

COLOMBIA

2020

TOBACCO
INDUSTRY
INTERFERENCE
INDEX

Background and Introduction

The Preamble of the FCTC establishes that nongovernmental organizations and other members of civil society not affiliated with the tobacco industry play a decisive role in national and international tobacco control. Their efforts are crucial, particularly in alerting the actions undertaken by the tobacco industry to interfere, undermine or subvert tobacco control regulations.

To that end, Red PaPaz, a Colombian nongovernmental organization that advocates for the rights of children and adolescents has conducted the research required to prepare this report on Tobacco Industry Interference in Colombia between 2018 and 2019. The results of this report are based in publicly available information, interviews held and situations that our team has witnessed throughout these years. In addition, Red PaPaz has received valuable collaboration from close allies, as Blanca Llorente from Fundación Anáas.

This report provides an insight on the compliance of Article 5.3 of the FCTC by the Republic of Colombia. Likewise, it also provides valuable information on the issues that demand higher attention in order for the State to move forward towards an adequate compliance of the international obligations arising under this provision.

Summary Findings

1. **INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT**

There was a meeting between the tobacco industry and the Tax and Customs Authority where the tobacco industry provided recommendations on the regulation of taxes on tobacco products, surveillance and training of the public officials. The effort to increase tax was defeated in Congress.

In June 2019, the Minister of Commerce said the Government is identifying mechanisms to allow PMI to continue its operations in Colombia, such as producing HTPs in Colombia. This was said after PMI threatened to withdraw its tobacco production from Colombia.

2. **INDUSTRY CSR ACTIVITIES**

Various government departments, Ministry of Culture and President's Office collaborated with and endorsed various activities with the main tobacco companies, PMI and BAT Foundation. BAT Foundation and the Ministry of Culture collaborated on a common initiative to sponsor art in Bogotá and Medellín. The Office of the Presidential Advisor for Stabilization and Consolidation and Coltabaco S.A. (PMI subsidiary) supported and financed a farmers' association in the sub-national territorial entity of Sucre. This project seeks to support ex-servicemen that are in process of reincorporation.

3. **BENEFITS TO THE INDUSTRY**

Several initiatives to strengthen tobacco control were defeated. These include efforts to increase tax in accordance with the FCTC and increasing the size of pictorial warnings on cigarette packs from 30% to 70%, were defeated in Congress. Colombia has signed the Protocol on Elimination of illicit trade in tobacco products but has not ratified it.

According to Law 534 of 1999 there is a contribution to be paid by tobacco producers to the National Tobacco Fund. This Fund devotes its resources to research, innovation and commercialization of tobacco. Even after the FCTC was ratified by Colombia, both the Fund and the contribution still remain. In addition, the Ministry of Agriculture has recognized the relevance the tobacco production chain and has devoted both resources and technical assistance to it.

There is a significant concern regarding the import of cigarettes and other tobacco products. As a result of the different Free Trade Agreements entered into between Colombia and other States, a significant amount of these products has been imported to Colombia without having to pay any kind of duties or tariffs. Cigarette importers also benefit from the special economic zone in La Guajira,

4. **UNNECESSARY INTERACTION**

There are several instances of unnecessary interaction between senior government officials and the tobacco industry. The President of Colombia and various other members of the Government participated in the Concordia Summit in 2018 sponsored by PMI in a roundtable discussion to further harm reduction. The discussion promoted number of regulatory levers that the Colombian Government can put in place to convert existing smokers towards the adoption of harm reduction products. The President participated again in the Concordia Summit in 2019 sponsored by PMI. In 2019, the Chief Prosecutor handed out prizes to the winners of the art contest sponsored by both BAT and the Ministry of Culture.

In August 2019, the National Police and the National Federation of Departments (FND) entered into the Anti-Illicit Trade Agreement, where PMI were to provide technical assistance to the National Police.

5. **TRANSPARENCY**

There are no particular provisions under Colombia law requiring the Government to disclose meetings or interactions with the tobacco industry. Therefore, the only meetings and interactions, which can be reported, are the ones that have been informed by the media, or others. However, it is difficult to determine whether they are strictly necessary for any type of regulation. Some examples of meetings that have taken place include the following:

In January 30, 2018 there was a meeting between the tobacco industry and the Tax and Customs Authority where the tobacco industry provided recommendations on the regulation of taxes on tobacco products, surveillance and training of the public officials. In April 30, 2019 the Ministry of Agriculture led the Technical Commission for the Tobacco Production Chain where *Fedetabaco* and BAT participated. As a result of the meeting the participants agree to join efforts in order to update the Competitiveness Agreement of the Tobacco Chain. In June 16, 2019 the Minister of Commerce said in an interview that the Government is identifying mechanisms that may allow PMI to continue its operations in Colombia. One of these mechanisms could be through the production of HTPs in Colombia.

6. **CONFLICT OF INTEREST**

There is a general prohibition for any type of entities (companies, NGO's etc.) to make donations to candidates running in the presidential election. However, there is no prohibition for individuals, who may have ties with the tobacco industry to make contributions to a presidential candidate.

Several former senior government officials have joined the tobacco industry or with a firm that provides services to tobacco companies. For example: Juan Carlos Restrepo Piedrahita: The former Director of the Intelligence Agency, former Director of the Anti-Narcotics Agency, former presidential adviser for security is currently Vice-President of BAT. Andrés Escobar, the former Deputy Minister of Finance, is the current CEO of EConcept AEI. This firm has provided consultancy services to PMI.

7. **PREVENTIVE MEASURES**

There is no procedure for the disclosure of interactions between the Government and the tobacco industry or its representatives. There is no specific code of conduct for public officials, prescribing the standards which they should abide to in their dealings with the tobacco industry. The Ministry of Health has established a practice on how public officers should behave when dealing with the tobacco industry. However, this practice is not found in any formal regulation, and not implemented by any other public entity.

There is not a consistent plan to raise awareness on article 5.3 of the FCTC within its departments. This is partially due the fact that there are no formal intersectoral coordinating mechanisms on tobacco control as determined by article 5.2 (a) of the FCTC.

Recommendations

Colombia must urgently adopt specific regulations aimed at preventing the Tobacco Industry Interference in setting and implementing public health policies with respect to tobacco control. Currently there are no enforceable rules that can guarantee the compliance of these international obligations. Therefore, it is necessary to adopt them in the shortest term possible and monitor strictly their implementation. The efforts made in this regard by the Ministry of Health are still insufficient to prevent the Tobacco Industry Interference. However, they constitute a foothold which may allow to advance further in this effort.

Furthermore, it is also necessary to generate awareness among society about the existing conflicts of interest and the appropriate measures that can serve to address them. In short, Colombia must advance in a wider understanding about the need of preventing the industry's interference in public health regulations. This will allow to achieve higher standards of compliance of the obligations arising under the FCTC.

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Results and Findings

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INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government ¹ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ² in setting or implementing public health policies in relation to tobacco control ³ (Rec 3.1)					4	
<p>a. On January 30, 2018 there was a meeting between the tobacco industry and the Tax and Customs Authority where the tobacco industry provided recommendations on the regulation of taxes on tobacco products, surveillance and training of the public officials. Such recommendations have been relevant for the Tax and Customs Authority.⁴</p> <p>b. On January 17, 2019 the Ministry of Commerce led the Anti-Illicit Trade Commission with the participation of different sectors, amongst them executives from the tobacco industry.⁵ According to the Ministry of Commerce, the members of the Commission decided to implement actions aimed at prosecuting the illicit trade of tobacco products.⁶</p> <p>c. On April 30, 2019 the Ministry of Agriculture led the Technical Commission for the Tobacco Production Chain. <i>Fedetabaco</i> and British American Tobacco (<i>BAT</i>) participated. As a result of the meeting the participants agree to join efforts to update the Competitiveness Agreement of the Tobacco Chain.^{7 8}</p> <p>d. On June 5, 2019 the FND (an entity comprised by the representatives of the subnational territorial authorities) participated in the Binational Summit of the Tobacco Industry for Colombia and Ecuador. This summit was organized by the industry and Alexander Wittich, Philip Morris International (<i>PMI</i>)’s Brand Integrity Manager for the Cluster of Andean Countries was also present.⁹</p>						

¹ 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

² The term, “tobacco industry” includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

³ “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

⁴ Dirección de Impuestos y Aduanas Nacionales (DIAN). “Registro Nacional de Acciones de Participación ciudadana y Rendición de Cuentas”. DIAN. October 2018. <https://bit.ly/3crUSxX>

⁵ Ministerio de Comercio, Industria y Turismo (MinCIT). “Mesa Anticontrabando definió la hoja de ruta contra el comercio ilegal de productos agrícolas”. January 17, 2019. <https://www.mincit.gov.co/prensa/noticias/comercio/ Mesa-anticontrabando> . Accessed on: April 23 2020.

⁶ Ministerio de Comercio, Industria y Turismo (MinCIT). “Gobierno intensifica la lucha contra el contrabando de cigarrillos: incautaciones crecen 42%”. February 20, 2019. <https://www.mincit.gov.co/prensa/noticias/comercio/lucha-contra-el-contrabando-de-cigarrillos> . Accessed on: April 23 2020.

⁷ Ministerio de Agricultura (Minagricultura). Sistema de Información de Gestión y Desempeño de Organizaciones de Cadena (Noticias). <https://bit.ly/3eKGuCk> . Accessed June 3, 2020

⁸ Ministerio de Agricultura (Minagricultura). “Mesa técnica regional de la Cadena de Tabaco - San Gil, Santander”. June 4, 2019. <https://bit.ly/2XY9GiD> . Accessed on April 23, 2020.

⁹ Federación Nacional de Departamentos (FND). “El cigarrillo ilegal: un problema de contrabando y de seguridad”. June 5, 2019. <https://www.fnd.org.co/sala-de-prensa/noticias-federacion/4549-el-cigarrillo-ilegal-un-problema-de-contrabando-y-de-seguridad.html> . Accessed on April 23, 2020.

