

Briefing Note: Fourth Session of the Intergovernmental Negotiating Body on an Illicit Trade Protocol

Geneva: 14th March to 21st March 2010

FREE ZONES

1. It is important that the Protocol contain strong obligations on “free zones” (also known as free trade zones). The revised International Convention on the Simplification and Harmonisation of Customs Procedures (Revised Kyoto Convention) defines “free zones” as part of the territory of a contracting Party where any goods introduced are generally regarded, in so far as import duties and taxes are concerned, as being outside the Customs territory. Goods in free zones may have labels and markings removed, be intermingled with other products, etc, largely outside the control of customs and law enforcement agencies. According to the World Customs Organization, free zones are a major concern for customs authorities and a potential risk for exploitation by organized crime organizations as well as terrorists.
2. The Framework Convention Alliance therefore supports a prohibition on introduction of tobacco, tobacco products, manufacturing equipment used in the manufacture of tobacco products, cigarette paper or filter tow into free zones for commercial purposes.
3. To the extent that there is not a full prohibition, FCA would encourage and support the adoption of a prohibition on “intermingling” to prevent the clandestine introduction to or removal of tobacco products from free zones, as well as the implementation of effective controls on all relevant transactions in free zones (including, at minimum, application of all relevant provisions of the protocol, such as licensing, due diligence and record-keeping).
4. All Parties to the Protocol should be required to prohibit “intermingling” (mixing together) of tobacco products with non-tobacco products in a single “consignment” (a shipment sent by a consignor to a named consignee, as set out in transportation and customs documentation such as a bill of lading, which may consist of multiple packages) shipped to, through, or from a free zone.

FCA Position

5. To strengthen draft Article 11, FCA recommends the following amendments:
 - draft Article 11.1 should include cigarette paper, filter tow and manufacturing equipment used in the manufacture of tobacco products, and should clearly state that the application of all relevant provisions of the Protocol is the minimum action to be taken by Parties in implementing effective controls on transactions in free zones;



- an additional subprovision should be included, before draft Article 11.2, requiring Parties to endeavour, when feasible, to prohibit the introduction into free zones, for commercial purposes, of tobacco, tobacco products, cigarette paper, filter tow and manufacturing equipment used in the manufacture of tobacco products. Not allowing these goods into free zones is undoubtedly the most effective means of ensuring that free zones are not used to facilitate illicit trade, including smuggling, illicit manufacturing and counterfeiting. FCA recognizes that a complete prohibition on entry may not be immediately possible in all Parties, but considers that all Parties should endeavour to implement such a prohibition when feasible; and
 - draft Article 11.2 should clearly require the prohibition by all Parties of intermingling tobacco products with non-tobacco products in consignments shipped to, through, or from free zones.
6. FCA supports the inclusion in Article 1 (Use of terms) of a definition of 'free zones', based on the definition in the Revised Kyoto Convention, and further recommends the inclusion of definitions of 'intermingling' and 'consignment'.