

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:

United Kingdom

Information on national contact responsible for preparation of the report:

Title

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Family name

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<https://www.gov.uk/government/organisations/hm-revenue-customs>

Period of reporting:

	Month	Year
Start date (SQ001)		
End date (SQ002)	April (4)	2020 (6)

PART I: B. INTRODUCTION

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

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.

OLAF - EU Member State MOUs with tobacco manufacturers - https://ec.europa.eu/anti-fraud/investigations/eu-revenue/cigarette_smuggling_en:

To address the problem of contraband and counterfeit cigarettes, the European Union and all 28 Member States (except Sweden for the BAT and ITL agreements) have signed legally binding and enforceable agreements with the worlds four largest tobacco manufacturers, by virtue of which the manufacturers agreed to:

- pay a collective total of \$2.15 billion to the EU and countries participating in the agreement
- prevent their products from falling into the hands of criminals by notably:
 - supplying only those quantities required by the legitimate market
 - taking care that they sell to legitimate clients only
 - implementing a tracking system to help law enforcement authorities if cigarettes are traded illegally.

Naples II - <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3A133051>:

The convention covers mutual assistance and cooperation between national authorities in prevention, investigation and prosecution of certain infringements of European Union (EU) and national customs rules.

PART II: C. GENERAL OBLIGATIONS

ARTICLE 5 - PROTECTION OF PERSONAL DATA

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?

The protection of data for Track and Trace is in accordance with EU Directive 95/46/EC. After the transition period, this will be covered under Data Protection Act 2018.

Data Protection Act 2018 (<http://www.legislation.gov.uk/ukpga/2018/12>) governs use of data.

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

PART III: D. SUPPLY CHAIN CONTROL

ARTICLE 6 – LICENCE, EQUIVALENT APPROVAL OR CONTROL SYSTEM

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

Manufacture of tobacco products?

Yes ✓

Manufacture of manufacturing equipment?

Yes ✓

Import of tobacco products?

Yes ✓

Export of tobacco products?

Yes ✓

Import of manufacturing equipment?

Yes ✓

Export of manufacturing equipment?

Yes ✓

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

Retailing of tobacco products

No ✗

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

Yes ✓

Transporting commercial quantities of tobacco products or manufacturing equipment

Yes ✓

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

Yes ✓

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

HM Revenue & Customs.

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?

Yes ✓

the import of manufacturing equipment?

Yes ✓

the export of manufacturing equipment?

Yes ✓

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

When the applicant is a natural person

Its identity, including full name?

Yes ✓

Its tradename?

Yes ✓

Its business registration number (if any)?

Yes ✓

Applicable tax registration numbers (if any)?

Yes ✓

When the applicant is a legal person

Its full legal name?

Yes ✓

Its tradename?

Yes ✓

Its business registration number?

Yes ✓

Date and place of incorporation?

Yes ✓

Location of corporate headquarters and principal place of business

Yes ✓

Applicable tax registration numbers?

Yes ✓

Copies of articles of incorporation or equivalent documents?

No ✗

Its corporate affiliates

Yes ✓

Names of its directors and of any designated legal representatives

Yes ✓

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

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

Yes ✓

product description?

Yes ✓

name of the product?

No ✗

registered trade mark (if any)?

No ✗

design?

No ✗

brand?

No ✗

model or make and serial number of the manufacturing equipment?

Yes ✓

description of where manufacturing equipment will be installed and used?

Yes ✓

documentation or a declaration regarding any criminal records?

Yes ✓

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

Yes ✓

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

No ✗

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

There is no financial charge for such licences.

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

HMRCs assurance of registration and licencing schemes follow a risk based approach. Our strategy is to promote compliance, prevent and respond to non-compliance, allowing us to target risk more effectively.

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

Reviews and renewal of licences are carried out on a risk basis.

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 ✓

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 ✓

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.

HMRC has introduced:

Raw Tobacco Approval scheme introduced in April 2017

Tobacco Products Manufacturing Machinery licences in August 2018

Other licences/registration schemes are long-standing

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

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:

engaged in the supply chain of tobacco?

No

engaged in the supply chain of tobacco products?

No

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

engaged in the supply chain of tobacco?

No

engaged in the supply chain of tobacco products?

No

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

No

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?

No

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?

No ✘

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

No ✘

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 supply chain legislation imposes due diligence on tobacco manufacturers.

Due diligence is also an obligation on other persons in the supply-chain up until the point excise duty is payable, for example, warehouse operators. But it is not an obligation on points lower down the tobacco supply-chain after the point excise duty is paid.

