

LAO PDR

2020

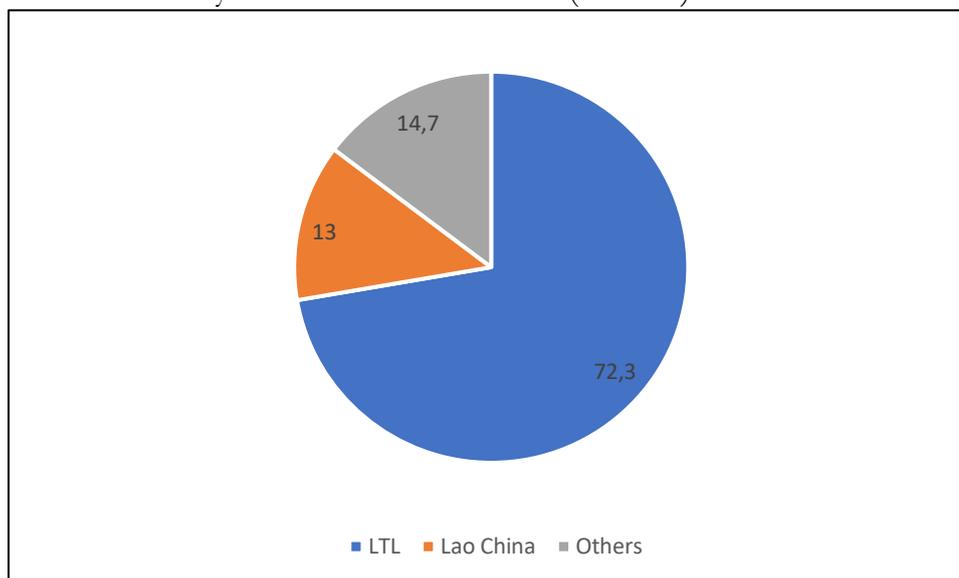
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## Background and Introduction

Over the past five years, Lao PDR has taken steps to strengthen its implementation of Article 5.3 guidelines of the WHO Framework Convention on Tobacco Control (FCTC) but the persisting presence and interference of tobacco industry remains strong in the country.

Five years prior to ratifying the FCTC, the government of Lao PDR through the Committee for Investment and Cooperation signed a 25-year Investment License Agreement (ILA) with Coralma International and S3T Pte Limited establishing the Lao Tobacco Limited (LTL), a joint venture with the tobacco industry. Since then, the Imperial Tobacco Group (ITG) has taken over the shares of Coralma and S3T and now owns 53% of the joint venture, while the Lao government owns the remaining 47%. LTL is currently the largest tobacco company in Lao PDR with a cigarette market share of 72.3%.

Tobacco Industry Market Share in Lao PDR (% Share) 2017<sup>1</sup>



The existence of the ILA remains both a legal and policy reform challenge for the government until it ends in 2026, or unless it is amended or revoked. To this end, the tobacco industry has successfully blocked tobacco tax increases since 2011 and new tax laws passed in 2016 and 2018 (30% of retail price by 2016-2017, 45% by 2018-2019, and 60% by 2020 onwards) due to legal threats by ITG for ILA contract breach. While not successful, the tobacco industry also tried to interfere with the Prime Minister (PM) Office to draft a new minimum price policy, which has been rejected by other ministries.

Extensive tobacco industry lobby reaching high-level decision making is another huge obstacle to fully implement and enforce tobacco control measures already mandated under Lao PDR's Tobacco Control Law. The Penalty Decree (signed in February 2019) covering enforcement and penalty provisions of key policies has been stalled allowing the tobacco industry to continuously defy the TC Law without legal penalties and ramifications, such as its violation to comply with the 75% pictorial health warnings (PHW) on cigarette packs.

<sup>1</sup> Global Data (2018). Laos Cigarettes, 2018.

On the other hand, a significant milestone has been achieved by the Ministry of Health (MOH) in 2018 with its adoption of a code of conduct (COC) for health professionals in the government in their dealings with the tobacco industry. While the COC can still be improved and made more comprehensive, it is hoped that other ministries will follow suit and adopt their own COC to ensure that the whole bureaucracy is protected from tobacco industry interference.

