HHS Public Access

Author manuscript

Tob Control. Author manuscript; available in PMC 2020 December 01.

Published in final edited form as:

Tob Control. 2019 December ; 28(E2): e110–e118. doi:10.1136/tobaccocontrol-2018-054668.

Memoranda of understanding: a tobacco industry strategy to undermine illicit tobacco trade policies

Eric Crosbie[1,2], **Stella Bialous**[2], **Stanton A Glantz**[2,3]

[1]School of Community Health Sciences, University of Nevada, Reno, Nevada, USA

[2]Center for Tobacco Control Research and Educatio, University of California San Francisco, San Francisco, California, USA

[3]Department of Medicine (Cardiology), Cardiovascular Research Institute, San Francisco, California, USA

Abstract

Objective—Analyse the transnational tobacco companies' (TTCs) memoranda of understanding (MoUs) on illicit trade and how they could undermine the WHO Framework Convention on Tobacco Control (FCTC) and the Protocol to Eliminate Illicit Trade in Tobacco Products (Protocol).

Methods—Review of tobacco industry documents and websites, reports, news and media items using standard snowball search methods.

Results—Facing increasing pressure from governments and the FCTC to address illicit tobacco trade during the late 1990s, TTCs entered into voluntary partnerships embodied in MoUs with governments' law enforcement and customs agencies. One of the earliest known MoUs was between Philip Morris International and Italy in 1999. TTCs agreed among themselves to establish MoUs individually but use the Italian MoU as a basis to establish similar connections with other governments to pre-empt more stringent regulation of illicit trade. TTCs report to have signed over 100 MoUs since 1999, and promote them on their websites, in Corporate Social Responsibility reports and in the media as important partnerships to combat illicit tobacco trade. There is no evidence to support TTCs' claims that these MoUs reduce illicit trade. The terms of these MoUs are rarely made public. MoUs are non-transparent partnerships between government agencies and TTCs, violating FCTC Article 5.3 and the Protocol. MoUs are not legally binding sodo not create an accountability system or penalties for non-compliance, rendering them ineffective at controlling illicit trade.

Correspondence to: Professor Stanton A Glantz, Department of Medicine/Cardiology, University of California, San Francisco, CA 94143-1390, USA; glantz@medicine.ucsf.edu.

Contributors SB conceptualised the study. EC and SB collected the raw data and EC prepared the first draft of the manuscript. SB and SAG contributed to revisions of the paper.

Publisher's Disclaimer: Disclaimer The funding agency played no role in the conduct of the research or the preparation of this article.

Competing interests EC and SAG have nothing to declare. SAB consults with the WHO FCTC Secretariat which promoted the ratification of the Protocol.

Patient consent Not required.

Provenance and peer review Not commissioned; externally peer reviewed.

Conclusion—Governments should reject TTC partnerships through MoUs and instead ratify and implement the FCTC and the Protocol to effectively address illicit trade in tobacco products.

INTRODUCTION

Transnational tobacco companies (TTCs) have been directly and indirectly engaged in illicit trade since at least the 1960s.[1–6] Smuggling enabled TTCs to establish demand for their brands before they were legally allowed in countries,[7–12] bypass tariff and non-tariff trade barriers to enter closed markets,[13,14] and evade taxes and lower prices[15] to profit from the illegal market.[14,16]

The illicit market has changed from large-scale cigarette smuggling of well-known brands to illegal manufacturing, counterfeiting and manufacturing of brands intended for the illicit market ('illicit whites').[17] TTCs used their supply chains in smuggling[7,18] and continued to overproduce cigarettes knowing they entered the global illicit market,[16] but focus efforts on counterfeiting, deflecting governments' attention from their role in illicit trade. As of 2018, TTCs appeared to still be profiting from smuggling.[19]

The WHO Framework Convention on Tobacco Control[20] (FCTC) accelerated adoption of tobacco control policies[21–25] reducing tobacco consumption.[26] FCTC Article 15 states that 'the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting … are essential components of tobacco control'.[20] Containing illicit trade is complex and requires coordination of multiple government sectors (including Border Patrol, Customs, Revenue, Justice and others). FCTC Parties adopted the Protocol to Eliminate Illicit Trade in Tobacco Products[27] (the Protocol) in 2012. The Protocol, which entered force in 2018,[28] requires a global tracking and tracing system, supply chain licensing, record keeping and covers offences with provisions on prosecutions and sanctions, seizure payments and special investigative techniques. The Protocol, consistent with FCTC Article 5.3, emphasises that 'obligations assigned to a Party shall not be performed by or delegated to the tobacco industry,' and the need for 'maximum possible transparency' with tobacco industry interactions and 'to be alert to any efforts by tobacco industry to undermine or subvert strategies to combat illicit trade.'[27] As of November 2018, the Protocol has 48 parties, and held the first meeting of the parties in Geneva in October 2018[29] when parties confirmed that Protocol implementation should be free from tobacco industry interference.[30]

