



WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL

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

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INTERPOL's application for the status of observer to the Conference of the Parties

Report by the Bureau of the Conference of the Parties

1. The Conference of the Parties (COP) decided at its fifth session¹ to defer consideration of the application submitted by the International Criminal Police Organization (INTERPOL) for observer status and to mandate the Bureau of the COP to liaise with INTERPOL in order to seek further clarification of considerations relating to its application for observer status, taking into account Rule 30 of the Rules of Procedure of the COP, in particular in relation to Article 5.3 of the WHO FCTC. As requested by the COP, the present report by the Bureau contains information about the Bureau's interactions with INTERPOL in the intersessional period.

Action taken by the Bureau

2. On the basis of the COP decision, the Bureau invited INTERPOL, by letter of 7 May 2013, to provide clarification of what safeguards it has in place to protect its policies from commercial and other vested interests of the tobacco industry, in line with Article 5.3 of the WHO FCTC, to which INTERPOL provided a reply by letter of 25 July 2013. The main points of INTERPOL's reply to the Bureau (contained in its letter of 25 July 2013) are reproduced in the Annex to the present document for the information of the COP.

3. The Bureau subsequently consulted the Parties to seek their views on INTERPOL's reply of 25 July 2013, in particular as to whether it provided sufficient clarification of the concerns raised during the debate at the fifth session of the COP on this matter. Several Parties reiterated the views that they had raised at the COP, namely their recognition of INTERPOL as a respected, credible international organization and the value of its expertise in law enforcement and combating illicit trafficking of goods. Other comments related to the importance of transparency in dealings with the tobacco industry as an essential value of the WHO FCTC. Concerns were also expressed at the possible influence of sources of funding on INTERPOL's policies and operational independence.

¹ Decision FCTC/COP5(2), available at <http://www.who.int/fctc/publications>

4. In light of the comments received from the Parties, the Bureau invited representatives of INTERPOL to attend its third meeting, held in Geneva on 14–16 April 2014, with a view to obtaining further clarifications and thereby to enable the COP to undertake an informed consideration of this matter at its sixth session.

5. Following its participation in the third meeting of the Bureau, INTERPOL submitted, at the request of the Bureau, additional information to support its application for observer status. The information pertained in particular to activities that were funded through donations received from Philip Morris International, as well as on the Codentify system, INTERPOL's I-Check-it initiative, financial regulations and guidelines for extrabudgetary resources, and INTERPOL's rules for the protection of its distinctive signs.¹

6. INTERPOL also reiterated to the Bureau its strong interest in the Protocol to Eliminate Illicit Trade in Tobacco Products and its willingness to contribute to and participate in implementation of the Protocol. In this regard, INTERPOL acknowledged that its role would be more directly relevant to the future Meeting of the Parties to the Protocol (MOP).

Action by the Conference of the Parties

7. In considering INTERPOL's application for the status of observer to the COP, in accordance with Rule 30.1 of its Rules of Procedure, the COP is invited to note the information contained in this report and its Annex and also to note the potential role of INTERPOL in the context of the MOP as referred to in paragraph 6 above.

¹ See the website of INTERPOL at <http://www.interpol.int>, in particular its section on trafficking in illicit goods and counterfeiting at <http://www.interpol.int/Crime-areas/Trafficking-in-illicit-goods-and-counterfeiting/>

ANNEX

**EXTRACT FROM INTERPOL'S LETTER OF 25 JULY 2013 SENT IN RESPONSE TO THE
REQUEST OF THE BUREAU OF THE COP
TO CLARIFY WHAT SAFEGUARDS INTERPOL HAS IN PLACE TO PROTECT ITS
POLICIES FROM THE VESTED INTERESTS OF THE TOBACCO INDUSTRY, IN LINE
WITH ARTICLE 5.3 OF THE WHO FCTC**

1) INTERPOL has an established leadership in combatting transnational organized crime involving a wide range of illicit activities on a global scale, including illicit trade. These activities generate significant profits for those criminals who engage in them.

The illicit trade in tobacco products is a major global concern. Organized criminal groups acting transnationally are increasingly involved in the business, which has recently expanded with new players, new routes and new techniques. Today this underground industry ranges from counterfeiters to the mass production of certain brands made exclusively for smuggling (illicit whites).

2) In recent years, trafficking in all types of goods has increased. At the same time, the financial contributions by States to INTERPOL to combat this phenomenon has not, due to a 'zero growth' policy, adopted by Member States with respect to regular budgets. Taking this variance into account, INTERPOL decided to partly fund its programmes by accepting donations and funding from the private sector.

