

REPUBLIC OF PALAU

2021

TOBACCO
INDUSTRY
INTERFERENCE
INDEX

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The Tobacco Industry Interference Index was initiated by the South East Asia Tobacco Control Alliance (SEATCA) as a regional report.

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Introduction

The Republic of Palau is a self-governing republic that is affiliated with the US under a Compact of Free Association which became effective on October 1, 1994. The population of is 17,661 (2015 Census)¹. While there are over 340 islands that make up the nation of Palau, only twelve are permanently inhabited. The main island group comprises fourteen of the total sixteen Palauan states. Palau ratified the World Health Organization Framework Convention on Tobacco Control² (WHO FCTC) on 12 February 2004. The Treaty came into force 27 February 2005.³

Palau undertook a novel population-based household survey that combined noncommunicable diseases (NCD) and associated risk factor indicators, substance use, and mental health indicators from May – December 2016. A total of 1,768 individuals aged 18 years or older participated in the survey. Results of the survey show that 20.4% of the respondents are current smokers (30.9% male, 9.7% female) and 44.4% are current users of smokeless tobacco. Over half (52.6%) of respondents currently chew betel (areca) nut. Eighty-seven per cent (87%) of the betel nut chewers add tobacco to their chew⁴.

According to the WHO global report on trends 2000-2025⁵ current tobacco smoking prevalence trends among people aged 15 years and older, 2000–2025, (not age-standardized) show a decrease from 35.1% in 2000 to 23.6% in 2020 and predicted to be 21.0% in 2025. Note that the previously referenced data on adult prevalence from the Hybrid survey includes adults 18 years+. No such trend predictions for smokeless use of tobacco are included in the WHO report.

Regarding youth, Palau's 2017 Global Youth Tobacco Survey (GYTS)⁶ revealed that 35.4% of youth 13-15 years old are current tobacco smokers while 14.7% use smokeless tobacco.

Palau is not immune to the influence or attempted influence of big transnational companies and in the mid-2000s, Philip Morris contacted the government and offered assistance with drafting tobacco control legislation though the offer was refused. At that time, Palau was acutely aware of the issue of tobacco industry interference as a Key Facilitator in drafting the Guidelines for implementation of Article 5.3 of the FCTC⁷ (on the protection of public health policies with respect to tobacco control from commercial and other vested interests of the tobacco industry) in 2007 and 2008.

Despite this history of interference, we have found no big presence of the tobacco industry in Palau during the reporting period. In 2019, an application for a license to set up a manufacturing operation doing business as Palau Tobacco Company by a potential investor

¹2015 Census of Population, Housing and Agriculture for the Republic of Palau <https://bit.ly/3dUctTh>

² <https://fctc.who.int/publications/i/item/9241591013>

³ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IX-4&chapter=9&clang=en

⁴Palau Hybrid Survey Report 2017, Palau Ministry of Health <https://bit.ly/3tVisgb>

⁵WHO global report on trends in prevalence of tobacco use 2000–2025, third edition. Geneva: World Health Organization; 2019

⁶ Palau Global Youth Tobacco Survey, Palau Ministry of Health <https://bit.ly/3ajZktP>

⁷ <https://bit.ly/2YT95Cl>

home based in China was refused by the Foreign Investment Board (FIB) on the grounds that tobacco has a detrimental impact on our population⁸.

We have not been able to learn about the market share, although according to Palau's 2020 FCTC report⁹, the top 3 most popular cigarette brands are Doral (RJ Reynolds), Sonoma (Imperial Tobacco) and Carnival (KT&G). Other popular brands are Capri (RJR), and Redman (PMI).

Efforts were made in 2015-2016 to implement elements of the FCTC Article 5.3 Guidelines. Those efforts included drafting language about tobacco industry interference for the Bureau of Public Service System (BPSS) rules and regulations at a time when there was consideration to update them. However, no updates ensued.

In 2010¹⁰ and 2012¹¹ Palau observed World No Tobacco Day (WNTD) with themes focusing on tobacco industry interference and in 2018 an industry interference awareness raising campaign was developed for the Palau general community (see Annex 1).

The Palau NCD coordinating mechanism (CM), established by Presidential Executive Order (EO) in 2015¹², also serves as the tobacco control coordinating mechanism. The CM is required to develop an explicit code of behavior for how all members interact with industry representatives. Several drafts of the policy were produced, but a final version has yet to be adopted.

