

Myanmar



Summary of Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The Central Board of the Control of Smoking and Consumption of Tobacco Products (National Tobacco Control Board), as stipulated under the National Tobacco Control Law of 2006, was reconstituted by the Union Government in 2019. The Board has convened once or twice in a year since 2019. Although there are no representatives from tobacco industries (TI) on the Board, the government usually considers proposals from TI in setting or implementing public health policies in relation to tobacco control. In 2020, tobacco companies submitted proposals for tobacco tax reform to the Internal Revenue Department (IRD), Ministry of Planning and Finance, and other parliamentarians. These offices acknowledged the receipt of the TIs proposals and indicated that suggestions will be included in the Union Tax Bill for consideration.

When the Union Ministry of Health (MoH) issued a notification (No. 435/2021 dated 12 October 2021) as “Order Relating to Standardized Packaging of, and Printing Graphic for Health Warning Images and Texts on Cigar and Tobacco Products”, the TI used arguments on the difficulties for implementing the order in time due to economic and financial reasons. The government issued the postponement of the effective date of the Order, from 11 April 2022, to 1 January 2023, and then again with another postponement till 31 December 2023.

2. INDUSTRY CSR ACTIVITIES

JTI's project to provide drinking water for refugees in Kayin State is still ongoing despite prohibitions on TI sponsored corporate social responsibility (CSR) activities and tobacco advertising, promotions, and sponsorships (TAPS) in the Control of Smoking and Consumption of Tobacco Product Law.

American Chamber of Commerce, Myanmar has been holding annual awards for Best CSR since 2015. It has consistently awarded the British American Tobacco Company (BAT) from 2015 to 2020.

3. BENEFITS TO THE INDUSTRY

Myanmar implemented pictorial health warnings (PHWs) on cigarette packs for almost five years. However, not all tobacco products carry the required warnings and outdated images on packs can still be found in the market. There has been no government action to address this.

Since 2020, the Union Tax Law continues to provide tax exemption to the TI for cheroots, cigars, and raw tobacco leaves if their annual product cost does not exceed MMK 20 million.

4. UNNECESSARY INTERACTION

There are no publicly available reports of government officials attending social functions of the TI. However, we will note that the European Chamber of Commerce in Myanmar (EUROCHAM Myanmar) has an anti-Illicit Trade Group that enlists BAT as a member. The objective of this group is to “coordinate regular consultation meetings between the group and the authorized government officials to develop a shared understanding of challenges and issues.” In 2020, EUROCHAM Myanmar teamed-up with TRACIT, a PMI-funded group, to address illicit trade issues in Myanmar.

In August 2020, the MoH issued a directive to its staff to comply with the guidelines on interaction with the TI. MoH officials have kept records of the meetings they have had with TI representatives. The industry has frequently attempted to meet in 2021 and 2022 to persuade the MoH to delay implementation on the standardized packaging of tobacco products.

5. TRANSPARENCY

The MoH, in exercising the power conferred under subsection (b) of Section 19 of the Control of Smoking and Consumption of Tobacco Products Law, issued a Directive (No. 91/2020 dated August, 2020), namely, “Directive to Comply with Guidelines on Contact with Cigar and Tobacco Manufacturer, Distributor, Seller or Related Person”, on how to act upon the interactions with the TI or their representatives for transparency. Other ministries have not adopted any mechanism or rule for disclosure of meetings with the TI.

While the Special Commercial Tax Law requires all facilities and distribution chains to register, it does not cover affiliated organizations and individuals acting on the TI's behalf or lobbyists. IRD has not publicly disclosed the list of facilities and distribution chains.

The Central Statistical Organization provides data on TI activities in its yearly reports, as well as statistics related to cigarette and cheroot production. This data is usually published two to three years after collection, and the MoH does not have a current list of entities within the TI or its allies and front groups.

6. CONFLICT OF INTEREST

The government does not prohibit contributions from the TI or any entity working to further its interests.

No publicly available records found during the report period, but retired senior government officials have joined the TI in the past.

7. PREVENTIVE MEASURES

The Ministry of Planning and Finance, Directorate of Investment and Company Administration issued an Anti-corruption Code of Ethics which applies to all private companies incorporated in Myanmar that deal with government organizations. However, the government does not require reporting market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and all other activities nor specific guidelines compliant with the WHO FCTC Article 5.3 guidelines for departments dealing with the TI, such as the Internal Revenue Department for tax collection.

In 2018, Myanmar's Anti-corruption Commission issued a Notification (No. 14/2018) concerning the need for all businesses to establish a strong business code of ethics to prevent corruption. The following fundamental principles have therefore been identified for private sector organizations to develop a strong business code of ethics as well as to establish appropriate internal control measures to prevent corruption: (a) strong, effective policy and support from top-level management to fight corruption; (b) risk assessment to effectively identify and evaluate exposure to corruption; (c) enhanced and detailed measures for high-risk and vulnerable areas; (d) application of anti-corruption measures to business partners; (e) accurate books and accounting records; (f) human resource management policies complementary to anti-corruption measures; (g) establish trust worthy reporting mechanisms to report suspected corrupt behaviours; and (h) periodic review and evaluation of anti-corruption prevention measures.

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Recommendations

1. Uphold enforcement of CSR and TAPS bans in compliance with national laws.
2. Penalize the TI for non-compliance with tobacco control laws (i.e., PHWs).
3. Promote transparency to prevent the TI and its representatives from misrepresenting its meetings with all government entities, and not just limited to the MoH.
4. Prevent conflict of interest among current and retired government/public officials, disallowing any involvement or to hold any position in the TI.
5. Implement a strong code of conduct that is compliant with WHO FCTC Article. 5.3 guidelines as well as a systematic programme to raise awareness on WHO FCTC Article. 5.3 to all government departments especially those with close meetings with the TI.
6. Require TI entities to provide information about business activities including marketing expenditure and philanthropy.