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<p>e. On June 11, 2019 <i>Agrosavia</i> a public institution from the subnational territorial entity of Santander initiated the construction of the tobacco laboratory with resources provided by PMI. The laboratory is expected to contribute to the research on tobacco use.¹⁰</p> <p>f. On June 16, 2019 the Minister of Commerce said in an interview that the Government is identifying mechanisms that may allow PMI to continue its operations in Colombia. One of these mechanisms could be through the production of HTPs in Colombia. This was said after PMI announced its intention to withdraw its tobacco production operations from the country.¹¹</p> <p>g. In June 2019, the Governorship of Santander held meetings with PMI as a result of the latter's decision to withdraw its operations from Colombia, to see what can be done.¹²</p> <p>h. On September 12, 2019 the Customs Division of the National Police participated in the Third Anti-Illicit Trade Reunion in Santa Marta. PMI participated and provided technical support and training.¹³</p> <p>i. However, despite the above-mentioned examples, the Ministry of Health has been careful from distancing itself from the tobacco industry, and does not accept, support, or endorse any offer of assistance by or in collaboration with the industry.</p>						
<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)</p>					4	
<p>a. On March 5, 2018 the Ministry of Health issued a memorandum establishing that the so-called “<i>Heets</i>” produced by PMI must include warning labels. However, heating tobacco devices, such as IQOS are not obliged to include such warnings. This position had been originally taken by the Ministry of Finance. The legal analysis behind the Ministry of Health upholding this position was that it could only enforce warnings for the <i>Heets</i> as tobacco products but, not on the IQOS heaters as they are consumer products, under the responsibility of the Superintendence of Industry and Commerce. However, this position ended up being the same as the one upheld by PMI since it began commercializing its HTPs in Colombia. The memorandum of the Ministry of Health was used by the consumer protection authority to preclude investigations against PMI for the advertisement of IQOS, thus justifying the differential treatment which better suits PMI's interests.¹⁴</p> <p>b. In November 2018, the Ministry of Finance submitted to Congress a Tax Reform Bill. Although there were several attempts from congressmen to increase taxes on tobacco products, as recommended under the FTC, the Government was reluctant to</p>						

¹⁰ Federación Nacional de Departamentos (FND). “*Con inversión de más de 4.000 millones de pesos inicia construcción de nueva red de laboratorios en Santander para el sector agropecuario*”. June 11, 2019. <https://bit.ly/2MlnRZA> Accessed on April 23, 2020.

¹¹ Rueda, María Isabel. “*¿Le creemos al día soleado del Gobierno o a los nubarrones del Emisor?*”. June 11, 2019. El Tiempo. <https://bit.ly/2zLJYCZ> Accessed on April 23, 2020

¹² Tejada, Boris. “*Más de 2 mil 500 familias afectadas, la situación de los tabacaleros en Santander*”. June 17, 2019. Radio Nacional de Colombia (RTVC). <https://www.radionacional.co/noticia/actualidad/tabaco-colombia-philip-morris-santander> . Accessed on April 23, 2020.

¹³ Redacción SMAD. “*Polfa acompañó mesa anticontrabando*”. September 12, 2019. Santa Marta Al Día. <https://santamartaaldia.co/polfa-acompano-mesa-anticontrabando/> . Accessed on April 23, 2020.

¹⁴ The memorandum referred to was requested by the Superintendence of Industry and Commerce (SIC) to the Health Ministry as part of a preliminary inquiry against PMI. In the decision taken by the SIC on December 27, 2019, there is a partial transcription of the memorandum. The Directorate of Consumer Protection Investigations of the Superintendence of Industry and Commerce. *Document Number: 17-82520-58-0, Decision to end preliminary inquiry against Philip Morris International*. December 27, 2019. Superintendencia de Industria y Comercio (SIC). Available in Spanish at <https://www.tobaccocontrol.org/litigation/decisions/co-20191227-sic-decision-on-iqos-marketing> . Accessed on April 23, 2020.

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<p>introduce such amendments to the original Bill. Consequently, there were no advances in this front. Tobacco industry lobbying was active during the legislative process of Law 1943 of 2018.^{15 16}</p> <p>c. In February 2019, the President submitted to Congress the Bill containing the Development Plan (2018-2022). Such Bill included the establishment of a Fund for the implementation of new technologies for the Tax and Customs Authority. Among the resources that could be administered by the Fund there were private donations. Despite the efforts from some congressmen to eliminate this possibility, in order to avoid possible interference from the tobacco industry, the Government was reluctant to introduce any amendments in this regard. Law 1955 of 2019 passed with no variations in this article. At the same time, and in contradiction with this disposition the government issued guidelines for the Development Plan including explicit mention to the implementation of FCTC and the corresponding increasing tobacco tax as part of the strategy.¹⁷</p> <p>d. Provided that the Constitutional Court held that the Tax Reform adopted through Law 1943 of 2018 was unconstitutional, as a result of procedural defects, the Ministry of Finance submitted to Congress a new Tax Reform Bill almost identical to the one submitted a year before. Although there were several attempts from congressmen to increase taxes on tobacco products, as recommended under the FCTC, the Government was reluctant to introduce such amendments to the original Bill. Consequently, there were no advances in this front. Tobacco industry lobbying was active during the legislative process of Law 2010 of 2019.¹⁸</p> <p>e. Member of the House of Representatives, Óscar Ospina decried that the tobacco industry interference has been decisive in sinking different initiatives aimed at strengthening tobacco control regulation. In 2018, he refers all the visits from a famous lobbyist Diego Fernando De la Ossa Jaramillo to the Colombian Congress.¹⁹ According to congressman Ospina, Mr. De la Ossa handles position papers on tobacco issues to different members of Congress. It is worth noting that lobbying is not regulated under Colombian law.^{20 21}</p>						
<p>3. The government allows/invites the tobacco industry to sit in government interagency/ multi-sectoral committee/ advisory group body that sets public health policy. (Rec 4.8)</p>						5

¹⁵ Llorente, Blanca and Maldonado, Norman. *“Impuestos al Cigarrillo en Colombia”*. September 19th, 2019. Fundación Anáas.

¹⁶ Ley 1943 de 2018. *“Por la cual se expiden normas de financiamiento para el restablecimiento del equilibrio del presupuesto general y se dictan otras disposiciones”*. Available in Spanish at http://www.secretariassenado.gov.co/senado/basedoc/ley_1943_2018.html.

¹⁷ Article 55 of Law 1955 of 2019. Ley 1955 de 2019. *“Por el cual se expide el Plan Nacional de Desarrollo 2018-2022.”*. Available in Spanish at http://www.secretariassenado.gov.co/senado/basedoc/ley_1955_2019.html.

¹⁸ Ley 2010 de 2019. *“Por medio de la cual se adoptan normas para la promoción del crecimiento económico, el empleo, la inversión, el fortalecimiento de las finanzas públicas y la progresividad, equidad y eficiencia del sistema tributario, de acuerdo con los objetivos que sobre la materia impulsaron la Ley 1943 de 2018 y se dictan otras disposiciones.”*. Available in Spanish at http://www.secretariassenado.gov.co/senado/basedoc/ley_2010_2019.html

¹⁹ Video of Representative Óscar Ospina Quintero <https://www.youtube.com/watch?v=DTPgmltc3tA>

²⁰ The “*Registro de Cabilderos*” of the House of Representatives records Diego Fernando de la Ossa as a lobbyist. Congreso de la República, Cámara de Representantes. *“Registro de Cabilderos 2014-2018”*. Cámara de Representantes. <https://docs.google.com/spreadsheets/d/1wMOz5m0vy7QcZtV0S3AMdEyMZzGto5r-/edit#gid=834380089>. Accessed on April 28, 2020.

²¹ Cuestión Pública. *“Los trucos del lobby de la salud en Colombia”*. July 8, 2019. <https://cuestionpublica.com/trucos-lobby-salud-colombia/>. Accessed on April 23, 2020.

- a. Law 534 of 1999²² recognized the relevance of tobacco production within the agricultural sector. Moreover, it established a contribution to be paid by tobacco producers to the National Tobacco Fund. This Fund devotes its resources to research, innovation and commercialization of tobacco. The Fund is administered by a Directive Committee formed the Minister of Agriculture, two (2) delegates designated by the Ministry of Agriculture, four (4) delegates of the Federation of Tobacco Producers (*Fedetabaco*) or of its affiliate institutions, and one (1) delegate designated by a farmers' association. This Fund was later regulated through Decree 4428 of 2005, which has been integrated to Decree 1071 of 2015.²³
- b. On January 17, 2019 the Ministry of Commerce led the Anti-Illicit Trade Commission with the participation of different sectors, amongst them delegates from the tobacco industry.²⁴
- c. According to the Ministry of Commerce, the members of the Commission decided to implement actions aimed at prosecuting the illicit trade of tobacco products.²⁵
- d. On April 30, 2019 the Ministry of Agriculture led the Technical Commission for the Tobacco Production Chain. *Fedetabaco* and BAT participated. As a result of the meeting the participants agree to join efforts in order to update the Competitiveness Agreement of the Tobacco Chain.^{26 27}
- e. On June 5, 2019 the National Federation of Departments (FND) participates in the Binational Summit of the Tobacco Industry for Colombia and Ecuador.²⁸

²² Ley 534 de 1999. "Por la cual se establece la Cuota de Fomento para la Modernización y Diversificación del Subsector Tabacalero y se dictan otras disposiciones". Available in Spanish at

http://www.secretariassenado.gov.co/senado/basedoc/ley_0534_1999.html

²³ Decreto 4428 de 2005. "por el cual se reglamenta la Ley 534 del 11 de noviembre de 1999". Later integrated into Chapter 6 of Decreto 1071 of 2015. "por medio del cual se expide el Decreto Único Reglamentario del Sector Administrativo Agropecuario, Pesquero y de Desarrollo Rural". Available in Spanish at http://www.suin-juriscol.gov.co/viewDocument.asp?id=30019931#ver_30054794

²⁴ Ministerio de Comercio, Industria y Turismo (MinCIT). "Mesa Anticontrabando definió la boja de ruta contra el comercio ilegal de productos agrícolas". January 17, 2019. <https://www.mincit.gov.co/prensa/noticias/comercio/ Mesa-anticontrabando> . Accessed on April 23 2020.

²⁵ Ministerio de Comercio, Industria y Turismo (MinCIT). "Gobierno intensifica la lucha contra el contrabando de cigarrillos: incautaciones crecen 42%". February 20, 2019. <https://www.mincit.gov.co/prensa/noticias/comercio/lucha-contra-el-contrabando-de-cigarrillos> . Accessed on April 23, 2020.

²⁶ Ministerio de Agricultura (Minagricultura). Sistema de Información de Gestión y Desempeño de Organizaciones de Cadena (Noticias). <https://bit.ly/2Bt4Cex>

²⁷ Ministerio de Agricultura (Minagricultura). "Mesa técnica regional de la Cadena de Tabaco - San Gil, Santander". June 4, 2019. <https://bit.ly/2XZuohU> . Accessed on April 23, 2020.

²⁸ Federación Nacional de Departamentos (FND). "El cigarrillo ilegal: un problema de contrabando y de seguridad". June 5, 2019. <https://www.fnd.org.co/sala-de-prensa/noticias-federacion/4549-el-cigarrillo-ilegal-un-problema-de-contrabando-y-de-seguridad.html> . Accessed on April 23, 2020.



