beyond mere economic considerations. Wibawa et al. (2023) provide a new perspective by highlighting state sovereignty as a primary factor. Their research reveals that Indonesia's position is more fundamentally based on national sovereignty principles and domestic interest considerations, where the government tends to prefer approaches tailored to local conditions in addressing tobacco-related issues. This approach is adopted with the consideration that FCTC ratification might restrict Indonesia's flexibility in formulating balanced policies

between public health and economic interests.

Furthermore, Subagyo and Primawanti (2022) discuss the long-term implications of FCTC non-ratification. They argue that while Indonesia's current approach may maintain short-term economic stability, it potentially poses greater public health challenges in the future. The high smoking prevalence among Indonesian adolescents and young adults may result in significant health and economic burdens in the long term, ultimately threatening the country's sustainable development. In conclusion, Indonesia's reluctance to ratify FCTC results from complex interactions among various factors, including economic, socio-cultural, political, and national sovereignty considerations. The Indonesian government tends to prefer a more flexible approach adapted to local context in addressing tobacco-related issues, rather than adopting international policy frameworks deemed potentially incompatible with Indonesia's national interests. Nevertheless, public health challenges posed by tobacco consumption remain crucial issues to address. Moving forward, Indonesia needs to continue seeking balance between public health protection and economic interests related to the tobacco industry. This may require a gradual approach and more intensive dialogue among various stakeholders to formulate effective and contextual tobacco control policies.

Based on findings from the above studies, it can be concluded that Indonesia's decision to not yet ratify FCTC is likely influenced by various complex factors, including short-term economic interests, tobacco industry influence, and lack of political will from policymakers. Nevertheless, evidence from other countries shows that FCTC ratification not only benefits public health but also does not generate significant negative economic impacts. For further research, in-depth analysis is needed regarding domestic dynamics influencing Indonesia's decision to not yet ratify FCTC. Additionally, evaluation of potential FCTC ratification impacts on Indonesian public health and economy needs to be conducted to provide scientific foundation for future policy-making.

Although existing literature has provided insights into factors influencing Indonesia's rejection of FCTC, in-depth discussion regarding domestic dynamics and the role of domestic actors such as tobacco farmers, TTCs, and political interest groups in influencing decision-making processes related to FCTC ratification remains insufficient. Research more focused on these domestic political dynamics would provide better understanding of internal barriers faced by the Indonesian government. Furthermore, deeper examination of how international pressure, whether from WHO, other countries, or international organizations, influences domestic policy discourse in Indonesia regarding tobacco control needs to be conducted. This is crucial for understanding the extent to which international pressure can change or influence Indonesian domestic policy.

### **3. Theoretical Framework: Two Level Game Theory**

To address the problem mentioned above, this paper will apply the two level game theory derived from Robert Putnam's paper, "Diplomacy and Domestic Politics: The Logic of Two-Level Games." Putnam observes that a country's signing and ratification of international conventions or agreements results from both domestic and international political considerations. This indicates a strong connection between domestic politics and international politics, resulting in what is known as foreign policy. Therefore, the author considers this theory highly appropriate for analyzing why Indonesia did not ratify the FCTC into its tobacco control policy framework.

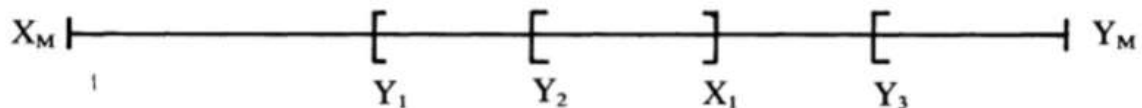
In two level game theory, the decision-making process consists of two levels. (Putnam, 1988). The First is level I (International level), which involves the bargaining process

between negotiators and international partners, ultimately leading to the agreement. The Second is level II (domestic level), where separate discussions take place between negotiators (country representatives) and constituent groups (domestic partners) regarding the deliberation on whether the agreement should be ratified. At the national level, domestic groups pursue their interests by pressuring the government to adopt beneficial policies, and politicians seek power by forming coalitions among these groups. At the international level, national governments seek to maximize their ability to meet domestic pressures, while minimizing the adverse effects of foreign development (Putnam, 1988). Decision-makers at the central level cannot ignore these two aspects as long as they remain interdependent and sovereign.

According to Putnam (1980), each party will be represented by a leader or "Chief Negotiator", and the individual does not have independent policy preferences but only seeks to achieve their own goals. However, in practice, the state does not play the role of a single actor in formulating foreign policy or ratifying an agreement. At the domestic level, many other actors will influence a country's foreign policy, including interest groups, political parties, legislators, etc. So, the decision-making process at level II will support the implementation or non-occurrence of agreements at level I.

In a series of arrangements at level I and level II, Putnam explained that it uses the win-set concept to determine the level of achievement of international treaty negotiations at two levels and its implications for the country's decision to ratify or not ratify an agreement. There are two points in this win-set concept. First, a larger win-set obtained by both countries makes a deal more likely. The agreement that was successfully established was a victory for Level II actors and each party in the negotiations. Second, the relative size of the win-set at Level II will affect the distribution of the shared benefits of the Level I negotiation process.

