

URUGUAY

2021

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Introduction

During the year 2020 the interference of the tobacco industry has increased in Uruguay. In some cases it has been made visible explicitly and in others implicitly. This has led to our country seeing its international image as a reference country in the implementation of tobacco control policies deteriorate.

At the local level, this interference leads to a loss of protection in the health of the population, which, in addition to the pandemic situation, can worsen the severity of the pandemic for people who use tobacco.

Although Uruguay has a Law prohibiting the contribution to political parties by the Tobacco Industry, it was found that the main national tobacco company made contributions in the presidential campaign.

On the other hand, in the of Artigas, the experience of stimulating the substitution of tobacco cultivation with another type of crop had begun. Unfortunately, the current local authorities in that department (Governor of Artigas) have publicly stressed the importance to have tobacco plantations to support local labour and for the livelihoods of families linked to this activity. This has been widely broadcast on local media and through the official social networks of the local government.

Linked to tobacco cultivation, the national government also gave a tax exemption to agrochemicals linked to such plantations, among others.

Moreover, within a food donation action to inmates in Uruguay's prisons, they were provided with a "foodbasket" which also included cigarette boxes. They were exhibited in the public photos that appeared in the news.

One of the most relevant events recently followed with the publication of an Executive Branch Decree which eliminated the prohibition on the sale of electronic devices to heat tobacco. This not only allowed the sale of these devices, but also helped the tobacco industry apply pressure on other countries in the region, using Uruguay as an example.

The approval process of this Decree did not follow the usual process or recommended, of a decision on tobacco control policies, no corresponding consultations were conducted with the National Tobacco Control Programme, nor with the Interinstitutional Tobacco Control Commission, in which the Civil Society also participates.

Interestingly days before this approval, the President of the Republic, at a press conference, thanked contribution of the Pfizer vaccines from a person linked to the defence of the tobacco industry against the Uruguayan State, who also testified against the State at that trial.

Finally, the national government has for several years followed an open data policy, but in the case of information on the tobacco industry, it is not available to the public.

This increased tobacco industry interference is affecting tobacco control in Uruguay, threatening to derail several measures such as the people quitting smoking and roll back the high standard of protection achieved by the current policies.

Uruguay's score has deteriorated from 34 points in 2020 to 49 points in 2021 report.

Summary Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

The Tobacco Control regulations in Uruguay, does not allow the government to accept support or support any offer of assistance from or in collaboration with the tobacco industry in the establishment or implementation of public health policies in relation to tobacco troll. The tobacco industry cannot participate in the Inter-Agency Tobacco Control Advisory Commission (government advisory body) or the National Tobacco Control Programme.

Despite this, the government cancelled the prohibition on the marketing of electronic devices to heat tobacco, substantiating the measure with arguments that align with the interests of the Tobacco Industry, and even mentions scientific evidence that does not exist and/or does not show.

The Delegation of Uruguay to the last COP and other meetings related to the FCTC had not been composed of representatives of the tobacco industry.

2. INDUSTRY CSR ACTIVITIES

In Uruguay, tobacco-related Corporate Social Responsibility (RSE) activities are prohibited. But despite this current normative, in 2020 the government sent "food" baskets to inmates, which included packs of cigarettes, as can be seen in the photos published in the press.

3. BENEFITS TO THE INDUSTRY

Regulations that allow international travellers to buy and enter tax-free tobacco remain in place; the amount allowed varies, non-residents in the country can enter more tobacco than residents.

At the end of 2019, it granted an exemption to agrochemicals used in tobacco plantations (among others) and also remains in force.

Moreover, the Executive Branch eliminated the prohibition on marketing electronic devices to heat tobacco, in addition to the tax rising below inflation

4. UNNECESSARY INTERACTION

There is no evidence that high-level government officials are interacting with tobacco companies. But in particular the Governor of Artigas, has publicly shown its support for tobacco plantations in his State, and this support has been broadcast by the press.

5. TRANSPARENCY

There is no evidence that the Executive Branch holds meetings with the tobacco industry. There is also no regulation establishing the disclosure of such meetings.

6. CONFLICT OF INTEREST

While tobacco companies are prohibited by law, the monetary contribution. during the current president's last election campaign, he claimed to have received money for it, coming from Uruguay's main tobacco industry.

