

ARGENTINA

2021

TOBACCO  
INDUSTRY  
INTERFERENCE  
INDEX

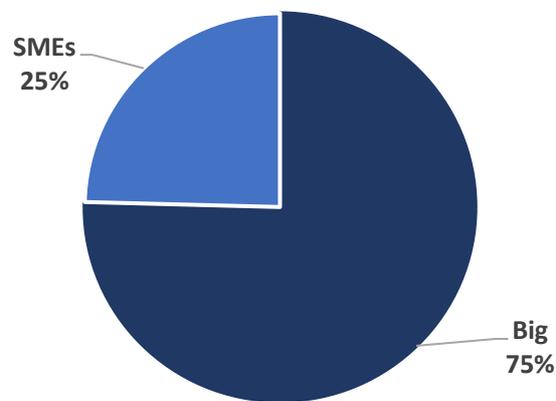
# Introduction

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Argentina has one of the highest rates of tobacco consumption in the Latin American Region, over 22% of the adult population smokes according to the latest National Survey of Risk Factors of the Ministry of Health (2018), while the initiation ages are between 12 and 15 years old. In total, almost 9,000,000 people are affected by smoking and over 47,000 people die from diseases attributable to smoking on an annual basis.<sup>1</sup>

Regarding the market share of the companies in Argentina, the small and medium companies (SMEs) have only a quarter of the sales in comparison with the 75% that holds Phillip Morris International and British American Tobacco together.

**Cigarette market share by size of the company**

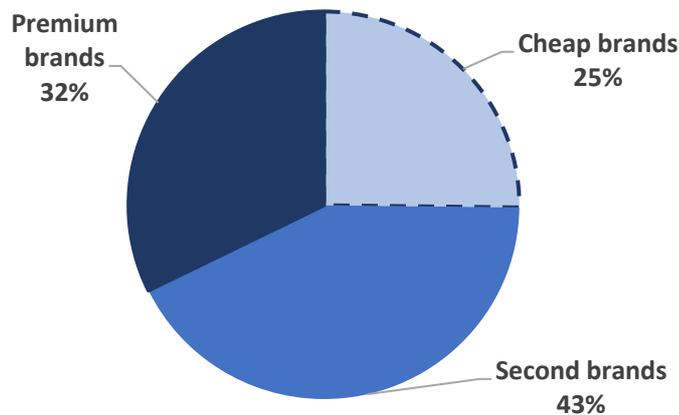


*Source: FIC Argentina based on National Ministry of Agriculture, Livestock and Fisheries.*

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<sup>1</sup> National Institute of Statistics and Census and the Argentine Ministry of Health, 4th National Survey of Risk Factors, 2019. Available at [http://www.msal.gob.ar/images/stories/bes/graficos/0000001659cnt-4ta-encuesta-nacional-factores-riesgo\\_2019\\_informe-definitivo.pdf](http://www.msal.gob.ar/images/stories/bes/graficos/0000001659cnt-4ta-encuesta-nacional-factores-riesgo_2019_informe-definitivo.pdf)

### Cigarette market share by brands



Source: FIC Argentina based on National Ministry of Agriculture, Livestock and Fisheries.

In 2021, the National Tobacco Control Law celebrates 10 (ten) years since its enactment. Although the regulation, at the time, restricted the actions of the tobacco industry through effective policies such as smoke-free spaces and the implementation of health warnings on tobacco packs, it did not fully prohibit the display, advertising, promotion and sponsorship of tobacco products at points of sale. Corporate Social Responsibility actions are also not prohibited, which allows the industry to improve its public image, especially by carrying actions aiming at fostering gender equality, complying with Sustainable Development Goals and supporting children's rights in the tobacco-producing provinces within the current context of economic crisis resulting from the COVID-19 pandemic.

As to transparency and conflict of interest, although the national law was a step forward in the area of the Ministry of Health, strengthened, in turn, by internal regulations; several meetings, training courses and events have been held with the involvement of government officials from different branches, both national and sub-national as well as people working in the tobacco industry, CSR associations and related front groups. The interference by the tobacco industry detected affects the design, planning and implementation of tobacco control policies throughout the country, especially those related to fiscal and taxation policies, and more pressure from the tobacco industry was detected during the current period than in the previous INDEX.

Finally, and despite having signed the World Health Organization's Framework Convention on Tobacco Control in 2003, Argentina has not yet ratified it, also as a consequence of the profound interference by the tobacco industry. Thus, the country is the only state in South America and one of the last few non FCTC parties in the world. This situation not only hinders cooperation actions and international impact by not being able to be part of the COP, for example, but also makes it impossible to enforce the guidelines set forth in Section 5.3 on the protection of public health policies on tobacco control against commercial and other vested interests of the tobacco industry.

Within this context, this report provides information on how the Argentine government acts in relation to the interference by the tobacco industry through a detailed analysis of the

regulations in force and actions carried out by officials. The document is based on publicly available information for the period 2020 - January to March 2021. Compared to the Global Index 2020, Argentina has worsened in many ways in terms of transparency and tobacco control policies since the COVID-19 pandemic. Especially, this research will show that government officials and the TI has met in different opportunities, and different politicians and government agencies, from national and subnational levels, have participated together with non-governmental organizations sponsored by the TI.

A questionnaire developed by the Southeast Asia Tobacco Control Alliance (SEATCA) based on the provisions of Section 5.3 of the FCTC<sup>2</sup> was used and a scoring system was applied to perform the assessment. The score ranges from 0 to 5, where 5 denotes highest level of industry interference and 0 indicates no interference or no interference found. Therefore, the lower the score, the better the country's policies. The information contained in this report will be included in the Global Tobacco Industry Interference Index, a global survey of how public health policies are protected from the industry disruptive efforts and how governments have withstood this influence.

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<sup>2</sup> Assunta, M., & Dorotheo, E. U. (2016). SEATCA tobacco industry interference index: a tool for measuring implementation of WHO Framework Convention on Tobacco Control Article 5.3. *Tobacco control*, 25(3), 313-318.

# Summary Findings

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## **1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT**

The TI has systematically interfered in the design and implementation of tobacco control policies and in the process of ratification of the WHO Framework Convention on Tobacco Control (which Argentina has not ratified yet). However, a good aspect is that the TI is not authorized to be a part of the National Tobacco Control Commission convened by the National Ministry of Health.

## **2. INDUSTRY CSR ACTIVITIES**

Corporate Responsibility Actions are allowed by the Argentinian National Tobacco Control Law. Furthermore, research has shown that different politicians and government agencies, from national and subnational levels, have participated in actions aimed at children and adolescents and women, together with non-governmental organizations sponsored by the TI.

## **3. BENEFITS TO THE INDUSTRY**

The National Executive Branch has not published the new graphic warnings inserted in the time established by the Legislative Branch. This time gap represents a benefit of the TI, since it conducts its activities guided by the previous regulatory framework.

