



ASEAN Tobacco Industry Interference Index 2023

Implementation of Article 5.3 of the WHO
Framework Convention on Tobacco Control



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Introduction

Despite persistent interference from the tobacco industry, the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC) has achieved significant milestones over the past 18 years. These efforts by the tobacco industry have intensified and become more ruthless with the introduction of newer, unconventional tobacco products, significantly impeding the treaty's global progress.

Tobacco control directly affects the economic and vested interests of the tobacco industry, its affiliates, and those who support the industry's agenda. Consequently, the industry has attacked tobacco control efforts with both explicit and concealed tactics.

Article 5.3 of the FCTC emphasizes the need for constant vigilance and a good understanding of the tobacco industry's attempts to undermine tobacco control measures and vital public health policies. This article, along with its implementing guidelines, is a cornerstone of the treaty; obligating Parties to take the necessary actions to shield public health policies from tobacco industry influence.

Despite the overall advancements in global FCTC implementation many governments have not fully utilized Article 5.3 and its guidelines. This leaves trade and economic policymaking particularly vulnerable to tobacco industry interference. Any gaps in implementation enable the tobacco industry greater access to policymakers, providing them with ample opportunities to influence public policies to their advantage.

This eighth regional Tobacco Industry Interference Index report by civil society gauges the level of implementation of Article 5.3 and its guidelines in nine (9) ASEAN countries: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Thailand, and Vietnam.

SEATCA partners in each country conducted the initial survey and prepared national reports based on publicly available information covering the period April 2021 to March 2023. For consistency, a standard questionnaire and scoring method are used to identify and quantify the frequency and severity of tobacco industry interference, as well as specific government measures or responses to address these incidents based on specific recommendations in the Article 5.3 guidelines and applicable national laws or policies.

This report, like the 7th edition, assesses countries by their annual scores and offers a historical perspective on their scores from 2015 – 2023. Its purpose is to gauge the progress or decline in each government's ability to resist tobacco industry interference, and to highlight similarities in tobacco industry tactics across countries and over time. The ultimate aim of these assessments is to identify specific policy gaps where governments can make improvements.

The 2023 findings bring to light the sluggish pace of progress of ASEAN countries in implementing Article 5.3, in some cases even regressive. Commendable efforts have been made by certain countries in curbing tobacco industry interference, while others have stagnated or show only marginal improvements. A few have shown a worrisome weakening of policy frameworks over time. This concerning situation can be attributed to two crucial factors.

Firstly, the tobacco industry's pervasive actions, replete with its more aggressive strategies, aim to subvert public policy domains. Such calculated maneuvers threaten to erode the hard-won progress, perpetuating a constant struggle to protect public health and well-being.

Secondly, rising public awareness and greater efforts put into monitoring and documenting the tobacco industry's aggressive tactics have brought greater transparency. This heightened awareness empowers communities to challenge the industry's interference and also serves as a clarion call for governments and civil society to be vigilant and proactive in addressing this problem.

The proper response to the industry's challenge is unequivocal: governments must do their utmost to counter tobacco industry interference by implementing Article 5.3. Constant vigilance is indispensable in safeguarding public health and putting in place effective measures can prevent any attempts to undermine public health.



This most recent ASEAN edition is another crucial expose of tobacco industry tactics in the ASEAN region. The country reports vary from ‘The good, the bad and the ugly,’ but one is left with the impression that no country is left untouched or is immune to industry interference with public health policy. While civil society and academia can research and expose industry tactics, only governments can put an end to tobacco industry interference.

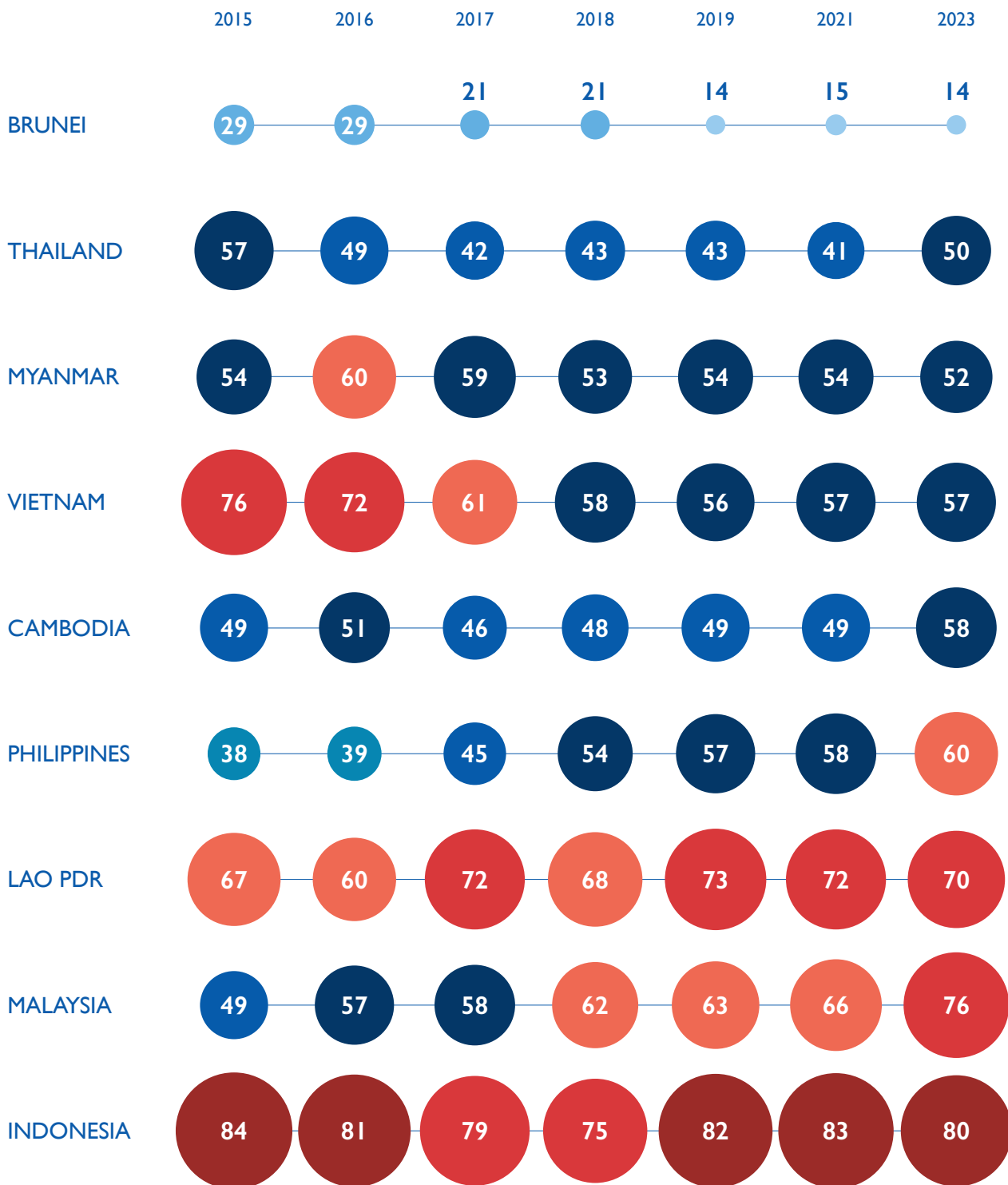
Prof. Judith Mackay, Director of the Asian Consultancy on Tobacco Control

Summary of Findings

Figure 1 shows how countries have progressed, maintained status quo, or deteriorated in addressing tobacco industry interference and implementing Article 5.3 since 2015. A lower score means better implementation of Article 5.3.

- Overall, **Brunei** stands out as the region's leader in effectively preventing and addressing tobacco industry interference, recording a low score of 14 that far surpasses all other countries. This success can be attributed to the implementation of the Code of Conduct, issued in 2019, which strictly prohibits government officials from engaging and interacting with the tobacco industry.
- **Thailand** has had the second lowest scores in ASEAN since 2016, but there is room for substantial improvement in order to meet the gold standard set by Brunei. A concerning acknowledgement is an increased score in the latest reporting period - indicating a rise in tobacco industry interference.
- **Vietnam** and **Myanmar** were steadily improving their scores in 2017 and 2018 respectively, suggesting either reduced interference or an increase in the government's capacity to safeguard public health policies, but since then have not shown significant improvements.
- **Malaysia** and **Cambodia** have had significant worsening in their scores. Malaysia's score has been steadily increasing since 2015 but jumped remarkably in this period by 10 points (from 66 to 76), signifying an escalation in tobacco industry influence, particularly in important policies such as the Generational End Game and the delisting of nicotine in the Poison Act. On the other hand, Cambodia's score had been fairly steady since 2015 but rose from 49 to 58 in the last year, with the evidence supporting industry's ability to delay implementation of policies and unnecessary interactions with top government officials.
- **Indonesia** remains at the bottom with the highest score, indicating the most interference by the tobacco industry. There has been a slight improvement during this period compared to the past two years. Similarly, **Lao PDR**'s score has shown a slight improvement as well in the past two years indicating some progress. On the other hand, the **Philippines** shows steadily deteriorating scores over the years.
- **Indonesia, Lao PDR, Malaysia, the Philippines, and Vietnam** all include the tobacco industry as a stakeholder in policy development - and as a result each is particularly vulnerable to the influence of the industry in undermining tobacco control policies.. Policy interference to prevent a ban or weaken regulation of electronic nicotine delivery systems (ENDS) and heated tobacco products (HTPs), thwarting tobacco tax increases, and delaying the implementation of tobacco control policies have been well-documented in the countries identified.

Figure 1: Tobacco Industry Interference in ASEAN



The lower the score, the better the ranking



- In **Indonesia, Myanmar, the Philippines, Thailand, and Vietnam**, tobacco industry-sponsored corporate social responsibility (CSR) activities persist and provide tobacco companies a strategic platform to project themselves as good corporate citizens. Through these CSR initiatives, the industry establishes connections and gains access to non-health government sectors, thereby extending its indirect influence on public health regulation.
- In all ASEAN countries, with the exception of Brunei, governments continue to provide benefits to the tobacco industry. These range from duty-free allowances to favorable trade agreements concerning tobacco products. In **Lao PDR**, the government's Investment License Agreement with the Imperial Tobacco Group from 2001 to 2026 is still in effect, where the tobacco industry receives incentives such as caps on excise tax rates. The Lao government lost nearly USD 144 million in tax revenues between 2002 and 2017 as a result, in addition to uncollected tax revenues meant for the Lao Tobacco Control Fund.
- Across **all countries**, except Brunei, government representatives engaged in unnecessary interactions with the tobacco industry. These interactions unfold despite these activities being prohibited in some countries, and despite knowledge that such entanglements render officials susceptible to the industry's undue influence on public policies.
- A lack of transparency in government interactions with the tobacco industry is a challenge across **all countries**. While the **Philippines, Thailand**, and, to a limited extent, **Vietnam** have implemented procedures to record necessary interactions with the industry, access to this crucial information remains limited. In every ASEAN country, the tobacco industry is mandated to register with the government and provide specific information for corporation and taxation purposes. However, no country has established a definitive policy to register the tobacco industry's affiliated organizations, individuals, or lobbyists, who act on its behalf, leaving a shroud of secrecy around these influential relationships.
- Conflicts of interest situations persist in ASEAN countries. This is perpetuated by the revolving door phenomenon wherein incumbent and former government officials transition between roles within the government and the tobacco industry. With the exception of **Brunei, Lao PDR, and Vietnam**, most countries do not prohibit political contributions in general, nor do they require full transparency in disclosing such contributions. This lack of stringent measures perpetuates an atmosphere where potential biases and hidden influences may sway policy decisions, undermining the integrity of public governance and fostering an environment of opacity and undue influence.
- With the exception of **Myanmar**, ASEAN countries have stagnated or regressed on the establishment of robust preventive measures to prevent tobacco industry interference as part of good housekeeping and governance. It is also apparent that countries need to strengthen their monitoring and enforcement systems.