7. PREVENTIVE MEASURES

The Ministry of Health does not have a procedure for disclosing records of interaction (such as agenda, assistants, minutes and results) with the tobacco industry and its representatives. The government as a whole has not formulated a policy, nor has it adopted any code of conduct for officials, as well as on the disclosure of records in their dealings with the tobacco industry.

Recommendations

While Uruguay still has good tobacco control measures, however increased interference from the tobacco industry is now a threat to what has been achieved.

The industry should not continue to receive benefits, should not be allowed to roll back the standards achieved. Regulations that are favorable for the development and growth of this industry should not be passed, and its new products should not be allowed to be promoted and sale to youth.

To begin to curb this interference, it is necessary to improve the implementation of Article 5.3, focusing on:

- Developing a code of conduct that applies to all government officials when dealing with or interacting with the tobacco industry;
- Require the tobacco industry to provide information on marketing or other activities, such as lobbying, political contributions, and all other activities.

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Results and Findings

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INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry in setting or implementing public health policies in relation to tobacco control (Rec 3.1) ¹²³	0					
<p>The government does not accept, support or support any offer of assistance from or in collaboration with the tobacco industry in the establishment or implementation of public health policies in relation to tobacco control.</p> <p>It is not permitted by Law 17.793 which approved the WHO Framework Convention for Tobacco Control.⁴</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)						5
<p>The government must not accept, or support any offer of assistance from or in collaboration with the tobacco industry in the establishment or implementation of public health policies in relation to tobacco control, because it is not permitted by Law 17.793 that adopted the Framework Convention on Tobacco Control.⁵</p> <p>Despite this, the government leaves the prohibition on the marketing of electronic devices for heating tobacco, through Decree 87/021 whose⁶ foundations align with the interests and fundamentals of the Tobacco Industry, and even mentions scientific evidence that does not exist and/or does not show.^{7 8 9 10 11}</p>						

¹ 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

² The term, “tobacco industry” includes those representing its interests or working to further its interests, including the State-owned tobacco industry.

³ “Offer of assistance” may include draft legislation, technical input, recommendations, oversees study tour

⁴ Eastern Republic of Uruguay Legislative Power. thein No. 17.793 Tobacco Control. Montevideo 16 July 2004.

<https://bit.ly/3xpnVBF>

⁵ Eastern Republic of Uruguay Legislative Power. Law No. 17.793 Tobacco Control. Montevideo 16 July 2004.

<https://bit.ly/3xpnVBF>

⁶ Eastern Republic of Uruguay Legislative Power. Decreto 87/021. 23 March 2021.

<https://www.impo.com.uy/bases/decretos/87-2021>

⁷ The country. The government opens "window" to certain types of e-cigarettes. March 2021. <https://bit.ly/32Ojlc8>

⁸ The observer. Government enabled the sale of electronic devices that heat dry tobacco. March 2021.

<https://bit.ly/3gxXjuV>

⁹ The country. SMU and anti-smoking organizations following a new decree: "It involves a serious setback". March 2021.

<https://bit.ly/3aGgxEB>

¹⁰ The country. E-cigarette decree: it is "a serious setback", the Faculty of Medicine said. March 2021.

<https://bit.ly/3vamKQV>

¹¹ The daily one. For experts, the qualification of heated tobacco devices demonstrates "that the industry has arrived in the Presidency". March 2021. <https://bit.ly/3tPF7KA>

