

# Myanmar: 2023 TOBACCO INDUSTRY INTERFERENCE INDEX

Report on the Implementation of the WHO FCTC Article 5.3

June 2023



# MYANMAR: 2023 TOBACCO INDUSTRY INTERFERENCE INDEX

Report on the Implementation of the WHO FCTC Article 5.3

June 2023

@ People's Health Foundation, June 2023

People's Health Foundation  
No.52, Chindwin Street,  
Kamayut Township, Yangon, Myanmar  
Web: <http://www.phfmyanmar.org/>  
Email: [myanmarhealthfoundation@gmail.com](mailto:myanmarhealthfoundation@gmail.com)

## Citation

People's Health Foundation, *Myanmar 2023 Tobacco Industry Interference Index, Report on the Implementation of WHO FCTC Article 5.3*, June 2023, People's Health Foundation, Yangon, Myanmar

## ACKNOWLEDGMENT

People's Health Foundation would like to acknowledge the Southeast Asia Tobacco Control Alliance (SEATCA) for its support and guidance in developing the report. We acknowledge Mary Assunta and her team of SEATCA for valuable technical advice in the preparation of this Index.

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 with support from the Bill and Melinda Gates Foundation. The Global Tobacco Industry Interference Index is a part of a global publication of the Global Centre for Good Governance in Tobacco Control (GGTC) with support from Bloomberg Philanthropies.

## **WHO FCTC Article 5**

### **General Obligations**

1. Each Party shall develop, implement, periodically update and review comprehensive multisectoral national tobacco control strategies, plans and programmes in accordance with this Convention and the protocols to which it is a Party.
2. Towards this end, each Party shall, in accordance with its capabilities:
  - (a) establish or reinforce and finance a national coordinating mechanism or focal points for tobacco control; and
  - (b) adopt and implement effective legislative, executive, administrative and/or other measures and cooperate, as appropriate, with other Parties in developing appropriate policies for preventing and reducing tobacco consumption, nicotine addiction and exposure to tobacco smoke.
3. In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.
4. The Parties shall cooperate in the formulation of proposed measures, procedures and guidelines for the implementation of the Convention and the protocols to which they are Parties.
5. The Parties shall cooperate, as appropriate, with competent international and regional inter-governmental organizations and other bodies to achieve the objectives of the Convention and the protocols to which they are Parties.
6. The Parties shall, within means and resources at their disposal, cooperate to raise financial resources for effective implementation of the Convention through bilateral and multilateral funding mechanisms.

# MYANMAR: 2021 Tobacco Industry Interference Index

## Report on the Implementation of the WHO FCTC Article 5.3

### June 2023

#### Background and Introduction

In October 2021, British American Tobacco announced it will cease all operations in Myanmar and withdraw by the end of the year. Despite this announcement, BAT's products like LONDON Brand are available in the market in Myanmar by late 2022.<sup>1</sup> The other transnational tobacco company operating in Myanmar is Japan Tobacco International (Myanmar) Co Ltd.

The tobacco industry in Myanmar continues to dissuade and undermine government efforts to implement effective tobacco control measures to protect public health. Such obstructive tactics must be exposed to illustrate the various ways in which the industry carries out these activities, and also to identify vulnerable sectors so that steps can be taken to address ways to stop the interference.

The WHO FCTC Article 5.3 is often described as the backbone of the Convention as it guides the Parties (countries) to protect their tobacco control policies from the vested interests of the tobacco industry. The WHO FCTC cannot be implemented effectively if the tobacco industry interference is not rooted out. The solution lies in the hands of the governments, who need to be proactive and vigorous in putting in place safeguards and measures to prevent unnecessary TI interactions, limit necessary ones, and set up disclosure procedures to protect public health policies.

To give more clarity and guidance to the Parties, in 2008 the WHO FCTC Conference of Parties had unanimously adopted the Guidelines for Implementing WHO FCTC Article 5.3 which provided EIGHT main recommendations to ensure that the industry is prevented from exerting its influence on public health policy.

