

COLOMBIA

2021

TOBACCO  
INDUSTRY  
INTERFERENCE  
INDEX

## Introduction

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The preamble to the FCTC sets forth that non-governmental organizations and other members of civil society not affiliated with the tobacco industry play a decisive role in national and international tobacco control. Their efforts are especially crucial to warn on the actions undertaken by the tobacco industry to interfere, weaken or undermine tobacco control laws.

To this end, Red PaPaz, -a Colombian non-governmental organization that defends children's and adolescents' rights-, carried out the required research to prepare this report on the interference of the tobacco industry in Colombia between 2019 and 2021. The results of this report are based on publicly available information, interviews, and situations that our work team has witnessed during this period. Additionally, Red PaPaz received valuable contributions from allies as Blanca Llorente from Fundación Anáas.

This report provides a perspective on the level of compliance of the Republic of Colombia with Article 5.3 of the FCTC. Additionally, this report offers information on the issues that demand particular consideration from the Republic of Colombia, to comply with the international obligations arising from said article.

Since the tobacco companies also sell e-cigarettes (ENDS), the vaping industry and its proponents are seen as those who further the interest of the tobacco industry.

# Summary Findings

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## 1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

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

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

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

## 2. INDUSTRY CSR ACTIVITIES

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

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

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

## 3. BENEFITS TO THE INDUSTRY

Several initiatives submitted to Congress which aimed at strengthening tobacco control regulations were dropped. Some of these initiatives sought to increase taxes according to the

FCTC, as well as to increase the size of warning labels (from 30% to 70%) on tobacco products. Colombia signed the Protocol to Eliminate Illicit Trade in Tobacco Products, however it has not yet ratified it.

Law 534 of 1999 states that tobacco producers must pay a contribution to the National Tobacco Fund. This Fund invests in research, innovation, and marketing of tobacco. Even after Colombia ratified the FCTC, both the Fund and the law that sets forth the contribution remain in force. Additionally, the Ministry of Agriculture has recognized the relevance of the tobacco production chain, and has allocated resources, and has provided appropriate technical assistance.

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

#### **4. UNNECESSARY INTERACTION**

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

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

#### **5. TRANSPARENCY**

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

On January 2020 DIAN reported that it had held meetings with Polfa and representatives of Coltabaco (a subsidiary of PMI) as part of the Technical Roundtable against Smuggling. On February 28, 2020, the Governors from different subnational entities and Coltabaco (a PMI subsidiary), met in the First Inter-Departmental Anti-Smuggling Program meeting. On June 27, 2020, the Governorship of Valle del Cauca conducted the first Inter-Institutional Fight Against Smuggling Committee, in which the Secretary of Finance of the Department, the FND, the Colombian Tax Authority (DIAN), Polfa and Coltabaco (a PMI subsidiary) participated.

## **6. CONFLICT OF INTEREST**

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

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

## **7. PREVENTIVE MEASURES**

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

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

## Recommendations

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

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

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

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

## 2021 Tobacco Industry Interference Index Results and Findings

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<b>INDICATOR 1: Level of Industry Participation in Policy-Development</b>						
I. The government <sup>1</sup> accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry <sup>2</sup> in setting or implementing public health policies in relation to tobacco control <sup>3</sup> (Rec 3.1)					X	
<p>In 2019 there were several instances in which the government and its agencies accepted assistance and collaboration from the tobacco industry. In 2019 the FND (an entity comprised by the representatives of the subnational territorial authorities) and other territorial authorities reentered into an investment agreement with PMI, which included projects for the development of agricultural laboratories on tobacco research, and training and assisting the authorities in anti-tobacco smuggling operations. Thus, in 2019 local authorities received funding for their local anti-smuggling elite groups by PMI, as well as participated in anti-smuggling summits with authorities from Ecuador in which PMI also participated. Furthermore, in 2019 Coltabaco (a PMI subsidiary) announced that it would close its production in Colombia. This prompted the Minister of Agriculture to start conversations with BAT's executives to address with them the upcoming challenges for tobacco producers. Additionally, the Minister of Commerce also held conversations with PMI to identify mechanisms that would allow them to continue operating in Colombia, such as promoting the production of HTPs.</p> <p>a. The Ministry of Health has been careful from distancing itself from the tobacco industry, and does not accept, support, or endorse any offer of assistance by or in collaboration with the industry.</p> <p>b. On February 6, 2020, The FND and AGROSAVIA opened a series of laboratories in the Meta Department which focus on pesticides residue research. The FND invested COP \$900,000,000 to equip the laboratories with cutting-edge technology. These laboratories were funded by Coltabaco (a PMI subsidiary).<sup>4</sup></p> <p>c. On February 28, 2020, the Governors from the Magdalena, Atlántico, Cesar, La Guajira, Sucre, Bolívar, Córdoba and San Andrés Departments, met in Santa Marta in the First Inter-Departmental Anti-Smuggling Program meeting. Coltabaco (a PMI subsidiary) participated in this meeting as part of the Regional Action Plan to counter the effects of tobacco smuggling.<sup>5</sup></p> <p>d. On March 18, 2020, the Secretary of Finance of the Norte de Santander Department led the Inter-Institutional Anti-Smuggling Committee with the</p>						

<sup>1</sup> 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

<sup>2</sup> The term, "tobacco industry" includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

<sup>3</sup> "Offer of assistance" may include draft legislation, technical input, recommendations, oversees study tour

<sup>4</sup> Tweet by AGROSAVIA official account @SomosAGROSAVIA. February 6, 2020. <https://bit.ly/3a5Y0kR> Accessed on March 17, 2021.

<sup>5</sup> FND. "Los departamentos de la región Caribe colombiana se comprometieron a reforzar esfuerzos para enfrentar el contrabando de cigarrillos". February 28, 2020. Available in Spanish: <https://bit.ly/3tctzAJ>

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<p>participation of Colombia's Tax Authority (DIAN), the Attorney General's Office, Polfa, and PMI's Brand Manager.<sup>6</sup></p> <p>e. On May 21, 2020, Carlos Camargo Assis, the Director of the FND published an article informing that during the first months of 2020 there was a meeting between the Secretaries of Finance of local administrations (Departamentos) and Alexander Wittich, PMI's Brand Integrity Manager, to discuss the effects of cigarette smuggling. In the article Camargo Assis describes cigarette smuggling as the "other contagious virus".<sup>7</sup></p> <p>f. On June 27, 2020, the Governorship of Valle del Cauca conducted the first Inter-Institutional Fight Against Smuggling Committee, to coordinate the anti-smuggling measures during the COVID-19 pandemic. The Secretary of Finance of the Valle del Cauca Department, the FND, the Colombian Tax Authority (DIAN), Polfa and Coltabaco (a PMI subsidiary) participated on this meeting.<sup>8 9</sup></p> <p>g. In October 2020, FND announced a strategy named "Legal Trade Zone" (Zonas de Comercio Legal), which is intended to promote the legal and formal trade among small businesses. This strategy, is supported by BAT (among other companies in the alcohol and cigarettes industry).<sup>10</sup></p> <p>h. On December 3, 2020, the Polfa published a tweet informing that they were participating in the Binational Colombia-Ecuador Meeting to fight against cigarette smuggling. According to the tweet, PMI participated on the meeting.<sup>11</sup></p> <p>i. In their risk matrix, the FND, in the subheading "Fund Management and Cooperation Resources", classified as high risk that the technical and financial report done by the FND, is not approved by PMI-Coltabaco, which may result in the delay in the transfer of resources.<sup>12</sup></p>						
<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)</p>					X	
<p>a. In February 2019, the President submitted to Congress the Bill containing the Development Plan (2018-2022). Such Bill included the establishment of a Fund for the implementation of new technologies for the Tax and Customs Authority. Among the resources that could be administered by the Fund there were private donations. Despite the efforts from some congressmen to eliminate this possibility, in order to avoid possible interference from the tobacco industry, the Government was reluctant to introduce any amendments in this regard. Law 1955 of 2019 passed with no variations in this article. At the same time, and in contradiction with this disposition the government issued guidelines for the Development Plan including</p>						

<sup>6</sup> La Opinión. "Despega lucha anticontrabando 2020". March 18, 2020. Available in Spanish at: <https://bit.ly/3dbYxUd>. Accessed on: March 17, 2021.

<sup>7</sup> Carlos Camargo Assis. "Contrabando, otro virus de contagio". May 21, 2020. FND. Available in Spanish at: <https://bit.ly/3a5g9iK>

<sup>8</sup> Tweet by Federación Nacional de Departamentos (FND) official account @FNDCol. June 27, 2020. <https://bit.ly/3mOQVnd> Accessed on March 17, 2021.

<sup>9</sup> Tweet by Federación Nacional de Departamentos (FND) official account @FNDCol. June 27, 2020. <https://bit.ly/3ulitnu> Accessed on March 17, 2021.

<sup>10</sup> Federación Nacional de Departamentos (FND). "Más de 360 mil pequeños comerciantes se convertirán en embajadores de la legalidad". October 15, 2020. <https://bit.ly/3dRzLI4> Accessed on March 12, 2021.

<sup>11</sup> Tweet by Policía Fiscal y Aduanera (Polfa) official account @PoliciaAduanera. June 3, 2020. <https://bit.ly/3uNyuJ4> Accessed on March 17, 2021.