Tobacco Industry Interference in ASEAN

Participation in Policy Development

Among the ASEAN governments, **Brunei**, **Cambodia**, and **Thailand** do not accept or endorse policy or legislative drafts by or in collaboration with the tobacco industry, nor do they invite the tobacco industry to meetings where policies are decided.

In **Brunei**, Article 5.3 is enforced through strict measures, keeping the tobacco industry at arm's length from public health policies. The Ministry of Health reviews meeting requests from foreign entities to ascertain if any links to the tobacco industry. The government rejects any offers of assistance, engagement, or sponsorship from the tobacco industry in shaping or implementing tobacco control policies and ensures the industry's exclusion from delegations to the COP or subsidiary bodies.

In **Cambodia** the government does not welcome offers of assistance from the tobacco industry or support any policy proposed by the industry, and it does not include the industry in meetings where tobacco control policy is decided. However, there were meetings between a few non-health ministries with the tobacco industry. The Ministry of Economy and Finance conducted several meetings where representatives from the Association of Tobacco Industry of Cambodia (ATIC) presented research findings on illicit tobacco trade by Japan Tobacco International, and the government listened to their recommendations.¹

In **Myanmar**, the National Tobacco Control Board was reconstituted by the Union Government from

mid-2019. Although there are no representatives from tobacco industry in the Board, the government usually considers proposals from tobacco industry in setting or implementing public health policies in relation to tobacco control.²

WHEN INDUSTRY INTERESTS ARE PRIORITIZED, TOBACCO CONTROL POLICIES ARE DELAYED

In **Indonesia**, discussions about a tobacco industry roadmap have been ongoing since 2021, when the Coordinating Ministry for Economy received proposals from the pro-industry Institute for Development of Economics and Finance (INDEF).^{3,4} Various ministries, including Agriculture and Industry,⁵ and members of the House of Representatives⁶ and the People's Consultative Assembly,⁷ supported this roadmap, which aims to strike a "balance between economic and health interests."

The Ministry of Health's plan to revise Government Regulation (PP) 109/2012 (Safeguarding Materials Containing Addictive Substances in the Form of Tobacco Products for Health) faced challenges from various parties.^{8,9,10} The Coordinating Ministry for the Economy ensured the interests of the tobacco industry were considered in the revision process, while the Ministry of Law and Human Rights encouraged the involvement of all stakeholders, including industry representatives, in policy formulation.^{11,12}



The tobacco industry could not stop the adoption of the new law requiring pictorial health warnings on tobacco packs in Lao PDR but it is now interfering in the implementation.

There is no legal instrument prohibiting tobacco industry participation in policy development in **Indonesia**. Meetings between government officials and the tobacco industry in policymaking processes are considered normal. In 2021, several customs and excise offices worked with business entities, including PT HM Sampoerna (Philip Morris International's local affiliate), to promote and maintain economic growth. This initiative was carried out under a program called Customs Visit Customer (CVC) program.^{13,14}

The tobacco industry could not stop the adoption of the new law requiring pictorial health warnings (PHW) on cigarette packs in **Lao PDR**, but it is now interfering in the implementation of the PHW requirements through the Ministry of Industry and Commerce and Prime Minister's (PM) Office by requesting for postponement of the implementation deadline. Local tobacco companies are also violating the law's requirement by printing only one PHW instead of six PHWs to be rotated on the tobacco packages.¹⁵

On the positive side, while the tobacco industry made efforts to interfere with the Lao Prime Minister's Office to influence the drafting of a new minimum price policy, the related ministries rejected the industry's proposal.¹⁶

In **Malaysia**, the Control of Tobacco Products and Smoking Bill (popularly known as the Generational Endgame (GEG) Bill) which was tabled in Parliament in July 2022 had two readings, was shifted to the Special Select Parliamentary Committee for review, and ultimately was not passed due to snap general elections called in October 2022. The tobacco industry was actively opposing the bill.¹⁷

The Ministry of Finance in **Malaysia** decided against raising taxes in both the 2022 and 2023 budgets as a result of vigorous campaigning by BAT Malaysia. The National Kenaf and Tobacco Board (LKTN) oversees the licensing of tobacco retailers, and BAT holds a seat representing the tobacco industry. In 2023, the LKTN introduced a "free license registration" online system for distributing tobacco,¹⁸ setting it apart from other countries where retailers are typically subject to licensing fees, as a measure for effective supply chain control and pro-health disincentive for retailers.

In **Myanmar**, when the Union Ministry of Health issued Notification No. 435/2021 (Order Relating to Standardized Packaging of and Printing Graphic for Health Warning Images and Texts on Cigar and Tobacco Products, dated 12 October 2021), the tobacco industry cited economic and financial challenges leading the government to delay the Order's implementation from April 2022 to December 2023. This extension totals 27 months since the law's signing in October 2021.

A bill was filed in the **Philippines** seeking to place tobacco and tobacco products in the same category as essential food items, like rice and vegetables, imposing higher penalties to deter smuggling under the Anti-Agricultural Smuggling Act of 2016 (Republic Act (RA) No. 10845).¹⁹ The move raised suspicions of favoritism towards foreign tobacco companies and was criticized for diverting attention from more pressing social and economic issues. In 2022, JTI Philippines expressed its public support for the bill.²⁰

Philippine laws designating tobacco industry representatives as members of government bodies involved in tobacco control have not yet been amended. This perpetuates a conflict of interest that has festered for years. The Tobacco Regulation Act 2003 (RA 9211) includes the tobacco industry as part of the Inter-Agency Committee-Tobacco (IACT), and a tobacco industry representative also sits on the board of directors of the National Tobacco Administration, a body created for the promotion and development of the tobacco industry.

In **Vietnam**, the government regularly engages the Vietnam National Tobacco Corporation (Vinataba), its state-owned tobacco enterprise with the majority share of the market, in inter-ministerial meetings and legislative discussions. Collaboration between the government and tobacco industry and its allies, such as the Vietnam

Tobacco Association (VTA), in anti-smuggling policy development and enforcement still exists.²¹

The tobacco industry in **Vietnam** also exploited opportunities to organize workshops/seminars to discuss and propose solutions and regulations regarding smuggling control. These workshops were attended by leaders of management agencies, experts, associations, and businesses and representatives from the government's customs, anti-counterfeiting, and trademark protection departments.^{22,23}

INTERFERENCE IN THE REGULATION OF ELECTRONIC SMOKING DEVICES (ESDs)

In the **Philippines**, the tobacco industry successfully lobbied Congress for the Vaporized Nicotine and Non-Nicotine Products Regulations Act (RA 11900), which lapsed into law on 25 July 2022.²⁴ Previously, the regulatory authority over ESDs was under the Food and Drug Administration. However, RA 11900 placed the authority over technical standards and product registration with the Department of Trade and Industry, despite significant risks posed by heated tobacco and vapor products to people's health and safety. The law also lowered the age of access to these products from 21 to 18 years old, raising concerns among the Department of Education and children's rights groups due to the expanded reach of the industry to much younger customers.^{25,26}

The industry continuously advocates for special regulations for ESDs in **Indonesia**, basing their claims on the argument that they are less harmful.²⁷ In June 2021, the Minister of Investment expressed support for Sampoerna's investment in establishing a HTP factory in Indonesia. This support included backing the implementation of National Standardize Product (SNI) for HTP, excluding pictorial health warnings for HTP, and imposing lower excise tariffs. The Coordinating Ministry for the Economy and the Ministry of Industry also support the development of special regulations for new tobacco products,²⁸ with research aided by the National Research and Innovation Agency.²⁹

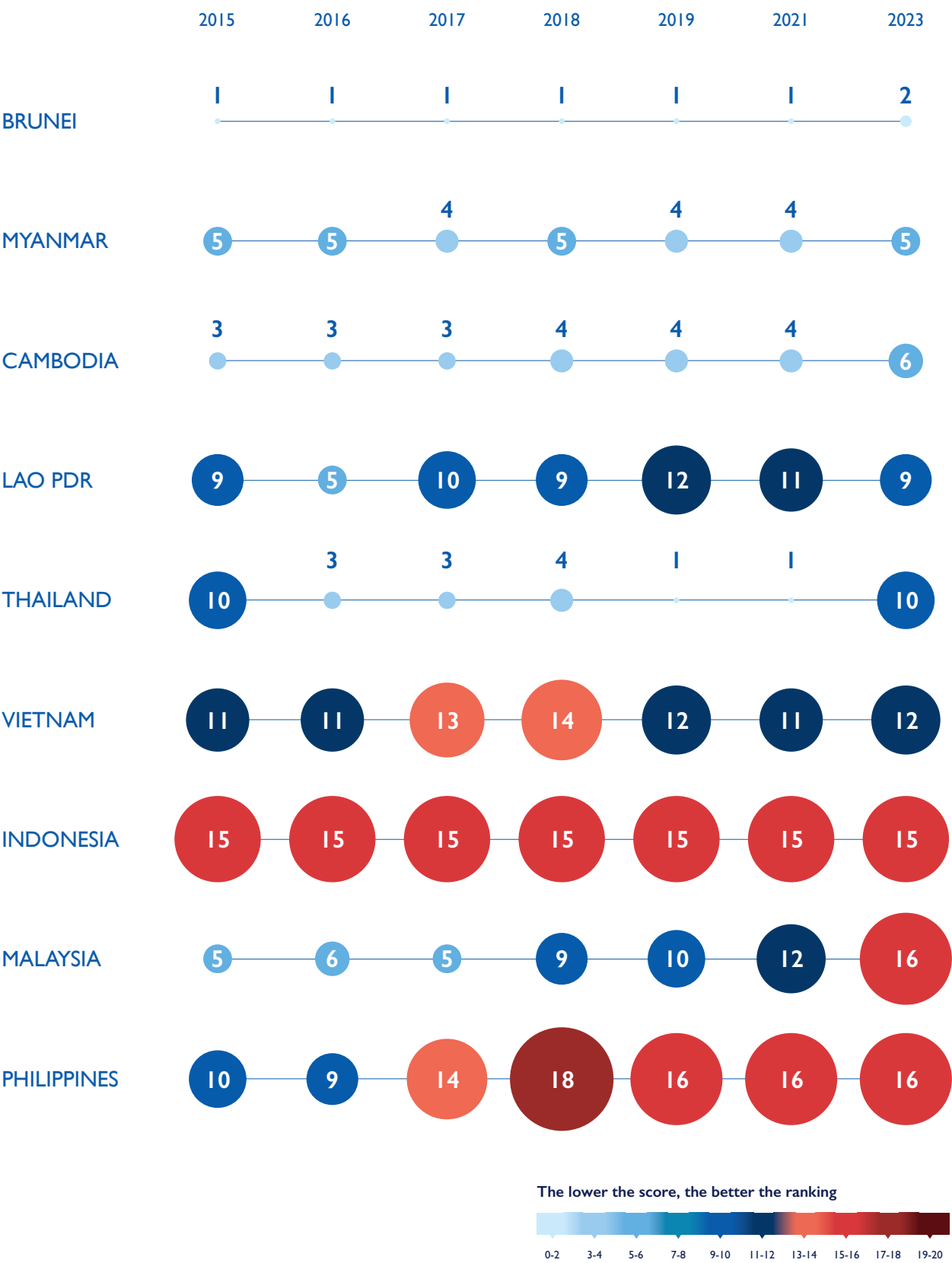
In **Lao PDR**, which has banned ESDs, the industry continues to push the government for establishment of its business in the country. The tobacco industry unsuccessfully attempted to lobby the Ministry of Health to permit the establishment of a new tobacco company, specifically a factory producing ENDS, on the basis that it would be exclusively for export purposes.

