

The Protocol to Eliminate Illicit Trade in Tobacco Products:

Overview and update on the implementation of the main decisions taken by MOP1

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PROTOCOL
TO ELIMINATE
ILLICIT TRADE IN
TOBACCO PRODUCTS



The Problem

- Growing illegal trade in tobacco products
- Often across borders
- Significantly higher in low- and middle-income countries



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FCTC
WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL
SECRETARIAT

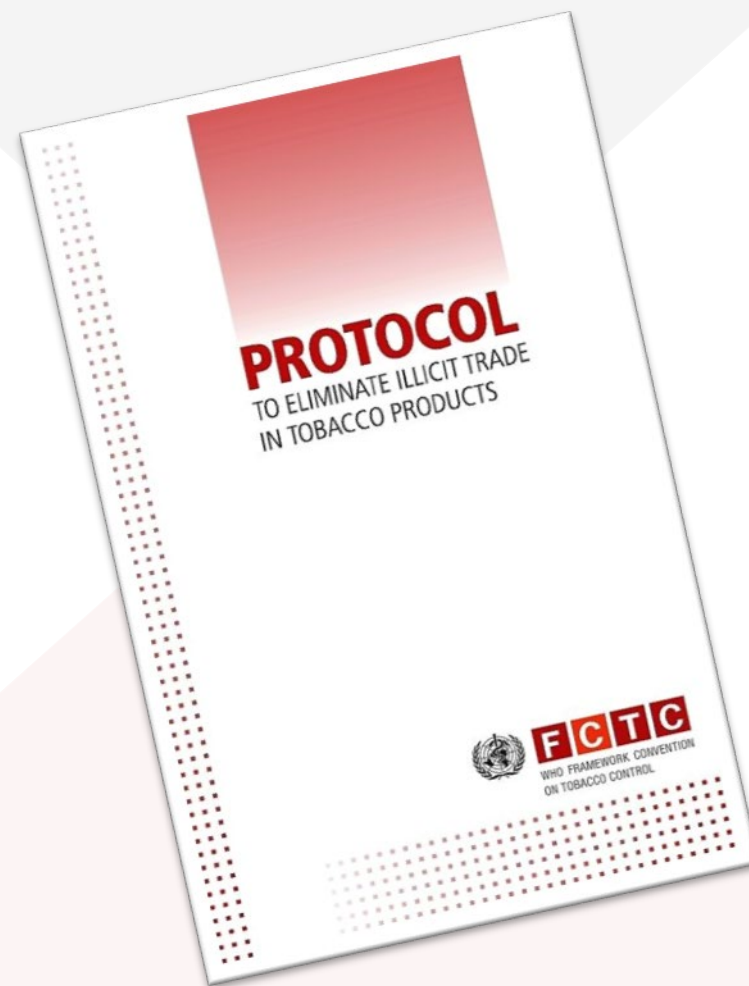
Consequences

- Public health
Increased accessibility, affordability and consumption of tobacco products
- Organized crime
Profits from illicit trade fund other criminal activities
- Loss in government revenue
If illicit trade were eliminated, governments worldwide could gain billion/year in tax revenue.



The Solution

- **New international treaty**, legally linked to the WHO FCTC, based on Article 15 of the WHO FCTC
- **Objective of the Protocol (Article 3)**
To **eliminate all forms of illicit trade in tobacco products**, in accordance with the terms of Article 15 of the WHO FCTC



61 Parties to the Protocol



AFR	AMR	EMR	EUR	SEAR	WPR
20	6	6	24	2	3

History of the Protocol

- **2006:** COP1 set up an **expert group** to prepare a template for the Protocol
- **2007:** COP2 established an **Intergovernmental Negotiating Body (INB)** to draft and negotiate the Protocol
- **2008-2012:** **5 sessions of INB**
- **2012:** COP5 adopted **the Protocol**
- **2013-2014:** **Open for signature**
- **2014-2018:** **Promoting the ratification of the Protocol (Workshops, meetings and Panel of Experts)**
- **2018:** **Entry into force of the Protocol (25 September)**
- **2018:** **First session of the Meeting of the Parties (MOP1) to the Protocol (from 8 to 10 October)**
- **2019:** **Logo of the Protocol approved by the Bureau of MOP**
- **2019:** **Meetings of WG on Tracking & Tracing and WG on Assistance & Cooperation**
- **2019:** **Promoting the ratification and implementation of the Protocol**
- **2020:** **Virtual consultations of WG, Development of the MA Strategy, Database of Experts, etc**

