

INVITATION FOR LICENCE (IFL)

TRACK AND TRACE SYSTEM



SEPTEMBER, 2019

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1. INTRODUCTION

1.1 The tobacco sector in Pakistan contributed significant revenue to the Federal Board of Revenue (FBR) in 2018-19 amounting to Rs 117 Billion (Rs 90.854 billion FED and Rs. 26.147 Billion sales tax). However, Pakistan is also facing problem with the illicit trade in tobacco products, which includes undeclared local production, smuggling of tobacco products of foreign brands and counterfeit production. According to FBR estimates, the illicit trade in tobacco products costs Pakistan more than Rs. 20 billion a year.

1.2 In order to prevent leakage of revenue, under-reporting of production and sales of tobacco products and to ensure proper payment of FED and Sales Tax on the manufacture and sale of tobacco products, the FBR is mandated to licence the implementation of a track and trace system; which is to be developed, operated and maintained by the licensee for tobacco products manufactured in and imported into Pakistan. To this end, the FBR is inviting applications for grant of licence to be issued under the *Sales Tax Rules of 2006* for the development, maintenance and operation of track and trace system in accordance with the provisions of the rules and the instructions specified herein below.

1.3 The successful applicant in compliance with *SRO. 250(I)/2019 dated 26.02.2019* shall implement a track and trace system, including high security tax Stamps/Markers/Codes which includes unique, secure and non-removable identification markings (hereafter referred to as unique identification markings) combined with state-of-the-art electronic monitoring and tracking systems, for the purpose of protecting existing revenue and to facilitate the generation of further revenue streams through the effective reduction of the illicit trade of tobacco products in Pakistan.

1.4 Pakistan ratified the *Framework Convention on Tobacco Control (FCTC)* on 3rd November 2004 and acceded to the *FCTC Protocol to Eliminate Illicit Trade in Tobacco Products* on 29th June 2018. Article 8.2 of the FCTC Protocol requires Pakistan to establish a tracking and tracing system, to be controlled by Pakistan, for all tobacco products that are manufactured in, imported into or transiting through its territory.

1.5 Pakistan has to embark on a project to implement a track and trace system for tobacco products to meet its national need to monitor and protect its revenues and address the high level of illicit trade within its borders, and to meet its international obligations under FCTC to implement a track and trace system that can form part of a regional and/or global international track and trace regime for tobacco products.

2. GENERAL REQUIREMENTS FOR A TRACK AND TRACE SYSTEM FOR PAKISTAN

2.1 Interested parties making an application for grant of a Licence must guarantee that the track and trace system they are offering is suitable for monitoring on real time basis of a minimum fifty (50) factory premises or production lines of tobacco products in Pakistan, as well as for six (06) or more designated import stations for tobacco sector.

2.2 The track and trace system established, maintained and operated must enable FBR to monitor production activities and to generate real-time information about volumes produced at the manufacturing sites, including verification data of payments, and collection of applicable taxes relating to any tobacco products produced.

2.3 The track and trace system must be able to provide FBR enforcement officials and delegated agencies with real-time information enabling them to monitor and control the movement of tobacco products through the supply chain, including determination of the origin of the tobacco products, as well as to determine their legal status.

2.4 The track and trace system to be developed and operated must enable FBR enforcement officials and delegated agencies in the field to use the data that can be readable/translatable for the purpose of licensing to enable automatic authentication of unique identification markings and capture traceability information securely in both offline and online modes. The solution must be capable of geo-mapping of the areas where monitoring will be carried out.

2.5 Foreign tobacco products imported into Pakistan will have unique identification markings, applicable for Pakistan, already affixed or printed at the point of manufacture outside of country. Similarly, any tobacco products produced in Pakistan for export shall be required to carry unique identification markings for intended destination markets. The licensee must guarantee to factor these requirements into the system to ensure readability for imported products and application for exported products as per Licensing Rules, 2019.

2.6 Tobacco Products manufactured in Azad Jammu and Kashmir; Gilgit Baltistan; shall be required to apply unique identification markings and therefore the Licensee must have adequate provisioning to affix such unique identification markings at manufacturing premises or the entry points.

2.7 The applicant shall provide a comprehensive implementation plan along with their application which includes the expected delivery and implementation time for the track and trace system in line with the date of licence issue. It must include a complete work break

down structure (WBS) and the details of the assets and their net book values including all hardware and software etc.

2.8 The licensee shall charge a fee from tobacco manufacturers and importers on the basis of fee per thousand tax stamps (Unique identification Markings) during the duration of the license.

3. KEY TECHNICAL REQUIREMENTS FOR A TRACK & TRACE SYSTEM FOR PAKISTAN

3.1 The track and trace system required to be developed and operated should feature unique identification markings affixed to or form part of all unit packets and any outside packaging of tobacco products to enable among others, product authentication, volume verification, and the electronic monitoring of the tobacco products in their supply chain.

3.2 The track and trace system must be able to digitally record the association between unique identification markings in serialized secure codes together with a high security physical tax stamps affixed to all unit packets and packages of tobacco products. The system should capture data from the unique identification codes and the security stamp for secure transmission to databases accessible by authorities for the purpose of tax verification and product authentication.

Explanation: The requirement of tax stamps affixed on any outside packages as mentioned in paragraphs 3.1, 3.2 and paragraph 2 of Heading 3(Activation) of Annex-2 is future requirements and the same may be read with paragraph 3.3(h) & paragraph 3.6 of IFL.

3.3 The track and trace system should provide the following information:

- (a) Date and location of manufacture;
- (b) Manufacturing facility;
- (c) Machine used to manufacture the tobacco products;
- (d) Production shift or time of manufacture;
- (e) The name, invoice, order number and payment records of the first customer who is not affiliated with the manufacturer;
- (f) The intended market of retail sale;
- (g) Product description;
- (h) Any warehousing and shipping; and any other relevant information required by the FBR. Items(a), (b), (g) and where available (f) shall form part of the unique identification markings.

3.4 The unique identification markings should contain the following security features:

- a) At least one overt security feature visible with the naked eye.
- b) At least one covert feature.
- c) An optical variable security feature.
- d) A special security feature that is readable by a smart phone application/ device.

3.5 The core material of the unique identification markings must be made of a non-removable anti-tampering substrate, so that the composition of the stamp reveals evidence of any attempt to tamper or stamp remove or crumbling of considerable portions of the stamp. The size of the stamp should be compatible with most label applicators in the market (e.g. 44 mm x 16 mm).

3.6 *FCTC Protocol Article 8.11* recognises future capability and developments in technology to ensure that best practices for track and trace are maintained by all Parties. It would be advantageous therefore, if applicants indicate ability or future plans to aggregate codes to create secure links between packs, cartons (200 cigarettes), and master-cases (10,000 cigarettes) moving through the entire supply chain.

4. PROFILE OF THE APPLICANT

4.1 The FBR expects the applicant to be fully conversant with the provision and execution of large-scale unique identification markings programs with track and trace capabilities, having worked on multi-billion quantity deliverables. Tobacco product category experience is not essential; however, it will be essential to demonstrate capacity to work with the high-speed production lines. The management team should have appropriate capacity to execute and run the project, and should have significant experience in delivering hardware, software, products and services of a similar nature in the past; preferably in other countries.

4.2 The applicant should have a yearly turnover of above US\$50 million in any of the last three years or financial worth of US\$25 million. The applicant should demonstrate that the capacity of stamping and coding equipment is One billion or more stamps and codes per annum and it has the ability to be scaled up to 3-4 billion stamps and codes per annum.

4.3 The applicant must supply an official letter of reference demonstrating that they have delivered and deployed a similar program, confirming a minimum quantity of 1(one)billion stamps and codes over the last 3 (three) years in any relevant product category such as tobacco, beverages, medicines, petroleum etc.

4.4 The solution proposed by the applicant for establishing a track and trace system should ideally meet international standards: ISO 14298:2013 or equivalent for high security printer certification or equivalent, as well as ISO 22382:2018 or equivalent “*Security and resilience -- Authenticity, integrity and trust for products and documents -- Guidelines for the content, security, issuance and examination of excise tax stamps*”.

4.5 In line with Article 8.12 of the FCTC Protocol, Tracking and Tracing obligations shall not be performed by or delegated to the tobacco industry, although the licensee will need to interface effectively with the tobacco industry at the manufacturing site. Applicants will be

required to provide a declaration and full disclosure, in the form required by the FBR, demonstrating that the applicant (including any JV/Consortium entities, local partners and key personnel) has no material conflicts of interest with tobacco industry. FBR may, in assessing applications and under any licence issued, require the licensee to provide information on request regarding its structure, affiliations, finances and activities to ensure that no such conflicts or links exist. The applicant must provide a list of assets (moveable and immoveable) in Pakistan.

5. CONSORTIUM AND JOINT VENTURE

5.1 An applicant may submit an application either as a single entity or as a partner in a consortium. A consortium may have two or more partners, but an entity which is part of a consortium is not permitted to be part of more than one consortium and such entity cannot apply as a single applicant.

5.2 In the event that an interested party is a Joint Venture (JV) or Consortium, that interested party shall submit the following additional documents:

- (a) A copy of the original JV agreement which must clearly specify the lead partner.
- (b) If not covered under the JV agreement, documentation that outlines precisely the responsibility of each member of the JV/consortium.
- (c) A list of assets (moveable and immoveable) in Pakistan of the JV/Consortium partner.

6. RESPONSIBILITIES OF THE LICENSEE

6.1 The successful applicant will be issued a licence for a period of five (5) years to establish, maintain and operate a track and trace system in Pakistan in accordance with the Licensing Rules, 2019 and these instructions for licence.

6.2 As per licensing rule 150ZQH, the licensing committee shall at the time of issuance of license notify the maximum amount of fee and charges determined which can be collected by the licensee from importers or manufacturers during the duration of the license. Furthermore any revision of prices will be subject to the clause 150ZQI of the Licensing Rules, 2019.

6.3 The licensee will be responsible for operationalizing the track and trace system within a time frame of six (6) months of issuing of a licence. In case the licensee cannot operationalize the track and trace system within 6 months or is unable to operate the system during the term of the licence the unconditional bank guarantee amounting to PKR 50 Million (Rupees Fifty Million) submitted by the licensee shall be forfeited. In case of genuine hardships and the circumstances beyond the control of licensee, the committee may consider

the request for extension in time frame. If the track and trace system is not operational within nine (9) months the licence would be liable for cancelation in accordance with the provision of Licensing Rules, 2019.

6.4 The obligations with respect to development, maintenance and operating a track and trace system shall not be performed by or delegated by the licensee to any other party related to the tobacco industry.

6.5 All assets (tangible/ intangible) and services that is required for the affixation of unique identification markings including installation, operation, and maintenance , will be the responsibility and at the cost of the licensee during the term of the licence. The assets installed by the licensee for the purpose of track and trace system shall belong to the licensee.

6.6 The licensee will be responsible for end-to-end installation and operation of the track and trace system. This includes ensuring that there is effective connectivity among FBR central control room, regional hubs, manufacturing site and designated import stations. The licensee must ensure that all equipment and infrastructure required for applying and activating unique identification markings shall be integrated into manufacturing production lines without negatively affecting or disrupting established production processes.

6.7 The licensee will be responsible for safe and secure capture and real time transmission of data from manufacturing sites and import stations to FBR control rooms. In addition, the licensee will ensure that the relevant monitoring data captured in the field **by enforcement officials is transmitted in the manner that data can be readable/ translatable for the purpose of licensing without incurring any additional cost by the manufacturer**. In both cases, the licensee will ensure that in case of network outages the data shall be securely stored for later synchronization with the FBR control rooms.

6.8 The captured data should be synchronized with monthly tax declaration requirements and discharge of Sales Tax, FED and Income Tax liabilities.

6.9 The licensee should provide a complete MIS system including analytical dashboard enabling FBR to access and evaluate the events, gaps and other deviations from the normal production process. The data should be displayed on a geographical map of Pakistan that will enable data analytics and effective reporting by FBR personnel for the purpose of compliance by Pakistan with its obligations under Articles 8 and 9 of the FCTC Protocol.

6.10 Ownership of track and trace system data will vest with FBR on behalf of the Government of Pakistan. The licensee will have the right to access and use the system data solely for the authorized operation of the system. The licensee shall not disclose the data to third parties including affiliates and keep the data confidential. The track and trace system shall be developed in a manner that FBR at all times has control of the data collected by the licensee.

6.11 The licensee will be responsible for providing all maintenance and technical upgrades of the track and trace system including the authentication applications. The licensee will also be responsible for the provision of technical support including rapid response and repair of any technical problem found in the system to ensure un-interrupted functioning of the system.

6.12 The licensee will be responsible for providing technical and operational training on using the system and data interpretation for FBR officers and relevant enforcement officials, as well as necessary training for any personnel at the manufacturing site.

6.13 The FBR requires the licensee to observe the highest standards of ethics during the term of licence.

6.14 In addition to Rule 150ZQP, FBR shall have the power to conduct special audit and investigation of the system as and when required.

6.15 The Applicant shall ensure that technical specifications (hardware/ software/ connectivity) required for establishment of Central Control Room should be compatible with the existing infrastructure at FBR-HQ, Islamabad.

6.16 The licensee shall make sure that all goods used in relation to the licence are new, unused, and of the most recent or current models and that they incorporate all recent improvements in design and materials the warranty shall remain valid for the period of licence.

7. GOVERNING RULES FOR THE LICENSEE

7.1 The Rules governing the licensee are set out in the notification document issued by Government of Pakistan (Revenue Division) Federal Board of Revenue, Islamabad vide SRO. 250 (I)/2019 dated 26.02.2019. The provisions of Sales Tax Act 1990, Federal Excise Act 2005, Rules and procedures under these acts shall govern the relationship between the licensee and FBR. All potential applicants shall acquaint themselves with the rules and laws and provide solutions in accordance with the above stated laws.

7.2 If during the term of the licence, the licensee refuses to continue providing the services, the licensee will be liable for forfeiture of the bank guarantee. Another eligible applicant recommended by the licensing committee will be considered for the grant of license subject to approval by the Board.

7.3 In case of violation of terms of the Licensing Rules, 2019 and this document, the licensing committee shall propose the forfeiture of the bank guarantee and cancelation of license subject to approval of the Board.

8. CONFIDENTIALITY OF DATA & INFORMATION

8.1 The data and other information obtained directly or indirectly from the manufacturers, importers or otherwise including information transmitted through any means shall be the property of FBR and licensee shall not disclose this data and other information to any person without prior approval of FBR.

8.2 The licensee shall not disclose the data to third parties including any affiliates or related parties of the licensee and shall not sell or commercially exploit the data or use it for any other purposes. The licensee will be responsible for maintaining confidentiality of system data, mitigation of data breaches and will bare all associated costs. Confidentiality obligations will extend to licensee personnel and to any third parties or affiliates involved in the provision of the system or services, with the licensee retaining primary responsibility for any breach of confidentiality.

9. FURTHER INFORMATION

9.1 Interested parties that wish to submit an application for a licence to supply electronic monitoring, tracking and tracing of tobacco products in Pakistan may contact the Track and Trace Project Director for further information:

Project Director (Track & Trace),
FBR HQ, Constitution Avenue,
Islamabad, Pakistan
Email. pdtnt@fbr.gov.pk
Ph. +92 51 9204520 (office)

10 LIST OF ANNEXES

Annex 1 – Applicant Information Sheet
Annex 2– Additional Technical Requirements of the Track and Trace System
Annex 3 – Local Partner Information Sheet
Annex 4 – Applicant Compliance Sheet
Annex 5 – Applicant Bid Process & Evaluation Criteria
Annex 6 – Price Schedule
Annex 7 - FCTC Protocol on Elimination of Illicit Trade in Tobacco Products
Annex 8 - SRO. 250 (I)/2019 dated 26.02.2019.

ANNEX I: APPLICANT INFORMATION SHEET

1. Eligibility information of the Applicant		
a.	Applicant legal title	
b.	Applicant Registered address	
c.	Applicant legal status	
d.	Proprietorship	
e.	Partnership	
f.	Limited Liability Company	
g.	Government Owned Enterprise	
h.	Others	
i.	Applicant's Year of Registration	
j.	Nationality of the individual or country of registration of Consortium	
	Year of Registration of each entity / partner of JV/Consortium	
k.	Applicant's authorized representative details.	
	Name	
	Address	
	Telephone/Fax Number/email	
l.	Litigation	
	If there is no history of litigation or no pending litigation, then state "NONE". If there is a history of litigation or number of awards against the Applicant provide details below.	
	A- History of Litigation during the last 5 years.	
	Year and Matter in dispute	Value of Award
		As percentage of net worth

	B– Pending litigation		
	Matter in dispute	Value of Claim	As percentage of net worth
	Applicant to attach original declarations signed by their director/partners		
m.	Applicant to attach photocopies of the following original document	Articles of Incorporation or Registration of the legal entity named above.	
n.	The following two requirements are for National Applicant's only.		
o.	Applicant's National Tax Number (NTN)		
p.	Applicant's General Sales Tax Number (GST)		

A foreign Applicant shall provide evidence by means of a written declaration to demonstrate that it meets the above criteria.

