

GUATEMALA

2021

TOBACCO
INDUSTRY
INTERFERENCE
INDEX

Introduction

Smoking is one of the leading causes of chronic non-communicable diseases and the main cause of preventable death worldwide. It is also considered a socioeconomic threat to low-income populations.¹ In 2005, with the approval of Decree 47-2005, Guatemala signed and ratified the World Health Organization (WHO) Framework Convention for Tobacco Control (FCTC), to protect the population against the harmful consequences of tobacco consumption and exposure.² In 2009, the smoke free environments law was approved by congress, banning smoking in all workplaces, including bars and restaurants. However, five years after implementation, compliance to the law has decreased and airborne nicotine levels had increased almost to pre-law levels.³ Tobacco taxation is set by the Decree 61-77, “Law for Tobacco and its derivatives” implemented in 1977. This law considered that tobacco taxation could not be less than 46% of the declared retail price.⁴ In 2010, British American Tobacco (BAT) claimed that Decree 61-77 was unconstitutional as it involved “double taxation”. However, the court ruled in favored of BAT and millions of Quetzales (Guatemala currency) were lost in revenue.⁵ Regarding advertising, the industry has voluntarily removed television, newspapers, and radio advertising. Nevertheless, they continue to heavily advertise at the point of sale (POS).⁶

In 2012, the only tobacco factory, Tabacalera Centroamericana S.A. (TACASA, a Philip Morris International, PMI, subsidiary), was closed. The industry argued the closure was due to the increase in tobacco smuggling.⁷ Still, TACASA remains one of the two leading tobacco

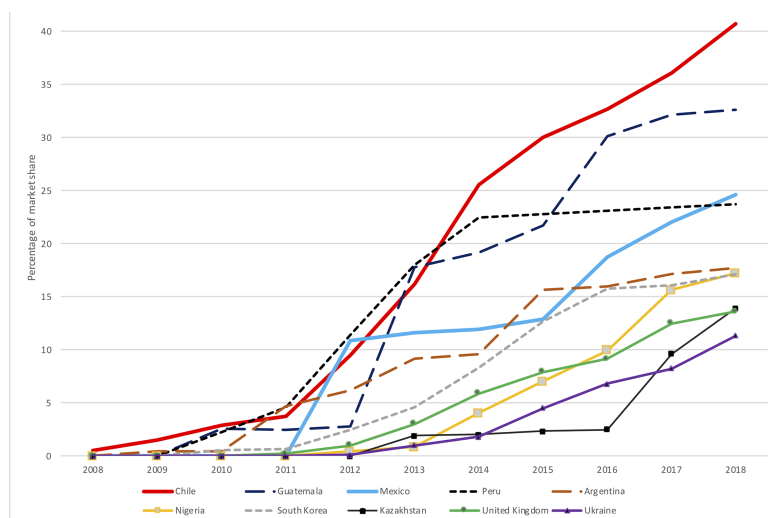


Figure 1: Top ten countries with the highest market shares for flavor capsule cigarettes, 2008–2018.

Image registered under a Creative Commons license CC.By: Paraje G, Araya D, Drope J (2019) The association between flavor capsule cigarette use and sociodemographic variables: Evidence from Chile. PLoS ONE 14(10): e0224217. <https://doi.org/10.1371/journal.pone.0224217> Available at: <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0224217> and reproduced under the guidelines of free cultural license (<https://creativecommons.org/share-your-work/public-domain/freeworks>).

¹ Monzon JC, Arevalo R, Barnoya J. Tabaquismo en Guatemala: situación actual. *Rev Guatem Cardiol* 2014;;9–12.

² World Bank Group. Guatemala Overview of: Tobacco use, tobacco control legislation and taxation. 2019. doi:10.1192/bjp.111.479.1009-a

³ Barnoya J, Monzon JC, Briz P, et al. Compliance to the smoke-free law in Guatemala 5-years after implementation. *BMC Public Health* 2016;;1–5. doi:10.1186/s12889-016-2960-x

⁴ Ministerio de Finanzas de Guatemala. Decreto No.61-77.

