TOBACCO INDUSTRY INTERFERENCE INDEX
Asian Report on Implementation of WHO Framework Convention on Tobacco Control Article 5.3
TOBACCO INDUSTRY
INTERFERENCE INDEX
Convention on Tobacco Control Article 5.3

Author
Mary Assunta Kolandai

Editorial Team
Southeast Asia Tobacco Control Alliance (SEATCA)

Cover Design and Layout
Sophie Everett Design, Wendell Balderas & Jennie Lyn Reyes

Acknowledgement
SEATCA acknowledges partners and collaborators of all the
countries in compiling the national reports. This Asian Index
would not have been possible without their valuable input.

Suggested Citation
M.A. Kolandai. Tobacco Industry Interference Index. Asian
Report of Implementation of WHO Framework Convention
on Tobacco Control Article 5.3, September 2018, Southeast
Asia Tobacco Control Alliance (SEATCA), Bangkok. Thailand.

© Southeast Asia Tobacco Control Alliance 2018
This document is the intellectual property of SEATCA and its
authors. SEATCA retains copyright on all text and graphic
images in this document, unless indicated otherwise. This
copyright is protected by domestic and copyright laws
and international treaty provisions. The information in this
document is made available for non-commercial use only.
You may store the contents on your own computer or print
copies of the information for your own non-commercial use.
You are prohibited from modifying or re-using the text and
copies of the information in this document to others, or “mirroring” the information in
graphics in this document, distributing the text and graphics
this document in other media without the written permission
of SEATCA. All other rights reserved.

About SEATCA
SEATCA is a multi-sectoral non-governmental alliance
promoting health and saving lives by assisting ASEAN
countries to accelerate and effectively implement the
evidence-based tobacco control measures contained in
the WHO FCTC. Acknowledged by governments, academic
institutions, and civil society for its advancement of tobacco
control movements in Southeast Asia, the WHO bestowed
SEATCA the World No Tobacco Day Award in 2004 and
the WHO Director-General’s Special Recognition Award in
2014.

For more information, visit: www.seatca.org
# TABLE OF CONTENTS

Introduction 1

Summary Findings 3

Tobacco Industry Interference

I. Tobacco Industry Participation in Policy Development 6

II. Tobacco-Related CSR Activities Facilitate Access to Officials 7

III. Benefits to the Tobacco Industry 8

IV. Forms of Unnecessary Interaction 10

V. Lack of Transparency in Interactions 11

VI. Conflicts of Interest 12

VII. Preventive Measures 13

Philippines: Action to Protect the Bureaucracy 14

Challenges Remain 16

Conclusions and Recommendations 17

References 18

# ACRONYMS

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
</tr>
<tr>
<td>BAT</td>
<td>British American Tobacco</td>
</tr>
<tr>
<td>BATB</td>
<td>British American Tobacco Bangladesh</td>
</tr>
<tr>
<td>COP</td>
<td>Conference of the Parties</td>
</tr>
<tr>
<td>CSR</td>
<td>Corporate social responsibility</td>
</tr>
<tr>
<td>FCTC</td>
<td>Framework Convention on Tobacco Control</td>
</tr>
<tr>
<td>FSFW</td>
<td>Foundation for a Smoke-Free World</td>
</tr>
<tr>
<td>ITC</td>
<td>Indian Tobacco Company</td>
</tr>
<tr>
<td>JMC</td>
<td>Joint Memorandum Circular</td>
</tr>
<tr>
<td>JT</td>
<td>Japan Tobacco Inc.</td>
</tr>
<tr>
<td>JTI</td>
<td>Japan Tobacco International</td>
</tr>
<tr>
<td>PHW</td>
<td>Pictorial Health Warning</td>
</tr>
<tr>
<td>PMFTC</td>
<td>Philip Morris Fortune Tobacco Corporation</td>
</tr>
<tr>
<td>PMI</td>
<td>Philip Morris International</td>
</tr>
<tr>
<td>TAT</td>
<td>Tobacco Authority of Thailand</td>
</tr>
<tr>
<td>TI</td>
<td>Tobacco Industry</td>
</tr>
<tr>
<td>VINATABA</td>
<td>Vietnam Tobacco Corporation</td>
</tr>
<tr>
<td>WHO</td>
<td>World Health Organization</td>
</tr>
</tbody>
</table>
The Southeast Asia Tobacco Control (SEATCA) is pleased to release the first Asian Tobacco Industry Interference Index. This Asian Tobacco Industry Interference Index provides an overview of how well countries are faring in implementing the WHO Framework Convention on Tobacco Control (FCTC) Article 5.3 guidelines. This civil society report is an extension of the four previous Tobacco Industry Interference Indices which cover the ASEAN region. In addition to nine ASEAN countries, (Brunei, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Thailand and Vietnam) this new Index includes Bangladesh, India, Japan, Republic of Korea and Sri Lanka.

The 14 countries covered in the survey had first conducted and developed their national reports and this Index is based on the findings of their country reports. All information used is from publicly available evidence to support the selection of scores. While we have done our best to consult and verify the information with country partners, we acknowledge that our dependence on publicly available information has its limitations. There will be gaps and there is always room for improvement. We do welcome information that will help us improve this Index.

SEATCA takes this opportunity to express our gratitude to all our country partners and collaborators who produced their respective country reports which contributed towards this Asian Index. As always, there is a dedicated SEATCA team which provided editorial comments.

We hope this Index will generate discussion and facilitate action to counter tobacco industry interference which undermines and delays tobacco control efforts. We encourage governments to work collaborative with civil society groups to strengthen implementation of FCTC Article 5.3.

Mary Assunta
Senior Policy Advisor
SEATCA
The tobacco industry wants Asia.\textsuperscript{1} Asia’s large population and a growing economy have delivered sustained profits for tobacco companies and have made the industry more aggressive in protecting and growing its business. However, tobacco control efforts have progressed in leaps and bounds in Asia with nearly all Asian countries having ratified the global treaty, the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC).\textsuperscript{2}

In implementing the FCTC, Article 5.3\textsuperscript{3} is often described as the backbone of the Convention as it obligates Parties to protect their tobacco control policies from interference of the tobacco industry (TI). The FCTC cannot be implemented effectively if industry interference is not rooted out.

Despite the importance of Article 5.3, it is the least effectively implemented Article of the FCTC. The guidelines provide the necessary steps governments can take; however, governments need to be proactive in putting in place safeguards and measures to prevent unnecessary TI interactions, limit interactions to when strictly necessary, and set up disclosure procedures to protect public health policies. Gaps in the implementation of Article 5.3 continue to provide the TI with access to policy makers.\textsuperscript{4}

The same questionnaire and scoring method used in the previous ASEAN TI Interference Indices were used in this survey, which covers the period January to December 2017. This Index is based on publicly available evidence to support choice of scores. Countries covered in this Index are nine ASEAN countries, (Brunei, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Thailand and Vietnam) and Bangladesh, India, Japan, Republic of Korea and Sri Lanka.

Overall findings indicate that most countries are moving at a glacial pace in implementing Article 5.3. While some countries have made progress in reducing interference from the industry, others have remained stagnant or regressed. There still remains much room for improvement in Asia in the implementation of Article 5.3 and its guidelines.

