



Measures to Control the Tobacco Supply Chain in the ASEAN

A review of excise tax stamps,
track and trace mechanisms,
and licensing systems in the ASEAN region

July 2014



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- Ministry of Finance (Lao PDR)
- Ministry of Health (Malaysia)
- Bureau of Internal Revenue, Department of Finance (Philippines)
- Health Promotion Board (Singapore)
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The development of this paper would not be possible without the tools, support, and guidance provided by Southeast Asia Tobacco Control Alliance (SEATCA).

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Table of contents

Acknowledgments	1
Executive Summary	2
List of Tables/ and Images	3
Acronyms	4
I. Introduction	5
II. Objectives of the Paper	5
III. Limitations	6
IV. Literature review	6
V. Tax stamps/ track and trace system/licensing system available in the world	10
VI. Tax stamps/ track and trace system/licensing system available in the SEA Region	13
VII. Conclusion	22
VIII. Policy Recommendations	22
IX. Tables	24
X. References	29

Acknowledgments

We would like to express our gratitude for the contributions of the following individuals, organizations, and government agencies:

Brunei Darusalam

Dr. Annie Rahman,
Acting Director of Environmental Health Services, Ministry of Health

Cambodia

General Department of Taxation, Ministry of Finance

Indonesia

Abdillah Ahsan,
Associate Director for Research and Training, Demographic Institute,
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Lao PDR

Ministry of Finance

Malaysia

Poh Keong Ooi,
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Philippines

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Thailand

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Vietnam

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Deputy Head, Macroeconomic Department, University of Commerce

We would also like to thank Melanie Pinlac for her excellent research contributions and coordination with the resource persons.

All omissions are the responsibility of the authors.

Executive Summary

Elimination of illicit trade is an important component of global tobacco control. This has been recognized at the Fifth Meeting of the Conference of Parties to the FCTC when Parties adopted the Protocol to Eliminate Illicit Trade in Tobacco Products to prevent the undermining effect that illicit trade has on price and tax measures, health objectives, and the economy.

This paper examines the implementation of key measures to control the supply chain and help in eliminating illicit trade in tobacco products in the ASEAN region, specifically, (1) excise tax stamps (2) tracing and tracing technologies, and (3) licensing systems.

Research and analysis show that there are varying degrees in the implementation of the measures to control the supply chain in the countries in the ASEAN. For example, most countries have some form of excise tax stamps to monitor payment of excise tax. But, the form and technology depends on the capability and the situation in each the country. Licensing systems are present in countries that participated in the research but the requirements do not cover all the commercial activities in the manufacture and distribution of tobacco. Most countries also do not have a tracking or tracing mechanism in place, which also identifies a need and a technical and financial gap that need to be addressed in order to fully comply with recommended measures to eliminate illicit trade.

It is our recommendation that countries in the ASEAN consider reviewing and revising their policies to address the gaps in implementation, strengthen enforcement of measures, and coordinate efficiently to address the issue of illicit trade in tobacco products.

List of tables and images

Tables

1. Summary of Tax Stamps in ASEAN
2. Summary of Track-and-Trace Systems in ASEAN
3. Summary of Specific Licensing Requirements in ASEAN

Images

1. Tobacco tax stamp in California
2. Canadian federal tax stamp
3. Tobacco tax stamp in Cambodia
4. Tobacco tax stamp in Indonesia
5. Tobacco tax stamp and security markings in Malaysia
6. New SDPC markings on individual cigarettes in Singapore
7. Imported Cigarette and Imported Cigar Stamps from Vietnam

The following acronyms appear frequently in this paper:

ASEAN	–	Association of Southeast Asian Nations
BAT	–	British American Tobacco
BIR	–	Bureau of Internal Revenue
EU	–	European Union
FCA	–	Framework Convention Alliance
FCTC	–	Framework Convention on Tobacco Control
GDT	–	General Department of Taxation
GDCE	–	General Department of Custom and Excise
GST	–	Goods and Services Tax
HSA	–	Health Services Authority (Singapore)
IRSIS	–	Internal Revenue Stamps Integrated System
ITL	–	Imperial Tobacco Limited
IGR	–	INTERPOL Global Register
ITP	–	Protocol to Eliminate Illicit Trade in Tobacco Products
JTI	–	Japan Tobacco International
NTA	–	National Tobacco Administration
PMI	–	Philip Morris International
PMFTC	–	Philip Morris Fortune Tobacco Corporation
RFID	–	Radio Frequency Identification
ROOPs	–	Revenue Officers on Premises
RYO	–	Roll-Your-Own Cigarette
SDPC	–	Singapore Duty-Paid Cigarette
SEATCA	–	Southeast Asia Tobacco Control Alliance
SEC	–	Security and Exchange Commission
TPD	–	Tobacco Products Directive
WHO	–	World Health Organization

I. Introduction

The World Health Organization Framework Convention on Tobacco Control (WHO FCTC) identifies elimination of illicit trade in tobacco products (Article 15) as an important measure of global tobacco control. In 2012, Parties to the WHO FCTC adopted the Protocol to Eliminate Illicit Trade in Tobacco Products (hereinafter, the Illicit Trade Protocol or ITP), which aims to prevent the illicit trade in tobacco products. Effective measures in the ITP include the establishment of a track-and-trace regime and efficient licensing requirements and procedures, the underlying objective being to control the supply movement of tobacco products.

Without effective measures to control the movement of tobacco products, the illicit market will proliferate because the huge profits involved provide the incentive to continue pursuing illicit activities. A number of policies need to be implemented to curb illicit trade; these include establishing a tracking and tracing mechanism and licensing the manufacturers, importers, retailers and other persons or companies involved in the tobacco business. A track-and-trace system will help prevent the diversion of tobacco products into the illicit market and the licensing system will help the government to track the supply chain of the tobacco industry and market.

In the ASEAN region, there is still a limited system and information on the above-mentioned issues making it necessary to review the current situation and provide recommendations to the countries in the region.

II. Objectives:

This paper aims to review the (a) excise tax stamps, (b) tracking and tracing technologies, and (c) licensing systems implemented by ASEAN countries for tobacco and tobacco products. Participating countries include Brunei, Cambodia, Indonesia, Lao PDR, Malaysia, Philippines, Singapore, Thailand, and Vietnam.

Specifically, the paper aims to answer the following questions:

1. What is the excise tax stamp system in place?
 - 1.1 Provide a description of the tax stamp technologies used.
 - 1.2 What is the cost of tax stamps to manufacturers/importers?

2. What track-and-trace mechanisms and technologies are currently being used in ASEAN countries?
 - 2.1 Are these required by law?
 - 2.2 Are these controlled by the industry or the government?

