

COSTA RICA

2021

TOBACCO
INDUSTRY
INTERFERENCE
INDEX

Introduction

The prevalence of tobacco in Costa Rica has progressively decreased in recent decades. For example, the group of men smokes the most and its prevalence went from 28.6% in 1990, to 18% in 2010, to 13.6% in 2015.¹ However, smoking still causes 2,174 deaths per year (9% of all deaths) and more than 16,000 annual cases of obstructive pulmonary disease (COPD), cancer, heart disease, and other tobacco-related diseases.²

Costa Rica has made important progress in tobacco control and in the implementation of the Framework Convention on Tobacco Control (FCTC) to protect its population from its harmful effects. However, there are still important challenges to strengthen these advances, such as: a) protecting the young and underage population, b) increasing tobacco taxes, c) regulating even more tobacco packaging, advertising, promotion and sponsorship; and d) protect the environment from tobacco waste.³

The tobacco market in Costa Rica is dominated by Philip Morris International and BAT Central America.³ During 2020, the tobacco industry took advantage of the context of the Covid-19 pandemic and limitations in the application of control measures that affected “normalcy”, including the government's ability to control tobacco. For example, it strengthened the level of control of its representatives in the Joint Commission Against Illicit Trade, violated tobacco regulation laws by promoting and advertising iQOS, and positioned a public relations strategy to see itself as an innovative, scientific and technology that seeks the welfare of smokers. All this through interference strategies, favorably misinterpreting scientific evidence and distorting the interpretation of the country's laws.

Faced with this scenario, it is extremely necessary that the Costa Rican government begin to establish transparency mechanisms and preventive actions regarding the interaction of civil servants with the tobacco industry. It is urgent to ensure that each and every government official is aware of the Framework Convention on Tobacco Control and has a code of conduct for interaction with the tobacco industry.

¹ Encuesta Global de Tabaquismo en Adultos Costa Rica, 2015. Ministerio de Salud.

<https://www.binasss.sa.cr/opac-ms/media/digitales/Encuesta%20global%20de%20tabaquismo%20en%20adultos.%20Costa%20Rica%202015.pdf>

² Estimación de carga de enfermedad, carga económica e impacto de los impuestos al tabaco en 8 países de América Latina. IECS. 2020. <https://www.iecs.org.ar/wp-content/uploads/Costa-Rica.pdf>

³ Tobacco in Costa Rica. UN Treaty Body Database. 2016.

https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/CRI/INT_CESCR_CSS_CRI_25039_E.pdf

Summary Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The most serious and symbolic case of interference documented in this report and the previous report (2018-2019) is from the Mixed Commission Against Illicit Trade of the Ministry of Finance or Treasury. This inter-ministerial commission defines the policy and actions taken in relation to the illicit trade in the country, including the illicit tobacco trade.

The three business chambers (AmCham, BritCham and Chamber of Commerce), who represent the interests of the commercial sector, including the tobacco industry; They have gained ground and power in the country's decisions on illicit trade, modifying decrees throughout three government administrations (2010-2014, 2014-2018 and 2018-present). In 2020, they managed to modify a decree to have 3 of the 8 votes within the Commission, as well as the Technical Committee created for this commission.

The work of the tobacco industry and its representatives (the chambers) to occupy this decision space has been calculated and strategic. It even had the assistance and lobby of the Transnational Alliance to Combat Illicit Trade (TRACIT), an organization that is financed by PMI.⁴

The minutes of meetings show that the Commission has addressed issues related to tobacco control, but, in addition, officials from Philip Morris International have been invited to the table. This is a serious breach of the commitment made by the country in the WHO Framework Convention on Tobacco Control, since the signatory parties “*should not accept, support or endorse any offer of assistance, or proposal of legislation or policy for tobacco control, written by or in collaboration with the tobacco industry*”.⁵

The way the government has opened the door to the tobacco industry in the Joint Commission Against Illicit Trade seriously undermines its ability to control tobacco, as the tobacco industry around the world has used the illicit trade as a “workhorse” to block traceability initiatives and tobacco tax increases. The latter is one of the most cost-effective measures to reduce smoking.⁶

2. INDUSTRY CSR ACTIVITIES

The Covid-19 pandemic was a limitation for the tobacco industry to implement its agenda of corporate social responsibility activities. However, the two activities documented in this report responded to two topics of interest to PMI: a) mitigating the impact of smoking as a risk factor for Covid-19 by donating N95 masks to the Costa Rican Social Security Fund and b) positioning itself as an innovative and technological company (marketing characteristics

⁴ TRACIT, grupo financiado por tabacaleras, intenta influir en políticas del control del tabaco. A Diario CR. 2020.