<sup>12</sup> FND. "Formato Matriz de Riesgos de Gestión". April 15, 2020. Available in Spanish: <https://bit.ly/329CFIW>

explicit mention to the implementation of FCTC and the corresponding increasing tobacco tax as part of the strategy.<sup>13</sup>

- b. Provided that the Constitutional Court held that the Tax Reform adopted through Law 1943 of 2018 was unconstitutional, as a result of procedural defects, the Ministry of Finance submitted to Congress a new Tax Reform Bill almost identical to the one submitted a year before. Although there were several attempts from congressmen to increase taxes on tobacco products, as recommended under the FCTC, the Government was reluctant to introduce such amendments to the original Bill. Consequently, there were no advances in this front. Tobacco industry lobbying was active during the legislative process of Law 2010 of 2019.<sup>14</sup>
- c. Member of the House of Representatives, Óscar Ospina decried that the tobacco industry interference has been decisive in sinking different initiatives aimed at strengthening tobacco control regulation. In 2018, he refers all the visits from a famous lobbyist Diego Fernando De la Ossa Jaramillo to the Colombian Congress.<sup>15</sup> According to congressman Ospina, Mr. De la Ossa handles position papers on tobacco issues to different members of Congress. It is worth noting that lobbying is not regulated under Colombian law.<sup>16 17</sup>
- d. On July 30, 2020, House of Representatives Member Mauricio Toro participated in a Webinar sponsored by ASOVAPE, ATS and ARDT, interest groups that promote HTPs and E-Cigarette consumption as “reduced risk” products. The Webinar had the participation of Juan José Cirión from ProVapeo Mexico and Clive Bates from “Counter Factual”, both are “reduced risk” interest groups. In this webinar, Representative Mauricio Toro referred the main aspects of his proposed bill to regulate HTPs and E-Cigarettes as an alternative to traditional cigarette smoking.<sup>18</sup>
- e. On October 8, 2020, the National Association of Enterprises (ANDI) sent a letter to Representative Juan Diego Echavarría, requesting him to exclude from his Healthcare Reform Bill the articles that propose an increase in tobacco taxes. According to the letter, increasing the tobacco tax would incentivize the growth of illegal markets.<sup>19</sup>
- f. House of Representatives Member Mauricio Toro submitted a bill to regulate E-Cigarettes and HTPs. The bill adopts a “risk reduction” approach regarding HTPs and allowing them to be sold as an alternative measure to quit smoking. The bill was formally filed before to Congress on December 16, 2020.<sup>20</sup>

<sup>13</sup> Article 55 of Law 1955 of 2019. Ley 1955 de 2019. “Por el cual se expide el Plan Nacional de Desarrollo 2018-2022.” Available in Spanish at <https://bit.ly/3wQR1FZ>

<sup>14</sup> Ley 2010 de 2019. “Por medio de la cual se adoptan normas para la promoción del crecimiento económico, el empleo, la inversión, el fortalecimiento de las finanzas públicas y la progresividad, equidad y eficiencia del sistema tributario, de acuerdo con los objetivos que sobre la materia impulsaron la Ley 1943 de 2018 y se dictan otras disposiciones.” Available in Spanish at <https://bit.ly/2Qm1Lv7>

<sup>15</sup> Video of Representative Óscar Ospina Quintero <https://bit.ly/32bzR7Q>

<sup>16</sup> The “Registro de Cabilderos” of the House of Representatives records Diego Fernando de la Ossa as a lobbyist. Congreso de la República, Cámara de Representantes. “Registro de Cabilderos 2014-2018”. Cámara de Representantes. <https://bit.ly/3a3lp54> . Accessed on April 28, 2020.

<sup>17</sup> Cuestión Pública. “Los trucos del lobby de la salud en Colombia”. July 8, 2019. <https://bit.ly/3tfUZpr> Accessed on April 23, 2020.

<sup>18</sup> ATS: Nicotina Reducción de Riesgos y Daños. “NICOTINA: REDUCCIÓN DE RIESGOS Y DAÑOS 30 de julio 2020”. July 30, 2020. Available in Spanish at: <https://bit.ly/3dedGEC>

<sup>19</sup> ANDI Letter for Representative Juan Diego Echavarría. October 8, 2020.

<sup>20</sup> Letter to Congress to present the Bill “Por medio de la cual se regulan los productos de administración de nicotina sin combustión, incluidos cigarrillos electrónicos y productos de tabaco calentado y se dictan otras disposiciones.” December 16, 2020.

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<p>g. FND commissioned the Instituto de Ciencia Política Hernán Echavarría Olózaga (ICP) to make a study on tobacco taxes, and policy recommendations to counter tobacco smuggling. The study concluded that tobacco taxes should not be increased. Contrarywise, they should be lowered as they promote an increase in tobacco smuggling. Moreover, the study concludes that the best way to counter smuggling is through lower taxes and stronger criminal policy. It must be noted that the FND has received funding from PMI through an investment agreement, and past ICP studies have been directly sponsored by PMI.<sup>21</sup></p> <p>h. In September 2020, Representative Armando Zabarain D'Arce submitted bill 339 of 2020 which created tax benefits for PMI. Representative Zabarain supported this bill by citing a study made by Professor Jorge Tovar, that concluded that there is a relationship between increasing tobacco taxes and tobacco smuggling. Professor Tovar's study was commissioned by Coltabaco (a subsidiary of PMI).<sup>22</sup></p>						
<p>3. The government allows/invites the tobacco industry to sit in government interagency/ multi-sectoral committee/ advisory group body that sets public health policy. (Rec 4.8)</p>						X
<p>a. Law 534 of 1999<sup>23</sup> 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 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.<sup>24</sup></p> <p>b. On January 17, 2019, the Ministry of Commerce led the Anti-Illicit Trade Commission with the participation of different sectors, amongst them delegates from the tobacco industry.<sup>25</sup></p> <p>c. According to the Ministry of Commerce, the members of the Commission decided to implement actions aimed at prosecuting the illicit trade of tobacco products.<sup>26</sup></p> <p>d. On April 30, 2019, the Ministry of Agriculture led the Technical Commission for the Tobacco Production Chain. <i>Fedetabaco</i> and BAT participated. As a result of the meeting the participants agree to join efforts in order to update the Competitiveness Agreement of the Tobacco Chain.<sup>27 28</sup></p>						

<sup>21</sup> Javier Leonardo Garay and César Camilo Cermeño. "El Contrabando De Cigarrillos: Una Perspectiva Tributaria" Descripción resumida del estudio: objetivos, metodología, Hallazgos y recomendaciones. Instituto de Ciencia Política Hernán Echavarría Olózaga and Federación Nacional de Departamentos.

<sup>22</sup> Representative Armando Zabarain D'Arce. Answer to Red PaPaz's Petition. September 29, 2020.

<sup>23</sup> 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>

<sup>24</sup> 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>

<sup>25</sup> Ministerio de Comercio, Industria y Turismo (MinCIT). "Mesa Anticontrabando definió la hoja de ruta contra el comercio ilegal de productos agrícolas". January 17, 2019. <https://bit.ly/3seeDB1> Accessed on April 23 2020.

<sup>26</sup> Ministerio de Comercio, Industria y Turismo (MinCIT). "Gobierno intensifica la lucha contra el contrabando de cigarrillos: incautaciones crecen 42%". February 20, 2019. <https://bit.ly/2OH07Uv> Accessed on April 23, 2020.

<sup>27</sup> Ministerio de Agricultura (Minagricultura). Sistema de Información de Gestión y Desempeño de Organizaciones de Cadena (Noticias). <https://bit.ly/3g48pkE> .

<sup>28</sup> Ministerio de Agricultura (Minagricultura). "Mesa técnica regional de la Cadena de Tabaco - San Gil, Santander". June 4, 2019. <https://bit.ly/3teUdJg> . Accessed on April 23, 2020.

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<p>e. On June 5, 2019, the FND participates in the Binational Summit of the Tobacco Industry for Colombia and Ecuador.<sup>29</sup></p> <p>f. Furthermore, the FND has consistently invited members of BAT and Coltabaco to participate in their anti-illegal trade meetings with other government agencies.<sup>30</sup> These meetings stem from the FND's compromise to fight the illicit tobacco trade, as stated in an investment agreement between FND and PMI.<sup>31</sup></p> <p>g. On September 12, 2019, the Polfa participated in the Third Anti-Illicit Trade Reunion in Santa Marta. PMI participated and provided technical support and training.<sup>32</sup></p> <p>h. 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.<sup>33</sup></p>						
<p>4. The government nominates or allows representatives from the tobacco industry (including State-owned) in the delegation to the COP or other subsidiary bodies or accepts their sponsorship for delegates. (i.e. COP 4 &amp; 5, INB 4 5, WG)<sup>34</sup> (Rec 4.9 &amp; 8.3)</p>			X			
<p>According to the Ministry of Foreign Affairs the delegation from the Republic of Colombia to the 8<sup>th</sup> COP held in the city of Geneva, Switzerland was formed by:<sup>35</sup></p> <p>a. Alicia Alfaro Castillo – Chief of Foreign Affairs<sup>36</sup></p> <p>b. Germán Andrés Calderón Velásquez – Coordinator of Economic, Social and Environmental Affairs<sup>37</sup></p> <p>c. Yesid Andrés Serrano Alarcón – Third Secretary Permanent in Geneva<sup>38</sup></p> <p>The Ministry designated diplomats but has not authorized the participation of delegates from the Ministry of Health.</p> <p>In addition, before the 8<sup>th</sup> COP a document from the industry was leaked to the public. Pursuant to this document the leading tobacco companies requested the Minister of Foreign Affairs to adopt the following position at the negotiation:<sup>39</sup></p>						

<sup>29</sup> Federación Nacional de Departamentos (FND). "El cigarrillo ilegal: un problema de contrabando y de seguridad". June 5, 2019. <https://bit.ly/3d9NCue>. Accessed on April 23, 2020.

