

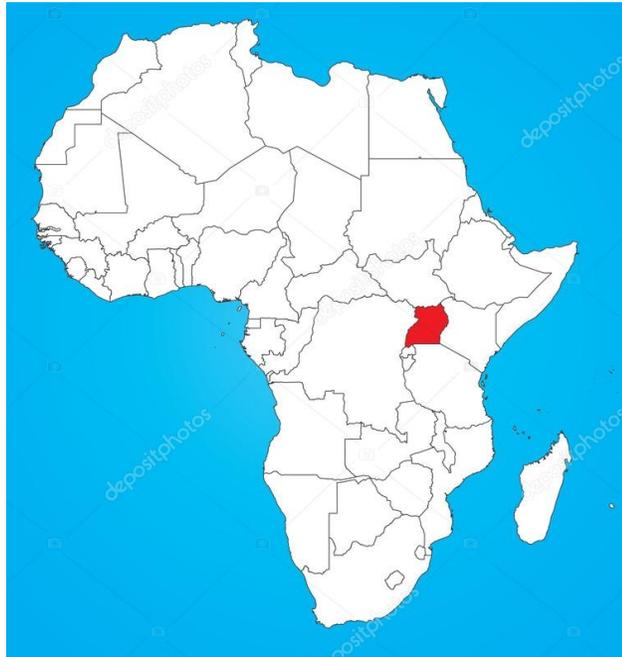
Uganda's Experience in Withstanding Tobacco Industry's Challenges to Tobacco Control

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Mental Health and Control of substance abuse

National Tobacco Control focal Point



Background

- Uganda ratified the WHO FCTC on 20th June, 2007, but the domestication process was delayed by various interference tactics from the tobacco industry
- In 2015 the Parliament of Uganda passed a **WHO FCTC compliant** National Tobacco Control Act, strong on **Article 5.3**, which addresses TI interference both in the letter and spirit of Article 5.3

ACTS SUPPLEMENT No. 11	18th November, 2015.
ACTS SUPPLEMENT <i>to The Uganda Gazette No. 67, Volume CVIII, dated 18th November, 2015.</i> Printed by UPPC, Entebbe, by Order of the Government.	
Act 22	2015
Tobacco Control Act	
THE TOBACCO CONTROL ACT, 2015.	
ARRANGEMENT OF SECTIONS.	
<i>Section</i>	
PART I—PRELIMINARY.	
1.	Commencement.
2.	Interpretation.
PART II—THE TOBACCO CONTROL COMMITTEE.	
3.	Establishment of the Committee.
4.	Tenure of office.
5.	Functions of the Committee.
6.	Meetings of the Committee.

Uganda's 2015 Tobacco Control Law is Strong

PART VIII—PROTECTION OF TOBACCO CONTROL POLICIES FROM
COMMERCIAL AND OTHER VESTED INTERESTS OF THE TOBACCO
INDUSTRY.

19. Duty of Government.

(1) In the implementation of this Act and any public health policy related to tobacco control, it shall be the duty of Government to—

- (a) protect the public against the influence of and interference by the commercial and other vested interests of the tobacco industry; and
- (b) ensure that there is transparency in the interactions of Government with the tobacco industry.

(2) The records and documents related to the interactions, communications and contacts held between the Government and the tobacco industry shall be transparent, and open to the public.

20. Government interactions with the tobacco industry.

(1) A person, body or entity that contributes to or may contribute to the formulation, implementation, administration, enforcement or

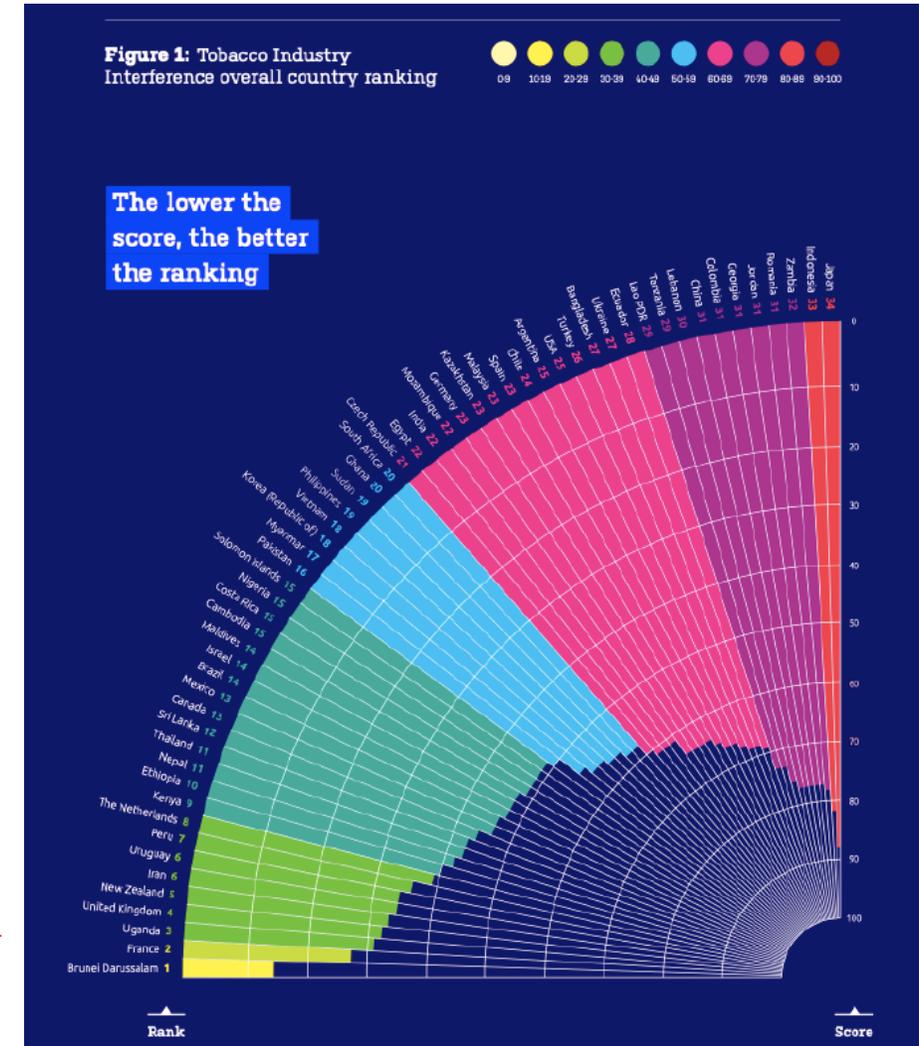
Part VIII of Act fully reflects Article 5.3 Guidelines

