
Spain

**TOBACCO
INDUSTRY
INTERFERENCE
INDEX
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Background and Introduction

Tobacco Control in Spain

Spain became a Party to the WHO Framework Convention on Tobacco Control (FCTC) on April 11th, 2005. It also became a Party to the Protocol to Eliminate Illicit Trade in Tobacco Products on December 23rd, 2014.

Tobacco control is fundamentally regulated by Law 28/2005 (as amended by Law 42/2010)¹ and the European Union (EU) Directives on excise duty applied to manufactured tobacco² and tobacco products (TPD)³ that has been transposed into Spanish law^{4,5,6,7} and on taxation. In summary, the tobacco control legislation presently establishes the following obligations.

Smoking is prohibited in all indoor public places, workplaces, and public transportation. However, the law allows designated hotel guest rooms. Smoking is also banned in some outdoor public places, such as terraces, depending on the type of enclosure, children's playgrounds, and open spaces in health and educational facilities. Sub-national jurisdictions may enact smoke-free laws that are more stringent than national law. Regional governments are in charge of enforcing smoke-free environments. Compliance with the law is high in enclosed environments. However, it is deficient in semi-open hospitality sector areas, such as terraces, where smoking is banned.⁸

As one of the measures to combat the COVID-19 pandemic, in August 2020, the Ministry of Health mandated that regional governments prohibit smoking in open spaces, including all terraces of hospitality venues, when a safety distance of 2 meters between the smoker and other people could not be guaranteed⁹. All regional governments introduced such a restriction. Later, several regional governments specifically banned smoking in terraces of hospitality venues not contingent upon enough security distance. However, many regional governments have stopped applying restrictions and only one maintains the ban in terraces.

An EU directive regulates tobacco taxes. Since its implementation, the real prices of cigarettes have been increasing. However, the affordability of the most sold brand of cigarettes has slightly

¹ BOE. Ley 42/2010, De 30 De Diciembre, Por La Que Se Modifica La Ley 28/2005, De 26 De Diciembre, De Medidas Sanitarias Frente Al Tabaquismo y Reguladora De La Venta, El Suministro, El Consumo Y La Publicidad De Los Productos Del Tabaco. Madrid: Boletín Oficial del Estado núm. 318, de 31/12/2010; 2010. <https://www.boe.es/eli/es/l/2010/12/30/42/con>. Accessed June 12, 2020.

² Council Directive 2011/64/EU Of 21 June 2011 on the Structure and Rates of Excise Duty Applied to Manufactured Tobacco. Brussels: European Commission; 2011. <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:176:0024:0036:EN:PDF>. Accessed June 9, 2020.

³ Directive 2014/40/EU Of the European Parliament And Of The Council Of 3 April 2014 On The Approximation of The Laws, Regulations And Administrative Provisions Of The Member States Concerning The Manufacture, Presentation And Sale Of Tobacco And Related Products And Repealing Directive 2001/37/EC. Vol 2014/40/EU. Brussels: EU; 2014.

⁴ BOE. Real Decreto 579/2017, De 9 De Junio, Por El Que Se Regulan Determinados Aspectos Relativos A La Fabricación, Presentación Y Comercialización De Los Productos Del Tabaco Y Los Productos Relacionados.. Madrid: Boletín Oficial del Estado núm. 138, de 10 de junio de 2017, páginas 48127 a 48158; 2017:32. <https://www.boe.es/eli/es/rd/2017/06/09/579>. Accessed June 9, 2020.

⁵ BOE. Corrección De Errores Del Real Decreto 579/2017, De 9 De Junio, Por El Que Se Regulan Determinados Aspectos Relativos A La Fabricación, Presentación Y Comercialización De Los Productos Del Tabaco Y Los Productos Relacionados. Madrid: Boletín Oficial del Estado; Number: 210/2017 ; Publication date: 2017-09-01 ; Page: 86372-86373; 2017:2. <https://www.boe.es/boe/dias/2017/09/01/pdfs/BOE-A-2017-10090.pdf>. Accessed June 9, 2020.

⁶ BOE. Real Decreto-Ley 17/2017, De 17 De Noviembre, Por El Que Se Modifica La Ley 28/2005, De 26 De Diciembre, De Medidas Sanitarias Frente Al Tabaquismo Y Reguladora De La Venta, El Suministro, El Consumo Y La Publicidad De Los Productos Del Tabaco, Para Transponer La Directiva 2014/40/UE Del Parlamento Europeo Y Del Consejo, De 3 De Abril De 2014.. Madrid: Boletín Oficial del Estado núm. 280, de 18 de noviembre de 2017, páginas 111191 a 111195; 2017:5. <https://www.boe.es/eli/es/rdl/2017/11/17/17>. Accessed June 9, 2020.

⁷ BOE. Orden HAC/1365/2018, De 12 De Diciembre, Por La Que Se Aprueban Las Normas Técnicas Relativas A La Trazabilidad Y Las Medidas De Seguridad De Los Productos Del Tabaco, En Desarrollo De Los Artículos 21 Y 22 Del Real Decreto 579/2017, De 9 De Junio, Por El Que Se Regulan Determinados Aspectos Relativos A La Fabricación, Presentación Y Comercialización De Los Productos Del Tabaco Y Los Productos Relacionados. Madrid: Boletín Oficial del Estado núm. 308, de 22 de diciembre de 2018, páginas 125813 a 125819; 2018:7. <https://www.boe.es/eli/es/o/2018/12/12/hac1365>. Accessed June 9, 2020.

⁸ <https://www.ocu.org/organizacion/prensa/notas-de-prensa/2015/ley-antitabaco>

⁹ Fernández E, Martínez C. Spain: COVID-19 prompts smoking regulation in streets and terraces. BMJ Journals Covid-19: Blog, 2020. <https://blogs.bmj.com/covid-19/2020/09/25/spain-covid-19-prompts-smoking-regulation-in-streets-and-terraces/>.

Accessed: May 28, 2021.

decreased since 2014. WHO calculated that buying 100 packs of the most sold brand was equivalent to 2.13% of per capita gross domestic product in 2020, similar to the 2.16% in 2014.¹⁰ This is in line with the recent assessment of the EU directive, indicating that, although the directive has been moderately effective in raising tobacco tax rates and prices in the EU Member States, the overall benefits have decreased over time.¹¹ An analysis of the tobacco market in 2005-2011 identified significant loopholes in the taxation of cigarette products: the loopholes originate from applying a minimum tax on quantity only on cigarettes rather than on all tobacco products.¹² In Spain, the tobacco excise taxes and the Value Added Tax (VAT) collected on tobacco sales represented 3.6% of all fiscal revenue to the state in 2022.

The law prohibits tobacco advertising and promotion, with limited exceptions. Such exceptions include advertising and promotion at the point of sale, where the products and promotional material should be seen from the outside. However, when minors get inside to buy other goods they can see tobacco products and promotional materials. Besides, the law permits tobacco advertising in publications edited or printed in countries outside the EU if these publications are not aimed primarily at the European market and not aimed at minors. Nicotine products, like electronic cigarettes, can be advertised on physical media such as billboards on the street and public transport. All forms of financial or other tobacco sponsorship are prohibited. However, the tobacco industry activities related to corporate social responsibility (CSR) are rampant and have been strategically utilized by the industry over the past years. Philip Morris Spain (PMS), for example, strategically focuses its CSR.

