

Briefing Note: Fourth Session of the Intergovernmental Negotiating Body on an Illicit Trade Protocol

Geneva 14th March to 21st March 2010

MANUFACTURING EQUIPMENT

1. FCA strongly supports including manufacturing equipment for tobacco products in the supply chain control provisions of the Protocol (Articles 5 to 11 inclusive).
2. Illegal manufacturing forms a significant portion of the illicit trade in tobacco. It includes:
 - unlicensed manufacturing,
 - the production of tobacco products bearing counterfeit trademarks, and
 - over production of otherwise legitimate products.

Illegal manufacturing is a serious problem for many nations around the world. It is possible to regulate the transfer of equipment specifically designed and marketed to produce tobacco products.

1. There is a unique Harmonized Tariff Code for cigarette papers – 84.78.¹ □
Machinery for preparing or making up tobacco. The heading includes :

(1) Tobacco leaf stripping or cutting machines.

(2) Cigar or cigarette □ making machines, whether or not equipped with an auxiliary packaging device.

Machines which belong to code 84.78 can be controlled.

2. A complication is that machinery could be reduced to its basic components, for example a computer, monitor, conveyer belt, and cutting or chopping unit. This would create "dual-use" items, those that could be used for the manufacture of tobacco products, but may also have another use such as drying and chopping other agricultural products. This in turn creates enforcement problems.

¹ The internationally standardized system of names and numbers for classifying traded products developed and maintained by the World Customs Organisation

However these have been tackled in relation to manufacturing equipment used in the production of other controlled items, for example weapons systems² and drugs³.

Suggested Definition

3. FCA would suggest the following definition of “manufacturing equipment” for inclusion in Article 1 (definition of terms)

“Machinery for preparing or making up tobacco, including tobacco leaf stripping or cutting machines, cigar or cigarette making machines, whether or not equipped with an auxiliary packaging device. (including all reconditioned equipment, spare-parts and constituent parts)”

² For example, the Australia Group and the Wassenaar Arrangement for Conventional Weapons and Dual-Use Items and Technology, Missile Technology Control Regime (MTCR) and the Nuclear Suppliers Group (NSG). The Australia Group includes a list of precursor chemicals, which are used to make chemical weapons, but many of these chemicals have multiple legitimate uses. The Wassenaar Arrangement, the MTCR and the NSG include a wide range of items and technology that have both peaceful and weapons applications.

³ The United Nations Office of Drug Control is active in the control of drug manufacturing equipment and precursor chemicals. UNODC has suggested controls for manufacturing equipment, including model legislation, comprised entirely of dual-use items (UNDCP Model Drug Abuse Bill 2000).