## **4. UNNECESSARY INTERACTION**

The participation of policy makers from national and subnational Executive Branches in events (in person and online) financed by the TI has been verified on diverse opportunities. Furthermore, the TI has provided technical assistance to security forces regarding tobacco products illicit trade.

## **5. TRANSPARENCY**

Argentina does not have a registry of associations or companies related to the tobacco industry. In addition, meetings between government officials and the TI are generally not public: civil society is not invited and the encounters are not properly recorded, this has been worse since the COVID-19 pandemic. However, social media helped keep track of the aforementioned meetings.

## **6. CONFLICT OF INTEREST**

The political parties financing law does not include a prohibition for tobacco companies to contribute money to the campaigns of pre-candidates and candidates for positions in the legislative and executive branches. Also, on several occasions, the transfer of public

officials to the TI has been detected, and former employees from the TI were hired by the government.

## **7. PREVENTIVE MEASURES**

Argentina does not have codes of conduct, plans or systems to discourage the interference of the TI in public policies. The national ministry of health is the only branch of the government that has measures (still partial measures) to prevent the interaction between public officials and the TI in the design of tobacco control policies.

## **Recommendations**

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Compared to the Global Index 2020, Argentina has worsened in many ways in terms of transparency and tobacco control policies. The following recommendations remain necessary to be enacted:

1. The government should develop a Code of Conduct aimed at officials from all branches, including clear and binding guidelines; thus restricting interactions between public officials and the TI. Also, the law on political parties must prevent tobacco companies from financing their campaigns. These actions should be taken together with civil society organizations without conflict of interest.
2. As it has been ten years since The National Tobacco Control Law entered into force, there should be amendments in order to completely ban all forms of tobacco products marketing. These new restrictions should include prohibition of TI's CSR actions and a better system of monitoring and control of effective compliance.
3. The Government should develop a registry of companies and associations linked to the TI. This registry should include information about TI lobbyists, both for the national and subnational levels.
4. The WHO Framework Convention on Tobacco Control should be ratified.

# 2021 Tobacco Industry Interference Index

## Results and Findings

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<b>INDICATOR 1: Level of Industry Participation in Policy-Development</b>						
<p>I. The government<sup>3</sup> accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry<sup>4</sup> in setting or implementing public health policies in relation to tobacco control<sup>5</sup> (Rec 3.1)</p>				x		
<p>Decree 602/2013 regulating the National Tobacco Control Law No. 26,687, created the National Coordination Commission for Tobacco Control, within the scope of the Ministry of Health. Section 2 of the Decree sets forth the public agencies and institutions that are part of the Commission and invites programs or areas of other subnational jurisdictions on the subject and civil society and academic institutions that work in tobacco control duly approved by the Ministry of Health, to become part of the Commission. Therefore, the regulation leaves the tobacco industry out of tobacco control policies within the Ministry of Health.</p> <p>At the end of 2017, the Tax Reform Law was approved in the National Congress, which included a reform to the taxation of tobacco products. Law No. 24.674 affected the rate of Internal Taxes levied on cigarettes with a reduction from 75% to 70%, establishing a minimum tax of \$28, adjustable based on inflation (currently at \$86.58<sup>6</sup>). The reform caused that the cheapest brands in the market and the secondary brands of large companies paid the minimum tax, while the premium brands of bigger companies (British American Tobacco and Philip Morris International (PMI)) had to pay the 70% tax rate, which resulted in a higher monetary value than the minimum. In view of this situation, certain tobacco companies owning the cheap brands took legal action against paying the tax and obtained injunctive reliefs ordering them not to pay the minimum amount, but to pay 70%.<sup>7</sup> Within the framework of one of these court cases, the Federal Public Revenue Administration, the entity representing the National State in said lawsuit, accepted the proposal of Massalin Particulares (PMI national subsidiary) to take part in the case as an interested party.<sup>89</sup></p> <p>On several occasions, the tobacco industry interests are presented to the government by its representatives or allies, convenience store owners and front groups related to the tobacco production chain. For example, during the COVID-19 pandemic lockdown, the Chamber of Convenience Store Owners sent a letter to the President of Argentina, Alberto Fernandez, requesting the resumption of cigarette production, which has been stopped on</p>						

<sup>3</sup> 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

<sup>4</sup> The term, “tobacco industry” includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

<sup>5</sup> “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

<sup>6</sup> General Resolution No. 4257 as amended. Internal Revenue Law, text replaced by Section 1° of Law No. 24 674 Tobacco Industry (Title II - Chapter I); updated amounts of taxes provided for in Sections 15, 16 and 18; March 2021.

Available at: <http://biblioteca.afip.gob.ar/cuadroslegislativos/getAdjunto.aspx?i=12150>

<sup>7</sup> They are Tabacaleras Sarandí, Espert and Tabes SA, which appealed to the Judiciary, alleging, among other reasons, the alleged confiscatory and discriminatory nature of the regulation.

Within this context, different courts granted them injunctive reliefs, which have remained in force over time; therefore, they are not paying the minimum tax. The courts are yet to rule on the merits of the case.

<sup>8</sup> Case 48385/2018 Espert SA against Federal Administration of Public Revenue/ DGI regarding a pretrial hearing; Federal Court No. 7, located in the Autonomous City of Buenos Aires. Federal Administration of Public Revenue document available (in Spanish): <https://cutt.ly/3zhKuY0>

<sup>9</sup> The interested third party is an individual or legal entity that wants to take part in a judicial proceeding because they feel that they are directly affected by the outcome thereof. If the court accepts it, they become entitled to the rights and obligations of any of the parties.

March 20, 2020. The Chamber argued that cigarettes account for 85% of the daily sales of the country's convenience stores and the shortage of this product had a direct impact on the survival of these businesses.<sup>101112</sup> As a consequence of this action, a Decree authorizing the production was published on May 10<sup>th</sup> 2020<sup>13</sup>.

2. The government accepts, supports or endorses <u>policies or legislation drafted by or in collaboration with the tobacco industry.</u> (Rec 3.4)				x		
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As mentioned in Item 1, at the end of 2017, a comprehensive reform to the national tax system that included the amendment of taxes levied on tobacco products was discussed in the National Congress. In the discussion that took place in the Budget and Finance Committee of the Chamber of Deputies, Deputies Luciano Laspina (Santa Fe) and Guillermo Snopek (Jujuy), although they did not directly name the tobacco industry, supported the lowering of the internal tax to 70% using its arguments, explaining that Argentina already has "*one of the highest tobacco tax burdens in the world*".<sup>14</sup> The law was finally passed in response to the interests of TI, since it lowered the tax rate from 75% to 70%.

