

PARAGUAY

2021

TOBACCO
INDUSTRY
INTERFERENCE
INDEX

Introduction

In Paraguay, 12% of deaths in people over 30 years of age are attributable to tobacco use or exposure to second-hand smoke, and there is a prevalence of smoking of around 14%.¹

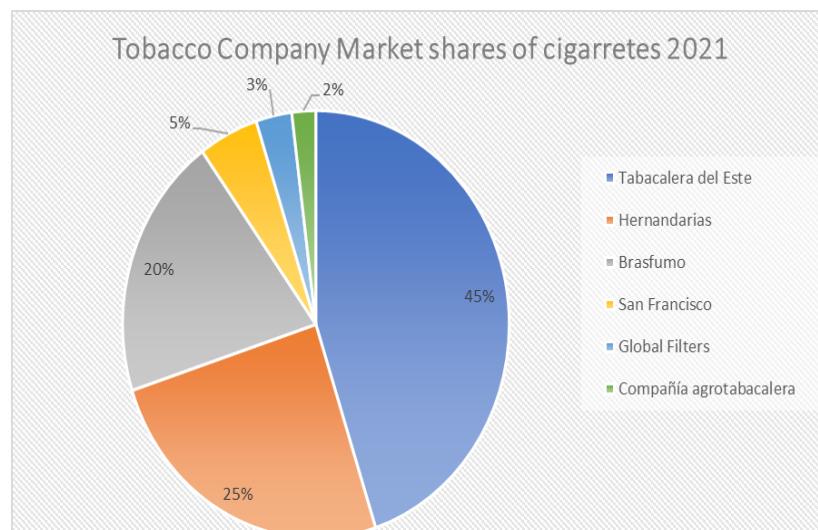
The coronavirus pandemic has stripped the fragile national health system; however, nothing has changed in relation to the taxation of the industry. The current tobacco tax rate is 18% and based on regulations it can be raised only to 22%. This, in a country where 3,354 deaths a year occur due to diseases related to tobacco consumption.

The tax pressure on the industry is the lowest in the region, and the current taxes on this product only cover 20% of the health expenses that it generates, and it is assumed, will increase with the Covid-19 pandemic, since that smoking patients have almost 2.5 times the risk of presenting severe forms and entering intensive care.²

Tabesa (Tabacalera del Este S.A), owned by the Cartes group, leads the Paraguayan market together with Tabacalera Hernandarias. Between 2008 and 2019, the production of cigarettes in Paraguay is estimated at six times more than the declared sales of this product. This gap suggests not only a millionaire tax evasion, but also the existence of illicit cigarette trafficking abroad.³

In the last five years, laws and decrees have been enacted in favor of people's health, such as Law 5538 on tobacco control. This law is of public order and its purpose is to establish the necessary measures to protect people from the health, social, environmental, and economic consequences of tobacco consumption and exposure to tobacco smoke.

Since the beginning of 2021, through a presidential decree, Paraguay finally complies with article 8 of the FCTC on protection against exposure to tobacco smoke. Undoubtedly, compliance with this law is one of the central challenges in the fight for tobacco control in Paraguay.



¹ Bardach A, Palacios A, Caporale J, Alcaraz A, Rodríguez B, Sequera V.G, Cañete F, Augustovski F, Pichon-Riviere A. Carga de enfermedad atribuible al uso del tabaco en Paraguay y potencial impacto del aumento del precio a través de impuestos. Documento técnico IECS N° 18. Instituto de Efectividad Clínica y Sanitaria, Buenos Aires, Argentina. Noviembre de 2016. Disponible en: www.iecs.org.ar/tabaco

² Bardach A, Cañete F, Sequera VG, Palacios A, Alcaraz A, Rodríguez B, et al. Carga de enfermedad atribuible al uso del tabaco en Paraguay y potencial impacto sanitario y económico del aumento del precio a través de impuestos. Rev Peru Med Exp Salud Publica. 2018;35(4):599-609. doi: 10.17843/rpmesp.2018.354.3708

³ Masi F (coord), Cresta J, Ovando F, Servin B. 2021. Superproducción tabacalera en Paraguay. Impactos domésticos y transfronterizos. Asunción, Paraguay. Centro de Análisis y Difusión de la Economía Paraguaya, CADEP.

Summary Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The participation of the tobacco industry in the development of policies is evident. The interests of the industry are considered before and during the law-making processes in the country, which is why it has not been possible to adjust a more appropriate tax burden to the national and regional reality. In addition to some prematurely truncated initiatives, for the study period, it has not been possible to counter the influence of the industry on the institutions.