Current legislation (RPPL 8-27¹³) says little about tobacco industry interference except Section I I that prohibits tobacco sponsorships. However, they are only prohibited if there is public attribution. Amendments to the legislation have been drafted to improve the language in RPPL 8-27 but have not yet gone through the legislative process.

Palau has several achievements in tobacco control worth noting including an explicit ban on tobacco products on display at point of sale, prohibition on duty free sales of tobacco products to outgoing passengers (or anyone in the Republic), very limited duty-free allowance for incoming passengers (one opened pack of 20 sticks), and no sales to youth under 21 years.

Palau has a 73% tax share of the retail price of the most popular cigarette pack of 20 sticks¹⁴ and 10% of the annual tobacco excise tax revenues are allocated to fund healthcare coverage subscription costs for citizens who are not working and are at least sixty (60) years of age or disabled, and 10% of taxes on alcohol and tobacco are allocated to non-communicable disease prevention¹⁵.

With such progress already made, there is a path to compliance with Article 5.3, but as with many small nations, there are always competing issues of urgency that cannot be tackled at

⁸Personal communication with FIB office on May 12, 2021. FIB does not have a website at this time.

⁹<https://untobaccocontrol.org/impldb/palau/>

¹⁰Tia Belau, Volume 19 Issue 22 May 31-June 6, 2010

¹¹Internal Report of WNTD 2012 from Coalition for a Tobacco Free Palau

¹²Executive Order 379, Office of the President <https://bit.ly/3gq6Z4i>

¹³RPPL 8-27 (2011) Palau tobacco control legislation. *Palau Legal.*: <https://bit.ly/3xw3saF>

¹⁴WHO report on the Global Tobacco Epidemic 2019– Country Profile Palau page 7 <https://bit.ly/3oeKuAU>

¹⁵RPPL 9-57, 2015 <https://bit.ly/3y5r4mE>

the same time. The COVID-19 pandemic and its health and economic ramifications has been the issue of focus in 2020 and now continuing in 2021.

This is Palau's first report for the Global Tobacco Industry Interference Index which assesses how the government¹⁶ is responding to the tobacco industry's tactics by using the WHO FCTC Article 5.3 Guidelines¹⁷ and provides evidence for the period of 1 January 2019 to 31 March 2021.

The report uses the questionnaire developed by the Southeast Asia Tobacco Control Alliance (SEATCA).¹⁸ Information was collected in response to 20 questions divided into seven categories from publicly available sources including government websites, reports published in mass media, reports and websites of tobacco companies. The response scores for each question range from 0 to 5 – these scores are added up to determine the overall score. On a scale of 0-100, a low score indicates better compliance with WHO FCTC Article 5.3 and its implementing Guidelines. Palau's score for this report is 40.

¹⁶According to the SEATCA methodology, for the purpose of this report the term “government” includes all government institutions such as ministries, state services and institutions and their official representatives and staff, representatives of the Office of the President of Ukraine, and representatives of the Parliament of Ukraine, including MPs, their assistants and other official representatives.

¹⁷Framework Convention on Tobacco Control. Guidelines for implementation of FCTC Article 5.3, Geneva 2008, [decision FCTC/COP3(7)] http://www.who.int/fctc/treaty_instruments/Guidelines_Article_5_3_English.pdf?ua=1

¹⁸ Assunta, M. Dorotheo, E. U. SEATCA Tobacco Industry Interference Index: a tool for measuring implementation of WHO Framework Convention on Tobacco Control Article 5.3. April 2015 <http://tobaccocontrol.bmj.com/content/early/2015/04/23/tobaccocontrol-2014-051934>

Summary Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

No incidence of tobacco industry participation in policy development during the reporting period was identified and no industry representatives have ever been in a COP, INB or COP work group (WG) delegation.

Industry interference in policy making interference existed in the years when Palau was developing comprehensive tobacco control legislation circa 2007/2008, though the government did not respond to their offer of assistance. One Senator at that time was approached individually and he too refused the offer of assistance.

Similarly, while no law or policy exists, no recent evidence could be found of the government allowing or inviting the tobacco industry to sit in any government interagency/ multisectoral committee/advisory group body that sets public health policy.