2. Financial information of the Applicant.

a.	Audited financial statements for the last three years with minimum average turnover of USD50, 000,000 (Fifty million). Last three years audited financial statements for each entity	
b.	Name, address, contact details of Banks that may provide references if contacted by FBR	
c.	Latest Income Tax returns.	

ANNEX 2 - ADDITIONAL TECHNICAL REQUIREMENTS OF THE TRACKING & TRACING SYSTEM

ADDITIONAL TECHNICAL REQUIREMENTS OF

THE TRACKING & TRACING SYSTEM

The Track and Trace system must provide for management of the workflow from the requirement or order of the manufacturer to the dispatch, reception and ultimately, application or affixation of Unique Identification Markings and their activation with following additional technical features:

1. There must be unique, secure and non-removable unique identification markings, such as codes and stamps, affixed to all unit packs.
2. The key feature is the combination of digital (the unique identification markings on a pack) and physical security elements (overt and covert) which make new tax stamps difficult to counterfeit.
3. The system must allow for manufacturing, product, customer, shipping and market information to be available, either directly or accessible through a secured URL, to assist FBR in determining the origin of excise products and monitoring their movement and legal status, as well as identifying eventual points of diversion;
4. The information recorded under the system must be accessible to the FBR through a standard electronic secured interface.
5. Tracking products from manufacture to the last economic operator before retail;
6. Supporting the concept of aggregation;
7. Storing data independently of the excise industry;
8. Ensuring a tamper-evident, non removable solution;
9. Ensuring covert elements were accessible by authorized persons;
10. Providing forensic evidence of security feature authentication.
11. Up-to-date technologies to prevent the fiscal marker from being duplicated illegally;

ANNEX 2 - ADDITIONAL TECHNICAL REQUIREMENTS OF THE TRACKING & TRACING SYSTEM

It must provide for the following areas: 1) Order processing, 2) Supply to manufacturers and importers, 3) Activation, 4) Data Management, and 5) Verification tools.

1. ORDER PROCESSING

The system must be capable of receiving orders for unique identification markings from manufacturers and from importers and processing them so that the system's production module can prepare accordingly to supply orders and maintain an inventory.

Requirement No.	Requirement/Description
1	There should be an efficient inventory management system to keep track of orders and supply shipments between manufacturers, importers, licensee and the FBR.
2	The system work flow must be capable of carrying out the task of scheduling and assigning orders.
3	The system shall be capable of generating alerts for orders and other inventory events (SMS and emails).
4	It should be a system-based orders management networked with the FBR central control room and available to relevant stake holders through a user-friendly interface.
5	Access to the system must be secure and under authentication and authorization procedures.

2. SUPPLIES TO MANUFACTURERS & IMPORTERS

After orders have been made, the system will manage the supply of unique identification markings from licensee to manufacturers and importers and update the records in the central database to reflect which batches of serialised unique identification markings have been successfully supplied to each manufacturer or importer that has placed an order.

Requirement No.	Requirement/Description
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ANNEX 2 - ADDITIONAL TECHNICAL REQUIREMENTS OF THE TRACKING & TRACING SYSTEM

1	The system must be able to manage the shipment of orders to relevant purchasers and update data and change status in the database - from “ordered” to “shipped”.
2	The system should be capable of verifying the shipment of orders and receipt by the manufacturers and importers, and to update status to, "accepted" so that the transaction is synchronised.

3. ACTIVATION

The activation procedures must have as little impact as possible on the existing workflow of the production lines. The reading of the identifier of the unique identification markings(or of the batch) will allow the association of the unique identification markings with the SKU onto which it is applied, the production line, plant, time-stamp and all other information required by the Rules for traceability purposes.

The unique identification markings affixed on product units, cartons, master-cases and pallets must be “activated” to ensure that all necessary information identifying the brand, plant, level of tax and timestamp (date and time/hour, minute, second) of a given product unit are recorded in the central database.

Requirement No.	Requirement/Description
1	The system should present an automated methodology to activate each stamp by means of devices installed on each line with ability to scan each code.
2	The generated serial numbers should be attached to the unique identification markings and the system software should be able to activate unique identification markings as a consequence of the initial order; or at the time of production at the manufacturing site. After the tax stamps are activated, their status should be changed to “activated” and the central database updated accordingly.
3	The system must be able to keep track of the production line characteristics (based on statistics of past activations) and send warning signals to both monitoring staff at FBR headquarters and also FBR’s controllers at the point of

ANNEX 2 - ADDITIONAL TECHNICAL REQUIREMENTS OF THE TRACKING & TRACING SYSTEM

	manufacture should the system malfunction, as well as provide the reason for the malfunction.
4	At given weekly (or monthly) periods, the system will generate on behalf of the FBR, official activation reports to be sent to the manufacturers and importers for accounting purposes.
5	The system should capture all auditing information and store it in the database so that the authorized system administrators are able to generate system audit reports and track particular actions along with the details information about the system username, date and time, location, etc.

4. DATA MANAGEMENT

The serialised tax stamps/markers/codes must be stored in a serial number generator system database.

Requirement No.	Requirement/Description
1	The unique identification markings should be generated and produced by the system using international standards. The system must be capable of logging all events from time of activation to verification and each subsequent reading should there be more than one.
2	The data and related information should be saved centrally in the control room and archived for five years from its generation and recording. The system recording should be capable to filter and process the production data for statistical, audit and analytical purposes.
3	The system should track all the auditing information and store it in the database so that the authorized system administrators be able to generate system audit reports and track down particular actions along with the detailed information about the system username, date and time, location, PC information, IP address etc.

ANNEX 2 - ADDITIONAL TECHNICAL REQUIREMENTS OF THE TRACKING & TRACING SYSTEM

4	Detailed specifications of all software, hardware and verification applications must be provided.
5	Data and messaging in the entire system from database to verification applications (should be provided in both English and Pakistani languages (Urdu) or provide the option for the user to choose.
6	The system must be able to reconcile any unique identification markings that are returned due to FBR due to damage or that are not used for any reason, such as damage to the pack they are attached to.
7	Any data recorded in the database must not be allowed to be modified or deleted by any person including within the FBR.
8	The recorded data must account for and alert for any unauthorised stoppages of production lines, including stoppages which cannot be reasonably excused by the relevant officers of the FBR.
9	The system must record information regarding spoiled, lost, unused, stolen and fake unique identification markings and any reconciliation.

6 VERIFICATION TOOLS – ONLINE & OFFLINE

A smart phone application must be able to read the unique identification markings and perform the function of verification and allow the Board or field offices to monitor the production workflow and activities on a continuous basis. Once the product units are verified, the smart phone should be able to send its serial number to a central database management system and retrieve information held in the code on the activated stamp.

Requirement No.	Requirement/Description
1	The verification application must be functional on a smart phone/device and access to obtain the application must be protected by secure authentication and password.
2	The verification application must be able to operate online with provision of offline verification. Detailed specifications of the application and its

ANNEX 2 - ADDITIONAL TECHNICAL REQUIREMENTS OF THE TRACKING & TRACING SYSTEM

Requirement No.	Requirement/Description
	communication capabilities must be provided.
3	<p>Each smart phone/device must have three simultaneous and combined functions.</p> <ol style="list-style-type: none"> 1) Check and guarantee the authenticity of the stamp/marker/code by authenticating at least one of the security features; 2) Read, and decode the unique identification markings in order to check that it has been generated by the T&T system. 3) Record the geographical position and the time of the intervention. <p>All readings will be transferred in real-time to the central database unless it is offline and in this case the data will be stored locally in the smart phone/device, and will then be transferred to the central database without any human intervention as soon as the smart phone/device is connected to Internet.</p>
4	<p>The verification results should provide following minimum information:</p> <ol style="list-style-type: none"> 1. SKU of the product (description/brand) 2. Production plant 3. Production line , machine number and shift 4. Production date and location 5. Machine used to manufacture the product 6. Tax levels 7. Any other information required by the board.
5	In the case of a malfunction in activation of using the application, a relevant message should be displayed to alert the user.

ANNEX 3: LOCAL PARTNER INFORMATION SHEET

	<i>Local partner / Associates</i>	<i>Proposed solution</i>	<i>(Criteria)/Compliance</i>
	Should the Applicant include local companies as partners/associates ("Local Partner"), detailed documentation on the Local Partner must be submitted		
	In case the Applicant involves Local Partner(s), an RACI matrix must be submitted that explains the responsibility of each party		
	The Local Partner may preferably possess comprehensive management and technical knowledge in all aspects of planning, designing, development, customization, configuration and implementation of Stamp and Monitoring System in public/private sector;		
	The Local Partner may preferably possess experience in training and ability to transfer expertise, knowledge and skills		

ANNEX 4: APPLICANT COMPLIANCE SHEET

I.	Project and Process management	Proposed solution	(Criteria)/Compliance
1.a	PERSONALIZATION SYSTEM ASSESSMENT GRID		
1.b	The Applicant must propose a detailed schedule of the project by providing a detailed Gant chart. All detailed operations will be sorted into general tasks: supply schedule of labels, software development, factory acceptance tests, site acceptance tests, installation of main software at FBR and a complete roll out plan of the activation systems in the different tobacco manufacturer's premises.		(Must)/
1.c	The Applicant must exhibit at least 2(two) certificates from reputable labeling machine manufacturers showing that tests using proposed label material and size have been carried out, showing clearly the compliance of the label with their equipment.		(Must)/
1.d	<p>The Applicant must propose a system for reporting and management with two main modules:</p> <ul style="list-style-type: none"> Control of activation on tobacco lines with the reporting by brand, production site, manufacturer, level of tax. The anomaly detection and reaction will be detailed, and procedures proposed to FBR to make this step in the process more reliable. Management of the activity of controllers: automatically collect all the data from the control device when connected to a secure network in order to: Check the daily quantity, diversity of brands, level of taxes, but also places controlled. Reports will be generated automatically at supervision center and put to disposition of FBR Staff. 		(Must)/

2.	Capability and references.	Proposed solution	(Criteria)/Compliance
2.a	The Applicant should demonstrate that the capacity of its own equipment for the production of stamps is above 1(One) billion stamps.		(Must)/
2.b	The Applicant must provide positive official letters of reference or certificates issued by the competent authorities showing that it has delivered and deployed similar Track and Trace systems for tobacco, soft drinks, medicines, petroleum etc.		(Must)/
2.c	The proposed solution should ideally meet international standards: ISO 14298:2013 for high security printer certification or equivalent, as well as ISO 22382:2018 or equivalent.		(Must)/
3.	Tax label	Proposed solution	(Criteria)/Compliance
3.a	TAX LABEL INFORMATION SHEET		
3.b	Each Applicant will provide with the offer at least one specimen roll or stacks of a minimum 20,000 labels having all the requested/proposed material and security features.		(Must)
3.c	The FBR experts or the Technical Evaluation Committee/ Licensing Committee will check that all the features requested and described in the Licensing Rules are present and compliant to the IFL. Based on this compliance, the Applicant may be pre-selected for a demonstration, and should aim to show the feasibility of all the functionality of the system, either through live demos or video footage.		(Must)
3.d	This role will be examined by the Technical Evaluation Committee/ Licensing Committee and kept for a live demo which will be organized after technical application examination with a list of pre-selected Applicants. (This live demo will occur in the weeks after the opening of the technical applications. The selected Applicant will be invited within ten calendar days before the examination day. The live demo test protocol will be sent to the selected Applicant with the invitation for the demo).		(Must)

Compliance Sheet: Annex 4

1. The Compliance Sheet is required for stating the applicant's compliance/non-compliance on all clauses of the Applicant Document and must be completed.
2. The Applicant shall complete the Compliance Sheet (Annex 4) strictly in accordance with the instructions given below.
3. Instructions:
 - A word such as “noted” is inadequate and shall be treated as non-compliance.
 - Where a clause states: to be “complied” with, the Applicant may provide further reference details. In the event of any discrepancy between these details and the statement of compliance, the compliance statement shall be taken as correct and binding upon the Applicant and the details (including footnotes etc. specified by the Applicant in any other form or place shall be ignored.)
 - Where a clause states: to be “not complied” with or “partially complied” with, the Applicant shall provide full details of the deviation from the specified requirements together with full details of any alternative arrangement offered.
 - Simply signing of every page of the License documents will not serve the purpose of the compliance statement and shall be treated as non-compliance. A proper compliance sheet should be attached with the application.
 - If a certain clause(s)/sub-clause(s) is missed or left unattended in a commercial compliance sheet such clause(s) or sub-clauses would be considered as non-compliant.
 - Failure to provide commercial compliance shall be deemed as a sufficient cause for rejection of the application.

EVALUATION CRITERIA

1. PROCEDURE FOR GRANT OF LICENCE

1. Procedure for grant of license will be followed as per Rule 150ZM under S.R.O. 250(I)/2019, dated 26th February 2019.
2. The Licensing Committee shall evaluate the application on the basis of applicant experience, capability, Features, Functionality and cost.
3. During the technical evaluation no amendments to the technical requirements shall be permitted;
4. Applicants will have to make a live fully functional demo of the system and present a production specimen of their unique identification markers.
5. The demonstration will need to be undertaken at a place to be decided by the licensing committee.
6. Any application for grant of licence found not technically compliant shall be rejected, and reasons of rejection shall be recorded.
7. PPRA rules regarding single stage, two envelop process of procurement shall be followed in letter and spirit. The Licensing committee will evaluate technical proposals. The applicant scoring 70 or more marks out of total 80 marks for technical and experience shall be considered as technically accepted applications.
8. The applicant proposal shall comprise a single package containing two separate envelopes. Each envelop shall contain separately the financial proposal and the technical proposal. Technical proposals shall firstly be evaluated in accordance with the specified evaluation criteria. Financial proposals shall be evaluated upon successful Technical evaluation.

2. EVALUATION CRITERIA

The Licensee to be selected will be the economically most advantageous offer, taking into account the relative weighting of the selection criteria as follows:

ASSESSMENT CRITERIA	Marks
A. APPLICANT EXPERIENCE & CAPABILITY	35
B. FEATURES OF THE TRACK & TRACE SYSTEM	45
TOTAL	80

The total score will be the sum of the scores of all the 3 categories together. The breakdown of each category is as follows:

A. APPLICANT EXPERIENCE & CAPABILITY	35
<p>1. Has the applicant successfully implemented a <u>real-time</u> track and trace system in any country before?</p> <p>a) If yes, In how many countries</p> <p>b) If yes, for how many years</p> <p>c) If yes, was the volume and capacity of the marking system at least One Billion stamps and codes per annum?</p> <p>(4 marks for 4 countries or more having at least 3 years or more implementation experience and delivery of at least 2 billion or more stamps/UIM.</p> <p>(3 marks for 3 countries having at least 2 years implementation experience and delivery of at least 1.5 billion stamps/UIM.</p>	4

<p>(2 marks for 2 countries having at least 1 year implementation experience and delivery of at least 1 billion stamps/UIM).</p> <p>(1 marks for 1 country having at least 1 year implementation experience and delivery of at least 500 million stamps/UIM).</p>	
<p>2. Has the applicant implemented a product monitoring system using high security physical stamps or digital secure codes in the <u>government sector</u>?</p> <p>a) If yes is the system is in use ?</p> <p>b) If yes, what is the volume and capacity of the system in terms of codes, stamps, banderoles labels ?</p> <p>(3 marks for at least 3 successful implementations; 2 marks for 2 countries and 1 mark for 1 country).</p>	3
<p>3. Has the applicant previously provided a product monitoring system in the <u>non-government sector</u> in any country?</p> <p>a) If yes, in how many countries?</p> <p>b) If yes what is the volume and capacity of the system?</p> <p>(2 marks for 2 and more countries, 1 mark for 1 country)?</p>	2
<p>4. Has the applicant experience in any country with the provision of high security government programs such as provision of high security stamps, ID documents etc.?</p> <p>a) if yes, in how many countries?</p> <p>(2 marks for 2 countries or more, 1 mark for 1 country)</p>	2
<p>5. Has the applicant printed on secure paper or used secure ink in processing data on secure paper such as banderoles, holograms, labels etc. in any country?</p> <p>a) if yes, in how many countries and for how many years?</p> <p>b) The volume and capacity of the application?</p> <p>(2 marks for 2 and more countries and 1 mark for one country)</p>	2
<p>6. whether the applicant system/solution capable of managing integrated serialized tax stamp, codes and markers / unique identification markings.</p> <p>(3 marks for 3 countries or more, 2 marks for 2 countries and 1 mark for one country)</p>	3
<p>7. Successful implementation: Has the applicant solution demonstrated year on year growth of Tax stamps/markers/codes.</p> <p>(3 marks for growth of 20% or above, 2 marks for growth of 10% to 19% and 1 mark for growth of less than 10%).</p>	3
<p>8. Has the applicant provided a comprehensive Implementation plan outlining a six month roll out plan for the provision of the track and trace system from the date of issuance of license?</p> <p>(3 marks for implementation plan outlining detailed activities including dependencies with time lines and adequate resources, and 1 mark for a basic implementation plan).</p>	3

