

ARGENTINA

2020

TOBACCO  
INDUSTRY  
INTERFERENCE  
INDEX

## Background and Introduction

The tobacco epidemic in Argentina affects almost 9,000,000 people. The latest National Survey of Risk Factors (conducted by the National Ministry of Health) showed that 22.2% of the adult population consumes tobacco and that more than 44,000 people die annually from tobacco-related diseases<sup>1</sup>.

In 2011 the National Tobacco Control Law was enacted. It limited the actions of the tobacco industry with certain effective policies, such as the implementation of health warnings. However, the norm did not establish a complete ban on advertising, promotion and sponsorship of tobacco products. Corporate Responsibility Actions (CSR) are a clear example of how the tobacco industry (TI) takes advantage of legal loopholes on the current regulation. In recent years several agreements between tobacco companies and different government agencies, both national and sub-national, have been detected especially in programs aimed at children and adolescents.

Despite of the progress achieved regarding public policy for transparency and conflict of interest, the TI still interferes with the design, planning and implementation of tobacco control policies throughout the country, especially with tax-related policies.

Finally, even though Argentina has signed the World Health Organization's Framework Convention on Tobacco Control (FCTC) in 2003, it has not ratified it yet, being the only country in South America in this situation. This circumstance makes it difficult to develop cooperation and international advocacy actions. For example, Argentina cannot be part of the Conference of the Parties (COP). Furthermore, the non-ratification makes it impossible to put into practice the Guidelines of Art. 5.3 on the protection of tobacco-related public health policies against the TI's commercial and other created interests

This report provides information on how the government is responding to interference from the tobacco industry. It is based on publicly available information for the period 2018 - 2019. It uses a questionnaire developed by the Southeast Asia Tobacco Control Alliance (SEATCA) based on FCTC Article 5.3 Guidelines.<sup>2</sup> A scoring system is applied to make the assessment. The score ranges from 0 - 5, where 5 indicates the highest level of industry interference, and 1 is low or no interference. Hence the lower the score, the better for the country. The information contained in this report will form part of the Global Tobacco Industry Interference Index, a global survey of how public health policies are protected from the industry's subversive efforts, and how governments have resisted this influence.

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<sup>1</sup> National Institute of Statistics and Censuses and National 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)

<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

### 1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The TI is not authorized to be a part of the National Tobacco Control Commission convened by the National Ministry of Health. However, the TI has systematically interfered in different governmental levels through lobbying actions, affecting the design and implementation of policies and the process of ratification of the WHO Framework Convention on Tobacco Control (which Argentina has not ratified yet).

### 2. INDUSTRY CSR ACTIVITIES

Corporate Responsibility Actions are not banned by the Argentinian National Tobacco Control Law. Furthermore, research has shown that different government agencies, both at the national and sub-national levels, have participated in actions aimed at children and adolescents, together with non-governmental organizations sponsored by the TI.

### 3. BENEFITS TO THE INDUSTRY

The Executive Branch, on its different levels, does not regulate tobacco control laws in the time established by the Legislative Branch. This time gap generally represents a benefit for the TI, since it conducts its activities guided by the previous regulatory framework. Regarding taxation, the 2017 Reform led to a decrease in the taxes to be paid by this sector.

### 4. UNNECESSARY INTERACTION

The participation of key actors from the National Executive Branch in events financed by the TI has been verified on different occasions. Furthermore, the TI has provided technical assistance to security forces regarding tobacco products illicit trade. These actions were conducted in the framework of an agreement signed by the National Ministry of Security.

### 5. TRANSPARENCY

Argentina does not have a registry of associations and companies related to the tobacco industry, nor a registry of lobbyists. On the other hand, meetings between government officials and the TI are generally not public: civil society is not invited and the encounters are not properly recorded.

### 6. CONFLICT OF INTEREST

On several occasions, the transfer of public officials to the TI has been detected. At the same time, people from the TI were hired by the Government. These movements are commonly known as “revolving doors”. In turn, records have been found on presents that the TI makes and that are accepted by public officials.

### 7. PREVENTIVE MEASURES

The Argentinian State does not have codes of conduct, plans or systems to discourage the interference of the TI in public policies. Only the National Ministry of Health takes measures (still partial measures) to prevent the interaction between public officials and the TI in the design of tobacco control policies. The Government periodically requests information from the TI, regarding marketing, sales and ingredients of its products.

## Recommendations

Although Argentina has made great progress regarding tobacco control and transparency policies, the following recommendations remain necessary to be enacted:

1. The government, together with conflict of interest-free civil society organizations, 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.
2. The National Tobacco Control Law should be modified, in order to completely ban tobacco products advertising, promotion and sponsorship. These new restrictions should include TI's CSR actions and a system of monitoring and control of effective compliance.
3. A registry of companies and associations linked to the TI should be developed. This registry should include information about lobbyists, both for the national and subnational levels.
4. The WHO Framework Convention on Tobacco Control should be ratified.

