
Costa Rica

**TOBACCO
INDUSTRY
INTERFERENCE
INDEX
2023**

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Background and Introduction

The Tobacco Industry Interference Index is a civil society analysis on a government's ability to deal with tobacco industry interference in the development and implementation of health policies. It is a surveillance exercise on compliance with Article 5.3 of the World Health Organization - Framework Convention on Tobacco Control (WHO FCTC) and the mechanisms used by the tobacco industry to weaken and/or block compliance.

The term “tobacco industry interference” refers to the set of tactics and efforts to block, undermine, or delay the creation and implementation of effective tobacco control policies, (I) for example:

- attempt to sabotage political and legislative processes;
- exaggerate the economic importance of the industry;
- manipulate public opinion to create an appearance of respectability;
- simulate support through front groups;
- discredit proven scientific evidence;
- intimidate governments with litigation or threats of litigation; (I)

The Index is made up of twenty indicators or questions based on Article 5.3 guidelines and adapted for the most common and observed situations in the behavior of the tobacco industry in Southeast Asia, the region where the Index was first developed.

The indicators are grouped into seven categories:

- a) Industry participation in policy development
- b) Industry CSR activities
- c) Benefits for the industry
- d) Unnecessary interaction
- e) Transparency
- f) Conflict of interest
- g) Preventive measures

To respond to each question or indicator, the government agencies responsible for issues associated with the control of tobacco products were identified. The most important sources of information in the country were identified, such as newspapers and government web pages; and a search and classification of articles, notes and documents related to tobacco products was carried out, according to the categories of the Index.

The documentation period was from April 1st, 2021, to March 30th, 2023. The events identified as interference actions were evaluated and the intensity, frequency, or severity of the occurrence of each case of interference was assessed.

Subsequently, a value of 0 to 5 points was assigned to each indicator, following the guide for filling in the instrument. A value of 5 reflects that a case of interference is of high frequency, intensity, or severity for tobacco control policies. A value of 0 reflects that there is no evidence of cases of interference. Thus, each indicator or question has a numerical value assigned and a documented explanation of why it was classified as a case of interference.

This analysis tool is not exact or perfect, but it serves to reduce subjectivity when qualifying an occurrence. In the end, the scores are useful when compared to the results of other countries.

Another way to preserve the objectivity of the evaluation is the standardization of information search methods and sources. For this reason, all countries followed the same specific and uniform method to reduce subjectivity and increase the comparability of results.

Finally, it is necessary to remember that tobacco industry interference rarely occurs in public. Lobbying, offers, solicitations, and agreements with government officials are made by intermediaries or industry representatives that make it difficult to document and expose interference.

Introduction

In Costa Rica, it is estimated that 20% of men and 8.3% of women are smokers. In addition, 9% of all deaths in people over 35 years of age are attributable to tobacco use. That is, around 2,174 deaths occur each year from causes such as cardiovascular diseases, chronic obstructive pulmonary disease (COPD) and cancers, among others. (2)

Regarding the cigarette market, two companies are the ones that dominate it, as shown in Table I. As in the rest of the world, Electronic Nicotine Administration Systems (ENDS), Electronic Non-Nicotine Delivery Systems (ENNDS) and heated tobacco products increasingly create a larger market, however, there are still no statistics on their offer. (3)

Table I. Main cigarette companies and brands in Costa Rica between 2016 and 2021

The table shows the percentages of consumption for each brand of cigarette.

| Brand | Company | 2016 (%) | 2017 (%) | 2018 (%) | 2019 (%) | 2020 (%) | 2021 (%) |
|---------------------|---------------------------------|----------|----------|----------|----------|----------|----------|
| Pall Mall | British American Tobacco Plc | 14,7 | 15,7 | 19,0 | 25,3 | 34,5 | 35,6 |
| Chesterfield | Philip Morris International Inc | - | - | - | 38,1 | 35,5 | 34,2 |
| Viceroy | British American Tobacco Plc | 18,6 | 18,2 | 16,1 | 14,8 | 8,2 | 7,4 |
| Derby | Philip Morris International Inc | 42,9 | 42,9 | 42,5 | - | - | - |

Source: Price elasticity of demand for cigarettes in Costa Rica: estimation and simulation of tax changes

In the legal, normative and regulatory framework of the country, important advances have been made, particularly since 2012, when the "General Law for the Control of Tobacco and its harmful effects on health - 9028" was created based on the commitment assumed by Costa Rica for compliance with the WHO FCTC. (4) However, there are still pending issues of regulating or applying the regulation, such as the illicit trade and regulation of ENDS, ENNDS and heated tobacco products.

