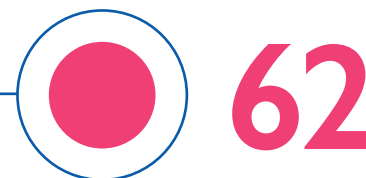


El Salvador



Summary of Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

There was no recorded evidence of tobacco industry (TI) participation in existing laws and regulations. However, as reported in 2021, the ratification of the Protocol for the Elimination of Illicit Trade in Tobacco Products is still pending approval. The legislative discussion of this ratification had the participation of the TI as a third party with interest, and in this discussion the industry expressed several observations regarding the approval of the law as it was presented to the Legislative Assembly.

After that meeting between members of the Assembly and the industry the discussion did not continue and to date, its ratification has not been completed.

In 2022, a meeting between the industry and a senior government official was recorded. A cooperation agreement was signed between both parties to strengthen the public administration of the entire government.

2. INDUSTRY CSR ACTIVITIES

There is evidence of interaction between the TI and government bodies through corporate social responsibility (CSR) activities and through acting as a donor to organizations that support Salvadoran customs. There is also noted engagement by the industry in safety and prevention policies for young people; this is one of the most popular and relevant public policies today.

These forms of intervention allow TI entities and affiliates to indirectly position themselves as an industry that supports the health of the population, reducing the image of the harmful nature of tobacco. It is of special significance that one of the interventions is directed at young people, who may be more vulnerable to this posturing by the TI.

3. BENEFITS TO THE INDUSTRY

El Salvador has maintained a Tobacco Products Tax Law, approved in 2004, which aims to provide additional resources to cover the health care costs of the population due to the consumption of tobacco products. The Law establishes an ad valorem tax on said products to obtain the necessary funds to cover socio-sanitary costs.

The investigation showed that the tax benefits for the TI within the framework of free trade agreements, specifically the North American Free Trade Agreement – NAFTA, are maintained. This allows a commercial advantage in the import and export of tobacco products, which are exempt from the excise taxes.

4. UNNECESSARY INTERACTION

When investigating the interaction of the industry with the public sector, interactions outside what was strictly necessary for the application of regulations or commercial and tax collection of the industry were found.

The interaction of the TI with the government is evident. Directly through business unions, in technical assistance on smuggling issues, and even stronger alliances between the TI and the central government. The scope of these partnerships includes citizen security programs focused on youth, and in broader agreements with the vice presidency of the republic to strengthen the entire public administration - opening more doors of intervention of the industry in the government's governance.

5. TRANSPARENCY

There is little transparency on the interactions between the TI and the state. This is a result of the absence of regulations or transparency mechanisms that require records or reports of these interactions. The interactions that can be evidenced

are those that are publicized by the government or by the industry, however the regulation does not require the recording of all types of meetings or interactions.

In commercial and tax terms, the Tobacco Control Law and the Tobacco Products Tax Law allow the State to collect general information on the participation of the industry in the economic activity of the country; this information does not allow monitoring the participation of the tobacco sector with affiliated organizations and persons acting on their behalf, identifying lobbyists or lobbying agents.

6. CONFLICT OF INTEREST

National regulation related to the financing of political parties is generally deficient, so there are no regulations that prohibit or regulate the contributions of the TI to officials, political parties, candidates, or campaigns.

Despite these, there is no evidence of any current or former high-level civil servants doing direct business with the TI, nor their relatives.

7. PREVENTIVE MEASURES

There is still a lack of regulation and mechanisms to prevent TI interference in the creation of tobacco control policies. There are no laws, regulations or mechanisms for transparency or accountability in meetings between officials and members of the tobacco industry or their representatives; nor is there evidence of the existence of a code of conduct that provides standards of interaction between government officials and the industry.

Recommendations

1. Strengthen the knowledge and information of government agencies about international tobacco control treaties. Knowledge of the effects of tobacco use on public health and international recommendations in terms of actions and regulations for tobacco control will make it possible to sensitize decision makers to the urgency of continuing with the regulation of tobacco in El Salvador.
2. Incorporate the recommendations of the international treaties related to tobacco control (FCTC and Art. 5.3) in the law of Government Ethics. The Government Ethics Tribunal needs to know first-hand the Framework Agreement of WHO Tobacco Control and the application mandate in El Salvador upon ratifying said agreement in 2014; so, the Ethics Court get to apply guidelines of the article 5.3 to avoid the interference of the TI in public policies and discuss the form of application of these guidelines in the different instances governmental.
3. Empower the role of civil society in the fight for tobacco control. Also encourage social organizations to request information regarding government relations with the industry, making use of current laws and respecting their rights to access public information.
4. Strengthen the education and awareness of the population about the damage to health of tobacco consumption, establishing planned and constant educational campaigns. In turn, offer to the government and related entities and civil society training on their own legal framework and regulations given by prestigious organizations such as the UN, train technicians and political decision makers.
5. Avoid unnecessary interactions with the industry. Raising awareness of the public health effects of tobacco includes special handling of industry-government interactions. Messages that suggest this industry as an ally of the government should be avoided, since it deteriorates the coherence of the fight for tobacco control.
6. Establish regulatory frameworks for recording interactions with the industry. El Salvador totally lacks regulations that make government interactions with industry transparent, which facilitates its intervention in hindering tobacco control actions.
7. Reduce the tax benefits of the industry that allow establishing economic incentives for tobacco consumption and that deteriorate the financial capacity of the State to face the negative effects of tobacco use on public health.