Rotating pictorial health warnings must occupy 65 percent of the front and 65 per cent of the back of most smoked tobacco product packaging. For smokeless tobacco product packaging, one text-only health warning must occupy 30 percent of the front and 30 percent of the back of the package. Misleading packaging and labelling, which could include terms such as “light” and “low tar” and other signs, is prohibited. Despite the efforts of the tobacco control movement,¹³ the Spanish Government is not considering plain packaging yet.

Measuring the actual size of the black tobacco market in Spain is difficult. According to the latest wave of the IPSOS Survey of Empty Cigarette packs, about 6% of cigarettes bought in Spain were sold illegally in 2022, down from 9% in 2021.¹⁴ The Eurobarometer 482 of December 2018 measures the proportion of adults that have been offered illicit cigarettes as a proxy to the penetration of black market cigarettes.¹⁵ In Spain, 9% indicated that they had been offered illicit cigarettes at least once a month. This is three percentage points above the figure for the overall EU. The Spanish government made progress in reducing the illicit trade of tobacco, which resulted in a decline in sales of tobacco products and smoking prevalence until the mid-2010s. However, since then, the proportion of illicit cigarettes sold in Spain seems to have increased and stabilized around 9%.

While several laws exist regulating the code of ethics of public employees and political appointees, there is no specific law governing the conduct of government officials involved in tobacco control, regulation, and legislation.

¹⁰ WHO. WHO Report on The Global Tobacco Epidemic 2021: Appendix IX, Table 9.6 Affordability. Geneva, Switzerland: World Health Organization; 2021. <https://www.who.int/publications/i/item/WHO-HEP-HPR-TFI-2021.9.6>. Accessed June 23, 2023.

¹¹ Commission Staff Working Document. Evaluation of The Council Directive 2011/64/EU Of 21 June 2011 On The Structure And Rates Of Excise Duty Applied To Manufactured Tobacco. Brussels: European Commission; 2020:75. https://ec.europa.eu/taxation_customs/sites/taxation/files/10-02-2020-tobacco-taxation-report.pdf. Accessed June 9, 2020.

¹² López-Nicolás A, Cobacho MB, Fernández E. The Spanish tobacco tax loopholes and their consequences. *Tob Control*. 2013;22:e21.

¹³ Comité Nacional de Prevención del Tabaquismo. The Madrid Declaration. <http://ensp.network/declaration-of-madrid-2018/>

¹⁴ Eu “El Contrabando de Tabaco Cae al 6,7%, El Más Bajo Desde 2011, Con El Desmantelamiento de 11 Plantas Ilegales.” *Europapress*.es, October 5, 2022. <https://bit.ly/3O1AIWV>.

¹⁵ European Commission. Special Eurobarometer 482. Public perception of illicit tobacco trade. Brussels: European Commission; 2019. https://ec.europa.eu/anti-fraud/sites/antifraud/files/eurobarometer_2019_summary_en.pdf. Accessed June 9, 2020.

The Tobacco Market Commission (TMC),^{16,17,18} which is an autonomous agency of the Ministry of Finance, supervises the tobacco market in Spain. The law indicates that its primary functions are to:

- Dialogue with, monitor, and inspect individual market operators (manufacturers, importers, wholesalers, and retail sellers).
- Issue state licenses to retail sellers and owners of vending machines, except in the Canary Islands.
- Refer alleged violations of the principles and the rules of free competition in the tobacco market to the competent bodies for processing and resolution.
- Monitor the quality of the tobacco products offered, those used in their design, and additives or embedded substances, safeguarding the confidentiality of industrial production.
- Monitor the content and budgets of promotional activities and advertising of tobacco companies.
- Monitor the implementation of health criteria on advertising, consumption, and quality of tobacco in collaboration with other competent public administrations.
- Store and safeguard the seized tobacco contraband and destroy it.
- Collect statistics, prepare reports, and formulate proposals in matters within the scope of its competences.

The government appoints all personnel of the TMC among public employees. The TMC, however, has an advisory committee in which, by law, the operators of each phase of the production, manufacture, and distribution process of tobacco are represented, along with government officials and a consumer representative. The membership of the advisory committee is not public.

The National Committee for the Prevention of Tobacco Use (CNPT from its acronym in Spanish) is a coalition of 40 health organizations working on tobacco control in Spain.¹⁹

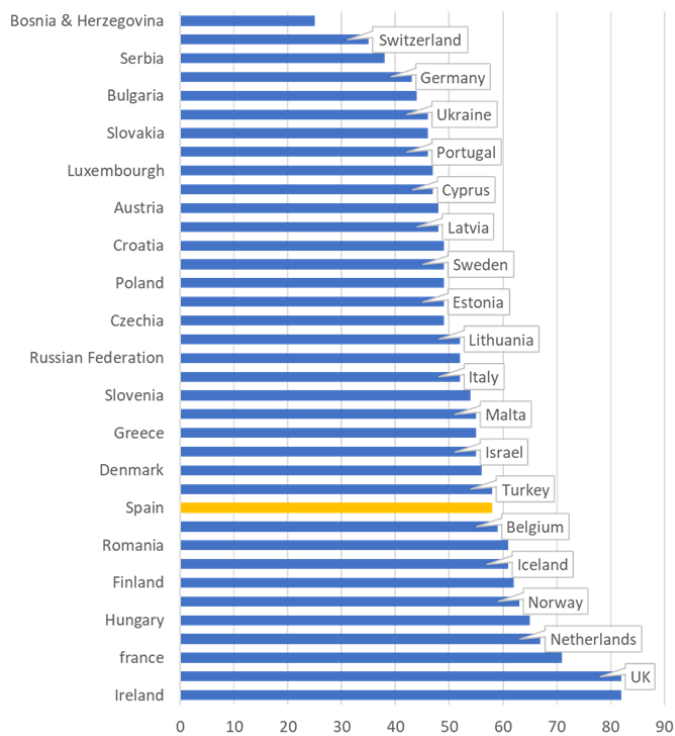
¹⁶ BOE. Ey 13/1998, De 4 De Mayo, De Ordenación Del Mercado De Tabacos Y Normativa Tributaria As Amended In 2017. Madrid: Boletín oficial del Estado núm. 107, de 05/05/1998.; 2017. <https://www.boe.es/eli/es/l/1998/05/04/13/con>. Accessed June 10, 2020.

¹⁷ Subsecretaría - Memoria 2018. Madrid: Ministerio de Hacienda; 2018:331. https://www.hacienda.gob.es/Documentacion/Publico/GobiernoAbierto/Informes%20y%20Memorias/Memoria%20Subsecretar%C3%ADa/MEMORIA_SUBSE_2018.pdf. Accessed June 10, 2020.

¹⁸ CMT. 2018-2021 Carta de Servicios. Madrid: Comisionado del Mercado de Tabacos; 2020:13. <https://www.hacienda.gob.es/Documentacion/Publico/Tabacos/WEB/CARTA%20DE%20SERVICIOS2.pdf>. Accessed June 10, 2020.