The interference of the tobacco industry in the regulation of tobacco has been documented in Costa Rica since the creation of Law 9028. (5) More recently, actions of interference have been documented and pointed out during the regulation processes of ENDS, ENNDS and heated tobacco products (Law 10066), as well as with the bill for the neutral labeling of tobacco products. (6,7).

Interference actions can occur publicly, for example, when the tobacco industry carries out corporate or corporate social responsibility actions with the participation of public officials. However, interfering actions that seek to block, weaken, or postpone the implementation of a law or regulation are generally more difficult to track and document, since they occur through intermediaries and industry representatives who are more difficult or even unable to make them accountable.

This is the third index that is carried out in Costa Rica and shows a score of 58, evidencing that since 2018 there has been little progress from the government to counteract interference. Particularly, there is still no work by the government to establish preventive actions and transparency mechanisms in the interaction with the tobacco industry when it is strictly necessary; this makes it easier for tax breaks and benefits to be maintained during rulemaking and enforcement.

Summary Findings

I INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The Case of the Mixed Commission Against Illicit Trade has been documented since the first Interference Index that was carried out in Costa Rica in 2019. It is an inter-ministerial body (five ministries) where policies on illicit trade are decided, including tobacco products. Philip Morris International officials have been heard in this commission and bills on the regulation of tobacco products have been reviewed. It has been documented how the business sector, which always represents the interests of the tobacco industry, has been gaining voice and vote (3 out of 8) since its creation. The Mixed Commission lacks transparency since it does not publicly disclose the minutes, hearings, agreements, and decisions that are made; both on the commission and on the commission's advisory board.

Although the direct participation of the tobacco industry in the development of policies was not documented, during the observation period, it was documented how the tobacco industry and its representatives were heard in the Social Affairs Commission of the Legislative Assembly during the review of bill drafts to regulate plain packaging and ENDS, ENNDS and heated tobacco products.

Some deputies disproportionately used the motions resource so that the draft bills had a negative opinion in the Commission, prior to being sent for discussion and approval to the plenary of the Assembly. A now-former deputy who openly opposed and acted against the bill to regulate ENDS, ENNDS and heated tobacco products became an employee of Philip Morris International a few months after the bill was passed.

Also, it was documented that Philip Morris International, importing companies, consumer associations and industry chambers participated in the creation of quality standards for electronic cigarettes led by INTECO, in which some government institutions participated in the beginning, violating article 5.3 FCTC of the WHO.

2 INDUSTRY CSR ACTIVITIES

As noted in previous index reports, the corporate or corporate social responsibility activities documented are almost mostly carried out by Philip Morris International with local government and small organizations.

For example, PMI funded a project to place collectors in places where people can smoke and dispose of their butts. The butts are then collected so that research can be done at a state university on better ways to dispose of them. This was done while the Legislative Assembly is discussing a bill that declares cigarette butts as special waste and places the responsibility for their handling on the manufacturer or importer.

3 BENEFITS TO THE INDUSTRY

The tobacco industry still enjoys tax benefits, for example, an exception is applied to calculate the tax base for the collection of VAT on cigarettes. Additionally, travelers can purchase duty-free cigarettes or tobacco at airports.

Other types of documented benefits are the deadlines extended twice for the collection of fines that were applied during the pandemic of COVID-19 to business premises that failed to comply with the General Tobacco Control Law. During the observation period, the law that regulates ENDS, ENNDS and heated tobacco products was also created and assigned a

specific tax to these products. However, more than 12 months have elapsed from the period established for the creation of the regulation of the law and it has not yet been prepared, therefore, its compliance is not monitored nor is the specific tax created for these products collected.

4 UNNECESSARY INTERACTION

Transparency mechanisms for interaction with the tobacco industry are lacking.

5 TRANSPARENCY

No unnecessary forms of interaction were documented, however, the country lacks transparency mechanisms for interaction with the tobacco industry.

6 CONFLICT OF INTEREST

It was documented that the now-former deputy who led the opposition to the creation of the bill that regulates ENDS, ENNDS and heated tobacco products became part of the Philip Morris International team as head of external affairs for Central America. This happened a few months before the former deputy ended her election period.