3. Is there a tobacco supply chain licensing system?

3.1 Who or what are licensed? For example: farmers, manufacturers/ importers of tobacco products/tobacco leaf/key inputs like manufacturing equipment and acetate tow/ wholesalers/distributors/ retailers

3.2 Who is the licensing authority? What are requirements to apply and be approved for a license?

3.3 What is the cost of a license?

III. Limitations

The research paper is limited by the available information, which were sourced from interviews and communication with resource persons from each country, news reports and information available on the internet.

IV. Literature Review

All countries in the ASEAN region, except Indonesia, are parties to the FCTC. Parties to the FCTC are obliged to develop and implement laws addressing illicit trade in tobacco products (Article 15, FCTC), particularly establishing a tracking and tracing mechanism that makes use of markings containing relevant information to allow ease of monitoring and control of the movement within the supply chain of tobacco products.¹

Illicit trade is broadly defined in the treaty as any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase including any practice or conduct intended to facilitate such activity.² This encompasses tax evasion, smuggling, illicit manufacturing, and counterfeit production.

In November 2012, Parties to the FCTC adopted the Protocol to Eliminate Illicit Trade in Tobacco Products (hereinafter, Illicit Trade Protocol or "ITP") during the Fifth Conference of Parties to the FCTC to curb the undermining effect that illicit trade has on price and tax measures, health objectives, and the economy. As of July 2014, there are 54 signatories to the ITP and only 1 Party (Nicaragua).

Some of the key features of the ITP include:

- **Due diligence, monitoring, and record-keeping.** Gathering information about persons involved in producing, manufacturing, and distributing tobacco and its products are necessary to build the database and to ease the recording and manufacturing of supply chain activities.³

¹ WHO FCTC, Article 15.

² WHO FCTC, Article 1.,

³ HealthJustice, Primer on the Protocol to Eliminate Illicit Trade in Tobacco Products (2013).

- **Implementing regulatory measures** such as requiring a license for each activity in the tobacco supply chain to regulate their activities.⁴ The ITP also calls on Parties to completely ban retail sales transactions done over the internet due to the difficulty of monitoring and regulation.⁵
- **Development and implementation of other measures** such as requiring the supply chain to report suspicious transactions and illicit trade activities,⁶ implementing effective controls over the free zones,⁷ and defining punishable acts and providing measures to ensure accountability for the commission of punishable acts.⁸
- **International cooperation** with states with limited capacities and resources, sharing of scientific, technical, or technological matters,⁹ and assisting in the investigation and prosecution of offenses.¹⁰
- **Establishing mechanisms to provide financial support** for local activities to achieve the objectives of the ITP and promoting financial mechanisms to build the capacity of developing countries in implementing the ITP.¹¹

One of the key obligations of the ITP is the establishment of a global tracking and tracing mechanism within five years of entry into force of the Protocol.¹² A tracking and tracing mechanism is a systematic monitoring and re-creation by competent authorities or any other person acting on their behalf of the route and movement taken by items through the supply chain.¹³ Under Article 8, Parties are also asked to require that unique identification markings, such as codes or stamps, are “affixed to or form part of all unit packets and packages and any outside packaging of cigarettes within a period of five years and other tobacco products within a period of ten years of entry into force of this Protocol for that Party.”

⁴ Protocol to Eliminate Illicit Trade in Tobacco Products, Article 6.

⁵ Article 11, Protocol to Eliminate Illicit Trade in Tobacco Products

⁶ Article 10, Protocol to Eliminate Illicit Trade in Tobacco Products.

⁷ Article 12, Protocol to Eliminate Illicit Trade in Tobacco Products.

⁸ Articles 14 – 19, Protocol to Eliminate Illicit Trade in Tobacco Products.

⁹ Article 20 and 23, Protocol to Eliminate Illicit Trade in Tobacco Products.

¹⁰ Article 24, Protocol to Eliminate Illicit Trade in Tobacco Products.

¹¹ Article 36, Protocol to Eliminate Illicit Trade in Tobacco Products.

¹² Article 8.1, Protocol to Eliminate Illicit Trade in Tobacco Products.

¹³ Article 1.14, Protocol to Eliminate Illicit Trade in Tobacco Products.

In its report, the Framework Convention Alliance (FCA) enumerated several forms of tracking and tracing mechanisms. Excise tax stamps, radio frequency identification (RFID), barcodes, other code verification systems, and industry-led security features are among the technologies used to monitor tobacco products around the world.¹⁴ Considering the purpose of the tracking and tracing system, the independence, security, and reliability of the system are vital components, requiring strict and exclusive control by governments.

The tobacco industry is offering its own tracking and tracing system called “Codentify” to governments. On November 2010, Philip Morris International (PMI), British American Tobacco (BAT), Japan Tobacco International (JTI), and Imperial Tobacco Limited (ITL) signed an agreement that would use PMI’s Codentify marking system on their cigarette products. In addition, the companies agreed to develop a common strategy to convince governments to replace “outdated tax stamps” by digital tax verification based on this Codentify marking technology.¹⁵ According to PMI, Codentify “uses advanced digital coding technology printed directly onto product packaging which can effectively replace outdated, easy-to-copy paper-based tax stamps and fiscal markers or burdensome administrative processes.”¹⁶ Leaked documents also show that the industry is seeking to promote its own Codentify system over those of competing marking and digital tax stamp companies, such as SICPA (Switzerland), DeLaRue (UK), EDAPS (Ukraine) and 3M (USA).¹⁷

Public health advocates have rejected and criticized Codentify because the system is primarily a brand authentication system and not a tracking and tracing system;¹⁸ hence, it does not fulfill the requirements of Article 15 of the FCTC or the ITP. In addition, the ITP’s tracking and tracing provisions should be implemented under the strict control of governments.¹⁹ Codentify’s control by the industry and not by the government gives the industry sensitive information that, if misused, can make it easier for the industry to engage in illicit trade activities.²⁰

¹⁴ Framework Convention Alliance. *The use of technology to combat the illicit tobacco trade*, Available at http://www.fctc.org/publications/bulletins/doc_download/124-technology-and-the-fight-against-illicit-tobacco-trade

¹⁵ L. Joosens, FCA Bulletin Issue 113 (March 2012).

¹⁶ Philip Morris International. *Codentify*. Available at http://www.pmi.com/eng/documents/Codentify_E_Brochure_English.pdf

¹⁷ L. Joosens and A. B. Gilmore, The transnational tobacco companies strategy to promote Codentify, their inadequate tracking and tracing standard citing Hill M. Digital Tax Verification (DTV) Codentify, the industry standard. 2010. *Tob Control* published online March 12, 2013 doi: 10.1136/tobaccocontrol-2012-050796 Available at <http://tobaccocontrol.bmj.com/content/early/2013/04/26/tobaccocontrol-2012-050796.full.pdf+html>

¹⁸ Corporate Accountability International, *Codentify: An Industry Attempt to Control Illicit Trade*. Available at www.stopcorporateabuse.org.