Financial contributions from the private sector permit us to increase our capacity and the number of programmes we can offer to our member countries in significant proportions and with significant results. The involvement of the private sector in the fight against illicit trafficking is key in today's environment, given the harm it too suffers from illicit trade, and where governments' priorities are focused on direct security threats (terrorism, cyber criminality...). Dealing with such serious security threats often means that governments are unable to simultaneously allocate the same resources to other criminal activities such as illicit trade in consumer products, and intellectual property crime. Those stakeholders however, are willing to assist in fighting illicit trafficking which impedes their legitimate activities. Engagement with the private sector is not entered into lightly but after serious consideration and with certain conditions imposed on them.

INTERPOL's Trafficking in Illicit Goods and Counterfeiting Programme, is a programme targeting the trafficking of all types of goods and industry sectors, including luxury goods, foodstuffs, electronics, etc. In this context, INTERPOL has over 50 different industry sectors which support its programme, along with its member countries.

3) Regarding PMI's donation, three key points are to be emphasized:

- **The Agreement is the main safeguard in place to protect INTERPOL from the tobacco industry's interests.** The terms of the agreement in place between INTERPOL and PMI protects INTERPOL and its Member States from the vested interests of the tobacco industry. It is specifically stated and acknowledged by PMI within the agreement that *INTERPOL is empowered to carry out its work to fight illicit trade with independence and neutrality, in accordance with its status as an intergovernmental organization, Article 3 of INTERPOL's Constitution, the subsequent INTERPOL General Assembly resolutions.* The Agreement further states that *INTERPOL, in the furtherance of its independence and neutrality shall remain flexible in the development of the Programme.*
- **Independence of INTERPOL vis-à-vis financing is unequivocal.** We have been fighting the illicit trade in tobacco products for more than twenty years. The agreement between

INTERPOL and PMI does not bind INTERPOL to the substance of the Programme, but deals generally with the fight against illicit trade in cigarettes. The financing by PMI only increased our efficacy in dealing with the issue and assisted in broadening the scope of our activity and developing our pre-existing programmes.

- **All procedural requirements were fulfilled.** In accordance with its Financial Rules, INTERPOL's receipt of PMI's donation was taken to the Executive Committee and the decision to receive these funds was endorsed (see Annex 1). INTERPOL entered the agreement with PMI bona fide, though, as always, INTERPOL reserves the right to reconsider cooperation with any entity where that entity engages in proven unlawful conduct.

4) As INTERPOL is at the forefront of the fight against illicit trade, there is irrefutable added value in having INTERPOL as an observer to the Framework Convention, specifically Article 15, and to the Protocol:

- The international community, the World Health Organization (WHO), INTERPOL and other international organizations share, inter alia, a common objective: the fight against the illicit trade in tobacco products;
- INTERPOL has significant experience from the point of view of international cooperation and assisting its Member States in strengthening the capacities of their law enforcement authorities and States' legal frameworks.
- INTERPOL considers that, with the adoption of the Protocol which creates a new dimension for the relationship between the public and the private sectors, we are able to work with the industry, whilst protecting our independence and our Member States' interests.

5) We completely understand your concerns with respect to the protection of States from tobacco industry influence and make the following formal remarks:

- From a legal point of view, INTERPOL is not a country and consequently cannot be party to the FCTC though we fully respect its provisions, particularly those relevant to our field of expertise. Moreover, Article 5.3 of the FCTC refers specifically to "setting and implementing *public health policies* with respect to tobacco control". INTERPOL has no role in public health policy. However, INTERPOL is concerned by the law enforcement aspects of the Convention.

Regarding the Protocol, it is a treaty that deals with crime, specifically illicit trade in tobacco products. To this end, its goals go well beyond public health, with its ultimate aim being to eliminate illicit trade in tobacco products. This is also INTERPOL's aim.

- Concerning the polemic of the use of Codentify, it must be that INTERPOL does not promote the use of Codentify. INTERPOL's I-Check-it platform is an application that will provide consumers with the ability to scan a product using the latest communications technology to verify whether the producer/manufacturer of it considers it authentic and whether it is legally on the market and legally sold. To achieve this aim, the I-Check-it application is compatible with and can incorporate various authentication solutions used by governments as well as the private industry across diverse product sectors. INTERPOL applies neutrality when it comes to the authentication solutions that can be incorporated, and thus the platform is *compatible* with all industry systems, Codentify amongst many others like Pharmasecure, that we include but never promote.

I-Check-it is not a track and trace solution. It remains the competency of governments to implement better track and trace solutions, and to regulate these systems within their jurisdictions.

Consequently, we believe that INTERPOL and the WHO have a common interest to fight against the illicit trade in tobacco products, and we hope that the information above will contribute to the most fruitful and efficient cooperation between these two organizations.

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