<p>9. Does the applicant solution have the capacity of producing 3 to 4 Billion tax stamps and codes per annum?</p> <p>(3 marks for more than 3 billion and 2 marks for 2 to 3 billion and 1 mark for 1 to 2 billion).</p>	3
<p>10. Will the solution provide monitoring on a real time basis to a minimum of 50 factory premises/production lines and 6 import stations? Demonstrated through hardware infrastructure and references.</p>	3
<p>11. Has the applicant delivered systems with integrated databases of codes? (Reference letter referring databases of codes)</p> <p>(2 marks for 2 reference letters or more, 1 mark for 1 reference letter)</p>	2
<p>12. Has the applicant printed data on secure banderole/ stamps/labels/ with covert and overt security features directly onto products in any country? If yes in how many countries and for how many years?</p> <p>(3 marks for 3 countries or more, 2 marks for 2 countries and 1 mark for one country)</p>	3
<p>13. Is the applicant capable of providing training to users interfacing with the track and trace system?</p> <p>(1 mark for each (a) FBR Officers/officials, (b) Law Enforcement officials)</p>	2

B. FEATURES OF THE TRACK & TRACE SYSTEM	[45]
<p>1. Do the unique identification markings contain at the very least:</p> <ul style="list-style-type: none"> (a) date and location of manufacture; (b) production line and manufacturing facility; (c) machine used to manufacture the tobacco products; (d) production shift or time of manufacture; (e) product description and level of tax/tiers; (f) the name, invoice, order number and payment records of the first customer who is not affiliated with the manufacturer; <p>(1 mark for each)</p>	6
2. Can the system use smart-phone applications to enable reading of the codes and data?	3
3. Will the tax stamp contain at least one overt security feature visible with the naked eye?	3
4. Will the tax stamp contain at least one covert security feature?	3
5. Will the tax stamp contain additional overt and covert security feature?	3
6. Will any of the above special security features be readable by a mobile or other hand-held device simultaneously with the reading of the unique identification codes?	3
7. Can the system send alert message and trigger alarms (visible and audible) for stoppages of production or tampering with production machines?	4
8. Can the system switch between networks to ensure there are no interruptions or breaks to coverage?	4
9. Can the system filter and process production data for statistical and analytical purposes?	3
10. Can the system transmit real time data to the FBR data centers with capacity of temporary back up on site as a failover?	3
11. Will all electronic data interface (EDI) communication be encrypted?	3
<p>12. Does the track and trace system include the following control functionalities?</p> <ul style="list-style-type: none"> a) Advanced authentication of all the different profiles on the system (login and password)? b) Control activation in the manufacturing plants? 	4
13. Does the system provide for adequate failover back up against power outages?	3

ANNEX 6

Price Schedule

(To be provided on company's letterhead)

Applicant Number:

PRICE (PKR) SCHEDULE FOR TAX STAMPS

1	2	3	4	
Item No	Description	Expected Quantity	UNIT PRICE	
			Price (Rs.)	Unit
1	Tax Stamp (Unique Identification Markings)	5 billion per year (As per Sales Tax Returns data)		Per 1000 Tax stamps (Unique Identification Markings)

Authorized Signature of Applicant_____

Seal of Applicant. _____

Note:

- All prices quoted will be in PKR and remain valid for a period 60 days.



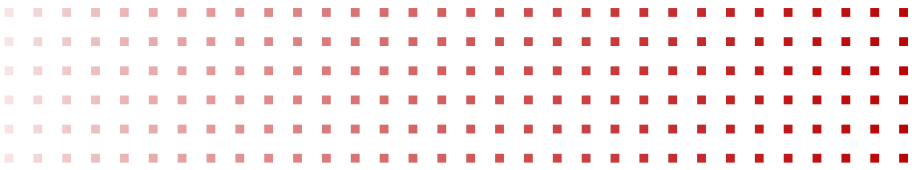
PROTOCOL

TO ELIMINATE ILLICIT TRADE
IN TOBACCO PRODUCTS



FCTC

WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL





PROTOCOL

TO ELIMINATE ILLICIT TRADE
IN TOBACCO PRODUCTS



F C T C

WHO FRAMEWORK CONVENTION
ON TOBACCO CONTROL



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FOREWORD

The Protocol to Eliminate Illicit Trade in Tobacco Products is the first protocol to the WHO Framework Convention on Tobacco Control (WHO FCTC), and a new international treaty in its own right. It was adopted by consensus on 12 November 2012 at the fifth session of the Conference of the Parties (COP) to the WHO FCTC (Seoul, Republic of Korea, 12–17 November 2012). The Protocol builds upon and complements Article 15 of the WHO FCTC, which addresses means of countering illicit trade in tobacco products, a key aspect of a comprehensive tobacco control policy.

The Protocol was developed in response to the growing international illicit trade in tobacco products, which poses a serious threat to public health. Illicit trade increases the accessibility and affordability of tobacco products, thus fuelling the tobacco epidemic and undermining tobacco control policies. It also causes substantial losses in government revenues, and at the same time contributes to the funding of transnational criminal activities.

The objective of the Protocol is the elimination of all forms of illicit trade in tobacco products, in accordance with the terms of Article 15 of the WHO FCTC.

The Protocol, in particular, aims to secure the supply chain of tobacco products – measures widely considered to be the “heart” of the Protocol. It requires the establishment of a global tracking and tracing regime within five years of entry into force of the Protocol, comprising national and/or regional tracking and tracing systems and a global information sharing point located in the Convention Secretariat. Other provisions to ensure control of the supply chain cover licensing, due diligence, record keeping, and security and preventive measures, as well as measures in relation to Internet- and telecommunication-based sales, duty free sales, and free zones and international transit.

The Protocol also covers important matters concerning offences, with provisions on liability, prosecutions and sanctions, seizure payments and special investigative techniques, as well as the disposal and destruction of confiscated products. Another key group of substantive articles addresses the issue of international cooperation, such as measures on information sharing, technical and law enforcement cooperation, protection of sovereignty, jurisdiction, mutual legal and administrative assistance, and extradition.

The Protocol establishes the reporting obligations of the Parties, linked to the reporting system of the WHO FCTC, as well as the financial and institutional arrangements necessary for its implementation. The Protocol stipulates that the

Meeting of the Parties shall be the governing body of the Protocol, and that the Convention Secretariat shall also be the Secretariat of the Protocol.

The Protocol was opened for signature on 10 January 2013 at WHO Headquarters in Geneva. More than 50 Parties participated in this event, during which 12 Parties, representing all six regions, signed the Protocol. The Protocol then remained open for signature at United Nations Headquarters in New York until 9 January 2014. The Secretary-General of the United Nations is the Depositary for the Protocol (Article 46).

Any Party to the WHO FCTC may become a Party to the Protocol. The Protocol shall enter into force on the 90th day following the deposit of the 40th instrument of ratification, acceptance, approval, formal confirmation or accession with the Depositary.

The development and adoption of the Protocol is the result of close cooperation between the Parties and multiple sectors of government, demonstrating how a unified stand on a public health subject can benefit important government objectives on health and beyond. Continued intersectoral and international collaboration, including cooperation with relevant international organizations, as called for in the Protocol, will be crucial to its successful implementation.

The Protocol to Eliminate Illicit Trade in Tobacco Products is a milestone in strengthening global action against tobacco and is a new legal instrument in public health. It supplements the WHO FCTC with a comprehensive tool to counter and eventually eliminate illicit trade in tobacco products and to strengthen legal dimensions for international health cooperation.

Dr Haik Nikogosian
Head, Convention Secretariat

Protocol to Eliminate Illicit Trade in Tobacco Products

PREAMBLE

The Parties to this Protocol,

Considering that on 21 May 2003, the Fifty-sixth World Health Assembly adopted by consensus the WHO Framework Convention on Tobacco Control, which came into force on 27 February 2005;

Recognizing that the WHO Framework Convention on Tobacco Control is one of the United Nations' most rapidly ratified treaties and a fundamental tool for attaining the objectives of the World Health Organization;

Recalling the Preamble to the Constitution of the World Health Organization, which states that the enjoyment of the highest attainable standard of health as a fundamental right of every human being without distinction of race, religion, political belief, economic or social condition;

Determined also to give priority to their right to protect public health;

Deeply concerned that the illicit trade in tobacco products is contributing to the spread of the tobacco epidemic, which is a global problem with serious consequences for public health that calls for effective, appropriate and comprehensive domestic and international responses;

Recognizing further that illicit trade in tobacco products undermines price and tax measures designed to strengthen tobacco control and thereby increases the accessibility and affordability of tobacco products;

Seriously concerned by the adverse effects that the increase in accessibility and affordability of illicitly traded tobacco products has on public health and the well-being, in particular of young people, the poor and other vulnerable groups;

Seriously concerned about the disproportionate economic and social implications of illicit trade in tobacco products on developing countries and countries with economies in transition;

Aware of the need to develop scientific, technical and institutional capacity to plan and implement appropriate national, regional and international measures to eliminate all forms of illicit trade in tobacco products;

Acknowledging that access to resources and relevant technologies is of great importance for enhancing the ability of Parties, particularly in developing countries and countries with economies in transition, to eliminate all forms of illicit trade in tobacco products;

Acknowledging also that, although free zones are established to facilitate legal trade, they have been used to facilitate the globalization of illicit trade in tobacco products, both in relation to the illicit transit of smuggled products and in the manufacture of illicit tobacco products;

Recognizing also that illicit trade in tobacco products undermines the economies of Parties and adversely affects their stability and security;

Also aware that illicit trade in tobacco products generates financial profits that are used to fund transnational criminal activity, which interferes with government objectives;

Recognizing that the illicit trade in tobacco products undermines health objectives, imposes additional strain on health systems and causes losses of revenue to the economies of the Parties;

Mindful of Article 5.3 of the WHO Framework Convention on Tobacco Control in which Parties agree that in setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law;

Emphasizing the need to be alert to any efforts by the tobacco industry to undermine or subvert strategies to combat illicit trade in tobacco products and the need to be informed of activities of the tobacco industry that have a negative impact on strategies to combat illicit trade in tobacco products;

Mindful of Article 6.2 of the WHO Framework Convention on Tobacco Control, which encourages Parties to prohibit or restrict, as appropriate, sales to and/or importation by international travellers of tax- and duty-free tobacco products;

Recognizing in addition that tobacco and tobacco products in international transit and transshipment find a channel for illicit trade;

Taking into account that effective action to prevent and combat illicit trade in tobacco products requires a comprehensive international approach to, and close cooperation on, all aspects of illicit trade, including, as appropriate, illicit trade in tobacco, tobacco products and manufacturing equipment;

Recalling and emphasizing the importance of other relevant international agreements such as the United Nations Convention against Transnational Organized Crime, the United Nations Convention against Corruption and the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the obligation that Parties to these Conventions have to apply, as appropriate, the relevant provisions of these Conventions to illicit trade in tobacco, tobacco products and manufacturing equipment and *encouraging* those Parties that have not yet become Parties to these agreements to consider doing so;

Recognizing the need to build enhanced cooperation between the Convention Secretariat of the WHO Framework Convention on Tobacco Control and the United Nations Office on Drugs and Crime, the World Customs Organization and other bodies, as appropriate;

Recalling Article 15 of the WHO Framework Convention on Tobacco Control, in which Parties recognize, inter alia, that the elimination of all forms of illicit trade in tobacco products, including smuggling and illicit manufacturing, is an essential component of tobacco control;

Considering that this Protocol does not seek to address issues concerning intellectual property rights; and

Convinced that supplementing the WHO Framework Convention on Tobacco Control by a comprehensive protocol will be a powerful, effective means to counter illicit trade in tobacco products and its grave consequences,

Hereby agree as follows:

PART I: INTRODUCTION

ARTICLE 1

Use of terms

1. "Brokering" means acting as an agent for others, as in negotiating contracts, purchases, or sales in return for a fee or commission.
2. "Cigarette" means a roll of cut tobacco for smoking, enclosed in cigarette paper. This excludes specific regional products such as bidis, ang hoon, or other similar products which can be wrapped in paper or leaves. For the purpose of Article 8, "cigarette" also includes fine cut "roll your own" tobacco for the purposes of making a cigarette.
3. "Confiscation", which includes forfeiture where applicable, means the permanent deprivation of property by order of a court or other competent authority.
4. "Controlled delivery" means the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of one or more States, with the knowledge and under the supervision of their competent authorities, with a view to the investigation of an offence and the identification of persons involved in the commission of the offence.
5. "Free zone" means a part of the territory of a Party where any goods introduced are generally regarded, in so far as import duties and taxes are concerned, as being outside the Customs territory.
6. "Illicit trade" means any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase, including any practice or conduct intended to facilitate such activity.
7. "Licence" means permission from a competent authority following submission of the requisite application or other documentation to the competent authority.
8. (a) "Manufacturing equipment" means machinery which is designed, or adapted, to be used solely for the manufacture of tobacco products and is integral to the manufacturing process.¹

¹ Parties may include reference to the Harmonized Commodity Description and Coding System of the World Customs Organization for this purpose, wherever applicable.

- (b) "Any part thereof" in the context of manufacturing equipment means any identifiable part which is unique to manufacturing equipment used in the manufacture of tobacco products.
9. "Party" means, unless the context indicates otherwise, a Party to this Protocol.
 10. "Personal data" means any information relating to an identified or identifiable natural person.
 11. "Regional economic integration organization" means an organization that is composed of several sovereign states, and to which its Member States have transferred competence over a range of matters, including the authority to make decisions binding on its Member States in respect of those matters.²
 12. The "supply chain" covers the manufacture of tobacco products and manufacturing equipment; and import or export of tobacco products and manufacturing equipment; and may be extended, where relevant, to one or more of the following activities when so decided by a Party:
 - (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.
 13. "Tobacco products" means products entirely or partly made of the leaf tobacco as raw material, which are manufactured to be used for smoking, sucking, chewing or snuffing.
 14. "Tracking and tracing" means systematic monitoring and re-creation by competent authorities or any other person acting on their behalf of the route or movement taken by items through the supply chain, as outlined in Article 8.

² Where appropriate, national or domestic will refer equally to regional economic integration organizations.

ARTICLE 2

Relationship between this protocol and other agreements and legal instruments

1. The provisions of the WHO Framework Convention on Tobacco Control that apply to its protocols shall apply to this Protocol.
2. Parties that have entered into the types of agreements mentioned in Article 2 of the WHO Framework Convention on Tobacco Control shall communicate such agreements to the Meeting of the Parties through the Convention Secretariat.
3. Nothing in this Protocol shall affect the rights and obligations of any Party pursuant to any other international convention, treaty or international agreement in force for that Party that it deems to be more conducive to the achievement of the elimination of illicit trade in tobacco products.
4. Nothing in this Protocol shall affect other rights, obligations and responsibilities of Parties under international law, including the United Nations Convention against Transnational Organized Crime.

ARTICLE 3

Objective

The objective of this Protocol is to eliminate all forms of illicit trade in tobacco products, in accordance with the terms of Article 15 of the WHO Framework Convention on Tobacco Control.

PART II: GENERAL OBLIGATIONS

ARTICLE 4

General obligations

1. In addition to the provisions of Article 5 of the WHO Framework Convention on Tobacco Control, Parties shall:
 - (a) adopt and implement effective measures to control or regulate the supply chain of goods covered by this Protocol in order to prevent, deter, detect, investigate and prosecute illicit trade in such goods and shall cooperate with one another to this end;
 - (b) take any necessary measures in accordance with their national law to increase the effectiveness of their competent authorities and services, including customs and police responsible for preventing, deterring, detecting, investigating, prosecuting and eliminating all forms of illicit trade in goods covered by this Protocol;
 - (c) adopt effective measures for facilitating or obtaining technical assistance and financial support, capacity building and international cooperation in order to achieve the objectives of this Protocol and ensure the availability to, and secure exchange with, the competent authorities of information to be exchanged under this Protocol;
 - (d) cooperate closely with one another, consistent with their respective domestic legal and administrative systems, in order to enhance the effectiveness of law enforcement action to combat the unlawful conduct including criminal offences established in accordance with Article 14 of this Protocol;
 - (e) cooperate and communicate, as appropriate, with relevant regional and international intergovernmental organizations in the secure³ exchange of information covered by this Protocol in order to promote the effective implementation of this Protocol; and
 - (f) within the means and resources at their disposal, cooperate to raise financial resources for the effective implementation of this Protocol through bilateral and multilateral funding mechanisms.

