

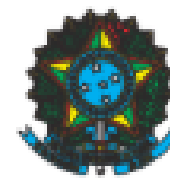
FEDERATIVE REPUBLIC OF BRAZIL
ATTORNEY GENERAL'S OFFICE

MAKING TOBACCO INDUSTRY PAY (TOBACCO INDUSTRY LIABILITY)

KEY CHALLENGES OF THE JUDICIAL ROUTE

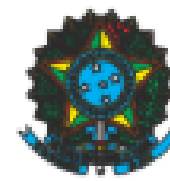
VINÍCIUS DE AZEVEDO FONSECA AND THIAGO LINDOLPHO CHAVES

ATTORNEY GENERAL'S OFFICE



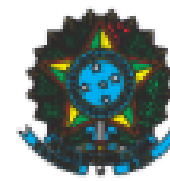
ABOUT THE LAWSUIT

- Plaintiff: Brazilian Federal Government (União)
- Defendants: BAT Brasil, BAT, Philip Morris Brasil, PMI (more than 90% of MS)
- Claim: reimbursement of State healthcare costs with TRD
- Legal grounds: strict and fault-based/subjective liability
- More than 400 documents attached to the petition
- Date of filing: May 21st of 2019 (project initiated in 2017)



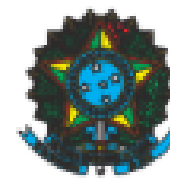
BRAZIL'S PARTICULAR LEGAL FRAMEWORK

- Class action system:
 - Multiple entities that can act as plaintiff
 - Affordable
 - Can protect diffuse rights
- Judges specialized on health rights
- Political will from the Attorney General's Office
- Comprehensive legislation about civil liability



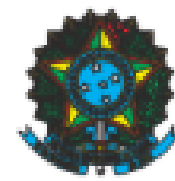
BRAZILIAN CONTEXT

- Universal and free health care system. Massive burden of tobacco products
- Every Brazilian, to some extent, contributes to the health system (taxes). Every Brazilian is a plaintiff, represented by the AGO
- Civil liability lawsuit with both human rights and law and economics approach



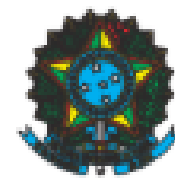
BRAZIL'S INITIATIVE – LITIGATION

- Not only the Brazilian subsidiaries but also the international headquarters are defendants in the lawsuit
- Brazil selected 26 diseases that have an **epidemiological nexus** with tobacco consumption, using the Surgeon General's (USA) Report
- Several actions (and omissions) of the tobacco industry, throughout history, are described in the lawsuit – lawsuit as a tool for awareness
 - *Support to subjective liability (also one of the basis) and moral damages complaint*



- It is an opportunity to disclose their conduct through the years
 - *To make TI accountable in a social and historic perspective: most people may know that smoking causes diseases but they don't know the history behind that*

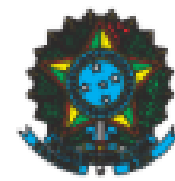
Status: Recently we filed our response to industries defenses and informed the judge about the evidences we still want to produce in the case; also ACT was admitted to participate as amicus curiae