<https://adiariocr.com/nacionales/tracit-grupo-financiado-por-tabacaleras-intenta-influir-en-politicas-del-control-del-tabaco/>

⁵ Directrices para la aplicación del párrafo 3 del artículo 5 del Convenio Marco de la OMS para el Control del Tabaco sobre la protección de las políticas de salud pública relativas al control del tabaco contra los intereses comerciales y otros intereses creados de la industria tabacalera. 2008. https://www.who.int/fctc/guidelines/article_5_3_es.pdf?ua=1

⁶ ¿Por qué necesita proteger el sistema de seguimiento y localización del tabaco de su país de la industria tabacalera y cómo hacerlo?. Stop Tobacco. https://exposetobacco.org/wp-content/uploads/2019/11/Track-and-Trace-Brief_Spanish.pdf

with which iQOS is sold) by supporting a contest aimed at entrepreneurs in the areas of well-being, health and environmental protection in alliance with the National Center for High Technology (CENAT).

3. BENEFITS TO THE INDUSTRY

During the observation period of this report, the granting of new benefits to the tobacco industry was not documented. However, the tax benefits that the government sustains towards the tobacco industry are an example of interference with compliance with the Framework Convention on Tobacco Control.

The government still benefits the tobacco industry by excluding tobacco tax from the tax base for calculating value added tax (VAT). In this way, the government stops receiving about ₡3,200 million a year. This benefit was granted to the industry in a scenario where it has been estimated that the costs of smoking for the country are around ₡300,318 million per year and tobacco tax revenues barely reach ₡27,185 million.⁷

4. UNNECESSARY INTERACTION

No evidence was found that the government had unnecessary forms of interaction with the tobacco industry or its representatives. The context of the Covid-19 pandemic is also a limitation to make these interactions visible.

On the one hand, the control measures for the Covid-19 pandemic limited the holding of social events or those sponsored by the tobacco industry, or the conduct of raids. But on the other hand, spaces such as the Commission Against Illicit Trade and its Technical Committee met virtually during 2020. This mode of communication and operation makes it difficult to identify and document alliances or agreements that are made with the tobacco industry.

5. TRANSPARENCY

The government does not establish any rules or regulations to ensure transparency in interaction with the tobacco industry. Nor does it force the tobacco industry to declare who represents its interests, pressure groups or lobbyists. This regulation is necessary and urgent to limit the efforts of the industry in tobacco control.

We have documented that the tobacco industry uses the country's chambers of commerce to camouflage its actions to undermine efforts to control tobacco, but it is very difficult for civil society to document the lobbying that is exercised in the Legislative Assembly and the Presidency of the Republic.

6. CONFLICT OF INTEREST

The government establishes in the Electoral Code the prohibition of contributions by foreign individuals and national and foreign legal entities to political parties. Regarding the

⁷ Estimación de carga de enfermedad, carga económica e impacto de los impuestos al tabaco en 8 países de América Latina. IECS. 2020. <https://www.iecs.org.ar/wp-content/uploads/Costa-Rica.pdf>

involvement of former officers or relatives of officers holding positions in the tobacco industry, there is no regulation that requires disclosing conflicts of interest.

7. PREVENTIVE MEASURES

The government does not have mechanisms in place to effectively prevent interference from the tobacco industry. The cases of interference that we have documented in this report and the previous one, show that actions such as: a) establishing a mechanism to reveal the records of interactions with the industry, b) the creation and implementation of a code of conduct for officials to interact with the tobacco industry, c) establishing a training program for officials on the Framework Convention on Tobacco Control and d) establishing a policy of rejection of all forms of contribution from the industry, would favor government transparency, make the oversight of civil society and would block the tobacco industry's strategies to weaken tobacco control.

Recommendations

The tobacco industry uses every opportunity it has to strengthen its business activity; even if this implies violating state legislation, weakening the government by interfering with tobacco control policies or creating new products that evade current regulations.⁸

The Costa Rican government has made important advances in tobacco regulation that have led to a decrease in the prevalence of smoking. However, the tobacco industry will implement new strategies to survive as a business: adapting tobacco products, requesting tax privileges, avoiding tax increases or using new forms of virtual communication that arise to position its products in the market.

