



**PROTOCOL**  
TO ELIMINATE  
ILLCIT TRADE IN  
TOBACCO PRODUCTS

**MEETING OF THE PARTIES TO THE PROTOCOL  
TO ELIMINATE ILLICIT TRADE IN TOBACCO PRODUCTS**

**(Draft) FCTC/MOP/3/A/R/3  
14 February 2024**

**Third session (resumed)  
Panama City, Panama, 12–15 February 2024**

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## **Third report of Committee A**

**(Draft)**

Committee A held its fourth and fifth meetings on 14 February 2024, under the chairmanship of Dr Alan Gerard Ludowyke (Sri Lanka).

Committee A recommends to the Meeting of the Parties the adoption of the attached decisions related to the following agenda items:

5. Protocol instruments and technical matters

5.2 Road map, timelines and steps to conduct evidence-based research (Articles 6.5 and 13.2)

One decision as amended entitled:

- Road map to conduct evidence-based research in accordance with Articles 6.5 and 13.2 of the Protocol to Eliminate Illicit Trade in Tobacco Products

6. Reporting, implementation assistance and international cooperation

6.1 Reporting and information sharing under the Protocol (including improving the reporting system of the Protocol)

One decision as amended entitled:

- Improving the reporting system of the Protocol

## **Agenda item 5.2**

### **Road map to conduct evidence-based research in accordance with Articles 6.5 and 13.2 of the Protocol to Eliminate Illicit Trade in Tobacco Products**

The Meeting of the Parties (MOP),

Recognizing that the Protocol to Eliminate Illicit Trade in Tobacco Products requires that the MOP, five years after entry into force of the Protocol, ensures that evidence-based research is conducted according to Article 6.5 on key inputs essential to the manufacture of tobacco products that can be subject to an effective control mechanism, and according to Article 13.2 on the extent of illicit trade in tobacco products related to duty free sales of such products;

Recalling decision FCTC/MOP1(7), in which the MOP requested the Convention Secretariat to identify research needs and gaps relevant to Articles 6.5 and 13.2 of the Protocol, and to present to the MOP a detailed road map setting out the timelines and steps to conduct the evidence-based research foreseen by Articles 6.5 and 13.2 of the Protocol, fully respecting Article 4.2 of the Protocol and Article 5.3 of the WHO Framework Convention on Tobacco Control (WHO FCTC);

Considering the report contained in document FCTC/MOP/3/6 prepared by the Convention Secretariat,

1. ADOPTS the road map to conduct evidence-based research in accordance with Articles 6.5 and 13.2 of the Protocol to Eliminate Illicit Trade in Tobacco Products, contained in the Annex of this decision;
2. REQUESTS the Convention Secretariat:
  - (a) to actively seek and receive Extra-budgetary Contributions from Parties and other international donors, including competent international and regional intergovernmental organizations and financial and development institutions, for the implementation of the road map, taking into consideration the provisions of Article 5.3 of the WHO FCTC and Article 4.2 of the Protocol;
  - (b) to report on the outcomes on implementation of the road map to the Fourth session of the Meeting of the Parties (MOP4);
  - (c) to propose to MOP4 that the scope of the research may be extended, such as to other inputs, including the research on control mechanisms with respect to key inputs.

## ANNEX

### **ROAD MAP TO CONDUCT EVIDENCE-BASED RESEARCH IN ACCORDANCE WITH ARTICLES 6.5 AND 13.2 OF THE PROTOCOL TO ELIMINATE ILLICIT TRADE IN TOBACCO PRODUCTS**

#### **ACTIVITIES AND TIMELINE (2024–2025)**

##### **General considerations**

###### **(a) Key inputs**

1. Article 6.5 of the Protocol requires that, five years following the entry into force of the Protocol, the Meeting of the Parties (MOP) shall ensure at its next session that evidence-based research is conducted to ascertain whether any key inputs exist that are essential to the manufacture of tobacco products are identifiable and can be subject to an effective control mechanism.

###### **(b) Duty free sales**

2. Article 13.2 of the Protocol requires that no later than five years following the entry into force of the Protocol, the MOP shall ensure at its next session that evidence-based research is conducted to ascertain the extent of illicit trade in tobacco products related to duty free sales of such products.

###### **(c) Time frame**

3. In accordance with the time-bound provisions of Article 6.5 and Article 13.2, the MOP adopted decision FCTC/MOP1(7). The item is being considered at the Third session of the MOP, in accordance with decision FCTC/MOP2(2).

#### **Step 1 – Defining the scope of research: Seven months (March–September 2024)**

###### **(a) Key inputs**

4. Manufacturing tobacco products for consumer use comprises a series of steps that can be divided into four main categories: tobacco farming and harvesting; tobacco curing; primary processing; and secondary processing. At each step of the manufacturing process, a variety of inputs is used to manipulate the product and prepare it for the next stage of processing.

5. No comprehensive studies have been found to determine whether any of the inputs used in the tobacco manufacturing process constitute “key inputs” in accordance with the criteria set by the text of Article 6.5 of the Protocol, namely to be “essential to the manufacture of tobacco products”, “identifiable” and that “can be subject to an effective control mechanism”.

6. In general terms, three subcategories of inputs have been identified: (a) inputs used solely in the tobacco manufacturing process, including, for example, cigarette paper and filters; (b) dual-use inputs, including, for example, chemical, cellulose and acetate; and (c) tobacco product manufacturing equipment and technology.