2. INDUSTRY CSR ACTIVITIES

The activity of the tobacco industry in this sense has focused on promoting campaigns linked to the contribution they have been making to the SME sector, emphasizing the importance of generating jobs for compatriots. This speech goes hand in hand with the argument mostly made against the tax on their sector, which according to industry representatives, will end up having a negative impact on the thousands of employees in their factories.

3. BENEFITS TO THE INDUSTRY

In the comparison of regulatory standards between countries in the region, this aspect becomes visible. Paraguay has been maintaining its status as the country with the lowest tax burden in the region for several decades. Few have been the privileges cut to the tobacco sector in contrast to the high profit margins, the negative health, and financial impacts that it produces.

4. UNNECESSARY INTERACTION

High-ranking ministers are shown with representatives of the tobacco companies to sign agreements, receive donations or reward the tobacco companies. In addition to the signing of assistance and related work agreements, they are shown both on official pages of the State and in the main broadcast media.

5. TRANSPARENCY

The president of the republic holds periodic meetings with the former president of the republic and owner and main representative of TABESA SA, however these meetings are not published on government websites, nor is what is discussed and agreed to in these meetings, it is known through investigations of communication media.

6. CONFLICT OF INTEREST

There is a structure linked to former president Horacio Cartes, both in parliament and in the leadership of the ruling party.

On the other hand, the laws that regulate political financing do not include the tobacco industry in this regulation, so the money from this sector can be used freely to finance parties or electoral campaigns.


7. PREVENTIVE MEASURES

There are no legal platforms that allow compliance with a relationship protocol with the tobacco industry. This is the main reason why the industry is not accountable to the State, there are no teams uploaded directly from the FCTC, and the relationship between the industry and the State lacks clear limits, which allows all kinds of irregularities.

Recommendations

It is recommended that no committee made up of any government sector for the development of public policies for tobacco control, allow the participation of representatives of the tobacco industry or groups that represent their interests in accordance with Art. 5.3. In turn, it is recommended to raise awareness in the different government portfolios and the creation of a code of conduct for all public officials to avoid interference from the industry.

2021 Tobacco Industry Interference Index Results and Findings

	0	1	2	3	4	5
INDICATOR 1: Level of Industry Participation in Policy-Development						
<p>1. The government⁴ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry⁵ in setting or implementing public health policies in relation to tobacco control⁶ (Rec 3.1)</p>				3		
<p>With no Lobby law in Paraguay, meetings between government authorities and senior representatives of private industries are common within institutional structure. In such meetings, usually routine, industries are not only consulted about the implications that certain regulations may have on their sector but have active participation from the very formulation of regulations. As an example, the tobacco tax has not been increased in recent years. On the contrary, the bill that proposed increasing the tobacco tax, was rejected three times in the last five years.^{7 8}</p>						
						
<p>Caption: Meeting of the Commission for the Prevention and Fight against Drug Trafficking of the Chamber of Deputies with representatives of British American Tobacco</p>						
<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)</p>					4	
<p>The proposal of 2019 that aimed to raise the tobacco tax rate to 30% and 40%, was rejected and modified to stay at 18%. the rejection by the Chamber of Deputies responds to a close political and commercial relationship with the former president of the republic (2013 – 2018) and current owner of the country's largest tobacco companies, Horacio Cartes, who is leader of the Colorado Honor bench, the dominant faction of the Colorado Party structure, which is now in government. At the same time, other major institutions, such as the Ministry of Finance, are in favor of the No tax increase and in defense of tobacco companies, as evidence shows, coinciding in speech with José Ortiz, Manager and Administrator of TABESA, owned by Horacio Cartes.</p>						

⁴ 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

⁵ The term, “tobacco industry” includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

⁶ “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

⁷ <https://bit.ly/3vc6X3V>

⁸ <https://bit.ly/3nbejs1>

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<p>On the other hand, the Ministry of the Environment offers rapid courses of productive projects proposed by tobacco companies, even ignoring recommendations of the Ministry of Health and the fact that Doctors' societies, have spoken out against increased tobacco production and in favor of increased tobacco tax.</p> <p>There are significant indications that could point to the state's acceptance, support, or sponsorship of proposals for tobacco laws.^{9 10 11 12 13 14 15 16 17 18 19 20 21 22 23}</p>						
<p>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)</p>						5
<p>There is evidence of an agreement signed between the Ministry of Public Health and Social Welfare and CAEDHPA (Paraguayan Chamber of Companies of Domestic Products, Personal Hygiene and Purposes), in which the Union of Tobacco of Paraguay is an active member. This agreement, as the website of the Chamber says, quoting the words of The Minister of Health Julio Mazzoleni: "highlighted the strategic alliance that has been made with the private sector for the concreteness of projects already implemented and those that are in the implementation phase; also, for the openness and will of the private sector to optimize the joint work between the two institutions".²⁴</p>						
<p>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)²⁵ (Rec 4.9 & 8.3)</p>		1				
<p>For the period under study, no tobacco industry representatives have been in Paraguay's delegation to attend COP related meetings.</p>						
INDICATOR 2: Industry CSR activities						
<p>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)</p>				3		