Presidential Executive Order No 379¹⁹ established a multisectoral national Coordinating Mechanism (CM) to combat noncommunicable diseases (NCDs) in 2015 that states that the CM will develop an explicit code of behavior for how all members of the Committee interact with industry representatives. A code of behavior/conduct was drafted but has not yet been made official to date.

2. INDUSTRY CSR ACTIVITIES

No evidence of corporate social responsibility (CSR) could be found either before or during the reporting period.

3. BENEFITS TO THE INDUSTRY

There is no evidence of such interaction in the reporting period.

There were two pieces of tobacco related legislation drafted in late 2019; one was introduced in the Senate (SB 10-158) and consisted of amendments to the current comprehensive tobacco control legislation touching on several articles of the FCTC and the second piece introduced in the House of Delegates (HB No.10-119-12) was specific to electronic cigarettes. Comments were solicited on these pieces of legislation however we did not learn of any comments generated from the tobacco industry.

No action was taken on either piece of legislation due to the COVID-19 pandemic. There was an election in November of 2020 and with a new administration and new legislature, both pieces of legislation will have to be introduced again. In either case, the delay was not due to TI interference.

¹⁹op. cit. Executive Order

Legislation that came into effect in 2013 raising the tax on tobacco received some industry opposition specific to the provision prohibiting duty free sales in the Republic, though it passed despite the opposition.

There were incidents highlighted in a 2017 Public Auditor's report²⁰ whereby the Bureau of Revenue Customs and Taxation and Bureau of Customs and Border Protection improperly entered into contractual agreements with select tobacco importers allowing them to pay installments on import and excise taxes without interest. One importer was allowed to pay an old tax rate. This practice is still ongoing – such agreements are not only for tobacco importers but for importers of any goods.

4. UNNECESSARY INTERACTION

No evidence of top-level government officials meeting with or fostering relations with the tobacco companies was found, nor were incidents of government accepting assistance from the tobacco industry on enforcement. However, the aforementioned 2017 Public Auditor's report found that the Bureau of Revenue Customs and Taxation and Bureau of Customs and Border Protection improperly entered into contractual agreements with select tobacco importers.

5. TRANSPARENCY

No evidence of meetings with the tobacco industry was found.

Both the Open Government Act (1 PNCA §901)²¹ and the Administrative Procedures Act (APA) (6 PNCA §101)²² promote openness and access to public information to facilitate the involvement of the public and stakeholders in the policy review process. However, both are self-regulating and like the shortfall of the Code of Ethics (33 PNCA §601)²³, do not prescribe activities specifically with or by the tobacco industry.

No rules exist for the disclosure or registration of tobacco industry entities, etc. Only licensing for all businesses is required and foreign businesses must also be registered under the Foreign Investment Act.

6. CONFLICT OF INTEREST

The Code of Ethics calls for transparency, prohibits conflicts of interests, requires disclosures of potential conflict of interests, mandates financial disclosures, and regulates acceptance and use of contributions by government employees, candidates and public officials.

However, no prohibitions exist on contributions specifically 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.

²⁰Public Auditor's Report 2017: Import and Excise Taxes on Tobacco Products: <http://palauopa.org/other-audits.html>

²¹Open Government Act (1PNCA §901) <https://bit.ly/3vvlIU9g>

²²Administrative Procedures Act (APA) (6 PNCA §101) <https://bit.ly/2ScXqLV>

²³Code of Ethics (33 PNCA §601) <https://bit.ly/3eDyLYr>

7. PREVENTIVE MEASURES

Few preventive measures are in place in Palau. While promoting openness and access to public information, neither the Open Government Act (I PNCA §901) or the Administrative Procedures Act (APA) (6 PNCA §101)²⁴ address or mention the tobacco industry specifically. Similarly, the Code of Ethics²⁵, does not prescribe activities specifically with or by the tobacco industry.

There is no requirement of the government for 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. Only for tax purposes is there a requirement to report/declare the type and quantity of tobacco products imported.

While there have been efforts to raise awareness of tobacco industry interference within the community (WNTD 2010, 2012), a longer-term public campaign in 2018, and a presentation made to members of the NCD CM, there is nothing set up to consistently raise awareness within government departments on policies relating to WHO FCTC Article 5.3 guidelines.

