

MEXICO

2020

TOBACCO
INDUSTRY
INTERFERENCE
INDEX

Background and Introduction

Mexico ratified the WHO Framework Convention on Tobacco Control on February 27, 2005. The General Law on Tobacco Control (GLTC), approved in 2008, is the principal law governing tobacco control at the federal level. By now, 14 states have local regulations specific on tobacco control. The GLTC covers all the areas in the FCTC - smoke free policies, tobacco advertising, promotion and sponsorship, packaging and labelling, and enforcement- , but none of them is completely fulfilled.

In 2019, at the initiative of the President of the Republic, the federal Congress approved an update and indexation of tobacco taxes. With this, taxes represent 69% of the final sale price.¹ This progression, along with the import ban on electronic nicotine delivery systems (ENDS) and heated tobacco products approved in February 2020, encouraged PAHO / WHO to recognize the Mexican government with the World No Tobacco Day 2020 Award in this two areas.²

Two transnational tobacco companies, Philip Morris International (PMI) and British American Tobacco (BAT), controls two thirds of the cigarette market in Mexico. PMI, through its local subsidiary, is the leading tobacco company in Mexico. It sells Marlboro and Benson & Hedges (premium), and Delicados and Chesterfield (economy).

The WHO FCTC Article 5.3 empowers the government to protect itself from tobacco industry tactics. This report reviews on how the government is implementing Article 5.3 guidelines. It uses the questionnaire on Tobacco Industry Interference Index developed by the Southeast Asia Tobacco Control Alliance³. This report is based on publicly available evidence. Incomplete information is acknowledged as a limitation. The main findings of the Index are presented below.

¹ Salud Justa MX. Control del Tabaco en México. Indicadores Nacionales, México, May 2020, available in https://saludjusta.mx/wp-content/uploads/IndicadoresNacionales_2020-1.pdf

² Organización Panamericana de la Salud. “Los Premios del Día Mundial sin Tabaco 2020 reconocen los avances en Bolivia, Brasil, México y Venezuela”, May 22, 2020. Available in https://www.paho.org/mex/index.php?option=com_content&view=article&id=1535:los-premios-del-dia-mundial-sin-tabaco-2020-reconocen-los-avances-en-bolivia-brasil-mexico-y-venezuela&Itemid=499

³ Assunta M. Dorotheo E.U. SEATCA Tobacco Industry Interference Index: a tool for measuring implementation of WHO Framework Convention on Tobacco Control Article 5.3; Tob Control <http://dx.doi.org/10.1136/tobaccocontrol-2014-051934>

Summary Findings

1. **INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT**

The current federal government has limited the participation of the tobacco industry; even in the meetings of the National Commission against Addictions, participants are required to have no ties or representation of that industry. In 2019, with a campaign involving British American Tobacco, the Ministry of Health decided to withdraw its participation. However, initiatives for lax regulation of electronic cigarettes and heated tobacco products have been put forward in the federal Congress. The government keeps out all industry participation in the COP delegation.

2. **INDUSTRY CSR ACTIVITIES**

The collaboration of the Nayarit State Government and the two main tobacco companies in Mexico (Philip Morris and British American Tobacco) continues to be a matter of concern, especially due to the alleged support for farmers and their families.

3. **BENEFITS TO THE INDUSTRY**

There is no publicly available record of the government postponing the implementation of policies required to regulate the tobacco industry. The government continues to give duty free status for 2 cartons of cigarettes or 50 cigars or a kilo of tobacco for international travelers. There should be greater transparency on the information provided by the Tax Administration Service to identify any benefits given to the tobacco industry.

4. **UNNECESSARY INTERACTION**

In the Senate of the Republic, Senator Miguel Ángel Navarro, President of the Health Committee, participates in events organized by British American Tobacco. The question remains whether the cigarette tracking system is provided by the tobacco industry (Codentify), which has already been reported. In addition, Philip Morris participates with the federal government in the "Youth Building the Future" program (Programa "Jóvenes Construyendo el Futuro").

5. **TRANSPARENCY**

Federal regulation does not oblige to disclose meetings with the tobacco industry. In the Congress of the Union, the registration of lobbyists is mandatory, where companies and organizations must express their interests and who they represent.

6. **CONFLICT OF INTEREST**

The federal government does not prohibit tobacco industry contributions to campaigns. Retired officials remain as lobbyists for the tobacco industry (now, in addition, allied with former officials who work for the soft drink industry). In the political party of the President of the Republic, Yeidckol Polevnsky continues as General Secretary.

