
Chile

**TOBACCO
INDUSTRY
INTERFERENCE
INDEX
2023**

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Authors:

Sonia Covarrubias Kinderman.
María Teresa Valenzuela Schmidt.

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Background and Introduction

Chile is one of the Latin American countries with high rates of smoking in the region and with a strong presence of the tobacco industry and front groups that defend their interests.

British American Tobacco, BAT Chile, operates in the country as the main tobacco company that controls 93% of the market and sells 5 cigarette brands: Kent, Lucky Strike, Dunhill, Pall Mall and Hilton.

In the Tobacco Industry Interference Index in 2021 in Latin America, developed by 18 countries in the region, Chile was in 12th place, ranking behind countries such as Costa Rica, Uruguay, Peru, Nicaragua, El Salvador, Mexico, obtaining that year 56 points according to the monitoring of the indicators.

According to the review carried out and the analysis developed of the information obtained in the period from April 1, 2021 to March 2023 as indicators presented in this report, the interference of British American Tobacco increased compared to the 2021 report, obtaining 60 points for Chile. This is due to the wide deployment developed by its lobbyists and vaping organizations that have held meetings with various public entities to disqualify public tobacco control policies, hinder tobacco bills that are being discussed in Congress and promoting new tobacco products claiming the laws are not applicable to them, such as smoke-free environments, health warnings and ban of advertising.

The interference of BAT Chile is seen more forcefully in the interaction and collaboration with public organizations related to the area of illicit trade and the organization of vapers in contact with parliamentarians as a result of the discussion of Bulletin 12.908-11 that regulates the sale, advertising and consumption of electronic cigarettes. Likewise, BAT Chile has held meetings with public officials to advocate against the Bulletin 8.866-11 bill that adapts national legislation to the standard of the Framework Convention for Tobacco Control of the World Health Organization. This project includes very important measures such as plain package, ban of flavors and additives in tobacco products, ban of advertising at points of sale, and improves jurisdiction of the health authority to sanction those who violate the law.

Despite the rise in scores in the item on the participation of the tobacco industry in the development of public policies, there was progress in the area of conflict of interest and the implementation, protective measures and curbing benefits to the industry.

The report is based on a questionnaire developed by the Southeast Asia Tobacco Control Alliance. There are 20 questions based on the Article 5.3 guidelines. Information used in this report is obtained from the public domain only. A scoring system is applied to make the assessment. The score ranges from 0 - 5, where 5 indicates highest level of industry interference, and 1 is low or no interference. Hence the lower the score, the better for the country. The 0 score indicates absence of evidence or not applicable. Where multiple pieces of evidence are found, the score applied reflects an average. To increase readability, the references to pieces of evidence are placed at the end of the report. The report includes information on incidents from April 2021 to March 2023, but also includes incidents prior to 2020 that still have relevance today.

Summary Findings

I INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

This indicator worsened compared to 2021 because of BAT Chile were received by various ministries and undersecretaries (vice ministers) in relation to presenting data on the illicit trade in cigarettes and the high commercialization of these products in the north of Chile, raising concern about tax evasion and the need to protect tax collection, presenting a study financed by BAT Chile. Meetings have been held with government officials, especially from Ministry of Finance (Finance), National Customs Service (SNA), Internal Revenue Service (SII) and Ministry of Interior and Security, as well as meetings with municipalities.

The collaboration of government departments with BAT Chile still exists through the Illicit Trade Observatory, which presents the collaboration of public and private entities to combat this crime.

BAT Chile advocated against the Bulletin 8.866-11 bill in two meetings with authorities from the Ministries of Agriculture and Finance.

Industry representatives have not been invited to be on government delegation to the COPs.

2. INDUSTRY CSR ACTIVITIES

This indicator remains unchanged since there are no Corporate Social Responsibility activities of BAT Chile, since they were prohibited by the tobacco law (20,660).

3. BENEFITS TO THE INDUSTRY

This indicator improved, since no activities to delay or hinder the implementation of tobacco control laws were detected. There have been no new benefits for the tobacco industry, apart from the tax exemption for tobacco products purchased at Duty Free stores, mainly at airports. Cigarette cartons and packs must carry the corresponding health warning, even if it is superimposed and not printed on each package.

