

MALDIVES

2020

TOBACCO
INDUSTRY
INTERFERENCE
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Background and Introduction

Maldives is not a tobacco producing country. It is a net importer of tobacco products and shisha. Camel, Marlboro, Dunhill, American Legend and Benson & Hedges are among the most commonly sold cigarette brands in the country.

While there is no presence of the tobacco companies in the country, the tobacco industry is actively working through tobacco importers, distributors and retailers in pursuing its interests. In its 2018 report to the COP, the government reported that “industry interference continues to be a challenge to the implementation of tobacco control programs.”²

According to Maldives Customs Service Statistics for 2018, USD1.3 million was spent on importing tobacco products annually. The total annual tax revenues from tobacco products at the national/federal level is MVR 575,493,807.65 (Approximately USD 37,321,258.6).

In 2019, the Tobacco Control Board has banned selling of single or loose cigarettes, selling of tobacco products without graphic health warnings, and smoking on streets of Male, the country’s capital. The Tobacco Control Board believes that selling of single cigarettes is a tactic of tobacco industry to attract the youth into smoking.¹

Enacted in 2010, the Tobacco Control Act (Act No. 15/2010) continues to be the primary source of legislation governing tobacco control in the Maldives. This Act “prohibits growing tobacco and advertising tobacco products, to regulate import and export, sale by wholesale and retail, and packaging and labelling of tobacco products, and to set up a regulatory framework for taxation of tobacco products, protection of non-tobacco users from environmental tobacco smoke, provision of requisite information and training to remain free from the hazards of tobacco, and the treatment of persons addicted to tobacco use, for the control of smoking in the Maldives.”²

The main distributors of tobacco products in Maldives are CGT Pvt Lt, which distributes JTI brands and Cubatabaco cigars, and Blenx Pvt Ltd, which is the sole distributor for Phillip Morris tobacco products. Other tobacco importers are: (1) Lotus Fihaara (agents for American Legend; (2) OCC2 Pvt Ltd (agents for Benson & Hedges and related brands of Ceylon Tobacco Company; (3) Grape Expectations Pvt Ltd (for various shisha tobacco brands); (4) Maldives Airports Company Limited (imports various brands and products for airport duty free); and (5) NAMCO Pvt Ltd (importers of Akij Biri, commonly used by Bangladeshi expatriate workers).

¹ <https://tobaccoreporter.com/2019/06/03/loose-change/>

² <https://www.tobaccocontrollaws.org/files/live/Maldives/Maldives%20-%20TC%20Act.pdf>

Summary of Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The government does not accept support or endorse any offer of assistance or collaboration from the tobacco industry. However, the Tobacco Control Board, mandated by the law, allocates one slot for representation for the business community for which depending on which business who sits on the board may have direct or indirect connection to tobacco importer/retailer. Despite the vetting process of the Board members and the declaration of no conflict of interest by each member, this could influence policies being made in relation to tobacco control.

2. INDUSTRY CSR ACTIVITIES

No tobacco industry-related CSR activities were endorsed or participated by government officials in 2019.

3. BENEFITS TO THE INDUSTRY

Bonded warehouse facilities are provided by the government through the Customs Department where imported tobacco products are temporarily kept upon arrival in the port. During this period, no taxation is levied upon tobacco distributors/retailers. This is an incentive to all imported goods in general but this should be stopped for tobacco products.

Moreover, regulation on graphic health warning was delayed by more than one year due to tobacco industry interference. The delay on endorsement of the President and its subsequent publication has been on hold since September 2017. It was only in January 2019 when it was finally endorsed and publicly published.

4. UNNECESSARY INTERACTION

Funds from tobacco industry to government agencies assisting on smuggling raids are coming from international organizations like United Nations Office on Drugs and Crime and INTERPOL. This is not in compliance with the WHO FCTC.

5. TRANSPARENCY

The government does not disclose records of any meetings with the tobacco distributors. Rules for the disclosure and registration of tobacco industry entities do not exist.