<https://www.minfin.gob.gt/images/archivos/leyes/tesoreria/Decretos/DECRETO%20DEL%20CONGRESO%2061-77.pdf>

⁵ Prensa Libre. Corte de Constitucionalidad anula tributos sobre productos del tabaco. Octubre 2010.

https://www.prensalibre.com/guatemala/cc-anula-tributo-productos-tabaco_0_355764476-html/

⁶ Barnoya J, Monzon D, Pinetta J, et al. New tobacco products, old advertising strategies: point-of-sale advertising Guatemala. *Tob Control* 2020;;tobaccocontrol-2020-055681. doi:10.1136/tobaccocontrol-2020-055681

⁷ Prensa Libre. Tabacalera Tacasa cierra operaciones en el país. October 2012.

https://www.prensalibre.com/economia/tabacalera-tacasa-cierre_0_798520383-html/

companies in the market together with British American Tobacco (BAT) Central America. In 2018 Guatemala was the second largest consumer of capsule cigarettes worldwide (Figure 1), which are more appealing and used by younger populations.⁸

This context has made it favorable for the industry to introduce new products as the IQOS, PMI's heated tobacco product (HTP). In 2017, Guatemala became one of the few Latin American countries where IQOS was available.⁹ Another product being sold is BAT's Vype, an electronic cigarette (e-cigarette). These products are being highly advertised at POS and nearby candy products. Furthermore, e-cigarettes are also sold through the internet and social media without regulations which makes them readily available for youth at any time.

The lack of new tobacco control laws has made it feasible for the industry to expand their business in Guatemala. Most important is the lack of regulations to restrict and monitor the interaction between government officials and the industry. The current law proposal 5461, *Law for tobacco control and its products*, regulates these interactions. This proposal is at stake due to industry interference in drafting each of the law's articles. Furthermore, the industry works closely with Congress and Ministries to push forward laws to their benefit. During the COVID-19 pandemic, the government received several contributions from tobacco industry front groups, including medical supplies and COVID-19 diagnostic tests. This close relationship is, in part, due to the lack of regulations and specific policies to control tobacco industry interference.

The FCTC recognizes the need to monitor tobacco industry behavior and actions seeking to influence policymakers and detract effective tobacco control implementation. Therefore, the Southeast Asia Tobacco Control Alliance (SEATCA) created the Tobacco Industry Interference Index based on the FCTC Article 5.3 Guidelines. Information used in this report is obtained from the public domain. It is a tool to monitor the protection of tobacco control policies against the interests of the tobacco industry, and to identify and measure interference from the industry in the development of public health policies. A scoring system is applied to make the assessment. The score ranges from 0 - 5, where 5 indicates highest level of industry interference, and 1 is low or no interference. Hence the lower the score, the better for the country.

A team of three researchers compiled information available to the public from online search engines, local news sources and governmental agencies websites. We then assessed the intensity, frequency and severity of interference incidents and classified them into seven categories: level of industry participation in policy-development, tobacco-related corporate social responsibility (CSR) activities, benefits to the tobacco industry, forms of unnecessary interaction, transparency, conflict of interest (COI), and preventive measures.

For its initial report to this Index, Guatemala scored 72, indicating high level of tobacco industry meddling in public health policies and lawmaking. This report gathers evidence for the period, between January 2020 and March 2021. However, a few relevant evidence from earlier years have been included for context.

⁸ Paraje G, Araya D, Drope J. The association between flavor capsule cigarette use and sociodemographic variables: Evidence from Chile. *PLoS One* 2019;**14**. doi:10.1371/journal.pone.0224217

⁹ Gottschlich A, Mus S, Monzon JC, et al. Cross-sectional study on the awareness, susceptibility and use of heated tobacco products among adolescents in Guatemala City, Guatemala. *BMJ Open* 2020;**10**:e039792. doi:10.1136/bmjopen-2020-039792

Summary Findings

This report assesses FCTC Article 5.3 implementation in Guatemala. All information presented is of the public domain. For every item of interference, a score between 0 and 5 points was assigned (5 being the highest level of interference).

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

In 2018, the law proposal 5461 “Ley de Control del Tabaco y sus productos” (in English: Law for Tobacco Control and its products) was presented to the Congress and assigned to the Health Commission. There is substantial evidence of the participation and endorsement of the tobacco industry when drafting the law. The proposal was discussed in 6 meetings by Deputies of the Health Commission from April to August 2019. During this period, the tobacco industry actively participated in meetings and was allowed to submit its own drafts of the proposal with comments in each article by article. Tobacco industry was also given two-time frames to provide additional comments. The Law proposal has not been discussed since August 2019 when the industry was granted time.

