

# BULLETIN

MONDAY 8 OCTOBER 2018

## L'ASSISTANCE TECHNIQUE: UN ÉLÉMENT CLÉ DE LA MISE EN ŒUVRE DU PROTOCOLE

L'entrée en vigueur du Protocole pour éliminer le commerce illicite des produits du tabac, le 25 septembre dernier, sera sans doute évoquée à maintes reprises aujourd'hui. On peut la qualifier, avec raison, comme une grande étape dans les efforts collectifs pour augmenter les taxes sur le tabac et ainsi sauver des centaines de millions de vie au cours du 21<sup>e</sup> siècle.

Cependant, pour que ce Protocole devienne une réalité, en particulier dans les pays à faibles revenus ou à revenus intermédiaires, il est indispensable de disposer d'une expertise technique qui puisse être mise à la disposition des pays.

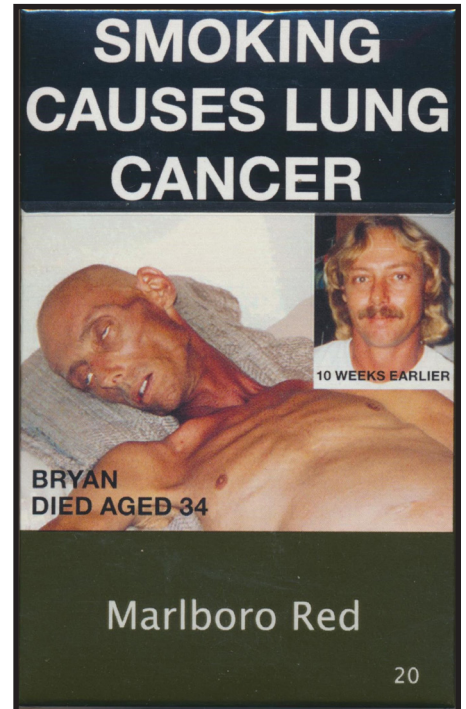
Le Protocole prévoit en effet diverses dispositions à mettre en œuvre, notamment un système de suivi et de traçabilité indépendant des fabricants de tabac et ce, dans un délai de 5 ans. Il est illusoire de penser que quelques efforts dispersés,

tels que de courts ateliers de formation ou quelques documents de référence, suffiront pour que l'ensemble des Parties puissent concevoir et mettre en place un système national robuste et conforme aux dispositions du Protocole.

L'industrie du tabac est déjà à l'œuvre pour proposer aux pays son système de suivi qu'elle présente comme conforme au Protocole afin de garder la main sur ce sujet essentiel pour elle. Il importe donc que le Secrétariat dispose d'un spécialiste de la question dédié à ce sujet, qui puisse alors mettre en place, dans les plus brefs délais, un groupe de travail associant les diverses expertises des autres organisations intergouvernementales spécialisées dans le domaine.

La première réunion des Parties du Protocole qui se réunit du 8 au 10 Octobre à Genève se doit d'aborder prioritairement cette question: comment allons nous renforcer les capacités d'expertise du secrétariat de la CCLAT pour mettre en œuvre ce protocole?

Faute de quoi ce dernier sera mort né.



Caitheamh tobac is cúis le taomanna croí  
**Smoking causes heart attacks**

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Marlboro  
Gold

20 Cigarettes

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# WHO ARE WE? MEET THE FRAMEWORK CONVENTION ALLIANCE

You may not know us yet, but we are the Framework Convention Alliance (FCA), a global alliance with nearly 500 non-government member organizations from over 100 countries. FCA works to tackle the devastating health, social, economic and environmental consequences of tobacco and tobacco use. We grew out of civil society's participation in the work that produced the World Health Organization Framework Convention on Tobacco Control (FCTC), the first ever public health treaty.

FCA is an influential voice for civil society at the FCTC Conference of the Parties. FCA is also a leading advocate for inclusion of the FCTC and tobacco control in international health and development frameworks, including the Sustainable Development Goals (SDGs).

Each morning, we will release this bulletin. The FCA Bulletin serves to recap the previous day's discussions and looks ahead at what to expect the coming day. We will also reflect on some of the thorny decisions you will need to make. We hope you find it useful and informative for your work.



As a global alliance, we operate with a formal consensus on every policy position. This means that we speak with a truly united voice as civil society. Please do pick up a policy briefing or visit: <https://www.fctc.org/resource-hub/mop1-policy-briefings/>.

