

Implementation of smokefree workplaces: challenges in Latin America

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Abstract

Latin America is at the forefront of global progress in smokefree workplaces. Comprehensive smokefree laws have been implemented in four countries, and in many cities, states and provinces. More than 130 million people in Latin America are now protected from secondhand tobacco smoke. Nevertheless, a survey of tobacco control advocates and governments in Latin America found several challenges to progress in smokefree workplaces: the need for voluntary workplace programs where there is no smokefree legislation; weak legislation or lack of comprehensive national smokefree laws; tobacco industry attempts to undermine progress with smokefree laws or overturn existing laws via litigation; lack of compliance with laws; the need for monitoring and evaluation of smokefree laws; the need to make better use of mass media campaigns; and strengthening civil society. However, much progress has already been achieved to address these challenges, in particular through collaborations and the exchange of experience and expertise across Latin America.

Keywords: public policies; legislation; tobacco smoke pollution; tobacco industry; non-governmental organizations; tobacco control campaigns

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Resumen

América Latina está a la vanguardia del movimiento en favor de lugares de trabajo libres de humo de tabaco. Se han implementado leyes integrales de ambientes libres de humo en cuatro países, y en muchas ciudades, estados y provincias. Gracias a la implementación de estas políticas, más de 130 millones de personas en América Latina están ahora protegidas del humo de tabaco ajeno. Sin embargo, existen varios desafíos para un continuo progreso en la implementación de lugares de trabajo libres de humo de tabaco. A partir de una encuesta realizada con activistas y funcionarios gubernamentales de América Latina, se identificaron los siguientes desafíos principales: necesidad de adoptar programas voluntarios en los lugares del trabajo cuando no exista legislación; legislación débil o falta de leyes nacionales integrales de ambientes libres de humo de tabaco; intentos de la industria tabacalera por dificultar el progreso de las leyes de ambientes libres de humo o anular leyes existentes a través del litigio; falta de cumplimiento de las leyes; necesidad de monitoreo y evaluación de las leyes de ambientes libres de humo; necesidad de utilizar más eficientemente las campañas de medios masivos de comunicación; y fortalecimiento de la sociedad civil. No obstante, se ha alcanzado ya un gran progreso para enfrentar estos desafíos, particularmente a través de colaboraciones y el intercambio de experiencias entre los países latinoamericanos.

Palabras clave: políticas públicas; legislación; contaminación por humo de tabaco; industria del tabaco; organizaciones no gubernamentales; campañas para el control del tabaco

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The evidence on the adverse health effects of secondhand tobacco smoke (SHS) is conclusive¹⁻³ and considerable progress has been made to protect people from it.⁴⁻⁶ More than 30 countries have enacted or implemented comprehensive smokefree laws, (see Table I for definitions of terms), and more than 60 countries around the world are planning to adopt them. In the absence of national legislation, many sub-national jurisdictions have introduced comprehensive smokefree laws.⁷ In 2008 alone, almost 160 million people became newly protected by smokefree laws.⁶ This ongoing success has been guided by the World Health Organization Framework Convention on Tobacco Control (WHO FCTC) which by 5 August 2010 had been ratified by 168 countries, covering almost 90% of the world's population. All countries in Latin America have ratified the WHO FCTC except for Argentina, Cuba, Dominican Republic, El Salvador, and Haiti.⁸

Article 8 of the WHO FCTC commits governments to protecting their citizens from exposure to SHS in indoor workplaces, indoor public places, public transport and, as appropriate, other public places (including outdoor public places). All such places must be 100% smokefree (no exemptions), without designated smoking areas or special ventilation or air filtration that the tobacco industry promotes, but which does not fully protect workers or the public from SHS exposure. The core principles of Article 8 implementation guidelines include the following: there is no safe level of exposure to SHS; all people must be protected from SHS; legislation is needed and should be enforced, monitored, and evaluated using adequate resources; civil society should partner with governments to ensure effective implementation; and smokefree laws should be strengthened, if needed.^{9,10}