The lobbying of the industry to legalize the sale of ENDS was intense in **Malaysia**. The industry argued that legalizing ENDS would address smuggling, allow the government to collect substantial taxes, and promote smoking cessation. In March 2023, the Ministry of Health removed liquid nicotine (a Class C poison) from the National Poisons Act, enabling the importation and sale of ENDS in the country.³⁰

The Minister of Finance, who is also the Prime Minister, announced in April 2023 taxes will be imposed on ENDS, thereby legalizing them for sale in **Malaysia**.³¹ The tobacco industry stands to gain the most from this. As the Control of Smoking Product for Public Health Bill, containing the generational endgame (GEG) policy, has still not been approved (though it has been re-tabled in parliament) ENDS are legalized but unregulated.

ENDS are currently banned in **Thailand**, but the government is being lobbied strongly by the industry to overturn the ban. In January 2022, a meeting of a front group, ENDS Cigarette Smoking Thailand (ECST), with the Ministry of Digital Economy and Society led to the formation of a working group tasked to study the feasibility of legalizing ENDS in Thailand. In October 2022, the House Commerce and the Intellectual Property Committee, which included two members from ECST, issued a report endorsing the legalization of ENDS in the country. Subsequently in February 2023, the Sub-Committee for Studying Factors Affecting the Health System and Monitoring the Enforcement of Public Health Laws in the House Committee on Public Health issued a report in favor of 'tobacco harm reduction' and supporting the legalization of ENDS in Thailand. Fortunately, despite vaping representatives lobbying to persuade the government to accept their version of harm reduction, the government did not endorse nor accept the policy recommendations drafted by these groups.

Figure 2: Tobacco Industry Participation in Policy Development



Industry Corporate Social Responsibility Activities

The tobacco industry resorts to diverting attention from the harmful effects of its products through its so-called corporate social responsibility (CSR) activities. These activities often target vulnerable groups, and serve as an avenue to project undeserved legitimacy and social trust in the companies involved. Tobacco industry CSRs can never be considered socially responsible when the industry contributes to widespread health harms, environmental pollution, and unlawful labor practices. **Brunei, Lao PDR, Myanmar, and Thailand** have banned CSR activities by the tobacco industry. Some other countries have imposed restrictions, such as banning the publicity of tobacco industry donations.

In **Brunei**, the code of conduct issued by the Prime Minister in 2019 prohibits involvement and interaction with the tobacco industry including accepting any offers of assistance, gifts, donations, or sponsorships from the tobacco industry, or supporting any events organized or sponsored by the tobacco industry. Similarly, in **Lao PDR**, the Prime Minister's Decree on Tobacco Product Promotional Consumption Ban 2010 prohibits all forms of contributions from the tobacco industry including its CSR activities, and the Tobacco Control Law (2021) prohibits receiving any direct or indirect sponsorships and support from tobacco companies.

In **Myanmar**, despite prohibitions on tobacco advertising, promotions, and sponsorships (TAPS), including industry-sponsored welfare (CSR) activities, in the Control of Smoking and Consumption of Tobacco Product Law, JTI's project to provide drinking water for refugees in Kayin State is ongoing. The American Chamber of Commerce (AmCham) in Myanmar has been providing annual awards for Best Corporate Social Responsibility, and this award was given to BAT from 2015 to 2020.³²

In countries where there is no ban, CSR activities of the tobacco industry are rampant. In **Indonesia**, CSR activities are actively encouraged under national laws. While there is a restriction of tobacco industry sponsorships under the Government Regulation (PP) No. 109/2012, it is weakly enforced. PT Djarum, KT&G, local tobacco and vape

groups were monitored conducting CSR activities, such as vaccination programs,^{33,34} donations,^{35,36} and environmental events like seed planting.³⁷

Despite a ban on CSR in **Thailand**, the Tobacco Authority of Thailand (TAOT) organized the project "See, Taste, Shop, Chiang Rai Tobacco" as a New Year's gift to the people of Chiang Rai. The event had an area for trading agricultural crops of Chiang Rai between 29 December 2022 and 29 January 2023.³⁸ In March 2023, TAOT also signed a Memorandum of Understanding on cooperation in agriculture and research studies to develop cocoa, hemp, cannabis, kratom and other cash crops to replace tobacco with Rajamangala University of Technology Krungthep and Ban Tham Sing Coffee Group Community Enterprise.³⁹

In **Cambodia**, tobacco industry CSR activities are not banned, and remain a pressing issue in the region. These activities are mostly done by transnational tobacco companies like BAT and JTI.⁴⁰ The Ministry of Justice accepted 100 automatic alcohol dispensers with thermometers and 100 printed banners from JTI. JTI handed over food packages to families at a COVID-19 lockdown area in Khan Mean Chey, Phnom Penh⁴¹ and donated backpack-type disinfectant sprayers, liters of rubbing alcohol, disinfectant fogger machines, and bottles of antibacterial disinfectant fogging solution to different provincial administrations around the country.^{42,43}

In **Malaysia**, BAT's CSR program set up community farm gardens called "Beyond Benih" (Beyond Seed) in Tanjung Karang and Shah Alam, both in Selangor, involving local communities to support growing food using organic agriculture techniques. BAT also collaborated with Universiti Teknologi Mara (UiTM), a public university, in a cleanup across beaches in Selangor, Negeri Sembilan, Melaka, Perak and Pahang in 2022.⁴⁴ Similarly, Philip Morris Malaysia installed 200 cigarette butt canisters across the country, targeting tourist locations near beaches and some urban areas.⁴⁵

In the **Philippines**, the Paaknan Housing Project of Habitat for Humanity Philippines, which provided over 80 new homes to members of Nawanao Riverside B Homeowners Association in July 2022, was done in partnership with the city government of Mandaue and the Social Housing Finance Corporation – Region 7. One of its funding donors was JTI Philippines.^{46,47}

Numerous TI-related CSR activities took place in **Vietnam**, both at the national level and provincial level. Vinataba donated VND 100 billion (USD 4.2 million) to the COVID-19 vaccine fund. The Saigon Tobacco Company also donated VND 500 million (USD 21,137) to the fund. In 2022, Saigon Tobacco Company carried out social works with a total amount of up to VND 6.2 billion (USD 262,000), including taking care of heroic Vietnamese mothers, providing five seriously wounded soldiers with an allowance, building houses, funding the implementation of the Wave and computer program campaign for children, and building a kindergarten in Nghe An province.⁴⁸

In **Indonesia**, the Ministry of Investment (BKPM) collaborated with Sampoerna to promote the online single submission (OSS) program for small and medium-sized businesses.^{49,50} The Coordinating Ministry for Economy and the Ministry of Agriculture participated in a tobacco planting activity and expressed their support and appreciation for Sampoerna's tobacco farmer partnership program.^{51,52}

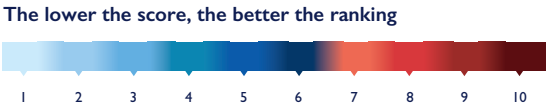
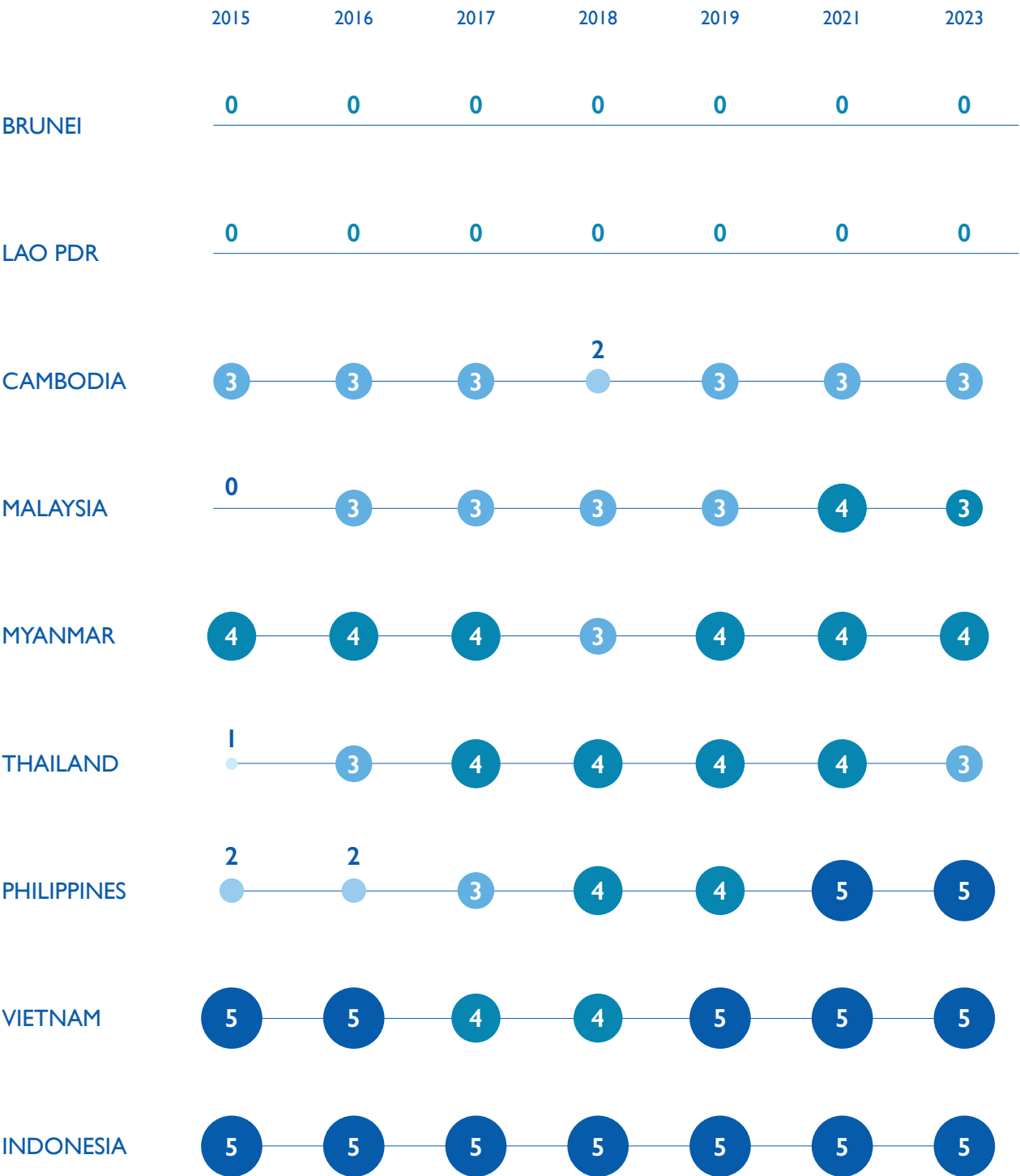


Tobacco industry and corporate responsibility... An inherent contradiction.