We aim to be a reliable resource for you, so please reach out with any questions to [bulletins@fctc.org](mailto:bulletins@fctc.org)

We wish you success for the coming days!

## A QUICK GUIDE TO TRACKING AND TRACING

All Parties to the Protocol to Eliminate Illicit Trade in Tobacco Products (ITP) will need to establish a national tracking and tracing (T&T) system. That system needs to be linked into a global T&T regime within the next 5 years. The system may be adapted to national requirements but needs to be able to monitor and verify the authenticity of manufactured or imported tobacco products in its territory. Clear global standards are yet to be agreed upon.

### What are the essential minimum requirements?

- A system that is unique, secure and unpredictable and not under the control or influence of the tobacco industry
- Recording of national information on secure servers, not operated by the tobacco industry and with access by the industry strictly limited and controlled
- Persons authorised by Parties, and independent from the tobacco industry, to have access to information about the international supply chain of tobacco products via a secure, usable and well-maintained global information-sharing focal point

### What will it track?

- Date & time, location and production shift of manufacture
- Machine, manufacturing facility and product description
- Name, invoice, order number and payment records of the first customer unaffiliated with the manufacturer
- Intended market of retail sale; intended shipment route, the shipment date, shipment destination, point of departure and consignee
- Any warehousing and shipping
- Identity of any known subsequent purchaser

### Know your vendor

Countries will want to purchase adequate and fully functional T&T systems. However, identifying a suitable vendor in the market may be tricky for health government officials who are unfamiliar with T&T vendors. Some systems have been developed by the tobacco industry itself and are incompatible with the ITP.

### The need for secure communication

Once the ITP is operational, it will involve the exchange of sensitive information. The confidentiality of any communication needs to be ensured. A secure system needs to be developed to protect it from the threat of criminal interests and the tobacco industry itself trying to corrupt and undermine the ITP.

# THE PROTOCOL TO ELIMINATE ILLICIT TRADE IN TOBACCO PRODUCTS: A BRIEF HISTORY

Article 15 on the illicit trade in tobacco products was the first article on which an agreement was reached during the Framework Convention on Tobacco Control (FCTC) negotiations. The Parties recognised in this article that the elimination of all forms of illicit trade in tobacco products was an essential component of tobacco control. It is was rather novel that a public health treaty deal with illicit trade. Article 15 was only a first step. At the second Conference of the Parties, the decision was taken to start the negotiations for a separate protocol to eliminate the illicit trade in tobacco products (ITP). The ITP was adopted in 2012 and entered into force a week ago on 25 September 2018.

litigation and in their own admission and court judgements. Since 1997, there have been several official investigations and subsequent court cases in different parts of the world (Hong Kong, Canada, Colombia) that have accused the industry of supplying smuggled cigarettes or at least of being aware of the illegal destination of their products.

The adopted Protocol is in line with the suggested solution outlined above, but is much more powerful. The ITP comprises 47 Articles; the substantive key provisions in Part III deal with supply chain control with the objective of tackling the illicit tobacco trade at the global level.

**“TOBACCO SMUGGLING HAS BECOME A CRITICAL PUBLIC HEALTH ISSUE BECAUSE IT BRINGS TOBACCO TO MARKETS CHEAPLY, MAKING CIGARETTES MORE AFFORDABLE AND THUS STIMULATING CONSUMPTION, CONSEQUENTLY INCREASING THE BURDEN OF ILL HEALTH CAUSED BY ITS USE.”**

In the nineties, a big concern was that globally, a third of all exported cigarettes went missing while they were being transported internationally and entered into the contraband market. The evidence suggested that the tobacco industry was the chief beneficiary of smuggling. The industry benefited, using smuggling as a market entry strategy.

An article in the British Medical Journal in October 2000 outlined the reasons for the Protocol. “Tobacco smuggling has become a critical public health issue because it brings tobacco to markets cheaply, making cigarettes more affordable and thus stimulating consumption, consequently increasing the burden of ill health caused by its use. Smuggling is not a small phenomenon: we have estimated that, globally, a third of legal cigarette exports disappear into the contraband market. This extraordinary proportion results in a second key effect of smuggling—the loss of thousands of millions of dollars of revenue to government treasuries.”