Carrying out this report for the second time allows us to observe that advances in tobacco control are strongly threatened by interference from the tobacco industry, as long as the government does not implement transparency and preventive measures to deal with the tobacco industry. Derived from the analysis of the indicators in this report and the previous one, our recommendations remain current:

- a) It is necessary to develop a code of conduct with procedural rules for the interaction of government officials with the tobacco industry in light of Article 5.3 of the Framework Convention.
- b) There must be a National Tobacco Control Plan that considers education to the state apparatus on the Framework Convention on Tobacco Control and Article 5.3 among its strategic actions. (Ministry of Health)
- c) It is necessary to establish a mechanism to record the interactions that government officials have with the tobacco industry. (Ministry of Health)
- d) It is necessary to establish a policy to reject the acceptance of any form of contribution or gift from the tobacco industry. (Ministry of Health)

⁸ Tobacco industry success in Costa Rica: The importance of FCTC Article 5.3. Crosbie, E. 2012. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3296364/>

2021 Tobacco Industry Interference Index Results and Findings

	0	1	2	3	4	5
INDICATOR 1: Level of Industry Participation in Policy-Development						
<p>1. The government⁹ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry¹⁰ in setting or implementing public health policies in relation to tobacco control¹¹ (Rec 3.1)</p>	0					
<p>There is no evidence that the government accepted, supported, or received offers of assistance by or in collaboration with the tobacco industry in the establishment or implementation of public health policies in relation to tobacco control during the index observation period.</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>	0					
<p>There is no evidence that the government accepted, supported, or endorsed policies or legislation drafted by or in collaboration with the tobacco industry during the index observation period.</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>						5
<p>In Costa Rica, the tobacco industry generates opinion, influence, lobby and pressure through the trade unions to which it belongs.¹² For example, Philip Morris International (PMI) and British American Tobacco Central America & Caribbean (BAT) are members of the Costa Rican-American Chamber of Commerce (AmCham). The British American Tobacco Central America & Caribbean is a member of the British-Costa Rican Chamber of Commerce (BritCham) and holds the second vice-presidency on the board of directors for the 2020-2022 period. As well, both tobacco companies are members of the Costa Rican Union of Chambers and Associations of the Private Business Sector (UCCAEP).^{13 14}</p>						

⁹ 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

¹⁰ The term, “tobacco industry” includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

¹¹ “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

¹² The New York Times. U.S. Chamber of Commerce Works Globally to Fight Antismoking Measures. 2015.

<https://www.nytimes.com/2015/07/01/business/international/us-chamber-works-globally-to-fight-antismoking-measures.html>

¹³ AMCHAM Costa Rica, directorio de afiliados. <https://www.amcham.cr/miembros/?cn-s=tobacco&cn-cat=>

¹⁴ Cámara de Comercio Británico-Costarricense – Miembros: <https://britchamcr.com/en/home/>

¹⁵ Unión Costarricense de Cámaras y Asociaciones del Sector Empresarial Privado – Cámaras Asociadas <https://www.uccaep.or.cr/index.php/about/camaras-asociadas.html>

It is well documented that the tobacco industry tries to interfere in four government settings: the Presidency of the Republic, the Legislative Assembly, the Ministry of Finance, and the Ministry of Health.¹⁶

One of the most important cases of interference documented in the first Interference Index of the Tobacco Industry in Costa Rica 2019-2020 was that of the Mixed Commission Against Illicit Trade of the Ministry of Finance.

The Commission was created in 2014 by presidential decree No. 38410-MEIC-G-SP-S-H. Its purpose was established in article three "*will be aimed at guiding, advising, coordinating, consolidating and communicating policies, plans, and projects with the different actors of the public and private sector in the fight against illicit trade at the national level.*" The Commission formation was made up of senior officials (Vice Ministers) from five ministries (Economy, Health, Public Security, Agriculture, and Finance) and a prosecutor's office.

In 2016, the government modified decree 38410-MEIC-G-SP-SH to add two members to the Commission: a representative of the Costa Rican Union of Chambers and Associations of the Private Business Sector (UCCAEP) and A representative of the Costa Rican-American Chamber of Commerce (AMCHAM). Furthermore, it was created the Technical Committee of the Commission against Illicit Trade. Two seats were reserved for the representatives of both industry chambers.^{17 18} In this Commission and Committee, the representatives of the Chambers had the right to have an opinion and not to vote on decisions.

