

TERIMA KASIH  
KERANA TIDAK  
MEROKOK!



Cảm ơn Bạn  
Không  
Hút Thuốc



ขอบคุณ  
ที่ท่านไม่สูบบุหรี่  
THANK YOU  
FOR NOT SMOKING



ขอบคุณ  
ที่ไม่สูบบุหรี่

# SMOKE-FREE INDEX

Implementation of Article 8 of the  
WHO Framework Convention on Tobacco Control in the ASEAN Region  
(Protection from Exposure to Tobacco Smoke)



អរគុណសម្រាប់ការមិនជក់បារី



Maraming Salamat  
po sa hindi paninigarilyo



Terimakasih untuk  
tidak merokok



ဆေးလိပ်မသောက်ခြင်းကို ကျေးဇူးတင်ပါသည်



Southeast Asia Tobacco Control Alliance

July 2017



## **SMOKE-FREE INDEX**

### **Implementation of Article 8 of the WHO Framework Convention on Tobacco Control in the ASEAN Region (Protection from Exposure to Tobacco Smoke)**

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The Southeast Asia Tobacco Control Alliance (SEATCA) is a regional multi-sectoral, non-profit, non-governmental alliance that supports ASEAN Member States in developing and implementing effective, evidence-based tobacco control policies in line with the World Health Organization Framework Convention on Tobacco Control (WHO FCTC). SEATCA works closely with governments, non-government organizations (NGOs), development agencies, and the academe to advance tobacco control in the ASEAN region by facilitating increased participation and cooperation among advocates, organizing regional forums for sharing best practices and lessons learned, and acting as a regional leader to tackle urgent priority issues affecting the region.

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# introduction

## **THE WHO FCTC**

The World Health Organization's Framework Convention on Tobacco Control (WHO FCTC) is a legally-binding treaty designed to reduce deaths and diseases caused by tobacco use worldwide. It was adopted by the 56th World Health Assembly on May 2003 and was open for signature until 29 June 2004. It entered into force on 27 February 2005. It was deposited at the United Nations Headquarters in New York and remains open to Members of the World Health Organization and States that are not Members of the WHO but are members of the United Nations as well as regional economic integration organizations.<sup>1</sup> To date, there are 180 Parties to the WHO FCTC.

## **THE WHO FCTC ARTICLE 8**

Article 8 of the FCTC imposes specific obligations on all Parties to protect the entire populace from exposure to tobacco smoke. It requires Parties to undertake appropriate legislative, executive, administrative and/or other measures that provide universal protection from tobacco smoke in all indoor workplaces and public places, and public transport including other public places. Designated smoking rooms, ventilation schemes or any engineering approaches are proven to be ineffective in protecting the populace from exposure to second-hand tobacco smoke. There are no legal or health justifications for exemptions. The Parties have approved Article 8 Guidelines to assist them in meeting their obligations under Article 8 of the Convention which calls for full protection for all people from exposure to tobacco smoke based on best practices in protecting public health within the period of five years of the WHO FCTC's entry into force for that Party.<sup>2</sup>

## **SMOKE-FREE INDEX: HOW THE COUNTRIES IN THE ASEAN REGION PROTECT THE PEOPLE FROM EXPOSURE TO TOBACCO SMOKE**

The primary responsibility of governments is to protect the welfare of the people including the protection and promotion of public health. The Parties to the FCTC are under a legal obligation to enact smoke-free laws that effectively protect all persons from exposure to second-hand tobacco smoke. Nine out of the ten countries in the ASEAN are Parties to the Convention and are expected to have smoke-free laws that are 100% compliant to the Article 8 Guidelines. Indonesia is not yet a Party to FCTC.<sup>3</sup>

The Smoke-free Index is intended to assist Parties in meeting their obligations under Article 8 of the FCTC. It contains agreed statement of principles and definitions of relevant terms, and identifies measures needed to achieve effective protection from the hazards of exposure to second-hand tobacco smoke.

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<sup>1</sup> WHO Framework Convention on Tobacco Control, World Health Organization, 2003

<sup>2</sup> Guidelines for the Implementation of Article 8 Protection from Exposure to Tobacco Smoke, 2007