# Argentina Tobacco Industry Interference Index

## Results and Findings

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<b>INDICATOR 1: Level of Industry Participation in Policy-Development</b>						
1. 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)		X				
<p>Regarding regulations, the Argentinian Executive Branch passed Decree 602 in 2013. It created the National Commission on Tobacco Control, which operates within the scope of the National Ministry of Health. Article 2 of the Decree establishes the members of the different Ministries that will be part of the Commission. The norm also invites all relevant tobacco control areas of subnational jurisdictions, civil society organizations and academic institutions working on the issue to join the Commission. The Decree leaves the tobacco industry out of tobacco control policies within the scope of the Ministry of Health<sup>6</sup>.</p> <p>In June 2018, the Director of Legal and External Affairs of British American Tobacco met with representatives of the Ministry of Health to discuss the regulations applicable to new electronic products<sup>7</sup>. In response, the Ministry stated that the objective and independent scientific evidence does not show that these new products are less harmful to health than conventional tobacco products, so they will continue to be prohibited<sup>8</sup>.</p> <p>It must be highlighted that the interests of the tobacco industry are sometimes communicated to the Government by its representatives or allies, such as farmers associations, small retailers (<i>kiosqueros</i>) or front groups related to the tobacco production chain.</p>						
2. The government accepts, supports or endorses <u>policies or legislation drafted</u> by or in collaboration with the tobacco industry. (Rec 3.4)				X		
<p>By the end of 2017, the National Congress discussed a tax reform that included changes for the tobacco products taxes. During the discussion held in the Budget and Treasury Committee of the House of Representatives, tobacco taxation was addressed. In this Committee, Representatives Luciano Laspina (Santa Fe Province) and Guillermo Snopek (Jujuy Province) supported a reduction of the internal taxes to 70% using tobacco industry arguments (although they did not explicitly mention tobacco companies). They stated that Argentina already has “<i>one of the highest tax burdens of the world</i>”. The law that was finally passed supporting the tobacco industry interests, since it reduced internal taxes from 75% to 70%<sup>9</sup>.</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, overseas study tour

<sup>6</sup> Decree 602/2013. Available: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/215000-219999/215486/norma.htm>

<sup>7</sup> Unique Registry of Interest Management Hearings. Available online

at: <https://audiencias.mininterior.gob.ar/buscar?q=british%20american%20tobacco>

<sup>8</sup> Resolution 3226/11. Available: [http://www.anmat.gov.ar/boletin\\_anmat/mayo\\_2011/Dispo\\_3226-11.pdf](http://www.anmat.gov.ar/boletin_anmat/mayo_2011/Dispo_3226-11.pdf)

<sup>9</sup> Shorthand version of the meeting of the Budget and Finance Commission of the National Chamber of Deputies. 2017. Available: <https://www.hcdn.gob.ar/comisiones/permanentes/cpyhacienda/reuniones/vt/vtcom.html?id=642>

In 2018, according to news releases, several tobacco companies publicly denounced that the tax reform especially benefits Philip Morris International (PMI). They argued that the reduction in the aliquot benefits as it concentrates the market. Small tobacco companies called the measure "the Massalin reform", alluding to the national subsidiary of PMI.<sup>10 11</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 mentioned in Question No. 1, the National Commission for Tobacco Control that works within the scope of the National Ministry of Health is not allowed to invite the tobacco industry to join its meetings. The Commission works along with the National Ministry of Foreign Affairs, International Trade and Worship; the National Ministry of Education; the Programming Secretariat for the Prevention of Drug Addiction and the Fight against Drug Trafficking (SEDRONAR); the Ministry 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 Administration of Public Income (AFIP); the Federal Authority for Audiovisual Communication Services; the Superintendence of Health Services; the Superintendence of Occupational Risks; the National Cancer Institute and the National Administration of Medicines, Food and Medical Technology (ANMAT)<sup>12</sup>.

Health Committees of the National Congress may request the presence and/or invite to its meetings whoever they consider relevant. The Representatives that form those Commissions are also able to invite people from civil society to participate. Although there is no established procedure for making the invitations, they must all be approved by the Administrative Secretariat of each Commission (these offices are formed by public officers that are not elected by popular vote). After reviewing the official websites of the House of Representatives, the Senate, the Health Commissions<sup>1314</sup> and the Budget and Treasury Commissions<sup>1516</sup>, no meetings nor audiences with the tobacco industry were spotted.

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>17</sup> (Rec 4.9 & 8.3)	X					
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Although Argentina signed the FCTC in 2003, it has not been ratified by the National Congress yet. Therefore, the country is not a member of the COP or any subsidiary organization. That is why this point was not qualified.<sup>18</sup>

**INDICATOR 2: Industry CSR activities**

<sup>10</sup> La Nación newspaper, The tax reform opened a crack between tobacco companies. 2017. Available: <https://www.lanacion.com.ar/economia/la-reforma-tributaria-abrio-una-grieta-entre-las-empresas-tabacaleras-nid2090778>

<sup>11</sup> Decree 602/2013. Available: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/215000-219999/215486/norma.htm>

<sup>12</sup> Decree 602/2013. Available: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/215000-219999/215486/norma.htm>

<sup>13</sup> National Chamber of Deputies, Commission of Social Action and Public Health, Meetings. 2017 and 2018.

Available: <https://www.hcdn.gob.ar/comisiones/permanentes/casyspublica/reuniones/>

<sup>14</sup> National Chamber of Senators, Health Commission, Meetings. 2017 and 2018.

Available: <https://www.senado.gov.ar/parlamentario/comisiones/info/78>

<sup>15</sup> National Chamber of Deputies, Committee on Budget and Finance, Meetings. 2017 and 2018.

