

PERU

2020

TOBACCO
INDUSTRY
INTERFERENCE
INDEX

Background and Introduction

The interference of the tobacco industry in political decision-makers is constant, permanent and systematic. The tobacco industry never tires or rests. There's big money at stake.

Since the first tobacco control law was enacted and subsequent laws and all lower-level legal norms, these have been questioned, postponed, and even boycotted.

It is evident that in Peru, there has been no regulatory proposal that has not been attacked by the industry and its related organizations. And once enacted, they have immediately been sued before regulatory institutions, such as the Judiciary and the Constitutional Court.

Although its level of infiltration is at all levels, the Congress of the Republic is where it usually acts most comfortably, a congress of the republic that for years has been dominated by political groups that have had little interest in protecting the health of their citizens, but they do sell their votes to the highest bidder. Their political decisions represent an enormous expense to our country, in life, development and money.

Therefore, it is essential to materialize a specific protocol on the interference of the tobacco industry, beyond the existing rules on conflicts of interest. It is a commitment that our country has acquired by ratifying the WHO Framework Convention Tobacco Control (FCTC) and that has not yet been fulfilled.

This report uses the questionnaire developed by the Southeast Asia Tobacco Control Alliance based on the FCTC Article 5.3 Guidelines. Information used in this report is obtained from the public domain. 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.

Summary of Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The Peruvian government does not accept, support 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. But, as in other places, the tobacco industry infiltrates and convinces some politicians to propose laws totally contrary to public interests.

The government does not allow/invite the tobacco industry to sit in government interagency / multi-sectoral committee/ advisory group body that sets public health policy and has not included representatives from the Tobacco industry in the delegations of Peru to the COP 8 (2018) and other related meetings.

2. INDUSTRY CSR ACTIVITIES

The government agencies or its officials do not endorse, support, form partnerships with or participates in so-called CSR activities organized by the tobacco industry. The government does not receive contributions (monetary or otherwise) from the tobacco industry including so-called CSR contributions.

3. BENEFITS TO THE INDUSTRY

The government does not accommodate requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law. But, in 2017-2018 the tobacco industry had a strong influence on certain political parties, congressmen, and congressmen's advisers, who boycott legislative tobacco control measures, either by postponing and canceling debates on draft laws on the prohibition of tobacco advertising, promotion, and sponsorship as well as about environments free of tobacco smoke.

4. UNNECESSARY INTERACTION

Top level government officials do not 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.

5. TRANSPARENCY

During the period 2018-2019, the government publicly disclosed one meeting they had with the tobacco industry. This meeting was for the regulation of IQOS. The meeting was held under the parameters of Article 5.3 of the FCTC, that is, publicly and with the participation of civil society.

6. CONFLICT OF INTEREST

Article 31 C of Law No. 28094, Law on Political Organizations, prohibits political groups from receiving contributions from national or foreign companies, however, this rule is routinely violated by all political parties; it is known off the record that the tobacco industry finances some of the political groups.

7. PREVENTIVE MEASURES

In July 2003, the Government promulgated Law No. 28024 that regulates the management of interests of business unions with the public administration. Interest managers must be registered in the Public Registry of Interest Management of the National Superintendence of Public Registries (SUNARP). In July 2019, Supreme Decree No. 120-2019-PCM was approved, which regulates said law; however, a specific protocol or code of conduct has not yet been established in relation to the tobacco industry.

Recommendations

Much progress has been made for tobacco control and to address tobacco industry interference. However, these efforts can be strengthened further through:

1. Strengthening surveillance and compliance with legislation that can effectively prevent tobacco interference.
2. Formulating a policy or code of conduct for officials in their dealings especially with the tobacco industry.
3. Raise awareness among political decision-makers regarding the need to establish a protocol against interference from the tobacco industry. That protocol should include the industry that markets electronic cigarettes, and that contains severe sanctions, taking into account that both products affect the economy of our countries and the health of the population, increasing the risk of developing chronic diseases and others such as the coronavirus that currently it is hitting our country hard.

