

# 2020 - Questionnaire on the implementation of the Protocol to Eliminate Illicit Trade in Tobacco Products by its Parties

## A. ORIGIN OF THE REPORT

### Name of contracting Party:

Montenegro

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### Information on national contact responsible for preparation of the report:

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## Period of reporting:

|                    | <b>Month</b> | <b>Year</b> |
|--------------------|--------------|-------------|
| Start date (SQ001) | January (1)  | 2018 (4)    |
| End date (SQ002)   | March (3)    | 2020 (6)    |

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## PART I: B. INTRODUCTION

### ARTICLE 2 - RELATION BETWEEN THIS PROTOCOL AND OTHER AGREEMENTS AND LEGAL INSTRUMENTS

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Please list any bilateral or multilateral agreements you entered into on issues relevant or additional to the Protocol, as mentioned in Article 2 of the WHO FCTC.

- On 10th of November 2014, Memorandum of Understanding for cooperation and mutual assistance in penal matters in the area of taxation, customs clearance and other issues of mutual interest, was signed between the Ministry of Finances, Ministry of Interior, Ministry of Justice of Montenegro and HMRC (Her Majesty's Revenue and Customs, Border Administration and Ministry of Justice of the United Kingdom of Great Britain and Northern Ireland). On the basis of the Memorandum, on the same day, 10 November 2014, the Protocol of cooperation between the above-mentioned institutions of Montenegro and the United Kingdom was signed. This Protocol defines application of operational measures and exchange of strategic and operational data in the area of combating avoidance of excise duties payment and related criminal actions.
- On 05 March 2019, the new Memorandum of understanding and mutual assistance in criminal matters related to taxes and customs duties and similar issues of mutual interest was signed between the Ministry of Finances, Ministry of Interior, Ministry of Justice, Ministry of Foreign Affairs, and Ministry of Economy of Montenegro and HMRC (Her Majesty's Revenue and Customs), Border Administration and Ministry of Justice of the United Kingdom of Great Britain and Northern Ireland, with the five year validity period and subject to automatic renewal for the period of next five years if untermiated before by any of the participants. In addition to the mentioned Memorandum, the Operational protocol was signed on the application of operational measures and exchange of strategic and operational intelligence data.
- Customs Administration of Montenegro signed Memorandum of understanding with the worlds' largest tobacco producers, with an aim to jointly combat illegal tobacco products sale: "Japan Tobacco International" on 21.09.2015.; "Phillip Morris" on 26.01.2016 and "British American Tobacco" on 22.03.2016.

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## PART II: C. GENERAL OBLIGATIONS

### ARTICLE 5 - PROTECTION OF PERSONAL DATA

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What measure have you taken, in particular in the past two years, to ensure the protection of personal data of individuals, regardless of nationality or residence, when implementing this Protocol?

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## PART III: D. SUPPLY CHAIN CONTROL

### ARTICLE 6 – LICENCE, EQUIVALENT APPROVAL OR CONTROL SYSTEM

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Do you have a licensing system in place for any of the following activities:

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Manufacture of tobacco products?

Yes ✓

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Manufacture of manufacturing equipment?

Yes ✓

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Import of tobacco products?

Yes ✓

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Export of tobacco products?

Yes ✓

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Import of manufacturing equipment?

No ✗

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Export of manufacturing equipment?

No ✗

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Do you require a license for any natural or legal person engaged in:

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Retailing of tobacco products

Yes ✓

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Growing of tobacco, except for traditional small-scale growers, farmers and producers

No ✗

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Transporting commercial quantities of tobacco products or manufacturing equipment

No ✗

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Wholesaling, brokering, warehousing or distribution of tobacco and tobacco products or manufacturing equipment

Yes ✓

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Which competent authority/ies, if any, have been established or designated with regard to licensing?

Ministry of finance.

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Does the competent authority have the prerogative to issue, renew, suspend, revoke and/or cancel licences for:

---

the manufacture of tobacco products?

Yes ✓

---

the import of tobacco products?

Yes ✓

---

the export of tobacco products?

Yes ✓

---

the manufacture of manufacturing equipment?

No ✗

---

the import of manufacturing equipment?

No ✗

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the export of manufacturing equipment?

No ✗

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Is the applicant for a license required to provide proof of any of the following?

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## When the applicant is a natural person

---

Its identity, including full name?

Yes ✓

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Its tradename?

Yes ✓

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Its business registration number (if any)?

Yes ✓

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Applicable tax registration numbers (if any)?

Yes ✓

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## When the applicant is a legal person

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Its full legal name?

Yes ✓

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Its tradename?

Yes ✓

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Its business registration number?

Yes ✓

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Date and place of incorporation?