**Figure 1. Win-set mapping**



Source: (Putnam, 1988)

Putnam (1988) explained that  $Y_m$  symbolizes the maximum yield for Y, and  $X_m$  symbolizes the maximum yield for X. Then  $Y_1$  and  $X_1$  symbolize the minimum yield that can be ratified. At this stage, any agreement reached within the  $Y_1$  to  $X_1$  limits can be ratified by both parties. If the win-set Y changes from  $Y_1$  to  $Y_2$ , then the result of the agreement between  $Y_1$  and  $Y_2$  makes Y not ratify the agreement that has been agreed with X only if the result of the agreement is between Y and X, then Y will be able to ratify. However, if the Y win-set changes and shrinks again to  $Y_3$ , which is outside  $X_1$  (the area that X will agree on), then the negotiators will suddenly come to an impasse because the win-sets no longer overlap at all.

Putnam (1988) explained three determinant factors that formulate the size of the win-set formed. First, preferences and coalitions at Level II; second, the structure of political institutions or institutions at Level II; and finally, the negotiator's strategy at Level I affects the amount of win-set.

#### **4. Research Method**

This paper in answering research questions uses qualitative research methods and collection methods with documentation studies that refer to Christopher Lamont (2015) in the book *Research Methods in International Relations*. Archival and document-based research is the collection of data from official documents, original reports, documents or policy statements, legislation, media reports can be used to reference and analyze primary sources (Lamont, 2015). Internet based research, used to collect data from media sources, articles, journals, ebooks, and official websites of governments and international organizations (Lamont, 2015) involved in the issues discussed in this paper.

#### **5. Results and Discussion**

This section examines the rationale behind the Indonesian government's decision not to ratify the Framework Convention on Tobacco Control (FCTC) into its national tobacco control policy. To elucidate these reasons, the author will first analyze the 'win-sets' at both the domestic (Level II) and international (Level I) levels, which serve as the foundation for policy decision-making. The analysis will then focus on three predominant factors that shape the win-sets within the framework of two-level game theory. This approach allows for a comprehensive understanding of the complex interplay between domestic and international considerations in Indonesia's policy stance on tobacco control.

##### **5.1 Domestic Preferences and Coalitions in Indonesia**

Preferences and coalitions at Level II are one of the important indicators to determine the decision-making process of Indonesian domestic actors regarding the ratification of the FCTC. Furthermore, preferences and coalitions at Level II (domestic) are analyzed more deeply through the dominant actors who determine the non-ratification of the FCTC. The debate over FCTC ratification in Indonesia involves complex economic and political considerations: proponents argue for improved public health outcomes and enhanced international reputation, while opponents cite concerns over potential economic losses in the tobacco industry, a significant contributor to national revenue and employment. Politically, the government must balance international pressure for ratification against strong domestic lobbying from the tobacco industry and cultural resistance to stricter tobacco control measures. This tension reflects the challenging trade-offs between long-term public health benefits and short-term economic and political costs, highlighting the multifaceted nature of policy-making in tobacco control. To facilitate the analysis, the author will divide the dominant actors in the ratification of the FCTC agreement into pro and con groups.

##### **a. FCTC Counter-Ratification Group**

The dominant actors in voicing not to ratify the FCTC are the Ministry of Industry, the Ministry of Trade, the Ministry of Agriculture, tobacco farmers' associations and tobacco MNCs. For the Ministry of Industry, the Ministry of Trade, and the Ministry of Agriculture, the ratification of the FCTC is a big mistake because it will harm local tobacco farmers, threaten the national cigarette industry, hinder economic growth, and threaten national economic stability. These three ministries believe that the tobacco product industry and the national cigarette industry are the backbone of the national economy, which has so far supported a lot of national economic growth, especially increasing employment, improving

the economy of tobacco farmers, contributing taxes, and prospering the community.

Data from the Ministry of Industry (Kemenperin) recorded a growth in cigarette production of around 5%-7.4%/year. In 2016, it is estimated to increase by about 5.7%, namely to 421.1 billion sticks. In 2020, it is projected that production will reach 524.2 billion stems. Data from the Directorate of Plantations released in 2019 shows that the growth of Smallholder Plantations in the tobacco sector grew significantly over a three-year span (2016-2018) (Statistics of Indonesian Plantations in 2016-2018, 2019). The area of smallholder plantations in the tobacco sector in 2016 was available for 155,512 hectares which then grew to 184,992 hectares, then experienced significant growth during 2018 of 188,947 hectares. In addition, state-owned plantation data recorded a growth of 482 hectares in 2016 which then jumped significantly to 712 hectares in 2017 and 710 hectares in 2018. Meanwhile, regarding the workforce in the tobacco product industry sector as of 2019, the Ministry of Industry, the total workforce absorbed by the Tobacco Products Industry (IHT) sector is 5.9 million people, consisting of 4.28 million workers in the manufacturing and distribution sectors. Meanwhile, the remaining 1.7 million workers depend on their income in the plantation sector (Setiawan 2020).