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

Our published guidance gives guidance on how businesses should operate due diligence.

This can be found here - <https://www.gov.uk/government/publications/excise-notice-196-excise-goods-registration-and-approval-of-warehousekeepers-warehouse-premises-owners-of-goods-and-registered-consignors/excise-notice-196-excise-goods-registration-and-approval-of-warehousekeepers-warehouse-premises-owners-of-goods-and-registered-consignors#the-due-diligence-condition>

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)?

Yes ✔

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:

All unit packets of cigarettes

Yes ✔

All unit packages of cigarettes

Yes ✓

Any outside packaging of cigarettes

Yes ✓

All unit packets of other tobacco products

Yes ✓

All unit packages of other tobacco products

Yes ✓

Any outside packaging of other tobacco products

Yes ✓

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

Date of manufacture

Yes ✓

Location of manufacture

Yes ✓

Manufacturing facility

Yes ✓

Machine used to manufacture tobacco products

Yes ✓

Production shift or time of manufacture

Yes ✓

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

Yes ✓

The intended market of retail sale

Yes ✓

Product description

Yes ✓

Any warehousing and shipping

Yes ✓

The identity of any subsequent purchaser

Yes ✓

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

Yes ✓

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

All of the data items at question D33 are captured within the EU-wide data repository which is accessible by Member States national authorities only via a user interface.

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

Yes ✓

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?

Article 35 of (EU) Commission Implementing Regulation 2018/574 sets out the strict independence criteria which ensure that the EU Track and Trace system is independent from the tobacco industry. In the UK, our national ID issuer was appointed by the competent national authority (HMRC) via a commercial exercise.

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?

All aspects of the EU Track and Trace system in place for the UK are funded by the tobacco industry.

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.

The EU-wide Track and Trace system was implemented in the UK on 20 May 2019.

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

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:

Tobacco?

Yes ✓

Tobacco products?

Yes ✓

Manufacturing equipment?

Yes ✓

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

This is detailed in the following published notices:

Excise Notice 206 - <https://www.gov.uk/government/publications/excise-notice-206-revenue-traders-records/excise-notice-206-revenue-traders-records>

Excise Notice 476 s8 - <https://www.gov.uk/government/publications/excise-notice-476-tobacco-products-duty/excise-notice-476-tobacco-products-duty#sec-8>

Excise Notice 2003 s6 - <https://www.gov.uk/government/publications/excise-notice-2003-tobacco-duty-the-raw-tobacco-approval-scheme/excise-notice-2003-tobacco-duty-the-raw-tobacco-approval-scheme#conditions>

Excise Notice 2004 s7 - <https://www.gov.uk/government/publications/excise-notice-2004-tobacco-duty-tobacco-products-manufacturing-machine-licensing-scheme/excise-notice-2004-tobacco-duty-tobacco-products-manufacturing-machine-licensing-scheme#licence-conditions-restrictions-and-responsibilities>

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

Yes ✓

Please upload any legislation/regulation that govern those movements.

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

Obligations to keep records have force of law.

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

No ✘

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

Yes ✔

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.

Long-standing record keeping requirements as outlined in D42.

Most recently HMRC has introduced:

Raw Tobacco Approval scheme introduced in April 2017

Tobacco Products Manufacturing Machinery licences in August 2018

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

In relation to D431 The Excise Goods (Holding, Movement and Duty Point) Regulations 2010 can be found here - <http://www.legislation.gov.uk/ukSI/2010/593>

In relation to D46, we have worked alongside EU Member States in making improvements to the European Excise Movement and Control System (EMCS) which is the system for recording movements of excise goods within the European Union prior to the point of excise duty payment.

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?

Section 7A of the Tobacco Products Duty Act 1979 places a number of obligations on tobacco manufacturers relating to the supply of tobacco products.

Excise Notice 477 details these measures - <https://www.gov.uk/government/publications/vat-notice-477-tobacco-products-duty-control-of-supply-chains/excise-notice-477-tobacco-products-duty-control-of-supply-chains-1>

Money laundering regulations - <https://www.gov.uk/topic/business-tax/money-laundering-regulations>

Due diligence for warehouse keepers - <https://www.gov.uk/government/publications/excise-notice-196-excise-goods-registration-and-approval-of-warehousekeepers-warehouse-premises-owners-of-goods-and-registered-consignors/excise-notice-196-excise-goods-registration-and-approval-of-warehousekeepers-warehouse-premises-owners-of-goods-and-registered-consignors#the-due-diligence-condition>

Ongoing compliance activities to deter, detect and prevent diversion.