Yes ✓

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Location of corporate headquarters and principal place of business

Yes ✓

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Applicable tax registration numbers?

Yes ✓

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Copies of articles of incorporation or equivalent documents?

Yes ✓

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Its corporate affiliates

Yes ✓

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Names of its directors and of any designated legal representatives

Yes ✓

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Does the application for the licence requires the applicant to specify any of the following information?

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precise business location of the manufacturing unit, warehouse location and production capacity of the business run by the applicant?

Yes ✓

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product description?

Yes ✓

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name of the product?

Yes ✓

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registered trade mark (if any)?

Yes ✓

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design?

Yes ✓

---

brand?

Yes ✓

---

model or make and serial number of the manufacturing equipment?

No ✗

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description of where manufacturing equipment will be installed and used?

No ✗

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documentation or a declaration regarding any criminal records?

Yes ✓

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complete identification of the bank accounts intended to be used in the relevant transactions and other relevant payment details?

No ✗

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a description of the intended use and intended market of sale of the tobacco products?

No ✗

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How often, if at any time, are licence fees monitored and collected?

Licences fees are collected on each licence issuing.

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What measures, if any, are taken to prevent, detect and investigate any irregular or fraudulent practices in the operation of the licensing system?

No measures are implemented regarding this particular question.

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How often, if at any time, are periodic review, renewal, inspection and audit of licences being undertaken? (please provide details)

There was one control by the State audit institution, before 3 years, and we do not have any negative remarks on our licencing system.

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Are all licenced natural or legal persons obliged to inform, in advance, the competent authority of any change of location of their business or any significant change in information relevant to the activities as licenced?

Yes ✓

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Are all licenced natural or legal persons obliged to inform the competent authority, for appropriate action, of any acquisition or disposal of manufacturing equipment?

Yes ✓

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Please provide a brief description of the progress made in implementing Article 6 (Licence, equivalent approval or control system) in the past two years or since submission of your last report.

There has been no change in legislation in this area, so we do not have any specific date to add on this issue.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## D2. ARTICLE 7 - DUE DILIGENCE

Is it a requirement to conduct due diligence before the commencement of a business relationship for all natural and legal persons:

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engaged in the supply chain of tobacco?

No ✘

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engaged in the supply chain of tobacco products?

Yes ✓

Is it a requirement to conduct due diligence during the course of a business relationship for all natural and legal persons?

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engaged in the supply chain of tobacco?

No ✘

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engaged in the supply chain of tobacco products?

Yes ✔

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Is it a requirement for actors in the supply chain of tobacco and tobacco products to conduct due diligence with regards to customer identification?

Yes ✔

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As part of due diligence of the supply chain, for the purpose of customer identification, do you require documentation or a declaration regarding any criminal records required for customer identification?

Yes ✔

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As part of due diligence of the supply chain, for the purpose of customer identification, do you require identification of the bank accounts intended to be used in transactions?

Yes ✔

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Have any legal or natural persons been “blocked” as customers within your jurisdiction?

No ✘

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Please provide a brief description of the progress made in implementing Article 7 (Due diligence) in the past two years or since submission of your last report.

Our market of tobacco is very small.

Supply chain of tobacco products is conducted through licencing process, and we pay attention to every detail regarding customer identification.

We do not have any problem so far.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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### D3. ARTICLE 8 - TRACKING AND TRACING

Has a tracking and tracing system been established in your jurisdiction (also in relation to Article 15.2.b of the WHO FCTC)?

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Is it a requirement that unique, secure and non-removable identification markings (“unique identification markings”), such as codes or stamps, are affixed to or form part of:

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All unit packets of cigarettes

Yes ✓

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All unit packages of cigarettes

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Any outside packaging of cigarettes

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All unit packets of other tobacco products

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All unit packages of other tobacco products

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Any outside packaging of other tobacco products

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Is the following information available in your jurisdiction, either directly or accessible by means of link?

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Date of manufacture

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Location of manufacture

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Manufacturing facility

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Machine used to manufacture tobacco products

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Production shift or time of manufacture

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Information (name, invoice, order and payment records) on the first customer who is not affiliated with the manufacture

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The intended market of retail sale

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Product description

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Any warehousing and shipping

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The identity of any subsequent purchaser

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Shipment details (intended shipment route, the shipment date, shipment destination, point of departure and consignee)

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How is this information specified under D33 recorded in your country?

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Is the recorded information accessible to the global information sharing focal point through a secure electronic interface?

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In which way have you ensured that any of the obligations assigned to your government are not delegated to or performed by the tobacco industry?

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Which percentage of the costs associated with the government's obligations concerning the tracking and tracing regime, has the tobacco industry been required to bear?

