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## Tobacco Industry Strategies to Obstruct the FCTC in Argentina

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### Abstract

**Objective**—To describe the strategies pursued by the tobacco industry (TI) to interfere with the ratification of the WHO Framework Convention on Tobacco Control (FCTC) in Argentina.

**Methods**—We conducted semi-structured interviews about the FCTC, the TI and the legislative process with 3 legislators, 4 public health officials, 1 representative of the tobacco growers and two tobacco-control advocates. We reviewed 6 newspapers from the 4 tobacco growing provinces, searched TI documents in the Legacy Tobacco Documents Library and reviewed 1624 documents. Proposed legislation and related documents on tobacco control from Argentina's National Congress and the Provincial Jujuy Congress were reviewed.

**Results**—The principal strategy used by the TI was lobbying of provincial legislators and federal officials from the Ministry of the Economy by the tobacco growers associations. These legislators prevented the passage of comprehensive bills on tobacco control or of less comprehensive national laws. A typical legislative strategy used was to request additional analyses of the proposed bills from committees that prioritized economic issues over health. FCTC was mentioned in regional newspapers three to seven times per week in articles about alleged adverse economic effects of tobacco control. Direct physical threats to legislators who were openly supportive of FCTC ratification were made.

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**Conclusion**—Tobacco producers and TI opposed FCTC ratification in Argentina by lobbying elected representatives and placing stories in regional media to obstruct approval of tobacco control laws. These activities have led to a delay in consideration of Argentina’s ratification of the FCTC despite the President’s signature in 2003. (250 words)

### Keywords

FCTC; Argentina; Tobacco Control

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### Introduction

On February 27, 2005, the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC) was activated after ratification by the required minimum of countries. This new treaty is the first treaty ever adopted under the auspices of WHO and the first international legal instrument designed to promote multilateral cooperation and national action to reduce the spread of the global tobacco epidemic. FCTC was adopted through consensus by the WHO on May 21, 2003 and as of June 11, 2008, it was signed by 168 and ratified by 157 of the 192 member states worldwide.

Since the idea of an international legal approach to tobacco control was presented in 1993<sup>1</sup>, the tobacco industry has been concerned with the burden such a treaty would impose on their economic wellbeing<sup>2</sup> and it has tried to undermine the FCTC<sup>3–5</sup>. The strategies used by the tobacco industry for weakening, and blocking signing and ratification of the FCTC include: spreading of misinformation about the legal process of ratification, arguing for its inclusion in the development of public health policies, proposing voluntary regulation and developing campaigns of social corporate responsibility<sup>6</sup>.

Argentina signed the FCTC on September 25, 2003<sup>7</sup>. In June 2004, the national government presented a bill in the Senate to ratify the FCTC, however as of June 2008, the Argentinean Congress has not ratified the FCTC. The delay in ratification is a result of multiple political and economic factors, but more importantly, tobacco industry influence<sup>8,9</sup>. The objective of this study was to determine the tobacco industry strategies to obstruct FCTC ratification in Argentina.

### Methods

We used four methods to attempt to identify tobacco industry strategies to influence ratification of the FCTC in Argentina. First, we conducted interviews with key informants; second, we reviewed regional newspapers in the tobacco growing provinces of Argentina; third, we searched the tobacco industry documents library; and fourth, we examined legislative proposals that addressed tobacco control in the national congress and in one provincial legislature.

The authors generated a list of 30 potential key informants that was designed to represent a spectrum of perspectives from that of tobacco control advocacy to that of the tobacco industry. Our goal was to conduct ten interviews and all of our first contacts agreed. After obtaining informed consent we conducted semi-structured interviews with 10 informants: 3 elected legislators, 4 public health officials, 1 tobacco control advocate in Buenos Aires, 1 tobacco grower’s representative from Jujuy and 1 tobacco expert from the United States from December 2005 to March 2006. The interviews were sixty minutes in duration and were conducted between December 2005 and March 2006. The interview assessed knowledge about the FCTC and the ratification process, the role of the respondent’s institution in the ratification process, involvement in any activity related with the FCTC, and knowledge of any strategy to interfere

or obstruct the ratification of the FCTC and who was responsible for this. The interviews were taped, transcribed and analyzed by two of the authors (RM and VS).

We reviewed the six newspapers published from January to November 2005 in the four tobacco growing provinces of Northern Argentina: “El Tribuno” from the Province of Salta, “Pregón” and “Jujuy on line” from the Province of Jujuy, “Misiones online” from the Province of Misiones, and “Momarandu” and “El Litoral” from the Province of Corrientes. We selected 92 newspaper articles from Salta and Jujuy and 69 articles from Corrientes and Misiones where the FCTC, tobacco control legislation or the activities related to tobacco producers by local political representatives were mentioned.