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

Yes ✓

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

A penalty not exceeding £5 million can be issued for tobacco manufacturers failing in their supply chain obligations.

Other penalties are available, as well as options to alter or revoke licences depending on circumstances.

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.

Introduced a number of regimes whereby licensees can face fines and/or alteration/revocation of licences for breaches.

Most recently HMRC has introduced:

Raw Tobacco Approval scheme introduced in April 2017

Tobacco Products Manufacturing Machinery licences in August 2018

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

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?

Yes ✓

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

No ✘

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.

All conditions that apply to sales through traditional retailer channels also apply to sales through internet, telecommunication or any other evolving technology.

For example, sales can only be made to persons 18 years old or over, and product must comply with plain packaging and fiscal mark regulations.

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

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?

No ✘

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?

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

Yes ✓

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.

UK Government has a consultation on freeports underway at the moment -
<https://www.gov.uk/government/consultations/freeports-consultation>

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

D72 is not applicable as there are currently no free zones in operation.

D8. ARTICLE 13 - DUTY FREE SALES

Do you allow duty-free sales in your jurisdiction?

Yes ✓

If yes, are they taking place?

Yes ✓

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

Yes ✓

If yes, please provide details

Excise Goods (Export Shops) Regulations 2000 -
<http://www.legislation.gov.uk/uksi/2000/645/contents/made>

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.

The legislation governing duty free sales is long-standing.

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

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 ✓

money laundering?

Yes ✓

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

Yes ✓

If yes, please provide further details.

Concealment of tobacco product - CEMA 1979 s. 167(1)

Intermingling of tobacco products with non-tobacco products in contravention of Article 12.2 (Free Zones and international transit) of the Protocol - CEMA 1979 s. 167(1)

Illicit trade of tobacco products through the Internet or other technology-based modes of sale - Excise Notice 2003

Acting against good faith in relation to the supply chain of tobacco products - TPDA

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? - Commissioners for Revenue and Customs Act 2005 s. 31(1)

Fraud - Fraud Act 2006

Money laundering - Proceeds of Crime Act 2002

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

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.

Long-standing legislation that deals with unlawful conduct.

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

Some offences are dealt with by way of civil penalties.

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 ✓

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.

HMRC has introduced:

Raw Tobacco Approval scheme introduced in April 2017

Tobacco Products Manufacturing Machinery licences in August 2018

Other licences/registration schemes are long-standing

Liability of legal persons is long-standing.

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

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 ✓

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.

HMRC has introduced:

Raw Tobacco Approval scheme introduced in April 2017

Tobacco Products Manufacturing Machinery licences in August 2018

Other licences/registration schemes are long-standing

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

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?

Yes ✓

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.

The MOUs with OLAF and tobacco manufacturers contain provisions for seizure payments. These have been agreed for number of years.

https://ec.europa.eu/anti-fraud/investigations/eu-revenue/cigarette_smuggling_en

Penalties are also available under TPDA 1979 s. 7C. This can result from failures to apply due diligence though continuing to supply tobacco into supply-chains where evidence of seizures indicate a serious problem. This penalty provision has been available for a number of years.

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

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.

Total tobacco disposals in KG from April 2018 through to March 2020 - 2406877 KG

No figures are available relating to the number of manufacturing equipment items that were destroyed, however these are sent for metal recycling as much as is practicable.

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.

All tobacco products are disposed of through incineration which delivers an environmental benefit by utilising the heat generated to generate electricity.

In future contracts Border Force will ask the market for alternatives to Energy from Waste incineration which might provide a more environmentally friendly solution.

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

Under current law, to meet our duty of care each commodity sent for disposal has to be assigned an appropriate European Waste Catalogue code (EWC code) which is primarily determined by the activity that produced the waste. The catalogue does not include a category for law enforcement, therefore, in consultation with the UK Environment Agency an EWC code from Chapter 16 – Other wastes from industrial processes, has been applied to tobacco, either 16 03 05* (hazardous) or 16 03 06 (non-hazardous). Legitimate cigarettes (non-counterfeit) are assigned a non-hazardous code. All other tobacco products are deemed to be hazardous. The assignment of a Chapter 16 code results in limited disposal options as the disposal site must hold the relevant permit to dispose of these specific codes. The sites themselves are monitored closely by the UK Environment Agency.

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?