Article 8 defines a workplace as any place used by people during their employment or work (including voluntary work). Places attached to the workplace, such as corridors and lifts, are included, as are vehicles used for work (Table I). Comprehensive smokefree laws have led to reductions in SHS exposure of up to 90%.⁶ A recent Institute of Medicine (IOM) report concluded that smoking bans reduce the incidence of heart attacks and save lives.³ Furthermore, smokefree workplaces can reduce the number of smokers by up to 4% and reduce overall consumption by up to 29%.¹²

Latin America is at the forefront of global progress in smokefree public places and workplaces.¹³ Four countries have implemented comprehensive national smokefree laws – Uruguay (decree in 2006, made law in 2008), Panama (2008), Colombia (decree in 2008, made law in 2009), and Guatemala (2009). In the absence of comprehensive national laws, progress has also been made at the sub-national level in states and large cities in Argentina, Brazil, Mexico, and Venezuela. As a result, more than 130 million people in Latin America are now protected from SHS.⁴ In addition, Honduras, Paraguay, and Peru have approved comprehensive smokefree national legislation that is expected to be fully implemented in 2010 and 2011. Many other countries and sub-national jurisdictions are working to introduce comprehensive smokefree laws, including Costa Rica, Ecuador, and El Salvador.*

Progress is being made with smokefree workplaces, not only because of smokefree laws. For example, sev-

* Personal communication Eduardo Bianco, Framework Convention Alliance, and Dora Oliva, IAHF.

Table I
GLOSSARY

Comprehensive smokefree laws	Laws that prohibit smoking in all enclosed workplaces and public places, including bars and restaurants, and on public transport. Designated smoking rooms are not allowed, nor is ventilation (see definition below). Places covered by these laws are also known as '100% smokefree'.
Indoor	Also known as 'enclosed'. Defined in the FCTC Article 8 guidelines as any space covered by a roof or enclosed by one or more walls or sides, whether temporary or permanent. No Latin American country currently uses this definition.
Public place	All places accessible to the general public or places for collective use, regardless of ownership or right of access. Definition may vary between jurisdictions.
Smokefree policy	A 100% smokefree environment created either via legislation or voluntary measures.
Smokefree workplace	A workplace that is smokefree either because of national or subnational (e.g., city, province or state) legislation or because of voluntary measures adopted by an organization. In this article it means that the organization is 100% smokefree, with no exemptions.
Ventilation	The use of equipment such as air cleaners, air exchangers, and dilution ventilation to "remove" SHS from an enclosed environment. Ventilation has been promoted by the tobacco industry as part of its strategy to accommodate smokers, but it does not protect people from exposure to SHS. ^{6,11}
Workplace	Defined as any place used by people during their employment, whether paid or voluntary. It includes all places associated with work, including corridors, lifts, stairwells, toilets, and vehicles.

eral large companies, such as Dupont, General Electric, and Pfizer, have implemented smokefree workplaces in Latin America;¹⁴ NGOs in several countries are working with small to medium-sized companies to adopt voluntary smokefree policies; and governments, for example in Argentina, Brazil, and Costa Rica, have been encouraging workplaces to become smokefree.^{*13} This article aims to identify and discuss challenges to continued progress with smokefree workplaces.

Identifying the challenges

The Global Smokefree Partnership (GSP) conducted a survey between January and March 2010 to identify the challenges in implementing smokefree workplaces in Latin America. It consisted primarily of personal communication with key contacts representing 16 countries in Latin America. The majority are tobacco control advocates working for national or international NGOs, but they also included representatives of the Ministries of Health in some countries, university staff, journalists, and a Restaurant and Bar Association. Brief e-mail questionnaires were sent to 39 contacts. Thirty four provided feedback (several of them also provided resources), and more than half were followed up with further correspondence and/or phone calls because additional information was needed. Key web sites and other resources were also consulted. Where possible, issues specific to smokefree workplaces were identified, but the survey responses from many countries addressed issues relating to smokefree workplaces and public places as a whole.