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Please provide a brief description of the progress made in implementing Article 8 (Tracking and tracing) in the past two years or since submission of your last report.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

In order to trace each tobacco product, that is produced out of Montenegro and EU, from its manufacturer to the retail store (traceability), each unit packet shall indicate a unique identifier (hereinafter referred to as: unique identifier).

The unique identifier shall be irremovably printed or affixed, indelible and not hidden or interrupted in any form by tax stamps, price marks or by the opening of the unit packet or otherwise.

The unique identifier shall allow the following to be determined for each tobacco product:

- 1) the date and place of manufacturing;
- 2) name of the manufacturer;
- 3) the type of machine used for manufacturing;
- 4) the production shift or time of manufacture;
- 5) the product description;
- 6) the intended market of retail sale;
- 7) the intended shipment routes;
- 8) name of the importer, where applicable;
- 9) the actual shipment route from manufacturing to the first retail outlet, including the place where entrepreneur places it in the market-retail outlet, including all warehouses used as well as the shipment date, shipment destination point of departure and consignee;
- 10) the identity of all purchasers from manufacturing to the first retail outlet, if any;
- 11) the invoice, order number and payment records of all purchasers from manufacturing to the first retail outlet.

The information referred to in paragraph 3 items 1 to 7 of this Article shall make a mandatory part of the unique identifier and those referred to in item 11, if the information were known at the moment of manufacturing.

The information referred to in paragraph 3 items 8, 9 and 10 of this Article shall be mandatory, at the moment of being known and shall be electronically linked to the unique identifier.

The information referred to in paragraph 3 of this Article shall not be amended or deleted by legal entities engaged in the trade of tobacco products and personal data they come across when carrying out these activities shall be kept in accordance with the law governing the personal data protection.

Each unit packet of tobacco products, which are placed on the market, shall have a security feature for the protection against the unauthorized handling, composed of visible and invisible elements.

The security feature shall be irremovably printed or affixed on the tobacco product packet, indelible and not partially or wholly hidden or interrupted in any form through tax stamps, price marks, wrappers, boxes or other signs and symbols laid down by the Law.

Legal entities engaged in the trade of tobacco products, from the manufacturer to the legal entity engaged in wholesale trade of tobacco products selling them to a retail outlet, record the entry of all unit packets, as well as all intermediate movements from the manufacturer to the final sale to the end user. Manufacturers of tobacco products shall provide the equipment for electronic recording of tobacco products to all legal entities engaged in the sale of tobacco products, from the manufacturer to the legal entity engaged in wholesale of tobacco products to a legal entity or an entrepreneur engaged in retail sale of tobacco products, including legal entities engaged in import, storing and transport.

Equipment referred to in paragraph 4 of this Article shall provide the reading and electronic transfer of the data referred to in Article 50 of this Law to another legal entity, for the purposes of storing, and shall conclude a separate written contract of the same. Manufacturers and importers of tobacco products shall conclude the contract referred to in paragraph 5 of this Article with a legal person established in

Montenegro, or in a Member State of the European Union, with agreement of the Ministry and the European Commission.

The control of the work of the legal entity referred to in paragraph 5 of this Article shall be carried out by authorized person (external auditor) appointed by the manufacturer, with consent of the Ministry and the European Commission.

The Ministry and the external auditor have the right of access to the information referred to in Article 50 of this Law, and, at their request, the manufacturers and importers may, in duly justified cases, grant access to this information, except for information which is protected by law and protected in accordance with the law governing companies.

An external auditor submits annual reports to the Ministry and the European Commission for the purposes of assessing the correctness of data access., until March 31 for previous year

Technical standards for the establishment and operation of the system for tracing of tobacco products, labelling by unique identifier, entry, transfer, processing and storing, access to the data, as well as the other issues significant for the unique identifier shall be laid down by the Ministry.

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## D4. ARTICLE 9 - RECORD-KEEPING

Do you require maintenance of complete and accurate records of all relevant transactions, for all natural and legal persons engaged in the supply chain of:

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Tobacco?

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Tobacco products?

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Manufacturing equipment?

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What information do you require persons licenced in accordance with Article 6 of the Protocol to provide to the competent authorities?:

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In your country, are tobacco products and manufacturing equipment sold or manufactured for export, or subject to duty-suspended movement in transit or transshipment on the territory?

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What kind of measures have you adopted (legislative, executive, administrative or other measures) for record-keeping?

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Have you established a system for sharing with other Parties details contained in all records kept in accordance with Article 9?

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Do you cooperate with other Parties and with competent international organizations in progressively sharing and developing improved systems for record-keeping?

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Please provide a brief description of the progress made in implementing Article 9 (Record keeping) in the past two years or since submission of your last report.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## D5. ARTICLE 10 - SECURITY AND PREVENTATIVE MEASURES

What kind of measures are in place in your jurisdiction to prevent diversion of tobacco products into illicit trade channels?

