Basic information

2015/0100(NLE) NLE - Non-legislative enactments	Procedure completed
World Health Organisation (WHO) Framework Convention on Tobacco Control: Protocol to Eliminate Illicit Trade in Tobacco Products See also 2003/0316(CNS) **Subject** 3.10.06.09 Industrial plants, tobacco, hops 7.30 Police, judicial and customs cooperation in general 7.30.30.06 Action to combat economic fraud and corruption 7.30.30.10 Action against counterfeiting 7.40.04 Judicial cooperation in criminal matters	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	ANDERSON Martina (GUE/NGL)	02/07/2015
	Shadow rapporteur SÓGOR Csaba (PPE) BEŇOVÁ Monika (S&D) HYUSMENOVA Filiz (ALDE) LAMBERT Jean (Verts/ALE)	

Committee for opinion	Rapporteur for opinion	Appointed
INTA International Trade	The committee decided not to give an opinion.	
CONT Budgetary Control	GRÄSSLE Ingeborg (PPE)	25/11/2015
ECON Economic and Monetary Affairs	The committee decided not to give an opinion.	
ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	

Council of the European Union	
European Commission	Commission DG: European Anti-Fraud Office (OLAF) — Commissioner: GEORGIEVA Kristalina

Key events

Date	Event	Reference	Summary
04/05/2015	Preparatory document	COM(2015)0193	Summary
09/02/2016	Legislative proposal published	14387/2015	Summary
11/04/2016	Committee referral announced in Parliament		
30/05/2016	Vote in committee		
02/06/2016	Committee report tabled for plenary, 1st reading/single reading	A8-0198/2016	Summary
07/06/2016	Decision by Parliament	T8-0242/2016	Summary
07/06/2016	Results of vote in Parliament		
17/06/2016	Act adopted by Council after consultation of Parliament		
17/06/2016	End of procedure in Parliament		
01/10/2016	Final act published in Official Journal		

Technical information

Procedure reference	2015/0100(NLE)
Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consent by Parliament
Amendments and repeals	See also 2003/0316(CNS)
Legal basis	Treaty on the Functioning of the European Union TFEU 087-p2 Treaty on the Functioning of the European Union TFEU 082-p1 Treaty on the Functioning of the European Union TFEU 083-p2 Treaty on the Functioning of the European Union TFEU 218-p6a
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/8/03420

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE580.425	14/04/2016	

Committee opinion	CONT	PE578.763	25/05/2016	
Committee report tabled for plenary, 1st reading/single reading		A8-0198/2016	02/06/2016	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0242/2016	07/06/2016	Summary

Council of the EU

Document type	Reference	Date	Summary
Document attached to the procedure	15044/2013	18/11/2013	
Legislative proposal	14387/2015	09/02/2016	Summary

European Commission

Document type	Reference	Date	Summary
Preparatory document	COM(2015)0193	04/05/2015	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Decision 2016/1750
OJ L 268 01.10.2016, p. 0006 Summary

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

2015/0100(NLE) - 09/02/2016 - Legislative proposal

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, as regards its provisions on obligations related to judicial cooperation in criminal matters and the definition of criminal offences.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: the conclusion of the World Health Organisation (WHO) Framework Convention on Tobacco Control (FCTC) was approved on behalf of the Community by Council Decision 2004/513/EC. 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.

By means of legal acts, the Union has established common rules in the areas of the judicial cooperation on criminal matters and the definition of criminal offences. Articles 14, 16, 26, 29 and 30 of the Protocol may affect the common rules or alter their scope. The Protocol should be approved on behalf of the Union as regards matters falling within the Union's competence only insofar as the Protocol may affect such common rules or alter their scope.

CONTENT: the proposed Decision seeks the **approval, on behalf of the Union, of the Protocol to Eliminate Illicit Trade in Tobacco Products to the WHO Framework Convention on Tobacco Control**. It shall apply to provisions of the Protocol falling within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union (area of freedom, security and justice).

The Protocol contains a set of measures and strategies in the field of fighting illicit trade in tobacco products. It represents a significant contribution to the international efforts to eliminate all forms of illicit trade in tobacco products, and thereby fight the circumvention of tax and customs duties obligations and reduce the supply of tobacco products.

The Protocol also contributes to the smooth functioning of the internal market for tobacco products whilst ensuring a high level of public health.

The United Kingdom and Ireland shall not take part in the adoption of the Decision.

For details about the content of the Protocol, please refer to the summary of the Commission's initial legislative proposal of 4.5.2015.