A significant increase occurred in the production of Indonesian tobacco products from mid-2011-2018. The total cigarette production in 2018 was 332.38 billion cigarettes. This figure has far exceeded the target set in the Roadmap for the Production of Tobacco Products Industry in 2015-2020. Meanwhile, the 2015-2020 Tobacco Product Industry Production Road design map issued by the Ministry of Industry, regulates the production of cigarettes at a maximum of 260 billion cigarettes. Meanwhile, the production figures above greatly affect the value of Indonesia's exports. There was an increase in exports from 2011 to 2017 with the highest number of tobacco exports and imports occurring in 2017, with a total export of 29,134 tons. Indonesia is listed as the country with the fourth largest cigarette market share in the world along with the Philippines which is in the top nine of the global cigarette market.

According to FAO data in 2003, Indonesia occupies the 8th position as the world's largest tobacco producer. Indonesia is also the ASEAN country with the most cigarette exports at 31.5 billion sticks, overshadowed by Singapore and Vietnam at 27 billion sticks and 23 billion sticks respectively. The advantage of this, for the government, is of course the potential to increase the state treasury is greater than other countries. Indonesia's government cash income from cigarettes is indeed the largest in the region, in 2015 reaching \$10.6 billion, compared to Brunei's \$196,000 (Tirto.id, 2018). Based on the data presented above, it can be seen that the tobacco products industry is one of the strategic industrial sectors for Indonesia's national economy. However, with the ratification of the FCTC, there is potential for the emergence of tobacco cartel practices in Indonesia. This is due to the FCTC's objective of controlling tobacco production, from farming to finished products. A set quota of tobacco production may lead to an imbalance, where if the number of smokers in a country is not proportional to tobacco production, the country may be forced to import tobacco leaves or finished cigarettes (Hikmahanto, 2016). This situation could potentially harm Indonesia, changing its position from an exporter to an importer.

The community opposing FCTC ratification is prominently represented by the Indonesian Tobacco Farmers Association (APTI - Asosiasi Petani Tembakau Indonesia), a national organization advocating for the interests of tobacco farmers across Indonesia. APTI views FCTC ratification as a critical threat to local tobacco farmers' livelihoods and consistently engages in policy debates related to tobacco regulation. Their efforts are bolstered by national cigarette corporations, represented by the Association of Indonesian Cigarette Manufacturers (GAPRI - Gabungan Perserikatan Pabrik Rokok Indonesia), an



industry group comprising major cigarette producers in Indonesia (Faiz,2019). GAPRI opposes FCTC ratification due to concerns about potential harm to the national cigarette industry and job losses in the sector.

The narrative of disagreement extends beyond these industry groups to include various stakeholders. Members of the Indonesian parliament, representing diverse political interests, have also voiced opposition. Additionally, several non-governmental organizations (NGOs) have joined the debate, though their positions vary. Some NGOs, focused on economic development and labor rights, align with APTI and GAPRI in opposing ratification. Others, particularly those dedicated to public health, support FCTC ratification. This complex landscape of opposing voices, as noted by Faiz (2019), illustrates the multifaceted nature of the FCTC ratification debate in Indonesia, encompassing economic, political, and social dimensions (Faiz, 2019).

The position of the clove cigarette industry which is highly threatened by the discourse of FCTC ratification is caused by the content of clove cigarettes which will violate several articles of the FCTC, namely articles 9 and 10. In the implementation guidelines, articles 9 and 10 prohibit the use of any flavorings because they can increase the attractiveness of cigarettes. In fact, kretek cigarettes use cloves and sauces that are used to add flavor and differentiate between regular and conventional cigarettes. Keep in mind, according to WHO, kretek is the most favored type of cigarette by 88.1% of smokers in Indonesia (Luetge, 2013). Therefore, the tobacco industry will do anything including lobbying the government to suppress tobacco control policies or not to ratify the FCTC in Indonesia.

#### **b. FCTC Ratification Pro Group**

Several groups influence Indonesia's policy on ratifying the Framework Convention on Tobacco Control (FCTC), including activists and health-related associations. Specifically, the Indonesian Doctors Association and various public health communities support this ratification (World Health Organization, 2020). The Ministry of Health plays a crucial role in advocating for the FCTC's ratification. For the Ministry, ratifying the FCTC is essential for Indonesia's progress, resilience, and prosperity, which are underpinned by robust public health standards and superior human resources (Ministry of Health of the Republic of Indonesia, 2021). The Ministry of Health believes that ratifying the FCTC will yield numerous benefits, particularly in the areas of human health, public health, and human resources. In terms of human health, ratification can lead to a reduction in smoking-related diseases, such as lung cancer and cardiovascular diseases, resulting in increased life expectancy (Marmot et al., 2012). In the realm of public health, ratification can strengthen public health initiatives, such as anti-smoking campaigns and improved access to cessation programs, which can lower smoking rates (WHO, 2019). Furthermore, developing a healthier workforce will contribute more effectively to the economy, as healthier individuals tend to have higher productivity levels (Bloom et al., 2011). To achieve these goals, the Ministry of Health is actively working to persuade the government to ratify the FCTC.