The Police Directorate of Montenegro, in accordance with conquered competencies, implements operationally tactical measures on events related to suppression and prevention of tobacco products in illegal trade channels.

The Customs Administration, in accordance with its authority, undertakes measures and actions to protect customs territory in order to combat illegal trade in tobacco products both at border and inland and to cooperate intensively with the Police Directorate, the Prosecutors Office and other law enforcement agencies.

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Do you have sanctions in place when licensees do not adhere to the provisions of article 10?

Yes ✓

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If so, please provide further information regarding the kind of sanctions.

The Police Directorate of Montenegro acts in accordance with the Criminal Code of Montenegro, which prescribe sanctions for criminal offenses, Chapter XXIII against payment transactions and business activities, all related to this area.

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Please provide a brief description of the progress made in implementing Article 10 (Security and preventive measures) in the past two years or since submission of your last report.

Since concept of "gray economy" encompasses a broader aspect of criminal behaviors which, as a result, have a reduction in revenues to the budget of Montenegro, a Working Team for Suppression of the Gray Economy on Tobacco Product Market was established in 2014, with aim of suppresses such forms of illegal activity. The working team is composed of representatives of the Police Directorate, the Tobacco Agency, the Customs Directorate, the Inspection Directorate, the Tax Administration and the Communal Police.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

Decree on the labeling of tobacco products and alcoholic beverages with excise stamps ("Official Gazette of Montenegro", no. 28/19), which implemented the introduction of additional elements of excise duty stamps, identification number, QR code, digital and other security elements; as well as the information system in the process of approving, printing and issuing excise stamps. The provisions of the Decree stipulate the conditions to be fulfilled by the manufacturers, ie importers of tobacco products and alcoholic beverages in the process of issuing control and special excise stamps, as well as the requirement for the issuance of excise stamps for these products. excise duty, protection of excise stamps from counterfeiting, increase of confidence of excise goods users themselves in their quality, as well as decrease of gray economy space in excise goods traffic.

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## D6. ARTICLE 11 - SALE BY INTERNET, TELECOMMUNICATION OR ANY OTHER EVOLVING TECHNOLOGY

Does the Protocol apply to all sales through internet, telecommunication or any other evolving technology?

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Have you banned sales of tobacco products through internet, telecommunication or any other evolving technology?

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Please provide a brief description of the progress made in implementing Article 11 (Sales by Internet, telecommunication or any other evolving technology) in the past two years or since submission of your last report.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## D7. ARTICLE 12 - FREE ZONES AND INTERNATIONAL TRANSIT

Do you have authorizations to conduct controls in free zones, by use of all relevant measures as provided in the Protocol?

Yes ✓

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Do you prohibit 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?

Yes ✓

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Do you control transit or transshipment of tobacco products and/or manufacturing equipment?

Yes ✓

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Please provide a brief description of the progress made in implementing Article 12 (Free zones and international transit) in the past two years or since submission of your last report.

Improvement of the Port Information System in the Free Zone of the Port of Bar has been completed, which includes improvement of user interface, improvement of access control system (entry/exit) in port area, improvement of truck of traffic monitoring model, and since 12.02.2020. started implementation of the system.

The Customs Administration has drawn up a new instruction regarding to handling of customs officers in implementation of customs procedures, customs control and control in the Free Zone of the Port of Bar.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## D8. ARTICLE 13 - DUTY FREE SALES

Do you allow duty-free sales in your jurisdiction?

Yes ✓

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If yes, are they taking place?

Yes ✓

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Do you implement effective measures to subject any duty-free sales to all relevant provisions of this Protocol?

Yes ✓

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If yes, please provide details

- Business dealings in the Free zone Bar is regulated by the Law on free zones; Customs Administration law and Regulation on implementation of the Customs Law.
  - Within the Customs Post Free Zone Bar, customs officials are obliged to perform detailed check of any movement and manipulation of the excise goods. During the previous period, all users who have their business in the Free Zone Bar have been registered. The user must have Certificate on registry management, issued by the Customs Office Bar. The registry must be kept in an electronic format, customs officials must have insight into it, and must be able to recognize movements of goods within it.
  - When a shipment is to exit through the land route, it is only possible if the corresponding JCI is submitted, and following the detailed inspection of the shipment and production of the stipulated official note about the inspection.
  - Exit of cigarettes through the sea route is only possible with the detailed inspection and official notes about the inspection on the spot of embarkation of the cigarettes in the container or on the ship. In addition, at the very moment of embarkment of the container, customs officials must conduct an additional inspection of the content in the container, following the risk analyses procedures. Infrastructure has been significantly improved, as well as safety and security procedures in the Port of Bar.
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Please provide a brief description of the progress made in implementing Article 13 (Duty free sales) in the past two years or since submission of your last report.