¹⁹ *Supra* note 15.

²⁰ *Supra* note 18.

Furthermore, in adopting Codentify, the government will be put in a precarious situation where it will partner with or unnecessarily interact with the tobacco industry, a violation of Article 5.3 of the WHO FCTC.

There are some efforts to reject the Codentify system in the ASEAN. In the Philippines, for example, Philip Morris Fortune Tobacco Corporation (PMFTC) had pushed Codentify to the Bureau of Internal Revenue (BIR) for its planned implementation of high tech tax stamps. However, the BIR rejected the unsolicited proposal of PMFTC stating that it cannot allow the company to participate in the public bidding citing PMFTC's conflict of interest and the government's obligations under the WHO FCTC.^{21 22}

The difficulty of implementing the ITP in the ASEAN region had also been raised. Some proposed recommendations as to what Southeast Asia may need to do to ensure the proper implementation of the ITP have been brought forth:²³

- a number of policy issues to be determined at a national level, particularly those relating to the key articles of supply chain control such as licensing, due diligence, record-keeping, and track and trace
- some form of regional benchmarks or standards to assist countries with these policy issues so that there is some consistency in decisions taken on the key articles
- capacity building to countries in need as they implement aspects of the Protocol
- establishment of regional cooperation programs in the areas of information exchange, investigation of offences, and prosecution of offences
- support in establishing and operating these types of regional cooperation programs from regionally based organizations with relevant resources and experience.

²¹ Reyes, Mary Ann Ll., "Adopting a real track-and-trace system" (2013), Available at <http://www.philstar.com/business/2013/04/17/931436/adopting-real-track-and-trace-system>

²² Business Mirror, "BIR readies new stamp-tax technology on 'sin' products". Available at <http://www.businessmirror.com.ph/index.php/en/business/banking-finance/4391-bir-readies-new-stamp-tax-technology-on-sin-products>

²³ R. Preece and G. Sou, "Reducing the Illicit Trade in Tobacco Products in the ASEAN Region: A Review of the Protocol to Eliminate Illicit Trade in Tobacco Products. Available at http://www.worldcustomsjournal.org/media/wcj/-2013/2/WCJ_V7N2_Sou_and_Preece.pdf

V. Tax stamps, track and trace, and licensing system available in the world

According to market analysts, the use of technology for tracking and tracing is not widespread and under half of the world's countries actually use some form of cigarette tax stamps.²⁴ A few implement high-tech stamps such as digital stamps, which use invisible ink and feature a unique hidden code with data for each cigarette pack and encrypted information that can be read using a portable scanner.

California has been requiring the licensing of all entities engaged in selling tobacco products within the state²⁵ and has been using digital tax stamps since January 2005. The stamps use invisible ink and feature a unique, covert code with product data related to each cigarette pack.²⁶ Retailers and distributors can immediately detect counterfeit products through use of hand-held scanners, while law enforcement officers are equipped with more sophisticated scanners, giving them access to a whole range of data.²⁷



Image 1: California tax stamp²⁸

²⁴ D. Hedley, "Fighting Illicit Trade in Tobacco with Technology" citing Tax Stamps Technical Study and Market Report (2012). Available at <http://blog.euromonitor.com/2012/12/fighting-illicit-trade-in-tobacco-with-technology-does-it-work.html>

²⁵ Cigarette and Tobacco Products Licensing Act (2004).

²⁶ Framework Convention Alliance. *The use of technology to combat the illicit tobacco trade*, Available at http://www.fctc.org/publications/bulletins/doc_download/124-technology-and-the-fight-against-illicit-tobacco-trade

²⁷ *Supra* note 26.

²⁸ What is the California tax stamp program. Available at: <https://surety1.com/why-do-we-need-to-post-a-california-cigarette-tax-stamp-surety-bond/>

California's Cigarette and Tobacco Products Tax Law, as amended, provides that digital stamps should contain (1) the name and address of the distributor affixing the stamp or meter impression; (2) the date the stamp or meter impression was affixed; and (3) the denominated value of the stamp or meter impression.²⁹

Meanwhile, Massachusetts started using "encrypted" stamps under the SICPATRACE platform.³⁰ Orange stamps are used for a pack of 20 cigarettes, while pink stamps are used for a pack of 25 cigarettes.

The Canada Revenue Agency currently uses tax stamps which "integrates various visible features combined with overt and covert security features, similar to those used in banknotes and passports." These tax stamps are affixed on locally-manufactured cigars/tobacco products, imported cigarettes, and Canadian raw leaf tobacco.

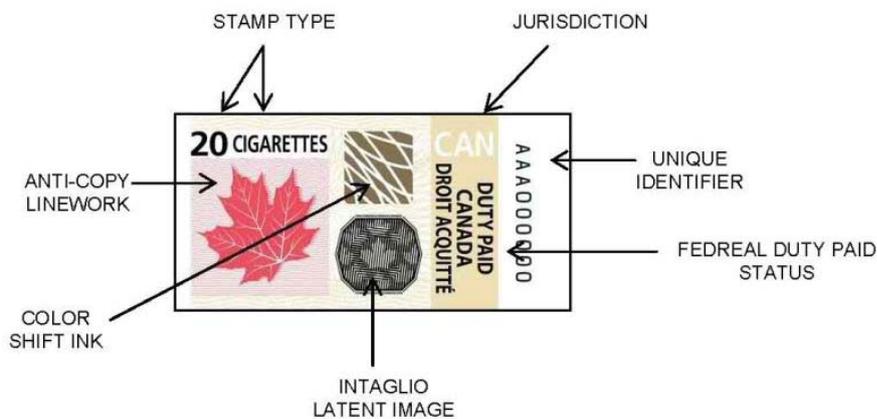


Image 2: Canadian Federal Tax Stamp³¹

To address the illicit trade problems plaguing it since the mid-1990s, Brazil implemented the following policies: the licensing of its manufacturers and the integrated control and monitoring system for cigarette production coupled with the use of a digital tax stamp system.³² The stamps are produced in the Brazilian Mint; each stamp has a unique code for each cigarette pack and is encrypted with the following information: (1) the name of the manufacturing site, (2) the date the stamp was validated, and (3) the tax category of the stamp. The policies aim to ensure that due taxes are collected and to quickly distinguish genuine from counterfeit cigarettes. Turkey has been implementing a similar technology since 2007. The digital tax stamp applies to both cigarettes made in Turkey and to legally imported cigarettes.³³

²⁹ Cigarette and Tobacco Tax Information (2013). Available at <http://linglederpia22.soup.io/post/369131070/Cigarette-and-Tobacco-Tax-Information-and>

³⁰ AP 114.1 Cigarette Excise: G.L. c. 64C. Available at <http://www.mass.gov/dor/businesses/help-and-resources/legal-library/administrative-procedures/ap-1141-cigarette-excise-gl-c-64c.html>

³¹ Federal Tax Stamp Mandatory on Tobacco Products as of July 1, 2012. Available at <http://finance.yahoo.com/news/federal-excise-stamp-mandatory-tobacco-133300492.html>

³² *Supra* note 26.