7 PREVENTIVE MEASURES

The government is very vulnerable to tobacco industry interference because it lacks preventive actions to deal with it. For example, there is no explicit prohibition to reject donations or contributions from the tobacco industry, government employees are not required to record interactions, and there is no code of conduct or mechanisms to educate the state system on article 5.3 FCTC of the WHO.

Recommendations

The government of Costa Rica has made important advances in tobacco regulation that have led to a decrease in smoking prevalence. However, there is still work to be done in the regulation of ENDS, ENNDS, and heated tobacco products, as well as plain packaging, taxation, and illicit trade.

Tobacco industry interference poses a threat to ensuring an efficient regulatory framework to protect the health of people in Costa Rica. In particular, the government will maintain benefits for the industry and make it easier for the industry to protect its interests if there are no preventive and transparent measures.

The vulnerability caused by the absence of preventative measures against interference is evident if you look at the increase to 58 points in the index. During the observation period, two bills for the regulation of tobacco products passed through the assembly and a regulation for a new specific tax on ENDS, ENNDS, and heated tobacco products was to be created and implemented. That is, the efforts to advance the regulation generated more occurrences of interference events.

Consistent with previous reports and findings, the recommendations derived from this exercise are:

RECOMMENDATION 1

It is necessary to develop a code of conduct with procedural rules for the interaction of government officials with the tobacco industry considering Article 5.3 of the WHO FCTC. The National Anti-Tobacco Network has developed a proposal and the Ministry of Health could validate and implement it.

RECOMMENDATION 2

There must be a National Tobacco Control Plan that considers within its strategic actions the education of the state system on the WHO FCTC and Article 5.3. (Ministry of Health)

RECOMMENDATION 3

It is necessary to establish a mechanism to record the interactions that government officials have with the tobacco industry. (Ministry of Health)

RECOMMENDATION 4

The Ministry of Health must prepare and implement the Regulations for the Law for the Regulation of Electronic Nicotine Administration Systems (ENDS), Electronic Non-Nicotine Delivery Systems (ENNDS), and Electronic Devices that Use Heated Tobacco and Similar Technologies.

RECOMMENDATION 5

The Legislative Assembly must approve the necessary reforms to implement plain packaging on tobacco products.

Costa Rica Tobacco Industry Interference Index 2023

Results and Findings

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| INDICATOR 1: Level of Industry Participation in Policy-Development | | | | | | |
| <p>1. The government¹ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry or any entity or person working to further its interests.² in setting or implementing public health policies in relation to tobacco control³ (Rec 3.4)</p> | 0 | | | | | |
| <p>No evidence was found that the government has accepted, supported, or received offers of assistance from the tobacco industry or with which it collaborates for the development or implementation of public health policies related to tobacco control.</p> | | | | | | |
| <p>2. The government accepts, supports or endorses <u>policies or legislation drafted by</u> or in collaboration with the tobacco industry. (Rec 3.4)</p> | | | | | | 5 |
| <p>During the observation period, Law 10066 was approved – “Law for the Regulation of Electronic Nicotine Administration Systems (ENDS), Electronic Non-Nicotine Delivery Systems (ENNDS) and Electronic Devices that Use Heated Tobacco and Similar Technologies”. (8,9)</p> <p>In addition, the existence of four legislative files related to the control and regulation of tobacco products was documented:</p> <ol style="list-style-type: none"> 1. Amendment to Articles 4, Subsections d and k; and 9, Subsection a, and Addition of Subsection c to Article 9 and of a Final Paragraph to Article 36, all of them from the General Law on Tobacco Control and its Harmful Effects on Health, Law No. 9028 of March 22, 2012. 2. Investigation of everything related to the decision-making of spending public resources by the Ministry of Health, with the funds it receives from Law No. 9028 General Law on Tobacco Control and its Harmful Effects on Health (Income and Public Spending Control Commission) 3. Law to Combat Environmental Contamination by Cigarette Butts and Amendments to the General Law on Tobacco Control and its Harmful Effects No. 9028. 4. Access to information for tobacco users through regulation of Electronic Nicotine Delivery Systems (ENDS), Electronic Non-Nicotine Delivery Systems (ENNDS) and electronic devices that use heated tobacco and similar technologies. (8) <p>No evidence was found that the government has accepted, supported, or sponsored policy proposals or laws developed by or in collaboration with the tobacco industry. However, it was documented that the tobacco industry has participated in the hearings that some commissions of the Legislative Assembly have held in the process of issuing a bill. The tobacco industry will gain from this new law because this law will allow them to sell their new tobacco products with low taxation compared to the WHO recommendations of 70%.</p> <p>For example, in the review process of file 22.497 (plain packaging), Philip Morris International,</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.

