



Plenary sitting

A8-0154/2016

27.4.2016

RECOMMENDATION

on the draft Council decision on the conclusion, on behalf of the European Union, of the Protocol to Eliminate Illicit Trade in Tobacco Products to the World Health Organisation's Framework Convention on Tobacco Control, with the exception of its provisions falling within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union (14384/2015 – C8-0118/2016 – 2015/0101(NLE))

Committee on International Trade

Rapporteur: Adam Szejnfeld

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the draft Council decision on the conclusion, on behalf of the European Union, of the Protocol to Eliminate Illicit Trade in Tobacco Products to the World Health Organisation's Framework Convention on Tobacco Control, with the exception of its provisions falling within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union (14384/2015 – C8-0118/2016 – 2015/0101(NLE))

(Consent)

The European Parliament,

- having regard to the draft Council decision (14384/2015),
 - having regard to the draft Protocol to Eliminate Illicit Trade in Tobacco Products to the World Health Organisation's Framework Convention on Tobacco Control (15044/2013),
 - having regard to the request for consent submitted by the Council in accordance with Articles 33, 113, 114, 207 and Article 218(6) second subparagraph, point (a), and the second subparagraph of Article 218(8) of the Treaty on the Functioning of the European Union (C8-0118/2016),
 - having regard to Rule 99(1), first and third subparagraphs, Rule 99(2), and Rule 108(7) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on International Trade (A8-0154/2016),
1. Gives its consent to conclusion of the protocol;
 2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and to the World Health Organisation.

SHORT JUSTIFICATION

The World Health Organisation's Framework Convention on Tobacco Control (FCTC) is the first global health treaty. It was developed in response to the global tobacco epidemic and aims to tackle some of its causes, including illicit trade in tobacco products. It entered into force on 27 February 2005 and there are currently 180 Parties to the Convention.

The Protocol to Eliminate Illicit Trade in Tobacco Products (FCTC Protocol) is based on Article 15 of the FCTC and was adopted by the Conference of the Parties on 12 November 2012 in Seoul. This Protocol currently constitutes the only multilateral regulatory initiative in the area. The EU signed the FCTC Protocol on 20 December 2013. The Protocol needs to be ratified by 40 parties for it to enter into force and its ratification without delay by the European Union (and its Member States) would significantly contribute to the swift entry into force and implementation of the FCTC Protocol.

Illicit trade in tobacco products, in particular cigarette smuggling is a criminal activity posing a serious threat to public health¹ because it undermines tobacco control policies and increases access to often cheaper tobacco products. In addition it causes huge losses of revenue to the EU in terms of unpaid taxes and customs duties. Estimates indicate more than EUR 10 billion losses of revenue annually to the EU and Member States. Member States have fiscal revenue from legal tobacco sales of over € 90 billion annually. That means that roughly one cigarette out of 10 is sold illegally. Whereas 15 years ago the illicit EU market of tobacco products was dominated by contraband from the main manufacturers smuggled into the EU, this prevalence is declining and today's market sees an ever-growing share of "cheap whites" (other brands bought in non-EU countries and brought into the EU without paying tax and customs duties; typically there is no legal distribution network for these products in the EU). A substantial part of the illicit tobacco products in the EU originate from the third countries. Therefore an effective global regime is the best policy option to combat this cross-border phenomenon.

The FCTC Protocol is the main global initiative in this area. The Protocol contains a complex set of measures, rules and policy in the field of fighting illicit trade in tobacco products. It aims to make the supply chain of tobacco, tobacco products and manufacturing equipment secure by establishing a global tracking and tracing system. Other provisions to ensure control include licencing, record keeping requirements, regulation of Internet- sales, duty-free sales and international transit. It establishes offences, addresses liability and seizure payments as well as the disposal of confiscated products. It also aims to boost international cooperation including through mutual administrative assistance in customs matters².

There is a comprehensive EU strategy³ in force since 2013 to combat cigarette smuggling. It

¹ Approximately one person dies from a tobacco-linked disease every six seconds, equivalent to almost 6 million people a year. That's forecast to rise to more than 8 million people a year by 2030, with more than 80% of these preventable deaths occurring among people living in low-and middle-income countries.

² It should be underlined that the EU, apart from the accession to the FCTC Protocol, should also consider increasing the resources devoted to fighting illicit trade in tobacco products, as the Hercule III programme, a de facto only EU fund that supports financially Member States in combatting smuggling in tobacco and tobacco products, has been allocated a budget of only 104.9 million euro for 2014-2020.

³ Commission Communication on Stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products - A comprehensive EU Strategy (COM(2013)324).

proposes actions in 4 key areas: a) decreasing incentives for smuggling; b) improving the security of the supply chain (notably with the ratification of the FCTC Protocol); c) stronger enforcement of tax, customs, police and border authorities; d) strengthening sanctions. The EU has also a reinforced legislative base in the form of the Tobacco Products Directive¹ complemented by the binding and enforceable anti-fraud agreements between the EU, Member States and the four major tobacco manufacturers (Philip Morris, Japan Tobacco International, British American Tobacco (Holdings) Limited, Imperial Tobacco Limited). The Tobacco Products Directive already contains provisions of tracking and tracing that were drafted in conformity with the FCTC Protocol.

The rapporteur is of the opinion that the ratification of the FCTC Protocol will benefit public health and help the international fight against illicit tobacco trade, tax evasion and organised crime.

¹ Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (OJ L 127/1, 29.4.2014, p.1)

RESULT OF FINAL VOTE IN COMMITTEE RESPONSIBLE

Date adopted	21.4.2016
Result of final vote	+: 30 -: 0 0: 3
Members present for the final vote	Maria Arena, Daniel Caspary, Salvatore Cicu, Santiago Fisas Aixelà, Jude Kirton-Darling, Marine Le Pen, David Martin, Emmanuel Maurel, Emma McClarkin, Anne-Marie Mineur, Alessia Maria Mosca, Franz Obermayr, Inmaculada Rodríguez-Piñero Fernández, Marietje Schaake, Helmut Scholz, Joachim Schuster, Joachim Starbatty
Substitutes present for the final vote	Klaus Buchner, Danuta Maria Hübner, Agnes Jongerius, Sander Loones, Bolesław G. Piecha, Frédérique Ries, Fernando Ruas, Judith Sargentini, József Szájer, Marita Ulvskog, Jarosław Wałęsa
Substitutes under Rule 200(2) present for the final vote	Rosa D'Amato, Emilian Pavel, Maurice Ponga, Marco Valli, Axel Voss