Through news published since 2018, but especially in 2020, several small and national tobacco companies publicly reported that the tax reform particularly benefited Philip Morris International and British American Tobacco. The argument is based on the fact that lowering the tax rate benefits large companies with the highest tobacco products market share. In turn, small tobacco companies reported different officials for this measure, from former President, Mauricio Macri, to former Secretary of Public Health, Rodolfo Rubinstein.<sup>15</sup>

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)			x			
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As stated in question No. 1, the National Coordination Commission for Tobacco Control of the Ministry of Health is not authorized to invite the tobacco industry to take part in its meetings. The Commission works with the Ministry of Foreign Affairs and Worship; the Ministry of Education; the Secretariat of Programming for the Prevention of Drug Addiction and the Fight against Drug Trafficking; the Secretariat of Environment and Sustainable Development; the Ministry of Agriculture, Livestock and Fisheries; the Ministry of Labor, Employment and Social Security; the Ministry of Economy and Public Finances; the Federal Public Revenue Administration; the Federal Authority of Audiovisual Communication Services; the Superintendence of Health Services; the Superintendence of Labor Risks; the National Institute of Cancer and the National Administration of Drugs, Food and Medical Devices.<sup>16</sup>

Within the framework of the National Congress, the different Commissions that deal with bills the plenary hearing may request the presence of and/or invite to meetings those individuals or institutions they consider necessary within the framework of the subject-matter to be dealt with. Although there is no established procedure for the invitation,

<sup>10</sup> La Nación newspaper, Coronavirus in Argentina: Convenience stores and gas stations could run out of cigarettes shortly, April 15, 2020. Available at: <https://www.lanacion.com.ar/sociedad/coronavirus-argentina-los-kioscos-estaciones-servicio-podrian-nid2354196/>

<sup>11</sup> Info Kioskos<sup>3</sup>, Temporary or permanent? 56,000 convenience stores went out of business since the start of lockdown, June 9, 2020, Available at: <https://infokioscos.com.ar/109959/son-56-000-kioscos-cerrados-desde-el-inicio-de-la-cuarentena.html>

<sup>12</sup> Página 12 newspaper; Half of the convenience stores in the country went out of business; April 07, 2020.

Available at: <https://www.pagina12.com.ar/257909-cerraron-la-mitad-de-los-kioscos-en-el-pais>

<sup>13</sup> Decree 459/2020. Available at: <https://www.boletinoficial.gob.ar/detalleAviso/primera/228958/20200511?anexos=1>

<sup>14</sup> Shorthand version of the Budget and Finance Committee of the Chamber of Deputies meeting, 2017. Available at: <https://www.hcdn.gob.ar/comisiones/permanentes/cpyhacienda/reuniones/vt/vtcom.html?id=642>

<sup>15</sup> Letra P online newspaper; The Court favors foreign tobacco companies to the detriment of local SMEs; News story of March 09, 2020. Available at: <https://cutt.ly/kzm4IPf>

<sup>16</sup> Decree 602/2013. Available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/215000-219999/215486/norma.htm>

approval of the Administrative Secretariat of each Committee who are administrative (non-elected) employees of the Congress is required. The official web pages of the National Chamber of Deputies and Senate were accessed, especially the Health Commissions<sup>1718</sup>, on the one hand, and the Budget and Finance Commissions<sup>1920</sup>, on the other hand, and no meetings or hearings with the tobacco industry were detected.

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) <sup>21</sup> (Rec 4.9 & 8.3)	x					
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Despite having signed the FCTC in 2003, to date the Convention has not been ratified by the National Legislative Branch. Therefore, Argentina is not a member of the COP or its subsidiary bodies. Due to this reason, this item has not been rated.<sup>22</sup>

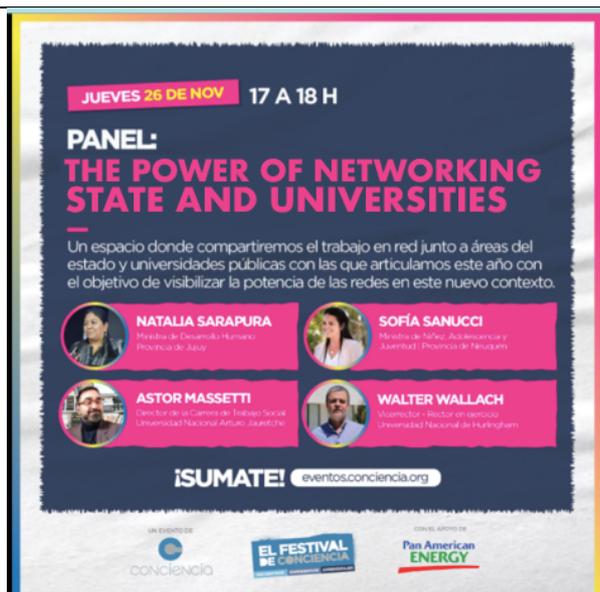
**INDICATOR 2: Industry CSR activities**

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)  B. The government (its agencies and officials) receives contributions <sup>23</sup> (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)						x
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In Argentina, National Tobacco Control Law No. 26687 /11 adopted a broad restriction on the marketing of tobacco products. However, Section 8 of the law expressly establishes that only "*brand sponsorship*" is prohibited, as any form of contribution to any event, activity, individual or entity, public or private, with the purpose or for the purpose of promoting the brand of a tobacco product. Within this context, corporate social responsibility actions, as long as they do not include a product brand name (e.g. "Marlboro"), are not covered by the legal restriction.<sup>24</sup>

In this sense, tobacco industry actions have been monitored and multiple Corporate Social Responsibility (CSR) activities have been discovered. In the case of Asociación Conciencia ("Awareness" Association)<sup>25</sup>, owned by Phillip Morris International, during 2020, it was verified that they carried out different activities, both face-to-face and virtual, with the involvement of government authorities. Alliance One Tobacco Argentina and British American Tobacco Argentina carried out a new edition of the "Brazos Abiertos" (Open arms) program, which seeks to eradicate child labor in tobacco-producing provinces.<sup>26</sup>

<sup>17</sup> National Chamber of Deputies, Committee on Social Action and Public Health, Meetings. 2020 and January-March 2021. Available at: <https://www.hcdn.gob.ar/comisiones/permanentes/casyspublica/reuniones/>  
<sup>18</sup> National Senate, Health Committee, Meetings. 2020 and January-March 2021. Available at: <https://www.senado.gov.ar/parlamentario/comisiones/info/78>  
<sup>19</sup> Letra P online newspaper; The Court favors foreign tobacco companies to the detriment of local SMEs; News story of March 09, 2020. Available at: <https://cutt.ly/kzm4IPf>  
<sup>20</sup> Decree 602/2013. Available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/215000-219999/215486/norma.htm>  
<sup>21</sup> Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>  
<sup>22</sup> United Nations, FCTC status in each country. 2018. Available at: [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IX-4&chapter=9&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IX-4&chapter=9&clang=en)  
<sup>23</sup> political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions  
<sup>24</sup> Law 26.687/2011. Available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/180000-184999/183207/norma.htm>  
<sup>25</sup> CSR Programs. Monday, March 8, 2021. Available at: <https://conciencia.org/nuestros-programas/>  
<sup>26</sup> "Brazos Abiertos" (Open Arms) Program against child labor in Salta and Jujuy, March 3, 2020. Available at: <https://tercersector.org.ar/programa-brazos-abiertos-contra-el-trabajo-infantil-en-salta-y-jujuy/>