¹⁹ CNPT | Comité Nacional para la Prevención del Tabaquismo. Cnpt.es. <https://www.cnpt.es/index.asp>. Published 2020. Accessed June 16, 2020.

Figure 1 European Countries Ranked According to TCS Score in 2021



Overall, tobacco control efforts ranked Spain as the 11th country in Europe on the tobacco control scale for 2021 (Figure 1).²⁰ The policy domain where Spain's efforts scored highest was smoke-free environments. Tobacco advertising, promotion, and sponsorship bans fared in second place with a notable but not highest score. However, the policy domain of countering tobacco industry interference received the lowest score possible. WHO considered that in Spain, the following policies were implemented at the highest level of achievement in 2018: monitoring the epidemic, smoke-free environments, tobacco advertising, promotion and sponsorship, and tobacco taxes.²¹

The tobacco industry in Spain

The tobacco industry in Spain was a state monopoly whose origins date back to 1636. In 1945 it adopted the name Tabacalera S.A. This company manufactured tobacco products. It also bought all raw tobacco produced in Spain from tobacco growers, all of which were operated under a state license. The accession of Spain to the European Economic Community (EEC) required the liberalization of the tobacco sector. Therefore, Tabacalera S.A. merged with SEITA in 1999 to form a private company called Alliance Tobacco Distribution (ALTADIS). In 2008, Imperial Tobacco bought ALTADIS. The agricultural part of the tobacco state monopoly was transformed into a company called the Spanish Tobacco Company in Rama S.A., S.M.E. (CETARSA) as a state company under private law, with the state holding about 70% of its capital and ALTADIS about 20%.

Import and wholesale distribution are liberalized, although operators must obtain a license from the Tobacco Market Commission. There are several companies devoted to the wholesale distribution of tobacco products. However, only one is dominant in this market: Logista. Imperial Brands holds a majority share of the business through its subsidiary ALTADIS. Distributors must supply all national retailers, where there is still a state monopoly through the approximately 13,000 tobacco outlets that are the only legal sales channel. In 2019, the National Commission of Markets and Competition (CNMC) sanctioned the major tobacco companies - ALTADIS, Philip Morris Spain (PMS), and Japan Tobacco International Iberia (JTII), and the distribution company Logista – for violation of information exchange to eliminate market uncertainty with 57.7 million euros: Logista, 21 million euros; Philip Morris Spain, 15.3 million; ALTADIS, 11.426 million; and JT International Iberia, 10 million.²²

Table 1 indicates that the revenue from sales of conventional cigarettes is almost 83% of the market, while emerging products such HTPs barely represent 1%. The sale of on-pharmaceutical nicotine products is not even 1% of the market.

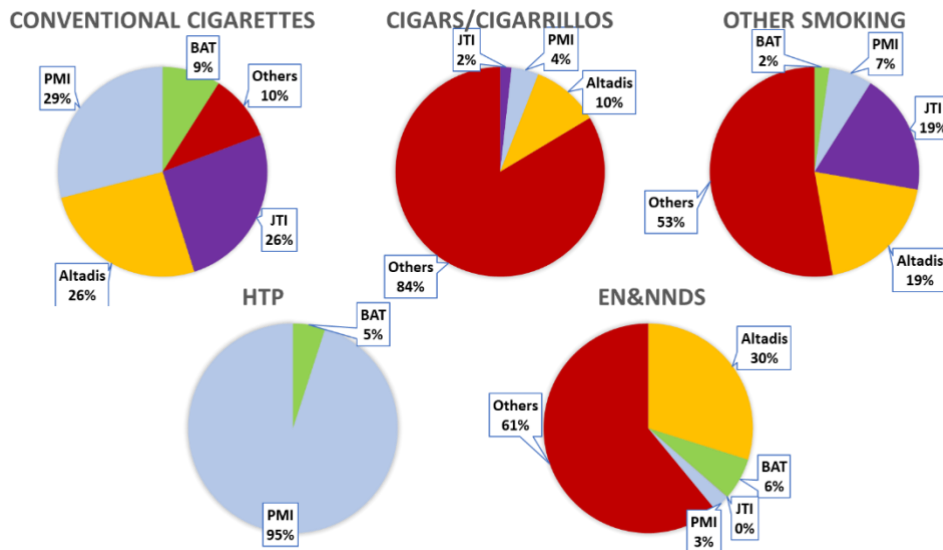
**Table 1.-
MARKET SIZE BY TYPE OF TOBACCO AND NICOTINE PRODUCT
Spain, 2021**

	Market Size
Conventional cigarettes	82.7%
Other smoking tobacco	15.1%
Oral tobacco	<0.001%
HTP	1.3%
Total tobacco products	99.1%
EN&NNDS	0.9%
Nicotine Pouches	0.0%
Total nonpharmaceutical nicotine products	0.9%

Source: Euromonitor 2021

Figure 2 presents the share by type of product and national brand owner. Big tobacco dominates the conventional cigarettes and HTPs market, with a 90% ad 100% share, respectively.

Figure 2 Market share by type of product and national brand owner



²⁰ Tobacco Control Scale in Europe: Results 2019. Tobaccocontrolscale.org. <https://www.tobaccocontrolscale.org/results-2019/>. Published 2019. Accessed July 10, 2023.

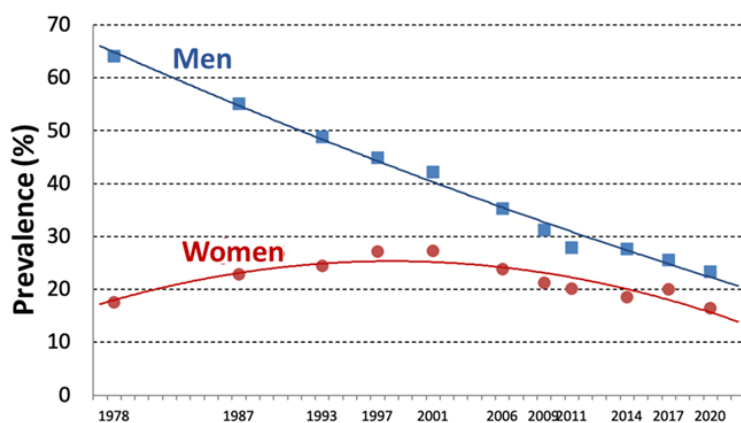
²¹ 5WHO. WHO Report On The Global Tobacco Epidemic 2019: Offer Help To Quit Tobacco Use; Geneva, Switzerland: World Health Organization; 2019. <https://www.who.int/publications/i/item/who-report-on-the-global-tobacco-epidemic-2019-offer-help-to-quit-tobacco-use>. Accessed July 10, 2023.

²² La CNMC sanciona a las principales empresas fabricantes de tabaco y a Logista por una infracción consistente en un intercambio de información estratégica | CNMC. Cnmc.es. <https://www.cnmc.es/en/node/374435>. Published 2019. Accessed July 10, 2023.