Voluntary smokefree workplaces

In countries where there are currently no comprehensive smokefree laws, or where laws exist in only some subnational jurisdictions, NGOs are working with companies to implement smokefree workplaces on a voluntary basis. In brief, companies are approached and encouraged to adopt a smokefree workplace policy, they are provided with resources and training to become smokefree, and the NGO and company develop a sustaining partnership to ensure that smokefree status is maintained. In many cases, there is a formal certification process for smokefree companies. Also cessation programs are often set up to accompany a smokefree workplace policy.¹⁵

In Costa Rica two members of the National Anti-tobacco Network (RENATA) are active in this area.* The Institute for Alcohol and Drug Dependence (IAFA) runs a national project that promotes the implementation of smokefree private and public institutions, in order to protect the health of workers, customers, and the public. It consists of outreach to companies, raising awareness of the health effects of tobacco use, employee training, cessation support, and a certification process. IAFA supervises and is actively involved in the entire process. Certificates are only issued to workplaces that are 100% smokefree inside and outside their buildings, including company vehicles wherever they are located and employee vehicles once they enter company grounds.† The Ministry of Health runs a similar program and has been certifying smokefree workplaces since 2000. There has been an increased demand from private companies and restaurants in the past two years, and most recently a football stadium has become smokefree.§ In Argentina the National Registry of Smoke-free Institutions and Companies was set up in 2004, and as of February 2010, a total of 868 companies had been registered smokefree, the majority of them having 100 or fewer employees.‡ Aliança de Controle de Tabagismo (ACT) in Brazil has worked with local public attorneys in states without smokefree laws to ensure that employers implement smokefree workplaces, as the latter are legally obliged to provide a healthy workplace.¶ In Paraguay the NGO Vida Saludable is working to promote smokefree universities and hospitals,‡ and in Honduras a project was funded by the Pan American Health Organization (PAHO) to make the National University of Honduras smokefree.∞

Smokefree workplace policies and laws tend to apply to the public arena only, but this does not address the fact that for many women in low-income communities, their primary workplace is their home. It includes paid and unpaid work, such preparing food for

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‡ Personal communication Mirtha Casco, Vida Saludable, Paraguay.

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their families and for sale, and caring for family health. Women who work outside the home tend to work as housekeepers and childminders in other people's homes. A project by Fundación Educación Popular en Salud (EPES) in Chile aimed to address this challenge by working with women from community organizations to educate them on the need to create smokefree workplaces for women.*

The American Cancer Society (ACS) has held workshops for tobacco control advocates interested in assisting businesses becoming smokefree. The most recent – 'Building and Sustaining Relationships with Companies for Smokefree Success' – took place in 2009 and included 15 Latin American tobacco control advocates.¹⁶ The workshops have identified the following challenges to implementing smokefree workplaces: a lack of time and/or interest on behalf of the companies to discuss smokefree workplaces and a lack of appreciation of the benefits that smokefree workplaces provide; companies' belief that smokers' rights will be violated, leading them to suggest smoking areas to accommodate smokers; companies' lack of understanding of the health effects of SHS and belief that ventilation is a solution; and businesses' fear that a smokefree policy will lead to economic losses in bars, restaurants, and other hospitality businesses.¹⁶ Challenges can also be encountered if the NGO does not have a history of working with the company and, therefore, there is a lack of trust or if a major decision maker within a company does not feel that it is a priority for the company to become smokefree. These challenges can be overcome if NGOs prepare themselves for resistance from companies and equip themselves with data to support their arguments, such as the health benefits of smokefree workplaces and the cost-effectiveness and successes of other smokefree companies.

Key lessons learned from smokefree workplace programs are: the importance of planning activities to suit the context and needs of each company; the need for flexibility and creativity when approaching senior management in a company and when implementing the policy; and the importance of framing the smokefree strategy in the context of a healthy workplace.¹⁵

ACS has produced several resources for tobacco control advocates working on voluntary smokefree workplace programs, including "Smokefree-in-a-Box: A Guide for Companies Going Smokefree," which is available in Chinese, English, French, Portuguese, and Spanish.¹⁷

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Compliance, enforcement, and monitoring

When comprehensive smokefree laws are passed, a major challenge for governments and tobacco control advocates is to ensure that they are properly enforced in order to maintain high compliance. An important example of this is in Mexico, where the Mexico City and Mexico federal smokefree laws have been successful overall. However, there have been ongoing challenges in getting businesses to comply, particularly in bars.¹⁸⁻²⁰ In response to compliance problems, smokefree workplace programs have been set up, similar to those described in the 'Voluntary smokefree workplaces' section above. The School of Law at La Salle University ran an ACS-funded training program to enable the creation of smokefree workplaces in the State of Guanajuato.*