7. In consideration of the multiple steps and inputs used in the tobacco product manufacturing process, there is a need to determine which steps and inputs would require further research. Depending on the typology of the input, different control measures can be implemented. To identify the inputs, reference will be made to the respective codes under the Harmonized System.

**(b) Duty free sales**

8. To conduct an assessment of the extent of illicit trade in tobacco products related to duty free sales, the following aspects need to be defined:

- (i) what constitutes illicit trade in the context of duty free sales in relevant jurisdictions;
- (ii) what legal and regulatory frameworks are applicable to duty free sales of tobacco products in relevant jurisdictions; and
- (iii) which common unit of reference (dollars, millions of units, share of total trade, share of duty free trade, etc.) would be used when estimating the scale of illicit trade in tobacco products for the purpose of facilitating comparisons across jurisdictions.

**(c) Preliminary research aspects**

9. Parties may wish to consider requesting the Convention Secretariat to partner with relevant international organizations to address the preliminary research aspects regarding the subjects of key inputs and duty free sales.

10. On the basis of the outcome of Step 1, the Convention Secretariat may seek guidance from the MOP Bureau towards implementing the core research activities as described in Step 2.

**Step 2 – Core research activities: 14 months (March 2024–April 2025)**

11. A practical, case-study-based approach is proposed. The use of case studies will facilitate intelligence gathering in the jurisdictions most affected by illicit trade in tobacco products in its linkages to key inputs and duty free sales. The Convention Secretariat will ensure coordination among consultants who would be engaged to conduct the studies and the focal points of Parties.

12. A tentative timeline is proposed for the research activities. These timelines may be revised, as necessary, under the guidance of MOP Bureau.

**(a) Key inputs**

13. Parties will be invited to consult at the regional level to identify one or two Parties in each World Health Organization (WHO) region interested in participating in the case studies. (March–April 2024)

14. Organizational and logistical arrangements will be made to conduct case studies in the jurisdiction of Parties that express interest. Consultants will be engaged to carry out interviews with customs and law enforcement officials and obtain expert opinions to assess the extent to which trade in key inputs contribute to fuelling illicit tobacco in the respective jurisdictions. (April–June 2024)

15. A questionnaire will be developed to facilitate the work of researchers in the interview process. The questionnaire will focus on gathering evidence on production and cross-border flows of illicit inputs (for example, by reference to seizures), mapping the market for inputs (including understanding the actors involved, either local commercial entities or importers) and assessing existing control measures implemented locally to control specific inputs.

16. A maximum of 12 case studies to be completed. (July–December 2024)

**(b) Duty free sales**

17. Parties will be invited to consult at the regional level to identify one or two Parties in each WHO region interested in participating in the case studies. (March–April 2024)

18. Organizational and logistical arrangements will be made to conduct case studies in the jurisdiction of Parties that expressed interest. Consultants will be engaged to conduct on-site activities to gather quantitative data, if available, and qualitative information, including via face-to-face interviews with government representatives and local law enforcement officials, with particular attention to the reported sources and levels of illicit trade in duty free tobacco products compared to duty free sales. (April–June 2024)

19. Data acquired in the context of the case studies will be compared against available information on duty free sales, for example, by reference to available air and sea traffic data or cross-border sales, and existing estimates on the size of the global market for illicit tobacco products in order to produce a first estimate of the relationship between duty free sales and illicit tobacco trade globally, using the standardized unit of reference as adopted in Step 1.

20. A maximum 12 case studies to be completed. (July–December 2024)

**(c) Final reporting**

21. Consultants will submit to the Convention Secretariat a final report detailing activities conducted and findings from the case studies on the subjects of key inputs and duty free sales. (January–March 2025)

22. The report will be finalized and made available to Parties via the Convention Secretariat's website, six months in advance of the Fourth session of the MOP (MOP4). (April–May 2025)

## **Agenda item 6.1**

### **Improving the reporting system of the Protocol**

The Meeting of the Parties (MOP),

Recalling Article 32.1 of the Protocol to Eliminate Illicit Trade in Tobacco Products, which stipulates that “each Party shall submit to the Meeting of the Parties, through the Convention Secretariat, periodic reports on its implementation of this Protocol”;

Further recalling decision FCTC/MOP1(10), in which the MOP established reporting arrangements under the Protocol;

Noting document FCTC/MOP/3/7, which describes the initial experience with the reporting and information sharing under the Protocol and contains a proposal, developed under the guidance of the Bureau, to improve the reporting system of the Protocol;

Noting also document FCTC/MOP/3/4, which describes global progress in implementation of the Protocol,

1. WELCOMES the proposed revised reporting instrument of the Protocol, contained in Annex 2 of document FCTC/MOP/3/7;

2. REQUESTS the Convention Secretariat:

(a) to develop a new online reporting platform, including by incorporating the revised reporting instrument and features to make the platform as user-friendly as possible and testing it with the Parties, so that it may be used as of the next reporting cycle;

(b) to invite Parties to complete and submit their implementation reports, accordingly, in the period announced by the Convention Secretariat;

(c) to continue reviewing official external sources of data that are relevant to illicit trade in tobacco products, with a view to exploring how such data may best inform the assessment of global progress in implementation of the Protocol by the Parties and to present to the Fourth session of the MOP a sources and methodology mapping;

(d) to continue its efforts to further simplify the reporting instrument by taking into consideration the collection of meaningful information, including with regard to the global information-sharing focal point.

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