British American Tobacco, and Associations of Vape Distributors and Entrepreneurs of Costa Rica were consulted. (10) Also, some business chambers and Associations of Distributors and entrepreneurs of vapers in Costa Rica were consulted during the creation of Law 10066 (Regulation of electronic devices for tobacco products and vaping) (6)

Additionally, Bill 23.553 seeks to make the regulations for ENDS, ENNDS and heated tobacco products more flexible, positioning these products as harm-reduction instruments. This bill aims to make changes to the General Law for Tobacco Control (9028) and the Law for the Regulation of ENDS, ENNDS and heated tobacco products (10066).

On the other hand, it was documented that the Institute of Technical Standards of Costa Rica (INTECO), a private association recognized by law as a National Standardization Entity, according to the National Quality System Law (8279), developed the quality standard INTE Q191:2021 "Tobacco products for heating and liquids for electronic cigarettes with nicotine. Minimum labeling requirements". During the standard creation, importing companies of ENDS, ENNDS and heated tobacco products and similar (HTP), Philip Morris International, consumer associations and industry chambers participated. These organizations and companies have been opposed to the regulation and control of tobacco, as documented in the creation of Law 10066 and other cases. Also, during the standard creation, government institutions such as the Ministry of Health, the Costa Rican Institute for Research and Teaching in Nutrition and Health (INCIENSA), the Institute on Alcoholism and Drug Dependence (IAFA) and the Ministry of Economy, Industry and Commerce (MEIC) were invited. (11)

The Ministry of Health, INCIENSA and IAFA withdrew from the standard creation process, as they considered that their participation went against the WHO Framework Convention for Tobacco Control. However, the MEIC participated in the entire process and appears as a collaborator in the document preparation committee. Although this norm constitutes only a quality standard for the product and establishes that the labeling of these products must comply with current legislation, it also constitutes an element aligned with bill 23553 that seeks to make the regulations for ENDS, ENNDS and PTCS more flexible, as mentioned above, regarding their labeling. Different opinions issued by INTECO personnel position the discourse that the use of these devices has less impact on health than the consumption of cigarettes. (12,13)

INTECO has developed four standards related to ENDS, ENNDS and HTP: one for labeling (INTE Q191:2021); one for manufacturing, importing, labeling, marketing, and sale (INTE Q188:2021); one for the methods of quantifying nicotine content and other substances (INTE/ISO 20714:2020); and one for heated tobacco product requirements and specifications (INTE Q190:2021). (14,15)

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| 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) I Never 5 Yes | | | | | | 5 |
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The government allows three business chambers, which represent the interests of the tobacco industry, to occupy three places with voice and vote in an inter-ministerial commission to combat illicit trade, including tobacco products.

Since the 1990s, when it began to regulate places for the consumption of tobacco products, the tobacco industry has tried to interfere in four government spaces: the Presidency of the Republic, the Legislative Assembly, the Ministry of Finance, and the Ministry of Health. (5)

One of the most important cases of interference is that of the Mixed Commission Against Illicit Trade of the Ministry of Finance. This case has been documented in the first and second

Interference Index of the Tobacco Industry without any changes for transparency and/or rejection of this interaction.

The Commission was created in 2014 by presidential decree No. 38410-MEIC-G-SP-S-H. (16) Its objective was established in article three: "It will have the purpose of guiding, advising, coordinating, consolidating and communicating the policies, plans and projects, with the different actors of the public and private sector in the fight against illicit trade at national". In this decree, its integration was made up of senior officials from five ministries (Economy, Health, Public Safety, Agriculture and Finance) and a prosecutor's office. (16)

In 2016, the government made a modification to Decree No. 38410-MEIC-G-SP-S-H to add two members to the Commission: a representative of the Costa Rican Union of Chambers and Associations of the Private Business Sector (UCCAEP) and A representative of the North American Costa Rican Chamber of Commerce (AMCHAM). Additionally, the Technical Committee of the Mixed Commission Against Illicit Trade was created, where a chair was also reserved for the two representatives of the chambers of industry. In this Commission and Committee, the representatives of the Chambers had the right to give their opinion and not to vote on the decisions. (17)

