

SRI LANKA

2020

TOBACCO
INDUSTRY
INTERFERENCE
INDEX

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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 in 2014.

The Alcohol and Drug Information Centre (ADIC) – Sri Lanka express our thanks to SEATCA for the trust placed in us to conduct the Tobacco Industry Interference Index for Sri Lanka and produce this report. We acknowledge the ADIC team and external consultants who contributed to the preparation of this Index and report.

Background and Introduction

Currently over 1.5 million Sri Lankans smoke as much as 11 million cigarettes daily, states the National Authority on Tobacco and Alcohol (NATA), and WHO estimates 20,000 annual deaths due to tobacco use in Sri Lanka. Sri Lanka signed and ratified the WHO Framework Convention on Tobacco Control (WHO FCTC) in 2003, the fourth country in the world to do so. Also in 2006, the National Authority on Tobacco and Alcohol (NATA) was established as an independent government agency to address the harm caused by the use of tobacco and alcohol. Sri Lanka has stringent policies to reduce tobacco use, including prohibiting advertising on traditional and new forms of media (e.g., television, the internet); mandating that graphic warning labels cover more than 80 per cent of cigarette packs, and prohibiting smoking in many indoor public places.

Tobacco companies continue to promote and expand their business at the cost of the public and frequently interfering in tobacco control.¹ In Sri Lanka, Ceylon Tobacco Company (CTC) founded in 1932 is virtually a monopoly in manufacturing, importing, and selling cigarettes. CTC is a public listed company while 84% of its shares are held by British American Tobacco (BAT) and another 8% by a subsidiary of Philip Morris USA. According to the Annual Report 2018 of CTC, 125 billion rupees were paid to government revenue via excise, taxes, and levies. While the industry brings up its payment to government revenue regularly to increase its corporate profile, tobacco costs more to the government than earnings, as demonstrated in 2016 when the tobacco use cost the Sri Lankan economy LKR 213.8 billion, equivalent to 1.6% of its GDP.²

Sri Lanka made commendable progress in establishing control measures on tobacco smoking. It has implemented pictorial warnings covering 80% of both sides of cigarette packs and banned e-cigarettes and flavoured cigarettes. Health, Nutrition, and Indigenous Medicine Minister Pavithra Wanniarachchi have said that Sri Lanka has a target to establish at least 1,000 tobacco-free zones within the next two years. Due to the effectiveness of national policies and community

¹ <https://tobaccoatlas.org/topic/industry-strategies/>. Accessed on 14th May 2020.

² [Investment Case for Tobacco Control in Sri Lanka](#). Page 1. May 2019. Accessed on 12th May 2020.

interventions over the years, tobacco consumption has reduced to 14.5%.³ Tobacco will not be a public health issue only when a country reaches less than 10% consumption milestone according to WHO standards, which NATA hopes to achieve within the next 5 years.

In 2018, the Managing Director of CTC reported he was drawing up plans for the next ten years and this is done anticipating future challenges and threats to the tobacco business.⁴ CTC has 13 distributors and supplies its cigarettes to 58,775 retailers and 658 modern trade outlets.⁵ These retailers are selling many consumer items in addition to tobacco. CTC often misleads the government and the public that these retailers solely depend on the tobacco industry thus tobacco control measures would threaten the livelihood of small business owners.

The WHO FCTC Article 5.3 guideline is a tool to assist the government to protect its tobacco control measures from tobacco industry interference. This report provides information on how well the government is implementing the recommendations outlined in the guideline. This country profile is prepared by using publicly available information for the year 2019.

This report uses a questionnaire developed by the Southeast Asia Tobacco Control Alliance (SEATCA) based on the Article 5.3 Guidelines.⁶ A scoring system is applied to make the assessment. The score ranges from 0 - 5, where 5 indicates the highest level of industry interference, and 1 is low or no interference. Hence the lower the score, the better for the country. The information contained in 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 resisted this influence.