4. UNNECESSARY INTERACTION

This indicator worsened. BAT Chile collaborates in the Illicit Tobacco Trade Observatory of the National Chamber of Commerce (CNC) with 12 state services or institutions. There is collaboration with the Municipality of Casablanca and other public institutions and private companies; in Casablanca BAT Chile has its cigarette factory.

5 TRANSPARENCY

The score remains unchanged. Chile has had a transparency law since 2008 that allows anyone to know the meetings, hearings, trips and gifts that private companies have made with authorities or government officials. On the other hand, since 2014 there is the Lobby Law that obliges companies and institutions to be register in its.

6 CONFLICT OF INTEREST

This item improved compared to 2021 since BAT Chile no longer has a local Board of Directors, which once included the participation of former authorities or senior officials of previous governments.

7 PREVENTIVE MEASURES

There is no specific code of conduct in Chile for the relationship with the tobacco industry or related interest groups, since the Transparency and Lobby laws are sufficient to regulate their conduct. This is how meetings of the organization of vapers ASOVAPE with public officials and parliamentarians were detected, while the Latin American Network for the Reduction of Harms Associated with Smoking (RELDAT) was presented at a session of the health commission of the Chamber of Deputies and Deputies in December 2022.

Tobacco companies must inform to Internal Revenue Service (SII) on the sales of tobacco products in order to calculate the taxes they must pay, and the Financial Market Commission (CMF) on their annual balances.

The item had a slight improvement compared to 2021 due to the circular of the Ministry of Health that prohibits interaction with the tobacco industry.

RECOMMENDATIONS

The authors of this report propose the following recommendations to avoid undue influence relations between the tobacco industry and state officials and estates: Disclose the interference that the industry has had or has tried to have in high-level decisions in public services, to make the population and decision-makers aware of the incorrect actions of both tobacco companies and government officials.

- 1) Propose Chile ratify the protocol for the elimination of illicit trade that entered into force worldwide on September 25, 2018, whose objective is to eliminate all forms of illicit trade in tobacco products through a set of measures that countries act in cooperation with each other, so as not to leave room for the tobacco industry to participate in these matters.
- 2) Publicly reject alliances and agreements with the tobacco industry that are not binding or mandatory.
- 3) Follow up on the actions of ASOVAPE Chile and RELDAT with those public officials and parliamentarians who interact with them given their coincidence with the strategies of the tobacco industry.

Author: Chile Libre de Tabaco



Sonia Covarrubias Kindermann
María Teresa Valenzuela Schmidt

Tobacco Industry Interference Index 2023 Results and Findings

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| INDICATOR 1: Level of Industry Participation in Policy-Development | | | | | | |
| 1. The government ¹ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry or any entity or person working to further its interests. ² in setting or implementing public health policies in relation to tobacco control ³ (Rec 3.4) | | | | | | 5 |
| <p>The Government accepts information and shares instances of collaboration with the tobacco industry (BAT Chile). It held meetings with high-level decision-making entities such as the Undersecretary of Finance about the Tobacco bill in the Agriculture Commission of the Chamber of Deputies and the impact it will have on tax collection, ⁴ Ministry of the Interior (Undersecretariat for Crime Prevention) on record of seizures illicit tobacco and how the State will lose USD 500 million a year in tax collection due to smuggling ⁵ and Carabineros de Chile⁶ on how money laundering, illicit associations, tax evasion, common and related crimes, which will impact public security. BAT also had meetings with mid-level decision-making services (Internal Revenue Service ⁷) and local level authorities (Customs of Arica ⁸, Municipalities of Casablanca⁹, Maipú¹⁰ and Antofagasta¹¹, Presidential Delegate of the Ñuble region ¹².</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 Ministry of Agriculture agreed to meet with BAT Chile ¹³ and did not support the health authorities in the discussion of the bill that adapts Chilean legislation to the standards of the Framework Convention for Tobacco Control (Bulletin 8866-I I).</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) I Never 5 Yes | | | | | | 5 |
| <p>Collaboration occurs through the Illicit Trade Observatory of the National Chamber of Commerce, where 12 public and private institutions participate, including BAT Chile¹⁴.</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 Plataforma Ley de Lobby: <https://bit.ly/45vXgAg>