<sup>30</sup> The participation of tobacco industries in the FND's anti-illicit trade meetings has been so constant that even in March 2020, BAT and Coltabaco were invited to help draft an identification code for cigarettes with the FND and the National Administrative Department of Statistics (DANE). Tweet by Federación Nacional de Departamentos official account @FNDCol. March 2, 2020. <https://bit.ly/3uLWoVi> Accessed on March 5, 2020.

<sup>31</sup> Semana. "Philip Morris y regiones reactivan acuerdo para perseguir el contrabando". March 25, 2019. <https://bit.ly/3uLVMyN> Accessed on April 28, 2020.

<sup>32</sup> Redacción SMAD. "Polfa acompañó mesa anticontrabando". September 12, 2019. Santa Marta Al Día. <https://bit.ly/328kwFd> Accessed on April 23, 2020.

<sup>33</sup> 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>

<sup>34</sup> Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

<sup>35</sup> List of Participants to COP 8. <https://bit.ly/2OKTAbY> Accessed on April 23, 2020.

<sup>36</sup> Curriculum Vitae of Alicia Alfaro Castillo. <https://bit.ly/3anRqir> Accessed on April 23, 2020.

<sup>37</sup> Curriculum Vitae of Germán Andrés Calderón Velásquez. <https://bit.ly/3uLM5Ap> Accessed on April 23, 2020.

<sup>38</sup> Curriculum Vitae of Yesid Andrés Serrano Alarcón. <https://bit.ly/2Q1uaa5> . Accessed on April 23, 2020.

<sup>39</sup> The document that was leaked is attached to this report it was prepared by ANDI (a tobacco industry front group) with the consent from PMI, BAT and Japan Tobacco International (JTI).



- process. One of them is “Mini Market 2x3” led by the Agency for Reincorporation and Normalization.<sup>44</sup>
- e. According to the Report 2018-2019 of the Office of the Presidential Advisor for Stabilization and Consolidation, Coltabaco (subsidiary of PMI) supported and financed a farmers’ association in the sub-national territorial entity of Sucre. This project seeks to support ex-combatants that are in process of reincorporation.<sup>45</sup>
  - f. Between December 2020 and January 2021, the BAT Foundation launched the “VI Salón de Arte Popular” in Cartagena. This event was sponsored by the Ministry of Culture, the Ministry of Commerce, Industry and Tourism, the Ministry of Interior, the General Prosecutor’s Office, The Mayor of Bogotá’s Office, and the Secretary of Culture, Recreation and Sports of Bogotá<sup>46</sup>
  - g. During February 2021, the BAT Foundation, the Department of Meta and the Meta Department Institute of Culture, hosted an art exhibition of the IV Art Salon in the city of Villavicencio.<sup>47</sup>



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## B

- a. Projects sponsored by the Agency for Reincorporation and Normalization have also received resources from the tobacco industry. The approximate amount transferred by the industry is US\$130,000.<sup>50</sup>

<sup>44</sup> Agencia para la Reincorporación y la Normalización (ARN). “Microempresarios de Minimarket 2x3 inician fase de fortalecimiento en sus unidades de negocio”. July 19, 2019. <https://bit.ly/3a5BF6Q>. Accessed on April 28, 2020. Tweet from Agencia para la Reincorporación y la Normalización (ARN): <https://bit.ly/2Rv4I2J>

<sup>45</sup> Consejería Presidencial para la Estabilización y la Consolidación. “Informe de Gestión Agosto 7 2018 - septiembre 30 2019”. <http://www.portalparalapaz.gov.co/loader.php?lServicio=Tools2&lTipo=descargas&lFuncion=descargar&idFile=315>

<sup>46</sup> El Universal. ¿Qué tendrá el Salón de Arte Popular que se inaugura en Cartagena?. 16 de diciembre de 2020. Available in Spanish at: <https://bit.ly/2OKShta>

<sup>47</sup> Vanguardia. VI Salón BAT de arte popular ahora en Villavicencio. February 16, 2021. <https://bit.ly/3uM5DVd>

<sup>48</sup> Brochure for the VI Salón BAT de Arte Popular in Villavicencio. The Brochure includes the logos of many government agencies such as: Ministry of Culture, Ministry of Interior, ministry of Commerce, the Office of the General Attorney, the Governorship of Meta Department, The Departmental Culture Institute of Meta, The Governorship of Bolívar Department and Bogotá’s Mayor’s Office.

<sup>49</sup> Brochure taken from: <https://bit.ly/3snzfHb>

<sup>50</sup> Agencia para la Reincorporación y la Normalización (ARN). “Microempresarios de Minimarket 2x3 inician fase de fortalecimiento en sus unidades de negocio”. July 19, 2019. <https://bit.ly/2QgwVEu> Accessed on April 28, 2020.

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- b. Regarding the 2019 project between the BAT Foundation and the Ministry of Culture there is no precise reference to the amount contributed by BAT. However, according to estimates it can be approximately US\$200,000.<sup>51</sup>
- c. In July 2020, United Way Foundation published its Sustainability Report 2019, which informed that Coltabaco (a subsidiary of PMI) sponsored a project of school intervention. This project sought to give advisory services to educational institutions in the Montes de María region, in order to improve the quality of rural education. This project was carried out with the Education Secretary of the Sucre Department and the Colombian Institute of Family Welfare (ICBF) from the Sucre and Bolívar Departments.<sup>52</sup>
- d. To confront the COVID-19 pandemic, the city of Bogotá received 149 ICU units from the ProBogotá Región lead initiative #EmpresasQueSalvanVidas. This initiative has been sponsored, among others, by BAT.<sup>53</sup> We are still conducting a search in order to estimate the amount of the donation.

However, it is worth mentioning that the Government has not directly received such funds from the tobacco industry.

### INDICATOR 3: Benefits to the Tobacco Industry

6. The government accommodates requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law. (e.g. 180 days is common for PHW, Tax increase can be implemented within 1 month) (Rec 7.1)						X
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Colombia is a unitary Republic, this implies that all international conventions and laws are applicable in all parts of the territory. Regarding tobacco control, the following laws have been enacted and are currently enforceable:

#### National

1. Law 1109 of 2006 incorporates the FCTC without any exceptions. However, the FCTC was ratified by Colombia and consequently entered into force on April 10, 2008.<sup>54</sup>
2. Law 1335 of 2009 introduced several appropriate measures regarding (i) smoke free areas, (ii) front of package warnings, (iii) ban on advertisement of tobacco products, (iv) reinforcing the prohibition to sell tobacco products to minors, (v) development of anti-tobacco policies. Front of package warnings became enforceable on July 21, 2010. Ban on advertisement of tobacco products entered into force on July 21, 2011. The remaining provisions entered into force immediately.<sup>55</sup>

<sup>51</sup> This figure was derived from the calculation of the approximate costs of hosting an event as VI Salón BAT de Arte popular. The exact amount however may vary from this approximate figure.

<sup>52</sup> United Way. Informe de Sostenibilidad 2019. Julio 2020. Available in Spanish at: <https://bit.ly/3mIM79C>

<sup>53</sup> ProBogotá. Informe Final Empresas que Salvan Vidas. October 2020. Available in Spanish at: <https://bit.ly/326qjLx>

<sup>54</sup> Ley 1109 de 2006. "Por medio de la cual se aprueba el "Convenio Marco de la OMS para el control del tabaco", hecho en Ginebra, el veintiuno (21) de mayo de dos mil tres (2003)". Available in Spanish at <https://bit.ly/3dRSPpC>

<sup>55</sup> Ley 1335 de 2009. "Disposiciones por medio de las cuales se previenen daños a la salud de los menores de edad, la población no fumadora y se estipulan políticas públicas para la prevención del consumo del tabaco y el abandono de la dependencia del tabaco del fumador y sus derivados en la población colombiana.". Available in Spanish at <https://bit.ly/3uLL7nL>

3. Law 1801 of 2016 established sanctions to the breach of different conducts relating to tobacco control, mainly smoke free areas and sell of tobacco products to minors.<sup>56</sup>
4. Law 1819 of 2016 increased applicable taxes to tobacco products already established under the Tax Code.<sup>57</sup>

#### Local

5. All territorial entities are bound to comply with the existing laws and regulations.
6. Most of them have implemented particular policies aimed at enforcing tobacco control regulations.
7. All sub national territorial entities (*departamentos*) and the District of Bogotá are responsible for collecting tobacco consumption taxes.