The Minister of Health of the Republic of Indonesia, dr. Nafsiah Mboi, is earnestly trying for Indonesia to accede to the Framework Convention on Tobacco Control (FCTC), a global agreement to overcome the adverse effects of tobacco that crosses national borders. There are four fundamental reasons that encourage these efforts (Ministry of Health, 2013); The first is the aspect of Human Rights (HAM) that every individual has the right to life and the highest degree of health. The government is obliged to protect the public from things that threaten these rights, including smoking which clearly threatens health. Second, the legal aspect based on Health Law No. 36 of 2009 states that substances in cigarettes are

addictive substances that need to be regulated. In addition, there is already an international agreement on the regulation of addictive substances, so Indonesia should accede to the guidelines. The third aspect of International Relations is that Indonesia is considered a leader in global health issues, but it is the only country that has not yet acceded to the FCTC. This is contrary to Indonesia's image as the chair of the meeting of the Organization of Islamic Cooperation (OIC) countries, where only Indonesia and Somalia have not ratified the FCTC. And the latest in terms of economics, many smokers come from the lower middle class, while the cost of treating diseases due to smoking is very expensive. This will be a huge economic burden for the country, especially when Indonesia runs the National Health Insurance (JKN) program. For these reasons, the Indonesian Minister of Health encourages Indonesia to immediately ratify the FCTC, which is an international agreement to protect current and future generations from the adverse effects of tobacco consumption.

In addition, pro-ratification community groups, such as IDI, for example, are very persistent in urging the government through various mass media and social media, including creating public opinion so that the government immediately ratifies the FCTC. In fact, this form of aspiration is also carried out through rallies, demonstrations and various other social actions that invite public attention. One of the quotes from health activists and core administrators of IDI is Daeng M Faqih, about the ratification of the FCTC, in one of the webinars as follows:

*The most important thing is that all parties must encourage the government to ratify the FCTC as a commitment to protect the nation's future generations. The FCTC is a form of global commitment to tobacco use. The current cigarette industry is very dangerous to public health, both conventional cigarettes and electronic cigarettes (vapes) that must be the concern of all parties. Therefore, please ask the government to seriously consider ratifying the FCTC.*

Professor Doctor Anhari Achadi, Professor of the Faculty of Public Health, University of Indonesia and one of the designers of the Framework Convention on Tobacco Control (FCTC), through the National Commission on Tobacco Control, has responded to several myths related to the FCTC.

First, the assumption that the FCTC will cause mass layoffs is unfounded. In fact, many small cigarette factories have closed even though the FCTC has not been ratified. This is due to competition with large factories and mechanization to meet increased production targets. The production trend has also shifted towards Machined Kretek Cigarettes (SKM) which are less labor-intensive than Hand Kretek Cigarettes (SKT). Data from the Central Statistics Agency in 2005 shows that the number of workers in the cigarette industry reached 259,000 people with wages of about 62% of the wages of workers in other industrial sectors.

Second, the myth that the FCTC will threaten the existence of tobacco farmers is a misleading narrative. The FCTC's main goal is to protect health, not to stop tobacco farmers' livelihoods. In fact, most of the tobacco needs for cigarettes in Indonesia are met through imports. The FCTC aims to gradually reduce the demand for cigarettes, especially among the younger generation, rather than stopping the supply of tobacco farming or factory production.

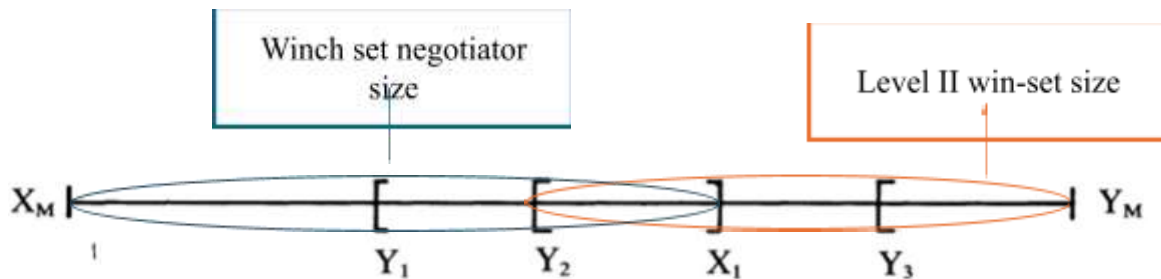
Third, the assumption that accession to the FCTC will limit Indonesia's freedom to determine its own policies is not appropriate. Professor Achadi emphasized that there are several protocols that must be agreed upon by member countries, such as regulations on cross-border cigarette advertising in the media. If Indonesia does not sign the FCTC, the country will lose the opportunity to influence global policy and only become a target for

foreign cigarette corporations.