Results and Findings

| | 0 | 1 | 2 | 3 | 4 | 5 |
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| INDICATOR 1: Level of Industry Participation in Policy-Development | | | | | | |
| 1. The government ¹ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ² in setting or implementing public health policies in relation to tobacco control ³ (Rec 3.1) | | | 2 | | | |
| <p>The Peruvian government does not accept, support 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. This is in accordance to the Legislative Resolution 28280 by Congress of Peru which approved the Framework Agreement for Tobacco Control.⁴</p> <p>The Constitutional Court declared an Unconstitutionality Action filed against a regulation on ALHT in full unfounded, and determined that the WHO Framework Convention on Tobacco Control is a human rights treaty, which seeks to clearly, expressly and directly protect the right fundamental to the protection of health, recognized in Article 7 of the Peruvian Constitution, indicating that the acquired rights in the field of tobacco control are progressive and never regressive.⁵</p> <p>However, the tobacco industry continues to infiltrate and convince some congressional politicians to propose laws totally contrary to public interests.</p> <p>Congressman Carlos Dominguez Herrera, from the Fuerza Popular political party presented draft law N° 3833-2018-CR, proposing to repeal Law 28705 General Law for the Prevention and Control of Risks of Tobacco Use, cutting rights acquired in environments free of tobacco smoke and weakly regulating the consumption, advertising and marketing of electronic cigarettes. After a strong media campaign, in February 2019 the congressman withdrew the proposal.^{6 7}</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) | 0 | | | | | |
| The Peruvian government does not accept, support or endorses any offer for assistance by or in collaboration with the tobacco industry in setting or implementing public health policies in | | | | | | |

¹ The term “government” refers to any public official whether or not acting within the scope of authority as long as cloaked with such authority or holding out to another as having such authority

² The term, “tobacco industry” includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

³ “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

⁴ Congreso de la Republica de Perú. Resolución Legislativa N° 28280 que aprueba el Convenio Marco de la OMS para el control del Tabaco. <http://www.leyes.congreso.gob.pe/Documentos/Leyes/28280.pdf>

⁵ Tribunal Constitucional del Perú. Sentencia al Proceso de Inconstitucionalidad de 5,000 ciudadanos contra el Artículo 3° de la Ley N° 28705 – Ley General para la Prevención y Control de los Riesgos el Consumo de Tabaco <https://www.tc.gob.pe/jurisprudencia/2011/00032-2010-AI.html>

⁶ Congreso de la República. Proyecto de Ley N° 3833/2018-CR. Ley de Control del Consumo de Tabaco y Nicotina. 18 de enero 2019.

http://www.leyes.congreso.gob.pe/Documentos/2016_2021/Proyectos_de_Ley_y_de_Resoluciones_Legislativas/PL038332019_0128..pdf

⁷ Diario Gestión. Fuerza Popular retira proyecto que permitía fumar en lugares públicos. 17 de marzo 2019.

<https://gestion.pe/peru/fuerza-popular-retira-proyecto-permitia-fumar-lugares-publicos-261613-noticia/?ref=gesr>

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| relation to tobacco control. However, it should be clarified that the tobacco industry or related entities can present opinions or comments on proposed regulations and laws, provided they are carried out publicly and openly. This is according to the Legislative Resolution by Congress of Peru approved the Framework Agreement for Tobacco Control. ⁸ | | | | | | |
| 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) | | 1 | | | | |
| <p>The Peruvian government does not allow/invite the tobacco industry to sit in government interagency/ multi-sectoral committee/ advisory group body that sets public health policy.</p> <p>There is a Multisectoral Commission and a Sectoral to tobacco control that includes public institutions and civil society, the tobacco industry is not included.^{9 10}</p> <p>The Peruvian government developed the Law N° 28024 that regulates the management of interests in the public administration to prevent lobbying of companies with interests other than national interests. This Law was approved by Supreme Decree No. 120-2019-PCM.^{11 12 13}</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) ¹⁴ (Rec 4.9 & 8.3) | | 1 | | | | |
| <p>The delegation of Peru to the COP 8 (2018) and other FCTC related meetings has not included representatives from the Tobacco industry.</p> <p>List of Participants from Peru: COP 8 (2018)¹⁵ The delegation was composed of representatives of the government and civil society.</p> <p>Chief delegate: Ambassador C. De La Puente (Permanent Representative, Geneva). Deputy chief delegate: Minister M.A. Masana (Alternate Permanent Representative, Ginebra) Delegate: Mr C. Garcia Castillo (First Secretary, official, Permanent Representation, Geneva)</p> | | | | | | |

⁸ Congreso de la Republica de Perú. Resolución Legislativa N° 28280 que aprueba el Convenio Marco de la OMS para el control del Tabaco <http://www.leyes.congreso.gob.pe/Documentos/Leyes/28280.pdf>

⁹ Ministerio de Salud. Resolución Ministerial N° 355-2019/MINSA. Creación de la Comisión Sectorial de naturaleza temporal, dependiente del Ministerio Salud, encargada de elaborar la Guía Técnica Nacional de Cesación de Tabaco16 de abril de 2019 <https://www.gob.pe/institucion/minsa/normas-legales/273760-355-2019-minsa>