Available: <https://www.hcdn.gob.ar/comisiones/permanentes/cpyhacienda/reuniones/>

<sup>16</sup> National Chamber of Senators, Committee on Budget and Finance, Meetings. 2017 and 2018.

Available: <https://www.senado.gov.ar/parlamentario/comisiones/info/54>

<sup>17</sup> Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

<sup>18</sup> United Nations, state of the FCTC in each country. 2018. Available: [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)

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>19</sup> (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)						X
<p>In Argentina, the National Tobacco Control Law No. 26687/11 established wide restrictions for tobacco products marketing actions. However, Article 8 of the norm only bans “<i>brand sponsorship</i>”, which is understood as all forms of contribution to any activity, action, natural or legal person, public or private, for the purpose of promoting the brand of a tobacco product. In this sense, corporate social responsibility actions, as long as the brand of a product is not included, are not reached by the legal restriction<sup>20</sup>.</p> <p>In this framework, it has been detected that the tobacco industry (TI) develops Corporate Social Responsibility (CSR) activities through civil society organizations. On one hand, Philip Morris International work together with “Asociación Conciencia”<sup>21</sup>. On the other hand, British American Tobacco together with “Vamos a Andar Foundation” develop their projects<sup>22</sup>.</p> <p>We have detected that governmental agencies support social programs at all levels (national, provincial, municipal).<sup>23 24 25 26</sup> At a national level, we have detected alliances with the National Ministries of Education and Labor, the Secretary of Children, Adolescents and Family (under the authority of the National Ministry of Development), the National Commission for the Eradication of Child Labor, the Network of Companies Against Child Labor. At a provincial level, actions were detected with areas of the Government of the province of Salta, such as the governor himself, the Ministry of Education and the Ministry of Culture and Tourism. At the municipal level, supports have also been detected in Chicoana and El Carril (Salta Province), Monterrico (Jujuy Province), Tigre (Buenos Aires province), among others.</p>						

<sup>19</sup> political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

<sup>20</sup> Law 26.687/2011. Available: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/180000-184999/183207/norma.htm>

<sup>21</sup> Tiempo Argentino Newspaper, “NGO of landowners and Uatre gain influence in the educational system”. 2017.

Available: <https://www.tiempoar.com.ar/nota/ong-de-terratenientes-y-uatre-ganan-influencia-en-el-sistema-educativo>

<sup>22</sup> Filo News, World Day Against Child Labor: How to combat it? 2017. Available: <https://www.filo.news/actualidad/Dia-Mundial-Contra-el-Trabajo-Infantil-Como-combatirlo--20170612-0032.html>

<sup>23</sup> La hora de Salta (newspaper), The “Porvenir NOA” program contributed to prevent child labor in Salta and Jujuy for 14th consecutive year. 2017. Available: <http://www.lahoradesalta.com.ar/2017/02/10/porvenir-noa-contribuyo-prevenir-el-trabajo-infantil-en-salta-y-jujuy-por-14o-ano-consecutivo/#.XrWfBGhKiM8>

<sup>24</sup> Sustainable Vision, “Against child labor at NOA”. 2018.

Available: <https://www.visionsustentable.com/2018/06/01/contra-el-trabajo-infantil-en-el-noa/>

<sup>25</sup> Salta Government; More than 1,200 children participated in Programs aimed at the eradication of child labor. 2018.

Available:

<http://www.salta.gov.ar/prensa/noticias/mas-de-1200-ninos-participaron-de-programas-destinados-a-la-erradicacion-del-trabajo-infantil/57047>

<sup>26</sup> InSalta, More than 1,000 children from rural areas are included in programs to eradicate child labor in Salta. 2018.

Available: <https://insalta.info/y-ademas/mas-de-1-000-ninos-de-zonas-rurales-estan-incluidos-en-programas-para-erradicar-el-trabajo-infantil-en-salta>



Porvenir NOA contribuyó a prevenir el trabajo infantil en Salta y Jujuy por 14º año consecutivo

In 2017, Juan Manuel Urtubey, Governor of Salta (in the photo: third from left) participated in the event of the “Porvenir NOA” program, developed by Asociación Conciencia, with the support of Massalin Particulares, PMI.

### 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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There are different cases in which the implementation of tobacco control measures has been extended. It was not possible to verify if it was due to the TI request or if it was the government's negligence and/or lack of capacity.

In this framework, we have two examples:

First, the national tobacco control law No. 26,687, in its Art. 10 states that health warnings must be renewed in a period not exceeding two (2) years, nor less than one (1) year. However, the last update was made in 2015, through the Ministerial Resolution 2236/2015, to be implemented in 2016 (the previous rounds were in 2012 and 2014)<sup>27</sup>. Therefore, health warnings that should have been issued in 2018 were not implemented in the corresponding period, allowing TI to continue using the previous ones.

Second, on December 15, 2017, the province of Tierra del Fuego passed Law No. 1203, which completely bans all types of advertising, promotion and sponsorship of tobacco products in the provincial territory. Despite the fact that the law grants the National Executive Branch ninety (90) days to regulate it, it took 307 days for the Decree to be published<sup>28 29</sup>.