<sup>3</sup> Smoke-Free Policies and Enforcement In the ASEAN, SEATCA, 2010

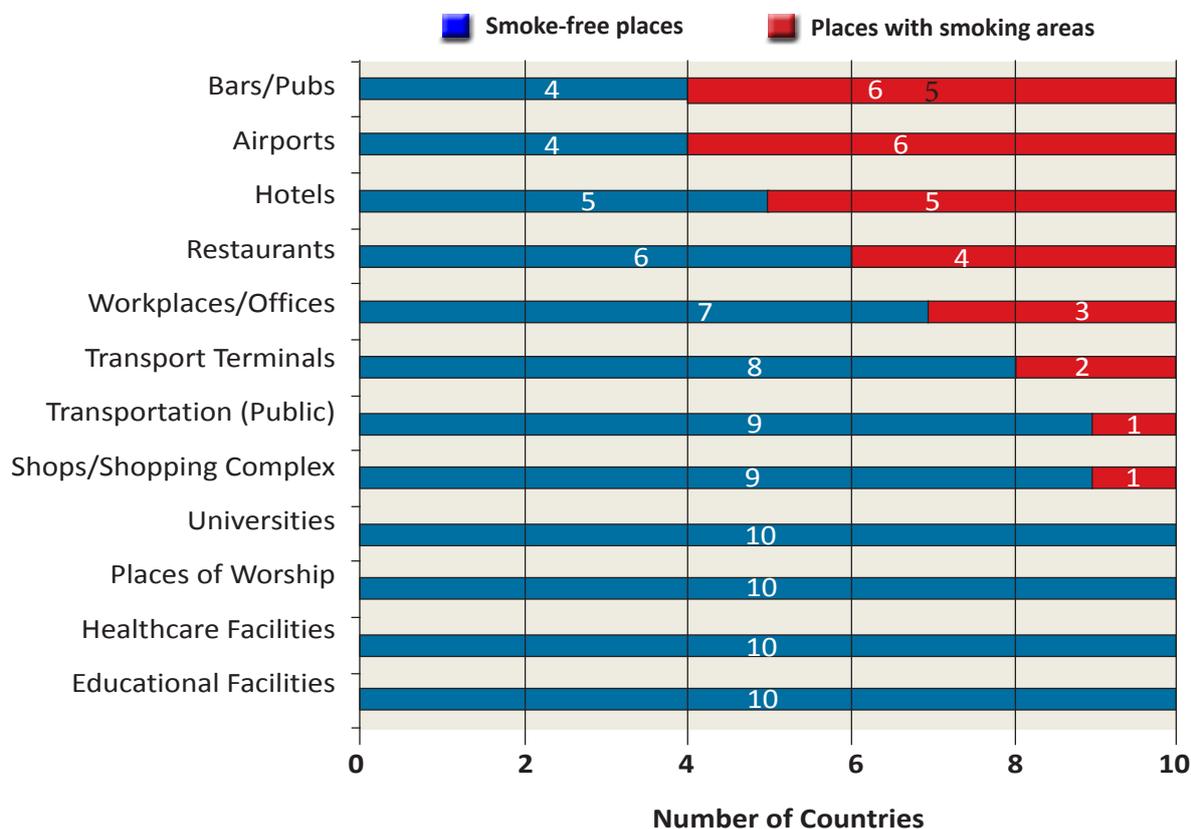
## IMPLEMENTING THE SEVEN PRINCIPLES OF WHO FCTC ARTICLE 8 IN THE ASEAN REGION

**Principle 1:** Effective measures to provide protection from exposure to tobacco smoke, as envisioned by Article 8 of the WHO FCTC, require the total elimination of smoking and tobacco smoke in a particular space or environment in order to create a 100% smoke-free environment. There is no safe level of exposure to tobacco smoke, and notions such as a threshold value for toxicity from second-hand smoke should be rejected, as they are contradicted by scientific evidence.

Most countries that are compliant with FCTC Article 8 Guidelines have laws that were enacted or amended after their entry into force to the Convention or those that were passed after the approval of the Article 8 Guidelines. Some have amended their laws by adding more smoke-free places through notifications. Brunei, Cambodia, Lao PDR, Myanmar, and Thailand have laws/notifications that promote 100% smoke-free indoor workplaces, indoor public places and public transportation, including other public places.

Based on the national smoke-free laws and notifications/regulations of the 10 ASEAN countries, people should not be exposed to tobacco smoke inside the buildings of educational facilities, healthcare facilities, places of worship, and universities. Some countries still allow designated smoking rooms in bars, pubs, airports, hotels, and restaurants (Figure 1). The details on the countries which still allow smoking rooms can be seen on Table 1.

**Figure 1. Number of countries with smoke-free places and places with smoking rooms**



**Principle 2: All people should be protected from exposure to tobacco smoke. All indoor workplaces and indoor public places should be smoke-free.**

Brunei is the only country in the ASEAN region that is fully compliant with a smoke-free law and has two notifications requiring a 100% smoke-free environment that are already enforced. To date, Lao PDR has joined Brunei in having a 100% smoke-free law/notification in indoor workplaces, indoor public places and public transportation but still needs to be enforced nationwide. Cambodia, Myanmar, and Thailand have 100% smoke-free laws in most places with the exception of at least one setting (airport or public transportation).

The summary of Smoke-free settings (Table 1) is based primarily on the national law including the notifications, regulations, amendments that should be implemented nationwide. Philippines and Indonesia have sub-national laws or ordinances that support a 100% smoke-free environment in some provinces, cities, and municipalities.

**Table 1. Summary of smoke-free settings (indoor) based on the national law**

	BRUNEI	CAMBODIA	INDONESIA	LAO PDR	MALAYSIA	MYANMAR	PHILIPPINES	SINGAPORE	THAILAND	VIETNAM
Airport	Blue	Yellow	Yellow	Blue	Yellow	Blue	Yellow	Yellow	Yellow	Yellow
Bars & Pubs	*	Blue	Yellow	Blue	Red	Blue	Yellow	Yellow	Blue	Yellow
Educational Facilities	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue
Health care Facilities	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue
Hotels	Blue	Blue	Yellow	Blue	Yellow	Blue	Yellow	Yellow	Blue	Yellow
Places of Worship	Blue	Blue	Blue	Blue	Blue	Blue	Yellow	Blue	Blue	Blue
Restuarants (Aircon)	Blue	Blue	Yellow	Blue	Blue	Blue	Yellow	Yellow	Blue	Blue
Restuarants (Non-Aircon)	Blue	Blue	Yellow	Blue	Red	Blue	Yellow	Yellow	Blue	Blue
Shops & Shopping Complex	Blue	Blue	Yellow	Blue	Blue	Blue	Yellow	Blue	Blue	Blue
Transport Terminals	Blue	Blue	Yellow	Blue	Blue	Blue	Yellow	Blue	Blue	Blue
Transportation (Public)	Blue	Blue	Blue	Blue	Blue	Yellow	Blue	Blue	Blue	Yellow
Universities	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue
Workplaces/ Offices	Blue	Blue	Yellow	Blue	Blue	Blue	Yellow	Yellow	Blue	Blue