¹⁰ Ministerio de Salud. Resolución Ministerial N° 355-2019/MINSA. Resolución Ministerial que crea la Comisión Sectorial encargada de elaborar la Guía Técnica Nacional de Cesación de Tabaco16 de abril de 2019 https://cdn.www.gob.pe/uploads/document/file/309054/Resoluci%C3%B3n_Ministerial_N_355-2019-MINSA.PDF

¹¹ Presidencia del Consejo de Ministros. Decreto Supremo N° 120-2019-PCM Decreto Supremo que aprueba el Reglamento de la Ley N° 28024 – Ley que regula la gestión de intereses en la administración pública https://cdn.www.gob.pe/uploads/document/file/338023/DS_N_120-2019-PCM.pdf

¹² Congreso de la República Ley N° 28024. Ley que regula la Gestión de Intereses en la Administración Pública. 11 de julio 2003 <http://files.servir.gob.pe/WWW/files/normas%20legales/Ley%2028024.pdf>

¹³ Diario Perú 21. Publican reglamento para evitar lobbies informales. 02 de Julio 2019. <https://peru21.pe/politica/publican-reglamento-evitar-lobbies-informales-487854-noticia/?ref=p21r>

¹⁴ Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

¹⁵ WHO Eighth Session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control. List of Participants. 05 October 2018 https://www.who.int/fctc/cop/sessions/cop8/LOP_Final.pdf?ua=1

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Adviser:

Mrs F. Radovic Ragonesi (President of the Comisión Nacional Permanente de Lucha Antitabaquica (COLAT))

COP 7 (2016)¹⁶

Chief delegate: Sr. C. Jiménez Gil-Fortoul - Minister, chargé d'affaires a.i

Delegate:

Sra. A. Maeda Ikehata - Consejera, Servicio Diplomático, Embajada del Perú en India

Sr. E.I. Zevallos Aguilar - Primer Secretario, Servicio Diplomático, Embajada del Perú en India

Dr C. Fariás Alburquerque - President of the Permanent National Commission on Tobacco Control, Lima

COP 6 (2014)¹⁷

Chief delegate: Dr. A. Velásquez Valdivia - Viceministro de Salud pública, Ministerio del Salud

Delegate:

Dr. C. Fariás Albuquerque - Presidente, Comisión Nacional Permanente de Lucha Antitabáquica

Dra. A. Ayasta Saavedra - Fiscal Superior

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COP 5 (2012)¹⁸

Chief delegate: Dr R. Torres Lao - Director Ejecutivo, Dirección de Promoción de Vida Sana, Dirección General de Promoción de la Salud, Ministerio de Salud

Delegate:

Dr C. Fariás Albuquerque - Representante de la Sociedad Civil

Dr E.C. Arestegui - Funcionario, Embajada del Perú, República de Corea

COP 4 (2010)¹⁹

Chief delegate: Dra. U.D. León Chempén - Secretaría General, Ministerio de Salud

Delegate(s):

Dr. H.A. García Díaz - Director-General, Promoción de la Salud, Ministerio de Salud

Dr. R. Torres Lao - Integrante del equipo técnico, Oficina General de Promoción de la Salud, Ministerio de Salud

Mr C.A. Chocano Burga - Ministro Consejero, Representante Permanente Alterno, Misión Permanente, Ginebra

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INDICATOR 2: Industry CSR activities

¹⁶ WHO Seventh Session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control. List of Participants. 12 November 2016 https://www.who.int/fctc/cop/cop7/COP7_LoPDelegatesList.pdf?ua=1

¹⁷ WHO Sixth Session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control. List of Participants. 18 October 2014 http://apps.who.int/gb/fctc/PDF/cop6/FCTC_COP6_DIV1Rev1.pdf

¹⁸ WHO Fifth Session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control. List of Participants. 7 December 2012 http://apps.who.int/gb/fctc/PDF/cop5/FCTC_COP5_DIV1_Rev1.pdf

¹⁹ WHO Conference of the Parties to the WHO Framework Convention On Tobacco Control. List of Participants. 19 November 2010 http://apps.who.int/gb/fctc/PDF/cop4/COP4_DIV_Rev1.pdf

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| 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) | | 1 | | | | |
| B. The government (its agencies and officials) receives contributions ²⁰ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4) | | | | | | |

The government agencies or its officials do not endorse, support, forms partnerships with or participates in so-called CSR activities organized by the tobacco industry. The Peruvian government (its agencies and officials) does not receive contributions (monetary or otherwise) from the tobacco industry (including so-called CSR contributions).

