

Methodology and process for piloting

Needs Assessment for the implementation of the Protocol to Eliminate Illicit Trade in Tobacco Products

Introduction

The Protocol to Eliminate Illicit Trade in Tobacco Products is an international treaty which supplements the WHO Framework Convention on Tobacco Control (WHO FCTC) with a comprehensive tool to counter and eventually eliminate illicit trade in tobacco products. It's a milestone in strengthening global action against illicit trade in tobacco.

Illicit trade in tobacco products poses a serious threat to public health because it increases access to – often cheaper – tobacco products that are not compliant with tobacco control policies such as graphic health warnings, thus fuelling the tobacco epidemic and undermining tobacco control measures contained in the WHO FCTC. It also causes substantial losses in government revenues, and at the same time contributes to the funding of international criminal activities.

The development and adoption of the Protocol is the result of close cooperation between the Parties and multiple agencies of government, demonstrating how a unified stand on a public health subject can help in achieving government objectives on health and beyond.

The Protocol recognizes that continued intersectoral and international collaboration, including cooperation with relevant international intergovernmental organizations is crucial to its successful implementation.

At its second session in November 2021, the Meeting of the Parties (MOP), through decision FCTC/MOP2(7), requested the Secretariat of the WHO FCTC (Convention Secretariat) to support Parties in assessing their needs and obtaining appropriate assistance.

In decision FCTC/MOP2(11), considering that the mobilization of funding to support the implementation of the Protocol requires detailed needs assessment at the country level, the MOP adopted the *Strategy for Mechanisms of Assistance and Mobilization of Financial Resources to support implementation of the Protocol to Eliminate Illicit Trade in Tobacco Products*. This strategy includes the development of a comprehensive needs assessment methodology to assess gaps and needs in the implementation of the Protocol.

The development of this methodology has been guided by the existing needs assessment methodology, used for the WHO FCTC. The methodology will be adjusted and validated after a pilot phase with (at least) 10 official development assistance (ODA) eligible countries.

The Convention Secretariat will inform the MOP on progress made and further needs identified in this area and will reflect this work in the next workplans and budgets for consideration by the MOP.

This document describes the needs assessment process and methodology to assist Parties in identifying the objectives to be achieved under the Protocol, the resources available to achieve these objectives and any gaps in resources required for the implementation of the Protocol.

Parties eligible to benefit the Protocol needs assessment

Only Parties to the Protocol are eligible for a needs assessment exercise. Parties to the WHO FCTC that are not yet Parties to the Protocol can use the [self-assessment checklist](#) to assess their legal, regulatory and policy frameworks in view of the requirements of the Protocol.

Request for support to conduct a Protocol needs assessment exercise

To request the assistance of the Convention Secretariat in conducting a Protocol needs assessment, a Party to the Protocol can send an official letter from a competent authority (at ministerial level) in the country, addressed to the Head of the Convention Secretariat via the following e-mail address: fctcsecretariat@who.int. This letter should designate the Party focal point(s) responsible for coordinating the mission and provide their contact details, including e-mail(s) and telephone number(s), to facilitate further communication. Where possible, the period or dates of the mission should be proposed as indicative.

Scope

Needs assessments will help Parties identify needs, resources available and gaps in the implementation of the Protocol, and to provide recommendations on how to address these gaps. They should therefore be comprehensive and be based on all substantive articles of the Protocol, with a view to establishing a baseline of needs that a Party requires to fulfil its obligations under the Protocol. Once the needs and gaps are identified, countries should first consider their own resources for meeting these obligations.

These assessments also serve as a basis for developing the national strategies, action plans, programmes and legal framework needed to meet obligations under the Protocol, particularly in low- and middle-income countries, and for promoting and accelerating access to internationally available resources required for implementation of the Protocol.

Stakeholders

The needs assessment exercise is a Party-driven process that requires multi-stakeholder participation and full involvement of Party representatives from the relevant sectors (including Ministries and Departments of Finance, Economy, Trade, Health, Foreign Affairs, Justice, Industry, Interior, Labour, Environment, Communications, Revenue Authority, Customs, Central Bank, etc), designated by their government, to ensure Party ownership.

The needs assessment is jointly led by the Party and the Convention Secretariat, in collaboration with other organisations such as United Nations Office on Drugs and Crime (UNODC), World Customs Organization (WCO), United Nations International Computing Centre (UNICC), World Bank (WB), United Nations Development Programme (UNDP), World Health Organization (WHO), the United Nations Resident Coordinator office and other UN agencies present in the country as well as other international and regional organizations, development partners and agencies that have technical capacity, resources and interest in supporting the implementation of the Protocol.

