

Ecuador

Overall score:

69

Summary of Findings

1. Industry participation in policy development

Evidence shows that the tobacco industry targets non-health governmental agencies and it seems to reach as high as the Presidential office. Back in 2010 when LORCT (Ley orgánica para la regulación y control del Tabaco) was being revised, a National Assembly member presented a draft that supported the tobacco industry's criteria for more flexible legislation—this decision-maker was the only one who voted against the final draft which was aligned with the WHO Framework Convention on Tobacco Control (FCTC) provisions. Also, during the adoption process of the LORCT's Regulatory Decree back in 2011-2012, an officer from the Chamber of Industries contacted the Presidential Legal Office arguing damages to the interests of the tobacco industry.

On the other hand, interagency and multi-sectoral cooperation for tobacco control seems to be free of tobacco industry interference, mainly because it is led by the Ministry of Public Health. In addition, there is no evidence to demonstrate Ecuador has nominated or allowed tobacco industry representatives in its delegation to the WHO FCTC Conference of the Parties (COP) or other subsidiary meetings.

2. Industry CSR activities

Although Ecuador ratified the WHO FCTC in 2006 and approved LORCT in 2011, this report includes a few incidents of CSR activities endorsed by government officials that happened between 2018 and 2019. The tobacco industry supported the Forum of Entrepreneurship and Innovation at the 60th Annual Meeting of Boards of Governors of the Inter-American Development Bank in Guayaquil; the Forum of Businesswomen, Leadership and

Transformation in Quito; and the Eradication of Child Labour Project led by governmental agencies and supported by the Companies Network for a Child-Labour-Free Ecuador, which is comprised of 88 firms. The tobacco industry was a member of this network and there is no evidence to demonstrate it currently is left out.

3. Benefits to the industry

Time frames for implementation or amendments of tobacco control legislation seem to follow mostly the industry's common requests. Ecuador has mostly waited until the very end of a time frame to fulfill provisions and in some cases, it has not met the deadline, at national and local levels. Furthermore, LORCT unfortunately has not been amended since 2011 and tobacco product taxation legislation hasn't been amended since 2016. With regards to privileges, incentives, exemptions or benefits directly to the tobacco industry, there is no evidence of relevant fiscal, trade, agricultural, investment or related policies where the Ecuadorian government grants them. However, there are duty-free allowances for tobacco products for travelers arriving into Ecuador and who are at least 18 years old.

4. Unnecessary interaction

Interactions between the tobacco industry and top-level government officials took place at events sponsored by Tobacco, Food and Beverages Industries (Industrias del Tabaco, Alimentos y Bebidas Sociedad Anónima – ITABSA, for its acronym in Spanish), with participation of the Ecuadorian vice president, the president's wife and ministers. In addition, this report includes a few incidents since 2017 where government agencies publicly accepted assistance from the tobacco industry. The most relevant was an agreement signed by the National Service of Customs with ITABSA. Fortunately, diligent action

from the Ministry of Public Health requesting its immediate termination, based on WHO FCTC Article 5.3, resulted in notification of unilateral termination to ITABSA after three months. Considering Ecuador has not established specific regulation for banning unnecessary interaction between the government and the tobacco industry, these incidents are likely to happen again.

5. Transparency

Ecuador does not have regulations that specifically apply to disclosure of meetings and interactions with the tobacco industry. However, the National Assembly does not guarantee reports on all appearances during discussion and approval of legislation. The Ministry of Public Health is the only governmental agency that registers signed documents of information submission (health warnings) from the tobacco industry, but they are not publicly accessible. This country recognizes the right to access information held by the State, so there is a big opportunity to establish transparency measures specifically for interactions with the tobacco industry. Furthermore, Ecuadorians should also consider establishing rules for the disclosure or registration of tobacco industry representatives, including lobbyists.

6. Conflict of interest

Ecuador does not have a policy to 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. Therefore, it is not safe to say that these incidents do not happen within the country. There is no evidence to demonstrate retired senior government officials have joined the tobacco industry nor that current government officials and relatives hold positions in the tobacco business including consultancy positions. However, there are a few facts worth mentioning, including that people related to the tobacco industry leading the Chamber of Industries and Production collaborated with the Ministry of Foreign Trade and Investments in the campaign "Smuggling has something you don't see -El Contrabando tiene algo que no ves-."

7. Preventive measures

There is no procedure for disclosing the records of the interaction between the Ecuadorian government and the tobacco industry. In addition, there is no code for public officials that specifically prescribes the standards with which they should comply in their dealings with the tobacco industry. However, there are codes of conduct at a few governmental agencies, and a declaration of conflict of interest among members of Interagency Anti-tobacco Committee (CILA). With regards to information on tobacco production, manufacturing, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and other activities, LORCT and its Regulatory Decree establishes provisions requesting such information from the tobacco industry. Furthermore, the Internal Revenue Service requests information related to its identification, marking, authentication and tracking system, which tackles cigarettes and alcoholic beverages. National legislation on companies and organizations also requests information, but not specifically from the tobacco industry.

Although there is no government program/system/plan to consistently raise awareness within its departments on policies relating to WHO FCTC Article 5.3 Guidelines, the Ministry of Public Health has proven to be committed to fulfilling the WHO FCTC provisions and it has been diligent in raising awareness among public institutions. Finally, Ecuador has not 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; but there is current national legislation regarding this issue that could apply to the tobacco industry.

Recommendations

Based on criteria included in this report, Ecuador must apply the following recommendations in order to fully implement WHO FCTC Article 5.3 and its guidelines.

1. Strengthen current policies for avoiding tobacco industry intervention within the State branches of power, CILA and other interagency and cross sectorial coordination activities on tobacco control.
2. Propose an amendment in current legislation for adding more topics which the tobacco industry is not allowed to contribute to, including its so-called CSR contributions.
3. Propose a draft of a Presidential Decree prohibiting attendance at social functions and other events sponsored or organized by tobacco companies or those furthering its interests, for all government officials at all levels.
4. Propose an amendment in current legislation for prohibiting agreements between the State branches of power and the tobacco industry.
5. Disclose all information related to meetings/interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation.
6. Propose an amendment in current legislation requiring rules of disclosure or registration of tobacco industry entities, affiliated organizations and individuals acting on their behalf including lobbyists or public affairs officers.
7. Propose an amendment in current legislation for prohibiting contributions from the tobacco industry or any entity working to further its interests to political parties, candidates or campaigns or for requiring full disclosure of such contributions.
8. Determine a procedure for disclosing the records of the interaction between the State branches of power and the tobacco industry and its representatives.
9. Establish a code of conduct for public officials, prescribing the standards with which they should comply in their dealings with the tobacco industry.
10. Strengthen current process for requesting information on tobacco production, imports, manufacturing, supply chain, market share, marketing expenditures, revenues and any other activity, including lobbying, philanthropy, political contributions and all other activities.
11. Establish a consistent monitoring process of information submitted by the tobacco industry, in order to take timely action.
12. Implement a program for raising awareness on Article 5.3 and about tobacco industry interference among State branches of power, especially the ones involved in tobacco control.
13. Develop specific policy for disallowing the acceptance of all forms of contributions/gifts/donations from the tobacco industry offered to government agencies and officials.
14. Strengthen cooperation among public institutions, as well as national and international organizations, in order to fully implement WHO FCTC Article 5.3 and its guidelines.