We searched tobacco industry documents, between June 2004 and October 2005, in the Legacy Tobacco Documents Library at UCSF (<http://legacy.library.ucsf.edu/>), the BAT Documents Archive (<http://www.bat.library.ucsf.edu/>), and Tobacco Documents Online ([www.tobaccodocuments.org](http://www.tobaccodocuments.org)). In addition, we also searched tobacco industry websites (Philip Morris [www.pmdocs.com](http://www.pmdocs.com) and Nobleza-Piccardo [www.noblezopiccardo.com.ar](http://www.noblezopiccardo.com.ar)). Initial search terms were geographical names (e.g., Argentina, Jujuy), FCTC, treaty, legislation (Spanish and in English documents), names of Argentinean politicians and tobacco growers’ representatives, and Bates reference numbers near relevant documents. After identifying the key documents and words, we used a snowball strategy to locate new documents. We found 622 documents from PM and 1002 from BAT. All the documents were reviewed and none had relevant information about tobacco industry actions to obstruct FCTC in Argentina, nor did we find any documents that connected Tobacco Industry with Tobacco Grower Associations to develop articulated actions to block FCTC at the local level in Argentina.

Finally, we reviewed proposed legislative bills and other documents related to tobacco control that were presented in Argentina’s National Congress and from the Jujuy Provincial Legislature. We reviewed the content of the proposed bills and the legislative process and outcomes in the Congress.

## Results

In the tobacco-growing region, representatives of the Argentinean Tobacco Growers Association (*Federación Argentina de Productores de Tabaco*) held frequent meetings with local legislators. During these meetings, tobacco growers highlighted the negative consequences that the ratification of the FCTC would have on the economy of the region<sup>10–12</sup> Figure 1.

The newspaper editors of the tobacco growing regions appeared to support the activities against the FCTC generated by the growers. The frequency with which articles mentioned the FCTC appeared to increase from one article per week to one article per day when the FCTC was being discussed in the national congress in August and September 2005. The articles mentioned meetings between local legislators and tobacco growing representatives<sup>10 13 14</sup>. In these articles other congressional representatives, tobacco producers and other journalists criticized legislators who supported laws against tobacco<sup>15 16</sup>. Some articles contained personal threats to tobacco control advocates and considering the history of arbitrary political repression in Argentina, these threats were to be taken seriously.

“.... to defend tobacco production whoever may fall or whose arms we need to twist..”, *P. Pascuttini, President of the Tobacco Growers Assoc Jujuy*<sup>17</sup>

As a consequence of these activities, the Jujuy Legislature passed a resolution requesting that the national Congress not ratify the FCTC<sup>18</sup>.

Tobacco growers also lobbied the National Congress directly and in August 2006, they provided a brochure to the Senate Health Committee entitled “*Observaciones Jurídicas al Convenio Marco Antitabaco*” (Legal Observations Regarding the FCTC)<sup>19</sup>. The document included multiple points against FCTC ratification, but the principal argument was the economic losses as a consequence of eliminating the “*Fondo Especial del Tabaco*” (FET or Special Tobacco Fund). The FET is financed through a 7% tax on the sale of cigarette packs. Since 1972, the FET has subsidized tobacco production in Argentina and in 2002, the FET collected \$145,985,808 Argentinean pesos (U\$50,000,000)<sup>20</sup>. In this brochure the authors stated: “*the FCTC violates the National Constitution and affects the tobacco producers’ rights*” and “*it would bring economic ruin to thousands of families*”.

Several legislators are also tobacco growers including, ex Senator and ex President of Argentina, Ramon Puerta who has a tobacco-producing farm in Misiones. He was the President of the Commission for Foreign Affairs in the National Senate, of which Senators Jenefer and Lopez Arias were also members. This commission has been responsible for reviewing the FCTC since October 2004 and to date it has not been discussed<sup>21</sup>.

The transnational tobacco industry has followed closely the potential FCTC ratification process in Argentina. BAT hired the Argentinean public relations firm, Basso Dastugue & Asociados (BD&A) which specializes in corporate image and communications. Jorge Basso Dastugue was a Nobleza Piccardo executive in charge of the Public Relations area of BAT<sup>22</sup> 23. As part of that involvement BD&A generated a detailed report to Nobleza Piccardo and BAT about newspapers articles regarding the FCTC<sup>24</sup>.