TTCs have long-promoted voluntary self-regulation agreements with governments, including voluntary marketing codes and health warnings,[23,31–33] 'accommodation' programmes instead of smoke-free laws,[34–36] 'youth smoking prevention programmes'[31,37–41] and corporate social responsibility campaigns[42–48] to avoid effective regulation. None of these voluntary measures reduced tobacco consumption.[31,38,43,49]

Likewise, to displace effective government controls on illicit tobacco trade, TTCs promote their inadequate tracking and tracing system (Inexto Suite, previously known as Codentify[16,19,50]) and establish voluntary partnerships with government customs and excise agencies through memoranda of understanding (MoUs). While the industry's track-and-trace

system, Codentify, has been studied,[161950] MoUs have only been briefly discussed.[155152] As the Protocol was being developed, the TTCs intensified efforts to promote MoUs. This paper describes MoUs and how they undermine tobacco control.

METHODS

Between April and June 2018 we searched tobacco industry documents in the University of California San Francisco Truth Tobacco Industry Documents (TTID) Library (https://www.industrydocumentslibrary.ucsf.edu/tobacco/) using standard snowball searches.[53] Initial search terms included 'memorandum of understanding', 'memoranda of understanding', 'MoU', 'cooperation agreement', 'cooperative agreement', 'illicit tobacco', 'smuggling' and 'brand integrity', yielding 60 relevant documents. We also conducted similar snowball searches of TTC websites, Google, ProQuest Global Newsstream, the FCTC Secretariat, WHO and tobacco control advocacy groups. We searched the Internet Archive (archive.org) to locate media coverage and TTC reports and webpages no longer available online at the original sites. The documents were reviewed and, when identified as relevant to the study, archived, coded by theme and analysed in detail to construct a historical and thematic narrative.

RESULTS

Emergence of MoUs (1990s)

During the 1990s TTCs began discussing ways to establish voluntary agreements with governments to allegedly address illicit trade. Since at least 1991, TTCs attempted to establish a working relationship and voluntary agreements with the Italian customs agency.[54] Following years of negotiations, Philip Morris International (PMI) signed an MoU with Italy's Ministry of Finance in March 1991[55] to establish a 'collaborative communication system, through exchanges of information' to seize contraband cigarettes.[55] (No penalties for PMI were included.) In a July 1999 meeting, PMI reported to other TTCs that the MoU would pre-empt 'more stringent proposals' from the Italian government and the 'MoU's avoiding parliament to come up with tough amendments very much driven by unilateral action plan against fraud'.[54] In particular, PMI 'stressed the fact that the [company's] involvement in contraband has to be 'proved" and that tailoring 'the interpretation of the current MoU' through ongoing negotiations with the Italian authorities led to authorities not being 'very proactive on the subject [of illicit trade] since the MoU has been signed.'[54] The TTCs agreed that they would sign MoUs on an individual basis and considered the roll-out of an Italian-style MoU in the European Union (EU). Reemtsma referred to a 'German model [of MoU]'[56] which is 'a general political agreement on principles'[54] and PMI described the MoU with Italy as being 80% 'no more than a collection of what is already existing' while part of the rest being qualified as 'semantics' by British American Tobacco (BAT).[54] The TTCs viewed MoUs as voluntary agreements to pre-empt more restrictive government regulations.

Spread of MoUs (2000–2006)

PMI established an MoU with Colombia in March 2000,[57] under which, according to PMI, PMI would 'inspect contraband Marlboro cigarettes' seized by customs and 'advise it of any information that would be useful in its law enforcement efforts'.[58] PMI proposed MoUs to France, Spain, Kazakhstan and Lithuania while Gallaher established an MoU with the United Nations Mission to Kosovo and TTCs offered to establish MoUs similar to Gallaher's with 'all EU and Accession State Governments'.[59]

Meanwhile, revelations from previously secret internal documents highlighting TTCs involvement in tobacco smuggling, leading to government lawsuits, placed additional pressure on TTCs to address illicit trade.[111860]

HM Customs and Excise MoU with Gallaher—In the late 1990s, HM Customs and Excise (HMC&E) became concerned about the increase in smuggled cigarettes entering the UK[61] following reports of the industry's involvement in smuggling.[61] In response, in September 1999, the UK Tobacco Manufactures' Association met and discussed a draft MoU with HMC&E.[62] (We were unable to find a publicly available copy of this draft MoU.)