Tobacco related CSR is not allowed by law according to the Legislative Resolution by Congress of Peru which approved the Framework Agreement for Tobacco Control.²¹

Ratification of the Framework Agreement for Tobacco Control by Supreme Decree No. 054-2004-RE.²²

In October 2019, the Colombian organization Fundación ILADIBA proposed to several Peruvian organizations (COLAT, Peruvian Society of Pneumology and Peruvian Society of Medical Oncology, among others) to sponsor and participate in an international seminar on Tobacco Reduction. COLAT alerted associations and invited exhibitors that the seminar was funded by Philip Morris and that it was intended to promote the supposed benefits of electronic cigarettes and heated tobacco products as alternatives to quitting smoking. Finally, ILADIBA held the Seminar on October 19 at the Los Delfines hotel, without the sponsorship or participation of any Peruvian exhibitor or institution and they could not reach their target audience or open a debate on the subject, as happened in other countries of the region.²³

INDICATOR 3: Benefits to the Tobacco Industry

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| 6. The government accommodates requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law. (e.g. 180 days is common for PHW, Tax increase can be implemented within 1 month) (Rec 7.1) | | | 3 | | | |
|--|--|--|---|--|--|--|

The laws in force in Peru do not grant 180 days to the tobacco industry for the implementation of the provisions of the laws. In this sense, Law 28705 and its regulations, Law 29517 that modifies the original law, both approved according to Supreme Decree DS-

²⁰ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

²¹ Congreso de la Republica de Perú. Resolución Legislativa N° 28280 que aprueba el Convenio Marco de la OMS para el control del Tabaco <http://www.leyes.congreso.gob.pe/Documentos/Leyes/28280.pdf>

²² Colat. Congreso de la Republica de Perú. Decreto Supremo N° 054-2004-RE. Ratifican el Convenio Marco de Control del Tabaco <https://colat.pe/decreto-supremo-054-2004-que-ratifica-convenio-marco/>

²³ Agencia Orbita. Seminario de Reducción del Daño en Tabaquismo. 19 Octubre 2019. <https://agenciaorbita.org/seminario-sobre-reduccion-del-dano-en-tabaquismo-se-realiza-por-primera-vez-en-peru/>

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| 15-2008-SA, DS-1-2010-SA and DS-01-2011-SA. As well as the Supreme Decree No. 181-2019-EF that increases the Selective Tax on Tobacco Consumption in 2018. ^{24 25 26 27 28} | | | | | | |
| But, in 2017-2018 the tobacco industry had a strong influence on certain political parties, congressmen, and congressmen's advisers, who boycott legislative tobacco control measures, either by postponing and canceling debates on draft laws on the prohibition of tobacco advertising, promotion, and sponsorship as well as about environments free of tobacco smoke. ^{29 30} | | | | | | |
| 7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3) | | 1 | | | | |
| The Peruvian Government does not give privileges, incentives, exemptions or benefits to the tobacco industry. In fact, Peru has increased tobacco taxes last year. ³¹ | | | | | | |
| On January 25, 2018 (Official letter 00759-2018-PP-MINSA, report on the result of the process to the definition of "Public Space", the Permanent National Anti-tobacco Commission (COLAT) recognizes the MINSA Public Prosecutor's Office for the achievement obtained in the judicial process brought by UNITED DISCO SAC, against the Ministry of Health, the Miraflores District Municipality and INDECOPI, on the nullity of the Administrative Resolution, whose intention was that the definition of "public spaces be declared a bureaucratic barrier closed" provided for in Article 3 of Ordinance No. 349-MM, in which process a favorable ruling was obtained. ³² | | | | | | |
| International travelers can import 400 cigarettes or 50 cigars or 250 gr. of tobacco into Peru. ³³ | | | | | | |

²⁴ Ministerio de Salud. Decreto Supremo N° 015-2008-SA. Aprueban Reglamento de la Ley N° 28705, Ley General para la prevención y Control de los riesgos del consumo de tabaco. 4 de julio de 2008. <https://www.gob.pe/institucion/minsa/normas-legales/248003-015-2008-sa>

²⁵ Ministerio de Salud. Decreto Supremo N° 001-2010-SA. Modifican los Artículos del Reglamento de la Ley N° 28705, Ley General para la Prevención y Control de los Riesgos del Consumo de Tabaco, aprobado por el Decreto Supremo N° 015-2008-SA http://www.digesa.minsa.gob.pe/norma_consulta/DS_1_2010_SA.pdf