The Healthy Workplaces Project, set up by the Consejo Mexicano Contra el Tabaquismo (CMCT) and the Instituto Nacional de Salud Pública (INSP), was implemented in 2009 and certified smokefree workplaces in 65 companies, schools, and health institutions in Mexico City, Cuernavaca, Guadalajara, and Monterrey. A key feature of the program is the training of three promoters per institution who work with their colleagues to ensure that the smokefree workplace continues after the project is completed.²¹ The main obstacle to implementation was companies' lack of time and/or interest in joining the program. They believed they already had effective smokefree policies and did not appreciate the benefits of receiving certification. Some wanted to avoid confrontation with their employees who smoke. Companies that were receptive to the program mentioned motives such as having a healthier workforce or a cleaner workplace.[‡]

In countries such as Panama, where the government allocated only limited resources to promote the comprehensive smokefree law to the public, tobacco control advocates should be prepared to launch public education campaigns to build support for the law and help ensure compliance with it. Advocates should consider conducting targeted outreach to businesses to help them understand the steps they need to take to be in compliance with the law, for example, display 'No smoking' signs, remove ashtrays, take action against individuals not complying with the law, and make sure that tobacco is not sold on-site.

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Monitoring and evaluating the effects of smoke-free laws can be a key challenge for newly smokefree countries and sub-national jurisdictions. Uruguay has conducted several studies that could be replicated in other countries. Through studies on air quality monitoring, the Tobacco Epidemic Research Center (CIET) in Uruguay has found that workplace levels of tobacco smoke decreased by 90% after the introduction of the smoking ban. It also completed a study on the effect of the smoking ban on hospital admissions for heart attacks.* Furthermore, studies have explored public opinion on the health benefits of the smokefree law, the public acceptance of the law, and the extent of violations. One study showed that, compared with Mexican smokers, who at the time did not have a national smokefree law, a much higher percentage of Uruguayan smokers reported smokefree policies in their enclosed workplaces and in restaurants near their homes, reinforcing the effectiveness of comprehensive laws.²² Lastly, CIET has carried out economic impact studies showing no harm to business. The results of these studies can be shown to policy makers and business owners alike to inform them of the positive impact of smokefree laws and counteract efforts from the tobacco industry to overturn or weaken the laws.

Mass media campaigns

Mass media campaigns are an essential part of smoke-free policies, as they help build public awareness of the health effects of SHS and the importance of these policies in reducing SHS exposure.²³ Both paid mass media (e.g., campaign ads aired on television and radio) and earned media (e.g., newspaper articles and television talk shows) can build public support for smokefree laws prior to their implementation and help ensure their successful implementation.^{24,†} For example, mass media campaigns in Mexico City, notably the “Porque todos respiramos el mismo aire” (Because we all breathe the same air) and the “Se respira respeto” (Breathing respect) campaigns increased public support for smoke-free workplaces and the perception that workers have a right to smokefree workplaces.‡ Earned media also was a key part of mass media campaigns in Mexico City, with advocates participating in television and radio debates, writing opinion pieces to counter negative arguments, and framing the need for smokefree laws in terms of

public health.²⁵ A content-analysis study of articles published in 2007 in Mexican newspapers in advance of smokefree legislation found that the majority of them (90%) were either in favor of the law or neutral.²⁶

Other Latin American countries have also used mass media to promote smokefree policies. The main NGO in Panama, the Coalition Against Tobacco Panama (COPACET), was able to work with contacts in the media to generate free publicity for the national smokefree law.* Mass media campaigns in Uruguay have helped to make its smokefree laws effective. The campaigns provided smokers and non-smokers with arguments in favor of smokefree laws that did not stigmatize smokers.²² In Brazil ACT organized successful mass media campaigns supporting smokefree laws in São Paulo and Rio de Janeiro. For example, the São Paulo campaign included 15-minute videos featuring celebrities from the fields of sport, medicine, and television. While paid media often requires resources, tobacco control advocates in Latin America can use earned media strategies with little to no resource expenditure.