To document Lao PDR's progress in implementing Article 5.3, an annual country index report based on a questionnaire developed by the Southeast Asia Tobacco Control Alliance (SEATCA) covering Article 5.3 guidelines has been developed since 2014. Lao PDR's 2020 scores is based on publicly-available evidence from January - December 2019. The score ranges from 0 - 5, where 5 indicates highest level of industry interference, and 1 is low or no interference. Hence, the lower the score, the better for the country.

## **Summary Findings**

There is a deterioration in efforts to address interference from the tobacco industry. Lao PDR has an overall score of 73 points, an increase from its score of 68 points in 2019.

### **1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT**

Although the tobacco industry (TI) tried, it could not stop the adoption of the law requiring 75% pictorial health warnings (PHW) on cigarette packs. Now, it is interfering in the implementation of the law by not complying with the PHW requirements and have interfered through the Ministry of Industry and Commerce and Prime Minister (PM) Office for further delays to implement PHW.

The draft Penalty Decree of the Tobacco Control Law by the Ministries of Health and Justice that will penalize companies violating the law has been delayed.

The TI tried to interfere in the PM Office to draft a new minimum price policy; however, related Ministries did not accept its proposal.

### **2. INDUSTRY CSR ACTIVITIES**

No government acceptance or endorsement of TI-related CSR activities.

The Prime Minister Decree on Tobacco Product Promotional Consumption Ban 2010 bans all forms contributions from the tobacco industry – CSR activities are banned.

### **3. BENEFITS TO THE INDUSTRY**

PHW implementation was delayed by 180 days (6 months) due to industry interference in its implementation. The tobacco industry repeated the same old excuse that “they had a large stockpile of printed packets” and even requested a reduction in the size of the graphic image from 75 % to 50 %.

The 25-year (2001-2026) government joint venture (ILA) with the Imperial Tobacco Group is still in place, which caps tax increase and provides incentives to the tobacco industry that

controls 72.3% of the cigarette market. The benefit to the industry results in people not receiving the truth about the harms caused by tobacco use and government revenue loss.

#### **4. UNNECESSARY INTERACTION**

The government receives assistance from TI for anti-smuggling enforcement activities. The government's partnership/ agreement with Lao Tobacco Company/Imperial Tobacco is still in existence, which facilitates interaction.

#### **5. TRANSPARENCY**

The government does not publicly disclose meetings/ interactions with the tobacco industry. While the MOH does not meet with TI, other department have communication.

While tobacco companies are required to register, there is still no rules for the disclosure or registration of tobacco industry affiliated organizations, and individuals who represent it.

#### **6. CONFLICT OF INTEREST**

There are no political campaigns in Lao – hence no political donations. However, key government officials in the Ministries of Finance and Industry and Commerce currently hold positions in the TI Joint Venture Board of Management.

#### **7. PREVENTIVE MEASURES**

In December 2018, the Ministry of Health issued a Code of Conduct for the Health Sector (in government) to provide guidance on interacting with the tobacco industry. The code of conduct does not apply to the non-health sector; hence, there is no procedure or guidelines to disclose records of the interaction with the tobacco industry (such as agenda, attendees, minutes and outcome). Because Article 5.3 has not been applied to the whole of government, officials related to ILA are known to attend meetings with ITG and other tobacco companies.

The 2016 Minister 'Regulation on Tobacco Control Law Implementation' requires the tobacco industry to report (once a year) about ingredients in the cigarette. However, the government does not require the industry to submit information on tobacco production, manufacture, market share, marketing expenditures and revenues. While the investment unit of the government may have access to this information, it is not known to other government departments or used for tobacco control.

### **Recommendations**

- The 25-year (2001-2026) government joint venture (ILA) with Imperial Tobacco Group must be terminated.
- The Code of conduct for the health sector and the tobacco industry should be extended to apply to the whole of government. This will reduce interference and the delays currently caused by the TI.

- The industry must be asked to submit information on tobacco production, manufacture, market share, marketing expenditures and revenues to be used to strengthen tobacco control.