<sup>27</sup> Ministry of Health, Resolution 768/2018. Available:

<https://www.boletinoficial.gob.ar/detalleAviso/primera/197737/20181212>

<sup>28</sup> Tierra del Fuego, Law 1203. 2017. Available: <http://www.legistdf.gob.ar/lp/leyes/Provinciales/LEYP1203.pdf>

<sup>29</sup> Fundación Interamericana del Corazón Argentina, Tierra del Fuego regulated the first provincial law that includes a ban on the display of tobacco products. 2018. Available:

<https://www.ficargentina.org/tierra-del-fuego-reglamento-la-primera-ley-provincial-que-incluye-la-prohibicion-de-exhibicion-de-productos-de-tabaco/>



7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)						X
<p>The Argentinian government grants tax benefits to the tobacco production chain in different ways. One of the most relevant and oldest is the Special Tobacco Fund (FET), created by the National Tobacco Law No. 19,800 in 1972. Although it constitutes a tax on tobacco products, in reality works as a production subsidy. The FET represents 9% of the taxes on cigarettes, and, once collected, is distributed among the tobacco provinces and sectors related to tobacco production (including the tobacco industry)<sup>30</sup>.</p> <p>On the other hand, through the Program for Tobacco Areas Reconversion that operates in the National Ministry of Agroindustry programs have been developed to improve the tobacco production system. In this framework, in 2018, the President inaugurated irrigation works to improve tobacco production<sup>31</sup>.</p> <p>Likewise, in terms of internal taxes, in 2016 the Internal Tax rate on tobacco cigarettes was increased (by means of Executive Decree number 626/16). It was increased from 60% to 75%, which generated a rise in prices and tax collection, with a drop in cigarette consumption. In December 2017, the National Congress passed a tax reform (Law 24,674) that once again affected this rate with a reduction from 75% to 70%, also establishing a minimum tax of \$ 28 that can be updated for inflation (currently at \$ 56.98).</p> <p>In addition, according to the Customs Code, travellers can enter Argentinian territory, without paying a tariff or special tax: A carton of 200 cigarettes and 20 cigars if they come from Chile, Bolivia, Paraguay, Brazil and Uruguay. If they come from any other country: two cartons of 200 cigarettes each and 50 cigars.<sup>32 33</sup></p>						
<b>INDICATOR 4: Forms of Unnecessary Interaction</b>						
8. Top level government officials (such as President/ Prime Minister or Minister <sup>34</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
<p>We have detected the participation of high government officials and TI representatives in different events: an event developed by International Transparency where the TI participated as a panellist<sup>35</sup>; a Polo event (financially supported by the TI)<sup>36</sup>, and the “Asociación Conciencia” 2017 and 2018 annual events (organization financed by Philip Morris International).<sup>37 38</sup></p>						

<sup>30</sup> Law 19800/1972. Available: <http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=17440>

<sup>31</sup> The City, President Macri inaugurated works for the productive reconversion of the Salta tobacco area. 2018. Available: <https://laciudadavellaneda.com.ar/presidente-macri-inauguro-obras-la-reconversion-productiva-del-area-tabacalera-salta/>

<sup>32</sup> Customs Code, Decree 1001/1982. Available: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/25000-29999/27273/norma.htm>

<sup>33</sup> Santa Fe, Customs. 2018. Available: <http://www.unl.edu.ar/santafe/index.php/aduana.html>

<sup>34</sup> Includes immediate members of the families of the high-level officials

<sup>35</sup> La Nación newspaper, What companies and the government propose to eradicate corruption. 2018. Available: <https://www.lanacion.com.ar/economia/que-proponen-empresas-gobierno-erradicar-corrupcion-nid2178835>

<sup>36</sup> Letter P, Michetti, the trophy that was not, *Pancho* knows about the game and *the Colorado* returns. 2017. Available: <https://www.lettrap.com.ar/nota/2018-12-17-17-46-0-michetti-y-el-trofeo-que-no-fue-pancho-sabe-va-al-nacion-y-vuelve-el-colorado>

<sup>37</sup> Infobae; 90 photos of the annual dinner "The Night of Conscience 2018". 2018. Available: <https://www.infobae.com/vidriera/2018/05/22/90-fotos-de-la-cena-anual-la-noche-de-conciencia-2018/>

<sup>38</sup> Infobae newspaper. "The 60 best photos of the night of Conscience". 2017. Available: <https://www.infobae.com/vidriera/2017/05/23/las-60-mejores-fotos-de-la-noche-de-conciencia-2017/>



2018 International Transparency Debate on corruption: Marc Firestone, General Counsel of PMI, second from left, seated beside Laura Alonso, head of the Anti-Corruption Office.

<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: “Asociación Civil Antipiratería Argentina” and the “Confederación Argentina de la Mediana Empresa (CAME)”, develop training sessions on illegal sales and trademark fraud of tobacco products. These activities are "to disseminate this problem at the national, regional and global levels. They are aimed at National Authorities, Provincials and Federal Justice Officials, Security Forces and the Media. Philip Morris International and British American Tobacco actively participate as exhibitors in these training sessions. Various government control agencies such as the national gendarmerie (police) also participated.<sup>39 40 41 42</sup>

In this regard, formal meetings were detected between the mentioned organizations, the Tobacco Industry and the National Ministry of Security<sup>43</sup>.