No evidence was found linking Guatemala representatives to the tobacco industry at the recent Conference of the Parties (COP) in 2018.

2. INDUSTRY CSR ACTIVITIES

The Guatemalan government received several contributions from the tobacco industry during the pandemic. This close relationship affects the drafting and implementation of tobacco control laws.

Open financial contributions from the tobacco industry to the government have been accepted. After a lockdown was set due to COVID-19 pandemic, the tobacco industry took advantage and made several donations amounting to 2 million USD. All contributions from April to June 2020, consisted of COVID-19 diagnostic tests and medical supplies. In their most recent project (May 2021), Phillip Morris’s HTP IQOS, presented a strategy to assess climate change by recycling HEETS (tobacco sticks used in IQOS).

3. BENEFITS TO THE INDUSTRY

No direct evidence was found regarding benefits or tax exemptions specifically to the tobacco industry. Nevertheless, the tobacco industry is not banned from using Zona de Desarrollo Económico Especial Público (ZDEEP, Special Public Economic Development Zone, for its acronym in Spanish). These are areas for the development of industrial goods and services or commercial activities, that are treated as if they were not in the customs territory. Benefits for those industries using ZDEEP include: value added tax exemption, 100% exemption from import and export fees for raw materials, supplies, machinery and equipment, and exemption on tax stamps, among others.

4. UNNECESSARY INTERACTION

In Guatemala, there are no current regulations that oversee the interactions of the industry and the government. Interactions among both sectors are happening, the need to regulate the interactions of the tobacco industry and the government is imperative.

The Mesa de Competitividad de Alta Verapaz (MancoVerapaz, Alta Verapaz Competitivity Roundtable) was established in 2017 by businesses and the Fundación para el Desarrollo (Foundation for Development, FUNDESA). MancoVerapaz seeks to economically develop the northern area of the country. An estimated 90 million USD have been invested to this date. Tabacalera Centro Americana, S.A. (Central America Tobacco, TACASA), a Philip Morris subsidiary, is one of private companies supporting MancoVerapaz. This project has worked closely with Congress to prioritize actions related to infrastructure, education and health care. Guatemala's Ministry of Economy has participated and acknowledge the work of MancoVerapaz.

5. TRANSPARENCY

Guatemala does not currently have a law or code of conduct to assess disclosure from the tobacco industry. Nevertheless, the law proposal 5461, assess disclosure from individuals that have direct responsibility with tobacco control.

6. CONFLICT OF INTEREST

No current government officials hold positions within the tobacco industry. However, a former high-level government official currently occupies an advisory position for the tobacco industry in the Health Commission's meetings evaluating the law proposal 5461.

Guatemala does not prohibit contributions from the tobacco industry to political parties of candidates. Law proposal 5461, article 34, bans all voluntary contributions financial or of any nature to political parties or candidates.

7. PREVENTIVE MEASURES

Currently, Guatemala does not have any mechanism to regulate the interaction between government and the tobacco industry. In addition, contributions from the industry to government are also not banned. However, law proposal 5461 bans all contribution from the tobacco industry to the government. The law proposal also requires the tobacco industry to declare all importation and exportation activities.

Recommendations

- The government should create a program to ensure policies relating to FCTC Article 5.3 Guidelines.
 - Pass and implement the law proposal 5461, *Law for tobacco control and its products*, which regulates the interactions between the tobacco industry and government as well as other tobacco control activities to protect public health from the vested interests of the tobacco industry and ensure compliance to the FCTC.
 - A code of conduct that addresses the standards of conduct to which public officials should comply when dealing with the tobacco industry should be written and implemented.
 - Strictly prohibit CSR activities of the tobacco industry. Disclosure of their activities should be accessible and made available to the public
 - Prohibit all types of contributions from the tobacco industry to political parties or candidates.
 - Prohibit all types of offers of assistance from the tobacco industry to any government agency, especially when drafting tobacco control laws.
 - Regulate new novel products, such as e-cigarettes and HTPs, in future tobacco control law proposals
 - Prohibit all forms of tobacco advertisement, specially at the point of sale, of tobacco products, including HTPs and e-cigarettes.
- Increase tobacco taxation to at least 75% of the retail price as recommended by the WHO.