#### List of events:

- a. In November 2018, the Ministry of Finance submitted to Congress a Tax Reform Bill. Although there were several attempts from congressmen to increase taxes on tobacco products, as recommended under the FCTC, the Government was reluctant to introduce such amendments to the original Bill. Consequently, there were no advances in this front. Tobacco industry lobbying was active during the legislative process of Law 1943 of 2018.<sup>58 59</sup>
- b. Provided that the Constitutional Court held that the Tax Reform adopted through Law 1943 of 2018 was unconstitutional, as a result of procedural defects, the Ministry of Finance submitted to Congress a new Tax Reform Bill almost identical to the one submitted a year before. Although there were several attempts from congressmen to increase taxes on tobacco products, as recommended under the FCTC, the Government was reluctant to introduce such amendments to the original Bill. Consequently, there were no advances in this front. Tobacco industry lobbying was active during the legislative process of Law 2010 of 2019.<sup>60</sup>
- c. On December 12, 2019, the Health Commission of the House of Representatives addressed a specific bill aimed at strengthening tobacco control measures and apply such regulations to HTPs and ENDS. While the bill was being debated the Ministry of Health submitted a recommendation to add a reform to change the package warning size from 30% to 70%. Despite the evidence submitted by the Ministry, this reform was dropped by the Members of the Health Commission.<sup>61</sup>

<sup>56</sup> Ley 1801 de 2016. "Por la cual se expide el Código Nacional de Seguridad y Convivencia Ciudadana". Available in Spanish at <https://bit.ly/2Qg9Wcw>

<sup>57</sup> Ley 1819 de 2016. "Por medio de la cual se adopta una reforma tributaria estructural, se fortalecen los mecanismos para la lucha contra la evasión y la elusión fiscal, y se dictan otras disposiciones". Available in Spanish at <https://bit.ly/3fZTIiC>

<sup>58</sup> Llorente, Blanca and Maldonado, Norman. "Impuestos al Cigarrillo en Colombia". September 19, 2019. Fundación Anáas.

<sup>59</sup> Ley 1943 de 2018. "Por la cual se expiden normas de financiamiento para el restablecimiento del equilibrio del presupuesto general y se dictan otras disposiciones". Available in Spanish at <https://bit.ly/2OJ8EGH>

<sup>60</sup> Article 55 of Law 1955 of 2019. Ley 1955 de 2019. "Por el cual se expide el Plan Nacional de Desarrollo 2018-2022.". Available in Spanish at <https://bit.ly/2QhdFGX>

<sup>61</sup> The Ministry of Health's recommendation is included in: Gaceta del Congreso: Senado de la República, Conceptos Jurídicos. Año XXVIII – No. 69. Bogotá D.C. miércoles 17 de julio de 2019.

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<p>d. Although Colombia signed the FCTC illicit trade protocol, to the date, it has not been ratified. However, Colombia's efforts to tackle illicit cigarette trade are still done in cooperation with the industry.<sup>62</sup></p> <p>e. The Ministry of Health has standardized the processes of vigilance and control, for the Secretariats of Health of the local governments to conduct them. The visits include a uniform act that ensures that all health authorities check establishments and vehicles for the same conditions of compliance with Law 1335 of 2009.<sup>63</sup> These conditions include: "smoke free areas"; health warnings; verification of the presence of cigarette vending machines; ban on tobacco advertisement; promotion and sponsorship of events; the ban on sale of loose cigarettes; ban on packages with less than ten (10) cigarettes; and ban of sales to minors. Some of the violations of these conditions are under the control of Health Authorities, while others are under control of agencies such the Superintendence of Industry and Commerce.</p> <p>f. In May 2020, the Finance and Public Credit Commission of the House of Representatives, denied an attempt to increase taxes on tobacco.<sup>64</sup></p>						
<p>7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)</p>				X		
<p>a. 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.<sup>65</sup></p> <p>b. 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.<sup>66</sup></p> <p>c. 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.</p> <p>d. Tobacco products are no longer exempted from VAT since 2000 as they used to be between 1995 - 2000.</p> <p>e. 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</p>						

<sup>62</sup> United Nations Treaty Collection. Treaty Status: 4. a Protocol to Eliminate Illicit Trade in Tobacco Products. Seoul. November 12, 2012. <https://bit.ly/3wSIUty> . Accessed on April 28, 2020.

<sup>63</sup> Example of an inspection report format from the district of Bogotá D.C. to monitor compliance with Law 1335 of 2009:

[http://www.saludcapital.gov.co/VSP/Fichas\\_Tecnicas/VSA/Instrumentos\\_Captacion/Aire\\_Ruido\\_Rem/Tabaco/Acta\\_IVC\\_Ley\\_1335\\_2009.pdf](http://www.saludcapital.gov.co/VSP/Fichas_Tecnicas/VSA/Instrumentos_Captacion/Aire_Ruido_Rem/Tabaco/Acta_IVC_Ley_1335_2009.pdf) (available in Spanish).

<sup>64</sup> Cuestión Pública. "Iqos, el caballo de troya de la tabacalera Philip Morris – Coltabaco". 27 de mayo de 2020. <https://bit.ly/3sdb5Ph>

<sup>65</sup> 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>

<sup>66</sup> Ministerio de Agricultura (Minagricultura). "Cadena de Tabaco". Dirección de Cadenas Agrícolas y Forestales. February, 2019. <https://bit.ly/329TInW> Accessed on April 28, 2020.

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potential loophole for diverting merchandise into the illegal market. This benefit is not specific to tobacco products.						
<b>INDICATOR 4: Forms of Unnecessary Interaction</b>						
8. Top level government officials (such as President/ Prime Minister or Minister <sup>67</sup> ) 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)						X
<p>a. Coltabaco S.A. (subsidiary of PMI) has funded a project developed by <i>Fundación Dividendo por Colombia</i> (a private non-for-profit) to open new schools in tobacco production territories. Both the Minister of Education and the Governor of the sub-national territorial entity of Sucre assisted to the inauguration of the schools and recognized the role played by PMI.<sup>68 69</sup></p> <p>b. On July 16, 2020, The Ministry of Agriculture's Tobacco Chain stages met to socialize, present and validate the 2020 Action Plan. This meeting counted with the participation of FEDETABACO, members from the Ministry of Agriculture, AGROSAVIA and members from BAT.<sup>70</sup></p> <p>c. On August 27, 2020, following the closing of two major tobacco companies (PMI and BAT) the Minister of Agriculture, met with members of Fedetabaco to explore new production alternatives.<sup>71</sup></p> <p>d. During the Concordia Annual Summit in September 2020, PMI's CEO, André Calantzopoulos participated as panelist, alongside Juan Carlos Pinzón (President of ProBogotá and former Ambassador of Colombia to the United States of America and former Minister of Defense) and Former President of the Republic of Colombia, Álvaro Uribe Vélez.<sup>72</sup></p> <p>e. On November 19, 2020, The Economist hosted the webinar "<i>Challenging Conventional Wisdom: Breaking the Regulatory Barriers to Innovation</i>". Some of the speakers were Lucie Claire Vincent (President of the Andean Cluster, PMI), Diego Molano (former Minister of Information Technologies and Communications), and Víctor Muñoz (Presidential Counselor for Economic Affairs and Digital Transformation). The event was supported by PMI.<sup>7374</sup></p> <p>f. The following public officers participated at the Concordia America's Summit on December 3, 2020: Juan Sebastián Arango (Presidential Counselor of Youth), Flavia Santoro (President of ProColombia and former member of the Financial Committee of the incumbent President's campaign, and Director of the Financial Committee in Oscar Iván Zuluaga's presidential campaign in 2014), Diego Molano Vega (Former</p>						

<sup>67</sup> Includes immediate members of the families of the high-level officials

<sup>68</sup> Jiménez Hernández, Carlos. "*Gobernación y Dividendo por Colombia se unen para impulsar educación rural*". Gobernación de Sucre. <https://bit.ly/3dbOu1l> Accessed on April 28, 2020.

<sup>69</sup> Ministerio de Educación Nacional. "*Cooperación Privada*". <https://bit.ly/2OI8ijr> Accessed on April 28, 2020.

<sup>70</sup> Meeting Minute. July 16, 2020.

<sup>71</sup> Response to the petition of "Fundación Anáas"

<sup>72</sup> Concordia. "Panelists 2020 Annual Summit". Available in Spanish at <https://bit.ly/3a63nQM> Accessed on March 29, 2021

<sup>73</sup> Valora Analitika. "Philip Morris dejará de vender cigarrillos en los próximos 15 años". November 29, 2020. Available in Spanish at: <https://bit.ly/3mG5XSE> Accessed on March 19, 2021.

<sup>74</sup> The Economist "*Desafiando la sabiduría convencional: Rompiendo las barreras regulatorias hacia la innovación*". Available in Spanish at: <https://bit.ly/2OHeubs> Accessed on March 19, 2021.