Use of tobacco and nonpharmaceutical nicotine products in Spain

The data from the European Health Survey conducted in 2009, 2014, and 2020, involving over 20,000 participants aged 15 or above across the country, reveals significant changes in smoking patterns. Between 2009 and 2020, the prevalence of daily smokers witnessed a

Figure 3 Prevalence (%) of daily smoking (15 years) among men and women in Spain, 1978-2020



Own calculations based on: 1978 - National Tobacco Survey; 1987, 2006, 2011, and 2017 - National Health Surveys; 2011, 2014, and 2020 - European Health Surveys in Spain

decrease of almost 8 percentage points among men and nearly 5 among women. Not only is the proportion of daily smokers declining, but those who continue to smoke are also consuming fewer cigarettes per day (Figure 3).

The proportion of men who smoke more than one pack of cigarettes daily decreased from almost 50% in 2009 to just over 25%. Among women who smoke daily, this proportion decreased from nearly 30% to just over 20%.

Furthermore, from 2009 to 2020, the sale of manufactured cigarettes decreased by half, and Roll-Your-Own cigarettes experienced a drop of over 13%.

During the period from 2009 to 2018, the number of deaths attributable to tobacco use, as an indicator of the harm caused by smoking, decreased from 54,000 to just under 50,000 per year. This decrease was predominantly observed among men.

According to the biennial survey ESTUDES²³, the prevalence of current electronic cigarette (EC) use among high school students in Spain was 8.1% (95% CI 7.5-8.8) in 2021, marking a decrease from 14.9% (95% CI 14.1-15.8) in 2018²⁴. However, it is important to interpret these findings cautiously due to the COVID-19 pandemic, as the latest edition of ESTUDES took place during this period. Temporary reductions in tobacco and EC use have been observed during this time.

According to the Eurobarometer, approximately 3% of adults used HTPs at least once a month in 2020, up from 1% in 2017.

Emerging issues in Spain in the tobacco industry interference

The tobacco industry is actively pushing its strategy for a smoke-free future. This includes engaging governments in CSR activities to promote its emerging products and greenwashing its activities and products. To this end, the industry is particularly targeting regional and municipal governments in Spain. The main focus is on the regions of Extremadura, known for

²³ ESTUDES is a biennial survey carried out in Spain since 1994 to learn about the situation and trends in drug use and other addictions among students between the ages of 14 and 18 who are enrolled in Secondary Education in Spain.

²⁴ Peruga A, Martínez C, Fu M, Ballbè M, Tigova O, Carnicer-Pont D, et al. Consumo de cigarrillos electrónicos entre estudiantes de secundaria durante la pandemia de COVID-19. Gaceta Sanitaria: in press, 2023

its tobacco cultivation, and the Canary Islands, which provide significant tax breaks to attract businesses, making them attractive destinations for tobacco companies.

One ongoing concern is the lack of transparency in the government's dealings with the tobacco and nicotine industries. Of particular concern are the operations of the Governmental Consultation Committee of the Tobacco Market Commission, where the industry's participation is mandated by law, and the special tax regime in the Canary Islands that favors the industry.

According to this report, Spain's overall score is 57, representing a 4-point increase compared to the previous report. This increase is primarily due to the rise in CSR activities and unnecessary interactions between regional and municipal governments in two specific regions: Extremadura and the Canary Islands. These interactions have become more prevalent since the easing of restrictions on in-person meetings following the COVID-19 pandemic.

Summary Recommendations

In light of the reported situation, we urge the government to

- Expose the tobacco industry's interference in national and regional governments, emphasizing departments engaged in CSR activities.
- Implement a strong firewall around CETARSA and the TMC to protect the government's independence from tobacco industry influence; and
- Establish strict criteria by law to limit interactions with the tobacco industry to the indispensable level and ensure total transparency.

Methodology of the Report

A detailed report follows. The report is based on a questionnaire developed by the Southeast Asia Tobacco Control Alliance. There are 20 questions based on the Article 5.3 guidelines. Information used in this report is obtained from the public domain only. A scoring system is applied to make the assessment. The score ranges from 0 - 5, where 5 indicates the highest level of industry interference, and 1 is low or no interference. Hence the lower the score, the better for the country. The 0 score indicates the absence of evidence or not applicable. The report covers information on incidents from April 2021 up to March 2023 but also includes incidents prior to 2021 that still have relevance today.

Summary Findings

1 INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

There is no evidence of the government accepting or endorsing assistance or policies from the tobacco industry in relation to public health. In Spain, the tobacco industry is not typically involved in interagency meetings or advisory groups for public health policies. However, the tobacco industry is required by law to be part of the Consultation Committee of the Tobacco Market Commission of the Spanish Ministry of Finance, which primarily deals with the tobacco economy and related issues.

2 INDUSTRY CSR ACTIVITIES

Most of the CSR activities were carried out without the involvement of government officials. However, we have found evidence of collaboration at the regional and municipal levels of government, but not at the national level. One of the main concerns is the potential greenwashing by the "Tobacco Table," which worked together with several municipal governments in Spain for their environmental CSR campaign. Another

concern is the smoke-free future strategy promoted by PMI through their initiative in the Canary Islands.

3 BENEFITS TO THE INDUSTRY

The government does not grant privileges or benefits to the tobacco industry on a nationwide scale, except for the Canary Islands. In this region, a special tax regime is in place, leading to lower tobacco prices than in the rest of Spain. There is no evidence of the government yielding to requests from the tobacco industry. However, it was suspected that the health minister's decision in 2022 to halt the approval of a comprehensive tobacco control plan was influenced by the powerful tobacco industry in the Canary Islands, where later, the Minister became the mayor of the capital city in the region.

4 UNNECESSARY INTERACTION

There is no evidence of ongoing partnerships between law enforcement agencies and customs to combat tobacco smuggling and counterfeiting. However, unnecessary interactions between government officials and the tobacco industry have been observed in two regions of Spain, Extremadura, and the Canary Islands. In Extremadura, the regional government, including the President, has been involved in various activities and events organized or attended by tobacco companies. These include inaugurating Philip Morris IQOS centers, attending tobacco-related summits, sponsoring business awards, and signing collaboration agreements. Similarly, the regional government of the Canary Islands has collaborated with tobacco companies by sponsoring awards and organizing visits to tobacco factories.

5 TRANSPARENCY

The government fails to disclose meetings with the tobacco industry. Only the president, ministers, and vice ministers of the government make their daily agenda of meetings available online, but the minutes of the meetings are not disclosed. In contrast, the government requires the registration of economic operators, excluding lobbyists. This incomplete transparency raises concerns about undue influence.

6 CONFLICT OF INTEREST

The financing of political parties in Spain is regulated by law, permitting legal contributions from individuals but prohibiting contributions from private companies or foundations, including those in the tobacco industry. However, there is no regulation regarding contributions to political party foundations. It's worth noting that the State still has a stake in the tobacco industry through CETARSA, a state company under private law. CETARSA's primary focus is the acquisition and marketing of raw tobacco cultivated in Spain, with Altadis SA (Imperial Tobacco) holding a 20% stake in the company.