²⁶ Ministerio de Salud Decreto Supremo N° 001-2011-MINSA. Modifica el Reglamento de la Ley N° 28705, Ley General para la prevención y control de los riesgos del consumo del tabaco, aprobado por decreto supremo N° 015-2008-SA y modificado por Decreto Supremo N° 001-2010-SA. 14 de enero de 2011 <https://www.gob.pe/institucion/minsa/normas-legales/244368-001-2011-minsa>

²⁷ Ministerio de Economía y Finanzas. Ejecutivo publica Decreto Supremo con ajustes al ISC y al IR. Lima, 15 de junio de 2019. <https://www.mef.gob.pe/es/noticias/notas-de-prensa-y-comunicados?id=6055>

²⁸ Ministerio de Economía y Finanzas. Decreto Supremo N° 181-2019-EF. Decreto Supremo que modifica el Impuesto Selectivo al Consumo aplicable a los bienes del Nuevo Apéndice IV del TUO de la Ley del Impuesto General a las Ventas e Impuesto Selectivo al Consumo y el Reglamento de la Ley del Impuesto a la Renta. 14 de Junio del 2019. <https://www.mef.gob.pe/es/normatividad-sp-9322/por-instrumento/decretos-supremos/20291-decreto-supremo-n-181-2019-ef-1/file>

²⁹ Organización Panamericana de la Salud. OMS. Nota de Prensa: OPS lamenta suspensión de debate del proyecto de ley que prohíbe la publicidad del tabaco. Lima, 17 de junio de 2016. https://www.paho.org/per/index.php?option=com_content&view=article&id=3508:ops-lamenta-suspension-de-debate-del-proyecto-de-ley-que-prohibe-la-publicidad-del-tabaco&Itemid=900

³⁰ Diario El Comercio. Archivan proyecto para eliminar publicidad del tabaco, ¿qué sucede en otros países? 19 de Junio 2019. <https://elcomercio.pe/economia/peru/p-ley-busca-eliminar-publicidad-tabaco-pais-medidas-toman-otros-paises-ecpm-noticia-646501-noticia/>

³¹ Ministerio de Economía y Finanzas. Ejecutivo publica Decreto Supremo con ajustes al ISC y al IR. Lima, 15 de junio de 2019 <https://www.mef.gob.pe/es/noticias/notas-de-prensa-y-comunicados?id=6055>

³² WHO. Framework Convention on Tobacco Control. Explanation of type/nature and content of the measures providing the ban <http://untobaccocontrol.org/impldb/indicator-report/?wpdvar=3.2.2.3>

³³ IATA. Peru Customs, Currency & Airport Tax regulations details. <https://www.iatatravelcentre.com/PE-Peru-customs-currency-airport-tax-regulations-details.htm#Import%20regulations>

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| INDICATOR 4: Forms of Unnecessary Interaction | | | | | | |
| 8. Top level government officials (such as President/ Prime Minister or Minister ³⁴) 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) | 0 | | | | | |
| <p>Top level government officials (such as President/ Prime Minister or Ministers) do not 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.</p> <p>There is also a law that prevents situations that may endanger the national interests and the public health of the country.³⁵</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) | | | 3 | | | |
| <p>The Peruvian government does not accept assistance/ offers of assistance from the tobacco industry on enforcement such as conducting raids on tobacco smuggling or enforcing smoke free policies including monetary contribution for these activities.</p> <p>However, in 2017 the Working Table against Illicit Cigarette Trade was created in the Ministry of Production with the purpose of providing a solution to the problem that the tobacco industry is going through, involving officials from SUNAT, the Public Ministry, and the National Police of Peru, Indecopi and the Tobacco Committee of the National Society of Industries.^{36 37}</p> | | | | | | |
| 10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (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> | | 1 | | | | |
| <p>The Peruvian government does not accept, support, endorse, or enter into partnerships or agreements with the tobacco industry.</p> | | | | | | |
| INDICATOR 5: Transparency | | | | | | |

³⁴ Includes immediate members of the families of the high-level officials

³⁵ Presidencia del Consejo de Ministros. Decreto Supremo N° 120-2019-PCM. Decreto Supremo que aprueba el Reglamento de la Ley N° 28024 – Ley que regula la gestión de intereses en la administración pública. 28 de Junio 2019.
https://cdn.www.gob.pe/uploads/document/file/338023/DS_N_120-2019-PCM.pdf

³⁶ Ministerio de la Producción. Mesas de Trabajo. Mesa de Trabajo contra el Comercio Ilícito de Cigarrillos. 2017.
<https://www.produce.gob.pe/index.php/clcdap/funciones/36-clcdap/mesas-de-trabajo>