	0	1	2	3	4	5
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)	0					
The government does not allow/ invite the tobacco industry to sit in government interagency/ multi-sectoral committee/ advisory group body that sets public health policy.						
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) (Rec 4.9 & 8.3) ¹²		1				
<p>Uruguay's delegation to the COP and other meetings related to the FCTC have not included representatives of the tobacco industry. List of participants in the Delegation of Uruguay:¹³ COP 8 (2018)¹⁴</p> <p>The delegation was composed of representatives of the government and civil society. Principal Delegate: Mr. R. González (Permanent Representative, Geneva). Deputy Delegate: Dr. E. Soto (Director of the National Tobacco Control Program, Ministry of Public Health)</p> <p>Delegation: Ms. A. Costa (Deputy Permanent Representative, Geneva); Mr. M. Dotta (Deputy Director for International Rights Affairs and focal point of the FCTC, Ministry of Foreign Affairs); Ms. A. Lorenzo (Technical Officer for Tobacco Control, Ministry of Health); Ms. L. Silva (First Secretary, Permanent Mission, Geneva); Ms. C. Giovanoni (Second Secretary, Permanent Mission, Geneva); Dr. M. Asqueta (President of the Research Center for the Tobacco Epidemic); Dr. E. Blanco (Representative, Research Center for the Tobacco Epidemic).</p>						
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)			2			
B. The government (its agencies and officials) receives contributions (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4) ¹⁵						
Tobacco-related CRS activities are not permitted by law. This is set out in both the legislation adopted by the WHO FCTC and the National Tobacco Control Act. Law 17.793 (2004) approved the Framework Convention on Tobacco Control. ¹⁶						

¹² Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

¹³ See annex a list since 2009 - the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

¹⁴ https://www.who.int/fctc/cop/sessions/cop8/LOP_Final.pdf?ua=1

¹⁵ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

¹⁶ <https://bit.ly/3sRsugW>

	0	1	2	3	4	5
Law 18.256 (2008): National Tobacco Control Act. ¹⁷						
Despite current regulations, in 2020 the government sent "food" baskets to inmates, which included packs of cigarettes, as can be seen in photos that even spread in the press. ¹⁸						
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		
The ban on marketing electronic devices to heat tobacco was removed, ¹⁹ and the tax increase was below inflation. ²⁰						
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)					4	
An exemption was granted to agrochemicals used in tobacco plantations (among others). It was towards the end of 2019, and it's a current exemption still applies to this day. ²¹						
The regulations allows international travelers to bring into Uruguay 200 cigarettes or 25 cigars or 250 grams of tobacco free of duties. ²²						
Uruguay currently has a selective tax on tobacco products, which accounts for 47.47% of the retail price, while WHO recommends at least a 70% excise tax. On the other hand, the total sales price tax represents 65.51%. ²³²⁴						
INDICATOR 4: Forms of Unnecessary Interaction						
8. Top level government officials (such as President/ Prime Minister or Minister) 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) ²⁵				2		
Promotion of tobacco cultivation in one of the departments of Uruguay (Artigas) where even previous years a crop substitution policy had been implemented. ²⁶						

¹⁷ <https://legislativo.parlamento.gub.uy/temporales/leytemp5532367.htm>

¹⁸ <https://bit.ly/3xpb9zh>

¹⁹ The daily one. For experts, the qualification of heated tobacco devices demonstrates "that the industry has arrived in the Presidency". March 2021. <https://bit.ly/3xmsqcv>

²⁰ The observer. Government defined a uba lmesi for cigarettes, alcohol and fuels. January 2021. <https://bit.ly/2PsbOqA>

²¹ <https://bit.ly/32QUMNK>

²² <https://www.iatatravelcentre.com/UY-Uruguay-customs-currency-airport-tax-regulations-details.htm>

²³ <https://tobaccoatlas.org/country/uruguay/>

²⁴ <https://iris.paho.org/handle/10665.2/49237>

²⁵ Includes immediate members of the families of the high-level officials

²⁶ <https://bit.ly/3tU5XBj>

	0	1	2	3	4	5
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)	0					
The government does not accept assistance/ offers of assistance from the tobacco industry on enforcement activities including monetary contribution for these activities.						
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.			2			
The Governor of Artigas State (local government State) promotes, promotes tobacco production and highlights it as one of the department's main crops. It is highlighted as a source of work for many families. ²⁷²⁸						
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)						5
There is no national legislation establishing the disclosure of meetings with the tobacco industry or actors linked to it.						
The government met and worked closely with an individual linked to the Tobacco Industry, with the aim of obtaining Pfizer vaccines for Uruguay. The president makes this link explicit and explicitly appreciated this work at a Press Conference. It is Nicolás Herrera's link with the government. Nicolás Herrera, a member of the legal team that defended Philip Morris in the trial against the Uruguayan State, was also one of the witnesses who testified against the Uruguayan State at that trial. ²⁹						
It was not made public what meetings and agreements were reached in order to obtain the vaccines. Subsequent days, electronic devices for heating tobacco are approved for marketing. ³⁰						
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)						5