Colombia: creation of the Binational Integrated Anti-smuggling Center in Ipiales, Photo: <https://bit.ly/3duTQCC>

- f. Furthermore, the FND has consistently invited members of BAT and Coltabaco to participate in their anti-illegal trade meetings with other government agencies.²⁹ These meetings stem from the FND’s compromise to fight the illicit tobacco trade, as stated in an investment agreement between FND and PMI.³⁰
- g. On September 12, 2019 the Customs Division of the National Police participated in the Third Anti-Illicit Trade Reunion in Santa Marta. PMI participated and provided technical support and training.³¹
- h. Article 31 of Law 1762 of 2015, also known as the “anti-smuggling law”, creates an inter-institutional commission to fight against illicit trade. The commission is led by the Director of the Tax and Customs Authority. The commission meets every three (3) months and may invite representatives of the private sector to participate.³²

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) ³³ (Rec 4.9 & 8.3)			2		
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According to the Ministry of Foreign Affairs the delegation from the Republic of Colombia to the 8th COP held in the city of Geneva, Switzerland was formed by:³⁴

²⁹ The participation of tobacco industries in the FND’s anti-illicit trade meetings has been so constant that even in March 2020, BAT and Coltabaco were invited to help draft an identification code for cigarettes with the FND and the National Administrative Department of Statistics (DANE). Tweet by Federación Nacional de Departamentos oficial account @FNDCol. March 2, 2020. <https://twitter.com/FNDCol/status/1234513414183100417>. Accessed on March 5, 2020.

³⁰ Dinero. “Philip Morris y regiones reactivan acuerdo para perseguir el contrabando”. March 25, 2019. <https://www.dinero.com/pais/articulo/acuerdo-entre-la-philip-morris-y-las-regiones-para-combatir-el-contrabando/268814>. Accessed on April 28, 2020.

³¹ Redacción SMAD. “Polfa acompañó mesa anticontrabando”. September 12, 2019. Santa Marta Al Día. <https://santamartaaldia.co/polfa-acompano-mesa-anticontrabando/>. Accessed on April 23, 2020.

³² Ley 1762 de 2015. “Por medio de la cual se adoptan instrumentos para prevenir, controlar y sancionar el contrabando, el lavado de activos y la evasión fiscal”. Available in Spanish at http://www.secretariassenado.gov.co/senado/basedoc/ley_1762_2015.html

³³ Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

³⁴ List of Participants to COP 8. https://www.who.int/fctc/cop/sessions/cop8/LOP_Final.pdf?ua=1. Accessed on April 23, 2020.

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- a. Alicia Alfaro Castillo – Chief of Foreign Affairs³⁵
- b. Germán Andrés Calderón Velásquez – Coordinator of Economic, Social and Environmental AffairsColb³⁶
- c. Yesid Andrés Serrano Alarcón – Third Secretary Permanent in Geneva³⁷

The Ministry designated diplomats but has not authorized the participation from delegates from the Ministry of Health.

In addition, before the 8th COP a document from the industry (Annex A) was leaked to the public. Pursuant to this document the leading tobacco companies (Coltabac [PMI], BAT, JTI) requested the Minister of Foreign Affairs to adopt the following position:³⁸

- a. Insist that HTP and ENDS are reduced risk products.
- b. Oppose policies regarding nicotine reduction. These increase smuggling as consumers will prefer cigarettes with higher amounts of nicotine.
- c. According to the industry section 5.3 of the FCTC violates the sovereignty of the States. Industry should be involved in the policy-making process.
- d. Reducing tobacco crops affects employment and deprives farmers from one of the few sustainable agricultural products.
- e. Excluding the tobacco industry from commercial and investment negotiations will not allow furthering public health objectives. There is no conflict between trade and public health. Tobacco is a legal product and should be treated as such.

During the 8th COP when the representatives were discussing point 8.2 regarding "*Maximizing transparency of delegations from Parties and observers to the Conference of the Parties, its subsidiary bodies and other WHO FCTC meetings*" Colombia's intervention was ambiguous to say the least. Colombia did not expressly support the motion to establish that there was a violation of sovereignty in conducting a mandatory screening of the representatives. However, it did not oppose said motion as other States did. This ambiguous approach relates with the leaked document that the industry delivered to the Minister of Foreign Affairs, as referred above.

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)						
B. The government (its agencies and officials) receives contributions ³⁹ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)					4	

A

³⁵ Curriculum Vitae of Alicia Alfaro Castillo. <https://www.funcionpublica.gov.co/web/sigep/hdv/-/directorio/M78014-0002-4/view> . Accessed on April 23, 2020.

³⁶ Curriculum Vitae of Germán Andrés Calderón Velásquez. <https://www.funcionpublica.gov.co/web/sigep/hdv/-/directorio/M118666-0002-4/view> . Accessed on April 23, 2020.

³⁷ Curriculum Vitae of Yesid Andrés Serrano Alarcón. <https://www.funcionpublica.gov.co/web/sigep/hdv/-/directorio/M255558-0002-4/view> . Accessed on April 23, 2020.

³⁸ The document that was leaked is attached to this report it was prepared by ANDI (National Industrial Association a tobacco industry front group) with the consent from PMI, BAT and JTI.

³⁹ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

- a. During 2018 and 2019, BAT Foundation and the Ministry of Culture collaborated on a common initiative to sponsor art in Bogotá and Medellín.⁴⁰
- b. PMI sponsors programs aimed at promoting the reintegration to civil life of former members of rebel forces. These programs are a quintessential part of the peace process. One of them is “Mini Market 2x3” led by the Agency for Reincorporation and Normalization.⁴¹
- c. According to the Report 2018-2019 of the Office of the Presidential Advisor for Stabilization and Consolidation, Coltabaco S.A. (PMI’s subsidiary) supported and financed a farmers’ association in the sub-national territorial entity of Sucre. This project seeks to support ex-combatants that are in process of reincorporation.⁴²
- d. On March 27, 2018 President, Juan Manuel Santos, granted an award to Coltabaco S.A. in recognition to the support granted by the company to different projects for the reincorporation of ex combatants to civil life, including the Higher education Fund for Vulnerable Population.⁴³
- e. On June 27, 2018 the Agency for Reincorporation and Normalization informed that former FARC combatants are now part of a fishing project sponsored by Coltabaco S.A. Coltabaco’s corporate affairs manager stated that it is a priority to act as facilitators of peace building.⁴⁴
- f. During 2018, Coltabaco S.A. provided support and assistance to the *Fundación Alto Magdalena* that leads reincorporation of ex combatants in the sub-national territorial entity of Huila.⁴⁵

B

- a. Projects sponsored by Agency for Reincorporation and Normalization have also received resources from the tobacco industry. The approximate amount transferred by the industry is US\$130,000.⁴⁶
- b. Regarding the project the project between the BAT Foundation and the Ministry of Culture there is no precise reference the amount contributed by BAT. However, according to estimates it is approximately US\$200,000.⁴⁷

⁴⁰ Fundación BAT website: <https://www.fundacionbat.com.co/index.php>; Instagram profile of Fundación BAT mentions on its description the partnership with the Ministry of Culture (@fundacion.bat); Fundación BAT. “Ceremonia de premiación e inauguración VI Salón BAT de arte popular”.

<https://www.fundacionbat.com.co/interna.php?IDNoticia=956&IDSeccion=130> . Accessed on April 23, 2020.

⁴¹ Agencia para la Reincorporación y la Normalización (ARN). “Microempresarios de Minimarket 2x3 inician fase de fortalecimiento en sus unidades de negocio”. July 19, 2019. <http://www.reincorporacion.gov.co/es/sala-de-prensa/noticias/Paginas/2018/07/Microempresarios-de-Minimarket-2x3-inician-fase-de-fortalecimiento-en-sus-unidades-de-negocio.aspx>. Accessed on April 28, 2020. Tweet from Agencia para la Reincorporación y la Normalización (ARN): <https://twitter.com/ARNColombia/status/1178050280933470208> .

⁴² Consejería Presidencial para la Estabilización y la Consolidación. “Informe de Gestión Agosto 7 2018 - septiembre 30 2019”. <http://www.portalparalapaz.gov.co/loader.php?Servicio=Tools2&ITipo=descargas&IFuncion=descargar&idFile=315>

⁴³ Agencia para la Reincorporación y la Normalización (ARN). “El Gobierno Nacional entrega reconocimiento especial al sector privado”. March 27, 2018. <https://bit.ly/3crZ1SC> . Accessed on April 28, 2020.

⁴⁴ Agencia para la Reincorporación y la Normalización (ARN). “Emprendedores de reintegración consolidan proyecto productivo piscícola en el Huila”. June 13, 2018. <https://bit.ly/2Avt7az> .

⁴⁵ Fundación Alto Magdalena. “Informe de Gestión 2018”. March 21st, 2019. https://issuu.com/alejandro-creativo/docs/informe_de_gestion_2018-2. Accessed on April 28, 2020.

⁴⁶ Agencia para la Reincorporación y la Normalización (ARN). “Microempresarios de Minimarket 2x3 inician fase de fortalecimiento en sus unidades de negocio”. July 19, 2019. <https://bit.ly/2U5MBcD> . Accessed on April 28, 2020.

⁴⁷ This figure was derived from the calculation of the approximate costs of hosting an event as VI Salón BAT de Arte popular. The exact amount however may vary from this approximate figure.

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However, it must be mentioned that the Government has not directly received such funds from the tobacco industry.

INDICATOR 3: Benefits to the Tobacco Industry

6. The government accommodates requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law. (e.g. 180 days is common for PHW, Tax increase can be implemented within 1 month) (Rec 7.1)					4	
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Tobacco control legislation is being implemented in Colombia (Annex B)

Several initiatives to strengthen tobacco control were defeated. These include efforts to increase tax in accordance with the FCTC and increasing the size of pictorial warnings on cigarette packs from 30% to 70%, were defeated in Congress. Colombia has signed the Protocol on Elimination of illicit trade in tobacco products but has not ratified it.

List of events:

- a. In November 2018, the Ministry of Finance submitted to Congress a Tax Reform Bill. Although there were several attempts from congressmen to increase taxes on tobacco products, as recommended under the FCTC, the Government was reluctant to introduce such amendments to the original Bill. Consequently, there were no advances in this front. Tobacco industry lobbying was active during the legislative process of Law 1943 of 2018.^{48 49}
- b. Provided that the Constitutional Court held that the Tax Reform adopted through Law 1943 of 2018 was unconstitutional, as a result of procedural defects, the Ministry of Finance submitted to Congress a new Tax Reform Bill almost identical to the one submitted a year before. Although there were several attempts from congressmen to increase taxes on tobacco products, as recommended under the FCTC, the Government was reluctant to introduce such amendments to the original Bill. Consequently, there were no advances in this front. Tobacco industry lobbying was active during the legislative process of Law 2010 of 2019.⁵⁰
- c. On December 12, 2019 the Health Commission of the House of Representatives addressed a specific bill aimed at strengthening tobacco control measures and apply such regulations to HTPs and ENDS. While the bill was being debated the Ministry of Health submitted a recommendation to add a reform to change the package warning size from 30% to 70%. Despite the evidence submitted by the Ministry, this reform was archived by the Members of the Health Commission.⁵¹
- d. Although Colombia signed the FCTC Protocol to Eliminate Illicit Trade in Tobacco Products in 2013, to the date, it has not been ratified. Moreover, Colombia's efforts to handle illicit cigarette trade are still done in cooperation with the industry.⁵²

⁴⁸ Llorente, Blanca and Maldonado, Norman. *“Impuestos al Cigarrillo en Colombia”*. September 19, 2019. Fundación Anáas.