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## Results and Findings

	0	1	2	3	4	5
<b>INDICATOR 1: Level of Industry Participation in Policy-Development</b>						
1. The government <sup>2</sup> accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry <sup>3</sup> in setting or implementing public health policies in relation to tobacco control <sup>4</sup> (Rec 3.1)						5
<ul style="list-style-type: none"> <li>- The tobacco industry (TI) interfered with the Ministry of Industry and Commerce (MOIC) and the Prime Minister’s Office (PMO) on minimum price; the TI’s proposal was if the PMO approved the minimum price policy, the industry will agree to increase specific tax.</li> <li>- TI engaged in communications with the Ministry of Industry and Commerce, Ministry of Finance, Ministry of Public Security and National Assembly on cigarettes smuggling blaming this problem on the increase of bigger health warnings on cigarette packs. (See Q9)</li> </ul>						
2. The government accepts, supports or endorses <u>policies or legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4)						5
TI interfered through the Ministry of Industry and Commerce and PMO on minimum price policy development, if government approved this policy, TI will pay higher specific tax, and the government accepted this proposal from the TI.						
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				
The TI does not sit in the government interagency committee that sets public health policy.						
4. The government nominates or allows representatives from the tobacco industry (including State-owned) in the delegation to the COP or other subsidiary bodies or accepts their sponsorship for delegates. (i.e. COP 4 & 5, INB 4 5, WG) <sup>5</sup> (Rec 4.9 & 8.3)		1				
The tobacco industry is not represented in the Lao delegation to the COP and its related meetings.						
<b>INDICATOR 2: Industry CSR activities</b>						
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					

<sup>2</sup> The term “government” refers to any public official whether or not acting within the scope of authority as long as cloaked with such authority or holding out to another as having such authority

<sup>3</sup> The term, “tobacco industry” includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

<sup>4</sup> “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

<sup>5</sup> Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

	0	1	2	3	4	5
B. The government (its agencies and officials) receives contributions <sup>6</sup> (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)						
The Prime Minister Decree on Tobacco Product Promotional Consumption Ban 2010 bans all forms contributions from the tobacco industry including its CSR activities.						
<b>INDICATOR 3: Benefits to the Tobacco Industry</b>						
6. The government accommodates requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law. (e.g. 180 days is common for PHW, Tax increase can be implemented within 1 month) (Rec 7.1)				3		
<p>No change</p> <ul style="list-style-type: none"> <li>– PHW implementation was delayed by 180 days (6 months) – score deteriorated from 1 previously. The tobacco industry cited the same old excuse that “they had a large stockpile of printed packets” and contrary to the law even requested a reduction in the size of the graphic image from 75 percent to 50 percent.<sup>7</sup></li> <li>– Based on monitoring after 1 January 2018, popular and most widely sold cigarette brands, ‘A Deng’ (from Imperial controlled Lao Tobacco Company Ltd) and ‘Dok Mai Deng’ (from Lao-China Hongta Good Luck Company Ltd.) still don’t carry the required pictorial health warnings even after being granted three extensions of the implementation deadline. Lao Tobacco Company Ltd. (a subsidiary of Imperial Brands, a British multinational tobacco company) and Lao-China Hongta Good Luck Company Ltd. who together control over 80 percent of the cigarette market, have been violating the law by not printing PHWs on their cigarette packs.<sup>8</sup></li> </ul>						
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)						5
<p>No change – the 25-year Investment License Agreement (ILA) still in place. This agreement gives preferential treatment to the TI. Through this lop-sided contract, the Lao government has already lost about US\$144 million in tax revenues between 2002 – 2017.<sup>9</sup></p> <p>New tobacco companies are consistently registered annually in Lao PDR. To date, there is a total of 23 new tobacco businesses registered with the Enterprise Registration and Management Department,<sup>10</sup> with most companies coming from China. In 2017, there were 3 new tobacco business registered, while 5 new tobacco businesses were registered in 2018:</p> <ul style="list-style-type: none"> <li>• Lao Tobacco Co (0100006357) 12 July 2018</li> <li>• Fu Xiang Tobacco Trade Sole Co (0100020088) 13 June 2018</li> <li>• Asia Integrated Tobacco Factory Co (0300002359) 12 February 2018</li> <li>• Golden Triangle New Silk Road Tobacco Company Ltd (0100021487) 26 June 2018</li> </ul>						

<sup>6</sup> political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

<sup>7</sup> [http://news.xinhuanet.com/english/2016-10/10/c\\_135741440.htm](http://news.xinhuanet.com/english/2016-10/10/c_135741440.htm)

<sup>8</sup> Southeast Asia Tobacco Control Alliance. (2018). Tobacco companies violate tobacco control in Lao PDR [factsheet] *SEATCA* [online]. <https://bit.ly/3ggqdqg>

<sup>9</sup> The News Lens. Tobacco Companies Making a Fortune in Southeast Asia, *The News Lens* [online]. 3 March 2018. <https://bit.ly/2XqkZQm>

<sup>10</sup> <http://www.erm.gov.la/index.php/en/search>

- Lao International Tobacco Company (0100000358) 1 June 2018

In 2019 for first 5 months, there are already 4 new tobacco businesses registered. For all of these companies it says, “Tax information not available for this business”.