²⁷ <https://bit.ly/2QVYHLB>

²⁸ <https://bit.ly/3u4jLZW>

²⁹ <https://www.carasycaretas.com.uy/queriamos-sopa/>

³⁰ <https://youtu.be/uVYIZpggqA> (minute 2:45:00)

	0	1	2	3	4	5
There are no rules for the disclosure or registration of tobacco industry entities, affiliated organizations and individuals acting on their behalf, including pressure groups.						
INDICATOR 6: Conflict of Interest						
I3. 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)				3		
Decree 284/008 prohibits all forms of sponsorship of tobacco companies, including donations. ³¹ Despite this, the tobacco company that has 85% of the Uruguayan market (Montepaz), contributed to the financing of the election campaign of the current president (Dr. Luis Lacalle Pou). Tobacco companies are also prohibited from funding political parties, but in the last election campaign, one of the political parties declared to be funded by Uruguay's largest tobacco company, which donated \$15,000. ^{32 33 34 35}						
I4. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)	0					
There is no evidence that senior retired government officials joined the tobacco industry.						
I5. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)	0					
There is no evidence that any current government official (as of 2020) or their relatives holds any positions in the tobacco business.						
INDICATOR 7: Preventive Measures						
I6. 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
The government does not have a procedure for disclosing records of interaction (such as agenda, assistants, minutes and results) with the tobacco industry and its representatives.						
I7. 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)						5

³¹ http://cieturuguay.org.uy/images/pdf/Normativa_Control_Tabaco.pdf

³² the Observer, how much did each party spend and who funded them in the campaign? February 2020. <https://bit.ly/2Ppe6ig>

³³ https://www.corteelectoral.gub.uy/estadisticas/rendiciones_2019_2020

³⁴ <https://www.elpais.com.uy/informacion/politica/empresas-hicieron-aportes-campanas-candidatos-monto.html>

³⁵ <https://www.elpais.com.uy/informacion/politica/empresas-financiaron-campanas-electorales-gasto-dinero.html>

	0	1	2	3	4	5
The government as a whole has not formulated a policy or adopted any specific code of conduct for officials in their interactions 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)			2			
The tobacco industry must send information to the National Statistical Institute (INE): number of employees, revenue and volume of production. The Directorate-General for Tax Assistance (DGI) also keeps records of the economic activity of the industry. It is the same information that is requested from any other type of company, it is not specific to the tobacco industry. This information is not public. However, the tobacco industry is not required to submit information on marketing expenses or other activities, such as lobbying, political contributions and all other activities.						
19. The government has a program / system/ plan to consistently raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2) ³⁶						5
The government has no program or plan to raise awareness or awareness of policies related to the FCTC Article 5.3 Guidelines.						
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)	0					
The government is prohibited from accepting all forms of contributions/gifts from the tobacco industry (monetary or otherwise), including assistance offers, policy projects or study visits.						
TOTAL						49

³⁶ 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

TOBACCO INDUSTRY ACTIVITY

LOCAL TOBACCO COMPANIES

Top 5 Tobacco Companies/distributors	Market Share and Brands	Source
MONTEPAZ	More than 85% of the market (http://www.montepaz.com.uy/products/). Cigarette brands in the national market: Nevada, Coronado, California, J&M, Richmond, Victoria, Madison, Ocean, Pacific, Republican, La Paz. Tobacco brands to assemble: Cerrito, Peruano, Puerto Rico, Toro, Rio Novo. Flavored products: Niagara, Berry Mint, Dual Sens	www.montepaz.com.uy

TOBACCO INDUSTRY FRONT GROUPS

Top 5 Tobacco Industry Representative	Type (Front Group/Affiliate/ Individual)	URL
Uruguay's Kiosk Association	Pressure Group	www.asociaciondekioscosyalones.com

NEWS SOURCES

Top 5 Newspaper/Dailies	Type (Print/Online)	URL
El Pais	Printed and Online	www.elpais.com.uy
The Observer	Printed and Online	www.elobservador.com.uy
The Daily	Printed and Online	https://ladiaria.com.uy/
The Republic	Printed and Online	www.republica.com.uy
Montevideo Portal	Online	www.montevideo.com.uy