**LEGEND:**

	100% Smoke-free/ No smoking room
	With smoking room
	Allows smoking anywhere/ not included in the law

\* No Bars/Pubs in Brunei

**Principle 3. Legislation is necessary to protect people from exposure to tobacco smoke. Voluntary smoke-free policies have repeatedly been shown to be ineffective and do not provide adequate protection. In order to be effective, legislation should be simple, clear and enforceable.**

All countries in the ASEAN have national smoke-free laws, the latest of which was the sub-decree of Cambodia and the Ministry of Health’s notification of Lao PDR which are already compliant with FCTC Article 8, except for the designation of a smoking room in the airports of Cambodia. According to the country correspondents, their laws are simple, clear and enforceable except for the Philippines which still has grey areas subject to different interpretations considering that its smoke-free law was approved in 2003 which was before the country became a Party to the FCTC in 2005.

<b>COUNTRIES</b>	<b>NATIONAL LAWS</b>
Brunei	Tobacco Order 2005 (Approved on 13 June 2005; enforced on 1 June 2008)
Cambodia	Tobacco Control Law (Approved on 18 May 2015)
Indonesia	Law on Tobacco Control Related Causes on Health (2009)
Lao PDR	Tobacco Control Law No.07 (2009)
Malaysia	Food Act of 1983
Myanmar	The Control of Smoking and Consumption of Tobacco Product Law (The State Peace and Development Council Law No 5/2006)
Philippines	Republic Act 9211 -Tobacco Regulation Act of 2003
Singapore	Smoking (Prohibition in Certain Places) Act (SPCPA) 1970
Thailand	Non-Smokers Health Protection Act B.E. 2535 (1992)
Vietnam	Tobacco Control Law (Approved in June 18, 2012)

**Principle 4. Good planning and adequate resources are essential for successful implementation and enforcement of smoke-free legislation.**

Malaysia and Singapore have been implementing their smoke-free laws for more than three decades (Table 2) and already have a functioning system in implementing their laws/ notifications. Viet Nam with its 2012 Law on Control and Prevention of Tobacco Harms will now have its own Tobacco Control Fund to be used for different tobacco control activities. The budget will be based on their annual workplan, programs, strategies, and priorities. All the other countries may or may not have regular funding for the implementation of their programs/projects but still need a good plan which is essential in making the smoke-free program/campaign successful and sustainable.

**Principle 5. Civil society has a central role in building support for and ensuring compliance with smoke-free measures, and should be included as an active partner in the process of developing, implementing and enforcing legislation**

Cambodia, Indonesia, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam have active civil society partners who participate in the development of the law up to its implementation and monitoring. Brunei and Lao PDR have no civil society partners actively involved; the smoke-free program is solely a government-run program. The Philippines is the only country in the ASEAN with the presence of the tobacco industry in its so-called Inter-Agency Committee on Tobacco (IAC-Tobacco). The tobacco industry should not be considered a partner that will support and ensure compliance with smoke-free measures as their industry exists by selling tobacco which kills up to two thirds of its users. This Philippine’s national law needs to be amended so it will be compliant with the different articles of the Convention.

**Principle 6. The implementation of smoke-free legislation, its enforcement and its impact should all be monitored and evaluated. This should include monitoring and responding to tobacco industry activities that undermine the implementation and enforcement of the legislation.**

Singapore is the only country that closely monitors and evaluates the implementation of its smoke-free law through the National Environment Agency. At the national level, most countries do not monitor and evaluate the implementation regularly. For some countries, this is being done at the sub-national level or by the local government which needs to be validated at the national level but might not be done due to limited financial resources.

**Table 3. Monitoring and evaluation of the enforcement of smoke-free laws**

COUNTRY	YES	PARTIAL	NO
Brunei			✓
Cambodia			✓
Indonesia		✓ (Might be done at subnational level)	
Lao PDR		✓ (Might be done at subnational level)	
Malaysia		✓ (Done every 5 years)	
Myanmar			✓
Philippines		✓	
Singapore	✓		
Thailand		✓	
Vietnam		✓	

**Principle 7. The protection of people from exposure to tobacco smoke should be strengthened and expanded, if necessary: such action may include new or amended legislation, improved enforcement and other measures to reflect new scientific evidence and case-study experiences.**

As Parties to the FCTC, Brunei, Cambodia, Lao PDR, Myanmar and Thailand had made amendments and passed notifications or regulations to expand their smoke-free coverage. Brunei is the first country with a law and notifications that promote a 100% smoke-free environment. Cambodia and Lao PDR have new regulations which were based on FCTC Article 8 guidelines. In the Philippines, the President has signed on 16 May 2017 Executive Order No. 26 “Providing for the establishment of smoke-free environments in public and enclosed places” which is a positive step to making the whole country smoke-free but still allows the designation of indoor smoking areas.

