



**Conference of the Parties to the  
WHO Framework Convention  
on Tobacco Control**

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**Financial implications of measures contained  
in the draft protocol to eliminate illicit trade  
in tobacco products**

**Note by the Secretariat**

**BACKGROUND**

1. At the fourth session of the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products (Geneva, Switzerland, 14–21 March 2010), the Convention Secretariat was requested to provide an information document to the Conference of the Parties at its fourth session on the financial implications of some of the measures set out in the draft protocol to eliminate illicit trade in tobacco products.<sup>1</sup>

2. In preparing this document, the Convention Secretariat took into account the earlier review of possible options for institutional and financial arrangements that was provided to the Intergovernmental Negotiating Body at its fourth session,<sup>2</sup> consulted experts and undertook additional analysis. In addition, the Secretariat asked relevant Parties to assist by providing information on the costs of their existing tracking and tracing systems, the adaptability of their systems to an international tracking and tracing regime, and the possible costs of such an adaptation.

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<sup>1</sup> See document FCTC/COP/4/5.

<sup>2</sup> Document FCTC/COP/INB-IT/4/5.

## ESTIMATED COSTS RELATED TO AN INTERNATIONAL TRACKING AND TRACING REGIME

### Construction (software development) and maintenance of the global information sharing focal point

3. If the global information sharing focal point were to be located at the Convention Secretariat, as is currently envisaged in the draft protocol,<sup>1</sup> WHO's information technology (IT) infrastructure would be used, with the following cost implications for the development and maintenance of the facility.<sup>2</sup>

#### *2010–2011 biennium*

4. With the protocol not expected to enter into force during the 2010–2011 biennium, there will be no construction or maintenance costs in this period.

#### *2012–2013 biennium*

##### **(i) Construction of the global information sharing focal point (software development)**

Development of software <sup>3</sup> and support documentation required to carry out information-sharing functions for the international tracking and tracing regime in the six official languages of the Conference of the Parties <sup>4</sup>	US\$ 500 000
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5. The global information sharing focal point would be able to support the six official languages with regard to both the user interface and the textual content stored in the databases. However, it should be noted that even if the application supports several languages, it remains unclear, at least until the finalization of the protocol, to which level and by whom the various textual data elements would be translated. The use of codes whenever possible would alleviate this translation problem.

6. The development and establishment of international tracking standards is a prerequisite to the development of the global information sharing focal point. This significant work is not included in the above estimates, as the adoption of the standard will require a decision of the Parties. Using existing standards for coding and for data exchange as far as possible is an option that Parties may wish to consider.

##### **(ii) Maintenance of the global information sharing focal point**

7. In order to maintain the global information sharing focal point, two additional IT staff would be required, one at senior (P4) and one at junior (P2/3) professional level, with overall salary costs of

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<sup>1</sup> See paragraph 1 of Article 7 of the draft protocol (as contained in the Annex to FCTC/COP/4/5).

<sup>2</sup> If this work were to be outsourced, the associated costs would vary according to the contractual arrangements.

<sup>3</sup> The software would provide an interface between national/regional central points and the proposed global information sharing focal point through a web-based secure channel (with, for example, user authentication by login/password), and would display the results of queries in text format. The global information sharing focal point would query the national/regional central points (and vice versa) and would not store tracking information.

<sup>4</sup> If developed in English only, the costs would be lower, approximately US\$ 400 000.

approximately US\$ 700 000 per biennium. The functions of these staff members would comprise, inter alia, project management, technical leadership, operations and provision of assistance to Parties.

**(iii) Interfaces with national and regional tracking and tracing systems**

8. Two main scenarios are possible. Either Parties adopt a national system based on the software developed for the global information sharing focal point, or they decide to build on their existing systems, in which case an interface between their systems and the global information sharing focal point would have to be established.

