

TOBACCO INDUSTRY INTERFERENCE INDEX

Thailand Report on the Implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control November 2021



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The information from this report will form part of the Global Tobacco Industry Interference Index, a global survey of how public health policies are protected from the industry's subversive efforts, and how governments have pushed back against this influence. The tobacco Industry Interference Index was initiated by the South-East Asia Tobacco Control Alliance (SEATCA) as a regional report with support from the Bill and Melinda Gates Foundation. The Global Tobacco Industry Interference Index is part of a global publication of the Global Centre for Good Governance in Tobacco Control (GGTC) at the School of Global Studies in Thammasat University and the STOP project with support from Bloomberg Philanthropies.

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Introduction and Background

Although Thailand has implemented strong tobacco control efforts¹ the tobacco industry continues to present challenges that must be addressed. Article 5.3 of the WHO Framework Convention on Tobacco Control (FCTC) is an obligatory provision and it enshrines the irreconcilable conflict of interest between the tobacco industry and public health. The FCTC binds signatory states to insulate their public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry, in accordance with national law.

In 2008, Parties to the FCTC unanimously adopted Article 5.3 Guidelines to give more clarity and guidance. The Guidelines provide 8 main recommendations with 34 sub-recommendations to governments to ensure that the industry is prevented from exerting its influence on public health policy.

Thailand: cigarette market share

Tobacco Authority of Thailand (TAOT)'s market share of cigarettes is still the largestin Thailand. TAOT held 65.2% of the market share in 2019. Philip Morris International (PMI) has seen a major improvement to share. It resulted in shares rising an estimated 21.5% in 2019. JTI's market share is 5% in 2019.² With an estimated 10.7 million smokers (men 10.2 million, and women 480,000),³ Thailand still represents a lucrative market for the tobacco industry and seeks to undermine and derail tobaccocontrol efforts. Hence it is imperative that Thailand remain vigilant in protecting tobacco controlefforts.



The Tobacco Industry Interference Index is a civil society report that gauges the level of industry interference, as well as the responses or measures implemented by the government to implement Article 5.3 of the FCTC. The purpose of the Index is to define the measures and elements that contribute to the ability of the tobacco industry to interfere with policymaking. The assessment could provide an indication of the government's capacity to resist tobacco industry interference.

¹ Balderas, W. Thailand first Asian nation to join global efforts in tobacco control. IPS News Agency. 20 November2018. <u>http://www.ipsnews.net/2018/11/thailand-first-asian-nation-join-global-efforts-control-tobacco/</u>

² Global Data. Manufacturers Sales Volumes: Cigarettes in Thailand. 2020, page 16

³ Pitayarangsarit S, Pankrajang P. Statistics report on tobacco consumption in Thailand, 2018 [in Thai] Bangkok,

Thailand2018 [cited 2020 March 16]. http://www.trc.or.th/th/media/attachments/2562/01/29/2561.pdf.

Summary Findings

Table 1 provides Thailand's performance in the Index since 2016.⁴ Thailand shows a significant improvement in compliance with Article 5.3 compared to the previous years. The lower score shows lower interference and better implementation of Article 5.3 and better performance in protecting public health policy.



Compared to previous years, the total score of Thailand in the Tobacco Industry Interference Index has declined from 57 in 2015 to 43 in 2019 and 2020. The lower score indicates stronger tobacco control policies and laws with better capacity of the government to resist or prevent tobacco industry interference.

COUNTRY SUMMARY

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

Thailand's biggest improvement is there was no incidence of government accepting, endorsing any offer of assistance from or collaboration with the tobacco industry in implementing health policies.

2. INDUSTRY CSR ACTIVITIES

Thai Tobacco Monopoly's change in marketing strategies led to its corporatization and name change in May 14, 2018 to 'Tobacco Authority of Thailand' (TAOT) however it remains a State- owned enterprise under the jurisdiction of the Ministry of Finance.⁵ Although the Tobacco Products Control Act 2017 bans all tobacco related CSR activities, TAOT regularly carries out the CSR activities as part of its public relation activities.⁶ In 2019, TAOT had the collaboration with government agencies and representatives to conduct trainings and so-called CSR activities.

⁴ For more information, please go to <u>https://seatca.org/tobacco-industry-interference/</u>

⁵ Tobacco Authority of Thailand. About Us. <u>http://www.thaitobacco.or.th/en/aboutt-as/</u>

⁶ Ibid, Public relations news. <u>https://www.thaitobacco.or.th/th/category/pr-ttm</u>

3. BENEFITS TO THE INDUSTRY

No benefits were given to the tobacco industry. However, there is still a tax exemption for rolling tobacco.