The business community, consumer groups and the general public should join policymakers and the public health community in being more vigilant and critical about tobacco companies' CSR activities. Because, despite the industry's claims, there is little evidence of any fundamental change in their objectives or their practices.

The World Health Organization

Figure 3: Tobacco Industry-Related CSR Activities



Benefits Given to the Tobacco Industry

THE TOBACCO INDUSTRY RECEIVES PREFERENTIAL TREATMENT FROM THE GOVERNMENT

With the exception of **Brunei**, the tobacco industry continues to receive various benefits from governments across the region, such as exemption or delay in the increase of taxes, delay in the implementation of tobacco control laws, or duty-free importation of tobacco products. The absence of changes in the countries' scores from 2021 indicates a static situation. Benefits given are often driven by the perceived economic significance of the tobacco industry, leading to privileges and incentives that facilitate its expansion. This poses a grave concern, as it grants the tobacco industry enduring political capital to wield influence over public policies, ultimately favoring its own interests at the expense of public health.

In contrast, there is no tobacco industry (farmers, manufacturers, or importers) in **Brunei**, and the government does not provide incentives to attract tobacco companies to do business. Also, no retailers have applied for licenses to sell tobacco products. The retail license fee of BND 300 (USD 222) per year, aims to discourage sales of tobacco products.

In 2023, the cabinet of **Thailand** did not approve the tobacco ingredient regulation proposed by the Ministry of Public Health due to disagreements of the Ministry of Finance in order to protect farmers and the TAOT.⁵³

The **Lao** government, represented by the Ministry of Planning and Investment, entered into a 25-year (2001–2026) Investment License Agreement (ILA) with the Imperial Tobacco Group (ITG). This ILA established the joint venture, Lao Tobacco Limited (LTL), and granted the company significant incentives, despite controlling 92% of the cigarette market. This included caps on excise taxes that were meant to contribute to the economy. The Lao government lost nearly USD 144 million in tax revenues between 2002 – 2017 as a result of this contract.⁵⁴

WAIVER OF TAX OR POSTPONEMENT OF TAX INCREASES

The government in **Indonesia**, through the Ministry of Finance, provided a stimulus to the tobacco industry by postponing excise payments for up to 90 days in 2021 and 2022.^{55,56} This action was a response to the request of the Association of Tobacco Product Manufacturers for relaxation of excise payments.^{57,58} This decision was supported by the Regent of Jombang to maintain the sustainability of the hand-rolled kretek industry, which is classified as a labor-intensive industry.⁵⁹

During 2021 and 2022, there were contentious discussions surrounding a proposed tax increase in **Indonesia**. The tobacco control community had been actively advocating for a tax increase of over 20%, while tobacco industry supporters were pushing for a tax increment of only 7%. Ultimately, the Minister of Finance decided to opt for a moderate 12% increase in excise tax. Even this compromised rate faced opposition from various government institutions such as the Coordinating Ministry for the Economy,^{60,61} Ministry of Industry,^{62,63} the Chairman of the People's Consultative Assembly (MPR),⁶⁴ members of the House of Representatives (DPR),^{65,66,67} member of the Regional Representative Council (DPD),⁶⁸ member of the East Java Regional House of Representatives (DPRD),⁶⁹ and Regent of Temanggung.⁷⁰

In **Cambodia** the Ministry of Commerce announced a waiver of duties on tobacco leaves exported to Vietnam, and exemption of import tax by the Vietnam government for registered farmers producing more than 3,000 tons of leaves. The duty-free exemption was part of a bilateral deal with Vietnam in 2019 and was still in effect in 2021 and 2022.⁷¹ Publicity was given to the duty-free exemption urging tobacco growers to take advantage of this benefit. The Ministry of Commerce is actively involved in providing incentives for tobacco leaf export to Vietnam.^{72,73}

In 2022, the **Cambodia** General Department of Taxation (GDT) gave JTI a gold certificate for complying with tax laws,⁷⁴ thereby exempting it from tax audit for two years. This certificate award is open to all companies to encourage compliance.

The **Malaysian** government's annual budgets included no tax increase on tobacco in 2022 and 2023, following a concerning trend that has been ongoing for several years. Following a proposal by the tobacco industry there was also no increase of the minimum cigarette price, which remained at MYR 12/pack (USD 2.53).⁷⁵ ENDS are now sold duty-free at duty-free outlets. As part of its policy to boost investments for exports, the Malaysian Industrial Development Authority provides incentives for Malaysian manufacturers, including tax benefits and duty exemptions on materials and equipment, as well as exemptions for tobacco.⁷⁶

In **Myanmar**, the Union Tax Law, issued annually since 2016, still gave tax exemptions to producers of cheroots, cigars and raw tobacco if their annual production cost does not exceed MMK 20 million (USD 9,564).⁷⁷

In the **Philippines**, excise taxes on ENDS and HTPs are lower than those on traditional cigarettes. Under RA 11346⁷⁸ the excise tax on a 20-stick cigarette pack is PHP 60 (USD 1.05), while under RA 11467⁷⁹ the excise taxes on a HTP pack of 20 units or less is only PHP 32.50 (USD 0.57). Meanwhile tax on one (1) ml (or a fraction thereof) of nicotine salt/salt nicotine vapor products is PHP 52 (USD 0.91), and tax on ten (10) ml (or a fraction thereof) of conventional 'freebase' or 'classic' nicotine is PHP 60 (USD 1.05).

Vietnam's Ministry of Industry and Trade (MOIT) issued Circular No. 06/2022.TT-BCT, which sets import quotas for rice and dried tobacco leaves from Cambodia. The circular grants special preferential import tax rates for two years, allowing a total import tariff quota of 3,000 tones of dried tobacco leaves from Cambodia per year.^{80,81}

DELAY IN IMPLEMENTATION OF PHW LAWS AND NO PUNISHMENT DESPITE VIOLATIONS

In **Cambodia**, the Ministry of Economy and Finance (MEF) granted the tobacco industry's request to delay the rotation of PHWs by four months (from 01 August 2021 to 01 December 2021). This followed a meeting led by a Secretary of State of the MEF discussing the request of the Association of Tobacco Industry of Cambodia (ATIC) to delay the rotation of PHWs.⁸²

Despite six years of implementing PHW on cigarette packs in **Myanmar**, only a limited number of tobacco products have complied. Many instead display outdated or incorrect images, obstructed by tax stamps. The government has not taken action against non-compliant companies. In April 2022 the government granted the industry a 21-month extension to implement standardized tobacco packaging, resulting in 27 months to implement this measure since the law's signing in October 2021.⁸³

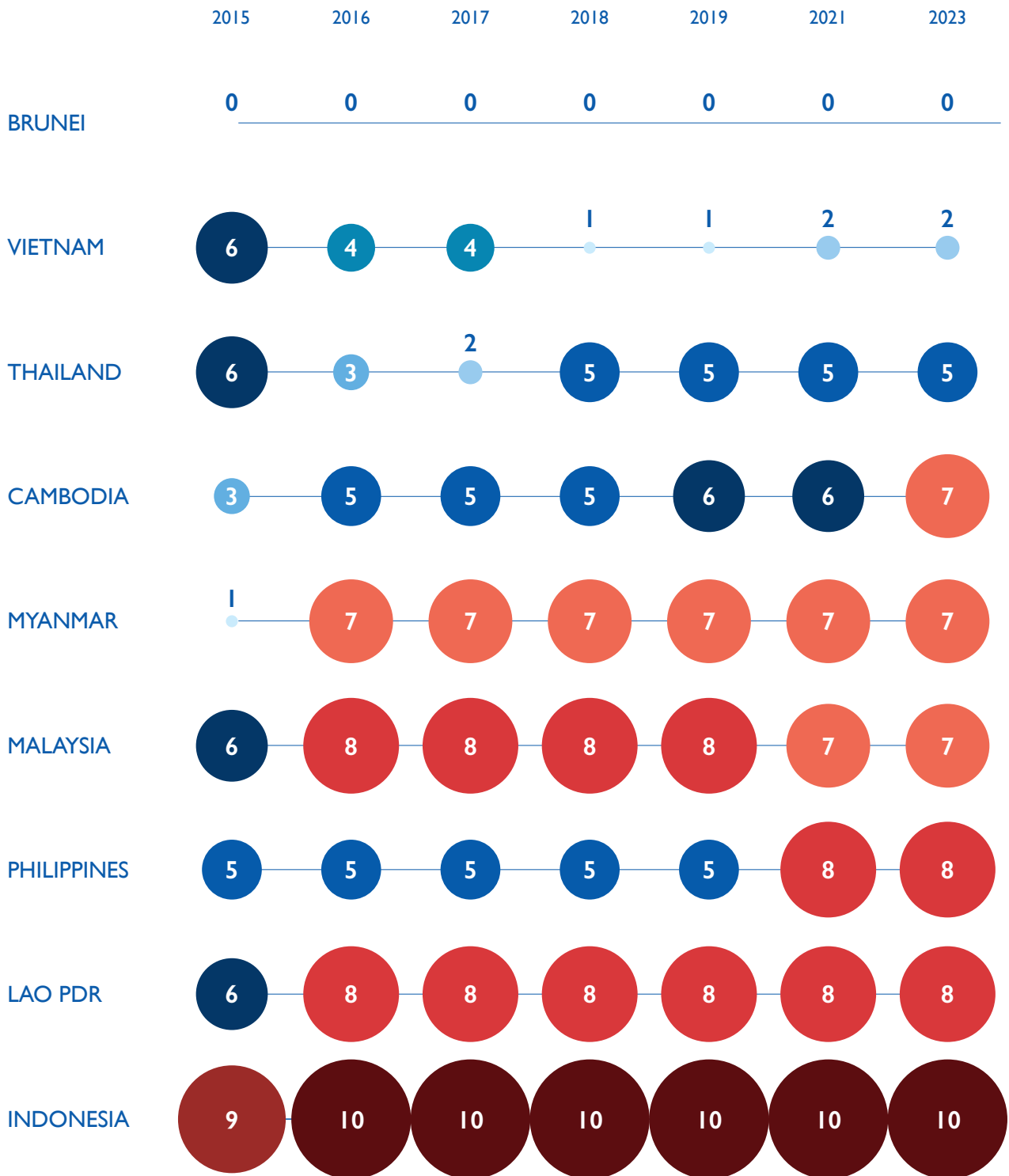
DUTY-FREE TOBACCO

With the exception of **Brunei**, which has prohibited duty-free tobacco products, all countries still permit duty-free allowances for international travelers (Table 3). These allowances undermine the effectiveness of tobacco taxation, and promotes and normalizes tobacco use.

