

The WHO FCTC Protocol to Eliminate Illicit Trade in Tobacco Products



The Parties to the first public health treaty, the WHO Framework Convention on Tobacco Control (FCTC), expanded its Article 15 dealing with illicit tobacco products into a separate international treaty, the Protocol to Eliminate Illicit Trade in Tobacco Products. The Protocol, which is legally linked to the WHO FCTC, entered into force in September 25, 2018.

- Keeping detailed records of all transactions relevant to the supply of tobacco products
- Regulating free-trade areas (special zones exempt from local tax laws) to prevent leakage of tobacco products to illicit trade channels
- Eliminating or restricting duty-free sales at airports and ports
- Adopting measures to control online sales of tobacco products so that they cannot evade any taxes

Controlling illicit trade requires active involvement of multiple government sectors



The ratification and the implementation of the Protocol is complicated by the involvement of multiple government sectors that deal with public health, trade, finance, customs, foreign affairs, law enforcement, and justice.

Tracking and tracing – the technological solution to illicit trade in tobacco products



Tracking and tracing systems monitor and control the movement of tobacco products and their legal status until they reach the final customer. The system determines the current and past locations of any tobacco product by assigning a unique ID with multiple security features to each pack. It is similar to a courier service where the sender can follow the path of a dispatched parcel. The ID and security features are often imbedded into a tax stamp.

Main pillars of the Protocol



The Protocol has 3 main pillars:

- Preventing illicit trade by controlling the supply chain from tobacco growing, production or import through retail sale
- Law enforcement dealing with unlawful conduct and specifying dissuasive sanctions
- International cooperation on technical, administrative, law enforcement, and legal matters

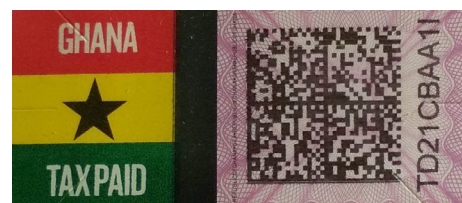


Photo: Ghana Tax Stamp, 2019

The advantage of such systems is the limited human involvement, which reduces the opportunity for the system to be compromised.

Controlling the supply of tobacco products



The supply of tobacco products can be controlled by:

- Licensing of the supply actors (including tobacco farmers, producers, and distributors of tobacco products)
- Requiring the tobacco industry to exercise due diligence by identification and verification its customers
- Tracking and tracing of all tobacco products from the point of manufacture to the final consumer

The system is designed to control the supply of the legally registered manufacturers. Therefore, the system does not address counterfeiting, for example. It can, however, help with the detection of counterfeits and with controlling the supply of illicit whites¹ if tracking and tracing is employed by countries that are sources of these types of cigarettes.

The track and trace system needs to be supported by licensing and strong enforcement (i.e. frequent inspections at the points of sale with a credible threat to those engaging in trading illicit products).

The experience of multiple countries proves the efficacy of track and trace systems.²

Notes:

1. Cigarettes manufactured by legitimate business enterprises with a large share of the production being sold without all applicable duties paid, usually outside the jurisdiction where they are produced.
2. Confronting Illicit Tobacco Trade: A Global Review of Country Experiences. Washington, D.C. World Bank. 2019.