4. UNNECESSARY INTERACTION

Since the government owns the TTM, there were regular meetings (each trimester or 4 times a year) between TTM and MOF high level officers. TTM involved government officials in their smuggling control program.

5. TRANSPARENCY

While minutes were taken during meetings with the industry however these are not public, sometimes high-level officials were involved.

6. CONFLICT OF INTEREST

Retired senior government officials have regularly been appointed as TTM board members. Current government officials such as a senior officer from the Excise Department and the Ministry of Finance are TTM board members. Since the TTM is a state enterprise, the appointment is seen as normal.

Currently, the chairman of TAOT is from business sector. TAOT's committee are from various fields including one from public university, one is working at the Ministry of Finance and one is the representative from the Royal Thai Police.⁷

7. PREVENTIVE MEASURES

The new Tobacco Products Control Act 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. The Rules, and procedures as stipulated in the Ministerial Regulations are being drawn up.

What exists currently is the MOH's rule in interacting with TI, but not applied to other Ministries. On 17 April 2012, the Cabinet agreed to the resolution to prohibit the government sectors/office from implementing tobacco industry related CSR activities. In June 2012, the Cabinet also agreed to the resolution on 12 June 2012 to follow the national strategic plan for tobacco control B.E. 2555-2557 (A.D. 2012-2014) as proposed by the National Health Assembly to prohibit tobacco advertising, promotions and sponsorships including tobacco industry related CSR activities. The cabinet resolutions were effective for government sectors including state-own tobacco industry such as Thai Tobacco Monopoly.⁸ TAOT is obligated to submit

 ⁷ Ibid, Board of Directors. <u>https://www.thaitobacco.or.th/th/board-of-directors-2</u> (accessed on 30 April 2021)
 ⁸ National Health Assembly. National strategic plan for tobacco control B.E. 2555-2557 (A.D. 2012-2014)
 <u>https://www.samatcha.org/node/103</u>

information on the volume of manufacturing, imports, marketing expenses, earnings and expenses as stated in Section 40 of Tobacco Product Control Act B.E. 2560.⁹

Recommendations

As Thailand makes progress in implementing, some areas need to be strengthened.

- a. Strictly enforce the ban on tobacco related CSR activities under the new tobacco control law and ensure there are no loop holes for the industry to exploit.
- b. Ensure current and retired senior government officials are not immediately appointed to the tobacco industry.
- c. The implementation regulations of the new tobacco control law are drawn up as soon as possible to protect government officials from tobacco industry interference.

⁹ Ministry of Public Health. Tobacco Products Control Act B.E. 2560. 2017. <u>https://bit.ly/3hz7Hut</u>

Thailand: 2021 Tobacco Industry Interference Index

Results and Findings

	0	1	2	3	4	5
INDICATOR 1: Level of Industry Participation in Policy-Developme	ent			Į	[
 The government¹⁰ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry¹¹ in setting or implementing public health policies in relation to tobacco control¹² (Rec 3.1) 	0					
In 2019, there was no incidence of Royal Thai Government accepting, enassistance from or collaboration with the tobacco industry in implementin		0	•			
2. The government accepts, supports or endorses <u>policies or</u> <u>legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4)	0					
There was no incidence of the government accepting, supporting or endor drafted by the tobacco industry.	rsinį	g an <u>y</u>	y leg	islat	ion	
3. The government allows/invites the tobacco industry to sit in government interagency/multi-sectoral committee/advisory group body that sets public health policy. (Rec 4.8)	0					
The tobacco industry does not sit in the government multisectoral commis control.	ittee	on	toba	ıcco		
4. The government nominates or allows representatives from the tobacco industry (including State-owned) in the delegation to the COP or other subsidiary bodies or accepts their sponsorship for delegates. (i.e. COP 4 & 5, INB 4 5, WG) ¹³ (Rec 4.9 & 8.3)		1				
The Thai delegation did not include any representatives from the tobacco meeting in 2018.	ind	ustr	y to	join	CO	P8
INDICATOR 2: Industry CSR activities						
5. A. The government agencies or its officials endorses, supports, forms partnerships with or participates in so-called CSR activities organized by the tobacco industry. (Rec 6.2)					4	

http://www.who.int/fctc/cop/en/

¹⁰ The term "government" refers to any public official whether or not acting within the scope of authority as long as cloaked with such authority or holding out to another as having such authority

¹¹ The term "tobacco industry' includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

 ¹² "Offer of assistance" may include draft legislation, technical input, recommendations, oversees study tour
 ¹³ World Health Organization. Parties to the WHO Framework Convention on Tobacco Control.

