



FEDERATIVE REPUBLIC OF BRAZIL
ATTORNEY GENERAL'S OFFICE

WHO FCTC ARTICLE 5.3 IN ACTION – MAKING TI ACCOUNTABLE

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HOW TO MAKE TI ACCOUNTABLE THROUGH ARTICLE 19 - LITIGATION

- First of all, is necessary to recognize that all articles of the FCTC are connected.
- Protection of health and the economy of countries, through holding the tobacco industry accountable, can implement articles 19 and 5.3, simultaneously



EXAMPLE OF BRAZIL - LITIGATION

- Brazil has an universal and free health care system. The burden of tobacco products are huge;
- The cost of tobacco related diseases can be measured with statistical analysis (epidemiological nexus);
- Also, the tobacco manufacturers can be identified;
- There is no point in letting TI retrieve a profit from tobacco sales without making them liable for the damages caused to the public health system.



EXAMPLE OF BRAZIL - LITIGATION

- Brazil filed a lawsuit, in may 2019, against the major tobacco companies, seeking reimbursement for the damages;
- Not only the Brazilian Subsidiaries, but also the international headquarters are defendants in the lawsuit.
- Brazil selected 26 diseases that has an epidemiological nexus with tobacco consumption, using the Surgeon General's (U.S.) compilations.



EXAMPLE OF BRAZIL - LITIGATION

- Several actions of the TI, throughout history, are described in the lawsuit;
- A claim of punitive damages is made specially because of all the wrongdoings that TI has done to Brazil, by the subsidiaries, and even those made in the U.S. and U.K, by the headquarters, that has (and still have) effects in Brazil (specially withholding of information).



EXAMPLE OF BRAZIL - LITIGATION

- Raising awareness in governments and in civil society, about the actions of TI is an important tool to shape further interactions between these actors;
- In this specific field, Brazil's lawsuit can already be considered a success. The filling of the lawsuit initiated discussions about the conducts of the TI that Brazil has never seen before;
- Academia, media and civil society are discussing the wrongdoings and will continue to do so, specially with the development of the lawsuit.



EXAMPLE OF BRAZIL - LITIGATION

- TI is using every possible defense in the lawsuit, and already has showed that their main strategy is to delay the lawsuit as long as they can, and to protect the headquarters at all costs;
- Brazil now has to keep seeking the conviction of the TI, and also, in every step of the lawsuit, raise awareness about their way of doing business.



EXAMPLE OF BRAZIL - LITIGATION

- The way that TI presents themselves in the lawsuit is similar to the way that they present themselves in their business (aggressive and in a deceptive way).
- The lawsuit is the perfect environment for showing that to society (a debate that TI cant run from).



THE RECOMMENDATIONS REGARDING 5.3 (GUIDELINES)

- Raise awareness about the addictive and harmful nature of tobacco products and about tobacco industry interference with Parties' tobacco control policies.
- Require that information provided by the tobacco industry be transparent and accurate.



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