

WHO's Protocol to Eliminate Illicit Trade in Tobacco Products Is Now 'Live'

After the UK ratified it last week, the legally binding international protocol is now in operation.



Cigarette packets with graphic pictorial warnings are pictured on the counter of a cigarette seller in Mumbai, India, January 8, 2018. Credit: Reuters/Shailish Andrade

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New Delhi: Enthusiastic press releases from the World Health Organisation this week mark a major achievement for the global body. One release says: “Mission accomplished!”

The excitement is because the first legally binding instrument adopted under the World Health Organisation’s Framework Convention on Tobacco Control (WHO FCTC) has just gone “live”.

This instrument is the ‘Protocol to Eliminate Illicit Trade in Tobacco Products’.

According to the WHO, it is estimated that one in every ten cigarettes and tobacco products consumed globally is illicit. There are major health, economic and security concerns that dog the illicit trade of tobacco products. The protocol with its legal binding, aims to address some of these issues.

At least 40 countries needed to ratify or accede to the protocol in order for it to become international law. Last week, the United Kingdom of Great Britain and Northern Ireland ratified it. This brought the required number of ratifiers up to 41 and has breathed legal life into the protocol.

India was the 37th party to ratify the protocol. Preeti Sudan, the current Union health secretary, is also president of the Conference of Parties to the FCTC. “The Protocol is the first international treaty negotiated and adopted by the Parties to the WHO FCTC and its entry into force represents an important step in the fight against the illicit trade in tobacco products. This new treaty provides new legal dimensions for international cooperation beyond the health sector,” she said.

India's illicit cigarette trade

There are different estimates for the extent of illicit cigarette trade in India.

While industry estimates for India's illicit trade can be around 20%, a recent study in the British Medical Journal Tobacco Control quantified India's problem as a small one, at 2.73%. It analysed 11,063 packs of cigarettes from 1,727 retailers across India.

"Our estimate of the illicit cigarette market share of 2.73% casts serious doubt on the tobacco industry estimate of 20% and Euromonitor's estimate of 21.3%," they said.

Unsurprisingly, the most number of illicit products in this study were seen in India's border cities and states, such as Aizawl and Kolkata, with cigarettes from Myanmar, Indonesia, Nepal etc.

A study from the Tobacco Institute of India said illegal cigarette trade (including smuggled international brands and locally manufactured cigarettes that evade taxes), account for a fourth of the cigarette industry in India and estimated a revenue loss of Rs 13,000 per annum.

A 2017 study from FICCI and KPMG said that the market of illicit cigarettes trade in India by 2015 was Rs 25,000 crore. This was based on data of seizures from Directorate of Revenue Intelligence.

How the protocol works?

The protocol has a range of measures to combat illicit trade and has measures under three categories: preventing illicit trade, promoting law enforcement and providing the legal basis for international cooperation. It has measures to secure the supply chain of tobacco products, such as through licensing, record keeping and a global tracking and tracing regime.

The protocol also has two detailed articles on extradition. For example, the text says: "Each of the criminal offences to which this Article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between Parties. The Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them" and "Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters."

The protocol will enter into force in 90 days, in time for the Conference of Parties (COP8) which will be held in Geneva, Switzerland, in October 2018.

The WHO FCTC was adopted at the World Health Assembly in 2003. The Convention itself came into force in 2005.

There are currently 168 signatories to the FCTC and 181 parties to it, with the most recent one being Mozambique in July 2017. India has been an enthusiastic participant to the convention, having been a signatory since 2003.

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