SEATCA's Tobacco Industry Interference Index is a civil society report assessing the implementation of the WHO FCTC Article 5.3. All countries participating in this survey have been ranked from the lowest level of TI interference to the highest. Since 2016, Myanmar has participated in the reporting and Myanmar's score has steadily improved, from 54 points in 2021 to 52 points in 2023.

#### Methodology

The report, in time series since 2015, identifies any changes compared to the previous year's report. References are from publicly available evidence to support choice of answers, although in some instances, there may be no evidence available. The same scoring method used in previous report has been retained.

The Tobacco Industry Interference Index is an attempt to define the elements that contribute to the ability of the tobacco industry to interfere with public health policy making. Information sources for this research were based on publicly available or commonly known information. The research was limited to information sourced from the official websites, news reports, tobacco company reports, and verifiable anecdotal reports.

---

<sup>1</sup> Reuters. British American Tobacco to pull out of Myanmar by year-end. The Daily Star. 13 Oct 2021. [https://www.thedailystar.net/business/global-economy/south-asia/news/british-american-tobacco-pulls-out-army-ruled-myanmar-2197326#google\\_vignette](https://www.thedailystar.net/business/global-economy/south-asia/news/british-american-tobacco-pulls-out-army-ruled-myanmar-2197326#google_vignette)

Covering incidents of tobacco industry interference since 2015, relevant pieces of evidence were gathered, reviewed, and scored based on the questionnaire developed by the Southeast Asia Tobacco Control Alliance. The results were shared with a core group of civil society groups for review and subjected to their validation. The report was revised and finalized based on the inputs gathered from the core group.

The questions were based on the twenty (20) most commonly reported incidents of tobacco industry interference in Southeast Asia and referenced to specific recommendations in the Article 5.3 Guidelines. The questions are grouped into seven categories:

- I. Level of participation in policy development
- II. So-called CSR activities
- III. Benefits to the tobacco industry
- IV. Forms of unnecessary interaction
- V. Transparency
- VI. Conflict of interest
- VII. Preventive measures

Information used in this report is obtained from the public domain only. A scoring system is applied to make the assessment. The score ranges from 0 - 5, where 5 indicates highest level of industry interference, and 1 is low or no interference. Hence the lower the score, the better for the country. The 0 score indicates absence of evidence or not applicable. The report covers information on incidents from January 2022 up to March 2023, but also includes incidents prior to 2022 that still have relevance today.

## Summary 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, reconstituted by the Union Government since mid-2019. The Union Minister of Health and Sports (MOHS) is the Chairman, and the Director (NCD) of the Department of Public Health acts as Secretary of the Board. The Board has convened once or twice in a year since 2019. Although there are no representatives from tobacco industries in the Board, the government usually considers proposals from tobacco industries 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 (MoPF) and Parliamentarians. These offices acknowledged the receipt of the tobacco industries' proposals and indicated that suggestions will be included in the Union Tax Bill for consideration.

When the Union Ministry of Health 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", tobacco industries have used arguments on the difficulties for implementing the order in time due to economic and financial reasons. The Government has to issued the postponement of the effective date of the Order, from 11 April 2022, to 1 January, 2023, and again with another postponement till 31 December 2023.

### 2. INDUSTRY CSR ACTIVITIES

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

American Chamber of Commerce, Myanmar (AMCHAM, Myanmar) has been providing annual awards for Best Corporate Social Responsibility since 2015, and it has given such award to the British American Tobacco Company (BAT), from 2015 to 2020.<sup>2</sup>

### 3. BENEFITS TO THE INDUSTRY

Pictorial warning for the fifth-year implementation appeared on cigarette packs in mid-2021. To date, not all tobacco products carry the required pictures and old images on packs can still be found in the market. No government action has been found till today.

The Union Tax Law issued annually since 2020 still gave a tax exemption to tobacco industries for cheroots, cigars and raw tobacco if their annual product cost does not exceed MMK 20 million (kyats).

### 4. UNNECESSARY INTERACTION

There are no publicly available reports of government officials attending social functions of the TI. However, EUROCHAM Myanmar has an anti-Illicit Trade Group that enlists BAT as a member. The objective of this group is "Coordinate regular consultation meetings between the group and the authorized government officials to develop a shared understanding of challenges and issues." In 2020,

---

<sup>2</sup><https://www.amchammyanmar.com/amcham-csr-excellence-ace-awards>

EUROCHAM teamed-up with TRACIT, a PMI funded group, to continue addressing illicit trade issues in Myanmar.

