

# Brazilian Institute for Ethics and Competition (Instituto Brasileiro de Ética Concorrencial)

This page was last edited on 10 February 2020, at 3:07 am.



The Brazilian Institute for Ethics and Competition (ETCO) is a non-governmental organisation that works with multinationals and trade associations from the tobacco, alcohol, soft drinks, pharmaceutical, technology and fuel distribution sectors in Brazil. ETCO was co-founded by tobacco companies and receives undisclosed financial contributions from the industry. It lobbies heavily against the Brazilian government's taxes on cigarettes.

## Background

Based in Sao Paulo, ETCO's stated purpose is to work with business and government to combat tax evasion, smuggling and counterfeit goods in the region.<sup>1, 2</sup>

It was founded in April 2003, the same year Brazil signed the [Framework Convention on Tobacco Control](#).<sup>1</sup>

British American Tobacco's Brazilian subsidiary Souza Cruz is a founding ETCO member whose staff sit on the board.<sup>3</sup> NB ETCO does not list companies, only individuals (see Board list below) and [Philip Morris International](#) was listed as a member until 2016.<sup>4</sup> Between them both companies produce around 90% of Brazil's cigarettes.<sup>5</sup> Other supporting members include alcohol giant AmBev, soft drinks multinationals Coca Cola and Pepsi, and fuel distributor Plural.<sup>6</sup>

ETCO's President Edson Vismona is also president of the National Forum Against Piracy and Illegality, an industry group, and the Latin American Anti-Contraband Alliance (ALAC). The latter met for the first time in Brazil in August 2018.<sup>7</sup>

## Lobbying for Lower Tobacco Taxes

With tobacco cited as the leading cause of preventable death in Brazil<sup>5</sup> and taxation considered one of the most effective ways to curb tobacco use,<sup>8</sup> the Government of Brazil has steadily increased taxes as part of its tobacco control regime. In 2019 taxes accounted for up an average 83% of cigarette prices, according to World Health Organization figures.<sup>9</sup>

Souza Cruz and Philip Morris have long considered higher cigarette taxation a major threat to their business and profits,<sup>10</sup> arguing that high taxes encourage a criminal black market in cigarettes, particularly from nearby Paraguay where taxes are set at only 18%, the lowest in Latin America.<sup>11</sup> ETCO's own work has echoed this argument since its inception. It states that 54% of cigarettes consumed in Brazil are illegal and that tobacco companies pay the country's highest tax rates.<sup>12</sup> A cut in cigarette taxes, it argues, would not only increase the consumption of legal products, but also the public purse.<sup>12</sup> Health experts meanwhile point to the vast gulf between the industry's US\$3.5 billion in annual paid taxes and the USD\$17 billion in direct and indirect costs of treating tobacco disease picked up by the Brazilian state every year – which in May 2019 prompted Brazil's Attorney General file a landmark lawsuit against BAT and Philip Morris to try to recover some of these costs.<sup>13</sup>

## Commissioning Research and Surveys into Illegal Trade

ETCO's activities range from sponsoring seminars and debates to publishing books and reports, taking part in conferences and meeting with government and overseas officials. It also commissions research, working with academics and legal and policy experts, as well as market research companies.

In 2018, ETCO commissioned the Economic Law Studies Center Social (Cedes) to carry out research that was published in a report titled "10 Measures Against Illegal Markets". The study, which makes recommendations across "the political, legal, legal, tax, police, social and economic spheres", was presented and debated at a September 2018 seminar in Brasilia held jointly by ETCO with the *Correio Braziliense* newspaper.<sup>14, 3</sup> ETCO, in its 2018 annual report, published comments by a few select seminar attendees "on the role of high taxation of some products in stimulating the smuggling", and who supported cigarette tax cuts, for example:

*"High taxation about smoking encourages organised crime," warned law professor Cristiano Carvalho of USP University of Sao Paulo Tributary. The president of the National Association Prosecutors of the Republic (ANPR), Jose Robalinho Cavalcanti, agreed. "A tax reform would be essential to the country, as it would have as a consequence, a decrease in the profit of these crimes. The role of institutions such as Revenue and Justice is to make the profit non-existent to who violates the laws," he concluded.*<sup>3</sup>

The following month, on October 29, a new national survey on cigarette consumption and smuggling revealed that the illegal market had reached "unprecedented levels" in Brazil – a record-breaking 54% – up six percentage points on the previous year.<sup>15</sup>

The survey was conducted by IBOPE Inteligencia (Brazilian Institute of Public Opinion and Statistics), one of Latin America's largest market researchers. IBOPE Inteligencia is owned by the [Kantar Group](#) which has historic links to the tobacco industry. The survey was commissioned by ETCO according to the tobacco growers union Sinditabaco<sup>16</sup> – although ETCO described its role as "support for research dissemination".<sup>3</sup> The survey's findings were covered in the media, and in the ensuing months, promoted at every opportunity by ETCO.<sup>17</sup> In mid-March 2019, ETCO publicised another survey, this time from the National Forum Against Piracy and Illegality (FNCP), which showed Brazil had recorded losses to the illegal market of R\$193 billion across 13 industrial sectors in 2018. Cigarettes, noted ETCO, was the main sector affected – once again quoting its IBOPE-commissioned survey figures of 54% illegal trade.<sup>11</sup> FNCP is also headed by ETCO's President, Edson Vismona.