The Convention Secretariat has the responsibility, for the overall coordination and particularly for ensuring that the requests by the Party for needs assessments and subsequent assistance are met. The

Party representatives (national team) carry out the needs assessment exercise together with the international team throughout the whole process and take the lead in coordinating the programme for the mission and following up with key stakeholders.

Methodology and process

Each needs assessment mission is organised mainly in the following three phases:

- A) The **Pre-needs assessment mission phase** covers specific planning processes, in which :
 1. the country identifies and sets up the national team, composed of designated focal point(s) and relevant partners;
 2. the Convention Secretariat identifies and sets up the international team;
 3. all teams work together to finalize the dates and prepare a detailed program of the mission; and
 4. study relevant documents and reports of the Party.

- B) The **Country mission**, which can be conducted virtually or face-to-face, will last four to five working days and include sessions (stakeholders and bilateral meetings) with key representatives of different government ministries and departments and other stakeholders (including UN agencies, Civil Society Organizations, academia) to:
 1. gather additional data and information;
 2. clarify the status of needs and actions required to meet the country's obligations under the Protocol; and
 3. prepare and discuss key recommendations which will be presented to the competent authority (at ministerial level).

- C) The **post-mission and follow-up phase**, in which the Convention Secretariat finalizes the needs assessment report in cooperation with national stakeholders and works with the government and international partners to develop national action strategy/plan to implement the jointly agreed recommendations.

The reports deriving from needs assessments include:

- identification of obligations still to be met by the Party under the Protocol,
- identification of areas and activities requiring additional resources, which:
 - (i) are direct obligations under the Protocol (based on the relevant substantive articles of the Protocol);
 - (ii) derive from MOP decisions;
 - (iii) are necessary for the implementation of the Protocol and involve indirect costs/resources not covered by (i) and (ii) above such as the creation of supporting infrastructure, facilities and mechanisms;
- estimation, when possible, of corresponding funding needs for activities within national Protocol implementation plans/mechanisms.

The Needs Assessment will provide the Government with a comprehensive review of the status of implementation of treaty obligations as a Party to the Protocol.

The assessment process will be transparent, reliable and replicable.

Instrument

An outline of the assessment instrument is provided as an Annex in an indicative format. The instrument groups the articles of the Protocol into seven areas:

- (1) introduction (Article 2);
- (2) general obligations (Articles 4 to 5);
- (3) supply chain control (Articles 6 to 13);
- (4) offences (Articles 14 to 19);
- (5) international cooperation (Articles 20 to 31);
- (6) reporting (Article 32); and
- (7) financial resources (Article 36).

The Annex 1 contains an overview of the needs assessment instrument as well as an example of a needs assessment scheme for a particular article of the Protocol. Such an instrument would also accommodate the Party's report and suggestions discussed in the preparatory phase, alternative credible sources of information (usually more recent than the Party report), and the answers that will be provided during the assessment exercise.

Annex 1: Overview of the Protocol Needs assistance instrument

<i>Articles</i>	<i>Measures</i>	<i>Status</i>	<i>Gap vs. Protocol obligations</i>	<i>Principal action needed</i>	<i>Approximate resources</i>
INTRODUCTION					
Article 2	Relationship between this protocol and other agreements and legal instruments				
GENERAL OBLIGATIONS					
Article 4	General obligations				
Article 5	Protection of personal data				
SUPPLY CHAIN CONTROL					
Article 6	Licence, equivalent approval or control system				
Article 7	Due diligence				
Article 8	Tracking and tracing				
Article 9	Record-keeping				
Article 10	Security and preventive measures				

Article 11	Sale by Internet, telecommunication or any other evolving technology				
Article 12	Free zones and international transit				
Article 13	Duty free sales				
OFFENCES					
Article 14	Unlawful conduct including criminal offences				
Article 15	Liability of legal persons				
Article 16	Prosecutions and sanctions				
Article 17	Seizure payments				
Article 18	Disposal or destruction				
Article 19	Special investigative techniques				
INTERNATIONAL COOPERATION					
Article 20	General information sharing				
Article 21	Enforcement information sharing				
Article 22	Information sharing: confidentiality and protection of information				
Article 23	Training, technical assistance and cooperation in scientific, technical and technological matters				
Article 24	Assistance and cooperation: Investigation and prosecution of offences				
Article 25	Protection of sovereignty				
Article 26	Jurisdiction				
Article 27	Law enforcement cooperation				
Article 28	Mutual administrative assistance				
Article 29	Mutual legal assistance				
Article 30	Extradition				
Article 31	Measures to ensure extradition				
REPORTING					
Article 32	Reporting and exchange of information				
INSTITUTIONAL ARRANGEMENTS AND FINANCIAL RESOURCES					
Article 36	Financial resources				