One key element of our work concerns the treaty's Article 5.3, which requires Parties to protect public health policy-making from interference by the tobacco industry. It is unequivocal and rests on the substantial body of evidence that the industry does indeed interfere to further its own interests.\textsuperscript{7}

-Dr Vera da Costa e Silva, Head of the Convention Secretariat

Figure 1 shows ranking of countries from the lowest to the highest level of TI interference. Table 1 provides the scores for the 14 countries. The lower the score, the lower the level of interference, which augurs well for the country.
FIGURE 1: TOBACCO INDUSTRY INTERFERENCE IN ASIA

The lower the score, the better the ranking

BRUNEI 42 45 47
THAILAND PHILIPPINES CAMBODIA
49 51 58 59
REP. KOREA SRI LANKA MALAYSIA MYANMAR
61 72 72
VIETNAM INDIA LAO PDR
78 79 85
BANGLADESH INDONESIA JAPAN
SUMMARY FINDINGS

• Brunei, Thailand and Philippines are doing well in implementing Article 5.3 consistently and creating awareness among other government departments on industry interference. However, there is room for improvement.

• Thailand has improved its implementation of Article 5.3 and has now banned all tobacco-related corporate social responsibility (CSR) activities and has become the first country to require the manufacturer or importer of tobacco products to report the volume of production or importation, market share, marketing expense, income and expense in their annual report and financial statement for the benefit of tobacco control.

• The TI continues to use the tobacco-related CSR channel to access non-health government officials. Even when a government prohibits officials from participating or endorsing CSR activities, as in the Philippines, the industry uses other business charities to access senior officials.

• Lack of transparency in disclosing interactions with the TI remains a problem across most countries. For example, when officials meet with the TI, records of these meetings are not made public. Having records of meetings would be helpful references. Countries also do not have a register of TI entities, their affiliate organisations, and individuals acting on their behalf.

• Several countries provide benefits to the tobacco industry such as duty exemptions, subsidies, or locating factories in export processing zones. Benefits also include extending compliance deadlines of policy measures such as implementation of pictorial health warnings on packs.

• Unnecessary interactions occur either through government officials attending functions organised by the industry or engagement in industry-initiated anti-smuggling programmes, which makes officials vulnerable to TI influence in policy development.

• Conflicts of interest arise from former senior officials being appointed in the TI or industry executives becoming advisors to the government. Most of the countries do not prohibit political contributions from the tobacco industry to politicians or political parties, nor require full disclosure of such contributions.

• Vietnam is the first country in Asia to announce its decision to not engage with the PMI-funded Foundation for a Smoke-Free World (FSFW) in line with WHO recommendations.

• Japan and Bangladesh are lagging far behind other countries in implementation of Article 5.3 in most categories especially in participation of the industry in policy development, incentives to the TI, conflict of interest situations, and not implementing preventive measures to protect the bureaucracy.

• Indonesia, a non-Party to the FCTC, is making some progress in reducing industry interference. While overall interference remains high, the Ministry of Health has adopted Guidelines for Managing Conflict of Interest with the Tobacco Industry, which enabled health officials to respond appropriately when they received a request from the TI on pictorial warnings on tobacco product packs. Indonesia must accede to the FCTC to improve and protect their tobacco control policies.
### TABLE 1: SUMMARY: TOBACCO INDUSTRY INTERFERENCE IN ASIA

<table>
<thead>
<tr>
<th>INDICATORS</th>
<th>BD</th>
<th>BN</th>
<th>KH</th>
<th>ID</th>
<th>IN</th>
<th>JP</th>
<th>LA</th>
<th>MY</th>
<th>MM</th>
<th>PH</th>
<th>KL</th>
<th>KR</th>
<th>TH</th>
<th>VN</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Level of Participation in Policy-Development</strong>&lt;sup&gt;9&lt;/sup&gt;</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. The government accepts, supports or endorses offer for assistance by or in collaboration with the tobacco industry in implementing tobacco control policies (Rec 3.1)</td>
<td>4</td>
<td>0</td>
<td>1</td>
<td>5</td>
<td>3</td>
<td>5</td>
<td>5</td>
<td>0</td>
<td>1</td>
<td>4</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>2. The government accepts, supports or endorses legislation drafted by/collaboration with the tobacco industry (Rec 3.4) Score 5 if pro-tobacco industry, and 1 if pro-advocate. Proportionately rate the scores from 1-5 depending on the amount or quantity/value</td>
<td>3</td>
<td>0</td>
<td>1</td>
<td>5</td>
<td>0</td>
<td>5</td>
<td>3</td>
<td>0</td>
<td>2</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>3. The government allows the tobacco industry to sit in multi-sectoral committee/advisory group that sets public health policy (Rec 4.8) 1 Never 5 Yes</td>
<td>5</td>
<td>1</td>
<td>1</td>
<td>5</td>
<td>3</td>
<td>5</td>
<td>1</td>
<td>5</td>
<td>1</td>
<td>5</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>4. The government allows representatives from the tobacco industry (including State-owned) in the delegation to the COP or subsidiary bodies or accepts their sponsorship for delegates. (Rec 4.9 &amp; 8.3)</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Subtotal</td>
<td>12</td>
<td>1</td>
<td>3</td>
<td>15</td>
<td>6</td>
<td>15</td>
<td>10</td>
<td>5</td>
<td>4</td>
<td>14</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td>13</td>
</tr>
<tr>
<td><strong>So-called CSR activities</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. The government receives contributions from the tobacco industry (including so-called CSR contributions) (Rec 6.4) The government agencies/officials endorses, forms partnerships with/participates in tobacco industry CSR activities (Rec 6.2)</td>
<td>5</td>
<td>0</td>
<td>3</td>
<td>5</td>
<td>4</td>
<td>5</td>
<td>0</td>
<td>3</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Subtotal</td>
<td>5</td>
<td>0</td>
<td>3</td>
<td>5</td>
<td>4</td>
<td>5</td>
<td>0</td>
<td>3</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td><strong>Benefits to the Tobacco Industry</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. The government accommodates requests from the industry for longer implementation time or postponement of tobacco control law (Rec 7.1) For each incident, provide base score of 3 if there is a policy that remains pending due to tobacco industry efforts. No score if there is no proposed or pending policy at all. Time Frame: +1 Longer time frame was granted, +1 extremely long time is granted, -1 if there is a justifiable reason (elections, calamity) Type of Health Policy/Type of Government Agency Involved: -1 if related to local government, -2 if related to agriculture, -2 if related to trade, +1 if referring to policy of health department, women, children, or education.</td>
<td>5</td>
<td>0</td>
<td>1</td>
<td>5</td>
<td>0</td>
<td>4</td>
<td>3</td>
<td>5</td>
<td>4</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3) For each incentive/benefit, give base score of 3; Subject: +1 If the incentive is specific to a tobacco company; Term/Period: +1 If term of the benefit extends beyond usual term of elected officials; Granting Authority: -1 If the grant is granted by local govt; Type: +1 If exemption refers to excise tax or duty free; + if a subsidy is involved</td>
<td>5</td>
<td>0</td>
<td>4</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>3</td>
<td>3</td>
<td>5</td>
<td>2</td>
<td>3</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Subtotal</td>
<td>10</td>
<td>0</td>
<td>5</td>
<td>10</td>
<td>5</td>
<td>9</td>
<td>8</td>
<td>8</td>
<td>7</td>
<td>5</td>
<td>4</td>
<td>3</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td><strong>Forms of Unnecessary Interaction</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Top-level government officials meet with/foster relations with the tobacco companies such as attending social functions and events sponsored or organized by the tobacco companies. (Rec 2.1) Provide base score of 3: -1 for mitigating circumstance and +1 for aggravating circumstance</td>
<td>5</td>
<td>0</td>
<td>1</td>
<td>5</td>
<td>3</td>
<td>3</td>
<td>5</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>4</td>
<td>2</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>9. The government accepts assistance/offers of assistance from the tobacco industry on enforcement (Rec 3.1 &amp; 4.3)</td>
<td>4</td>
<td>0</td>
<td>1</td>
<td>5</td>
<td>5</td>
<td>3</td>
<td>5</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>4</td>
<td>0</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry (Rec 3.1)</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>4</td>
<td>4</td>
<td>5</td>
<td>0</td>
<td>1</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Subtotal</td>
<td>12</td>
<td>0</td>
<td>2</td>
<td>12</td>
<td>12</td>
<td>10</td>
<td>15</td>
<td>4</td>
<td>1</td>
<td>5</td>
<td>8</td>
<td>2</td>
<td>2</td>
<td>10</td>
</tr>
</tbody>
</table>
### Transparency