³³ *Supra* note 26.

Aside from California, Brazil, and Turkey, these high-tech stamps are also currently being used in Massachusetts and Canada, with implementation pending in several other countries.³⁴

Malaysia has been using a security mark with visible and invisible features since 2004. The security mark is applied on factory production lines, and enforcement officials can scan the security mark to know immediately whether the product is counterfeit.³⁵

In July 2012, INTERPOL, the world's largest police organization announced the creation of the INTERPOL Global Register (IGR).³⁶ The system would focus on products under threat from illicit trade and aims to provide tools to help law enforcement and the public to determine authenticity of product.³⁷ INTERPOL also announced that it would be working with British American Tobacco, Imperial Tobacco Group, Japan Tobacco International, and Philip Morris International and will make the Codentify system accessible via IGR. Interestingly, a month prior to this announcement, INTERPOL accepted a donation of €15 million from Philip Morris International.³⁸ Because of the history of the tobacco industry's complicity with illicit trade,³⁹ this partnership has raised serious concerns among public health advocates and Parties to the WHO FCTC.

Earlier this year, the European Union adopted a new Tobacco Products Directive (TPD) to consider new technologies in tobacco manufacturing as well as to form a unified rule among EU members, which are signatories to the WHO FCTC. Among the measures that will be implemented are large picture-based warnings on cigarette packs, the inclusion of electronic cigarettes, and an EU-wide tracking and tracing system.⁴⁰

³⁴ Campaign for Tobacco Free Kids, The Case for High-Tech Cigarette Stamps, Available at http://www.tobaccofreekids.org/facts_issues/fact_sheets/policies/tax/us_state_local/

³⁵ *Supra* note 14.

³⁶ INTERPOL, INTERPOL Global Register unveiled at Google Ideas INFO summit, Available at <http://www.interpol.int/News-and-media/News/2012/PR057>

³⁷ *Supra* note 17.

Available at <http://tobaccocontrol.bmj.com/content/early/2013/04/26/tobaccocontrol-2012-050796.full.pdf+html>

³⁸ PMI, Philip Morris International Provides 15 Million Euro Contribution to INTERPOL to Fight Trafficking in Illicit Goods, Available at http://www.pmi.com/eng/media_center/press_releases/pages/201206210200.aspx#

³⁹ Campaign for Tobacco Free Kids, Illegal Pathways to Illegal Profits, The Big Cigarette Companies and International Smuggling, Available at http://global.tobaccofreekids.org/en/resources/by_issue/illicit_trade_smuggling/

⁴⁰ European Commission, Questions and Answers: *New rules for tobacco products* (February 2014), Available at http://europa.eu/rapid/press-release_MEMO-14-134_en.htm

The TPD includes strong measures against illicit trade of tobacco products to ensure that only products complying with the Directive are sold in the EU.⁴¹ It introduces an EU-wide tracking and tracing system for the legal supply chain with visible and invisible security features (e.g. holograms) which should facilitate law enforcement and help authorities and consumers detect illicit products. The measures foreseen in the TPD will help to redirect tobacco trade to legal channels and may also help Member States restore lost revenues. Tracking and tracing of tobacco products will be phased in, with cigarettes and RYO the first required to comply, followed by all other tobacco products.⁴²

VI. Tax Stamps, Track and Trace Mechanisms, and Licensing System Implemented in the Southeast Asia Region

1. Brunei

Among the countries in the ASEAN, Brunei is one of the most advanced in tobacco control. It is implementing a strict smoke free policy, a comprehensive ban on tobacco advertising, promotions and sponsorships, and has one of the highest tax burdens as a percentage of the retail price (67%) charged on a pack of cigarettes.⁴³

However, Brunei does not have any mechanism for excise tax stamp or other track-and-trace system. The country does not have any domestic production of tobacco products and the present volume of imported cigarettes is “very minimal,” according to the Ministry of Health. That said, the government is currently reviewing the use of tax stamps and track and trace mechanism.

Brunei requires tobacco importers, wholesalers, and retailers to obtain licenses from its Ministry of Health annually. The annual Tobacco Import and Wholesale License costs BND 2,500 (USD 200) while the annual Tobacco Retail License is at BND 3,000 (USD 240).

2. Cambodia

The Ministry of Economy and Finance in Cambodia produces the tax stamp based on annual reports/plans submitted by tobacco manufacturers and importers to the General Department of Taxation (GDT) and the General Department of Custom and Excise (GDCE), respectively.⁴⁴

⁴¹ European Commission, Public Health, Available at http://ec.europa.eu/health/tobacco/products/index_en.htm

⁴² *Ibid.*

⁴³ Southeast Asia Tobacco Control Alliance. ASEAN Tobacco Tax Report Card (2013).

⁴⁴ The manufacturing or importing plans must be submitted by July 15 each year. A purchasing form shall be filed quarterly no later than the 20th of third month.

Cambodia’s current excise stamp, measuring 20mm by 45mm, contains a serial number and a seal of the Ministry of Economy and Finance. Tax stamps for locally produced tobacco have the mark “STD” while imported tobacco products are marked “STI” (see Image 1). The stamps cost 4.2 Riel or about USD 0.001. The General Department of Taxation (GDT) plans to incorporate high-tech features into the tax stamp as well as to improve procedures in obtaining these stamps.

Manufacturers and importers shoulders the costs of the stamps and have to affix the excise tax stamp on the tobacco products before transporting them out of their factories or of the customs control.



Image 3. Tobacco Excise Stamps in Cambodia⁴⁵

Cambodia currently has no track and trace system for tobacco products. There are also no special licensing procedures specific for tobacco manufacturing and importation. There is only a general system requiring all manufacturers and importers to register at the GDT.

