

# El Salvador

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## Summary of Findings

### 1. Industry participation in policy development

After the completion of the review, it is not clear that the existing laws and regulations have prevented industry intervention; however, the ratification of the Protocol for the Elimination of Illicit Trade in Tobacco Products, a document completed and submitted to the Legislative Assembly for ratification in 2018, is still pending approval, after verification of the intervention in the legislative discussion.

### 2. Industry CSR activities

With regard to the interaction of the tobacco industry with the government, under corporate social responsibility (CSR) activities organized by the tobacco industry or organizations that represent their interests, the intervention of the industry as a donor of organizations that actively supported the Ministry of Health of El Salvador within the framework of the COVID-19 pandemic was evident.

This allows tobacco companies to be positioned indirectly as industries that support the health of the population, reducing the image of the harmful nature of tobacco.

### 3. Benefits to the industry

El Salvador has a Tobacco Products Tax Act, passed in 2004, which aims to provide additional resources to cover the costs of health care for the population from the consumption of tobacco products. The Act establishes an ad-valorem tax on a specific tax on such products, to obtain the necessary funds to cover social health costs.

In the investigation, tax benefits were evident to the tobacco industry within the framework of free trade agreements (specifically the North American Free Trade Agreement – NAFTA), which allows a commercial advantage in the import phase of the product; also, with the export of such products, which are exempt from excise duties on tobacco incorporated into the aforementioned law.

### 4. Unnecessary interaction

In investigating the industry's interaction with the public sector, interactions were verified outside of what is strictly necessary for the application of regulations or commercial and tax collection of the industry.

There is evidence of tobacco industry interaction with the government, directly or through business unions, in technical assistance on smuggling issues, to the point of jointly launching a technological tool to receive complaints for the fight against smuggling. Such interactions, especially when advertised by the government, provide an image of collaboration between the tobacco industry and the State which reduces the approach and efforts that prevent their interference in the implementation of tobacco control regulations.

### 5. Transparency

There was little transparency regarding the interactions between the tobacco industry and the State. This is a result of the absence of regulations or transparency mechanisms requiring logs or reporting of these interactions.

The Ministry of Finance requires registration of production companies, tobacco manufacturers or importers as part of the procedure for applying the tobacco tax, as regulated in the Tobacco Products Tax Act. In addition, the Ministry of Health requires sale authorization to any natural or legal person in the manufacture, importation, marketing and wholesale distribution of tobacco products, as stipulated in Article 8 of Tobacco Control Law.

## 6. Conflict of interest

National regulation related to the financing of political parties is generally poor, so it is evident that there are no regulations prohibiting or regulating contributions from the tobacco industry to officials, political parties, candidates or campaigns.

Notwithstanding these absences of regulation, no former high-level tobacco industry-related official is documented. However, family relations are documented between tobacco industry representatives and legislative body officials.

## 7. Preventive measures

There is a huge lack of regulations and mechanisms to prevent tobacco industry interference in tobacco control policies. There are no laws or mechanisms of transparency or accountability on meetings between officials and members of the tobacco industry or their representatives; there is also no code of conduct providing standards of interaction between government officials with the industry.

The existing education and awareness-raising programs of public health-related institutions are documented within the framework of the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC). However, this is not a comprehensive policy by the State.

# Recommendations

1. Develop a roadmap for the cross-cutting application of Article 5.3 for the protection of public health policies relating to tobacco control against the commercial interests of the tobacco industry.
2. Approve reforms to the Tobacco Control Act, which are in place to enforce the smoking ban in all indoor public spaces and workplaces.
3. Ratify the Protocol to Eliminate Illicit Trade in Tobacco Products to enable El Salvador to implement measures to reduce losses caused by the illicit tobacco trade while regulating public policy on the issue of smuggling to avoid unnecessary interactions with the industry.
4. Implement the seven recommendations on the implementation measures of the WHO FCTC set out in the document "Investment Case for Tobacco Control in El Salvador," RTI International, 2019; detailed below:
  - a. Increase tobacco taxes to reduce the affordability of tobacco products. (Article 6 of the FCTC); currently for cigarettes, indirect tobacco taxes (including the specific tax, ad valorem and VAT) are approximately 52.5% of the total price, well below the WHO recommendation that it should be at least 75% of the final retail price to the consumer.
  - b. Enforce smoking bans in all closed public and workplaces to protect people from exposure to tobacco smoke. (Article 8 of the FCTC)
  - c. Improve the effectiveness of health warnings on tobacco packets by increasing their size and periodically renewing the contents of the messages. (Article 11 of the FCTC)
  - d. Implement plain packaging of tobacco. (Articles 11 and 13 of the FCTC)
  - e. Enact and enforce a complete ban on all forms of tobacco promotion and sponsorship advertising. (Article 13 of the FCTC)
  - f. Support measures to address dependence and facilitate cessation by training health professionals in short counseling to quit smoking. (Article 14 of the FCTC)
  - g. Establish a free national call line. (Article 14 of the FCTC)



**Tax benefits were evident to the tobacco industry through the North American Free Trade Agreement which allows a commercial advantage in the import-export of the product; export of tobacco products are exempt from excise duties.**

5. Implement Objective 3, which specifically concerns the implementation of the WHO FCTC of the 2030 Agenda for Sustainable Development of the United Nations.
6. Strengthen the National Coordination Mechanism (MCN) formed by the government and civil society, which will be chaired by the Ministry of Health, to coordinate joint actions to control the tobacco epidemic and its adverse consequences in the country.
7. Establish legal regulations governing the relationship of first- and third-tier officials with the tobacco industry, including codes of conduct and strict regulation regarding receiving contributions, gifts or support of any kind that may result in the purchase of wills.
8. Develop a transparency mechanism for interactions to be transparent and monitor state interactions with the tobacco industry so that when it is necessary to develop a working meeting with the industry, the presence of delegates from the National Tobacco Control Commission is ensured.
9. Strengthen the information collection system of the tobacco industry, so that both the public and private sectors make public information on variables that allow monitoring and analysis of the evolution of the problem of smoking in the country, such as:
  - a. Transparent and public access to tax contributions from the tobacco sector to the public to contrast these contributions with the costs in health care related to tobacco use and to have greater monitoring of tobacco market share and its commercial and political influence.
  - b. Publish health sector records regarding the number and type of pathologies treated related to tobacco use.
10. Regulate, through the Political Parties Act, the interactions and contributions of the tobacco industry to parties, candidates and their campaigns; be transparent on the economic interests that support nominations and eliminate the purchase of wills through these financing mechanisms.