Chinese tobacco industry’s plan for Lao PDR is to establish Lao as tobacco growing country to supply Chinese companies. In 2017, executives from Lao visited Yuxi, China on study visit to know more about planting concepts and management methods to take back to Laos to “produce the tobacco leaf with high quality and high yield, promote the sustainable development of tobacco planting of Laos Liao Zhong Hongta Company” and “build Laos into a tobacco planting base of China Tobacco Yunnan Industrial Co., Ltd.”<sup>11</sup>

In 2018, Deputy Director of China State Tobacco Monopoly Administration (STMA) visited Lao-China Hongta Good Luck Tobacco Co., Ltd. (Laos Hongta) to implement China Tobacco’s strategy and implement “the Chinese Central Government's spirit of the Belt and Road Initiative and implement the development strategy of China Tobacco through joint efforts and build Laos Hongta into a Southeast Asian spice center and a Southeast Asian spice center for China Tobacco (Yunnan) contribute to the Laos people and bail them out of poverty and become prosperous.”<sup>12</sup>

In August 2019, Deputy Director of STMA visited Laos Hongta and described it as the “best overseas entity in the industry” and that although Laos Hongta was not very large in scale, it had achieved a high local market share, that it possessed a whole tobacco industry chain and supporting facilities; and its level of profitability had gradually increased. The trip included executives from STMA, Tobacco Labor Union Office, China Tobacco International Inc., Foreign Affairs Division of STMA, Production Management Department of China Tobacco and Yunnan Tobacco International Co., Ltd.<sup>13</sup>

On 20 December 2019, Laos Hongta reported their 600,000<sup>th</sup> case of cigarette went into production, and set a new record in the annual output of the company.<sup>14</sup>

**INDICATOR 4: Forms of Unnecessary Interaction**

8. Top level government officials (such as President/ Prime Minister or Minister <sup>15</sup> ) meet with/ foster relations with the tobacco companies such as attending social functions and other events sponsored or organized by the tobacco companies or those furthering its interests. (Rec 2.1)						5
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- Following the collapse of the power dam in South of Lao PDR, many companies including the tobacco industry. The government endorsed assistance from TI; for example Lao-China Hongta Good Luck Tobacco Company provided a truck of instant noodles and other materials to the people affected in the disaster.<sup>16</sup>

<sup>11</sup> China Tobacco. Laos Liao Zhong Hongta Tobacco Planting Team Visits Yuxi for Exchanging and Studying. 9 August 2017 <https://bit.ly/3edWgFF>

<sup>12</sup> China Tobacco. Deputy Director of STMA Zhao Hongshun Paid a Visit to Lao-China Hongta Good Luck Tobacco Co., Ltd. 2 July 2018 <https://bit.ly/2zvAIWa>

<sup>13</sup> China Tobacco. Deputy Director of STMA Yang Peisen Investigates Lao-China Hongta Good Luck Tobacco Co., Ltd. 11 October 2019 <https://bit.ly/2zvhhbFx>

<sup>14</sup> China Tobacco Lao-China Hongta Good Luck's Annual Output Exceeded 600,000 Cases, Reaching a Record High. 27 February 2020. <https://bit.ly/3glU6FW>

<sup>15</sup> Includes immediate members of the families of the high-level officials

<sup>16</sup> Global Times. Chinese companies join rescue work in Laos. 26 July 2018 <https://bit.ly/2LSj81o>