7 PREVENTIVE MEASURES

The national government has not established a transparent procedure for disclosing records of its interactions with the tobacco industry, except for the agendas of top officials. In Spain, there are laws that regulate the code of conduct for public employees and political appointees. These laws include obligations such as prioritizing public interests, avoiding conflicts of interest, and maintaining confidentiality. However, these laws are considered insufficient to address the tobacco industry's interference. While the government requires the tobacco industry to provide information on production and revenues, it does not mandate the disclosure of marketing expenditures, lobbying activities, or political contributions. Furthermore, there is no clear indication of

consistent awareness-raising or policies that prohibit government officials from accepting gifts or assistance from the tobacco industry.

Recommendations

1. Implement a strong firewall around CETARSA and the TMC to protect the government's independence from tobacco industry influence.
2. Establish strict criteria by law to limit interactions with the tobacco industry to the indispensable level and ensure total transparency.
3. Expose the tobacco industry's interference in national and regional governments, emphasizing departments engaged in CSR activities.

RECOMMENDATION 1

Implement a strong firewall around CETARSA and the TMC to protect the government's independence from tobacco industry influence.

To protect the government's independence from tobacco industry influence, it is necessary to establish a robust firewall around CETARSA and the TMC. The state-owned tobacco-growing company, CETARSA, and the regulatory body, TMC, are vulnerable to such influence. Safeguarding political and policy independence is of utmost importance in tobacco-related matters. Moreover, the TMC may need to be dissolved, with its public health responsibilities transferred to a suitable government entity.

RECOMMENDATION 2

Establish strict criteria by law to limit interactions with the tobacco industry to the indispensable level and ensure total transparency.

At a minimum,

Staff and politicians of public administrations should:

- Not have contact with tobacco or nicotine companies without the prior approval of a designated administration officer.
- Not provide any information to tobacco or nicotine companies, except on approved policies.
- Not receive or accept financial or other benefits from tobacco or nicotine companies.
- Sign a code of conduct for tobacco control approved by law.

In addition, each public administration should:

- Maintain a publicly available register of all contacts and discussions that staff or politicians have with the tobacco and nicotine industry disclosing the agenda and decisions taken during the meetings.
- Create a whistleblowing hotline that anyone can use to report any concerns about the tobacco or nicotine industry's influence.

RECOMMENDATION 3

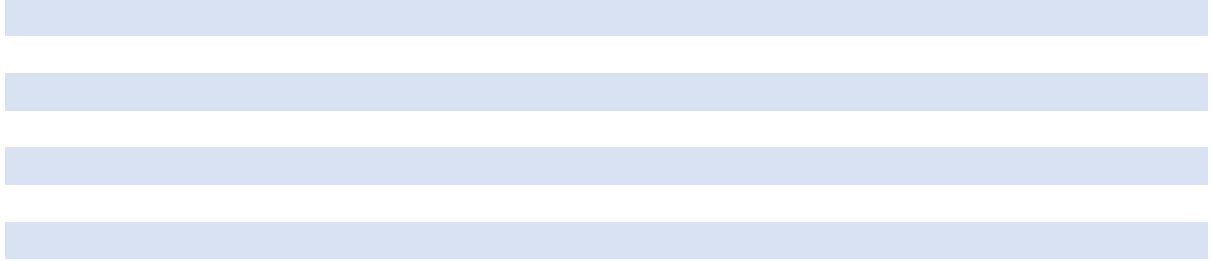
Expose the tobacco industry's interference in national and regional governments, emphasizing departments engaged in CSR activities.

To this end,

- promptly implement the agreement reached within the Public Health Commission of the National Health System and the health authorities of the

Autonomous Communities to remind the National Health System of the obligations derived from the Framework Convention and its article 5.3.

- Engage civil society in these efforts through the CNPT, a network of organizations working to protect public health from the tobacco industry



Spain

Tobacco Industry Interference Index 2023

Results and Findings

	0	1	2	3	4	5
INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government ²⁵ 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. ²⁶ in setting or implementing public health policies in relation to tobacco control ²⁷ (Rec 3.4)	0					
There is no evidence that the government has accepted or endorsed any offer for assistance by or in collaboration with the tobacco industry when setting or implementing public health policy.						
2. The government accepts, supports or endorses <u>policies or legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4)	0					
There is no evidence that the government has accepted or endorsed any policies or legislation drafted by or in collaboration with the tobacco industry.						
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) Never 5 Yes						5
Spain does not generally allow the tobacco industry to sit in interagency meetings and advisory groups that set public health policies. However, the tobacco industry is required by law to sit on the Consultation Committee of the Tobacco Market Commission (TMC) of the Spanish Ministry of Finance. Although the TMC is not strictly speaking a public health body, some of its functions are to discuss and report on central issues in the agricultural and industrial tobacco economy, informing the government, through the Commissioner, of the sector's opinion on such issues. In addition, the TMC controls the advertisement and promotion of tobacco products. In this regard, we consider the presence of industry as a risk to public health.						
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) ²⁸ (Rec 4.9 & 8.3) For non-COP year, follow the previous score of COP year. For non-Parties, apply a score of '0'		1				

²⁵ 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

²⁶ The term, "tobacco industry" includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

²⁷ "Offer of assistance" may include draft legislation, technical input, recommendations, oversees study tour

²⁸ Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

	0	1	2	3	4	5
The government did not nominate or allow tobacco industry representatives in the delegation to COP 9 in 2021.						

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” or “sustainable”. For example, environmental programs. (Rec 6.2)
- B. The government (its agencies and officials) receives CSR contributions²⁹ (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

The “Tobacco Table” ³⁰engaged municipal governments in their environmental CSR campaign

- 5 - 2021. The “Tobacco Table” launched the campaign “To take care of the environment is Up to Everyone,” to distribute portable ashtrays and bags to collect marine garbage waste in different Spanish cities.
<https://bit.ly/44fEbBB> Source: Online journal ElEconomista.es of Editorial Ecoprensa
<https://mesadeltabaco.com/depende-de-todos>. Source: website of mesa del tabaco



Figure 3 Portable ashtray distributed

- As part of this campaign,
- 29-7-21. the municipal government of Tarifa (Cadiz) collaborated in the distribution of 5,000 portable ashtrays and 5000 bags to collect marine garbage waste.
<https://bit.ly/46QEhBt> Source: Online journal El Estrecho Digital of Estrecho Digital SL
 - 14-12-22. the municipal government of Murcia collaborated in the distribution of 4,500 portable ashtrays.
<https://bit.ly/44AO9Ns> Source: Online version of the journal La Opinión de Murcia of Editorial Prensa Ibérica

²⁹ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

³⁰ The Tobacco Table represents the entire value chain of the tobacco sector in Spain -farmers, transformers, tobacco products manufacturers, wholesalers, manufacturers of vending machines, and tobacconists- as well as the industrial and agri-food federations of Spanish Unions and CETARSA, which is a public company owned by the State (80%) and Imperial Tobacco (20%) devoted to the acquisition, processing, and marketing of raw tobacco in the national and international markets.



