
COLOMBIA

**TOBACCO
INDUSTRY
INTERFERENCE
INDEX
2023**

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(Evidence covering April 2021 – March 2023)

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Background and Introduction

Colombia has been recognized as a regional reference in the implementation of the FCTC. The regulations adopted by Colombia have created a favorable environment for the implementation of tobacco control measures (smoke-free environments, ban of sales to underage individuals, among others). However, in recent years, the tobacco industry has gained considerable strength and has interfered in decision-making processes.

To draft this report, Red PaPaz has considered all the information collected during this period. Red PaPaz also conducted interviews with people who work in tobacco control and are aware of the industry's interference to gather the corresponding evidence.

This year Colombia scored a total of 78 points which is a slight deterioration from the 76 points in the previous report in 2021. Overall, these scores reflect a high level of tobacco industry interference in Colombia.

This report demonstrates a setback in Colombia's compliance with Article 5.3 of the FCTC, because the tobacco industry is actively interfering in the decision-making processes of public health issues. In addition, there is no broad recognition of the irreconcilable conflict of interest that exists between the tobacco industry and public health policy.

In Colombia British American Tobacco and Philip Morris International control around ninety eight percent (98%) of the tobacco market in Colombia. In addition, the first controls around forty percent (40%) of the electronic cigarettes market while the latter is the importer of Heated Tobacco Products (HTP). This grants them an enormous economic power that has been used to prevent the adoption of specific tobacco control measures, such as, the increase of the taxes on tobacco products as well as the adoption of a specific tax on electronic cigarettes, amongst others. Furthermore, several of the directors of the Colombian subsidiaries of these companies have occupied relevant offices in the Colombian Government. This allows them to effectively interfere in decision making processes that are molding public health.

These results should motivate a serious consideration on the non-compliance with the provisions of Article 5.3 of the FCTC. The existing interference may weaken the existing measures adopted by Colombia on tobacco control (for example, through laws 1109 of 2006 and 1335 of 2009, among others). It may also prevent Colombia from adopting the measures recommended by the he WHO Framework Convention on Tobacco Control.

In short, this report should serve as an alert to promptly adopt legislative and/or administrative measures aimed at enforcing compliance with Article 5.3 of the FCTC. These measures should make specific reference to the situations to be prevented and those to be managed in accordance with the guidelines established in international standards.

Methodology

The report is based on a questionnaire developed by the Southeast Asia Tobacco Control Alliance. There are 20 questions based on the Article 5.3 guidelines. Information used in this report is obtained from the public domain only. A scoring system is applied to make the assessment. The score ranges from 0 - 5, where 5 indicates highest level of industry interference, and 1 is low or no interference. Hence the lower the score, the better for the country. The 0 score indicates absence of evidence or not applicable. Where multiple

pieces of evidence are found, the score applied reflects an average. The report includes information on incidents from April 2021 to March 2023, but also includes prior incidents that are still relevant today.

Summary Findings

I INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

Question 1: The Ministry of Justice collaborated with Acción Técnica Social (ATS) on monitoring psychoactive substances. ATS promotes reduced-risk narrative and has ties to PMI. The current ATS director has previous government experience.

Question 2: Congressmembers received assistance from tobacco industry front groups to promote bills on harm reduction for e-cigarettes/ENDS and heated tobacco products. Representative Juan Carlos Losada promotes a constitutional amendment on cannabis regulation with support from tobacco industry front groups. Bogotá's Secretary of Health, Alejandro Gómez, receives support from a tobacco industry front group and supports bills weakening tobacco control measures.

Question 3: Law 534 of 1999 established the National Tobacco Fund for research. Public hearings involved tobacco industry and front groups discussing reduced-risk narrative and E-Cigarettes/ENDS regulation. The Ministry of Justice received assistance from ATS on drug policies with a harm reduction approach.

Question 4: The Republic of Colombia's delegation to the 9th COP in Geneva included representatives from the Ministry of Foreign Affairs, Ministry of Health, and Ministry of Commerce. The inclusion of Ministry of Health delegates was notable, but the reason for including Ministry of Commerce delegates is unknown.

2 INDUSTRY CSR ACTIVITIES

Question 5: The Ministry of Culture endorsed the VII BAT Room of Popular Art event, and the BAT Foundation attended a conference coordinated by the Ministry of Justice. A campaign on cigarette butt collection, in partnership with PMI, led to increased cigarette consumption in certain areas of Bogota. The BAT Foundation, Chamber of Commerce of Medellín, and the Mayor's Office of Bello launched an exhibition called "I Salon de Talentos regionales en el arte" in January 2023.

3 BENEFITS TO THE INDUSTRY

Question 6: Law 534 of 1999 requires tobacco producers to contribute to the National Tobacco Fund, despite contradicting the FCTC. The Ministry of Agriculture provides incentives to the tobacco sector. Duty-free imports of tobacco products are a concern. Efforts to increase tobacco taxes face industry interference, but Representative Carolina Giraldo promotes bills to raise taxes on tobacco products, including e-cigarettes.

Question 7: Law 534 of 1999 requires tobacco producers to contribute to the National Tobacco Fund, despite conflicting with the FCTC. The Ministry of Agriculture supports the tobacco industry. There are no significant tax privileges for the industry, but they can benefit from tax benefits through donations to authorized non-profit organizations. Tobacco products are no longer VAT exempt. Concerns arise from duty-free imports and potential loopholes in the special economic zone.

4 UNNECESSARY INTERACTION

Question 8: PMI's CEO and regional president participated in the Concordia Annual Summit alongside Colombian government officials. The BAT Foundation held an event with the Minister of Justice, and the Colombian Association of Cannabis Industries held an event with the Minister of Justice and Minister of Agriculture, along with ATS representatives. PMI's CEO and Global Strategic Partnerships representative also participated in the Concordia Annual Summit with former Colombian Presidents.

Question 9: iNNpulsA, a government agency, collaborated with PMI to launch a smoke-free Colombia platform. PMI actively participated in the Latin American Anti-Smuggling Alliance (ALAC) meetings and entered into an investment agreement with the FND and other authorities. PMI provides monetary contributions to the FND for anti-smuggling efforts. PMI representatives were involved in events and conferences on anti-smuggling matters, including one held by the Governor's Office of Antioquia. Other industry front groups, like ANDI, were present at ALAC meetings.

Question 10: The Federación Nacional de Departamentos (FND) and other authorities have partnered with PMI for tobacco research and combating smuggling. iNNpulsA launched a smoke-free Colombia platform in collaboration with PMI. The Ministry of Justice issued a report on psychoactive substances based on data collected by ATS. The Ministry of Culture endorsed the VIII Psychoactive Short Film Festival and contributed funds to ATS, which advocates for the adoption of the reduced-risk narrative for nicotine products like e-cigarettes/ENDS.

5 TRANSPARENCY

Question 11: Public hearings in Congress lack clear guidelines for disclosing conflicts of interest. Red PaPaz has uncovered undisclosed meetings between the Secretary of Health of Bogota, tobacco industry front groups, and Congress members. These meetings were held privately without disclosure.

Question 12: Colombia lacks specific rules for disclosing tobacco industry entities and lobbyists. Transparency provisions exist but don't cover the industry. The Ministry of Health has informal practices to prevent industry interference. Lobbyist registration is voluntary. Attempts to regulate lobbying have failed. The industry actively participates in congressional hearings, often invited by congress members.

6 CONFLICT OF INTEREST

Question 13: Colombian laws on political campaign funding do not prevent individuals with ties to the tobacco industry from donating to presidential candidates. Disclosure requirements make it difficult to identify specific candidates or party members receiving tobacco industry contributions.