Industry documents reveal how Gallaher pursed HMC&E. A January 2000 confidential letter from Gallaher's Security Advisor Peter Redshaw to Gallaher Group Board Director Nigel Simon reported that Redshaw asked investigators with 'excellent access to senior and middle ranking Customs officials to determine HMC&E's attitude to cigarette smuggling'.[63] According to Redshaw, 'Customs remain *deeply suspicious* about the role of cigarette manufacturers which continue to supply to countries where there is little or no consumer market [emphasis added]',[63] and that Customs considered 'exposing, through the media, the role which the tobacco manufacturers play in the smuggling trade'.[63] In response, Gallaher met with HMC&E to discuss smuggling in hopes of improving its image.[64–66] Over a year, Gallaher reported that HMC&E's perception shifted from 'deeply suspicious' to satisfied with its commitment to reduce cigarette smuggling through an MoU (see draft on online supplementary figure S1)[67] which was reviewed in December 2001[68] and signed and publicised in April 2002.[69] Gallaher promoted the MoU presenting itself as the 'most cooperative' of the UK manufacturers.[6870]

The 2002 draft press release in the tobacco documents quoted HMC&E saying, 'We are pleased to have reached this Understanding with Gallaher to work together to drive down smuggling and minimise presence of Gallaher brands in the smuggled market.'[71] The phrase, 'and minimise presence of Gallaher brands in the smuggled market'[71] was not included in the final joint press release.[7273]

This MoU created a framework for cooperation between HMC&E and Gallaher.[69] The MoU text (online supplementary figure S1) discussed information sharing and Gallaher's agreed to 'take action where information indicates any substantial smuggling of its products'[69] making Gallaher the primary source of information and action.

HMC&E MoU with BAT and Japan Tobacco International (JTI)—In October 2002, HMC&E signed a similar MoU with BAT,[74] similarly not creating 'binding legal obligations

on the party', and neither party was 'required to provide information' that 'would place that party in breach of any law or legal obligation'.[74] BAT's MoU, like Gallaher's, emphasised the complex nature of illicit trade, deflected attention from BAT's historical involvement with illicit trade and agreed that the majority of cigarettes are smuggled 'in commercial quantities by organised gangs'[74] (online supplementary figure S2). In November 2003, HMC&E signed a similar MoU with JTI emphasising cooperation and a goal to limit 'trade in smuggled and counterfeit goods'.[59]

In all three agreements HMC&E trusted the TTCs to supply the data with no enforcement provisions[75] (table 1). Similar to other jurisdictions, TTCs were made the main source of data for customs and tax officials.

HMC&E MoU with imperial Tobacco—In 2002, Imperial Tobacco tried to sign an MoU with HMC&E but due to Imperial's previous dealing with organisations HMC&E thought were involved in tobacco smuggling in the late 1990s, they were sceptical.[61] By May 2003, Imperial stopped trading with several international distributors as part of anti-smuggling efforts,[76] resulting in a 3-year MoU with HMC&E, signed in July 2003.[73] The Imperial press release did not disclose details of the agreement, only highlighting that the MoU would 'further undermine the operations of the smugglers and counterfeiters of tobacco products' and that the MoU would 'strengthen' the relationship between the company and HMC&E'.[77]

HMC&E's renewed MoUs with Gallaher, BAT, Imperial and JTI in 2005[78] which remained in place until they were superseded by court settlements with the EU over alleged corporate smuggling involvement by JTI (which purchased Gallaher in 2007) in 2007[79] which ends in 2022, and similar 2010 settlements with BAT[80] and Imperial[81] which end in 2030. Despite being legally binding, the EU settlements did not effectively address illicit tobacco trade or recover lost tax revenue as TTCs failed to control their supply chains and the focus on seizures of legitimate cigarettes (as determined by the TTCs) to assess fines provided the TTCs an incentive to classify seized products as counterfeits.[82] With the changing nature of illicit trade, seizures were too small to qualify for the fines included in the agreement, so fines from 2004 to 2012 represented just 0.08% of the estimated tax losses due to illicit trade.[82] The EU and UK ratification of the Protocol address these shortcomings.