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Minister of Information Technologies and Communications 2010-2015). Lucie Claire Vincent, President of the Andean Cluster of PMI, participated as a panelist. <sup>75</sup>						
g. On December 3, 2020, President Iván Duque launched the first edition of the Colombian Scientific Summit. The Forum on Innovation and Technology had the endorsement of PMI. <sup>76</sup>						
h. On March 18, 2021, the Colombia Chamber of eCommerce hosted an event on ecommerce with the endorsement of the Ministry of Commerce, Industry and Tourism. PMI is an active member of this organization. <sup>77</sup>						
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)						X
a. According to the Report of the Ministry of Agriculture 2018-2019 in the Section of the Tobacco Production Chain, this Ministry as well the Tax and Customs Authority have conducted specific actions aimed at fighting the illicit trade of cigarettes. Pursuant to the Report this issue is relevant for both the tobacco industry and the tobacco farmers, with whom they have shared their approach. <sup>78</sup>						
b. On June 5, 2019, the Polfa informed about an operation in the border between Colombia and Ecuador against the illicit trade of tobacco products. The FND, the Tax and Customs Authority and PMI participated. <sup>79</sup>						
c. On June 6, 2019, the Polfa thanked BAT via twitter for all the support provided in fighting the illicit trade of tobacco products. <sup>80</sup>						
d. On December 9, 2019, the Polfa thanked BAT via twitter for recognizing the efforts made in the fight against illicit trade of tobacco products. <sup>81</sup>						
e. PMI's Sustainability Report for 2018 describes the project undertaken to tackle world-wide illicit cigarette trade. Said project includes the formation of local authorities in the fight against illicit tobacco trade. The report contains pictures of presumably PMI personnel training the Colombian police forces. Moreover, the report highlights PMI'S cooperation with Colombian and Ecuadorian authorities to fight the illicit trade. <sup>82</sup>						

<sup>75</sup> Concordia. "Panelists 2020 Annual Summit". Available in Spanish at <https://bit.ly/3a3RyKW> Accessed on March 29, 2021

<sup>76</sup> Bello, Juan Pablo. "Este miércoles, el Presidente Iván Duque instala la primera Cumbre Colombia Científica". December 1, 2020. <https://bit.ly/3s6ZjGc> Accessed on March 17, 2021.

<sup>77</sup> Cámara Colombiana de Comercio Electrónico (CCCE). "Panorama Actual E Introducción Al Ecommerce En Colombia". <https://www.ccce.org.co/eventos/panorama-actual-e-introduccion-al-ecommerce-en-colombia/> Accessed on March 17, 2021.

<sup>78</sup> Ministerio de Agricultura (Minagricultura). "Informe de Rendición de Cuentas 2018 – 2019". October, 2019. <https://bit.ly/3s6ZeSU> Accessed on April 23, 2020.

<sup>79</sup> Tweet by Policía Fiscal y Aduanera (Polfa) official account @PoliciaAduanera. June 5, 2019. <https://bit.ly/2007nOE> Accessed on April 23, 2020.

<sup>80</sup> Tweet by Policía Fiscal y Aduanera (Polfa) official account @PoliciaAduanera. June 6, 2019. <https://bit.ly/3a4FQQr> Accessed on April 23, 2020.

<sup>81</sup> Tweet by Policía Fiscal y Aduanera (Polfa) official account @PoliciaAduanera. December 9, 2019. <https://bit.ly/3uKwwZH> Accessed on April 23, 2020.

<sup>82</sup> Philip Morris International. "Sustainability Report 2018". <https://bit.ly/3a7xml5> Accessed on April 23, 2020.

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<p>f. PMI and BAT have joined through the ANDI the Latin American Anti-Illicit Trade Alliance. This project involves training public officers of the Tax and customs Authority and of the Polfa.<sup>83 84</sup></p> <p>g. On January 31, 2020, the FND informed via Twitter that the main objective of the 2019 agreement with PMI is the confrontation of the illegal trade of cigarettes.<sup>85</sup></p> <p>h. On October 15, 2020, FENALCO announced via Twitter, the launching of the program “Legal Trade Zones” which has the endorsement of BAT, the Polfa, Tax and Customs Authority (DIAN), FND.<sup>86</sup></p> <p>i. On December 3, 2020, the Polfa informed via Twitter about a meeting with the Ecuadorian Police and PMI to coordinate and cooperate a strategy to fight the illicit trade of cigarettes.<sup>87</sup></p> <p>j. On March 4, 2021, the FND informed about a raid undertaken by the Polfa and Barranquilla’s Police that concluded with the confiscation of 22,270 smuggled cigarette boxes. The raid was conducted in coordination with Coltabaco (a subsidiary of PMI)<sup>88</sup></p> <p>k. In March 2021, the FND, published a technical document aimed at establishing the requirements for a new system to monitor the tax on tobacco (“SIANCO”)<sup>8990</sup>. BAT and Coltabaco (a subsidiary of PMI) actively participated in this process.<sup>91</sup></p>						
<p>10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) NOTE: This must <u>not</u> involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.</p>						X
<p>a. On March 25, 2019 the FND entered into an agreement with PMI aimed at strengthening collaboration in the following issues: (i) substitution of illicit crops, (ii) fighting illicit trade, particularly of tobacco products, (iii) developing regional forums,</p>						

<sup>83</sup> Latin American Anti-Illicit Trade Alliance (ALAC) homepage. <https://bit.ly/32aFG5l> Accessed on April 28, 2020.

<sup>84</sup> Article on the creation of the Latin American Anti-Illicit Trade Alliance, which includes the alliance’s creation document. FEDECCAL F.G. “Se Crea ALAC, La Alianza Latinoamericana Anticontrabando”. <https://bit.ly/3a7BTu9> Accessed on April 28, 2020.

<sup>85</sup> Tweet by FND – Federación Nacional de Departamentos account @FNDCol. January 31, 2020. <https://bit.ly/2Oln6P3> Accessed on March 19, 2021.

<sup>86</sup> Tweet by Fenalco Nacional account @FenalcoNacional. October 15, 2020. <https://bit.ly/3wQfuLG> Accessed on March 17, 2021.

<sup>87</sup> Tweet by Policía Fiscal y Aduanera (POLFA) account @PoliciaAduanera. December 3, 2020. <https://bit.ly/3g6bdxy> Accessed on March 17, 2021.

<sup>88</sup> Tweet by Federación Nacional de Departamentos (FND) official account @FNDCol. November 18, 2020. <https://bit.ly/3a8DBeW> Accessed on March 17, 2021.

<sup>89</sup> This System was created by the Decreto 2106 of 2019 “Por el cual se dictan normas para simplificar, suprimir y reformar trámites, procesos y procedimientos innecesarios existentes en la administración pública”. Available in Spanish at: <https://bit.ly/3dd9sgw>

<sup>90</sup> Its primary objective is to simplify and suppress procedures within the tax consumption for alcohol, cigarettes, and tobacco. The FND will be in charge of the implementation of SIANCO.

<sup>91</sup> FND. “Anexo 2. Anexo Técnico. Requerimiento funcionales y no funcionales sistema integrado de apoyo al control de impuesto al consumo SIANCO.” March 2021. Available in Spanish at: <https://bit.ly/3g4vWCb>

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(iii) promoting the tobacco laboratory, (iv) developing public works programs. The yearly approximate investment made by PMI is of US\$500,000. <sup>92 93 94</sup>						
b. On August 27, 2019, the National Police and the FND entered into the Anti-Illicit Trade Agreement. PMI assisted to the execution of the agreement, as it will provide technical assistance to the National Police. <sup>95</sup>						
c. On September 16, 2019 Mr. Carlos Camargo Assis, Director of the FND highlighted in an interview that the agreement entered into in March with was not only relevant (i) to fight illicit trade of tobacco products and therefore prevent the loss of substantial tax revenues, but also to (ii) make tobacco production more competitive. <sup>96</sup>						
d. On October 16, 2020, Polfa announced via Twitter a joint operation in Mangangué, alongside with the Income and Revenue Authority in Bolívar, PMI and Coltabaco (a PMI subsidiary) to identify smuggled liquor and cigarettes. <sup>97</sup>						
e. On November 18, 2020, the FND Governors' Assembly approved the distribution of COP \$11,000,000,000 (equivalent to approximately USD\$ 3M) among the sub-national entities. These resources were provided by PMI according to the Investment and Cooperation Agreement. <sup>98</sup>						
f. On December 9, 2020, the FND announced that PMI would provide USD\$5.5 Million to fight tobacco smuggling, according to the Investment and Cooperation Agreement. <sup>99</sup>						
g. On December 9, 2020, the authorities of the Córdoba Department confiscated a shipment of 253 thousand smuggled cigarette boxes. This raid was done with the support of the EVA app developed by Coltabaco (a subsidiary of PMI), which allows the authorities in Colombia to identify smuggled cigarettes. <sup>100</sup>						
<b>INDICATOR 5: Transparency</b>						
I I. 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)						X
a. On January 30, 2018 there was a meeting between the tobacco industry and the Tax and Customs Authority where the tobacco industry provided recommendations on the regulation of taxes on tobacco products, surveillance and						

<sup>92</sup> Federación Nacional de Departamentos (FND). "Cesar recibirá \$357 millones para fortalecer la lucha del contrabando de cigarrillos". May 17, 2019. <https://bit.ly/3ddDsbU> Accessed on April 28, 2020.

<sup>93</sup> Dinero. "Philip Morris y regiones reactivan acuerdo para perseguir el contrabando". March 25, 2019. <https://bit.ly/3tf4Ewg> Accessed on April 28, 2020.