**Table 4. Amendments to strengthen the national law**

COUNTRY	AMENDMENTS	OUTCOME
Brunei	<ul style="list-style-type: none"> <li>Tobacco Notification (Prohibition in Certain Places) 2007</li> <li>Tobacco Notification (Prohibition in Certain Places) (Amendment), 2012</li> </ul>	All settings are 100% Smoke-free based on the law/notifications
Cambodia	<ul style="list-style-type: none"> <li>Sub-decree on Measures for Banning of Smoking or Use of Tobacco Products at Workplaces and Public Places (Approved on 16 March 2016); not yet enforced nationwide.</li> </ul>	Most settings are 100% Smoke-free based on the sub-decree except for the airport
Indonesia	<ul style="list-style-type: none"> <li>Government Regulation No 109/2012 on Protection from Addictive Substances in the form of Tobacco for Health</li> </ul>	100% Smoke-free environment not yet achieved. It needs to remove smoking rooms inside some workplaces & public places.
Lao PDR	<ul style="list-style-type: none"> <li>Regulation on Tobacco Control Law Enforcement No. 1067/MOH (Approved on 23 May 2016); not yet enforced nationwide.</li> </ul>	All settings are 100% Smoke-free based on the regulation.
Malaysia	<ul style="list-style-type: none"> <li>Regulation 11 or 22, Control of Tobacco Product Regulations 2004 (CTPR 2004)</li> </ul>	100% Smoke-free environment not yet achieved. It needs to remove smoking rooms inside some workplaces & public places.
Myanmar	<ul style="list-style-type: none"> <li>Ministry of Health’s Notifications on no-smoking area and designated smoking area (2014)</li> </ul>	Most settings are 100% Smoke-free based on the law/notification except for trains & vessels.
Philippines	<ul style="list-style-type: none"> <li>Civil Service Memorandum Circular No. 17 (2009)</li> <li>Land Transportation Franchising and Regulatory Board Memorandum Circular No. 2009 - 036</li> <li>Department of Education Order No. 48 series of 2016</li> <li>Executive Order No. 26 “Providing for the establishment of smoke-free environments in public and enclosed places”</li> </ul>	100% Smoke-free environment not yet achieved. It needs to remove smoking rooms inside workplaces & public places.
Singapore	<ul style="list-style-type: none"> <li>Several Notifications on smoking prohibition extension</li> </ul>	100% Smoke-free environment not yet achieved. It needs to remove smoking rooms inside workplaces & public places.
Thailand	<ul style="list-style-type: none"> <li>Notification of the Ministry of Public Health (No. 19) B.E. 2553 (A.D. 2010) Re: Designating Names or Types of Public Places Where Non-Smoker’s Health is under Protection</li> </ul>	Most settings are 100% Smoke-free based on the law except for the international airport.
Viet Nam	<ul style="list-style-type: none"> <li>No new notification</li> </ul>	100% Smoke-free environment not yet achieved. It needs to remove smoking rooms inside some public places.

## DEFINITION OF TERMS

It is important to carefully define key terms when legislations are being developed so as not to create confusion when it will be enforced. Some important definitions were not included in the existing laws of countries. Absence of key definitions might affect enforcement especially if the law is not clear. Countries should consider putting these definitions in their amendments to make the law enforceable.

KEY TERMS	DEFINITIONS
Second-hand tobacco smoke	The smoke emitted from the burning end of a cigarette or from other tobacco products usually in combination with the smoke exhaled by the smoker.
Smoking	Includes being in possession or control of a lit tobacco product regardless of whether the smoke is being actively inhaled or exhaled.
Public Places	Should cover all places accessible to the general public or places for collective use, regardless of ownership or right to access.
Indoor or Enclosed	Includes any space covered by a roof or enclosed by one or more walls or sides, regardless of the type of material used for the roof, wall or sides, and regardless of whether the structure is permanent or temporary. (The definition should be as inclusive and as clear as possible and care should be taken in the definition to avoid creating lists that may be interpreted as excluding potentially relevant “indoor” areas.)
Workplace	Any place used by people during their employment or work (with compensation or voluntary) It also includes corridors, lifts, stairwells, lobbies, joint facilities, cafeterias, toilets, lounges and outbuildings such as sheds and huts, vehicles used in the course of work
Public Transport	Any vehicle used for the carriage of members of the public, usually for reward or commercial gain.

	BRUNEI	CAMBODIA	INDONESIA	LAO PDR	MALAYSIA	MYANMAR	PHILIPPINES	SINGAPORE	THAILAND	VIET NAM						
Second-hand Tobacco Smoke	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes						
Smoking	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Partial						
Public Places	Yes	Yes	Yes	Yes	Yes	Yes	Partial	Yes	Yes	Yes						
Indoor or Enclosed	Yes	Yes	Partial	Yes	Yes	Yes	Yes	Yes	Yes	Yes						
Workplace	Yes	Yes	Partial	Yes	Yes	Yes	Yes	Partial	Yes	Partial						
Public Transport	Yes	Yes	Partial	Yes	Yes	Yes	Partial	Yes	Yes	Yes						
<b>LEGEND:</b>	<table border="1"> <tr> <td>Yes</td> <td>Yes</td> </tr> <tr> <td>Partial</td> <td>Partial</td> </tr> <tr> <td>No</td> <td>No</td> </tr> </table>										Yes	Yes	Partial	Partial	No	No
Yes	Yes															
Partial	Partial															
No	No															

## THE SCOPE OF AN EFFECTIVE SMOKE-FREE LEGISLATION

The summary of the indoor smoke-free settings (Table 1) shows the indoor workplaces and public places where smoking rooms are not allowed based on the national law. Further, Article 8 also requires protective measures in outdoor or quasi-outdoor public places. Parties should consider the evidence as to the possible health hazards in various settings and should act to adopt the most effective protection against exposure wherever the evidence shows that a hazard exists. Based on the summary of outdoor areas of workplaces and public places, most, if not all, countries in the ASEAN region support the non-smoking policy in educational and healthcare facilities including premises of universities.

