

# Traceability, security features and Illicit Tobacco Trade

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# Tobacco industry background

- 20 years of experience in organising smuggling.
- More than 2 billion USD in payments and fines in EU and Canada to settle five smuggling lawsuits.
- An investigation on the role of smuggling of one major tobacco company (JTI) is ongoing.

# Article 14: Traceability and security features

- A new article.
- Not part of the consultation.
- Based on the justification that illicit products undermine the free circulation of compliant products and the protection provided for by tobacco control legislation.
- Based also on the FCTC protocol to combat illicit tobacco trade.

# The FCTC protocol on combatting Illicit tobacco trade was adopted on 12 November 2012 in Seoul

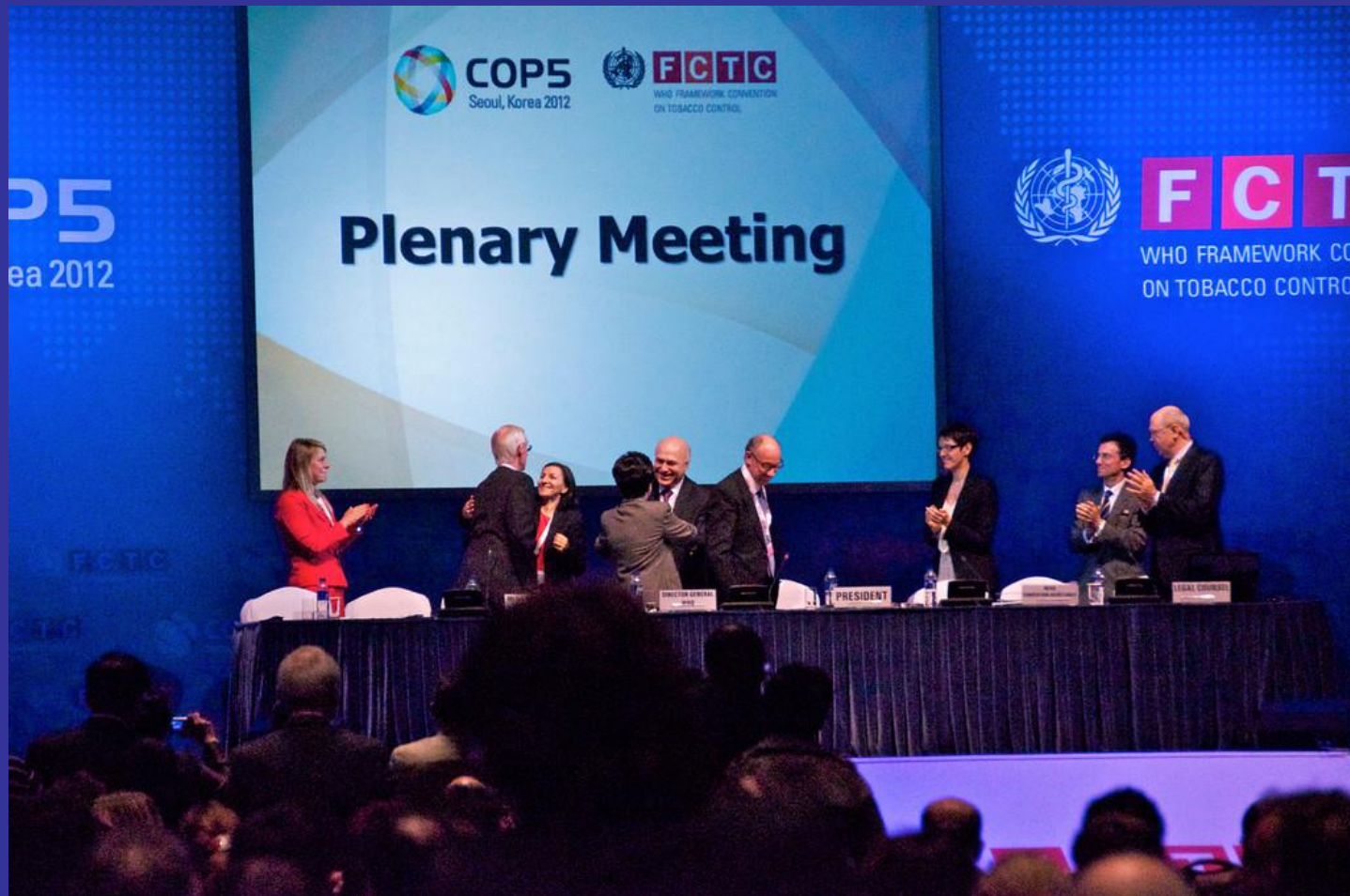
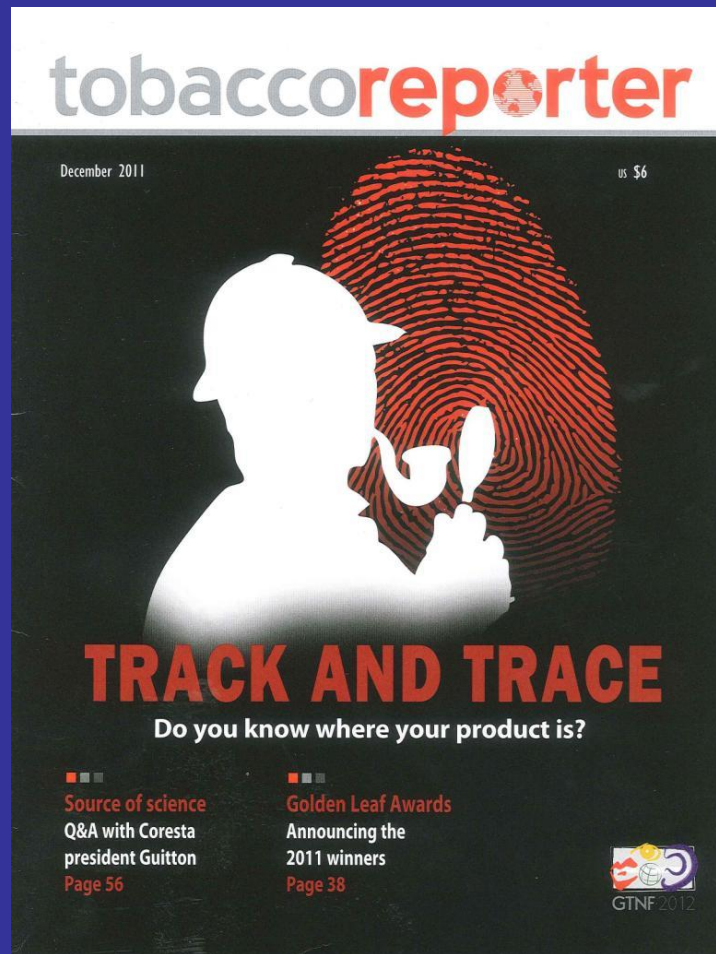


