

# PRESENTATION TITLE

## THE PROTOCOL TO ELIMINATE ILLICIT TRADE ON TOBACCO PRODUCTS

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World No Tobacco Day 2015

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# OUTLINE OF THE PRESENTATION



**What is the Protocol ?**

**Why Prevent Illicit Trade of Tobacco Products?**

**Main Objective of the Protocol**

**Key provisions of the Protocol**

**Other Provisions**

**Multisectoral Approach for Implementation**

**Text of the Protocol**



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# WHAT IS THE PROTOCOL?



- First protocol to the **WHO Framework Convention on Tobacco Control (WHO FCTC)** & new international treaty in its own right.
- Builds upon and compliments **Article 15** of the WHO FCTC on **Illicit trade in tobacco products** with the objective of eliminating all forms of illicit trade in tobacco products.
- This Protocol was adopted on **12 Nov 2012** by the Conference of the Parties (COP) to the WHO FCTC at its fifth session in Seoul, Republic of Korea, after 4yrs of negotiations by the Intergovernmental Negotiating Body that was established by COP in 2007.



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# WHY PREVENT ILLICIT TRADE?



- illicit trade poses a serious threat to public health globally;
- increases accessibility & affordability of tobacco products, fuelling the tobacco epidemic & undermining tobacco control policies.
- causes substantial loss in government revenue;
- contributes to the funding of transnational criminal activities;
- World Customs Organization (WCO) reports a total of 1 billion illicit cigarettes seized in 2011 - 64 of its Member States.
- Recent studies show 9% - 11% of the global cigarette market is illicit.
- % significantly higher in low- and middle-income countries, reaching 50% or more in some cases.
- If illicit trade is eliminated globally, governments gain at least US\$ 30 billion annually in tax revenue, 1 mill premature deaths avoided every 6yrs due to higher average cigarette prices & lower consumption.



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# Main Objective of the Protocol?



Minister of Health signed the Protocol on behalf of the President of the Republic of South Africa – **10 Jan 2013.**

The Main objective of the Protocol is to eliminate all forms of illicit trade in tobacco products, in accordance with the terms of **Article 15** of the **WHO Framework Convention on Tobacco Control** (referred to as the "Convention")



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# Key provisions of the Protocol?



- Protocol aims to control the **supply chain** in tobacco products (**Articles 6-13**), referred to as the “heart” of the Protocol.
- Requires the establishment of a **global tracking and tracing regime** within 5 yrs of entry into force of the Protocol, comprising national and/or regional tracking and tracing systems and a global information sharing point located in the WHO FCTC Secretariat.

Hence, if tobacco products are found on the illegal market, the authorities would be able to determine the country of origin, manufacturer, intended market of sale, shipment and the point of diversion.



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# Key provisions of the Protocol?



## Provisions to ensure **control of the supply chain cover:**

- Licensing;
- Due diligence,
- Record keeping; and
- Security and preventative measures

Strict requirements imposed on licensing manufacture, import & export of tobacco products ,manufacturing equipment, monitoring of sales to ensure quantities are commensurate with actual demand.



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# Key provisions of the Protocol?



Transactions regarding tobacco products in:

- free zones,
- international transit; and
- duty free sales; as well
- Internet & other telecommunication modes will be subject to the same comprehensive regulations as other sales.



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# Other provisions of the Protocol?



Protocol covers important matters concerning **Offences** (Articles 14-19) with provisions on:

- Liability,
- Prosecutions and sanctions,
- Seizure payments
- Special investigative techniques,
- Disposal and Destruction of confiscated products.

Protocol also contains a catalogue of conduct, which each country (Party) shall include in its national legislation as unlawful, eg producing or selling cigarettes without a licence, or smuggling cigarettes. Each Party shall also decide which unlawful conduct constitutes a criminal offence.



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# Other provisions of the Protocol?



**Other articles address International Cooperation (Articles 20-31):**

- Information sharing;
- Technical and law -enforcement cooperation;
- Protection of sovereignty;
- Jurisdiction;
- Mutual legal and administrative assistance; and
- Extradition.

Parties obliged to exchange information to detect or investigate illicit trade incl. records of investigations & prosecutions & details of seizures. Enhanced cooperation will have a deterrent effect. Parties agreed to afford one another mutual legal assistance & to cooperate in

providing technical assistance in order to achieve the objectives of the Protocol.



# Other provisions- Exchange of Information



Parties / countries are obliged to exchange information to detect or investigate illicit trade incl. records of investigations & prosecutions & details of seizures.

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Enhanced cooperation will have a deterrent effect. Parties agreed to afford one another mutual legal assistance & to cooperate in providing technical assistance in order to achieve the objectives of the Protocol.



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# MULTISECTORAL APPROACH FOR IMPLEMENTATION



The Protocol requires a **multisectoral approach** by government for implementation:

- Health,
- Finance (Customs & Treasury),
- SAPS;
- Justice;
- Trade & Industry;
- and other relevant sectors.



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# WHERE TO FIND THE TEXT OF THE PROTOCOL?



The text of the Protocol is available at:

[http://www.who.int/fctc/protocol/illicit\\_trade/](http://www.who.int/fctc/protocol/illicit_trade/)

For further information contact the  
WHO FCTC Secretariat at:  
[protocolfctc@who.int](mailto:protocolfctc@who.int)



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# PROTECTION FROM THE INTERESTS OF THE TOBACCO INDUSTRY



Protocol refers to Parties to protect their public health policies with respect to tobacco control from commercial and other vested interests of the **tobacco industry**. The Protocol specifically stipulates that obligations assigned to a Party shall not be performed by or delegated to the tobacco industry.

**Article 8**, the Protocol requires Parties to ensure that in participating in the **Track and Tracing Regime**, interact with the tobacco industry and those representing the interests of the tobacco industry only to the extent strictly necessary in the implementation of that Article.



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# REPORTING OBLIGATIONS OF THE PARTIES



The Protocol establishes the **Reporting** obligations of the Parties linked to the reporting system of the WHO FCTC (**Article 32**), & the institutional and financial arrangements (**Articles 33-36**) necessary for its implementation.



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# DEPARTMENTS AND PARTIES CONSULTED, RESPONSES AND COMMENTS



The following Departments were involved in the negotiation of the Protocol:-

- National Department of Health;
- Department of Trade and Industry;
- Department of International Relations and Cooperation (DIRCO); and
- Justice and Constitutional Development.



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