Festival of Conciencia 2020 (Awareness Festival). The panel was made up of: Minister Sofía Sanucci of the Ministry of Children, Adolescents and Youth of Neuquén and Minister Natalia Sarapura, Ministry of Human Development of Jujuy.<sup>27</sup>



Members of Asociación Conciencia met with Minister of Social Development of Misiones, Benilda Dammer (first person on the left).<sup>28</sup>

<sup>27</sup> Flyer shared on Asociación Conciencia's Facebook page. November 21, 2020, available at: <https://www.facebook.com/asconciencia/>

<sup>28</sup> Benilda Dammer. January 30, 2020. Available at <https://www.facebook.com/asconciencia/>



Municipalidad de Monterrico

7 January · 🌐

**AGREEMENT WITH THE "VAMOS A ANDAR" (LET'S MOVE FORWARD) FOUNDATION FOR THE "OPEN ARMS" PROJECT.**

Recientemente se celebró la firma de convenio entre la municipalidad de Monterrico y la fundación Vamos a Andar para la realización de actividades destinadas a niños, niñas y adolescentes de La Ovejería en el Tinglado del barrio El Mliagro.

De la misma participaron el Intendente Nilson Ortega, El secretario de Gobierno René Cardozo y la presidenta de la Fundación "Vamos a Andar" Adriana Saccheri.

A través de este convenio se desarrollará en el lugar el programa Brazos Abiertos con el objetivo de fortalecer el derecho de los niños y adolescentes hijos/as de peones rurales tabacaleros de la zona. La actividad será diaria durante los meses de enero y febrero.

El programa contempla un almuerzo y actividades de apoyo escolar coordinado por docentes en grupos reducidos siguiendo todos los protocolos sanitarios dispuestos por el COE de la provincia para 100 niños/as y adolescentes.



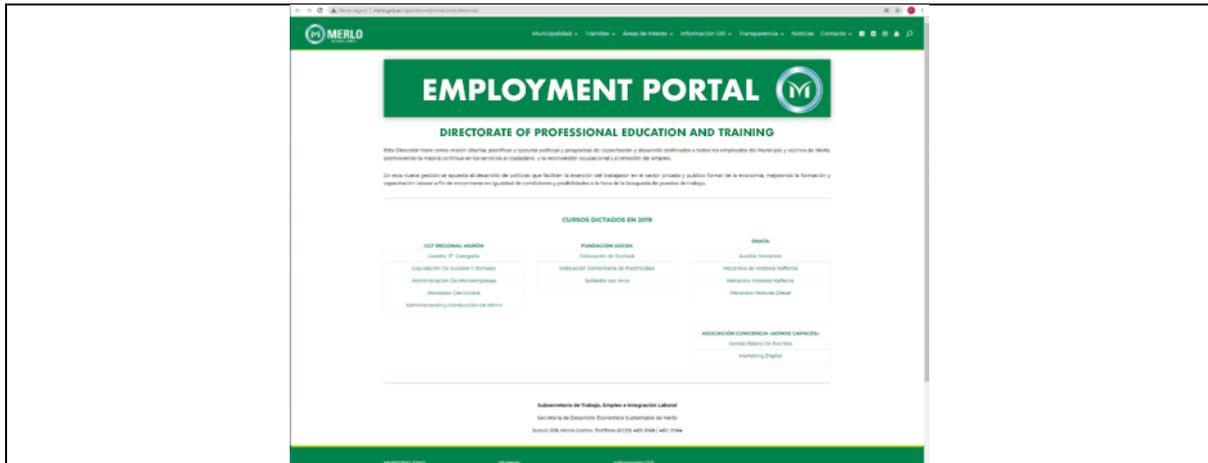
Subscription of the agreement between the "Vamos a Andar" (Let's move forward) Foundation (Adriana Saccheri) and the Municipality of Monterrico, (Mayor Ortega and Secretary Rene Cardozo took part, seated on the right side of the table) on January 7, 2021. <sup>29</sup>

On the other hand, we have found notes where Massalin Particulares (PMI) states that it has modified its businesses to align them with the Sustainable Development Goals (SDGs), so that they are implemented throughout company activities. In particular, the company highlighted its progress in climate actions (SDG 13) as regards the Merlo plant in Buenos Aires.<sup>30</sup> Also during 2020, the company provided meals at the Municipality of Merlo.<sup>31</sup> The Municipality also offers job training courses that are taught by "Asociación Conciencia", an organization funded by Phillip Morris International, within the framework of the "Somos Capaces".

<sup>29</sup> Municipality of Monterrico Facebook page. January 2021. Available at: <https://www.facebook.com/MunicipalidadDeMonterrico/posts/242521057249709/>

<sup>30</sup> Cronista Newspaper; "800, the "magic" number of Argentine companies: what is it all about" Available at: <https://www.cronista.com/responsabilidad/800-companias-locales-se-comprometieron-con-el-desarrollo-sustentable-que-medidas-tomaron/>

<sup>31</sup> Cronista Newspaper; "All Argentine companies lend a hand in the face of the pandemic: what they did to help" <https://www.cronista.com/responsabilidad/como-salir-del-laberinto/>



Municipality of Merlo web portal where training activities are listed (bottom left).<sup>32</sup>

On the other hand, the National Ministry of Labor, Employment and Social Security created the Network of Companies against Child Labor, which is chaired by the highest authority of the National Commission for the Eradication of Child Labor (CONAETI). This network is made up of several private companies<sup>33</sup>, including British American Tobacco, Massalin Particulares (PMI) and the Salta Chamber of Tobacco; the latter two are also members of the Steering Committee of the Network of Companies Against Child Labor.<sup>34</sup>

### 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)				x		
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Although there are several cases when the implementation of tobacco control regulations has been extended, it could not be verify whether it was due to the tobacco industry's request or negligence and/or the State's lack of ability. Either way, when the law is not implemented the tobacco industry benefits. In this context, the following scenario illustrates the above:

At national level, Section 10 of Law No. 26.687 on tobacco control establishes that tobacco products packaging and containers must bear the corresponding health warning, which must be updated every two (2) years at most. On April 1, 2019, the National Ministry of Health published Resolution 623/2019 updating the aforementioned warnings<sup>35</sup>. However, two (2) years after said regulation effective date, the Executive Branch has not yet published the new health warnings in order to comply with the regulation.

On October 9, 2019, the province of Córdoba enacted Law No. 10.661, which modifies the law in force in such jurisdiction to fully prohibit all types of advertising, promotion, display and sponsorship of tobacco products within the province.