***Interface with a national system using the generic software developed for the global information sharing focal point***

9. At the request of the Convention Secretariat, the IT department in the WHO Secretariat would build a “generic” software application that would primarily be installed within WHO’s IT infrastructure and configured as the global information sharing focal point. This “generic” software application could also be provided to Parties and installed for them, to enable each Party to implement its own national/regional central point. Parties for which this was the case would need to have an appropriate IT infrastructure.

10. The interface between the global information sharing focal point and the national/regional central points would be built into the generic software, and as a result there would be no additional cost.

***Interface with an existing national or regional system***

11. The Convention Secretariat requested the assistance of Parties with tracking and tracing systems already in place in the preparation of this and other relevant sections of this document. Based on the information that was available at the end of July 2010, when this report was finalized, an interface between a global information sharing point and the national systems concerned could in principle be established. However, the cost of such an interface cannot be estimated by the Secretariat at this stage without more detailed knowledge of the existing systems. Such a cost estimate would also depend on the international standard that still needs to be established and that would specify the electronic communication protocol between national/regional central points and the global information sharing focal point.

**Database construction and maintenance, if any, for the global information sharing focal point**

12. The relevant provision in the draft protocol, Article 7, does not envisage the establishment of a global database; the envisaged function at the global level is that of a query mechanism.

13. A “generic” software application would primarily be installed within the WHO Secretariat’s IT infrastructure and configured as the global information sharing focal point. This generic application would also feature a database to store tracking records if necessary. However, because the draft of Article 7 does not envisage the establishment of a global database, this database feature is expected to be used at national/regional level only, while it would be disabled at the global level. The estimated construction and maintenance costs provided in section A therefore include the construction of a database.

## The costs of implementing domestic tracking and tracing systems in Parties that already have such systems

14. Brazil, the European Union, Kenya and Turkey were approached to assist in providing the information for this section. Information had been provided by Brazil, the European Union and Turkey at the time of finalization of this report (31 August 2010).

### Brazil

15. The compulsory installation of a cigarette “tracking and tracing” system was established in Brazil by a law of 2007.<sup>1</sup> The law states, inter alia, that the Brazilian Mint should manufacture the control stamps at the level of individual cigarette packs, and that the Mint is responsible for the integration, installation and maintenance of all serial counting equipment in industrial manufacturing plants. There has not been any Government spending on the tracking and tracing system. Manufacturers are required to compensate the Brazilian Mint for conducting the aforementioned procedures and for any adaptation necessary for the installation of the serial counting equipment in all production lines. The amount charged is currently R\$ 0.032 (approximately US\$ 0.017) per pack of cigarettes controlled by the system. This represents about 1% of the retail price. The tobacco industry also has to bear the costs of maintaining the tracking and tracing system (e.g. for expansion of databases according to the needs of the Government), in proportion to the production that is controlled.

### The European Union

16. According to the information provided by the European Union,<sup>2</sup> the implementation costs<sup>3</sup> for their existing tracking and tracing system are estimated to be as described below.

17. For tracking and tracing of **master cases**. Master case label printer/applicator:<sup>4</sup> approximately €5 000–20 000 per machine (hardware costs); label per master case: approximately €0.01–0.03 (running costs). For tracking and tracing of **cartons**. Coding system to provide a unique device as well as eye-readable code on carton:<sup>5</sup> €10 000–35 000 per machine; carton tracking system per machine to be equipped in factory (estimates): €30 000–50 000 per machine (hardware costs); and unique marking per carton: approximately €0.001–0.01 (running costs). These estimates exclude installation costs, which vary according to equipment but typically do not exceed 20% of the equipment costs. Financial estimates related to the implementation of a **pack** tracking solution are currently not available.

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<sup>1</sup> Law number 11.488 of 15 June 2007, Articles 27–30.

<sup>2</sup> The estimated range of costs is based on information provided by Philip Morris International from internal data related to the costs of its tracking and tracing systems implemented under the terms of its agreement with the European Commission and the Member States. These costs exclude the one-time software development and licence costs.