Summary Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

There are still irregularities in tobacco taxation in Sri Lanka. Tobacco Free Initiative of WHO recommends minimization of incentives for tobacco users to switch to cheaper brands or products in response to tax increases. Tobacco tax which is based on the length of the cigarette in Sri Lanka often doesn't increase for the lowest length cigarette as it does for other categories. Also the ministry of finance favours the industry argument that tobacco taxation is profitable to the government when in reality the indirect and direct cost because of tobacco is much higher than any profit gained from tax. In the 2018 draft bill to ban single stick sales was not approved where the finance minister later revealed the objection was because it may reduce the tax revenue due to reduced cigarette sales and switching to beedi. The ministry of Finance continues to have baseless reasonings which raises the suspicion that there may be Tobacco industry influence though a direct participation in policy development cannot be ascertained.

However, the ministry of health remains committed to implementing strong tobacco control measures. Pictorial Health Warnings are already in place for 80% of the pack with tar and

³ http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=205165. Accessed on 3rd June 2020

⁴ <https://www.businesstoday.lk/article.php?article=11818>

⁵ CTC Annual report 2019 <https://bit.ly/2ySzSTb> Accessed on 1 June 2020

⁶ Assunta, M., & Dorotheo, E. U. (2016). SEATCA tobacco industry interference index: a tool for measuring implementation of WHO Framework Convention on Tobacco Control Article 5.3. *Tobacco control*, 25(3), 313-318.

nicotine content. Introduction of plain packaging got the cabinet approval but has delays due to administrative causes unrelated to industry interference.

2. INDUSTRY CSR ACTIVITIES

Sustainable Agriculture Development Programme (SADP), the main CSR activity has funds and resources allocated to sustain SADP until 2019. Though there is no publicly available data on SADP involving government officials there are other CSR activities like the tree planting program which has government official involvement.

3. BENEFITS TO THE INDUSTRY

The finance minister's proposal to allow cigarette imports from China faced a considerable backlash from the Health Minister and concerned parties. Health minister wrote to the Prime minister saying he would tender his resignation from the cabinet and that the NATA chairman and the board of directors would resign. Amidst the strong opposition finance minister withdrew his plans to allow Chinese cigarettes. Amidst the commendable measures taken by the health ministry the ban on single sticks is still delayed and plain packaging is still on hold for 2019.

4. UNNECESSARY INTERACTION

Smuggled cigarettes confiscated by Sri Lanka customs were destroyed with the support of CTC in the CTC warehouse. Also in another instance CTC CEO/MD Nedal Salem took part in destroying illicit cigarettes confiscated by the officers of Sri Lanka Customs' Central Investigation Bureau (CIB).

5. TRANSPARENCY

Interactions with the tobacco industry are not disclosed publicly. The government does not require registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists.

6. CONFLICT OF INTEREST

The government does not prohibit contributions to political parties from the tobacco industry or any entity working to further its interests. There were instances where people who worked with the tobacco industry joined government positions. The government doesn't specify a period of non-involvement to persons previously employed by the tobacco industry. Also, Sri Lanka has a lack of campaign finance laws thus candidates or parties are not required to disclose information on the funds spent on their campaigns or donations received.

7. PREVENTIVE MEASURES

The government has not put in place a procedure for disclosing the records of the interaction with the tobacco industry. But NATA has developed a guideline to implement Article 5.3 in 2019, which addresses the previous lack of program or plan to consistently raise awareness on Article 5.3 within its departments. Although the guideline is developed it isn't currently being implemented. There is a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry. Tobacco production, imports and the quantum of manufactured cigarettes must be disclosed for taxation purposes. However there is no procedure to report lobbying, philanthropy and political contributions. While there is a code of conduct for government / public officials to restrict acceptance of gifts and contributions for their service other than what is already

made allowed in the establishment code or departmental protocols, this does not restrict government officials from taking part in events, study visits sponsored by the tobacco industry.