3. Indonesia

The Indonesian government implements excise tax stamps. The excise stamp contains various features such as a hologram, excise tariff, fiscal year, type of cigarette, garuda bird symbol, banderol price, number of cigarette sticks, a statement: “Cukai Hasil Tembakau Indonesia”, and the logo of Directorate General Customs and Excise. The most important feature of the tax stamp is the hologram, giving it additional protection against counterfeiting. The government bears the costs of the tax stamp, which is affixed after the excise tax on the tobacco product is paid.

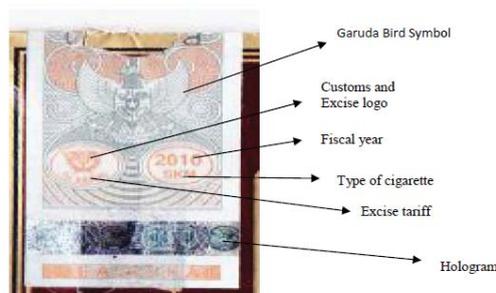


Image 4: Tobacco Tax Stamp in Indonesia⁴⁶

⁴⁵ Source: Ministry of Health of Cambodia

⁴⁶ Source for Images 4 and 5: Nur Hadi Wiyono, Demographic Institute, Faculty of Economics, University of Indonesia

Indonesia does not have a track and trace technology, and it is not currently required by law to implement such system. The government is focusing on excise stamp to control distribution of cigarettes through strengthened law enforcement.

With regard to licensing, the government requires the cigarette manufacturer to procure a license from the Directorate General of Excise and Customs and from the local government before engaging in business; however, a license is not required for tobacco distribution and retail. The requirements to apply for a license for cigarette manufacture are as follows:

- Minimum land size of 200 meter square
- Building permit from local government
- Building industry permit (tanda daftar industri) from local government
- Trade permit (surat ijin usaha perdagangan) from local government
- Tax identification number
- Identification number
- Recommendation letter from manpower agency of local government

4. Lao PDR

Lao PDR implements tax stamps on locally manufactured cigarettes and cigars, generally meant to ensure that taxes on these products are paid. The costs for the stamps are borne by the tobacco industry. Each stamp costs LAK 5.5 (approximately USD 0.00012).

For imported goods, the government requires a duty stamp. The fixing of stamps on imported goods is done at the Customs station or enterprise warehouse by Customs officers, the costs of stamps being borne by the tobacco industry at the following rates:

<i>Imported items</i>	<i>Price</i>
Stamps for Duty-Paid (large sheet)	600 LAK/sheet
Stamps for Duty-Paid (medium or small sheet)	500 LAK/sheet
Stamps for duty-free tobacco	1,500 LAK/sheet

The Ministry of Finance is in charge of the printing and management of the stamps, while the Department of Taxation and the Department of Customs are in charge of publication, introduction for use, and distribution to different sectors throughout the country.

Lao PDR does not have a track and trace mechanism on tobacco products.

There is no specific tobacco licensing system for tobacco business in Lao PDR. Like other businesses, manufacturers and importers of tobacco and tobacco products have to acquire:

- Foreign Investment Licensing Certificate from the Ministry of Planning and Investment (for foreign investors)
- Certificate on Trade and Enterprise Registration, Licensing Certificate on Carrying Out Production Business, and Licensing on Industrial Factory Establishment from the Ministry of Industry and Commerce
- Taxation Registration Certificate from the Taxation Payment Monitoring and Business Licensing Certificate on Trade Services and Production from the Ministry of Finance

5. Malaysia

The Malaysian government uses different track and trace mechanisms for locally produced cigarettes and imported cigarettes. These mechanisms however are not required for other tobacco products.

The packaging of locally-produced cigarettes must have an invisible diamond-shaped security marking and the letters “MY” for those sold in Malaysia or “DF” for those in the duty-free market. Each security ink mark costs MYR 0.055 or USD 0.02.



Image 5: Security markings for locally produced cigarettes in Malaysia⁴⁷

Meanwhile, cigarettes imported from other countries must bear a tax banderol (tax stamp) placed at the opening of each pack under the plastic wrapping. Blue tax stamps are for cigarettes to be sold locally; red for those placed in the duty-free market. Each stamp costs MYR 0.06 (USD 0.02).

⁴⁷ BAT Malaysia Available at http://www.batmalaysia.com/group/sites/BAT_7RYJ8N.nsf/vwPagesWebLive/DO8PBFER?opendocument&SKN=1

In addition, tobacco manufacturers in Malaysia employ a “barcode system”. Each barcode provides information about the production of the cigarettes and is meant for quality control.

Licenses for tobacco products may be obtained from the National Kenaf and Tobacco Board⁴⁸ and the Royal Malaysian Customs Department.⁴⁹ Curing and blending of raw tobacco leaf, manufacture, importation, warehouse, distribution and wholesale of tobacco products are licensed in Malaysia.

To obtain a license, one must present the following:

- Business registration
- General business license from the local authority where the business will or is being conducted
- Manufacturing license from the Customs Department
- A reasonable amount of capital

6. Philippines

There is currently no excise tax stamp system in place in the Philippines. The monitoring of the tobacco product supply chain is currently being done by Revenue Officers on Premises (ROOPs), although the government recognizes that this measure has its limitations.

Recognizing that the current system is insufficient to monitor production and distinguish licit from illicit tobacco products, the Bureau of Internal Revenue (BIR) will start the implementation of high-tech or enhanced tax stamps this 2014. The costs of the implementation of the system will be borne by the tobacco industry and the BIR is targeting to release the costs through a Revenue Regulation this May 2014. Listed below are the security features of the planned tax stamps:⁵⁰

- a. Tamper proof in a manner that stamps cannot be removed without being mutilated, obliterated, or otherwise altered
- b. With both overt and covert security and tracking features
 - b.1. Overt Features
 - Fine graphic lines (guilloche)
 - Color shift Ink depending on the angle of the light.
 - Microtext
 - Deliberate Error

⁵⁰ Bureau of Internal Revenue, Republic of the Philippines

⁴⁸ <http://www.lktn.gov.my/en/news.php>

⁴⁹ <http://www.customs.gov.my/index.php/en/procedures-a-guideline/customs/licences-application/762-prosedur-permohonan-lesen-mengimport-tembakau-termasuk-rokok-dan-minuman-keras>

b.2. Three (3) Covert Features

- Latent Image: hidden images visible only through special filter
- Taggants: security pigment that can be authenticated using proprietary miniature electronic readers.
- Invisible Security Inks: special inks visible only thru specific UV frequency

c. One hundred percent (100%) readable by mobile verification device

d. With unique stamp design and color-coded for each tax class

e. Stamps are designed to self-destroy should an attempt be made to peel them off the tobacco package

Monitoring will be done through the Internal Revenue Stamps Integrated System (IRSIS). IRSIS is a web-based system with an online facility for the ordering of internal revenue stamps and the payment of the production cost thereof, as well as, the capability to monitor the said stamps at the time of delivery thereof to the importers and local manufacturers of cigarettes and after the time of affixture thereof on the cigarette products. Based on the IRSIS, the BIR can determine if proper excise taxes have been paid for the tobacco products sold. The BIR hopes that the IRSIS system can help minimize, if not eliminate, illicit trade of cigarettes in the Philippines.