- In May 2018, Customs Administration developed a new instruction manual: "Procedures in free zones and free warehouses", which includes establishment, management, business and monitoring in this area.
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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## PART IV: E. OFFENCES (Articles 14-19 of the Protocol)

## ARTICLE 14: UNLAWFUL CONDUCT INCLUDING CRIMINAL OFFENCES

Please note that information requested in this section might be of confidential nature and might only be made accessible to Parties to the Protocol only, upon their request, unless otherwise stated by the transmitting Party.

In accordance with the Protocol, does the following constitute an unlawful conduct in your country's domestic laws?

|   | Tobacco | Tobacco Products | Manufacturing equipment |
|---|---------|------------------|-------------------------|
| E11a. Illicit manufacturing, wholesaling, brokering, selling, transporting, distributing, storing, shipping, importing or exporting of: | 1       | 1                | 1                       |
| E11b. Tax evasion for tobacco products for:   | 1       | 1                | 1                       |
| E11c. Smuggling or attempted smuggling of:  | 1       | 1                | 1                       |
| E11d. Falsification of markings for:  | 1       | 1                | 1                       |
| E11e. Counterfeiting of :   | 1       | 1                | 1                       |

In accordance with the Protocol, does the following constitute an unlawful conduct in your country's domestic law?

concealment of tobacco products?

Yes ✓

intermingling of tobacco products with non-tobacco products in contravention of Article 12.2 (*Free Zones and international transit*) of the Protocol?

Yes ✓

illicit trade of tobacco products through the Internet or other technology-based modes of sale?

Yes ✓

acting against good faith in relation to the supply chain of tobacco products?

Yes ✓

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?

Yes ✓

fraud?

Yes ✓

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money laundering?

Yes ✓

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Does any of the above activities constitute criminal offences in your jurisdiction?

Yes ✓

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If yes, please provide further details.

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Please attach the relevant legislation concerning the establishment of unlawful conduct in your country.

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Please provide a brief description of the progress made in implementing Article 14 (Unlawful conduct including criminal offences) in the past two years or since submission of your last report.

- During 2018, either independently or in cooperation with other state institutions and bodies, 19 cigarettes-related criminal charges have been filed
  - During 2019 either independently or in cooperation with other state institutions and bodies, 25 cigarettes-related criminal charges have been filed.
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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## E2. ARTICLE 15: LIABILITY OF LEGAL PERSONS

Has the liability of legal persons been established for the unlawful conduct (including criminal offences) under Article 14 of the Protocol?

Yes ✓

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Please provide a brief description of the progress made in implementing Article 15 (Liability of legal persons) in the past two years or since submission of your last report.

Law on criminal liability of legal entities (Published in the "Official Gazette of the Republic of Montenegro",

Nos. 2/2007, 13/2007, 30/12 and 39/16 ) provide in Article 5: "A legal entity shall be liable for criminal offence of a responsible person who committed the criminal offence acting within his/her authorities on behalf of the legal entity with the intention to obtain any gain for the legal entity or when the activity of the responsible person was contrary to the business policy or orders of the legal entity."

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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### E3. ARTICLE 16: PROSECUTIONS AND SANCTIONS

Is it ensured that persons held liable for the unlawful conduct (including criminal offences) under Article 14 are subjected to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions?

Yes ✓

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Please provide a brief description of the progress made in implementing Article 16 (Prosecutions and sanctions) in the past two years or since submission of your last report.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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### E4. ARTICLE 17: SEIZURE PAYMENTS

Have you adopted legislative and / or other measures 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?

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Please provide a brief description of the progress made in implementing Article 17 (Seizure payments) in the past two years or since submission of your last report.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## E5. ARTICLE 18: DISPOSAL OR DESTRUCTION

Please provide information on the quantity of confiscated tobacco, tobacco products and manufacturing equipment that was destroyed (e.g, product, unit, quantity, by year and destruction method), if available.

From January 1, 2018 to December 31, 2019, destruction was carried out - by burning in kilns, 98,445.94 (in 1000 pieces) of different brands and 8,808.00 kg of cut tobacco.

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Please provide a brief description of the progress made in implementing Article 18 (Disposal or destruction) in the past two years or since submission of your last report.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## E6. ARTICLE 19: SPECIAL INVESTIGATIVE TECHNIQUES

Do you allow the use of controlled delivery and other special investigative techniques to effectively combat illicit trade in tobacco, tobacco products or manufacturing equipment?