In 2020, the government again made a modification to Decree No. 38410-MEIC-G-SP-S-H to add a representative of the Costa Rican Chamber of Commerce as a member of the Commission and, in addition, assigned voice and vote to the members of the three chambers (UCCAEP, AMCHAM and Commerce) (18) This decision was objected to by RENATA and the media. In response, Vice Minister Alejandra Hernández reaffirmed her commitment to keeping the Chambers within the Commission. This decision was supported by the ministries of Economy, Agriculture, Health and Security. (19)

Philip Morris International and British American Tobacco Central America & Caribbean are the tobacco companies that control almost the entire market for tobacco products in Costa Rica and both are members of the business chambers that exist in the country. Philip Morris International and British American Tobacco Central America & Caribbean are members of the Costa Rican-North American Chamber of Commerce of Costa Rica (AmCham). (20) British American Tobacco Central America & Caribbean is a member of the British-Costa Rican Chamber of Commerce (BritCham) and held the second vice-presidency on the board of directors in the period 2020-2022. (21,22)

The Mixed Commission Against Illicit Trade is a space for decision-making and advocacy to address tobacco smuggling as a priority issue for the private sector and for the government, but at the same time, it is the "workhorse" used by tobacco companies to oppose the increase in taxes on tobacco products, as an effective measure to reduce smoking.

Some of the documented actions of this commission its representatives from the tobacco industry, include modifications to decrees, analysis of bills for tobacco control, campaigns against smuggling, damage to health from smuggling, and training of officials. In addition, the participation of the Chambers represents a conflict of interest. (23,24)

During the year 2020, the Commission held six ordinary sessions, at meeting 005-2020 on October 1, 2020, in point "4. Space for the private sector" a guest from the private sector not registered in the minutes presented the topic: "Bill 21.658 "Law for the Regulation of Vapers and Electronic Cigarettes" and possible impact on illicit trade. This Bill became Law 10066 and regulated the trade and distribution of these devices and added a specific tax. For the years 2021 and 2022, the Ministry of Finance withdrew the agendas and minutes of the Mixed Commission meetings from its website, making it a less transparent body.

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The Commission is also a strategic space for lobbying and advocating for governments and is promoted by The Transnational Alliance to Combat Illicit Trade (TRACIT), an organization of which Philip Morris International (PMI) is a partner and sponsor. (25,26)

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)⁴ (Rec 4.9 & 8.3)
For non-COP year, follow the previous score of COP year.

1

The government does not nominate or allow representatives of the tobacco industry to be part of the delegation to the Conference of the Parties (COP), or other subsidiary bodies, or accept sponsorships for delegates.

Ninth Conference of the Parties to the WHO Framework Convention on Tobacco Control (27)

- Ms. C. Devandas Aguilar, Ambassador and Permanent Representative
- Ms. S. Duncan Villalobos, Ambassador and Deputy Permanent Representative
- Ms. M. Lorincz Sosa, Counselor

Eighth Conference of the Parties to the WHO Framework Convention on Tobacco Control (28)

- Ms E. Whyte Gomez, Ambassador, Permanent Mission, Geneva,
- Mr E. Solís Chacón, Coordinator of the Tobacco Control Program, Ministry of Health
- Ms M. Muñoz Zumbado, Adviser to the Ministry, Permanent Mission, Geneva
- Mr A. Peñaranda Zarate, Adviser to the Ministry, Permanent Mission, Geneva
- Ms D. Murillo Solís, Advisor, Permanent Mission, Geneva
- Ms M. Castro Hernández, Adviser, Permanent Mission, Geneva
- Ms H. Fonseca Zamora, Tobacco Control Program, Ministry of Health
- Ms V. Monge Viquez, Advisor, Ministry of Health

INDICATOR 2: Industry CSR activities

5. A. Government agencies or their officials endorse, support, form partnerships with or participates in activities of the tobacco industry described as socially responsible. For example, environmental programs. (Rec 6.2)

B. The government (its agencies and officials) receives CSR contributions⁵ (monetary or otherwise, including CSR contributions) from the tobacco industry or those working to further its interests during the pandemic. (Rec 6.4)

NOTE: exclude enforcement activities as this is covered in another question

3

In 2022, the project "The Cigarette Butt Campaign" ("Dale rumbo a tus colillas") began and was implemented by the NGO Five Minute Foundation, Philip Morris International, the University of Costa Rica and local governments. According to the NGO, the objective of the campaign is to educate consumers about the negative effects of cigarette butts on the environment and offer a

⁴ Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

⁵ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

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responsible way to dispose of them. Among the activities included, there is the collection of cigarette butts to investigate better ways to recycle them, as well as physical advertising to increase consumer awareness. (29)