Fourth, even though Indonesia already has tobacco control regulations, the FCTC is still needed because Indonesia is part of the international community. FCTC membership allows for cooperation between countries in various aspects, including regulating the use of pesticides by tobacco farmers and sharing experiences on alternative cultivation. In addition, in the context of the Sustainable Development Goals (SDGs), the FCTC is one of the means of implementation (Goal 3, MoI 3A).

Finally, Professor Achadi emphasized that the main objective of the FCTC, in accordance with Article 3, is to protect current and future generations from the negative impacts of tobacco product use and exposure to cigarette smoke on health, social, environmental, and economic conditions. The FCTC aims to control the use of tobacco products in all their forms.

**Figure 2. Win-set size based on Domestic Preferences and Coalitions**



Source: Processed by the Author

On the basis of the above explanation, the current win-set position is in the  $Y_2$  position, which means that there is still an overlap with the size of the negotiator's win-set in the  $X_1$  position. This means that FCTC ratification based on the size of the win-set preferences and domestic coalitions can occur. The pros and cons of the FCTC ratification group has strong reasons and data to influence the Indonesian government in ratifying the FCTC.

## 5.2 Domestic Institutions in Indonesia

According to Putnam, level II institutions consist of ratification procedures and the amount of government autonomy from domestic pressure. The procedure for ratifying an international framework of agreement in Indonesia is carried out by members of the legislative council or the House of Representatives, through a voting mechanism with a majority vote system. This stage emphasizes more on how the ratification procedure carried out by the government to give birth to a policy, whether it must be by issuing a law or sufficiency with a ministerial regulation and so on. The amount of government autonomy from domestic pressure emphasizes how much the government takes policies independently, without any outside interference.

The FCTC ratification procedure in Indonesia involves the House of Representatives Commission 1 with the scope of duties in the fields of defense, foreign affairs, communication and informatics, and intelligence using a majority voting mechanism. This means that the government must get the support of the majority of DPR members to ratify the FCTC. According to Law Number 24 Year 2000 on International Agreements, Article 10 paragraph (2) states that:

Ratification of international treaties is carried out by law when it comes to:

- a. political, peace, defense, and security issues of the country;
- b. changes in the territory or determination of the territorial boundaries of the Republic of Indonesia;
- c. sovereignty or sovereign rights of the state;
- d. human rights and the environment;
- e. the establishment of new legal rules;
- f. foreign loans and/or grants."

Since the FCTC is an international treaty related to the environment and human rights (the right to health), its ratification must be carried out by legislation involving the approval of the House of Representatives. This was confirmed by Maruarar Siahaan, Director of International Law at the Indonesian Ministry of Foreign Affairs, in an interview with Tempo media in 2018, who stated:

*To ratify the FCTC, the government must make a bill (Bill) to be submitted to the House of Representatives. The House of Representatives will discuss it later and if approved, then the FCTC can be ratified.*

Thus, to be able to ratify the FCTC, the Indonesian government must first submit a bill to the House of Representatives, and then get the majority vote support of the members of the House of Representatives to pass the ratification law. However, in the process, it is likely to face challenges due to the strong influence of domestic groups such as the tobacco industry that oppose ratification. In Indonesia, there is a common assumption that the cigarette industry has a strong relationship with public officials. In Tandilittin and Luetge, the Southeast Asia Tobacco Control Alliance (SEATCA) stated that this was caused by the rise of the cigarette industry which sponsored legislative candidates in the elections. In an interview, the Director General of Disease Control and Environmental Health of the Ministry of Health, Tjandra Aditama, stated that cigarette company owners in Indonesia have a very good political network. SEATCA reinforced this statement by releasing the Tobacco Industry Interference Index in 2015 (SEACTA, 2015). In the report, Indonesia is the ASEAN country that has the highest score in cigarette industry intervention in its decision-making.

SEATCA noted that in Indonesia, the government allows the cigarette industry to sit in public health policy negotiations. This is reflected in the invitation of the cigarette industry by the Ministry of Health in the negotiation of government regulations regarding pictorial health warnings and advertising bans. In the negotiations, the cigarette industry rejected the advertising ban and the government finally decided to reduce the size of cigarette billboards. In addition, Indonesia accommodated requests from the cigarette industry to postpone or extend regulations related to tobacco control rules. This is related to the implementation of Government Regulation Number 109 of 2012. Supposedly, the regulation has been effective since June 24, 2014. However, the government gave an additional two months (August). Finally, this regulation was only really effective in December 2014.

In addition, it also accepts and supports legislation designed with the cigarette industry. The high Intervention Rate Index is also contributed by the habit of top officials who establish relationships with cigarette industry players by attending social functions and events held or sponsored by cigarette companies. SEATCA considers that this is due to the absence of a written or unwritten policy that prohibits the contribution of the cigarette industry or other entities representing it to advance its interests to political parties or its candidates. Regarding the FCTC, in November 2014 Bentoel Group President Director Fitzgerald Murphy met with Industry Minister Saleh Husein to express his concern about clove cigarettes that could disappear due to wrong policies. Lobbying was also carried out by the President of PT HM Sampoerna PT HM Sampoerna Tbk proposed that the Tobacco

Products Excise (CHT) tariff and Retail Selling Price (HJE) for Hand-Rolled Clove Cigarettes (SKT) or cigarettes rolled directly by workers not increase in 2021. This is because the excise tax increase will have an impact on labor in the cigarette industry (CNN, 2020).