Recommendations

- Implement a full ban on all forms of tobacco industry related CSR activities as recommended in the FCTC.
- The government has to put in place procedures for interaction with the TI and disclose all records of interaction with the TI.
- Tobacco related policies need to give due priority to public health and should be based on evidence based and scientific methodologies to avoid industry manipulation.
- Awareness programs should be conducted regularly for Government officials on Article 5.3.
- There should be an exit policy term limits for retired government officials for 5 years so that they do not join the tobacco industry immediately and a cooling-off period for former tobacco industry executives who want to serve in public office.

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Results and Findings

	0	1	2	3	4	5
INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government ⁷ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ⁸ in setting or implementing public health policies in relation to tobacco control ⁹ (Rec 3.1)				3		
<p>There is no evidence to support that the government accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry in setting or implementing public health policies in relation to tobacco control. However there are irregularities in tobacco taxation. During the budget speech 2019, the Minister of Finance stated that Excise duty on cigarettes will be based on indexation with a minimum annual duty increase capturing annual inflation and GDP growth.¹⁰ There are five categories of cigarettes depending on the length. However, the 12% tax increase was only for four categories of cigarettes and not implemented for the 60 mm length category, which has the lowest price and also had the second highest market share in 2016.¹¹</p> <p>The draft bill to ban single stick sales was not approved in 2018. Banning of selling loose cigarettes was widely discussed in 2018. When the bill was brought up during a cabinet meeting</p>						

⁷ 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

⁸ The term, “tobacco industry’ includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

⁹ “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

¹⁰ Budget speech

2019. http://www.ird.gov.lk/en/Lists/Latest%20News%20%20Notices/Attachments/161/BUDGET%20%20%202019%20Final_E.pdf. Page 44. Accessed on 12th May 2020.

¹¹ <https://www.veriteresearch.org/insight/cigarette-tax-in-sri-lanka/>. Accessed on 12th May 2020.

in August, 2018 it was not accepted due to opposition by four cabinet ministers: Minister of Finance Mangala Samaraweera, Minister of Labour and Trade Unions Ravindra Samaraweera, Minister of Telecommunications and Digital Infrastructure Harin Fernando and Minister of Highways, Higher Education and Investment Promotion Kabir Hashim¹³. Minister of Finance later revealed the objection was because it may reduce the tax revenue due to reduce cigarette sales and switching to beedi¹². These claims by the Minister of Finance are similar to the industry claims and have not been based on any scientific evidence, which suggests that he may have been influenced by the tobacco industry.

2. The government accepts, supports or endorses <u>policies or legislation drafted by or in collaboration with the tobacco industry.</u> (Rec 3.4)			2			
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Tobacco Taxation: Cigarette brands have over 70% of tax (Excise + VAT) imposed from retail price. However, there are irregularities in tax increases. In the 2019 budget speech, a tax indexation was announced but the lowest length cigarette had no tax increase, while other tiers had 12% increases. In October 2019 there was a tax reduction for 67-72mm cigarette tier, which had a tax increase July 2019. In December 2019 the government raised excise duties in all 5 tiers following the reduction in the Value-Added Tax (VAT) and abolishing of the Nation Building Tax (NBT), this led to the increase of taxes first time for less than 60 mm length cigarettes after 2016¹³

Score: 3.6

A smoke free environment: National authority on tobacco and alcohol (NATA) act article 39 has established a smoke free environment.

Score: 1.0

Packaging & Labelling: Pictorial Health Warnings are already in place for 80% of the pack with tar and nicotine content. Introduction of plain packaging has been on hold for more than 12 months but the delay is due to the parliament dissolution, presidential election and changing of cabinet.

Score: 1.0

Advertising, Promotions and CSR: Most forms of advertising, promotions and CSR activities for the tobacco industry have been banned under article 35 & 36. However publicity that does not use brand names or trademarks and publicity of sponsored individuals are allowed.

Score: 1.6

Final Score: $(3.6+1.0+1.0+1.6)/4= 1.8$

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					
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No, the government does not allow/invite the tobacco industry.

Score: 0

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) ¹⁴ (Rec 4.9 & 8.3)		1				
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¹² Tobacco Unmasked. [Proposed ban on single stick cigarette sales in Sri Lanka](#), 11 March 2019, accessed 25 April 2018.