<sup>94</sup> Cubillos Murcia, Natalia. "Más recursos para frenar contrabando de cigarrillos". March 27, 2019. El Colombiano. <https://bit.ly/3wYli4T> Accessed on April 28, 2020.

<sup>95</sup> Federación Nacional de Departamentos (FND). "Policía Nacional y Federación Nacional de Departamentos firman convenio Anticontrabando". August 27, 2019. <https://bit.ly/2RIJjTY> Accessed on April 23, 2020.

<sup>96</sup> Camargo Assis, Carlos. "Guardia Arriba frente al Contrabando". September 26, 2019. Originally published by the newspaper La República. <https://bit.ly/3seadKa> Accessed on April 23, 2020.

<sup>97</sup> Tweet by Polfa @PoliciaAduanera. October 16, 2020. <https://bit.ly/32cxfqc> Accessed on March 29, 2021.

<sup>98</sup> Tweet by Federación Nacional de Departamentos (FND) official account @FNDCol. November 18, 2020. <https://bit.ly/3shujmN> Accessed on March 17, 2021.

<sup>99</sup> Tweet by Federación Nacional de Departamentos (FND) official account @FNDCol. November 18, 2020. <https://bit.ly/2OImNUp> Accessed on March 17, 2021.

<sup>100</sup> La Razón. Decomisan en Córdoba el mayor cargamento de cigarrillos de contrabando de los últimos años. 9 de diciembre de 2020. Available in Spanish at: <https://bit.ly/3uKqKYe>

training of the public officials. However, the disclosure made did not comply with the standards defined under Recommendation 2.2.<sup>101</sup>

- b. On April 30, 2019, the Ministry of Agriculture led the Technical Commission for the Tobacco Production Chain. *Fedetabaco* and BAT participated. As a result of the meeting the participants agree to join efforts in order to update the Competitiveness Agreement of the Tobacco Chain. However, the disclosure made did not comply with the standards defined under Recommendation 2.2.
- c. On June 8, 2019, after PMI announced the closing of its production in Colombia, the Minister of Agriculture informed that his office was seeking to address the upcoming challenges for Colombia's tobacco producers together with BAT's executives.<sup>102</sup>
- d. On June 16, 2019, the Minister of Commerce said in an interview that the Government is identifying mechanisms that may allow PMI to continue its operations in Colombia. One of these mechanisms could be through the production of HTPs in Colombia. This was said after PMI announced its intention to withdraw its tobacco production operations from the country.<sup>103</sup> Due to the lack of disclosed information, it is not possible to determine whether the interactions may be considered essential, or not.
- e. In June 2019, the Governorship of Santander held meetings with PMI as a result of the latter's decision to withdraw its operations from Colombia, to see what can be done.<sup>104</sup> Yet, there is no information of what was effectively discussed and whether it was a necessary interaction.
- f. On February 28, 2020, the Governors from the Magdalena, Atlántico, Cesar, La Guajira, Sucre, Bolívar, Córdoba and San Andrés Departments, met in Santa Marta in the First Inter-Departmental Anti-Smuggling Program meeting. Coltabaco (a PMI subsidiary) participated in this meeting as part of the Regional Action Plan to counter the effects of tobacco smuggling.<sup>105</sup>
- g. On March 10, 2020 Polfa held the First Technical Roundtable against Smuggling in the city of Santa Marta, to launch the strategy to fight illegal markets called «*construyendo seguridad, más cerca del ciudadano*». DIAN, the Colombian institute for food and drugs surveillance (INVIMA), the Colombian Army, and Coltabaco (a subsidiary of PMI) participated in the meeting.<sup>106</sup>
- h. In 2020, the DIAN published the "Monthly Register of Citizen Participation and Accountability" for the month of December 2019. This document reports that the DIAN held a meeting with Polfa and Coltabaco (a subsidiary of PMI) as part of the Technical Roundtable against Smuggling, which took place in Santa Marta.<sup>107</sup>

<sup>101</sup> Dirección de Impuestos y Aduanas Nacionales (DIAN). "Registro Nacional de Acciones de Participación ciudadana y Rendición de Cuentas". DIAN. October 2018. <https://bit.ly/3e0UTeS>

<sup>102</sup> López, Joaquín. "Ministerio de Agricultura buscará soluciones para productores de tabaco local". June 8, 2019. La República. <https://bit.ly/3tdbVNB> Accessed on March 12, 2021.

<sup>103</sup> Rueda, María Isabel. "¿Le creemos al día soleado del Gobierno o a los nubarrones del Emisor?". June 11, 2019. El Tiempo. <https://bit.ly/3a659RW> Accessed on April 23, 2020

<sup>104</sup> Tejada, Boris. "Más de 2 mil 500 familias afectadas, la situación de los tabacaleros en Santander". June 17, 2019. Radio Nacional de Colombia (RTVC). <https://bit.ly/3g5UKcY> Accessed on April 23, 2020.

<sup>105</sup> FND. "Los departamentos de la región Caribe colombiana se comprometieron a reforzar esfuerzos para enfrentar el contrabando de cigarrillos". February 28, 2020. Available in Spanish: <https://bit.ly/3ecBRCH>

<sup>106</sup> El Informador. Instalan primera Mesa Técnica Anticontrabando del 2020 en Santa Marta. 10 de marzo de 2020. Available in Spanish at: <https://bit.ly/3dTXyh2>

<sup>107</sup> DIAN. Acciones de Participación Ciudadana y Rendición de Cuentas Diciembre 2019. 2020. Available in Spanish at: <https://bit.ly/3a6CRH8>

- i. On June 27, 2020, the Governorship of Valle del Cauca conducted the first Inter-Institutional Fight Against Smuggling Committee, to coordinate the anti-smuggling measures during the COVID-19 pandemic. The Secretary of Finance of the Valle del Cauca Department, the FND, the Colombian Tax Authority (DIAN), Polfa and Coltabaco (a PMI subsidiary) participated on this meeting.<sup>108 109</sup>
- j. On August 18, 2020, the Ministry of Agriculture held a meeting with various entities, including BAT, from the Tobacco Production Chain, in order to update the Competitiveness Agreement of the Tobacco Chain. The meeting focused on finding alternative crops for tobacco workers, since BAT had announced earlier that year that they would cease to buy tobacco leaves produced in Colombia.<sup>110</sup>
- k. On August 27, 2020, following the closing of two major tobacco companies (PMI and BAT) the Minister of Agriculture, met with members of Fedetabaco to explore new production alternatives.<sup>111</sup>

Due to the COVID-19 pandemic and that there is no particular provisions under Colombian law requiring the Government to disclose interactions with the tobacco industry, those meeting have become more difficult to track.

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)					X	
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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 Recommendation 5.3.

There are transparency provisions in Law 1712 of 2014.<sup>112</sup> According to these provisions public entities must disclose all public information<sup>113</sup> 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”<sup>114</sup> 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

<sup>108</sup> Tweet by Federación Nacional de Departamentos (FND) official account @FNDCol. June 27, 2020. <https://bit.ly/3uLLuyA> Accessed on March 17, 2021.

<sup>109</sup> Tweet by Federación Nacional de Departamentos (FND) official account @FNDCol. June 27, 2020. <https://bit.ly/3wRC3PV> Accessed on March 17, 2021.

<sup>110</sup> Informe de Actividad del Plan de Acción 2020: Actualización del Acuerdo de Competitividad. Ministerio de Agricultura. Available in Spanish at: <https://bit.ly/3wJkXUq>

<sup>111</sup> Response to the petition of “Fundación Anáas”

<sup>112</sup> 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/3eORFbc>

<sup>113</sup> According to Law 1712 of 2014 “public information” is all information that is not exempted from disclosure according to articles 18 and 19.

<sup>114</sup> 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/2OImyZv>

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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”<sup>115</sup> 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 mandatory 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.<sup>116</sup> Yet, these best practices are not established under any existing internal regulation, As a matter of fact, Resolution 1998 of 2017<sup>117</sup> 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 2011<sup>118</sup> 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.

**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)						X
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There are two main laws that regulate the funding of political campaigns in Colombia. Law 996 of 2005<sup>119</sup> which regulates presidential elections, and Law 1475 of 2011<sup>120</sup> which regulates all other political campaigns.

<sup>115</sup> 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/3gbuchHn>

<sup>116</sup> 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 23, 2020.

<sup>117</sup> 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/3q5HeGb>

<sup>118</sup> 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>

<sup>119</sup> 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>

<sup>120</sup> 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>

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<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.<sup>121</sup> 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.<sup>122</sup></p>						
<p>14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)</p>						X
<p>a. Humberto Mora: Former Advisor to the Central Bank of Colombia is currently the CEO of PMI.</p> <p>b. Juan Carlos Restrepo Piedrahita: Former Director of the Inteligence Agency, former Director of the Anti-Narcotics Agency, former presidential adviser for security is currently Vice-President of BAT.<sup>123</sup></p> <p>c. 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.<sup>124</sup></p> <p>d. 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.</p> <p>e. 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.</p> <p>f. 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.<sup>125</sup></p>						

<sup>121</sup> Misión de Observación electoral (MOE). "Financiación de campañas en Colombia

*Elecciones de autoridades locales*". February 4, 2015. <https://bit.ly/3daNOcp> Accessed on May 5, 2020.