Brunei is leading the region with the same no-smoking policy for outdoor areas of workplaces and public places which includes outdoor dining areas of restaurants, recreational parks, entertainment centers, outdoor sports premises, bus stops and taxi stands. This also includes walkways of statutory no-smoking buildings and the area within the perimeter of six meters from the building line. In the Philippines though not done nationwide, cities with a 100% smoke-free ordinance only allow smoking in a designated outdoor smoking area which should be located 10 meters away from entrances, exits, and places where people pass.

**Table 7. Summary of the smoke-free settings (outdoor) based on the national law.**

	BRUNEI	CAMBODIA	INDONESIA	LAO PDR	MALAYSIA	MYANMAR	PHILIPPINES	SINGAPORE	THAILAND	VIET NAM
Airport (Waiting areas)	Blue	Blue	Yellow	Blue	Yellow	Yellow	Yellow	Yellow	Yellow	Red
Bars & Pubs (Open Area Dining)	Blue	Red	Yellow	Yellow	Red	Yellow	Yellow	Yellow	Blue	Red
Educational Facilities (Premises)	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue
Health-care Facilities (Premises)	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue
Hotels (Open Area Facilities)	Blue	Red	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Yellow	Red
Places of Worship (Premises)	Blue	Blue	Blue	Yellow	Blue	Yellow	Yellow	Blue	Blue	Red
Restaurants (Al Fresco Dining)	Blue	Red	Yellow	Yellow	Red	Yellow	Yellow	Yellow	Blue	Red
Shops & Shopping Complex (Open Area Market/Shops)	Blue	Red	Yellow	Yellow	Blue	Yellow	Yellow	Blue	Blue	Red
Transport Terminals (Waiting Areas)	Blue	Red	Yellow	Yellow	Blue	Yellow	Blue	Blue	Yellow	Red
Universities (Premises)	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Blue	Yellow	Yellow
Workplaces/ Offices (Open Area for Work)	Blue	Red	Yellow	Yellow	Red	Yellow	Yellow	Yellow	Yellow	Red
Parks & Playgrounds	Blue	Blue	Blue	Yellow	Blue	Blue	Blue	Blue	Blue	*
Sports Complex	Blue	Blue	Yellow	Blue	Blue	Blue	Blue	Blue	Blue	Red

**LEGEND:**

Blue	100% Smoke-free/ may have designated outdoor smoking area away from public places
Yellow	With smoking area within public places
Red	Allows smoking anywhere/ not included in the law

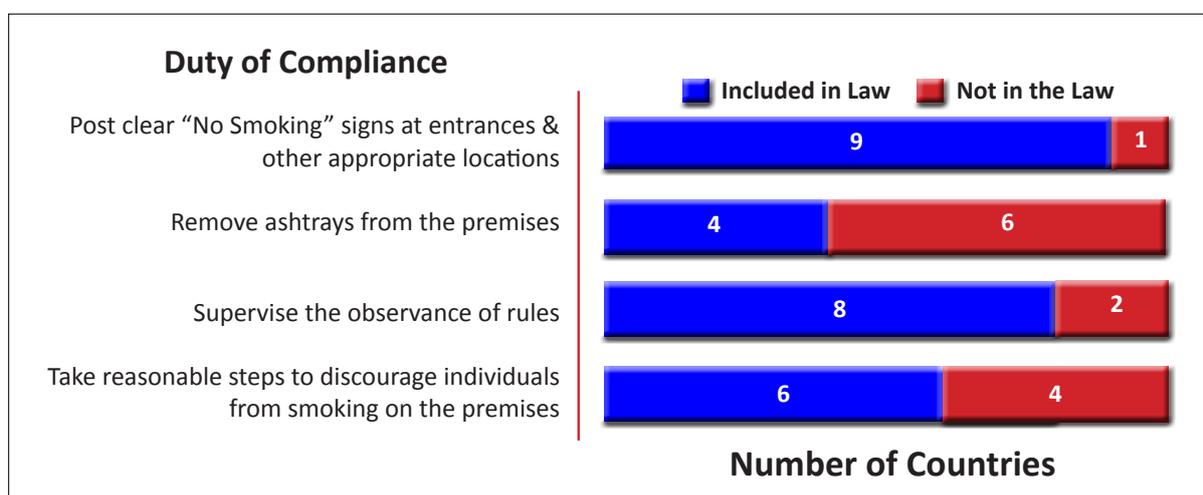
\* In Vietnam, parks and playgrounds may have designated smoking areas except for childcare facilities and recreational facilities for children which should be 100% smoke-free.

## ENFORCEMENT

### A. DUTY OF COMPLIANCE

Effective legislation should impose responsibilities for compliance on both affected business establishments and individual smokers. The legislation should place the responsibility for compliance on the owner, manager or other persons-in-charge such as the duty to post clear “No Smoking” signs at entrances and other strategic areas of the business establishment; duty to remove ashtrays from the premises; duty to supervise the observance of rules, and the duty to take reasonable steps to discourage smoking within the premises. It is imperative that these duties of compliance be included in the legislation as business owners and managers should be responsible for overseeing the implementation of the no smoking policy within their premises.