<sup>32</sup> Website of the Municipality of Merlo, Province of Buenos Aires. Employment Portal. Available at: <http://www.merlo.gov.ar/capacitacionyformacionprofesional/>

<sup>33</sup> Members of the Business Network, MTEySS, March 16, 2021. Available at: <https://www.argentina.gob.ar/trabajo/trabajoinfantil/redempresas/integrantes>

<sup>34</sup> Official Communiqué for June 12, World Day Against Child Labor [https://www.argentina.gob.ar/sites/default/files/12dejuni020\\_prensa.pdf](https://www.argentina.gob.ar/sites/default/files/12dejuni020_prensa.pdf)

<sup>35</sup> Resolution 623/2019; National Ministry of Health. Available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/320000-324999/321782/norma.htm>

Although the law was published in the provincial Official Gazette on October 30 of that year, to date it has not been regulated.<sup>36</sup>.

7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)

x

The Argentine government grants tax benefits to the tobacco production chain in different ways. One of the most relevant and oldest way is the Special Tobacco Fund (FET), created through National Tobacco Law No. 19.800 in 1972, which, although it is a tax on tobacco products, it actually works as subsidy to production. The FET accounts for approximately 10% of the price of cigarettes (as of December 2020), and, once collected, it is distributed among the tobacco-producing provinces and industries related to tobacco production (including the tobacco industry<sup>37</sup>). At the end of 2020, Law No. 27.591, "National Administration General Budget for Fiscal Year 2021", was enacted, through which the monthly transfer of FET money to the tobacco-producing provinces was automated by applying the corresponding distribution rates, which will be prepared annually taking into consideration the value of production corresponding to each tobacco-producing province. Such action shall be carried out by a Commission made up of one representative from each province, appointed by the most representative chamber or association of tobacco producers in each jurisdiction<sup>38</sup>.

The government and the National Institute of Agricultural Technology have also provided assistance at local level to tobacco producers for the manufacture of handmade cigars and cigarettes, especially in order to set quality standards and protocols for the use of this raw material.<sup>39</sup>

Through the Tobacco Areas Reconversion Program, implemented in the National Ministry of Agroindustry it is possible to find programs aimed at improving or benefiting the tobacco production system. In 2020, for example, an assistance program was approved for tobacco producers who are members of the Association of Independent Tobacco Farmers of Misiones, which provides coverage against climatic damages.<sup>40</sup> On the other hand, in Jujuy, the provincial government created the "Fertilizer and Inputs Pack for Small Tobacco Producers credit" line, an initiative in force since 2017.<sup>41</sup>

In turn, regarding taxes, as explained in Item 1, in December 2017, the National Congress enacted a tax reform that affected the Internal Tax rate on cigarettes with a reduction from 75% to 70% and also establishes a minimum tax that can be updated based on inflation, which is currently \$86.58<sup>42</sup>.

<sup>36</sup> Use this recommended adjustment instead of the "Standard" one listed in the instruction page Cordoba Official Gazette; October 30, 2019; Law No. 10.661. Available at (in Spanish): [https://boletinoficial.cba.gov.ar/wp-content/4p96humuzp/2019/10/1\\_Secc\\_301019.pdf](https://boletinoficial.cba.gov.ar/wp-content/4p96humuzp/2019/10/1_Secc_301019.pdf)

<sup>37</sup> Law No 19.800/1972. Available at: <http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=17440>

<sup>38</sup> Law No. 27.591, "National Administration General Budget for Fiscal Year 2021. Available at: <https://cutt.ly/7zz8gLC>

<sup>39</sup> Website of the Municipality of Goya, province of Corrientes. Available at: <https://cutt.ly/GzPsodB>

<sup>40</sup> Resolution N°10-2021 by the Ministry of Agriculture, Livestock and Fisheries. January 21 2021, Available at: [https://www.magyp.gob.ar/sitio/areas/tabaco/normativa/poa/\\_archivos/000083-Campa%C3%B1a%202020-21/000005-Misiones/000297-Resoluci%C3%B3n%20N%C2%B0%2010-2021.pdf](https://www.magyp.gob.ar/sitio/areas/tabaco/normativa/poa/_archivos/000083-Campa%C3%B1a%202020-21/000005-Misiones/000297-Resoluci%C3%B3n%20N%C2%B0%2010-2021.pdf)

<sup>41</sup> In Jujuy news portal. July 13, 2020. Available at: <https://injujuy.info/nota-principal/ayuditas-que-suman-financiamiento-para-pequenos-tabacaleros-y-extension-de-ayuda-a-entidades-deportivas>

<sup>42</sup> General Resolution No. 4257 as amended. Internal Revenue Law, text replaced by Section 1° of Law No. 24.674 Tobacco Item (Title II - Chapter I); updated amounts of taxes set forth in Sections 15, 16 and 18; March 2021. Available at: <http://biblioteca.afip.gob.ar/cuadroslegislativos/getAdjunto.aspx?i=12150>

As regards the entry of tobacco products into Argentina, according to the Customs Code, travelers may enter the country without paying any duty or special tax: One carton of 200 cigarettes if entering from Chile, Bolivia, Paraguay, Brazil and Uruguay and 20 cigars, if coming from any other country, two cartons of 200 cigarettes each and up to 50 cigars.

INDICATOR 4: Forms of Unnecessary Interaction					
8. Top level government officials (such as President/ Prime Minister or Minister <sup>43</sup> ) 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)					x

During 2020, on two (2) occasions, representatives of British American Tobacco (BAT) met with officials of the Federal Public Revenue Administration. In January 2020, officials Silvia Brunilda Traverso, General Director of Customs and Jorge Diego Arguindegui, Manager of Government Affairs<sup>44</sup>, took part in the hearing with BAT, while in September of the same year, Juan Capello, Deputy General Director of Technical Institutional Coordination, Arguindegui, in this case, as Director of External Relations, and Jose Antonio Bianchi, Deputy Director General of Collection, took part in the hearing.<sup>45</sup> BAT spoke about the effects of the tax reform on cigarettes and the precautionary measures presented by other firms in court to avoid paying the fixed component of internal taxes.

