

Costa Rica



Summary of Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The Case of the Mixed Commission Against Illicit Trade has been documented since the first Interference Index in Costa Rica in 2019. This is an inter-ministerial body, representing five ministries, where policies on illicit trade are decided—including tobacco products. Philip Morris International (PMI) executives have been heard in this commission when bills on the regulation of tobacco products have been reviewed. It has been documented how the business sector, which represents the interests of the tobacco industry (TI), has been gaining voice and vote (3 out of 8) since its creation. The Mixed Commission lacks transparency as it does not publicly disclose the minutes, hearings, agreements, and decisions that are made; both on the commission, and on the commission's advisory board.

It was documented that the TI and its representatives were heard in the Social Affairs Commission of the Legislative Assembly during the review of bill drafts to regulate plain packaging and ENDS, ENNDS and heated tobacco products.

Some deputies disproportionately used the motions resource so that the draft bills had a negative opinion in the Commission, prior to being sent for discussion and approval to the plenary of the Assembly. A now-former deputy who openly opposed the bill to regulate ENDS, ENNDS and heated tobacco products became an employee of PMI a few months after the bill was passed.

PMI, importing companies, consumer associations and industry chambers participated in the creation of quality standards for electronic cigarettes led by INTECO, in which some government institutions participated, violating article 5.3 FCTC of the WHO.

2. INDUSTRY CSR ACTIVITIES

PMI funded a project to place butt collectors in places where people can smoke and dispose of their cigarette butts. The butts were collected supposedly for research at a state university on better ways of disposal. This was done while the Legislative Assembly was discussing a bill that declares cigarette butts as special waste, and places the responsibility for their disposal on the manufacturer or importer.

3. BENEFITS TO THE INDUSTRY

The TI still enjoys tax benefits in Costa Rica. Notably an exception is applied to calculate the tax base for the collection of VAT on cigarettes. Travelers can also purchase duty-free cigarettes and tobacco at airports.

Other types of documented benefits include the extension of deadlines for the collection of fines applied during the COVID-19 pandemic to businesses premises that failed to comply with the General Tobacco Control Law. The law that regulates ENDS, ENNDS and heated tobacco products was also created, and assigned a specific tax on these products. More than 12 months have elapsed from the period established for the creation of the regulation of the law, but the regulation is not ready. As such compliance is not monitored, nor is the specific tax created for these products collected.

4. UNNECESSARY INTERACTION

Transparency mechanisms for interaction with the TI are lacking.

5. TRANSPARENCY

No unnecessary forms of interaction were documented, however, the country lacks transparency mechanisms for interaction with the TI.

6. CONFLICT OF INTEREST

It was documented that the now-former deputy who led the opposition to the creation of the bill that regulates ENDS, ENNDS and heated tobacco products joined PMI as head of external affairs for Central America. This happened a few months before the former deputy ended her election period.

7. PREVENTIVE MEASURES

The government is very vulnerable to TI interference because it lacks preventive measures to deal with it. There is no explicit prohibition to reject donations or contributions from the TI, government employees are not required to record interactions, and there is no code of conduct or mechanisms to educate the state system on Article 5.3 FCTC of the WHO.

Recommendations

The government of Costa Rica has made important advances in tobacco regulation that have led to a decrease in smoking prevalence. However, there is still work to be done in the regulation of ENDS, ENNDS, and heated tobacco products, as well as plain packaging, taxation, and illicit trade.

TI interference poses a threat to ensuring an efficient regulatory framework to protect the health of people in Costa Rica. In particular, the government will maintain benefits for the industry and make it easier for the industry to protect its interests if there are no preventive and transparent measures.

The vulnerability caused by the absence of preventative measures against interference is evident. During the observation period, two bills for the regulation of tobacco products passed through the assembly and a regulation for a new specific tax on ENDS, ENNDS, and heated tobacco products was created and implemented. That is, the efforts to advance the regulation generated more occurrences of interference incidence. Consistent with previous reports and findings, the recommendations are:

1. It is necessary to develop a code of conduct with procedural rules for the interaction of government officials with the TI in accordance with Article 5.3 of the WHO FCTC. The National Anti-Tobacco Network has developed a proposal and the Ministry of Health must validate and implement it.
2. There must be a National Tobacco Control Plan that considers within its strategic actions the education of the state system on the WHO FCTC and Article 5.3. (Ministry of Health)
3. It is necessary to establish a mechanism to record the interactions that government officials have with the TI. (Ministry of Health)
4. The Ministry of Health must prepare and implement the Regulations for the Law for the Regulation of Electronic Nicotine Administration Systems (ENDS), Electronic Non-Nicotine Delivery Systems (ENNDS), and Electronic Devices that Use Heated Tobacco and Similar Technologies.
5. The Legislative Assembly must approve the necessary reforms to implement plain packaging of tobacco products.