Public health experts have questioned the reliability of the tobacco industry's data gathering and commissioned research regarding rising cigarette smuggling. One World Bank senior health economist reviewed data on smuggling and tobacco sales in March 2019. He argued that industry-linked studies run contrary to Brazil's own Ministry of Health National Cancer Institute (INCA) tobacco control body. These noted a rise in smoking levels in 2017 for the first time in a decade, alongside a decline in illegal cigarettes. "According to another INCA study, the number of illegal cigarettes out of total cigarettes consumed in Brazil decreased from 42.8% in 2016 to 38.5% in 2017, after having apparently increased between 2014 and 2016," he wrote.<sup>18</sup>

## Government Announces Working Group to Explore Options for Cigarette Tax Cut to Help Curb Smuggling

On 23 March 2019, the Brazilian government published Ordinance No 263/2019 in the Federal Official Gazette which established a working group to look into cigarette smuggling and "assess whether tax changes would help "reduce the consumption of low-quality foreign cigarettes...and the health risks arising from it". The group set up by the Minister of Justice and Public Safety, Sergio Moro, included representatives from the Federal

Police, the National Consumer Secretariat, the Special Advisory Office on Legislative Affairs, the Ministry of Health and Ministry of Economy, as well as researchers and invited experts.<sup>19</sup>

The move was strongly criticised by health experts and specialist and sector agencies, including from within the Ministry of Health,<sup>20</sup> but welcomed by the tobacco growers' union Sinditabaco<sup>16</sup> and ETCO.

ETCO's President, Edson Vismona, praised the initiative stating that a review of the current tax system was crucial for the legal cigarette industry to be able to compete.

In May 2019, on World No Tobacco Day, ETCO released a statement on PR Newswire reiterating that "Brazil is losing the war against the illegal cigarette market, which already dominates 54% of the total" – once again using the IBOPE survey figures. ETCO's press release quoted Vismona highlighting the inadequacy of Brazil's anti-smoking control measures in combatting the problem:

*"There has been a significant increase in the number of people who smuggle cigarettes: from 9.2 million people in 2016 to 11.2 million in 2018, which shows the inefficiency of public tobacco control policies, which no longer reach the half the market. This date should serve to mobilize society to combat cigarette smuggling and all the harm it causes, including the financing of organized crime and the increase in violence.*

*"A possible rebalancing of taxes will allow greater competition with the illegal, reducing the power of criminal gangs that dominate this market in the country, he said."<sup>21</sup>*

## Undisclosed Meetings Between Minister and ETCO

In June 2019, press reports revealed that ETCO [tobacco industry representatives](#) had had undisclosed meetings with Minister Sergio Moro in January in the run-up to the working group ordinance being issued in March.<sup>22</sup>

## ETCO Commissions Another Illegal Cigarettes IBOPE Survey...

The Working Group was required by the ordinance to deliver its final report on cigarette tax cuts to Minister Sergio Moro by end of June 2019<sup>19</sup> with the decision to be made public by August.

On 1 August 2019, however, yet another ETCO-sponsored survey by IBOPE hit the headlines, this time with an even more alarming statistic. ETCO posted the media coverage on Facebook with the comment:

*The IBOPE survey commissioned by ETCO showed that 57% of cigarettes consumed in the country in 2019 are illegal. Yesterday (08/01), ETCO President Edson Vismona participated in the Globonews Journal, 16h00 issue, presented by journalist Christiane Pelajo, to comment on a live interview about the growth of the illegal market, tax evasion and also perform an analysis on these numbers.<sup>23</sup>*

A series of Facebook posts, accompanied by graphics, followed the IBOPE survey release. They all stated the need for tax cuts to tackle smuggling. For example:

*The current model of cigarette taxes is no longer working and is today the main stimulus to illegality. Keeping the system unchanged will worsen the problem, as a study by Ibope shows that, when migrating from the legal to the illegal market, the Brazilian ends up consuming, on average, one more cigarette per day. Without a change in the current tax model, Brazil will remain hostage to the criminal factions that currently dominate smuggling and have taken the lead in the growing illegal market each year.<sup>24</sup>*