**Figure 2. Inclusion of the duty of compliance in the national law**



### B. PENALTIES

Effective legislation should impose responsibilities for compliance on both affected business establishments and individual smokers. Penalties should be sufficiently large to deter violations or else they may be ignored by violators or treated as mere costs of doing business. Penalties should increase for repeated violations and should be consistent with a country’s treatment of other equally serious offences.

Brunei, Malaysia and Singapore issue compounds for violators. These three countries also have higher fines compared with the rest of the seven countries in the ASEAN. Brunei and Singapore are issuing fines for violators on a nationwide scale. Compound is an ‘on the spot’ issuance of fine but lower than the usual fine for violation stated in the legislation. Malaysia can still lower the compound if the violator will undergo smoking cessation counselling.

Malaysia, Thailand, the Phiippines, and Indonesia are imposing fines for violators if the local government unit is strictly enforcing a smoke-free ordinance/regulation or the national law. Lao PDR is still awaiting for the approval of the notification/regulation that they can impose fines to violators.

**Table 8. Countries that allow the issuance of compound fees to violators**

Countries with Compounds	Smokers	Establishments
Brunei	US\$215 (BN\$300)	US\$357 (BN\$500)
Malaysia	US\$60 (MYR250) or US\$24 (MYR100) plus Smoking Cessation Counseling	US\$60 (MYR250)
Singapore	US\$146 (SG\$200)	US\$146 (SG\$200)

**Table 9. Penalties for violating the smoking ban in smoke-free places**

COUNTRIES	PENALTIES			
	Smokers		Establishments	
Brunei	US\$714 -14,256	BN\$1,000 –20,000	US\$357	BN\$500
Cambodia	US\$5	KHR20,000	US\$12.5	KHR50,000
Indonesia	Maximum limit of fines: US\$3,734	IDR 50 million		
Lao PDR	Advice, No Penalty yet (pending approval)			
Malaysia	US\$ 60	(MYR250) or US\$24 (MYR100) + Smoking Cessation Counseling	US\$60	MYR250
Myanmar	US\$0.83 to US\$4.14	(MMK1000 to MMK5000) Succeeding Offenses- US\$2.49-US\$8.30	1st Offense US\$0.8 - 2.49  MMK3,000 -10,000	MMK1,000- 3,000
Philippines	US\$10.40 – USD208	Php500 – 10,000	US\$10.40-USD208	Php500 – 10,000
Singapore	US\$146	SG\$200	US\$146	SGD200
Thailand	US\$58	THB2,000	US\$580	THB20,000
Viet Nam	US\$4.50 – US\$13.25 (VND100,000 – 300,000)	US\$134 – 2,463	(VND3-55M)	

## C. ENFORCEMENT INFRASTRUCTURE

The infrastructure for enforcement should be incorporated in the legislation as initiation of implementation of the law may be difficult if the process or mechanism for enforcement is not yet in place. Some countries may have a national law but the implementation may differ at the sub-national level or there are different sub-national laws, still a nationwide monitoring for implementation should be done. Countries also differ in determining who should be responsible for enforcement. The usual enforcers aside from the working group or task force are the police and the sanitation/health inspectors. Brunei's Health Enforcement Unit and Singapore's National Environment Agency are national government offices responsible for overseeing the compliance of individuals and business establishments to the smoking ban in smoke-free places. In the Philippines and Indonesia, cities can implement the national law or their own subnational laws which may also differ in enforcement but at the national level the leading agency may or may not have the capacity to monitor the level of implementation nationwide.

**Table 10. Enforcement infrastructure at the national level**

Components of the enforcement infrastructure that should be included in the law	BRUNEI	CAMBODIA	INDONESIA	LAO PDR	MALAYSIA	MYANMAR	PHILIPPINES	SINGAPORE	THAILAND	VIET NAM						
Authorities responsible for enforcement	Yes	Partial	No	Yes	Yes	No	Yes	Yes	Yes	Yes						
System for monitoring compliance and for prosecuting violations	Yes	No	No	Yes	Partial	No	Yes	Yes	Yes	Partial						
Process for inspection of businesses for compliance	Yes	Partial	No	Yes	Yes	No	No	Yes	Yes	Yes						
National coordinating mechanism to ensure a consistent approach on monitoring nationwide	Yes	Partial	No	No	Yes	Partial	No	Yes	Partial	Partial						
Overall Enforcement Plan	Yes	Partial	No	No	Yes	No	No	Yes	Yes	Yes						
Regular Inspections	Yes	Yes	No	No	Yes	No	No	Yes	Yes	No						
Authorizes inspectors to enter the premises and to collect samples and gather evidence	Yes	Partial	No	Yes	Yes	No	Partial	Partial	Yes	Yes						
Prohibits businesses from obstructing the inspectors in their work	Yes	Yes	No	No	Yes	No	Partial	Yes	Yes	Yes						
Funding Mechanism	Partial	Yes	No	No	Yes	No	Partial	Partial	Partial	Partial						
<b>LEGEND:</b>	<table border="1"> <tr> <td>Yes</td> <td>Yes</td> </tr> <tr> <td>Partial</td> <td>Partial</td> </tr> <tr> <td>No</td> <td>No</td> </tr> </table>										Yes	Yes	Partial	Partial	No	No
Yes	Yes															
Partial	Partial															
No	No															

## D. ENFORCEMENT STRATEGIES

In order to maximize compliance, strategic approaches to enforcement must be well planned. Immediately upon the entry into force of the legislation the violators must be advised or warned of their violation. Intensified information drive and education campaign must be done prior to enforcement. Based on the experiences of cities in different countries, information campaign can be done for three to six months before the law should be actively enforced where the enforcers can already issue the fine. Soft enforcement must not be done for more than six months as the momentum may wain and it might not have a strong impact as expected.

