



2015/0100(NLE)

14.4.2016

DRAFT 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, as regards its provisions on obligations related to judicial cooperation in criminal matters and the definition of criminal offences
(14387/2015 – C8-0119/2016 – 2015/0100(NLE))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Martina Anderson

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, as regards its provisions on obligations related to judicial cooperation in criminal matters and the definition of criminal offences
(14387/2015 – C8-0119/2016 – 2015/0100(NLE))**

(Consent)

The European Parliament,

- having regard to the draft Council decision (14387/2015),
 - having regard to the Protocol to Eliminate Illicit Trade in Tobacco Products to the World Health Organisation's Framework Convention on Tobacco Control, signed on 20 December 2013 (2013/0259(NLE) and 2013/0260(NLE)),
 - having regard to the request for consent submitted by the Council in accordance with Article 82(1) and Article 83, and Article 218(6), second subparagraph, point (a) of the Treaty on the Functioning of the European Union (C8-0119/2016),
 - having regard to its resolution of 9 March 2016 on the tobacco agreement (PMI agreement)¹,
 - 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 Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Budgetary Control (A8-0000/2016),
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, Europol, Eurojust and OLAF.

¹ Texts adopted, P8_TA (2016)0082

SHORT JUSTIFICATION

The World Health Organisation protocol on the Illicit Trade in Tobacco should be immediately ratified by the European Union.

The stated objective of the Protocol is the elimination of all forms of illicit trade in tobacco products. Illicit trade in tobacco products is defined in the Protocol as any practice or conduct related to producing, shipping, receiving, being in possession of, distributing, selling or buying tobacco products and that is prohibited by law.

In order to address this, the Protocol targets the supply chain of tobacco products via a series of measures by governments. It requires the creation of a global tracking and tracing regime within five years of entry into force of the Protocol. This will see the establishment of a global information sharing point located in the Secretariat of the World Health Organisation Framework Convention on Tobacco Control. This will direct the creation of national and regional tracking and tracing systems.

The Protocol will also insist upon additional provisions aimed at addressing the supply chain of illicit tobacco products. These include; licensing, record keeping requirements and regulation of internet-sales, duty-free sales and international transit.

Being conscious of the existing illicit trade in tobacco products, the Protocol seeks to address this also. The Protocol will establish offences, address liability and seizure payments as well as the disposal of confiscated products.

On top of this, the Protocol will aim to encourage and enhance international cooperation, valid information sharing, technical and law enforcement cooperation, mutual legal and administrative assistance.

The Protocol's obligations cover tobacco products, tobacco and equipment specific to the manufacturing of tobacco products.

The tobacco industry has a responsibility to act to effectively and unequivocally address the illicit trade in their products. The Protocol concedes the irreconcilable conflict between the tobacco's industry's interests and public health's interests. As such, the Protocol outlines particular obligations regarding the tobacco industry. Parties to the Protocol must make each and every interaction with the tobacco industry fully transparent. In relation to tracking and tracing, the Parties to the Protocol must not delegate any of their agreed obligations to the tobacco industry.

The Protocol will enter into force on the 90th day following the deposit of the 40th instrument of ratification, acceptance, approval, formal confirmation or accession with the Depositary.