



Licensing (Article 6 of the Protocol)

Report by the Convention Secretariat

Purpose of the document

This report provides context for work that could be undertaken to strengthen the implementation of Article 6 of the Protocol to Eliminate Illicit Trade in Tobacco Products, in relation to licensing. The report is intended to facilitate the deliberations of Parties under the item “Licensing (Article 6 of the Protocol)”, proposed by Parties.

Action by the Meeting of the Parties

The Meeting of the Parties (MOP) is invited to note the present report and provide further guidance.

Contribution to the Sustainable Development Goals (SDGs): All SDGs; in particular, SDG 3 and Target 3.a, as well as SDG 16.

Link to Workplan and Budget item: 2.1.4.

Additional financial implications if not included in the Workplan and Budget: None.

Related document(s): Report of the Panel of Experts on the Protocol to Eliminate Illicit Trade in Tobacco Products: Technical documents.

Background

1. Several Parties to the Protocol to Eliminate Illicit Trade in Tobacco Products proposed that the Fourth session of the Meeting of the Parties (MOP4) to the Protocol consider the matter of licensing, under Article 6 of the treaty. These Parties were of the view that strengthening awareness and implementation of licensing-related measures, as an integral part of Parties' obligations, would greatly contribute to the implementation of the treaty.
2. The present report provides context for work that could be undertaken to strengthen the implementation of Article 6 of the Protocol, in order to facilitate the deliberations of Parties.

Article 6 of the Protocol, including in relation to other treaty provisions

3. The Preamble to the Protocol states that illicit trade in tobacco products undermines the economies of Parties and adversely affects their stability and security; generates financial profits that are used to fund transnational criminal activity, which interferes with government objectives; and undermines health objectives, imposes additional strain on health systems and causes losses of revenue to the economies of the Parties. The Protocol aims to secure the supply chain of tobacco products, including through provisions related to licensing.
4. Article 15 of the WHO Framework Convention on Tobacco Control (WHO FCTC), which is referred to in the objective of the Protocol, calls for licensing measures to control or regulate the production and distribution of tobacco products in order to prevent illicit trade. Such measures are an integral part of comprehensive tobacco control.
5. Article 6 of the Protocol requires that each Party prohibits the conduct of the manufacturing, import and export of tobacco products and manufacturing equipment, except pursuant to a licence or equivalent approval granted, or control system implemented, by a competent authority in accordance with national law. The Protocol also establishes that Parties shall endeavour to license, as appropriate, any natural or legal person engaged in the following activities:
 - (a) retailing of tobacco products;
 - (b) growing of tobacco, except for traditional small-scale growers, farmers and producers;
 - (c) transporting commercial quantities of tobacco products or manufacturing equipment; and
 - (d) wholesaling, brokering, warehousing or distribution of tobacco and tobacco products or manufacturing equipment.
6. In order to carry out the above-mentioned activities and ensure an effective licensing system, Article 6 provides that Parties shall, among other things, establish or designate a competent authority for licensing; require that each application for licence contain designated information about the applicant; monitor and collect licence fees, where applicable; and take appropriate measures to prevent, detect and investigate any irregular or fraudulent practices in the operation of the licensing system.
7. Article 6 contains obligations for Parties to the Protocol to regulate licences appropriately in order to ensure effective administration and enforcement, through measures related to monitoring, maintenance, supervision and accountability.

8. Parties' obligations under Article 6 are further emphasized through other provisions of the Protocol such as Articles 7, 9, 10 and 14, which reference Article 6. These include the following.

- (a) Article 7 of the Protocol stipulates that customer identification requirements in the context of due diligence must include obtaining and regularly updating information to verify that a natural or legal person holds a valid licence in accordance with Article 6.
- (b) Under Article 9 of the Protocol, in relation to record-keeping, Parties shall require persons licensed in accordance with Article 6 to provide, on request, to the competent authorities information prescribed by the Protocol.
- (c) Article 10 stipulates that Parties to the Protocol shall require that all natural and legal persons subject to Article 6 take the necessary measures to prevent the diversion of tobacco products into illicit trade channels. This article provides for security and preventive measures, which include regulating the cross-border payments for materials used for the manufacture of tobacco products.
- (d) In respect of regulating unlawful conduct including criminal offences, Article 14 contains an obligation for Parties to adopt legislative or other measures to establish certain conduct as unlawful, including where a person licensed under Article 6 obtains tobacco, tobacco products or manufacturing equipment from a person who should be, but is not licensed in accordance with Article 6.

9. These provisions emphasize the fact that a licensing regime is critical to the effective implementation of the Protocol.

10. Further, in decision FCTC/MOP3(20), the Meeting of the Parties (MOP) to the Protocol urged Parties to accelerate action in fulfilling their obligations under Article 6 (Licensing) and Article 8 (Tracking and tracing) of the Protocol.

11. It is to be noted that pursuant to decision FCTC/MOP3(16), the Convention Secretariat is submitting to the MOP a separate report in respect of key inputs that are essential to the manufacture of tobacco products, are identifiable and can be subject to an effective control mechanism, within the scope of Article 6.5 of the Protocol (document FCTC/MOP/4/5).

