

Zambia

Overall score:

78

Summary of Findings

1. Industry participation in policy development

Zambia acceded to the WHO Framework Convention on Tobacco Control (FCTC) in May 2008. Preceding the accession to the FCTC, the Zambia Tobacco Control Regulation was governed by Statutory Instrument No. 163 of 1992, which does not meet the requirements and obligations of the FCTC. The country is now involved in developing comprehensive Tobacco and Nicotine Products Control legislation in line with the WHO FCTC and its Protocol to Eliminate Illicit Trade in Tobacco Products. A multisectoral technical committee, comprising of government line ministries, government departments, civil society and academia is in place to develop the legislation.

Suffice to mention that development of the Bill started in 2009 up until it was presented to the Cabinet in 2010. Despite following a multisectoral approach in developing the Tobacco Control legislation, the Ministry of Commerce, Trade and Industry, the Ministry of Agriculture and the Ministry of Finance opposed the Bill.

The Bill was brought back to the Ministry of Health for facilitation of further consultations on issues of trade in tobacco and public health tobacco control. Industry involvement was noticed by British American Tobacco (BAT) presence.

Consultative meetings were reconvened in 2011 which led to the development of the Tobacco Products Control Bill of 2016. With funding from the WHO FCTC 2030 project, two consultative meetings with stakeholders were held in 2018 and one drafting workshop was held in the same year with the Ministry of Justice.

The challenge is that since 2010 when the Bill was presented to Cabinet, there has been backward and forward movement of the Bill, indicating a 10-year lapse. This is a very clear indication of tobacco industry Interference, through scuttling, delaying and frustration of the consultative process.

In 2014, the Zambian government passed legislation establishing the Business Regulatory Review Agency (BRRA) through an act of Parliament.¹ The purpose of BRRA is to create a conducive business environment. BRRA is a strategy to ensure regulators undertake Regulatory Impact Assessment (RIA) and stakeholder consultations in the formulation of regulations that impact on business activity.² In 2018, the Regulatory Impact Assessment Handbook for Regulatory Agencies and Public Bodies in Zambia was published which was supported by Japan Tobacco International (JTI).³ In line with this development the Ministry of Health was compelled and directed to hold a consultation meeting on the proposed Tobacco and Nicotine Products Control Bill (2018), with tobacco industry representatives and associates. The meeting took place from December 16-17, 2019. Four representatives of the main tobacco companies participated in the consultation.

2. Industry CSR activities

With Zambia having received funds for accelerating the implementation of the WHO FCTC through the 2030 project in 2017, there have been heightened activities aimed at speeding the development of the Tobacco Control legislation, Coordination Mechanism, the National Tobacco Control Strategic Plan, including the Communication Plan. Around these activities there have been increased media campaigns and

engagement meetings with stakeholders and parliamentarians. In order to rebut this situation, the tobacco industry has amplified its CSR to improve its image.

Media reports have been given of the tobacco industry building clinics and schools, sinking boreholes and building maternity annexes. The tobacco industry has also enhanced publication of feature articles glamorizing tobacco in national print media and privately-owned newspapers.

3. Benefits to the industry

The Government of the Republic of Zambia has opened a multifacility economic zone and two new cigarette manufacturing plants were opened in these facilities. One is owned by British American Tobacco (BAT) Zambia, while the other one is owned by Roland Imperial Tobacco. For setting up these plants, the government has offered a five-year tax incentive at 0%. The plants have a capacity of producing over 5 million cigarettes per day. Forty percent of the cigarettes produced in these factories is destined for the local market.

There are also policy pronouncements from the Ministry of Finance and Ministry of Commerce, Trade and Industry in support of the manufacturing of tobacco.

Following a meeting between the Minister of Commerce, Trade and Industry, the Minister of Finance, the Minister of Agriculture and the Minister of Commerce Trade and Industry with officials from the Tobacco Association of Zambia (TAZ and Zambia National Farmers Union [ZNFU]) to discuss the issue of exempting VAT on green leaf tobacco, the ministers agreed that tobacco should be exempt from VAT in the 2018 national budget and that the government would work out an interim arrangement to offset VAT during the 2017 marketing season.⁴

International travellers entering Lusaka are allowed to bring in 400 sticks of cigarettes, 0.5 grams of pipe tobacco or 0.5 kg. cigars.⁵

4. Unnecessary interaction

In November 2019, the Finance Minister of Zambia, Dr. Bwalya N'gandu, opened a cigarette manufacturing plant owned by BAT worth about US \$25 million and further urged more investment in the sector.

There is no publicly available information on the government accepting offers of assistance from the tobacco industry or enforcement such as contact raid on tobacco smuggling.

In February 2018, the government through the Zambia Development Agency entered into an investment promotion and protection agreement with Roland Imperial Tobacco Company (RITCO).

5. Transparency

The Zambian government has not put in place a procedure to disclose its meetings with the industry. However, this requirement is already proposed in the tobacco products and nicotine products control bill of 2018.

There is the Patents and Companies Registration Agency (PACRA), which is a Statutory Body under the Ministry of Commerce, Trade and Industry. PACRA was established under the Patents and Companies Registration Agency Act No. 15 of 2010 with the principal mandate of providing Business Registration and Intellectual Property protection services.⁶ In this regard, all tobacco companies are required to register their business entities in line with this Act.

In Zambia, there is no registry for tobacco industry-affiliated organizations or individuals acting on their behalf such as lobbyists.

6. Conflict of interest

The Zambian government does not prohibit contributions from the tobacco industry.

However, there is no evidence of retired government officials being part of the tobacco industry, or current government officials and their relatives holding positions in the tobacco industry. It should be noted that lack of such evidence does not warranty absence of such members. The absence of information and clandestineness of the tobacco industry could be the reason.

7. Preventive measures

The government has not put in place a procedure for disclosing the records of the interaction with the tobacco industry and its representatives; neither has the government 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. In addition, the government does not require 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. The government does not have a program/system/plan to consistently raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines.



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Recommendations

1. Expedite the 2018 Tobacco Products and Nicotine Products Control Bill. An FCTC Article 5.3 provision in the draft Bill should be maintained.
2. Ban all tobacco-related CSR activities.
3. Adopt a code of conduct for all public officials to guide them when interacting with the tobacco industry which should be limited to only when strictly necessary.
4. Build capacity of civil society organizations to monitor and expose tobacco industry interference in tobacco control policies at all levels.

¹ <http://www.brra.org.zm>

² [ZambianPolitics.com. Lack of internet accessibility affecting small business growth. 16 March 2017 https://www.zambianpolitics.com/lack-of-internet-accessibility-affecting-small-business-growth/](https://www.zambianpolitics.com/lack-of-internet-accessibility-affecting-small-business-growth/)

³ [Regulatory Impact Assessment Handbook for Regulatory agencies and Public Bodies. https://bit.ly/3bNESXF](https://bit.ly/3bNESXF)

⁴ [Zambia National Farmers Union \(2017\), Ministers Consult The Private Sector On VAT On Tobacco, https://www.znfnu.org.zm/article/ministers-consult-private-sector-vat-tobacco-0](https://www.znfnu.org.zm/article/ministers-consult-private-sector-vat-tobacco-0)

⁵ [IATA. https://bit.ly/2VOhWSc](https://bit.ly/2VOhWSc)

⁶ <https://www.pacra.org.zm/#/html/About/2057>