

# Colombia

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## Summary of Findings

### 1. Industry participation in policy development

During 2020 and 2021, the Federación Nacional de Departamentos (FND), an entity comprised of the representatives of the subnational authorities, continued developing the investment agreement entered into with Philip Morris International (PMI). In the course of this agreement new tobacco research facilities have been launched. Furthermore, there have been meetings between representatives of subnational authorities and Coltabaco (a subsidiary of PMI), to discuss anti-tobacco smuggling operations. The FND has also created the so-called "legal trade zones" initiative to fight the illegal commerce of tobacco products, with the support of British American Tobacco (BAT).

During this period there are records of meetings between the industry and different government agencies, such as the Colombian Tax and Customs Authority (DIAN) and the Tax and Customs Police Unit (Polfa), as well as with subnational authorities to discuss anti-smuggling operations. Additionally, the Ministry of Agriculture has invited BAT to its technical tables on the tobacco production chain, to discuss its production policy.

Finally, during 2020 the industry's interference was especially noticeable in Congress, as two representatives filed bills that serve the industry's interests. One bill seeks to regulate e-cigarettes/ENDs and HTPs by declaring them reduced-risk products that help to quit smoking. The other bill seeks to grant PMI tax benefits, and is supported on studies led by scholars and think tanks that have received funding from PMI.

### 2. Industry CSR activities

Both PMI and BAT have participated in different initiatives to alleviate the effects of the COVID-19 pandemic. These include meal donations to people most in need, and Intensive Care Unit (ICU) donations to public hospitals in Bogotá.

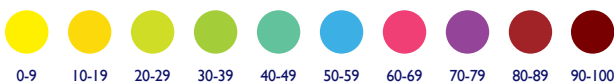
BAT continued its partnership with the Ministry of Culture to carry out the art show "Salón BAT de Arte Popular." This art show took place both virtually and in-person in different cities and gathered the participation of local cultural authorities.

Coltabaco participated in various projects with government agencies to support former guerrilla members. In addition, Coltabaco has led education projects in the Caribbean region with the participation of government authorities.

### 3. Benefits to the industry

Several initiatives submitted to Congress which aimed at strengthening tobacco control regulations were dropped. Some of these initiatives sought to increase taxes according to the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC), as well as to increase the size of warning labels (from 30% to 70%) on tobacco products. Colombia signed the Protocol to Eliminate Illicit Trade in Tobacco Products, however it has not yet ratified it.

Law 534 of 1999 states that tobacco producers must pay a contribution to the National Tobacco Fund. This Fund invests in research, innovation and marketing of tobacco. Even after Colombia ratified the FCTC, both the Fund and the



law that sets forth the contribution remain in force. Additionally, the Ministry of Agriculture has recognized the relevance of the tobacco production chain, and has allocated resources, and has provided appropriate technical assistance.

There is a topic of concern regarding the import of cigarettes and other tobacco products. As a result of different Free Trade Agreements between Colombia and other States. A significant part of this product has been imported to Colombia with the benefits conferred under the agreements. Cigarette importers are also benefitted with the special economic zone located in La Guajira Department.

#### 4. Unnecessary interaction

There have been several events of unnecessary interaction between the government and its agencies and the tobacco industry. The President of the Republic and other public officials attended the Concordia Summit 2020, as well as The Economist's webinar "*Challenging Conventional Wisdom: Breaking the Regulatory Barriers to Innovation*," both sponsored by PMI. Furthermore, the President of the Republic launched the first Colombian Scientific Summit which was supported by PMI.

Moreover, government agencies such as the Ministry of Agriculture and the DIAN hold regular meetings with tobacco industry officials. The first one has led meetings related to tobacco production, and the latter has participated in the inauguration of the so-called "legal trade zones initiative," to fight tobacco smuggling. Finally, the FND funds different anti-smuggling programs with resources obtained from the investment agreement entered into with PMI.