11. The government does not publicly disclose meetings/interactions with the tobacco industry where such interactions are strictly necessary for regulation. (Rec 2.2)

For each meeting/interaction not disclosed, give base score of 3: +2 if the meeting is not strictly necessary, -1 if minutes were taken, -1 if TC advocates were asked to be present, -1 if the meeting is in a public office, +1 if photos were taken, +1 if high level officials were involved, -1 if there is a mechanism for disclosure of tobacco meetings.

<table>
<thead>
<tr>
<th></th>
<th>BD</th>
<th>BN</th>
<th>KH</th>
<th>ID</th>
<th>IN</th>
<th>JP</th>
<th>LA</th>
<th>MY</th>
<th>MM</th>
<th>PH</th>
<th>KL</th>
<th>KR</th>
<th>TH</th>
<th>VN</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>4</td>
<td>1</td>
<td>5</td>
<td>5</td>
<td>3</td>
<td>4</td>
<td>3</td>
<td>4</td>
<td>0</td>
<td>5</td>
<td>5</td>
<td>3</td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>
| 12. The government requires rules for the disclosure or registration of tobacco industry entities, affiliate organizations, and individuals acting on their behalf including lobbyists.

If rules exist for tobacco companies, provide a base score of 3: -1 if affiliated organizations are included, -1 if individuals/lobbyists are included; If no rules exist, the score is 5. -1 If a policy is being considered.

<table>
<thead>
<tr>
<th></th>
<th>BD</th>
<th>BN</th>
<th>KH</th>
<th>ID</th>
<th>IN</th>
<th>JP</th>
<th>LA</th>
<th>MY</th>
<th>MM</th>
<th>PH</th>
<th>KL</th>
<th>KR</th>
<th>TH</th>
<th>VN</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>4</td>
<td>5</td>
<td>5</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>5</td>
<td>4</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>8</td>
<td>9</td>
<td>6</td>
<td>10</td>
<td>10</td>
<td>8</td>
<td>8</td>
<td>9</td>
<td>3</td>
<td>8</td>
<td>10</td>
<td>7</td>
<td>6</td>
<td></td>
</tr>
</tbody>
</table>

### Conflict of Interest

13. The government does not have a policy (whether or not written) to prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns or to require full disclosure of such contributions (Rec 4.11)

1 Never 5 Yes; If such a prohibition does not exist for tobacco companies, provide a base score of 5: -1 If a policy is being considered, -1 if there is a partial policy, -1 if there is a policy but not enforced.

<table>
<thead>
<tr>
<th></th>
<th>BD</th>
<th>BN</th>
<th>KH</th>
<th>ID</th>
<th>IN</th>
<th>JP</th>
<th>LA</th>
<th>MY</th>
<th>MM</th>
<th>PH</th>
<th>KL</th>
<th>KR</th>
<th>TH</th>
<th>VN</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>1</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>1</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>1</td>
<td></td>
</tr>
</tbody>
</table>
| 14. Retired senior officials work for the tobacco industry (Rec 4.4)

Provide base score of 3: -1 for mitigating circumstance and +1 for aggravating circumstance

<table>
<thead>
<tr>
<th></th>
<th>BD</th>
<th>BN</th>
<th>KH</th>
<th>ID</th>
<th>IN</th>
<th>JP</th>
<th>LA</th>
<th>MY</th>
<th>MM</th>
<th>PH</th>
<th>KL</th>
<th>KR</th>
<th>TH</th>
<th>VN</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>0</td>
<td>0</td>
<td>5</td>
<td>4</td>
<td>5</td>
<td>3</td>
<td>5</td>
<td>3</td>
<td>4</td>
<td>0</td>
<td>0</td>
<td>5</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>
| 15. Current government officials and their relatives hold positions in the tobacco business including consultancy positions (Rec 4.5, 4.8 & 4.10)

Provide base score of 3: -1 for mitigating circumstance and +1 for aggravating circumstance

<table>
<thead>
<tr>
<th></th>
<th>BD</th>
<th>BN</th>
<th>KH</th>
<th>ID</th>
<th>IN</th>
<th>JP</th>
<th>LA</th>
<th>MY</th>
<th>MM</th>
<th>PH</th>
<th>KL</th>
<th>KR</th>
<th>TH</th>
<th>VN</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>0</td>
<td>4</td>
<td>1</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>4</td>
<td>0</td>
<td>4</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>13</td>
<td>1</td>
<td>9</td>
<td>11</td>
<td>14</td>
<td>9</td>
<td>10</td>
<td>9</td>
<td>5</td>
<td>14</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Preventive Measures

1 Yes, 2 Yes but partial only, 3 Policy/program being developed, 4 Committed to develop such a policy/program, 5 None

16. The government has a procedure for disclosing records of the interaction with tobacco industry and its representatives. (Rec 5.1)

<table>
<thead>
<tr>
<th></th>
<th>BD</th>
<th>BN</th>
<th>KH</th>
<th>ID</th>
<th>IN</th>
<th>JP</th>
<th>LA</th>
<th>MY</th>
<th>MM</th>
<th>PH</th>
<th>KL</th>
<th>KR</th>
<th>TH</th>
<th>VN</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>3</td>
<td>5</td>
<td>5</td>
<td>4</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>1</td>
<td>5</td>
<td>5</td>
<td>2</td>
<td>5</td>
<td></td>
</tr>
</tbody>
</table>
| 17. The government has formulated, adopted or implemented a code of conduct for public officials, prescribing the standards they should comply when dealings with the tobacco industry (Rec 4.2)

<table>
<thead>
<tr>
<th></th>
<th>BD</th>
<th>BN</th>
<th>KH</th>
<th>ID</th>
<th>IN</th>
<th>JP</th>
<th>LA</th>
<th>MY</th>
<th>MM</th>
<th>PH</th>
<th>KL</th>
<th>KR</th>
<th>TH</th>
<th>VN</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>3</td>
<td>3</td>
<td>2</td>
<td>4</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>1</td>
<td>4</td>
<td>4</td>
<td>2</td>
<td>4</td>
<td></td>
</tr>
</tbody>
</table>
| 18. The government requires the tobacco industry to periodically submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, and political contributions. (Rec 5.2)