Table 3: Duty -free Allowance for Tobacco

Country	Duty-free tobacco allowance for incoming travelers
Cambodia	200 sticks of cigarettes or 50 cigars or 250 grams of chopped tobacco
Indonesia	200 sticks of cigarettes or 25 cigars or 100 grams of rolling tobacco
Lao PDR	200 sticks of cigarettes or 50 cigars or 250 grams of tobacco
Thailand	200 sticks of cigarettes or 500 grams of other tobacco products
Vietnam	200 sticks of cigarettes or 20 cigars or 250 grams of shredded tobacco
Myanmar	400 sticks of cigarettes or 50 cigars or 250 grams of pipe tobacco
Philippines	400 sticks of cigarettes or 50 cigars or 250 grams of pipe tobacco

Figure 4: Benefits Given to the Tobacco Industry



The lower the score, the better the ranking



Unnecessary Interactions

Under Article 5.3 guidelines, government officials should interact with the tobacco industry only when strictly necessary for its regulation. Unnecessary interactions, such as attending social functions sponsored by the industry, are exploited by the industry to establish or build relationships with government officials to influence tobacco regulatory policies. During this period, we identified unnecessary interactions at the top level of the government in the Philippines and Vietnam.

NURTURING TIES WITH THE GOVERNMENT

In the **Philippines**, President Marcos, the First Lady, and their son, a congressman, hosted PMI executives at the Malacañang Palace in November 2022.⁸⁴ In a multi-sectoral meeting in January 2023, the Secretary of the Department of Interior and Local Government, other officials, and private sector representatives and the tobacco industry were present to discuss promoting inclusive economic growth for farmers.⁸⁵

On several occasions, **Vietnam** government officials met with PMI, Vinataba, and other tobacco companies to foster relations. Vietnam's President had meetings with the US-ASEAN Business Council (USABC), the American Chamber of Commerce (Amcham), the United States Chamber of Commerce (USCC), McLarty, Business Council for International Understanding (BCIU) and leaders of multinational businesses and corporations, including Philip Morris, where he expressed appreciation for the role of US associations and corporations in promoting US businesses and their investment in Vietnam over the years.⁸⁶

These meetings create, promote, and strengthen ties with the tobacco industry - a direct contradiction to the responsibility of governments and public officials to provide strict regulatory oversight. Article 5.3 Guidelines recommend that Parties interact with the tobacco industry only when and to the extent strictly necessary for regulation and such interactions should be conducted transparently.⁸⁷

In **Cambodia**, the Secretary of State of the Ministry of Interior, who is the chair of the Committee for Combating Fake Products, with the Director General of the Consumer Protection, Competition and Fraud Repression Directorate General (CCF) of the Ministry of Commerce, joined the inauguration ceremony of JTI's new head office on 23 September 2022.⁸⁸

In **Lao PDR**, the Lao-China Hongta company, among other companies, was awarded an "Outstanding Leading Business Award" during COVID-19 in 2021 at the National Assembly Hall in Vientiane in December 2021.⁸⁹

In **Indonesia**, several ministers in the Indonesia Maju Cabinet, including the Minister of Health, were speakers at the Millennial & Gen-Z Summit despite the fact that the event was sponsored by Djarum (SUPERLIVE), and Djarum Super cigarettes were promoted at the venue.⁹⁰ In another event, the Coordinating Minister for the Economy gave a virtual speech at the inauguration of the IQOS Factory on January 12, 2023 in Karawang, West Java.⁹¹

In **Malaysia**, the US-ASEAN Business Council held its annual Business Mission meeting with top level government officials. The business executives from many American corporations, including Philip Morris, met with members of the Cabinet. Notably this included the Minister of International Trade and Industry, Deputy Minister of Domestic Trade and Cost of Living, and Minister of Natural Resources, Environment, and Climate Change, to discuss the role of foreign investment and international trade in Malaysia's post-pandemic economic recovery.⁹²

ANTI-SMUGGLING ENFORCEMENT WITH THE INDUSTRY

Combating illicit trade is a common enforcement issue where governments seek assistance from the tobacco industry. In **Lao PDR**, the Ministry of Industry and Commerce (MOIC) signed a MOU with the tobacco industry to enforce smuggling control and receive incentives for enforcement. MOIC collects information on illicit tobacco products in the domestic market, but the information is often withheld from other ministries, such as the Ministry of Health. The agreement with the tobacco industry is still enforced to this day.⁹³

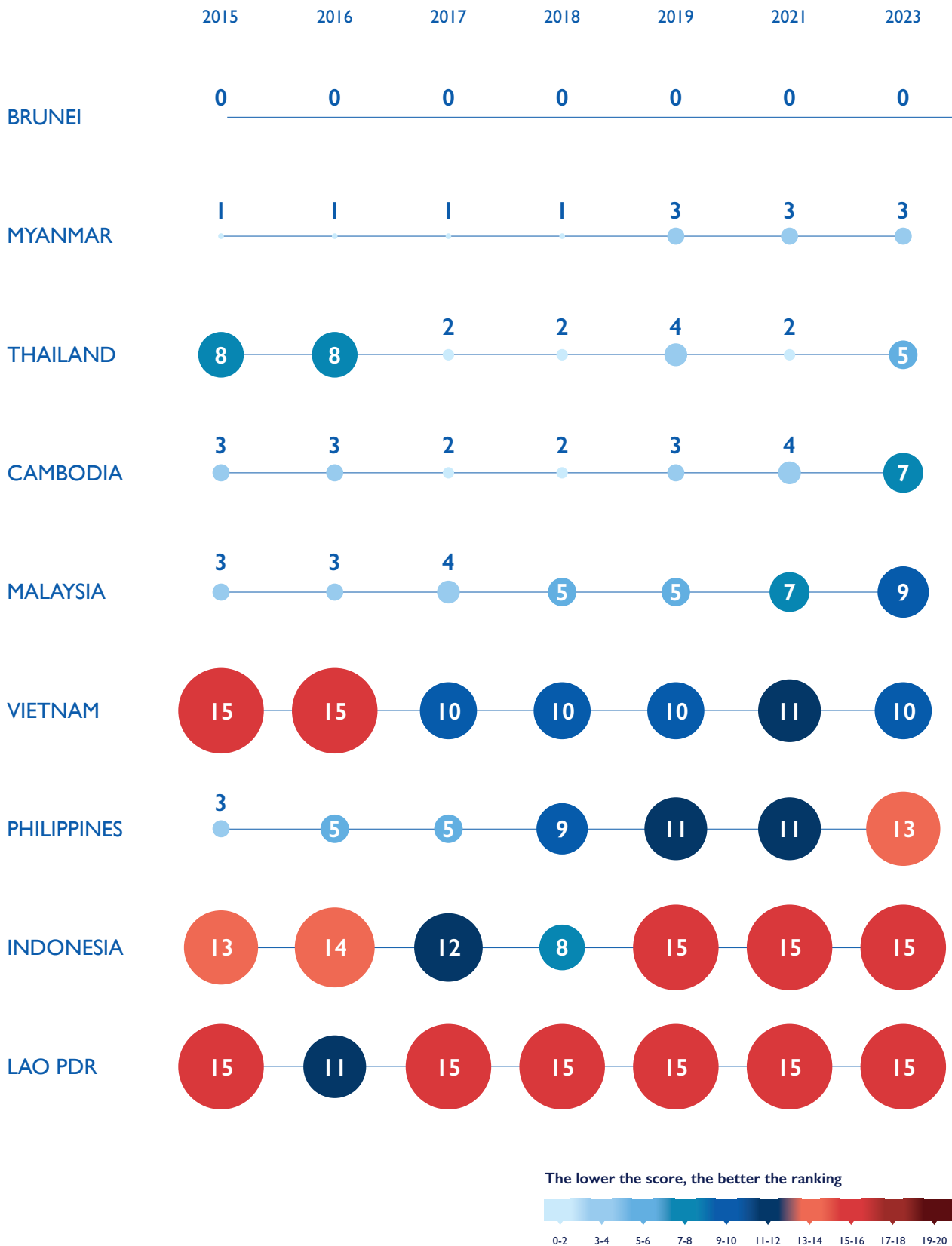
In **Thailand**, the TAOT and the Tobacco Growers and Traders Association, which received funding from PMI, attended a meeting with the Sub-Committee for Studying Factors Affecting the Health System and Monitoring the Enforcement of Public Health Laws in the House Committee on Public Health to discuss the impact of smuggling and selling illegal cigarettes.⁹⁴

In **Vietnam**, the tobacco industry is required to contribute to a fund for control of illicit trade. There were several occasions where the tobacco industry was present for anti-smuggling activities in concert with the government, and the industry is considered a partner in control of illicit activities.⁹⁵

FOSTERING PARTNERSHIPS WITH THE TOBACCO INDUSTRY

In **Cambodia**, JTI was a sponsor of the National Career and Productivity Fair organized by the Ministry of Labour and Vocational Training from 28-29 October 2022. At its booth, JTI promoted its company as the best working environment and a good taxpayer.⁹⁶ In April 2022, The Anti-Corruption Unit (ACU) signed a Memorandum of Understanding with JTI to promote compliance practices in the private sector and to support the government's fight against corruption.⁹⁷

Figure 5: Unnecessary Interactions with the Tobacco Industry



Transparency

Article 5.3 guidelines underscore the importance of government transparency on their dealings and interactions with the tobacco industry and transparency within the industry itself, but there has been little progress in this area. Figure 6 shows that only **Brunei** discloses its interactions with the tobacco industry.

The **Philippines** has a policy requiring disclosure, but many interactions with the tobacco industry are not reported. The lack of policies and their strict implementation raise concerns about potential undisclosed ties between other governments and the industry, which may compromise effective tobacco control policies.

The **Philippines'** Civil Service Commission-Department of Health Joint Memorandum Circular (CSC-DOH JMC) No. 2010-01 outlines specific transparency procedures for government agencies when interacting with the tobacco industry. It requires that all interactions be reported to the CSC. However, it appears that information on recent incidents of tobacco industry interactions were not reported to the CSC, contrary to the JMC.⁹⁸

In **Brunei**, any interactions with the tobacco industry must be strictly for regulation and conducted in a transparent manner to avoid any negative impression and conflict of interest. No such interactions happened in the covered period of this report.