The Act provides clear guidance on the government's interaction with the tobacco industry - limited to only when strictly necessary for regulation

Uganda – we must be doing something right

Civil society has given the government a good report in the TI Interference Index

Globally, Uganda emerged **top 3** in civil society report on implementation of WHO FCTC Article 5.3 guidelines



The tobacco industry has been using various tactics to thwart tobacco control measures

Tobacco industry interference following Tobacco Control Act 1st Lawsuit Against the TCA

- November 2016: BAT filed a petition against the Gov't ,contesting constitutionality of the TC Act including sections under Art 5.3:

- issues of conflict of interest,
- not giving the industry incentives
- penalty for violation of this section.

- Court dismissed the injunction in its entirety - it had no justification, Petition appeared to have been misconceived or brought in bad faith as part of a global strategy to fight tobacco control legislation.

- The Court awarded costs to the government.

RECEIVED
11/16/2016
Dadson Mwaaura

THE REPUBLIC OF UGANDA
IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA
CONSTITUTIONAL PETITION NO. 46 OF 2016

BRITISH AMERICAN TOBACCO UGANDA LIMITED	}	PETITIONER
-VERSUS-	}	
THE ATTORNEY GENERAL OF UGANDA	}	RESPONDENT

AFFIDAVIT OF MR DADSON MWAURA IN SUPPORT OF THE PETITION

I, **DADSON MWAURA**, of C/O Sebalu & Lule Advocates, Plot 14, MacKinnon Road, Nakasero, P.O. Box 2255, Kampala, Uganda, do solemnly swear and state on oath as follows **THAT**:

1. I am a male adult Kenyan citizen of sound mind, the Managing Director of British American Tobacco Uganda ("**the Petitioner**"), well-versed with the facts surrounding this petition and in which capacity and with due authorization I depone this affidavit.
- A. ABOUT BRITISH AMERICAN TOBACCO UGANDA**
2. The Petitioner was established in 1984 and was listed as a public company on the Uganda Securities Exchange on 28 June 2000. The Petitioner has over 1,250 Ugandan shareholders.
3. The Petitioner was established in 1984 pursuant to a Joint Venture Agreement dated 27 November 1984 between the Government of Uganda and British American Tobacco Company Limited, under which the Petitioner was incorporated as a special purpose company named BAT Uganda (1984) Ltd. At the time, the Petitioner was formed to partner with the Government of Uganda and spur the rehabilitation and future growth of the entire tobacco industry by:
 - a. Reviving the leaf market that had been ravaged by an unstable political environment;
 - b. Undertaking the procurement of tobacco;
 - c. Undertaking the manufacturing and marketing of cigarettes and leaf tobacco in the Ugandan domestic and export markets, and restoring tobacco as a prime export product and indirect revenue earner for the Government of Uganda;
 - d. Create employment opportunities for Ugandans across the entire tobacco value

TI used Non-health Department to Interfere

2019: BAT Uganda wrote to the Minister of Trade to respond to draft tobacco control regulations. The draft regulations had not been shared by the Ministry of Health, suggesting BATU obtained the document through other means



Photo: FCA

2nd Lawsuit against the TCA Regulations

- 6 September 2019: With support from TC civil society and other stakeholders the government gazetted the TCA Regulations for its effective implementation
- 13 January 2020: TI (BAT and others) filed a temporary injunction on the enforcement of the TC regulations until final determination of their 6 Dec 2019 main application.
- The injunction was overtaken because of the Minister of Health's letter directing extension of commencement of the Regulations from 1st Feb to 1st April. This letter was presented in court rendering the injunction ineffective.

Lessons Learnt

- Since the industry is fighting and challenging our efforts – we are doing something right for tobacco control
- Article 5.3 in national TC legislation
- Collaboration with relevant government department and agencies irrespective of position or office/rank to help with TI monitoring.

Lessons Learnt

- MOH takes the leadership role in all tobacco control efforts;
- Raise awareness to all relevant stakeholders especially policy makers on Article 5.3 and use the code of conduct.
- Civil society is crucial in the development and implementation of tobacco control efforts, especially in monitoring the TI
- Media about tobacco control as they can be resourceful and a partner in identifying and countering covert TI activities.