



WHO FRAMEWORK CONVENTION  
ON TOBACCO CONTROL

## **Meeting of the Parties to the Protocol to Eliminate Illicit Trade in Tobacco Products**

First session  
Geneva, Switzerland, 8–10 October 2018

**10 October 2018**

---

# **DECISION**

## **FCTC/MOP1(10) Working Group on assistance and cooperation**

The Meeting of the Parties (MOP),

Noting the reports prepared by the Convention Secretariat contained in documents FCTC/MOP/1/7, FCTC/MOP/1/13 and FCTC/MOP/1/14;

Recalling Article 32.1 of the Protocol to Eliminate Illicit Trade in Tobacco Products (Protocol), 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”;

Considering that information sharing, in accordance with Articles 20, 21 and 22 of the Protocol, will contribute to the strengthening of implementation of the Protocol by its Parties;

Recalling Article 32.4, of the Protocol, which stipulates that “the Meeting of the Parties, pursuant to Articles 33 and 36, shall consider arrangements to assist developing-country Parties and Parties with economies in transition, at their request, in meeting their obligations under this Article”;

Recognizing the need to further advance the utilization of information received through the Parties’ reports for, among other things, establishing implementation trends and promoting the implementation of the Protocol by individual Parties;

Considering that enforcement information sharing in accordance with Article 21, and mutual administrative assistance, in accordance with Article 28, can make key contributions to reaching the core objective of the Protocol;

Highlighting in that perspective the critical role that assistance and cooperation, in accordance with Articles 12, 23, 24 and 29 of the Protocol, can play in strengthening implementation of the Protocol among all Parties;

Noting the importance of implementing the various mechanisms for cooperation foreseen by the Protocol in a coordinated fashion,

1. ENCOURAGES Parties to the Protocol to comply with their reporting obligations under the Protocol and provide as complete and timely reports as possible;

2. DECIDES:

- (a) to establish a working group to deal with matters related to enforcement information sharing (in accordance with Article 21), assistance and cooperation (in accordance with Article 23), mutual administrative assistance (in accordance with Article 28), investigation and prosecution of offences (in accordance with Article 24) and mutual legal assistance (in accordance with Article 29) in accordance with the terms of reference annexed to this decision;
- (b) to request the Working Group to report on the outcome of its work to the Second session of the MOP;
- (c) to request the Working Group to promote the exchange of good practice to implement Article 12, and to report on the outcome of its work to the Second session of the MOP;

3. REQUESTS the Convention Secretariat:

- (a) to make the reporting module available to the Parties to the Protocol until 1 June 2019;
- (b) to develop a reporting module for the Protocol, drawing from the experience and structure of the reporting instrument for the WHO Framework Convention on Tobacco Control (WHO FCTC), and a set of step-by-step instructions to support the Parties in their utilization of the module;
- (c) to announce the first reporting cycle for the Protocol for 2020, according to the same timeline as for the WHO FCTC;
- (d) to make arrangements to provide assistance, upon request, to the Parties in meeting their reporting obligations under the Protocol;
- (e) to allow for the broad dissemination of reported data to the extent possible, subject to domestic laws regarding confidentiality and privacy, to ensure that the reporting and information exchange processes result in shared learning and a better understanding of the effective interventions under the Protocol;
- (f) to submit a report to the Second session of the MOP based on the initial experience with the reporting and information sharing arrangements under the Protocol;
- (g) to make the necessary arrangements for the Working Group in accordance with the terms of reference annexed to this decision, including budgetary arrangement for the Working Group to complete its work.

## ANNEX

### **Terms of reference for the working group on assistance and cooperation**

#### **Background**

Article 12 of the Protocol to Eliminate Illicit Trade in Tobacco Products (Protocol) stipulates obligations to Parties regarding free zones and international transit.