6. CONFLICT OF INTEREST

Officials are required to sign a declaration of interest to ensure there is no conflict of interest. The government does not prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns. Maldives' former senior official is a tobacco importer/retailer prior to and during government service from 2008 -2012, and lately in 2018. Former high-level government official's firm represented/worked with Philip Morris. One of the biggest tobacco importers is currently in the parliament, representing the leading party. Parliamentarians are involved in the tobacco

business.

7. PREVENTIVE MEASURES

The Tobacco Control Act (Act 15/2010) provides a procedure for disclosing the records of the interaction with the tobacco industry. A code of conduct for all government institutions is currently being drafted. The law requires the tobacco importers to provide details of their business. However, this is not yet implemented as the regulations are not in place yet. Raising awareness of Article 5.3 to other departments is not consistently done. While the Anti-Corruption law prohibits public officials from accepting gifts and incentives, it is nothing specific to tobacco industry.

Recommendations

1. Disallow the tobacco industry in participating to the Tobacco Control Board which determines and sets policies concerning tobacco control.
2. Prohibit any incentives provided to importing tobacco into the country.
3. Restrict interaction with the tobacco industry to only when necessary. To facilitate this, funds/technical assistance from entities that have ties with the tobacco industry should be rejected and all necessary interactions should be carried out in a transparent manner.
4. Hasten the draft and implementation of the code of conduct for government institutions.
5. Implement the rules set by the Health Protection Agency for public officials and organizations in regard to use of tobacco and other unhealthy products.

Results and Findings

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INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government ³ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ⁴ in setting or implementing public health policies in relation to tobacco control ⁵ (Rec 3.1)	0					
<p>Maldives is not a tobacco producing country. There is no direct presence of the tobacco industry in the country. The government does not accept support or endorse any offer for assistance or collaborate with the tobacco industry or through tobacco importers/ distributors in the country. Main tobacco importers/retailers represent the tobacco industry to the government. However, it should be noted that the distributors are also involved in other retail businesses such as food, beverages and cosmetics which provides more avenues of access to the government.</p>						
2. The government accepts, supports or endorses <u>policies or legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4)	0					
<p>The government does not accept, support, or endorses policies or legislation drafted by or in collaboration with the tobacco industry.</p>						
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)					4	
<p>The Tobacco Control Board allocates a representation slot for the business community who may have direct connection to tobacco importer/retailer that could influence policies being made in relation to tobacco control.</p> <p>National Chamber for Commerce is also represented in the Tobacco Control Board. Every member pledge that there will be no conflict of interest and signs a statement on no COI, there is a vetting process outlined by a constitution document of the TCB which also governs the conduct and the board and its members. ⁶</p>						
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) ⁷ (Rec 4.9 & 8.3)		1				
<p>Government does not nominate persons representing the tobacco industry to be part of the COP delegation.</p>						

³ 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

⁴ The term, “tobacco industry” includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

⁵ “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

⁶ Tobacco Control Act Article 36 (B) (5) from <http://agoffice.gov.mv/pdf/sublawe/Tobacco.pdf>

⁷ Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

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<p>COP8 Delegation (2018): Mr H. Mohamed (Deputy Director, Health Protection Agency); Ms T. Kapur (Advisor, Permanent Mission, Geneva); Ms A. Raghuraman (Advisor, Permanent Mission, Geneva)⁷ and Mr D. Jusu (Advisor).⁸</p>						
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)	0					
B. The government (its agencies and officials) receives contributions ⁹ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)						
<p>The government or its officials do not endorse or support forms of partnerships with or participates in so-called CSR activities organized by the tobacco industry.</p> <p>Officials must sign declaration of interest (DOI) document to ensure there is no conflict of interest. It is difficult to verify if “bribes” have been given, there are no reports of tobacco related cases in the public domain. There may be ways to indirectly influence an official, but this cannot be verified.</p>						
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)				3		
<p>The regulation for placing graphic health warnings (GHW) labels on all tobacco products and to ban sale of single stick cigarettes was passed, signed by the Attorney General and submitted to the President to endorse and gazette in September 2017, which was delayed due to tobacco industry interference. The government changed and a new President elected who assumed office in November 2018, endorsed and gazetted the Regulations on 31st January 2019 after advocacy efforts of civil society and tobacco control advocates.</p>						
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)						5
<p>Bonded warehouse facilities provided by Government through the Customs Department where tobacco imports are temporarily kept, during this period no taxation is paid. This is an incentive to all imports in general but tobacco products and not ordinary consumer products and should be treated according to the requirements of the FCTC.</p> <p>Bilateral free trade agreements between Maldives and some other countries where tax exemptions are given. This may come up to zero tax in an incremental decline on yearly basis.</p>						