Recommendations

Although Palau has not recently experienced industry interference, there is work to be done to improve preventive measures.

IMPROVE existing policies such as the Palau Civil Service Rules and Regulations, the Code of Ethics, Open Government Act and Administrative Procedures Act to comply with Article 5.3 Guidelines;

AMEND RPPL 8-27, Palau's comprehensive tobacco legislation, concerning CSR so that it includes language disallowing any official or employee of government or of any semi/quasi-governmental body (i.e. any entity receiving government funding or support) to accept payments, gifts or services, monetary or in-kind, from the tobacco industry;

RAISE AWARENESS among civil servants about the need to protect public health policies from commercial and other vested interests of the tobacco industry, and the strategies used by the tobacco industry to interfere with the setting and enforcement of public health policies with respect to tobacco control.

DEVELOP a clear national policy that puts public health over commercial interests especially tobacco profits by condemning preferential treatment to the tobacco industry and by forbidding partnerships and non-binding or non-enforceable agreements with them. In asserting such a position and policy, Palau government may clearly show commitment to

²⁴ op. cit. Administrative Procedures Act

²⁵op. cit. Code of Ethics

Guiding Principle 1 of the WHO FCTC Article 5.3 Guidelines: “There is a fundamental and irreconcilable conflict between the tobacco industry’s interests and public health”.

2021 Tobacco Industry Interference Index Results and Findings

| | 0 | 1 | 2 | 3 | 4 | 5 |
|--|---|---|---|---|---|---|
| INDICATOR 1: Level of Industry Participation in Policy-Development | | | | | | |
| 1. The government ²⁶ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ²⁷ in setting or implementing public health policies in relation to tobacco control ²⁸ (Rec 3.1) | 0 | | | | | |
| <p>Industry interference in policy making interference existed in the years when Palau was developing comprehensive tobacco control legislation circa 2007, though the government did not respond to the offer of assistance. One Senator at that time was approached individually and he too refused the offer of assistance.</p> <p>Prior to passage of Palau’s comprehensive tobacco control legislation to implement the WHO FCTC, Philip Morris developed tobacco packaging with health warnings in Palauan (despite there being no packaging and labeling legislation in effect). These were on the market for a limited time only and may have been an attempt to buy goodwill from the government. (See Annex 1)</p> <p>However, no recent incidents could be found.</p> | | | | | | |
| 2. The government accepts supports or endorses <u>policies or legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4) | 0 | | | | | |
| No incidents could be found prior to or during the reporting period. | | | | | | |
| 3. The government allows/invites the tobacco industry to sit in government interagency/ multi-sectoral committee/ advisory group body that sets public health policy. (Rec 4.8) | | 1 | | | | |
| No such incidents were found prior to or during the reporting period. | | | | | | |
| 4. The government nominates or allows representatives from the tobacco industry (including State-owned) in the delegation to the COP or other subsidiary bodies or accepts their sponsorship for delegates. (i.e. COP 4 & 5, INB 4 5, WG) (Rec 4.9 & 8.3) | | 1 | | | | |
| <p>Evidence shows that no tobacco industry representatives have been on Palau’s delegation to the COP, etc. Nor have any members of the Palau delegation been funded to attend.</p> <p>(See Annex 2)</p> | | | | | | |

²⁶The 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

²⁷The term, “tobacco industry” includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

²⁸“Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

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| INDICATOR 2: Industry CSR activities | | | | | | |
| 5. A. The government agencies or its officials endorses, supports, forms partnerships with or participates in so-called CSR activities organized by the tobacco industry. (Rec 6.2) | 0 | | | | | |
| B. The government (its agencies and officials) receives contributions ²⁹ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4) | | | | | | |
| No evidence of corporate social responsibility (CSR) could be found either before or during the reporting period. | | | | | | |
| 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) | 0 | | | | | |
| <p>There were two pieces of tobacco related legislation drafted in late 2019; one was introduced in the Senate (SB 10-158) and consisted of amendments to the current comprehensive tobacco control legislation touching on several articles of the FCTC and the second piece introduced in the House of Delegates (HB No.10-119-12) was specific to electronic cigarettes. Comments were solicited on these pieces of legislation however we did not learn of any comments generated from the tobacco industry.</p> <p>No action was taken on either piece of legislation due to the COVID-19 pandemic. There was an election in November of 2020 and with a new administration and new legislature, both pieces of legislation will have to be introduced again. In either case, there is no evidence that the delay was due to TI interference.</p> <p>Legislation that came into effect in 2013 raising the tax on tobacco received some industry opposition specific to the provision prohibiting duty free sales in the Republic, though it passed despite the opposition.</p> <p>No evidence was found that the government accommodated any requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law.</p> | | | | | | |
| 7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3) | | | | 3 | | |
| There were incidents highlighted in a 2017 Public Auditor's report ³⁰ whereby the Bureau of Revenue Customs and Taxation and Bureau of Customs and Border Protection improperly entered into contractual agreements with select tobacco importers allowing | | | | | | |

