

CAMBODIA

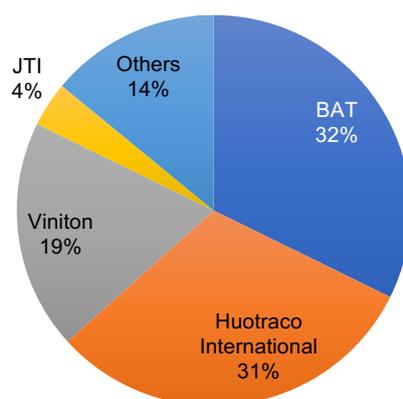
2020

TOBACCO
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Introduction

This is a report on the implementation of WHO Framework Convention on Tobacco Control Article 5.3 in Cambodia. Overall, there was no improvement in the implementation compared to the report from 2019. The findings of the report show that the changes are only minor. The score worsened from 48 to 49 points in the area of unnecessary interaction with the tobacco industry where the Minister of Information hosting a courtesy visit of the Chairman of a tobacco farming investment project from the Republic of China.

Main tobacco companies in Cambodia



Summary Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The government does not accept offers of assistance from the tobacco industry, nor endorses any policies drafted by the industry, nor invite the industry to sit at meetings deciding on policy. The government needs to remain vigilant.

2. INDUSTRY CSR ACTIVITIES

CSR activities are not banned and remain a problem in Cambodia. They are mostly done by transnational tobacco companies, BAT and JTI

3. BENEFITS TO THE INDUSTRY

Benefits are still given to the tobacco industry although these are not publicly known. One example - MOC's announcement on the waiver of duties to tobacco leaves exported to Vietnam and exemption of import tax by the Vietnam government for registered farmers producing more than 3000 tons. Publicity was given to the exemption urging tobacco growers to take advantage of the exemption. Instead of helping tobacco growers to shift to alternate crops, the Agriculture Department is highlighting the incentive given to continue growing tobacco. Ministry of Commerce is actively involved in providing incentive for tobacco leaf export to Vietnam.

4. UNNECESSARY INTERACTION

There was a meeting on 6th Dec 2019 between the minister of the Ministry of Information

and Chairman of China Huaxin Group Limited of the Republic of China on tobacco farming investment project.

5. **TRANSPARENCY**

There are no rules or procedure for disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf. This is the area the industry can use to misrepresent its meetings with the various government departments.

6. **CONFLICT OF INTEREST**

The president of the LYP Group, which owns the Hero King Co., LTD cigarette business, is currently a senator. The government does not 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.

7. **PREVENTIVE MEASURES**

A Sub-Decree on the Establishment and Functioning of the Committee for Tobacco Control was passed in 2017 which has incorporated principles of Article 5.3. There is no periodic submission of information from the tobacco industry about its business and what it spends on marketing and philanthropy. While the Ministry of Health has disseminated Article 5.3 to all members of National Tobacco Control Committee, however there is no information whether there is a program to constantly raise awareness on policies related to Article 5.3.

Recommendations

1. Tobacco related CSR activities must be banned
2. In line with FCTC Article 5.3 guidelines, benefits currently given to the tobacco industry, such as the waiver of duties for export, must be stopped.
3. According to Article 5.3 guidelines, interaction with the tobacco industry should only be held when strictly necessary. This would prevent the tobacco industry from utilising meeting opportunities to promote its business. To promote transparency, there must be a procedure in place to prevent representatives of the tobacco industry to misrepresent its meetings with governments.
4. To prevent conflict of interest, individuals involved in tobacco business must not hold public office.
5. There must be a program to constantly raise awareness on policies related to Article 5.3 among government agencies. A code of conduct must be adopted to guide government officials when dealing with the tobacco industry. The tobacco industry must be required to provide information about its business, including what it spends on marketing and philanthropy.

Results and Findings

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INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government ¹ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ² in setting or implementing public health policies in relation to tobacco control ³ (Rec 3.1)		X				
The government does not accept, support or endorse any offer for assistance by or in collaboration with the tobacco industry in setting or implementing public health policies in relation to tobacco control.						
2. The government accepts, supports or endorses <u>policies or legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4)		X				
The government does not accept, support or endorse policies or legislation drafted by the tobacco industry						
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)		X				
There was no invitation to the tobacco industry to sit in the Tobacco Control Inter-Ministerial meetings and the FCTC Secretariat meetings organized by Ministry of Health, however remarks favoring the tobacco industry were made.						
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) ⁴ (Rec 4.9 & 8.3)		X				
The Cambodian delegation to the COP does not include any representative from the tobacco industry.						
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)				X		
B. The government (its agencies and officials) receives contributions ⁵ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)						

