

# Costa Rica

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## Summary of Findings

### 1. Industry participation in policy development

The most serious and symbolic case of interference documented in this report and the previous report (2018-2019) is from the Mixed Commission Against Illicit Trade of the Ministry of Finance or Treasury. This inter-ministerial commission defines the policy and actions taken in relation to the illicit trade in the country, including the illicit tobacco trade.

The three business chambers (AmCham, BritCham and Chamber of Commerce), who represent the interests of the commercial sector, including the tobacco industry, have gained ground and power in the country's decisions on illicit trade, modifying decrees throughout three government administrations (2010-2014, 2014-2018 and 2018-present). In 2020, they managed to modify a decree to have three of the eight votes within the Commission, as well as the Technical Committee created for this commission.

The work of the tobacco industry and its representatives (the chambers) to occupy this decision space has been calculated and strategic. It even had the assistance and lobby of the Transnational Alliance to Combat Illicit Trade (TRACIT), an organization that is financed by Philip Morris International (PMI).

The minutes of meetings show that the Commission has addressed issues related to tobacco control, but, in addition, officials from PMI have been invited to the table. This is a serious breach of the commitment made by the country in the World Health Organization

(WHO) Framework Convention on Tobacco Control (FCTC), since the signatory parties "should not accept, support or endorse any offer of assistance, or proposal of legislation or policy for tobacco control, written by or in collaboration with the tobacco industry."

The way the government has opened the door to the tobacco industry in the Joint Commission Against Illicit Trade seriously undermines its ability to control tobacco, as the tobacco industry around the world has used illicit trade as a "workhorse" to block traceability initiatives and tobacco tax increases. The latter is one of the most cost-effective measures to reduce smoking.

### 2. Industry CSR activities

The COVID-19 pandemic was a limitation for the tobacco industry to implement its agenda of corporate social responsibility (CSR) activities. However, the two activities documented in this report responded to two topics of interest to PMI: a) mitigating the impact of smoking as a risk factor for COVID-19 by donating N95 masks to the Costa Rican Social Security Fund and b) positioning itself as an innovative and technological company (marketing characteristics with which iQOS is sold) by supporting a contest aimed at entrepreneurs in the areas of well-being, health and environmental protection in alliance with the National Center for High Technology (CENAT).

### 3. Benefits to the industry

During the observation period of this report, the granting of new benefits to the tobacco industry was not documented. However, the tax benefits that the government sustains towards the tobacco industry are an example of interference with compliance with the FCTC.

The government still benefits the tobacco industry by excluding tobacco tax from the tax base for calculating value added tax (VAT). In this way, the government stops receiving about ₪3,200 million a year. This benefit was granted to the industry in a scenario where it has been estimated that the costs of smoking for the country are around ₪300,318 million per year and tobacco tax revenues barely reach ₪27,185 million.

### 4. Unnecessary interaction

No evidence was found that the government had unnecessary forms of interaction with the tobacco industry or its representatives. The context of the COVID-19 pandemic is also a limitation to make these interactions visible.

On the one hand, the control measures for the COVID-19 pandemic limited the holding of social events or those sponsored by the tobacco industry, or the conduct of raids. But on the other hand, spaces such as the Commission Against Illicit Trade and its Technical Committee met virtually during 2020. This mode of communication and operation makes it difficult to identify and document alliances or agreements that are made with the tobacco industry.

### 5. Transparency

The government does not establish any rules or regulations to ensure transparency in interaction with the tobacco industry. Nor does it force the tobacco industry to declare who represents its interests, pressure groups or lobbyists. This regulation is necessary and urgent to limit the efforts of the industry in tobacco control.

We have documented that the tobacco industry uses the country's chambers of commerce to camouflage its actions to undermine efforts to control tobacco, but it is very difficult for civil society to document the lobbying that is exercised in the Legislative Assembly and the Presidency of the Republic.

### 6. Conflict of interest

The government establishes in the Electoral Code the prohibition of contributions by foreign individuals and national and foreign legal entities to political parties. Regarding the involvement of former officers or relatives of officers holding positions in the tobacco industry, there is no regulation that requires disclosing conflicts of interest.

### 7. Preventive measures

The government does not have mechanisms in place to effectively prevent interference from the tobacco industry. The cases of interference that we have documented in this report and the previous one, show that actions such as: a) establishing a mechanism to reveal the records of interactions with the industry, b) the creation and implementation of a code of conduct for officials to interact with the tobacco industry, c) establishing a training program for officials on the FCTC and d) establishing a policy of rejection of all forms of contribution from the industry, would favor government transparency, make the oversight of civil society easier and would block the tobacco industry's strategies to weaken tobacco control.



**The government can effectively prevent industry interference and ensure transparency by establishing a mechanism to reveal the records of interactions with the industry, rejecting all forms of contribution from the industry and implementing a code of conduct for officials when interacting with the tobacco industry.**



## Recommendations

1. It is necessary to develop a code of conduct with procedural rules for the interaction of government officials with the tobacco industry in light of Article 5.3 of the FCTC.
2. There must be a National Tobacco Control Plan that considers education to the state apparatus on the FCTC and Article 5.3 among its strategic actions. (Ministry of Health)
3. It is necessary to establish a mechanism to record the interactions that government officials have with the tobacco industry. (Ministry of Health)
4. It is necessary to establish a policy to reject the acceptance of any form of contribution or gift from the tobacco industry. (Ministry of Health)