

PANAMA

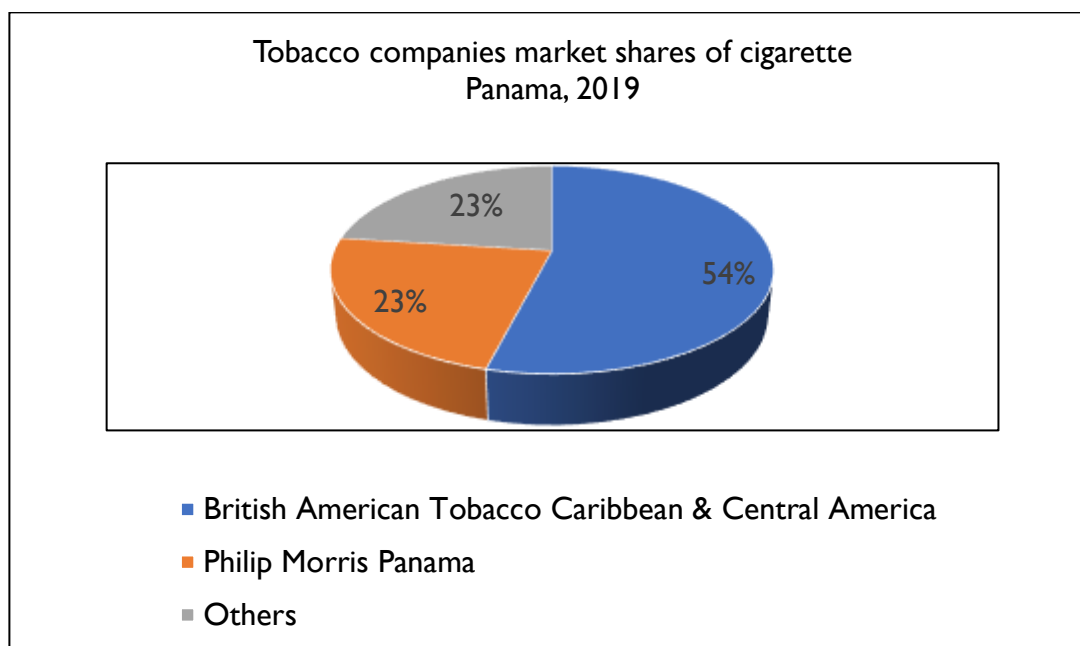
2021

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Introduction

Panama is one of the countries at the international level with one of the greatest successes in controlling the tobacco epidemic, for its great regulatory and surveillance advances, covered by efficient health legislation having as its main pillar, Law 13 of 2008, which establishes prohibitions such as the advertising, promotion and sponsorship of tobacco products, sale to minors as well as in relation to tobacco smoke-free spaces, among other provisions¹.

Since 1999 Panama has not had cigarette-producing companies, since both the British American Tobacco company and Phillips Morris International, have moved their operations to other Central American countries, so the marketing of their products is done by importing distribution companies into the local market in addition to re-exportations to other regions, since Panama became an importing country². The importation of cigarettes with filter, represents more than 95% of the market for tobacco products, so the market consists of this product almost entirely³. Below is the composition of the retail market in relation to the sales of the main companies in the country.



Source: Euromonitor International from official statistics, trade associations, trade press, company research, store checks, trade interviews, trade sources. <https://bit.ly/3azZ4NP>

With regard to the composition of the retail market according to the volume of cigarette sales for the most recent year, in this case 2019, it is noted that the British American Tobacco Caribbean & Central America, has the largest market share with 54%, followed by the company Philip Morris Panama with 23% and other companies, with the remaining 23%. This

¹ Asamblea Nacional de la República de Panamá, "Ley N° 13 Que Adopta Medidas Para El Control Del Tabaco Y Sus Efectos Nocivos En La Salud," (Ciudad de Panamá: Gaceta Oficial N° 25966, 2008).

² Chávez Inocencio Herrera Ballesteros Víctor Hugo, Gómez Beatriz, Gordón Carlos, Rodríguez Reina Roa, *Análisis De La Demanda De Tabaco En Panamá Y El Control Del Efecto Asequibilidad Con Medidas Fiscales Y Control Del Contrabando : Implicaciones Para Política Fiscal, 2000-2011* (Ciudad de Panamá: Instituto Conmemorativo Gorgas de Estudios de la Salud, 2013), 978-9962-699-03-3.

³ Ibid.

composition of sales in the retail market has remained with few variations at least since 2015. However, the structure of the market remains oligopolistic.

Similarly, the increase to tobacco tax to 100% of its tax base (and setting a minimum floor price of USD 1.50 per pack), with respect to the retail price, declared by the wholesale importer and its labelling addressed by 20% to the Ministry of Health, 20% to the National Cancer Institute and 10% to the National Customs Authority, it is one of the most advanced tools in the Region of the Americas (AMR) which is an important source of funding, for example, for research, surveillance, health promotion, support for combating Noncommunicable Diseases linked to smoking and combating illicit trade, among other measures, through Law 69 of 2009⁴.

These, like other additional rules, have left their effect on the control of tobacco use in Panama, having one of the current prevalence (at 30 days) lower, between 2013 and 2019, through measurements from the Global Adult Tobacco Survey (GATS) and the National Health Survey (ENSPA), by passing this overall prevalence from 6.4% to 4.9% (5%), leading Panama to the so-called "End Game" with respect to the control of smokeless tobacco use and while the prevalence of smokeless tobacco is 0.2%⁵.