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B. The government (its agencies and officials) receives						
contributions (monetary or otherwise) from the tobacco industry						
(including so-called CSR contributions). (Rec 6.4)						

I. National level

6 March 2020, Deputy Governor for Production Management presided over the delivery of alcohol spray to TAOT employees at the Tobacco Authority of Thailand, Klong Toey Head Office. Volunteer staff of Tobacco Authority of Thailand packed and labelled the 5,000 bottles of 100cc alcohol spray for giving to employees of the Suan Benjakitti Chalerm Phrakiat 84 years Hospital and the general public, to help prevent the spread of Covid-19 pandemic.¹⁴

II. Provincial level

6 October 2020, the Deputy Governor for Production, executives and employees of the Tobacco Authority of Thailand, represented TAOT to deliver 50 trash cans to the Tanodtia Temple located at Ayudhaya Province, to be used for environmental and sewage management at the temple.¹⁴

9 June 2020, Governor, Deputy Governor for Production Management, and Deputy Governor for Business Development of the Tobacco Authority of Thailand launched the project "Happy Cabinet: Thai Tobacco's Kindness Sharing to Fight the COVID-19", by setting up three cabinets to share rice, dried food and essential items for helping people living in communities near TAOT, Klong Toey Headquarter.

28 May 2020, the Governor, executives and employees of the Tobacco Authority of Thailand visited Uthai District, Ayudhaya Province, to donate survival bags consisting of rice, dried food, drinking water to the people affected by COVID-19 pandemic. This activity was under the project "Thai Tobacco's Kindness Sharing to Fight the COID-19".¹⁶

13 May 2020, the Governor, executives and employees of the Tobacco Authority of Thailand donated 1,000 survival bags consisting of rice, dried food, drinking water to the people living in Klong Toey District and getting affected by COVID-19 pandemic.¹⁷

8 May 2020, Director of Engineering and Development delivered the alcohol dispensing devices using the foot pedal and plastic baffles which is made by the Division of Manufacture of Spare Parts and Equipment, Engineering and Development Department of TAOT, to Uthai Hospital, Ayudhaya province.¹⁸

III. Institutions under government

2 September 2020, the Inspector General of the Tobacco Authority of Thailand represented TAOT to congratulate the Revenue Department on the occasion of its founding day, at the Building of Revenue Department, Bangkok. TAOT donated money to the Foundation for Children with Disabilities, through

 ¹⁴ Authority of Tobacco Thailand, 6 March 2020, TAOT made alcohol spray to help prevent the spread of Covid-19 pandemic. Retrieved from <u>https://www.thaitobacco.or.th/th/2020/03/0027945.html</u> (accessed on 27 April 2021)
 ¹⁴ Tobacco Authority of Thailand, 6 October 2020, TAOT delivered 50 trash cans to Tanodtia Temple. Retrieved from <u>https://www.thaitobacco.or.th/th/2020/10/0031806.html</u> (accessed on 27 April 2021)

¹⁵ Tobacco Authority of Thailand, 9 June 2020, TAOT launched the project "Happy Cabinet: Thai Tobacco's Kindness Sharing to Fight the COVID-19". Retrieved from <u>https://www.thaitobacco.or.th/th/2020/06/0029720.html</u> (accessed on 27 April 2021)

 ¹⁶ Tobacco Authority of Thailand, 28 May 2020, TAOT donated survival bags to help people in Ayudhaya Province to fight COVID-19. Retrieved from <u>https://www.thaitobacco.or.th/th/2020/05/0029431.html</u> (accessed on 27 April 2021)
 ¹⁷ Tobacco Authority of Thailand, 13 May 2020, opening ceremony of the 'School of the Elderly of Tobacco Project', third cohort. Retrieved from TAOT launched the project "Thai Tobacco's Kindness Sharing to Fight the COVID-19" Retrieved from <u>https://www.thaitobacco.or.th/th/2020/05/0028858.html</u>