No ✘

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Have you concluded any bilateral or multilateral agreement or arrangement for the use of techniques mentioned above when investigating the criminal offences established in accordance with Article 14 of the Protocol?

No ✘

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Please provide a brief description of the progress made in implementing Article 19 (Special investigative techniques) in the past two years or since submission of your last report.

If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

## PART V: F. INTERNATIONAL COOPERATION

### ARTICLE 20 – GENERAL INFORMATION SHARING

#### Article 20.1(a) SEIZURES OF ILLICIT...

|                                      | <b>Quantity seized</b> | <b>Value of seizures<br/>Please specify currency (e.g. in USD or local currency)</b> | <b>Description of seized product</b> | <b>Date and place of manufacture</b> | <b>Taxes evaded (in USD or local currency; please, specify)</b> |
|--------------------------------------|------------------------|--|--------------------------------------|--------------------------------------|---|
| F11a.<br>...tobacco (raw)            | 2.931,50 kg            | 179.871 e  | cut tobacco                          | -                                    | 147.534 e   |
| F11b.<br>...smoking tobacco products | 8.164.272 pack         | 1.633.109 e  | cigaretts                            |                                      | 12.510.283 e  |

Please provide examples of some of your seizures, if available.

Examples of major seizures during 2018 and 2019 are:

- October 2018. - 868 pack of (MC) cigarettes
- august 2019. - 9.000 pack of (MC) cigarettes
- December 2019. - 4454 pack of (MC) cigarettes

## Article 20.1(b) TOBACCO TRADE-RELATED MATTERS...

|   | <b>Import<br/>(please<br/>specify<br/>unit)</b> | <b>Export<br/>(please<br/>specify<br/>unit)</b> | <b>Transit<br/>(please<br/>specify<br/>unit)</b> | <b>Taxes paid<br/>(in USD or<br/>local cur-<br/>rency;<br/>please,<br/>specify)</b> | <b>Duty free<br/>sales (in USD<br/>or local cur-<br/>rency;<br/>please,<br/>specify)</b> | <b>Quantity or<br/>value of do-<br/>mestic pro-<br/>duction<br/>(please spec-<br/>ify unit)</b> |
|---|---|---|--|---|--|---|
| F12a. ...tobacco<br>(raw)                                   | 9.623 kg  |   |  | 16.907,21 e   |  | 35 tones  |
| F12b.<br>...smoking to-<br>bacco products                   | 1.242.527<br>kg                                 |   |  | 115.457.180<br>e  | 8.151  |   |
| F12c.<br>...smokeless to-<br>bacco products                 | 309 kg  |   |  | 22.421 e  |  |   |
| F12d.<br>...waterpipe to-<br>bacco products                 | 383 kg  |   |  | 15.273 e  |  |   |
| F12f. ...other<br>tobacco prod-<br>ucts (please<br>specify) | 8.308 kg  |   |  | 464.092 e   |  |   |
| F12g.<br>...manufacturing<br>equipment                      | 1.033.100<br>eura                               |   |  | 229.447 e   |  |   |

Please provide a brief description of the progress made in implementing Article 20 (General information sharing) in the past two years or since submission of your last report.

- In the Customs Administration, since mid-December 2017, a communication link has been established with the AFIS system (OLAF Anti-Fraud Information System), through which a daily exchange of information related to the movement of cigarettes is maintained.



If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

The Customs Administration data refer to 2018 and 2019 are given in tables above.

For 2018 and 2019, the total transit of tobacco and tobacco products was in amount of 39.780.521 kg gross weight and value 636.833.523 euros.

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## F2. ARTICLE 21 – ENFORCEMENT INFORMATION SHARING

Have you exchanged enforcement information with another Party on your own initiative or on their request?

Yes ✓

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If yes, please provide examples of such enforcement information sharing (also in relation Article 24.2 of the Protocol).

- A huge seizure of cigarettes was done in Kenia in July 2018: 57,382,600 pieces of cigarettes of the brands: "Marbl", "Ashima", "Gold Classic", "Mac", "Ronhill Blue", "Art Slims", "Corset", "King Red", "Bohemi", "De Santis", "Royal Blue", "Fency", "King Blue", "Cesar", "Westo", "Weston", "Cosmopolitan", "Corsair", "Mark 1", "Merilyn", "President", "FM", "Trokadero", "Eva", "Montreal" i "Monus". This was made possible as a result of a regular information flow from the Customs Administration of Montenegro, HMRC (Her Majesty's Revenue and Customs).

- On 05. 10. 2018., acting upon previously collected intelligence data from the UNODC, officials of the Customs Administration, in cooperation with the officials of the Criminal Police Department conducted an examination of the shipment which reached the Free zone Bar by ship, and determined that it contained a quantity of 868 packages of unreported cigarettes of the brand "FM", while the goods reported to the customs department contained a quantity of 258 packages decorative furniture. Estimated value of the unreported cigarettes equals to around 718.704,00 EUR. The Prosecutor in charge is now conducting an investigation in this case.