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

2015/0100(NLE) - 04/05/2015 - Preparatory document

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.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

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

The EU signed the FCTC Protocol on 20 December 2013.

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.

Most of the EU Member States are affected by the illicit tobacco trade, either as points of entry or transit or destination countries. Since the illicit products mostly originate from countries outside the EU, international cooperation, in particular also based on clear legislative procedures, is key to addressing the problem of illicit trade. The FCTC Protocol currently constitutes the **only multilateral regulatory initiative in the area**.

It is now necessary to approve the Protocol on behalf of the European Union.

CONTENT: under this proposal, the Council is invited to approve, 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**. The Protocol contains a complex **set of measures**, rules and policy in the field of fighting illicit trade in tobacco products.

This Decision applies to the provisions of the Protocol **which fall within the scope of Title V of Part III of the Treaty on the Functioning of the European Union (**Freedom, Security and Justice).

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 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime, Member States shall ensure that certain money laundering offences are sanctioned by criminal penalties;
- measures on judicial cooperation in criminal matters (mutual legal assistance and extradition);
- measures on police and customs cooperation in criminal matters.

The United Kingdom, Ireland and Denmark shall not take part in the adoption of the Decision.

In parallel to this proposal, the Commission presented a separate proposal for a Council Decision on the conclusion of the Protocol, on behalf of the European Union, as regards provisions which **do not fall** under Title V of Part III of the TFEU.

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

2015/0100(NLE) - 04/05/2015

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.

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

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

The EU signed the FCTC Protocol on 20 December 2013.

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.

Most of the EU Member States are affected by the illicit tobacco trade, either as points of entry or transit or destination countries. Since the illicit products mostly originate from countries outside the EU, international cooperation, in particular also based on clear legislative procedures, is key to addressing the problem of illicit trade. The FCTC Protocol currently constitutes the **only multilateral regulatory initiative in the area**.

It is now necessary to approve the Protocol on behalf of the European Union.

CONTENT: under this proposal, the Council is invited to approve, 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**. The Protocol contains a complex **set of measures**, rules and policy in the field of fighting illicit trade in tobacco products.

This Decision applies to the provisions of the Protocol **which fall within the scope of Title V of Part III of the Treaty on the Functioning of the European Union (**Freedom, Security and Justice).

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 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime, Member States shall ensure that certain money laundering offences are sanctioned by criminal penalties;
- measures on judicial cooperation in criminal matters (mutual legal assistance and extradition);
- measures on police and customs cooperation in criminal matters.

The United Kingdom, Ireland and Denmark shall not take part in the adoption of the Decision.

In parallel to this proposal, the Commission presented a separate proposal for a Council Decision on the conclusion of the Protocol, on behalf of the European Union, as regards provisions which **do not fall** under Title V of Part III of the TFEU.

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

2015/0100(NLE) - 02/06/2016 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Martina ANDERSON (GUE/NGL, UK) 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.

The committee recommended the European Parliament to **give its consent** to the conclusion of the Protocol.

In a short justification accompanying the recommendation, Members stated that the World Heath's Organisation protocol on the Illicit Trade in Tobacco should be immediately ratified by the European Union. Its objective is the elimination of all forms of illicit trade in tobacco products.

To recall, the Protocol:

- targets the supply chain of tobacco products via a series of measures by governments (e.g. creation of a global tracking and tracing regime within five years of entry into force of the Protocol,
- establishment of a global information sharing point located in the Secretariat of the World Health Organisation Framework Convention on Tobacco Control, creation of national and regional tracking and tracing systems);

- insists 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;
- establishes offences, address liability and seizure payments as well and the disposal of confiscated products;
- encourages and enhances international cooperation, valid information sharing, technical and law enforcement cooperation, mutual legal and administrative assistance;
- outlines particular obligations regarding the tobacco industry. Parties to the Protocol must make each and every interaction with the tobacco industry fully transparent.

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

2015/0100(NLE) - 07/06/2016 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 598 votes to 25, with 35 abstentions, a 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.

In line with the recommendation made by the Committee on Civil Liberties, Justice and Home Affairs, Parliament gave its consent to the conclusion of the Protocol.

To recall, the conclusion of the World Health Organisation (WHO) Framework Convention on Tobacco Control (FCTC) was approved on behalf of the Community by Council Decision 2004/513/EC. 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 proposed Decision shall apply to provisions of the Protocol falling within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union (area of freedom, security and justice). 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;
- measures on judicial cooperation in criminal matters (mutual legal assistance and extradition);
- measures on police and customs cooperation in criminal matters.

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.