¹⁸ Tobacco Authority of Thailand, 8 May 2020, TAOT delivered alcohol dispensing devices using the foot pedal and plastic baffles to Uthai Hospital. Retrieved from <u>https://www.thaitobacco.or.th/th/2020/05/0028829.html</u> (accessed on 27 April 2021)

the Revenue Department.¹⁹

¹⁹ Tobacco Authority of Thailand, 2 September 2020, TAOT congratulated the Revenue Department on its 105th anniversary. Retrieved from <u>https://www.thaitobacco.or.th/th/2020/09/0031359.html</u> (accessed on 27 April 2021)

		0	1	2	3	4	5
IN	DICATOR 3: Benefits to the Tobacco Industry						
	6. The government accommodates requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law. (e.g. 180 days is common for PHW, Tax increase can be implemented within 1 month) (Rec 7.1)				3		
	May 2019, the cabinet agreed to postpone raising the excise tax from 20 ctober 2019 to 1 October 2020 in order to help tobacco farmers and tob						
	7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)			2			
	 Tax exemption for roll-your-own tobacco leaves According to Section 165 of Excise Act in 2017 (attached with this do exemption is given for rolling tobacco up to 1 kilogram, with no comm From January 2020, the tax rate for Roll-Your-Own tobacco was: Less 12,000 kg: 2.5 Satang per gram More than 12,000 kg: 10 Satang per gram should be 10 Satang per gram.²² Duty free cigarettes International travelers are allowed to bring 200 sticks of cigarettes, 50 tobacco products or 1 kilogram of sliced tobacco²³ 	nerci s tha um H	ial p n or Tron	equ O	osesz nal to ct 20) 21, :	all
3.	Corporatization of TTM – TAOT						
	In 2019, TAOT implemented the cooperation with foreign tobacco control the cigarette sale volumes, such as the cooperation with tobacco comp that TAOT could export the cigarettes to Vietnam started from April 2 missions of TAOT is to sell hemp and marijuana to medical industries	oany 2019 <u>-</u>	in V	/ietr	nam		
IN	DICATOR 4: Forms of Unnecessary Interaction	1	1				
	 Top level government officials (such as President/ Prime Minister or Minister²⁶) meet with/ foster relations with the tobacco companies such as attending social functions and other 		2				

https://bit.ly/35LQQyF)

²⁰ Voice Online. Smokers relieved, cabinet agreed to postpone raising the excise tax to October 2020. 7 May 2019. http://www.voicetv.co.th/read/zLhxfEceY

²¹ Matichon Online. Expected to announce new tax rates next week. Local tobacco hit with "Excise" confirms that there is no quarantine. 7 September 2017. <u>https://www.matichon.co.th/economy/news_656262</u>. ²² Excise Department. Ministerial regulations: Specify the tax tariff (No. 12) B.E. 2563 (2020)

²³ See Section 165 of Excise Tax Act B.E. 2560 (2017)

²⁴ ThaiQuote. TAOT adjusted the business plan to establish the joint investment with Vietnam with the expected profit of 3.2 billion THB. 25 February 2019. <u>https://www.thaiquote.org/content/216985</u>

²⁵ CatwatchOnline. TAOT expected to sell hemp-marijuana instead of tobacco. 23 February 2019.

²⁶ Includes immediate members of the families of the high-level officials

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²⁷ US ASEAN Business Council. Press Release. 25 September 2019. <u>https://bit.ly/3hzLFaO</u>
²⁸ US-ABC website. 7 October 2019. <u>https://www.usasean.org/countries/thailand</u>
²⁹ Manager Online. The Tobacco Authority of Thailand announced the results of the suppression of smuggled cigarettes in the southern region. 5 March 2019. <u>https://mgronline.com/south/detail/9620000022371</u>