In 2020, the government again modified decree 38410-MEIC-G-SP-SH to add a representative of the Costa Rican Chamber of Commerce as a member of the Commission and, also, assigned voice and vote to the members of the three chambers (UCCAEP, AMCHAM, and Commerce). This decision was contested by RENATA and various media. In response, Vice Minister Alejandra Hernández reaffirmed her commitment to keep the Chambers within the Commission. This decision was supported by the ministries of Economy, Agriculture, Health and Security.¹⁹

The Mixed Commission Against Illicit Trade in Costa Rica and other countries is an advocacy space to position tobacco smuggling as a priority issue for the private sector and the government, in the end, it is the "battle horse" used by tobacco companies to oppose the tax increases on tobacco and its derivatives, as an effective measure to reduce consumption.

¹⁶ Crosbie E. At al. El éxito de la industria tabacalera en Costa Rica: Importancia del Artículo 5.3 del Convenio Marco para el Control del Tabaco. (2012) <http://www.rednacionalantitabaco.com/wp-content/uploads/2012/06/El-%C3%A9xito-de-la-industria-tabacalera-en-Costa-Rica.pdf>

¹⁷ Ministerio de Economía, Industria y Comercio de Costa Rica. Decreto N° 38410-MEIC-G-SP-S-H, Creación de la Comisión Mixta Contra el Comercio Ilícito. <http://reventazon.meic.go.cr/informacion/gaceta/2014/mayo/semana03/decreto38410.pdf>

¹⁸ Sistema Costarricense de Información Jurídica. Presidencia de la República. Declara de interés público y nacional la lucha contra el Comercio Ilícito y la creación de la Comisión Mixta Contra el Comercio Ilícito N° 38410-MEIC-G-SP-S-H http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=77288&nValor3=0&strTipM=TC

¹⁹ Justifican cambios en la Comisión de Comercio Ilícito. Diario Extra. 2021.

<https://www.diarioextra.com/Noticia/detalle/442885/justifican-cambios-en-la-comisi-n-de-comercio-il-cito>

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In 2020, the Commission held six ordinary sessions despite the Covid-19 pandemic. At meeting 005-2020 of October 1st, 2020, at point “4. Space to the private sector”, a guest from the private sector not registered in the minute presented the topic: “Draft Law 21.658 - Law of Regulation of Vapers and Electronic Cigarettes and possible impact on illicit trade”. ²⁰ This bill seeks to regulate the trade and distribution of these devices, as well as tax them by 40%. ²¹						
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) ²² (Rec 4.9 & 8.3)		I				
During the observation period, no Conference was held due to the Covid-19 pandemic. However, it is documented that no delegation from the Costa Rican government to the COP has been represented or financed by the tobacco industry or its representatives.						
<p>Eighth Session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control²³</p> <p>Chief delegate: Ms E. Whyte Gomez, Ambassador, Permanent Mission, Geneva, Deputy chief delegate: Mr E. Solis Chacon, Tobacco Control Program Coordinator, Ministry of Health</p> <p>Delegate: Ms M. Muñoz Zumbado, Minister Counselor, Permanent Mission, Geneva Mr A. Peñaranda Zarate, Minister Counselor, Permanent Mission, Geneva Ms D. Murillo Solis, Counselor, Permanent Mission, Geneva Ms M. Castro Hernandez, Counselor, Permanent Mission, Geneva Ms H. Fonseca Zamora, Tobacco control program, Ministry of Health Ms V. Monge Viquez, Adviser, Ministry of Health</p> <p>Seventh Session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control²⁴</p> <p>Mr C. Sánchez Morales, Counselor and Consul, Embassy of Costa Rica in the Republic of India Mr E. Quirós Salazar, Chargé d'affaires a.i., Embassy of Costa Rica in the Republic of India Deputy chief delegate Dr. N. Amador Brenes, Head of the Office of Tobacco Affairs, Ministry of Health of Costa Rica</p>						

²⁰ Ministerio de Hacienda. Comisión Mixta Contra el Comercio Ilícito. Minuta de reunión 006-2020. https://www.hacienda.go.cr/docs/604679bb6a6f5_Minuta%20006-2020.pdf

