UGANDA

2021

TOBACCO INDUSTRY INTERFERENCE INDEX

Introduction

Uganda signed the WHO Framework Convention on Tobacco Control (FCTC) on 5th March 2004, and ratified it on 20th June, 2007¹, becoming a party to the convention and partaking an obligation to domesticate the FCTC through relevant policies and laws without reservations² The process to domesticate the FCTC started as early as 2007 with raising awareness among stakeholders including government departments and civil society on the FCTC and the need for a national law on the same.³

Uganda's commitment to tobacco control and the legislative process was met with consistent opposition from the tobacco industry and those who further their interests by tactics to undermine Uganda Tobacco Control bill (UTCB) including attempting to "blackmail" politicians, 455 and misrepresenting the spirit of the proposed Tobacco Control law inter alia. 7

Recognizing that tobacco industry interference is the single greatest threat to national tobacco control efforts and that there is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests, the Government of Uganda devised measures to embed the letter and spirit of Article 5.3 of the WHO FCTC in its National legislation and policy process in order to protect these TC policies with respect to tobacco control from commercial and other vested interests of the tobacco industry and finally on 28th July 2015, the Parliament of Uganda passed a comprehensive, WHO FCTC compliant Tobacco Control law with a whole Part (viii) in favour of Article 5.3. 910

Uganda, the Tobacco Control Act has banned the import, manufacture, distribution, processing, sale, offer for sale, and bringing into the country of e-cigarettes, including e-cigarette devices and cartridges with nicotine-containing liquid or other substances to be vaporized.¹¹

Despite the pandemic, British American Tobacco (BAT) Uganda reported its strongest growth in profits in three years. ¹² BAT which controls the market share for cigarettes, recorded profit after tax rose 27.3% to Shs19.9bn in 2020, up from Shs 15.6bn a year earlier. It is the company's

² World Health Organisation Framework Convention on Tobacco Control, p.(v)

³ Dr. Ndyanabangi Sheila TC focal person and Uganda's representative at the WHO FCTC negotiations

⁴ J. Doward, Tobacco giant 'tried blackmail' to block Ugandan anti-smoking law , The Guardian, 12 July 2014, accessed November 2015

⁵ Letter from BAT Uganda to Honourable Chris Baryomunsi

⁶ Tobacco Industry Presentation, Tobacco Industry Key Concerns: The Tobacco Control Bill 2014, 11 April 2014

⁷ See annexed table of TII during the bill making process.

⁸ Article 5.3 Guiding principle 1,

⁹ Parliamentary Hansard reports for 28th July 2015

¹⁰ The Tobacco Control Law (Part Viii) page 5 Protection of Tobacco Control Policies from Commercial and other vested Interest of the Tobacco Industry

¹¹ Section 16(2)(a) of the Tobacco Control Act 2015

https://health.go.ug/sites/default/files/Uganda Tobacco Control Act 0.pdf

¹² Uganda Business News. BAT Uganda profits rise sharply on lower operating costs. 12 Feb 2021. https://ugbusiness.com/2021/02/companies/british-american-tobacco-uganda-2020-results-financials

fastest increase in net profit.¹³ Although sales had fallen due to the pandemic, however it exercised cost saving measures to protect its profits.

It's been five years since Uganda passed a comprehensive tobacco control Act (TCA) which has deterred a lot of interference by the tobacco industry. However, this report shows the need for effective implementation of existing TC laws to avoid the occasional interferences and also shows the need to put in place procedures for disclosing the requests and records of interactions between the industry and the government, when it does occur, for effective transparence as enshrined in Section 20(2) of the TCA.

This Index is a civil society report on how the government has responded to or addressed the tobacco industry's tactics and promotion of its business as outlined in FCTC Article 5.3 guidelines. This is the third report in the series. This year Uganda has a total score of 37 points which is a deterioration from the 2020 report of 31 points. The deterioration is mainly in the government accepting CSR donations from the tobacco industry during the COVID-19 pandemic and lack measures to interact with the Tobacco Industry when it's strictly necessary. There is room for improvement to protect public health policy by implementing Uganda's strong legislation.