¹ 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

² The term, “tobacco industry” includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

³ “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

⁴ Please annex a list since 2009 so that the respondent can quantify the frequency,
<http://www.who.int/fctc/cop/en/>

⁵ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

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JTI has entered into partnership with an NGO at Kampot province called “Cambodia Agency Development of Disability and the Poor”. The project aims to uplift and sustain the incomes of 100 disabled families in 2019 through providing and teaching them how to raise chickens and ducks. In the opening ceremony, JTI volunteer staff also brought some donation to them.⁶

JTI is sponsoring de-mining activities in Cambodia. JTI Foundation gave KHR 3004,808,489 (CHF 719,949) for 2016 – 2019 to APOPO, a Belgian NGO which works in partnership with the Cambodian Mine Action Centre (CMAC) to do de-mining activities in Cambodia. Although APOPO, as independent NGO received funds from JTI, CMAC is being used, but the unit has not officially endorsed JTI contribution.⁷

The tree planting project which was previously sponsored by BAT ended in 2018, according to Mr Sethi Somnang, Vice Head of Kampong Cham City Forestry Administration Cantonment, interviewed on 4th Feb 2020, and Mr Chhoun Chan Vuthy, Head of Svay Raing City Forestry Administration Cantonment, interviewed on Mar 2020. However, Billboards with logos of BAT and the Forestry Administration are still found in front of each center, and signboards along the road from Phnom Penh to Kampong Cham province can still be found.⁸

INDICATOR 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)				X			
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Pictorial health warning: In January 2017 - six months after sub-decree [requiring graphic warnings](#) on all cigarette packs went into effect, Health Minister issued a second warning to tobacco companies for not complying with the regulations, even threatening to take legal action.⁹ The MOH stood firm in not giving any extension to the tobacco industry. When tobacco companies were unable to get any more extensions, they simply don't comply with the law.¹⁰

There has been progress in PHW compliance from 2017 to 2019. However, approximately 29% of cigarette packs sold in the market do not carry PHW as determined by the sub-decree.¹¹

There was a delay of another year in 2019 in the adoption of the Joint Prakas between Ministry of Finance and Ministry of Health on how to implement the penalty (fine). However, in July 2018 the joint Prakas between the MOH and Ministry of Justice was signed to give credential to 490 tobacco control inspection officers. Since 2018 there were series of training for the inspection officers throughout the country.

7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)						X	
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Duty exemption for tobacco leaf export to Vietnam:
The duty-free exemption on tobacco came as part of a bilateral trade enhancement agreement signed in October 2016 that gave special preferential treatment for tobacco leaf exported from Cambodia to Vietnam.¹² The agreement was signed again in 26th Feb 2019. Under the deal,

⁶ <https://www.facebook.com/JTICambodia/posts/337441546877516>

⁷ <http://jitifoundation.org/projects/continued-support-innovative-approach-clearing-landmines-cambodia/#location=Cambodia&status=&view=list> <http://cmac.gov.kh/en/article/message.html>

⁸ <http://ibccambodia.com/british-american-tobacco-cambodia-limited/>

⁹ <http://www.phnompenhpost.com/national/minister-vows-action-against-tobacco-firms>

¹⁰ <https://www.khmertimeskh.com/news/36647/still-no-warnings-on-some-tobacco-packs/>