One of the most complex and debatable issue is the estimation of the illicit trade in tobacco products, especially cigarettes, which is the main consumer product on the Panamanian market. Data cited by sources linked to the tobacco industry (IT) have historically established illicit trade around 80%, in Panama, by questionable sources linked to the tobacco industry that finance their studies, therefore they are not constituted in independent sources⁶.

However, studies carried out by public research entities, according to the results of the GATS, Panama, 2013, estimated illicit purchase at 36.3%, being one of the fundamental problems being goods in transit, since Panama has a channel and is therefore an economy open to world trade⁷. This estimate is clearly in contrast to those provided by industry and related organizations, especially the fact that the current prevalence is one of the lowest at the regional and global levels, in addition to the tax collection rising from USD 12,363,495.00 in 2009 to USD 27,840,779.00 in 2014 following the increase in selective tax on the consumption of cigarettes and other tobacco products and has continued to rise in recent years⁸.

In addition, Panama is one of the countries that has tightened the rules of control of illicit trade, bringing it into the criminal sphere, in addition to prohibiting the marketing of cigarettes and electronic devices and which currently wants to move from decree to law⁹. It is not surprising as a result that the tobacco industry interfered with all tobacco control legislation

⁴ Asamblea Nacional de La República de Panamá, "Ley 69 Del 2009, Que Prohibe La Equiparacion En Los Contratos Y Otras Modalidades Juridicas En Los Que El Estado Sea Parte, Reforma Disposiciones De Contrataciones Publicas Y Dicta Otras Disposiciones," (Ciudad de Panamá: Gaceta Oficial 26402-C, 2009).

⁵ Instituto Conmemorativo Gorgas de Estudios de la salud Ministerio de Salud, Instituto Nacional de Estadística y Censo, *Encuesta Nacional De Salud* 2019.

⁶ International Tax and Investment Center, *El Tráfico Ilícito De Productos De Tabaco Y Cómo Hacerle Frente* (2012); Luis Avila, "Cigarrillos De Contrabando Son Un Paso Hacia La Muerte," *Panamá América*, 30/5/20 2020.

⁷ Herrera Ballesteros Víctor Hugo et al., "Impacto Del Incremento Del Impuesto a Los Productos De Tabaco Sobre La Recaudación Y Los Precios En Panamá," *Value in Health Regional Issues* 14, (2017).

⁸ Ibid.

⁹ Asamblea Nacional de la Republica de Panamá, "Que Establece Un Marco Legal De Prohibicion Del Uso De Los Sistemas Electronicos De Administracion De Nicotina, Cigarrillos Electronicos, Vaporizadores U Otros Dispositivos Similares, Con O Sin Nicotina," in *Proyecto de Ley 178* (Ciudad de Panamá: 2019); Asamblea Nacional de la República de Panamá, "Ley N° 34 Que Modifica Y Adiciona Articulos Al Codigo Penal, Y Dicta Otras Disposiciones," (Panamá: Gaceta Oficial N° 27776-A, 2015); Asamblea Nacional de la República de Panamá, "Que Prohibe El Uso De Los Sistemas Electrónicos De Administración De Nicotina, Cigarrillos Electrónicos, Vaporizadores U Otros Dispositivos Similares, Con O Sin Nicotina," in *Decreto Ejecutivo N° 1838* (Ciudad de Panamá: 2014).

in Panama, with Panama being one of the countries with the greatest advances in such provisions.

Summary Findings

The index posted a total score of 58 for the 20 questions spread across seven indicators and the following are the specific scores and their relevant explanations based on the findings found for the search period, which runs from the first of January 2019 to 31 March 2021.

This report uses the questionnaire developed by the Southeast Asia Tobacco Control Alliance (SEATCA) based on the WHO FCTC Article 5.3 Guidelines. Information used in this report is obtained from the public domain. A scoring system is applied to make the assessment. The score ranges from 0 - 5, where 5 indicates highest level of industry interference, and 1 is low or no interference.

A summary of the main findings is made for each of the seven indicators in the index, and the table is included with explanations and supportive references.

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

It is clear that the National Assembly is the most permeable to interference from the tobacco industry (IT), in which, for example, in Bill 209, the proposing MEMBER was based on the evidence provided by it or in relation to Bill 136 in which the health committee of the National Assembly, with the amendment of 36 articles without going through the review of civil society or health authority and approved immediately amid accusations of bribery and extortion. Additionally, the minister of health requested the President of the Republic, for a total veto of this law once it was adopted in the third debate and in which officials of the Ministry of Health (MINSA) demonstrated in the street to call for the full veto of that law stating it is a setback in respect of all the achievements made in tobacco control in Panama¹⁰. Likewise, it is allowed to participate in the discussions of bills because that is the methodology used in the different committees of the National Assembly, being a key element to influence tobacco control regulations, since the making of laws.

The tobacco industry is not represented in Panama's delegation to the COP (Conference of the Parties) or provide sponsorships. Historically, the country's delegation is made up of only public officials and the head of mission is MINSA's tobacco control focal point¹¹.