2021 Tobacco Industry Interference Index Results and Findings

	0	1	2	3	4	5
INDICATOR I: Level of Industry Participation in Policy-Development						
1. The government accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry in setting or implementing public health policies in relation to tobacco control (Rec 3.1)						5
<p>There is no evidence that Guatemala’s government actively endorses or accepts any kind of assistance from the tobacco industry in setting public health policy. Nevertheless, the tobacco industry is invited to participate with the Health Commission and present their proposals when drafting public health policies.¹⁰</p>						
2. The government accepts, supports or endorses <u>policies or legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4)						5
<p>In June 2018, the Dean of San Carlos University presented to the Congress the law proposal 5461 “Ley de Control del Tabaco y sus productos” (in English: Law for Tobacco control and its products) that aims to implement graphic warning labels and stronger restrictions on tobacco advertisement, promotion and sponsorship.¹¹</p> <p>The Congress Health Commission is in charge of evaluating such proposal in order to be passed into plenary session for discussion and approval by Congress. In 2019, Deputy Karla Martinez, President of the Health Commission, set the law proposal 5461 as part of its agenda. According to the minutes of the agenda, the proposal was discussed six times by its members. ¹² A second minute, dated April 2019, states that there are two main social actors working in drafting the law: the tobacco industry and San Carlos University (with the support from the World Health Organization). By the end of April, another meeting took place. The minute describes that time will be given to the Health Commission, to evaluate the law proposal with the observations made by the industry and San Carlos University.</p> <p>In the minutes number 13, dated July 2, 2019, members of the Health Commission were present as well as two representatives from the tobacco industry: Carlos Humberto Pineda Mazariegos (assistant of the Chamber of Commerce of Guatemala) and Saúl Vinicio Albrez Cifuentes (advisor to British American Tobacco, BAT). The minutes state that changes were made to the proposal with the agreement of all members. Nevertheless, such changes were not mentioned. The minutes also note that the industry’s representatives made a series of comments, yet, it does not specify which ones. The meeting concludes that time will be given to the tobacco industry to comment on each article of the proposal. Deputies and the industry agreed that the proposal should be further evaluated, to also include penalties ranging from fines to extinction of assets to tobacco smugglers.</p> <p>The last minutes, when the proposal 5461 was discussed, was held on August 20, 2019.</p>						

¹⁰ elPeriódico, Entrampan dictamen de ley de Control del Tabaco y sus productos, August 6, 2019,

<https://elperiodico.com.gt/nacionales/2019/08/06/entrampan-dictamen-de-ley-de-control-del-tabaco-y-sus-productos/>

¹¹ Congreso de la República de Guatemala. Detalle de iniciativa 5461. June 05, 2018.

https://www.congreso.gob.gt/detalle_pdf/iniciativas/5486#gsc.tab=0

¹² Congreso de la República de Guatemala. Comisión de Salud y Asistencia Social, Actas.

<https://www.congreso.gob.gt/comisiones/33/2019#gsc.tab=0>

	0	1	2	3	4	5
<p>The Health Commission’s advisor presented the changes the tobacco industry wishes to make. Topics to be adjusted, according to the industry, were: sanitary handling, exposure of secondhand smoke, tobacco advertisement in any form, sponsorship, and promotion. The Deputies members of the Commission will be evaluating the proposal with the industry’s remarks. The meeting ended with words from the President of the Commission, Deputy Karla Martinez who points out that the ultimate goal is to promote a law that protects the citizens without affecting the tobacco industry.</p> <p>Most meetings held by the Health Commission did not reach any conclusion to move the proposal forward. In the two meetings where the industry participated, the Commission favored them by allowing time to discuss the proposal or an opportunity to present their own proposal. The industry is clearly using a dilatory strategy by underscoring the need to include tobacco smuggling to the proposal. The minutes are for the most part unclear, ambiguous, and do not specifically address what changes are made in the proposal.</p> <p>While the specific changes made to the proposal are not available, we considered the minutes of the Health Commission to be relevant when assigning a score. Other considerations are the presence of Deputies, the role assigned or fulfilled by the tobacco industry, the time granted to the tobacco industry to comment on the law and the level of support when drafting and considering the industry’s interests.</p>						
<p>3. The government allows/invites the tobacco industry to sit in government interagency/ multi-sectoral committee/ advisory group body that sets public health policy. (Rec 4.8)</p>						5
<p>In August 2019, congress Deputy Karla Martínez, who leads the Health Commission, confirmed that meetings have been sustained with participation of the tobacco industry in order to analyze their proposals to the law proposal 5461 “Ley de Control del Tabaco y sus productos” (Law for the control of tobacco and its products).¹³</p> <p>Later on, the approval of the law to be passed in plenary session by congress, was suspended by the Health Commission lead by Congress Deputy Martinez. Felipe Barrera, representative of the Chamber of Industry, stated that 5 articles needed to be amended. Barrera, questioned the proposal, specifically the size of the pictograms (to cover 60% of the package), and suggested it should be 30%.¹⁴</p>						
<p>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) (Rec 4.9 & 8.3)</p>		1				
<p>We found no evidence that the government nominates tobacco industry representatives for the delegation to the COP. We found no evidence that country representatives to the COP had any affiliation to the tobacco industry.¹⁵</p>						
INDICATOR 2: Industry CSR activities						