In the case of tobacco company Massalin Particulares (Philip Morris International), in March 2020, its representatives met with Silvia Boni, head of the Directorate for the Management of Assessments and Monitoring of Health Products, and Norma Belixán, Coordinator of Technical Management of the National Administration of Drugs, Food and Medical Devices (ANMAT).<sup>46</sup>

At the beginning of 2021, a meeting was held between the Secretariat of the Interior, the Ministry of the Interior, Pedro Pascuttini, President of the Argentine Federation of Tobacco Producers, Martos German Horacio, director of the Jujuy Chamber of Tobacco, Rupnik Samardzich Hector Francisco, President of Salta Tobacco Cooperative and Estrada, undersecretary of Relations with Provinces of the Ministry of the Interior.<sup>47</sup>

In Misiones, the Minister of Agriculture and Production, Sebastián Orioabala, visited the stockpiling points of Alliance One Tobacco Company as part of the beginning of the tobacco stockpiling campaign for the current year.<sup>48</sup>

<sup>43</sup> Includes immediate members of the families of the high-level officials

<sup>44</sup> Ministry of the Interior; Registry of Interest Management Hearings; Meeting between British American Tobacco and AFIP; January 30, 2020. Available at: <https://audiencias.mininterior.gob.ar/audiencia?id=25307>

<sup>45</sup> Ministry of the Interior; Registry of Interest Management Hearings; Meeting between British American Tobacco and AFIP; September 17, 2020. Available at: <https://audiencias.mininterior.gob.ar/audiencia?id=24002>

<sup>46</sup> Response by the National Administration of Drugs, Food and Medical Devices to the Request for Access to Public Information made by FIC Argentina. 2021. Available (in Spanish) at <https://cutt.ly/Dzg5aiK>

<sup>47</sup> "Lepere talked with representatives of the North Western and North Eastern tobacco sector", February 10, 2021. Available at: <https://www.argentina.gob.ar/noticias/lepere-dialogo-con-representantes-del-sector-tabacaleros-del-noa-y>

nea#:~:text=De%20la%20reuni%C3%B3n%20participaron%20Pedro,Cooperativa%20de%20Tabaco%20de%20Salta.

<sup>48</sup> "Tobacco stockpiling is in force in Misiones", March 31, 2021. Available at: <https://misionesonline.net/2021/03/31/tabaco-acopio-misiones/>

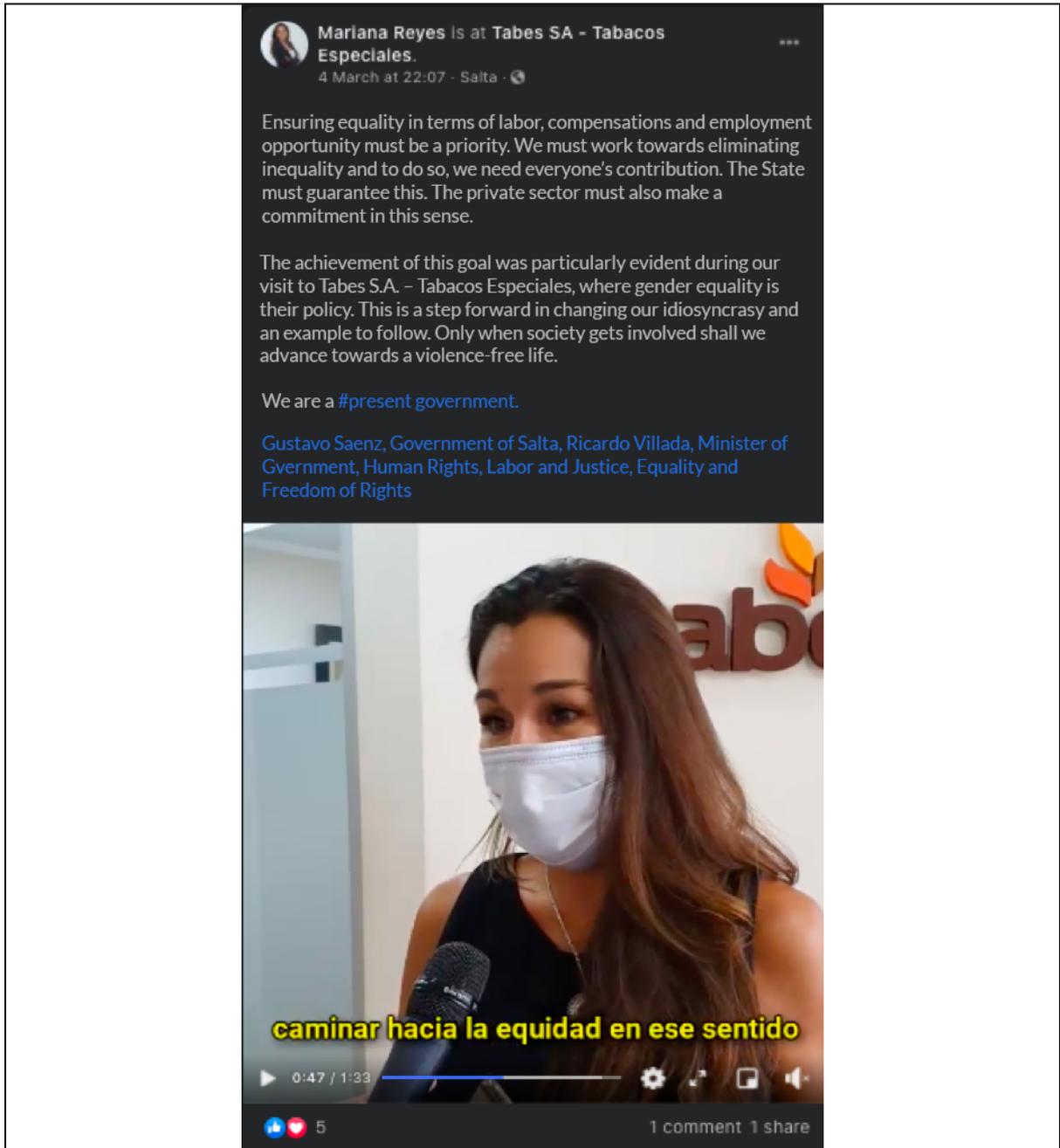


The Minister of Agriculture and Production of Misiones, Sebastian Oriezabala (second person on the left) at the facilities of tobacco company Alliance One.

Finally, in March 2021, the Secretary of Human Rights of Salta, Mariana Reyes, visited the facilities of a provincial tobacco company, Tabes S.A. The purpose of the visit was to organize future face-to-face training on gender issues for company employees.<sup>49</sup>

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<sup>49</sup> Página 12, "A tobacco company with gender perspective" March 23, 2021. Available at: <https://www.pagina12.com.ar/331215-una-tabacalera-con-perspectiva-de-genero>



Post in the official Facebook page of the Secretary of Human Rights, Mariana Reyes, where she shares a video of her visit to the Tabes S.A. tobacco facilities on March 4, 2021.<sup>50</sup>

<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)</p>						x
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It has been detected that organizations linked to the tobacco industry, such as the Argentine Civil Anti-Piracy Association and the Argentine Confederation of Medium-sized Companies (CAME), have held training sessions on the illegal sale and trademark fraud of tobacco products that were attended by government officials.

