

# Peru



## Summary of Findings

### 1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

Peru does not receive assistance from the tobacco industry (TI) for the implementation of tobacco control policies. However, since Law 28705 was modified in 2010 there has been no progress in tobacco control. This is due to a level of TI participation in public policies that have produced a series of acts that qualify as interference, but do not violate the legal system.

The interaction of TI with the State is evident in different actions; such as the systematic filing of bills for a total ban on advertising, the promotion of laws to control tobacco and electronic cigarettes aligned to their interests, the attack on the tax policy for tobacco products, and even joining the Working Group against the Illicit Trade of Tobacco Products of the Ministry of Production, among others.

The TI does not attend the COP meetings or participate in the Multisectoral Commission for Tobacco Control (MCTC) led by the Ministry of Health of Peru (MINSA), and there is no TI representation in official delegations. The MCTC lacks personnel and budget, and has a focal point that depends on the Directorate of Health Promotion, without direct capacity for control, supervision or monitoring of TI activities.

### 2. INDUSTRY CSR ACTIVITIES

No TI-related corporate social responsibility activities have been publicly recorded. However the TI supports the private entity Banco de Alimentos Perú, which distributes food to the poor population to alleviate hunger and reduce anemia and malnutrition, two endemic problems that affect the most depressed socioeconomic classes in the country.

### 3. BENEFITS TO THE INDUSTRY

The entry into force for tobacco control laws is usually provided in 180 days, such as measures for implementing the regulation or coordinating imports in progress that have been approved. There are also congressmen who have proposed a period of 2 to 3 years in their legislative initiatives towards implementing plain packaging of tobacco.

When the laws are of interest to TI the terms are shorter; 90 days, or even the day after the regulation is published; such as those related to dismantling the current tax policy.

Officially there are no public privileges or tax exemptions for tobacco, but they are occurring in practice due to the attack on tax policies through laws that remove powers from the Ministry of Economy and Finance to increase taxes on tobacco or with favorable regulations for electronic cigarettes.

### 4. UNNECESSARY INTERACTION

High-level government officials do not meet publicly with the TI or its representatives, but if they did, this interaction would not be prohibited.

No official information has been found regarding assistance in the tobacco control legislation or operatives in the control of the measures or alliances between the government and the TI.

### 5. TRANSPARENCY

Although there is no official record of meetings between the TI and public officials, there are indications of coordination with congressmen and/or their advisers. Law 28024, which regulates the management of interests in the public administration and applies to all types of managers, does not specifically regulate TI interaction with public officials.

## 6. CONFLICT OF INTEREST

Law 28094 prohibits the contribution of companies to political parties. There is no official information on public officials that come from TI or public officials that have been hired by TI in recent years.

## 7. PREVENTIVE MEASURES

There are no records of the interaction with the TI and its representatives, nor official requests to the TI to report on

tobacco production. However, lobbying, philanthropy and political contributions are not prohibited.

The State has not implemented Article 5.3 of the WHO FCTC, despite the fact that in 2015, the Needs Assessment for the implementation of the FCTC identified it as a gap in tobacco control policies. Consequently, the country lacks an express regulation to reject and penalize contributions from the TI as well as attempts to bribe public officials.

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# Recommendations

1. Enact the Tobacco and Nicotine Control Law, which includes the regulation against TI interference and apply the measure to both conventional cigarettes and electronic cigarettes.
2. Approve the regulation of the law and develop an appropriate regulation so that the measure is effective and makes the interaction of the industry and the authorities transparent.
3. Shorten the deadlines for the implementation of the Tobacco and Nicotine Control Law, especially the approval of the regulation.
4. Counter TI campaigns that seek to discredit efficient tobacco control measures and tax policies, to avoid strict and efficient legislation.
5. Implement a Tobacco Control Unit to officially monitor the activities of the TI and its interaction with government authorities.
6. Implement Article 5.3 of the WHO FCTC in the upcoming Tobacco and Nicotine Control Law specifically for TI interaction with authorities, prohibition of contributions to political parties, preventing conflict of interest, and prohibition on government participation in TI-CSR.
7. Empower civil society to monitor industry activities and compliance with the Tobacco and Nicotine Control Law, including complaints regarding TI interference in public health policies.