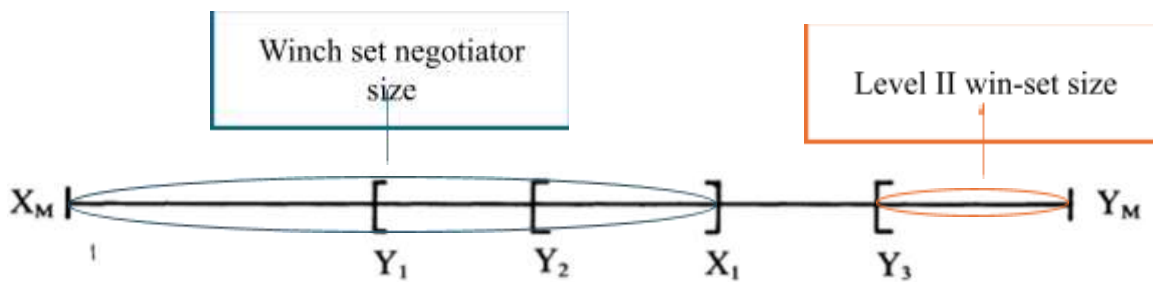
Decision-makers in parliament, especially Commission IX of the House of Representatives, partially rejected the ratification of the FCTC. One of the members of the House of Representatives who is very persistent in defending tobacco farmers from the threat of FCTC ratification is Misbakhun. Misbakhun has always refused to ratify the FCTC on the grounds that it will harm local tobacco farmers, threaten the domestic market because of the flood of foreign cigarette products, and have the potential to kill the national cigarette industry that has existed for generations.

The stance of this member of the House of Representatives is inseparable from the experience, history, and values that exist in him since he was born as a child of tobacco farmers. This background affects his ways of thinking and behaviors in looking at the tobacco product industry, so it is entirely rational to refused the ratification of the FCTC. One of the excerpts from the interview with Misbakhun in a webinar event organized by Unjani Cimahi is as follows:

*The Tobacco Products Industry (IHT) is an ancestral heritage that must be preserved and defended from Western global threats, especially the ratification of the FCTC. Millions of people depend on the tobacco sector and the cigarette industry for their livelihoods, so the decision to ratify the FCTC is a big mistake and is not based on the national interest. The FCTC is a global tool of the West to control the national tobacco industry and the national cigarette industry, so it must be watched out for and the government must be careful and on the side of the people and national interests in responding to the pros and cons of FCTC ratification. The tobacco sector and the cigarette industry sector have contributed a lot to state revenue and have also become the social, cultural, and national identity. Don't let it be damaged and destroyed because of the FCTC's ratification policy.*

Based on the presentation of the Level II institution above, the size of the Level II win-set is at Y3 or there is no overlap with the size of the negotiator win-set at X1. Because the ratification procedure carried out must go through the legislature using the majority voting mechanism. Which is an obstacle that is influenced by interest groups such as the cigarette industry which sponsors legislative candidates in the election. Making Indonesia an ASEAN country that has the highest value in cigarette industry intervention in its decision-making. Interest groups in the cigarette industry will be seriously threatened if the FCTC is ratified into the framework of tobacco control policy in Indonesia. Therefore, the size of the Level II win-set can be illustrated as shown in Figure 3.