<sup>3</sup> The overall costs for the tracking and tracing system implemented in accordance with the requirements of the European Commission Agreement are borne by the industry.

<sup>4</sup> A master case label printer is usually installed on a machine that packages cartons (typically 10 packs) into shipping cases. This unit is called case packer. The label printer and applicator are installed on each case packaging unit. The label with the unique code is applied once the master case is closed.

<sup>5</sup> The printer or label applicator providing the unique coding per carton is installed on the carton packing unit, which is a machine that assembles individual packs into cartons (typically 10 packs per carton). The carton scanning takes place right before the cartons are packed into a master case.

18. For the retention of tracking and tracing data. For hardware:<sup>1</sup> computer and scanning equipment for the factory (master case): €10 000–15 000 for up to 5 billion cigarettes production per year and €20 000–30 000 for 5–10 billion cigarettes production per year; central tracking system<sup>2</sup> (server plus IT infrastructure): €10 000–150 000; for running costs: database hosting and maintenance: approximately €50 000–150 000 plus 1–2 full time IT experts to run the database and provide support.

### **Turkey**

19. The Turkish Revenue Administration, working under the Ministry of Finance, developed and now operates a national monitoring, tracking and tracing system that applies to the domestic production and import of tobacco products and other products subject to excise taxes at the item level (packs for tobacco products). The Turkish tracking and tracing system has a primarily domestic focus and is specific to Turkey. The system is designed to help the authorities to control the tobacco sector and to assist in the definition and implementation of taxation policy. It also strengthens the control of tobacco tax collection and facilitates the fight against illicit trade.

20. The system was developed and implemented without any investment by the Government, but rather through investment by a contractor firm. This firm is authorized to set up and implement the system and has borne all related costs. The contractor finances these costs by selling tax stamps to manufacturers and importing firms as required by the relevant legislation. The costs of operation of the national tracking and tracing system are included in the tax stamp charges. Charges for tobacco tax stamps to tobacco manufacturers and importers currently represent less than US\$ 0.01 per pack. The cost of tax stamps per unit cost are as follows (in 2010): 0.00692 Turkish lira (approximately US\$ 0.00445) for products to be manufactured in Turkey; 0.01900 Turkish lira (approximately US\$ 0.0123) for products to be imported into Turkey; and 0.00692 Turkish lira (approximately US\$ 0.00445) for products in external plants.<sup>3</sup>

### **Illustrative costs of database construction and maintenance at national level if a Party were to choose to set up its own centralized database**

21. As noted above, the “generic” software application that could be developed for the global information sharing focal point could also be made available to Parties and installed for them to enable them to implement their own national/regional central points (hubs). In this case, there would be no costs for software development at the national/regional level.

22. The costs of deployment of and support to the domestic tracking and tracing system based on a generic software product would be as follows:

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<sup>1</sup> The scanning system to be installed in each factory comprises off-the-shelf bar code readers which are connected to a computer. The central tracking system is a computer (server) with a specific tracking and tracing software that stores all relevant tracking data collected during manufacturing and supply chain movements. This system must be secured and backed up.

<sup>2</sup> The central tracking system links case barcode label to order number.

<sup>3</sup> For 2009, this constituted a total cost of 37 288 917 Turkish lira (approximately US\$ 24 213 582).

- (a) during the implementation phase,
- one IT technician employed full time to configure the system and ensure its operation on an ongoing basis, and
  - one IT project manager employed full time to work with the manufacturers and other domestic sources to implement the data exchange standards;
- (b) once the system is installed and when all the data sources are connected to the national system, only the IT technician would be required.

23. The cost of these staff members would depend on the labour costs in each country.

24. Regarding the hosting environment, it is likely that most countries already have an IT hosting environment in which the domestic generic tracking and tracing system could be deployed. The hosting environment would need to include a refrigerated server room, Internet network access, IT staff to provide infrastructure support, and so on. It is likely that a new server would have to be purchased and installed within this infrastructure.