In 2019, as a result of information from the Customs Administration of Montenegro to HMRC (Her Majesty's Revenue and Customs), a shipment of cigarettes was seized in Romania: 850 packages of 850 M/C- ASHIMA and 150 M/C MARBLE.

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Please provide a brief description of the progress made in implementing Article 21 (Enforcement information sharing) in the past two years or since submission of your last report.

In October 2017, an Agreement to enhance cooperation in the area of crime reduction was signed between Ministry of Interior, Ministry of Justice, Ministry of Finances, The Supreme Court and the State Prosecutor. An informational infrastructure for the information exchange was established, designed for the automatic exchange of data; and contact persons were delegated.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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### F3. ARTICLE 22 – INFORMATION SHARING: CONFIDENTIALITY AND PROTECTION OF INFORMATION

Have you designated competent national authority or authorities to which data referred to in Articles 20, 21 and 24 of the Protocol are supplied?

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Please provide a brief description of the progress made in implementing Article 22 (Information sharing: General Obligations) in the past two years or since submission of your last report.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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### F4. ARTICLE 23 - ASSISTANCE AND COOPERATION:

Have you provided financial or technical assistance (be it through unilateral, bilateral, multilateral agreements, and/or through international and regional organizations) in any of the following areas:

- F41a. Information gathering
  - F41b. Law enforcement
  - F41c. Tracking and tracing
  - F41d. Information management
  - F41e. Protection of personal data
  - F41f. Interdiction
  - F41g. Electronic surveillance
  - F41h. Forensic analysis
  - F41i. Mutual legal assistance
  - F41j. Extradition
- 

Have you received financial or technical assistance (be it through unilateral, bilateral, multilateral agreements, and/or through international and regional organizations) in any of the following areas:

- F42a. Information gathering
  - F42b. Law enforcement
  - F42c. Tracking and tracing
  - F42d. Information management
  - F42e. Protection of personal data
  - F42f. Interdiction
  - F42g. Electronic surveillance
  - F42h. Forensic analysis
  - F42i. Mutual legal assistance
  - F42j. Extradition
- 

Have you developed or conducted research on identifying the exact geographical origin of seized tobacco and tobacco products?

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Please provide a brief description of the progress made in implementing Article 23 (Assistance and co-operation: training technical assistance and cooperation in scientific, technical and technological matters) in the past two years or since submission of your last report.

From EU IPA II sources, through the project "Support to implementation of the "Strategy of integrated border management", tendering procedure was finalized for the implementation of "IT application for monitoring", and implementation started in early September 2019, with a deadline of 12 months to implement the application into the IT system of the Customs Administration.

A set of risk profiles for excise products was developed with the support of the World Bank project, completely in line with standards of WCO and EU best practice. Through the NCTS project, it is envisaged to establish a new comprehensive risk management system in customs procedures, that will contain modules for selectiveness and targeting and well as the analytical database.

Implementation of the project "Support to Customs Administration in the area of Excises" is ongoing in the Customs Administration. The project is financed from the resources of EUIF IPA 2015, which started in September 2019 and will last for 14 months.

Specialistic training for forensic accountants is underway, attended by the officers of the after-customs control and customs investigations, within the World Bank project.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## F5. ARTICLE 24 – ASSISTANCE AND COOPERATION: INVESTIGATION AND PROSECUTION

Have you entered in multilateral, regional or bilateral arrangements for the purpose of the advancement of investigation and prosecution of offences in accordance to Article 24 of the Protocol?

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Have you cooperated and exchanged relevant information?

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Please provide a brief description of the progress made in implementing Article 24 (Assistance and co-operation: investigation and prosecution of offences) in the past two years or since submission of your last report.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## F6. ARTICLE 26 - JURISDICTION

Have you adopted measures to establish your jurisdiction over the criminal offences in accordance with Article 14 of the Protocol?