The suggestion was made for a protocol to address the active involvement of the tobacco industry in smuggling operations. “In October 2000, the World Health Organisation will start negotiations for a framework convention on tobacco control. A specific protocol could deal with tobacco smuggling. It could, for instance, require “chain of custody” markings on all packages of tobacco products, placing the onus on the manufacturers to show that cigarettes arrive legally in their end user markets. Only such action at international level will resolve the problem, but it has now been shown to be soluble.”

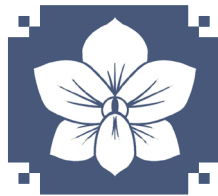
Evidence of the direct and indirect involvement of the tobacco industry in cigarette smuggling is well documented—in internal documents that tobacco companies were forced to release in the course of



**Luk Joossens**  
Association of European Cancer Leagues (ECL), Belgium



## ORCHID AWARD



## DIRTY ASHTRAY



Every day we award an orchid to the delegation(s) that has made contributions that advance discussions and put public health first. We also give an ashtray award to the delegation(s) that has obstructed or negatively influenced discussions. These awards may be humorous. The ashtray is a source of shame and thus to be avoided; winning the orchid nomination should be considered a source of great pride!

## HOW BIG TOBACCO THREATENS THE ILLICIT TRADE PROTOCOL

The first Meeting of the Parties to the Illicit Trade Protocol (ITP) starts today. It is crucial for delegates to understand the tobacco industry's role in illicit trade before discussions begin.

The ITP aims to eliminate all forms of illicit tobacco but has a particular focus on securing the supply chain of legally manufactured tobacco products. Latest estimates suggest that approximately 60–70 per cent of the illicit market is tobacco industry product, indicating that, at the very least, tobacco companies are failing to control their supply chain in the knowledge that their products will end up on the illicit market.

The ITP requires a global track and trace system to reduce tobacco smuggling which will be achieved by each party requiring that every pack manufactured in or imported to their territory has a unique, secure marking providing information on manufacture, shipping and distribution.

The ITP stipulates that this 'shall not be performed by or delegated to the tobacco industry' - a crucial requirement given that the industry has a vested interest in controlling measures aimed at controlling its supply chain. To this end, PMI adapted its pack marker system Codentify and freely licensed it to its three main competitors who then collectively promoted it to governments using front groups and third parties, despite the system being ineffective and inefficient as a track and trace solution.

In 2016 the system was sold to a company called Inexto, with PMI claiming this complied with WHO requirements. Yet some of Inexto's staff feature long-time PMI employees credited with creating Codentify and a complex web of shared intellectual property interests exists between these individuals and the two companies.

This is not the only threat that the industry poses to the ITP. Tobacco companies are a major funding source of data on illicit tobacco with the industry regularly commissioning reports which provide data on the scale of illicit tobacco across various countries and continents.

Recent research from the Tobacco Control Research Group at the University of Bath found that existing assessments of industry-funded data demonstrate that such data are not reliable. When compared with independent sources, they consistently overestimate the scale of illicit tobacco and frequently fail to meet the quality and transparency standards of peer-reviewed research.

Such data enables the industry to promote conclusions about the scale and nature of the illicit trade which cannot be easily disproved. The industry argues it is the victim of the illicit market, emphasising the role of counterfeit cigarettes, while arguing that that public health measures rather than the industry's supply chain failures fuel illicit trade.

Parties to the ITP must reject the industry's track and trace system while remaining vigilant against industry obscurantism. Parties also need to be aware that industry data on illicit serve as a platform for the industry's lobbying and PR strategies. When fighting illicit trade, we shouldn't look to the industry fuelling the problem to tell us how to understand or solve it.

PMI IMPACT is a US\$100 million funding initiative launched by Philip Morris International (PMI) in 2016. It describes itself as "a global initiative to support public, private, and nongovernmental organizations to develop and implement projects against illegal trade and related crimes".

It is part of a public relations effort to re-frame the tobacco industry as part of the solution to illicit trade, despite the fact that the vast majority of smuggled cigarettes in the world continue to come from the factories of major tobacco companies.

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The Framework Convention Alliance (FCA) is a global alliance of NGOs working to achieve the strongest possible Framework Convention on Tobacco Control. Views expressed in the Alliance Bulletin are those of the writers and do not necessarily represent those of the sponsors.



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