Using the enforcement strategies in the Article 8 Guidelines, Brunei, Malaysia and Singapore were able to apply soft enforcement where violators were warned, business establishments were informed of their duty of compliance, and violators were penalized. The other countries have not yet started enforcement or enforcement is only done at the sub-national level

**Figure 3. Phases of enforcement**<sup>4</sup>



**Table 11. Some strategies for enforcement**

	BRUNEI	CAMBODIA	INDONESIA	LAO PDR	MALAYSIA	MYANMAR	PHILIPPINES	SINGAPORE	THAILAND	VIET NAM						
Soft enforcement upon the law's entrance into force	Yes	No	No	Yes	Yes	No	Partial	Yes	Yes	Yes						
Information drive for business establishments	Yes	No	No	Partial	Yes	No	Partial	Yes	Partial	No						
Swift & decisive action to penalize violators	Yes	Partial	No	No	Yes	No	Partial	Yes	Partial	Partial						
<b>LEGEND:</b>	<table border="1"> <tr> <td>Yes</td> <td>Yes</td> </tr> <tr> <td>Partial</td> <td>Partial</td> </tr> <tr> <td>No</td> <td>No</td> </tr> </table>										Yes	Yes	Partial	Partial	No	No
Yes	Yes															
Partial	Partial															
No	No															

<sup>4</sup> Smoke-free Toolkit: Implementing FCTC Article 8 Guidelines, SEATCA 2016

## **E. MOBILIZE AND INVOLVE THE COMMUNITY**

The public must be involved in reporting violations in order to extend the reach of enforcement especially in far-flung areas which cannot be frequented by the enforcers. Community volunteers should be encouraged in order to reduce the resources needed to achieve compliance. Community complaints can also be one of the means to ensure compliance so a telephone complaint hotline must be included in the system or included in an existing hotline

In Brunei, Lao PDR, Malaysia, Philippines, Singapore and Thailand, the public can initiate complaints but it is only in Lao PDR and Singapore where anyone can initiate action to compel compliance. Government toll-free telephone complaint hotline are available in Brunei, Singapore and Thailand.

**Table 12. System for community involvement**

System for community involvement	BRUNEI	CAMBODIA	INDONESIA	LAO PDR	MALAYSIA	MYANMAR	PHILIPPINES	SINGAPORE	THAILAND	VIET NAM						
Public may initiate complaints	Blue	Red	Red	Blue	Blue	Red	Blue	Blue	Blue	Yellow						
Authorize any person to initiate action to compel compliance	Yellow	Red	Red	Blue	Red	Red	Yellow	Blue	Red	Red						
Government toll-free telephone complaint hotline or similar system to report violations	Blue	Red	Red	Red	Yellow	Red	Yellow	Blue	Blue	Red						
<b>LEGEND:</b>	<table border="1"> <tr> <td>Blue</td> <td>Yes</td> </tr> <tr> <td>Yellow</td> <td>Partial</td> </tr> <tr> <td>Red</td> <td>No</td> </tr> </table>										Blue	Yes	Yellow	Partial	Red	No
Blue	Yes															
Yellow	Partial															
Red	No															

## **MONITORING AND EVALUATION OF MEASURES**

The Article 8 Guidelines recommend eight key process and outcome indicators that should be considered:

### **Processes:**

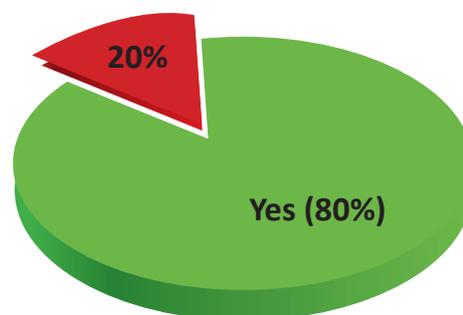
- a. Knowledge, attitudes and support for smoke-free policies among the general population and possibly specific groups;
- b. Enforcement of and compliance with smoke-free policies

### **Outcomes:**

- c. Reduction in exposure of second-hand tobacco smoke in the air in workplaces and public places;
- d. Reduction in content of second-hand tobacco smoke in the air in workplaces (Particularly in restaurants) and public places;
- e. Reduction in mortality and morbidity from exposure to second-hand tobacco smoke;
- f. Reduction in exposure to second-hand tobacco smoke in private homes;
- g. Changes in smoking prevalence and smoking-related behaviours; and
- h. Economic impacts.