²¹ LaRepública.Net. Red Nacional Antitabaco pide a diputados gravar cigarrillos electrónicos y no ceder a presiones. 2020. <https://www.larepublica.net/noticia/red-nacional-antitabaco-pide-a-diputados-gravar-cigarrillos-electronicos-y-no-ceder-a-presiones>

²² Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

²³ Organización Mundial de la Salud. Octava Conferencia de las Partes para el Convenio Marco para el Control de Tabaco. 2018. Lista de participantes. https://www.who.int/fctc/cop/sessions/cop8/LOP_Final.pdf?ua=1

²⁴ Organización Mundial de la Salud. Séptima Conferencia de las Partes para el Convenio Marco para el Control de Tabaco. 2016. Lista de participantes. https://www.who.int/fctc/cop7/FCTC_Cover_LOP.pdf

Sixth Session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control ²⁵

Chief delegate

Mr. P.C. Chen Wendorf, Minister-Counselor, Consul General, Embassy, Moscow, Russian Federation

Delegate

Dr. N. Amador, Chief, Strategic Actions Impact Assessment Unit, Tobacco Control focal point, Ministry of Health

Dr. R. Castro, Chief, Unit for Permanent Analysis of the health situation, Surveillance Directorate, Ministry of Health

Fifth Session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control ²⁶

Chief delegate

Dr R. Castro-Córdoba, Chief, Unit for Permanent Analysis of the health situation, Surveillance Directorate, Ministry of Health

Third Conference Of The Parties To The Who Framework Convention On Tobacco Control Delegate ^{27 28}

Delegados (s)

Sr. F. Paredes Valverde, Ministry of Health

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)							
							4
B. The government (its agencies and officials) receives contributions ²⁹ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)							

Due to the Covid-19 pandemic, the amount of CSR activities done by the TI was limited. Philip Morris International and the National Center for High Technology (CENAT) supported an initiative called Open Lab. This initiative is aimed at entrepreneurs who want to develop projects related to well-being, health, and environmental protection. CENAT is a body that belongs to the National Council of Rectors (CONARE) of state universities and operates with a state budget.³⁰

Regarding the contributions (monetary or otherwise) of the tobacco industry, it was documented the donation of 40 thousand N95 masks by Philip Morris International to the

²⁵ Organización Mundial de la Salud. Sexta Conferencia de las Partes para el Convenio Marco para el Control de Tabaco. 2014. Lista de participantes. https://apps.who.int/gb/fctc/PDF/cop6/FCCTC_COP6_DIV1Rev1.pdf

²⁶ Organización Mundial de la Salud. Quinta Conferencia de las Partes para el Convenio Marco para el Control de Tabaco. 2012. Lista de participantes. https://apps.who.int/gb/fctc/PDF/cop5/FCCTC_COP5_DIV1_Rev1.pdf

²⁷ Organización Mundial de la Salud. Cuarta Conferencia de las Partes para el Convenio Marco para el Control de Tabaco. 2010. Lista de participantes. https://apps.who.int/gb/fctc/PDF/cop4/COP4_DIV_Rev1.pdf

²⁸ Organización Mundial de la Salud. Tercera Conferencia de las Partes para el Convenio Marco para el Control de Tabaco. 2008. Lista de participantes. https://apps.who.int/gb/fctc/PDF/cop3/COP3_DIV_2%20Rev2.pdf

²⁹ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

³⁰ Delfino CR. Open Lab abre convocatoria para que nuevos emprendedores desarrollen su negocio. <https://delfino.cr/2021/02/open-lab-abre-convocatoria-para-que-nuevos-emprendedores-desarrollen-su-negocio>