<sup>39</sup> Infobae, The 60 best photos of the Night of Conscience 2017. Available: <https://www.cronista.com/economiapolitica/Lanzaron-una-mesa-nacional-para-combatir-la-pirateria-20171115-0047.html>

<sup>40</sup> El Territorio, Alert about new forms of piracy and illegal commercialization. 2017. Available: <https://www.eltterritorio.com.ar/alertan-sobre-nuevas-formas-de-pirateria-y-comercializacion-ilegal-6551179123607303-et>

<sup>41</sup> Eco Cuyo, CONFERENCE ON ILLEGAL SALE, PIRACY AND TRADEMARK FRAUD IN MENDOZA. 2017. Available: <https://ecocuyo.com/jornada-sobre-venta-ilegal-pirateria-y-fraude-marcario-en-mendoza/>

<sup>42</sup> Página 16, they will carry out a day of Protection of Intellectual Property Rights, Trade Fraud, Contraband and Illegal Sale. 2017. Available: <http://www.pagina16.com.ar/realizaran-jornada-de-proteccion-de-los-derechos-de-propiedad-intelectual-fraude-marcario-contrabando-y-venta-ilegal/>

<sup>43</sup> Single Registry of Interest Management Hearings. 2017 and 2018 Available: <https://audiencias.mininterior.gob.ar/buscar?q=Philip%20Morris>



También participó del encuentro la directora de Fiscalización y Control, Mercedes Zuloaga, quien representó al ministerio de Economía de la provincia. Y estuvieron presentes integrantes de las fuerzas de seguridad, AFIP y Aduana, entre otros.

*"The Director of Monitoring and Control, Mercedes Zuloaga, participated of the meeting, in representation of the Provincial Ministry of Economy. Members of the Public Security Forces and the Public Income Federal Administration also attended the encounter".*

Durante el encuentro se presentaron los casos de piratería de marcas de Massalin Particulares, British American Tobacco Argentina, Louis Vuitton, Cablevision-Fibertel, Akapol, Nike y Puma.

*"During the meeting several cases of piracy were presented, including products of the following brands: Massalin Particulares, British American Tobacco Argentina Louis Vuitton, Cablevision-Fibertel, Alkapol, Nike and Puma".*

2017, Facebook. "Asociación Civil Antipiratería Argentina" (*Argentinian Anti-Piracy Civil Association*), the participants of the event are mentioned in the text.

10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1)  
 NOTE: This must not involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.

X

Philip Morris International - IMPACT<sup>44</sup> is a global initiative that supports projects dedicated to fight illegal trade and related crimes, such as corruption, organized crime, and money laundering. In the Second Round, organized in 2018, the National Gendarmerie security force (under the National Ministry of Security) won a project of 1,500,000 US dollars<sup>45</sup>. This PMI-financed project aims to create a Center for Analysis and Investigation, Command and Control in the fight against organized crime and illegal activities in the Tri-Border Area Brazil-Paraguay-Argentina. The Center, which will be located in Misiones, will focus on fighting and investigating crimes, such as human trafficking and exploitation, drug trafficking, organized crime, money laundering, counterfeiting and other economic crimes<sup>46</sup>. The attached information was provided by the National Ministry of security, through a request for access to public information<sup>47 48</sup>.

#### INDICATOR 5: Transparency

11. The government does not publicly disclose meetings/ interactions with the tobacco industry in cases where such interactions are strictly necessary for regulation. (Rec 2.2)		X					
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Governmental areas post their public agendas in a website (<https://audiencias.mininterior.gob.ar/>). However, details of the meetings are not always accessible and not all the meetings of all agencies are disseminated. When the meetings are with the tobacco producers, they are public through local or specialized newspapers.<sup>49 50 51</sup> No records of meetings with the tobacco industry have been found.

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
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There are no current rules for disclosure or registration of tobacco industry entities, affiliated organizations, and individuals acting on their behalf, including those who lobby.

#### INDICATOR 6: Conflict of Interest

13. The government does not prohibit contributions from the tobacco industry or any entity working to further its interests to political parties, candidates, or campaigns or to require full disclosure of such contributions. (Rec 4.11)							X
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The Political Parties Financing Law No. 26,215 (and its amendments) does not include a prohibition for tobacco companies to contribute money for the pre-candidates and candidates' campaigns running for the Legislative and Executive Branches positions<sup>52</sup>.

<sup>44</sup> PMI Impact. 2018. Available: <https://pmi-impact.com/>

<sup>45</sup> PMI Impact, Selected Projects: Second Funding Round. 2018. Available: <https://www.pmi-impact.com/Funding/secondfundinground>

<sup>46</sup> National gendarmerie; Public Report 2018. Available: <https://prensagendarmeria.gob.ar/descarga/rec/informes/Informe-publico-institucional-2018.pdf>

<sup>47</sup> Response of the National Gendarmerie to the Request for Access to Public Information made by FIC Argentina. 2019. Available (in Spanish): <https://n9.cl/x6qm>

<sup>48</sup> Access to public information. 2017 and 2018. Available: <https://www.argentina.gob.ar/aaip/accesoalainformacion>

<sup>49</sup> Misiones Online Newspaper, "We are working with the province of Misiones so that the funds come more fluidly," said FET coordinator Marcelo Viegas Calzada. 2018. Available: <https://misionesonline.net/2018/05/18/estamos-trabajando-la-provincia-misiones-los-fondos-vengan-mas-fluidos-dijo-coordinador-del-fet-marcelo-viegas-calzada/>