Question 14: Numerous individuals with ties to the tobacco industry hold influential positions in Colombia. They include former government officials who now work for tobacco companies or related organizations.

Question 15: Carolina Soto, a former government official, now works at a communications firm with PMI as a client. She is also the wife of Alejandro Gaviria, a former Minister and presidential pre-candidate. Nicolás Uribe Rueda, a former congressman, was associated with a lobby firm accused of working with the tobacco industry. He currently serves as the Director of the Bogotá Chamber of Commerce, with connections to the President's Office.

7 PREVENTIVE MEASURES

Question 16: There is no formal requirement for disclosing interactions between the Colombian government and the tobacco industry. The Ministry of Health has voluntary practices for disclosure, but they are not mandatory. The FND does not disclose its interactions with the tobacco industry. The industry and its front groups participate in congressional hearings, often equating their presence with civil society organizations.

Question 17: In Colombia, there is no specific code of conduct for public officials when it comes to their interactions with the tobacco industry. General provisions exist for managing conflicts of interest, but there is no specific regulation. The Ministry of Health has some practices, but they are not formalized and not followed by other public entities. There is still a lack of awareness regarding the tobacco industry's involvement in tobacco control discussions.

Question 18: In Colombia, the Ministry of Agriculture has outdated data on tobacco production. Companies must submit financial information to regulatory authorities, but donation reports are classified. With major tobacco players no longer producing in Colombia, accessing information is difficult. There is no standardized method for reporting tobacco imports, and data on tobacco sales is unreliable due to informal vendors. Starting in 2022, e-cigarettes have a specific import tariff heading.

Question 19: Awareness of FCTC Article 5.3 is lacking in Colombian government departments, and health inspectors face intimidation from the tobacco industry. There is no comprehensive plan to address these issues.

Question 20: There is no official policy in Colombia to reject tobacco industry assistance on policy drafts. Although the Ministry of Health has an internal understanding of not accepting such assistance, it does not constitute a government-wide policy.

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Results and Findings

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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 or any entity or person working to further its interests. ² in setting or implementing public health policies in relation to tobacco control ³ (Rec 3.4)					4	
<ul style="list-style-type: none"> - In December 2021, the Ministry of Justice released a document on the monitoring of the psychoactive substances market. This document was prepared in collaboration with Acción Técnica Social (ATS).⁴ - ATS is a non-profit organization that focuses on a “responsible use” of psychoactive substances.⁵ ⁶ ATS actively promotes the reduced-risk narrative in public hearings regarding bills, decisions, amongst others. During the past years, there has been a close relation between ATS and the tobacco industry. PMI, has disclosed that they have a contractual relation with ATS, to promote the use of e-cigarretes/ENDS, as well as heated tobacco products (HTP).⁷ ⁸ ⁹ ¹⁰ ATS has been endorsed by other national agencies.¹¹ They are usually involved in discussions regarding public health issues.¹² The current director for ATS has worked with the Major’s Office in Bogotá, and the Governor’s Office of Norte de Santander.¹³ 						
2. The government accepts, supports or endorses <u>policies or legislation drafted by</u> or in collaboration with the tobacco industry. (Rec 3.4)					4	
<ul style="list-style-type: none"> - Congressmembers have received assistance from front groups of the tobacco industry to promote different bills that seek to adopt a narrative on harm reduction for e-cigarettes/ENDS, as well as heated tobacco products. Some of these Congressmembers are Mauricio Toro, Gustavo Adolfo Moreno Hutado, Daniel Carvalho, Duvalier Sánchez, María Fernanda Carrascal. - Since 2022, Representative Juan Carlos Losada has promoted a constitutional amendment that seeks modify article 49 of the Constitution, to regulate cannabis use. This bill has included a harm reduction narrative and has the support of ATS and ASOVAPE, two front groups of the tobacco industry. 						

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 Ministerio de Justicia y del Derecho (MinJusticia). “Monitoreo del mercado de drogas de síntesis”. December 2021. <https://bit.ly/3UzqyZL>. Accessed on April 13, 2023.

⁵ Acción Técnica Social (ATS). “#LAREDUCCIONDEDAÑOSSERALEY ACERCA DE LA CAMPAÑA”. February 14, 2023. <https://bit.ly/3UztaqA>. Accessed on April 13, 2023.

⁶ ATS. “Nicotina: Reducción de Riesgos y Daños”. (s.f.) <https://bit.ly/3MHyGwD>. Accessed April 13, 2023.

⁷ STOP: A Global Tobacco Industry Watchdog. “Shining the Light on Tobacco Industry Allies”. (s.f.). <https://bit.ly/2ybZXZn>. Accessed April 13, 2023.

⁸ Tobacco Tactis from the University of Bath. (November 4, 2022). <https://bit.ly/43tSPVR>. Accessed April 13, 2023.

⁹ Hassan, N. “‘Electronic cigarettes and vapers’, a market with confused interests in the country” (April 25, 2022). <https://bit.ly/3UzrZr7>. Accessed on April 13, 2023.

¹⁰ Silva, S. “‘Vapeadores y cigarrillos electrónicos’, ¿un nuevo desafío de salud pública?”. (April 23, 2022). <https://bit.ly/43zGuQ3>. Accessed on April 13, 2023.

¹¹ ATS. “Socios y Aliados” (s.f.). <https://bit.ly/3UwZ0V3>. Accessed on April 13, 2023.

¹² Protocolo y Eventos Prensa (2023), <https://bit.ly/403M0at> (last visited Apr 13, 2023)

¹³ Julián Quintero. *LinkedIn* [Profile page]. Retrieved April 13, 2023, from <https://bit.ly/43v2ZFw>

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- The Secretary of Health of Bogotá, Alejandro Gómez, has received technical support from ATS in regard to the use of psychoactive substances and has publicly supported legislative bills that aim at weakening tobacco control measures.						
3. The government allows/invites the tobacco industry to sit in government interagency/ multi-sectoral committee/ advisory group body that sets public health policy. (Rec 4.8) Never 5 Yes						5
- Law 534 of 1999 ¹⁴ recognized the relevance of tobacco production within the agricultural sector. Moreover, it established a contribution to be paid by tobacco producers to the National Tobacco Fund. This Fund devotes its resources to research, innovation and commercialization of tobacco. The Fund is administered by a Directive Committee formed by the Minister of Agriculture, two (2) delegates designated by the Ministry of Agriculture, four (4) delegates of the Federation of Tobacco Producers (<i>Fedetabaco</i>) or of its affiliate institutions, and one (1) delegate designated by a farmers' association. This Fund was later regulated through Decree 4428 of 2005, which has been integrated to Decree 1071 of 2015. ¹⁵						
- Article 31 of Law 1762 of 2015, also known as the “anti-smuggling law”, creates an inter-institutional commission to fight against illicit trade. The commission is led by the Director of the Tax and Customs Authority. The commission meets every three (3) months and may invite representatives of the private sector to participate. ¹⁶						
- On September 2021, the Secretary of Health of the city of Bogotá held a public hearing to discuss about Agreement 817 of 2021 for the city of Bogotá, which bans the use of electronic cigarettes / ENDS and other tobacco products among children, adolescents and non-consumer population. During the discussion the main topics were effective measures for the implementation of the Agreement. ATS was present during the hearing.						
- In October 2021, Congressman Mauricio Toro held a public hearing to discuss a bill that sought to adopt the reduced-risk narrative. During the event, the tobacco industry, as well as its front groups, were present and actively participated in the hearing. ¹⁷						
- On October 2021, Congressman Mauricio Toro attended a Conference held by ATS. The main topics discussed in the event were related to reduce harm narrative on nicotine products. ¹⁸						
- On November 2021, the Ministry of Foreign Affairs held a meeting to discuss with civil society organizations relevant topics that would be addressed in the COP 9 th . During the conversation, ATS and ASOVAPE participated and advocated for the adoption of a reduced-risk narrative. ¹⁹						
- On February 7 th , 2023, a public hearing was held in Congress to discuss about a bill that seeks to extend existing regulations on E-Cigarettes/ ENDS. British American Tobacco, as well as tobacco industry front groups interfered in this hearing. ²⁰ The director of legal and external affairs of BAT claimed that his participation was a civil society participation. ²¹ Amongst the front groups, ATS and the Colombian Association of Vapers – ASOVAPE,						