Most ASEAN countries do not publicly disclose their interactions with the tobacco industry. Implementing a comprehensive approach to transparency remains challenging, even in some open democracies. There are currently no policies in place to compel governments to publicly disclose their interactions with the tobacco industry or with entities acting on its behalf. Although the tobacco industry is allowed to engage in communications with governments concerning its business, there is a deficiency in systematic record-keeping to document the details of these interactions or how the industry's agenda may influence policy matters. To protect public health and prioritize the well-being of the population over commercial interests, fostering transparency is essential. Encouraging all ASEAN countries to adopt similar transparent practices as seen in Brunei and the Philippines

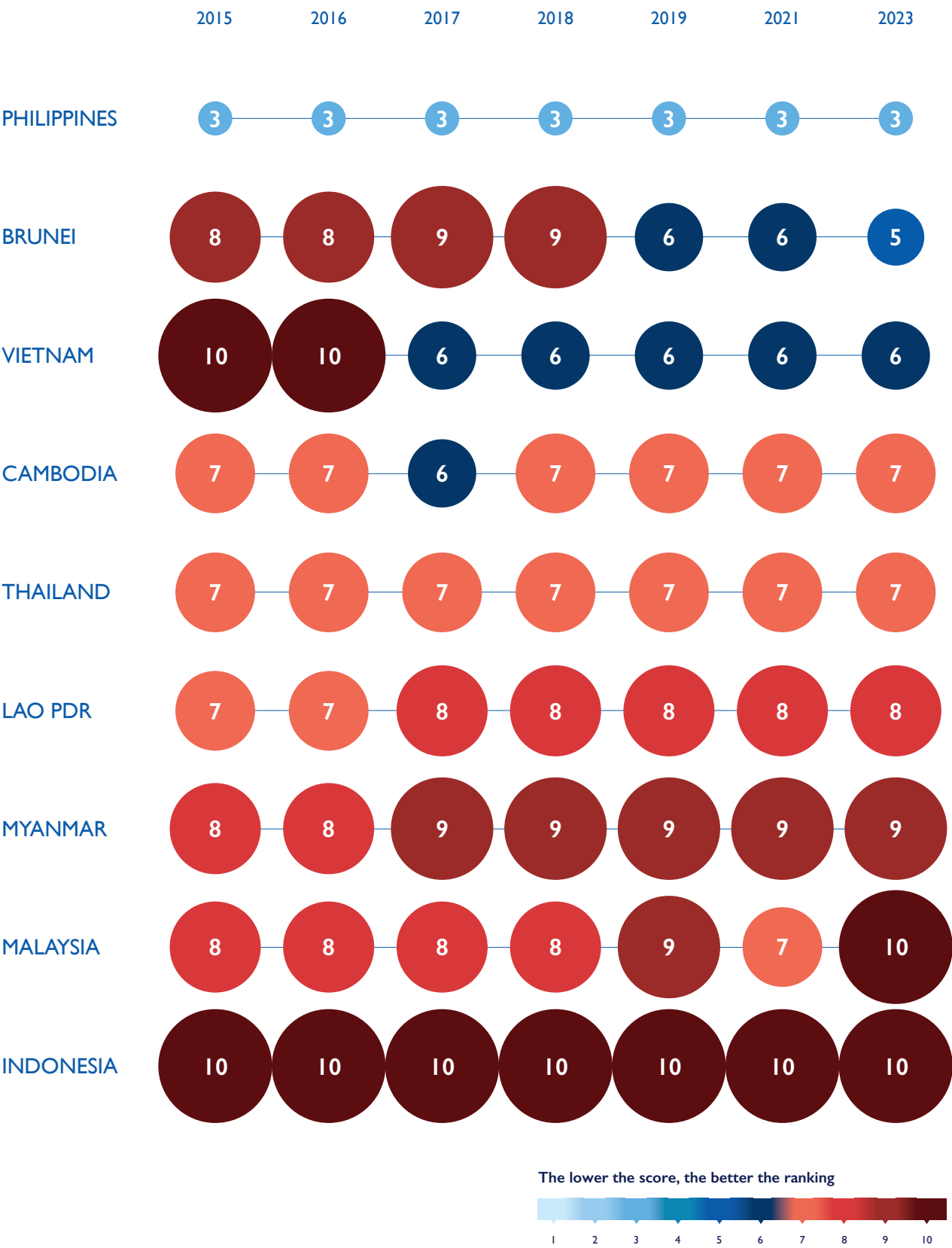
can lead to greater accountability and more effective tobacco control measures.

In **Lao PDR**, **Cambodia**, and **Malaysia** the government does not publicly disclose meetings or interactions with the tobacco industry. In **Indonesia**, it is standard procedure to list the names of participants in meetings for the attendance record and minutes of meetings, but this list is not available to the public. The governments of **Thailand**⁹⁹ and **Vietnam**¹⁰⁰ openly interact with the tobacco industry, and the records of these interactions are not disclosed to the public.

In certain countries, the Ministry of Health is establishing rules with regard to transparency in interacting with the industry. In **Lao PDR**, the Ministry of Health does not meet with the tobacco industry, but other ministries have communications and meetings with the industry.¹⁰¹ In **Myanmar**, the Ministry of Health is implementing Directive No. 91/2020, issued in August 2020, which instructs how to act during interactions with the tobacco industry or their representatives. Through this Directive, an internal procedure is in place in the MoH for disclosing the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives.

In countries like the Philippines and Myanmar, certain rules require registration of the tobacco industry. For example, under **Myanmar's** Special Goods Tax Law, all manufacturing facilities and distribution chains are required to register with the government. In the **Philippines**, corporate and business entities are also required to register with the BIR and Securities and Exchange Commission (SEC) to operate. There are, however, no policies in any ASEAN country to require disclosure or registration of tobacco industry-affiliated organizations or individuals (e.g. lawyers, lobbyists, researchers, or journalists).

Figure 6: Transparency in Dealing with the Tobacco Industry



Conflicts of Interest

The tobacco industry has become adept at working discreetly behind the scenes to exert its influence across various levels and sectors of government.

A prominent method employed by the tobacco industry involves making political contributions to candidates, political parties, and their election campaigns. No ASEAN country has banned this activity. **Brunei** does not have a domestic tobacco sector, and political campaigns do not take place in **Lao PDR** and **Vietnam** because of their unitary/ single party governments.

In the **Philippines**, revisions to the Corporate Code lifted the prohibition on domestic corporations giving donations for political activity.¹⁰² There is no prohibition on individuals, such as representatives of tobacco companies, contributing to political campaigns. **Thailand's** Organic Act on Political Parties allows the tobacco industry to give political contributions up to a certain monetary limit (up to THB 10 million (USD 270,892) per year to political parties and up to THB 3,000 (USD 81) to political candidates).¹⁰³

In **Malaysia**, the government continues to invest in tobacco companies, such as through the Employees Provident Fund (EPF), which is a major BAT shareholder. The EPF had announced in 2016 that it would gradually decrease its stake in the group, but still holds 5%.¹⁰⁴

The tobacco industry also wields its influence over public policy through what is commonly known as the 'revolving door.' This occurs when politicians or civil servants transition into roles as lobbyists or consultants within the same field they once served in the public sector, or when former private sector employees assume government positions responsible for regulating the industry they previously worked in. This practice is increasingly observed in various parts of the world, including the ASEAN region, and raises concerns about potential conflicts of interest, both real and perceived, in matters concerning the state. Such occurrences can erode public trust in governments, as they blur the lines between public service and corporate interests.

Notably, certain ASEAN countries like **Indonesia** and the **Philippines** have taken steps to address this issue, although not specifically as tobacco control policy. They have implemented measures that restrict government officials and active civil servants from engaging in outside

employment or related activities during their tenure in public service. These regulations aim to prevent potential conflicts of interest and ensure that public servants prioritize their responsibilities to the state and the public rather than pursuing private interests or corporate agendas.¹⁰⁵

In **Cambodia**, government officials are holding positions in the cigarette importers and distributors, LYP Group and Anco Brothers Co., Ltd. H.E. Oknha Ly Yong Phat is the president of LYP Group. H.E. Oknha Kok An is the founder and president of Anco Brothers Co., Ltd.^{106,107,108}

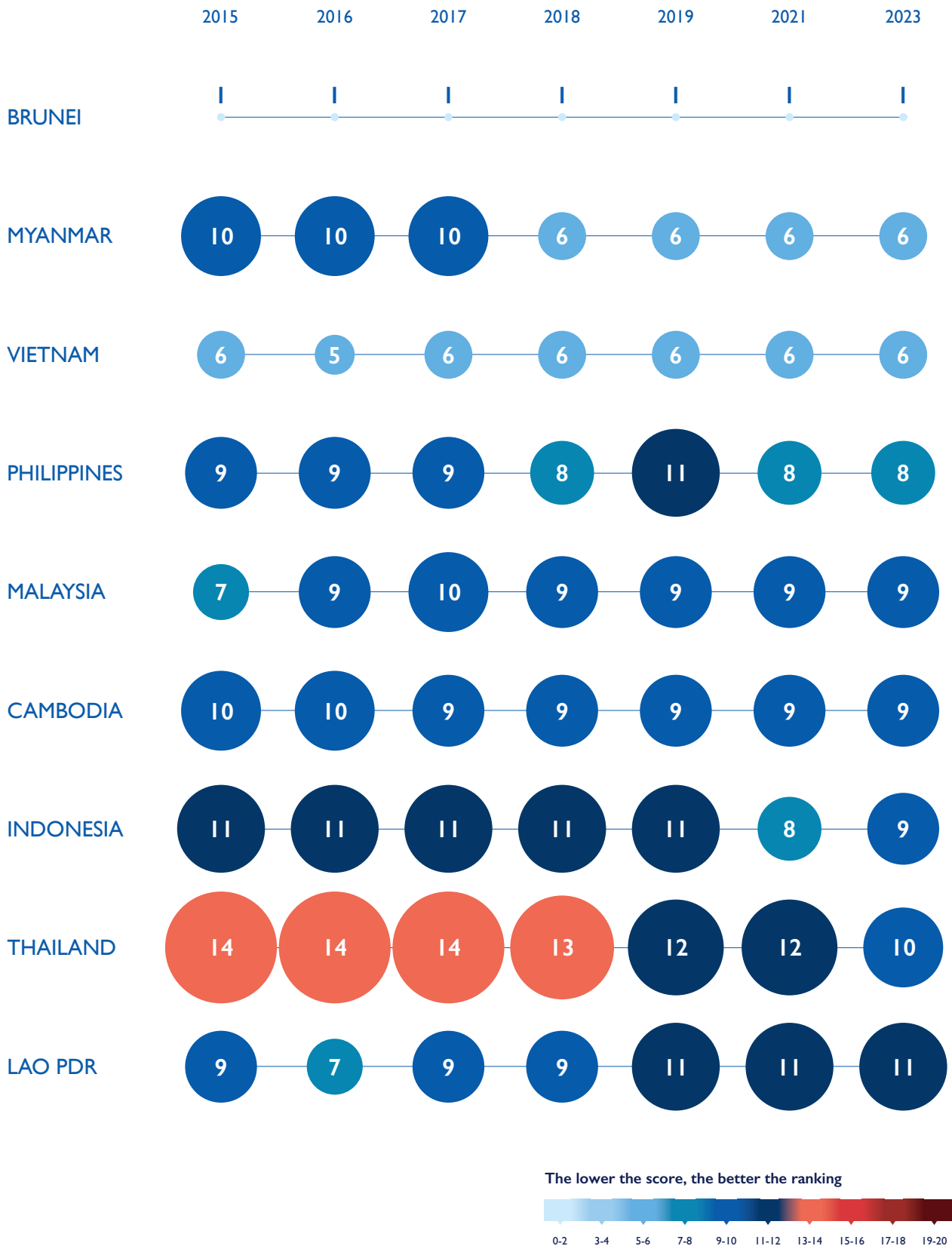
In **Lao PDR**, the Vice Minister of the Ministry of Industry and Commerce is assigned as the Vice Chair of the Lao Tobacco Company (LTC) Board. As a result of the ILA, the government venture with Imperial Tobacco, government officials have to represent the tobacco business and oversee the successful implementation of the ILA.