<sup>50</sup> Facebook page of the Secretary of Human Rights, Mariana Reyes, March 4, 2021. Available at: <https://www.facebook.com/watch/?v=263317272028236>



NOTE: This must <u>not</u> involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.						
<p>Through Philip Morris International's IMPACT<sup>56</sup> grant program, a PMI global initiative in support of projects devoted to combating illegal trade and related crimes, National Gendarmerie (a national security force under the Ministry of National Security) won a US\$1,500,000 project.<sup>57</sup></p> <p>The project is basically the creation of a Center for Analysis and Research, Command and Control in the fight against organized crime and illegal activities in the Brazil-Paraguay-Argentina Triple Frontier Area, in the city of Puerto Iguazú (Argentina). The Center will focus on combating and investigating crimes such as human trafficking and exploitation, drug trafficking, organized crime, money laundering, counterfeiting and other economic crimes.<sup>58</sup> The attached information was provided by the Security Force itself, through a request for access to public information.<sup>59</sup></p> <p>In 2020, the first bids were made and an invitation for a coordinated visit of the facilities in the City of Puerto Iguazú was sent through the following email: proyectopmi@gendarmeria.gob.ar.<sup>60</sup></p>						
<b>INDICATOR 5: Transparency</b>						
I I. 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)				x		
<p>Although the areas of government have a site (<a href="https://audiencias.mininterior.gob.ar/">https://audiencias.mininterior.gob.ar/</a>) where the agenda is posted publicly, the details of the meetings are not always accessible or the information on meetings of all agencies is not disclosed. Although two (2) meetings were held with tobacco company British American Tobacco during 2020 (see item 8 for more information), the meeting held by Silvia Boni, Head of the Directorate for the Management of Assessments and Monitoring of Health Products, and Norma Belixán, Coordinator of Technical Management, of the National Administration of Drugs, Food and Medical Devices (ANMAT) with representatives of Massalin Particulares on March 28, 2020 is not included.<sup>61</sup></p> <p>At the subnational level, meetings between public authorities and representatives of tobacco companies and/or Chambers of Tobacco have also been detected.<sup>62,63</sup></p>						

<sup>56</sup> PMI Impact. 2018. Available at: <https://pmi-impact.com/>

<sup>57</sup> PMI Impact, Selected projects: Second round of funding.. Available at: <https://www.pmi-impact.com/Funding/secondfundinground>

<sup>58</sup> National Gendarmerie; Public Report 2018. Available at: <https://prensagendarmeria.gob.ar/descarga/rec/informes/Informe-publico-institucional-2018.pdf>

<sup>59</sup> Response of the Argentine National Gendarmerie to the Request for Access to Public Information made by FIC Argentina. 2019. Available (in Spanish) at: <https://n9.cl/x6qm>

<sup>60</sup> Official Gazette of Argentina. Public Bidding 18/2020 - Argentine National Gendarmerie. May 8, 2020. Available at: <https://www.boletinoficial.gob.ar/detalleAviso/tercera/2258248/20200508>

<sup>61</sup> Response of the National Administration of Drugs, Food and Medical Devices to the Request for Access to Public Information made by FIC Argentina. 2020. Available (in Spanish) at <https://cutt.ly/Dzg5aiK>

<sup>62</sup> Official press page of the Government of Jujuy. "Coordinated actions are planned to strengthen the tobacco production sector" October 19, 2020. Available at: <https://cutt.ly/ZxyR2jM>

<sup>63</sup> Official press page of the Government of Jujuy "Steps will be taken to reduce the tax rate on tobacco exports" January 27, 2020. Available at: <https://prensa.jujuy.gob.ar/2020/01/27/iniciaran-gestiones-para-reducir-porcentaje-de-impuesto-a-la-exportacion-del-tabaco>



Meeting on January 27, 2020 between the Governor of Jujuy (in the center), National Senator Silvia Giacoppo and representatives of China Tabaco Internacional Argentina.



The Governor of Jujuy, Morales (seated in the center, in the background), together with the Minister of Economic Development and Production, Exequiel Lello Ivacevich (seated to the Governor's left), received an executive of the Jujuy Tobacco Chamber on October 19, 2020 (Pedro Pascutini, director of the Jujuy Tobacco Chamber first from left).

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)						x
In Argentina, there are no binding rules or regulations for the disclosure and/or registration of related entities, affiliated organizations and/or persons acting on their behalf, including those lobbying for the tobacco industry.						
<b>INDICATOR 6: Conflict of Interest</b>						
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)						x
The Political Parties Financing Law No. 26.215 (as amended) does not include a prohibition for tobacco companies to contribute money to the campaigns of pre-candidates and candidates for positions in the Legislative and Executive Branches. <sup>64</sup>						
On the other hand, the Anticorruption Office has a National Registry of Gifts and Presents, where all gifts given to public officials by private individuals can be seen, and gift from the Vice President of Massalin Particulares to Marco Juan Lavagna, Director of the National Institute of Statistics and Censuses in December 2020 <sup>65</sup> has been found.						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)			x			
Guillermo Jenefes, former National Senator and former Vice Governor Jujuy, a self-proclaimed tobacco producer, at the time of debating the National Tobacco Control Law in 2011, has protected the interests of such production during his terms of office. <sup>666768</sup>						
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)			x			
Two officials were detected at sub-national level: on the one hand, in the Autonomous City of Buenos Aires it was found that the Undersecretary of Administration of the Ministry of Health since 2018, was previously employed in British American Tobacco for 7 years (2009-2016) <sup>69</sup> ; on the other hand, in Salta it was found that the current legislator Esteban Amat is a tobacco producer, using his position to defend the interests of the production value chain. <sup>70</sup>						
In turn, in one of the legal cases initiated by national tobacco companies (see Item 1), the plaintiff requested that the Supreme Court Judge Carlos Fernando Rosenkrantz be excused from deciding on the lawsuit, since his daughter works						

<sup>64</sup>Law No. 26.215/2007. Available at: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/120000-124999/124231/texact.htm>

<sup>65</sup> Anti-Corruption Office; Register of Gifts and Presents; Detailed information on the gift from the Vice President of Massalin Particulares to Marco Juan Lavagna, Director of the National Institute of Statistics and Census; December 23, 2020. Available at: <https://www.argentina.gob.ar/anticorruptcion/obsequiosyviajes/6577878>

<sup>66</sup> National Chamber of Deputies, Discussions on Laws 24.001 to 27.000, Law No 26.687. 2017. Available at: <https://cutt.ly/8xyTljm>

<sup>67</sup> Somos Jujuy Newspaper, "Tobacco production is an essential activity for the development of the province". 2018 Available at: <https://cutt.ly/bxyTfzY>

<sup>68</sup> Government of Jujuy, Official Gazette No. 103 - 08/09/2017. Available at: <http://boletinoficial.jujuy.gob.ar/?p=71445>

<sup>69</sup> Nicolas Montovio, LinkedIn Profile. 2020. Available at: <https://cutt.ly/1xyTbwZ>

<sup>70</sup> Noticias Agropecuarias Newspaper, "Two hail storms devastated the tobacco crops in the Lerma Valley". 2018. Available at: <https://www.noticiasagropecuarias.com/2018/01/10/dos-granizos-arrasaron-tabaco-cultivado-valle-lerma/>

for the law firm representing Philip Morris International, as this would be a conflict of interest<sup>71</sup>. On February 25, 2021, the Court accepted Rosenkrantz's recusal.<sup>72</sup>

#### 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)			x				
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Any organization and/or person taking part in a National Commission called for within the scope of the National Ministry of Health must to sign and submit to the authority of the convening body a Conflict of Interest Statement. The Resolution defines as conflict of interest the labor, financial and/or economic relationship that the signatory has had and/or has with companies which main activity, whether actual and/or perceived, is the manufacture and/or commercialization of tobacco products. Affidavits must be made public on the Ministry of Health's website<sup>73</sup>.