⁴⁹ Ley 1943 de 2018. *“Por la cual se expiden normas de financiamiento para el restablecimiento del equilibrio del presupuesto general y se dictan otras disposiciones”*. Available in Spanish at

http://www.secretariassenado.gov.co/senado/basedoc/ley_1943_2018.html .

⁵⁰ Article 55 of Law 1955 of 2019. Ley 1955 de 2019. *“Por el cual se expide el Plan Nacional de Desarrollo 2018-2022.”*. Available in Spanish at http://www.secretariassenado.gov.co/senado/basedoc/ley_1955_2019.html.

⁵¹ The Ministry of Health's recommendation is included in: Gaceta del Congreso: Senado de la República, Conceptos Jurídicos. Año XXVIII – No. 69. Bogotá D.C. miércoles 17 de julio de 2019.

⁵² United Nations Treaty Collection. Treaty Status: 4. a Protocol to Eliminate Illicit Trade in Tobacco Products. Seoul. November 12, 2012. https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IX-4-a&chapter=9&clang=en. Accessed on April 28, 2020.

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e. The Ministry of Health has standardized the processes of vigilance and control, in order for the Secretariats of Health of the local governments to conduct them. The visits include a uniform act that ensures that all health authorities check establishments and vehicles for the same conditions of compliance with Law 1335 of 2009. ⁵³ These conditions include: “ <i>smoke free areas</i> ”; health warnings; verification of the presence of cigarette vending machines; ban on tobacco advertisement; promotion and sponsorship of events; the ban on sale of loose cigarettes; ban on packages with less than ten (10) cigarettes; and ban of sales to minors. Some of the violations of these conditions are under the control of Health Authorities, while others are under control of agencies such the Superintendence of Industry and Commerce.						
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)				3		
a. According to Law 534 of 1999 there is a contribution to be paid by tobacco producers to the National Tobacco Fund. This Fund devotes its resources to research, innovation and commercialization of tobacco. It is worth highlighting that after the FCTC was ratified by Colombia, both the Fund and the contribution remain unaltered, even though they both run counter to the FCTC. ⁵⁴						
b. In addition, the Ministry of Agriculture has recognized the relevance the tobacco production chain and therefore has devoted both resources and technical assistance to it. ⁵⁵						
c. Pursuant to the 2018 Yearly Report of the Ministry of Agriculture, the tobacco sector has benefited enormously with the incentives provided by this Ministry. ⁵⁶						
d. From a Tax Perspective there are no significant privileges, incentives, exemptions or benefits to the tobacco industry. However, the industry as well any other company may benefit from the tax benefits derived from making donations to non-for-profit organizations duly authorized by the Government.						
e. Tobacco products are no longer exempted from VAT since 2000 as they used to be between 1995 - 2000.						
f. There is a significant concern regarding the import of cigarettes and other tobacco products. As a result of the different Free Trade Agreements entered into between Colombia and other States, a significant amount of these products has been imported to Colombia without having to pay any kind of duties or tariffs. Cigarette importers also benefit from the special economic zone in La Guajira, creating a potential loophole for diverting merchandise into the illegal market. This benefit is not specific to tobacco products.						

⁵³ Example of an inspection report format from the district of Bogotá D.C. to monitor compliance with Law 1335 of 2009:

http://www.saludcapital.gov.co/VSP/Fichas_Tecnicas/VSA/Instrumentos_Captacion/Aire_Ruido_Rem/Tabaco/Acta_IVC_Ley_1335_2009.pdf (available in Spanish).

⁵⁴ Ley 534 de 1999. “*Por la cual se establece la Cuota de Fomento para la Modernización y Diversificación del Subsector Tabacalero y se dictan otras disposiciones*”. Available in Spanish at

http://www.secretariassenado.gov.co/senado/basedoc/ley_0534_1999.html

⁵⁵ Ministerio de Agricultura (Minagricultura). “*Cadena de Tabaco*”. Dirección de Cadenas Agrícolas y Forestales.

February, 2019. <https://sioc.minagricultura.gov.co/Tabaco/Documentos/2019-02-28%20Cifras%20Sectoriales.pdf>. Accessed on April 28, 2020.

⁵⁶ Ministerio de Agricultura (Minagricultura). “*Informe de Rendición de Cuentas 2018 – 2019*”. October, 2019.

https://www.minagricultura.gov.co/planeacion-control-gestion/Gestin/INFORMES_RENDICION_DE_CUENTAS/INFORME%20DE%20RENDICION%20DE%20CUENTAS%202018%20-%202019.pdf#search=coltabaco. Accessed on April 23, 2020.

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INDICATOR 4: Forms of Unnecessary Interaction						
8. Top level government officials (such as President/ Prime Minister or Minister ⁵⁷) 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
<p>a. The President of Colombia and various other members of the Government participated in the Concordia Summit in 2018 sponsored by PMI.⁵⁸ “At the 2018 Concordia Americas Summit in Bogotá, Colombia, PMI led a roundtable discussion centered around encouraging innovation in Latin America to further harm reduction. The conversations that took place focused on utilizing private sector-driven innovation in unlocking new solutions for governments to provide for the wellbeing of their people. The discussion laid clear that there were a number of regulatory levers that the Colombian Government can put in place to convert existing smokers towards the adoption of harm reduction products, while still working to reduce the nation’s overall number of smokers.”⁵⁹ ⁶⁰</p> <p>b. On September 28, 2018, the newly inaugurated President of Colombia, Iván Duque participated as a speaker in event organized by the Colombian American Association in New York.⁶¹ PMI is one of the members and sponsors of this association.⁶²</p> <p>c. The President of Colombia and various other members of the Government participated in the Concordia Summit in 2019 sponsored by PMI.⁶³</p> <p>d. The Chief Prosecutor granted in 2019 an award to the winners of the art contest sponsored by both BAT and the Ministry of Culture.⁶⁴</p> <p>e. Coltabaco S.A. (PMI’s subsidiary) has funded a project developed by <i>Fundación Dividendo por Colombia</i> (a private non-for-profit) to open new schools in tobacco production territories. Both the Minister of Education and the Governor of the sub-national territorial entity of Sucre assisted to the inauguration of the schools and recognized the role played by PMI.⁶⁵ ⁶⁶</p>						
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						5

⁵⁷ Includes immediate members of the families of the high-level officials

⁵⁸ List of speakers for Concordia Americas Summit 2018 Bogotá.

<https://www.concordia.net/americas/2018bogota/speakers/>

⁵⁹ Philip Morris’ Concordia Americas Summit blog entry for 2018.

<https://www.concordia.net/newsroom/blog/concordia-pmi/>. Accessed on April 23, 2020.

⁶⁰ Portafolio. “Industria del cigarrillo quiere impulsar productos de riesgo reducido”. July 17, 2018.

<https://www.portafolio.co/economia/industria-del-cigarrillo-quiere-impulsar-productos-de-riesgo-reducido-519151>. Accessed on April 23, 2020.

⁶¹ Video of President Iván Duque’s intervention posted on Facebook by the official account of the Presidency of Colombia. <https://www.facebook.com/PresidenciaColombia/videos/320101405207091/>. Accessed on April 28, 2020.

⁶² Official website of the Colombian American Association includes PMI in a list of members and sponsors. <https://www.colombianamerican.org/>. Accessed on April 28, 2020.

⁶³ List of speakers for Concordia Americas Summit 2019 Bogotá.

<https://www.concordia.net/americas/2019bogota/speakers/?lang=es>

⁶⁴ Fundación BAT. “Ceremonia de premiación e inauguración VI Salón BAT de arte popular”.

<https://www.fundacionbat.com.co/interna.php?IDNoticia=956&IDSeccion=130>. Accessed on April 23, 2018.

⁶⁵ Jiménez Hernández, Carlos. “Gobernación y Dividendo por Colombia se unen para impulsar educación rural”. Gobernación de Sucre. <http://www.sucre.gov.co/noticias/gobernacion-y-dividendo-por-colombia-se-unen-para-impulsar>. Accessed on April 28, 2020.

⁶⁶ Ministerio de Educación Nacional. “Cooperación Privada”. <https://www.mineducacion.gov.co/1759/w3-article-164895.html?noredirect=1>. Accessed on April 28, 2020.

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minors. (including monetary contribution for these activities) (Rec 4.3)						
<p>a. According to the Report of the Ministry of Agriculture 2018-2019 in the Section of the Tobacco Production Chain, this Ministry as well the Tax and Customs Authority have conducted specific actions aimed at fighting the illicit trade of cigarettes. Pursuant to the Report this issue is very relevant for both the tobacco industry and the tobacco farmers, with whom they have shared their approach.⁶⁷</p> <p>b. On June 5, 2019 the Customs Division of the National Police informed about an operation in the border between Colombia and Ecuador against the illicit trade of tobacco products. The FND, the Tax and Customs Authority and PMI participated.⁶⁸</p> <p>c. On June 6, 2019 the Customs Division of the National Police thanked BAT <i>via</i> twitter for all the support provided in fighting the illicit trade of tobacco products.⁶⁹</p> <p>d. On December 9, 2019 the Customs Division of the National Police thanked BAT <i>via</i> twitter for recognizing the efforts made in the fight against illicit trade of tobacco products.⁷⁰</p> <p>e. PMI's Sustainability Report for 2018 describes the project undertaken to tackle world-wide illicit cigarette trade. Said project includes the formation of local authorities in the fight against illicit tobacco trade. The report contains pictures of presumably PMI personnel training the Colombian police forces. Moreover, the report highlights PMI'S cooperation with Colombian and Ecuadorian authorities to fight the illicit trade.⁷¹</p> <p>f. PMI and BAT have joined through the National Association of Enterprises (ANDI) the Latin American Anti-Illicit Trade Alliance. This project involves training public officers of the Tax and customs Authority and of the Customs Division of the National Police.⁷²</p> <p>⁷³</p>						
<p>10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) NOTE: <i>This must not involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.</i></p>						5
<p>a. On March 25, 2019 the <i>Federación Nacional de Departamentos (FND)</i> which is the entity formed by each of the thirty-two (32) Governors of the subnational territorial entities (<i>departamentos</i>), entered into an agreement with PMI aimed at strengthening collaboration in the following issues: (i) substitution of illicit crops, (ii) fighting the illicit trade,</p>						

⁶⁷ Ministerio de Agricultura (Minagricultura). "Informe de Rendición de Cuentas 2018 – 2019". October, 2019.

https://www.minagricultura.gov.co/planeacion-control-gestion/Gestin/INFORMES_RENDICION_DE_CUENTAS/INFORME%20DE%20RENDICION%20DE%20CUENTAS%202018%20-%202019.pdf#search=coltabaco. Accessed on April 23, 2020.