2. INDUSTRY CSR ACTIVITIES

The TI through Panama's AmCham, conducted the social responsibility project called (RSE) "Leadership Program for School Principals" in public schools in the District of San Miguelito, the project "Recognition Sustainable Leadership" Inspiring Practices of RSE and finally the

¹⁰ Tomás Sánchez, "Cigarrillos Electrónicos: Del Debate Ideológico Al Debate Científico En Panamá," *Crítica*, 2/2/21 2021; José Chacón, "Denuncian Amenazas De Muerte E Intentos De Soborno Por Polémica Ley Sobre Tabaquismo," *Panamá América*, 29/3/19 2019.

¹¹ Health Organization World, "Eighth Session of the Conference of the Parties to the Who Framework Convention on Tobacco Control" https://www.who.int/fctc/cop/sessions/cop8/LOP_Final.pdf?ua=1 (accessed 4/4/21 2021); Health Organization World, "Sixth Session of the Conference of the Parties to the Who Framework Convention on Tobacco Control. List of Participants" https://apps.who.int/gb/fctc/PDF/cop6/FCTC_COP6_DIVIRev1.pdf (accessed 4/4/21 2021).

project "AmCham-AACCLA Volunteer Day", in public schools of the District of San Miguelito and that has the participation of companies, Phillip Morris and British American Tobacco¹².

3. BENEFITS TO THE INDUSTRY

Such situations are more prone in the National Assembly, where the tobacco industry has greater options to delay the adoption of laws establishing regulations, before they are approved and sanctioned for their implementation. Regulations for the control of tobacco use are provided for in Law 13 of 2008, on prohibitions on advertising, promotion and sponsorship, sale to minors, smoke-free spaces, health warnings, pictograms, among others and under the control of the National Tobacco Control Commission of the Ministry of Health. This has so far been a guarantee for compliance with regulations and that the tobacco industry has tried by all means to leave some administrative decisions before the Supreme Court of Justice and that almost all judgments have favored the Ministry of Health and that in the Tobacco Control Surveillance System has a list of supreme court rulings¹³.

However, it is worth noting the benefit of the Colon Free Zone to the tobacco industry by granting it a 120-day benefit to comply with special import and re-export permits for cigarettes and other tobacco products, for 120 calendar days¹⁴.

4. UNNECESSARY INTERACTION

The participation of the Minister of Social Development in a forum sponsored by the newspaper El Capital Financiero with the participation of representatives of the tobacco industry, implies unnecessary approaches with this and its front groups, opening the possibility of developing joint activities of Corporate or Corporate Social Responsibility. Another finding was the participation of the director of the National Customs Authority in the virtual forum on illicit anti-trade in Central America, sponsored by the AmCham of Panama, which promotes the tobacco industry¹⁵. The participation of the Crime Stoppers front group assisting the Ministry of Public Security in combating the illicit trade in cigarettes is also highlighted, and the participation of the Director of the National Customs Authority in the International Conference on Illicit Tobacco in which she mentions the importance of collaboration in training with the support of trademark owners (tobacco companies)¹⁶.

Participation of several state entities in the collaborative development of the Gender Equality Management Systems Certification Program in private and public enterprises, better known as Gender Equality Seals, a study in which Phillips Morris participated. This study mentions the participation of the Ministry of Labour and Labour Development (MITRADEL), the

¹² AmCham Panamá, "Programas Responsabilidad Social" <https://panamcham.com/en/node/6243> (accessed 29/3/21 2021).

¹³ Panamá, "Ley N° 13 Que Adopta Medidas Para El Control Del Tabaco Y Sus Efectos Nocivos En La Salud."; Ministerio de Salud, "Sistema De Vigilancia Para El Control De Tabaco En Panamá", Ministerio de Salud <https://bit.ly/3tL71r6> (accessed 1/4/21 2021).

¹⁴ Zona Libre de Colón, "Zona Libre De Colón (Zlc) Establece Requisitos Para Permisos Especiales" <http://www.zolicol.gob.pa/es/noticias/zlc-establece-requisitos-para-permisos-especiales> (accessed 29/3/21 2021).

¹⁵ Diario Capital Financiero, "El Contrabando, Un Negocio Lucrativo," *Capital Financiero*, 1/10/19 2019; Autoridad Nacional de Aduanas, "Aduanas Participa De Foro Virtual Sobre Anti-Comercio Ilícito En Centroamérica, Organizado Por La Amcham" https://www.ana.gob.pa/w_ana/index.php/23-news/aduanas-participa-de-foro-virtual-sobre-anti-comercio-ilicito-en-centroamerica-organizado-por-la-amcham (accessed 29/3/21 2021).

¹⁶ Avila; Autoridad Nacional de Aduanas, "Panamá Presente En Conferencia Internacional Sobre El Tabaco Ilícito" https://www.ana.gob.pa/w_ana/index.php/23-news/panama-presente-en-conferencia-internacional-sobre-el-tabaco-ilicito (accessed 29/3/21 2021).

Women's Institute (INAMU), the Ministry of Foreign Affairs (Chancellery), the Ministry of Trade and Industries (MICI), and even the United Nations Development Program¹⁷.

5. TRANSPARENCY

No evidence could be found that the government or its entities make public knowledge of their meetings or interactions with the tobacco industry on regulatory issues and no evidence of standards establishing them with that specificity has been found. There is only general regulations contained in Law 6 of 22 January 2002 on Habeas Data in which interested parties may be able to make the request under the relevant confidentiality restrictions¹⁸.

There are no specific rules regarding the tobacco industry, and there are only public registration rules, or the same in their accreditation in their participation in committees in which the tobacco industry lists its own representatives just as its related organizations and front-front groups do, as is the case in the working committees of the National¹⁹.