<table>
<thead>
<tr>
<th></th>
<th>BD</th>
<th>BN</th>
<th>KH</th>
<th>ID</th>
<th>IN</th>
<th>JP</th>
<th>LA</th>
<th>MY</th>
<th>MM</th>
<th>PH</th>
<th>KL</th>
<th>KR</th>
<th>TH</th>
<th>VN</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>0</td>
<td>5</td>
<td>2</td>
<td>5</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>5</td>
<td>2</td>
<td>3</td>
<td>5</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
</tbody>
</table>
| 19. The government has a program/system/plan to consistently raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)

<table>
<thead>
<tr>
<th></th>
<th>BD</th>
<th>BN</th>
<th>KH</th>
<th>ID</th>
<th>IN</th>
<th>JP</th>
<th>LA</th>
<th>MY</th>
<th>MM</th>
<th>PH</th>
<th>KL</th>
<th>KR</th>
<th>TH</th>
<th>VN</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td>3</td>
<td>5</td>
<td>3</td>
<td>2</td>
<td>5</td>
<td>1</td>
<td>4</td>
<td>5</td>
<td>2</td>
<td>5</td>
<td></td>
</tr>
</tbody>
</table>
| 20. The government has a policy prohibiting the acceptance of all forms of contributions from the tobacco industry (monetary or otherwise) including offers of assistance, policy drafts, or study visit invitations to the government, officials and their relatives. (Rec 3.4)

<table>
<thead>
<tr>
<th></th>
<th>BD</th>
<th>BN</th>
<th>KH</th>
<th>ID</th>
<th>IN</th>
<th>JP</th>
<th>LA</th>
<th>MY</th>
<th>MM</th>
<th>PH</th>
<th>KL</th>
<th>KR</th>
<th>TH</th>
<th>VN</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>5</td>
<td>5</td>
<td>5</td>
<td>3</td>
<td>4</td>
<td>1</td>
<td>3</td>
<td>5</td>
<td>2</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Subtotal</td>
<td>18</td>
<td>10</td>
<td>19</td>
<td>16</td>
<td>21</td>
<td>23</td>
<td>22</td>
<td>20</td>
<td>24</td>
<td>6</td>
<td>19</td>
<td>24</td>
<td>10</td>
<td>18</td>
</tr>
</tbody>
</table>

### TOTAL

<table>
<thead>
<tr>
<th></th>
<th>BD</th>
<th>BN</th>
<th>KH</th>
<th>ID</th>
<th>IN</th>
<th>JP</th>
<th>LA</th>
<th>MY</th>
<th>MM</th>
<th>PH</th>
<th>KL</th>
<th>KR</th>
<th>TH</th>
<th>VN</th>
</tr>
</thead>
<tbody>
<tr>
<td>78</td>
<td>21</td>
<td>47</td>
<td>79</td>
<td>72</td>
<td>85</td>
<td>72</td>
<td>58</td>
<td>59</td>
<td>45</td>
<td>51</td>
<td>49</td>
<td>42</td>
<td>61</td>
<td></td>
</tr>
</tbody>
</table>
TOBACCO INDUSTRY PARTICIPATES IN POLICY DEVELOPMENT

Many countries do not accept offers or assistance from the tobacco industry in implementing tobacco control policies nor allow the industry to sit in multi-sectoral tobacco control committee; however a fair number of countries still do (Figure 2).

**FIGURE 2: LEVEL OF PARTICIPATION IN POLICY DEVELOPMENT**

The lower the score, the better the ranking

<table>
<thead>
<tr>
<th>Country</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brunei Darussalam</td>
<td>10</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>12</td>
</tr>
<tr>
<td>Republic of Korea</td>
<td>13</td>
</tr>
<tr>
<td>Cambodia</td>
<td>14</td>
</tr>
<tr>
<td>Thailand</td>
<td>15</td>
</tr>
<tr>
<td>Myanmar</td>
<td>15</td>
</tr>
<tr>
<td>Malaysia</td>
<td>8</td>
</tr>
<tr>
<td>India</td>
<td>5</td>
</tr>
<tr>
<td>Laos</td>
<td>3</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>2</td>
</tr>
<tr>
<td>Vietnam</td>
<td>4</td>
</tr>
<tr>
<td>Philippines</td>
<td>7</td>
</tr>
<tr>
<td>Indonesia</td>
<td>9</td>
</tr>
<tr>
<td>Japan</td>
<td>6</td>
</tr>
</tbody>
</table>

Brunei Darussalam, Sri Lanka, Republic of Korea, Cambodia and Thailand do not accept, support, or endorse policy or legislation drafts (or offers of assistance to draft) by or in collaboration with the TI, nor invite the industry to sit at meetings, which decide on policy. In these countries, the tobacco industry is not part of the tobacco control inter-ministerial meetings on implementing the FCTC. However, in Japan, the tobacco industry has a say in policy development through the Ministry of Finance which implements the Tobacco Business Act, while in the Philippines the TI has a seat in the Inter-agency Committee - Tobacco (IACT) that implements the Tobacco Regulation Act. The involvement of the industry presents challenges for policy development and implementation in both countries.

The Finance Ministry in a few countries appeared vulnerable to industry interference and received pro-industry recommendations on tax policy. In Bangladesh, BAT sought the assistance of the Prime Minister’s Finance Adviser and the Finance Minister to make a decision favourable to them in proposing a reduced tax rate for bidi from 35% to 30% in the 2017-2018 budget. In addition, instead of reducing the number of cigarette tax tiers, as recommended by the public health community, the budget increased the number of tiers by splitting the low-tax cigarette tiers into local and international brands.

The tobacco industry associated tobacco smuggling with tax increases and used the smuggling issue to offer technical assistance to governments, as in Vietnam. The National Steering Committee held a meeting with the Vietnam Tobacco Corporation (VINATABA) and accepted TI recommendations on measures to fight cigarette smuggling.

In Japan, the existence of the Tobacco Business Act and a strong association between Japan Tobacco Inc. (JT), the government (through 33% ownership) and policymakers, particularly the Ministry of Finance, enabled JT to participate in policy development, which facilitated interference to weaken policies such as the legislation on 100% smoke-free public places. The Japanese Finance Minister was reported to have questioned whether there is a connection between smoking cigarettes and lung cancer.
Since there was no session of the Conference of the Parties (COP) in 2017, the countries did not reflect any data on this issue. In 2016, with the exception of Japan and the Philippines, other countries did not have any representative from the TI on their delegation to attend the COP7 session or its related meetings. Japan’s delegation had representatives from the Tobacco and Salt Industries Office at COP7 session, while the Philippines had a representative from the National Tobacco Administration.12

II

TOBACCO–RELATED CSR ACTIVITIES FACILITATE ACCESS TO OFFICIALS

The tobacco industry continues to utilise CSR activities to access high-level officials. While Article 5.3 calls for Parties to de-normalise CSR activities, among the 14 countries only Thailand and Lao PDR have banned tobacco-related CSR activities. The industry provided funds for disaster relief, projects among the rural poor, and educational and environmental activities, which can gain public approval and command political mileage. The tobacco industry involved officials from the non-health sector and from law enforcement departments such as the police force.