⁶⁸ Tweet by Policía Fiscal y Aduanera (Polfa) oficial account @PoliciaAduanera. June 5, 2019.

<https://twitter.com/PoliciaAduanera/status/1136418556466405376>. Accessed on April 23, 2020.

⁶⁹ Tweet by Policía Fiscal y Aduanera (Polfa) oficial account @PoliciaAduanera. June 6, 2019.

<https://twitter.com/PoliciaAduanera/status/1136678789369475072>. Accessed on April 23, 2020.

⁷⁰ Tweet by Policía Fiscal y Aduanera (Polfa) oficial account @PoliciaAduanera. December 9, 2019.

<https://twitter.com/PoliciaAduanera/status/1204170942282436608>. Accessed on April 23, 2020.

⁷¹ Philip Morris International. "Sustainability Report 2018". https://www.pmi.com/resources/docs/default-source/sustainability-reports-and-publications/pmi-sustainability-report-2018-low-res-may-2019.pdf?sfvrsn=47ef95b5_4. Accessed on April 23, 2020.

⁷² Latin American Anti-Illicit Trade Alliance (ALAC) homepage. <http://www.andi.com.co/Home/Pagina/26>. Accessed on April 28, 2020.

⁷³ Article on the creation of the Latin American Anti-Illicit Trade Alliance, which includes the alliance's creation document. FEDECCAL F.G. "Se Crea ALAC, La Alianza Latinoamericana Anticontrabando". <https://www.fedeccal.cl/se-crea-alac-la-alianza-latinoamericana-anticontrabando/>. Accessed on April 28, 2020.

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<p>particularly of tobacco products, (iii) developing regional forums, (iii) promoting the tobacco laboratory, (iv) developing public works programs. The yearly approximate investment made by PMI is of US\$500,000.^{74 75 76}</p> <p>b. On August 27, 2019 the National Police and the FND entered into the Anti-Illicit Trade Agreement. PMI assisted to the execution of the agreement, as it will provide technical assistance to the National Police.⁷⁷</p> <p>c. On September 16, 2019 Mr. Carlos Camargo Assis, Director of the FND highlighted in an interview that the agreement entered into in March with was not only relevant (i) to fight illicit trade of tobacco products and therefore prevent the loss of substantial tax revenues, but also to (ii) make tobacco production more competitive.⁷⁸</p>						

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)						5
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There are no particular provisions under Colombia law requiring the Government to disclose meetings or interactions with the tobacco industry. Therefore, the only meetings and interactions, which can be reported, are the ones that have been informed by the media, or by other trustworthy sources that provide reliable evidence of such interactions. However, it is difficult to determine whether they are strictly necessary for any type of regulation.

The interactions between the Government and the tobacco industry cited in this report, do not comply with the standards set forth under Recommendation 2.2. The following are the interactions that have been identified:

- a. On January 30, 2018 there was a meeting between the tobacco industry and the Tax and Customs Authority where the tobacco industry provided recommendations on the regulation of taxes on tobacco products, surveillance and training of the public officials. However, the disclosure made did not comply with the standards defined under Recommendation 2.2.⁷⁹
- b. On April 30, 2019 the Ministry of Agriculture led the Technical Commission for the Tobacco Production Chain. *Fedetabaco* and BAT participated. As a result of the meeting

⁷⁴ Federación Nacional de Departamentos (FND). “Cesar recibirá \$357 millones para fortalecer la lucha del contrabando de cigarrillos”. May 17, 2019. <https://www.fnd.org.co/sala-de-prensa/noticias-federacion/4540-cesar-recibir%C3%A1-357-millones-para-fortalecer-la-lucha-del-contrabando-de-cigarrillos.html>. Accessed on April 28, 2020.

⁷⁵ Dinero. “Philip Morris y regiones reactivan acuerdo para perseguir el contrabando”. March 25, 2019. <https://www.dinero.com/pais/articulo/acuerdo-entre-la-philip-morris-y-las-regiones-para-combatir-el-contrabando/268814>. Accessed on April 28, 2020.

⁷⁶ Cubillos Murcia, Natalia. “Más recursos para frenar contrabando de cigarrillos”. March 27, 2019. *El Colombiano*. <https://www.elcolombiano.com/negocios/empresas/coltabaco-financia-plan-frente-al-contrabando-de-cigarrillos-en-colombia-2019-HG10437347>. Accessed on April 28, 2020.

⁷⁷ Federación Nacional de Departamentos (FND). “Policía Nacional y Federación Nacional de Departamentos firman convenio Anticontrabando”. August 27, 2019. <https://www.fnd.org.co/sala-de-prensa/noticias-federacion/4579-polic%C3%ADa-nacional-y-federaci%C3%B3n-nacional-de-departamentos-firman-convenio-anticontrabando.html>. Accessed on April 23, 2020.

⁷⁸ Camargo Assis, Carlos. “Guardia Arriba frente al Contrabando”. September 26, 2019. Originally published by the newspaper La República. <https://www.fnd.org.co/sala-de-prensa/noticias-federacion/4587-guardia-arriba-frente-al-contrabando.html>. Accessed on April 23, 2020.

⁷⁹ Dirección de Impuestos y Aduanas Nacionales (DIAN). “Registro Nacional de Acciones de Participación ciudadana y Rendición de Cuentas”. DIAN. October 2018. https://www.dian.gov.co/atencionciudadano/participacionciudadana/Estrategia%20de%20Participacin%20Ciudadana/Estrategia_Participacion_Ciudadana_DIAN_201810.pdf

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<p>the participants agree to join efforts in order to update the Competitiveness Agreement of the Tobacco Chain. However, the disclosure made did not comply with the standards defined under Recommendation 2.2.</p> <p>c. On June 16, 2019 the Minister of Commerce said in an interview that the Government is identifying mechanisms that may allow PMI to continue its operations in Colombia. One of these mechanisms could be through the production of HTPs in Colombia. This was said after PMI announced its intention to withdraw its tobacco production operations from the country.⁸⁰ Due to the lack of disclosed information, it is not possible to determine whether the interactions may be considered essential, or not.</p> <p>d. In June 2019, the Governorship of Santander held meetings with PMI as a result of the latter's decision to withdraw its operations from Colombia, to see what can be done.⁸¹ Yet, there is no information of what was effectively discussed and whether it was a necessary interaction.</p>						
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	
<p>In Colombia there are no specific rules requiring the disclosure or registration of tobacco industry entities, affiliated organizations and individuals acting on their behalf including lobbyists as set forth under Recommendation 5.3.</p> <p>There are transparency provisions in Law 1712 of 2014.⁸² According to these provisions public entities must disclose all public information⁸³ when requested by a citizen. This information may refer to the entity's budget, publications, contracts, services and decision-making processes. Such information must be disclosed, except when it is deemed to be classified. However, there is no obligation regarding the disclosure or registration of tobacco industry entities, affiliated organizations and individuals acting on their behalf including lobbyists as set forth under Recommendation 5.3.</p> <p>Law 1474 of 2011, also known as the "<i>Anti-Corruption Statute</i>"⁸⁴ establishes in Article 61, that authorities may request information about lobbyists, or interest groups when there is any evidence of a criminal conduct or a disciplinary offense. Yet, besides this particular scenario, there is no regulation regarding lobbying nor registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf.</p>						

⁸⁰ Rueda, María Isabel. "¿Le creemos al día soleado del Gobierno o a los nubarrones del Emisor?". June 11, 2019. El Tiempo. <https://www.eltiempo.com/economia/sectores/le-creemos-al-dia-soleado-del-gobierno-o-a-los-nubarrones-del-banco-de-la-republica-376434> . Accessed on April 23, 2020

⁸¹ Tejada, Boris. "Más de 2 mil 500 familias afectadas, la situación de los tabacaleros en Santander". June 17, 2019. Radio Nacional de Colombia (RTVC). <https://www.radionacional.co/noticia/actualidad/tabaco-colombia-philip-morris-santander> . Accessed on April 23, 2020.

⁸² Ley 1712 de 2014. "Por medio de la cual se crea la Ley de Transparencia y del Derecho de Acceso a la Información Pública Nacional y se dictan otras disposiciones". Available in Spanish at http://www.secretariassenado.gov.co/senado/basedoc/ley_1712_2014.html.

⁸³ According to Law 1712 of 2014 "public information" is all information that is not exempted from disclosure according to articles 18 and 19.

⁸⁴ Ley 1474 de 2011. "Por la cual se dictan normas orientadas a fortalecer los mecanismos de prevención, investigación y sanción de actos de corrupción y la efectividad del control de la gestión pública". Available in Spanish at http://www.secretariassenado.gov.co/senado/basedoc/ley_1474_2011.html.

Furthermore, Law 1437 of 2011, also known as the “*Administrative Procedure Code*”⁸⁵ establishes general provisions regarding the disclosure of conflict of interest by public officers. Nevertheless, there is no specific regulation regarding lobbying nor registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf.

Given the existing deficit of mandatory provisions requiring the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists, it is worth to highlight that the Ministry of Health has adopted several practices to prevent the tobacco industry’s interference. Among the practices adopted, the following relate to the subject at hand: (i) meetings with tobacco industry must be held publicly; (ii) they must be strictly necessary otherwise they will be cancelled; (iii) civil society monitors will be summoned to participate in the meetings; (iv) the agenda of the meeting must be previously set, and must be strictly followed; and, (v) the Ministry of Health will not acquire any obligation in these meetings.⁸⁶ Yet, these best practices are not established under any existing internal regulation, As a matter of fact, Resolution 1998 of 2017⁸⁷ that governs the health regulation - making process, includes no reference to any of these practices.

In addition to the Ministry of Health, the House of Representatives has established in Resolution 2348 of 2011⁸⁸ a public list to register lobbyists. Yet, registration is voluntary and not mandatory. Finally, it is necessary to mention that there have been several attempts to regulate lobbying. However, none of the proposed bills has passed.

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	
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There are two main laws that regulate the funding of political campaigns in Colombia. Law 996 of 2005⁸⁹ which regulates presidential elections, and Law 1475 of 2011⁹⁰ which regulates all other political campaigns.

According to Law 996 of 2005, there is a general prohibition for any type of entities (companies, NGO’s etc.) to make donations to candidates running in the presidential election. However, there is no prohibition for individuals, who may have ties with the tobacco industry to make contributions to a presidential candidate.

⁸⁵ Ley 1437 de 2011. “Por la cual se expide el Código de Procedimiento Administrativo y de lo Contencioso Administrativo”. Available in Spanish at http://www.secretariassenado.gov.co/senado/basedoc/ley_1437_2011.html.