¹⁴ Ley 534 de 1999. “Por la cual se establece la Cuota de Fomento para la Modernización y Diversificación del Subsector Tabacalero y se dictan otras disposiciones”. Available in Spanish at <https://bit.ly/3tev7KK>

¹⁵ Decreto 4428 de 2005. “por el cual se reglamenta la Ley 534 del 11 de noviembre de 1999”. Later integrated into Chapter 6 of Decreto 1071 of 2015. “por medio del cual se expide el Decreto Único Reglamentario del Sector Administrativo Agropecuario, Pesquero y de Desarrollo Rural”. Available in Spanish at <https://bit.ly/3tc1GZC>

¹⁶ Ley 1762 de 2015. “Por medio de la cual se adoptan instrumentos para prevenir, controlar y sancionar el contrabando, el lavado de activos y la evasión fiscal”. Available in Spanish at <https://bit.ly/3mlwaQo>

¹⁷ Liga Colombiana contra el Cáncer. (October 22, 2021). “Industria tabacalera quiere promover en Colombia regulaciones a la medida de sus intereses”. <https://bit.ly/41cG5kP>. (Accessed on April 13, 2023).

¹⁸ Mauricio Toro - Participación Conferencia internacional de reducción de daños en nicotina - #regulemoslanicotina Facebook - Mauricio Toro - Participación Conferencia internacional de reducción de daños en nicotina - #regulemoslanicotina, <https://bit.ly/3UBU7tR> (last visited Apr 13, 2023)

¹⁹ Andrés Vélez assisted on behalf of Red PaPaz and testifies the above.

²⁰ Protocolo y Eventos Prensa (2023), <https://bit.ly/403M0at> (last visited Apr 13, 2023)

²¹ Tweet by Juan Carlos Restrepo Piedrahita official account @jrestrepopedri. February 7, 2023. <https://bit.ly/3oaXYSy>. Accessed on April 13, 2023.

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<p>were present. Although ASOVAPE has not disclosed its relationship with the tobacco industry, the director of legal and external affairs for BAT assured that the company has given occasional financing.²²</p> <ul style="list-style-type: none"> - The Ministry of Justice has received assistance from ATS on policies regarding drugs and psychoactive substances. This becomes worrisome considering ATS approach to nicotine. Mainly, they defended harm reduction narrative. 						
<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)²³ (Rec 4.9 & 8.3) For non-COP year, follow the previous score of COP year. For non-Parties, apply a score of '0'</p>		1				
<p>According to the Ministry of Foreign Affairs the delegation from the Republic of Colombia to the 9th COP held in the city of Geneva, Switzerland was formed by:²⁴</p> <ol style="list-style-type: none"> Faryde Carlier González – Administrative and/or Financial or Technical or Operational Director for the Ministry of Foreign Affairs Nubia Bautista – Deputy Director of Non-Communicable Diseases of the Ministry of Health Alicia Arango Olmos – Extraordinary Ambassador and Plenipotentiary for the Permanent Mission of Colombia to the United Nations – UN with headquarters in Geneva María Carolina Galvis Rueda – Coordinator of the Public-Private Management Group for the Presidential Council for Competitiveness and Public-Private Management. Ximena Astrid Valdivieso Rivero – Counsellor for Foreign Affairs of the Economic, Social and Environmental Affairs Direction for the Ministry of Foreign Affairs Carlos Andrés Hurtado Pérez – Minister Counsellor for the Ministry of Foreign Affairs Natalia Pulido Sierra – Second Secretary for the Permanent Mission of Colombia before the United Nations (Geneva) Ivonne Rocío León Hernández – Consultant for the Presidential Council for Competitiveness and Public-Private Management. Lorena Calderón – Specialized Professional of the Sub-Directorate of Non-Communicable Diseases of the Ministry of Health Heidy Blumenkranc Arango – Specialized Professional in the Cooperation and International Relations Group for the Ministry of Foreign Affairs. Hernán Alonso Zúñiga Carvajal – Specialized Professional of the Directorate of Regulation for the Ministry of Commerce. Erika Liliana Hernández Toloza - Specialized Professional of the Directorate of Regulation for the Ministry of Commerce. <p>It is worth noting that on this occasion, unlike previous COPs, the delegation of Colombia included the participation of delegates from the Ministry of Health. However, there is no information about the reason why the delegation included Ministry of Commerce delegates.</p>						
INDICATOR 2: Industry CSR activities						
<p>5. A. Government agencies or their officials endorse, support, form partnerships with or participates in activities of the tobacco industry described as “socially responsible” or “sustainable”. For example, environmental programs. (Rec 6.2)</p>					4	

²² Hassan, N. “‘Electronic cigarettes and vapers’, a market with confused interests in the country” (April 25, 2022). <https://bit.ly/3UzrZr7>. Accessed on April 13, 2023.

²³ Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

²⁴ List of Participants to COP 9. <https://bit.ly/43x9WWD>. Accessed on April 12, 2023.

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<p>B. The government (its agencies and officials) receives CSR contributions²⁵ (monetary or otherwise, including CSR contributions) from the tobacco industry or those working to further its interests during the pandemic. (Rec 6.4)</p> <p>NOTE: exclude enforcement activities as this is covered in another question</p>						
<ul style="list-style-type: none"> - The Ministry of Culture endorsed the VII BAT Room of Popular Art: Colombia and the Environment.^{26 27} This event was launched nation-wide and has gained the support of the territorial entities where the events have been held. The BAT Foundation has constantly shared images on social media that include the Ministry's logo. - On June 2022, BAT Foundation attended a conference coordinated by the Ministry of Justice and the National Penitentiary and Prison Institute.²⁸ - In 2022, the Special Administrative Unit of Public Services of Bogota, launched a campaign in partnership with PMI, related to the collection of cigarette butts.²⁹ The project prioritized certain areas in Bogotá. It led to an overall increase of cigarette consumption in these areas. - On January 2023, BAT Foundation in alliance with the Chamber of Commerce of Medellín, as well as the Major's Office of Bello, Antioquia, launched the "I Salon de Talentos regionales en el arte" exhibition.³⁰ 						
INDICATOR 3: Benefits to the Tobacco Industry						
<p>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)</p>					4	
<ul style="list-style-type: none"> - According to Law 534 of 1999 there is a contribution to be paid by tobacco producers to the National Tobacco Fund. This Fund devotes its resources to research, innovation and commercialization of tobacco. It is worth highlighting than after the FCTC was ratified by Colombia, both the Fund and the contribution remain unaltered, even though they both run counter to the FCTC.³¹ - Pursuant to the Yearly Report of the Ministry of Agriculture, the tobacco sector has benefit enormously with the incentives provided by this Ministry.³² In March 2023, with the financial support of the Ministry of Agriculture, 1200, small tobacco farmers in Boyacá and Santander opted to convert to corn and beans as a new productive alternative.³³ - From a Tax Perspective there are no significant privileges, incentives, exemptions or benefits to the tobacco industry. However, the industry as well any other company may 						

²⁵ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

²⁶ Museo Colonial. (October 6, 2022). "Apertura del VII Salón BAT de arte popular. Colombia y el medio ambiente". <https://bit.ly/3o6BXnP>. Accessed on April 13, 2023.