In the Philippines, for example, the Wong Chu King Foundation, the charity arm of Mighty Corporation (acquired by Japan Tobacco International in 2017), gave computer sets to the Philippine National Police (PNP) Police Station Precinct 1 in Makati City (Metro Manila) aimed to ensure greater efficiency in its daily operations.13 A photo story of the hand-over of the computers was given wide publicity in the local media.14 In Sri Lanka, BAT’s local subsidiary handed out aid to flood victims in the Matara area in collaboration with the Police and Special Task Force Officers.15

In countries where tobacco-related CSR and sponsorship activities are banned, the industry courses these activities through business organizations such as the American Chamber of Commerce (AmCham), which provides a cover of acceptability. In the Philippines, Philip Morris Fortune Tobacco Corporation (PMFTC) used the AmCham channel to collaborate with the Department of Agriculture and Department of Science and Technology in organizing summits on climate change and agriculture.16 PMFTC’s Director of External Affairs is a Director of AmCham and the co-chair of its Agriculture Committee.17 PMFTC’s Embrace program also presented shoes and apparel to athletes in the Cagayan province which was endorsed by the provincial governor.

In the Republic of Korea, Philip Morris courses its CSR activities through an NGO, Partner for the Future, that is active in AmCham Korea and has access to high-level officials. The head of Partner for the Future is the chairman of the Board of Governors of AmCham Korea, which allows him to be in the forefront of events that involve top government officials.18

Partial bans on CSR have shown to be ineffective as in Vietnam where CSR activities are restricted to disaster relief and poverty elimination. Government officials from the Ministry of Industry and Trade have joined the local tobacco company, VINATABA, to distribute gifts to flood victims, and local authorities joined British American Tobacco (BAT) to distribute gifts to poor households at the inauguration ceremony of a BAT-sponsored bridge.19

Since TI-sponsored youth smoking prevention programmes have been discredited, the industry now focuses on handing out scholarships and educational equipment to students. In Malaysia, the Minister of Domestic Trade, Cooperatives and Consumerism, whose ministry has a new responsibility to regulate electronic cigarettes, officiated at a Philip Morris-sponsored “Back to School” programme organised by the Salam Foundation, a regular recipient of PMI’s CSR grants.20

1Thailand banned all tobacco-related CSR activities as of 4 July 2017. Prior to this date the ban applied only to the Thai Tobacco Monopoly.
In Indonesia and Japan where tobacco sponsorship is not banned, tobacco companies sponsored popular sports such as badminton in Indonesia and volleyball in Japan, recognizing that when these countries host international or local tournaments, government officials appear at press conferences or endorse these events.

In Bangladesh, high-level government officials are more directly engaged with BAT’s CSR activities where the Agriculture Secretary is the Chairman of BATB’s Board on CSR Committee, while the Labour Secretary and Finance Additional Secretary are members of that Committee.22

III

BENEFITS TO THE TOBACCO INDUSTRY

Government benefits to the TI can come in various forms such as the granting of privileges, incentives, or tax exemptions to encourage the tobacco business. The government can also accommodate requests from the industry for longer implementation time or postponement of tobacco control policy measures.

1. Tax exemptions
Several countries provided benefits to the industry in the tobacco leaf trade, such as a tax exemption for use of native tobacco leaf in Thailand, or tax exemption for leaf exports from Cambodia to Vietnam.23 The Republic of Korea imposed a 40% tariff on cigarettes imported into the country to encourage multinational companies to build local manufacturing plants and hire local labour. Both BAT and Philip Morris Korea expanded their production facilities in the country in 2017 to increase ‘Made in Korea’ cigarettes for export and thereby avoid the import tariff.24

Tobacco companies benefit when they are allowed to locate their manufacturing or warehouse facilities in freeport/free-trade zones or industrial parks, such as Philip Morris’ leaf warehouse in the First Philippines Industrial Park (FPIP); in Bangladesh, effective 1 July 2017, the National Board of Revenue has waived a 25% tax on export of tobacco products by factories located in the Export Processing Zone (EPZ).25

In Lao PDR, the government in 2001 entered into a lopsided 25-year Investment License Agreement (ILA) with the TI to create a joint venture, Lao Tobacco Ltd. (now majority-owned by Imperial Brands), where the tobacco company gains by paying extremely low preferential taxes on tobacco.26 Since 2001, the Lao government has already lost about USD 100 million in tax revenues, which benefitted the industry through this unfair contract. The ILA also opened the door for TI executives to have access to and influence officials on various tobacco control policy matters.

2. Delay in enforcement
Rather than complying with the PHW regulations, the industry in Lao PDR had requested “a reduction in the size of the graphic image from 75% to 50% of the total packet.” While the Lao government did not accommodate the TI’s request to reduce the size of the pictorial health warning (PHW), the implementation was severely delayed. The original PHW implementation deadline of 1 October 2016 was moved three times (to 30 April 2017, 30 August 2017, and 1 January 2018) to accommodate the industry’s request, which included the often-used excuse of “a large stockpile of printed packets”.27 The TI benefitted by selling cigarette packs with no prominent PHW for about 19 months, between 2016 and 2018.

3. Postponement of regulations
In Malaysia, several policy decisions to strengthen tobacco control that were postponed in 2016 did not make progress in 2017, to the benefit of the TI: cigarette retailers remain unlicensed; a plain packaging plan has been shelved; regulation of e-cigarettes has not moved; and there was no tobacco tax increase.
In Sri Lanka in 2017, the Health Minister proposed more stringent tobacco control policies such as restricting sales of cigarettes within 100 meters of schools and banning sales of single sticks. The Tobacco Retailers Association met with the Finance Minister on the proposed measures and complained that these new measures would further affect their business, which was already hurting from increased cigarette prices. The proposed measures have yet to be implemented.

4. Ineffective measures
In Japan, where tobacco advertising and sponsorship are not banned, smoking is still allowed in work places, and cigarette packs carry ineffective text warnings, TI continues to benefit. The TI in Indonesia, a non-Party, receives similar advertising and sponsorship benefits and more, as no punitive action is taken against companies for non-compliance.

**India: Industry runs helter-skelter to the courts on pictorial health warning**

The tobacco industry takes a government to court when its other obstructive or delay tactics have failed to stop a tobacco control measure. This tactic was applied to block the Indian government from implementing prominent PHW on tobacco packs.

In 2015, India’s Ministry of Health and Family Welfare (MHFW) enforced prominent 85% PHW on tobacco packs. Several tobacco companies and allied organizations lobbied against the implementation of these larger PHW and filed more than 27 cases across various jurisdictions throughout India against this federal rule. The TI challenged the text as being unsubstantiated, claimed that the images of the warnings were untruthful and the warnings as unconstitutional. Consequently, the implementation of larger PHWs was delayed.

With the MHFW remaining firm on its decision to implement 85% PHWs on tobacco products, the Apex Court transferred all these petitions to the Karnataka High Court, which subsequently struck down the 85% PHW Amendment Rules 2014 in December 2017. This was a major win for the TI; however, the Supreme Court stayed the order passed by the High Court of Karnataka in January 2018, and the government’s public health measure on PHW prevailed. The new 85% PHW went into effect on 1 September 2018.
According to Article 5.3 guidelines, forms of unnecessary interaction occur when top level government officials attend social functions and events sponsored by tobacco companies or when the government accepts offers of assistance or enters into partnerships with the TI.