Information in this report was collected from publicly available sources, including official websites, news reports, tobacco company reports and other verifiable reports. A standardized questionnaire developed by the Southeast Tobacco Control Alliance (SEATCA) was used.

The survey covers a period of between January 2020 and March 2021. The lower the score the better the defense against interference. The first report covered the period January 2017 and December 2018.

Uganda Business News. BAT Uganda profits rise sharply on lowering operating costs. 12 February 2021.
 https://ugbusiness.com/2021/02/companies/british-american-tobacco-uganda-2020-results-financials#gref
 Assunta M. Dorotheo E.U. SEATCA Tobacco Industry Interference Index: a tool for measuring implementation of WHO Framework Convention on Tobacco Control Article 5.3; Tobacco Control http://dx.doi.org/10.1136/tobaccocontrol-2014-051934

Summary Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The Government of Uganda has earmarked 11billion as payment to tobacco farmers on behalf of the companies is contrary to the TCA as it amounts to a privilege to the TI and promotion and sponsorship as stipulated in the definition of tobacco promotion and tobacco sponsorship in the Uganda TCA.¹⁵

2. INDUSTRY CSR ACTIVITIES

Although the TCA clearly bans tobacco related CSR activities, the government accepted donations from the tobacco industry during the COVID-19 pandemic. A tobacco industry-funded international NGO, Elimination of Child Labour in Tobacco Growing Foundation (ECLT), continued to fund activities in Uganda endorsed by district government and trade unions.

3. BENEFITS TO THE INDUSTRY

The TCA prohibits any benefits to the tobacco industry however, the government sought supplementary budget of approximately 11.2 billion Uganda shillings (3.08 Million USD) to compensate tobacco farmers who were demanding from two tobacco companies (Nimataback Ltd and Continental Tobacco) that have failed to pay them for supplied tobacco leaves.

The Uganda Customs, Currency & Airport Tax regulations allow International travelers to bring 200 sticks of cigarettes or 250gm of tobacco into the country tax free.

4. UNNECESSARY INTERACTION

The government has not 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. No. This is not reflected in the tobacco control regulations.

5. TRANSPARENCY

Although the disclosure of meetings is provided for in the TCA, the consultation meeting between BAT Uganda and Office of the Prime Minister was not publicized.

6. CONFLICT OF INTEREST

There is no record of a conflict of interest of any senior government official joining the tobacco industry or vice versa during this reporting period.

7. PREVENTIVE MEASURES

The government has not put in place a procedure for disclosing the records of the

 $^{^{15}}$ The TCA section 23, 14, schedule 4 Paragraph 18 and in the definition of tobacco promotion and tobacco sponsorship.

interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives in the TCA and neither is this reflected in the current TC regulations

Recommendations

- 1. There is a need to create awareness on the provisions of the TCA and ensure all departments are aware of the limits when interacting with the tobacco industry.
- 2. Diplomatic Missions must be made aware of the TCA so that the law is applied to officials overseas and those who represent the country at international meetings.
- 3. Duty free sale of cigarettes/cigars/tobacco for international travelers should be halted.
- 4. Penalties for unnecessary interactions with tobacco industry and its representatives should be enforced.
- 5. The government should put in place a procedure for disclosing the records of the interaction (such as a letter requesting audience with a government ministry or agency, agenda, attendees, minutes and outcome) with the tobacco industry and its representatives. This could be included in the Terms of Reference for the TCC rather than amending the TCA and regulations which may take time.

2021 Tobacco Industry Interference Index Results and Findings

	0	1	2	3	4	5	
INDICATOR 1: Level of Industry Participation in Policy-Developm	non	+					
The government ¹⁶ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ¹⁷ in setting or implementing public health policies in relation to tobacco control ¹⁸ (Rec 3.1)	IGII	1					
There is no record of the government accepting any offer of assistance from the tobacco industry.							
2. The government accepts, supports or endorses policies or legislation drafted by or in collaboration with the tobacco industry. (Rec 3.4)		1					
There is no record of this in the current reporting period.							
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)		1					
Section 3 of the TCA e ¹⁹ stablishes a TC advisory and regulatory body known as the Tobacco Control Committee that has a membership not inclusive of the tobacco industry. Section 3(5) specifically prohibits a member of this committee from having any affiliation with the tobacco industry or any entity furthering its interests.							
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) ²⁰ (Rec 4.9 & 8.3)		1					
There was no COP session in 2020, however in previous COP there has been no tobacco industry representation in the Uganda delegation. The TCA prohibits the tobacco industry from being part of any tobacco control policy formulation and implementation process including prohibition of sponsorship by the tobacco industry. ²¹							