In actual enforcement of the legislation, the purpose of conducting monitoring and evaluation is to assess if the existing legislation is effective, enforceable, and if there is a need to extend the legislative provisions to achieve the goal of becoming 100% smoke-free. It should be conducted regularly and at least once a year or every 2 years. There are eight countries that conducts a partial monitoring and evaluation through the Global Youth Tobacco Survey (GYTS) and the Global Adult Tobacco Survey (GATS) every 5 years. Thailand conducts a national survey every 2 years. Philippines conducts an annual recognition/awarding known as the Red Orchid award, but it is not done for monitoring and evaluation purposes. Singapore through the National Environment Agency enforces and evaluates compliance to the Smoking Prohibition. Indonesia may have monitoring done at the sub-national level but still needs to be validated at the national level. Lao PDR and Viet Nam may also have monitoring done at the sub-national level. These 8 countries still need to standardize their monitoring and evaluation tool and conduct it on a regular basis.

**Figure 4. Monitoring and evaluation of measures at the national level**



## CONCLUSIONS

The FCTC Article 8 Guidelines are a useful tool for a Parties and non-Parties to the FCTC. It serves as a guide for developing and implementing legislation that aims to protect people from exposure to tobacco smoke.

For Parties to the WHO FCTC, Article 8 of the Convention calls for the full adoption and implementation of the actual operational legislative, executive and administrative measures that would make available all means to ensure protection from exposure to tobacco smoke in indoor workplaces, indoor public places and public transport.

Sky blue is the “color” of smoke-free air that this Smoke-free Index meant to capture in its charts and tables and should be the real color of what the public will experience on the ground in the places they live and work and when they visit other countries. In the ten countries in ASEAN, with this assessment of the existing smoke-free laws and regulations, governments should realize that there is still more to be done in order to enforce the law and be able to sustain it.

**“Duty to protect individuals from tobacco smoke corresponds to an obligation of governments to enact legislation to protect individuals against threats to their fundamental rights and freedoms.”**  
**- FCTC Article 8 Guidelines**

## ACKNOWLEDGEMENT

We would like to express our gratitude to the country partners, coordinators and smoke-free focal persons of the ten countries in the ASEAN Region for providing information to the Smoke-Free Index.

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## REFERENCES

- WHO Framework Convention on Tobacco Control, World Health Organization, 2003
- Guidelines for the Implementation of Article 8 Protection from Exposure to Tobacco Smoke, 2007
- Smoke-Free Policies and Enforcement In the ASEAN, SEATCA, 2010
- Smoke-free Toolkit: Implementing FCTC Article 8 Guidelines, SEATCA 2016



## KRABI SMOKE-FREE DECLARATION



### We acknowledge that:

- All tobacco products are harmful; scientific evidence has clearly and unequivocally established that tobacco use and exposure to tobacco smoke cause serious diseases, disabilities, and premature deaths;
- Tobacco is the only legal product that kills up to two-thirds of all its regular users, killing six million people globally every year including 600,000 deaths from exposure to secondhand smoke;
- Tobacco use is increasing worldwide, and 10% of the world's smokers (121 million) are in the ASEAN region;
- Smoking is an addiction that is largely taken up by children and young people;
- Tobacco use has a negative social and economic impact on individuals, families, and society; reducing smoking in our communities significantly increases household incomes and benefits the community and local economy;
- Addressing the tobacco epidemic must be an essential priority in the context of reducing the growing burden of non-communicable diseases and protection of the youth, women, and the poor;
- The duty to protect individuals from tobacco smoke corresponds to an obligation of governments to enact and enforce legislations to protect individuals against threats to their fundamental rights and freedoms.
- Designated indoor smoking areas or smoking rooms do not provide adequate protection, confuse the public's perception of safety, and increase the economic burden of businesses; and
- Because the tobacco epidemic is both created and sustained by the tobacco industry, there is a need to be alert to any efforts by this industry to undermine tobacco control efforts;

### We therefore declare:

- Our collective need and shared vision of a 100% smoke-free ASEAN region;
- Our firm commitment to lead actions to respond to the tobacco epidemic and its devastating health, social, economic and environmental harms, including:
  - enacting, strengthening, and enforcing 100% smoke-free laws/regulations
  - communicating continuously and effectively the evidence on the harms of tobacco use and exposure to tobacco smoke and the positive impact of smoke-free environments
  - taking immediate action to ban emerging tobacco products that will lure our youth into the addiction of smoking
  - working with our local communities and stakeholders not affiliated with the tobacco industry to address the causes and hazards of tobacco use
  - protecting our health policies from the commercial and other vested interests of the tobacco industry and ensure that our officials and personnel will not accept any partnerships, payments, services, research funding, gifts, or donations, monetary or in kind, from the tobacco industry or its front groups;
- Our strong endorsement of this declaration to our national governments and other local governments to continually reduce the harms of tobacco use and exposure to tobacco smoke;
- Our public support for and active participation in the Smoke-free Cities ASEAN Network (SCAN) in cooperation with the Southeast Asia Tobacco Control Alliance (SEATCA), World Health Organization (WHO) and other regional and national partners.

Approved by 218 Governors, Mayors, Heads and Smoke-free Coordinators of  
cities, municipalities, states, provinces, heritage sites in the ASEAN  
on the 14<sup>th</sup> day of October 2016 in Krabi, Thailand  
during the 4<sup>th</sup> Regional Workshop on Smoke-Free Cities and Summit of Smoke-Free Leaders and Champions  
in the ASEAN Region

Smoke-free Cities ASEAN Network (SCAN) is a network of cities, municipalities, provinces working together towards a smoke-free ASEAN.

Smoke-free Heritage Sites Alliance (SHA) is an alliance of smoke-free heritage sites in the ASEAN region.



<https://www.facebook.com/SmokefreeCitiesAseanNetworkScan>



**Towards a healthy, tobacco-free ASEAN**