Philip Morris International donated US\$17,000.00 to the Five-Minute Foundation to carry out this Project. (30) In the participation of local governments are the municipalities of Belén (Heredia) and Montes de Oca (San José). (31,32)

Contrary to Bill 23.428, which is been discussed by the Social Affairs Commission and seeks that butts be declared special handling waste and apply extended responsibility to the producer and importer of cigarettes in the country, the initiative "The Cigarette Butt Campaign" is a corporate social responsibility activity and/or Philip Morris International's public relations program that places responsibility for the environmental impact of cigarette butts on the consumer and also uses two local governments and a state university to validate the campaign as something noble and good for the country.

During the year 2021, PMI made two donations to social organizations, a donation of medical supplies to the Association for the Elderly of Belén for US\$1,785 and one for school supplies and materials to the Foundation for the Environmental, Cultural and Social Development of Ethnic Groups Indigenous Costa Rican (FUNDEICO), for \$290. (33)

Once again in 2021, PMI was part of the Open Lab initiative together with the National Center for High Technology (CENAT), which is aimed at entrepreneurs in fields related to technology. Participants can receive advice for the development of projects, visibility, investment rounds and networking. (34)

INDICATOR 3: Benefits to the Tobacco Industry

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| 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) | | | 2 | | | |
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The Ministry of Health delayed the creation and implementation of the Regulation for Law 10066 – “Regulation of Electronic Nicotine Administration Systems (ENDS), Electronic Non-Nicotine Delivery Systems (ENNDS) and electronic devices that use heated tobacco and similar technologies”. Article 18 of the law establishes that the Executive Power should prepare a regulation for the Law within three months of its promulgation, which occurred on January 20th, 2022, in the official newspaper La Gaceta. (35)

With the delay in the creation of the regulations for this law, it is not possible to regulate the places where the devices can be used, signal prohibition places or monitor compliance with the law. It was not possible to document that there was a request from the tobacco industry to delay the implementation of the regulation, but this action by the Ministry of Health benefits this industry.

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| 7. The government gives privileges, incentives, tax exemptions or benefits to the tobacco industry (Rec 7.3) | | | | | | 5 |
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The Ministry of Health extended the transition period by six months to use the previous and new designs of health warnings on tobacco products and their derivatives during the seventh and eighth campaigns at the request of the Chamber of Commerce, alleging problems to make the change due to the international logistics crisis. Otherwise, tobacco companies should destroy tobacco products that do not comply with the current campaign. (36)

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| <p>During the year 2021, the Ministry of Health ordered for the third time the administrative measures aimed at canceling businesses that violate the General Tobacco Control Law 9028, based on the impact of the COVID-19 pandemic, establishing a moratorium in time for businesses to cancel the fines and stopped the closure of offending establishments. (37)</p> <p>The government still maintains the privilege for international travelers entering Costa Rica that allows them to take up to 400 cigarettes or 50 cigars or 500 grams of tobacco from duty-free stores. (38) In addition, the government also maintains an exception for the calculation of the VAT tax base, since this excludes the specific tax regulated in the General Law on Tobacco Control and its harmful effects 9028. (39)</p> | | | | | | |
| INDICATOR 4: Forms of Unnecessary Interaction | | | | | | |
| 8. Top level government officials (such as President/ Prime Minister or Minister ⁶) 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) | | | | 3 | | |
| <p>The President of the Republic and the Ministers of Economy, Industry and Commerce, Foreign Trade, Environment and Energy, and the Presidency attended the 2022 Congress of Industrialists of the Costa Rican Chamber of Industries (CICR). In addition, the President gave a closing speech. One of the sponsors of the event was Phillip Morris International. (40)</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 minors. (including monetary contribution for these activities) (Rec 4.3) | 0 | | | | | |
| <p>No evidence was found that the government accepts assistance or offers of assistance from the tobacco industry in implementing tobacco control legislation.</p> | | | | | | |
| 10. The government accepts, supports, endorses, or enters into partnerships or non-binding agreements with the tobacco industry or any entity working to further its interests. (Rec 3.1) <i>NOTE: This must <u>not</u> involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.</i> | 0 | | | | | |
| <p>No evidence was found that the government accepts, supports, receives or participates in alliances or non-binding agreements with the tobacco industry or another entity that works based on its interests.</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) | | | 2 | | | |
| <p>No evidence was found that the government held any meetings or interactions with the tobacco industry. During the COVID-19 pandemic, the Presidency of the Republic and some ministries held meetings with the chambers of commerce (who have represented the interests of the tobacco industry) to discuss actions for economic recovery. (41)</p> | | | | | | |