⁹ <https://bit.ly/2QnK8M2>

¹⁰ <https://bit.ly/2OguQc4>

¹¹ <https://bit.ly/3tl3D0e>

¹² <https://bit.ly/3vayD9l>

¹³ <https://bit.ly/3gwpCDB>

¹⁴ <https://bit.ly/3n9DXae>

¹⁵ <https://bit.ly/3vewCsG>

¹⁶ <https://bit.ly/3nbYQd8>

¹⁷ <https://bit.ly/3avwf5j>

¹⁸ <https://bit.ly/3aweByk>

¹⁹ <https://bit.ly/3sG4Vrj>

²⁰ <https://bit.ly/3vclHA4>

²¹ <https://bit.ly/3aOe4YT>

²² <https://bit.ly/2OO0WeO>

²³ <https://bit.ly/3nbfLEp>

²⁴ <https://bit.ly/32FtJoB>

²⁵ Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

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B. The government (its agencies and officials) receives contributions ²⁶ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)						
<p>Agreements and conventions signed between the Tobacco Industry can be found directly or through the affiliated guilds, both the Ministry of Health and Social Security and the Ministry of Labour. These agreements refer to technical and economic support of tobacco companies within the framework of Corporate Responsibility.</p> <p>The agreement was signed at the headquarters of Expo Mariano Roque Alonso 2019. Authorities such as José Ortíz (president of the Union of Tobacco Companies of Paraguay and manager of Tabesa), Hugo Volpe (holder of the Paraguayan Industrial Union), Paulo Duarte (holder of the Young IPU) and the Minister of Labour, Carla Bacigalupo, participated. The various publications on official government pages and in large-circulation and distribution newspapers show this type of news in which tobacco companies are seen supporting projects, entrepreneurship or aiding different sectors of the State.²⁷²⁸²⁹</p>						
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)				3		
<p>For the period studied, the request for any order or claim for the delay or postponement for the entry into force of any law in relation to tobacco is not recorded. However since it has been systematically rejected, as mentioned in QI, this is a benefit to the industry.</p>						
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)					4	
<p>There is evidence of tax privileges given to the tobacco industry in Paraguay, when we consider the tax burden on the sector and compare it with that in the region.³⁰ In Paraguay, through the Selective Consumption Tax, tobacco pays an 18% rate, far behind lower than other countries in the region (between 40 and 80%) and what WHO recommends. Their contribution does not manage to mitigate in proportional terms, the expenses caused in the health area due to smoking.³¹</p> <p>This rate was established by Law No. 6380 / MODERNIZATION AND SIMPLIFICATION OF THE NATIONAL TAX SYSTEM, in response to the rejection of a law that proposed to tax tobacco between 30 and 40%.³²</p>						

