

Glossary of terms in the illicit trade in tobacco products

Illicit trade in tobacco products is any practice or conduct prohibited by law, relating to production, shipment, receipt, possession, distribution, sale or purchase of tobacco products, including any practice or conduct intended to facilitate such activity.

Smuggling is the trade in illegally imported products.

Contraband is smuggled goods.

Large-scale organized smuggling of tobacco products involves the illegal transportation, distribution and sale of large consignments of cigarettes and other tobacco products.

Small-scale smuggling or ‘bootlegging’ involves the purchase, by individuals or small groups, of tobacco products in low tax jurisdictions in amounts that exceed the limits set by customs regulations, for resale in high tax jurisdictions.

Illicit manufacturing refers to illegally manufactured products (the production of tobacco products contrary to law. The laws in question may be taxation laws or other laws (such as licensing or monopoly related laws) that restrict the manufacture of tobacco products.

Counterfeit tobacco production is a form of illegal manufacturing, in which the manufactured products bear a trademark without the consent of the owner of the trademark.

Tracking, and its variants, refers to the ability of competent authorities to systematically monitor the movement of tobacco products from the place of manufacture, through the distribution chain, to the intended market of retail sale, making sure all relevant duties and taxes have been paid.¹

Tracing, and its variants, refers to the ability of competent authorities, on the occasion of an audit or a seizure of a genuine product, to recreate the route taken by a tobacco product from the place of manufacture, through the distribution chain, to the point where the product has been diverted into illegal trade channels.²

Covert and overt markings mean markings on the packaging of tobacco products which are **overt** or visible and **covert** or not readily discernable to the naked eye which makes it more difficult to copy.

Import licensing can be defined as administrative procedures requiring the submission of an application or other documentation (other than those required for customs purposes) to the relevant administrative body as a prior condition for importation of goods.

Export licensing can be defined as administrative procedures requiring the submission of an application or other documentation (other than those required for customs purposes) to the relevant administrative body as a prior condition for exportation of goods.

Treaty Terms:

WHO Framework Convention on Tobacco Control (FCTC)

The first treaty negotiated under the auspices of the World Health Organization. The FCTC was developed out of a recognition that the spread of the tobacco epidemic is a global problem that requires a global response. States and regional economic integration organizations that become Parties to the FCTC commit themselves under international law to undertake a range of measures – both domestic and international – designed to reduce the prevalence of tobacco use and exposure to tobacco smoke. As of 22 January 2008, the FCTC had 152 Parties.

Party to the FCTC

A State or regional economic integration organization that has agreed to be legally bound by the FCTC and has completed the necessary formal processes (ratification, acceptance, approval, formal confirmation or accession).

Conference of the Parties (COP)

The formal entity through which the Parties to the FCTC come together to take decisions to promote its effective implementation (including the adoption of protocols and guidelines) and to review its implementation. Under the FCTC's Rules of Procedure, unless otherwise decided by the COP, the COP holds its regular meetings (called 'sessions') annually for the first three years and then every two years, though extraordinary meetings ('sessions') can also be convened.

Signatory to the FCTC

A State or regional economic integration organization that has signed the FCTC. In becoming signatories to the FCTC, States or regional economic integration organizations agree not to defeat its object and purpose but do not undertake any legal obligations to implement the treaty.

Ratification, acceptance, approval, formal confirmation or accession

The formal process by which a State or regional economic integration organization becomes a Party to a treaty.

Protocol

A legally binding international agreement negotiated and adopted under an existing international agreement that supplements the primary agreement. A protocol may supplement the primary agreement by, for example: elaborating existing obligations; introducing new obligations; creating mechanisms to enforce obligations; and facilitating international cooperation between Parties to the primary agreement.

Framework Convention Alliance (FCA) is an international non-governmental organization (NGO) representing over 300 NGOs from over 100 countries, established to support the development, ratification, and implementation of the FCTC.

¹ Elaboration of a template for a protocol on illicit trade in tobacco products' (World Health Organization, Conference of the Parties to the WHO Framework Convention on Tobacco Control, second session, provisional agenda item 5.4.1, A/FCTC/COP/2/9, 19 April 2007) 8, available online at <http://www.who.int/gb/fctc/PDF/cop2/FCTC_COP2_9-en.pdf>.

² Ibid