

Civil society's role in making the Illicit Trade Protocol a reality

**World Conference on Tobacco or Health
18 March 2015**

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Let's not forget: The ITP exists to help tobacco control

- The Illicit Trade Protocol is a complicated document, with technical details involving multiple government departments/agencies (Customs, police, Finance, Justice, Health etc.).
- The first job of civil society is to keep reminding everybody why we got involved in illicit trade issues in the first place:

Because tobacco tax increases are a key tool for tobacco control – and the tobacco industry uses fear of illicit trade to block them.

Low taxes are the worst imaginable strategy to combat illicit trade

- Many governments imagine that even a small risk of illicit trade is unacceptable, so they keep tobacco taxes low.
- Our message should be:
 - This is immensely costly, in foregone revenue and in extra lives lost to tobacco-caused death
 - A portion of the extra revenue from tax increases can go to smuggling control
 - The ITP provides a blueprint for national action to control illicit trade (even before it comes into effect internationally).

But let's be careful not to feed fears of illicit trade

- As our ultimate objective is lower smoking due to higher taxes, it's important not to feed exaggerated fears of illicit trade.
- Tobacco industry estimates of smuggling levels are almost always exaggerated – don't wait to have all smuggling-control measures in place before raising taxes.
- We should usually avoid arguing:
 - That smuggled cigarettes are more dangerous than “legal” ones (they both kill about 50% of their long-term users)
 - That smuggled cigarettes increase youth smoking because sellers of illegal merchandise will sell to anyone, without checking IDs (so will the “legitimate” tobacco industry!).
- Smuggling does indirectly increase youth smoking – by keeping prices low (in particular by preventing tax increases).

Some things we can do that our friends in government may not be able to

1. *Talk to all government ministries.*
 - It's likely one reason for delays in ratifying the ITP is simply that it involves multiple departments and agencies. The tobacco control focal point in the ministry of health may not find it easy to get the attention of the powers-that-be in other parts of government.
 - NGOs can remind Finance, Customs and police of the advantages of ITP implementation – more money (Finance), immediate proof of origin/destination (Customs – with proper tracking-and-tracing system), quick identification of point of diversion (police).
 - But we need to be able to answer basic questions:
 - What will the ministry/agency need to do to implement the Protocol?
 - How much will it cost? (A few cents per pack, more than offset by increased revenues; industry can be made to pay.)

Some things we can do that our friends in government may not be able to (2)

2. *Talk to politicians.*

- Government bureaucracies are vulnerable to regulatory capture and outright corruption – particularly economic and trade-related ministries.
- It is likely that, in many countries, ministers have never received advice about the ITP from their officials – the file may never have made its way to the top.
- We can talk to ministers about how ITP implementation will let them raise tobacco taxes and protect health.
- Keep in mind that governments rarely get praise for raising taxes – let's make tobacco taxes the exception to that rule.

Some things we can do that our friends in government may not be able to (3)

3. *Talk to the media.*

- Very few journalists are aware of the existence of the ITP, or of advance in tracking-and-tracing technology and its use in multiple countries to control illicit trade in cigarettes.
- Again, we probably don't want to bring up illicit trade in isolation – but when we campaign for tobacco tax increases (or any other measure which causes the industry to bring up illicit trade), we have a ready answer when the reporters ask, “But what about smuggling?”.
- If corruption/regulatory capture is blocking ITP implementation and we have some clear evidence to show that, the media should be interested.

Protect the ITP from the tobacco industry's embrace

- Unlike what happens with most tobacco control measures, in the case of the ITP, the industry claims to support it whole-heartedly.
- Sometimes this is because cigarette companies really do think it could help them – e.g. Philip Morris cares a lot about preventing trade in counterfeit Marlboros, or about preventing smuggling by competitors.
- But the industry often has another agenda:
 - To convince governments to adopt industry-controlled systems (Codentify)
 - To rehabilitate itself in the eyes of government and the general public (“We are partners in fighting crime”).

Protect the ITP from the tobacco industry's embrace (2)

So what can civil society do?

1. Analyse industry motivations (may be different by company)
2. Warn of foxes guarding hen-houses – industry can't be trusted to police itself, because they gain when smuggling prevents tax increases
3. Remind government officials, politicians and media of wording of Protocol, in particular on tracking and tracing:

Article 8.12: Obligations assigned to a Party shall not be performed by or delegated to the tobacco industry.

Codentify does not fulfil the terms of the ITP.

Further information

- FCA website: www.fctc.org (in particular under Meeting Resources for INBs, COP5).
- E-mail: thompsonf@fctc.org