25. Travel costs in relation to technical assistance for the implementation of the generic software in countries, would be approximately US\$ 5500 per mission (cost of airfare and per diem for one staff member for one week).

### **Illustrative database expansion and maintenance costs for Parties choosing to use existing systems for the proposed tracking and tracing system**

26. The information available to the Convention Secretariat, including that provided by Parties for the purposes of this document, does not allow an estimate to be made of the costs of database expansion and maintenance, with regard to the existing systems. A detailed knowledge of the tobacco supply chain in each country would be required for such an analysis, particularly in relation to the changes that may be needed to produce the required data elements. In particular, electronic data sources would have to be identified, and some potentially modified by the various actors (including manufacturers, distributors and national authorities, as appropriate) for the purposes of establishing the interface with the national central point. In the meantime, it is expected that part of the existing IT infrastructure and databases could be maintained or reconverted to comply with the new standards. In this case, the overall implementation costs should be lower than those for the installation of new hardware for marking and data retention by manufacturers. The Secretariat is ready to review the possible technical and cost implications with Parties if so requested.

## **ASSISTANCE TO PARTIES**

### **Technical assistance for developing countries and countries with economies in transition**

#### **Assistance prior to entry into force**

##### ***2010–2011 biennium***

27. In light of the potential time frame for the adoption of the protocol, no costs related to assistance prior to entry into force are envisaged for 2010–2011.

**2012–2013 biennium**

28. Based on the experience of the WHO FCTC, it is likely that the Convention Secretariat would be expected to provide assistance with legal and technical matters and to carry out regional and country-based awareness-raising work. Before entry into force of the protocol, six regional workshops would probably need to be organized, one per region, as well as country-specific missions (on average, missions to between three and five Parties per region would probably be required). The cost breakdown is as follows:

(a)	Regional workshops (six)	US\$ 750 000
	<i>Including travel support to one delegate per eligible Party (90 Parties), plus the travel costs of Secretariat staff and experts, and related documentation and logistics costs, amounting, on average, to US\$ 125 000 per workshop</i>	
(b)	Country missions (as requested; approximately 25 countries)	US\$ 250 000
	<i>Including, on average, two experts per country mission, to provide technical and legal assistance to individual countries</i>	
(c)	Expert papers, including translation when needed	US\$ 200 000
	<i>Potentially 6–8 expert papers on different provisions of the protocol</i>	
<b>TOTAL</b>		<b>US\$ 1 200 000</b>

**Implementation assistance (following entry into force)****2010–2011 and 2012–2013 bienniums**

29. With the protocol not expected to enter into force earlier than the second half of 2013, costs for implementation assistance are not envisaged for the 2010–2011 or 2012–2013 bienniums.

**2014–2015 biennium**

30. Implementation assistance is likely to be required starting from the 2014–2015 biennium. The extent of such assistance will largely depend on the provisions of the protocol as it is finally adopted; the needs of Parties and the requests received from them for assistance; and any mechanisms and resources for assistance established by the Meeting of the Parties following the entry into force of the protocol. Going by the experience of the Conference of the Parties, on average US\$ 1.2 million would be required for implementation assistance to developing country Parties and Parties with economies in transition in each of the first and second bienniums after the entry into force of the protocol (regional/subregional implementation workshops, responding to country-specific requests on technical and legal matters through communication and country missions when necessary, support to Parties in undertaking needs assessments, assistance in reporting, promoting the exchange of expertise and technology, and other assistance as required).

**Financial assistance to Parties eligible for travel support*****2010–2011 biennium***

31. Financial assistance to Parties eligible for travel support in the 2010–2011 biennium would consist of travel support to sessions of the Intergovernmental Negotiating Body and/or the Conference of the Parties (the latter only if there were to be a link to the draft protocol).