²⁹political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

³⁰op. cit. 2017 Public Auditor's Report

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| them to pay instalments on import and excise taxes owed without interest. One importer was allowed to pay an old tax rate. | | | | | | |
| It was also found that the Bureau did not transmit records of the contractual agreements and related documents for recording into the National Treasury's accounting system. | | | | | | |
| At this time, the Bureau may still enter into an agreement which allows a 60-day deferred import tax payment by a vendor, be it a tobacco importer or other, who is unable to pay the import tax. | | | | | | |
| A person arriving in the Republic by common carrier may import into Palau free of taxation one of the following: one opened pack of 20 cigarettes; one cigar not exceeding 15 grams (.53 ounces); or up to fifteen (15) grams of loose smoking tobacco, chewing tobacco, or pipe tobacco, in an opened package. ³¹ | | | | | | |
| INDICATOR 4: Forms of Unnecessary Interaction | | | | | | |
| 8. Top level government officials (such as President/ Prime Minister or Minister ³²) 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 | | | | | |
| No evidence of top-level government officials meeting with or fostering relations with the tobacco companies was found. | | | | | | |
| 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 | | | | | |
| No evidence was found of government acceptance of assistance/offers of assistance from the tobacco industry on enforcement. | | | | | | |
| 10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) | | | 3 | | | |
| There were incidents highlighted in a 2017 Public Auditor's report ³³ whereby the Bureau of Revenue Customs and Taxation and Bureau of Customs and Border Protection improperly entered into contractual agreements with select tobacco importers allowing them to pay instalments on import and excise taxes owed without interest. | | | | | | |
| 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) | 0 | | | | | |
| No evidence of meetings with the tobacco industry was found. | | | | | | |

³¹RPPL 9-15 Fiscal Year 2014 Budget Act. *Pacific Islands Legal Information Institute*: <https://bit.ly/3gLVwQ>

³²Includes immediate members of the families of the high-level officials

³³op. cit. 2017 Public Auditor's Report

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| Both the Open Government Act (1 PNCA §901) ³⁴ and the Administrative Procedures Act (APA) (6 PNCA §101) ³⁵ promote openness and access to public information to facilitate the involvement of the public and stakeholders in the policy review process. However, both are self-regulating and similar to the shortfall of the Code of Ethics ³⁶ do not prescribe activities specifically with or by the tobacco industry. | | | | | | |
| 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 |
| Licensing of all businesses is required ³⁷ , and foreign businesses must also be registered under Foreign Investment Act ³⁸ . However, no rules currently exist that are specific to tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists. | | | | | | |
| INDICATOR 6: Conflict of Interest | | | | | | |
| 13. The government does not prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns or to require full disclosure of such contributions. (Rec 4.11) | | | | | 4 | |
| Code of Ethics (33 PNCA §601) ³⁹ calls for transparency, prohibits conflicts of interests, requires disclosures of potential conflict of interests, mandates financial disclosures, and regulates acceptance and use of contributions by government employees, candidates and public officials. However, it doesn't specifically address the tobacco industry. No such prohibition/requirement exists specifically for tobacco companies. | | | | | | |
| 14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4) | 0 | | | | | |
| No incidents were found. | | | | | | |
| 15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10) | | | | | 4 | |
| Such a conflict of interest exists ⁴⁰ . | | | | | | |

³⁴op. cit. Open Government Act

³⁵op. cit. Administrative Procedures Act

³⁶op. cit. Code of Ethics

³⁷Tobacco License application, Bureau of Revenue and Taxation, Ministry of Finance, <https://bit.ly/2QDybBZ>