<sup>122</sup> Misión de Observación electoral (MOE). "Ruta Electoral 2018: Elecciones Presidente y Congreso 2018. *Financiación Electoral*". <https://bit.ly/2Q14eeG> Accessed on May 5, 2020.

<sup>123</sup> Juan Carlos Restrepo Piedrahita. *LinkedIn* [Profile page]. Retrieved May 8, 2020, from <https://bit.ly/3uCzFLc>

<sup>124</sup> Bruce Mac Master. *LinkedIn* [Profile page]. Retrieved May 7, 2020, from <https://bit.ly/325LZau>

<sup>125</sup> María Claudia Lacouture. *LinkedIn* [Profile page]. Retrieved May 7, 2020, from <https://bit.ly/3dgXxON>

- g. Juan Carlos Echeverry: Former Minister of Finance is the founding member of EConcept AEI, a consultancy firm that has provided services to PMI.<sup>126 127</sup>
- h. Andrés Escobar: Former Deputy Minister of Finance, is the current CEO of EConcept AEI.<sup>128</sup> This firm has provided consultancy services to PMI.
- i. Claudia De Francisco: Former Communications Minister. She is currently the Managing Partner of SecNewgate Communications (Seclatam), a lobbying firm that provides services to BAT.<sup>129 130</sup>
- j. 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.<sup>131</sup>
- k. 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.<sup>132 133</sup> He is currently the CEO of the Chamber of Commerce of the City of Bogotá.
- l. María Paula Correa, the Private Secretary to the incumbent President of Colombia, 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.<sup>134 135</sup>
- m. 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.<sup>136</sup>
- n. Adriana Vivas, current Senior Consultant at Virtus Global, a Colombian consulting firm specialized in public affairs that provides services to PMI<sup>137</sup>. She previously held the position as Director of Communications in several Ministries, such as Defense, Justice, Education and Health.<sup>138 139</sup>
- o. 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.<sup>140</sup> He is also the Chairman and President of the Advisory Council of Virtus Global, a consulting firm that provides services to PMI.<sup>141 142</sup>

<sup>126</sup> Curriculum Vitae of Juan Carlos Echeverry. <https://bit.ly/3uKvexP>

<sup>127</sup> List of clients of EConcept AEI: <https://bit.ly/3q6SLFc>

<sup>128</sup> Andrés Escobar. *LinkedIn* [Profile page]. Retrieved May 7, 2020, from <https://bit.ly/3deh9mB>

<sup>129</sup> Claudia de Francisco. *SECLATAM* [Meet the team page]. Retrieved May 7, 2020, from <https://bit.ly/32bZQfz>

<sup>130</sup> SEcNewgateway Colombia. *LinkedIn* [About page]. Retrieved May 7, 2020, from <https://bit.ly/3uPTQFD>; likewise, the homepage of SECLATAM includes a list of their clients. <https://bit.ly/2QITtmZ>

<sup>131</sup> Gonzalo de Francisco. *SECLATAM* [Meet the team page]. Retrieved May 7, 2020, from <https://bit.ly/3sj8nYQ>

<sup>132</sup> Nicolás Uribe Rueda. *LinkedIn* [Profile page]. Retrieved May 7, 2020, from <https://bit.ly/3dc0UGm>

<sup>133</sup> Cuestión Pública. "Los trucos del lobby de la salud en Colombia". July 8, 2019. <https://bit.ly/2Qj0WdS> Accessed on April 23, 2020.

<sup>134</sup> "Concordia Bids Farewell to María Paula Correa.". August 1, 2018. <https://bit.ly/3wMMfJE> Accessed on March 17, 2021.

<sup>135</sup> Organized Crime and Corruption Reporting Project (Occrp). "Soplando sin humo". May 26, 2020. <https://bit.ly/3uLIMJo> Accessed on March 17, 2021.

<sup>136</sup> Luis Felipe Torres. *LinkedIn* [Profile page]. Retrieved March 18, 2021, from: <https://bit.ly/3slqVHX>

<sup>137</sup> Virtus Global. "Our Clients". <https://bit.ly/3mHEK22> Accessed on March 19, 2021.

<sup>138</sup> Adriana Vivas. *LinkedIn* [Profile page]. Retrieved March 19, 2021, from: <https://bit.ly/3a6YJC3>

<sup>139</sup> Virtus Global. "Our Team" <https://bit.ly/3dVvymE> Accessed on March 19, 2021.

<sup>140</sup> ProBogotá. "Our Team". <https://bit.ly/3samZt9> Accessed on: March 26, 2021.

<sup>141</sup> Juan Carlos Pinzón Bueno. *LinkedIn* [Profile page]. Retrieved March 26, 2021, from <https://bit.ly/3q5KIZq>

<sup>142</sup> Virtus Global, Advisory Council members list. Retrieved on March 26, 2021. From: <https://bit.ly/3sd5Mj5>

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<p>p. 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.<sup>143</sup></p> <p>q. Juan Alberto Londoño Martínez: is the incumbent Deputy Minister of Finance. Between 2009-2010, he held the position of Regulatory Affairs and Government Manager Coltabaco (a subsidiary of PMI).<sup>144</sup></p>						
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)	X					
After conducting the corresponding search, we have not identified any government officials and/ or relatives who hold positions in the tobacco business including consultancy positions, during the specified period of time.						
<b>INDICATOR 7: Preventive Measures</b>						
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)						X
<p>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<sup>145</sup> includes provisions that oblige public entities to disclose all public information when requested by a citizen, except when it is 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.</p> <p>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.<sup>146</sup> As of 2019, this situation has not changed, reflecting the lack of commitment into developing such a policy.</p> <p>FND is the association of Governors of subnational entities (<i>departamentos</i>). 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</p>						

<sup>143</sup> Cuestión Pública. "Hilo #ElNuevoDefensor". <https://bit.ly/3d9tzvY> Accessed on March 19, 2021.

<sup>144</sup> Juan Alberto Londoño Martínez. *Viceministro MINISTERIO DE HACIENDA Y CREDITO PUBLICO DESPACHO DEL VICEMINISTRO GENERAL*. Retrieved March 17, 2021, from: <https://bit.ly/3a4Df99>

<sup>145</sup> 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>

<sup>146</sup> 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 23, 2020.

	0	1	2	3	4	5
the tobacco industry, and entering into agreements, without having to disclose or report them.						
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)			X			
<p>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.</p> <p>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.</p> <p>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.</p>						
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)			X			
<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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</li> </ul>						

	0	1	2	3	4	5
<p>economy. Thus, it is impossible to distinguish data on tobacco from that of other imported products.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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 that more than half of the sales of cigarettes are made through informal vendors that do not submit data on their sales to the authorities.</li> </ul>						
<p>19. The government has a program / system/ plan to consistently<sup>147</sup> raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)</p>				X		
<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."<sup>148</sup></p>						
<p>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)</p>					X	
<p>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.</p>						
<b>TOTAL</b>						<b>76</b>

<sup>147</sup> 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.

<sup>148</sup> Information on the FCTC 2030 project is available on: <https://www.who.int/fctc/implementation/fctc2030/en/>

## ANNEX A: SOURCES OF INFORMATION

### TOBACCO INDUSTRY ACTIVITY

#### LOCAL TOBACCO COMPANIES

Top 5 Tobacco Companies/distributors	Market Share and Brands	Source
Philip Morris International		LegisComex
British American Tobacco		LegisComex
Japan Tobacco International		LegisComex
Pronalci S.A.	Less than 0,5% (Dumont, Miller, Montero, Mundial, Poker, Soberanos amongst others)	LegisComex
CDF Colombia S.A.	Less than 0,5% (Draft brands)	LegisComex
Luis Fernando Pabón Cristancho	Less than 0,5% (Draft brands)	LegisComex

#### TOBACCO INDUSTRY FRONT GROUPS

Top 5 Tobacco Industry Representative	Type (Front Group/ Affiliate/ Individual)	URL
ANDI		<a href="http://www.andi.com.co">http://www.andi.com.co</a>
FENALCO		<a href="http://www.fenalco.com.co">http://www.fenalco.com.co</a>
Concordia		<a href="https://www.concordia.net">https://www.concordia.net</a>
Colombian-American Chamber of Commerce		<a href="http://amchamcolombia.co">http://amchamcolombia.co</a>

#### NEWS SOURCES

Top 5 Newspaper/Dailies	Type (Print/Online)	URL
El Tiempo	Print and Online	
El Colombiano	Print and Online	
El País	Print and Online	
Vanguardia Liberal	Print and Online	
El Heraldo	Print and Online	

\*Basis of Ranking: X Others: Media Consumption

Ranking Authority/ies: Estudio General de Medios (EGM) done by Asociación Colombiana de Investigación de Medios (ACIM)