³⁷ Ministerio de la Producción. Mesas de Trabajo. Mesa de Trabajo contra el Comercio Ilícito de Cigarrillos. 2017
<https://www.produce.gob.pe/index.php/mesas-de-tematicas-de-trabajo-multisectorial/mesa-de-trabajo-contra-el-comercio-ilicito-de-cigarrillos>

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| 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) | | 1 | | | | |
| <p>In this period 2018-2019, the Peruvian government publicly disclosed a meeting with the tobacco industry on the regulation of IQOS. The meeting was held under the parameters of Article 5.3 of the FCTC, that is, publicly and with the participation of civil society.</p> <p>On February 2019, the former President of Spain, José María Aznar, had an unofficial and unscheduled meeting at the Ministry of Health (MINSA), of which there are no records, as manager of the Philip Morris, advocating for convenient regulation. to your interests in heated tobacco products.</p> <p>A few days later, the representatives of Philip Morris (PM) in Peru and Colombia formally requested an appointment with MINSA for the same reason. Representatives of MINSA (Deputy Minister Neptalí Santillán, Gustavo Rosell and Edgard Bellido) attended the meeting, and civil society represented by COLAT and CEDRO were invited.</p> <p>The purpose was to propose the formal and regulated entry of the heated tobacco products that PM produces (IQOS), as reduced risk products that help to quit smoking. PM did not obtain any positive results from said meeting.</p> <p>We do not know if the tobacco industry has met with congressmen, even with the legislation that prohibits it, we do not have that clear information.</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) | | | 3 | | | |
| <p>There are no rules in place yet for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists. However, the Peruvian government developed the Law N° 28024 that regulates the management of interests in the public administration to prevent lobbying of companies with interests other than national interests. This Law was approved by Supreme Decree No. 120-2019-PCM.^{38 39 40}</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) | 0 | | | | | |
| <p>The Peruvian Government prohibits contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns or to require full</p> | | | | | | |

³⁸ Presidencia del Consejo de Ministros. Decreto Supremo N° 120-2019-PCM. Decreto Supremo que aprueba el Reglamento de la Ley N° 28024 – Ley que regula la gestión de intereses en la administración pública. 28 de Junio 2019. https://cdn.www.gob.pe/uploads/document/file/338023/DS_N_120-2019-PCM.pdf

³⁹ Comisión Permanente del Congreso de la República del Perú. Ley N° 28024. Ley que Regula la Gestión de Intereses en la Administración Pública. 23 de Junio 2003. <http://files.servir.gob.pe/WWW/files/normas%20legales/Ley%2028024.pdf>

⁴⁰ Diario Perú 21. Publican reglamento para evitar lobbies informales. 02 de Julio 2019. <https://peru21.pe/politica/publican-reglamento-evitar-lobbies-informales-487854-noticia/?ref=p21r>

| | 0 | 1 | 2 | 3 | 4 | 5 |
|--|---|---|---|---|---|---|
| disclosure of such contributions, according to the Article 31 – C of Law N° 28094, Law of Political Organizations. ⁴¹ | | | | | | |
| 14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4) | 0 | | | | | |
| There is no clear evidence that retired Peruvian government officials have joined the tobacco industry. | | | | | | |
| 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 | | | | | |
| There is no clear evidence that any current government official or family members have any position in the tobacco business. | | | | | | |
| 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) | | 1 | | | | |
| Peruvian 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. The government has developed the Law N° 28024 that regulates the management of interests in the public administration to prevent lobbying of companies with interests other than national interests. This Law was approved by Supreme Decree N° 120-2019-PCM. ^{42 43 44} | | | | | | |
| 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 |
| The Peruvian government, as a whole, has not formulated a policy or adopted any code of conduct for officials in their dealings especially 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) | | | 3 | | | |

⁴¹ Ley de Organizaciones Políticas Ley N° 28094. Publicada el 01 de Noviembre de 2003.

https://portal.jne.gob.pe/portal_documentos/files/fd6aadd2-0361-433b-8cab-ae2a0c568b7.pdf

⁴² Presidencia del Consejo de Ministros. Decreto Supremo N° 120-2019-PCM. Decreto Supremo que aprueba el Reglamento de la Ley N° 28024 – Ley que regula la gestión de intereses en la administración pública. 28 de Junio 2019

https://cdn.www.gob.pe/uploads/document/file/338023/DS_N_120-2019-PCM.pdf

⁴³ Comisión Permanente del Congreso de la República del Perú. Ley N° 28024. Ley que Regula la Gestión de Intereses en la Administración Pública. 23 de Junio 2003 <http://files.servir.gob.pe/WWW/files/normas%20legales/Ley%2028024.pdf>

⁴⁴ Diario Perú 21. Política Publican reglamento para evitar lobbies informales. 02 de Julio 2019.