³⁸Palau Foreign Investment Act: <https://bit.ly/3sYB7qI>

³⁹op. cit. Code of Ethics

⁴⁰Ethics Commission financial disclosure records of candidates for public office – reviewed May 13, 2021

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| INDICATOR 7: Preventive Measures | | | | | | |
| 16. The government has put in place a procedure for disclosing the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives. (Rec 5.1) | | | | 3 | | |
| <p>The Open Government Act (1 PNCA §901) and the Administrative Procedures Act (APA) (6 PNCA §101)⁴¹ promote openness and access to public information and facilitating the involvement of the public and stakeholder in the policy review process. However, both are self-regulating and like a shortfall of the Code of Ethics, do not prescribe activities specifically with or by the tobacco industry. The Open Government Act⁴², specifically states that <i>“It is the intent of this Act: that the actions of the government be conducted openly, that all deliberations be transparent, and that all public government documents be open for public inspection.</i></p> <p><i>...in providing for an open government and open access to the documents of the government the law shall be liberally interpreted, and that the provisions providing for exceptions to the open meeting requirements and open records requirements the law shall be strictly interpreted against closed meetings and the non-disclosure of records”.</i></p> | | | | | | |
| 17. The government has formulated, adopted or implemented a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry. (Rec 4.2) | | | | 3 | | |
| Code of Ethics (33 PNCA §601) ⁴³ calls for transparency, prohibits conflicts of interests, requires disclosures of potential conflict of interests, mandates financial disclosures, and regulates acceptance and use of contributions by government employees, candidates and public officials. However, it doesn't specifically address the tobacco industry. | | | | | | |
| 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. (Rec 5.2) | | | | | | 5 |
| Because tobacco excise tax is based on the weight of tobacco per tax legislation (RPPL 9-15) ⁴⁴ companies are required to report this information upon import. Customs also require that quantity and CIF information be provided while license requirements are spelled out in tobacco control legislation RPPL 8-27 ⁴⁵ . No requirements could be found that mandate 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. | | | | | | |

⁴¹op. cit. Administrative Procedures Act

⁴²op. cit. Open Government Act

⁴³op. cit. Code of Ethics

⁴⁴ op. cit. RPPL 9-15 Tax legislation

⁴⁵ op. cit. RPPL 8-27 Tobacco Control legislation, 2011

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| 19. The government has a program / system/ plan to consistently ⁴⁶ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2) | | | | | | 5 |
| While there have been efforts to raise awareness of tobacco industry interference within the community (WNTD 2010, 2012) and a longer-term public campaign in 2018, and a presentation made to members of the NCD CM, there is nothing set up to consistently raise awareness within government departments on policies relating to WHO FCTC Article 5.3. | | | | | | |
| 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. (Rec 3.4) | | | | 3 | | |
| Code of Ethics (33 PNCA §601) ⁴⁷ calls for transparency, prohibits conflicts of interests, requires disclosures of potential conflict of interests, mandates financial disclosures, and regulates acceptance and use of contributions by government employees, candidates and public officials. However, it doesn't address dealing specifically with the tobacco industry. | | | | | | |
| TOTAL | | | | | 40 | |

⁴⁶For 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

⁴⁷op. cit. Code of Ethics

ANNEX I

Introduction

Posters and banners with messages developed in Palau through focus groups for awareness campaign were among the products resulting from the project in 2018.



Question 1

News clipping from Palau Horizon, Friday, January 25-28, 2008.

Tobacco prevention advocates scoff at Philip Morris' offer to work with Palau

"Utterly ridiculous" says Kambes Kesolei, Chairman of the Coalition for Tobacco Free Palau in response to a letter from Pongsathorn Anusinha, Government Relations Manager for Philip Morris International offering to work with Palau to develop tobacco-related regulations. "How can you trust a company whose main goal is to increase its profits by selling a product that it has known and lied about for years

to cause diseases and death, and whose profitability relies solely on acquiring and maintaining as many users as possible for as long as possible, especially the youth? Letting the tobacco companies work with governments to develop tobacco control regulations is like letting a defendant in court choose members of his own jury" says Kesolei. In PM's letter offering assistance, Mr. Anusinha says in no uncertain

terms that "tobacco consumption causes disease and is addictive".