¹³ <http://treasury.gov.lk/documents/10181/83962/Silanka-at-a-glance-2016-2018E.pdf/8605135e-db8d-466b-b725-7e756bb3bb49>. Accessed on 13th May 2020.

¹⁴ Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

There have not been instances where the tobacco industry (or its representatives) was in the delegation to COP or its related meetings.

Score: 1

INDICATOR 2: Industry CSR activities

<p>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)</p> <p>B. The government (its agencies and officials) receives contributions (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)</p>		1				
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Sustainable Agriculture Development Programme (SADP) is the main CSR activity taken up by CTC launched in 2006. It is stated that In 2015, CTC’s CSR Steering Committee and Outreach Projects’ Board of Directors made the decision to allocate funds and resources to sustain SADP until 2019.¹⁵ However there was no news available on SADP activities carried out in 2019 involving government officials.

Score: 0

CTC conducted their annual tree planting programme, Plant a Tree – Save The Planet in Padavigama, Meegalewa at the Sri Mahindaramaya Temple where over 1,000 seedlings and 400 packs of various varieties of vegetable seeds were distributed to over 600 individuals. CTC’s Operations Director Rukshan Gunathilaka reportedly gave a speech. A picture captured at the event shows a participation of a police officer in activities.¹⁶ Police officers are among the four authorized officers of the NATA act.

Score: 3-1LPO+1LoS=3

CTC commemorated the world environment day with a weeklong program under the theme 'Mitigating Air Pollution' at its Colombo, Kandy factories as well as leaf depots. No government officials were involved.¹⁷

Score: 3-3 no officials=0

Final Score: (0+3+0)/3= 1

INDICATOR 3: Benefits to the Tobacco Industry

<p>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)</p>				3		
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Plain packaging on hold in 2019 – delay in implementation of stringent measures benefits the industry.

Delay in bill on ban on single stick sales

Score: 3

<p>7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)</p>	0					
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¹⁵ <https://enterpriseasia.org/area/hall-of-fame/hall-of-fame-2016/social-empowerment-2016/ceylon-tobacco-company/>. Accessed on 13th May 2020

¹⁶ <http://www.ft.lk/agriculture/CTC-continues-to-reforest-Sri-Lanka-one-sapling-at-a-time/31-671059>. Accessed on 11th May 2020

¹⁷ <http://www.ft.lk/environment/CTC-commemorates-World-Environment-Day-2019/10519-680612>. Accessed on 12th May 2020.

The finance minister's proposal to allow cigarette imports from China faced a considerable backlash from the Health Minister and concerned parties. Health minister wrote to the Prime minister saying he would tender his resignation from the cabinet and that the NATA chairman and the board of directors would resign.¹⁸ Amidst the strong opposition finance minister withdrew his plans to allow Chinese cigarettes.¹⁹
Score:3-3 counter action=0

INDICATOR 4: Forms of Unnecessary Interaction

8. Top level government officials (such as President/ Prime Minister or Minister²⁰) 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)

0

No such event/function where top level government officials met with/fostered relations with tobacco companies were found for the year 2019.

Score: 0

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)

3

Illegally imported cigarettes from China, worth Rs.74 million, were destroyed by the officers of Sri Lanka Customs' Central Investigation Bureau (CIB), the picture in the news article shows CIB Director General and Ceylon Tobacco CEO/MD Nedal Salem taking part in destroying the illicit cigarettes²¹

Score:3-1LPO+1LoS=3

A consignment worth more than Rs. 60 million of illegally imported cigarettes from the United Arab Emirates (UAE) was destroyed at the Ceylon Tobacco Company warehouse in Colombo.²²

Score:3+1LoS=4

Final Score: (3+4)/2=3.5

10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1)
NOTE: This must not involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.

0

No such event was recorded for the year 2019.

Score: 0

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)

5

¹⁸ http://www.dailymirror.lk/breaking_news/Stop-importing-cigarettes-from-China:-Rajitha-tells-PM/108-170127. Accessed on 12th May 2020.