## No Consensus on Cigarette Tax Cuts for Now

On 9 August 2019, the Working Group finally made public its report, stating that it had decided for now against tax cuts as a strategy to fight contraband. A brief article in Valor reported that:

*there was no consensus among the group's members regarding the measure or creation of an "affordable" range for cigarette prices. The Health Ministry and Federal Revenue Service were adamantly against the move, while the Federal Police supported the tax cut. In 2018, authorities seized R\$1.4 billion in contrabanded cigarettes. Nevertheless, the Federal Revenue Service declared in the report that "smugglers have a lot of leeway to reduce their prices further," rendering tax cuts ineffective. According to the report, a pack of cigarettes brought in illegally from Paraguay costs R\$0.94 and sells in Brazil for R\$2.50 on average.<sup>25</sup>*

ETCO has continued its campaign for tax cuts.

## Partnerships and Networks

- National Forum Against Piracy and Illegality (FNCP)<sup>26</sup>
- Latin American Anti-Contraband Alliance (ALAC), "which brings together entities from 15 Latin American nations in search of joint actions to stop smuggling"<sup>26</sup>
- Movement in Defense of the Brazilian Legal Market, "which unites forces to act in a coordinated way in the fight against smuggling, piracy, fraud and counterfeiting and advocates for border control actions. The Movement has the support of 70 entities."<sup>26</sup>
- ETCO has produced an "Underground Economy Index" for Brazil since 2003, in partnership with the Brazilian Institute of Economics of the Getúlio Vargas Foundation (IBRE-FGV)<sup>26</sup>

## Leadership and Members

### Board of Directors

ETCO's website and annual reports only list its board and advisers' individual names, not their company associations. This lack of transparency means that the tobacco industry's involvement in ETCO is not immediately apparent.

#### Chair

ETCO is chaired by Victório De Marchi, an adviser to, and former President of, alcohol giant AmBev.<sup>27</sup>

#### Senior Counselors/Conselheiros Titulares

- Fernando Bomfiglio –Former Strategy and Communications Manager at [Souza Cruz](#) (2008-05), Before that, a manager in various roles at BAT Switzerland for 20 years. Now director of Institutional Relations at Automono.<sup>28</sup>
- Alexandre Kruel Jobim, Lawyer and President of both the International Council of Beverage Associations (since 2017) and the Brazilian Association of Soft Drink and Non-Alcoholic Beverages Industries (ABIR)<sup>29</sup>
- Jorge Luiz Oliveira – SINDICOM, fuel distributors

**Alternate directors/Conselheiros Suplentes**

- Delcio Sandi, Head of Souza Cruz government affairs and institutional relations<sup>30</sup>
- Disraeli Galvão, Government Affairs Director at AmBev
- Lilian Egoshi – Coca Cola and Tax Director of ABIR (Brazilian Association of Soft Drink and Non-Alcoholic Beverages Industries)<sup>31</sup>
- Leandro de Barros Silva, Plural.

**Executives**

- President – Edson Luis Vismona, lawyer and ex-minister (Secretary of Agrarian Reform) (2002)
- CEO – Andrea Lopes since 2016

**Former**

- Roberto Abdenur – was CEO of ETCO until 2016. Former Deputy Foreign Minister, and former Brazilian Ambassador to the US, China and Germany.

**Members**

The following members were published on ETCO's website in 2013 and remain online as of August 2019: Ambev, Astellas, Bayer, Biogen, Coca-Cola (Recofarma e AFBCC), Daiichi Sankyo, Galderma, Genzyme, Ipsen, Lilly, Mantecorp, Merck, Microsoft Brasil, MSD, Novartis, Novo Nordisk, Nycomed, Pepsi, Pernod Ricard, Pfizer, [Philip Morris](#), Sanofi-Aventis, Servier, Shire, Sindicom, Souza Cruz <sup>32</sup>

However, ETCO's 2018 annual report provides a much smaller list of 'Associados': Ambev, Coca-Cola, Pepsi, Plural and Souza Cruz, with Pernod Ricard as a "voluntary collaborator".<sup>33</sup> The website also previously listed 13 pharmaceutical companies in December 2013<sup>34</sup> however these no longer appeared by April 2016.

Philip Morris (Brasil Indústria e Comércio) was listed in ETCO's 2013 annual report<sup>35</sup>

[https://www.etc.org.br/user\\_file/relatorios/relatorioanual2013.pdf](https://www.etc.org.br/user_file/relatorios/relatorioanual2013.pdf) but was no longer included by December 2016.

**Tobacco Tactics Resources**

- [British American Tobacco](#)
- [Philip Morris International](#)
- [Kantar](#)

**Relevant Websites**

- [ETCO](#)

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## Categories

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