²⁷ Fundación BAT. (April 2021). "VII Salón BAT de arte popular: Colombia y el Medio Ambiente". <https://bit.ly/3Kt3rve>. Accessed on April 13, 2023.

²⁸ Fundación BAT on Instagram: "La fundación bat fue invitada al 1er Foro universitario organizado por el Ministerio de Justicia y del derecho y el INPEC, a exponer el trabajo que ha venido desarrollando en la resocialización de la Población Privada de la Libertad. @mincultura" Instagram, <https://bit.ly/3KDPPGw> (last visited Apr 13, 2023)

²⁹ COLTABACO S.A.S. and Semana. (June 30, 2022). "Bogotá estrena una red de colilleros interactivos". <https://bit.ly/3mve7la>. Accessed on April 13, 2023.

³⁰ Fundación BAT on Instagram: "@camara_de_comercio_de_medellin" Instagram, <https://bit.ly/3UBLlqi> (last visited Apr 13, 2023)

³¹ Ley 534 de 1999. "Por la cual se establece la Cuota de Fomento para la Modernización y Diversificación del Subsector Tabacalero y se dictan otras disposiciones". Available in Spanish at http://www.secretariassenado.gov.co/senado/basedoc/ley_0534_1999.html

³² Ministerio de Agricultura (Minagricultura). "Informe de Rendición de Cuentas 2018 – 2019". October, 2019. <https://bit.ly/3zV0Fub>. Accessed on April 11, 2023.

³³ MinAgricultura. "Maíz y frijol, la nueva apuesta de pequeños productores de tabaco de Santander y Boyacá". March 10, 2023. <https://bit.ly/3KYdVEv>. Accessed on April 13, 2023.

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benefit from the tax benefits derived from making donations to non-for-profit organizations duly authorized as such by the Government.						
<ul style="list-style-type: none"> - Due to tobacco industry interference, it has been impossible to increase taxes on tobacco products. During 2021, the Ministry of Finance promoted a tax reform that did not include tobacco taxes. In 2022, the entering Ministry of Finance promoted a new tax reform that, once again, did not include tobacco taxes. Representative Carolina Giraldo has actively promoted propositions and bills that increase the tobacco tax and seek to establish a tax on e-cigarretes and other tobacco products. There was an important tobacco industry interference through FND to prevent the increase taxes on tobacco products. 						
7. The government gives privileges, incentives, tax exemptions or benefits to the tobacco industry (Rec 7.3)				3		
<ul style="list-style-type: none"> - According to Law 534 of 1999 there is a contribution to be paid by tobacco producers to the National Tobacco Fund. This Fund devotes its resources to research, innovation and commercialization of tobacco. It is worth highlighting that after the FCTC was ratified by Colombia, both the Fund and the contribution remain unaltered, even though they both run counter to the FCTC.³⁴ - In addition, the Ministry of Agriculture has recognized the relevance the tobacco production chain and therefore has devoted both resources and technical assistance to it.³⁵ - From a Tax Perspective there are no significant privileges, incentives, exemptions or benefits to the tobacco industry. However, the industry as well as any other company may benefit from the tax benefits derived from making donations to non-for-profit organizations duly authorized as such by the Government. - Tobacco products are no longer exempted from VAT since 2000 as they used to be between 1995 - 2000. - There is a significant concern regarding the import of cigarettes and other tobacco products. As a result of the different Free Trade Agreements entered into between Colombia and other States, a significant amount of these products has been imported to Colombia without having to pay any kind of duties or tariffs. Cigarette importers also benefit from the special economic zone in La Guajira, creating a potential loophole for diverting merchandise into the illegal market. This benefit is not specific to tobacco products. 						
INDICATOR 4: Forms of Unnecessary Interaction						
8. Top level government officials (such as President/ Prime Minister or Minister ³⁶) meet with/ foster relations with the tobacco companies such as attending social functions and other events sponsored or organized by the tobacco companies or those furthering its interests. (Rec 2.1)						5
<ul style="list-style-type: none"> - During the Concordia Annual Summit in 2021, PMI's CEO, Jacek Olczak, and its President for the America's Region, Deepak Mishra, participated as panellist, alongside Former President of the Republic of Colombia, Iván Duque Márquez and Chief of Staff of the Office of the President of Colombia, María Paula Correa.³⁷ - In October 2022, BAT Foundation held an event with the Minister of Justice and personelle from the National Police and the National Penitentiary and Prison Institute. In the pictures of the event, the current Vice-President of BAT appears.³⁸ 						

³⁴ Ley 534 de 1999. "Por la cual se establece la Cuota de Fomento para la Modernización y Diversificación del Subsector Tabacalero y se dictan otras disposiciones". Available in Spanish at <https://bit.ly/3ddb4N>

³⁵ Ministerio de Agricultura (Minagricultura). "Cadena de Tabaco". Dirección de Cadenas Agrícolas y Forestales. February, 2019. <https://bit.ly/329TlnV> Accessed on April 28, 2020.

³⁶ Includes immediate members of the families of the high-level officials

³⁷ Concordia. "2021 Concordia Annual Summit Speakers". Available <https://bit.ly/3KDG9De>. Accessed on April 13, 2023.

³⁸ Tweet by INPEC official account @inpec_colombia. October 6, 2022. <https://bit.ly/3o0MZuH>. Accessed on April 13, 2023.

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<ul style="list-style-type: none"> - In November 2022, the Colombian Association of Cannabis Industries held an event with the participation of the Minister of Justice and the Minister of Agriculture, as well as Julián Quintero from Acción Técnica Social.³⁹ ATS advocates for the adoption of the reduced risk narrative for nicotine products such as e-cigarretes/ENDS.⁴⁰ - During the Concordia Annual Summit in 2022, PMI's CEO, Jacek Olczak, as well as PMI's Global Strategic Partnerships and Civil Engagement, Donnica Hawes-Saunders participated as panellist, alongside Former Presidents of the Republic of Colombia, Álvaro Uribe Vélez and Iván Duque Márquez.⁴¹ 						
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)						5
<ul style="list-style-type: none"> - On September 29, 2021, during the 6th Meeting of Latin American Anti-Smuggling Alliance (ALAC), where representatives of the private, customs and academic sector were present, PMI actively intervened. ⁴² The Deputy Minister of International Trade of Colombia, as well as personelle of the Tax and Customs Authority, the Colombian Embassy in Costa Rica, FND and the National Institute of Food and Drug Surveillance (INVIMA) attended the event.⁴³ - The FND and other national and territorial authorities entered once more into an investment agreement with PMI. This agreement aims to implement projects for the development of agricultural laboratories on tobacco research, as well as training and assisting the authorities in tobacco smuggling operations.⁴⁴ ⁴⁵ ⁴⁶ ⁴⁷ PMI continuously provides assistance -mainly monetary contributions- to the FND to promote anti-smuggling policies that involve the Tax and Customs Authority, as well as the National Police.⁴⁸ - The Governor's Office of Antioquia held an event about anti-smuggling matters. A representative of PMI was one of the panellists in the conference.⁴⁹ - In March, 2023, during the 7th Meeting of Latin American Anti-Smuggling Alliance (ALAC), representatives of the National Police, the Ministry of Commerce, the Tax and Customs Authority, PMI and other front groups of the industry, such as the ANDI, were present.⁵⁰ 						
10. The government accepts, supports, endorses, or enters into partnerships or non-binding agreements with the tobacco industry or any entity working to further its interests. (Rec 3.1)						5

³⁹ Asociación Colombiana de la Industria del Cannabis (asocolcanna). "4° Congreso de la Industrias del Cannabis : El rol del cannabis en el cambio de la política de drogas colombiana". <https://bit.ly/3GDmOkn>. Accessed on April 13, 2023.