The Ministry of Health has issued the directive to its staff, to comply with the guidelines on contact with tobacco industries since August 2020. Ministries' officials have kept records of the meetings they have encountered with the representatives of the tobacco industries. The industries have frequently tried to meet in 2021 and 2022, especially to persuade the Ministry to delay implementation on the new Order of 2021 for standardized packaging of tobacco products.

## **5. TRANSPARENCY**

The Ministry of Health, in exercising the power conferred under sub-section (b) of Section 19 of the Control of Smoking and Consumption of Tobacco Products Law, had 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 tobacco industries or their representatives for transparency.

Other ministries have not adopted any mechanism or rule for disclosure of tobacco meetings with the tobacco industry.

While the Special Commercial Tax law requires all facilities and distribution chain to register, it does not cover affiliated organizations and individuals acting on the tobacco industry's behalf/lobbyists. IRD has not disclosed publicly yet of the list of facilities and distribution chain.

Central Statistical Organization (CSO) has provided the data on tobacco industries in its annual reports, and it has indicated that data on cigarette and cheroot production data are collected physically to the respective industries and reported the actual compilation. Data published are usually 2-3 years late.

Ministry of Health has not kept yet of the list of tobacco industries.

## **6. CONFLICT OF INTEREST**

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

While there are no publicly available records found, there are retired senior government officials who have joined the tobacco industry.

## **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 and corporate bodies incorporated in Myanmar that make business deals with concerned government organizations, and companies or organizations in the private sector. 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 Art 5.3 guidelines for departments dealing with tobacco industry such as Internal Revenue Department for tax collection.

In 2018, Myanmar's Anti-corruption Commission issued a Notification (No. 14/2018) concerning the need for all business 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.

The Ministry of Health had 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 tobacco industries or their representatives for transparency.

## **Recommendations**

1. Enforcement of CSR and TAPS bans should be upheld in compliance with national laws.
2. The tobacco industry should be penalized for non-compliance with tobacco control laws (i.e., PHWs).
3. To promote transparency, there must be a procedure in place to prevent the tobacco industry and its representatives to misrepresent its meetings with all government entities, and not just limited to the MOHS.
4. To prevent conflict of interests, retired government/public officials should not be allowed any involvement or to hold any position in tobacco business.
5. Strong implementation of a code of conduct compliant with FCTC Art. 5.3 guidelines is needed, as well as a systematic programme to raise awareness on Art. 5.3 should be in place to guide all government departments especially those with close dealings with tobacco industry (i.e., IRD on tax collection).
6. The tobacco industry must be required to provide information about its business, including what it spends on marketing and philanthropy.



**MYANMAR: 2023 Tobacco Industry Interference Index**  
**Report on the Implementation of WHO FCTC Article 5.3**  
**June 2023**

## Results and Findings

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 0 | 1 | 2 | 3 | 4 | 5 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|
| <b>INDICATOR 1: Level of Industry Participation in Policy-Development</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |   |   |   |   |   |   |
| 1. The government <sup>3</sup> accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry <sup>4</sup> in setting or implementing public health policies in relation to tobacco control <sup>5</sup> (Rec 3.1)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |   | 1 |   |   |   |   |
| No evidence was found that the Government accepts any offer of assistance from the tobacco industry or collaborate with it in implementing public health policies related to tobacco control.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |   |   |   |   |   |   |
| 2. The government accepts, supports or endorses <u>policies or legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |   |   | 2 |   |   |   |
| <p>Although there are no representatives from tobacco industries in the National Tobacco Control Board, the government usually considers proposals from the tobacco industries in setting or implementing public health policies (e.g., tobacco taxation, pictorial warning) in relation to tobacco control.</p> <p>In 2020, the tobacco industries submitted proposals for tobacco tax reform to the IRD, MOPF and the Parliamentarians. According to informal information, their proposal contained (a) keeping the existing 4 tiers for cigarettes, and modest increase of tax in each tier, (b) not to increase tax for cheroots, and (c) to keep same taxation percentages for other tobacco products. The officials acknowledged receiving the proposals and indicated that suggestions from the tobacco industries will be included for consideration in updating the Union Tax Bill.</p> <p>When the Ministry of Health 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 tobacco industry used arguments on the difficulties for implementing the order in time due to economic and financial reasons. The Government issued a postponement of the effective date of the Order, from 11 April 2022, to 1 January 2023, and then another postponement till 31 December 2023.</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) 1 Never 5 Yes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |   | 1 |   |   |   |   |
| The government does not allow the tobacco industry to sit in the inter-agency committee that sets public health policy.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |   |   |   |   |   |   |
| 4. The government nominates or allows representatives from the tobacco industry (including State-owned) in the delegation to the                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |   | 1 |   |   |   |   |