<sup>50</sup> Jujuy es noticia Newspaper, Tobacco: Jujuy received more than two billion pesos in concepts from the Special Tobacco Fund. 2018. Available: <https://jujuyesnoticia.com/tabaco-jujuy-recibio-mas-de-dos-mil-millones-de-pesos-en-conceptos-del-fondo-especial-del-tabaco/>

<sup>51</sup> Misiones Online Newspaper, They explained to the tobacco sector how the new Social Monotributo will work. 2018. Available: <https://misionesonline.net/2018/11/10/explicaron-al-sector-tabacalero-como-funcionara-el-nuevo-monotributo-social/>

<sup>52</sup> Law 26215/2007. Available: <http://servicios.infoleg.gob.ar/infolegInternet/anexos/120000-124999/124231/texact.htm>

On the other hand, the Anticorruption Office has a national Registry of Gifts<sup>53</sup> where it is possible to view all the presents delivered to public officials by individuals. During the year 2018 (there are no records for 2017), Massalin Particulares (national subsidiary of Philip Morris International) gave presents on two occasions, to the National Ministry of the Interior, Public Works and Housing<sup>54</sup> and, on one occasion, to the Secretariat of Political and Parliamentary Relations<sup>55</sup>. The presents were accepted by the mentioned officials.

14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)			X			
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Guillermo Jenefes, former National Senator and former Vice Governor of the province of Jujuy, is a tobacco producer. He declared his activity during the debate at the National Tobacco Control Law in 2011. He protected the interests of such production during his terms as decision maker.<sup>56 57 58</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			
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The detected officials belong to sub-national governments: In the City of Buenos Aires, it was detected that an official who has worked in the National Ministry of Health since 2018, previously worked at British American Tobacco for 7 years (2009-2016). In Salta, it was detected that the current legislator Esteban Amat is a tobacco producer, using his position to defend the interests of the production value chain.<sup>59</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 person, who participates in a National Commission within the scope of the National Ministry of Health, is obliged to subscribe and present to the authority of the convening body, a Sworn Declaration of Conflict of Interest. The resolution includes, due to a conflict of interest, labor, financial and / or economic relationship that the signatory has had with companies whose main, real and / or perceived activity is the manufacture and / or marketing of tobacco products. The sworn statements must be public on the webpage of the National Ministry of Health<sup>60</sup>.

<sup>53</sup> National Chamber of Deputies, Debates of Laws 24,001 to 27,000, Law 26,687. 2011. Available: [https://www.hcdn.gob.ar/secparl/dgral\\_info\\_parlamentaria/dip/debates/leyes\\_24001\\_27000.html](https://www.hcdn.gob.ar/secparl/dgral_info_parlamentaria/dip/debates/leyes_24001_27000.html)

<sup>54</sup> Anti-Corruption Office, Gift and Travel Registry, Detail. 2018. Available: <https://www.argentina.gob.ar/anticorrupcion/obsequiosyviajes/67809404> y <https://www.argentina.gob.ar/anticorrupcion/obsequiosyviajes/11555805>

<sup>55</sup> Anti-Corruption Office, Gift and Travel Registry, Detail. 2018. Available: <https://www.argentina.gob.ar/anticorrupcion/obsequiosyviajes/67841940>

<sup>56</sup> National Chamber of Deputies, Law Debate 24,001 to 27,000, Law 26687. 2017. Available: [https://www.hcdn.gob.ar/secparl/dgral\\_info\\_parlamentaria/dip/debates/leyes\\_24001\\_27000.html](https://www.hcdn.gob.ar/secparl/dgral_info_parlamentaria/dip/debates/leyes_24001_27000.html)

<sup>57</sup> Somos Jujuy Newspaper, "Tobacco production is a fundamental activity for the development of the province." 2018. Available: <https://www.somosjujuy.com.ar/reacciones/destacadas/6788-la-produccion-tabacalera-es-una-actividad-fundamental-para-el-desarrollo-de-la-provincia>

<sup>58</sup> Jujuy Government, Official Gazette No. 103 - 09/08/2017. Available: <http://boletinoficial.jujuy.gob.ar/?p=71445>

<sup>59</sup> Noticias Agropecuarias Newspaper, "Two hail devastated the tobacco grown in the Lerma Valley." 2018. Available: <https://www.noticiasagropecuarias.com/2018/01/10/dos-granizos-arrasaron-tabaco-cultivado-valle-lerma/>

<sup>60</sup> National Ministry of Health, Resolution 768/2018. Available: <https://www.boletinoficial.gob.ar/detalleAviso/primera/197737/20181212>

However, it is important to mention that such obligation applies only to the National Ministry of Health, and not to other government 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
There are no conduct protocols for public officials that prescribe the standards that they must have 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			
<p>The information requested to the government by the TI is the following:</p> <p>Advertising: Decree No. 602/13, which regulates the National Tobacco Control Law, establishes in Article 6 c, the annual obligation of manufacturers and importers of tobacco products to submit to the National Ministry of Health a report stipulating and detailing all the advertising or promotion that has been undertaken in the previous year.</p> <p>Ingredients: Article 15 of Law 26,687 establishes the limits of the components (tar, nicotine and carbon monoxide) of cigarettes and little cigars. The regulation of the article by Decree 602/13, stipulates that, annually, manufacturers and importers of these products must submit to the National Ministry of Health the results of the measurements for each type of product, brand and quality.</p> <p>Production and Sales: Article 7 of Decree No. 3478/75 created the obligation for tobacco industry to submit to the Tobacco Department of the National Ministry of Agriculture, Livestock and Fisheries, within the first quarter of each year and as a sworn declaration, tobacco movements registered in the previous year<sup>61</sup>. Likewise, a sworn statement of the sales of the previous month must be sent monthly, with the following detail: a) Entries (previous existence in factory and warehouse, returns and preparation in the month) and Departures (sale of returns, export and ranch, ex-free zone sales, internal factory consumption, donations to public good institutions, unused, lost tax values; and subject to tax; that is, global sales for the month and stocks for the following month in the factory and in warehouse); b) Number of cigarette packs sold, with discrimination of price of each brand and its denomination of blond and black cigarettes<sup>62</sup>.</p>						