<https://peru21.pe/politica/publican-reglamento-evitar-lobbies-informales-487854-noticia/?ref=p21r>

| | 0 | 1 | 2 | 3 | 4 | 5 |
|--|---|---|---|---|---|-----------|
| Peru is not a tobacco producing country. Tobacco products are imported for the sale of main tobacco companies such as BAT and PM. So the government does not request information on production or manufacturing. However, there are reports from the Ministry of Production where it is understood that they request information on market share and income. ^{45 46} | | | | | | |
| Peru is a tobacco importing country, it is a small producer of tobacco, only tobacco cigars (puros) for export. | | | | | | |
| Lobbying, philanthropy and political contributions are prohibited. | | | | | | |
| 19. The government has a program / system/ plan to consistently ⁴⁷ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2) | | | | | | 5 |
| The Peruvian government does not have a program / system / plan to constantly raise awareness within its departments about policies related to the FCTC Article 5.3 Guidelines. In fact, it is a recommendation of the Needs Assessment for the implementation of the WHO Framework Convention on Tobacco Control in Peru (2015), to have a specific legal provision or code of conduct that establishes that all branches of government should not approve, support, form companies or participate in activities that the tobacco industry describes as socially responsible. ⁴⁸ | | | | | | |
| 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 |
| The Peruvian Government does not have a clear and direct 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. | | | | | | |
| TOTAL | | | | | | 36 |

⁴⁵ Ministerio de la Producción PRODUCE: Ventas del sector retail minorista superaron los S/3,100 millones en julio. Nota de Prensa. 23 de setiembre de 2018 <https://www.gob.pe/institucion/produce/noticias/19249-produce-ventas-del-sector-retail-minorista-superaron-los-s-3-100-millones-en-julio>

⁴⁶ Ministerio de la Producción PRODUCE: Ventas del sector retail crecieron 9.7% en mayo y superaron los S/3200 millones Nota de Prensa. 7 de agosto de 2018 <https://www.gob.pe/institucion/produce/noticias/17649-produce-ventas-del-sector-retail-crecieron-9-7-en-mayo-y-superaron-los-s-3200-millones>

⁴⁷ 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.

⁴⁸ Ministerio de Salud del Perú. OMS/OPS Evaluación de necesidades para la implementación del Convenio Marco de la OMS para el Control del Tabaco en Perú. Lima, Perú 2015 <http://bvs.minsa.gob.pe/local/MINSA/3482.pdf>

ANNEX A: SOURCES OF INFORMATION

I. TOBACCO INDUSTRY ACTIVITY

1. Tobacco Industry Information

| Top 5 Transnational Tobacco Company | Sources other than SEATCA Report |
|-------------------------------------|---|
| British American Tobacco | http://www.batperu.com/ |
| Philips Morris | https://www.pmi.com/ |

LOCAL TOBACCO COMPANIES

| Top 5 Local Tobacco Company | Market Share and Brands | Source |
|------------------------------|--|---|
| TABACALERA DEL ORIENTE S.A.C | Puros San Martín, Miguel Grau, Señor de Sipan, Puritos del Oriente | http://www.tabacaleraoriental.com/laempresa.html |

TOBACCO FRONT GROUPS

| Top 5 Tobacco Industry Representative | Type (Front Group/ Affiliate/ Individual) | Source |
|---------------------------------------|---|---|
| Respeto por respeto | Facade group | Informe STOP |
| Asociación de Bodegueros del Perú | Facade group | https://asociaciondebodegueros.com/ |
| Comité de Manufactureros de Tabaco | Facade group | https://www.sni.org.pe/comites-gremiales-2/ |

a. News Sources

| Top 5 Newspaper/Dailies* | Type (Print/Online) | |
|--------------------------|---------------------|---|
| El Comercio | Print/Online | https://elcomercio.pe/ |
| La República | Print/Online | https://larepublica.pe/ |
| Perú 21 | Print/Online | https://peru21.pe/ |
| Correo | Print/Online | https://diariocorreo.pe/ |
| Gestión | Diario | https://gestion.pe/ |