Legislation

Weak laws, lack of comprehensive national smokefree laws, and litigation against smokefree air in the legislative process and after implementation are the main challenges to effective smokefree implementation.

Tobacco control advocates in countries that have weak smokefree laws face a particular challenge in urging workplaces to implement and enforce comprehensive smokefree policies. For instance in Chile, workplaces with fewer than 10 employees are exempt from the smokefree law, and restaurants and bars of less than 100m² have the option to allow smoking.⁴ Business owners may be reluctant to implement a smokefree policy that goes beyond this legislation, for fear of having to compete with businesses that do not have comprehensive smokefree policies in place.

Reaching out to and educating bar and restaurant associations has been successful in debunking their misconceptions around the impact of smokefree legislation and circumventing their efforts to oppose it. Once properly informed, bar and restaurant associations can be an ally for smokefree legislation. For example, the support of the bar employers association (i.e., ASOBARES) was critical to the adoption of Colombia’s smokefree legislation.‡ A Mexico City restaurateur group (i.e., CANIRAC)

* Personal communication Eduardo Bianco, Framework Convention Alliance.

† Thrasher J, Huang L-H, Pérez-Hernandez R, Niederdeppe J, Arillo-Santillán E, Alday J. Porque todos respiramos lo mismo: evaluation of a social marketing campaign to support Mexico City’s comprehensive smoke-free law. In press.

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‡ Personal communication Eduardo Bianco, Framework Convention Alliance; Marina Carter, Campaign for Tobacco-Free Kids; Camilo Ospina, ASOBARES, Colombia.

supported comprehensive smokefree legislation, as it felt that weaker legislation allowing designated smoking rooms was unfair on small business owners who could not afford to install them.²⁵

There have been a number of positive movements in smokefree air in Latin America. Many countries with weak smokefree laws, such as Costa Rica and Ecuador, are starting to work towards comprehensive tobacco control legislation,* and tobacco control advocates in Latin American countries with a federal system of government have responded to the lack of national smokefree legislation by introducing comprehensive legislation in sub-national jurisdictions, one-by-one. This local approach has been successful; the province of Santa Fe in Argentina, which became smokefree in 2005 has since been followed by seven provinces and more than 20 municipalities;^{27,28} the states of São Paulo, Rio de Janeiro, Paraíba, and Paraná, as well as some cities, in Brazil;²⁹ Mexico City and the State of Tabasco in Mexico; and the state of Monagas in Venezuela. The success of Mexico City's smokefree law was helped by having a clear strategy for compliance with the law and a willingness to enforce it. Regulations were enacted quickly and public sector buildings were smokefree in order to 'lead by example'. Parallel discussions of the national and city laws were mutually reinforcing.³⁰ This and the Latin American experience in general reinforces how, as in Australia, Canada, and the United States, sub-national smokefree laws can sometimes be easier to develop and implement than national ones.²⁷

The success of smokefree workplaces and other public places in Colombia, Guatemala, Panama, and Uruguay, as well as cities such as Mexico City, is underpinned by comprehensive legislation. Laws that are well drafted with clear definitions are easier to implement and enforce and less likely to be challenged legally, than weak laws with exemptions. They also create a 'level playing field'.

Tobacco industry interference

Latin America is an important market for the tobacco industry, and internal tobacco industry documents have revealed a wide variety of tactics used by tobacco companies in order to prevent effective smokefree legislation since the early 1990s.⁴ They hired consultants, funded research, organized "scientific" meetings, lobbied the media, and influenced policy development. The Environmental Tobacco Smoke (ETS) Consultant Program

recruited well-known scientists and doctors in Latin America to "keep the controversy alive" on SHS and promote the industry's viewpoint. In Argentina in 1992 the industry was successful in having an anti-tobacco law vetoed by the President.^{31,32}

The promotion of weak models of legislation has been a common strategy used by the tobacco industry. Philip Morris International (PMI) has been promoting the weak Spanish smokefree law as a model for other countries to follow. In 2008 it proposed amendments to Guatemala's smokefree bill to "allow business property owners to provide smokers with comfortable areas in which they can smoke".³³ British American Tobacco (BAT) has pursued similar strategies. In Mexico in 2006, before smokefree laws had been adopted, it launched a corporate social responsibility campaign which portrayed SHS as nuisance rather than a major health risk. As part of this campaign, it also relaunched its "Convivencia en Armonía" ("Living in Harmony") Program as an alternative to a comprehensive smokefree law. It promoted "tolerance" and "good manners" and the establishment of smoking designated areas. The program targeted owners of hospitality businesses and presented itself as a response to the "prohibitionist" extremism that could soon affect Mexico.³⁴