³ A secure exchange of information between two parties is resistant to interception and tampering (falsification). In other words, the information exchanged between the two parties cannot be read or modified by a third party.

2. In implementing their obligations under this Protocol, Parties shall ensure the maximum possible transparency with respect to any interactions they may have with the tobacco industry.

ARTICLE 5

Protection of personal data

Parties shall protect personal data of individuals regardless of nationality or residence, subject to national law, taking into consideration international standards regarding the protection of personal data, when implementing this Protocol.

PART III: SUPPLY CHAIN CONTROL

ARTICLE 6

Licence, equivalent approval or control system

1. To achieve the objectives of the WHO Framework Convention on Tobacco Control and with a view to eliminating illicit trade in tobacco products and manufacturing equipment, each Party shall prohibit the conduct of any of the following activities by any natural or legal person except pursuant to a licence or equivalent approval (hereafter "licence") granted, or control system implemented, by a competent authority in accordance with national law:
 - (a) manufacture of tobacco products and manufacturing equipment; and
 - (b) import or export of tobacco products and manufacturing equipment.
2. Each Party shall endeavour to license, to the extent considered appropriate, and when the following activities are not prohibited by national law, any natural or legal person engaged in:
 - (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.
3. With a view to ensuring an effective licensing system, each Party shall:
 - (a) establish or designate a competent authority or authorities to issue, renew, suspend, revoke and/or cancel licences, subject to the provisions of this Protocol, and in accordance with its national law, to conduct the activities specified in paragraph 1;
 - (b) require that each application for a licence contains all the requisite information about the applicant, which should include, where applicable:
 - (i) where the applicant is a natural person, information regarding his or her identity, including full name, trade name, business registration number (if any), applicable tax registration numbers (if any) and any other information to allow identification to take place;

- (ii) when the applicant is a legal person, information regarding its identity, including full legal name, trade name, business registration number, date and place of incorporation, location of corporate headquarters and principal place of business, applicable tax registration numbers, copies of articles of incorporation or equivalent documents, its corporate affiliates, names of its directors and of any designated legal representatives, including any other information to allow identification to take place;
 - (iii) precise business location of the manufacturing unit(s), warehouse location and production capacity of the business run by the applicant;
 - (iv) details of the tobacco products and manufacturing equipment covered by the application, such as product description, name, registered trade mark if any, design, brand, model or make and serial number of the manufacturing equipment;
 - (v) description of where manufacturing equipment will be installed and used;
 - (vi) documentation or a declaration regarding any criminal records;
 - (vii) complete identification of the bank accounts intended to be used in the relevant transactions and other relevant payment details; and
 - (viii) a description of the intended use and intended market of sale of the tobacco products, with particular attention to ensuring that tobacco product production or supply is commensurate with reasonably anticipated demand;
- (c) monitor and collect, where applicable, any licence fees that may be levied and consider using them in effective administration and enforcement of the licensing system or for public health or any other related activity in accordance with national law;
 - (d) take appropriate measures to prevent, detect and investigate any irregular or fraudulent practices in the operation of the licensing system;
 - (e) undertake measures such as periodic review, renewal, inspection or audit of licences where appropriate;
 - (f) establish, where appropriate, a time frame for expiration of licences and subsequent requisite reapplication or updating of application information;

- (g) oblige any licensed natural or legal person to inform the competent authority in advance of any change of location of their business or any significant change in information relevant to the activities as licensed;
 - (h) oblige any licensed natural or legal person to inform the competent authority, for appropriate action, of any acquisition or disposal of manufacturing equipment; and
 - (i) ensure that the destruction of any such manufacturing equipment or any part thereof, shall take place under the supervision of the competent authority.
4. Each Party shall ensure that no licence shall be assigned and/or transferred without receipt from the proposed licensee of the appropriate information contained in paragraph 3, and without prior approval from the competent authority.
5. Five years following the entry into force of this Protocol, the Meeting of the Parties 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. On the basis of such research, the Meeting of the Parties shall consider appropriate action.

ARTICLE 7

Due diligence

1. Each Party shall require, consistent with its national law and the objectives of the WHO Framework Convention on Tobacco Control, that all natural and legal persons engaged in the supply chain of tobacco, tobacco products and manufacturing equipment:
- (a) conduct due diligence before the commencement of and during the course of, a business relationship;
 - (b) monitor the sales to their customers to ensure that the quantities are commensurate with the demand for such products within the intended market of sale or use; and
 - (c) report to the competent authorities any evidence that the customer is engaged in activities in contravention of its obligations arising from this Protocol.
2. Due diligence pursuant to paragraph 1 shall, as appropriate, consistent with its national law and the objectives of the WHO Framework Convention on

Tobacco Control, include, inter alia, requirements for customer identification, such as obtaining and updating information relating to the following:

- (a) establishing that the natural or legal person holds a licence in accordance with Article 6;
 - (b) when the customer is a natural person, information regarding his or her identity, including full name, trade name, business registration number (if any), applicable tax registration numbers (if any) and verification of his or her official identification;
 - (c) when the customer is a legal person, information regarding its identity, including full name, trade name, business registration number, date and place of incorporation, location of corporate headquarters and principal place of business, applicable tax registration numbers, copies of articles of incorporation or equivalent documents, its corporate affiliates, names of its directors and any designated legal representatives, including the representatives' names and verification of their official identification;
 - (d) a description of the intended use and intended market of sale of tobacco, tobacco products or manufacturing equipment; and
 - (e) a description of the location where manufacturing equipment will be installed and used.
3. Due diligence pursuant to paragraph 1 may include requirements for customer identification, such as obtaining and updating information relating to the following:
 - (a) documentation or a declaration regarding any criminal records; and
 - (b) identification of the bank accounts intended to be used in transactions.
4. Each Party shall, on the basis of the information reported in paragraph 1(c), take all necessary measures to ensure compliance with the obligations arising from this Protocol, which may include the designation of a customer within the jurisdiction of the Party to become a blocked customer as defined by national law.

ARTICLE 8

Tracking and tracing

1. For the purposes of further securing the supply chain and to assist in the investigation of illicit trade in tobacco products, the Parties agree to establish within five years of entry into force of this Protocol a global tracking and tracing regime, comprising national and/or regional tracking and tracing systems and a global information-sharing focal point located at the Convention Secretariat of the WHO Framework Convention on Tobacco Control and accessible to all Parties, enabling Parties to make enquiries and receive relevant information.
2. Each Party shall establish, in accordance with this Article, a tracking and tracing system, controlled by the Party for all tobacco products that are manufactured in or imported onto its territory taking into account their own national or regional specific needs and available best practice.
3. With a view to enabling effective tracking and tracing, each Party shall require that unique, secure and non-removable identification markings (hereafter called unique identification markings), such as codes or stamps, are affixed to or form part of all unit packets and packages and any outside packaging of cigarettes within a period of five years and other tobacco products within a period of ten years of entry into force of this Protocol for that Party.
- 4.1 Each Party shall, for purposes of paragraph 3, as part of the global tracking and tracing regime, require that the following information be available, either directly or accessible by means of a link, to assist Parties in determining the origin of tobacco products, the point of diversion where applicable, and to monitor and control the movement of tobacco products and their legal status:
 - (a) date and location of manufacture;
 - (b) manufacturing facility;
 - (c) machine used to manufacture tobacco products;
 - (d) production shift or time of manufacture;
 - (e) the name, invoice, order number and payment records of the first customer who is not affiliated with the manufacturer;
 - (f) the intended market of retail sale;
 - (g) product description;
 - (h) any warehousing and shipping;

- (i) the identity of any known subsequent purchaser; and
 - (j) the intended shipment route, the shipment date, shipment destination, point of departure and consignee.
- 4.2 The information in subparagraphs (a), (b), (g) and where available (f), shall form part of the unique identification markings.
- 4.3 Where the information in subparagraph (f) is not available at the time of marking, Parties shall require the inclusion of such information in accordance with Article 15.2(a) of the WHO Framework Convention on Tobacco Control.
- 5. Each Party shall require, within the time limits specified in this Article, that the information set out in paragraph 4 is recorded, at the time of production, or at the time of first shipment by any manufacturer or at the time of import onto its territory.
- 6. Each Party shall ensure that the information recorded under paragraph 5 is accessible by that Party by means of a link with the unique identification markings required under paragraphs 3 and 4.
- 7. Each Party shall ensure that the information recorded in accordance with paragraph 5, as well as the unique identification markings rendering such information accessible in accordance with paragraph 6 shall be included in a format established or authorized by the Party and its competent authorities.
- 8. Each Party shall ensure that the information recorded under paragraph 5 is accessible to the global information-sharing focal point on request, subject to paragraph 9, through a standard electronic secure interface with its national and/or regional central point. The global information-sharing focal point shall compile a list of the competent authorities of Parties and make the list available to all Parties.
- 9. Each Party or the competent authority shall:
 - (a) have access to the information outlined in paragraph 4 in a timely manner by making a query to the global information-sharing focal point;
 - (b) request such information only where it is necessary for the purpose of detection or investigation of illicit trade in tobacco products;
 - (c) not unreasonably withhold information;
 - (d) answer the information requests in relation to paragraph 4, in accordance with its national law; and

- (e) protect and treat as confidential, as mutually agreed, any information that is exchanged.
- 10. Each Party shall require the further development and expansion of the scope of the applicable tracking and tracing system up to the point that all duties, relevant taxes, and where appropriate, other obligations have been discharged at the point of manufacture, import or release from customs or excise control.
- 11. Parties shall cooperate with each other and with competent international organizations, as mutually agreed, in sharing and developing best practices for tracking and tracing systems including:
 - (a) facilitation of the development, transfer and acquisition of improved tracking and tracing technology, including knowledge, skills, capacity and expertise;
 - (b) support for training and capacity-building programmes for Parties that express such a need; and
 - (c) further development of the technology to mark and scan unit packets and packages of tobacco products to make accessible the information listed in paragraph 4.
- 12. Obligations assigned to a Party shall not be performed by or delegated to the tobacco industry.
- 13. Each Party shall ensure that its competent authorities, in participating in the tracking and tracing regime, interact with the tobacco industry and those representing the interests of the tobacco industry only to the extent strictly necessary in the implementation of this Article.
- 14. Each Party may require the tobacco industry to bear any costs associated with that Party's obligations under this Article.

ARTICLE 9

Record-keeping

- 1. Each Party shall require, as appropriate, that all natural and legal persons engaged in the supply chain of tobacco, tobacco products and manufacturing equipment maintain complete and accurate records of all relevant transactions. Such records must allow for the full accountability of materials used in the production of their tobacco products.

2. Each Party shall, as appropriate, require persons licensed in accordance with Article 6 to provide, on request, the following information to the competent authorities:
 - (a) general information on market volumes, trends, forecasts and other relevant information; and
 - (b) the quantities of tobacco products and manufacturing equipment in the licensee's possession, custody or control kept in stock, in tax and customs warehouses under the regime of transit or transshipment or duty suspension as of the date of the request.
3. With respect to tobacco products and manufacturing equipment sold or manufactured on the territory of the Party for export, or subject to duty-suspended movement in transit or transshipment on the territory of the Party, each Party shall, as appropriate, require that persons licensed in accordance with Article 6, provide, on request, to the competent authorities in the country of departure (electronically, where the infrastructure exists) at the time of departure from their control with the following information:
 - (a) the date of shipment from the last point of physical control of the products;
 - (b) the details concerning the products shipped (including brand, amount, warehouse);
 - (c) the intended shipping routes and destination;
 - (d) the identity of the natural or legal person(s) to whom the products are being shipped;
 - (e) the mode of transportation, including the identity of the transporter;
 - (f) the expected date of arrival of the shipment at the intended shipping destination; and
 - (g) intended market of retail sale or use.
4. If feasible, each Party shall require that retailers and tobacco growers, except for traditional growers working on a non-commercial basis, maintain complete and accurate records of all relevant transactions in which they engage, in accordance with its national law.
5. For the purposes of implementing paragraph 1, each Party shall adopt effective legislative, executive, administrative or other measures to require that all records are:
 - (a) maintained for a period of at least four years;

- (b) made available to the competent authorities; and
 - (c) maintained in a format, as required by the competent authorities.
6. Each Party shall, as appropriate and subject to national law, establish a system for sharing details contained in all records kept in accordance with this Article with other Parties.
 7. Parties shall endeavour to cooperate, with each other and with competent international organizations, in progressively sharing and developing improved systems for record-keeping.

ARTICLE 10

Security and preventive measures

1. Each Party shall, where appropriate, consistent with its national law and the objectives of the WHO Framework Convention on Tobacco Control, 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, including, inter alia:
 - (a) reporting to the competent authorities:
 - (i) the cross-border transfer of cash in amounts stipulated in national law or of cross-border payments in kind; and
 - (ii) all "suspicious transactions"; and
 - (b) supplying tobacco products or manufacturing equipment only in amounts commensurate with the demand for such products within the intended market of retail sale or use.
2. Each Party shall, where appropriate, consistent with its national law and the objectives of the WHO Framework Convention on Tobacco Control, require that payments for transactions carried out by natural or legal persons subject to Article 6 be allowed only in the currency and in the same amount as the invoice, and only through legal modes of payment from financial institutions located on the territory of the intended market and shall not be operated through any other alternative remittance system.
3. A Party may require that payments carried out by natural or legal persons subject to Article 6 for materials used for the manufacture of tobacco products in its jurisdiction be allowed only in the currency and in the same amount as the invoice, and only through legal modes of payment from financial

institutions located on the territory of the intended market and shall not be operated through any other alternative remittance system.

4. Each Party shall ensure that any contravention of the requirements of this Article is subject to appropriate criminal, civil or administrative procedures and effective, proportionate and dissuasive sanctions including, as appropriate, suspension or cancellation of a licence.

ARTICLE 11

Sale by Internet, telecommunication or any other evolving technology

1. Each Party shall require that all legal and natural persons engaged in any transaction with regard to tobacco products through Internet-, telecommunication- or any other evolving technology-based modes of sale comply with all relevant obligations covered by this Protocol.
2. Each Party shall consider banning retail sales of tobacco products through Internet-, telecommunication- or any other evolving technology-based modes of sale.

ARTICLE 12

Free zones and international transit

1. Each Party shall, within three years of the entry into force of this Protocol for that Party, implement effective controls on all manufacturing of, and transactions in, tobacco and tobacco products, in free zones, by use of all relevant measures as provided in this Protocol.
2. In addition, the intermingling of tobacco products with non-tobacco products in a single container or any other such similar transportation unit at the time of removal from free zones shall be prohibited.
3. Each Party shall, in accordance with national law, adopt and apply control and verification measures to the international transit or transshipment, within its territory, of tobacco products and manufacturing equipment in conformity with the provisions of this Protocol in order to prevent illicit trade in such products.



ARTICLE 13

Duty free sales

1. Each Party shall implement effective measures to subject any duty free sales to all relevant provisions of this Protocol, taking into consideration Article 6 of the WHO Framework Convention on Tobacco Control.
2. No later than five years following the entry into force of this Protocol, the Meeting of the Parties 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. On the basis of such research, the Meeting of the Parties shall consider appropriate further action.