Yes ✓

If yes, please provide details.

Controlled delivery is regularly used. Surveillance, including the use of technical devices is another regularly used technique

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?

Yes ✓

If yes, please give further details on any agreement or international cooperation with other Parties for the use of such techniques in this area.

During the Transition Period the UK can do a lot of this work with EU Member States without specific agreements. However, where appropriate specific agreements are drawn up through Eurojust or Europol. These can include non-EU states.

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.

Then UKs use of specialist techniques is long-standing.

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...

Quantity seized	Value of seizures Please specify currency (e.g. in USD or local currency)	Description of seized product	Date and place of manufacture	Taxes evaded (in USD or local currency; please, specify)
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Please provide examples of some of your seizures, if available.

Information relevant to A 20.1(a) - as well as examples - can be found here:

www.gov.uk/government/publications/tackling-tobacco-smuggling-2013-to-2014-outputs/outputs-for-april-2016-to-march-2018

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

Import (please specify unit)	Export (please specify unit)	Transit (please specify unit)	Taxes paid (in USD or local currency; please, specify)	Duty free sales (in USD or lo- cal currency; please, specify)	Quantity or value of domes- tic production (please specify unit)
			9266mn GBP		
F12b. ...smoking tobacco products					
			24mn GBP		
F12f. ...other to- bacco prod- ucts (please specify)					

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.

We provide quarterly seizure statistics to OLAF, and make information on receipts, clearances and rates available at <https://www.gov.uk/government/statistics/tobacco-bulletin>.

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

The above tables are not complete due to format of the tables.

Receipts, clearances, and rates can be found here - <https://www.gov.uk/government/statistics/tobacco-bulletin>

Data entered in F12 relates to financial year 2018-2019.

Published data on tax gaps is also available - <https://www.gov.uk/government/collections/measuring-tax-gaps>

F2. ARTICLE 21 – ENFORCEMENT INFORMATION SHARING

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

Yes ✓

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

HMRC regularly share information with non-UK tax, customs and law enforcement authorities. This might be to commence or further criminal investigations in the UK, or to effect seizures of suspected illicit goods. HMRC might also share information with overseas authorities for the same reasons.

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.

HMRC has shared information with other jurisdictions for many years through its International Mutual Assistance Team (IMAT) for matters related to Mutual Administrative Assistance (MAA) or Mutual Legal Assistance (MLA). HMRC also shares information for intelligence purposes through its Fiscal Crime Liaison Officers (FCLOs), which consist of almost 50 HMRC officers based around the world. This network of officers has also existed for many years.

HMRC continue to look to improve its information sharing and joint working with other jurisdictions and has increased its complement of FCLOs year-on-year for the last 5 years.

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

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?

Yes ✓

If yes, please provide the name and contact details of such competent national authority or authorities.

For Mutual Administrative Assistance (MAA) matters, contact HMRC's International Mutual Assistance Team (IMAT) directly at imat@hmrc.gov.uk

All MLA requests of a tax and fiscal customs nature should be sent to HM Revenue and Customs Central Authority at:

Criminal Law Advisory Team
HM Revenue and Customs - Solicitor's Office
1st Floor (South)
Bush House S/W Wing
The Strand
London
WC2B 4RD
Email: mla@hmrc.gov.uk

For other MLA requests, please follow the guidance in the link below for further contact details:

<https://www.gov.uk/guidance/mutual-legal-assistance-mla-requests#requesting-mla-from-the-uk>

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.

International Mutual Assistance Team (IMAT) has existed for a number of years and is experienced in being the central point of contact for Mutual Administrative Assistance (MAA).

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

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	Yes
F41b. Law enforcement	Yes
F41c. Tracking and tracing	Yes
F41d. Information management	No
F41e. Protection of personal data	No
F41f. Interdiction	Yes
F41g. Electronic surveillance	Yes
F41h. Forensic analysis	Yes
F41i. Mutual legal assistance	Yes
F41j. Extradition	Yes

If you answered "Yes" to any of the previous sub-questions, please provide further information (Party/Parties that were provided assistance, type of assistance (project), etc.)

Relevant law enforcement agencies from requesting countries. Taking witness statements, providing witness statements, carrying out surveillance, making arrests, etc.

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	Yes
F42b. Law enforcement	Yes
F42c. Tracking and tracing	No
F42d. Information management	No
F42e. Protection of personal data	No
F42f. Interdiction	Yes
F42g. Electronic surveillance	Yes
F42h. Forensic analysis	Yes
F42i. Mutual legal assistance	Yes
F42j. Extradition	Yes

If you answered "Yes" to any of the previous sub-questions, please provide further information (Party/Parties from which assistance was received, type of assistance (project), support from other entities including the tobacco industry etc.)