Figure 3 shows how countries fared in their unnecessary interactions with the tobacco industry. Presenting awards to tobacco companies is one form of unnecessary interaction found in several countries. In 2017, senior officials in Bangladesh attended industry events and/or handed out awards to BAT Bangladesh (BATB):

- 6 December 2017: State Minister for Power, Energy and Mineral Resources and Joint Secretary, Bangladesh Awami League attended BATB’s Battle of Minds Grand Finale 2017.³⁰

- 27 November 2017: The Institute of Chartered Accountants of Bangladesh (ICAB) awarded BATB the best presented annual reports in 2016.³¹The Finance Minister and Commerce Minister presented the award at the Pan Pacific Sonargaon Hotel in Dhaka.³²

- 13 November 2017: The National Bureau of Revenue awarded BATB the highest income tax payer in the country under the “Manufacturing-Others” category.³³ A framed tax card was presented by the State Minister for Finance. Chairman of the Parliamentary Standing Committee on the Finance Ministry and National Bureau of Revenue Chairman also attended the event.
• 29 October 2017: BATB received an award from the State Minister of Information and Communication Technology for ‘Dream Company to Work for’ at the ‘South Asian Business Excellence Award 2017’.34

In the Republic of Korea, BAT Korea received an Export Tower Award from the Minister of Trade, Industry and Energy.35 Ironically on World No Tobacco Day in 2017, Korean transnational tobacco company, KT&G, received the Labour Minister’s award for workplace gender equality.36

In Indonesia, several ministers and senior officials attended functions organised by the TI such as the Entrepreneurship Development Center Sampoerna 2017 EXPO, which was officially opened by the Minister of Manpower and witnessed by Malang city officials.37

Despite a State prohibition in Vietnam, government inspectors reported that during 2012-2016, the minister and officials of the Ministry of Industry and Trade (MOIT) had received substantial sums of money from VINATABA to go abroad on study visits. For example, in 2016, VINATABA paid 1.4 billion VND (USD 62,000) for five MOIT officers and 992 million VND (USD 40,000) for two officers from other departments to go on an ‘Understanding raw material markets and fairs’ trip to Cuba, Argentina, and Panama. VINATABA also sponsored a MOIT official for a 7-day trip to the United States and Belgium just to attend an exhibition in 2016 and another four MOIT officials for an 8-day “study and survey” trip in Australia in 2014.38

Accepting assistance on tackling smuggling from tobacco companies is common across most Asian countries.

V

LACK OF TRANSPARENCY IN INTERACTIONS

Article 5.3 guidelines recommends that when interactions with the TI are strictly necessary for regulation, these meetings shall be publicly disclosed.

Article 5.3 guidelines recommends that when interactions with the TI are strictly necessary for regulation, these meetings shall be publicly disclosed. The guidelines also recommend that government establish rules for the disclosure or registration of TI entities, affiliate organizations and individuals acting on their behalf including lobbyists.

Most countries do not have a mechanism to disclose their meetings and interactions with the TI. Overall non-health sectors appear to view the TI as a stakeholder and their interactions with the TI as with any other industry. While minutes of meetings may exist, these are not made public.

The Philippine Civil Service Commission – Department of Health Joint Memorandum Circular (JMC) requires officials to report their meetings with the TI, but there were no reports filed for 2017, despite news reports that Department of Agriculture officials collaborated and participated in programmes sponsored by PMFTC in 2017.

In the case of Thailand and Vietnam, since the Tobacco Authority of Thailand (TAT, formerly the Thai Tobacco Monopoly) and VINATABA are state-owned enterprises, the meetings and interactions with these entities are seen as normal and not as interference.

No Asian country has a register of TI affiliates and organisations or their lawyers and consultants acting on the industry's behalf. Increasingly, the TI uses its lawyers and consultants to communicate with governments.
To illustrate, if the government of Bangladesh had a register of TI representatives or entities affiliated to or engaged by the industry, the Policy Research Institute (PRI), for example, would be listed on record as a think tank that conducted a study for BATB and is now making recommendations to the government about taxation of low-priced cigarettes, bidis, and other tobacco products. Similarly, the Malaysian government would have listed in their record the think tank Institute for Democracy and Economic Affairs (IDEAS) as a group that received funds from PMI and JTI in 2015 – 2017, thereby equipping the government to be in an informed position when processing recommendations from this group about plain packaging, tobacco smuggling, or any tobacco control measure. Civil society groups, both national and international, have already identified some of these individuals and groups, and governments can start by referring to the existing information on TI affiliates and organisations.

VI
CONFLICTS OF INTEREST

According to Article 5.3 guidelines, the involvement in public health policies of organizations or individuals with commercial or vested interests in the TI is most likely to have a negative effect on tobacco control.

According to Article 5.3 guidelines, the involvement in public health policies of organizations or individuals with commercial or vested interests in the TI is most likely to have a negative effect on tobacco control. In practice, the TI recruits former senior officials to head up tobacco companies and to elevate and increase its access to the government.

In Malaysia, the new Chairman of BAT Malaysia appointed in January 2017 was the former Secretary General of the Ministry of Home Affairs. He is also currently the Chairman of Social Security Organisation (SOCSO) and active in service to sports as the Trustee and Chairman of the Football Association of Malaysia.

In Indonesia, PT HM Sampoerna recruited as its Independent Commissioner the former Director General of Customs and Excise and Expert Staff to the Finance Minister on International Relations and Economic Cooperation.

In Bangladesh, the former Senior Secretary of the Ministry of Industries is a Non-Executive Director to BATB, while the former Secretary of Industries is an Independent Director of BATB.

In India, the former Director of the Central Board of the Reserve Bank of India joined the Indian Tobacco Company Ltd., (ITC), the local subsidiary of BAT, as its Chairman. According to ITC’s company profile, he served as a board member or committee member of various national and state governing bodies in India. In fact, most of the Board of Directors of ITC were linked or currently associated with varied government departments, ministries and governing bodies of India. Several officials from government organizations (like Life Insurance Corporation of India and state-owned general insurance companies) are board members of ITC.

In Japan, retiring senior Ministry of Finance officials are appointed to leadership positions in JT. For example, the Chairman of JT’s Board started his career in the Ministry of Finance in 1974, rising to the position of Administrative Vice Minister in 2009, was the Special Advisor to the Cabinet (2012 – 2014), then appointed as Chair of JT.
In Thailand, executive leaders of the state-owned TAT are considered as government appointees. The Director of the TAT is listed among the top executives of the Ministry of Finance.\textsuperscript{50}

Article 5.3 guidelines recommend having clear rules regarding conflicts of interest for government officials and employees working in tobacco control, as these are important for protecting such policies from interference by the TI.

Most of the countries do not prohibit political contributions from the TI to support political parties, candidates, or campaigns nor require full disclosure of such contributions. This did not apply to countries with a one-party system such as Vietnam and Lao PDR.

### VII

**PREVENTIVE MEASURES**

According to the Article 5.3 guidelines, for governments to take effective measures preventing interference of the TI with public health policies, they need information about its activities and practices, thus ensuring that the industry operates in a transparent manner. The guidelines make recommendations including to adopt and implement a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the TI. Brunei, Philippines, and Thailand are exemplary in taking measures in dealing with the TI (Figure 4).