PART IV: OFFENCES

ARTICLE 14

Unlawful conduct including criminal offences

1. Each Party shall adopt, subject to the basic principles of its domestic law, such legislative and other measures as may be necessary to establish all of the following conduct as unlawful under its domestic law:
 - (a) manufacturing, wholesaling, brokering, selling, transporting, distributing, storing, shipping, importing or exporting tobacco, tobacco products or manufacturing equipment contrary to the provisions of this Protocol;
 - (b)
 - (i) manufacturing, wholesaling, brokering, selling, transporting, distributing, storing, shipping, importing or exporting tobacco, tobacco products or manufacturing equipment without the payment of applicable duties, taxes and other levies or without bearing applicable fiscal stamps, unique identification markings, or any other required markings or labels;
 - (ii) any other acts of smuggling or attempted smuggling of tobacco, tobacco products or manufacturing equipment not covered by paragraph (b)(i);
 - (c)
 - (i) any other form of illicit manufacture of tobacco, tobacco products or manufacturing equipment, or tobacco packaging bearing false fiscal stamps, unique identification markings, or any other required markings or labels;
 - (ii) wholesaling, brokering, selling, transporting, distributing, storing, shipping, importing or exporting of illicitly manufactured tobacco, illicit tobacco products, products bearing false fiscal stamps and/or other required markings or labels, or illicit manufacturing equipment;
 - (d) mixing of tobacco products with non-tobacco products during progression through the supply chain, for the purpose of concealing or disguising tobacco products;
 - (e) intermingling of tobacco products with non-tobacco products in contravention of Article 12.2 of this Protocol;
 - (f) using Internet-, telecommunication- or any other evolving technology-based modes of sale of tobacco products in contravention of this Protocol;

- (g) obtaining, by a person licensed in accordance with Article 6, tobacco, tobacco products or manufacturing equipment from a person who should be, but is not, licensed in accordance with Article 6;
 - (h) obstructing any public officer or an authorized officer in the performance of duties relating to the prevention, deterrence, detection, investigation or elimination of illicit trade in tobacco, tobacco products or manufacturing equipment;
 - (i)
 - (i) making any material statement that is false, misleading or incomplete, or failing to provide any required information to any public officer or an authorized officer in the performance of duties relating to the prevention, deterrence, detection, investigation or elimination of illicit trade in tobacco, tobacco products or manufacturing equipment and when not contrary to the right against self incrimination;
 - (ii) misdeclaring on official forms the description, quantity or value of tobacco, tobacco products or manufacturing equipment or any other information specified in the protocol to:
 - (a) evade the payment of applicable duties, taxes and other levies, or
 - (b) prejudice any control measures for the prevention, deterrence, detection, investigation or elimination of illicit trade in tobacco, tobacco products or manufacturing equipment;
 - (iii) failing to create or maintain records covered by this Protocol or maintaining false records; and
 - (j) laundering of proceeds of unlawful conduct established as a criminal offence under paragraph 2.
2. Each Party shall, subject to the basic principles of its domestic law, determine which of the unlawful conduct set out in paragraph 1 or any other conduct related to illicit trade in tobacco, tobacco products and manufacturing equipment contrary to the provisions of this Protocol shall be criminal offences and adopt legislative and other measures as may be necessary to give effect to such determination.
3. Each Party shall notify the Secretariat of this Protocol which of the unlawful conduct set out in paragraphs 1 and 2 that Party has determined to be a criminal offence in accordance with paragraph 2, and shall furnish to the Secretariat copies of its laws, or a description thereof, that give effect to paragraph 2, and of any subsequent changes to such laws.

4. In order to enhance international cooperation in combatting the criminal offences related to illicit trade in tobacco, tobacco products and manufacturing equipment, Parties are encouraged to review their national laws regarding money laundering, mutual legal assistance and extradition, having regard to relevant international conventions to which they are Parties, to ensure that they are effective in the enforcement of the provisions of this Protocol.

ARTICLE 15

Liability of legal persons

1. Each Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for the unlawful conduct including criminal offences established in accordance with Article 14 of this Protocol.
2. Subject to the legal principles of each Party, the liability of legal persons may be criminal, civil or administrative.
3. Such liability shall be without prejudice to the liability of the natural persons who have engaged in the unlawful conduct or committed the criminal offences established in accordance with national laws and regulations and Article 14 of this Protocol.

ARTICLE 16

Prosecutions and sanctions

1. Each Party shall adopt such measures as may be necessary, in accordance with national law, to ensure that natural and legal persons held liable for the unlawful conduct including criminal offences established in accordance with Article 14 are subjected to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.
2. Each Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for the unlawful conduct, including criminal offences established in accordance with Article 14, are exercised to maximize the effectiveness of law enforcement measures in respect of such unlawful conduct including criminal offences, and with due regard to the need to deter the commission of such unlawful conduct including offences.

3. Nothing contained in this Protocol shall affect the principle that the description of the unlawful conduct including criminal offences established in accordance with this Protocol and of the applicable legal defences or other legal principles controlling the lawfulness of conduct is reserved to the domestic law of a Party and that such unlawful conduct including criminal offences shall be prosecuted and sanctioned in accordance with that law.

ARTICLE 17

Seizure payments

Parties should, in accordance with their domestic law, consider adopting such legislative and other measures as may be necessary to authorize competent authorities to levy an amount proportionate to lost taxes and duties from the producer, manufacturer, distributor, importer or exporter of seized tobacco, tobacco products and/or manufacturing equipment.

ARTICLE 18

Disposal or destruction

All confiscated tobacco, tobacco products and manufacturing equipment shall be destroyed, using environmentally friendly methods to the greatest extent possible, or disposed of in accordance with national law.

ARTICLE 19

Special investigative techniques

1. If permitted by the basic principles of its domestic legal system, each Party shall, within its possibilities and under the conditions prescribed by its domestic law, take the necessary measures to allow for the appropriate use of controlled delivery and, where it deems it appropriate, for the use of other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, by its competent authorities on its territory for the purpose of effectively combating illicit trade in tobacco, tobacco products or manufacturing equipment.
2. For the purpose of investigating the criminal offences established in accordance with Article 14, Parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using the techniques referred to in paragraph 1 in the context of cooperation at the international level.

3. In the absence of an agreement or arrangement as set forth in paragraph 2, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the Parties concerned.
4. Parties recognize the importance of, and need for, international cooperation and assistance in this area and shall cooperate, with each other and with international organizations, in developing capacity to achieve the goals of this Article.

PART V: INTERNATIONAL COOPERATION

ARTICLE 20

General information sharing

1. Parties shall, for the purpose of achieving the objectives of this Protocol, report, as part of the WHO Framework Convention on Tobacco Control reporting instrument relevant information, subject to domestic law, and where appropriate, inter alia, on matters such as:
 - (a) in aggregate form, details of seizures of tobacco, tobacco products or manufacturing equipment, quantity, value of seizures, product descriptions, dates and places of manufacture; and taxes evaded;
 - (b) import, export, transit, tax-paid and duty-free sales and quantity or value of production of tobacco, tobacco products or manufacturing equipment;
 - (c) trends, concealment methods and modi operandi used in illicit trade in tobacco, tobacco products or manufacturing equipment; and
 - (d) any other relevant information, as agreed by the Parties.
2. Parties shall cooperate with each other and with competent international organizations to build the capacity of Parties to collect and exchange information.
3. Parties shall deem the said information to be confidential and for the use of Parties only, unless otherwise stated by the transmitting Party.

ARTICLE 21

Enforcement information sharing

1. 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 following information:
 - (a) records of licensing for the natural and legal persons concerned;
 - (b) information for identification, monitoring and prosecution of natural or legal persons involved in illicit trade in tobacco, tobacco products or manufacturing equipment;

- (c) records of investigations and prosecutions;
 - (d) records of payment for import, export or duty-free sales of tobacco, tobacco products or manufacturing equipment; and
 - (e) details of seizures of tobacco, tobacco products or manufacturing equipment (including case reference information where appropriate, quantity, value of seizure, product description, entities involved, date and place of manufacture) and modi operandi (including means of transport, concealment, routing and detection).
2. Information received from Parties under this Article shall be used exclusively to meet the objectives of this Protocol. Parties may specify that such information may not be passed on without the agreement of the Party which provided the information.

ARTICLE 22

Information sharing: confidentiality and protection of information

1. Each Party shall designate the competent national authorities to which data referred to in Articles 20, 21 and 24 are supplied and notify Parties of such designation through the Convention Secretariat.
2. The exchange of information under this Protocol shall be subject to domestic law regarding confidentiality and privacy. Parties shall protect, as mutually agreed, any confidential information that is exchanged.

ARTICLE 23

Assistance and cooperation: training, technical assistance and cooperation in scientific, technical and technological matters

1. Parties shall cooperate, with each other and/or through competent international and regional organizations in providing training, technical assistance and cooperation in scientific, technical and technological matters, in order to achieve the objectives of this Protocol, as mutually agreed. Such assistance may include the transfer of expertise or appropriate technology in the areas of information gathering, law enforcement, tracking and tracing, information management, protection of personal data, interdiction, electronic surveillance, forensic analysis, mutual legal assistance and extradition.

2. Parties may, as appropriate, enter into bilateral, multilateral or any other agreements or arrangements in order to promote training, technical assistance and cooperation in scientific, technical and technological matters taking into account the needs of developing-country Parties and Parties with economies in transition.
3. Parties shall cooperate, as appropriate, to develop and research the possibilities of identifying the exact geographical origin of seized tobacco and tobacco products.

ARTICLE 24

Assistance and cooperation: investigation and prosecution of offences

1. 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.
2. Each Party shall ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating illicit trade in tobacco, tobacco products or manufacturing equipment (including, where permitted under domestic law, judicial authorities) cooperate and exchange relevant information at national and international levels within the conditions prescribed by its domestic law.

ARTICLE 25

Protection of sovereignty

1. Parties shall carry out their obligations under this Protocol in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.
2. Nothing in this Protocol entitles a Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.

ARTICLE 26

Jurisdiction

1. Each Party shall adopt such measures as may be necessary to establish its jurisdiction over the criminal offences established in accordance with Article 14 when:
 - (a) the offence is committed in the territory of that Party; or
 - (b) the offence is committed on board a vessel that is flying the flag of that Party or an aircraft that is registered under the laws of that Party at the time that the offence is committed.
2. Subject to Article 25, a Party may also establish its jurisdiction over any such criminal offence when:
 - (a) the offence is committed against that Party;
 - (b) the offence is committed by a national of that Party or a stateless person who has his or her habitual residence on its territory; or
 - (c) the offence is one of those established in accordance with Article 14 and is committed outside its territory with a view to the commission of an offence established in accordance with Article 14 within its territory.
3. For the purposes of Article 30, each Party shall adopt such measures as may be necessary to establish its jurisdiction over the criminal offences established in accordance with Article 14 when the alleged offender is present on its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.
4. Each Party may also adopt such measures as may be necessary to establish its jurisdiction over the criminal offences established in accordance with Article 14 when the alleged offender is present on its territory and it does not extradite him or her.
5. If a Party exercising its jurisdiction under paragraph 1 or 2 has been notified, or has otherwise learnt, that one or more other Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those Parties shall, as appropriate, consult one another with a view to coordinating their actions.
6. Without prejudice to norms of general international law, this Protocol does not exclude the exercise of any criminal jurisdiction established by a Party in accordance with its domestic law.

ARTICLE 27**Law enforcement cooperation**

1. Each Party shall adopt, consistent with their respective domestic legal and administrative systems, effective measures to:
 - (a) enhance and, where necessary, establish channels of communication between the competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the criminal offences established in accordance with Article 14;
 - (b) ensure effective cooperation among the competent authorities, agencies, customs, police and other law enforcement agencies;
 - (c) cooperate with other Parties in conducting enquiries in specific cases with respect to criminal offences established in accordance with Article 14 concerning:
 - (i) the identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;
 - (ii) the movement of proceeds of crime or property derived from the commission of such offences; and
 - (iii) the movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;
 - (d) provide, when appropriate, necessary items or quantities of substances for analytical or investigative purposes;
 - (e) facilitate effective coordination among its competent authorities, agencies and services and promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the Parties concerned, the posting of liaison officers;
 - (f) exchange relevant information with other Parties on specific means and methods used by natural or legal persons in committing such offences, including, where applicable, routes and conveyances and the use of false identities, altered or false documents or other means of concealing their activities; and
 - (g) exchange relevant information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the criminal offences established in accordance with Article 14.

2. With a view to giving effect to this Protocol, Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them accordingly. In the absence of such agreements or arrangements between the Parties concerned, the Parties may consider this Protocol as the basis for mutual law enforcement cooperation in respect of the offences covered by this Protocol. Whenever appropriate, Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.
3. Parties shall endeavour to cooperate within their means to respond to transnational illicit trade of tobacco products committed through the use of modern technology.

ARTICLE 28

Mutual administrative assistance

Consistent with their respective domestic legal and administrative systems, Parties shall provide each other, either on request or on their own initiative, with information to ensure proper application of customs and other relevant law in the prevention, detection, investigation, prosecution and combating of illicit trade in tobacco, tobacco products or manufacturing equipment. The Parties shall deem the said information to be confidential and for restricted use, unless otherwise stated by the transmitting Party. Such information may include:

- (a) new customs and other enforcement techniques of demonstrated effectiveness;
- (b) new trends, means or methods of engaging in illicit trade in tobacco, tobacco products and manufacturing equipment;
- (c) goods known to be the subject of illicit trade in tobacco, tobacco products and manufacturing equipment as well as details of description, packaging, transport and storage and methods used in respect of those goods;
- (d) natural or legal persons known to have committed or to be a party to an offence established in accordance with Article 14; and
- (e) any other data that would assist designated agencies in risk assessment for control and other enforcement purposes.

ARTICLE 29

Mutual legal assistance

1. 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 this Protocol.
2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which legal persons may be held liable in accordance with Article 15 of this Protocol in the requesting Party.
3. Mutual legal assistance to be afforded in accordance with this Article may be requested for any of the following purposes:
 - (a) taking evidence or statements from persons;
 - (b) effecting service of judicial documents;
 - (c) executing searches and seizures, and freezing;
 - (d) examining objects and sites;
 - (e) providing information, evidentiary items and expert evaluations;
 - (f) providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
 - (g) identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
 - (h) facilitating the voluntary appearance of persons in the requesting Party; and
 - (i) any other type of assistance that is not contrary to the domestic law of the requested Party.
4. This Article shall not affect the obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual legal assistance.
5. Paragraphs 6 to 24 shall, on the basis of reciprocity, apply to requests made pursuant to this Article if the Parties in question are not bound by a treaty or intergovernmental agreement of mutual legal assistance. If the Parties are bound by such a treaty or intergovernmental agreement, the corresponding

provisions of that treaty or intergovernmental agreement shall apply unless the Parties agree to apply paragraphs 6 to 24 in lieu thereof. Parties are strongly encouraged to apply these paragraphs if they facilitate cooperation.

6. Parties shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to their respective competent authorities for execution. When a Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. Each Party shall notify the Head of the Convention Secretariat at the time of accession, acceptance, approval, formal confirmation or ratification of this Protocol of the central authority designated for this purpose. Transmission of requests for mutual legal assistance and any communication related thereto shall be effected between the central authorities designated by the Parties. This requirement shall be without prejudice to the right of a Party to require that such requests and communications be addressed to it through the diplomatic channel and, in urgent circumstances, where the Parties agree, through appropriate international organizations, if possible.
7. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested Party under conditions allowing the Party to establish authenticity. The language or languages acceptable to each Party shall be notified to the Head of the Convention Secretariat at the time of accession, acceptance, approval, formal confirmation or ratification of this Protocol. In urgent circumstances, and where agreed by the Parties, requests may be made orally, but shall be confirmed in writing forthwith.
8. A request for mutual legal assistance shall contain:
 - (a) the identity of the authority making the request;
 - (b) the subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates, and the name and the functions of the authority conducting such investigation, prosecution or judicial proceeding;
 - (c) a summary of the relevant facts, except in respect of requests for the purpose of service of judicial documents;

- (d) a description of the assistance sought and details of any particular procedure that the requesting Party wishes to be followed;
 - (e) where possible, the identity, location and nationality of any person concerned;
 - (f) the purpose for which the evidence, information or action is sought; and
 - (g) the provisions of the domestic law relevant to the criminal offence and the punishment therefore.
9. The requested Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.
10. A request shall be executed in accordance with the domestic law of the requested Party and, to the extent not contrary to the domestic law of the requested Party and where possible, in accordance with the procedures specified in the request.
11. The requesting Party shall not transmit or use information or evidence furnished by the requested Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested Party. Nothing in this paragraph shall prevent the requesting Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting Party shall notify the requested Party prior to the disclosure and, if so requested, consult with the requested Party. If, in an exceptional case, advance notice is not possible, the requesting Party shall inform the requested Party of the disclosure without delay.
12. The requesting Party may require that the requested Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting Party.
13. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a Party and has to be heard as a witness or expert by the judicial authorities of another Party, the first Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting Party. Parties may agree that the hearing shall be conducted by a judicial authority of the requesting Party and attended by a judicial authority of the requested Party.

14. Mutual legal assistance may be refused:
 - (a) if the request is not made in conformity with this Article;
 - (b) if the requested Party considers that execution of the request is likely to prejudice its sovereignty, security, *ordre public* or other essential interests;
 - (c) if the authorities of the requested Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;
 - (d) where the request involves a crime where the maximum penalty in the requested Party is less than two years of imprisonment or other forms of deprivation of liberty or, if, in the judgment of the requested Party, the provision of the assistance would impose a burden on its resources that is disproportionate to the seriousness of the crime; or
 - (e) if it would be contrary to the legal system of the requested Party relating to mutual legal assistance for the request to be granted.
15. Reasons shall be given for any refusal of mutual legal assistance.
16. A Party shall not decline to render mutual legal assistance under this Article on the ground of bank secrecy.
17. Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.
18. Parties may decline to render mutual legal assistance pursuant to this Article on the ground of absence of dual criminality. However, the requested Party may, when it deems appropriate, provide assistance, to the extent it decides at its discretion, irrespective of whether the conduct would constitute an offence under the domestic law of the requested Party.
19. The requested Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting Party and for which reasons are given, preferably in the request. The requested Party shall respond to reasonable requests by the requesting Party regarding progress in its handling of the request. The requesting Party shall promptly inform the requested Party when the assistance sought is no longer required.