6. CONFLICT OF INTEREST

There is no rule expressly prohibiting donations from the tobacco industry to election campaigns, and therefore the country is governed by the electoral code and its reforms that candidates for popular election posts must submit their donor list. This provision is only provided for money laundering as a result of drug trafficking and any other activity that is unlawful or condemned for crime as proposed in the voter reforms for the 2024²⁰.

A senior official who is currently Panama's ambassador to Mexico and has been a deputy and public office in the past and has been an advisor to British American Tobacco, implying the high degree of institutional permeability on the part of the tobacco industry in²¹ the current deputy technical director of the National Customs Authority, has been a consultant to the British American Tobacco and Phillip Morris companies, which expresses a clear situation of relationship and conflict of interest with the tobacco industry as shown in this official's resume²². This is a key institution in the control of illicit trade, and it is worrying that one of its highest managers has had a close relationship with industry. But this is a problem affecting the entire public sector in Panama and is the so-called "regulatory capture" in which there are no rules prohibiting people who have held positions or played some role in regulated companies, from accessing management positions in regulatory entities. This would be resolved by liability clauses in their employment contracts, stating that for at least a few years,

¹⁷ Consejo Nacional de la Empresa Privada, "Prácticas Empresariales Para Promover La Paridad De Género" http://www.conep.org.pa/wp-content/uploads/2019/06/CONEP_Paridad_Genero.pdf (accessed 29/3/21 2021).

¹⁸ Asamblea Nacional de la República de Panamá, "Ley 6 De 22 De Enero De 2002, Que Dicta Normas Para La Transparencia En La Gestion Publica, ,Establece La Accion De Habeas Data Y Dicta Otras Disposiciones," (Ciudad de Panamá: Gaceta Oficial 24476, 2002).

¹⁹ Asamblea Nacional, "Comisión Ad Hoc Reunirá Información Para Regular Contenido Publicitario Del Tabaco" <https://www.asamblea.gob.pa/noticias/comision-ad-hoc-reunira-informacion-para-regular-contenido-publicitario-del-tabaco> (accessed 29/3/21 2021).

²⁰ Asamblea Nacional de la República de Panamá, "Código Electoral: Texto Único," (Ciudad de Panamá: Gaceta Oficial 25739, 2007); Ismael Gordón Guerrel, "Limitan Donantes Para Las Campañas Políticas," *La Estrella de Panamá*, 14/11/20 2020.

²¹ *La Estrella de Panamá*, "Un Poco Más De... Alfredo Oranges," *La Estrella de Panamá*, 26/2/13 2013; Ministerio de Relaciones Exteriores, "El Nuevo Embajador De Panamá En México, Alfredo Oranges, Tomó Posesión Esta Lunes Del Cargo Diplomático." <https://mire.gob.pa/embajador-alfredo-oranges-presenta-cartas-credenciales/> (accessed 1/4/21 2021); Asamblea Nacional, "Panamá Primer País De Latinoamérica En Lograr Bajo Consumo De Tabaco" <https://www.asamblea.gob.pa/noticias/panama-primer-pais-de-latinoamerica-en-lograr-bajo-consumo-de-tabaco> (accessed 1/4/21 2021).

²² Autoridad Nacional de Aduanas, "Hoja De Vida Del Subdirector General Técnico De La Autoridad Nacional De Aduanas" https://www.ana.gob.pa/w_ana/index.php/transparencia/rodolfo-samuda-l (accessed 1/4/21 2021).

(which may generally be 5), they cannot hold positions in the regulatory public sector or vice versa in companies if they have left a regulatory body.

7. PREVENTIVE MEASURES

There is no specific procedure or rule for publicly disseminating records of interactions with industry and its associated organizations, except as provided for in Habeas Data Law of 22 January 2020 with the appropriate confidentiality restrictions²³.

There is no evidence of the existence of a code of conduct for public officials regarding their specific interactions with the tobacco industry, except for the code of general ethics governing the entire public administration, in addition to the code of ethics of Ministry of Health officials²⁴.

The government asks tobacco companies for full information as well as any other company in another sector or branch of economic activity, for example, sales, prices, production, etc., for the country's national accounts, tax collection or tobacco control mechanisms²⁵. Likewise, this information is not made public or accessible by identifying companies given the confidentiality rules and only some of them are disclosed in a consolidated manner for the whole industry²⁶.

As investigated in the National Plan for Tobacco Control for Five-Year 2020-2024, could not be demonstrated an implementation plan for Article 5.3 expressly or specifically or at least not established within the seven priorities identified. However, such guidelines may be addressed in training programs at the central and regional level in accordance with point 4 on standards and laws²⁷.

Finally, the government does not have specific measures to prevent bribery by the tobacco industry, cooperation in policies or bills, to shielding public officials. What exists is the code of general ethics and the specific code of ethics of officials of the Ministry of Health²⁸.

²³ Panamá, "Ley 6 De 22 De Enero De 2002, Que Dicta Normas Para La Transparencia En La Gestion Publica, ,Establece La Accion De Habeas Data Y Dicta Otras Disposiciones."