⁸ https://www.who.int/fctc/cop/sessions/cop8/LOP_Final.pdf

⁹ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

	0	1	2	3	4	5
International travellers aged over 16 years can bring 200 cigarettes or 25 cigars or 250 grams tobacco into Maldives. ¹⁰ Import duty shall be payable for all tobacco products imported for sale in the Maldives, and all things used for the smoking of tobacco, in accordance with Act No.:31/79 (Export Import Act of Maldives). ¹¹						
INDICATOR 4: Forms of Unnecessary Interaction						
8. Top level government officials (such as President/ Prime Minister or Minister ¹²) 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)		1				
Very high-level officials such as Cabinet Ministers grace opening ceremonies of resorts/ restaurants of whom the owners also have shares in the main tobacco import/retail companies as these businessmen have multiple different large business that run under different companies. The VIPs interact with the same individuals in events they host for their other non- tobacco related businesses like resorts/restaurants etc. While the VIPs are not attending a tobacco related or sponsored event per se but interact with business people who are involved in it.						
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)		1				
Funds from the tobacco industry to agencies assisting on smuggling raids by international organisations, such as World Customs Organization, may not in compliance with FCTC. ¹³						
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>	0					
The government does not accept, support, endorse, or enters into partnerships or agreements with the tobacco industry.						
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

¹⁰ <https://www.iatatravelcentre.com/MV-Maldives-customs-currency-airport-tax-regulations-details.htm#Import%20regulations>

¹¹ <https://www.tobaccocontrol.org/files/live/Maldives/Maldives%20-%20TC%20Act.pdf>

¹² Includes immediate members of the families of the high-level officials

¹³ <https://europepmc.org/article/pmc/pmc6580790#free-full-text>

	0	1	2	3	4	5
The government does not disclose records of any meetings the government may have had with the tobacco distributors.						
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
Rules for the disclosure or registration of tobacco industry entities, affiliated organizations do not exist.						
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
The government does not prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns.						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)				3		
Former Senior official is an importer/ retailer before, during and after being in a government position (2008 - 2012). Former high-level government official's firm represented a tobacco company; he served in a senior position of government, 2013 -2018.						
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			
This would be very probable as Maldives is such a small place that it cannot be avoided that a relative of the owner of the tobacco importers/retailers would be a government official. It is a definite fact, but it is also possible that these relatives may or may not influence their government position as they may be in a non-health sector.						
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)		1				
Yes, but partially as it is not disclosed on a regular basis, even though the procedure is in place (Tobacco Control Board has this in place, provided under the Tobacco Control Act -Article 27 (a) -2 / (d))						
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		
A code of Conduct is being drafted which will be applicable to all the government institutions						

	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)				3		
When regulations of the law are ratified and implemented it will be in place as it is stipulated in the law but not implemented yet due to no regulation in place.						
19. The government has a program / system/ plan to consistently ¹⁴ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)			2			
Chapter 12 of the Tobacco Control Act (Act No. 15/2010) requires relevant government ministries to organize and conduct sound programmes and activities to create awareness and provide information to the public on the harmful effects of tobacco production and tobacco smoking on health, economy, environment, and society. This Act also requires government ministries to provide information and training on tobacco control to health service providers, social workers, journalists and media personnel, law enforcement officers, and other relevant persons. However, the government does not have a program to consistently implement it to raise awareness publicly or within its departments.						
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)					4	
It is an unwritten policy. Maldives' Anti-Corruption Act also have similar articles, but it is not specific to tobacco industry or its products.						
TOTAL				47		

¹⁴ 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.