20. Mutual legal assistance may be postponed by the requested Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.
21. Before refusing a request pursuant to paragraph 14 or postponing its execution pursuant to paragraph 20, the requested Party shall consult with the requesting Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting Party accepts assistance subject to those conditions, it shall comply with the conditions.
22. The ordinary costs of executing a request shall be borne by the requested Party, unless otherwise agreed by the Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfill the request, the Parties shall consult to determine the terms and conditions under which the request will be executed as well as the manner in which the costs shall be borne.
23. In the event of a request, the requested Party:
 - (a) shall provide to the requesting Party copies of government records, documents or information in its possession that under its domestic law are available to the general public; and
 - (b) may, at its discretion, provide to the requesting Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.
24. Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to, or enhance the provisions of this Article.

ARTICLE 30

Extradition

1. This Article shall apply to the criminal offences established in accordance with Article 14 of this Protocol when:
 - (a) the person who is the subject of the request for extradition is located in the territory of the requested Party;

- (b) the criminal offence for which extradition is sought is punishable under the domestic law of both the requesting Party and the requested Party; and
 - (c) the offence is punishable by a maximum period of imprisonment or other forms of deprivation of liberty of at least four years or by a more severe penalty or such lesser period as agreed by the Parties concerned pursuant to bilateral and multilateral treaties or other international agreements.
- 2. Each of the criminal offences to which this Article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between Parties. The Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
- 3. If a Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, it may consider this Protocol as the legal basis for extradition in respect of any criminal offence to which this Article applies.
- 4. Parties that do not make extradition conditional on the existence of a treaty shall recognize the criminal offences to which this Article applies as extraditable offences between themselves.
- 5. Extradition shall be subject to the conditions provided for by the domestic law of the requested Party or by applicable extradition treaties, including, *inter alia*, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested Party may refuse extradition.
- 6. Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any criminal offences to which this Article applies.
- 7. A Party in whose territory an alleged offender is present, if it does not extradite such person in respect of a criminal offence to which this Article applies solely on the ground that he or she is one of its nationals, shall, at the request of the Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a similar nature under the domestic law of that Party. The Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

8. Whenever a Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that Party and the Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 7.
9. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested Party, the requested Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting Party, consider the enforcement of the sentence that has been imposed under the domestic law of the requesting Party or the remainder thereof.
10. Any person regarding whom proceedings are being carried out in connection with any of the criminal offences to which this Article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the Party in the territory of which that person is present.
11. Nothing in this Protocol shall be interpreted as imposing an obligation to extradite if the requested Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.
12. Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.
13. Before refusing extradition, the requested Party shall, where appropriate, consult with the requesting Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.
14. Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition. Where Parties are bound by an existing treaty or intergovernmental arrangement the corresponding provisions of that treaty or intergovernmental arrangement shall apply unless the Parties agree to apply paragraph 1 to 13 in lieu thereof.

ARTICLE 31

Measures to ensure extradition

1. Subject to its domestic law and its extradition treaties, the requested Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.
2. Measures taken in accordance with paragraph 1 shall be notified, in conformity with national law, as appropriate and without delay, to the requesting Party.
3. Any person regarding whom the measures in accordance with paragraph 1 are being taken, shall be entitled to:
 - (a) communicate without delay with the nearest appropriate representative of the State of which that person is a national or, if that person is a stateless person, the State in the territory of which that person habitually resides; and
 - (b) be visited by a representative of that State.

PART VI: REPORTING

ARTICLE 32

Reporting and exchange of information

1. Each Party shall submit to the Meeting of the Parties, through the Convention Secretariat, periodic reports on its implementation of this Protocol.
2. The format and content of such reports shall be determined by the Meeting of the Parties. These reports shall form part of the regular WHO Framework Convention on Tobacco Control reporting instrument.
3. The content of the periodic reports referred to in paragraph 1, shall be determined having regard, inter alia, to the following:
 - (a) information on legislative, executive, administrative or other measures taken to implement this Protocol;
 - (b) information, as appropriate, on any constraints or barriers encountered in the implementation of this Protocol and on the measures taken to overcome those barriers;
 - (c) information, as appropriate, on financial and technical assistance provided, received, or requested for activities related to the elimination of illicit trade in tobacco products; and
 - (d) the information specified in Article 20.

In those cases when relevant data are already being collected as part of the Conference of the Parties reporting mechanism, the Meeting of the Parties shall not duplicate these efforts.

4. 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.
5. The reporting of information under those Articles shall be subject to national law regarding confidentiality and privacy. Parties shall protect, as mutually agreed, any confidential information that is reported or exchanged.

PART VII: INSTITUTIONAL ARRANGEMENTS AND FINANCIAL RESOURCES

ARTICLE 33

Meeting of the Parties

1. A Meeting of the Parties is hereby established. The first session of the Meeting of the Parties shall be convened by the Convention Secretariat immediately before or immediately after the next regular session of the Conference of the Parties following the entry into force of this Protocol.
2. Thereafter, regular sessions of the Meeting of the Parties shall be convened by the Convention Secretariat, immediately before or immediately after regular sessions of the Conference of the Parties.
3. Extraordinary sessions of the Meeting of the Parties shall be held at such other times as may be deemed necessary by the Meeting or at the written request of any Party, provided that, within six months of the request being communicated to them by the Convention Secretariat, it is supported by at least one third of the Parties.
4. The Rules of Procedure and the Financial Rules of the Conference of the Parties to the WHO Framework Convention on Tobacco Control shall apply, *mutatis mutandis*, to the Meeting of the Parties unless the Meeting of the Parties decides otherwise.
5. The Meeting of the Parties shall keep under regular review the implementation of the Protocol and take the decisions necessary to promote its effective implementation.
6. The Meeting of the Parties shall decide on the scale and mechanism of the voluntary assessed contributions from the Parties to the Protocol for the operation of this Protocol as well as other possible resources for its implementation.
7. At each ordinary session, the Meeting of the Parties shall by consensus adopt a budget and workplan for the financial period until the next ordinary session, which shall be distinct from the WHO Framework Convention on Tobacco Control budget and workplan.

ARTICLE 34**Secretariat**

1. The Convention Secretariat shall be the Secretariat of this Protocol.
2. The functions of the Convention Secretariat with regard to its role as the secretariat of this Protocol shall be to:
 - (a) make arrangements for sessions of the Meeting of the Parties and any subsidiary bodies as well as working groups and other bodies established by the Meeting of the Parties and provide them with services as required;
 - (b) receive, analyse, transmit and provide feedback to Parties concerned as needed and to the Meeting of the Parties on reports received by it pursuant to this Protocol and facilitate the exchange of information among Parties;
 - (c) provide support to the Parties, particularly developing country Parties and Parties with economies in transition, on request, in the compilation, communication, and exchange of information required in accordance with the provisions of this Protocol, and assistance in the identification of available resources to facilitate implementation of the obligations under this Protocol;
 - (d) prepare reports on its activities under this Protocol under the guidance of and for submission to the Meeting of the Parties;
 - (e) ensure, under the guidance of the Meeting of the Parties, the necessary coordination with the competent international and regional intergovernmental organizations and other bodies;
 - (f) enter, under the guidance of the Meeting of the Parties, into such administrative or contractual arrangements as may be required for the effective discharge of its functions as secretariat to this Protocol;
 - (g) receive and review applications by intergovernmental and nongovernmental organizations wishing to be accredited as observers to the Meeting of the Parties, while ensuring that they are not affiliated with the tobacco industry, and present the reviewed applications to the Meeting of the Parties for its consideration; and
 - (h) perform other secretariat functions specified by this Protocol and such other functions as may be determined by the Meeting of the Parties.

ARTICLE 35

Relations between the meeting of the Parties and intergovernmental organizations

In order to provide technical and financial cooperation for achieving the objective of this Protocol, the Meetings of the Parties may request the cooperation of competent international and regional intergovernmental organizations, including financial and development institutions.

ARTICLE 36

Financial resources

1. Parties recognize the important role that financial resources play in achieving the objective of this Protocol, and acknowledge the importance of Article 26 of the WHO Framework Convention on Tobacco Control in achieving the objectives of the Convention.
2. Each Party shall provide financial support in respect of its national activities intended to achieve the objective of this Protocol, in accordance with its national plans, priorities and programmes.
3. Parties shall promote, as appropriate, the utilization of bilateral, regional, subregional and other multilateral channels to provide funding for strengthening the capacity of developing-country Parties and Parties with economies in transition in order to meet the objectives of this Protocol.
4. Without prejudice to Article 18, Parties are encouraged, subject to national laws and policies and where appropriate, to use any confiscated proceeds of crime deriving from the illicit trade in tobacco, tobacco products and manufacturing equipment to achieve the objectives set out in this Protocol.
5. Parties represented in relevant regional and international intergovernmental organizations and financial and development institutions shall encourage these entities to provide financial assistance for developing-country Parties and for Parties with economies in transition to assist them in meeting their obligations under this Protocol, without limiting the rights of participation within these organizations.

6. Parties agree that:
 - (a) to assist Parties in meeting their obligations under this Protocol, all relevant potential and existing resources available for activities related to the objective of this Protocol should be mobilized and utilized for the benefit of all Parties, especially developing-country Parties and Parties with economies in transition; and
 - (b) the Convention Secretariat shall advise developing-country Parties and Parties with economies in transition, upon request, on available sources of funding to facilitate implementation of their obligations under this Protocol.
7. Parties may require the tobacco industry to bear any costs associated with a Party's obligations to achieve the objectives of this Protocol, in compliance with Article 5.3 of the WHO Framework Convention on Tobacco Control.
8. Parties shall endeavour, subject to their domestic law, to achieve self-financing of the implementation of the Protocol including through the levying of taxes and other forms of charges on tobacco products.

PART VIII: SETTLEMENT OF DISPUTES

ARTICLE 37

Settlement of disputes

The settlement of disputes between Parties concerning the interpretation or application of this Protocol is governed by Article 27 of the WHO Framework Convention on Tobacco Control.

PART IX: DEVELOPMENT OF THE PROTOCOL

ARTICLE 38

Amendments to this Protocol

1. Any Party may propose amendments to this Protocol.
2. Amendments to this Protocol shall be considered and adopted by the Meeting of the Parties. The text of any proposed amendment to this Protocol shall be communicated to the Parties by the Convention Secretariat at least six months before the session at which it is proposed for adoption. The Convention Secretariat shall also communicate proposed amendments to the signatories of this Protocol and, for information, to the Depositary.
3. The Parties shall make every effort to reach agreement by consensus on any proposed amendment to this Protocol. If all efforts at consensus have been exhausted and no agreement reached, the amendment shall as a last resort be adopted by a three-quarters majority vote of the Parties present and voting at the session. For purposes of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote. Any adopted amendment shall be communicated by the Convention Secretariat to the Depositary, who shall circulate it to all Parties for acceptance.
4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least two thirds of the Parties.

5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.

ARTICLE 39

Adoption and amendment of annexes to this Protocol

1. Any Party may make proposals for an annex to this Protocol and may propose amendments to annexes to this Protocol.
2. Annexes shall be restricted to lists, forms and any other descriptive material relating to procedural, scientific, technical or administrative matters.
3. Annexes to this Protocol and amendments thereto shall be proposed, adopted and enter into force in accordance with the procedure set forth in Article 38.

PART X: FINAL PROVISIONS

ARTICLE 40 **Reservations**

No reservations may be made to this Protocol.

ARTICLE 41 **Withdrawal**

1. At any time after two years from the date on which this Protocol has entered into force for a Party, that Party may withdraw from the Protocol by giving written notification to the Depositary.
2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal or on such later date as may be specified in the notification of withdrawal.
3. Any Party that withdraws from the WHO Framework Convention on Tobacco Control shall also be considered as having withdrawn from this Protocol, with effect as of the date of its withdrawal from the WHO Framework Convention on Tobacco Control.

ARTICLE 42 **Right to vote**

1. Each Party to this Protocol shall have one vote, except as provided for in paragraph 2.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their Member States that are Parties to the Protocol. Such an organization shall not exercise its right to vote if any of its Member States exercises its right, and vice versa.

ARTICLE 43

Signature

The Protocol shall be open for signature by all Parties to the WHO Framework Convention on Tobacco Control at World Health Organization Headquarters in Geneva from 10 to 11 January 2013, and thereafter at United Nations Headquarters in New York until 9 January 2014.

ARTICLE 44

Ratification, acceptance, approval, formal confirmation or accession

1. This Protocol shall be subject to ratification, acceptance, approval or accession by States and to formal confirmation or accession by regional economic integration organizations that are Party to the WHO Framework Convention on Tobacco Control. It shall be open for accession from the day after the date on which the Protocol is closed for signature. Instruments of ratification, acceptance, approval, formal confirmation or accession shall be deposited with the Depositary.
2. Any regional economic integration organization that becomes a Party without any of its Member States being a Party shall be bound by all the obligations under this Protocol. In the case of organizations one or more of whose Member States is a Party, the organization and its Member States shall decide on their respective responsibilities for the performance of their obligations under this Protocol. In such cases, the organization and the Member States shall not be entitled to exercise rights under this Protocol concurrently.
3. Regional economic integration organizations shall, in their instruments relating to formal confirmation or in their instruments of accession, declare the extent of their competence with respect to the matters governed by this Protocol. These organizations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification to the extent of their competence.

ARTICLE 45

Entry into force

1. This Protocol shall enter into force on the ninetieth day following the date of deposit of the fortieth instrument of ratification, acceptance, approval, formal confirmation or accession with the Depositary.
2. For each Party to the WHO Framework Convention on Tobacco Control that ratifies, accepts, approves or formally confirms this Protocol or accedes thereto after the conditions set out in paragraph 1 for entry into force have been fulfilled, this Protocol shall enter into force on the ninetieth day following the date of deposit of its instrument of ratification, acceptance, approval, accession or formal confirmation.
3. For the purposes of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States Members of that organization.

ARTICLE 46

Depositary

The Secretary-General of the United Nations shall be the Depositary of this Protocol.

ARTICLE 47

Authentic texts

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

Annex 1:
**Decision FCTC/COP5(1) – Protocol to Eliminate Illicit Trade
in Tobacco Products**

The Conference of the Parties,

Deeply concerned that the illicit trade in tobacco products is contributing to the spread of the tobacco epidemic, which is a global problem with serious consequences for public health that calls for effective, appropriate and comprehensive domestic and international responses;

Taking into account Article 15 of the WHO Framework Convention on Tobacco Control, which recognizes, inter alia, that the elimination of all forms of illicit trade in tobacco products is an essential component of tobacco control;

Recalling its decision FCTC/COP2(12) by which the Intergovernmental Negotiating Body was established, with the objective of drafting and negotiating a protocol on illicit trade in tobacco products, which would build upon and complement the provisions of Article 15 of the WHO Framework Convention on Tobacco Control, and further decisions FCTC/COP3(6) and FCTC/COP4(11) which reflected upon the progress achieved during the negotiations;

Acknowledging the work undertaken by the Intergovernmental Negotiating Body on a Protocol on Illicit Trade in Tobacco Products resulting in the draft protocol to eliminate illicit trade in tobacco products, contained in document FCTC/COP/5/6;

Convinced that supplementing the WHO Framework Convention on Tobacco Control with a comprehensive protocol will be a powerful, effective means to counter illicit trade in tobacco products and its grave consequences,

1. ADOPTS in accordance with Article 33 of the WHO Framework Convention on Tobacco Control the attached Protocol to Eliminate Illicit Trade in Tobacco Products; and
2. CALLS UPON all Parties to the WHO Framework Convention on Tobacco Control, to consider signing, ratifying, accepting, approving, formally confirming or acceding to the Protocol at the earliest opportunity, with a view to bringing the Protocol into force as soon as possible.

Annex 2:

History of the negotiations of the Protocol to Eliminate Illicit Trade in Tobacco Products

As early as 2006, at the first meeting of the Conference of the Parties (COP) following entry into force of the WHO FCTC, the Parties discussed possible protocols to the Convention. One of the areas in which they agreed that a protocol could be established was illicit trade in tobacco products, and accordingly, the COP set up an expert group to prepare a template for a possible protocol in this area. The expert group presented its report to the COP at its second session in 2007.