Report of the Panel of Experts on the Protocol

12. At the Seventh session of the Conference of the Parties (COP) to the WHO FCTC, the Parties adopted decision FCTC/COP7(6) on the status of the Protocol, recalling the establishment of a Panel of Experts on the Protocol to Eliminate Illicit Trade in Tobacco Products (Panel of Experts) and, among other things, requesting the Panel to establish a number of priorities as guidance for its work; these priorities included advice to Parties on experience with licensing regimes.

13. The Panel of Experts prepared technical documents (FCTC/COP/8/5 and FCTC/COP/8/6), supplemented by a report incorporating all technical documents prepared as part of its work mandated by the Seventh session of the COP. The latter document, which also served as

supplementary information at the First session of the MOP, contained a *Report on Good Practice Models for Licensing under the Protocol*.¹

14. The above-mentioned report described the nature and purpose of licensing in the context of tobacco control. It also elaborated on the obligation of Parties to the Protocol to implement licensing regimes to help control the production and distribution of tobacco products in order to prevent their illicit trade. The report also provided an overview of approaches to licensing schemes in identified jurisdictions. Further, the report identified options for authorities to issue, renew, suspend, revoke and cancel licences. It also provided examples of how Parties may seek to control the supply chain beyond the Protocol licensing requirements.

15. The Panel of Experts identified common and key features from both tobacco and non-tobacco regimes that Parties could consider implementing to give effect to the Protocol requirements. Good practice features of a licensing scheme included expected elements of any licensing scheme, such as a sound and transparent application and decision-making process for licences, providing for fees for licences, and imposing record-keeping and reporting requirements on licensees. In addition, the Panel of Experts identified features contributing to the effectiveness of a licensing regime, such as restricting licensees to only transacting with other licensees, and requiring evidence of appointment as an actor in the supply chain by an existing supply chain actor as a criterion for receiving a licence.

16. The Panel of Experts further outlined that good practice considerations for Parties seeking to implement a licensing scheme included:

- (a) ensuring that the cost of implementing the scheme was proportionate to the potential impact;
- (b) considering other compatible control measures as the regulatory scheme is designed and implemented;
- (c) considering how the licensing scheme will operate in context of other treaty obligations; and
- (d) ensuring compatibility of the licensing scheme with the jurisdiction's existing regulatory environment.

Global status on implementation of Article 6 of the Protocol

17. Document FCTC/MOP/3/4 and the *2023 Global Progress Report on Implementation of the Protocol to Eliminate Illicit Trade in Tobacco Products*,² published for the Third session of the MOP, included the following details in relation to implementation of Article 6.

- (a) Thirty-eight Parties to the Protocol (61%) reported that they had a licensing system for the importation of tobacco products; 32 Parties (52%) reported requiring licences for

¹ [Report of the Panel of Experts on the Protocol to Eliminate Illicit Trade in Tobacco Products \(Technical documents\)](#). Geneva: Secretariat of the WHO FCTC; 2018 (accessed 6 June 2025).

² [2023 Global Progress Report on Implementation of the Protocol to Eliminate Illicit Trade in Tobacco Products](#). Geneva: Secretariat of the WHO FCTC; 2023 (accessed 17 June 2025).

manufacture of tobacco products; and 29 Parties (47%) reported having the same requirements for exporters.

(b) In respect of manufacturing equipment, fewer Parties compared to the previous reporting cycle reported having in place requirements for the import (23%), export (16%) and production of such equipment (13%), despite these being mandatory requirements under the Protocol.

(c) Approximately half of the Parties (53%) required licences for any natural or legal person to be engaged in wholesaling, brokering, warehousing or distribution of tobacco, tobacco products or manufacturing equipment. A significantly lower number of Parties required licences for legal and natural persons in respect of activities such as retailing (39%), transporting commercial quantities (29%), and growing of tobacco, except for traditional small-scale growers, farmers and producers (18%).

(d) The competent authority responsible for operationalization of the licensing regime varied among the Parties, ranging from customs and excise to finance, economic affairs, trade, tobacco control, health and agriculture. Forty-one Parties (66%) reported that the competent authority has the prerogative to issue, renew, suspend, revoke or cancel licences for importers of tobacco products. In most Parties, licence fees were monitored and collected once a year, whereas some Parties use a longer tenure. The competent authority has such prerogative in relation to manufacturers of tobacco products in 33 Parties (53%) and in relation to exporters of tobacco products in 28 Parties (45%). It was reported that a few Parties collected licence fees at the time of issuance of the licence, while others did not charge a fee on issuance of a licence.

18. At the time of preparing this report, the data from the 2025 reporting cycle for the Protocol is being collated. Parties may expect more information on the status of implementation of Article 6 in document FCTC/MOP/4/4, containing the global progress in implementation of the Protocol, and in the 2025 Global Progress Report.

19. Given its key role in Party efforts to eliminate illicit trade in tobacco products, the interaction between Article 6 and other articles of the Protocol and its uneven implementation across Parties, several Parties have proposed that this article be integrated in the MOP4 provisional agenda and discussed as a dedicated Protocol instrument and technical matter.

Action by the Meeting of the Parties

20. The MOP is invited to note the present report and provide further guidance.