Additional MoUs—It is unknown how many MoUs were signed between 2002 and 2006 or their exact terms because they were not publicly disclosed. TTC websites and media statements reported the existence of at least twenty MoUs through 2006 and the industry promoted them as cooperative industry-government frameworks to reduce tobacco smuggling.[78,83] Table 2 lists examples of MoUs we identified through searches in English and descriptions on MoU content were provided based on media and TTC's accounts.

Early signs that MoUs just helped TTCs establish government connections

There was no evidence that these earlier MoUs decreased illicit tobacco trade or tax evasion.[82] TTCs saw MoUs as useful to provide access to decision makers and promote the image of TTCs as government partners. In 2006 HMC&E found that Gallaher cigarette smuggling increased every year after 2003 despite the MoU, with £1 billion in lost tax revenue between

2000 and 2006.[51] During a year-end 2004 earnings conference call with investors, BAT's CEO reported that BAT was trying to sign MoUs, saying, 'I don't think [MoUs] has had much impact on counterfeiting and smuggling in Europe,' and that 'I don't see that there has been any change in the counterfeiting and smuggling level in Europe as a generality.'[84] In November 2003, Austria Tabak (a Gallaher subsidiary) wrote JTI saying, 'I don't see any country where such an MoU could be worthwhile at the moment' but that MoUs are 'a good way of getting contacts to officials and proofing [sic; proving] our goodwill as we have seen in Kosovo.'[85]

Global expansion of MoUs (2007–2018)

After Protocol negotiations started in 2007, TTCs accelerated negotiations with customs and police agencies to adopt MoUs. While not releasing the actual agreements, TTCs announced that they signed at least 124 MoUs: BAT signed at least 20 (as of 2018), Imperial 24 (as of 2015),[86] JTI 30 (as of 2017),[87] and PMI 50 (as of 2018).[88] Table 2 lists the MoUs that we were able to identify and for which there was some information about their content. Overall, the focus appears to be on establishing collaboration with governmental agencies, including training and voluntary disclosure of information. MoUs were found in low, middle and high-income countries around the world (table 2).

Promoting MoUs on industry websites and through corporate social responsibility reports—During this expansion, TTCs promoted MoUs through their websites, corporate social responsibility (CSR) reports and in the media, as examples of government partnerships.

TTCs' portrayed themselves as both the victim of and solution to illicit tobacco trade. PMI, BAT, JTI and Imperial claimed on company websites that they opposed illicit trade because it was bad for business,[8789–91] globally driven by excessive regulation and high taxation.[91–94] TTCs claimed tax policies were the key driver of illicit trade, despite independent evidence that countries with the highest smuggling rates do not have the highest tobacco taxes,[710131495] but do have tax decreases and cheaper cigarettes.[96] TTCs also claimed that if governments adopt tobacco standardised plain packaging that levels of illicit trade will increase because counterfeit cigarettes will be simpler to produce.[18] Evidence from Australia, the first country to implement plain packaging, disproves this claim.[97] TTCs promote themselves as ideal partners and MoUs as a conduit for this cooperation. For example, in May 2012, JTI's webpage on illicit trade promoted MoUs and claimed 'there is no single solution' as 'no government, regulatory body, law enforcement agency or manufacturer *acting alone* [emphasis added] can eliminate illicit trade'.[98]

TTCs use MoUs to portray themselves as responsible corporate citizens. In May 2012, JTI issued a CSR report detailing their anti-illicit trade compliance programmes that emphasised dialogue between industry and government.[98] In particular, JTI claimed it continuously worked to develop and implement MoUs to illustrate its 'firm commitment to fighting illicit trade'.[98] In January 2015, Imperial issued a CSR report on illicit trade, claiming they 'advocate a partnership approach to fighting illicit trade' seeking to work with governments to combat tobacco smuggling'.[86] In December 2015, BAT issued a CSR report on illicit

trade claiming it signed MoUs to 'work collaboratively with governments, and law enforcement agencies' to 'tackle the illegal tobacco trade'.[99]