⁴⁰ ATS. "#LAREDUCCIONDEDAÑOSSERALEY ACERCA DE LA CAMPAÑA". February 14, 2023. <https://bit.ly/3UztaqA>. Accessed on April 13, 2023.

⁴¹ Concordia. "2022 Concordia Annual Summit Speakers". Available <https://bit.ly/3ob0I7U>. Accessed on April 13, 2023.

⁴² Cámara de Industrias y Producción. (September 29, 2021). "Quito es la sede del 6to Encuentro de la Alianza Latinoamericana Anticontrabando (ALAC)". <https://bit.ly/3KCvngH>. Accessed on April 13, 2023.

⁴³ Asociación Nacional de Empresarios de Colombia (ANDI). (December 2021) "6° Encuentro Alianza Latinoamericana Anticontrabando: Declaración de Quito". <https://bit.ly/3zYVWV9>. Accessed on April 13, 2023.

⁴⁴ Federación Nacional de Departamentos (FND). "Informe de Gestión 2021". (March 2022). <https://bit.ly/3MHwE8x>. Accessed on April 13, 2023.

⁴⁵ FDN. "Subdirección Administrativa y Financiera". (s.f.). <https://bit.ly/406oLwy>. Accessed on April 13, 2023.

⁴⁶ Cuestión Pública. "De (P)MI para Fede(departamentos): los 155 millones de dólares poco vigilados". December 13, 2021. <https://bit.ly/3KY05Fa>. Accessed on April 13, 2023.

⁴⁷ Cuestión Pública. "Philip Morris y FedeDepartamentos: un matrimonio inseparable". December 13, 2021. <https://bit.ly/41qO3yN>. Accessed on April 13, 2023.

⁴⁸ FND. "Informe de Gestión 2021". (March 2022). <https://bit.ly/3MHwE8x>. Accessed on April 13, 2023.

⁴⁹ Tweet by Gobernación de Antioquia oficial account @gobantioquia. April 22, 2021. <https://bit.ly/3Kzno3B>. Accessed on April 13, 2023.

⁵⁰ Asociación Nacional de Empresarios de Colombia (ANDI). (March 2, 2023) "8° Encuentro Alianza Latinoamericana Anticontrabando: Declaración de Bogotá". <https://bit.ly/3GI5dYw>. Accessed on April 13, 2023.

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<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>						
<ul style="list-style-type: none"> - The Federación Nacional de Departamentos (FND) (an entity comprised by the representatives of the subnational territorial authorities) and other territorial authorities entered once more into an investment agreement with Philip Morris International (PMI). This agreement aims to implement projects for the development of agricultural laboratories on tobacco research, as well as training and assisting the authorities in tobacco smuggling operations.^{51 52 53 54} - iNNpulsA, a government's agency, launched a collaborative platform for a smoke-free Colombia alongside PMI. This was disclosed in August 2021.⁵⁵ - In December 2021, the Ministry of Justice issued a report on psychoactive substances with data collected by Acción Técnica Social (ATS).⁵⁶ - The Ministry of Culture endorsed the VIII Psychoactive Short Film Festival Échele Cabeza 2022. Here the Ministry contributed COP 18,838,000 to ATS. The Agreement was signed in May 2022.⁵⁷ ATS advocates for the adoption of the reduced risk narrative for nicotine products such as e-cigarretes/ENDS. 						
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>During public hearings in Congress, there has not been a clear guideline to ensure that all participants in the debate, disclose any conflict of interest they may have. It has been civil society organizations that have requested the disclosure of such information need for this to be done in all discussions that involve the adoption of public health policies.</p> <p>Red PaPaz has learned about meetings held by the Secretary of Health of Bogota with front groups of the tobacco industry. Additionally, there have been similar discussions with Congress members such as Maria Fernanda Carrascal, Duvalier Sánchez and Daniel Carvalho. All these meetings have been conducted behind closed doors and have not been disclosed by the officials and the Congressmembers involved.</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)						5
<p>In Colombia there are no specific rules requiring the disclosure or registration of tobacco industry entities, affiliated organizations and individuals acting on their behalf including lobbyists as set forth under Article 5.3.</p>						

⁵¹ Federación Nacional de Departamentos (FND). "Informe de Gestión 2021". (March 2022). <https://bit.ly/3MHwE8x>. Accessed on April 13, 2023.

⁵² FDN. "Subdirección Administrativa y Financiera". (s.f.). <https://bit.ly/406oLwy>. Accessed on April 13, 2023.

⁵³ Cuestión Pública. "De (P)MI para Fede(departamentos): los 155 millones de dólares poco vigilados". December 13, 2021. <https://bit.ly/3KY05Fa>. Accessed on April 13, 2023.

⁵⁴ Cuestión Pública. "Philip Morris y FedeDepartamentos: un matrimonio inseparable". December 13, 2021. <https://bit.ly/41qO3yN>. Accessed on April 13, 2023.

⁵⁵ Tweet by La República official account @larepublica_co. August 26, 2021. <https://bit.ly/3GHhjAZ>. Accessed on April 13, 2023.

⁵⁶ MinJusticia. "Monitoreo del mercado de drogas de síntesis". December 2021. <https://bit.ly/3UzqyZL>. Accessed on April 13, 2023.

⁵⁷ Agreement SECOP MC CC 1278 2022. Available at: <https://bit.ly/30GL7H7>

There are transparency provisions in Law 1712 of 2014.⁵⁸ According to these provisions public entities must disclose all public information⁵⁹ when requested by a citizen. This information may refer to the entity's budget, publications, contracts, services and decision-making processes. Such information must be disclosed, except when it is deemed to be classified. However, there is no obligation regarding the disclosure or registration of tobacco industry entities, affiliated organizations and individuals acting on their behalf including lobbyists as set forth under Recommendation 5.3.

Law 1474 of 2011, also known as the “*Anti-Corruption Statute*”⁶⁰ establishes in Article 61, that authorities may request information about lobbyists, or interest groups when there is any evidence of a criminal conduct or a disciplinary offense. Yet, besides this particular scenario, there is no regulation regarding lobbying nor registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf.

Furthermore, Law 1437 of 2011, also known as the “*Administrative Procedure Code*”⁶¹ establishes general provisions regarding the disclosure of conflict of interest by public officers. Nevertheless, there is no specific regulation regarding lobbying nor registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf.

Given the existing deficit of provisions requiring the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists, it is worth to highlight that the Ministry of Health has adopted several practices to prevent the tobacco industry's interference. Among the practices adopted, the following relate to the subject at hand: (i) meetings with tobacco industry must be held publicly; (ii) they must be strictly necessary otherwise they will be cancelled; (iii) civil society monitors will be summoned to participate in the meetings; (iv) the agenda of the meeting must be previously set, and must be strictly followed; and, (v) the Ministry of Health will not acquire any obligation in these meetings.⁶² Yet, these best practices are not established under any existing internal regulation. As a matter of fact, Resolution 1998 of 2017⁶³ that governs the health regulation -making process, includes no reference to any of these practices.