Tobacco industry representatives also held frequent meetings with national Deputies requesting not to ratify the FCTC because of supposed economic losses. In a meeting held in May 2006, Nobleza Piccardo representatives mentioned to Congressman Eduardo Macaluse their disagreement with the taxes article of the Project that he had presented in the National Congress. In July 2006, when the FCTC was reviewed by the Congressional Health Commission, Deputies Lucía Garín de Tula, Juan Silvestre Vagnis, Antonio Lovaglio, Juliana Marino and Paula Berthol met with Matias Szapiro (planning manager) and Facundo Etchebehere (institutional relationships manager) from Nobleza Piccardo and Juan Cristobal Raitzin (governmental affairs from Massalin Particules and President of the Tobacco Industry Chamber in Argentina). This meeting was confirmed by both a legislator and a staff advisor from an opposition party.

“... When will the meeting that we talked about take place? ....toward July, August 2005, the day that it was going to be discussed by the commission, the (tobacco) producers showed up at the office of Macaluse, two or three days beforehand, asking if they could participate in the debate ...” *Matilde Ruderman Counselor Deputy Macaluse (ARI, oppositor political party) [translated by the authors]*.

In July 2006 an agreement between the Ministry of Economy and tobacco industry representatives regarding tobacco pricing policy, resulted in the deletion of the article on raising the price of cigarettes in the Bill introduced by Dr G. Gonzalez García, Ministry of Health. In a public session Gonzalez asked the senators for prompt approval of the new project. The project was never discussed and on April 12, 2007 the bill lost “parliamentary status” and was discarded<sup>25</sup>.

“The regulatory framework for tobacco sales and consumption would soon be approved. In order to facilitate passage of the bill, Ginés González García, Minister of Health, had to concede to the elimination of the additional tax that had been opposed by law-makers from the tobacco-producing provinces. This is why the bill was returned to the Deputies for a second round of reviews.” G. Ybarra <sup>26</sup>.

Despite the projects described above, E. Corradini, Program Coordinator for Crop Substitution, from the Ministry of Economy, said that “*the government totally agreed with the FCTC and that the main obstacle is the tobacco growers, who fear losing the FET*”. According to Corradini, this fear among tobacco growers is intensified by the belief that the tobacco industry has accepted that they should diversify their activities (i.e. food or energy) because tobacco at some point will no longer be profitable.

“... I am absolutely convinced that for such a big industry the subject of the FCTC is secondary, since already the industry is adopting the recommendations of the WHO, already BAT publicizes on their packets the possible detriments to health, removed street advertising, motor sport advertising, specially Formula 1...”

Lic Eugenio Corradini. Program Coordinator for Crop Substitution, February 14, 2006. [translated by the authors]

Representatives from the tobacco growing provinces succeeded in keeping FCTC and effective tobacco control bills from being ratified by the National Congress using at least 7 strategies:

1. Pro tobacco legislators from the tobacco growing provinces agreed to support other proposals not related to tobacco in return for other representatives’ agreement to oppose any discussion of tobacco control projects.

“... So, if you move forward with this proposed law, that affects the interests of the tobacco producers of my province, I will not vote for the bridge or whatever. There is a negative return, a disservice, to not give votes for other related matters in the interest of other provinces ...” *Deputy Juliana Marino (Frente para la Victoria, Official party).*

2. Pro-tobacco legislators proposed less comprehensive national laws than the provincial laws that were already approved. By this preemptive mechanism the tobacco industry weakens regional regulations since federal regulations would override them. For example of the five projects discussed by Congress in 2005 and 2006, three in the House of Representatives and two in the Senate, only two included recommendations included in the FCTC (Gonzalez Garcia 424 S-2005 y Macalusse 2218-D 2006;). The other bills (Urtubey 2214-D-2006, Garin de Tula 1698-D 2006 y Fellner 761-S- 2006) included significant amendments supported by the tobacco industry including designated areas for smoking in public spaces, establishing ventilation requirements for enclosed spaces (i.e. bars and restaurants), small print warnings without pictograms on cigarettes packs, and only a partial advertising ban.
3. Legislators delayed the approval of a law by requesting analyses by numerous commissions. If a proposed law is not discussed in Congress after 2 years it loses “parliamentary status” and is discarded. In April 2007, after 2 years in Congress, the project introduced by the Minister of Health, Gines Gonzalez Garcia, was discarded after not being discussed in session<sup>25</sup>. The project must then be re-drafted and re-introduced.

“... the approval process for the framework agreement introduced [in the Congress] in 2003. These bills have a lifespan of 2 years, so at the beginning of 2005, they need to be introduced again, exactly as they were before ...”  
 ” *Matilde Ruderman Counselor Deputy Macaluse (ARI), [translated by the authors]*

4. Legislators requested that projects be reviewed by congressional committees with strong supporters of the tobacco industry who in turn propose amendments that make the law ineffective. For example, the Gonzalez Garcia bill, mentioned above,

introduced in July 2005 was reviewed in August 2006 by the Health Committee of the Senate which suggested several changes related to smoking in public spaces, advertising and health warnings and thus resulted in a weaker bill<sup>27 28</sup>.