⁸⁶ Delegada para asuntos constitucionales y legales de la Defensoría del Pueblo. “Informe de seguimiento al cumplimiento del Convenio Marco de la OMS para el Control del Tabaco en Colombia”. 2017. Defensoría del Pueblo. https://www.defensoria.gov.co/public/pdf/Informe_tabaco.pdf. Accessed on April 23, 2020.

⁸⁷ Resolución 1998 de 2017 del Ministerio de Salud y Protección Social. “Por la cual se modifica la Resolución 5594 de 2015”. Available in Spanish at http://legal.legis.com.co/document/Index?obra=legcol&document=legcol_12ee8967de0c4f288055b6e1d7e42675.

⁸⁸ Resolución MD-2348 de 2011 de la Cámara de Representantes del Congreso de la República. “Por la cual se establece el Registro Público de Cabilderos para la actuación de los grupos de interés en el trámite de las iniciativas legislativas”. Available in Spanish at <https://www.camara.gov.co/sites/default/files/2017-07/RES%20MD2348%20Reg%20Cabilderos.pdf>.

⁸⁹ Ley 996 de 2005. “Por medio de la cual se reglamenta la elección de Presidente de la República, de conformidad con el artículo 152 literal f) de la Constitución Política de Colombia, y de acuerdo con lo establecido en el Acto Legislativo 02 de 2004, y se dictan otras disposiciones”. Available in Spanish at http://www.secretariassenado.gov.co/senado/basedoc/ley_0996_2005.html.

⁹⁰ Ley 1475 de 2011. “Por la cual se adoptan reglas de organización y funcionamiento de los partidos y movimientos políticos, de los procesos electorales y se dictan otras disposiciones”. Available in Spanish at http://www.secretariassenado.gov.co/senado/basedoc/ley_1475_2011.html

	0	1	2	3	4	5
<p>On the other hand, Law 1475 of 2011 does not establish any provision preventing the tobacco industry nor their front-groups from making contributions to political parties or candidates.</p> <p>In addition, both laws demand candidates and political parties to disclose to the National Council for Electoral Affairs a report of income, expenses, and reference to their contributors. However, when the National Council for Electoral Affairs discloses information about the financing of political campaigns it provides only the aggregate sum contributed by an entity or individual to the political party, but not to the specific candidate.⁹¹ This makes it impossible to determine the members of a given party that have received donations from the tobacco industry.</p> <p>Regarding presidential elections it is difficult to tell which individuals have ties with the tobacco industry.⁹²</p>						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)						5
<p>a. Humberto Mora: Former Advisor to the Central Bank of Colombia is currently the CEO of PMI.</p> <p>b. Juan Carlos Restrepo Piedrahita: Former Director of the Intelligence Agency, former Director of the Anti-Narcotics Agency, former presidential adviser for security is currently Vice-President of BAT.⁹³</p> <p>c. Bruce Mac Master: Former Director of the Social Prosperity Department, former Mayor of the City of Cartagena de Indias and former Deputy Minister of Finance. He is the current President of the National Association of Companies (ANDI), a tobacco industry front group.⁹⁴</p> <p>d. Jaime Alberto Cabal: Former Minister of Economic Development and former Ambassador to the Republic of South Korea, is the President of FENALCO a tobacco industry front group.</p> <p>e. Lina Sinisterra: Former Secretary of Government of the City of Cali is currently the Director of ANDI, a tobacco industry front group for the Valle del Cauca.</p> <p>f. María Claudia Lacouture: Former Minister of Commerce, Industry and Tourism is the current Director of the Colombian American Chamber of Commerce (AmCham Colombia), which has acted as a front-group for the interests of tobacco companies.⁹⁵</p> <p>g. Juan Carlos Echeverry: Former Minister of Finance is the founding member of EConcept AEI, a consultancy firm that has provided services to PMI.^{96 97}</p>						

⁹¹ Misión de Observación electoral (MOE). “Financiación de campañas en Colombia Elecciones de autoridades locales”. February 4, 2015. <https://moe.org.co/wp-content/uploads/2019/03/3.-Financiación-de-Campañas-Locales-2019.pdf>. Accessed on May 5, 2020.

⁹² Misión de Observación electoral (MOE). “Ruta Electoral 2018: Elecciones Presidente y Congreso 2018. Financiación Electoral”. <https://moe.org.co/wp-content/uploads/2018/01/Ruta-Electoral-2018-Financiación-Electoral.pdf>. Accessed on May 5, 2020.

⁹³ Juan Carlos Restrepo Piedrahita. *LinkedIn* [Profile page]. Retrieved May 8, 2020, from <https://www.linkedin.com/in/juan-carlos-restrepo-piedrahita-4640b14a/?originalSubdomain=co>.

⁹⁴ Bruce Mac Master. *LinkedIn* [Profile page]. Retrieved May 7, 2020, from <https://www.linkedin.com/in/bruce-mac-master/>.

⁹⁵ María Claudia Lacouture. *LinkedIn* [Profile page]. Retrieved May 7, 2020, from <https://www.linkedin.com/in/maria-claudia-lacouture-020853112/>

⁹⁶ Curriculum Vitae of Juan Carlos Echeverry. <http://www.econceptaci.com/sites/default/files/cv/cv-juan-carlos-echeverry.pdf>

⁹⁷ List of clients of EConcept AEI: <http://www.econceptaci.com/es/nuestros-clientes>

	0	1	2	3	4	5
<p>h. Andrés Escobar: Former Deputy Minister of Finance, is the current CEO of EConcept AEI.⁹⁸ This firm has provided consultancy services to PMI.</p> <p>i. Claudia De Francisco: Former Communications Minister. She is currently the Managing Partner of SecNewgate Communications (Seclatam), a lobbying firm that provides services to BAT.^{99 100}</p> <p>j. Gonzalo De Francisco: Former Presidential Adviser for Peace. He is currently the Senior Vice-President of SecNewgate Communications (Seclatam), a lobbying firm that provides services to BAT.¹⁰¹</p> <p>k. Nicolás Uribe Rueda: Former Member of the House of Representatives of Congress. He acted as director of Valure Asuntos Públicos y de Gobierno SAS (Valure - AP&DG) until December 2019. This organization was denounced by a congressman as being a lobby firm working with the tobacco industry.^{102 103} He is currently the CEO of the Chamber of Commerce of the City of Bogotá.</p>						
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)	0					
After conducting the corresponding search, we have not identified any government officials and/ or relatives who hold positions in the tobacco business including consultancy positions, during the specified period of time.						
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)						5
<p>The is no procedure for the disclosure of interactions between the Government and the tobacco industry or its representatives. Law 1712 of 2014¹⁰⁴ includes provisions that oblige public entities to disclose all public information when requested by a citizen, except when it is deemed to be classified. However, there is no obligation regarding the disclosure of interactions with tobacco industry entities, affiliated organizations and individuals acting on their behalf.</p> <p>The Ministry of health has established a series of practices to publicly disclose any meeting with tobacco industry or its representatives. However, these practices have not been established within any formal internal regulation. As such, this practice is non-binding for the Ministry and thus its enforceability is discretionary. As established in the 2017 Tobacco control study conducted by the Ombudsman, the Ministry of Health was the only public entity that had a</p>						

⁹⁸ Andrés Escobar. *LinkedIn* [Profile page]. Retrieved May 7, 2020, from <https://www.linkedin.com/in/andr%C3%A9s-escobar-78278224/>

⁹⁹ Claudia de Francisco. *SECLATAM* [Meet the team page]. Retrieved May 7, 2020, from <http://www.seclatam.com/index.php/meet-the-team-2/?lang=es>.

¹⁰⁰ SECnewgateway Colombia. *LinkedIn* [About page]. Retrieved May 7, 2020, from <https://www.linkedin.com/company/secnewgatecolombia/about/>; likewise, the homepage of SECLATAM includes a list of their clients. <http://www.seclatam.com/?lang=es>.

¹⁰¹ Gonzalo de Francisco. *SECLATAM* [Meet the team page]. Retrieved May 7, 2020, from <http://www.seclatam.com/index.php/meet-the-team-3/?lang=es>

¹⁰² Nicolás Uribe Rueda. *LinkedIn* [Profile page]. Retrieved May 7, 2020, from <https://www.linkedin.com/in/nicol%C3%A1s-uribe-rueda-41249138/>

¹⁰³ Cuestión Pública. "Los trucos del lobby de la salud en Colombia". July 8, 2019. <https://cuestionpublica.com/trucos-lobby-salud-colombia/>. Accessed on April 23, 2020.

¹⁰⁴ Ley 1712 de 2014. "Por medio de la cual se crea la Ley de Transparencia y del Derecho de Acceso a la Información Pública Nacional y se dictan otras disposiciones". Available in Spanish at http://www.secretariassenado.gov.co/senado/basedoc/ley_1712_2014.html.

	0	1	2	3	4	5
<p>practice of disclosing records of interaction with tobacco industry.¹⁰⁵ As of 2019, this situation has not changed, reflecting the lack of commitment into developing such a policy.</p> <p>FND is the association of Governors of subnational entities (<i>departamentos</i>). However, it claims to be a second order entity, and therefore not regulated under the law. Moreover, it claims to be under a private corporation's regime, and thus its activities are not monitored by the Public Ministry. This understanding has allowed the FND to interact with the tobacco industry, and entering into agreements, without having to disclose or report them.</p>						
<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)</p>					4	
<p>In Colombia there is no specific code of conduct for public officials, prescribing the standards which they should abide to in their dealings with the tobacco industry.</p> <p>In Colombia there are certain general provisions regulating how public officials should manage conflicts of interests. Such is the case of Law 1437 of 2011, that establishes general obligations regarding the disclosure of conflict of interest by public officers. Nevertheless, there is no specific regulation prescribing the standards applicable to public officials when dealing with the tobacco industry.</p> <p>Furthermore, as previously stated, only the Ministry of Health has established a series of practices as to how should public officers behave when dealing with the tobacco industry. However, these practices are not found in any formal regulation, and they are not implemented by any other public entity.</p>						
<p>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)</p>			2			
<ul style="list-style-type: none"> • The Ministry of Agriculture has data of the total production of tobacco within the country. This information is available online. However, it only provides data for tobacco production until 2018. • Relevant information on tobacco production, manufacture, market expenditures, revenues and any information that could lead into determining the market share of tobacco industries, must be submitted by companies on an annual basis to the Superintendence of Companies, as prescribed under article 47 of Law 222 of 1995. • Regarding Market expenditures, revenues and all other relevant financial information, companies are required by law to file a report to the Tax and Customs Authority on an annual basis. • The Superintendence of Industry and Commerce is well versed in determining the market share of different corporations, especially in the context of anti-trust laws enforcement. As such, it has the competence to request any company relevant information to determine a specific market share. 						