FEDERATIVE REPUBLIC OF BRAZIL
ATTORNEY GENERAL'S OFFICE

THE LIABILITY OF THE FOREIGN PARENT COMPANIES

DEFENDANTS



FEDERATIVE REPUBLIC OF BRAZIL
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1. GROUP BRITISH AMERICAN TOBACCO

BRITISH AMERICAN TOBACCO PLC

Parent company seated in the United Kingdom

SOUZA CRUZ LTDA

Brazilian subsidiary



2. GROUP PHILIP MORRIS

PHILIP MORRIS INTERNATIONAL

Parent company seated in the United States

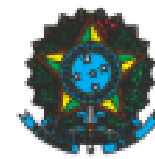
PHILIP MORRIS BRASIL INDÚSTRIA E COMÉRCIO LTDA

Brazilian subsidiary

PHILIP MORRIS BRASIL S/A

Brazilian subsidiary



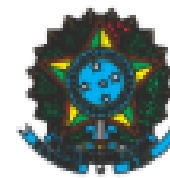


STRATEGIES OF THE FOREIGN PARENT COMPANIES TO EVADE LIABILITY

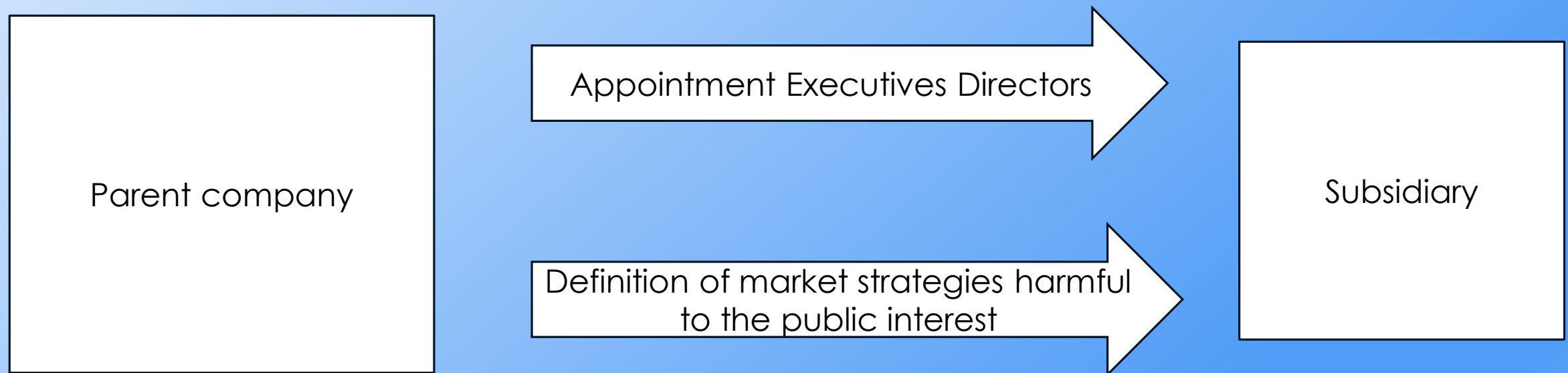
- 1. LACK OF BRAZILIAN JURISDICTION: THE COMPANIES ARE LOCATED ABROAD AND THEY NEVER SOLD PRODUCTS IN BRAZIL**
- 2. THEY ARE HOLDING COMPANIES → THEIR BUSINESS IS NOT SELLING TOBACCO PRODUCTS BUT OWNING STOCKS IN OTHER COMPANIES AROUND WORLD**
- 3. THE COMPANIES WERE INCORPORATED AFTER THE FACTS PRESENTED IN THE LAWSUIT: BAT PLC WAS INCORPORATED IN 1997; PMI WAS INCORPORATED IN 1987 AND TRANSITIONED TO A HOLDING COMPANY IN 2003**

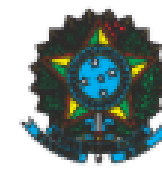
WHY PARENT FOREIGN PARENT COMPANIES ARE ALSO DEFENDANTS?

→ Clear links between the acts of the foreign parent companies and their subsidiaries