**FIGURE 4: PREVENTIVE MEASURES TO CURB TOBACCO INDUSTRY INTERFERENCE**

The lower the score, the better the ranking

<table>
<thead>
<tr>
<th>Rank</th>
<th>Country</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>Philippines</td>
</tr>
<tr>
<td>10</td>
<td>Brunei</td>
</tr>
<tr>
<td>10</td>
<td>Thailand</td>
</tr>
<tr>
<td>16</td>
<td>Indonesia</td>
</tr>
<tr>
<td>18</td>
<td>Bangladesh</td>
</tr>
<tr>
<td>18</td>
<td>Vietnam</td>
</tr>
<tr>
<td>19</td>
<td>Cambodia</td>
</tr>
<tr>
<td>19</td>
<td>Sri Lanka</td>
</tr>
<tr>
<td>20</td>
<td>Malaysia</td>
</tr>
<tr>
<td>21</td>
<td>India</td>
</tr>
<tr>
<td>22</td>
<td>Laos PDR</td>
</tr>
<tr>
<td>23</td>
<td>Japan</td>
</tr>
<tr>
<td>24</td>
<td>Myanmar</td>
</tr>
<tr>
<td>24</td>
<td>Rep. Korea</td>
</tr>
</tbody>
</table>
Philippines: Action to Protect the Bureaucracy

In 2010 the Philippines became the first country in Asia to take a whole-of-bureaucracy approach in enacting measures to deal with the tobacco industry. The Department of Health together with the Civil Service Commission issued Joint Memorandum Circular 2010-01 (JMC), which serves to protect the bureaucracy against TI interference. This policy provides a code of conduct for all government officials in relation to the tobacco industry, which, consistent with Article 5.3 Guidelines, is broadly defined in the policy to include all those that represent the TI.

The main features of the JMC are:
1. All public officials shall:
   - Not interact with the TI unless strictly necessary for its regulation;
   - Make all “necessary” interactions public and transparent;
   - Not receive any form of direct or indirect contribution from TI
   - Disclose interests in the TI
2. Violations of the JMC are subject to administrative proceedings.
3. Heads of agencies must include implementation of the JMC in their annual reports.

More than 200 national government agencies, local government units, state universities and colleges, and government-owned or controlled corporations in the Philippines have expressed support or implemented measures explicitly prohibiting their offices from interacting with the tobacco companies, retailers, and the like, unless such interactions are strictly necessary for their effective regulation and control.51

The Department of Education issued DepEd Order No.6, s.2012: Guidelines on the adoption and implementation of public health policies on tobacco control and protection against TI interference. The Department of Education Secretary has warned school officials against TI interference, reminding them of existing guidelines prohibiting any form of donation from tobacco companies.52

Examples of other departments that have issued their respective regulations compliant with the JMC:

- Department of Labor and Employment Memorandum reiterating the JMC;
- Department of Foreign Affairs Memorandum directing compliance with the JMC;
- Bureau of Internal Revenue (BIR) Revenue Regulation (RR) 28-2014, which reiterates the rules in the JMC and added that any violation of the RR shall be deemed conduct prejudicial to the best interest of the service and shall constitute a grave offense.
- Metropolitan Manila Development Authority (MMDA) rules on the protection of the MMDA from TI interference through Memorandum 10, s.2010 titled, Amended Code of Conduct and Ethical Standards for Officials and Employees of the Metropolitan Manila Development Authority.53

The Philippines still needs to address new challenges subverting the implementation of Article 5.3. While there is success in prohibiting unnecessary interactions of the government with the TI and prohibiting TI donations to government agencies, the limited scope leaves a loophole and an opportunity for the industry to use private organizations to continue conducting and publicizing its so-called CSR activities.
Thailand is the first country in Asia to require tobacco companies to submit a full report about their business including expenses on marketing.

Brunei does not have a TI as such and hence does not face the challenges experienced by other countries. Brunei drafted a code for their civil service and is finalising it. The Philippines is focusing on improving implementation of the measures (i.e. JMC) they already put in place.

Thailand’s Ministry of Public Health already has a Ministerial Regulation on “Guidelines on Interaction with Tobacco Entrepreneurs and Related Persons”. The Office of the Civil Service Commission’s regulation prohibited civil servants’ interaction with industry in a way that may lead to policy interference, and this should apply to all ministries. Using the Ministerial Regulation as a basis, new procedures are being drawn for the Civil Service Commission at the national level.

The new Tobacco Products Control Act 2016 (implemented in 2017) in Section 40 requires the manufacturer or importer of tobacco products to report the volume of production or importation, market share, marketing expense, income and expense in their annual report, audited financial statement and any other information for the benefits of tobacco products control to the Committee. Thailand is the first country in Asia to require tobacco companies to submit a full report about their business including expenses on marketing.

Cambodia in 2017 passed a Sub-Decree on the Establishment and Functioning of the Committee for Tobacco Control (CFTC), which has incorporated some of the principles of Article 5.3:

**Article 3: CFTC’s members shall be individuals not relating to the benefit of tobacco industries or companies, including but not limited to shareholders or beneficiaries from tobacco industries or companies.**

**Article 7: CFTC shall cooperate with competent authorities, local authorities, civil society, and members of the private sector who are not involved with tobacco industries to promote the program for raising awareness on consequences of tobacco use.**

In November 2017, Vietnam became the first Asian country to announce its non-engagement with the PMI-funded Foundation for Smoke-Free World (FSFW) when the MOH alerted all government ministries to not cooperate with PMI-funded FSFW.

In November 2017, Vietnam became the first Asian country to announce its non-engagement with the PMI-funded Foundation for Smoke-Free World (FSFW) when the MOH alerted all government ministries to not cooperate with PMI-funded FSFW. Highlighting the WHO's recommendation, the MOH letter states that there is a fundamental conflict of interest between the TI (including the PMI-funded FSFW) and public health, because, while declaring its vision for a smoke-free world, PMI continues to promote tobacco and to oppose tobacco control measures that are proven to be effective globally.

In August 2018, the Directorate of Investment and Company Administration of the Myanmar Ministry of Planning and Finance passed a code of ethics that prohibits certain activities in order to
prevent possible corruption by companies and corporate bodies incorporated under the Myanmar Companies Law. The Code of Conduct covers all corporations operating in Myanmar, including the TI and prohibits corporations from providing travel assistance (which includes study visits), undertaking CSR activities, and making political contributions, among other activities.56

The governments of the Republic of Korea, Japan, India and Lao PDR still have not adopted national measures, such as a separate code of conduct, to protect the government administration from influence from the TI.

The Tobacco Business Acts in South Korea and Japan empower their respective Ministries of Finance to obtain information on tobacco production from the industry, but the TI is not required to submit information on marketing expenditure and expenses on charitable activities. JT, being part-owned (33%) by the government, submits records on production, manufacture, market share, and revenues; however, no record is available on lobbying expenditure and political contributions. According to news reports JT spends JPY 20 billion a year (USD 180 million) on advertising, almost all of which promotes its “smoking manners campaign,” buying ad space and air time reportedly to quash anti-smoking reporting by making media companies dependent on JT-related advertising revenue.57

India currently does not have any specific laws for the implementation of Article 5.3. Seven state governments, however, have made rapid strides in enforcing Article 5.3 by issuing state orders, six of which have meeting procedures to limit interaction and/or promote transparency of interactions with the TI. The national government has no specific policy to disallow the acceptance of contributions/gifts from the TI. Nevertheless, some of the state government notifications prohibit accepting scholarships, rewards or gifts from tobacco companies.

The Lao government has not adopted any preventive measures such as a code of conduct or a procedure for disclosing the records of interactions with the TI and its representatives. Since the government is involved in a business contract (the ILA mentioned above) with Imperial Brands, officials related to the agreement are known to attend meetings with the TI.

**CHALLENGES REMAIN**

Some tobacco industry activities must be addressed to reduce TI influence on public officials.

1. **Tobacco Industry Utilises the Investment Channel**

Recent years have seen the top three transnational tobacco companies (PMI, BAT and JTI) undertake acquisitions and mergers in Asia with local tobacco companies in mainly developing countries such as Bangladesh, Indonesia, and the Philippines (Table 2). Unfortunately, these transactions will result in more cigarette sales and tobacco use in these countries and the region.