⁵ Plataforma Ley de Lobby: <https://bit.ly/3WDG4op>

⁶ Plataforma Ley de Lobby: <https://bit.ly/3BYa45I>

⁷ Plataforma Ley de Lobby: <https://bit.ly/3MuQQsE>

⁸ Plataforma Ley de Lobby: <https://bit.ly/3WAAkvE>

⁹ Plataforma Ley de Lobby: <https://bit.ly/3q2ZpmP>

¹⁰ Plataforma Ley de Lobby: <https://bit.ly/3OGNUf6>

¹¹ Plataforma Ley de Lobby: <https://bit.ly/3WDJRSS>

¹² Plataforma Ley de Lobby: <https://bit.ly/3WDJRSS>

¹³ Plataforma Ley de Lobby: <https://bit.ly/3BZIG6U>

¹⁴ Cámara Nacional del Comercio. Observatorio de Comercio Ilícito <https://www.cnc.cl/oci/alianzas/>

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| <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)¹⁵ (Rec 4.9 & 8.3) For non-COP year, follow the previous score of COP year. For non-Parties, apply a score of '0'</p> | | I | | | | |
| <p>The government has not participated, nor has it sponsored the participation of industry representatives in the ninth session of COP in 2021.</p> | | | | | | |
| <p>INDICATOR 2: Industry CSR activities</p> | | | | | | |
| <p>5. A. Government agencies or their officials endorse, support, form partnerships with or participates in activities of the tobacco industry described as “socially responsible” or “sustainable”. For example, environmental programs. (Rec 6.2)</p> <p>B. The government (its agencies and officials) receives CSR contributions¹⁶ (monetary or otherwise, including CSR contributions) from the tobacco industry or those working to further its interests during the pandemic. (Rec 6.4) <i>NOTE: exclude enforcement activities as this is covered in another question</i></p> | | I | | | | |
| <p>No CSR activities of major tobacco companies have been detected with government agencies and private agencies. Industry contributions to any state, government, or even private institution body such as study center must be reported annually to the Ministry of Health as required by Tobacco Control Act 20,660. Nothing was reported in 2021 and 2022.</p> | | | | | | |
| <p>INDICATOR 3: Benefits to the Tobacco Industry</p> | | | | | | |
| <p>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)</p> | | I | | | | |
| <p>During the reporting period, no formal applications have been made by the tobacco industry or its front groups to delay or hinder the implementation of tobacco control laws.</p> | | | | | | |
| <p>7. The government gives privileges, incentives, tax exemptions or benefits to the tobacco industry (Rec 7.3)</p> | | | 3 | | | |
| <p>There are no tax exemptions or benefits to the tobacco industry except for the sale of duty-free products in duty-free areas at airports and other routes of entry into the country. However, the law requires that all tobacco products sold on these sites must carry the Chilean health warning, even if it is superimposed on packaging.¹⁷</p> <p>International travelers can bring into Chile duty free 400 cigarettes and 500 gms of pipe tobacco and 50 large or small cigars¹⁸.</p> | | | | | | |
| <p>INDICATOR 4: Forms of Unnecessary Interaction</p> | | | | | | |

¹⁵ Please annex a list since 2009 so that the respondent can quantify the frequency, <http://www.who.int/fctc/cop/en/>

¹⁶ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

¹⁷ Subsecretaría de Salud Pública. (2013). Ley 20660 art.6. Retrieved from <https://bit.ly/3x8qVxH>

¹⁸ IATA Travel Centre. Chile customs currency airport tax regulations. <https://bit.ly/3vk0eVf>