Based on the bidding report⁵¹ released by the APO Unit Inc., the procurement of the security features of the IRSIS is pegged at PHP 1.75 Billion (USD 40M). Last March 2014, the APO Unit Inc. and IRSIS Corporation signed the contract for the production of the Internal Revenue Stamps.⁵²

As regards, tracking and tracing mechanism, the Philippines currently does not have this technology.

With regard to licensing requirements, tobacco manufacturers and importers need to obtain a permit from BIR as excise taxpayers at PHP 500 (USD 11.25).⁵³ The Securities and Exchange Commission (SEC) also requires all tobacco-related corporations and partnerships seeking SEC registration to obtain endorsement

⁵¹ APO Productions Unit Inc. *PB-008-13: Bidding Documents For The Procurement Of Security Features And Delivery Of Internal Revenue Stamps Integrated System* (2013). Available at http://www.apo.gov.ph/news/wp-content/plugins/wp-apo/archive/2013/July/IRSIS_Bidding_Documents-FINAL.pdf

⁵² *Contract Signing for the Procurement of Security Features and Delivery of IRSIS*. Available at <http://www.apo.gov.ph/beta/contract-signing-for-the-procurement-of-security-features-and-delivery-of-internal-revenue-stamps-integrated-system-irsis/>

⁵³ Bureau of Internal Revenue, Republic of the Philippines

from the National Tobacco Administration (NTA).⁵⁴ It should be noted that corporations and partnerships in the Philippines are required to register with the SEC while single proprietorships with the Department of Trade and Industry.⁵⁵ All businesses must also get a permit from local government units.

Meanwhile, buyers and purchasers of tobacco leaves, importers, exporters, manufacturers, and transshippers would need to get licenses and permits from the NTA.⁵⁶ Manufacturers also need to obtain a permit under Section 164 of the NIRC for the use of manufacturing equipment.⁴⁰

7. Singapore

Unlike in other ASEAN countries with track-and-trace systems, Singapore does not employ tax stamps. Instead, under the Customs Act of 2009, the Singapore Customs requires that individual sticks of duty-paid cigarette packs are marked with the letters "SDPC" (Singapore Duty-Paid Cigarettes). The purpose of marking is to deter market of contraband cigarettes and help Singapore officers in their enforcement efforts.

However, control over the supply chain is limited to the obligation of providing information to the Chief Executive and does not include the duty of first purchaser to monitor the sale of the tobacco products in subsequent steps of the supply chain and/or to provide details of his/her business, accounts or other data.⁵⁷



Image 6. A ring of vertical bars was added to the SDPC markings in 2013.⁵⁸

⁵⁴ Securities and Exchange Commission. *Documentary requirements for registration of corporations and partnerships (as of June 30, 2013)*. Available at <http://www.sec.gov.ph/gsr/primary/primaryreg.html>

⁵⁵ Department of Trade and Industry. *Business Permits and Licenses*. Available at <http://dti.gov.ph/dti/index.php?p=353>

⁵⁶ National Tobacco Administration. *Citizen's Charter*. Available at http://nta.da.gov.ph/services_charter.html

The Health Sciences Authority (HSA) regulates licenses for importation and sale of tobacco products. The Tobacco Regulations 2010 require importers, wholesalers, and retailers to obtain/renew their licenses annually. License costs are as follows:

- a. SGD 2,400 per year for the grant and renewal of an import license
- b. SGD 360 per year for the grant of a retail license
- c. SGD 300 per year for the renewal of a retail license

In addition, the Singapore government has adopted a “tax suspension and licensing regime” for manufacturers, importers and retailers of tobacco products. With regard to importation, a customs permit and relevant licenses approved by the competent authority would have to be declared at the point of importation of all goods into Singapore. Duties and GST have to be paid at the point of import unless the cigarettes are imported for storage inside the customs-approved licensed warehouse. Once the cigarettes are released for domestic consumption, duty/GST payment permit would have to be taken up to pay the duties and GST. Similarly, for cigarettes re-exported from licensed warehouses, an export permit would have to be declared. This ensures that proper documentary controls are in place.

The Singapore government also requires that imported goods be declared on its TradeNet system.

8. Thailand

The tax stamps in Thailand are color-coded to identify the type or category of product and are equipped with a watermark and intaglio.⁵⁹ Tobacco manufacturers and importers do not pay for the tax stamps.

The Thai Excise Department is responsible for tobacco tax administration. Tobacco taxpayers can get the stamps after paying excise tax. They must affix the stamp on their tobacco products before removing the products from the plant or customs house.⁶⁰

Thailand does not have a tracking and tracing mechanism and is not required by law to enforce this.

⁵⁷ Transcrime, Analysis of the Draft Protocol to Eliminate Illicit Trade in Tobacco Products (2012) Available at http://transcrime.cs.unitn.it/tc/fso/pubblicazioni/AP/Transcrime-Analysis_of_the_Draft_Protocol_to_eliminate_ITTP.pdf

⁵⁸ Source: Health Sciences Authority of Singapore

⁵⁹ Intaglio is a printmaking technique in which the image is incised into a surface, and the incised line or sunken area holds the ink.

⁶⁰ SEATCA, Thailand Tobacco Tax Report Card (2010).

The whole supply chain of tobacco products is controlled through a licensing system. Thai government requires all tobacco farmers, manufacturers and importers of tobacco products and leaf, wholesalers, distributors, and retailers to get a license from the Excise Department. However, a limitation is that the licensing system does not control any activities related to native tobacco varieties, which presents a loophole and an opportunity to avoid tobacco tax.⁶¹

9. Vietnam

Vietnam started implementing tax stamps on imported cigarettes and cigars since 1989 and on locally manufactured cigarettes since 2000. The tax stamps are issued and managed by the Ministry of Finance and provided free of charge to tobacco manufacturing and importing enterprises.⁶² The companies have the responsibility of submitting quarterly and annual reports on the use of the stamps.

The stamp for domestically-produced cigarettes has a size of 2.2cm x 4.5cm and is printed on special paper with shadow pattern weighted 65g/m². The cigarette stamp is printed with special protection techniques, has a multi-dimensional barcode, and can be checked for authenticity by barcode scanners. It has consecutive symbol and ordinal numbers, and each symbol has 1-10 million numbers depending on the quantity issued.