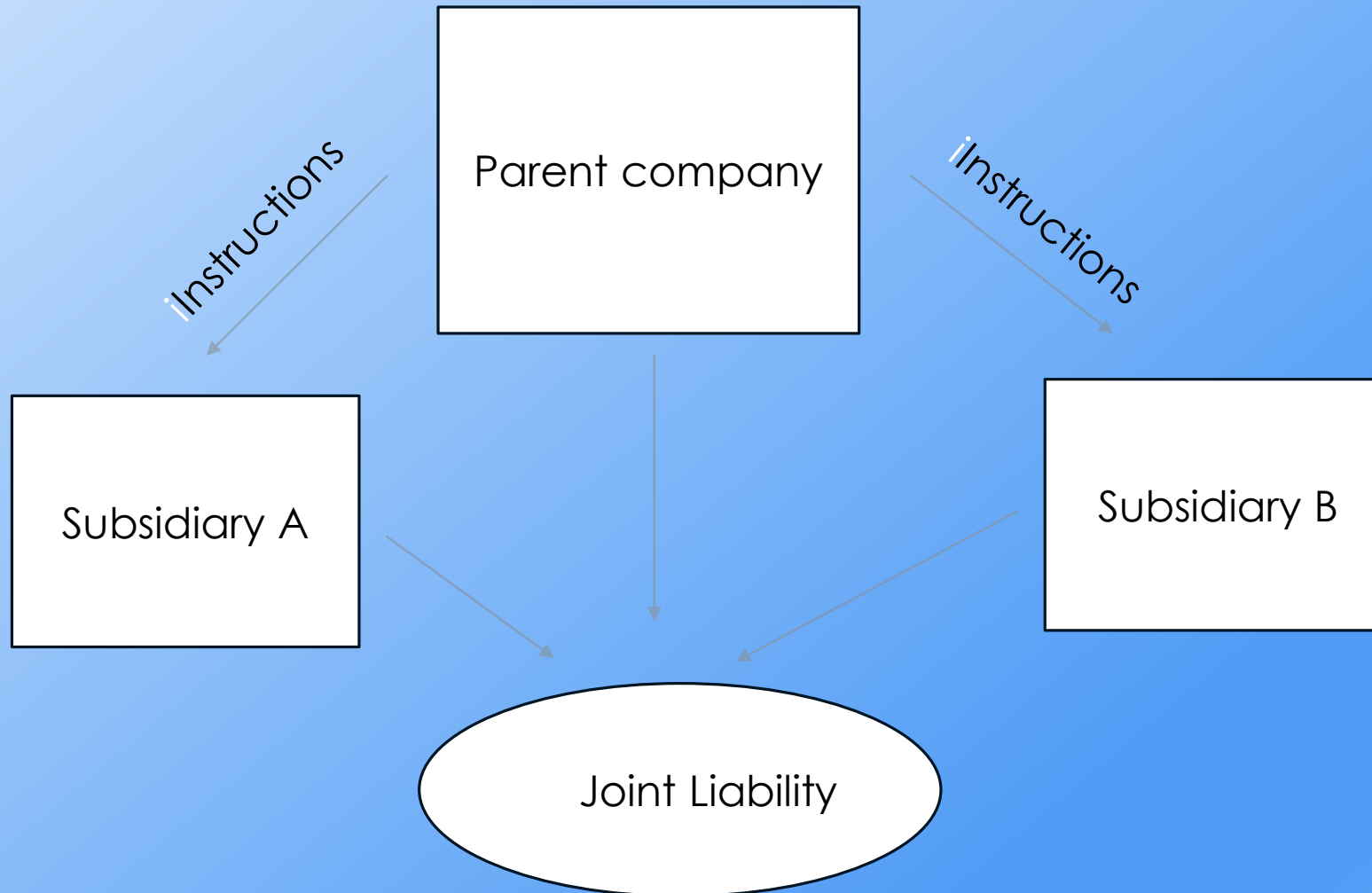


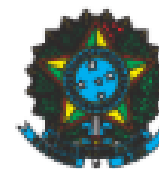
DECISION-MAKING AND LEADERSHIP OF THE PARENT COMPANY





CONCERTED ILLEGAL ACTS OF THE ECONOMIC GROUP



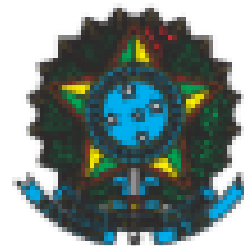


TRANSFER OF PROFITS

Parent company



Subsidiary



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ATTORNEY GENERAL'S OFFICE

THANK YOU!

THIAGO LINDOLPHO CHAVES

thiago.chaves@agu.gov.br

VINÍCIUS DE AZEVEDO FONSECA

viniciusfonseca@agu.gov.br