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Please provide a brief description of the progress made in implementing Article 26 (Jurisdiction) in the past two years or since submission of your last report.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

- The Criminal Code of Montenegro (Official Gazette of the Republic Montenegro 70/2003, 13/2004, 47/2006 and Official Gazette of Montenegro 40/2008, 25/2010, 32/2011, 64/2011, 40/2013, 56/2013, 14/2015, 42/2015, 58/2015, 44/2017, 49/2018 and 3/2020) prescribes a criminal offence:
    - "Unlawful Trade
    - Article 284
    - (1) Whoever without authority to trade, acquires for sale goods or other consumer goods the value of which exceeds three thousand euro, or who unauthorisedly engages to a greater degree in trade, intermediation in trade or representation of organisations in domestic or foreign trade in goods and services shall be punished by a fine or a prison sentence for a term not exceeding two years.
    - (2) Whoever engages in the sale of goods whose unlawful production was arranged by him shall be punished by a prison sentence for a term from three months to three years.
    - (3) The penalty set out in paragraph 2 of this Article shall also be imposed on whomever unlawfully sells, buys or exchanges goods or objects the trade in which is prohibited or limited.
    - (4) Where the perpetrator of the offence set forth in paragraphs 1 to 3 of this Article created a network of dealers or middlemen or where he obtained material benefit exceeding three thousand euro, he shall be punished by a prison sentence for a term from six months to five years.
    - (5) Where the perpetrator of the offence set forth in paragraphs 1 and 3 of this Article obtained a material benefit exceeding the amount of thirty thousand euro, he shall be punished by a prison sentence for a term from one to six years.
    - (6) The goods and the objects of unlawful trade shall be confiscated."
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## F7. ARTICLE 27 – LAW ENFORCEMENT COOPERATION

Have you established mechanisms for effective domestic cooperation, including between customs, police and other law enforcement agencies, for the benefit of information sharing and law enforcement?

Yes ✓

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If yes, please provide examples of such domestic cooperation.

- Customs Administration developed strong cooperation and data exchange mechanisms with the national law enforcement institutions. Customs Administration, in cooperation with the Prosecutor, Police Directorate, Tax Administration, Administration for Inspection Affairs, and other institutions, implements joint inspections and controls on a daily basis, with a view to prevent illegal trade of excise duty products. To that end, 13 agreements on cooperation have been signed with law enforcement agencies.
- In October 2017, the Agreement on improvement of cooperation in the area of crime reduction was signed between the Ministry of Interior, Ministry of Justice, Ministry of finances, the Supreme Court and the State Prosecutor. Information infrastructure has been established, for the automatic exchange of data, and contact persons have been assigned for this task.

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Have you established mechanisms for cooperation with other Parties for the benefit of information sharing and law enforcement?

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Please provide a brief description of the progress made in implementing Article 27 (Law enforcement cooperation) in the past two years or since submission of your last report.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## F8. ARTICLE 28 – ASSISTANCE ADMINISTRATIVE MUTUELLE

Have you entered into a procedure of mutual administrative assistance with another Party on the basis of the Protocol?

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Please provide a brief description of the progress made in implementing Article 28 (Mutual administrative assistance) in the past two years or since submission of your last report.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

Customs Administration of Montenegro performs data exchange based on the signed Agreements on the customs cooperation and mutual administrative assistance in customs matters, as well as based on the bilateral and multilateral agreements on trade facilitation, administrative cooperation and information exchange.

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## F9. ARTICLE 29 – MUTUAL LEGAL ASSISTANCE

Have you entered into mutual legal assistance procedures with another Party on the basis of the Protocol?

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Have you designated a central authority for the purpose of mutual legal assistance?

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Please provide a brief description of the progress made in implementing Article 29 (Mutual legal assistance) in the past two years or since submission of your last report.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

Ministry of Justice is the central authority in the process of mutual legal assistance (MLA) and extradition. These procedures are conducted on the basis of the Law on Mutual Legal Assistance in Criminal Matters, as well as the significant number of bilateral and multilateral agreements concluded by Montenegro. Requests for extradition and MLA may relate to the criminal offense of Illicit Trade, which includes illicit trade in tobacco products.

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## F10. ARTICLE 30 – EXTRADITION and ARTICLE 31 – MEASURES TO ENSURE EXTRADITION

Have you utilized the Protocol for the purposes of extradition?

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Please provide a brief description of the progress made in implementing Articles 30 (Extradition) and 31 (Measures to ensure extradition) in the past two years or since submission of your last report.

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If you have any other relevant information pertaining to but not covered in this section, please provide details in the space below.

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## PART VI: G. PRIORITIES AND COMMENTS

What are the priorities for implementation of the Protocol in your jurisdiction?

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In relation to Article 36 of the Protocol, do you finance your national activities, in accordance with your national plans, priorities and programmes?

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Have you identified any specific gaps between the resources available and the needs assessed for implementing the Protocol?

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What, if any, are the constraints or barriers, other than lack of resources, you have encountered in implementing the Protocol?

I consider it necessary to appoint a person at the national level to monitor the implementation of the Protocol on the Elimination of Illicit Tobacco Flows.

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If any of the actions reported in this instrument were only taken at subnational level, please give further information here.

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Please provide any other relevant information not covered elsewhere that you consider important.

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Please provide any suggestions for further development and revision of this reporting instrument.

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