Media coverage of MoUs—TTCs consistently promoted MoUs in media statements and press releases as broad cooperative frameworks with governments. Between 2007 and 2018, TTCs framed illicit trade as a 'complex issue'[88] that needs to be fought collectively by industry and governments through 'close collaboration',[100–104] 'joint action',[89103] 'shared intelligence'[88105] and a 'mutual commitment'.[94100101105–107] MoUs were presented in the media as an industry solution to establish a cooperative framework allowing a full exchange of information and expertise between authorities and TTCs.89 94 100 103–105 107–112 In particular, TTCs asserted MoUs offer 'best practices' by companies training government personnel to identify and destroy seized counterfeit products.[8894105110–112] TTCs advertise that through MoUs they commit to provide authorities information, monitor seizures and destroy illicit stock, participate in government task forces and train government officials on how to identify counterfeit products[8994105107–109] (table 2).

In contrast to initial press statements regarding PMI (2000), Gallaher (2002) and BAT MoUs with Colombia, neither the companies nor government publicly released MoUs' terms.

DISCUSSION

MoUs represent another instalment in a history of ineffective voluntary agreements the TTCs promote to avoid government regulation.[2331–48] TTCs used MoUs to establish a framework of government cooperation and as a public relations vehicle to identify themselves as both the victim of and solution to illicit tobacco trade.[16] Through their websites and CSR programmes, TTCs continue to claim MoUs effectively solve the illicit tobacco problem while simultaneously declaring that illicit tobacco is escalating. The fact that these agreements continue to be negotiated without transparency and without publication of their final text makes it impossible to confirm that they are enforced or potentially effective at reducing smuggling. The industry's ongoing claims that illicit trade is growing[91–94] have not been confirmed by independent data, and contradicts TTCs statements about the usefulness of MoUs. Like other TTC-initiated voluntary partnerships, MoUs lack measurable and independently enforceable outcomes, particularly effective penalties for seizures of illegal products.

Among the biggest barriers to addressing and enforcing illicit tobacco trade is obtaining reliable, independent data.[161719113–115] Industry estimates are inappropriate for policy-making due to strong motivation to misrepresent results,[1882116] lack of transparency,[50] inadequacy of methodological details and lack of independent validation.[117] TTCs have commissioned reports and surveys through third party affiliates exaggerating the illicit trade problem[1618] to convince policy-makers not to implement strict tobacco control, including increased tobacco taxes, and packaging and labelling regulations.[1895] MoUs rely on TTCs volunteering potentially damaging information if they identify large quantities of their products in seizures, indicating poor supply chain control. TTCs emphasise counterfeits in customs seizures of contraband cigarettes which is a small portion of the illicit market.[117] Because of these deficiencies, MoUs likely make tackling illicit trade more difficult if they

displace implementation and enforcement of the Protocol (table 2). Ecuador cancelled its July 2018 voluntary agreement,[112] as part of implementing its whole of government approach to implementing the Protocol.[27] Rather than depending on data voluntarily provided by TTCs, government agencies should demand these data as part of implementing their legal mandates.

MoUs are not the only efforts that TTCs can use to interfere with effective government implementation of the FCTC and Protocol. In 2016, PMI pledged $100 million for PMI IMPACT, 'a global initiative to support public, private and non-governmental organizations to develop and implement projects against illegal trade'.[118] Like it did with MoUs, PMI Impact is promoted as part of CSR efforts, and projects funded include efforts to 'elaborate tools for performance evaluation and corruption risk assessment of law enforcement and revenue authorities with regards to illegal tobacco trade'.[119] As of November 2018, projects selected for the second round of funding have yet to be posted on PMI IMPACT's website. Supporting voluntary agreements with research and project funding is the same strategy TTCs used to oppose smoke-free policies[34–36] while funding research to counter independent scientific evidence that does not support the companies' positions.[120121] Accepting these funds would place government agencies in breach of the FCTC Article 5.3 and the Protocol.

In contrast to voluntary agreements with TTCs, the Protocol sets clear guidance strategies to address illicit trade and on interactions with the industry. While TTCs claim to support the Protocol,[122123] their implementation vision continues to be based on the industry-managed track and trace system and the assumption that industry needs to be a partner with government to reduce illicit trade.[161950] While Customs, Border Patrol and Ministries of Justice will have to engage with TTCs to implement the Protocol, such engagement must be transparent, with a government-controlled agenda to enforce the law, not 'partnerships' among equals.