²⁴ Procuraduría de la Administración, "Decreto Ejecutivo 246 Por El Cual Se Dicta El Código Uniforme De Ética De Los Servidores Públicos Que Laboran En Las Entidades Del Gobierno Central," in *Gaceta Oficial* 25199, ed. Procuraduría de la Administración (Ciudad de Panamá: Asamblea Nacional de Panamá, 2004); Ministerio de Salud, "Resolución 654 De 22 De Octubre De 2002 Que Aprueba El Código De Ética De Los Servidores Públicos Del Ministerio De Salud," in 654, ed. Ministerio de Salud (Ciudad de Panamá: Ministerio de Salud, 2002).

²⁵ Asamblea Nacional de la República de Panamá, "Decreto Ejecutivo 230 De 2008 Que Reglamenta La Ley 13 De 24 De Enero De 2008 Y Dicta Otras Disposiciones," (Ciudad de Panamá: Gaceta Oficial N° 26033, 2008); Panamá, "Ley N° 13 Que Adopta Medidas Para El Control Del Tabaco Y Sus Efectos Nocivos En La Salud.."

²⁶ Asamblea Nacional de Panamá, "Ley 81 Sobre Protección De Datos Personales," in *Gaceta Oficial* 28743-A (Ciudad de Panamá: 2019); Panamá, "Ley 6 De 22 De Enero De 2002, Que Dicta Normas Para La Transparencia En La Gestion Publica, ,Establece La Accion De Habeas Data Y Dicta Otras Disposiciones."

²⁷ Ministerio de Salud, *Plan Nacional Para El Control Del Tabaco En Panamá. Quinquenio 2020-2024* 2020.

²⁸ Administración; Salud, "Resolución 654 De 22 De Octubre De 2002 Que Aprueba El Código De Ética De Los Servidores Públicos Del Ministerio De Salud."

Recommendations

It is clear that in relation to the events, laws and controls established for tobacco control in Panama, there is interference from industry, which has been evidenced by the permeability of our legislative system, the absence of institutional responsibility caused by conflicts of interest or unnecessary interactions as well as institutional collaboration in joint projects with the tobacco industry within the framework of corporate or corporate social responsibility as well as collaboration in policies or legislation affecting tobacco control regulation.

However, the country has been able to have a robust regulatory body that, despite these institutional weaknesses, has been shielded by concentrating much of the controls on the National Tobacco Control Commission in Panama, based in the Ministry of Health, mainly covered by the 2008 Act, and related rules such as Law 69 labeling the selective tax on the use of cigarettes and other tobacco products or also with the latest rules on banning the marketing of cigarettes and electronic devices, among others, which have put the country in a place of advanced, by reaching the End Game of tobacco control with one of the lowest prevalence of use in the world.

Despite this, it is clear that the index reveals many weaknesses that need to be corrected through administrative and legal rules or procedures, as revealed in the highest-scoring indicators such as indicator 1, on the level of participation of the tobacco industry in the development of government policies weighing 18.6% of the total sum of the index.

- Limit the participation of the industry and its front groups or related organizations to the delivery of technical information of scientific veracity and validated from official sources and that limits the participation of these organizations to those that have an existence of more than five years, verifiable address, investigative contributions and publications.
- Liability clauses are necessary beyond complying only with regular institutional transparency requirements to avoid regulatory capture risk, specifically for the tobacco industry, with respect to key tobacco control entities in Panama.
- It is important to amend the electoral code and make clear the prohibition of contributions to political campaigns by the tobacco industry and its front groups as well as a code of ethics prohibiting interactions that warns public bribery officials and any cooperation with the tobacco industry.

This does not set aside the rest of the lacks evidenced by the rest of the indicators, but at least in the most important ones it is necessary to start developing corrective actions, in order to reduce the risk of interference from the tobacco industry in Panama.

2021 Tobacco Industry Interference Index Results and Findings

	0	1	2	3	4	5
INDICATOR I: Level of Industry Participation in Policy-Development						
1. The government ²⁹ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ³⁰ in setting or implementing public health policies in relation to tobacco control ³¹ (Rec 3.1)				3		
<p>* The proposing DEPUTY of Bill 209 supports the adoption of this supported by the scientific evidence provided by IT³². In the case of Panama, the National Assembly operates with working committees according to legislative matters, in which all actors interested or affected by the discussion of a bill can participate and provide evidence or evidence, according to their interests.</p> <p>* The standing committees are established in Law 49 of 1984 and its subsequent amendments, which establishes the organic regulations of the internal regime of the National Assembly³³. Article 72 establishes the Commission on Ethics and Parliamentary Honor, under which the entire organizational structure of the National Assembly of Panama must operate. However, this organ of the Panamanian State has always been under the inquisitorial spotlight regarding its operation in terms of transparency.</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)					4	
<p>36 amendments to Bill 136 were allowed to favor IT in second debate.</p> <p>*A fact that caused much indignation during the discussion of Bill 136, was the incorporation of 36 amendments approved in an accelerated manner in the third debate and of which the Ministry of Health barely learned minutes before, without being able to file any appeal, since it was in the third debate. In this case it was fortunately vetoed in its entirety by the president of the³⁴republic. For example, the exposure of cigarettes to the public was allowed, which until then was prohibited by Law 13 of 2008.³⁵</p> <p>*One of the aspects to highlight on occasions are the persuasive maneuvers of the</p>						

²⁹ 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

³⁰ The term, "tobacco industry" includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

³¹ "Offer of assistance" may include draft legislation, technical input, recommendations, oversees study tour

³² <https://bit.ly/3gAbx8g>

³³ Asamblea Nacional de la República de Panamá, "Reglamento Orgánico Del Régimen Interno De La Asamblea Nacional," in 26313 (Ciudad de Panamá: 1984).