The tobacco industry will often utilize various strategies when seeking to undermine, overturn, or delay implementation of smokefree legislation. For example, after comprehensive smokefree legislation was implemented in Santa Fe, Argentina, the tobacco industry introduced a counter-proposal seeking modification of the law, launched a media campaign, created a hospitality industry association and a virtual smokers' rights group, supported a weak national bill that would conflict with the strong sub-national law, and urged a local cafeteria to file a lawsuit against the law, declaring that it was unconstitutional. Tobacco control advocates countered these activities by mobilizing public opinion and encouraging enforcement of the law, but there is still a suit pending in the Supreme Court in Argentina, which questions the constitutionality of the Santa Fe law.²⁷

Smokefree legislation in Brazil, Guatemala, and Mexico has also been challenged under legal grounds. Brazil has experienced delays in passing its national smokefree law⁴ and there are currently four lawsuits in the federal courts from bar and restaurant associations challenging the smokefree laws of Rio de Janeiro, São Paulo, and Paraná.* There have been success stories, however. In Mexico the tobacco industry, through its

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allies, brought a case before Mexico's Supreme Court, declaring that Mexico City smokefree legislation was unconstitutional because it differed from the national law. As a result of media interviews and advocacy by local tobacco control advocates, the case was unsuccessful, and the Mexico City law was upheld.³⁰ In Guatemala a Chamber of Commerce challenged the national smokefree law, but the Supreme Court ruled in favour of keeping the law.*

While none of the legal challenges in Latin America have succeeded thus far in overturning laws, tobacco control advocates, governments, public health practitioners, and healthcare providers must remain vigilant of tobacco industry strategies when planning and implementing comprehensive smokefree laws and understand the legal mechanisms to defend smokefree laws. Workshops for lawyers have been held in Central and South America in 2008 and 2009, and since then, a lawyers' network has been formed that will share information and expertise across Latin America. It will allow lawyers to defend tobacco control laws and FCTC implementation and pave the way for litigation.†

Strengthening civil society

Civil society has a key role to play in the development, implementation, and defense of smokefree workplaces.¹³ Tobacco control advocates can influence the legislative process by highlighting the scientific evidence; pre-empting and rebutting false claims by the tobacco industry aimed at weakening and/or delaying legislation;³⁵ exposing the strategies used by the industry; and educating the media, governments, policy makers, and business leaders on the benefits of smokefree workplaces and public places. In many parts of Latin America civil society is weak and lacks the resources to bring about comprehensive smokefree legislation.¹³ However, there are several resources and examples of success that can help countries and sub-national jurisdictions in the region to meet this challenge (see article by Champagne *et al.* on civil society organizations in this issue).

Outlook

A tipping point has been reached in Latin America, as more and more people are protected by comprehensive smokefree laws in their workplaces and public places. Countries and sub-national jurisdictions with successful

smokefree laws serve as a model for other countries in the region who have made less progress to date, and a culture of 'healthy competition' exists between countries.* Civil society is playing an increasingly important role in advocating, implementing, and monitoring smokefree legislation, and also in organising voluntary smokefree workplace programs where smokefree laws do not exist.⁴ Funding and other resources from international organisations continue to be available, and regional activist networks are both expanding and strengthening.

Although several challenges to implementing smokefree workplaces have been discussed here, none is unique to Latin America, and none appear to be insurmountable. The sharing of expertise and experience across the region, the funding of civil society, and the commitment by governments to implement the FCTC and legislate for smokefree workplaces and public places will be critical to future progress. However, given the tremendous progress made in the region since 2006, when the first Latin American country became smoke-free, and given the global momentum for smokefree workplaces and public places, Latin America is well positioned to one day become 100% smokefree.

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Declaration of conflicts of interest

We declare that we have no conflicts of interest.

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