Governments should pass legislation consistent with FCTC Article 5.3 specifically prohibiting MoUs and other government/industry partnerships and endorsements with TTCs, adhering to FCTC Article 5.3 Guideline Recommendation 3, 'rejecting partnerships and non-binding or non-enforceable agreements with the tobacco industry'.[124] Uganda's 2015 Tobacco Control Act prohibits 'non-binding or non-enforceable agreement, memorandum of understanding, voluntary arrangement or tobacco industry code of conduct in the place of legally enforceable tobacco control measures' and 'voluntary contributions from the tobacco industry'.[125] Similarly, Moldova's 2015 tobacco control law prohibits 'partnership with and support from the tobacco industry,' including 'non-binding agreements and memoranda of understanding (instead of legal tobacco control measures) and financial or other contributions from the tobacco industry'.[125] Implementing and enforcing these measures will help prevent countries from joining MoUs. It is not clear how Parties to the Protocol that have existing MoUs with the industry will be impacted because termination clauses, if any, like MoUs, are not publicly available.

Future research should investigate the role of customs and excise agencies in preventing illicit trade, including their understandings of MoUs, relationships with tobacco companies,

how Parties are implementing the Protocol and what the TTCs are doing to prevent additional countries from joining the Protocol. Research should also examine how TTCs continue to frame MoUs in terms of 'open communication' and 'collaborative partnerships' without publicly releasing the details, and the practical effects of this lack in transparency. Entry into force of the Protocol has increased the need for independent data on the types and extent of illicit trade.

Limitations

Most relevant documents in the TTID Library are from 2002 or earlier. We were unable to locate a copy of any MoU signed since 2005, limiting understanding of more recent MoUs. However, based on TTCs websites, their CSR reports and information in the media, it appears MoUs remain voluntary non-binding agreements without enforcement provisions.

Conclusion

Governments should reject TTC partnerships through MoUs because they have been ineffective at reducing illicit tobacco trade. Governments should refrain from partnering with the same companies they should be monitoring which represents a clear conflict of interest. Instead, governments should implement the FCTC and the Protocol on illicit trade.

Supplementary Material

Refer to Web version on PubMed Central for supplementary material.

Acknowledgements

We thank Tanner Wakefield, Laurent Lempert, Dan Orenstein, Yogi Hendlin, and Amy Hafez for providing feedback on this study.

Funding This work was supported by the National Cancer Institute grants 2T32 CA113710 and R01CA087472 and the University of Nevada Reno.

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What this paper adds

What is already known on this subject

- For decades, transnational tobacco companies (TTCs) have promoted voluntary self-regulation agreements to avoid stricter tobacco control regulations.
- TTCs have been directly or indirectly involved with and benefiting from illicit tobacco trade for decades.
- TTCs have promoted their own tracking system (Inexto Suite, previously known as Codentify) to displace government action to monitor the supply side of illicit tobacco trade.

What important gaps in knowledge exist on this topic

- There has been little research on memoranda of understanding (MoUs), voluntary partnerships with governments to nominally address illicit trade.

What this study add

- TTCs use MoUs to avoid stricter government regulations regarding illicit tobacco trade.
- MoUs are non-transparent, violate Framework Convention on Tobacco Control (FCTC) Article 5.3 on protecting tobacco control policy from tobacco industry interference, and, based on limited available information, do not establishan enforceable accountability system for seizures or for non-compliance.
- MoUs leave TTCs in control of key information sources and enforcement and rely on voluntary industry commitments rather than measurable outcomes.
- Governments should reject TTCs partnerships through MoUs as there is no evidence that they are effective in reducing illicit tobacco trade and instead ratify and implement the FCTC's Protocol to Eliminate Illicit Trade in Tobacco Products.

Table 1

Comparison of the FCTC Protocol on Illicit Trade, MoUs and EU Settlement

Issue	FCTC Protocol on Illicit Trade[27]	HMC&E MoUs with Gallaher[69] and BAT[74]	Eu settlement with PMI, JTI, Imperial and BAT[79–81]
Global tracking and tracing system run exclusively by government	Yes	No	No
Record-keeping of illicit products independent of TTCs	Yes	No	No
Prosecutions and sanctions for criminal offences	Yes	No	Yes
Seizure payments for lost taxes and duties	Yes	No	Yes

FCTC Protocol on Illicit Trade: approved in 2012 and in effect September 2018.

HMC&E MoUs with Gallaher and BAT: 2002.

EU Settlement: PMI (2004), JTI (2007), Imperial (2010), BAT (2010).