<sup>3</sup> 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

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

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

|                                                                                                                           | 0 | 1 | 2 | 3 | 4 | 5 |
|---------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|
| COP or other subsidiary bodies or accepts their sponsorship for delegates. (i.e., COP 4 & 5, INB 4 5, WG) (Rec 4.9 & 8.3) |   |   |   |   |   |   |

The government does not allow representatives of the tobacco industry to join the delegation to the COP or its related meetings.

### 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) |  |  |  |  | 4 |  |
| B. The government (its agencies and officials) receives contributions (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)          |  |  |  |  |   |  |

JTI's project to provide drinking water for Kayin State refugees is still ongoing {Photo below}.<sup>6</sup>

American Chamber of Commerce, Myanmar (AMCHAM, Myanmar) has been providing annual awards for Best Corporate Social Responsibility since 2015, and it has given such award to the British American Tobacco Company (BAT), from 2015 to 2020.<sup>7</sup>



Photo: JTI Foundation providing drinking water supply in Kayin State

### 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) |  |  |  |  | 4 |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--|--|---|--|

For the Fifth-year implementation of pictorial health warnings (PHW), appeared on cigarette packs from mid-2021, while the Sixth-year picture should appear on tobacco products by end-2022. To date, not many tobacco products carry the required pictures. Old images or wrong images

<sup>6</sup> JTI Foundation. <http://jtifoundation.org/projects/extending-water-sanitation-and-hygiene-wash-projects-myanmar/>

<sup>7</sup> <https://www.amchammyanmar.com/amcham-csr-excellence-ace-awards>

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 0 | 1 | 2 | 3 | 4 | 5 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|
| <p>have been seen on the packs in the market, and some show official tax stamps blocking health warning (Annex A).</p> <p>No government action was taken against the companies for these violations.</p> <p>The industry was able to obtain 21 months of extension to implement standardized packaging, and a total of 27 months to implement this measure since the law was signed in October 2021.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                              |   |   |   |   |   |   |
| 7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |   |   |   | 3 |   |   |
| <p>The Myanmar government is open and welcoming to foreign investment (including tobacco industries) including production in special economic zones.</p> <p>The Union Tax Law issued annually since 2016 still made tax exemption to tobacco industries of cheroots, cigars and raw tobacco if their annual product cost does not exceed MMK 20 million (kyats).</p> <p>International travelers can bring into Myanmar duty free 400 cigarettes or 50 cigars or 250 grams of tobacco.</p>                                                                                                                                                                                                                                                                                                                                                                             |   |   |   |   |   |   |
| <b>INDICATOR 4: Forms of Unnecessary Interaction</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |   |   |   |   |   |   |
| 8. Top level government officials (such as President/ Prime Minister or Minister <sup>8</sup> ) 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 |   |   |   |   |   |
| There is no record of top-level government officials meeting with tobacco companies' social events.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |   |   |   |   |   |   |
| 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)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 0 |   |   |   |   |   |
| The government does not accept any assistance/offers of assistance from the tobacco industry on enforcement activities.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |   |   |   |   |   |   |
| 10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1)<br><i>NOTE: This must not involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |   |   |   | 3 |   |   |
| <p>There is no recent example of the government accepting, supporting, endorsing, or entering into partnerships or agreements with the tobacco industry. In September 2018, EUROCHAM Myanmar announced that it has established an Anti-Illicit Trade Advisory Group to fight illicit trade and intensify partnership with the Government of Myanmar. "We're trying to solve illicit trade in all possible ways," says U Ko Lay, Director of the Ministry of Commerce. "But we need law and order first, and that will pave the way for legal trade."<sup>9</sup></p> <p>BAT is included as a member of the Anti-illicit trade group, which has the mandate to: "Raise awareness of the volume of illicit trade across industries to both the government and the general public, whilst advocating solutions and best practices that can be implemented to improve</p> |   |   |   |   |   |   |