**Figure 3. Win-set size based on Domestic Institutio**



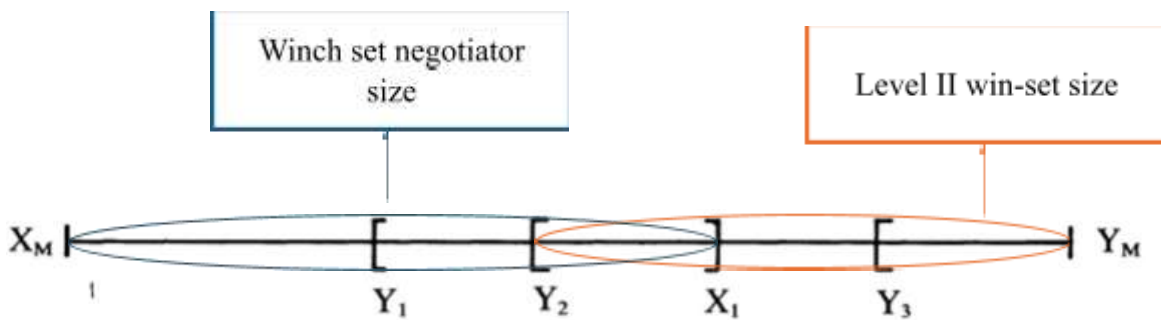
Source: Processed by the Author

### 5.3 Indonesia's Negotiation Strategy at the International Level

The FCTC was initiated in 1996, then followed up in 1999 by forming the Intergovernmental Negotiating Body (INB) as a negotiating space to design the WHO FCTC text. This process involves 192 WHO member countries, including Indonesia, which is listed as one of 20 countries with full drafting member status (Saly, 2011). Indonesia's active involvement was also shown when Indonesia hosted the INB WHO FCTC in 2001 which resulted in the Jakarta Declaration (Faiz, 2019). On May 21, 2003, the FCTC text complete with 11 chapters and 38 articles was adopted by acclamation at the 56th session of the World Health Assembly (WHO's highest decision-making forum). Then from June 16, 2003 to June 29, 2004, the agreement entered the signing phase and on February 27, 2005 the WHO FCTC officially came into force (Saly, 2011). Indonesia, along with other countries, played an important role in the initial formulation of the WHO FCTC. This shows the common interest in health and tobacco control aspects that formed the basis of the FCTC. During the period 2000-2003, Indonesian representatives actively participated in six Intergovernmental Negotiating Body (INB) meetings and the Southeast Asian Inter-sessional Consultation. One of the important outcomes of this involvement was the holding of a meeting in Jakarta which resulted in the “Jakarta Declaration” in June 2011. The Indonesian delegation team consisted of various government agencies, including the Ministry of Health, Food and Drug Administration (BPOM), Ministry of Finance, Ministry of Trade and Industry, and Geneva-based representatives of the Ministry of Foreign Affairs (Pambudi, 2021).

This shared interest is reflected in the awareness and need for legal instruments at the international level to answer various needs and problems related to the tobacco epidemic. The expectations between actors to achieve the agreed common goals are facilitated by the existence of FCTC general obligations which are binding for participating countries that have signed and ratified the convention (Pambudi, 2021).

Figure 4. Win-set size based on Negotiator Strategy



Source: Processed by the Author

The size of the level II win-set is at  $Y_2$  or there is an overlap of the win-set with the negotiator at Level I. This means that the negotiator's strategy to make the ratification of the FCTC at level I initially possible because Indonesia supports and contributes to the formation of the WHO FCTC.

However, after going through a series of auditions to the stage of discussing academic texts on laws and regulations at the domestic level, Indonesia finally chose to cancel its participation in the signing of the WHO FCTC in New York in 2003. There are several articles in the FCTC that will burden Indonesia if Indonesia ratifies the FCTC in the future. As stipulated in articles 6-7 of the FCTC which regulates tobacco control policies from the demand side (Pambudi, 2021). It is stated in the article, tax and price policies, as well as non-prices to reduce demand for tobacco, will be in the form of a policy of increasing taxes and excise as a way to increase the price of cigarettes. In fact, the policy of increasing tobacco taxes or excise will have direct implications for the bankruptcy of small industries. Tobacco excise, to note, is the largest cost component in the tobacco industry that must be paid before producing.

Then in articles 9-10 of the FCTC which regulates rules and disclosure to the public. According to Salamuddin, the content/composition of tobacco products can be a burdensome regulation for the tobacco home industry. In addition, article 17 of the FCTC on controlling the supply side of tobacco through alternative economic activities is an article that has so far attracted protests from national tobacco farmers (Independent Republic, 2013).

In the negotiator strategy, there are two important elements, namely side payment and generic goodwill (Putnam, 1998). Side payment is a way to increase the size of the win-set by seeking support from marginal supporters and the amount is calculated according to the marginal contribution that allows for ratification. In other words, the government will provide good treatment or offers to marginalized supporters which of course in the hope that they will increase the win-set and lead to a great opportunity for ratification. Meanwhile, generic good will is the all-purpose glue for the coalition to enlarge the win-set, although it does not guarantee the ratification process at Level I. Marginal supporters will submit all decisions for several reasons, perhaps because they do not understand the substance or the negotiator is the supreme political leader and follows whatever is decided by making public opinion.

In this FCTC ratification issue, the use of the side payment strategy is not a mainstay strategy for negotiators. If in the previous explanation the use of this strategy was to attract marginal supporters to enlarge the win-set and facilitate ratification, then in this case there are no marginal supporters. This is because at the retaliation stage it is already under the full control of the government, namely not ratifying the FCTC into the framework of tobacco

control policy in Indonesia. According to Putnam (1988), negotiators will actually face dilemmas both in efforts to reach agreements at level I and ratification efforts at level II. If negotiators show commitment at level I by rallying support from domestic constituents, this action can actually thwart ratification efforts at level II because they are considered less committed to national interests.