BAT, British American Tobacco; EU, European Union; FCTC, Framework Convention on Tobacco Control; HMC&E, HM Customs and Excise; MoUs, memoranda of understanding; PMI, Philip Morris International; TTC, transnational tobacco company.

Table 2

Exemplars of MoUs between governments and TTCs (1999–2018), based on media accounts and industry press releases*

Year	Country	TTC	Description (available information from TTC websites, CSR reports, WHO reports and media news)
1999	Italy[55]	PMI	MoU establishes 'collaborative communication system, through exchanges of information' with Italy's Ministry of Finance to seize contraband cigarettes.
2000	Colombia[58]	PMI	PMI would 'inspect contraband Marlboro cigarettes that are seized by DIAN and advise it of any information that would be useful in its law enforcement efforts'.
2000	Kosovo[59]	Gallaher	No details.
2002	UK[69]	Gallaher (now JTI)	HMC&E committed to 'work and share information with Gallaher to identify, prevent and deter trade in counterfeit product … and meet regularly with Gallaher to review progress in tackling tobacco smuggling'. Gallaher agreed to 'take action where information indicates any substantial smuggling of its products to identify, so far as is reasonably practical, the supply routes and suspect export trade' and provide 'Customs with prompt access to data about export sales, including specific in-house codings and translations of those codings'.
	UK[74]	BAT	HMC&E committed to promptly 'advise BAT of any significant seizures' and 'enable BAT to determine whether or not it is genuine product or counterfeit and also to enable BAT to try to trace its first customer'. BAT on request would supply 'HMC&E with export sales data related to seized cigarettes, including details of the first customer and the intended or stated destination country of sale'.
2003	UK[73]	Imperial	The MoU would 'further undermine the operations of the smugglers and counterfeiters of tobacco products'. This 'far-reaching MoU will enable Imperial Tobacco and HM Customs and Excise to further strengthen their relationship'.
2003	UK[59]	JTI	The MoU 'set out a framework of co-operation' to 'limit the trade in smuggled and counterfeit goods'. The MoU 'is intended not to be binding in law and does not create any legal obligations'.
2004	Jordan[83]	BAT	'The MOU calls for information sharing and joint cooperation between [the Aquaba Special Economic Zone Authority in Jordan] ASEZA and BAT surrounding the inspection of suspected containers, with the BAT Research and Development Department providing analysis for suspected products'.
2005	Hungary[78]	BAT	No details.
	UK[78]	Gallaher, BAT, Imperial	No details.
2007	Romania[78]	BAT, JTI	No details.
	Lebanon[105]	BAT	'The MoU aims to set up procedures to fight cigarette smuggling and counterfeiting in accordance with Lebanese laws and regulations. It will establish a framework to allow for the full exchange of information and expertise between British American Tobacco and the Lebanese authorities; offer technical training to government personnel operating on the ground to help them identify counterfeit products; provide measures to destroy seized counterfeit products; and raise awareness about the financial losses caused by the illicit trade in tobacco products.'
	Lebanon[109]	PMI	'Philip Morris plans to train the Lebanese Regie company, a government controlled entity which hold a monopoly in the production of tobacco and import of cigarettes, to detect counterfeited cigarettes.' 'Regie and Philip Morris will also exchange information on cigarette smuggling and disclose the names of the smugglers.'
	Lebanon[4]	JTI	No details.
	Jordan[105]	BAT	MoU will 'help tackle illicit trade through joint action and shared intelligence, dialogue with concerned parties on ways to prevent illicit trade, providing information to the authorities to combat illicit trade, monitoring seizures and destruction of illicit stock, involvement in government task forces and training for government officials (namely Customs officials) on how to identify counterfeit products'.
	Yemen[105]	BAT	Same as Jordan-BAT MoU.