Palau's own President Remengesau, when asked about what he thought about PM's offer, during his recent press conference, regarded working with the tobacco industry similar to sleeping with the devil, and reaffirmed the leadership's commitment to getting the comprehensive tobacco control leg-

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(from page 1)

islation passed before the end of his term. He added that the tobacco company is aware of the proposed legislation, and this is one of their attempts to lobby and influence weaker legislation.

From the national congress, Chairman of the Senate Committee on Health, Senator Caleb Otto remarked that Palau is fully capable of developing guidelines, policies and regulations on its own and without assistance from the tobacco industry. Palau is recognized as a leader in the global tobacco control movement, especially for its progressive work and uncompromising positions regarding the FCTC. Palau is one of the key facilitator countries currently drafting guidelines for the Convention's Article 5.3, on the protection of public health policies with respect to tobacco control from commercial and vested interests of the tobacco industry. According to the preamble of the FCTC, parties "need to be alert to efforts by the tobacco industry to undermine or subvert tobacco control efforts and the need to be informed of activities of the tobacco industry that have a

negative impact on tobacco control efforts".

The Minister of Health, Dr. Victor Yano, who refused to meet with the Guam distributor of Philip Morris in November 2007, revealed that the recent media coverage of PM correspondence with Palau triggered an influx of concerns and warnings from tobacco control allies from around the world. Dr. Ulysses Dorotheo, Framework Convention Alliance Regional Coordinator, and Southeast Asia Tobacco Control Alliance (FCTC) Program Manager warned about experience of other countries where participation of the tobacco industry in developing tobacco regulations has resulted in ineffective, watered-down, or unenforceable regulations, sometimes almost akin to self-regulation. Inquiries of concern also came from the U.S. Centers for Disease Control and Prevention (CDC), the Campaign for Tobacco Free Kids, a U.S. national network that aims to expose the tobacco industry tactics for promoting their deadly product among youth and the Framework Convention Alliance (FCA), an alliance made up of close to 300 organizations representing over 100 countries around the world

whose main objective is to assist nations of the world ratify and implement the only international public health treaty, the Framework Convention on Tobacco Control (FCTC).

As for the Palau Tobacco Control Program's take on the situation, Valerie Whipps, the program manager says given that Palau is signatory to the FCTC, and the expressed commitment to the proposed comprehensive tobacco legislation from the executive and legislative branches, it is clear that Palau totally rejects the idea that the tobacco industry can help regulate itself. She pointed out that tobacco companies have an inherent conflict of interest with developing tobacco control policies. She says that the only way Philip Morris can help public health policies is to stop selling tobacco products or get out of tobacco business. She asserted, as U.S. District Judge Gladys Kessler stated in her decision regarding the U.S. Government versus the tobacco companies in August 2006: "The tobacco companies marketed and sold their lethal product with zeal, with deception, with a single-minded focus on their financial success and without regard for the human tragedy or social costs that success exacted."



Philip Morris produced packages for the Palau market with health warnings in the Palauan language despite there being no legislation requiring such warning circa 2007.

Question 1

**CASE STUDY:
PALAU**

ATTEMPTING TO WRITE THE NATION'S TOBACCO CONTROL LAWS

In November 2007, a Government Relations representative from Philip Morris International (PMI) contacted Senator Santy Asanuma from Palau to provide the tobacco giant's recommendations for FCTC implementation. After meeting with the representative, Senator Asanuma, a strong supporter of the FCTC and an advocate for stringent tobacco regulations, disregarded the corporation's recommendations.

PMI followed up with a letter to the Senator expressing its interest in working with government on implementation of the global tobacco treaty and making explicit references to health warnings (Article 11), youth smoking prevention (Article 16), fiscal measures (Article 6), public smoking restrictions (Article 8), and advertising (Article 13). With regard to health warnings, PMI stated that, "we believe warnings do not need to dominate the package to be clear and effective....and we would be happy to meet and further discuss the proposed approach to common health warnings."³⁶ The Senator exposed the letter and did not accept the tobacco giant's offer to help government implement tobacco control policies.