<sup>8</sup> Includes immediate members of the families of the high-level officials

<sup>9</sup> <https://www.maritime-executive.com/article/call-for-myanmar-to-act-on-illicit-trade>

enforcement. The key activities will include advocacy, research, engagement and capacity building to support further understanding and enforcement of illicit trade.” EUROCHAM Myanmar organized the Anti-Illicit Trade Forum in 2019 and established itself as a major stakeholder and partner to the Government to fight against illicit trade in Myanmar. EUROCHAM teamed up with TRACIT to conduct its activity in Myanmar.<sup>10</sup> In March 2019, TRACIT received a fund of US\$21million from PMI-IMPACT to conduct anti-smuggling projects.<sup>11</sup>



Among EUROCHAM’s objectives are: “Coordinate regular consultation meetings between the group and the authorized government officials to develop a shared understanding of challenges and issues.”



Anti-Illicit trade forum, 19 Sep2019

Source: <https://eurocham-myanmar.org/event/161/Anti-Illicit-Trade-Forum-2019>

**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) |  |  |  |  | 4 |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--|--|---|

The Ministry of Health had 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 tobacco industries or their representatives for transparency. An internal procedure is in place now in MoH, for disclosing the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives.

<sup>10</sup> EuroCham Myanmar Partnership with the Transnational Alliance to Combat Illicit Trade (TRACIT): <https://eurocham-myanmar.org/post/522/EuroCham-Myanmar-partnership-with-the-Transnational-Alliance-to-Combat-Illicit-Trade-TRACIT>

<sup>11</sup> TobaccoTactics. TRACIT <https://tobaccotactics.org/wiki/tracit/>



|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | 0 | 1 | 2 | 3 | 4 | 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 |
| <p>The Special Goods Tax law requires all facilities and distribution chain to register with the government. However, there is no registry for affiliated organizations, and individuals acting on their behalf including lobbyists.</p> <p>No such list is available from MoH</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |   |   |   |   |   |   |
| <b>INDICATOR 6: Conflict of Interest</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |   |   |   |   |   |   |
| 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) 1 No 5 Yes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |   | 1 |   |   |   |   |
| <p>Ministry of Planning and Finance, Directorate of Investment and Company Administration issued the Anti-Corruption Code of Ethics for Companies and Corporate Bodies on 3rd August 2018. Although the code is not specifically for tobacco industry, it applies to all companies and corporate bodies incorporated within the Republic of the Union of Myanmar when making business deals with ministries concerned or government organizations, and companies or organizations in the private sector. The code prohibits the private sector from:</p> <ul style="list-style-type: none"> <li>(a) Making and offering, directly or indirectly, gift, entertainment and other preferential treatment;</li> <li>(b) Providing directly or indirectly, necessary assistance in travelling; Conferring, directly or indirectly, a financial advantage to get a business opportunity;</li> <li>(c) Offering, directly or indirectly, charitable donations;</li> <li>(d) Conferring, directly or indirectly, political contributions; and</li> <li>(e) Providing, directly or indirectly, assistance to get employment in companies or organizations for personal interest.</li> </ul> <p>On 19 October 2018, Myanmar Anti-corruption Commission issued a Notification concerning the need for all business to establish a strong business code of ethics to prevent corruption (Republic of the Union of Myanmar Anti-Corruption Commission Notification No. 14 /2018). 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:</p> <ul style="list-style-type: none"> <li>(a) Strong, effective policy and support from top-level management to fight corruption;</li> <li>(b) Risk assessment to effectively identify and evaluate exposure to corruption;</li> <li>(c) Enhanced and detailed measures for high-risk and vulnerable areas;</li> <li>(d) Application of anti-corruption measures to business partners;</li> <li>(e) Accurate books and accounting records;</li> <li>(f) Human resource management policies complementary to anti-corruption measures;</li> <li>(g) Establish trust worthy reporting mechanisms to report suspected corrupt behaviours; and</li> <li>(h) Periodic review and evaluation of anti-corruption prevention measures.</li> </ul> |   |   |   |   |   |   |