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

Revista Dinero

Revista Semana

Portafolio

La República

La Nota Económica

La Silla Vacía

La Liga Contra el Silencio

Cuestión Pública

Razón Pública

I. 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 Minister/ President) Members of Royalty	The Office of the President of the Republic	<p>Official Website:  <a href="https://id.presidencia.gov.co/Paginas/presidenciaco.aspx">https://id.presidencia.gov.co/Paginas/presidenciaco.aspx</a></p> <p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.</p> <p>Official social media accounts:            Twitter:            @infopresidencia            @IvanDuque            @ViceColombia            @mluciamirez</p>
2. Cabinet and/or National Assembly (Policy makers)	Congress that includes: Senate and the House of Representatives	<p>Official Website:            Senate: <a href="http://www.senado.gov.co/">http://www.senado.gov.co/</a>            House of Representatives: <a href="https://www.camara.gov.co/">https://www.camara.gov.co/</a>            General Secretary of the Senate: <a href="http://www.secretariasenado.gov.co/">http://www.secretariasenado.gov.co/</a></p> <p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.            Additionally, the website: <a href="https://congresovisible.uniandes.edu.co/">https://congresovisible.uniandes.edu.co/</a></p> <p>Social media accounts:            Twitter:            @SenadoGovCo            @CamaraColombia            Additionally, social media accounts of Senators and Representatives.</p>
3. Agriculture / National Tobacco Board	Ministry of Agriculture	<p>Official Website:  <a href="https://www.minagricultura.gov.co/paginas/default.aspx">https://www.minagricultura.gov.co/paginas/default.aspx</a></p> <p>Specific data on tobacco:  <a href="https://www.agronet.gov.co/estadistica/Paginas/home.aspx?cod=1">https://www.agronet.gov.co/estadistica/Paginas/home.aspx?cod=1</a></p>

		<p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.</p> <p>Social media accounts: Twitter: @MinAgricultura @ZeaNavarro</p>
4. Customs	Tax and Customs Authority (DIAN)	<p>Official Website: <a href="http://dian.gov.co">dian.gov.co</a></p> <p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.</p> <p>Social media accounts: Twitter: @DIANColombia</p>
5. Education	Ministry of National Education	<p>Official Website: <a href="http://mineducacion.gov.co">mineducacion.gov.co</a></p> <p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.</p> <p>Social media accounts: Twitter: @Mineducacion @VictoriaBxE</p>
6. Environment	Ministry of Environment and Sustainable Development	<p>Official Website: <a href="http://minambiente.gov.co/index.php">minambiente.gov.co/index.php</a></p> <p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.</p> <p>Social media accounts: Twitter: @MinAmbienteCo @CarlosECorreaE</p>
7. Finance / Revenue/ Investments/ Excise	Ministry of Finance and Public Credit	<p>Official Website: <a href="http://minhacienda.gov.co">minhacienda.gov.co</a></p> <p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.</p> <p>Social media accounts: Twitter: @MinHacienda</p>
8. Health	Ministry of Health	<p>Official Website: <a href="http://minsalud.gov.co">minsalud.gov.co</a></p> <p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.</p> <p>Social media accounts: Twitter: @MinSaludCol</p>

		@Fruizgomez
9. Labor	Ministry of Labor	<p>Official Website: <a href="http://mintrabajo.gov.co">mintrabajo.gov.co</a></p> <p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.</p> <p>Social media accounts: Twitter: @MintrabajoCol @angelccabrera</p>
10. Trade and Industry/ Investments	Ministry of Commerce, Industry and Tourism	<p>Official Website: <a href="http://mincit.gov.co">mincit.gov.co</a></p> <p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.</p> <p>Social media accounts: Twitter: @MincomercioCo @jrestrp</p>
Additional agencies/sectors to be named per country:		
11.	Association of Departments ( <i>Federación Nacional de Departamentos</i> )	<p>Official Website: <a href="http://fnd.org.co">fnd.org.co</a></p> <p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.</p> <p>Social media accounts: Twitter: @FNDCol @DidierTaveraA</p>
12.	Ministry of Culture	<p>Official Website: <a href="http://mincultura.gov.co">mincultura.gov.co</a></p> <p>News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.</p> <p>Social media accounts: Twitter: @mincultura @FelipeNaranja</p>
13.	Attorney General (Procuraduría)	<p>Official Website: <a href="http://procuraduria.gov.co">procuraduria.gov.co</a></p>

		News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.  Social media accounts: Twitter: @PGN_COL
14.	Customs Division of the National Police	News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.  Social media accounts: Twitter: @PoliciaAduanera
15.	Ombudsman (Defensoría del Pueblo)	Official Website: <a href="http://defensoria.gov.co">defensoria.gov.co</a>  News sources such as newspapers, magazines, online news sites as cited on point (a) of this annex.  Social media accounts: Twitter: @DefensoriaCol @carloscamargoa

a. 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
Anti-illicit trade Commission	Not available during the pandemic
Technical Commission for Tobacco Production Chain	Not available during the pandemic
Congress Public Hearings	Contact: Elisa Cadena from the Ministry of Health And Sergio Vargas from the Legislative Unit of Representative Juan Luis Castro

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:

Although there is not a proper health law database, the Ministry of Health has a list of the main laws and regulations on the matter: [https://www.minsalud.gov.co/sites/rid/Paginas/resultadosLeyes.aspx?k=\(\(dctype:%27Ley%27%20AND%20clasificacion=%27Jur%C3%ADdica%27\)\)](https://www.minsalud.gov.co/sites/rid/Paginas/resultadosLeyes.aspx?k=((dctype:%27Ley%27%20AND%20clasificacion=%27Jur%C3%ADdica%27))). However, the list is not organized by subjects. To look for a specific law, it is necessary to know its number.

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

As mentioned above, the website of the Ministry of Health has a list of the main laws and regulations on health. As for the primary sources of laws, the databased used is: <http://www.secretariasenado.gov.co/index.php/leyes-de-la-republica> . However, this database only includes laws issued by Congress and not regulations of a lower hierarchy. Those must be looked for within the unified Decree of the Health sector: [https://www.minsalud.gov.co/Normatividad\\_Nuevo/Decreto%200780%20de%202016.pdf](https://www.minsalud.gov.co/Normatividad_Nuevo/Decreto%200780%20de%202016.pdf)

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

ALL LAWS:

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

All laws issued by the Congress are collected within the Secretary of the Senate's database: <http://www.secretariasenado.gov.co/index.php/leyes-de-la-republica> Its main shortcoming is the fact that it only contains laws issued by the Congress. Other regulations may be found on <https://www.funcionpublica.gov.co/web/eva/gestor-normativo> . However, some regulations such as Resolutions and Circulars may be hard to find and must be looked for within the website of the entity that issued them.

5. Does the above sources include issuances? X Yes

Top Government Agency/ Office/Sector	Source of Policies relating to the Sector	Source of related minor issuances,
15 1. Office of the Chief Executive (Prime Minister/ President) Members of Royalty	Office of the Presidency coordinates the public policies of all other sectors of the executive branch of government	Unified Regulatory Decree 1081 of 2015
2. Cabinet and/or National Assembly (Policy makers)	Congress: including the Senate and the House of representatives. They are in charge of issuing laws and policies	Law 5 of 1992
3. Agriculture / National Tobacco Board	The Ministry of Agriculture and Rural Development formulates public policies for the development of the agricultural, fishing and rural development sectors. Within their functions creating policies for the agricultural sector they manage the tobacco production chain and create policies pertaining that sector.	Unified Regulatory Decree 1071 of 2015
4. Customs	Tax and Customs Authority (DIAN) protects the fiscal security of the state. It controls and administers the proper fulfilment of tax and customs obligations. They are also in charge of facilitating foreign trade operations in	Decree 1625 of 2016

	conditions of equality, transparency, and legality	
5. Education	The Ministry of National Education formulates and evaluates public policies on education, to guarantee the right to education, while providing a quality education.	Unified Regulatory Decree 1075 of 2015
6. Environment	The Ministry of Environment and Sustainable Development manages the environment and the renewable natural resources. It defines the policies on recovering, conservation, protection and sustainable use of natural resources.	Unified Regulatory Decree 1076 of 2015
7. Finance/ Revenue/ Investments/ Excise	The Ministry of finance and Public Credit coordinates the macroeconomic policy of the country, manages the national budget and implements fiscal policies.	Unified Regulatory Decree 1085 of 2015
8. Health	The Ministry of Health and Social Protection manages the social protection and health sector through the formulation of public policies that seek to improve the health of the population as well as access and quality of health and social services	Unified Regulatory Decree 780 of 2016
9. Labor	The Ministry of Labor oversees the formulation of labor policies, labor relations and job growth and job stimulation programs.	Unified Regulatory Decree 1072 of 2015
10. Trade and Industry/ Investments	The Ministry of Commerce, Industry and Tourism formulates public policies to support business and commercial activities, as well as the production of goods and services, touristic management of the country and improvement of competitiveness.	Unified Regulatory Decree 1074 of 2015
11. International Relations	The Ministry of Foreign Affairs is responsible of the foreign relations of the nation, as well as the formulation of the foreign policy.	Unified Regulatory Decree 1067 of 2015
12. Culture	The Ministry of Culture is responsible of preserving, promoting, and encouraging the growth of Colombian culture in all its multi-ethnic forms	Unified Regulatory Decree 1080 of 2015
13. Prosecutor (Procuraduría)	The Office of the Inspector General oversees the conduct of all public officials, as well as the correct	Colombian Constitution

	functioning of government institutions and agencies	Law 734 of 2002 (Unified Disciplinary Code)
14. Ombudsman (Defensoría del Pueblo)	Oversees the protection of human rights and freedoms of the population.	Law 24 of 1992