¹⁶ 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

¹⁷ The term, "tobacco industry' includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

¹⁸ "Offer of assistance" may include draft legislation, technical input, recommendations, oversees study tour

¹⁹ https://health.go.ug/sites/default/files/Uganda Tobacco Control Act 0.pdf Section 3(5)

²⁰ Please annex a list since 2009 so that the respondent can quantify the frequency, http://www.who.int/fctc/cop/en/

²¹ See Section 14, 19, 21, 22 and Schedule 3, paragraphs 16 and 18 of the TCA 2015. https://health.go.ug/sites/default/files/Uganda_Tobacco_Control_Act_0.pdf

The Uganda TCA prohibits CSR activities.²³

Although the TCA clearly bans tobacco related CSR activities, a tobacco industry-funded international NGO, Elimination of Child Labour in Tobacco Growing Foundation (ECLT), continued to fund activities in Uganda. A new ECLT Uganda Affiliate Office was launched in January 2020. It is located in Hoima District. According to the ECLT website, the Affiliate Office responds to the outcomes of a workshop convened by the Hoima District Government at which over 30 stakeholders representing District and National Government, Trade Unions, Companies and multi-national enterprises (representatives from tea, tobacco, sugar and Oil and Gas/Energy sectors) participated.²⁴ A 2019 handout produced in conjunction with World Day Against Child Labour carried the logos of ECLT together with the government, ILO and other NGOs.²⁵

Also, on Tuesday 14th April 2020, during the National address by His Excellence the President of Uganda, he acknowledged Meridian and Leaf Tobacco and Merchandise Ltd among companies that contributed to the fight against COVID-19. The two companies contributed 250million Ugx. This was highly contested by the National Tobacco Control allies headed by UNHCO in an online petition²⁶, 27

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) There is no record of this in the current reporting period. 7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)

²² Political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

²³ Section 21,22 and Schedule 3, paragraphs 16 and 18 of the TCA 2015

²⁴ ECLT. https://eclt.org/en/news/eclt-affiliate-office-uganda

²⁵ World Day Against Child Labour 2019. https://www.newvision.co.ug/digital assets/4b34824a-7daa-40d4-9704-c4c509b058b3/37-ECLT-Foundation.pdf

²⁶ https://unhco.or.ug/?p=1211

 $^{^{27}\} https://www.joghr.org/article/17607-tobacco-control-in-the-context-of-the-covid-19-pandemic-in-uganda-a-policy-implementation-review$

Section 23 of the TCA prohibits giving privileges, incentives, exemptions or benefits to the tobacco industry.

According to a newspaper article dated 18th November 2020, the government was seeking a supplementary budget of approximately 11.2 billion Uganda shillings (3.08 Million USD) to pay tobacco farmers who were demanding from two tobacco companies (Nimataback Ltd and Continental Tobacco) that have failed to pay them for supplied tobacco leaves²⁸ Even if the governments expects these companies to pay back this costs monies, this action to compensate the tobacco farmers on behalf of the companies is contrary to the TCA as it amounts to a benefit accrued to the TI and promotion and sponsorship as stipulated in the definition of tobacco promotion and tobacco sponsorship in the Uganda TCA.²⁹

The petition (by tobacco farmers led by Hon Pius Wakabi) seeking government's compensation to the tobacco farmers³⁰ puts the blame on the comprehensive TCA as grounds for seeking government compensation to the tobacco farmers. As of now, the Government of Uganda has earmarked 11billion shilling as payment to tobacco farmers. In all this no action has been taken against the tobacco companies for cheating the farmers.