*Basis of Ranking: Circulation Popularity Others: _____

Ranking Authority/ies: _____

Other News Source (not a newspaper but is a relevant source)

b. Government Agencies (Refer also to Annex A)

| Agency | Specify if more than one office is involved in this function: | General Sources of Information/ News for each office |
|---|---|---|
| 1. Office of the Chief Executive (Prime | Presidency of the Council of Ministers | https://www.gob.pe/pcm |

| | | |
|--|--|--|
| Minister/ President) Members of Royalty | | |
| 2. Cabinet and/or National Assembly (Policy makers) | Congress of the republic | http://www.congreso.gob.pe/ |
| 3. Agriculture / National Tobacco Board | Department of Agriculture | https://www.gob.pe/minagri |
| 4. Customs | National Superintendence of Tax Administration | http://www.sunat.gob.pe/ |
| 5. Education | Ministry of Education | https://www.gob.pe/minedu |
| 6. Environment | Ministry of the Environment | https://www.gob.pe/minam |
| 7. Finance/ Revenue/ Investments/ Excise | Ministry of Economy and Finance | https://www.gob.pe/mef |
| 8. Health | Ministry of Health | https://www.gob.pe/minsa/ |
| 9. Labor | Ministry of Labor | https://www.gob.pe/mtpe |
| 10. Trade and Industry/ Investments | Ministry of Tourism and Foreign Trade | https://www.gob.pe/mincetur https://www.gob.pe/produce |
| Additional agencies/sectors to be named per country: | Ministry of Production | |
| | The National Institute for the Defense of Competition and the Protection of Intellectual Property | https://www.indecopi.gob.pe/indecopi |

c. Meetings Attended/ Public Hearings

List the types of meetings and name of groups meeting (Working Group, Drafting group, National Assembly Public Hearing, National Tobacco Control Committee, etc.) and the contact person / source of the minutes:

| Type of Meeting | Source |
|--|-------------------|
| Multisectoral Commission for Tobacco Control | Mr. Edgar Bellido |
| Sectoral Commission for Tobacco Control | Mr. Edgar Bellido |

II. Laws, Policies, and issuances:

HEALTH LAWS:

1. Is there a health law database? If yes, please list which one will be used and cite the limitations:

It does not exist as a database, although there is information on tobacco control legislation on the website of the Ministry of Health.

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

www.minsa.gob.pe
<https://diariooficial.elperuano.pe/Normas>

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

<http://www.digesa.minsa.gob.pe/institucional1/SGL.asp>
<https://sinia.minam.gob.pe/modsinia/index.php?accion=verListElementos&verPor=tema&idTipoElemento=2&idTipoFuente=5&idTipoSubFuente=6>

ALL LAWS:

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

No

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

www.minsa.gob.pe
<https://diariooficial.elperuano.pe/Normas>

6. Does the above sources include issuances?
 If no, please list the alternative source for the issuances: _____

<http://www.digesa.minsa.gob.pe/institucional1/SGL.asp>
<https://sinia.minam.gob.pe/modsinia/index.php?accion=verListElementos&verPor=tema&idTipoElemento=2&idTipoFuente=5&idTipoSubFuente=6>

| Top 15 Government Agency/ Office/Sector | Source of Policies relating to the Sector | Source of related minor issuances, |
|--|---|---|
| 1. Office of the Chief Executive (Prime Minister/ President) Members of Royalty | Presidency of the Council of Ministers | https://www.gob.pe/pcm |
| 2. Cabinet and/or National Assembly (Policy makers) | Congress of the republic | http://www.congreso.gob.pe/ |

| | | |
|--|---|--|
| 3. Agriculture / National Tobacco Board | Department of Agriculture | https://www.gob.pe/minagri |
| 4. Customs | National Superintendence of Tax Administration | http://www.sunat.gob.pe/ |
| 5. Education | Ministry of Education | https://www.gob.pe/minedu |
| 6. Environment | Ministry of the Environment | https://www.gob.pe/minam |
| 7. Finance/ Revenue/ Investments/ Excise | Ministry of Economy and Finance | https://www.gob.pe/mef |
| 8. Health | Ministry of Health | https://www.gob.pe/minsa/ |
| 9. Labor | Ministry of Labor | https://www.gob.pe/mtpe |
| 10. Trade and Industry/ Investments | Ministry of Tourism and Foreign Trade | https://www.gob.pe/mincetur https://www.gob.pe/produce |
| Additional agencies/sectors to be named per country: | Ministry of Production | |
| | The National Institute for the Defense of Competition and the Protection of Intellectual Property | https://www.indecopi.gob.pe/indecopi |

This list serves not only as a bibliography or reference list but an undertaking to search each source listed as needed to answer a specific question.