¹⁰⁵ Delegada para asuntos constitucionales y legales de la Defensoría del Pueblo. "Informe de seguimiento al cumplimiento del Convenio Marco de la OMS para el Control del Tabaco en Colombia". 2017. Defensoría del Pueblo. https://www.defensoria.gov.co/public/pdf/Informe_tabaco.pdf. Accessed on April 23, 2020.

	0	1	2	3	4	5
<ul style="list-style-type: none"> Given that in Colombia there are laws that give tax discounts to companies that make donations to non-for-profit organizations and state-run programs, the Tax and Customs Authority has access to this information. However, these donation reports are considered classified information. Thus, it is not publicly disclosed. Furthermore, considering that since 2019 the two major players of the tobacco industry are not producing tobacco products in Colombia it has become increasingly difficult to access information. Databases of tax collection administered by the Tax and Customs Authority only show aggregated data of specific sectors of the economy. Thus, it is impossible to distinguish data on tobacco from that of other imported products. Moreover, in Colombia there is no standardized method to report imports, thus making it difficult to follow how the market of imported tobacco products behaves. Data collected by the National Statistics Department (DANE) on production and manufacturing of tobacco products is not good. This is due to the decline in tobacco production, and the fact that more than half of the sales of cigarettes are made through informal vendors that do not submit data on their sales to the authorities. 						
19. The government has a program / system/ plan to consistently ¹⁰⁶ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)				3		
<p>There is not a consistent plan to raise awareness on article 5.3 of the FCTC within its departments. This is partially due the fact that there are no formal intersectoral coordinating mechanisms on tobacco control as determined by article 5.2 (a) of the FCTC.</p> <p>However, there is an informal group created by the Ministry of Foreign Affairs, the follows up the implementation of the FCTC. Yet, it does not implement programs to raise awareness within governmental institutions.</p> <p>The Ministry of Health does carry out within their inspectors' training programs modules regarding the implementation of the FCTC and its article 5.3. These trainings are carried out within the framework of the "FCTC 2030 Project, into which Colombia is included."¹⁰⁷</p>						
20. The government has put in place a policy to disallow the acceptance of all forms of contributions/ gifts from the tobacco industry (monetary or otherwise) including offers of assistance, policy drafts, or study visit invitations given or offered to the government, its agencies, officials and their relatives. (3.4)					4	
<p>There is no such policy in place in Colombia. Nevertheless, the Ministry of Health has an internal understanding of not accepting tobacco industry assistance on policy drafts. However, this is far from being a governmental policy.</p>						
TOTAL				77		

¹⁰⁶ 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.

¹⁰⁷ Information on the FCTC 2030 project is available on: <https://www.who.int/fctc/implementation/fctc2030/en/>

ANNEX A



POSICIÓN FRENTE A LA CONFERENCIA DE LAS PARTES EN EL CONVENIO MARCO DE LA OMS PARA EL CONTROL DEL TABACO

1. RPP: Sistemas Electrónicos de Administración de Nicotina (SEAN) y Productos de Tabaco Calentado (PTC)

Los SEAN y PCT no deben ser prohibidos o regulados de acuerdo al CMCT. La regulación aplicable debe reconocer el potencial de estas alternativas en la reducción del daño causado por el tabaquismo y a su vez, debe evidenciar una clara diferenciación en el trato regulatorio en comparación con los productos combustibles, todo lo anterior basado en la ciencia y la evidencia científica disponible.

Es importante tener en cuenta la experiencia de países que están elaborando políticas progresivas y efectivas para SEAN y PCT. Países como el Reino Unido y Estados Unidos hoy están adoptando un nuevo enfoque para reducir el índice de tabaquismo¹; dicho enfoque debe permitir que los fumadores que están luchando por dejar el hábito puedan tener acceso a alternativas de tabaco y nicotina menos dañinas. Estas políticas han demostrado que regular estos productos de manera diferenciada, en comparación a las medidas que aplican a los cigarrillos convencionales, puede ayudar a los fumadores adultos actuales a conocer estas alternativas y tener acceso a ellas.

2. Artículos 9 y 10: Reducción de Nicotina

Es de público conocimiento que la nicotina no es la causa de las enfermedades relacionadas con el consumo de tabaco. Ordenar que existan niveles muy bajos de nicotina en los cigarrillos podría causar una prohibición de facto en la casi totalidad de los productos que hoy existen, generando un gran impacto negativo no solo en los fumadores, que busquen alternativas más económicas y acordes a sus preferencias en el comercio ilegal de tabaco, sino que además en los gobiernos, agricultores y pequeños comerciantes. La regulación de tabaco debe enmarcarse en la evidencia científica.

¹ McNeill A, Brose LS, Calder R, Hitchman SC, Hajek P & McRobbie H. (2015). "E-cigarettes: an evidence update". Public Health England; McNeill A, Brose LS, Calder R, Bauld L & Robson D. (2018). "Evidence review of e-cigarettes and heated tobacco products 2018". Public Health England; UK's Royal College of Physicians. (2016). "Nicotine without smoke: Tobacco harm reduction". RCP.



Las medidas de reducción de nicotina no deben aplicar a las alternativas menos riesgosas, en comparación con los cigarrillos, tales como cigarrillos electrónicos y productos de tabaco calentado.

3. Artículo 5.3: Posible Exclusión de la industria

La nominación de delegados por las Partes debe ser respetada. Las Partes tienen el derecho soberano de determinar su delegación, en particular cuando los debates podrían impactar fundamentalmente su economía y futuro.

El artículo 43 de la Convención de Viena sobre la Representación de los Estados en sus Relaciones con las Organizaciones Internacionales indica que "el estado que envía puede designar libremente a los miembros de la delegación". Con lo anterior, el objetivo de maximizar la transferencia de las delegaciones de las Partes a través de la fuerza policiva supranacional, capaz de expulsar físicamente a los representantes de un Estado por parte de La Secretaría del Convenio Marco constituiría una violación del derecho soberano de cada Parte de determinar quién lo representa en reuniones intergubernamentales y otras reuniones internacionales, considerando que el artículo 43 de la Convención de Viena sobre la Representación de los Estados en sus Relaciones con las Organizaciones Internacionales indica que "el estado que envía puede designar libremente a los miembros de la delegación".

Por el contrario se reconoce que las interacciones con la industria son necesarias en el proceso de política pública y proporciona recomendaciones para cumplirlo de la manera más transparente.

4. Artículo 17: Reducción de Nicotina: Apoyo a actividades alternativas económicamente viables

Los medios de subsistencia de los agricultores y sus comunidades locales deberían tener prioridad en cualquier política de desarrollo rural. Cualquier acción respecto a los cultivos alternativos se debe basar en evidencia, además de ser razonables y viables.

Como cualquier producto el tabaco está sustentado en la oferta y demanda. Por lo tanto no se debe prohibir el cultivo o limitar el tamaño de las cosechas.

El cultivo de tabaco es una de las pocas alternativas económicamente viables para el agricultor y sus comunidades en las zonas donde tradicionalmente se cultiva, además es intensivo en el uso de mano de obra.

En anteriores posiciones el país ha sido consistente en reconocer la importancia del cultivo de tabaco en la reactivación económica en zonas que han sido afectadas por la violencia.



5. Artículo 18: Protección del medio ambiente y de la salud de las personas

No existe suficiente evidencia científica respecto a los efectos socioeconómicos del cultivo, producción, distribución y desperdicio de Tabaco. Las consecuencias en salud y medio ambiente derivadas del cultivo de tabaco son transversales a la agricultura no se puede atribuir tan solo a este cultivo.

6. International Trade and Dispute Settlement

Excluir al tabaco de las negociaciones comerciales o inversión no cumple con ningún propósito a la salud pública y, por el contrario, puede generar un precedente para otros sectores. No existe ningún conflicto entre libre comercio y los objetivos de salud pública. La venta y comercialización de productos de tabaco es un negocio lícito por tanto debe gozar de las mismas condiciones que cualquier otro negocio legal.

7. Protocolo de Comercio Ilícito

La ratificación del protocolo compromete al país a implementar medidas de gran impacto, no solo para la industria sino también para el comercio y los cultivadores de tabaco, lo cual requiere de la participación de los ministerios de Comercio, Agricultura, Hacienda, Relaciones Exteriores, Salud, en conjunto con la industria.

ANNEX B

Colombia is a unitary Republic, this implies that all international conventions and laws are applicable in all parts of the territory. Regarding tobacco control, the following laws have been enacted and are currently enforceable:

National

1. Law 1109 of 2006 incorporates the FCTC without any exceptions. However, the FCTC was ratified by Colombia and consequently entered into force on April 10, 2008.¹⁰⁸
2. Law 1335 of 2009 introduced several appropriate measures regarding (i) smoke free areas, (ii) front of package warnings, (iii) ban on advertisement of tobacco products, (iv) reinforcing the prohibition to sell tobacco products to minors, (v) development of anti-tobacco policies. Front of package warnings became enforceable on July 21, 2010. Ban on advertisement of tobacco products entered into force on July 21, 2011. The remaining provisions entered into force immediately.¹⁰⁹
3. Law 1801 of 2016 established sanctions to the breach of different conducts relating to tobacco control, mainly smoke free areas and sales of tobacco products to minors.¹¹⁰
4. Law 1819 of 2016 increased applicable taxes to tobacco products already established under the Tax Code.¹¹¹

Local

5. All territorial entities are bound to comply with the existing laws and regulations.
6. Most of them have implemented particular policies aimed at enforcing tobacco control regulations.
7. All sub national territorial entities (*departamentos*) and the District of Bogotá are responsible for collecting tobacco consumption taxes.

¹⁰⁸ Ley 1109 de 2006. "Por medio de la cual se aprueba el "Convenio Marco de la OMS para el control del tabaco", hecho en Ginebra, el veintiuno (21) de mayo de dos mil tres (2003)". Available in Spanish at http://www.secretariassenado.gov.co/senado/basedoc/ley_1109_2006.html.

¹⁰⁹ Ley 1335 de 2009. "Disposiciones por medio de las cuales se previenen daños a la salud de los menores de edad, la población no fumadora y se estipulan políticas públicas para la prevención del consumo del tabaco y el abandono de la dependencia del tabaco del fumador y sus derivados en la población colombiana.". Available in Spanish at http://www.secretariassenado.gov.co/senado/basedoc/ley_1335_2009.html.

¹¹⁰ Ley 1801 de 2016. "Por la cual se expide el Código Nacional de Seguridad y Convivencia Ciudadana". Available in Spanish at http://www.secretariassenado.gov.co/senado/basedoc/ley_1801_2016.html.

¹¹¹ Ley 1819 de 2016. "Por medio de la cual se adopta una reforma tributaria estructural, se fortalecen los mecanismos para la lucha contra la evasión y la elusión fiscal, y se dictan otras disposiciones". Available in Spanish at http://www.secretariassenado.gov.co/senado/basedoc/ley_1819_2016.html.