<sup>61</sup> National Ministry of Agriculture, Livestock and Fisheries, volume of packages sold, evolution and price range. 2008 to 2019, Available: [https://www.magyp.gob.ar/sitio/areas/tabaco/estadisticas/archivos/000001-Volumen%20de%20Paquetes%20de%20Cigarrillos%20Vendidos%20por%20Rango%20de%20Precio%20\(2008-2019\).pdf](https://www.magyp.gob.ar/sitio/areas/tabaco/estadisticas/archivos/000001-Volumen%20de%20Paquetes%20de%20Cigarrillos%20Vendidos%20por%20Rango%20de%20Precio%20(2008-2019).pdf)

<sup>62</sup> Decree 3478/1975. Available: [https://www.magyp.gob.ar/sitio/areas/tabaco/normativa/marco\\_legal/archivos/000002-Decretos/000002-Decreto%20N%C2%BA%203478-75.php](https://www.magyp.gob.ar/sitio/areas/tabaco/normativa/marco_legal/archivos/000002-Decretos/000002-Decreto%20N%C2%BA%203478-75.php)

19. The government has a program / system/ plan to consistently <sup>63</sup> raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)						<b>X</b>
There are no programs, plans or systems to raise awareness about the guidelines of Art. 5.3 of the FCTC.						
20. The government has put in place a policy to disallow the acceptance of all forms of contributions/ gifts from the tobacco industry (monetary or otherwise) including offers of assistance, policy drafts, or study visit invitations given or offered to the government, its agencies, officials and their relatives. (3.4)						<b>X</b>
No policy has been established in this regard. As mentioned before, the National Tobacco Control Law only provides that the Industry cannot participate in the Tobacco Control Commission, within the scope of the National Ministry of Health (see question 1).						
<b>TOTAL</b>					<b>66</b>	

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<sup>63</sup> For purposes of this question, “consistently” means: a. Each time the FCTC is discussed, 5.3 is explained. AND b. Whenever the opportunity arises such when the tobacco industry intervention is discovered or reported.

## ANNEX A: SOURCES OF INFORMATION

### I. TOBACCO INDUSTRY ACTIVITY

Top 5 Transnational Tobacco Company	SEATCA Report (Y if SEATCA Report contains information on this, N if not)	Sources other than SEATCA Report
Philip Morris	Y	<a href="https://www.pmi.com/markets/argentina/es">https://www.pmi.com/markets/argentina/es</a>
British American Tobacco	Y	<a href="http://www.batargentina.com/">http://www.batargentina.com/</a>

#### LOCAL TOBACCO COMPANIES

Top 5 Local Tobacco Company	Market Share and Brands	Source
Tabacalera Sarandi	Red Point	<a href="https://www.tabacalerasarandi.com.ar/">https://www.tabacalerasarandi.com.ar/</a>
Espert	Melbourne	<a href="https://espertsa.com.ar/">https://espertsa.com.ar/</a>
De Loren	Melbo	<a href="http://www.deloren.com.ar/">http://www.deloren.com.ar/</a>

#### TOBACCO FRONT GROUPS

Top 5 Tobacco Industry Representative	Type (Front Group/ Affiliate/ Individual)	Source
Small Retailers Union from Argentina.	Front Group	<a href="http://ukraweb.org.ar/">http://ukraweb.org.ar/</a>
Chambers and associations of tobacco producers in the tobacco provinces: Salta, Jujuy, Misiones, Corrientes, Catamarca, Tucuman and Chaco.	Front Group	<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%C3%A1mara-del-Tabaco-de-Jujuy-1969848569920906/">https://www.facebook.com/pages/category/Tobacco-Company/C%C3%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>
Argentinian Anti-Piracy Association and Argentinian Confederation of Medium-Sized Business	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>

a. News Sources

Top 5 Newspaper/Dailies	Type (Print/Online)	
La Nación	Print/Online	<a href="https://www.lanacion.com.ar/">https://www.lanacion.com.ar/</a>
Clarín	Print/Online	<a href="https://www.clarin.com/">https://www.clarin.com/</a>
Página 12	Print/Online	<a href="https://www.pagina12.com.ar/">https://www.pagina12.com.ar/</a>
El Cronista	Print/Online	<a href="https://www.cronista.com/">https://www.cronista.com/</a>
Infobae	Online	<a href="https://www.infobae.com/america/">https://www.infobae.com/america/</a>

b. Government Agencies (Refer also to Annex A)