³⁴ <https://bit.ly/3gyiniu>

³⁵ Asamblea Nacional de la República de Panamá, "Proyecto De Ley N° 136 Que Establece Disposiciones Relacionadas Al Contenido Y Divulgación De Información Sobre Los Productos Derivados Del Tabaco, Modifica Los Artículos 4, 5, 6 9, 11 Y 26 De La Ley 13 De 24 De Enero De 2008 Y Dictan Otras Disposiciones.", Gaceta Oficial <https://bit.ly/3vcctayU> (2015); Panamá, "Ley N° 13 Que Adopta Medidas Para El Control Del Tabaco Y Sus Efectos Nocivos En La Salud.."

	0	1	2	3	4	5
tobacco industry, in trying to intimidate or bribe members of civil society, as in this case Dr. Nélide Gligo, president of the Panamanian Coalition Against Smoking (COPACET) during the discussion of Bill 136 in 2019 and that it denounced before the media ³⁶ .						
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)				3		
Industry participation is allowed in AD HOC Commission discussions. *In this sense, the National Assembly, opened the discussion to expand the recommendations of Bill 136, in which all interested parties were called to participate in the discussion, on issues of packaging, flavorings, among others in order to strengthen said bill, however, many of the changes ended up favoring the Tobacco Industry , as mentioned in the previous paragraphs, which demonstrated the permeability of the National Assembly to the Tobacco Industry and lack of effective coordination with the Ministry of Health in this matter ³⁷ .						
4. The government nominates or allows representatives from the tobacco industry (including State-owned) in the delegation to the COP or other subsidiary bodies or accepts their sponsorship for delegates. (i.e. COP 4 & 5, INB 4 5, WG) ³⁸ (Rec 4.9 & 8.3)		1				
The government does not allow tobacco companies or their front groups to be part of the delegación COP nor does it accept sponsorships for its official delegation. *When reviewing the list of delegates of COP 6 of COP 8, official delegates are financed by public funds in addition to the fact that there are no members or representatives of the Tobacco Industry, as part of the official delegation. This is an important point that makes clear the official independence, regarding any attempt at interference by the Tobacco Industry ³⁹ .						
INDICATOR 2: Industry CSR activities						
5. A. The government agencies or its officials endorses, supports, forms partnerships with or participates in so-called CSR activities organized by the tobacco industry. (Rec 6.2) B. The government (its agencies and officials) receives contributions ⁴⁰ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)				2		
This event participates in IT as part of the facade group team, in a program aimed at public schools in the district of San Miguelito, "AmCham-AACCLA Volunteer Day" ⁴¹ . *However, an important aspect to highlight, is that in it there is no participation of any authority, especially regulatory, in addition to the fact that it is not an event funded only by						

³⁶<https://bit.ly/32F3D5n>

³⁷<https://bit.ly/3tMpfZb>
<https://bit.ly/32HZCNs>
<https://bit.ly/2Pge5Np>

³⁸ Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

³⁹<https://bit.ly/2QvHqE9>
<https://bit.ly/3tOUJ2t>

⁴⁰ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions.

⁴¹<https://bit.ly/3gAchtZ>

	0	1	2	3	4	5
the Tobacco Industry, but of a much broader group, channeled by the AmCham-AACCLA.						
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)			2			
*In general, such situations are more likely in the National Assembly, where IT has open access to legislative commissions that touch on this issue. As noted in previous questions regarding legislation. With regard to delaying the implementation of laws or regulatory standards these applications are evaluated by the National Tobacco Control Commission and the administrative bodies of MINSA, according to the criteria of Law 13 of 2008 ⁴² .						
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)					4	
The general manager of Zona Libre de Colón reported that IT would have a 120-day calendar period to comply with special import permits, re-export of cigarettes and other tobacco products ⁴³ . This implies that, apart from the health controls set out in Law 13 of 2008, there are other types of measures from other public bodies that usually have their own controls and that require greater institutional coordination with the health authority. As stated in previous paragraphs, this may give rise to institutional weaknesses or advantages for the Tobacco Industry. In this regard, it is important to note that one of the problems of illicit trade in Panama is merchandise in transit, a matter that has not been addressed so far with regard to the tracking and location of shipments of tobacco products. The country does not yet have its own system in this regard.						
INDICATOR 4: Forms of Unnecessary Interaction						
8. Top level government officials (such as President/ Prime Minister or Minister ⁴⁴) 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)					4	
The Minister for Social Development participated in the IT-sponsored forum and proposed the public-private partnership ⁴⁵ .						
*Arturo Fernández Figueroa, Corporate Affairs Manager for Panama and Central America at Phillip Morris International, also participated in this event. This event was sponsored by the newspaper El Capital Financiero, whose editorial director is Hitler Cigarruista, who is the president of the Association of Smokers and Relatives for a Smoke-Free Panama, a front group of the Tobacco Industry ⁴⁶ . Similarly, the director general of customs participated in a seminar on "Illicit Anti-Trade in Central America: Impact and Best Practices in Times of the Pandemic" sponsored by the AmCham ⁴⁷ .						
9. The government accepts assistance/ offers of assistance from the tobacco industry on enforcement such as conducting raids on				3		

⁴² <https://bit.ly/3axpmk4>

⁴³ <https://bit.ly/3eqD2OS>

⁴⁴ Includes immediate members of the families of the high-level officials.