The Excise Duty Act of 2019 provides tax exemptions and incentives. In March 2020, during the COVID-19 lockdown, the Ministry of Finance Planning and Economic Development, tabled before Parliament for the 2020/21 tax Bills cycle, an amendment to the Tobacco Control Act no 22 which repeal section 7 of the Finance Act and introduced a 0.8 USD levy increasing the levy from 0.2USD.³¹ The MOF also proposed increase of duty for soft cap and hinge lid. The amendment to the law was supported by the Uganda National Health Consumers' Organisation.

The Uganda Customs, Currency & Airport Tax regulations³² allows international travelers to bring 200 sticks of cigarettes or 250gm of tobacco into the country tax free.

INDICATOR 4: Forms of Unnecessary Interaction						
8. Top level government officials (such as President/ Prime Minister or Minister ³³) 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)						
There is no record of this in the current reporting period.						
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	0					

²⁸ https://www.independent.co.ug/government-seeks-supplementary-budget-to-pay-tobacco-farmers/

²⁹ The TCA section 23, 14, schedule 4 Paragraph 18 and in the definition of tobacco promotion and tobacco sponsorship

³⁰ See attached Picture of the Article

³¹ Uganda to tax unprocessed leaf tobacco. Tobacco Reporter. April 14, 2020 https://tobaccoreporter.com/2020/04/14/uganda-to-tax-unprocessed-leaf-tobacco/

 $^{^{32}}$ https://www.iatatravelcentre.com/ug-Uganda-customs-currency-airport-tax-regulations-details.htm#Import%20regulations

³³ Includes immediate members of the families of the high-level officials

	0	1	2	2	1	=
minors. (including monetary contribution for these activities) (Rec 4.3)	0	1	2	3	4	3
The government does not accept assistance/ offers of assistance from the enforcement such as conducting raids on tobacco smuggling or enforcing or no sales to minors, on behalf of the TI.					-	
10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) NOTE: This must <u>not</u> involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.		1				
On 10 th January 2017, the Ministry of Trade and Cooperatives (MoT) provided sponsorship licenses to 6 tobacco companies and vouched its support in launching the Tobacco Season 2017. ³⁴ This license is still valid to date.						
INDICATOR 5: Transparency						
II. 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)				3		
The Constitution of Uganda ³⁵ and the Access to Information Act 2005 ³⁶ allow all citizens to access information from the government. In conformity with this, the TCA, ³⁷ also allows for interactions between the government and the TI but only when it's strictly necessary with a provision that this interaction is transparent. Unfortunately, BATU had a meeting with the Office of the Prime Minister alleging the segregated implementation of the TCA and the regulations. This interaction was not publicized but its existence was (in a TC meeting) shared by the chair of the TC committee ³⁸ who is from the Office of the Prime Minister only this information was only after the meeting had happened.						
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)				3		
The TCA provides a non-conclusive list of items/ guide ³⁹ that the tobacco industry and those who further their cause shall use to report to the Tobacco Control (TC) Committee						
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		1				

³⁴ http://www.mtic.go.ug/?s=tobacco

³⁵ Article 41(1)

³⁶ https://moj.gov.jm/sites/default/files/laws/The%20Access%20%20to%20Information%20Act.pdf
37 Tobacco Control Act. Section 20(2) https://www.tobaccocontrollaws.org/files/live/Uganda/Uganda%20-%20TCA%20-%20national.pdf

³⁸ Mr. Boaz Musimenta, Chair Person, Tobacco Control Committee- Office of the Prime Minister.

³⁹ ³⁹ Section 43 and Schedule Six

	0	1	2	3	1	=	
political parties, candidates, or campaigns or to require full disclosure of such contributions. (Rec 4.11)	0	1	2	7	4	5	
The TCA prohibits contributions from the TI. Please refer to the TCA. ⁴⁰							
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)		1					
There is no evidence available of a retired senior officer such as or equinomial Minister, Minister, Attorney General who is part of the tobacco industry is season.							
 Current government officials and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10) 	0						
No incident was reported in the public domain.							
The TCA in part VIII prohibits government officials who contribute or may contribute to the formulation, implementation, administration, enforcement or monitoring of public health policies related to tobacco control to engage in any occupational activity with the tobacco industry ⁴¹ including a consultancy position.							
or may contribute to the formulation, implementation, administration, en	In light of this, there is no evidence available of current government officials (who contribute or may contribute to the formulation, implementation, administration, enforcement or monitoring of public health policies related to tobacco control) and their relatives who hold positions in the tobacco business including consultancy positions.						
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)					4		
No. This is not reflected in the TCA or regulations.							
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				
All nominated members of the TC Committee signed a declaration of inte being appointed. This committee shall be guided by a code of conduct to with the TI.							