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| 8. Top level government officials (such as President/ Prime Minister or Minister ¹⁹) 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) | | 1 | | | | |
| There is no publicly available record of the tobacco industry meeting with top level government officials. | | | | | | |
| 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) | | | | | | 5 |
| Chile's National Chamber of Commerce created the Illicit Trade Observatory involving private entities - including BAT Chile - and 12 state agencies, most of them related to economic and cigarette smuggling control aspects. This is a permanent body set up in 2016 and whose objective is to coordinate actions to curb the illicit trade of various products, but with special emphasis on the illegal trafficking of cigarettes. ²⁰ BAT Chile is implementing a similar strategy at more local levels, such as the Valparaíso Chamber of Commerce ²¹ . In 2022, BAT Chile again financed a study on cigarette smuggling commissioned to MIDE UC, a center for social studies of the Catholic University of Chile, which determined that the figures for illicit tobacco trade did not increase between 2019 and 2022. ²² | | | | | | |
| 10. The government accepts, supports, endorses, or enters into partnerships or non-binding agreements with the tobacco industry or any entity working to further its interests. (Rec 3.1) <i>NOTE: This must <u>not</u> involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.</i> | | | | 3 | | |
| In social networks, publications were found from entrepreneurs who were hired by BAT CHILE to carry out their corporate events, recreational activities, meetings with organizations and design manufacturing to display their products, all of these are way of surreptitious advertising. Special attention deserves the creation of the "Casablanca Safety Committee" (city where BAT Chile has its cigarette factory) in which participate public entities such as the Municipal Corporation, the uniformed and civilian Police and other private companies in the area, including BAT Chile ²³ . | | | | | | |
| 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) | | | 2 | | | |
| The government is required to provide information from meetings or interactions with the tobacco | | | | | | |

¹⁹ Includes immediate members of the families of the high-level officials

²⁰ Observatorio del Comercio Ilícito, Cámara Nacional de Comercio. <https://bit.ly/3figvEh>

²¹ Cámara Regional de Comercio de Valparaíso. <https://crcpvalpo.cl/2022/03/08/sebastian-osorio-market-integrity-manager-de-bat-hay-que-seguir-trabajando-en-la-linea-de-las-mesas-de-trabajo-publico-privadas-para-generar-informacion-estudios-y-analisis/>

²² Encuesta de consumo de tabaco y comercio ilícito MIDE UC 2022. https://mideuc.cl/wp-content/uploads/2022/11/Encuesta-consumo-cigarrillos-comercio-ilicito-BAT-2022_04_11_22.pdf

²³ British American Tobacco Chile Instagram #batchile

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| industry across all its agencies through the Active Transparency portal, which was created from the entry into force of Laws 20.285 (2008) regulating access to public information of state agencies and Law 20.730 (2014) regulating lobbying and private interest defense activities. Both laws translate into information search platforms that allow any citizen to access meetings, trips and gifts made or received by government authorities or officials. Further details of each meeting can be requested through these portals and State units have a duty to deliver that information ^{24 25} . | | | | | | |
| 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) | | | | 3 | | |
| Through the Transparency and Lobby law platforms, the State requires the identification and registration of lobbyists and managers of interest who are persons representing the interests of companies and organizations that relate to officials or authorities of state institutions. 28 BAT Chile lobbyists have registered on these platforms, many of them have had meetings with authorities as detailed in question 1. | | | | | | |
| 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) / Never 5 Yes | | | | | | 5 |
| The government does not prohibit these contributions; however, it has mechanisms to meet donors and sponsors of political campaigns and candidates through the Electoral Service (SERVEL) that allows to know this information partially. | | | | | | |
| 14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4) | | 1 | | | | |
| No evidence was found of retired senior government officials joining the tobacco industry. | | | | | | |
| 15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10) | | 1 | | | | |
| No evidence of any current government official holding positions in the tobacco industry. | | | | | | |
| 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) | | | | 3 | | |
| Procedures exist in government to track the activity of interactions between the tobacco industry and its officials, as well as in parliament. Thanks to these procedures, we learned that ASOVAPE Chile, the organization of vapers, met with 28 deputies between May 2021 and November 2022, lobbying in favor of incorporating very advantageous provisions into the tobacco law currently in force (19,419). consumption of electronic nicotine or non-nicotine delivery devices. He also met with an official from the Ministry of Health in 2021. This organization has as an ally and advisor, | | | | | | |