The stamp for imported cigarettes is printed on a yellow pattern paper with a size of 2.2 cm x 4.5 cm. There are 3 black text lines on the stamp; 2 lines are in Vietnamese, and 1 line is in English (“Imported Cigarettes Stamp”). The imported-cigar stamp is printed on a blue pattern paper with a size of 2.2 cm x 4.5 cm. On the stamp are 3 black text lines; 2 lines are in Vietnamese, and 1 line is in English (“Imported Cigar Stamp”).



Image 7: Imported Cigarette and Imported Cigar Stamps from Vietnam⁶³

The tax stamp determines if taxes have been paid and determines whether the product is licit or illicit. All tobacco products without the affixed stamp are recognized as illegal products.

Vietnam does not have any tracking and tracing mechanism in place.

⁶¹ *Ibid.*

⁶² *Regulations on the printing, publishing, and management of the use of domestically produced cigarette stamps – promulgated along with Decision No. 211/2010/QĐ-BTC and the Circular No.124/2007/TT-BTC on Guidelines for printing, distributing, using and managing imported cigarette and cigar stamps*

⁶³ Source: Nguyen Thi Thu Hien, Hanoi Universit of Trade

As regards licensing, the government imposes the licenses on the following areas of tobacco business: leaf growing, trading, processing, manufacturing, importing tobacco leaf, tobacco products, and other materials, wholesaling, and retailing. The costs vary depending on the fees prescribed by the Ministry of Finance.

VII. Conclusion

Most of the countries in the ASEAN have a tax stamp system to ensure that taxes on tobacco products are paid. However, there is a variance in the processes and the technologies used due to the difference in the capacity and the situation in each country.

Similar to tax stamps, countries in the region have licensing systems but not all areas in the supply chain are covered. Article 15 of the FCTC recommends an effective licensing system, one that includes all commercial activities relating to the manufacture and distribution of tobacco products. Apart from the regulation component, it also provides government authorities with detailed information about entities in the supply chain.

With respect to tracking and tracing, most of the countries surveyed do not have a mechanism to systematically monitor and recreate the route or the movement of the tobacco products. Malaysia and Singapore have some form of tracking and tracing mechanism, but it is still not compliant with what is envisioned under FCTC Article 15 or in the ITP.

Unless key policies are enacted and enforced, illicit trade in tobacco products will continue. Lack of resolve to act will result in loss of revenues for the government and proliferation of illegal and more affordable tobacco products in the region despite efforts to increase tobacco taxes.

VIII. Policy Recommendations

Considering that the region is a destination and transit point for illicit trade in tobacco products, countries in the ASEAN should consider a review and revision of their policies, strict enforcement of measures, and efficient coordination for a strengthened approach in eliminating illicit trade.

Countries in the ASEAN should consider aligning their policies with best practices in preventing illicit trade in tobacco products. Using high tech unique identification markings, such as codes or stamps, is an efficient way to check whether the product is counterfeit and to monitor whether the taxes due have been paid.

It is recommended that countries study their capacity to implement a tracking and tracing mechanism, which will be established within five years from entry into force of the ITP. A tracking and tracing mechanism has the capacity to determine the origin and point of diversion and to monitor and control the movement of tobacco products, which can provide essential information in combating illicit trade.

Countries should also consider requiring the licensing of all the commercial activities related to manufacture and distribution of tobacco products. The ITP recommends establishing a mandatory licensing system for those involved in manufacturing, importing, or exporting tobacco products or manufacturing equipment, while other activities such as retailing or tobacco growing can also be subjected to licensing. In addition, due diligence is required from all persons or entities engaged in the supply chain of tobacco products and manufacturing equipment and to take measure to prevent the diversion of tobacco products into illicit trade channels.

Further, a recommendation on measures to address illicit trade in tobacco products from the Association of Southeast Nations (ASEAN) through the ASEAN Focal Points on Tobacco Control (AFTC) will be helpful in setting the standard for the region. The recommendation will help promote the adoption and implementation of effective policies and encourage a more cohesive action plan within the region, which is necessary considering the nature of illicit trade.

Lack of capacity to implement measures to control the supply chain is a hindrance. But, the issue of illicit trade crosses boundaries and mutual cooperation among countries and the transfer of technical, scientific and legal expertise and technology is a necessary component. Thus, there is a need for countries with more capacity to provide technical assistance to other countries without the capacity to implement such measures.

Lack of capacity of countries to implement strict measures on illicit trade also becomes the entry point of the tobacco industry in providing assistance for implementation. Thus, concurrent with capacity building, there is a need to strictly implement measures to prevent tobacco industry interference through policies that prohibit unnecessary interactions or partnerships with the tobacco industry. It is our recommendation that countries should not partner with the tobacco industry in its efforts to address illicit trade of tobacco products because partnerships or unnecessary interactions with the tobacco industry violate Article 5.3 of the FCTC and its Guidelines.

IX. Tables

Table 1. Tax Stamps in the ASEAN

Country	Tax stamps	Covered products	Issuing Authority	Cost
Brunei	x	N/A	N/A	N/A
Cambodia	✓	Both domestic and imported tobacco	General Department of Taxation (GDT) and General Department of Custom and Excise (GDCE) of the Ministry of Economy and Finance	KHR 4.2 (USD0.001) – local manufacturers and importers
Indonesia	✓	All tobacco products	Directorate General Customs and Excise	No cost to tobacco industry
Lao PDR	✓	Cigarettes and cigars domestically manufactured and those imported into the local market	Ministry of Finance, specifically: Taxation Department (local) Customs Department (imported)	Local: LAK 5.5 (USD 0.00066) – paid by tobacco industry per tax stamp Imported: LAK 600 (USD 0.072) per large sheet of duty stamps LAK 500 (USD 0.06) per small or medium sheet of duty stamps LAK 1,500 (USD 0.18) per sheet of stamps for duty-free imported tobacco
Malaysia	✓	Imported cigarettes	Royal Malaysian Customs	MYR 0.06 (USD 0.02)
Philippines	✓	All tobacco products	Department Bureau of Internal Revenue (BIR)	To be announced this 2014
Singapore	x	N/A	N/A	N/A
		Requires markings on cigarette sticks		
Thailand	✓	All tobacco products	Excise Department	No cost to tobacco industry
Vietnam	✓	Domestic cigarettes, and imported cigars and cigarettes	Ministry of Finance	No cost to tobacco industry