photo: Geoffrey Fong

The protocol contains an obligation of unique, secure and non-removable identification markings on all packages (packs, cartons, master cases)



# The marking should provide info on

- (a) date and location of manufacture;
- (b) manufacturing facility;
- (c) machine used to manufacture
- (d) production shift or time of manufacture;
- (e) the name, invoice, order number and payment records of the first customer:

# The marking should provide info on

- (f) the intended market ;
- (g) product description;
- (h) any warehousing and shipping;
- (i) any known subsequent purchaser
- (j) the intended shipment route

# Article 8 of the protocol stipulates

“8.2. Each Party shall establish, in accordance with this Article, a tracking and tracing system, **controlled by the Party** for all tobacco products”

8.12. Obligations assigned to a Party **shall not be performed by or delegated to the tobacco industry.**

8.13. Each Party shall ensure that its competent authorities, in participating in the tracking and tracing regime, **interact with the tobacco industry and those representing the interests of the tobacco industry only to the extent strictly necessary** in the implementation of this Article.”



# EU proposal TPD article 14

- Unique identifiers on all unit packets of tobacco products.
- Economic operators should record all movements until the first retailer.
- Recorded data can not be changed or deleted.
- Tobacco industry conclude data storage contracts with an independent third party.
- Tobacco industry choose an auditor approved by the commission.

# EU proposal TPD article 14

- All unit packets shall carry a visible, tamper proof security feature.
- Commission can adopt delegated acts concerning the contracts with the data storage companies and the technical standards for the unique identifiers (compatibility) and security features.

# Our comments on the EU traceability proposals

- Considering the long history of industry complicity in cigarette smuggling, it would be unacceptable that the tobacco industry would choose the data storage company and the auditor for the traceability data.
- The choice of the data storage company should be a decision by the Member State and the choice of the auditor a decision by the EU.
- The data storage should be hosted at Member State and EU level, not per company.

# Our comments on the EU traceability proposals

- The unique identifiers should also be applied on the outside packaging.
- The unique identifiers on the packs and the outside packaging (cartons, master cases etc) should be linked.
- The security features should not only be visible

# Conclusion

- 1) The choice of the data storage company for traceability should be a decision by the Member States and the choice of the auditor a decision by the EU.
- 2) The unique identifiers on the packs and the outside packaging (cartons, master cases etc) should be linked. (aggregation)
- 3) Security features should be both visible and invisible.
- 4) Obligations on traceability should not be delegated or performed by the tobacco industry (article 8 of the FCTC protocol on illicit tobacco trade).