Year	Country	TTC	Description (available information from TTC websites, CSR reports, WHO reports and media news)
	Egypt[105]	BAT	Same as Jordan-BAT MoU.
2008	Benin[126]	BAT	No details.
2008	Ghana[126]	BAT	No details.
2008	Ghana[126]	PMI	No details.
2009	Ireland[104]	JTI	MoU 'sets out a framework of bi-lateral co-operation between them to counter the smuggling and sale of contraband and counterfeit JTI branded product in Ireland'. 'Sharing information and improving co-operation.'
2010	Iran[15]	Imperial	No details.
2011	Luxemburg[110]	JTI	'The goal is to identify possible illegal activities and to discourage them. Whereas the authorities will inform JTI of control and seizure operations on the national territory, JTI will give complete access to its database and 'Track and Trace' systems, which allows for an exact follow-up of its products' sale and distribution.' 'JTI will also support the training of the civil servants, notably the staff of the 'Administration des Douanes et Accises.'
	Papua New Guinea[101]	JTI	MoU 'will allow the parties to share information and work closely to address illegal trade and related issues'.
2012	Albania[78]	BAT	No details.
	Moldova[89]	Imperial	'Under the terms of the agreement, Imperial and the Moldovan customs authority will work more closely together by meeting regularly to exchange information on seizures of illegal tobacco products and organising joint education and training initiatives'.
	France[107]	Imperial	'Imperial and French customs officials will exchange information on any seized tobacco shipments. Imperial will also provide training sessions for customs officials to assist them in identifying counterfeit cigarettes'.
	Luxemburg[103]	Imperial	'Under the terms of the agreement, Imperial and the Customs and Exchange Duties Administration will work more closely together by meeting regularly to exchange information'.
	Vietnam[86]	Imperial	No details.
	Mauritius[111]	BAT	'It is a partnership that we have made to combat the illicit trade. The MRA is on the ground and they have the resources to do it. There is a sharing of information, expertise and best practices between us and we are happy to work with them'.
2013	Namibia[102]	TISA	'The MoU will forge greater collaboration between the ministry's directorate of customs and excise and TISA to facilitate legal trade in tobacco products while combating illicit activities through information sharing, investigations and curbing of illegal trade in cigarettes and other tobacco products in the southern African region.'
	Mozambique[100]	TISA	'a formal framework based on their mutual commitment to facilitate legitimate trade in tobacco products, whilst combating illicit activities.' 'to formalize and legitimize a platform for the exchange of information and other collaborative action in the prevention, investigation and curbing of illicit trade in cigarettes and other tobacco products.'
	South Africa[100]	TISA	Same as Mozambique-BAT MoU.
	Botswana[100]	TISA	Same as Mozambique-BAT MoU.
	Lesotho[100]	TISA	Same as Mozambique-BAT MoU.
	Swaziland[100]	TISA	Same as Mozambique-BAT MoU.
2014	Papua New Guinea[127]	BAT	No details.
2015	Gibraltar[94]	PMI	'The MOU establishes a framework of cooperation to combat illicit trade in tobacco whilst minimising obstacles to legitimate trade. Its provisions include the sharing of best practices, further training of customs officers on counterfeit cigarette recognition, and the exchange of information gathered through market monitoring.'

Year	Country	TTC	Description (available information from TTC websites, CSR reports, WHO reports and media news)
	Australia[99]	BAT	No details.
	Vietnam[86]	Imperial	No details.
	Latvia[86]	Imperial	No details.
2016	Zambia[108]	BAT	'The timeline of the MoU will be 3 years, during the course of which Drug Enforcement Commission (DEC) will receive IT equipment and support to improve the commission's law enforcement and prosecution for various offences including smuggling.'
2017	Dominican Republic[90]	PMI	No details.
	Czech Republic[90]	PMI	No details.
2018	United Arab Emirates[106]	PMI	'The agreement establishes a broad framework of activities required by both parties to combat the illicit trade and specifies the requirement of communicating awareness on it, efforts made to eliminate the occurrences, and successes in confiscation and discovery of illegally trafficked goods.'
	Ecuador[112]	PMI	MoU 'purpose of establishing information exchanges, coordination, training and assistance necessary'. 'ITABSA [Industrias del Tabaco Alimentos y Bebidas S.A., PMI] will provide SENAE with a list of cigarette brands of its subsidiaries available for sale in the country and neighboring countries.' (translated by author)

*The industry accounts of number of MoUs on illicit trade is a minimum 124 globally. This table lists a sample where countries' names and sometimes descriptions on MoU content were provided.

BAT, 20 MoUs (as of 2018).

Imperial, 24 MoUs (as of 2015).[86]

JTI, 30 MoUs (as of 2017)[87]

PMI, 50 MoUs (as of 2018).[88]

BAT, British American Tobacco; CSR, corporate social responsibility; HMC&E, HM Customs and Excise; MoUs, memoranda of understanding; PMI, Philip Morris International; TISA, Tobacco Institute of South Africa (a tobacco industry association that represents BAT, Imperial, JTI, and PMI); TTC, transnational tobacco company.