Section 25
 Section 3(5) and Section 25 https://health.go.ug/sites/default/files/Uganda_Tobacco_Control_Act_0.pdf
 Source: Dr. Hafsa Lukwata- TC Focal Person MoH / TCC secretariat.

The code of conduct exists and is only for the internal use of the committee 42

⁴⁰ Section 25

	0	1	2	3	4	5
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)						
Section 43 of the TCA and the sixth schedule 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. ⁴³						
19. The government has a program / system/ plan to consistently ⁴⁴ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)				3		
There is a draft TC communication plan to raise awareness on TC issues as they exist or as may arise including awareness of Article 5.3 of the WHO FCTC and Part VIII of TC. This plan is made by the Ministry of Health (MoH) with support from TC national stakeholders. MoH has an enforcers sensitization plan for all TCA enforcers at district level. One is scheduled for 7 th -9 th April 2021.						
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				
Yes. The government has put in place a policy to disallow the acceptance contributions/ gifts from the tobacco industry including offers of assistan study visit invitations, etc. Please refer to the TCA Section 21, 22 and Paragr 18 of the Third schedule. ⁴⁶	ce,	poli	cy d	lraft		

TOTAL 34

 $^{^{\}rm 43}$ Section 43 and the sixth schedule of the TCA

 $^{^{44}}$ 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.

 $^{^{45}} Source$: Dr. Hafsa Lukwata- TC Focal Person MoH / TCC secretariat

⁴⁶ Section 21, 22 and Paragraphs 7,8,9,16,17 and 18 of the Third schedule. https://health.go.ug/sites/default/files/Uganda_Tobacco_Control_Act_0.pdf

ANNEX A: SOURCES OF INFORMATION

TOBACCO INDUSTRY ACTIVITY

TOBACCO COMPANIES

Top 5 Tobacco Companies/distributors	Market Share and Brands	Source
British American Tobacco Uganda (BATU)	Benson & Hedges, Embassy, Rex, Sportsman	https://tobaccotactics.org/wiki/uganda- country-profile/
Continental Tobacco Uganda	Leaf Tobacco	http://www.aointl.com/news/news- releases/alliance-one-tobacco-uganda- excellent-start/
Uganda Tobacco Services Ltd	Leaf Tobacco	https://www.tobaccol.com/tobacco- suppliers/uganda-tobacco-services- limite
Meridian Tobacco Company.	Leaf Tobacco	https://uma.or.ug/membership/online- member-directory/agricultural- produce-equipment-development/426- Meridian-tobacco-company-ltd
Nimatabac U Global	Leaf	http://www.mtic.go.ug/launch-of- tobacco-season-2017/
Leaf Holdings U Ltd	Leaf	http://www.mtic.go.ug/launch-of- tobacco-season-2017/

TOBACCO INDUSTRY FRONT GROUPS

Top 5 Tobacco Industry Representative	Type (Front Group/ Affiliate	URL
Uganda Manufacturers Association	Front Group	https://www.uma.or.ug/
Kacita Cooperative	Front Group	https://www.kacita.co.ug/kacita-to- petition-government-over-soaring-rates/
Uganda Tobacco Farmers Association	Front Group	See petition the Speaker of Parliament on the TC Bill
Private sector Foundation	Front Group	https://www.psfuganda.org/ https://tobaccotactics.org/wiki/uganda- timeline-industry-interference-with-the- uganda-tobacco-control-bill-2014/
Tomosi Foundation	Affiliate	http://www.tomosigroup.ug/news/story-4

NEWS SOURCES

Top 5 Newspaper/Dailies	Type (Print/Online)	URL
New Vision	Both	https://www.newvision.co.ug/
Daily Monitor	Both	https://www.monitor.co.ug/
The Weekly Observer	Both	https://www.observer.ug
The East African	Both	https://www.theeastafrican.co.ke/
The Independent	Both	https://www.independent.co.ug/