	0	1	2	3	4	5
Costa Rican Social Security Fund (CCSS) in April 2020. ^{31 32} This donation occurred four weeks after Costa Rica notified the first cases of Covid-19 and the shortage of medical supplies was already predicted, especially the N-95 masks intended for front-line personnel. With this action, Philip Morris International cornered the Social Security Fund to receive the donation, altered the dynamics of the market, and positioned itself as a collaborating company. This strategy was necessary for Philip Morris International since it was predictable that a public health recommendation would be to avoid smoking.						
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)	0					
<p>There is no evidence that the government accommodated requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law during the index observation period.</p> <p>The legal and regulatory framework of Costa Rica in tobacco control is as follows:³³</p> <ul style="list-style-type: none"> • General Law on Tobacco Control and its harmful effects on health, March 2012.³⁴ • Regulation to the General Law on Tobacco Control and its harmful effects on health, June 2012.³⁵ • Ministry of Labor, DAJ-D-162-2012. Scope of the law to control smoking in labor relations according to the law and regulation, July 2012. • Ministry of Security, Directive 01-2013 DGFP, Police Action Protocol in the application of the General Law on Tobacco Control and its harmful effects on health. (2013). • International Treaty Illicit Trade Tobacco (2013). • Regulation of Labeling of Tobacco Products and its Derivatives (2013).³⁶ • Ministry of Health, DM5940 -2014, on ratification of the Illicit Trade Treaty (2014). • Vice Ministry of the Presidency, DVMP-FRM-209-2015, on the draft approval of the Illicit Trade Protocol, file 19448. (2015) • Bill to approve the protocol for the elimination of illicit trade in tobacco products, File No. 19,448, This bill was voted on in the Legislative Assembly (2016). 						

³¹ Delfino CR. Philip Morris dona 40 mil respiradores desechables N95 para personal médico de la CCSS. 2020.

<https://delfino.cr/2020/04/philip-morris-dona-40-mil-respiradores-artificiales-n95-para-personal-medico-de-la-ccss>

³² El Mundo CR. CCSS recibe donación de 40 mil mascarillas de la empresa Philip Morris. 2020.

<https://www.elmundo.cr/costa-rica/ccss-recibe-donacion-de-40-mil-mascarillas-de-la-empresa-philip-morris/>

³³ Ministerio de Salud de Costa Rica. Reporte de País. Convenio Marco para el Control de Tabaco de la OMS. 2018.

https://untobaccocontrol.org/impldb/wp-content/uploads/Costa_Rica_2018_report.pdf

³⁴ Sistema Costarricense de Información Jurídica. Ley General de Control del Tabaco y sus efectos nocivos en la salud N° 9028. Asamblea Legislativa De La República De Costa Rica. 2012.

³⁵ Sistema Costarricense de Información Jurídica. Reglamento a la Ley General de Control de Tabaco y sus efectos nocivos en la Salud. N° 37185-S-MEIC-MTSS-MP-H-SP. Presidencia de la república. 2012.

http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=72804&nValor3=89027&strTipM=TC

³⁶ Sistema Costarricense de Información Jurídica. Reglamento de etiquetado de los productos de tabaco y sus derivados. Decreto N° 37778-S. Presidencia de la república. 2013.

http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?param1=NRTC&nValor1=1&nValor2=75275&nValor3=93278&strTipM=TC

	0	1	2	3	4	5
<ul style="list-style-type: none"> Commission for the regulation of the labeling of tobacco products (2018). 						
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)						5
<p>Philip Morris advertised its electronic nicotine administration system iQOS despite the prohibition established by Law 9028 - General Law on the control of tobacco and its harmful effects on health. This company advertised iQOS on the web on at least two social networks and distributed promotional brochures in supermarkets. The Ministry of Health declared that the General Directorate of Health would process health orders for non-compliance with the law. A few weeks later, the Ministry of Health declared that a moratorium had been established on the procedures for the collection of fines resulting from violations of Law 9028 due to the Covid-19 pandemic during.³⁷ In 2021, when the term expired, the Ministry of Health again extended the moratorium time for the collection of fines for non-compliance with Law 9028, in such a way that for 18 months no fine will have been executed against violators of the law.^{38 39}</p> <p>The government still maintains the privilege for international travelers entering Costa Rica, which allows up to 400 cigarettes or 50 cigars or 500 grams of tobacco to be taken from duty-free stores.⁴⁰ Also, the government holds an exemption in which the tax base for the calculation of the sales tax (VAT) does not include the other taxes regulated in the General Law of Control of Tobacco and its Harmful Effects on Health.⁴¹</p>						
INDICATOR 4: Forms of Unnecessary Interaction						
8. Top level government officials (such as President/ Prime Minister or Minister ⁴²) 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)	0					
<p>There is no evidence that top-level government officials met 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 during the index observation period.</p>						
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)	0					

³⁷ Salud tardará siete meses en notificar multa a Philip Morris por promocionar producto de tabaco. Amelia Rueda. 2020. <https://www.ameliarueda.com/nota/salud-aplaza-mayo-multa-philip-morris-producto-tabaco-noticias-costa-rica>