The expansion of the tobacco business of transnational companies is seen positively by governments from the perspective of foreign direct investment. This stresses the need for policy coherence in tobacco control across the whole government to ensure no benefits are provided to a business that causes so much harm.

2. **Tobacco Industry’s Influence on the COP**

Besides Japan and the Philippines, none of the other countries had any representatives from the TI on their delegation to the COP, although a Reuters exposé showed how PMI met covertly with delegates of some countries during the seventh session of the COP in 2016.63 The Reuters investigation also reported PMI and BAT had sought to influence the composition of delegations and move the balance of the delegation composition away from public health officials and toward ministries like finance and trade. According to a PMI executive, such agencies benefit from tobacco tax revenues and attach less weight to health concerns. Tobacco tax is an area that is vulnerable to TI interference.
### TABLE 2: ACQUISITIONS & MERGERS BY TOBACCO COMPANIES IN ASIA

<table>
<thead>
<tr>
<th>Year</th>
<th>Acquisition &amp; Merger</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>PMI acquired PT Sampoerna, the No. 1 tobacco company in Indonesia</td>
</tr>
<tr>
<td>2010</td>
<td>Philip Morris International merged with Philippine market leader Fortune Tobacco to form PMI subsidiary, PMFTC.</td>
</tr>
<tr>
<td>2017</td>
<td>JT acquired Karyadibya Mahardhika (KDM) for US$ 677 million and became 6th largest tobacco company in Indonesia.</td>
</tr>
<tr>
<td>2017</td>
<td>JT acquired Mighty Corporation for US$ 936 million and became the No. 2 tobacco company in the Philippines.</td>
</tr>
<tr>
<td>2018</td>
<td>JT acquired United Dhaka Tobacco Co for US$ 1.47 billion and became the No.2 tobacco company in Bangladesh.</td>
</tr>
<tr>
<td>2009</td>
<td>BAT acquired PT Bentoel Internasional Investama Tbk for US$ 494 million and became the No.4 tobacco company in Indonesia.</td>
</tr>
</tbody>
</table>

### CONCLUSIONS AND RECOMMENDATIONS

Governments must dramatically step-up their efforts to implement FCTC Article 5.3. As a general obligation of the treaty, it is vital to strengthening overall tobacco control, and the recommendations stated in the Guidelines provide clear measures that governments can implement to curb industry meddling and disruption. Outside departments/ministries of health, many government officials remain largely unaware of FCTC Article 5.3 and have not utilised its strength to regulate the tobacco industry. Thus, a more concerted effort is needed to publicise the importance of implementing FCTC Article 5.3.

- Transparency is key and is much needed in dealing with the tobacco industry, and this is an area that needs major improvement across all countries. Governments need to record and document all meetings with the tobacco industry and their outcomes. Similarly, they should require tobacco companies to disclose and report on all expenditures on marketing, retailer incentives, philanthropy, lobbying, and political contributions.

- The tobacco industry is not a legitimate stakeholder. Procedures need to be put in place to reduce tobacco industry participation in policy development in every country.

- The tobacco industry continues to obtain benefits to do its business in several countries. Departments/ministries of health need to work more closely with non-health departments/ministries towards a whole-of-government approach, which is vital for FCTC Article 5.3 implementation. A practical way forward would be to adopt a Code of Conduct for the entire bureaucracy/all government officials.

- The TI uses CSR to greenwash the harms of its products, to legitimize its business, and to gain favour with policy makers. Governments should ban CSR activities by the TI.

- As the COP prepares for the first Meeting of the Parties (MOP1) in October 2018 to discuss the implementation of the Protocol to Eliminate Illicit Trade in Tobacco Products, Parties need to be mindful that Article 5.3 of the WHO FCTC also applies to the Protocol and to the MOP.64
1Quoted in L. Heise, “Unhealthy Alliance,” World Watch, 1988, October, p. 20
3Guidelines for Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control, http://apps.who.int/iris/bitstream/handle/10665/80501/9789241505185_eng.pdf?ua=1
5Questionnaire for Brunei Darussalam was filled by the Ministry of Health
6Indonesia is a non-Party to the WHO Framework Convention on Tobacco Control
13Photo story: Computer set turnover 21 Dec 2016 Manila Bulletin, p. 2;
15CTC donates relief items worth Rs 13 million to flood and landslide victims; Daily Mirror; 5 May 2017 http://www.dailymirror.lk/article/CTC-donates-relief-items-worth-Rs-mm-to-flood-and-landslide-victims-130260.html
23Cheng Sokhorng. Tobacco deal leaves farmers out; Phnom Penh Post; 22 May 2017; https://www.phnompenhpost.com/business/tobacco-deal-leaves-farmers-out
26Jamie Doward. UK cigarette firm criticised over Laos tobacco tax deal The Guardian; 5 Oct 2014; https://www.theguardian.com/world/2014/oct/05/imperial-tobacco-laos-cigarette-tax-deal
REFERENCES


42Tobacco Watch. Southeast Asia Tobacco Control Alliance. https://tobacconwatch.seatca.org/

43BAT Malaysia. Group sites/bat_7ry8nsf.vvPagesWebLive/DO7SU6KJ/$FILE/medMDAX458BC.pdf?openelement pg 38

44PT Sampoerna https://www.sampoerna.com/sampoerna/id/about-us-our-people

45BAT Bangladesh Website. Group sites/BAT_9TSFQ2.ssf/vvPagesWebLive/DOASS3P2?opendocument


49Thailand Ministry of Finance's Top Executives; http://www2.mof.go.th/leader/leader.htm

50CSC, DOH celebrate six year campaign vs tobacco industry interference; http://www.csc.gov.ph/new-updates/1177-csc-doh-celebrate-six-year-campaign-vs-tobacco-industry-interference


53Directorate of investment and Company Administration, Ministry of Planning and Finance; Anti-corruption Code of Ethics for Companies and Body Corporates; 3 Aug 2018

54DOA53LZ4?opendocument


56Media sidesteps calling Japan Tobacco out on advertising conflicts, Philip Brasing, The Japan Times, 14 Jan 2017 http://www.japantimes.co.jp/news/2017/01/14/national/media-national/media-sidesteps-calling-japan-tobacco-advertising-conflicts/#.WVSPzFFLfDA

57Kingdom of Cambodia Sub-Decree on the Establishment and Functioning of the Committee for Tobacco Control. 18 Jul 2017


59Directorate of investment and Company Administration, Ministry of Planning and Finance; Anti-corruption Code of Ethics for Companies and Body Corporates; 3 Aug 2018

60http://www2.mof.go.th/leader/leader.htm

61Japan Tobacco. JT Group signs agreement to Acquire Indonesian Kretek Cigarette Company and its Distributor; 4 Feb 2010 http://www2.mof.go.th/leader/leader.htm


63Japan Tobacco. JT Group signs agreement to Acquire Indonesian Kretek Cigarette Company and its Distributor; 4 Feb 2010

64http://www.tobaccoexporter.com/2017/12/export-award-for-bat-korea/


68FCTC. Protocol to Eliminate Illicit Trade in Tobacco Products; Geneva. 2013 http://apps.who.int/iris/bitstream/handle/10665/80873/9789241505246_eng.pdf;jsessionid=165F772A0666AAA0F5464E69A6E341D7sequence=1
A Healthy, Sustainable, Tobacco-Free ASEAN

www.seatca.org
www.tobaccowatch.seatca.org