In addition to the Ministry of Health, the House of Representatives has established in Resolution 2348 of 2011⁶⁴ a public list to register lobbyists. Yet, registration is voluntary and not mandatory. Finally, it is necessary to mention that there have been several attempts to regulate lobbying. However, none of the proposed bills has passed.

There are provisions that specifically seek make visible conflict of interest during discussions between congressmembers (article 1 of the Law 2003 of 2019). But this has not stopped the industry from interfering.

⁵⁸ Ley 1712 de 2014. “*Por medio de la cual se crea la Ley de Transparencia y del Derecho de Acceso a la Información Pública Nacional y se dictan otras disposiciones*”. Available in Spanish at <https://bit.ly/3e0RFbc>

⁵⁹ According to Law 1712 of 2014 “*public information*” is all information that is not exempted from disclosure according to articles 18 and 19.

⁶⁰ Ley 1474 de 2011. “*Por la cual se dictan normas orientadas a fortalecer los mecanismos de prevención, investigación y sanción de actos de corrupción y la efectividad del control de la gestión pública*”. Available in Spanish at <https://bit.ly/2OlmyZv>

⁶¹ Ley 1437 de 2011. “*Por la cual se expide el Código de Procedimiento Administrativo y de lo Contencioso Administrativo*”. Available in Spanish at <https://bit.ly/3gbucHn>

⁶² Delegada para asuntos constitucionales y legales de la Defensoría del Pueblo. “*Informe de seguimiento al cumplimiento del Convenio Marco de la OMS para el Control del Tabaco en Colombia*”. 2017. Defensoría del Pueblo. <https://bit.ly/3a7wW4t> Accessed on April 11, 2023.

⁶³ Resolución 1998 de 2017 del Ministerio de Salud y Protección Social. “*Por la cual se modifica la Resolución 5594 de 2015*”. Available in Spanish at <https://bit.ly/3g5HeGb>

⁶⁴ Resolución MD-2348 de 2011 de la Cámara de Representantes del Congreso de la República. “*Por la cual se establece el Registro Público de Cabilderos para la actuación de los grupos de interés en el trámite de las iniciativas legislativas*”. Available in Spanish at <https://bit.ly/3tfKNNH>

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<p>During the public hearings held in Congress in October 2021 and February 2023, the participation of the industry and its front groups, did not have any obstacles. On the contrary it was heavily incentivized. It is well known that BAT, PMI, ATS and ASOVAPE were invited by Congressmembers to the hearings.</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) / Never 5 Yes					4	
<p>There are two main laws that regulate the funding of political campaigns in Colombia. Law 996 of 2005⁶⁵ which regulates presidential elections, and Law 1475 of 2011⁶⁶ which regulates all other political campaigns.</p> <p>According to Law 996 of 2005, there is a general prohibition for any type of entities (companies, NGO's etc.) to make donations to candidates running in the presidential election. However, there is no prohibition for individuals, who may have ties with the tobacco industry to make contributions to a presidential candidate.</p> <p>On the other hand, Law 1475 of 2011 does not establish any provision preventing the tobacco industry nor their front-groups from making contributions to political parties or candidates.</p> <p>In addition, both laws demand candidates and political parties to disclose to the National Council for Electoral Affairs a report of income, expenses, and reference to their contributors. However, when the National Council for Electoral Affairs discloses information about the financing of political campaigns it provides only the aggregate sum contributed by an entity or individual to the political party, but not to the specific candidate.⁶⁷ This makes it impossible to determine the members of a given party that have received donations from the tobacco industry.</p> <p>Regarding presidential elections it is difficult to tell which individuals have ties with the tobacco industry.⁶⁸</p>						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)						5
<ul style="list-style-type: none"> - Juan Carlos Restrepo Piedrahita: Former Director of the Intelligence Agency, former Director of the Anti-Narcotics Agency, former presidential adviser for security is currently director of legal and external affairs for BAT.⁶⁹ - Humberto Mora: Former Advisor to the Central Bank of Colombia is currently the Director of Corporate Affairs of Coltabaco (a subsidiary of PMI).⁷⁰ - Marcela Tovar Thomas: Former Coordinator of Projects of Acción Técnica Social (ATS) (front group). She also held positions within the Council of Bogotá, the Mayor's Office, 						

⁶⁵ Ley 996 de 2005. "Por medio de la cual se reglamenta la elección de Presidente de la República, de conformidad con el artículo 152 literal f) de la Constitución Política de Colombia, y de acuerdo con lo establecido en el Acto Legislativo 02 de 2004, y se dictan otras disposiciones". Available in Spanish at <https://bit.ly/3mE0bB6>

⁶⁶ Ley 1475 de 2011. "Por la cual se adoptan reglas de organización y funcionamiento de los partidos y movimientos políticos, de los procesos electorales y se dictan otras disposiciones". Available in Spanish at <https://bit.ly/3a5JLwk>

⁶⁷ Misión de Observación electoral (MOE). "Financiación de campañas en Colombia Elecciones de autoridades locales". February 4, 2015. <https://bit.ly/3daNOcp> Accessed on April 13, 2023.

⁶⁸ Misión de Observación electoral (MOE). "Ruta Electoral 2018: Elecciones Presidente y Congreso 2018. Financiación Electoral". <https://bit.ly/2Q14eeG> Accessed on May 5, 2020.

⁶⁹ Juan Carlos Restrepo Piedrahita. LinkedIn [Profile page]. Retrieved April 3rd, 2023, from <https://bit.ly/3uCzFLc>

⁷⁰ Humberto Mora, Director de Asuntos Corporativos de Coltabaco, habla de la negativa de Superintendencia para que la Phillips Morris adquiera a Coltabaco. W Radio [Audio]. Retrieved April 23, 2023. <https://bit.ly/43xnykL>

Ministry of Labor, Victims Unit and the Ombudsman's Office. She currently is an advisor for the Ministry of Justice.⁷¹

- Julián Quintero: Former advisor for the Mayor's Office of Bogotá and the Governor's Office of Norte de Santander, is currently the director of ATS. A corporation that receives financing from PMI and promotes the adoption of the reduced harm narrative for nicotine products (e-cigarettes/ENDS).⁷²
- Carolina Soto: Former Co-Chair of the Central Bank of Colombia, former presidential adviser, former vice minister of finance is currently Senior Associate of Dattis Comunicaciones,⁷³ a firm that specializes in strategic communications for public and private sector companies and institutions in Colombia. One of its clients is PMI.⁷⁴
- Bruce Mac Master: Former Director of the Social Prosperity Department, former Mayor of the City of Cartagena de Indias and former Deputy Minister of Finance. He is the current President of the National Association of Companies (ANDI), a tobacco industry front group.⁷⁵
- Jaime Alberto Cabal: Former Minister of Economic Development and former Ambassador to the Republic of South Korea, is the President of FENALCO a tobacco industry front group.
- Lina Sinisterra: Former Secretary of Government of the City of Cali is currently the Director of ANDI, a tobacco industry front group for the Valle del Cauca.
- María Claudia Lacouture: Former Minister of Commerce, Industry and Tourism is the current Director of the Colombian American Chamber of Commerce (AmCham Colombia), which has acted to represent the interests of tobacco companies.⁷⁶
- Luis Felipe Torres: former Director of Beverages at ANDI and former Director of Regulation at the Minister of Commerce. He is currently the Head of External Affairs for Colombia and Perú at PMI.⁷⁷
- Carlos Camargo Assis, current Ombudsman, formerly held the position of Director at the FND. The FND has received substantial resources from PMI and cooperation from the tobacco industry to counter tobacco smuggling. Moreover, during his time as Director of the FND he has supported tobacco industry's interests such as lobbying against bills that seek to increase taxes on tobacco products.⁷⁸
- María Paula Correa, the Chief of Staff of the Office of the President of Colombia (2018-2022), Iván Duque, held the position of Concordia's Senior Director of Strategic Engagement until August 2018. PMI is one of the members and sponsors of this association.⁷⁹⁸⁰
- Juan Carlos Pinzón Bueno: Former Minister of Defense and Ambassador to the United States of America. He is currently Executive President of ProBogotá, a private not-for profit organization that seeks to facilitate the dialogue between corporations and Bogotá's local administration. ⁸¹ He is also the Chairman and President of the Advisory Council of Virtus Global, a consulting firm that provides services to PMI.⁸² ⁸³