¹³ Congreso de la República de Guatemala. Diputados analizan dictamen e la iniciativa de Ley de Control de Tabaco y sus productos. August 20, 2021. https://www.congreso.gob.gt/noticias_congreso/3334/2019/3#gsc.tab=0

¹⁴ elPeriódico, Entrampan dictamen de ley de Control del Tabaco y sus productos, August 6, 2019. <https://elperiodico.com.gt/nacionales/2019/08/06/entrampan-dictamen-de-ley-de-control-del-tabaco-y-sus-productos/>

¹⁵ Geneva, Switzerland. Conference of the Parties to the WHO Framework Convention on Tobacco Control Report of the Eighth session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control. 2018;:1–6.

	0	1	2	3	4	5
5. A. The government agencies or its officials endorses, supports, forms partnerships with or participates in so-called CSR activities organized by the tobacco industry. (Rec 6.2)						
B. The government (its agencies and officials) receives contributions (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)					4	

CSR contributions made by the tobacco industry in Guatemala are mainly through front groups. In two cases, open contributions by the industry were made to government agencies.

In March 2020, BAT Central America S.A. made a contribution to the Municipality of Guatemala City. This contribution was made in the form of school supplies for the Municipality schools.¹⁶

In April 2020, a month after the lockdown was set in Guatemala due to COVID-19 pandemic, Phillip Morris made a contribution to the Ministry of Foreign Affairs. The contribution helped 36 citizens stranded in Dominican Republic due to the pandemic. Additionally, medical equipment and supplies estimated in 60,000 USD was made for Parque de la Industria Hospital, a temporary hospital set to treat COVID- 19 patients.¹⁷

The FUNDESA, a non-profit private organization, is a conglomerate of businesses that aims to generate and implement programs and projects to promote economic and social development in Guatemala.¹⁸ According to their website, Tabacalera Centroamericana S.A (TACASA) is one its donors.¹⁹ Since the first case of COVID-19 was identified in Guatemala, FUNDESA has made several donations to the Government.

In April 2020, President Alejandro Giammattei personally received 6,048 COVID-19 diagnostic tests in a meeting held with two FUNDESA representatives, Salvador Paiz and Juan Carlos Paiz.²⁰ From April to June 2020, another 4 donations were reported in local newspapers.^{21,22,23,24} All donations included COVID-19 diagnostic tests and the last one also included medical equipment. All donations were estimated at USD 1.87 million.

¹⁶ Muniguat, Juntos Logramos más educación, March 12, 2020. <http://www.muniguat.com/blog/2020/03/12/juntos-logramos-mas-educacion/>

¹⁷ Diario de Centro América, Cancillería recibe ayuda para retornados, April 29, 2020, <https://dca.gob.gt/noticias-guatemala-diario-centro-america/cancilleria-recibe-ayuda-para-retornados/>

¹⁸ Fundación para el Desarrollo de Guatemala. ¿Quiénes somos? <https://www.fundesa.org.gt/conozcanos/quienes-somos>

¹⁹ Fundación para el Desarrollo de Guatemala. Empresas donantes. <https://www.fundesa.org.gt/conozcanos/empresas-donantes>

²⁰ elPeriódico, Fundesa entrega el primer lote de pruebas para detectar COVID-19, <https://elperiodico.com.gt/nacionales/2020/04/06/fundesa-entrega-el-primer-lote-de-pruebas-para-detectar-covid-19/>