Figure 4 Councilwoman of the city of Murcia distributes portable ashtrays

- 17-1-23. The municipal government of Santiago de Compostela collaborated to distribute 4,500 portable ashtrays to ensure that the butts do not end up on the ground and are deposited in the correct places for treatment as waste.
<https://bit.ly/43dYAFM> Source: Online version of the journal La Voz de Galicia of Corporación Voz de Galicia

Smoke-Free La Graciosa The City Council of Tegui (la Graciosa Island, Canary Islands), signed an agreement with Philip Morris International, to promote a “smoke-free culture” by using heated tobacco products with the alleged purpose of making the island the first national territory to receive the certification ‘free culture of smoke’.

- 2021-06-17 La Graciosa aspires to be a smoke-free island by increasing awareness.
<https://bit.ly/3PLKjwV> Source: Online journal Lancelot digital of Corporación Lanzaroteña de Medios, SL.



Figure 5 Presentation of the Smoke-free La Graciosa PMI initiative

- 2021-06-17 Video with Tegui Mayor saying: “This initiative comes from PMI. PMI brings us the chance to certificate La Graciosa as a Smoke-Free Island...”
<https://bit.ly/3D1zvTJ> Source: News Agency europapress.es

Engagement of municipal governments in CSR in the area of culture.

- 02-03-2022. The Community Orchestra of Gran Canaria, which is sponsored by PM, offered a charity concert within the 'Culture in Action' program of the Las Palmas de Gran Canaria City Council.
<https://bit.ly/46EfjEZ> Source: News Agency europapress.es

PMI touts its contribution to the economy

- 2021-06-07. The President of the government of the region of Extremadura supports PMI. <https://bit.ly/3rh0Aje> Source: News Agency europapress.es
 - PMI publicizes the contribution of 208.000 euros to combat unemployment in the Extremadura region, Spain's main tobacco-growing area. <https://bit.ly/46vpFae> Source: Report on PMI website
 - 2021-06-18. Philip Morris creates 120 jobs in Olivenza (Extremadura) with its first call center for IQOS users in Spain. The call center is opened with the participation of the president of the government of Extremadura. <https://bit.ly/43glwUI> Source: News Agency europapress.es

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)				3		
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- 2022-07-22. There is no evidence that the government has accommodated requests from the tobacco industry to implement or postpone the tobacco control law. However, the health minister at the time stopped in 2022 the approval of the new Comprehensive Plan for the Prevention and Control of Tobacco that would introduce a smoking ban in private vehicles, on the terraces of bars, plain packaging, and seeks to increase tobacco taxes. It was suspected that the Minister did not want to upset the powerful tobacco industry in the Canary Islands, where she later (2023) ran successfully for mayor of the capital city of the region. <https://bit.ly/3XlCqPA> Source: digital journal El Diario.es of El Diario de Prensa Digital SL <https://bit.ly/3JOf9kR> Source: digital journal El Confidencial.com of Titania Compañía Editorial, S.L

7. The government gives privileges, incentives, tax exemptions or benefits to the tobacco industry (Rec 7.3)					4	
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The government has not given the tobacco industry any privileges, incentives, exemptions or benefits nationwide, except in the Canary Islands. This region with 2.1 million inhabitants is subject to a special tax regime aimed to stimulate their distant offshore economy in line with EU regulations. The special tax regime also affects tobacco products. The main differences between the Canary Islands and the rest of Spain are two. In the Canary Islands, retailers are free to set tobacco product prices, while in the rest of Spain, prices are approved by the government after consultation with the manufacturers. Also, the government of the Canary Islands approves its own tobacco excise tax rates, which are lower than in the rest of Spain and the EU. As a result, tobacco product prices are lower in the Canary Islands than in the rest of Spain. <https://bit.ly/44D4jWV> Source: Martínez Cristóbal, D. (2022) Regulatory constitutional competencies in taxation: the Canary Islands' economic and fiscal regime in Spain. Spanish Journal of Legislative Studies. (4), p. 1-23. DOI:10.21134/sjls.vi4.1793

The government allows international travelers to duty-free import 200 cigarettes; 100 cigarillos (max. 3 grams each); 50 cigars; or 250 grams of smoking tobacco; or a proportional assortment. Travelers arriving in mainland Spain (incl. Balearic Islands but excl. Canary Islands) with goods purchased within the EU could also freely import 800 cigarettes; 400 cigarillos (max. 3 grams each); 200 cigars; or 1 kilogram of smoking tobacco into the country. <https://bit.ly/44vhxEY> Source: IATA website

INDICATOR 4: Forms of Unnecessary Interaction

8. Top level government officials (such as President/ Prime Minister or Minister ³¹) meet with/ foster relations with the tobacco companies such as attending social functions and other events sponsored or organized by the tobacco companies or those furthering its interests. (Rec 2.1)						5
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Forms of unnecessary interaction of government officials with the tobacco industry happen mostly in two regions of Spain: Extremadura and the Canary Islands.

In Extremadura, the regional government, including its President, meets with or fosters relations with the tobacco companies

- 18-06-2021. The President of Extremadura attends the inauguration of a Philip Morris IQOS calling center with the mayor of the city of Olivenza and the Director General of Philip Morris Spain
<https://bit.ly/3NBCtmS> Source: 20 minutos journal of 20 Minutos Editora, S.L.



Figure 6 President of Extremadura (in the middle) inaugurates IQOS calling center

- 23-11-21. The President of Extremadura meets with the agricultural organizations and Agro-food Cooperatives of Extremadura, complaining about the low prices of tobacco leaf.
<https://bit.ly/3PFKsSC> Source: HOY journal of Corporación de Medios de Extremadura S.A. VOCENTO
<https://bit.ly/3KaoWlx> Source: HOY journal of Corporación de Medios de Extremadura S.A. VOCENTO
- 24-11-2021. The government of Extremadura and Philip Morris Spain jointly participate in the Forbes Summit Reinventing Extremadura. The President of the government of Extremadura inaugurated the Summit.
<https://bit.ly/44eJe5e> Source: Forbes 10 years of Forbes España
<https://bit.ly/3OI1JEy> Source: Forbes 10 years of Forbes España



Figure 5 The President of Extremadura attends the first anniversary of the PMI center

10-6-22. The President of the government of Extremadura and the President of PM Spain celebrated together the first anniversary of the IQOS calling Center.
<https://bit.ly/46BA3NP> Source: El Periódico de Extremadura of Prensa Iberica
<https://bit.ly/44zVInH> Source.: Website of NGO nofumadores.org

³¹ Includes immediate members of the families of the high-level officials

- 22-06-2022. The twenty-seventh edition of the Extremadura Businessman of the Year Awards were sponsored, among others, by Philip Morris Spain and the Government of Extremadura.
<https://bit.ly/3NJLOsK> Source: El Periódico de Extremadura of Prensa Ibérica
<https://bit.ly/446atyN> Source: El Periódico de Extremadura of Prensa Ibérica
<https://bit.ly/3rl7DYf> Source: El Periódico de Extremadura of Prensa Ibérica
- 24-06-2022. The president of the Government of Extremadura signed the collaboration agreement between Sociedad Deltafina SRL and Ibertabaco SC for the purchase of Virginia and Burley tobacco leaf.
<https://bit.ly/46EaHyD> Source: Diario de la Vera of Flovit.co Identidad Digital
- 30-11-22. Philip Morris Spain awards “best entrepreneur” with the collaboration of the city council of Badajoz, Extremadura.
<https://bit.ly/46y6H2Z> Source: El Periódico de Extremadura of Prensa Ibérica
- 18-11-2022. The Badajoz City Council collaborates with the local journal La Crónica de Badajoz to award entrepreneurs, sponsored by Philip Morris Spain.
<https://bit.ly/3pwTE14> Source: El Periódico de Extremadura of Prensa Ibérica
- 30-11-22. The General Director of Agrarian Policy of the Government of Extremadura attends the plenary meeting of the Tobacco Table, where he highlighted the quality and prestige of the tobacco grown in the region.
<https://bit.ly/3D4Yx4m> Source website of the government of Extremadura