Recognizing that cooperative action was necessary in order to eliminate the illicit trade, the COP at its second session established an Intergovernmental Negotiating Body (INB), open to all Parties, to draft and negotiate a protocol on illicit trade in tobacco products that would build upon and complement the provisions of Article 15 of the WHO FCTC.

The INB held five sessions, all in Geneva, Switzerland. The first session of the INB was held on 11–15 February 2008. The template for a protocol on illicit trade as proposed by the expert group served as the basis for the negotiations. Mr Ian Walton-George, representing the European Union, was elected as Chairperson of the INB, and Dr J. Al-Lawati (Oman), Dr E. Jaramillo (Mexico), Mr P. Krishna (India), Mrs L. Asiedu (Ghana) and Mr J. Martin (Federated States of Micronesia) as Vice-Chairpersons. Following the first session, Mr Walton-George drafted a “Chairperson’s text”, taking into account the comments made by Parties during the first session.

The second session of the INB was held on 20–25 October 2008, with the Chairperson’s text serving as the basis for negotiations. The INB reported to the third session of the COP (17–22 November 2008, Durban, South Africa) on progress. The Conference requested the INB to continue its work and to submit a draft protocol to its fourth session.

As also requested by the COP, regional consultations were held for all six regions between the second and third sessions of the INB. The consultations took place in Tehran, Islamic Republic of Iran (Eastern Mediterranean Region), Geneva (African and European Regions), Mexico City, Mexico (Region of the Americas), Beijing, China (Western Pacific Region) and Dhaka, Bangladesh (South-East Asia Region).

Expert papers were also prepared by the Secretariat on several technical matters to serve as background documents for the discussions at the third session of the INB: the feasibility of an international tracking and tracing

regime; the legal ramifications of a possible ban of sales of tobacco products via the Internet as well as of a possible ban on duty free sales of tobacco products; legal advice on the scope of the protocol; and an assessment of potential requirements at national level for an international track and trace regime.

For the third session of the INB (28 June – 5 July 2009), the Chairperson prepared a revised Chairperson's text, taking into account the discussions during the second session of the INB, the expert papers, and legal advice. The revised Chairperson's text served as the basis for discussions at the third session of the INB. The INB re-elected Mr Walton-George as Chairperson. As Vice-Chairpersons, the INB elected Dr T. Vinit (Papua New Guinea), Mr H. Mohamed (Maldives), Mrs L. Asiedu (Ghana) – replaced by Dr M. Anibueze (Nigeria) at the fourth session of the INB –, Dr E. Al Mansoori (United Arab Emirates) and Dr J. Regalado Pineda (Mexico).

The third session resulted in a negotiating text, which the INB agreed would form the basis for further negotiations.

Two drafting groups established by the INB worked between its third and fourth sessions and proposed text for articles relating to the control of the supply chain and matters of criminal law, mutual legal assistance and extradition, in order to facilitate further negotiations at the fourth session. The groups were chaired by Dr M. Anibueze (Nigeria) and Mrs I. Demuni de Silva (Sri Lanka).

At the fourth session of the INB (14–21 March 2010), the delegations discussed provisions of the negotiating text as well as proposals made by the drafting groups. At the closure of the session, the INB decided to recommend that the draft protocol be considered by the COP at its fourth session. The text of the draft protocol showed the progress made by the INB to this point – consensus had been reached on 26 provisions, while 23 remained under discussion. In particular, consensus had been reached on the tracking and tracing provisions and the great majority of the provisions relating to licensing. However, a number of important and challenging issues remained unsolved. On several matters, the INB sought guidance from the COP, including regarding the method of financing of the protocol.

The COP acknowledged the progress made by the INB and extended the mandate of the INB to a final session in early 2012, requesting the INB to submit the text of a draft protocol to its fifth session for consideration. It also established an informal working group to make proposals and develop possible text, in order to facilitate negotiations at the fifth session of the INB.

The informal working group, comprising representatives of 30 Parties (five Parties per WHO region), held two meetings (Geneva, 4–8 July and 19–23 September 2011) and was chaired by Dr Nuntavarn Vichit-Vadakan (Thailand). In accordance with its mandate, the group developed possible text for those articles in Part III of the protocol, on supply chain control, that had not yet been agreed, and made proposals on the other matters within its mandate, including the method of financing of the protocol and the inclusion of mutual legal assistance and extradition in the draft protocol.

The fifth session of the INB was held from 29 March to 4 April 2012. The INB confirmed Mr Walton-George as Chairperson. Mr A.T. Faireka (Cook Islands) replaced Dr T. Vinit (Papua New Guinea), and Dr M. Kabir (Nigeria) replaced Dr M. Anibueze (Nigeria) as Vice-Chairpersons.

After four years and five sessions of negotiations, on 4 April 2012 the delegations to the fifth session of the INB agreed on a consensus text to be submitted to the COP for consideration at its fifth session. The text of the draft protocol also took account of the comments submitted by Parties on the Arabic, Chinese, French, Russian and Spanish translations of the English text, in line with the decision of the INB.

On 12 November 2012, the Protocol was adopted by consensus at the fifth session of the COP (Seoul, Republic of Korea, 12–17 November 2012). It thus became the first protocol to the WHO FCTC, and a new international treaty in its own right.

The Protocol was opened for signature on 10 January 2013 at WHO headquarters in Geneva. More than 50 Parties participated in this event, during which 12 Parties, representing all six WHO regions, signed the Protocol; one more Party signed the following day. The 13 Parties are: China, France, Gabon, Libya, Myanmar, Nicaragua, Panama, Republic of Korea, South Africa, Syrian Arab Republic, Tunisia, Turkey and Uruguay. The Protocol remained open for signature at United Nations Headquarters in New York until 9 January 2014.

The Protocol to Eliminate Illicit Trade in Tobacco Products is a landmark in the strengthening of global action against tobacco and is a new legal instrument in public health. It supplements the WHO FCTC with a comprehensive tool to counter and eventually eliminate illicit trade in tobacco products and to strengthen legal dimensions for international health cooperation.

Annex 3:
Article 15 of the WHO Framework Convention
on Tobacco Control

Illicit trade in tobacco products

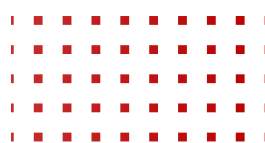
1. The Parties recognize that the elimination of all forms of illicit trade in tobacco products, including smuggling, illicit manufacturing and counterfeiting, and the development and implementation of related national law, in addition to subregional, regional and global agreements, are essential components of tobacco control.
2. Each Party shall adopt and implement effective legislative, executive, administrative or other measures to ensure that all unit packets and packages of tobacco products and any outside packaging of such products are marked to assist Parties in determining the origin of tobacco products, and in accordance with national law and relevant bilateral or multilateral agreements, assist Parties in determining the point of diversion and monitor, document and control the movement of tobacco products and their legal status. In addition, each Party shall:
 - (a) require that unit packets and packages of tobacco products for retail and wholesale use that are sold on its domestic market carry the statement: “*Sales only allowed in (insert name of the country, subnational, regional or federal unit)*” or carry any other effective marking indicating the final destination or which would assist authorities in determining whether the product is legally for sale on the domestic market; and
 - (b) consider, as appropriate, developing a practical tracking and tracing regime that would further secure the distribution system and assist in the investigation of illicit trade.
3. Each Party shall require that the packaging information or marking specified in paragraph 2 of this Article shall be presented in legible form and/or appear in its principal language or languages.
4. With a view to eliminating illicit trade in tobacco products, each Party shall:
 - (a) monitor and collect data on cross-border trade in tobacco products, including illicit trade, and exchange information among customs, tax and other authorities, as appropriate, and in accordance with national law and relevant applicable bilateral or multilateral agreements;

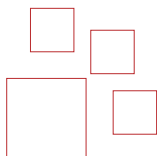
- (b) enact or strengthen legislation, with appropriate penalties and remedies, against illicit trade in tobacco products, including counterfeit and contraband cigarettes;
 - (c) take appropriate steps to ensure that all confiscated manufacturing equipment, counterfeit and contraband cigarettes and other tobacco products are destroyed, using environmentally-friendly methods where feasible, or disposed of in accordance with national law;
 - (d) adopt and implement measures to monitor, document and control the storage and distribution of tobacco products held or moving under suspension of taxes or duties within its jurisdiction; and
 - (e) adopt measures as appropriate to enable the confiscation of proceeds derived from the illicit trade in tobacco products.
5. Information collected pursuant to subparagraphs 4(a) and 4(d) of this Article shall, as appropriate, be provided in aggregate form by the Parties in their periodic reports to the Conference of the Parties, in accordance with Article 21.
6. The Parties shall, as appropriate and in accordance with national law, promote cooperation between national agencies, as well as relevant regional and international intergovernmental organizations as it relates to investigations, prosecutions and proceedings, with a view to eliminating illicit trade in tobacco products. Special emphasis shall be placed on cooperation at regional and subregional levels to combat illicit trade of tobacco products.
7. Each Party shall endeavour to adopt and implement further measures including licensing, where appropriate, to control or regulate the production and distribution of tobacco products in order to prevent illicit trade.

Annex 4:
Article 33 of the WHO Framework Convention
on Tobacco Control

Protocols

1. Any Party may propose protocols. Such proposals will be considered by the Conference of the Parties.
2. The Conference of the Parties may adopt protocols to this Convention. In adopting these protocols every effort shall be made to reach consensus. If all efforts at consensus have been exhausted, and no agreement reached, the protocol shall as a last resort be adopted by a three-quarters majority vote of the Parties present and voting at the session. For the purposes of this Article, Parties present and voting means Parties present and casting an affirmative or negative vote.
3. The text of any proposed protocol shall be communicated to the Parties by the Secretariat at least six months before the session at which it is proposed for adoption.
4. Only Parties to the Convention may be parties to a protocol.
5. Any protocol to the Convention shall be binding only on the parties to the protocol in question. Only Parties to a protocol may take decisions on matters exclusively relating to the protocol in question.
6. The requirements for entry into force of any protocol shall be established by that instrument.

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- The Protocol to Eliminate Illicit Trade in Tobacco Products is the first protocol to the WHO Framework Convention on Tobacco Control (WHO FCTC). It was developed in response to the growing international illicit trade in tobacco products, which poses a serious threat to public health by increasing the accessibility and affordability of tobacco products, thus fuelling the tobacco epidemic and undermining tobacco control policies. The illicit trade also causes substantial losses in government revenues, and at the same time contributes to the funding of transnational criminal activities. The objective of the Protocol is the elimination of all forms of illicit trade in tobacco products, in accordance with the terms of Article 15 of the WHO FCTC, by requiring Parties to take measures to control the supply chain of tobacco products effectively and to cooperate internationally on a wide range of matters.



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GOVERNMENT OF PAKISTAN
(REVENUE DIVISION)
FEDERAL BOARD OF REVENUE

Islamabad, the 26th February, 2019.

NOTIFICATION
(SALES TAX AND FEDERAL EXCISE)

S.R.O. 250(I)/2019.-- In exercise of the powers conferred by sub-section (1) of section 4, section 40 and section 45A of the Federal Excise Act, 2005, section 219 of the Customs Act, 1969 (IV of 1969), section 50 of the Sales Tax Act, 1990, read with sub-section (2) of section 8, clause (b) of sub-section (1) of section 8, clause (ii) of sub-section (2) of section 8B, sections 9, 10, 14, 21, 21A and 28, clause (c) of sub-section (1) of section 22, first proviso to sub-section (1) of section 23, section 26, section 33, section 40C, sub-section (6) of section 47A, sections 48, 50A, 52, 52A and 66 thereof, the Federal Board of Revenue is pleased to direct that the following further amendments shall be made in the Sales Tax Rules, 2006, namely:—

In the aforesaid Rules, for Chapter XIV-B, the following shall be substituted, namely:—

“CHAPTER XIV-B

**ELECTRONIC MONITORING, TRACKING AND TRACING OF
SPECIFIED GOODS AND LICENSING THEREFOR**

SUB-CHAPTER 1

PRELIMINARY

150ZF. Application.— The provisions of this Chapter shall apply to electronic monitoring, tracking and tracing of production, import and supply-chain of the following goods, on real time basis, hereinafter referred to as the specified goods, namely:—

- (a) tobacco Products;
- (b) beverages;
- (c) sugar;
- (d) fertilizer; and
- (e) cement:

Provided that any or all of the said specified goods above shall be monitored, tracked and traced in the manner provided in this Chapter from the date to be specified by the Board, through a general order:

Provided further that the specified goods, if brought from non-tariff area as defined in the Federal Excise Act, 2005, shall be treated as imported goods for the purposes of this Chapter.

150ZG. Definitions.- In this Chapter, unless there is anything repugnant in the subject or context,-

- (a) “applicant” means any company or consortium or joint venture which makes application for a license under these rules;
- (b) “central control room” means a control room established by the Board at FBR House, Islamabad or any other control room specifically designated by the Board;
- (c) “consortium” means an agreement or arrangement in which two or more firms or companies pool their financial and human resources to undertake the project;
- (d) “licensing committee” means a committee comprising Commissioner (Zone-I), LTU, Islamabad, Commissioner (Zone-I) LTU Karachi, Commissioner Mardan Zone, RTO Peshawar, Director, Intelligence and Investigation-IR, Islamabad, Chief IR (Operations-I), FBR Headquarters, Islamabad, and any other officer or authority designated by the Board;
- (e) “Project Director” means the Chief (IR-Operations-I), FBR or any other officer designated by the Board; and

- (f) “regional control room” means a control room established by the Board in Regional Tax Office, Peshawar or any other control room designated by the Board.

150ZH. Goods to be affixed with tax stamps, banderoles, stickers, labels, barcodes, etc.— (1) On every package, including a tin, container or bottle, of the specified goods whether manufactured or imported shall be affixed or printed a tax stamp, banderole, sticker, label, barcode, etc., hereinafter referred to as tax stamp, in the manner prescribed under this Chapter:

Provided that in respect of such specified goods which are exempt or meant for export tax stamps shall not be required to be affixed thereon, but shall be clearly, legibly and indelibly marked as “Exempt Goods” or “For Export”, as the case may be.

(2) Every tax stamp required to be affixed under these rules shall bear such security features as are approved by the Board in order to—

- (a) prevent counterfeiting;
- (b) enable accounting of production of the specified goods; and
- (c) enable any person in the supply chain or an officer authorized by the Commissioner Inland Revenue to authenticate such tax stamp.

(3) The system for imported goods shall be installed in a designated area at the port of importation or a customs bonded warehouse, as the case may be, declared by the importer for this purpose, or any other place approved by the Project Director:

Provided that the Board may allow tax stamps to be affixed on any specified goods to be imported in a production facility in the exporting country, subject to such conditions as the Board may specify.

(4) No person engaged in manufacturing, sale or purchase or handling of specified goods shall remove or tamper with the tax stamp affixed thereon until these are sold to the final consumer.

SUB-CHAPTER 2

LICENSING

150ZI. Licensing of companies for electronic monitoring, tracking and tracing of specified goods.- (1) No company shall carry out electronic monitoring, tracking or tracing of specified goods unless it has obtained a licence under these rules.

(2) No licensee under these rules shall establish, maintain or operate any other system or provide any other service which is not authorized under the licence.

150ZJ. Functioning of Licensing Committee.- (1) The licensing committee shall function in accordance with the provisions of these rules.

(2) Project Director, Track and Trace System, shall be the convener of the licensing committee and its headquarters shall be located at FBR House, Islamabad. The Board shall provide secretarial and other allied support required for functioning of the licensing committee.

(3) The licensing committee shall devise procedures for its functioning, which shall be in accordance with these rules.

150ZK. Application for grant of a licence.- (1) An application to carry out tracking, tracing and electronic monitoring of specified goods mentioned in these rules shall be made in duplicate to the Board.

(2) No application under sub-rule (1) shall be considered unless it is accompanied by all the supportive and relevant documents including the following, namely:-

- (a) a comprehensive profile of the company or partners or members in consortium;
- (b) brief about managerial and technical personnel indicating name, position, qualification and experience;
- (c) total number of current employees;

- (d) list of major clientele;
- (e) documents showing relevant experience in electronic monitoring, tracking and tracing of tobacco products, beverages, medicines, petroleum or any other goods;
- (f) complete history of activities undertaken and synopsis of the projects done;
- (g) current commitments and status of in-hand projects;
- (h) incorporation certificate under the Companies Act, 2017 (XIX of 2017), and in case of consortium at least one member has such incorporation certificate;
- (i) National Tax Number (NTN) certificate;
- (j) audited accounts of the last three financial years;
- (k) income tax returns for the last three years;
- (l) registration with Sales Tax Department, if required;
- (m) computerized National Identity Cards (CNICs) of directors of the incorporated company; and
- (n) undertaking that the company has never been blacklisted by any Government or private department or organization and has not been involved in confirmed cases of fiscal fraud.