¹¹ Royal University of Phnom Penh, Tobacco Control Law Compliance survey, 2019

¹² <http://www.khmertimeskh.com/news/33863/export-licenses-for-vietnam/>

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Cambodian tobacco producers could apply for license to export up to 3,000 tonnes of dried tobacco per year to Vietnam duty-free in 2019 and the same amount in 2020. ¹³						
Cambodia exported more than 1,000 tonnes of dry tobacco leaves to Vietnam in 2017, valued at more than \$2 million. The figure marks a 24 per cent increase from 2016, according to the Ministry of Commerce. ¹⁴						
Kampong Cham province is where much of the country's tobacco is cultivated. Besides exports, tobacco is supplied to Cambodia-based British American Tobacco Cambodia (BAT) under a "contract farming" system, said Kampong Cham agriculture department director Kim Savoeurn. The province has between 1,600 and 1,800ha of tobacco fields, according to him.						
BAT received a gold certificate from General Taxation Department (GTD) for complying with taxation laws. This means they are exempted from audit for 2 years from 2018 to 2019. This certificate award is open to all companies as an encouragement for compliance. ¹⁵						
INDICATOR 4: Forms of Unnecessary Interaction						
8. Top level government officials (such as President/ Prime Minister or Minister ¹⁶) meet with/ foster relations with the tobacco companies such as attending social functions and other events sponsored or organized by the tobacco companies or those furthering its interests. (Rec 2.1)				X		
H.E Khiev Khanharith, Minister of Ministry of Information, allowed courtesy visit of Mr. Jianqiang Wu, Chairman of China Huaxin Group Limited of the Republic of China on 6 th Dec 2019 on tobacco farming project with 2 billion USD investment. ¹⁷						
9. The government accepts assistance/ offers of assistance from the tobacco industry on enforcement such as conducting raids on tobacco smuggling or enforcing smoke free policies or no sales to minors. (including monetary contribution for these activities) (Rec 4.3)	X					
There is no evidence publicly available on this.						
10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) <i>NOTE: This must not involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.</i>	X					
There is no publicly available evidence on this.						
INDICATOR 5: Transparency						
11. The government does not publicly disclose meetings/ interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation. (Rec 2.2)			X			
There is still no procedure on disclosing meetings/ interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation. There was no progress.						

¹³ ARRANGEMENT ON BILATERAL TRADE ENHANCEMENT BETWEEN THE GOVERNMENT OF THE KINGDOM OF CAMBODIA AND THE GOVERNMENT OF SOCIALIST REPUBLIC OF VIET NAM, dated 26th Feb 2019

¹⁴ Cheng Sokhorn. Tobacco worth over \$2M exported to VN last year, The Phnom Penh Post; 6 Sep 2018 <https://www.phnompenhpost.com/business/tobacco-worth-over-2m-exported-vn-last-year>

¹⁵ 'GOLD' Certificate of recognition given to BAT exempted for 2 years of audit and then detailed audit.

¹⁶ Includes immediate members of the families of the high-level officials

¹⁷ <http://www.akp.gov.kh/kh/post/detail/22088>

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12. The government requires rules for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists (Rec 5.3)						X
The government does not require rules for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf.						
INDICATOR 6: Conflict of Interest						
13. The government does not 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)						X
The government does not prohibit contributions from the tobacco industry.						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)	X					
No recently retired official joined the tobacco industry.						
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)					X	
H.E Oknha Ly Yong Phat is still currently a senator, ¹⁸ and he's also the president of LYP Group. There are a variety of businesses under L.Y.P. Group, including Hero King Co., LTD, ¹⁹ which deals with cigarettes, beverages and commodity products.						
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. (Rec 5.1)						X
There is no procedure in place to disclose the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry.						
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)				X		
In 2017, a Sub-Decree on the Establishment and Functioning of the Committee for Tobacco Control was passed which has incorporated principles of Article 5.3: <i>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.</i> <i>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.</i>						

¹⁸ Members of the Senate in the fourth legislature appointed on 23 April 2018; <https://thmeythmey.com/?page=detail&id=64029>

¹⁹ L.Y.P. Group Co. Ltd. <http://www.lypgroup.com/trading-distribution.php>

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Representatives from the 23 ministries and 24 representatives from provincial authorities have been nominated as members of the National Committee for Tobacco Control. The first meeting of the committee was conducted in June 2019.						
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, political contributions and all other activities. (5.2)						X
While the General Department of Tax may have information from the tobacco industry on production and sales, the government does not have a procedure requiring the tobacco industry to periodically submit other information such as marketing expenditures, revenues and any other activity, including philanthropy. No progress on this issue.						
19. The government has a program / system/ plan to consistently ²⁰ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)			X			
According to the latest report submitted to the COP, the Ministry of Health stated they disseminate article 5.3 to all members of National Tobacco Control Committee. However, no details were provided on a program or system to constantly raise awareness on policies related to Article 5.3 as indicated in Recommendation 1.2 and 1.2. In the training curriculum of 490 Tobacco Control enforcement officers from 24 provinces and Phnom Penh city includes component on Article 5.3 (3-hour session) – signed by Minister of Health. In the meeting of the National Committee for Tobacco control, conducted in June 2019, article 5.3 was mentioned.						
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, policy drafts, or study visit invitations given or offered to the government, its agencies, officials and their relatives. (3.4)			X			
The government has not put in place a policy to disallow the acceptance of all forms of contributions/ gifts from the tobacco industry including offers of assistance, policy drafts, or study visit invitations.						
TOTAL						49

²⁰ 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.