In the Canary Islands, the regional government, including its President, meets with or fosters relations with tobacco companies

- 17-02-2022. The municipal government of Santa Cruz de Tenerife, Canary Islands, with the collaboration of the government of this region, cosponsors with Philip Morris the awards for the Best Business Initiatives in the Islands.
<https://bit.ly/44y81AT> Source: Journal AtlanticoHoy.com of Crónica del Atlántico Hoy, SL
- 1-3-22. The president of the Fábrica Nacional de Moneda y Timbre (Royal Mint, in charge of tracking and tracing tobacco products), representatives of the Tobacco Market Commissioner of the National Ministry of the Treasury, the general director of the Canary Islands Tax Agency, and the general director of Industry of the Canary Islands, accompanied the president of the Tobacco Table, on visits to tobacco factories in the Canary Islands regions.
<https://bit.ly/3PPcxH4> Source: Website of Mesa del Tabaco
- 4-22. The President of the Government of the Canary Islands met with the Board of Directors of the Tobacco Table and thanked the entire sector for their presence in the Canary Islands.
<https://bit.ly/3PRxAsN> Source: Website of Mesa del Tabaco
- 26-06-2022. The Minister of Tourism, Industry, and Commerce of the Government of the Canary Islands participates in a forum on Tourism and Communication in Santa Cruz de Tenerife, Canary Islands. The forum was organized by the Association of Communication Managers and sponsored by Philip Morris Spain, among others.
<https://bit.ly/449Q382> Source: journal Expreso of Expreso Información SL

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					
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We did not find any evidence of continuing partnership of law enforcement agencies and customs with the TI in combating the smuggling and counterfeiting of tobacco products.

	0	1	2	3	4	5
<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></p>					4	
<p>There is evidence of agreements at the municipal and regional levels, but not at the national level</p> <ul style="list-style-type: none"> • 2021-05-21. Contract agreement between Teguije City Hall and PMI to get the Smoke-Free Culture Certificate for La Graciosa Island: https://bit.ly/3pFL14f Source.:Website of NGO nofumadores.org • 2022-06-10. The president of the Government of Extremadura and the general director of Philip Morris Spain signed an agreement to collaborate in the technological development and innovation of the tobacco sector in the region. https://bit.ly/3NEmaFX Source: Political party PSOE website 						
INDICATOR 5: Transparency						
<p>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)</p>				3		
<p>The government does not publicly disclose meetings or interactions with the tobacco industry. Only the president, ministers, and vice ministers of the government make their daily agenda of meetings available online, but the minutes of the meetings are not disclosed. The daily agenda of other government officials is not available. Parliamentarians are obligated to publish their daily agendas, but most of them do not.</p>						
<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)</p>			2			
<p>The government requires the registration of all economic operators, including importers, distributors, manufacturers, and retailers of tobacco products. However, it does not require the registration of lobbyists.</p>						
INDICATOR 6: Conflict of Interest						
<p>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</p>				3		
<p>The economic resources of political parties are regulated through Article 2 of the Organic Law 8/2007, of July 4, on Financing of Political Parties as updated in 2015. The law permits legal contributions to political parties, including candidates and campaigns, from private individuals but not private companies, businesses, or foundations. Legal donations to political parties can be made including in cash or in-kind and are subject to the following limitations:</p> <ul style="list-style-type: none"> • They cannot be anonymous, returnable, or for a specific purpose • Individuals having links with any local, regional or national government cannot donate • They cannot exceed 50,000 per year per party • They must be reflected in the accounting system of the party and submitted to the Court of Auditors (The national agency in charge of auditing the public sector and prosecuting violations). 						

	0	1	2	3	4	5
The law, however, does not regulate contributions to foundations of political parties. Such foundations may receive contributions only for the purposes established for such foundations and not electoral activities.						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)					4	
<p>Logista is Spain's largest logistics tobacco distributor (it was the logistics branch of Tabacalera SA before the privatization of the tobacco monopoly). Logista's Board of Directors has 12 members, of whom four represent Imperial Brands, and three directors have been members of the government of Spain. These are:</p> <ul style="list-style-type: none"> ○ María Echenique, Secretary of Logista. Between 2008 and 2012, she was Deputy Director-General of Procurement and Asset Management of the Ministry of Culture (Spain). As such, she was responsible for the processing of all the files of contracting works, services, and supplies of museums, archives, and libraries of state ownership and responsible for the patrimonial management related to the properties of the Ministry of Culture. ○ Cristina Garmendia, Member of the Logista Board of Directors. She was Minister of Science and Innovation between 2008 and 2011. ○ Pilar Platero, Member of the Logista Board of Directors. Between 2012 and 2016, she was Undersecretary of Finance and Public Administrations. Subsequently, and until 2018, she was president of the State Society of Industrial Participations (SEPI), an entity attached to the Ministry of Finance and Public Function. 						
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)			2			
<p>CETARSA (Compañía Española de Tabaco en Rama S.A. https://bit.ly/3JOux0n) was created by Royal Decree 573/1987, of April 10, as a state company under private law. CETARSA is part of the holding of public companies Sociedad Estatal de Participaciones Industriales (SEPI). SEPI, which is the state, owns 79.18% of the capital of CETARSA. Altadis-Imperial Tobacco owns the remaining 20.82% of the capital (https://bit.ly/43keAGe). CETARSA's objective is to acquire, ferment, process, conditioning, and market raw tobacco. SEPI is an entity of Public Law whose activities conform to the private legal system, attached to the Ministry of Finance and Public Function, reporting directly to the Minister. The Board of Directors of CETARSA is made up of representatives of Altadis and of government officials from five ministries: Finance; Presidency, Relations with the Parliament and Democratic Memory; Agriculture, Fishing and Food; Industry, Trade and Tourism; and Education and Vocational Training. The board of Directors of SEPI is made up of high-level government officials from nine ministries: Defense; Finance; Ecological Transition and the Demographic Challenge; Economics and for the Digital Transformation; Transportation, Mobility and the Urban Agenda; Employment and Social Economy; Industry, Trade and Tourism; Agriculture, Fishing and Food; Presidency, Relations with the Parliament and Democratic Memory.</p>						
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)					4	
No procedure has been found by which the national government should disclose the records						