In **Indonesia** in 2021, a former Director General of Agro Industry from the Ministry of Industry was appointed as the Chairman of Gaprindo (Association of White Cigarette Manufacturers)¹⁰⁹ and a former Director of the Tobacco, Beverage and Refreshment Industry Directorate under the Ministry of Industry is now the Secretary General of GAPPRI (Association of Indonesian Cigarette Manufacturers).¹¹⁰

There were no new revolving door cases documented in **Malaysia, Vietnam**, and **Thailand**. In **Myanmar**, there is only anecdotal information about senior government officials who have joined the tobacco industry, but no publicly available record.

Although the Anti-corruption Law in **Vietnam** prohibits public servants from accepting contributions or gifts from the private sector, there is a government policy requiring the tobacco industry to fund control of illicit trade, creating a potential conflict. It is a compulsory contribution under the request of the government, and while it must be acknowledged that those funds do contribute to government efforts to address illicit trade of tobacco products it is concerning that the tobacco industry is also considered a partner and actively cooperates with government efforts in smuggling control.¹¹¹

Figure 7: Conflicts of Interest



Preventive Measures

STRENGTHEN MEASURES AGAINST THE TOBACCO INDUSTRY

Article 5.3 guidelines play a pivotal role in advancing public health policies, as they provide a roadmap for protecting against interference not only from the tobacco industry but also from entities acting on its behalf. For effective implementation, two key elements are needed. First, governments must have access to complete information about the industry's activities and practices, enabling them to monitor and regulate its operations with transparency and accountability. Second, a code of conduct or guidance must be established for the bureaucracy, outlining the standards and protocols it must follow when engaging with the tobacco industry. This code ensures that interactions remain unbiased, free from undue influence, and prioritize the protection of public health.

Many ASEAN governments have yet to fully embrace and implement these guidelines, leaving significant room for improvement in safeguarding public health from tobacco industry interference (Figure 8). The exemplary efforts of countries like **Brunei**, **Philippines**, and **Thailand** in leading the way for the region demonstrate the potential effectiveness of these measures.

In 2019, **Brunei** established a code of conduct for its civil servants, mandating transparency in all engagements and strictly prohibiting any form of contributions or gifts from the tobacco industry.¹¹² All heads of departments are required to disseminate and monitor such activities within their jurisdiction.

In the **Philippines**, the CSC-DOH JMC 2010-01 contains prohibitions and guidelines for government officials in dealing with the tobacco industry. The following acts are prohibited: a) Unnecessary interaction with the tobacco industry; b) Preferential treatment to the tobacco industry; c) Accepting gifts, donations, and sponsorship; d) Financial interest in the tobacco industry; e) Accepting other analogous favors; and f) Conflict of interest with the tobacco industry.¹¹³ The JMC mandates heads of government agencies to inform officials and employees about the policy against tobacco industry interference and to include JMC rules in their codes of conduct. As a result

of such policy, many government agencies have adopted the JMC and issued their own policies based on it.

Regular monitoring and countering of such interference are crucial for the effective implementation of the JMC. In the past, the CSC and the DOH collaborated with civil society to address violations, conduct capacity building activities, and raise awareness on Article 5.3, but the committee responsible for these efforts has not met regularly in the last six years, and the CSC has not conducted awareness raising programs on tobacco industry interference.

Thailand's Ministry of Public Health's "Guidelines on Interaction with Tobacco Entrepreneurs and Related Persons" and a regulation of the Office of the Civil Service Commission prohibit civil servants from all ministries from interacting with the tobacco industry in a way that may lead to tobacco industry interference. The Tobacco Products Control Act (2017) further requires the tobacco industry to report certain information, such as marketing expenses, income, etc. to the Committee. The aim is to ensure transparency and to require accurate information. Information on expenses can be used to ascertain whether the tobacco industry is violating the law by allocating the budget for tobacco industry related CSR activities.

In contrast, **Malaysia** has not progressed in preventive measures. It is faring poorly in protecting public health policies from tobacco industry interference as a result. Several tobacco control policies have been put on hold, delayed or undermined. The Ministry of Health has been developing an Article 5.3 code of conduct since 2014, but almost 10 years later the code has not been finalized. There is no policy to disclose any interaction with the tobacco or ENDS industry, to prevent acceptance of donations or gifts from the industry, or requirements for the tobacco industry to submit important business information, including lobbying, political contributions and other activities.

Lao PDR's amended tobacco control law provides rules that government officials must follow to prevent misconduct and maintain the integrity of their roles as civil servants, however there are not guidelines as of now

to implement these rules. The **Lao** Ministry of Health has established a code of conduct to provide guidance for government health professionals regarding their interactions with the tobacco industry. Ultimately the code's reach is limited to the Ministry of Health, and other ministries can freely engage with the tobacco industry without restrictions. Furthermore, the implementation regulation of the Tobacco Control Law by the MOH only mandates the tobacco industry to report annually on cigarette ingredients. This excludes crucial information on tobacco production, manufacturing, market share, revenue, and expenditures. There is no whole-of-government effort to implement Article 5.3. And as a result there is also no systematic awareness-raising program reported on Article 5.3, nor is there a policy in place to decline contributions from the tobacco industry. It is common for ministries involved under the ILA to undertake study visits or meetings with the Imperial Tobacco Group (ITG).

Cambodia, Indonesia, and Myanmar have limited rules with regard to implementation of Article 5.3, usually emanating from the Ministry of Health.

In **Cambodia**, there is no policy or procedure to disclose records of interactions with the tobacco industry. In 2017, a Sub-Decree on the Establishment and Functioning of the Committee for Tobacco Control was passed and incorporated principles of Article 5.3. The Ministry of Health disseminates Article 5.3 to the members of the tobacco control committee, but there has been no awareness raising on Article 5.3 - particularly for the public. In February 2021, the Ministry of Education, Youth, and Sports issued regulations that continue to be in effect today. These rules ban partnerships between educational facilities with the tobacco industry in all forms, including donations, study visits, and research.¹¹⁶

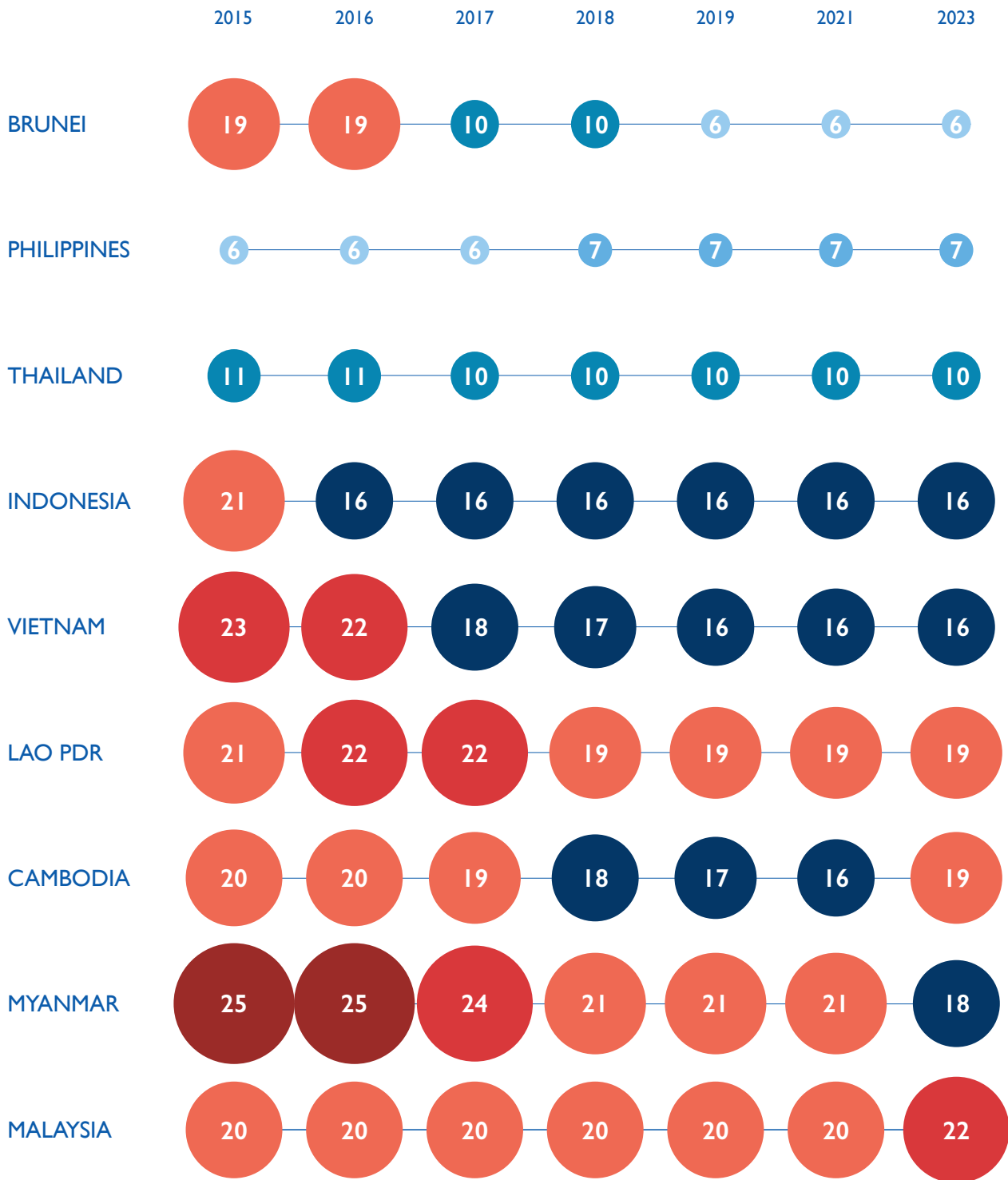
Although limited in coverage and scope, **Indonesia's** Ministry of Health has a code of conduct, adopted in 2016, which provides guidelines for preventing and managing conflicts of interest between MOH officials and the tobacco industry that may arise from interactions with tobacco companies. Since Indonesia is not a Party to the WHO FCTC, there is no formal awareness-raising program on Article 5.3 or the FCTC.