⁴⁵ <https://bit.ly/3tOu0Bw>

⁴⁶ <https://bit.ly/3CjCuoV>

⁴⁷ <https://bit.ly/3xuULxo>

	0	1	2	3	4	5
tobacco smuggling or enforcing smoke free policies or no sales to minors. (including monetary contribution for these activities) (Rec 4.3)						
This entity facades, Crime Stoppers assistance to the Ministry of Public Security in combating the illicit trade in cigarettes, as reported in the news ⁴⁸ . The same applies to the National Customs Authority, as already mentioned in the previous question. ⁴⁹						
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.					4	
This study involved the company PMI and mentions that ..."the Certification Program of Gender Equality Management Systems in private and public companies, better known as Gender Equality Seals, developed in partnership with the Ministry of Labour and Labour Development (MITRADEL), the Women's Institute (INAMU), the Ministry of Foreign Affairs (Chancellery), the Ministry of Trade and Industry (MICI) and the United Nations Development Program for Latin America and the Caribbean (UNDP)" ⁵⁰ .						
INDICATOR 5: Transparency						
11. The government does not publicly disclose meetings/ interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation. (Rec 2.2)				3		
The government does not publicly disclose its meetings or interactions with IT on regulatory issues. *In any case it is governed by law 6 of January 22, 2002, of habeas data, in which interested parties can request them under the criteria of open information and confidentiality ⁵¹ . This means that the National Commission for Tobacco Control provides this information at the request of an interested party depending on the legal deadlines.						
12. The government requires rules for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists (Rec 5.3)				3		
*There are no specific rules for IT in this regard. In any case this falls under the regular rules of public registration like any type of company. With regard to accreditation for participation, in committees such as the National Assembly, participation is open to the groups affected or involved in any legislation or implementation of standards, before which each party establishes and accredits its representatives. As already mentioned in other questions, for example, the National Assembly has standing committees and other Ad Hoc against specific issues in which the industry has been in participation ⁵² .						
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					4	

⁴⁸ <https://bit.ly/2RQJ2IY>

⁴⁹ <https://bit.ly/3tNGIWS>

⁵⁰ <https://bit.ly/3dQ3y5j>

⁵¹ Panamá, "Ley 6 De 22 De Enero De 2002, Que Dicta Normas Para La Transparencia En La Gestion Publica, ,Establece La Accion De Habeas Data Y Dicta Otras Disposiciones." <https://bit.ly/3tZ9qhS>

⁵² <https://bit.ly/32HZCNs>

	0	1	2	3	4	5
political parties, candidates, or campaigns or to require full disclosure of such contributions. (Rec 4.11)						
*The Electoral Code does not prohibit donations from the tobacco industry in political campaigns expressly. Reforms to the Electoral Code (2007) include the disclosure of donors in campaigns, but do not prohibit IT from make donations to them ⁵³ . In the subsequent reforms to the Electoral Code, the limit of private donations is raised, in addition to public funding to political parties and above all to reveal the lists of donors, but in the same way there is no express prohibition regarding the Tobacco Industry ⁵⁴ . Only donors who are companies or natural persons convicted of illegal acts are limited.						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)						5
*Mr Alfredo Oranges has served as an advisor to The British American Tobacco company in relation to Law 136 ⁵⁵ , was an MP and currently serves as ambassador to Mexico ⁵⁶ . Oranges is a high-profile politician, who has been a founding member of the Democratic Revolutionary Party, a deputy in the National Assembly and a minister of state. ⁵⁷ .						
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)			2			
The current Deputy Technical Director-General of the National Customs Authority has served as a consultant to the British American Tobacco and Phillips Morris companies ⁵⁸ . Unfortunately, in the case of Panama, it is not forbidden for people who move from managerial positions in regulated activities to occupy positions in regulatory entities or vice versa. In any case, there is a legal vacuum in this area and the code of ethics contained in Executive Decree No. 246 of 2004, in its article 41, only prohibits persons up to the fourth degree of consanguinity or second degree of affinity from working in the same institution. This matter requires much more attention and specific changes ⁵⁹ .						
INDICATOR 7: Preventive Measures						
16. The government has put in place a procedure for disclosing the records of the interaction (such as agenda, attendees, minutes and outcome) with the tobacco industry and its representatives. (Rec 5.1)				3		
*The government has not instituted an IT-specific procedure for such purposes or purposes. In any case there are minutes and memory aids in the institutions, and which can be requested through the HABEAS DATA procedure as established in Law 6 of 2002 ⁶⁰ .						
17. The government has formulated, adopted or implemented a code of conduct for public officials, prescribing the standards with			2			

⁵³ Asamblea Nacional de la República de Panamá, "Código Electoral," (Ciudad de Panamá: 2007). <https://bit.ly/3gyZoAI>

⁵⁴ <https://bit.ly/3xm64I8>

⁵⁵ <https://bit.ly/3gAdwcD>

⁵⁶ <https://bit.ly/2QTMHp6>

⁵⁷ <https://bit.ly/32Fsiqr>

⁵⁸ <https://bit.ly/3neQXLT>

⁵⁹ <https://bit.ly/3sMkD4e>

⁶⁰ Panamá, "Ley 6 De 22 De Enero De 2002, Que Dicta Normas Para La Transparencia En La Gestion Publica, ,Establece La Accion De Habeas Data Y Dicta Otras Disposiciones." <https://bit.ly/3tZ9qhs>