Agency	Specify if more than one office is involved in this function:	General Sources of Information/ News for each office
1. Office of the Chief Executive (Prime Minister/ President) Members of Royalty	Presidency	<a href="https://www.casarosada.gob.ar/">https://www.casarosada.gob.ar/</a>
2. Cabinet and/or National Assembly (Policy makers)	National Congress	National Chamber of Senators: <a href="https://www.senado.gov.ar/">https://www.senado.gov.ar/</a> National Chamber of Deputies: <a href="https://www.diputados.gov.ar/">https://www.diputados.gov.ar/</a>
3. Agriculture / National Tobacco Board	National Ministry of Agriculture	<a href="https://www.argentina.gob.ar/agricultura-ganaderia-y-pesca">https://www.argentina.gob.ar/agricultura-ganaderia-y-pesca</a>
4. Customs	Customs	<a href="https://www.afip.gob.ar/sitio/externos/institucional/aduana/">https://www.afip.gob.ar/sitio/externos/institucional/aduana/</a>
5. Education	National Ministry of Education	<a href="https://www.argentina.gob.ar/educacion">https://www.argentina.gob.ar/educacion</a>
6. Environment	National Ministry of Environment	<a href="https://www.argentina.gob.ar/ambiente">https://www.argentina.gob.ar/ambiente</a>

7. Finance/ Revenue/ Investments/ Excise	National Ministry of Economy	<a href="https://www.argentina.gob.ar/economia">https://www.argentina.gob.ar/economia</a>
8. Health	National Ministry of Health	<a href="https://www.argentina.gob.ar/salud">https://www.argentina.gob.ar/salud</a>
9. Labor	National Ministry of Labor	<a href="https://www.argentina.gob.ar/trabajo">https://www.argentina.gob.ar/trabajo</a>
10. Trade and Industry/ Investments	National Ministry of Production	<a href="https://www.argentina.gob.ar/produccion">https://www.argentina.gob.ar/produccion</a>
11. Additional agencies/sectors to be named per country:	Office of the Ombudsman	<a href="https://defensadelpublico.gob.ar/">https://defensadelpublico.gob.ar/</a>
12.	National Ministry of Security	<a href="https://www.argentina.gob.ar/seguridad">https://www.argentina.gob.ar/seguridad</a>
13.	Anti-Corruption Office	<a href="https://www.argentina.gob.ar/anticorruptcion">https://www.argentina.gob.ar/anticorruptcion</a>

c. Meetings Attended/ Public Hearings

List the types of meetings and name of groups meeting (Working Group, Drafting group, National Assembly Public Hearing, National Tobacco Control Committee, etc.) and the contact person / source of the minutes:

Type of Meeting	Source
ial Coordination Commission for Tobacco Control	
National Tobacco Control Program	<a href="http://www.salud.gob.ar/tabaco/">www.salud.gob.ar/tabaco/</a>

II. Laws, Policies, and issuances:

HEALTH LAWS:

1. Is there a health law database? If yes, please list which one will be used and cite the limitations:

Yes, "Atlas Federal" is the health law database. The page has no limit, all the legislation about health is available there. .

\_\_\_\_\_

1. Does the above sources include issuances? O Yes **O No**  
If no, please list the alternative source for the issuances: Available here.

ALL LAWS:

1. Is there a centralized (all) law database? If yes, please list which one will be used and cite the limitations:

Yes, Infoleg is the Argentinian law database. It has no limitation, all the legislation is available there.

1. If there is no existing centralized law database, then list the primary source of the law listing to be searched:

1. Does the above sources include issuances?  Yes  No

If no, please list the alternative source for the issuances: \_\_\_\_\_

Top 15 Government Agency/ Office/Sector	Source of Policies relating to the Sector	Source of related minor issuances,
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1. Office of the Chief Executive (Prime Minister/ President) Members of Royalty		<a href="https://www.casarosada.gob.ar/">https://www.casarosada.gob.ar/</a>
2. Cabinet and/or National Assembly (Policy makers)		Senate Chamber: <a href="https://www.senado.gov.ar/">https://www.senado.gov.ar/</a> Chamber of Deputies: <a href="https://www.diputados.gov.ar/">https://www.diputados.gov.ar/</a>
3. Agriculture / National Tobacco Board	Tobacco Area Reconversion Program	<a href="https://www.magyp.gob.ar/sitio/areas/tabaco/">https://www.magyp.gob.ar/sitio/areas/tabaco/</a>
4. Customs		<a href="https://www.afip.gob.ar/sitio/externos/institucional/aduana/">https://www.afip.gob.ar/sitio/externos/institucional/aduana/</a>
5. Education		<a href="https://www.argentina.gob.ar/educacion">https://www.argentina.gob.ar/educacion</a>
6. Environment		<a href="https://www.argentina.gob.ar/ambiente">https://www.argentina.gob.ar/ambiente</a>
7. Finance/ Revenue/ Investments/ Excise		<a href="https://www.argentina.gob.ar/economia">https://www.argentina.gob.ar/economia</a>
8. Health	National Tobacco Control Program	<a href="http://www.salud.gob.ar/tabaco/">http://www.salud.gob.ar/tabaco/</a>
9. Labor		<a href="https://www.argentina.gob.ar/trabajo">https://www.argentina.gob.ar/trabajo</a>
10. Trade and Industry/ Investments		<a href="https://www.argentina.gob.ar/produccion">https://www.argentina.gob.ar/produccion</a>
Additional agencies/sectors to be named per country:		

This list serves not only as a bibliography or reference list but an undertaking to search each source listed as needed to answer a specific question.