What makes this a particularly egregious example of tobacco industry interference is the social and political context. Up to 49 percent of males and 15 percent of females use tobacco products in Palau.³⁷ Among youth, up to 43 percent of males and 33 percent of females use tobacco products.³⁸

In the face of these alarming statistics, Palau has been one of the strongest advocates for the FCTC. It was one of the first countries to become a Party to the global tobacco treaty. Acting as a Key Facilitator on Article 5.3, Palau has been a leader in developing guidelines on keeping the tobacco industry out of public health policy. Palau's Senate is a champion of strict legislation that would require graphic warning labels on tobacco products sold in the country.

Palau has thus become an important target for the tobacco industry in its attempts to weaken implementation of the FCTC. PMI continues to attempt to make inroads with individual parliamentarians to promote its agenda on FCTC implementation. But it is up to the government and tobacco control groups to expose and limit the tobacco giant's ability to do so. Palau's story is a blatant example of how the tobacco industry attempts to control public policy by offering technical "expertise," and how it will demand a seat at the table with policy-makers, no matter how large or small the country may be.

—Dr. Caleb Otto, Palau Senator

www.StopCorporateAbuse.org THE 2008 GLOBAL TOBACCO TREATY ACTION GUIDE 11

Source: Protecting against Tobacco Industry Interference: The 2008 Global Tobacco Treaty Action Guide. Case study, Page 11.
Corporate Accountability International formerly Infact
(can no longer be located on the internet)

ANNEX 2

Question 4

List of attendees to the COP and INB sessions <http://www.who.int/fctc/en/>

| | |
|-------|--|
| COP1 | Dr. C.T. Otto, Chairman, Committee on Health, the Senate, OEK |
| COP2 | Dr. C. Otto, Chairman, Committee on Health and Education |
| COP3 | Dr. C. Otto, Senator |
| COP4 | Dr. Stevenson Kuartei, Minister of Health, Dr. Caleb Otto |
| COP 5 | Dr. C. Otto Dr. Stevenson Kuartei, Minister of Health John Tarkong, Jr., Chief Tax Roman Oseked, Sr. TC Focal Point |
| COP6 | Mr.Kambes Kesolei |
| COP 7 | Mrs. E. Temengil, Chief, Division of Behavioral Health, MOH Mr. O. Kesolei, CTFP |
| COP 8 | Ms E.J. Temengil Chief, Division of Behavioral Health, MOH |
| INB 1 | Dr C.T. Otto, Senator, National Congress (OEK) |
| INB 2 | none |
| INB 3 | none |
| INB 4 | none |

ANNEX 3: SOURCES OF INFORMATION

TOBACCO INDUSTRY ACTIVITY

LOCAL TOBACCO COMPANIES

| Top 5 Tobacco importers/distributors | Market Share & Brands | Source |
|---|-----------------------|---------------------------------------|
| Western Caroline Trading Company (WCTC) | | Bureau of Customs & Border Protection |
| Palau Investment & Development Company (PIDC) | | Bureau of Customs & Border Protection |
| Shimbros International Incorporated | | Bureau of Customs & Border Protection |
| Palau Western Pacific Import | | Bureau of Customs & Border Protection |
| Palau Trading | | Bureau of Customs & Border Protection |
| We are unable to determine market share. | | |

INTERNATIONAL TOBACCO COMPANIES

| Top 5 Tobacco Companies/distributors | Market Share and Brands | Source |
|---|-------------------------|------------------|
| Philip Morris | N | 2020 FCTC report |
| R.J. Reynolds Tobacco Co. | N | 2020 FCTC report |
| KT&G (Korean Tobacco & Genseng) | N | 2020 FCTC report |
| Imperial Tobacco | N | 2020 FCTC report |
| We are unable to determine market share. The 2020 FCTC report shows top selling brands are Doral (RJ Reynolds), Sonoma (Imperial Tobacco) and Carnival (KT&G). Other popular brands are Capri (RJR), and Redman (PMI) | | |

NEWS SOURCES

| Top 5 Newspaper/Dailies | Type (Print/Online) | URL |
|-------------------------|---------------------|---|
| Tia Belau | Print | https://www.facebook.com/tiabelau/ no online presence except FaceBook print copy is 2x/week |
| Island Times | Both | https://islandtimes.org/ https://www.facebook.com/islandtimespw/ Print copy is 2x/week |