32. Travel support costs for one session of the Intergovernmental Negotiating Body or the Conference of the Parties (based on 2010 figures, for 90 low- and lower-middle-income Parties) would be approximately as follows:

Airfare, economy class	US\$ 195 000
Per diem, 8 days, in Geneva	US\$ 255 000
<b>TOTAL</b>	<b>US\$ 450 000</b>

***2012–2013 biennium***

33. If the protocol were to enter into force at the end of the 2012–2013 biennium and if the first session of the Meeting of the Parties were to be convened in conjunction with the next regular session of the Conference of the Parties, up to one third of the above costs (approximately US\$ 150 000) may be needed for travel support to the first session of the Meeting of the Parties.<sup>1</sup> However, the final costs will largely depend on the actual number of Parties to the protocol eligible for travel support at the time of the first session of the Meeting of the Parties and the actual duration of that session (if different from the duration of the Conference of the Parties).

**OVERALL COSTS OF THE PROTOCOL FOR A TYPICAL BIENNIUM FOLLOWING THE ENTRY INTO FORCE OF THE PROTOCOL**

34. The table below shows the overall estimated costs for a typical biennium following the entry into force of the protocol, divided into protocol administration costs, costs for technical assistance (including travel support) and costs for IT support. The actual costs will, however, depend on decisions taken by the Meeting of the Parties concerning, inter alia, subsidiary bodies, development of implementation tools, and the volume and spectrum of assistance to lower-resource Parties.

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<sup>1</sup> On the assumption that not more than 30 low- and lower-middle-income countries will be Parties to the Protocol at the time of the first session of the Meeting of the Parties.



<b>Overall estimated costs of the protocol for a typical biennium (US\$)</b>	
<b>(i) Protocol administration costs</b>	
Salaries <sup>1</sup> <i>(four additional technical staff, one at P5 and three at P4 levels = US\$ 1 700 000); two administrative assistants at G5 level = US\$ 500 000)</i>	2 200 000
Meeting of the Parties <i>(pre-session and post-session documentation and printing)</i> <sup>2</sup>	230 000
Subsidiary bodies, if created <i>(Potentially four meetings of the Bureau and two meetings each for two working groups)</i> <sup>3</sup>	580 000
Programme support costs (13%)	390 000
<b>Sub-total</b>	<b>3 400 000</b>
<b>(ii) Costs for technical assistance including travel support</b>	
Technical assistance <sup>4</sup>	1 200 000
Travel support to one session of the Meeting of the Parties <sup>5</sup>	300 000
Programme support costs (13%)	195 000
<b>Sub-total</b>	<b>1 695 000</b>

<sup>1</sup> Based on staff cost estimates available in 2010.

<sup>2</sup> No interpretation, logistics or other in-session costs are included, on the assumption that the Meeting of the Parties would be held in conjunction with the Conference of the Parties, within the scheduled time frame of the Conference of the Parties. If the Meeting of the Parties were to be convened separately, or extended beyond the duration of the Conference of the Parties, these costs would have to be added (on average, an additional US\$ 200 000 for interpretation, logistics, on-site documentation, printing, short term conference staff and overtime for each day of a separate or extended Meeting of the Parties).

<sup>3</sup> Estimated costs for one meeting of a six-member Bureau: up to US\$ 25 000, depending on the number of members requiring travel to Geneva and the cost of flights; for one meeting of one working group: US\$ 120 000 (including travel, interpretation, documentation and logistics).

<sup>4</sup> Including needs assessments, assistance in reporting, regional implementation workshops, and country assistance missions, where required.

<sup>5</sup> Based on the assumption that on average 60 Parties would be provided with travel support and on the current costing for travel support. This number would potentially increase after the second biennium following the entry into force of the protocol. With only approximately 20 Parties at the time of the first Meeting of the Parties, the cost would be around US\$ 100 000.