	0	1	2	3	4	5
which they should comply in their dealings with the tobacco industry. (Rec 4.2)						
*The government has not developed or adopted a specific code of conduct for interaction with IT. Only the MINSA (Ministry of Health) Code of Ethics and the Uniform Code of Ethics of Public Servants working in Central Government entities. En este caso se hace referencia a la resolución 654 de 2002 ⁶¹ y al Decreto Ejecutivo 246 de 2004 ⁶² .						
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)		1				
*The government asks the tobacco industry for rigor information for tax collection purposes (sales, for example) making it clear that in Panama IT has not produced or grown tobacco or manufactures cigarettes since 1999, nor are electronic devices produced or sold, as they are prohibited in their marketing. Nor does it receive marketing information as it is prohibited by Law 13 of 2008 ⁶³ and with respect to political contributions neither, unless they are reported by candidates for popular election positions, according to the Electoral Code of 2007 and its amendments ⁶⁴ .						
19. The government has a program / system/ plan to consistently ⁶⁵ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)			2			
*"IN THE NATIONAL PLAN FOR TABACO CONTROL. QUINQUENIO: 2020 -2024, such a program is not explicitly envisaged, and the following priorities have been established: 1. Planning and Evaluation 2. Information System. 3. Tobacco control research 4. Rules and Laws 5. Health Promotion and Capacity Building 6. Social Participation for Tobacco Control and, 7. Cessation of Tobacco Product Consumption. However, these guidelines may be addressed in training programs at the central and regional levels ⁶⁶ .						
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)				3		

⁶¹ Salud, "Resolución 654 De 22 De Octubre De 2002 Que Aprueba El Código De Ética De Los Servidores Públicos Del Ministerio De Salud." <https://bit.ly/32Fr8U7>

⁶² <https://bit.ly/3sMkD4e>

⁶³ Panamá, "Ley N° 13 Que Adopta Medidas Para El Control Del Tabaco Y Sus Efectos Nocivos En La Salud.." <https://bit.ly/3axpmk4>

⁶⁴ Panamá, "Código Electoral: Texto Único." <https://bit.ly/3gyZoAl>

⁶⁵ 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.

⁶⁶ <https://bit.ly/2QQ3Y2j>

	0	1	2	3	4	5
*The government has not put in place specific measures for IT and only has the MINSAs code of ethics ⁶⁷ and the code of general ethics for all public officials ⁶⁸ . Estas son las normas de carácter general en dicha materia y que requerirían en todo caso de contener la especificidad respecto de la Industria Tabacalera, pero de igual manera al menos no existe un vacío legal en materia de ética y transparencia.						
TOTAL						58

ANNEX A: SOURCES OF INFORMATION

TOBACCO INDUSTRY ACTIVITY

LOCAL TOBACCO COMPANIES

Top 5 Tobacco Companies/distributors	Market Share and Brands	Source
Godfrey Phillips India/Distributor	MS (ND) Brands (ND)	https://bit.ly/3nnBSYA
Ache Ent Inc	MS (ND) Brands (ND)	https://bit.ly/3neaBlI
Dana international s.a	MS (ND) Brands (ND)	https://bit.ly/3gFABEB
Ambar Ltd	MS (ND) Brands (ND)	https://bit.ly/3dQ58UN
LANZANG INVESTMENT	MS (ND) Brands (ND)	https://bit.ly/2QIbAds
LanZang Investment International	MS (ND) Brands (ND)	https://bit.ly/3epPmPf

TOBACCO INDUSTRY FRONT GROUPS

Top 5 Tobacco Industry Representative	Type (Front Group/ Affiliate/ Individual)	URL
CRIME STOPPERS	Affiliate	https://bit.ly/3epfVUV
Alianza contra el Comercio Ilícito	Affiliate	https://bit.ly/2QW04EY
La Asociación de Reducción de Daños por Tabaquismo de Panamá (ARDTP)	Affiliate	https://bit.ly/3v9E4W0 https://bit.ly/32VrXQF https://bit.ly/3sMSnhC This web page is not functioning (coming soon) They have blocks in Tweeter and Facebook and they works with the APEDE.
Asociación de fumadores y familiares por un Panamá libre de	Affiliate	https://bit.ly/3aChpKf https://bit.ly/3tOfYQr This association is in formation but its executive director is the

⁶⁷ Salud, "Resolución 654 De 22 De Octubre De 2002 Que Aprueba El Código De Ética De Los Servidores Públicos Del Ministerio De Salud." <https://bit.ly/32Ft8U7>

⁶⁸ <https://bit.ly/3sMkD4e>

Top 5 Tobacco Industry Representative	Type (Front Group/ Affiliate/ Individual)	URL
humo/El Capital Financiero		journalist Hitler Cigarruista and is the current editorial director of the daily Capital Financiero and is the newspaper that drives this organization. https://bit.ly/3tOg36H
Agencia de Noticias Panamá	Affiliate	https://bit.ly/32Hz5zP

NEWS SOURCES

Top 5 Newspaper/Dailies	Type (Print/Online)	URL
La Estrella de Panamá	Online	https://bit.ly/3aAo1sw
Crítica	Online	https://bit.ly/3sMjTw3
Panamá América	Online	https://bit.ly/3dLfOnp
La Prensa	Online	https://bit.ly/3tN2nZP
El Siglo	Online	https://bit.ly/3gEtdzt

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