Article 21 of the Protocol stipulates that Parties shall, subject to domestic law or any applicable international treaties, where appropriate, exchange, on their own initiative or on the request of a Party that provides due justification that such information is necessary for the purpose of detection or investigation of illicit trade in tobacco, tobacco products or manufacturing equipment the information referred to in subparagraphs (a) to (e) to Article 21.

Article 23 of the Protocol requires that Parties cooperate with one another in providing training, technical assistance and cooperation in scientific, technical and technological matters. This involves expertise sharing, as well as the possible development of multilateral, regional or bilateral arrangements.

Article 24 of the Protocol stipulates that Parties shall, in accordance with their domestic law, take all necessary measures, where appropriate, to strengthen cooperation by multilateral, regional or bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of natural or legal persons engaged in illicit trade in tobacco, tobacco products or manufacturing equipment.

Article 28 of the Protocol stipulates that Parties should cooperate with each other on mutual administrative assistance. This involves the exchange of information for the prevention, detection, investigation, prosecution and combating illicit trade in tobacco, tobacco products or manufacturing equipment.

Article 29 of the Protocol stipulates that Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to criminal offences established in accordance with Article 14 of the Protocol.

#### **Objective**

To develop options for the exchange of enforcement-related information in order to have detection and enforcement (Article 21); training, technical assistance and cooperation (Article 23); investigation and prosecution of offences (Article 24); the implementation of mutual administrative assistance (Article 28); and mutual legal assistance (Article 29) for consideration by Parties at the Second session of the MOP.

To promote the exchange of good practices with regard to free zones and international transit (Article 12).

## **Mandate**

The working group should develop options – including relevant practical, legal and IT aspects – in view of setting up a framework allowing Parties to exchange enforcement information and to provide mutual administrative assistance, with due consideration to requirements of confidentiality of information, data protection and adequate legal bases.

The working group should develop options for advancing implementation of Article 23, proposing priority areas for consideration at the Second session of the MOP.

The working group will also promote the exchange of good practice in accordance with MOP decision MOP1(10).

The working group shall propose priorities for assistance and cooperation (Article 24) and for mutual legal assistance (Article 29).

## **Composition and selection of the members of the working group**

The provisions of Article 4.2 of the Protocol and Article 5.3 of the WHO FCTC will fully apply to the working group.

All Parties to the Protocol that would like to take part in the process can join the working group and participate in the deliberations at their own expense. Each region shall nominate up to two members representing the Parties in their respective regions through their regional coordinators, to ensure equal regional participation; these regional nominees may benefit from assistance as per the travel policy of the Conference of the Parties (COP) to the WHO FCTC.

The working group would welcome Parties to the WHO FCTC that are not Parties to the Protocol to participate as observers. No travel support would be made available to these WHO FCTC Parties.

Additionally, the Convention Secretariat, having consulted the members of the working group, will invite, as observers to the working group, up to three representatives of nongovernmental organizations that are observers to the COP, and up to three representatives of intergovernmental organizations that are observers to the COP, on the basis of relevant expertise and sound knowledge of matters related to the authorities' response to the illicit tobacco trade.

Parties willing to act as key facilitators should identify themselves at any time during the process.

## **Assistance from the Convention Secretariat**

Pending availability of funds, at least two face-to-face meetings of the working group are envisaged between the First and Second sessions of the MOP; in addition, the group shall use web-based technologies for communication during the conduct of its work and for consulting the other Parties to the Protocol on the draft guidelines that the group has developed.

For participation in the meetings of the working group, the COP travel policy shall apply.

**Timetable**

Develop the draft guidelines, as requested, accessible by the Parties for their comments	At least six months before the Second session of the Meeting of the Parties
Submission to the Convention Secretariat for editing and translation	At least three months before the Second session of the Meeting of the Parties
Circulation to the Meeting of the Parties	At least 60 days before the opening day of the Second session of the Meeting of the Parties (Rule 8, Rules of Procedure of the Conference of the Parties)

(Second plenary meeting, 10 October 2018)

= = =