²¹ Diario de Centro América, Fundesa realiza segunda entrega de mil pruebas de Covid-19, April 28, 2020. <https://dca.gob.gt/noticias-guatemala-diario-centro-america/fundesa-realiza-segunda-entrega-de-mil-pruebas-de-covid-19/>

²² Diario de Centro América, Entregan más pruebas para el Covid-19, May 6, 2020, <https://dca.gob.gt/noticias-guatemala-diario-centro-america/entregan-mas-pruebas-para-el-covid-19-2/>

²³ Diario de Centro América, Fundesa hace nueva donación de pruebas PCR, para Covid-19, May 13, 2020, <https://dca.gob.gt/noticias-guatemala-diario-centro-america/fundesa-hace-nueva-donacion-de-pruebas-pcr-para-covid-19/>

²⁴ Diario de Centro América, Fundesa dona equipo médico para hospitales que atienden pacientes con Covid-19, June 28, 2020. <https://dca.gob.gt/noticias-guatemala-diario-centro-america/fundesa-dona-equipo-medico-para-hospitales-que-atienden-pacientes-con-covid-19/>

	0	1	2	3	4	5
In early May 2021, Phillip Morris's HTP, IQOS, presented their new project to support climate change. The project offers customers opportunity to bring their used HEETS so that they may be recycled through a company named ECOTERMO. ²⁵						
INDICATOR 3: Benefits to the Tobacco Industry						
6. The government accommodates requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law. (e.g. 180 days is common for PHW, Tax increase can be implemented within 1 month) (Rec 7.1)					4	
During 2019, the Health Commission of the Congress evaluated the law proposal 5461. In two of the minutes, Deputies granted time for the tobacco industry to draft their own proposal. ^{26,27} The tactics used by the tobacco industry during these meetings are delaying strategies. During 2020 and as of May 2021, the law proposal 5461, has not been discussed in the Health Commission's meetings.						
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)					4	
<p>The Zona de Desarrollo Económico Especial Público, ZDEEP, (Special Public Economic Development Zone) are areas within the national territory for the development of industrial goods and services or commercial activities, with special rates, temporary customs regime and foreign trade, authorized by ZOLIC (Zona Libre Santo Tomas de Castilla). These areas are considered <i>extra customs</i>, which means it is allowed to enter goods that are considered as if they were not in the customs territory with respect to import duties and taxes.²⁸ Benefits of using the ZDEEP include: exemption from value added tax, custom duties and other charges, applicable to the importation of the merchandise that enters the zone, and any other activity carried out within the Free Zone. Additionally, a 100% exemption from import and export fees for raw materials, supplies, machinery and equipment, exemption on tax stamps, low operational costs and abundant work force.</p> <p>Industries that perform any of the following activities: manufacture, assembly, commercialize, distribute, storage, packaging, manipulation, classification, exportation and importation among other activities, can apply to use the ZDEEP. Products banned from the use of these zones are: insecticides, herbicides, rodenticides, fungicides and wood preservative.²⁹ Tobacco is not a banned product. No evidence was found that the industry uses the ZDEEP.</p> <p>International passengers arriving in Guatemala can import 80 cigarettes or 3 1/2 ounces of tobacco into the country, duty-free.³⁰</p>						
INDICATOR 4: Forms of Unnecessary Interaction						
8. Top level government officials (such as President/ Prime Minister or Minister) meet with/ foster relations with the tobacco companies						5

²⁵ elPeriodico. Impulsan campaña de reciclaje de HEETS para dispositivos IQOS. May 6, 2021.

<https://elperiodico.com.gt/nacionales/2021/05/06/impulsan-campana-de-reciclaje-de-heets-para-dispositivos-iqos/>

²⁶ elPeriódico, Entrampan dictamen de ley de Control del Tabaco y sus productos, August 6, 2019,

<https://elperiodico.com.gt/nacionales/2019/08/06/entrampan-dictamen-de-ley-de-control-del-tabaco-y-sus-productos/>

²⁷ Congreso de la República de Guatemala. Comisión de Salud y Asistencia Social, Actas.