⁷¹ Marcela Tovar Thomas. *LinkedIn* [Profile page]. Retrieved April 3rd, 2023, <https://bit.ly/3Uypghl>

⁷² Julián Quintero. *LinkedIn* [Profile page]. Retrieved April 13, 2023, from <https://bit.ly/43v2ZFw>

⁷³ Carolina Soto Losada. *LinkedIn* [Profile page]. Retrieved April 3rd, 2023, from: <https://bit.ly/3zXR8IS>

⁷⁴ Comunicaciones La República. (September 19, 2022). "Facturamos \$18.500 millones en 2021 y ganancias de \$5.000, una excelente utilidad". <https://bit.ly/3KBeC5d>. Accessed on April 13, 2023.

⁷⁵ Bruce Mac Master. *LinkedIn* [Profile page]. Retrieved April 11, 2023, from <https://bit.ly/325LZau>

⁷⁶ María Claudia Lacouture. *LinkedIn* [Profile page]. Retrieved April 11, 2023, from <https://bit.ly/3dgXxON>

⁷⁷ Luis Felipe Torres. *LinkedIn* [Profile page]. Retrieved April 11, 2023, from: <https://bit.ly/3slqVHX>

⁷⁸ Cuestión Pública. "Hilo #ElNuevoDefensor". <https://bit.ly/3d9tzvY> Accessed on April 11, 2023.

⁷⁹"Concordia Bids Farewell to María Paula Correa.". August 1, 2018. <https://bit.ly/3wMMfJE> Accessed on April 11, 2023.

⁸⁰ Organized Crime and Corruption Reporting Project (Ocrp). "Soplando sin humo". May 26, 2020. <https://bit.ly/3uLIMJo> Accessed on April 11, 2023.

⁸¹ ProBogotá. "Our Team". <https://bit.ly/3samZt9> Accessed on: April 11, 2023.

⁸² Juan Carlos Pinzón Bueno. *LinkedIn* [Profile page]. Retrieved April 11, 2023, from <https://bit.ly/3g5KIZq>

⁸³ Virtus Global, Advisory Council members list. Retrieved on April 11, 2023. From: <https://bit.ly/3sd5Mj5>

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<ul style="list-style-type: none"> - Adriana Vivas, current Senior Consultant at Virtus Global, a Colombian consulting firm specialized in public affairs that provides services to PMI⁸⁴. She previously held the position as Director of Communications in several Ministries, such as Defense, Justice, Education and Health.⁸⁵⁸⁶ - Claudia De Francisco: Former Communications Minister. She is currently the Managing Partner of SecNewgate Communications (Seclatam), a lobbying firm that provides services to BAT.⁸⁷ ⁸⁸ - Gonzalo De Francisco: Former Presidential Adviser for Peace. He is currently the Senior Vice-President of SecNewgate Communications (Seclatam), a lobbying firm that provides services to BAT.⁸⁹ - Andrés Escobar: Former Deputy Minister of Finance, is the current CEO of EConcept AEI.⁹⁰ This firm has provided consultancy services to PMI. - Juan Carlos Echeverry: Former Minister of Finance is the founding member of EConcept AEI, a consultancy firm that has provided services to PMI.⁹¹ ⁹² 						
15. Current government officials and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)			2			
<ul style="list-style-type: none"> - Carolina Soto: Former Co-Chair of the Central Bank of Colombia, former presidential adviser, former vice minister of finance. She is currently Senior Associate of Dattis Comunicaciones,⁹³ a firm that specializes in strategic communications for public and private sector companies and institutions in Colombia. One of its clients is PMI.⁹⁴ She is also wife of Alejandro Gaviria, former Minister of Education (2022-2023) and Minister of Health (2012-2018), as well as presidential pre-candidate. - Nicolás Uribe Rueda: Former Member of the House of Representatives of Congress. He acted as director of Valure Asuntos Públicos y de Gobierno SAS (Valure - AP&DG) until December 2019. This organization was denounced by a congressman as being a lobby firm working with the tobacco industry.⁹⁵ ⁹⁶ He is currently the Director of the Chamber of Commerce of the City of Bogotá. An office that has constant communication with the President's Office. 						
INDICATOR 7: Preventive Measures						
16. The government has put in place a procedure for disclosing the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives. (Rec 5.1)						5
As stated before, there is no procedure for the disclosure of interactions between the Government and the tobacco industry or its representatives. Law 1712 of 2014 ⁹⁷ includes provisions that oblige public entities to disclose all public information when requested by a citizen, except when it is						

⁸⁴ Virtus Global. "Our Clients". <https://bit.ly/3mHEK22> Accessed on April 11, 2023.

⁸⁵ Adriana Vivas. *LinkedIn* [Profile page]. Retrieved April 11, 2023, from: <https://bit.ly/3a6YJC3>

⁸⁶ Virtus Global. "Our Team" <https://bit.ly/3dVvymE> Accessed on April 11, 2023.

⁸⁷ Claudia de Francisco. *SECLATAM* [Meet the team page]. Retrieved April 11, 2023, from <https://bit.ly/32bZOfz>

⁸⁸ SECnewgateway Colombia. *LinkedIn* [About page]. Retrieved April 11, 2023, from <https://bit.ly/3uPTQFD>; likewise, the homepage of SECLATAM includes a list of their clients. <https://bit.ly/2QITtmZ>

⁸⁹ Gonzalo de Francisco. *SECLATAM* [Meet the team page]. Retrieved April 11, 2023, from <https://bit.ly/3sj8nYQ>

⁹⁰ Andrés Escobar. *LinkedIn* [Profile page]. Retrieved May 7, 2020, from <https://bit.ly/3deh9mB>

⁹¹ Curriculum Vitae of Juan Carlos Echeverry. <https://bit.ly/3uKvexP>

⁹² List of clients of EConcept AEI: <https://bit.ly/3g6SLFc>

⁹³ Carolina Soto Losada. *LinkedIn* [Profile page]. Retrieved April 3rd, 2023, from: <https://bit.ly/3zXR8IS>

⁹⁴ Comunicaciones La República. (September 19, 2022). "Facturamos \$18.500 millones en 2021 y ganancias de \$5.000, una excelente utilidad". <https://bit.ly/3KBeC5d>. Accessed on April 13, 2023.

⁹⁵ Nicolás Uribe Rueda. *LinkedIn* [Profile page]. Retrieved April 11, 2023, from <https://bit.ly/3dc0UGm>

⁹⁶ Cuestión Pública. "Los trucos del lobby de la salud en Colombia". July 8, 2019. <https://bit.ly/2Qj0WVDs> Accessed on April 11, 2023.