7. **PREVENTIVE MEASURES**

The Ministry of Health has assumed a leading role in spearheading preventive measures in the federal government. This institution, together with the Ministry of Economy, has internal guidelines related to article 5.3 of the CMCT. The federal government in 2019 approved a regulation that prohibits employees from receiving any contributions. However, assistance offers, policy drafts or study visit invitations which could come from the tobacco industry, are still maintained.

Recommendations

Mexico improved its score this year with the new measures in favor of transparency and against the conflict of interests led by the Ministry of Health. However, the interference of the tobacco industry in the Federal Congress remains, where lobbyists promote lax regulation of electronic cigarettes and heated tobacco products. There is a need to reinforce measures against conflict of interest throughout the government.

Mexico: 2020 Tobacco Industry Interference Index

Results and Findings

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INDICATOR 1: Level of Industry Participation in Policy-Development						
1. The government ⁴ accepts, supports or endorses any offer for assistance by or in collaboration with the tobacco industry ⁵ in setting or implementing public health policies in relation to tobacco control ⁶ (Rec 3.1)		1				
<p>The <i>Consejo de la Comunicación</i> (Communication Council) and the <i>Fundación Río Arronte</i> launched “<i>No está chido</i>”, a campaign to prevent tobacco and alcohol consumption by underage people. At the beginning, the campaign had the support of the Ministry of Health through CONADIC (National Council Against Addictions) and other health related institutions. NGOs warned the Ministry of Health that there was a conflict of interest as British American Tobacco was part of the board of advisors for the campaign. The response of the MoH was to immediately retire the support to the campaign. BAT was removed of the advisory board and the campaign changed their approach so some other government related institutions, not from the health sector, are still part of it.</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)		1				
<p>In 2019, the Congress received 4 initiatives to reform the General Tobacco Control Law to include ENDS and heated tobacco products in the law. None of the proposals are openly in favour of the tobacco industry but in 2 of these initiatives (the one presented by Lorenia Valles and the one presented by Ivonne Alvarez) there are the same arguments – harm reduction and lower risk – used by the tobacco industry, specially by Philip Morris and IQOS.</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)		1				
<p>As of 2019, at all inter-sectoral meetings convened by CONADIC, on technical or tobacco control issues, two substantive documents must be signed: the first is that all attendees must make declaration of no conflict of interest, related to the tobacco and vaping industry. The second is only delivered for signature when it comes to groups that participate in the development of public policies, for tobacco control, for which they are asked to sign a Confidentiality Agreement.</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) ⁷ (Rec 4.9 & 8.3)		1				

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 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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The government does not have any representatives from the tobacco industry in the delegation to the COP.						
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 ⁸ (monetary or otherwise) from the tobacco industry (including so-called CSR contributions). (Rec 6.4)						
The Government of the State of Nayarit constantly participates with Philip Morris Mexico and British American Tobacco in CSR activities such as building of community centres, support for farmers, delivery of computers to kids in rural schools. They are also involved and support educational activities in state owned technological universities.						
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)	0					
There is no record of the government granting any requests from the tobacco industry for a longer time frame for implementation or postponement of tobacco control law.						
7. The government gives privileges, incentives, exemptions or benefits to the tobacco industry (Rec 7.3)			2			
The government has not given any privileges, incentives, exemptions or benefits to the tobacco industry recently. The old NAFTA is still in place where tobacco leaf from US are imported duty free into Mexico. Ref: http://siteresources.worldbank.org/INTETC/Resources/375990-1089904539172/343TO364.PDF Pg 354						
The Tax Administration Service (SAT) refused to provide information about tobacco companies under the National Institute for Transparency, Access to Information and Protection of Personal Data (INAI) on raw materials to manufacture cigarettes, the production, import and distribution in Mexico. https://translate.google.com/translate?hl=en&sl=es&u=https://piedepagina.mx/tabacaleras/el-sat-alega-secreto-fiscal-y-cierra-la-informacion-sobre-las-tabacaleras-que-operan-en-mexico.php&prev=search						
International travellers are allowed to bring into Mexico 2 cartons of cigarettes or 50 cigars or a kilo of tobacco (2.2lbs).						
INDICATOR 4: Forms of Unnecessary Interaction						
8. Top level government officials (such as President/ Prime Minister or Minister ⁹) meet with/ foster relations with the tobacco companies					4	

⁸ political, social financial, educations, community, technical expertise or training to counter smuggling or any other forms of contributions