The last time these statements were signed was in 2017. Although in 2020 the Ministry of Health did not call for meetings due to the COVID19 pandemic, the Ministry has not requested the subscription of said statements.<sup>74</sup> This obligation applies only to the Ministry of Health, and not to other governmental entities.

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)							x
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There are no codes of conduct for public officials that set forth the standards they must abide by in their dealings with the tobacco industry.

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)					x		
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The information requested from the tobacco industry by the State is as follows:

Advertising: Decree No. 602/13, which governs the National Tobacco Control Law, sets forth in its Section 6, subsection C, the annual obligation of manufacturers and importers of tobacco products to submit to the Ministry of National Health a report stating and detailing all advertising or promotion actions undertaken in the previous fiscal year. However, during 2020, Massalin Particulares (PMI) did not submit the required documentation on advertising for the years 2018 and 2019, and sent it only in 2021, at the request of FIC Argentina. To date, such fault has not yet been punished by the National Ministry of Health.<sup>75</sup><sup>76</sup>

<sup>71</sup> Telam, "Rosenkrantz is asked to step aside in a case involving tobacco companies" July 28, 2020. Available at: <https://cutt.ly/JxyTR7g>

<sup>72</sup> Court Case 8093/2018 TABACALERA SARANDI SA vs. AFIP-DGI REGARDING A PRETRIAL HEARING 03.2018; Incident: 008093/2018/1; Acceptance of the recusal of Judge Carlos Fernando Rosenkrantz; 02/25/2021. Available at: <https://cutt.ly/XzMAjWB>

<sup>73</sup> Ministry of Health, Resolution 768/2018. Available at: <https://www.boletinoficial.gob.ar/detalleAviso/primera/197737/20181212>

<sup>74</sup> Response of the Ministry of Health to the Request for Access to Public Information made by FIC Argentina. 2021. Available (in Spanish) at: <https://cutt.ly/mzhoQEI>

<sup>75</sup> Response of the Ministry of Health of the Nation to the Request for Access to Public Information made by FIC Argentina on Massalin Particulares advertising in 2018. 2021. Available (in Spanish) at: <https://cutt.ly/OznFyZD>

<sup>76</sup> Response of the Ministry of Health of the Nation to the Request for Access to Public Information made by FIC Argentina on Massalin Particulares advertising in 2019. 2021. Available (in Spanish) at: <https://cutt.ly/xzmrHtD>



## ANNEX A: SOURCES OF INFORMATION

### TOBACCO INDUSTRY ACTIVITY

#### LOCAL TOBACCO COMPANIES

Top 5 Tobacco Companies/distributors	Market Share and Brands	Source
Tabacalera Sarandi	Red Point; West; Master; Nevada;	<a href="https://www.tabacalerasarandi.com.ar/">https://www.tabacalerasarandi.com.ar/</a>
Espert	Melbourne; Milenio; Viceroy;	<a href="https://espertsa.com.ar/">https://espertsa.com.ar/</a>
De Loren S. A.	Melbo; Clon; Paisanito; Pi Silver;	<a href="http://www.deloren.com.ar/">http://www.deloren.com.ar/</a>
Massalin Particulares S.A. (Philip Morris International)	Marlboro; Philip Morris; Chesterfield; Benson & Hedges; Virginia; Next Box	<a href="https://www.pmi.com/markets/argentina/es">https://www.pmi.com/markets/argentina/es</a>
British American Tobacco Argentina	Lucky Strike; Camel; Rothmans; Pall Mall; Dunhill Fin	<a href="http://www.batarargentina.com/">http://www.batarargentina.com/</a>

#### TOBACCO INDUSTRY FRONT GROUPS

Top 5 Tobacco Industry Representative	Type (Front Group/ Affiliate/ Individual)	URL
Unión de Kiosqueros de la República Argentina	Front group	<a href="http://ukraweb.org.ar/">http://ukraweb.org.ar/</a>
Chambers and associations of tobacco producers in the tobacco-producing provinces: Salta, Jujuy, Misiones, Corrientes, Catamarca, Tucumán and Chaco.	Front groups	<p>Salta <a href="https://www.ctsalta.com.ar/">https://www.ctsalta.com.ar/</a></p> <p>Jujuy <a href="https://www.facebook.com/pages/category/Tobacco-Company/C%3%A1mara-del-Tabaco-de-Jujuy-1969848569920906/">https://www.facebook.com/pages/category/Tobacco-Company/C%3%A1mara-del-Tabaco-de-Jujuy-1969848569920906/</a></p> <p><a href="http://www.ctj.com.ar/SelectLanguage.aspx">http://www.ctj.com.ar/SelectLanguage.aspx</a></p> <p>Misiones <a href="http://aptm.org.ar/">http://aptm.org.ar/</a></p> <p>Corrientes</p>

		<a href="http://www.cooptabacaleractes.com.ar/index/index.php">http://www.cooptabacaleractes.com.ar/index/index.php</a>
Argentine Anti-Piracy Association and Argentine Confederation of Medium-Sized Companies (Confederación Argentina de la Mediana Empresa)	Front group	<a href="http://www.antipirateria.org.ar/">http://www.antipirateria.org.ar/</a> y <a href="https://www.redcame.org.ar/">https://www.redcame.org.ar/</a>
Asovape Argentina	Individual	<a href="https://vapear.org/">https://vapear.org/</a>
Vapeate Esta	individual	<a href="https://www.youtube.com/channel/UCkkUBPxJZCNtXFcPNGb108Q">https://www.youtube.com/channel/UCkkUBPxJZCNtXFcPNGb108Q</a> y <a href="https://www.vapeate.com.ar/">https://www.vapeate.com.ar/</a>

#### NEWS SOURCES

Top 5 Newspaper/Dailies	Type (Print/Online)	URL
Infobae	Online	<a href="https://www.infobae.com/">https://www.infobae.com/</a>
La nación	Print/Online	<a href="http://www.lanacion.com.ar">www.lanacion.com.ar</a>
Clarín	Print/Online	<a href="http://www.clarin.com">www.clarin.com</a>
Página 12	Print/Online	<a href="https://www.pagina12.com.ar/">https://www.pagina12.com.ar/</a>
Ambito Financiero	Print/Online	<a href="https://www.ambito.com/">https://www.ambito.com/</a>