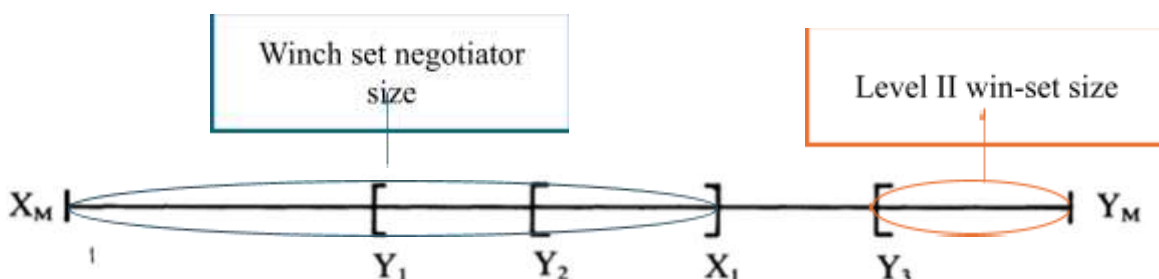
In terms of good will, the Government has done several things in an effort to receive the votes of interest groups that are pro-FCTC ratification by making national regulations on tobacco control that are adopted directly from the FCTC. Therefore, the actors involved will then submit their decisions to the President. The President, as the representative negotiator at the first level of negotiations, experienced a functional conflict or was trapped among domestic constituents: Ministries and interest groups such as community movements, tobacco MNCs and tobacco farmer groups.

In addition, the DPR plays a crucial role in the ratification process of international treaties, including the FCTC, as their approval is required to ratify the treaty. This adds a layer of complexity to the decision-making process and reflects the broader political dynamics in Indonesia. Differing views and interests between the executive and legislature can affect the ratification process, with various interest groups lobbying both the President and members of the DPR, creating pressure from multiple directions.

As a result, the President needs to negotiate with the DPR to gain support for FCTC ratification. This process could involve compromises or policy adjustments to accommodate legislative concerns. Interactions between the President and the DPR in the context of the FCTC can also influence the formation of domestic tobacco control policies, including discussions on tobacco-related laws and regulations. Achieving consensus between the executive and legislature on the FCTC can be challenging, reflecting the complexity of the issue in Indonesia and adding an important dimension to the functional conflict faced by the President as the primary negotiator at the first level of negotiations.

On June 14, 2016, President Joko Widodo took a stand on the World Health Organization's Framework for Tobacco Control (FCTC). In a limited meeting, the President told ministers that Indonesia would not accede to or sign the FCTC just because it was following the trend, the statement read, "There are already 192 countries in the world that have ratified the FCTC. We don't want to just follow the trend or because many countries have ratified the FCTC. We must really look at Indonesia's national interests" (Tempo, 2020).

**Figure 5. Win-set size not ratified by FCTC**



Source: Processed by the Author

Thus, the size of the level II win-set is only  $Y_3$  or there is no overlap with the size of the negotiator's win-set in Level I. This means that although initially the negotiator's



strategy made the ratification of the FCTC at level I possible because Indonesia is one of the 20 full drafting members of the establishment of the FCTC since its inception in 1996. However, due to several things that have been explained earlier, namely that all actors involved in this agreement will finally submit their decisions to the President as the chief negotiator. Where President Joko Widodo chose not to ratify the FCTC. Therefore, the size of the Level II win-set can be illustrated as shown in Figure 5.

## **6. Conclusion**

Indonesia has still not ratified the Framework Convention on Tobacco Control (FCTC) into tobacco control policies in Indonesia. The decision not to ratify the FCTC was analyzed using Robert Putnam's Two Level Games Theory.

At Level II, domestic preferences and coalitions indicate that the win-set size is at the Y2 position, where there is an overlap of win-sets that allows for FCTC ratification. This condition occurs because the pros and cons of FCTC ratification have strong reasons and data to influence the Indonesian government in ratification. However, in terms of domestic political institutions, the size of the win-set is only in the Y3 position, which means that there is no overlap of win-sets. This condition is due to the ratification procedure that must involve the House of Representative with a majority voting mechanism, where the House itself faces strong intervention from the cigarette industry in decision-making, which ultimately becomes an obstacle to FCTC ratification. Meanwhile, at Level I, initially as one of the countries that drafted the FCTC, Indonesia's negotiation strategy at the international level allowed Indonesia to ratify the FCTC. However, several articles in the FCTC burden Indonesia. Then Indonesia's negotiation strategy at the international level does not use side payments, but uses generic good will, where other actors tend to follow the President's decision in rejecting the ratification of the FCTC.

Thus, Indonesia did not ratify the FCTC because of the small size of the Level II win-set and does not overlap with the Level I (international) win-set. Consideration of the articles in the FCTC which will later burden the national economy from the tobacco and cigarette sectors as well as strong lobbying from related interest groups are the main factors in the rejection of ratification.

Given these significant implications, it is recommended that Indonesia carefully reconsiders its position on the FCTC. While protecting short-term economic interests is understandable, a balanced approach that prioritizes long-term public health, maintains international reputation, and leverages global cooperation opportunities could be more beneficial. Indonesia should explore ways to gradually align its tobacco control policies with FCTC standards, even without immediate ratification, to address public health concerns while mitigating economic impacts. This approach could involve phased implementation of tobacco control measures, increased investment in alternative economic opportunities for tobacco-dependent communities, and continued engagement in international health forums to demonstrate commitment to global health objectives. By doing so, Indonesia can work towards a more sustainable balance between economic interests and public health imperatives, potentially paving the way for future FCTC ratification when domestic conditions are more favorable.

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