ANNEX C: SOURCES OF INFORMATION

I. TOBACCO INDUSTRY ACTIVITY

1. Tobacco Industry Information

Top 5 Transnational Tobacco Company	Sources other than SEATCA Report
Philip Morris International	LegisComex
British American Tobacco	LegisComex
Japan Tobacco International	LegisComex

LOCAL TOBACCO COMPANIES

Top 5 Local Tobacco Company	Market Share and Brands	Source
Pronalci S.A.	Less than 0,5% (Dumont, Miller, Montero, Mundial, Poker, Soberanos amongst others)	LegisComex
CDF Colombia S.A.	Less than 0,5% (Draft brands)	LegisComex
Luis Fernando Pabón Cristancho	Less than 0,5% (Draft brands)	LegisComex

TOBACCO FRONT GROUPS

Top 5 Tobacco Industry Representative	Type (Front Group/ Affiliate/ Individual)	Source
ANDI	Front Group	http://www.andi.com.co
FENALCO	Front Group	http://www.fenalco.com.co
Concordia	Front Group	https://www.concordia.net
Colombian-American Chamber of Commerce	Front Group	http://amchamcolombia.co

a. News Sources

Top 5 Newspaper/Dailies*	Type (Print/Online)	
El Tiempo	Print and Online	
El Colombiano	Print and Online	
El País	Print and Online	
Vanguardia Liberal	Print and Online	
El Heraldo	Print and Online	

*Basis of Ranking: Circulation Popularity Others: Media Consumption

Ranking Authority/ies: Estudio General de Medios (EGM) done by Asociación Colombiana de Investigación de Medios (ACIM)
 Other News Source (not a newspaper but is a relevant source)

Revista Dinero
 Revista Semana
 Portafolio
 La República
 La Nota Económica
 La Silla Vacía
 La Liga Contra el Silencio
 Razón Pública

b. Government Agencies (Refer also to Annex A)

Agency	Specify if more than one office is involved in this function:	General Sources of Information/ News for each office
1. Office of the Chief Executive (Prime Minister/ President) Members of Royalty	The Office of the President of the Republic	Official Website: https://id.presidencia.gov.co/Paginas/presidencia.co.aspx News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex. Official social media accounts: Twitter: @infopresidencia @IvanDuque @ViceColombia @mluciamirez
2. Cabinet and/or National Assembly (Policy makers)	Congress that includes: Senate and the House of Representatives	Official Website: Senate: http://www.senado.gov.co/ House of Representatives: https://www.camara.gov.co/ General Secretary of the Senate: http://www.secretariasenado.gov.co/ News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex. Additionally, the website: https://congresovisible.uniandes.edu.co/ Social media accounts: Twitter: @SenadoGovCo

		<p>@CamaraColombia</p> <p>Additionally, social media accounts of Senators and Representatives.</p>
3. Agriculture / National Tobacco Board	Ministry of Agriculture	<p>Official Website: https://www.minagricultura.gov.co/paginas/default.aspx</p> <p>Specific data on tobacco: https://www.agronet.gov.co/estadistica/Paginas/home.aspx?cod=1</p> <p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.</p> <p>Social media accounts: Twitter: @MinAgricultura @ZeaNavarro</p>
4. Customs	Tax and Customs Authority (DIAN)	<p>Official Website: dian.gov.co</p> <p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.</p> <p>Social media accounts: Twitter: @DIANColombia</p>
5. Education	Ministry of National Education	<p>Official Website: mineducacion.gov.co</p> <p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.</p> <p>Social media accounts: Twitter: @Mineducacion @VictoriaBxE</p>
6. Environment	Ministry of Environment and Sustainable Development	<p>Official Website: minambiente.gov.co/index.php</p> <p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.</p> <p>Social media accounts: Twitter: @MinAmbienteCo</p>
7. Finance/ Revenue/ Investments/ Excise	Ministry of Finance and Public Credit	<p>Official Website: minhacienda.gov.co</p> <p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.</p> <p>Social media accounts:</p>

		Twitter: @MinHacienda
8. Health	Ministry of Health	Official Website: minsalud.gov.co News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex. Social media accounts: Twitter: @MinSaludCol
9. Labor	Ministry of Labor	Official Website: mintrabajo.gov.co News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex. Social media accounts: Twitter: @MintrabajoCol @angelccabrera
10. Trade and Industry/ Investments	Ministry of Commerce, Industry and Tourism	Official Website: mincit.gov.co News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex. Social media accounts: Twitter: @MincomercioCo
Additional agencies/sectors to be named per country:		
11.	Association of Departments (<i>Federación Nacional de Departamentos</i>)	Official Website: fnd.org.co News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex. Social media accounts: Twitter: @FNDCol @carloscamargoa
12.	Ministry of Culture	Official Website: mincultura.gov.co News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex. Social media accounts: Twitter: @mincultura @carmenlvasquez

13.	Prosecutor (Procuraduría)	Official Website: procuraduria.gov.co News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex. Social media accounts: Twitter: @PGN_COL @fcarrilloflorez
14.	Customs Division of the National Police	News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex. Social media accounts: Twitter: @PoliciaAduanera
15.	Ombudsman (Defensoría del Pueblo)	Official Website: defensoria.gov.co News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex. Social media accounts: Twitter: @DefensoriaCol

c. Meetings Attended/ Public Hearings

List the types of meetings and name of groups meeting (Working Group, Drafting group, National Assembly Public Hearing, National Tobacco Control Committee, etc.) and the contact person / source of the minutes:

Type of Meeting	Source
Anti-illicit trade Commission	Not available during the pandemic
Technical Commission for Tobacco Production Chain	Not available during the pandemic
Congress Public Hearings	Contact: Elisa Cadena from the Ministry of Health And Sergio Vargas from the Legislative Unit of Representative Juan Luis Castro

II. Laws, Policies, and issuances:

HEALTH LAWS:

1. Is there a health law database? If yes, please list which one will be used and cite the limitations:

Although there is not a proper health law database, the Ministry of Health has a list of the main laws and regulations on the matter: [https://www.minsalud.gov.co/sites/rid/Paginas/resultadosLeyes.aspx?k=\(\(dctype:%27Ley%27%20AND%20clasificacion=%27Jur%C3%ADdica%27\)\)](https://www.minsalud.gov.co/sites/rid/Paginas/resultadosLeyes.aspx?k=((dctype:%27Ley%27%20AND%20clasificacion=%27Jur%C3%ADdica%27))). However, the list is not organized by

subjects. To look for a specific law, it is necessary to know its number.

2. If there is no existing health law database, then list the primary source of the law listing to be searched:

As mentioned above, the website of the Ministry of Health has a list of the main laws and regulations on health. As for the primary sources of laws, the databased used is: <http://www.secretariassenado.gov.co/index.php/leyes-de-la-republica> . However, this database only includes laws issued by Congress and not regulations of a lower hierarchy. Those must be looked for within the unified Decree of the Health sector: [https://www.minsalud.gov.co/Normatividad Nuevo/Decreto%200780%20de%202016.pdf](https://www.minsalud.gov.co/Normatividad%20Nuevo/Decreto%200780%20de%202016.pdf)

3. Does the above sources include issuances? Yes

ALL LAWS:

4. Is there a centralized (all) law database? If yes, please list which one will be used and cite the limitations:

All laws issued by the Congress are collected within the Secretary of the Senate's database: <http://www.secretariassenado.gov.co/index.php/leyes-de-la-republica> Its main shortcoming is the fact that it only contains laws issued by the Congress. Other regulations may be found on <https://www.funcionpublica.gov.co/web/eva/gestor-normativo> . However, some regulations such as Resolutions and Circulars may be hard to find and must be looked for within the website of the entity that issued them.

5. If there is no existing centralized law database, then list the primary source of the law listing to be searched:

6. Does the above sources include issuances? Yes No

Top Government Agency/ Office/Sector	15	Source of Policies relating to the Sector	Source of related minor issuances,
1. Office of the Chief Executive (Prime Minister/ President) Members of Royalty		Office of the Presidency coordinates the public policies of all other sectors of the executive branch of government	Unified Regulatory Decree 1081 of 2015
2. Cabinet and/or National Assembly (Policy makers)		Congress: including the Senate and the House of representatives. They are in charge of issuing laws and policies	Law 5 of 1992

3. Agriculture / National Tobacco Board	The Ministry of Agriculture and Rural Development formulates public policies for the development of the agricultural, fishing and rural development sectors. Within their functions creating policies for the agricultural sector they manage the tobacco production chain and create policies pertaining that sector.	Unified Regulatory Decree 1071 of 2015
4. Customs	Tax and Customs Authority (DIAN) protects the fiscal security of the state. It controls and administers the proper fulfilment of tax and customs obligations. They are also in charge of facilitating foreign trade operations in conditions of equality, transparency, and legality	Decree 1625 of 2016
5. Education	The Ministry of National Education formulates and evaluates public policies on education, to guarantee the right to education, while providing a quality education.	Unified Regulatory Decree 1075 of 2015
6. Environment	The Ministry of Environment and Sustainable Development manages the environment and the renewable natural resources. It defines the policies on recovering, conservation, protection and sustainable use of natural resources.	Unified Regulatory Decree 1076 of 2015
7. Finance/ Revenue/ Investments/ Excise	The Ministry of finance and Public Credit coordinates the macroeconomic policy of the country, manages the national budget and implements fiscal policies. policies	Unified Regulatory Decree 1085 of 2015
8. Health	The Ministry of Health and Social Protection manages the social protection and health sector through the formulation of public policies that seek to improve the health of the population as well as access and quality of health and social services	Unified Regulatory Decree 780 of 2016
9. Labor	The Ministry of Labor oversees the formulation of labor policies, labor relations and job growth and job stimulation programs.	Unified Regulatory Decree 1072 of 2015

10. Trade and Industry/ Investments	The Ministry of Commerce, Industry and Tourism formulates public policies to support business and commercial activities, as well as the production of goods and services, touristic management of the country and improvement of competitiveness.	Unified Regulatory Decree 1074 of 2015
Additional agencies/sectors to be named per country:		
11. International Relations	The Ministry of Foreign Affairs is responsible of the foreign relations of the nation, as well as the formulation of the foreign policy.	Unified Regulatory Decree 1067 of 2015
12. Culture	The Ministry of Culture is responsible of preserving, promoting, and encouraging the growth of Colombian culture in all its multi-ethnic forms	Unified Regulatory Decree 1080 of 2015
13. Prosecutor (Procuraduría)	The Office of the Inspector General oversees the conduct of all public officials, as well as the correct functioning of government institutions and agencies	Colombian Constitution Law 734 of 2002 (Unified Disciplinary Code)
14. Ombudsman (Defensoría del Pueblo)	Oversees the protection of human rights and freedoms of the population.	Law 24 of 1992

This list serves not only as a bibliography or reference list but an undertaking to search each source listed as needed to answer a specific question.