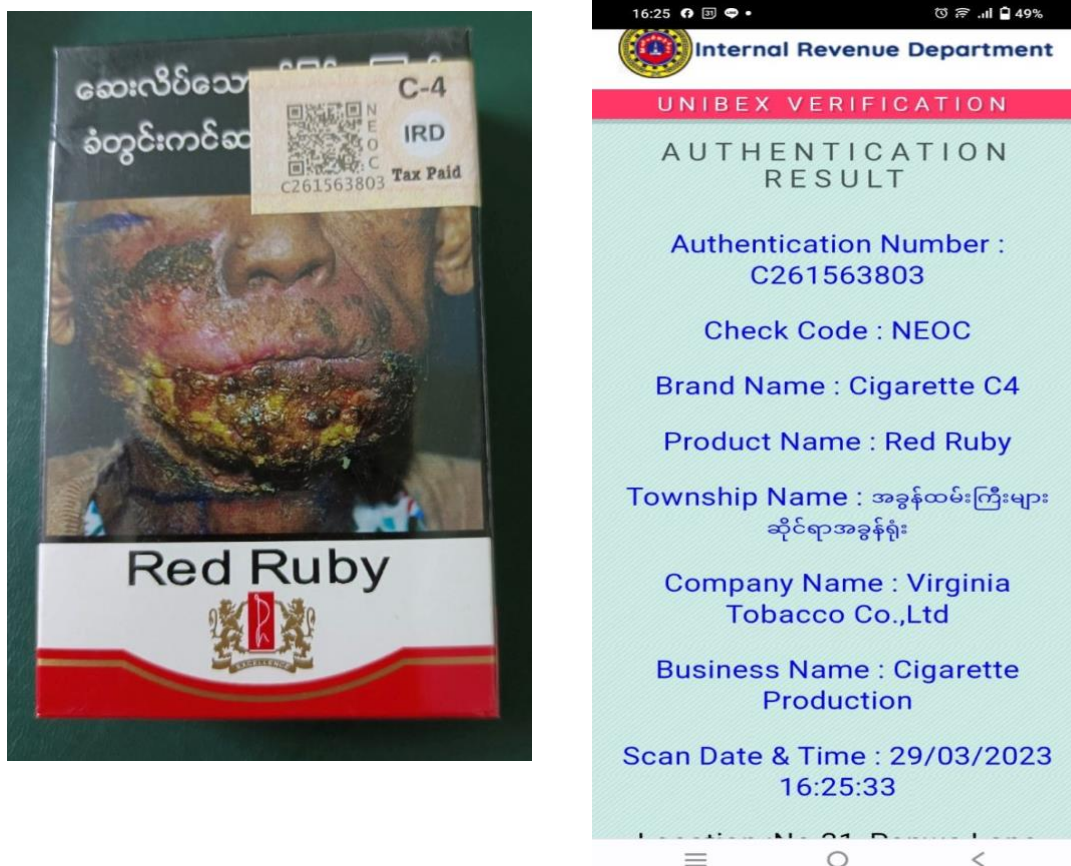
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | 0 | 1 | 2 | 3 | 4 | 5 |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|---|
| Ministry of Investment and Foreign Economic Relations, Directorate of Investment and Company Administration issued an announcement for the fundamental principles of the Anti-Corruption Code of Ethics for Companies and Corporate Bodies on 16th January 2019. <sup>12</sup> The directorate had advised companies and body corporates to follow the notification issued by the Anti-Corruption Commission.                                                                                                                                                                                        |   |   |   |   |   |   |
| 14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)                                                                                                                                                                                                                                                                                                                                                                                                                                                              |   |   |   | 3 |   |   |
| While there are no publicly available records found, there are retired senior government officials who have now joined the tobacco industry.                                                                                                                                                                                                                                                                                                                                                                                                                                                         |   |   |   |   |   |   |
| 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 |   |   |   |
| While current government officials do not hold any positions, however government officials are supportive of investment of foreign tobacco companies in Myanmar as shown in Q7.                                                                                                                                                                                                                                                                                                                                                                                                                      |   |   |   |   |   |   |
| <b>INDICATOR 7: Preventive Measures</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |   |   |   |   |   |   |
| 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)                                                                                                                                                                                                                                                                                                                                                                                          |   | 2 |   |   |   |   |
| The Ministry of Health had 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 tobacco industries or their representatives for transparency. An internal procedure is in place now in MoH, for disclosing the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives.<br><br>Similar directives for other Ministries have been encouraged. |   |   |   |   |   |   |
| 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 |   |   |   |
| The Ministry of Planning and Finance, Directorate of Investment and Company Administration issued the Anti-Corruption Code of Ethics for Companies and Corporate Bodies on 3rd August 2018. However, this does not prescribe specifically the standards on how to deal with the tobacco industry. Implementation status of the code of ethics is also not strong.                                                                                                                                                                                                                                    |   |   |   |   |   |   |
| 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)                                                                                                                                                                                                                                                                                                             |   |   |   |   |   | 5 |