Structure: Three substantive parts

- 1) **Preventing illicit trade** – controlling the supply chain (Part III, Articles 6-13)
- 2) **Law enforcement** – establishing unlawful conduct with dissuasive sanctions (Part IV, Articles 14-19)
- 3) **International cooperation** – cooperation on technical, administrative, law enforcement and legal matters (Part V, Articles 20-31)



Part III: Supply chain control

- Establishment of **licensing or equivalent systems** (Art. 6)
- Requirement for persons engaged in supply chain to conduct **due diligence** (Art. 7)
- Establishment of a **tracking and tracing system** (Art. 8)
- Requirement of **record keeping** by all persons engaged in the supply chain (Art. 9)
- Requirement of **security and preventive measures** by all persons engaged in supply chain (Art. 10)
- All obligations to be applied to **sale by Internet** (Art. 11)
- Controls, prohibition of intermingling of tobacco and other products in **free zones / international transit** (Art. 12)
- Provisions to be applied to **duty free sales** (Art. 13)



Part IV: Offences

- Parties to establish specified **activities as unlawful** (Art. 14)
- **Legal persons to be held liable** for unlawful conduct (Art. 15)
- **Effective and dissuasive sanctions** for liable persons (Art. 16)
- Parties to consider **seizure payments** (Art. 17)
- **Confiscated products** to be destroyed (Art. 18)
- Parties to use **special investigative techniques** to combat illicit trade (Art. 19)

Part V: International cooperation



- Reporting and cooperation obligations (Art. 20)
- Information sharing on enforcement issues (Art. 21)
- Confidentiality of information (Art. 22)
- Assistance and cooperation obligations (Art. 23-24)
- Protection of sovereignty of each Party (Art. 25)
- Establishment of sovereignty over criminal offences (Art. 26)
- Law enforcement cooperation (Art. 27)
- Mutual administrative and legal assistance (Art. 28-29)
- Extradition (Art. 30-31)

MOP 1 main decisions



- RoP
- Bureau of MOP
- Visual identity of the Protocol
- Reporting
- Database of experts
- Strategy for Financial resources and mechanisms of assistance
- WG on tracking and tracing
- WG on assistance and cooperation
- WPB (18-19 & 20-21)

Reporting instrument of the Protocol

D. PART III: SUPPLY CHAIN CONTROL

D1. ARTICLE 6 – LICENCE, EQUIVALENT APPROVAL OR CONTROL SYSTEM

D11	Art.6.1	Do you have a licensing system in place for any of the following activities?		
D11a		• Manufacture of tobacco products?	Yes	No
D11b		• Manufacture of manufacturing equipment?	Yes	No
D11c		• Import of tobacco products?	Yes	No
D11d		• Export of tobacco products?	Yes	No
D11e		• Import of manufacturing equipment?	Yes	No
D11f		• Export of manufacturing equipment?	Yes	No
D12	Art.6.2	Do you require a license for any natural or legal person engaged in:		
D12a		• Retailing of tobacco products	Yes	No
D12b		• Growing of tobacco, except for traditional small-scale growers, farmers and producers	Yes	No
D12c		• Transporting commercial quantities of tobacco products or manufacturing equipment		

- The Convention Secretariat developed a reporting instrument of the Protocol in form of an online questionnaire covering various implementation aspects.
- Parties to the Protocol are required to report periodically to the MOP on their implementation of the Protocol, through the Convention Secretariat.
- The first reporting period of the Protocol commenced on 18 December 2019 and ended on 25 May 2020.
- The Convention Secretariat is preparing the 2020 Protocol Global Progress Report which will be published in October-November 2020

Visual identity of the Protocol



Meeting of the Parties to the Protocol to Eliminate Illicit Trade in Tobacco Products

First session
Geneva, Switzerland, 8–10 October 2018

10 October 2018

DECISION

FCTC/MOP1(14) Visual identity of the Protocol to Eliminate Illicit Trade in Tobacco Products

The Meeting of the Parties (MOP),

Noting the report prepared by the Convention Secretariat contained in document FCTC/MOP/1/21;

Acknowledging the importance of having a specific visual identity of the Protocol to Eliminate Illicit Trade in Tobacco Products (Protocol);

Recognizing the necessity of obtaining suitable legal protection for the visual identity,

1. DECIDES to mandate the Convention Secretariat to commission and to propose to the Bureau of the MOP options for the logo of the Protocol and to mandate the Bureau to decide on the final design of the logo;
2. DECIDES to adopt for this logo the term “Seoul Protocol”, in association with the logo of the WHO FCTC, as well as the full name of the Protocol, which is “Protocol to Eliminate Illicit Trade in Tobacco Products”, in all six official languages of the MOP;
3. DECIDES that the use of the term “Seoul Protocol”, mentioned in paragraph 2 above, shall be contingent upon the Republic of Korea becoming a Party to the Protocol;
4. DECIDES that, in view of the necessity of obtaining suitable legal protection:
 - (a) appropriate measures should be taken by the Convention Secretariat with a view to preventing the unauthorized use, in particular for commercial purposes by means of trademarks or commercial labels, of the logo, abbreviation and name of the Protocol;