⁹⁷ Ley 1712 de 2014. "Por medio de la cual se crea la Ley de Transparencia y del Derecho de Acceso a la Información Pública Nacional y se dictan otras disposiciones". Available in Spanish at <https://bit.ly/3mFkePD>

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deemed to be classified. However, there is no obligation regarding the disclosure of interactions with tobacco industry entities, affiliated organizations and individuals acting on their behalf.

The Ministry of Health has established a series of practices to publicly disclose any meeting with tobacco industry or its representatives. However, these practices have not been established within any formal internal regulation. As such, this practice is non-binding for the Ministry and thus its enforceability is discretionary. As established in the 2017 Tobacco control study conducted by the Ombudsman, the Ministry of Health was the only public entity that had a practice of disclosing records of interaction with tobacco industry.⁹⁸ As of 2019, this situation has not changed, reflecting the lack of commitment into developing such a policy.

FND is the association of Governors of subnational entities (*departamentos*). However, it claims to be a second order entity, and therefore not regulated under the law. Moreover, it claims to be under a private corporation's regime, and thus its activities are not monitored by the Public Ministry. This understanding has allowed the FND to interact with the tobacco industry, and entering into agreements, without having to disclose or report them.

During the public hearings held in Congress in October 2021 and February 2023, the industry and its front groups were present. There is a narrative amongst those groups and the industry itself that pretends to equal the participation of the tobacco industry with the participation of civil society organizations.⁹⁹

17. The government has formulated, adopted or implemented a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry. (Rec 4.2); <i>1 for whole of government code; 2 for Yes but partial if only MOH</i>				3		
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In Colombia there is no specific code of conduct for public officials, prescribing the standards which they should abide to in their dealings with the tobacco industry.

In Colombia there are certain general provisions regulating how public officials should manage conflicts of interests. Such is the case of Law 1437 of 2011, that establishes general obligations regarding the disclosure of conflict of interest by public officers. Nevertheless, there is no specific regulation prescribing the standards applicable to public officials when dealing with the tobacco industry.

Furthermore, as previously stated, only the Ministry of Health has established a series of practices as to how should public officers behave when dealing with the tobacco industry. However, these practices are not found in any formal regulation, and they are not implemented by any other public entity.

Although there are provisions that contain general guidelines on the matter, in Colombia there is still a lack of awareness of the participation of the tobacco industry within discussions regarding tobacco control. For example, during the public hearings held in October 2021 and February 2023, the industry and its front groups were present. There is a discourse that pretends to equal the participation of the tobacco industry with the participation of civil society organizations.¹⁰⁰

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			2			
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⁹⁸ Delegada para asuntos constitucionales y legales de la Defensoría del Pueblo. "Informe de seguimiento al cumplimiento del Convenio Marco de la OMS para el Control del Tabaco en Colombia". 2017. Defensoría del Pueblo. <https://bit.ly/328Bovv> Accessed on April 11, 2023.

⁹⁹ Tweet by Juan Carlos Restrepo Piedrahita official account @jrestrepopiedr1. February 7, 2023. <https://bit.ly/3oaXYSy>. Accessed on April 13, 2023.

¹⁰⁰ Ibid.

	0	1	2	3	4	5
lobbying, philanthropy, political contributions and all other activities. (5.2)						
<ul style="list-style-type: none"> - The Ministry of Agriculture has data of the total production of tobacco within the country. This information is available online. However, it only provides data for tobacco production until 2018. - Relevant information on tobacco production, manufacture, market expenditures, revenues and any information that could lead into determining the market share of tobacco industries, must be submitted by companies on an annual basis to the Superintendence of Companies, as prescribed under article 47 of Law 222 of 1995. - Regarding Market expenditures, revenues and all other relevant financial information, companies are required by law to file a report to the Tax and Customs Authority on an annual basis. - The Superintendence of Industry and Commerce is well versed in determining the market share of different corporations, especially in the context of anti-trust laws enforcement. As such, it has the competence to request any company relevant information to determine a specific market share. - Given that in Colombia there are laws that give tax discounts to companies that make donations to non-for-profit organizations and state-run programs, the Tax and Customs Authority has access to this information. However, these donation reports are considered classified information. Thus, it is not publicly disclosed. - Furthermore, considering that since 2020 the two major players of the tobacco industry are not producing tobacco products in Colombia it has become increasingly difficult to access information. Databases of tax collection administered by the Tax and Customs Authority only show aggregated data of specific sectors of the economy. Thus, it is impossible to distinguish data on tobacco from that of other imported products. - Moreover, in Colombia there is no standardized method to report imports, thus making it difficult to follow how the market of imported tobacco products behaves. - Data collected by the National Statistics Department (DANE) on production and manufacturing of tobacco products is not good. This is due to the decline in tobacco production, and the fact than more than half of the sales of cigarettes are made through informal vendors that do not submit data on their sales to the authorities. - Since 2022, the Tax and Customs Authority established a specific tariff heading (8543.40.00.00) for e-cigarettes entering Colombia as imports. 						
19. The government has a program / system/ plan to consistently ¹⁰¹ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)				3		
<p>There is not a consistent plan to raise awareness on article 5.3 of the FCTC within its departments. This is partially due the fact that there are no formal intersectoral coordinating mechanisms on tobacco control as determined by article 5.2 (a) of the FCTC.</p> <p>However, there is an informal group created by the Ministry of Foreign Affairs, the follows up the implementation of the FCTC. Yet, it does not implement programs to raise awareness within governmental institutions.</p> <p>The Ministry of Health does carry out within their inspectors' training programs modules regarding the implementation of the FCTC and its article 5.3. These trainings are carried out within the framework of the "FCTC 2030 Project, into which Colombia is included.¹⁰²</p>						

¹⁰¹ 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.

¹⁰² Information on the FCTC 2030 project is available on: <https://www.who.int/fctc/implementation/fctc2030/en/>

	0	1	2	3	4	5
During the last years, there has been a constant and systematic intimidation carried out by the tobacco industry to Health Inspectors. They are the authority who verify the correct implementation of tobacco control measures in Colombia (FCTC and Law 1335 of 2009).						
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 such policy in place in Colombia. Nevertheless, the Ministry of Health has an internal understanding of not accepting tobacco industry assistance on policy drafts. However, this is far from being a governmental policy.						
TOTAL SCORE						78

Annex A: Sources of Information

	TOP TOBACCO COMPANIES/ DISTRIBUTORS	MARKET SHARE	BRANDS	SOURCE
1	Philip Morris International			
2	British American Tobacco			
3	Japan Tobacco International			
4	Pronalci S.A.	Less than 0,5% (Dumont, Miller, Montero, Mundial, Poker, Soberanos amongst others)		
5	CDF Colombia S.A.	Less than 0,5% (Draft brands)		
6	Luis Fernando Pabón Cristancho	Less than 0,5% (Draft brands)		

	TOP MEDIA/ NEWSPAPERS	URL
1	El Tiempo	https://www.eltiempo.com/
2	El Espectador	https://www.elespectador.com/
3	Semana	https://www.semana.com/
4	La República	https://www.larepublica.co/
5	El Colombiano	https://www.elcolombiano.com/

	MAIN TOBACCO INDUSTRY ALLIES/ FRONT GROUPS	TYPE (FRONT GROUP, LOBBY GROUP, INDIVIDUAL)	SOURCE
1	ANDI	Front Group	https://www.andi.com.co/
2	FENALCO	Front Group	https://www.fenalco.com.co/
3	Concordia	Front Group	https://www.concordia.net/
4	Acción Técnica Social	Front Group	https://www.acciontecnicasocial.com/
5	ASOVAPE	Front Group	https://asovape.org/