¹⁹ <http://www.dailymirror.lk/business-news/Mangala-withdraws-plans-to-allow-Chinese-cigarette-imports/273-170429>. Accessed on 12th May 2020.

²⁰ Includes immediate members of the families of the high-level officials

²¹ http://www.dailymirror.lk/business_main/Contraband-fags-destroyed/245-176537. Accessed on 11th May 2020.

²² http://www.dailymirror.lk/caption_story/Seized-cigarettes-destroyed/110-177291. Accessed on 11th May 2020.

Interactions with the tobacco industry are not disclosed to the public. Score: 5						
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)						5
Tobacco product manufacturers need registration. Since CTC is a public listed company, under security exchange commission (SEC) rules, Company CEO, Directors, Company Secretary, Registrars needs to be disclosed. Joint ventures, mergers, acquisitions and take-overs should be disclosed as well. ²³ However affiliated organizations, individuals acting on behalf of the tobacco industry and lobbyists need not to be disclosed. This is not specific to the tobacco industry and it is common for all public enterprises in Sri Lanka. Score: 5						
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)						5
Sri Lanka has a lack of campaign finance laws thus candidates or parties are not required to disclose information on the funds spent on their campaigns or donations received ²⁴ Score: 5						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)	0					
No retired senior government officials have been part of the tobacco industry in 2019. Score: 0						
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)			2			
No such incidents were found in the year 2019 where current officials also simultaneously hold positions in the tobacco business, however there are few instances where positions in the tobacco business were held in the year before (prior to the government positions). There are no exit policy term limits for retired government officials joining the tobacco industry, nor a cooling off period for former tobacco industry executives who want to serve in public office. Susantha Rathnayake who held a 5 year chairmanship in CTC got elected by the president as a member of the 6 member committee of professionals who make recommendations on the appointment of competent personnel to the Boards of Public Enterprises, Statutory Agencies and State-owned Commercial Businesses and also as the chairman of Board of Investment of Sri Lanka (BOI) in 2019. ²⁵ Dinesh Weerakkody was an independent director of CTC till 2018 July; he is also the son in law of 2018/2019 Minister of Tourism Development, Wildlife and Christian Religious Affairs. ²⁶ Score: 2						
INDICATOR 7: Preventive Measures						

²³ <https://cdn.cse.lk/pdf/Section-9-17.01.2018.pdf>. Accessed on 14th May 2020.

²⁴ <https://www.newsfirst.lk/2019/08/27/sri-lanka-is-yet-to-comprehend-the-need-for-campaign-finance-laws/>. Accessed on 14th May 2020.

²⁵ http://www.tobaccounmasked.com/index.php/Susantha_Ratnayake. Accessed on 12th May 2020.

²⁶ http://tobaccounmasked.lk/index.php/Dinesh_Weerakkody. Accessed 11th May 2020.

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)					3	
NATA has developed a National Guideline for implementation of Article 5.3 in 2019						
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)					3	
The government has formulated a code of conduct for public officials to implement article 5.3 but it is not yet implemented.						
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)					4	
<p>Production figures need to be submitted periodically for excise tax collection. Financial statements are made available to the public since CTC is a public listed company (which is the due process for other listed companies as well). However there are no protocols in place to report lobbying, philanthropy and political contributions by CTC.</p> <p>While tobacco advertising and promotions are banned, in 2019 CTC launched John Player Gold Leaf (JPGL) Limited Edition Capsule, “JPGL Cool” and a packaging upgrade in the Dunhill range. However there is no requirement for it to declare its marketing expenditure.²⁷ CTC provided vendor carts to over 250 socially and economically vulnerable individuals in rural communities. While these are passed off as CSR, in reality these business opportunities increase retailers.</p>						
19. The government has a program / system/ plan to consistently ²⁸ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)					3	
Document was developed and launched in 2019.						
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)					1	
NATA has developed a National Guideline for implementation of Article 5.3						
TOTAL					44	

²⁷ CTC Annual report 2019 <https://bit.ly/2ySzSTb> Accessed on 1 June 2020

²⁸ 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.