<sup>12</sup> [https://www.dica.gov.mm/sites/dica.gov.mm/files/document-files/anti-corruption\\_announcement\\_revised\\_by\\_dg\\_1\\_.pdf](https://www.dica.gov.mm/sites/dica.gov.mm/files/document-files/anti-corruption_announcement_revised_by_dg_1_.pdf)

|                                                                                                                                                                                                                                                                                                                                             | 0 | 1 | 2 | 3 | 4 | 5         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|---|---|---|---|-----------|
| The government does not require the tobacco companies to report market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and other activities.                                                                                                                      |   |   |   |   |   |           |
| 19. The government has a program /system/plan to consistently <sup>13</sup> raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)                                                                                                                                                      |   |   |   |   |   | 5         |
| There is no systematic programme to raise awareness of Article 5.3 among government 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 |           |
| Except for the Ministry of Health, the rest of the government agencies have not put in place a policy to disallow acceptance of all forms of contributions/gifts from the tobacco industry.<br>New rule for revising the anti-corruption rules issued by the Anti-corruption Commission of Myanmar on 10th July 2015 is still under review. |   |   |   |   |   |           |
| <b>TOTAL</b>                                                                                                                                                                                                                                                                                                                                |   |   |   |   |   | <b>52</b> |

Myanmar\_TII Index\_PHF\_03-07-2023\_Final.docx

<sup>13</sup> 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.



In Myanmar, the tax labels (tax stamps) have been used on commodities (spirit/liquor, beer, wine, cigarette and other tobacco products, and imported purified water) since April 2007, to know the quantity of their sales and to control tax evasion and smuggling. All foreign-brand cigarette packs legally imported and all tobacco products produced locally must carry the tax stamps. Present tax stamps are paper-based and they are issued free to the companies, who will later report to respective tax administration of the quantity they have used, and paid necessary tax. Myanmar has introduced new tax stamps with advanced technology since 2021, in order to strengthen tax administration.



**“Working together for effective  
evidence-based tobacco control measures  
in South-East Asia”**

**Myanmar 2023: Tobacco Industry Interference Index**  
Report on the Implementation of the WHO FCTC Article 5.3  
June 2023

Published by People’s Health Foundation, Myanmar  
with support from the Southeast Asia Tobacco Control Alliance (SEATCA)

People’s Health Foundation  
No.52, Chindwin Street,  
Kamayut Township, Yangon, Myanmar  
Web: <http://www.phfmyanmar.org/>  
Email: [myanmarhealthfoundation@gmail.com](mailto:myanmarhealthfoundation@gmail.com)  
and <http://www.seatca.org>