Relevant law enforcement agency in countries involved. Taking or providing witness statements, providing surveillance, making interdictions, etc.

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

No ✘

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

Training & technical assistance is regularly supplied to requesting countries both inside and outside of the EU.

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

F43 is answered negatively as HMRC does not currently carry out such research as standalone, specific projects. However we do regularly pick up this information through intelligence gathering, post intervention investigation or from tobacco manufacturers.

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?

Yes ✔

If yes, please provide details as appropriate.

HMRC has a large number of bilateral arrangements with individual countries in order to share information in customs matters. These are normally underpinned by a treaty, such as a Customs Co-operation Mutual Administrative Assistance Agreement (CCMAAA). HMRC also has agreements multilaterally such as the EUs Naples II.

Have you cooperated and exchanged relevant information?

Yes ✓

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.

HMRC continues to look for ways to improve international co-operation through arrangements and MOUs through its Fiscal Crime Liaison Officers (FCLOs). Each year, the network of FCLOs puts in place new customs MOUs with countries in order to begin or enhance information exchange.

HMRC is also currently working on drafting new MOUs and arrangements to ensure that information exchange can continue following the UKs exit from the EU.

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

F6. ARTICLE 26 - JURISDICTION

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

Yes ✓

If so, please provide details, as appropriate.

The UK has long-standing legislation covering jurisdiction.

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.

Long-standing as outlined in Customs and Excise Management Act 1979 - <http://www.legislation.gov.uk/ukpga/1979/2/contents>

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

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 ✓

If yes, please provide examples of such domestic cooperation.

Information is shared and joint operational activity carried out. Cross law enforcement stakeholder forums are in place.

Law enforcement cooperation is long-standing, with HMRC, Police, Border Force, Trading Standards and others regularly working together.

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

Yes ✓

If yes, did you do so through a bilateral or multilateral agreement?

No ✗

If yes, please provide examples of such international cooperation (In relation to Article 27.1.c and 27.1.f).

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.

Law enforcement cooperation is long-standing.

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

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?

No

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.

HMRC has shared information with other jurisdictions for many years through its International Mutual Assistance Team (IMAT) for matters related to Mutual Administrative Assistance (MAA) or Mutual Legal Assistance (MLA). HMRC also shares information for intelligence purposes through its Fiscal Crime Liaison Officers (FCLOs), which consist of almost 50 HMRC officers based around the world. This network of officers has also existed for many years.

HMRC continue to look to improve its information sharing and joint working with other jurisdictions and has increased its complement of FCLOs year-on-year for the last 5 years.

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

F81 is answered negatively as MAA arrangements are long-standing and predate the Protocol,

F9. ARTICLE 29 – MUTUAL LEGAL ASSISTANCE

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

No ✘

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

Yes ✔

If so, please provide details.

All MLA requests of a tax and fiscal customs nature should be sent to HM Revenue and Customs Central Authority at:

Criminal Law Advisory Team
HM Revenue and Customs - Solicitor's Office
1st Floor (South)
Bush House S/W Wing
The Strand
London
WC2B 4RD
Email: mla@hmrc.gov.uk

For other MLA requests, please follow the guidance in the link below for further contact details:

<https://www.gov.uk/guidance/mutual-legal-assistance-mla-requests#requesting-mla-from-the-uk>

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.

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

F91 is answered negatively as MLA arrangements are long-standing and predate the Protocol.

For the same reason nothing has been entered into F93.

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

Have you utilized the Protocol for the purposes of extradition?

No ✘

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.

HMRC regularly works with other jurisdictions, particularly in the EU, but not exclusively, in actioning extraditions. This is business as usual and not explicitly impacted upon by the protocol

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

PART VI: G. PRIORITIES AND COMMENTS

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

Implementing a post EU Exit Track and Trace system.

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

Yes ✔

If yes, please provide the amount devoted to the implementation of the Protocol within the past two years or since the submission of your last report

This figure is not available, as it is subsumed in a number of budgets of various departments who all carry out work relevant to the Protocol.

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

No ✘

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

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

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

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

If F11 & F12 provided a table like the one used in B51 of 2020 - CORE QUESTIONNAIRE OF THE REPORTING INSTRUMENT OF WHO FCTC we would be able to enter more data.

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