<https://www.congreso.gob.gt/comisiones/33/2019#gsc.tab=0>

²⁸ Zona Libre Santo Tomás de Castilla. ¿Qué es una ZDEPP? <https://zolicguate.com/zdepp/>

²⁹ Zona Libre Santo Tomás de Castilla. Productos prohibidos. June 22, 2015 <https://zolicguate.com/productos-prohibidos/>

³⁰ <https://www.iatatravelcentre.com/GT-Guatemala-customs-currency-airport-tax-regulations-details.htm#Import%20regulations>

	0	1	2	3	4	5
such as attending social functions and other events sponsored or organized by the tobacco companies or those furthering its interests. (Rec 2.1)						
<p>In 2017, the Mesa de Competitividad de Alta Verapaz (MancoVerapaz, Competivity Table from Alta Verapaz, a State north of Guatemala City), was created by businesses and FUNDESA. The objective of the “Mesa” is to push for an economic development agenda to increase investment in the northern area of Guatemala. Over the past 3 years, an estimated USD 90 million have been invested in infrastructure, restaurants and hotel projects. FUNDESA also provides in their website the strategic plan. TACASA appears as one of the representatives of the MancoVerapaz project.³¹ According to a newspaper article, this project has worked closely with Congress to prioritize actions related to road infrastructure, education and healthcare in the area.³² In February 2020, the Ministry of Economy, Antonio Malouf, was part of the first-year meeting of MancoVerapaz organized by FUNDESA. Mr. Malouf discussed the importance of investment in the northern area of the country. He mentioned that some of the important strategic lines to foster competitiveness in the region were rural electrification, education, and healthcare, to increase the link between rural and urban economies.³³</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>In Guatemala, we found no evidence that the government accepts offers or assistance from the tobacco industry for enforcement activities or accepting monetary contribution for such activities.</p>						
10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) NOTE: This must <u>not</u> involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.	0					
<p>No evidence was found of the government endorsing or supporting other activities to further the interests of the tobacco industry, such as capacity building or partnerships of other nature.</p>						
INDICATOR 5: Transparency						
11. The government does not publicly disclose meetings/ interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation. (Rec 2.2)						5
<p>The government does not does not publicly disclose meetings/ interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation.</p>						

³¹ Fundación para el Desarrollo de Guatemala. Diagnóstico y plan de acción para el desarrollo económico territorial de la región de MancoVerapaz. February 2019,

http://fundesa.org.gt/content/files/publicaciones/PPT_MODALIDAD_Entrega_Consejo_Competitividad_080219.pdf

³² Prensa Libre. Por qué Alta Verapaz recibió US\$ 90 millones en inversión en 3 años. February 3, 2020.

<https://www.prensalibre.com/economia/en-3-anos-alta-verapaz-recibio-us90-millones-en-inversion-y-por-que-podria-crecer-el-desarrollo-economico/>

³³ Ministerio de Economía, Gobierno de Guatemala. Mineco busca impulsar desarrollo económico en Alta Verapaz. February 4, 2020. <https://www.mineco.gob.gt/mineco-busca-impulsar-desarrollo-economico-en-alta-verapaz>

	0	1	2	3	4	5
12. The government requires rules for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists (Rec 5.3)					4	
<p>In Guatemala there is no current law or code of rules that address the identification or disclosure of the tobacco industry. Nevertheless, law proposal 5461 addresses disclosure in Article 35. According to this Article, any individual person or legal person that is set to render services to the State, that has direct responsibility with tobacco control or inspection, must present a sworn declaration of conflict of interest, where it must be specified any type of relationship with the tobacco industry in the past 5 years.³⁴</p>						
INDICATOR 6: Conflict of Interest						
13. The government does not prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns or to require full disclosure of such contributions. (Rec 4.11)					4	
<p>In Guatemala, so far, there is no regulation that prohibits contributions from the tobacco industry to political parties, candidates, or campaigns. Nevertheless, the law proposal presented in 2018 includes prohibitions of these contributions.</p> <p>Article 34 reads: “No person, on behalf of the tobacco industry, will offer or make any type of voluntary contribution, whether financial or of any nature, to political parties, candidates for popular elected positions or proselytizing campaigns.”³⁵</p>						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)						5
<p>Evidence was found of a former government official that served as the Secretary of Executive Coordination of the Presidency in 2010 and later on was also an advisor for the National Coordinator for Disaster Reduction in 2015, who is now a representative of the British American Tobacco in the Health Commission’s meetings.^{36,37}</p>						
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)	0					
<p>No evidence was found of current government officials or relatives that hold positions in the tobacco industry.</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)				3		