⁹ Includes immediate members of the families of the high-level officials

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such as attending social functions and other events sponsored or organized by the tobacco companies or those furthering its interests. (Rec 2.1)						
Senator Miguel Angel Navarro, president of the Health Committee, attended and spoke on behalf the tobacco industry in an event organized by British American Tobacco and spoke on behalf of the industry asking to stop "demonizing" tobacco, as its production and sale generates investments and jobs throughout the country. Also, he promised to work so that the necessary legal reforms are achieved without harming companies and the generation of job sources.						
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)			2			
The track and trace system used by the Mexican Government is inspired and remarkably like Codentify. The main source of information for the tax authority, <i>Sistema de Administración Tributaria</i> , are the reports provided by the tobacco industry.						
10. The government accepts, supports, endorses, or enters into partnerships or agreements with the tobacco industry. (Rec 3.1) <i>NOTE: This must not involve CSR, enforcement activity, or tobacco control policy development since these are already covered in the previous questions.</i>				3		
Philip Morris partnerships with the Federal Government in the "Jóvenes Construyendo el Futuro" (Youth Building the Future) program. The program consists in a scholarship granted by the government to young people between 18 and 29 years old to work in a company where, in exchange for being trained to acquire the necessary skills to enter the labor market, they offer labor at no cost to the company. Philip Morris is part of the companies that signed the collaboration agreement and participates as an employer / trainer.						
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)				3		
The General Law for Tobacco Control does not oblige to disclose meetings with the tobacco industry (please, see http://www.diputados.gob.mx/LeyesBiblio/pdf/LGCT_150618.pdf). However, the Ministry of Health determined to record in video any meeting with the tobacco industry or its allies.						
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)			2			
There is no specific requirement for the tobacco industry, in federal government. However, the Senate of the Republic does have a general census of lobbyists, where companies and organizations must express their interests and representatives, in accordance with written guidelines (see https://www.senado.gob.mx/64/padron_de_cabilderos). The Chamber of Deputies also has a census of lobbyists, which it publishes every year (see http://pot.diputados.gob.mx/Obligaciones-de-Ley/Articulo-72/XV.-Padron-de-cabilderos).						
INDICATOR 6: Conflict of Interest						

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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)						5
The federal government does not prohibit tobacco industry contributions to campaigns (see the General Law of Institutions and Electoral Procedures in http://www.diputados.gob.mx/LeyesBiblio/pdf/LGIPE_130420.pdf).						
14. Retired senior government officials form part of the tobacco industry (former Prime Minister, Minister, Attorney General) (Rec 4.4)			3			
Mony de Swaan was President Commissioner of the Federal Telecommunications Commission until 2013, with the past president. Today, he represents Philip Morris México (see http://www.ceiap.mx/cartera-de-clientes/). Often, the tobacco industry in Mexico presents itself as an ally with other industries, such as the sugary drinks industry, especially on fiscal policy issues. The Director of Corporate Affairs of FEMSA (Coca Cola Mexico) was Undersecretary of the Interior: Roberto Campa (https://www.elfinanciero.com.mx/empresas/roberto-campa-el-nuevo-director-de-asuntos-corporativos-de-femsa).						
15. <u>Current government officials</u> and relatives hold positions in the tobacco business including consultancy positions. (Rec 4.5, 4.8, 4.10)			2			
Yedikol Polevnsky is the General Secretary of MORENA, the party that was founded and led by México's President, Andrés Manuel Lopez Obrador. Her daughter, named Shirley Alamaguer, is Director of Regulatory Affairs for BAT Mexico.						
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)					4	
There is a proposal from the Secretary of Health to promote records of the interaction with the tobacco industry, for the whole federal government.						
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	
The Ministry of Health has formulated a code of conduct, but it has not been approved.						
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 federal government requires the industry to provide periodic information on production (Monthly Survey of the Manufacturing Industry, INEGI) and collection (Ministry of Finance). However, the industry is not required to report investment in marketing, lobbying, philanthropy, political contributions, and other activities.						

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19. The government has a program / system/ plan to consistently ¹⁰ raise awareness within its departments on policies relating to FCTC Article 5.3 Guidelines. (Rec 1.1, 1.2)				3		
The Ministry of Health and the Ministry of Economy have internal guidelines related to article 5.3 of the FCTC. However, they are not public.						
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)			2			
The government has regulations to prevent public servants from receiving gifts or contributions, in general (see Agreement that issues the Code of Ethics for public servants of the Federal Government at https://dof.gob.mx/nota_detalle.php?codigo=5549577&fecha=05/02/2019). However, this order does not include offers of assistance, policy drafts, or study visit invitations.						
TOTAL				47		

¹⁰ 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.