²⁶ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

²⁷ <https://bit.ly/2RW7AP>

²⁸ <https://bit.ly/3sERVSz>

²⁹ <https://bit.ly/32CPi9r>

³⁰ <https://bit.ly/2QLkAZ1>

³¹ <https://bit.ly/3v7rR4n>

³² <https://bit.ly/3dGuFj9>

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<p>The current law establishes a minimum rate of 18% and a maximum of 24%, and the amount can be established according to the decree.³³</p> <p>For its part, the executive, by decree No 3109 re-establishes this rate at 18%, i.e., the minimum possible.^{34 35}</p> <p>Tabesa exports its products regionally and globally, and it does not pay export duty taxes.³⁶</p> <p>International travelers can bring into Paraguay, duty-free, a reasonable quantity of tobacco products, with a maximum of USD 300. This customs measure applies to goods in general that enter by air or river.³⁷</p>						
INDICATOR 4: Forms of Unnecessary Interaction						
<p>8. Top level government officials (such as President/ Prime Minister or Minister³⁸) 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)</p>						5
<p>The Minister of Health Julio Mazzoleni is seen at an event, where he received a donation and signed an agreement with a trade union, whose affiliation is the Union of Tobacco Companies of Paraguay.</p> <p>The Minister of Labor, Employment and Social Security (Mtes). Carla Bacigalupo participated in an event within the framework of a press conference where it was announced, an agreement between the Union of Tobacco Companies of Paraguay and the Young UIP (Industrial Union of Paraguay)</p> <p>The Municipality of Santa Elena invited the former President of the Republic, Horacio Cartes, owner of Tabacalera del Este (TABESA) to the official inauguration of the expansion of the Santa Helena Health Center, the mayor of the city. Miguel María Olmedo, expressed his cordial greetings to the leader of the Honor Colorado movement. He took the opportunity to highlight the culmination of the works that will be beneficial to the community and pointed out they will be pleased to have the presence of the former president in the city again. At the event, the accreditation of Santa Elena as a healthy municipality will also be delivered by the Ministry of Public Health.^{39 40 41 42}</p>						
<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>			3			

³³ <https://bit.ly/32DXiqM>

³⁴ <https://bit.ly/3tI5d2a>

³⁵ <https://bit.ly/3emu5Gd>

³⁶ <https://bit.ly/2QLDM9d>

³⁷ <https://bit.ly/2QP2zJu>

³⁸ Includes immediate members of the families of the high-level officials

³⁹ <https://bit.ly/3sCcMWV>

⁴⁰ <https://bit.ly/3gv7DgJ>

⁴¹ <https://bit.ly/3dHHmKA>

⁴² <https://bit.ly/2PcPpW5>

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<p>While there is no evidence of assistance or offers to mediate tobacco control policy implementations from the tobacco industry, as indicated in this section, it is possible to point out other types of facts showing the subjection of public control forces to tobacco interests.</p> <p>By 2018, the Inter-Agency Unit for the Prevention, Combat and Suppression of Smuggling (IUC) had restructured and rescheduled its actions with a view to exercising greater control over goods smuggled into border areas.⁴³</p> <p>However, recent events exposed the impunity with which the tobacco industry operates in the area. Articulating links from the own National Customs Direction.⁴⁴</p> <p>This disavows the minister of the "interinstitutional" unit and ignores existing legal provisions.⁴⁵</p> <p>All this without mentioning that the IUC Interinstitutional Unit to Combat Smuggling) constituted since 2015, in the period from 2013-2018 corresponding to the period of government of Horacio Cartes, Paraguay had not achieved the confiscation of a single cigarette pack.⁴⁶</p>						
<p>10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) 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>	0					
<p>Although it is supposed to be affirmative, it has not been possible to access specific data in the public domain to prove it.</p>						
INDICATOR 5: Transparency						
<p>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)</p>						5
<p>According to statements by the president of the ANR (party of government) and president of the Chamber of Deputies Pedro Alliana, the current President Mario Abdo holds constant and regular meetings with the former representative and majority shareholder of the main tobacco company of the region, Horacio Cartes.⁴⁷</p>						
<p>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)</p>			2			

⁴³ <https://bit.ly/3sETHN9>

⁴⁴ <https://bit.ly/3xg1PxF>

⁴⁵ <https://bit.ly/3dEyoxv>

⁴⁶ <https://bit.ly/3eD4uZZ>

⁴⁷ <https://bit.ly/3gxnN9s>

	0	1	2	3	4	5
<p>Resolution No. 237 establishes the compulsory registration of natural or legal persons engaged in the processing, import and export of Tobacco, which aims to formalize the industry. This requirement from the Ministry of Health, gives the approval for the tobacco production.⁴⁸</p> <p>However, there is no registry available on the lobbyists for the tobacco industry or those who represents its interests.</p>						
INDICATOR 6: Conflict of Interest						
<p>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)</p>						5
<p>Financing Act. According to "Law No. 6501 / MODIFY LAW No. 4743/2012 "WHICH REGULATES POLITICAL FINANCING, THAT WAS MODIFIED BY LAW NO. 6167/2018 AND MODIFIES LAW No. 834/1996 THAT ESTABLISHES THE PARAGUAYAN ELECTORAL CODE" in article 68 provides that parties may not receive financing from:</p> <ul style="list-style-type: none"> - Foreign entities - National entities - People who are in subordination - Associations or guilds - Anonymous donations - Individual donations greater than the equivalent of ten thousand minimum day laborers - Donations from people convicted by the punishable facts commission. <p>Excluding the possibility of regulating any donation or contribution from any industry, including tobacco either directly or indirectly.⁴⁹</p>						
<p>14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)</p>						5
<p>Mr. Horacio Cartes is the majority shareholder of Tabacalera del Este S.A. (TABESA), one of the largest tobacco companies in the region, producing cigarette brands with higher smuggling rates on the triple border. He held the position of President of Paraguay from 2013 to 2018. Currently, Tabesa cigarettes not only lead the illicit trade, but are also, the main contributor of the Paraguayan tax.</p>						
<p>15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)</p>	0					