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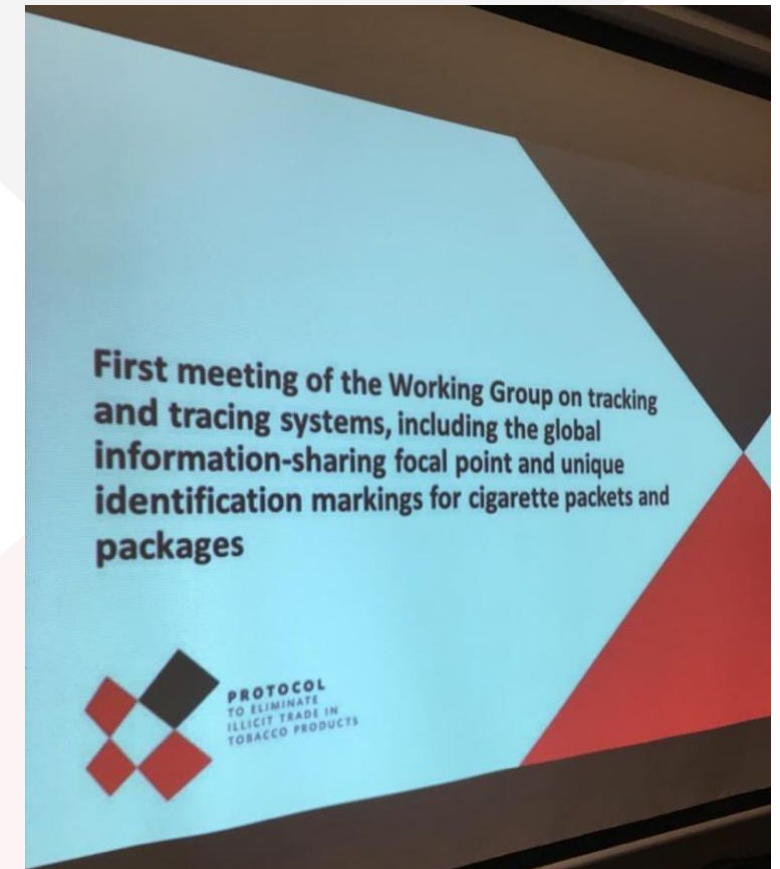


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- MOP mandated the Convention Secretariat to commission and to propose to the Bureau of the MOP options for the **logo of the Protocol** and to mandate the Bureau to decide on the final design of the logo;
- MOP decided that the use of the term “**Seoul Protocol**”... shall be contingent upon the Republic of Korea becoming a Party to the Protocol

WG on Tracking and Tracing

- To elaborate a comprehensive report compiling good practices and experiences on the implementation of tracking and tracing systems (Article 8.1) as well as unique identification markings for cigarette packets and packages (Article 8.3);
- To prepare conceptual work, with a clearly defined timeframe, in view of creating the global information-sharing focal point (Article 8).
- First WG meeting: Panama city, 26-28 November 2019
- Ongoing online consultations



WG on Assistance and Cooperation

- To develop options for the exchange of enforcement-related information (Article 21); training, technical assistance and cooperation (Article 23); investigation and prosecution of offences (Article 24); the implementation of MAA (Article 28); and MLA (Article 29)
- To promote the exchange of good practices with regard to free zones and international transit (Article 12).
- First WG meeting: Quito, Ecuador – 3-5 December 2019
- Ongoing online consultations



Financial resources and mechanisms of assistance

MOP requested the Convention Secretariat to develop a strategy relating to financial resources and mechanisms of assistance that include, among other things:



- a) technical and financial support needed by the Parties for implementing the Protocol;
- b) available capacity-building and technical resources to the Parties for implementing the Protocol;
- c) recommendations on the development of new mechanisms of assistance; and
- d) mechanisms for cooperation with international financial and development organizations.

One Convention Secretariat for the WHO FCTC and Protocol

Additional staff at the Convention Secretariat working on the Protocol including:

- 1 Programme Manager (Protocol)
- 1 Custom Officer
- 1 Information management Officer
- Technical Officers (ODA, GIC and RKM teams)



Thank you



More information:

www.who.int/fctc/protocol
[@FCTCOfficial](https://twitter.com/FCTCOfficial)

[#FCTCillicitTradeProtocol](https://twitter.com/hashtag/FCTCillicitTradeProtocol)

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