

Peru

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Summary of Findings

1. Industry participation in policy development

Although Peru has signed the Framework Convention on Tobacco Control (FCTC) and has general laws to regulate transparency, the management of interests in the public administration and contributions to political parties, there is not specific legislation to regulate the interaction of the tobacco industry with public officials and authorities. This has led to acts that we consider to be interference by the tobacco industry, but it does not violate any laws.

Consequently, the Peruvian government could consider offers of assistance from the industry related to the adoption of tobacco control legislative measures and they can receive opinions or comments about the regulations and laws proposed by the Legislative or Executive Branch.

Although the tobacco industry does not participate in any multisectoral tobacco control committee, it is not part of the Peruvian delegation to the Conference of the Parties (COP) either. But it is part of a working group against the illicit cigarette trade together with other public officials.

2. Industry CSR activities

In 2020-2021, there were no public alliances regarding corporate social responsibility (CSR) activities or financial contributions made publicly by the industry. There has been no activity during the COVID-19 pandemic, as has been verified in other countries in the region.

3. Benefits to the industry

There is government tolerance to provide 90 or 180 days to the tobacco industry to adapt the new legal norms; there are also legal regulations which are effective the day after being published—for example, the tax regulations.

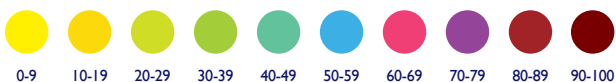
In Peru, there are no privileges or tax exemptions for the tobacco industry. However, during the COVID-19 pandemic, the Economic Reactivation Program was activated and the production of tobacco products was prioritized in Phase 2 over the other economic activities more important to the needs of the population and more relevant to the Gross Domestic Product (GDP).

During the period analyzed, two political parties have presented bills to remove the Ministry of Economy and Finance from the role of regulating the Selective Consumption Tax (ISC) for tobacco products, in order to grant it to the Congress, contravening the actual practice that works correctly.

4. Unnecessary interaction

There is a Working Group against the Illicit Trade of Cigarettes, made up of public officials. The Tobacco Committee of the National Society Industries intervenes in this group. The working group is still in force.

In addition to this working group, there are no other official records of interaction between the tobacco industry and government officials during the period analyzed, not have alliances or agreements been recorded between the government and the industry or its allies; however, this interaction is not expressly prohibited or regulated.



5. Transparency

There is not record of eventual meetings between the government and the tobacco industry during the period analyzed regarding the issue of regulation.

Law No. 28024 that regulates the management of interests in the public administration is a general law and it does not specifically regulate the interaction between the tobacco industry and public officials.

6. Conflict of interest

Law 28094 (Law of Political Organizations) does not allow contributions of companies to political parties. However, the political parties simulate the contributions of the companies, fragmenting them and using individuals as contributors.

There is not record of public officials hired in this period who come from the tobacco industry. We do not have information about public officials and/or family members who have been hired by the tobacco industry in the period analyzed.

7. Preventive measures

The Peruvian government does not have a specific system to disclose registries of interaction with the tobacco industry and its representatives. Law 27806 of Transparency and Law 28024, which regulate the management of interests in the public administration, are general laws.

The Peruvian government has not implemented Article 5.3 of the FCTC in its regulatory framework. For this reason, our legal system does not have express regulation and a clear and direct policy to reject contributions from the tobacco industry, or to control eventual bribes.

Recommendations

1. In order to advance the adoption of tobacco control standards according to the FCTC, it is essential to neutralize the interference of the tobacco industry, which is systematic and constant in Peru.
2. Peru is not a large-scale tobacco-producing country, and most of the cigarettes consumed are imported. It is worrying that the government facilitated the production of tobacco products in the Economic Reactivation Plan during the COVID-19 pandemic (plan to rescue essential economic activities), despite warnings about the danger of smoking regarding the risks associated with the coronavirus. There is also concern about a possible intervention by Congress in tax policies on tobacco products.
3. To avoid these inconsistencies, a renewed tobacco control law is necessary that includes an exclusive chapter about regulating the industry's interaction with public officials and authorities. This legal norm or protocol of conduct must be structured to protect public policies from the vested interests of the industry.
4. In a few months a new government and Congress will start. This is the opportunity to promote and disseminate updated information to the next authorities and their advisers about the impact of smoking on health and the economy, which is aggravated by the presence of COVID-19 and its variants.