⁶ Includes immediate members of the families of the high-level officials

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| 12. The government requires rules for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists (Rec 5.3) | | | | | | 5 |
| The government does not set standards for the reporting or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf, including lobbyists or pressure groups. | | | | | | |
| 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) / Never 5 Yes | | 1 | | | | |
| There is no specific rule to prohibit contributions from the tobacco industry, but articles 124 and 125 of the Electoral Code regulate and prohibit contributions from foreign natural persons and national and foreign legal entities. (42) | | | | | | |
| For example, article 128 says: " <i>Foreigners and legal persons of any nature and nationality are prohibited from making, directly, indirectly or covertly, contributions, donations or contributions, in money or in kind, to cover the expenses of the political parties. Foreigners, whether natural or legal persons are also prohibited from granting loans, acquiring titles or carrying out any other operation that implies a benefit of any kind for political parties</i> " and 129 says: " <i>It is prohibited to deposit and receive contributions, donations or any another type of contribution through financial entities located outside the national territory. In the event that a political party receives a deposit in this condition, it will not be able to use said irregular funds and must immediately report this situation to the TSE, which will resolve the case as appropriate.</i> " | | | | | | |
| 14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4) | | | | 3 | | |
| Former deputy María Inés Solís of the Social Christian Unity Party acted openly in opposition to the creation of Law 10066 "Regulation of Electronic Nicotine Administration Systems (ENDS), Electronic Non-Nicotine Delivery Systems (ENNDS) and electronic devices that use heated tobacco and similar technologies. Weeks before the end of her election period in the Legislative Assembly, the former deputy resigned from her position and took over as External Affairs Relations Officer for Central America and the Caribbean at Philip Morris International. (6,43) | | | | | | |
| In addition, it has been documented that deputy Jorge Eduardo Dengo Rosabal of the Progressive Liberal Party worked, until 2021, for 19 years for Philip Morris International in Central America, Colombia, Venezuela, and Mexico. (6,43) Four congressmen from his caucus proposed Bill 23.553 to position ENDS, ENNDS and heated tobacco products as harm-reduction instruments. | | | | | | |
| 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 | | | | | |
| No evidence was found that government officials and/or their family members hold positions in the tobacco industry, for example, as external consultants. | | | | | | |
| 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 |

| | 0 | 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|-----------|---|
| <p>The government has not put in place a procedure to publicly release the record of interactions with the tobacco industry and its representatives. Since 2019, Bill 21.346 – Regulatory Law for Lobbying and interest management activities in the public administration was presented by former deputy María Inés Solís Quirós (cited in indicator 14), however, the file was archived by the expiration of the four-year period. (44)</p> <p>In 2021, the National Strategy for Integrity and Prevention of Corruption (ENIPC) was presented, the product of an inter-institutional and intersectoral effort. The Strategy includes, within the actions, the creation of a lobbying law and revolving doors. (45)</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); <i>1 for whole of government code; 2 fort Yes but partial if only MOH</i> | | | | | | 5 |
| <p>The government has not developed, adopted, or implemented a code of conduct for public officials that sets out the minimum standards they must abide by when interacting with the tobacco industry. There is an effort from civil society to create a code of conduct.</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) | | | | 3 | | |
| <p>There is no requirement for the tobacco industry to provide information on its market share, marketing expenses, revenues, and any other activities, including lobbying and philanthropy, beyond the information filed on product import and tax declarations.</p> | | | | | | |
| 19. The government has a program / system/ plan to consistently ⁷ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2) | | | | | | 5 |
| <p>The government does not have a program, system or plan for systematic implementation in its departments to raise awareness of the policies of the Guidelines for the implementation of Article 5.3 of the WHO FCTC.</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) | | | | | | 5 |
| <p>The government has not taken steps to prevent the acceptance of any contribution or gift from the tobacco industry.</p> | | | | | | |
| TOTAL | | | | | 58 | |

⁷ 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.