(3) The applicant shall also declare the fee and charges that it intends to collect from manufacturers or importers of specified goods during the licence period.

150ZL. Criteria for grant of a licence.- (1) The applicant shall be required to provide technological solutions for the high security tax stamps and related electronic monitoring and tracking system tailored for Pakistani needs on real time basis.

(2) The applicant shall possess the following qualifications to be considered for issuance of licence, namely:-

- (a) it shall be a company duly incorporated under the Companies Act, 2017 (XIX of 2017);

- (b) it shall have experience and past performance in electronic monitoring, tracking and tracing of tobacco products, beverages, medicines, petroleum etc preferably in multiple countries;
- (c) it shall be in a financial position to undertake the project – minimum annual turnover of US\$ 50 million in any of last three years or financial worth of US\$ 25 million; and
- (d) it shall have appropriate managerial capacity to execute and run the project.

(3) The system based solution offered by the applicant must have the following features, namely:-

- (a) individually coded stamps to be affixed or applied on each package of the specified goods on the manufacturing lines or at importing station, as the case may be.
- (b) the stamps shall be associated to every specific brand of a manufacturer;
- (c) system shall provide for management of the workflow from the requirement or order of the manufacturer to the dispatch, reception and ultimately, application or affixation of tax stamps and activation of codes;
- (d) the system shall allow the Board or the concerned field offices to monitor the production workflow and activities on a continuous basis;
- (e) the system shall also provide all necessary functionalities in order to organize and monitor the activity of the controllers and generate requisite reports;
- (f) mobile control devices or equivalent smart phones for officers of the Board to check the authenticity and trace the stamps on the units of tobacco products in the field;
- (g) serialized secure stamps on tobacco products;
- (h) a system providing at the production stage for the association of the stamps with a product defined by its SKU (Stock Keeping Unit);

- (i) data analysis and communication results thereof to central control room (CCR) and regional control room (RCR);
- (j) reporting of unauthorized stoppages (include stoppages which cannot be reasonably excused by the relevant officers of the Board or as elaborated by the concerned Commissioner through a public notice) of production;
- (k) must be stable, fault-tolerant, secure and accessible only by authorized username and password as authorized by the Board;
- (l) necessary computers and data activation capturing devices on the production lines of manufacturer;
- (m) this system shall provide that the information given below shall be securely transferred to the data warehouse of Board;
- (n) information regarding spoiled, lost, unused, stolen and fake tax stamps and reconciliation; and
- (o) The Track and trace system should include following control functionalities at several level, namely:–
 - (i) advanced authentication of all the different profiles on the system (login and password);
 - (ii) control of activation in the manufacturing plants; and
 - (iii) control of controller activity and planning of inspection tours.

(4) The system based solution offered by the applicant shall be able to perform the following functions, namely:-

- (a) monitoring capability on real-time basis of a minimum 50 factory premises or production lines;
- (b) tracing and tracking of specified goods throughout the country from factory premises to retail level on real time basis;
- (c) the ability to configure the tracking unit remotely;
- (d) the system must be capable of sending alert messages and trigger alarms (visible and audible) in case of occurrence of abnormal events such as unauthorized stoppages of production, tempering with stamping machines etc.

- (e) in case of absence of communication network coverage the tracking unit of the system must be able to switch over to another network so as to ensure real time tracking without interruption or break;
- (f) the system reporting should be capable to filter and process the production data for statistical and analytical purposes;
- (g) the licensee should ensure secure data storage and archiving of data for five years from its generation or recording;
- (h) ability to use authentication devices, or equivalent smart phones etc. for reading data at various sites;
- (i) ability to assign Unique Identification Number (UIN) which should contain Complete information about tracking unit including production date, brand name, machine number, location etc.; and
- (j) all electronic data interface (EDI) communication should be encrypted to ensure secure communications.

(5) The applicant shall also submit a complete list of operations and maintenance required to operate the system based solution.

(6) The applicant shall specify the expected delivery and implementation time, which shall not exceed six months from the date of issuance of license. The applicant shall also undertake to meet these timelines.

150ZM. Procedure for grant of a licence.- (1) On receipt of an application for grant of licence in the Board, the licensing committee shall evaluate it.

(2) The licensing committee may also fix a date for a hearing to be attended by the applicant for the purposes of evaluation of the application submitted under sub-rule (1).

(3) The licensing committee may also carry out visits and physical inspections to ascertain eligibility of the applicant for licensing under these rules.

(4) The applicant shall be required to give practical demonstration of the technological solution offered for licensing.

(5) The licensing committee shall send its recommendations to the Board within thirty days from the date of submission of the application. It shall give detailed reasons for recommending rejection of any application under these rules:

Provided that where complete documents or any information needed for the requisite evaluation have not been provided within fifteen days of the requisition or within thirty days of the submission of application, whichever is later, the application shall be summarily rejected.

(6) In case a company meets the technical and financial criteria given in these rules, the licensing committee shall recommend to the Board for grant of licence to such a company.

(7) The Board may grant licence to the recommended company.

(8) The qualified company shall be required to deposit bank guarantee for rupees fifty million to the licensing committee, as financial security, before issuance of the licence. The bank guarantee shall be valid for whole duration of the licence and shall be encashable in case of violation of these rules or terms of licence leading to loss of government revenue.

150ZN. Rights granted to the licensee.- A licensee shall have the right to establish, maintain and operate a system to monitor and track the cargo on real time basis, in accordance with terms and conditions of the licence.

150ZO. Terms and conditions of the licence.- (1) Subject to these rules, licence shall be granted for a period of five years.

(2) The licence granted under these rules shall be subject to the provisions of the Act.

(3) The licence granted under these rules shall be non-transferrable and shall not be allowed to be used by any sub-contractor.

150ZP. Renewal of the licence.- (1) An application for renewal of licence shall be made to the Board, three months before its expiry.

(2) The licensing committee shall evaluate the application and may recommend to the Board renewal of licence.

(3) The Board may renew the licence for further three years on the basis of recommendations of the licensing authority.

(4) The licensee shall be required to comply with all the provisions of these rules for the renewed period.

SUB-CHAPTER 3 RESPONSIBILITIES OF THE LICENSEE

150ZQ. Licensee to run and manage the system.- (1) The licensee shall be responsible to operationalize the system within six months of issuance of licence.

(2) The licensee shall run and manage the system under proper warrantee and shall ensure maintenance during the period of licence.

(3) The licensee shall abide by all relevant laws while running the system.

150ZQA. Establishment of Central Control Room.- (1) The Board shall design, furnish and establish a central control room (CCR) in the FBR House, Islamabad or in any other control room designated by the Board.

(2) The CCR shall be equipped with hardware, software, plasma screens, LCDs, communication and other allied equipment for viewing, analyzing the movements of goods and responding in cases of alerts.

(3) The CCR shall have necessary servers and data storage facilities to store and manage data bases for the specified goods monitored daily, with report printing capabilities.

(4) The operators at the CCR shall be able to transfer the map or any section of it to any monitor or licensee connected to the system based on pre-assigned priorities.

150ZQB. Establishment of regional control rooms.- (1) The licensee shall design, furnish and establish regional control rooms (RCR) in various field formations or in any other places designated by the Board.

(2) The RCRs shall be connected with the CCR and equipped with the requisite infrastructure for monitoring the movement of goods and vehicles and for responding in cases of alerts.

150ZQC. Requirements to be met at the factory premises and at imports.- (1) The licensee shall ensure that each factory premises and import station is connected to the system with adequate IT infrastructure for monitoring of production and generation of periodic report.

(2) The licensee shall arrange testing for all stamping equipment and tracking devices at each production sites.

(3) The licensee shall provide and maintain authentication devices, printers, UPS, etc. for smooth operation of the system.

(4) The system shall be expandable to cover future requirements of the Board.

150ZQD. Technical and training support.- (1) The licensee shall provide the technical support, as detailed below:-

(a) setting up and maintenance of all information technology (IT) infrastructure, wherever needed, for the purposes of these rules; and

(b) the licensee shall be fully responsible for-

- (i) all upgrades of the system, hardware and software;
- (ii) all bug fixes; and
- (iii) immediate response and repair of any technical problem in the system during holidays or working days to cover the major, minor and moderate problems for uninterrupted working of the system.

(2) The licensee shall undertake to upgrade, as per the new technological requirement, the installed IT structure, related software, communication equipment etc., as and when required.

(3) The licensee shall arrange to provide comprehensive technical and operational training to the IR officers and officials and other concerned officials and ensure provision of all documentation and technical manuals, wherever and whenever required.

(4) Quarterly appraisal reviews of functioning and efficacy of the system shall be carried out for which the licensee shall make necessary arrangements.

SUB-CHAPTER 4

SUPERVISION OF THE SYSTEM, ENFORCEMENT AND EARLY TERMINATION

150ZQE. Responsibilities of the Project Director.- (1) The Project Director shall be responsible for overall supervision of the system.

(2) The Project Director shall send quarterly performance reports to the Board covering *inter alia* the functioning and efficacy of the system, the scope and need of improvements observed in the system and the steps taken to address problems encountered during operation of the system.

150ZQF. Procedure for cancellation or termination of licence.- (1) The Project Director shall immediately refer the matter to the licensing committee for further action under these rules, if he, as a result of supervision of the system or on receipt of a report from any of the Commissioners of Inland Revenue or on a valid complaint, has reasons to believe that the licensee has-

- (a) failed to set up the infrastructure and to operationalize the system within the timelines committed at the time of issuance of licence;
- (b) failed to provide the required services to the satisfaction of the Board authorities;
- (c) contravened any condition of the licence;
- (d) contravened any provision of these rules or the Act; or
- (e) violated any applicable law while carrying out activities of licence under these rules.

(2) On receipt of reference from the Project Director under sub-rule (1), the licensing committee shall cause to serve a notice upon the licensee within fifteen days of receipt of reference, to show cause within thirty days after the date of the notice, as to why the licence issued under these rules should not be cancelled or terminated:

Provided that in cases where the Licensing Authority, on the basis of material evidence, is of the opinion that there exists *prima facie* a sufficient case against the licensee, it may suspend the licence to safeguard public finances and to prevent any other serious damage.

(3) The licensing committee may, after giving the licensee adequate opportunity of being heard and after examination of the record, cancel or terminate the licence issued under these rules.

(4) In case of cancellation of licence under these rules, the affected company shall have the right to file representation against the orders of the licensing committee before the Board.

(5) The Board shall decide the representation, after giving proper opportunity of being heard.

SUB-CHAPTER 5

FEE AND CHARGES

150ZQG. Fee and charges.- (1) The licensee shall charge fee for tax stamps from the manufacturer or importer.

(2) No fee whatsoever shall be charged from any of the field formations or the Board.

150ZQH. Determination of fee and charges.- (1) The licensing committee shall at the time of issuance of licence get the maximum amount of fee and charges determined which can be collected by the licensee from importers or manufacturers of the specified goods during the duration of the licence.

(2) The Project Director shall notify these fee and charges through a public notice for information of all the relevant persons.

(3) The Project Director shall ensure that only the fee and charges determined by the licensing authority are being collected by the licensee.

150ZQI. Revision or alteration of fee and charges.- (1) The fee and charges determined in accordance with rule 150ZQH shall not be revised or altered in normal circumstances during the duration of the license.

(2) In cases where the basis of such determination has undergone significant and material change or where major economic disruption has occurred, the licensee may file a petition before the licensing committee accordingly to revise or alter the determined fee or charges.

(3) The licensing committee may in circumstances mentioned in sub-rule (2) allow review or alteration in such fee and charges:

Provided that in case where petition has been filed for upward revision or alteration of fee and charges, the representatives of importers and manufacturers of manufacturers shall be given an opportunity to present their point of view during the proceedings.

(4) The licensee may in case where the petition for upward revision or alteration of the fee and charges has been rejected shall have the option to request the licensing committee for cancellation of the licence issued under these rules.

(5) The licensing committee shall, on receipt of such a request under sub-rule (4), cancel the licence forthwith.

SUB-CHAPTER 6

FUNCTIONS AND RESPONSIBILITIES OF OTHERS

150ZQJ. Functions and responsibilities of the manufacturer or importer of specified goods.— (1) The manufacturer or importer of specified goods shall-

- (a) make all production facilities available for installation of the system and allow access to the licensee for routine operations, inspection and maintenance;
- (b) not supply any goods without routing them through the system and without affixation of tax stamps;
- (c) be responsible to pay the prescribed fee as provided in this Chapter;
- (d) require a licensee to provide the requisite quantities of tax stamps, banderoles, stickers, labels, barcodes etc. at least thirty days in advance, under intimation to the Board;
- (e) be responsible for smooth functioning, protection and security of the system;

- (f) report to the Board and concerned Commissioner Inland Revenue within twenty-four hours of any operational failure, damage, disruption or tampering of the system:

Provided that any damage to the system found to be due to carelessness, negligence or deliberate action of the manufacturer shall be repaired at the expense of the manufacturer, without prejudice to any legal action that may be taken for recovery of evaded tax and imposition of penalty;

- (g) maintain proper inventory of the tax stamps, banderoles, stickers, labels, barcodes etc.;
- (h) not print over, hide or deface a tax stamp, banderole, sticker, label, barcodes etc. affixed on a package;
- (i) allow unhindered access to the licensee and officer of Inland Revenue, authorized in this behalf;
- (j) give a notice to the Board, at least thirty days in advance, from the date of start of production of new brands of goods, any change in the graphic art of existing goods together with the corresponding packages and labels or closure, expansion, modification or any other changes in the production line;
- (k) return, under intimation to the Commissioner concerned, any tax stamps, banderoles, stickers, labels, barcodes etc. to the licensee in case the manufacturing is stopped, import is not made or the tax stamps, banderole, stickers, labels, etc. are defective or do not conform to the required specifications;

- (l) make available the damaged tax stamps, banderoles, stickers, labels, barcodes etc. for inspection by the officer authorized by Commissioner Inland Revenue;
- (m) report any inoperative production lines within twenty-four hours of occurrence to the concerned Commissioner Inland Revenue and the officer authorized by Commissioner Inland Revenue shall immediately proceed to secure such lines using a security seal and register the action in the system; and
- (n) production lines sealed as aforesaid shall not be de-sealed to resume operation except with the permission of the Commissioner Inland Revenue.

150ZQK. Functions of the Commissioner Inland Revenue- (1) The Commissioner, having jurisdiction, shall monitor proper and uninterrupted operation of the system through periodic visits by an officer of Inland Revenue authorized in this behalf.

(2) Where a manufacturer or importer cannot account for the tax stamps, banderoles, stickers, labels, barcodes etc. issued to him by the licensee, the officer authorized by Commissioner Inland Revenue shall compute duties and taxes on the goods related to the unaccounted tax stamps, banderoles, stickers, labels, barcodes etc. and recover the same under the law.

150ZQL. Responsibility of persons involved in the supply chain.- A distributor, wholesaler, dealer, retailer or any other person involved in the supply chain of specified goods, shall verify the tax stamps, banderoles, stickers, labels, barcodes etc. affixed on the specified goods before taking any supply.

SUB-CHAPTER 6

MISCELLANEOUS

150ZQM. Liabilities of the licensee.- (1) Without prejudice to the action that can be taken under Chapter IV of these rules, the licensee shall be liable to punitive action under the Act and rules made thereunder, in cases of its willful collusion with the importer or manufacturer for violation or contravention of any of such provision.

(2) The licensee shall also be liable to deposit duty and taxes along with surcharges and penalties under the Act and the relevant rules, where it is established through proceedings under the Act, after providing an opportunity of being heard, that the licensee has colluded with manufacturer resulting in evasion of duty and taxes.

150ZQN. Establishment of Inland Revenue enforcement network.- The Board shall establish Inland Revenue enforcement network (IREN) which shall be responsible for combating evasion and leakages of taxes and duties payable on specified goods, which shall co-ordinate with enforcement units of the concerned field formations.

150ZQO. Functioning of IR enforcement network.- To check and verify any of the eventualities, the enforcement squads of IR shall patrol the designated routes on which specified goods are moving. The mobile squads may check a vehicle or any place of storage, wherein reportedly such specified goods are being transported, stored or kept, as the case may be, on which tax stamps have not been affixed under these rules.

150ZQP. Audit.- The Project Director shall arrange to carry out audit of the system every year. The report shall be used for system related improvements and corrective and remedial actions, where warranted.

[C. No 1/102-STB/2015 (Pt-2)]


(Tauqeer Ahmed)
Secretary (ST&FE-Budget)