	0	1	2	3	4	5
of the interaction (such as attendees, minutes, and outcomes) with the tobacco industry and its representatives, except for the agendas of top government officials. However, some regulation about transparency of the national Commission on Tobacco Market is being considered.						
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 for Yes but partial if only MOH</i>			2			
<p>We understand that public officials refer here to all public employees and political appointees of the national, autonomous, and local governments. In Spain, two laws regulate the code of conduct of public employees and one that of political appointees.</p> <p>Public employees. The code of conduct of public employees in Spain is regulated by Articles 52 to 54 of the Royal Legislative Decree 5/2015, of October 30th, which approves the revised text of the Law on the Basic Statute of Public Employees⁷¹. It applies to all public employees of the General State Administration, the Administrations of the autonomous communities and the cities of Ceuta and Melilla, the administrations of local entities, public bodies, agencies, and other public law entities with their own legal personality, linked or dependent on any of the Public Administrations and public universities. According to this law, public employees must, among other obligations:</p> <ul style="list-style-type: none"> • pursue the satisfaction of the general interests of citizens • abstain from intervening in those matters in which they have a personal interest, as well as any private activity or interest that may pose a risk of posing conflicts of interest with their public office • not contract economic obligations or intervene in financial operations, patrimonial obligations, or legal business with persons or entities when it may pose a conflict of interest with the obligations of their public office • not accept from individuals or private entities any preferential treatment, favours or situations that imply a privilege or unjustified advantage • not influence the treatment or resolution of any administrative procedure without just cause and, in no case, when it entails a privilege for the benefit of the holders of public offices or their immediate family and social environment or when it suppresses the interests from third parties • keep secret the classified or other matters whose dissemination is legally prohibited, and will maintain due discretion on those matters of which they are aware of due to their position, without being able to use the information obtained for their own benefit or that of third parties, or to the detriment of the public interest. <p>In addition, public employees may not hold other jobs or perform other functions except those authorized by Law 53/1984, of December 26th.⁷² With regards to the private sector, a public employee cannot belong to the board of directors of any entity that is related to the public agency for which s/he works; nor can s/he hold positions in companies that are public works contractors in which he has a stake that exceeds 10%.</p> <p>Political appointees. - Law 3/2015, of March 30th, regulating the exercise of the high position of the General State Administration.⁷³ These are the main applicable points of this law.</p> <p>• Political appointees must avoid that their personal interests unduly influence the exercise of their functions and responsibilities. By personal interest, the law means gains of an economic or professional nature affecting the appointee, his or her relatives, and friends, or legal persons</p>						

or private entities to which the appointee has been linked by employment or professional relationship of any kind in the two years prior to the appointment. This law also indicates that political appointees, while in office, cannot have another remuneration or job, with a few exceptions for other public office concurrent appointments. However, the following functions are authorized:

- The management of personal or family assets.
- Those of literary, artistic, scientific, or technical production and creation and the publications derived from them, as well as collaboration and occasional and exceptional attendance as a speaker at meetings or professional courses, provided that they are not the consequence of an employment or service provision relationship or they impair the strict fulfilment of their duties.
- The participation in non-profit cultural or charitable entities or in foundations, provided that they do not receive any type of remuneration.

☛ Political appointees may not own, by themselves or by a third party, more than 10% of companies that have agreements or contracts of any nature with any national, regional, or local government or receive subsidies from any Public Administration. If they own less than 10%, they cannot hold any preeminent position of influence in the said company.

☛ The law also prohibits political appointees from providing services in private entities two years after leaving office, but only if such companies have been affected by decisions in which they have participated. Exceptions to this rule can be requested, and it is not unusual to obtain exemptions during the two-year period prescribed by law.

In summary, the government has formulated, adopted, and implemented a code of conduct for public officials, not specifically prescribing the standards they should comply with in their dealings with the tobacco industry. Also, such a code of conduct for public employees and political appointees is clearly insufficient to deal with the range of the tobacco industry's typical interference activities.

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)			2			
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According to the TPD, the tobacco retailers and manufacturers should report the information on the tobacco products in the national market to the common entry gate (EU-CEG) However, EU-CEG does not require to introduce the data on market share, revenues, etc. The government, through the National Commission for the Tobacco Market, requires the tobacco industry to periodically submit information on tobacco production, manufacture, revenues, and market share, which is published monthly and annually. However, it does not require the tobacco industry to submit information on marketing expenditures, lobbying, philanthropy, or political contributions.

19. The government has a program / system/ plan to consistently ³² raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)					4	
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The latest report of the government Spain to the COP9 indicates that an agreement was reached within the Public Health Commission of the National Health System together with the health authorities of the Autonomous Communities to remind the National Health System of the obligations derived from the Framework Convention and its article 5.3. Nevertheless,

³² 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.

						0	1	2	3	4	5
there is no clear indication that the national or regional governments have any program, system, or plan to consistently raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines.											
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
No proof has been found indicating that the national or regional governments have put in place a policy disallowing 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.											
TOTAL SCORE						56					

Annex A: Sources of Information

	TOP TOBACCO COMPANIES (local name)	MARKET SHARE Cigarettes 2021	CIGARETTE BRANDS With ≥4%market share	SOURCE
1	Philip Morris Spain SA	29.0	Marlboro, Chesterfield, L&M	Euromonitor International 2022
2	Altadis SA (Imperial Brands)	25.9	Ducados, Fortuna, Nobel, West	
3	JT International Iberia SL	25.8	Winston, Camel	
4	British American Tobacco España SA	9.0	Lucky Strike	

	TOBACCO INDUSTRY ALLIES/ FRONT GROUPS	TYPE (FRONT GROUP, AFFILIATE, INDIVIDUAL)	SOURCE
1	Club de Fumadores por la Tolerancia	Front group	http://www.clubfumadores.org/index.html
2	Asociación Nacional de Fumadores Activos	Front group	https://fumadoresactivos.com/
3	Confederación Empresarial de Hostelería de España	Ally	https://www.cehe.es/index.html
4	Plataforma para la Reducción del Daño por Tabaquismo	Ally	https://prdtabaquismo.org/
5	ANESVAP	Ally	https://www.anesvap.es/
6	Asociación Empresarial del Tabaco	Affiliate	http://www.adelta.es/index-publica.lasso
7	Unión de Asociaciones de Estanqueros de España	Affiliate	https://union-estanqueros.com/union-de-estanqueros/

	MAIN NEWSPAPERS/ MEDIA	URL
	Newspapers	
1	El País:	https://elpais.com/
2	El Mundo:	https://www.elmundo.es/
3	ABC: /	https://www.abc.es
4	La Vanguardia:	https://www.lavanguardia.com/
5	El Periódico:	https://www.elperiodico.com/es
6	El Confidencial:	https://www.elconfidencial.com/
7	20 Minutos:	https://www.20minutos.es/
	TV & Radios	
8	Antena 3 Noticias TV	https://www.antena3.com/noticias/
9	RTVE TV & radio	https://www.rtve.es/noticias/
10	La Sexta Noticias TV	https://www.lasexta.com/noticias/
11	Cadena SER radio	https://cadenaser.com/
12	Onda Cero radio	https://www.ondacero.es/noticias/
13	RAC 1 radio	https://www.rac1.cat/
14	Cope radio	https://www.cope.es/actualidad
	News Agencies	
15	EFE news agency	https://efe.com/en/
16	Europa Press news agency	https://www.europapress.es/