³⁴ Congreso de la República de Guatemala. Detalle de iniciativa 5461. June 05, 2018.

https://www.congreso.gob.gt/detalle_pdf/iniciativas/5486#gsc.tab=0

³⁵ Congreso de la República de Guatemala. Detalle de iniciativa 5461. June 05, 2018.

https://www.congreso.gob.gt/detalle_pdf/iniciativas/5486#gsc.tab=0

³⁶ elPeriódico, Entrampan dictamen de ley de Control del Tabaco y sus productos, August 6, 2019,

<https://elperiodico.com.gt/nacionales/2019/08/06/entrampan-dictamen-de-ley-de-control-del-tabaco-y-sus-productos/>

³⁷ Coordinadora Nacional Para la Reducción de Desastres, Secretaría Ejecutiva. Personal SE-CONRED 029. August, 2015.

https://conred.gob.gt/informacion_publica/2015/08-agosto/LISTADO-DEPERSONALYSERVICIOS-Ago2015-029.pdf

	0	1	2	3	4	5
Law proposal 5461 includes rules addressing the interaction between government and the tobacco industry. These rules include: having a public audience, publishing meetings and content of meeting in mass media, detail records of every interaction or communication that must at least include the topics discussed, adopted decisions, participants identities and their job position, time and date. All information must be publicly available. ³³						
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)						5
There is no current code of conduct that addresses interaction between public officials when dealing with the tobacco industry.						
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)					4	
Currently the government does not require the tobacco industry to submit any type of report on tobacco production or sales. Article 36 in law proposal 5461 requires tobacco industries to periodically present information on income and earnings, number of cigarette packs distributed by State, complaints or demands against the company or any member, importation and exportation activities. Reports are to be presented at least annually. ³⁸ Nonetheless, the law proposal does not include periodic information on activities, such as: lobbying, philanthropy, political contributions or other activities.						
19. The government has a program / system/ plan to consistently raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)						5
In Guatemala, there is no current program among the government, or system that raises awareness on policies relating to Tobacco Control.						
20. The government has put in place a policy to disallow the acceptance of all forms of contributions/ gifts from the tobacco industry (monetary or otherwise) including offers of assistance, policy drafts, or study visit invitations given or offered to the government, its agencies, officials and their relatives. (3.4)					4	
There is no current policy that disallows the government from accepting any type of contribution from the tobacco industry. Nevertheless, the current law proposal in Article 33, prohibits the government from: accepting any type of proposal or project related to the development or implementation of tobacco control, entering into partnership with the industry in proposals or activities that could be perceived as CSR, establishing non-binding agreements, codes of conduct or such to substitute tobacco control measures, receiving economic contribution directly or indirectly for activities related to tobacco control, accepting tobacco control law proposals or regulations drafted by the industry. ³⁹						
TOTAL						72

³⁸ Congreso de la República de Guatemala. Detalle de iniciativa 5461. June 05, 2018.

³⁹ Congreso de la República de Guatemala. Detalle de iniciativa 5461. June 05, 2018.
https://www.congreso.gob.gt/detalle_pdf/iniciativas/5486#gsc.tab=0

ANNEX A: SOURCES OF INFORMATION

TOBACCO INDUSTRY ACTIVITY

LOCAL TOBACCO COMPANIES

Top 5 Tobacco Companies/distributors	Market Share and Brands	Source
TACASA, Tabacalera Centroamericana S. A. Philip Morris International	N	
British American Tobacco Centro América	N	

TOBACCO INDUSTRY FRONT GROUPS

Top 5 Tobacco Industry Representative	Type (Front Group/ Affiliate/ Individual)	URL
FUNDESA	Affiliate	https://www.fundesa.org.gt/
Chamber of commerce of Guatemala	Affiliate	https://www.ccg.com.gt/web-ccg/
Chamber of industry of Guatemala	Affiliate	https://cig.industriaguatemala.com/

NEWS SOURCES

Top 5 Newspaper/Dailies	Type (Print/Online)	URL
Prensa Libre	Print/Online	https://www.prensalibre.com/
La Hora	Print/Online	https://lahora.gt/
El periodico	Print/Online	https://elperiodico.com.gt/
Diario de Centro America	Online	https://dca.gob.gt/noticias-guatemala-diario-centro-america/
Nuestro Diario	Print	https://www.nuestrodiario.com/