²⁴ Biblioteca del Congreso Nacional de Chile, 2008 <https://bit.ly/3tNOQQS>

²⁵ Plataforma Ley de Lobby, 2014. <https://bit.ly/3tOgn4z>

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| among others, the Chilean doctor Daniel Kleiman who was invited to "El Cubo", the Phillip Morris facilities in Neuchatel, Switzerland, to learn about the new technologies of heated tobacco products, as published by himself on his Facebook ²⁶ in June, 2019. | | | | | | |
| The Latin American Network for the Reduction of Harms Associated with Smoking (RELDAT) was also presented in the health commission of the Chamber of Deputies in the framework of the discussion on new electronic devices ²⁷ . | | | | | | |
| 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); <i>1 for whole of government code; 2 for Yes but partial if only MOH</i> | | | 2 | | | |
| The Ministry of Health made a public commitment to instruct all its members not to contact representatives of tobacco companies and their front organizations due to their incompatibility with public health objectives. On June 6, 2022, circular number 6 was signed, which "Establishes guidelines for the exercise of lobbying by the tobacco industry" ²⁸ | | | | | | |
| 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) | | | | 3 | | |
| The tobacco industry must report annually to the Ministry of Health the costs it incurs for monetary donations and sponsorships to individuals and institutions whether state or private (Law 20.660, Article 3) ²⁹ . | | | | | | |
| The industry provides information to government institutions related to tax collection all data on tobacco production and taxes it pays, information that must be requested especially through the transparency portal and state lobby. | | | | | | |
| Moreover, each company operating as a public limited company must send the company's annual balance sheet to the Financial Market Commission. However, this information is only provided in physical form in the offices of this state unit and has therefore not been accessible. | | | | | | |
| 19. The government has a program / system/ plan to consistently ³⁰ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2) | | | | | | 5 |
| There's nothing so far on the subject, except for Ministry of Health. | | | | | | |
| 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 | | | | | | 5 |

²⁶ Artrosis y Células Madres, Facebook page <https://web.facebook.com/ArtrosisYCelulasMadres>

²⁷ Cámara de Diputados. Citaciones Comisión de Salud en Diciembre de 2022. <https://bit.ly/43a24dg>

²⁸ Chile Libre de Tabaco <https://www.chilelibredetabaco.cl/wp-content/uploads/2023/05/circular-no-6-tabaco-chile-mayo-2023.pdf>

²⁹ BCN, Ley 20.660, <https://bit.ly/3eMVKS7>

³⁰ 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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| invitations given or offered to the government, its agencies, officials and their relatives. (3.4) | | | | | | |
| No measures have been explicitly established to prevent gifts or contributions from the tobacco industry but within the transparency portal there is a record of gifts and travel from each authority and government official with some degree of responsibility in decisions. | | | | | | |
| TOTAL SCORE | 60 | | | | | |

Annex A: Sources of Information

| | TOP TOBACCO COMPANIES/ DISTRIBUTORS | MARKET SHARE | BRANDS | SOURCE |
|---|-------------------------------------------|--------------|-----------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | British American Tobacco Chile | 93% | Kent, Lucky Strike, Dunhill, Pall Mall Hilton | https://bit.ly/2RXMRMM |
| 2 | Phillip Morris International Chile | 6% | Marlboro, Phillip Morris | https://bit.ly/2RXMRMM |
| 3 | Tanasa | 0.5% | Indy | |
| 4 | Apollo Tobacco | 0.5% | Apolo | https://www.linkedin.com/in/tabacos-apollo-1a714750/?originalSubdomain=cl |

| | TOP MEDIA/ NEWSPAPERS | URL |
|---|-----------------------|------------------------------------------------------------|
| 1 | El Mercurio | www.elmercurio.com |
| 2 | La Tercera | www.latercera.com |
| 3 | La Segunda | www.lasegunda.com |
| 4 | El Mostrador | www.elmostrador.cl |
| 5 | CIPER Chile | www.ciperchile.cl |

| | MAIN TOBACCO INDUSTRY ALLIES/ FRONT GROUPS | TYPE (FRONT GROUP, LOBBY GROUP, INDIVIDUAL) | SOURCE |
|---|--------------------------------------------|------------------------------------------------|-------------------------------------------------------------------------------------------|
| 1 | ASOVAPE | FRONT GROUP | https://web.facebook.com/AsovapeChile |