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ANNEX A: SOURCES OF INFORMATION

I. TOBACCO INDUSTRY ACTIVITY

TOP TOBACCO COMPANIES

| Top 5 Transnational Tobacco Company | Market Share and Brands | Source |
|--|---|---|
| Philip Morris International | Chesterfield, Derby (34,2%)(3) iQOS (si datos de participación de mercado) | https://www.pmi.com/markets/costa-rica/es |
| British American Tobacco Central América | Pall Mall, Viceroy (43%)(3) | http://www.batcentralamerica.com/ |

TOBACCO FRONT GROUPS

| Top 5 Tobacco Industry Representative | Type (Front Group/ Affiliate/ Individual) | Source |
|---|---|---|
| AMCHAM | Affiliate | https://www.amcham.cr/miembros/ |
| British-Costa Rican Chamber of Commerce | Affiliate | https://britchamcr.com/ |
| Chamber of Industries of Costa Rica | Affiliate | https://cicr.com/asociados/ |
| Costa Rica Consumers | Front Group | https://www.facebook.com/consumidoresdecostarica/?locale=es_LA |

News Sources

| Top 5 Newspaper/Dailies* | Type (Print/Online) | |
|--------------------------|---------------------|---|
| CRHoy | Online | https://www.crhoy.com/ |
| Semanario Universidad | Print/Online | https://semanariouniversidad.com/ |
| Delfino CR | Online | https://delfino.cr/ |
| Teletica | Online | https://www.teletica.com/ |
| La Nación | Print/Online | https://www.nacion.com/ |

*Basis of Ranking: Circulation Popularity Others: Media that most frequently cover tobacco regulation issues__

a. Government Agencies

| 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 | Presidency of the Republic | https://www.presidencia.go.cr/ |
| 2. Cabinet and/or National Assembly (Policy makers) | Legislative Assembly of Costa Rica | http://www.asamblea.go.cr/SitePages/Inicio.aspx |
| 3. Agriculture / National Tobacco Board | Ministry of Health, Tobacco Control Program | https://www.ministeriodesalud.go.cr/index.php/biblioteca/material-educativo/material-de- |

| | | |
|--|---|---|
| | | comunicacion/control-de-tabaco?format=html |
| 4. Customs | Ministry of Finance | https://www.hacienda.go.cr/ |
| 5. Education | Ministry of Education | https://www.mep.go.cr/ |
| 6. Environment | Ministry of Environment and Energy | https://minae.go.cr/ |
| 7. Finance/ Revenue/ Investments/ Excise | Ministry of Finance | https://www.hacienda.go.cr/ |
| 8. Health | Ministry of Health | https://www.ministeriodesalud.go.cr/ |
| 9. Labor | Ministry of Labour and Social Security | https://www.mtss.go.cr/ |
| 10. Trade and Industry/ Investments | Ministry of Economy, Industry and Trade | https://www.meic.go.cr/ |
| Additional agencies/sectors to be named per country: | | |

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:

Yes, there is:

<https://www.ministeriodesalud.go.cr/index.php/biblioteca/material-educativo/material-de-comunicacion/control-de-tabaco?format=html>

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

3. Does the above sources include issuances? Yes No
If no, please list the alternative source for the issuances:

ALL LAWS:

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

Yes, the Costa Rican Legal Information System.

<http://www.pgrweb.go.cr/scij/main.aspx>

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
If no, please list the alternative source for the issuances:

| Top 15 Government Agency/ Office/Sector | Source of Policies relating to the Sector | Source of related minor issuances, |
|---|--|---|
| 1. Office of the Chief Executive (Prime Minister/ President) Members of Royalty | Presidency of the Republic | https://www.presidencia.go.cr/ |
| 2. Cabinet and/or National Assembly (Policy makers) | Legislative Assembly of Costa Rica | http://www.asamblea.go.cr/SitePages/Inicio.aspx |
| 3. Agriculture / National Tobacco Board | Ministry of Health, Tobacco Control Program | https://www.ministeriodesalud.go.cr/index.php/biblioteca/material-educativo/material-de-comunicacion/control-de-tabaco?format=html |
| 4. Customs | Ministry of Finance | https://www.hacienda.go.cr/ |
| 5. Education | Ministry of Education | https://www.mep.go.cr/ |
| 6. Environment | Ministry of Environment and Energy | https://minae.go.cr/ |
| 7. Finance/ Revenue/ Investments/ Excise | Ministry of Finance | https://www.hacienda.go.cr/ |
| 8. Health | Ministry of Health | https://www.ministeriodesalud.go.cr/ |
| 9. Labor | Ministry of Labour and Social Security | https://www.mtss.go.cr/ |
| 10. Trade and Industry/ Investments | Ministry of Economy, Industry and Trade | https://www.meic.go.cr/ |