³⁸ Ministerio de Salud prorroga pago de multas a industria tabacalera. A diario CR. 2021. <https://adiariocr.com/nacionales/ministerio-de-salud-prorroga-pago-de-multas-a-industria-tabacalera/>

³⁹ Decreto Ministerial MS-DM-JM-0925-2021. Ministerio de Salud. 2021. <https://adiariocr.com/wp-content/uploads/MS-DM-JM-0925-2021-COBROS-TABACO-Costa-Rica-2021.pdf>

⁴⁰ International Air Transport Association. Costa Rica Customs, Currency & Airport Tax regulations details. 2021. <https://www.iatatravelcentre.com/CR-Costa-Rica-customs-currency-airport-tax-regulations-details.htm>

⁴¹ Ministerio de Hacienda. Impuestos a los productos de tabaco. 2021. <https://www.hacienda.go.cr/contenido/13049-impuesto-a-los-productos-de-tabaco>

⁴² Includes immediate members of the families of the high-level officials

	0	1	2	3	4	5
There is no evidence that the government accepted 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 during the index observation period.						
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.	0					
There is no evidence that the government accepted, supported, endorsed, or entered into partnerships or agreements with the tobacco industry during the index observation period.						
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)						5
The government did not publicly disclose meetings/interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation. We do have information that the Minister of Health met with commerce chambers to discuss restrictions on the Covid-19 pandemic, nonetheless, we cannot confirm if tobacco issues were discussed.						
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)						5
The government does not require rules for the disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf including lobbyists.						
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)		1				
There is no norm to prohibit contributions from the tobacco industry, nonetheless, articles 124 and 125 of the Electoral Code regulate and prohibit contributions from foreign individuals and domestic and foreign legal entities. ⁴³						

⁴³ Tribunal Supremo de Elecciones. Código Electoral, Ley N° 8765 y sus reformas. 2009.
<https://www.tse.go.cr/pdf/normativa/codigoelectoral.pdf>

	0	1	2	3	4	5
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)	0					
Retired or retired senior civil servants were not documented to be part of the tobacco industry. There is no regulation for this matter in Costa Rica, however, there is a bill called "Revolving Doors" or "Law to protect impartiality in the decisions of high officials and public officials" that seeks to identify conflicts of interest when people have exercised professionally in the private sector they aspire to high public positions. This project would restrict any type of labor relation for two years in companies within the scope of competencies, supervision, regulation, or functions of the public office that he or she held. 44						
15. Current government officials and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)	0					
There is no evidence that current government officials and relatives hold positions in the tobacco business including consultancy positions during the index observation period.						
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)					4	
The government has not put in place a procedure for disclosing the records of the interaction with the tobacco industry and its representatives. However, there is a bill with the name of "Law Regulating Lobbying Activities in the Public Administration", which has a favorable opinion of the Legal Affairs Committee of the Legislative Assembly to be discussed in plenary. We saw small progress in the bill's process to become law as was documented in the previous index report. ⁴⁵						
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)						5
The government has not formulated, adopted or implemented a code of conduct for public officials establishing the minimum standards that they must comply with in their dealings with the tobacco industry.						

⁴⁴ Semanario Universidad. PAC plantea proyecto contra conflictos de intereses en nombramientos. 2019.

<https://semanariouniversidad.com/pais/pac-plantea-proyecto-contra-conflictos-de-intereses-en-nombramientos/>

⁴⁵ Semanario Universidad. Ley reguladora de 'lobby' en función pública avanza a plenario con texto nuevo.

<https://semanariouniversidad.com/pais/ley-reguladora-de-lobby-en-funcion-publica-avanza-a-plenario-con-texto-nuevo/>