Myanmar showed improvement from the last Index in this aspect. In 2020, the Ministry of Health issued a directive on how to act with regard to interactions with the tobacco industry or their representatives. Through this Directive, an internal procedure is in place in the MOH for disclosing the records for such interactions. Similar directives for other ministries have been encouraged.¹¹⁷

In **Vietnam**, the absence of a specific policy for disclosing records of interactions with the tobacco industry did not deter the Ministry of Health from issuing official dispatch No. 6814/BYT-KCB in 2017 to caution all ministries and local government offices about the PMI-funded Foundation for a Smoke-Free World (FSFW); this remains in effect. In July 2021, this warning was reiterated through official dispatch No. 5680/BYT-KCB due to information received that a FSFW grantee (Sermo) had invited health workers in other countries to participate in its Doctors and Health Professionals Global Poll 2021 Global Advisory Board.¹¹⁸

The Vietnam Ministry of Communication and Information (MOCI) has also played a role by directing media agencies to intensify communication efforts to enforce the Tobacco Control Law and bans on TAPS, even though the directive does not explicitly focus on Article 5.3.¹¹⁹

Figure 8: Preventive Measures



The lower the score, the better the ranking



Table I: Measures to Prevent Tobacco Industry Interference in ASEAN

	Preventive measures that apply to the whole bureaucracy	Preventive measures limited to issuing authority
Brunei	<ul style="list-style-type: none"> • Prime Minister Circular (Code of Conduct) • Prohibition of involvement of the tobacco industry and smoking in government premises • Prevention of Corruption Act* 	
Cambodia	<ul style="list-style-type: none"> • Law on Anti-Corruption* 	<ul style="list-style-type: none"> • Ministry of Education, Youth, and Sports regulation banning partnerships between educational institutions and the tobacco industry
Indonesia	<ul style="list-style-type: none"> • Ministry of Administrative and Bureaucratic Reforms Guidelines for Managing Conflict of Interest* • Several anti-corruption laws* 	<ul style="list-style-type: none"> • Ministry of Health Guidelines for Managing Conflicts of Interest with the Tobacco Industry within the Health Ministry
Lao PDR	<ul style="list-style-type: none"> • Law on Anti-Corruption* 	<ul style="list-style-type: none"> • Ministry of Health Tobacco Control Code of Conduct between Government Health Sector and Tobacco Industry
Malaysia	<ul style="list-style-type: none"> • Anti-Corruption Commission Act* 	
Myanmar	<ul style="list-style-type: none"> • Anti-Corruption Code of Ethics for Companies and Corporate Bodies* 	<ul style="list-style-type: none"> • Directive No. 91/2020: Guidelines on Contact with Cigar and Tobacco Product Manufacturer, Distributor, Seller or Related Person
Philippines	<ul style="list-style-type: none"> • Civil Service Commission-Department of Health Joint Memorandum Circular (JMC) 2010-01 • Code of Conduct and Ethical Standards for Public Officials and Employees* • Anti-Graft and Corrupt Practices Act* 	<ul style="list-style-type: none"> • Department of Education (DepEd) Order No. 6, s. 2012 – guidelines against tobacco industry interference • Department of Labor and Employment (DOLE) Memorandum (30 April 2012) – reiterates the JMC • Bureau of Internal Revenue (BIR) Memorandum Order No. 16-2012 - restricts interactions with the tobacco industry • Department of Foreign Affairs (DFA) Memorandum (24 May 2013) – directs compliance with the JMC • Metro Manila Development Authority (MMDA) Memorandum (20 August 2013) – amends the Code of Conduct to include protection against tobacco industry interference • Department of Social Welfare and Development (DSWD) Administrative Order No. 11-2019 - guidelines against tobacco industry interference • Food and Drug Administration (FDA) Advisory No. 2019-501 - reminds public physicians to follow the JMC and avoid interaction with the tobacco and ENDS industry
Thailand	<ul style="list-style-type: none"> • Office of Civil Service Commission • Several anti-corruption laws* 	<ul style="list-style-type: none"> • Ministry of Public Health Guidelines on Interaction with Tobacco Entrepreneurs and Related Persons
Vietnam	<ul style="list-style-type: none"> • Ministry of Health Official Letter to other ministries on noncooperation with Smoke-free World Foundation funded by PMI • Anti-Corruption Law* 	

* Not specific to the tobacco industry.

Conclusions and Recommendations

Article 5.3 of the WHO FCTC emphasizes the inherent conflict between tobacco industry interests and public health policy. Despite attempts by the industry to redefine its image and manipulate the science surrounding tobacco products, its motives remain unambiguously profit-driven. Employing a range of public relations, corporate social responsibility activities, and innovative marketing strategies, the tobacco industry whitewashes its deadly business to garner favor with policymakers and civic groups.

All governments are obligated to strengthen their efforts in implementing Article 5.3 to achieve successful tobacco control and protect public health outcomes. This implementation is pivotal in safeguarding against industry influence and corruption, and the Article 5.3 Guidelines provide clear and actionable measures that governments can employ to shield themselves and their public from the maneuvers of the tobacco industry.

1. A comprehensive, whole-of-government approach is essential to effectively counter tobacco industry interference in public health policy. However, non-health ministries and sectors, usually targeted by the tobacco industry, often lack awareness of the WHO FCTC, specifically, Article 5.3, thereby failing to grasp the extent and impact of industry interference. Urgent action is warranted to safeguard health and social policy development. The tobacco industry must be excluded as a stakeholder at any level or stage of the process.
2. CSR activities serve as mere façades, concealing the industry's tactic to gain unwarranted favor and legitimacy. Article 5.3 calls on governments to denormalize CSR activities and Article 13 of the WHO FCTC calls for their ban.



Governments, particularly ministries of finance, trade, and agriculture, must wake up to the truth that they are being fooled and exploited by the tobacco industry to weaken public health policies in the name of “balanced” regulation and misperceived economic benefits. The tobacco industry is a master of deception, and the sooner governments open their eyes to this and implement policies to protect against tobacco industry interference, the stronger they will be on the road to sustainable social, economic, and environmental development.

Dr. Ulysses Dorotheo, Executive Director, Southeast Asia Tobacco Control Alliance

3. The tobacco industry continues to capitalize on trade and economic privileges bestowed upon it by various governments, extracting benefits at the expense of national economies. This disparity calls for immediate action to revoke preferential treatments, ensuring that tax revenues remain intact and potential financial losses are curtailed. Life-saving tobacco control policies must be enforced, and any attempts by the tobacco industry to impede or delay the implementation of these laws must be unequivocally disallowed.
4. Given the potential for conflicts of interest, some governments' allowance of political contributions from the tobacco industry warrants proactive measures to preserve the impartiality of tobacco control measures. The existence of revolving doors in various countries, allowing personnel to transition between roles within the government and the tobacco industry, necessitates preemptive actions to maintain the autonomy and integrity of policymaking.
5. Transparency and accountability emerge as persistent challenges within the government systems, often stemming from weaker bureaucratic frameworks, inadequate governance, and corruption. Addressing this issue demands the establishment and enforcement of comprehensive government-wide policies and procedures for documenting and disclosing interactions with the tobacco industry.
6. All governments should develop, adopt, and strictly enforce a code of conduct compliant with the Article 5.3 guidelines to guide interactions with the tobacco industry, as well as to institutionalize a systematic program to raise awareness on Article 5.3 to guide and protect the entire bureaucracy from undue industry influence and interference.

Table 2: Country scores by indicator
(most commonly reported incidents or forms of tobacco industry interference)

INDICATORS	BN	KH	ID	LA	MY	MM	PH	VN	TH
Level of participation in policy development									
1.The government accepts, supports or endorses offer for assistance by or in collaboration with the tobacco industry in implementing tobacco control policies (Rec 3.1)	0	3	5	5	5	1	5	4	4
2.The government accepts, supports or endorses legislation drafted by/ collaboration with the tobacco industry (Rec 3.4)	0	1	5	2	4	2	5	4	1
3.The government allows the tobacco industry to sit in multi- sectoral committee/ advisory group that sets public health policy (Rec 4.8)	1	1	5	1	5	1	5	3	4
4.The government allows representatives from the tobacco industry (including State-owned) in the delegation to the COP or subsidiary bodies or accepts their sponsorship for delegates (Rec 4.9 & 8.3)	1	1	0	1	2	1	1	1	1
Subtotal	2	5	15	9	16	5	16	12	10
Tobacco-related CSR activities									
5.The government receives contributions from the tobacco industry (including so-called CSR contributions) (Rec 6.4) The government agencies/ officials endorses, forms partnerships with/ participates in tobacco industry CSR activities (Rec 6.2)	0	3	5	0	3	4	5	5	3
Subtotal	0	3	5	0	3	4	5	5	3
Benefits given to the tobacco industry									
6.The government accommodates requests from the industry for longer implementation time or postponement of tobacco control law (Rec 7.1)	0	3	5	3	5	4	3	0	3
7.The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)	0	4	5	5	2	3	5	2	2
Subtotal	0	7	10	8	7	7	8	2	5

INDICATORS	BN	KH	ID	LA	MY	MM	PH	VN	TH
Forms of unnecessary interaction									
8.Top-level government officials meet with/ foster relations with the tobacco companies such as attending social functions and events sponsored or organized by the tobacco companies (Rec 2.1)	0	3	5	5	5	0	5	5	3
9.The government accepts assistance/ offers of assistance from the tobacco industry on enforcement (Rec 3.1 & 4.3)	0	0	5	5	4	0	4	5	1
10.The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry (Rec 3.1)	0	4	5	5	0	3	4	0	1
Subtotal	0	7	15	15	9	3	13	10	5
Transparency									
11.The government does not publicly disclose meetings/ interactions with the tobacco industry where such interactions are strictly necessary for regulation (Rec 2.2)	0	2	5	4	5	4	0	1	3
12.The government requires rules for the disclosure or registration of tobacco industry entities, affiliate organizations, and individuals acting on their behalf including lobbyists.	5	5	5	4	5	5	3	5	4
Subtotal	5	7	10	8	10	9	3	6	7
Conflict of interest									
13.The government does not have a policy (whether or not written) to 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	5	5	1	5	1	5	1	4
14. Retired senior officials work for the tobacco industry (Rec 4.4)	0	0	4	5	3	3	3	0	2
15. Current government officials and their relatives hold positions in the tobacco business including consultancy positions (Rec 4.5, 4.8 & 4.10)	0	4	0	5	1	2	0	5	4
Subtotal	1	9	9	11	8	6	8	6	10

INDICATORS	BN	KH	ID	LA	MY	MM	PH	VN	TH
Preventive measures									
16.The government has a procedure for disclosing records of the interaction with tobacco industry and its representatives (Rec 5.1)	2	5	5	5	5	2	1	5	2
17.The government has formulated, adopted or implemented a code of conduct for public officials, prescribing the standards they should comply when dealings with the tobacco industry (Rec 4.2)	1	3	2	2	5	2	1	3	2
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, and political contributions (Rec 5.2)	0	5	2	4	5	5	2	2	2
19.The government has a program / system/ plan to consistently raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines (Rec 1.1, 1.2)	2	4	5	3	4	5	2	4	2
20.The government has a policy prohibiting the acceptance of all forms of contributions from the tobacco industry (monetary or otherwise) including offers of assistance, policy drafts, or study visit invitations to the government, officials and their relatives (Rec 3.4)	1	2	2	5	3	4	1	2	2
Subtotal	6	19	16	19	22	18	7	16	10
TOTAL	14	58	80	70	76	52	60	57	50

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