	0	1	2	3	4	5
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)						5
<p>No change, the government receives assistance for TI for anti-smuggling enforcement. The MOIC signed a MOU with the tobacco industry to enforce smuggling control and receive incentives for the enforcement. According to the Convention Secretariat's report on the 'Needs Assessment for Implementation of the WHO FCTC in Lao PDR', "The Customs Department collects data on cross-border trade in tobacco products including illicit trade. MOIC collects information on illicit tobacco products in the domestic market. However, information is collected cooperatively with the tobacco industry and is not shared routinely with other authorities such as the MOH."<sup>17</sup></p> <p>In September 2019, Deputy Minister of Industry and Commerce, Mr Somchit Inthamith, and Vice President of the Lao National Chamber of Commerce and Industry (LNCCI), co-chaired a meeting with companies and entrepreneurs in Vientiane. At this meeting issues of tobacco smuggling was raised by the business requesting the government to address them in the context of providing a business-friendly climate. The businesses highlighted the distribution and sale of smuggled tobacco products without payment of duties and taxes.<sup>18</sup></p>						
10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) <i>NOTE: This must not involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.</i>						5
The 25-year ILA which began 2001 is still valid and being implemented.						
<b>INDICATOR 5: Transparency</b>						
11. The government does not publicly disclose meetings/ interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation. (Rec 2.2)					4	
No change, no public disclosure on meetings and interaction; While the MOH meet with TI under 5.3 code of conduct						
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)					4	
No change – While tobacco companies are required to register however, there is still no rules for the disclosure or registration of tobacco industry affiliated organizations, and individuals who represent it.						
<b>INDICATOR 6: Conflict of Interest</b>						
13. The government does not prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns or to require full disclosure of such contributions. (Rec 4.11)		1				

<sup>17</sup> Convention Secretariat. Needs assessment for implementation of WHO Framework Convention on Tobacco Control in Lao PDR. February 2015. <https://bit.ly/3bZdpkZ>

<sup>18</sup> Vientiane Times. Lao business sector seeking crackdown illegal operators. September 9. 2019. <https://bit.ly/36t2RJD>

	0	1	2	3	4	5
No change, the Prime Minister Decree on Tobacco Product Promotional Consumption Ban 2010 bans all forms contributions from the tobacco industry; <b>Article 9. Prohibition through supporting</b> <i>It is prohibited to advertise for tobacco product selling through supporting or all kinds of sport competition sponsorship, art and cultural performance, educational sponsorship, including other supporting activities in Lao PDR.</i> No change, there is no political campaign in Lao – no political donations.						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)						5
Vice Minister of Ministry of Industry and Commerce became the Chair of Lao Tobacco Company Committee. He retired from the government in 2019 and is still in this position with the company.						
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)						5
No change – As a result of the ILA - government joint venture with Imperial (Tobacco) Brands government officials have to represent the tobacco business and oversee the successful implementation of the ILA.						
<b>INDICATOR 7: Preventive Measures</b>						
16. The government has put in place a procedure for disclosing the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives. (Rec 5.1)						5
No change – There is still no procedure for disclosing record of the interactions with the tobacco industry. Only the MOH has a code of conduct for the health sector to guide any interaction with TI (December, 2018) <sup>19</sup>						
17. The government has formulated, adopted or implemented a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry. (Rec 4.2)			2			
In December 2018, the Ministry of Health issued a Code of Conduct between Health Sector and Tobacco Industry. (No. 3217/MOH) <sup>20</sup>						
18. The government requires the tobacco industry to periodically submit information on tobacco production, manufacture, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and all other activities. (5.2)					4	
No change - May 2016: Minister ‘Regulation on Tobacco Control Law Implementation’ says:  <i>“Article 7: Information reporting on tobacco products</i>						

<sup>19</sup> Ministry of Health. Code of Conduct between Health Sector and Tobacco Industry. 14 December 2018  
<https://bit.ly/3gjJ0Bg>

<sup>20</sup> [Ibid.](#)

	0	1	2	3	4	5
<p><i>Manufacturer and importer on tobacco products to be distributed in Lao PDR shall report the information on <u>ingredients</u> and inform on the detailed <u>constituents</u> using in tobacco product production to Hygiene and Health Promotion Department, Ministry of Health at least one a year.”</i></p> <p>The Regulation is limited to requiring the tobacco industry to report (once a year) only about ingredients in the cigarette but not about tobacco production, manufacture, market share, marketing expenditures, and revenue.</p>						
19. The government has a program / system/ plan to consistently <sup>21</sup> raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)				3		
No change. The government has not implemented a program to consistently raise awareness within its departments on policies relating to 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. (3.4)						5
Because there is no whole-of- government effort to implement Article 5.3, there is no policy to reject offers of assistance from the tobacco industry. Government officials related to ILA are known to go to UK to attend meeting with Imperial.						
<b>TOTAL</b>						<b>73</b>

<sup>21</sup> For purposes of this question, “consistently” means: a. Each time the FCTC is discussed, 5.3 is explained. AND b. Whenever the opportunity arises such when the tobacco industry intervention is discovered or reported.