	0	1	2	3	4	5
Some agencies such as the Ministry of Finance have a Code of Ethics and conduct, however, this does not make any reference to the ministerial relationship with the tobacco industry. ⁴⁶						
The latest report from Costa Rica on the implementation of the Framework Convention on Tobacco Control refers to the intention of the Ministry of Health to implement a Code of Conduct for officials in the 2018-2022 administration. For this purpose, the Ministry committed to holding a workshop with officials and stakeholders to create the Code. There is no evidence of progress in the creation of the code. ⁴⁷						
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)				3		
The government requests some categories of information. For example, the Central Bank of Costa Rica requests production information for the construction of the Monthly Index of Economic Activity to estimate GDP. The tobacco industry is classified in Group C - Manufacturing, definitive regime: Food Products. ⁴⁸ In 2020, Group C, closed with a growth of 2.9% according to the Monthly Index of Commercial Activity (IMAC), while the rest of the industries closed with a decrease of -13.7%. ⁴⁹ The disaggregated Group C information is not publicly accessible. The National Institute of Statistics and Censuses collects information on average household consumption expenditures, including tobacco. ⁵⁰ However, there is no requirement for the tobacco industry to provide information about its market share, marketing expenses, revenue, and any other activity, including lobbying and philanthropy.						
19. The government has a program / system/ plan to consistently ⁵¹ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)						5
The government does not have a program/system/plan to consistently raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines.						

⁴⁶ Ministerio de Hacienda. Código Institucional de Buen Gobierno. 2015.

https://www.hacienda.go.cr/docs/5b0c27aa4c871_CODIGO%20DE%20BUEN%20GOBIERNO.pdf

⁴⁷ Ministerio de Salud de Costa Rica. Reporte de País. Convenio Marco para el Control de Tabaco de la OMS. 2018.

https://untobaccocontrol.org/impldb/wp-content/uploads/Costa_Rica_2018_report.pdf

⁴⁸ Banco Central de Costa Rica. Índice Mensual de Actividad Económica.

<https://gee.bccr.fi.cr/indicadoreseconomicos/Documentos/DocumentosMetodologiasNotasTecnicas/NOTA%20TECNICA%20IMAE%20REFERENCIA%202012.pdf>

⁴⁹ LaRepublica.net. Alimentos, bebidas y tabaco es la única actividad comercial que presenta crecimiento. 2021.

<https://www.larepublica.net/noticia/alimentos-y-bebidas-es-la-unica-actividad-comercial-que-presenta-crecimiento>

⁵⁰ Instituto Nacional de Estadísticas y Censos de Costa Rica. Resultados de la Encuesta Nacional de Ingresos y Gastos de los Hogares. 2018. <https://www.inec.cr/noticia/gasto-de-consumo-promedio-de-los-hogares-es-de-cl575-715-mensuales>

⁵¹ 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.

	0	1	2	3	4	5
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)						5
The government does not have 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.						
TOTAL						48

ANNEX A: SOURCES OF INFORMATION

TOBACCO INDUSTRY ACTIVITY

LOCAL TOBACCO COMPANIES

Top 5 Tobacco Companies/distributors	Market Share and Brands	Source
Tabacalera Costarricense, S. A. (Owned 100% by PMI since April 2018)	Derby, Marlboro, L&M and iQOS	Acquisition: https://www.nacion.com/economia/negocios/filial-de-philip-morris-adquiere-100-de/CTXTONJS65G6TBLVSRALZBD5IM/story/
Mendiola & Compañía, S. A. (Owned 100% by PMI since 1975)	Derby, Marlboro, L&M and iQOS	https://www.nacion.com/economia/negocios/filial-de-philip-morris-adquiere-100-de/CTXTONJS65G6TBLVSRALZBD5IM/story/
British American Tobacco Central América	Kool, Lucky Strike, Pall Mall, Rex, Viceroy	http://www.batcentralamerica.com/group/sites/BAT_AX9FAB.nsf/vwPagesWebLive/DO9T5KFL

TOBACCO INDUSTRY FRONT GROUPS

Top 5 Tobacco Industry Representative	Type (Front Group/ Affiliate/ Individual)	URL
AMCHAM	Commerce Chamber	https://www.amcham.cr/
BritCham	Commerce Chamber	https://britchamcr.com/en/about-us/
Cámara de industrias de Costa Rica	Commerce Chamber	https://cicr.com/
Unión Costarricense de Cámaras y Asociaciones del Sector Empresarial Privado	Commerce Chamber	https://www.uccaep.or.cr/

NEWS SOURCES

Top 5 Newspaper/Dailies	Type (Print/Online)	URL
CRHoy	Online	https://www.crhoy.com/
Repretel	Online	https://www.repretel.com/
Delfino CR	Online	https://delfino.cr/
Teletica	Online	https://www.teletica.com/
La Nación	Print and online	https://www.nacion.com/