<b>Overall estimated costs of the protocol for a typical biennium (US\$)</b>	
<b>(iii) Costs for IT support</b>	
Software development <sup>1</sup>	500 000
Salaries (two IT support staff at P4 and P2/3 levels)	700 000
Programme support costs (13%)	155 000
<b>Sub-total</b>	<b>1 355 000</b>
<b>TOTAL<sup>2</sup></b>	
– for the first biennium after entry into force	<b>6 450 000</b>
– for the following bienniums	<b>5 950 000</b>

## FINANCING OF THE PROTOCOL

35. At its fourth session, the Intergovernmental Negotiating Body also requested the Convention Secretariat to provide legal advice with regard to the legality and the implementation of the mechanism presented in the possible option in paragraph 35 of document FCTC/COP/INB-IT/4/5, namely that: “all Parties to the WHO FCTC, irrespective of whether they have ratified the protocol or not, pay protocol-related costs as part of their voluntary assessed contributions to the WHO FCTC”. This advice, obtained from WHO’s Legal Counsel, is presented below.

### Implementation through a provision of the protocol or through a decision of the Meeting of the Parties

36. The key provision in this regard in the WHO FCTC is Article 33.5, which states that “Any protocol to the Convention shall be binding only on the Parties to the protocol in question. Only Parties to a protocol may take decisions on matters exclusively relating to the protocol in question”.

37. If implemented through a provision in the protocol, a decision to impose a contribution requirement on Parties that are not Parties to the protocol would apparently be in contradiction with the first sentence of this paragraph. No provision of the protocol can bind a Party to the WHO FCTC that has not ratified the protocol.

38. The same issue arises with implementation through a decision of the Meeting of the Parties. At meetings of the Parties, “Parties to the convention but not to the protocol usually participate as observers, and decisions under the protocol are taken only by those that are Party to it” (paragraph 4 of document FCTC/COP/INB-IT/4/5). Here, the second requirement of Article 33.5 is satisfied, in that only Parties to the protocol are making a decision about the protocol. However, even if non-Parties

<sup>1</sup> This would be incurred only once, in the first biennium; in the remaining bienniums only the staff costs would re-occur. See above, “Construction (software development) and maintenance of the global information sharing focal point”.

<sup>2</sup> Excluding the possible additional cost of the Meeting of Parties if convened separately or as an extension to the normal duration of the Conference of the Parties, as described in section (ii) of the table.

may attend as observers, this decision would still bind non-Parties, which would seem to be in contradiction with the first requirement.

### **Implementation through a decision of the Conference of the Parties**

39. Article 33.5 is also relevant to whether the Conference of the Parties can implement the mechanism presented in paragraph 35 of document FCTC/COP/INB-IT/4/5. Here, it is the second sentence of the paragraph that is pertinent. If that mechanism is a matter “exclusively relating to the protocol in question”, it cannot be implemented through a decision of the Conference of the Parties, since only Parties to the protocol can make a decision on it.

40. On the other hand, an argument could be made that the option of the financing of the protocol by all Parties to the WHO FCTC does not “exclusively relate” to the protocol, in that the protocol relates to the overall object and purpose of the WHO FCTC as well as its financial structure. Under this interpretation, implementation could potentially be achieved through a decision of the Conference of the Parties under Article 33.5.

### **Additional issues regarding voluntary assessed contributions**

41. As a final note, as a matter of international practice it may be somewhat unusual to allocate to the protocol a portion of the voluntary assessed contributions that a Party to the Convention makes to the WHO FCTC, if that Party is not also a Party to the protocol. Indeed, in the case of most other protocols, “only Parties to protocols pay voluntary assessed contributions for the administration and implementation of those protocols. When the voluntary assessed contributions are collected through the workplan and budget of the parent convention, the scales of assessment are different – for those that are Parties only to the convention and those that are Parties both to the convention and to the protocol” (paragraph 7 of document FCTC/COP/INB-IT/4/5).

### **ACTION BY THE CONFERENCE OF THE PARTIES**

42. The Conference of the Parties is invited to note the information contained in this document.

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