#### 5. Transparency

There are no provisions in Colombian law that demand public entities to disclose meetings or interactions with the tobacco industry. Therefore, the reported meetings and interactions are those that were disclosed by the media. However, it is difficult to determine if these meetings or interactions were strictly necessary for regulation or not. Some examples of meetings that were held include the following.

In January 2020, the DIAN reported that it had held meetings with Polfa and representatives of Coltabaco as part of the Technical Roundtable against Smuggling. On February 28, 2020, the Governors from different

subnational entities and Coltabaco met in the First Inter-Departmental Anti-Smuggling Program meeting. On June 27, 2020, the Governorship of Valle del Cauca conducted the first Inter-Institutional Fight Against Smuggling Committee, in which the Secretary of Finance of the Department, the FND, the DIAN, Polfa and Coltabaco participated.

#### 6. Conflict of interest

There is a general prohibition for entities (companies, NGOs, etc.) to make donations to presidential campaigns. However, there is no prohibition against individuals who are affiliated with the tobacco industry to make donations to presidential campaigns.

Many high public officials are currently working with the tobacco industry, or in firms that provide services to tobacco companies. For instance: Carlos Camargo Assís, former FND Director who executed the investment agreement with PMI, is the current Ombudsman; Juan Carlos Pinzón Bueno, former Minister of Defense and Ambassador to the United States of America, is the current Chairman and President of the Advisory Council for Virtus Global, a consulting firm that provides services to PMI; and Juan Alberto Londoño Martínez, incumbent Deputy Minister of Finance, served as Regulatory Affairs and Government Manager at Coltabaco.

#### 7. Preventive measures

There is no procedure to enforce the disclosure of interactions between the government and the tobacco industry or its representatives. There is no code of conduct for public officials which dictates the standards to which they should proceed in their treatment of the tobacco industry. However, the Ministry of Health has established best practices on the behavior of its functionaries when engaging with the tobacco industry. Nevertheless, this practice is not found in any formal regulation, and is not implemented by any other public entity.

There is no consistent plan to raise awareness on the need to comply with Article 5.3 of the FCTC among governmental entities. This is partially due to the fact that there are no inter-sectorial coordination instances on tobacco control, as stipulated by Article 5.2 (a) of the FCTC.

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There have been meetings between representatives of subnational authorities and Coltabaco, a subsidiary of PMI, to tackle anti-tobacco smuggling operations.”

## Recommendations

**Red PaPaz has not found major changes in the interference of the tobacco industry in comparison to last year's report. For starters, despite the fact that BAT and PMI have closed production in Colombia, their influence upon the government has not diminished. On the contrary, during this period Red PaPaz has identified meetings between representatives of the tobacco industry and government officials, such as the National Tax and Customs Authority, the National Police and certain Ministries and local governments, as attested in last year's report. Moreover, during 2020 the tobacco industry's influence over legislative processes has increased. On-going bills to regulate e-cigarettes/ENDS and HTPs differently from tobacco products, and to reduce taxes on tobacco, have received ample support by the industry.**

The COVID-19 pandemic has opened new opportunities for the tobacco industry to conduct brand-washing activities. For instance, BAT participated in a donation campaign to provide public hospitals in Bogotá with new Intensive Care Units (ICU). PMI participated in a funding campaign to donate meals to the most vulnerable families in the city of Medellín. Furthermore, interactions between the tobacco industry and the government have been more difficult to track during the current pandemic.

Colombia must urgently adopt specific regulations to prevent the tobacco industry from interfering in the process to establish public health policies on tobacco control. Currently, there are still no binding rules that guarantee the implementation of these international obligations. Therefore, it is necessary to adopt such regulations in the shortest time possible, and strictly monitor their implementation. The efforts of the Ministry of Health are still insufficient to prevent the interference of the tobacco industry. However, these efforts constitute a point of support to advance with these policies.

On the other hand, it is also necessary to raise awareness in society on the existence of conflicts of interest, and the appropriate mechanisms which allow to address them. In summary, Colombia must progress in a broader understanding on the need to prevent the interference of the industry in public health regulations. This would allow Colombia to reach the highest fulfillment levels of the FCTC obligations.