

INDIA'S EFFORTS TO IMPLEMENT THE WHO FCTC PROTOCOL TO ELIMINATE ILLICIT TRADE IN TOBACCO PRODUCTS



F C T C

WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL



INTRODUCTION

- **WHO Framework Convention on Tobacco Control (WHO FCTC)**
 - Demand reduction: price and tax measures
 - Support for viable alternatives
 - Elimination of illicit trade
- **COTPA, 2003**
- **Article 15 of FCTC**
 - Illicit trade, smuggling, counterfeiting

THE PROTOCOL



- **Objective and Scope**
- **Three substantive parts**
 - Preventing Illicit Trade-Controlling Supply Chain
 - Law Enforcement
 - International Cooperation
- **Part III of the Protocol**
 - Licensing system
 - Due diligence
 - Tracking and tracing
 - Record keeping
 - Security and preventive measures by persons in supply chain
 - Sale by internet
 - Controls in free zones
 - Duty free sales



INDIA AND THE PROTOCOL

- Illicit Trade in Cigarettes in India
- Inter Ministerial Group
- India's Accession
- Coming into Force
- Time bound obligations
 - Track and Trace System
 - Controls in Free Zones

ILLICIT TRADE IN CIGARETTES IN INDIA



- Tobacco industry - illicit cigarettes in the market increased from 15 to 24% during 2010 and 2015.
- Study conducted by WHO - illicit cigarette market in India accounted for 6.0% of the total cigarette consumption in 2016 to 2017.
- The retail value of illicit cigarettes - ₹49 billion (US\$ 753 million), including foregone tax revenues of around ₹25 billion (US\$ 390 million).
- John & Ross, 2018 - Illicit trade in India Generally low (2.7%)

THE TASK BEFORE INDIA



- Establishment of tracking & tracing regime: within 5 years of entry into force of the Protocol (Art. 8.3);
- Unique markings: each within 5 years of entry into force for the Party for cigarettes and their packaging, within 10 years for all other tobacco products (Art. 8.3);
- Controls in free zones: within 3 years of entry into force for the Party (Art. 12.1);

HOW INDIA WENT FORWARD



- India has Tracking and Tracing System for select pharmaceuticals
- Delhi Government has developed and operationalized Tracking and Tracing System for liquor.
- 'Tracking and Tracing System' for Cigarettes to be under Central Excise laws
- Possibility of empowering officers of other department/ministries to seize illicit cigarettes under Customs Act, 1962
- 'Working Group' to chart out the modalities of the Tracking and Tracing System that India should adopt.

ROAD MAP



Time Period	Tasks to be undertaken
First 2 years	Study of the various Tracking and Tracing Systems that are in place in different countries for different purposes; sourcing and analyzing of legal and procedural issues in the implementation of the Tracking and Tracing system. Drafting a detailed legal framework and proposal for creating the requisite administrative setup and infrastructure required for the implementation of the Tracking and Tracing system.
Third year	Stakeholder's consideration on the legal, procedural and administrative issue arising out of the proposals made by the Committee.
Fourth year	Subject to necessary approval and enactment , notification of new legal provisions and the administrative setup.
Fifth year	Tendering process including inviting letter of intent, finalization of tender, tender evaluation and identification of service provider and award of contract. Industry preparation for creation of necessary physical and IT infrastructure in coordination with the service providers. Pilot testing of Tracking and Tracing System Full launch of Tracking and Tracing System for cigarettes

THE STORY SO FAR



- Study of Best Practices
 - Kenya
 - Brazil
 - European Union
- Gathering Literature
- Working Group Deliberations

TRACK AND TRACE SYSTEM: KENYA



- Kenya introduced the new generation Excise Stamps in 2013.
- The Stamps are affixed on the unit and aggregate level packages.
- They are embedded with optical/coded security features;
- All the data are stored at the Data Management System (DMS).
- The data is owned by the government; and
- Market surveillance teams conducts regular checks using hand held devices which could read the electronic data stored in the excise stamps.

TRACK AND TRACE SYSTEM: BRAZIL



- Brazil Introduced Tracking and Tracing System in 2008. It uses a combination of tax stamp and bar code on both the unit and aggregate level packets.
- Tax stamps contain invisible and secure 2D matrix electronic code inserted at the time of manufacture.
- The tax stamps are produced by the Brazilian mint using special security paper, optical variable ink (overt feature) and invisible ink (covert feature);
- This electronic code carries multiple information fields;
- The tax stamps get activated at the time of application on the packet, using special coding equipment and data will be send to the Data Management Server (DMS);
- Whenever the data on the tax stamp is not activated, an alert will be send to the tax authorities that can initiate an investigation;
- The bar code uses European Article Number (EAN-8);
- Retailers and distributors can also use specific hand held scanners to authenticate a product; and
- Equipment to count output are also mandatory at all manufacturing facilities.

TRACK AND TRACE SYSTEM: EU



- The directive 2014/40/EU of the European Parliament and Council elaborated the features of their tracking and tracing system.
- EU model suggests a combination of Unique Identifier (UI) and a set of security features as given under.
- Unique Identifier (UI)
 - Both the manufacturers and importers shall irremovably print or affix Unique Identifiers on both the unit and aggregate level packets.
 - These UI shall contain one among the different types of data carriers.
 - Anti-tampering device are used for the verification of the UI. ID issuer identified by the state shall generate and issue these UI.
- Security feature
 - Every unit packet shall carry tamper proof security features with both visible and invisible elements.
- Machine identifier code
 - This will help to identify each machine used in the manufacture of cigarettes.
- Repository system
 - For the receipt and storage of data on the manufacture/import and movement of tobacco products. Access to this is given only to the authorised persons.

Features	EU	Kenya	Brazil
Mechanism	a. Unique identifier b. Security features	a. Excise Stamp	a. Tax stamp b. Bar code
Product level	Both at unit and aggregate level.	Both at unit and aggregate level.	Both at unit and aggregate level
Implementation	Directly by the state or with the help of third party.	Through PPP model with SICPA.	By Brazilian mint, SCPA is the partner.
Security features	At least one out of the five SF has to be visible to human eye.	NA	NA
Data in the UI/tax stamp	UI contains data code which could be optical device readable data matrix/QR code /dot code/code 128.	As optical/coded data.	Invisible 2D data matrix electronic code.
Verification at the production line	Anti-tampering device are used for the verification of UI	Scanning equipment does the activation and verification of the ES.	Special coding equipment activates and validates the tax stamp.
Machine identifier code	Each machine shall have this feature.	Not present	Not present
Equipment to count output	Not present	Not present	present
Products for home consumption	Human readable and optical device readable codes.	Optical/coded. Overt features like hologram for the public.	Code is invisible
Products for export	Human readable and optical device readable codes.	Not marked.	Code is visible.
Imported goods	Have unique identifier and the manufacturing state to ensure that the data stored in these are made available electronically.	Need unique identifier.	Not monitored.
Verification by retailers	Details not available	With the help of hand held devices.	With the help of hand held devices.
Data collection and storage	Repository system.	Central Data Management System (DMS).	DMS

Thank You