5. Projects were also presented to the Senate, where the FCTC had less chance of being discussed and approved compared to the House of Representatives.

“... For the moment the FCTC has been stopped since it was introduced to the legislative process in the Senate, a Chamber where representation is equal by province, which is different from the proportional representation in the Chamber of Deputies. Being by province, the Senators have much greater influence. In my opinion, that is why it will fail passage. The FCTC is a signed treaty with an international organization (WHO) and, that being the case, its ratification can begin in either Chamber, according to our National Constitution ...” *Representative Juliana Marino (Frente para la Victoria), February 2006. [translated by the authors].*

6. Legislators from the Northwest provinces, Senator M. López Arias (Salta) and Senator Raúl Jenefer (Jujuy) presented to the national congress bills in open support of the tobacco industry.
7. Legislators from the tobacco growing provinces sent to the Senate bills requesting no ratification of the FCTC<sup>29–31</sup>.

## Discussion

In recent years the tobacco industry has worked successfully to prevent the ratification of the FCTC in Argentina. These strategies encompassed tobacco growers, local and national representatives, journalists and public officials and were focused on the economic value of the crop and the adverse consequences that the regulations will cause to the tobacco-growing region. Rather than isolated efforts, these were coordinated strategies in collaboration with the tobacco producers to emphasize the supposed economic aspects and synergistic with effective marketing leading to a greater impact. Since 1973 the tobacco industry working through its local subsidiaries, has subverted meaningful tobacco control legislation in Argentina using the same strategies as in the USA and other countries preventing the passage of comprehensive national tobacco control laws<sup>5 8 32–34</sup>. The arguments utilized in this strategy were developed by the International Tobacco Information Center (INFOTAB), an international committee formed to create common anti-tobacco control strategies, and the Agro-Tobacco Services (ATS)<sup>35</sup>. ATS was created in 1992 after INFOTAB was dissolved, with the objective to continue the lobbying activities of the International Tobacco Growers Association<sup>36</sup> opposed to tobacco control initiatives.

Argentina’s National Congress did not ratify the FCTC because the tobacco growers association successfully lobbied senators and deputies from their provinces. In addition, the Senators of the tobacco growing provinces were concerned about the economic effects that the FCTC could theoretically cause in their provinces. Finally, some legislators or their families are the tobacco producers in these provinces and the ratification of the FCTC may represent a threat to their profits. This obvious conflict of interest has never been mentioned in the congressional discussions or in the media. Finally, although the President and the Minister of Health supported FCTC ratification, the National Congress and the Minister of the Economy objected to and obstructed the ratification process. This dual behavior demonstrates the power of the tobacco industry in protecting its interests.

Public health advocates and policymakers in Argentina should be aware of the tobacco industry’s tactics in order to anticipate their moves. They need to support more research and



develop stronger, more aggressive programs designed to isolate the industry. It is imperative that all persons involved in tobacco control policy and research collaborate in a way to achieve improved control over this epidemic that affects 35% of the adult population in Argentina.

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**Fig 1.** Mr A. Del Frari (Tobacco Growers Cooperativa) with legislators. August 29<sup>th</sup>, 2005<sup>10</sup>.

**Table 1**

Strategies identified to block approval of the FCTC in Argentina, 2005–2007.

Responsible to carry out the strategy	Strategy
Tobacco growers	To lobby with representatives from tobacco grower provinces against FCTC
	Publish articles opposing the FCTC in the local press.
	National representatives, who are also tobacco growers, lobbied with the National Congress to obstruct FCTC ratification.
	National representatives, who are also tobacco growers, avoid discussing the FCTC in the Committee on Foreign Affairs in the National Senate.
Tobacco Industry	Hired a public relations company to follow the public opinion about the FCTC.
	To lobby with National Deputies to avoid the passage of tobacco control bills or to weaken the bills before their approval
Representatives from Tobacco Growing Regions	To lobby at the Ministry of Economy to arrange tobacco price and to exclude the Tobacco taxes article from the Ministry of Health bill.
	Support other proposed legislation not related to tobacco in return for other representatives agreement to oppose any discussion of tobacco control projects
	Preemption: approving less comprehensive national laws than the provincial laws that were already law
	Requesting analyses of a project by numerous legislative committees
	Requesting analyses by selected legislative committees with strong supporters of the tobacco industry as members
	Introducing a bill in the Senate instead of the Chamber of Deputies
	Introducing bills to support the tobacco industry
	Introducing bills requesting not to ratify the FCTC