Table 2. Track and Trace Mechanisms in the ASEAN

Country	Track and Trace Mechanism	Implementing Government Agency	Cost
Brunei	None	N/A	N/A
Cambodia	None	N/A	N/A
Indonesia	None	N/A	N/A
Lao PDR	None	N/A	N/A
Malaysia	Security markings printed with a special ink on the bottom panel of cigarette packs. Only printed on locally manufactured cigarettes	Royal Malaysian Customs Department	MYR 0.055 (USD 0.02) per printing
Philippines	None	N/A	N/A
Singapore	Singapore Duty Paid Cigarettes (SDPC) marking on cigarette sticks	Singapore Customs	Printing by manufacturers
Thailand	None	N/A	N/A
Vietnam	None	Ministry of Science and Technology and Provincial/municipal People's Committee	Printing by licensed manufacturers

Table 3. Summary of Specific Licensing Requirements in the ASEAN

Country	Type of License	License Authority	Cost
Brunei	a. Tobacco Retail License	Ministry of Health	BND 3,000 (USD 240) per year
	b. Tobacco Import and Wholesale License		BND 2,500 (USD 200) per year
Cambodia	No exclusive licensing system. But like other manufacturers and importers of other products, tobacco manufacturers and importers need to register at the General Department of Taxation	General Department of Taxation	Not available
Indonesia	License/ permit for tobacco manufacturer	Directorate General Excise and Customs	No charge
		Local Government	License cost depends on the policy of the local government

Table 3. Summary of Specific Licensing Requirements in the ASEAN (continued)

Country	Type of License	License Authority	Cost
Lao PDR	No specific tobacco licensing system. But tobacco businesses must acquire necessary certificates, tax registration and licenses to carry out business	Ministry of Finance, Ministry of Investment and Planning, and Ministry of Industry and Commerce	Not available
Malaysia	a. Manufacturing license b. Import license c. Warehousing license d. Curing tobacco e. Purchasing cured tobacco f. Manufacturing tobacco products g. Blending tobacco h. Distributing tobacco/tobacco products	Royal Malaysian Customs (for a and b) National Kenaf and Tobacco Board (for c- h)	MYR 2,400 (USD 734) p/a MYR 96 (USD 29) p/a MYR 1,200 (USD 367) p/a MYR 50 (USD 15) p/a MYR 300 (USD 92) for heat-cured or MYR 100 (USD 31) for others MYR 300 (USD 92) p/a MYR 150 (USD 46) p/a MYR 150 (USD46) p/a
Philippines	a. Registration fee as excise taxpayer - for tobacco manufacturers and importers b. Permits to operate ⁶⁴ c. License to buy leaf tobacco d. Permit to purchase leaf tobacco e. Permit to redry leaf tobacco f. Certificate of Authority to purchase leaf tobacco g. Issuance of Authority/Accreditation to import/export/transship/process manufactured/unmanufactured tobacco	Bureau of Internal Revenue (for a – b) National Tobacco Administration (for c – g)	PHP 500 (USD 12) None Depending on tobacco type and volume PHP 13,500 (USD303) PHP 13,500 (USD303) Depending on the volume / Certificate of Purchase is PHP250 (USD6) per booklet PHP 11,500 (USD258) plus annual accreditation fee depending on the number of sticks manufactured

⁶⁴ Permits to operate can cover a whole range of activities i.e. permit to export excisable articles; Permit to sell/import any apparatus or mechanical contrivance / Permit to sell/import cigarette paper in bobbins, cigarette tipping paper or cigarette filter tips (to be secured by the manufacturers, importers, indentors and/or wholesalers thereof); Permit to dispose tobacco/cigarette paper wastes by burning or other forms of destruction; Permit to deliver/sell tobacco wasters, scraps, stems, etc. for further processing; Permits to install cigarette making machine; Permit to sell/transfer cut tobacco; permit to transfer raw materials and/or packaging materials in the manufacture of cigarettes; permit to dismantle machineries and equipment used in the manufacture of excisable products; etc.) (Source: BIR RMO 38-2003)

Table 3. Summary of Specific Licensing Requirements in the ASEAN (continued)

Country	Type of License	License Authority	Cost
Singapore	a. Tobacco Retail License	Health Services Authority	SGD 360 (USD 287) for new license
			SGD 300 (USD 239) for renewal
	b. Tobacco Import/ Wholesale License		SGD 2,400 (USD 1,915) for new license and renewal
Thailand	a. License fee to set up tobacco curing station	Excise Department	THB 1,000 (USD 31)
	b. License fee conduct tobacco curing per one factory		THB 20 (USD 0.62)
	c. License fee to set up tobacco leaves roasting per 1 factory		THB 10,000 (USD 309)
	d. License fee of the machine to roast tobacco leaves per 1 machine		THB 1,000 (USD 31)
	e. License fee to produce tobacco products listed below		
	- Cigarettes		THB 10,000 (USD 309)
	- Cigars		THB 500 (USD 15)
	- Compressed tobacco		THB 500 (USD 15)
	- Shredded tobacco		THB 500 (USD 15)
	- Blended tobacco		THB 500 (USD 15)
	- Other tobacco		THB 250 (USD 8)
	- Chewing tobacco		THB 250 (USD 8)
	f. License fee to sell tobacco products		
<i>Shredded tobacco</i>			
Type 1: Unlimited selling amount	THB 100 (USD 3)		
Type 2: Not to exceed 2 kg	THB 10 (USD 0.309)		
Type 3 Domestic tobacco growers selling tobacco products from their own farm	THB 10 (USD 0.309)		

Table 3. Summary of Specific Licensing Requirements in the ASEAN (continued)

Country	Type of License	License Authority	Cost
Thailand	<i>Cigarettes</i>		
	Type 1: Unlimited selling amount		THB 1,000 (USD31)
	Type 2: Selling not more than 20,000 cigarettes at one time if blended shredded tobacco and chewing tobacco, it cannot be sold more than 10kg		THB 500 (USD15)
	Type 3: Selling not more than 1,000 cigarettes at one time, if it is shredded tobacco and chewing tobacco, it cannot be sold more than 200 kg.		THB 40 (USD 1)
	g. License fee to purchase dried tobacco leaves		THB 3,000 (USD 93)
	h. License fee to import/ export tobacco trees/ seeds		THB 100 (USD 3)
Vietnam	a. Certificate of Eligibility to invest in tobacco cultivation	Provincial- level industry and trade departments Ministry of Industry and Trade	Not available
	b. License to trade in tobacco ingredients		
	c. License to process tobacco ingredients		
	d. License to manufacture tobacco products		
	e. License to distribute tobacco	Industry and Trade Sections or Economics Sections/ Chambers of different districts, towns, provinces, cities	
	f. License for tobacco wholesaling		
	g. License for tobacco retailing		
	h. Permission for manufacture of tobacco products bearing foreign brands for consumption in Vietnam		

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