⁴⁸ <https://www.mspbs.gov.py/dependencias/dnvs/adjunto/7ff3c3-RESOLUCINS.G.N2372010.pdf>

⁴⁹ <https://bit.ly/3elXnoo>

	0	1	2	3	4	5
No evidence has been found regarding this.						
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)						5
There is currently no such procedure.						
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)					4	
Although the MAIN QUESTIONNAIRE OF THE 2020 WHO FCTC INSTRUMENT REPORT mentioned that a code of conduct for officials in relation to the tobacco industry is in process, up to date, no draft of that code of ethics has been presented publicly.						
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)			2			
Law No. 6107 "ON TRANSPARENCY OF THE SUPPLY CHAIN OF TOBACCO AND ITS PRODUCTS", establishes certain controls on tobacco activity in general. It set up protocols for the opening of such industries, some control over quantities produced or imported and law enforcement agencies. ⁵⁰ While this law establishes certain regulatory measures for the opening and marketing of tobacco activity, they are not intended to periodically provide information directly. For its part, the Ministry of Finance through Law No. 6380 / "MODERNIZATION AND SIMPLIFICATION OF THE NATIONAL TAX SYSTEM" accesses the income margins of the industry, to deduct the corresponding tax burden. However, this law is applied generically to all commercial and service sectors, and not to the tobacco sector. ⁵¹						
19. The government has a program / system/ plan to consistently ⁵² raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)						5

⁵⁰ <https://bit.ly/3dGt24X>

⁵¹ <https://bit.ly/3dGte4b>

⁵² 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.

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Such a plan is not known so far.						
Ministry of Health Julio Mazzoleni, on several occasions has taken a stand for the increase in tobacco tax, taking the argument put forward by WHO and PAHO, as well as various studies carried out at the health and fiscal policy level. However, the dispute against the tobacco industry always loses in the Parliament. The Colorado party has a majority both in the Chamber of Deputies and Senators, and especially deputies of this party respond to the former representative and owner of the country's largest tobacco companies, Horacio Cartes. The Ministry of Health under Mazzoleni's administration and senators from the other bench of the Colorado party, have suggested raising the tax, but have encountered strong resistance from other lawmakers responding to the interests of the tobacco industry. ^{53 54 55 56 57 58 59 60}						
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)						5
There is no evidence of any kind of measure or regulation in this regard.						
TOTAL						69

⁵³ <https://bit.ly/3gs6GG5>

⁵⁴ <https://bit.ly/3elptAh>

⁵⁵ <https://bit.ly/3eD5e1d>

⁵⁶ <https://bit.ly/3eD5g9l>

⁵⁷ <https://bit.ly/2RMwaDE>

⁵⁸ <https://bit.ly/3az1X1E>

⁵⁹ <https://bit.ly/3v5TGK8>

⁶⁰ <https://bit.ly/3gDcc8G>

ANNEX A: SOURCES OF INFORMATION

TOBACCO INDUSTRY ACTIVITY

LOCAL TOBACCO COMPANIES

Top 5 Tobacco Companies/ distributors	Market Share and Brands	Source
Tabesa	Palermo Kentucky San Marino	https://infonegocios.com.py/hay-equipo/el-equipo-de-tabacos-del-paraguay
Hernandarias	Eco Euro Fox	http://www.th.com.py/es/productos.html
Distribuidora Gloria	Marlboro	https://www.distrigloria.com.py/
Brasfumo	Good Time 69	http://www.brasfumo.com.py

TOBACCO INDUSTRY FRONT GROUPS

Top 5 Tobacco Industry Representative	Type (Front Group/ Affiliate/ Individual)	URL
CERNECO	Front Group	http://www.cerneco.org.py/
Cámara de anunciantes del Paraguay	Front Group	https://cap.org.py/
Tabacos del Paraguay	Filial	https://infonegocios.com.py/hay-equipo/el-equipo-de-tabacos-

NEWS SOURCES

Top 5 Newspaper/Dailies	Type (Print/Online)	URL
ABC Color	print	www.abc.com.py
Ultima Hora	print	www.ultimahora.com.py
La Nación	print	www.lanacion.com.py
Hoy	online	www.hoy.com.py
Popular	print	www.diariopopular.com.py