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INDICATOR 6: Conflict of Interest	Ī					
13. The government does not prohibit contributions from the						
tobacco industry or any entity working to further its interests to					4	
political parties, candidates, or campaigns or to require full					Τ.	
disclosure of such contributions. (Rec 4.11)						
NACC law, Section 128 there are some regulations that are in line wit	h FC	CTC	Art	icle	5.3	C
Conflict of Interest.						
While, there is no complete prohibition of political contribution, some limit	ts ar	e set	t in t	he C	Orga	n
Act on Political Parties, B.E. 2560 (2017) - Section 66 mentions that p					<u> </u>	
accept donation from anybody (including TI) more than 10,000,000 '	ГНР	s a y	year,	, wh	ile	tl
politicians must not accept gift from anybody (including TI) more than 3,	000 '	THI	30 2 ³⁰			
Section 66 of the Organic Act on Political Parties, B.E. 2560 (2017) ³¹						
14. Retired senior government officials form part of the tobacco						
industry (former Prime Minister, Minister, Attorney General)					4	
(Rec 4.4)						
Commentary and the description of the first state of the	1			1		-
Currently, no retired senior government official works for TAOT but on	e poi	lice §	gene	rai		
working as a board member. ³²						
15. Current government officials and relatives hold positions in the						
tobacco business including consultancy positions. (Rec 4.5, 4.8,					4	
4.10)						
TAOT's CEO is still regarded as a government official.						
INDICATOR 7: Preventive Measures						
16. The government has put in place a procedure for disclosing the						
records of the interaction (such as agenda, attendees, minutes						
and outcome) with the tobacco industry and its representatives.			2			
(Rec 5.1)						
	- 6 1)1_1'	- TT	1-1	. 1	L
At the juridical council deliberation, it was considered since the Ministry issued a ministerial regulation on "Guidelines on Interaction with Tobac						
Related Persons ³³ and the Office of the Civil Service Commission's regu						
servants' interaction with industry in a way that may lead to policy interfere						
to all ministries. Hence, the implementation of Recommendation 2 of W						
was at ministerial regulation. TC law drafting working group will work v						
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develop the regulation on interaction with tobacco entrepreneurs and related

persons, as MOPH had done earlier.

concerned persons of tobacco products B.E. 2559 (A.D.2016). 2016. https://bit.ly/2YJ0Lm7

³⁰ Parliament of Thailand. Donation to Political Parties. 2018 <u>https://bit.ly/2WZcaxb</u>

³¹ Senate of Thailand. An act of the Thai National Assembly, called the "Organic Act on Political Parties BE 2560.2017. http://m.senate.go.th/eppo/3_60.pdf

³² Tobacco Authority of Thailand. Board of Directors. <u>https://www.thaitobacco.or.th/th/board-of-directors-2</u>

³³ Regulation of the Ministry of Public Health On communication between the authorities and operators or

	0	1	2	3	4	5
17. The government has formulated, adopted or implemented a code of conduct for public officials, prescribing the standards						
with which they should comply in their dealings with the tobacco industry. (Rec 4.2)			2			
The new law was passed in 2017. The implementation regulations are beir	o dr	awn	มก			
18. The government requires the tobacco industry to periodically		<i>a</i> w 11	up.			
submit information on tobacco production, manufacture,						
market share, marketing expenditures, revenues and any other			2			
activity, including lobbying, philanthropy, political contributions						
and all other activities. (5.2)						

Tobacco Products Control Act 2017

Section 40: The manufacturer or importer of tobacco products have the duty to report the volume of production or importation into the Kingdom, market share, marketing expense, income and expense as per Article 35, annual report, audited financial statement and any other information for the benefits of tobacco products control to the Committee, according to the rules, procedures and conditions as stipulated in the Ministerial Regulations by recommendations of the Committee.³⁴ The implementing regulations are being drawn up.

This section aims to monitor whether tobacco industry is transparent and provides accurate information. Information provided will ascertain whether the tobacco industry violates the law by allocating the budget for tobacco industry related CSR activities, lobbying activities and any tobacco advertisement that is prohibited by law. If such expenses are found in the report, action will be taken against the tobacco industry as provided in the law. If false or incomplete information is provided by the tobacco industry, it shall be subjected to imprisonment or a fine as stated in Section 66.

 The government has a program / system/ plan to consistently³⁵ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2) 			2			
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Currently the ministerial regulation is established only in the MOPH. Other ministries can establish their respective regulation, following MOPH and the Office of the Civil Service Commission that has regulation to prohibit civil servants' interaction with the tobacco industry that applies to all ministries.

11								
20. The government has put in place a policy to disallow the acceptance of all forms of contributions/gifts from the tobacco								
industry (monetary or otherwise) including offers of assistance,			2					
policy drafts, or study visit invitations given or offered to the								
government, its agencies, officials and their relatives. (3.4)								
There is no policy is in place. While there is no contribution offered to the government,								
however there is no restriction on study visits.								

43

TOTAL

³⁴ Notification of the Ministry of Public Health Re: Criteria, Methods and Conditions for Information Submission by Manufacturers or Importers Engaging in Sale of Cigarette Tobacco Products in the Kingdom B.E. 2562. 2019 ³⁵ For purposes of this question, "consistently" means: a. Each time the FCTC is discussed, 5.3 is explained. AND b. Whenever the opportunity arises such when the tobacco industry intervention is discovered or reported.

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