World Health Organisation (WHO) Framework Convention on Tobacco Control: Protocol to Eliminate Illicit Trade in Tobacco Products

2015/0100(NLE) - 17/06/2016 - Final act

PURPOSE: to conclude, on behalf of the European Union, the Protocol to Eliminate Illicit Trade in Tobacco Products to the World Health Organisation's Framework Convention on Tobacco Control, in so far as the provisions of the Protocol which fall under Title V of Part III of the Treaty on the Functioning of the European Union are concerned.

NON-LEGISLATIVE ACT: Council Decision (EU) 2016/1750 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.

BACKGROUND: the World Health Assembly adopted in 2003 the **Framework Convention on Tobacco Control (FCTC)**, which aims at reducing tobacco-related deaths and diseases around the world in a comprehensive manner.

The Protocol to Eliminate Illicit Trade in Tobacco Products to the WHO FCTC was signed on 20 December 2013, subject to its conclusion at a later date.

The EU concluded the FCTC by Council Decision 2004/513/EC.

Illicit trade in tobacco products and in particular cigarette smuggling into the EU and within the EU is a criminal activity causing huge losses in revenue for the EU and the Member States in terms of unpaid taxes and customs duties. Estimates indicate more than €10 billion losses of revenue annually to the EU and Member States.

The FCTC Protocol currently constitutes the **only multilateral regulatory initiative in the area** and it is necessary to approve it on behalf of the European Union.

CONTENT: with this Decision, the Protocol to Eliminate Illicit Trade in Tobacco Products to the WHO Framework Convention on Tobacco Control as regards Articles 14, 16, 26, 29 and 30, relating to judicial cooperation in criminal matters and the definition of criminal offences, is hereby approved on behalf of the Union (provisions of the Protocol which fall within the scope of Title V of Part III of the TFEU on Freedom, Security and Justice).

Protocol: the Protocol is set out in the annex to the Decision. It contains a complex set of measures, rules and policy in the field of fighting illicit trade in tobacco products.

The Protocol contains:

- measures on the definition of unlawful conduct that may be established by the Parties as a non-criminal or a criminal offence, including establishing the liability of both natural and legal persons. The list of unlawful conducts also includes the laundering of proceeds of the unlawful conduct established as a criminal offence under Council Framework Decision 2001/500/JHA;

- measures on judicial cooperation in criminal matters (mutual legal assistance and extradition) as well as measures on police and customs cooperation in criminal matters.

Territorial provisions: the United Kingdom, Ireland and Denmark shall not participate in the Decision.

ENTRY INTO FORCE: the Decision shall enter into force on 1.10.2016.