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**COMMISSION STAFF WORKING DOCUMENT**

**Outcome on the implementation of the 2nd Action Plan to fight the illicit tobacco trade  
for the years 2018 to 2022**

## SECTION A: INTRODUCTION

In December 2018, the Commission adopted the 2<sup>nd</sup> Action Plan<sup>1</sup> to fight the illicit tobacco trade for the years 2018 to 2022. The Action Plan recognised the key objective to address illicit tobacco trade more systematically from a market perspective, whilst engaging key source and transit countries. In this perspective, the Action Plan set out a number of initiatives designed to curtail either the supply or the demand for illicit tobacco products.

The Commission also recognised that only a combination of policy and operational law enforcement actions could lead to a significant decrease in illicit tobacco trade. The 2<sup>nd</sup> Action Plan therefore includes a set of activities of different natures, such as the implementation of the Framework Convention on Tobacco Control (FCTC) Protocol to Eliminate Illicit Trade in Tobacco Products (FCTC Protocol)<sup>2</sup>, the revision of important legislative provisions on this subject, and the participation in operational activities under the EMPACT (European Multidisciplinary Platform Against Criminal Threats) project.

Despite the many measures taken since 2013, under the European Union's (EU) comprehensive strategy<sup>3</sup> and the first Action Plan<sup>4</sup>, the challenges in the fight against the illicit tobacco trade continued to exist. In May 2017, the Commission reported<sup>5</sup> on progress in implementing the Strategy and the Action Plan, and the EU and its Member States continued to address the threat from illicit tobacco.

In light of the persistent nature of the problem posed by the illicit tobacco trade, the Commission adopted a 2<sup>nd</sup> Action Plan in December 2018. It further implemented the 2013 Strategy and ensured continuity by focusing on the FCTC Protocol at the global level as well as on the implementation of the EU tracking and tracing system for tobacco products in the EU<sup>6</sup>. Most actions of the 2<sup>nd</sup> Action Plan target long-term key objectives that are covered by other EU strategic initiatives adopted by the Commission since 2018 such as the Europe's Beating Cancer Plan adopted in February 2021<sup>7</sup>, which includes the objective of achieving a tobacco-free Europe.

The 2<sup>nd</sup> Action Plan contained four strategic objectives:

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<sup>1</sup> COM(2018) 846 final of 7 December 2018.

<sup>2</sup> <http://www.who.int/fctc/protocol/en/>

<sup>3</sup> COM(2013) 324 final of 6 June 2013.

<sup>4</sup> SWD (2013) 193 final of 6 June 2013.

<sup>5</sup> COM(2017) 235 final of 12 May 2017.

<sup>6</sup> The EU tracking and tracing system has been established by Article 15 of Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC (Tobacco Products Directive), OJ L 127, 29.4.2014, p. 1, and Commission Implementing Regulation (EU) 2018/574 of 15 December 2017 on technical standards for the establishment and operation of a traceability system for tobacco products, OJ L 96, 16.4.2018, p. 7.

<sup>7</sup> [https://health.ec.europa.eu/system/files/2022-02/eu\\_cancer-plan\\_en\\_0.pdf](https://health.ec.europa.eu/system/files/2022-02/eu_cancer-plan_en_0.pdf).

- to fully exploit the potential of the new FCTC Protocol as a global instrument and forum to curb the illicit tobacco trade, by taking a leading role in its implementation, following the entry into force of the Protocol on 25 September 2018;
- to engage key source and transit countries via the various frameworks for cooperation available to the EU, so as to limit the supply of tobacco products actually arriving at our borders;
- to focus on some of the key input materials going into the illicit manufacture of tobacco products, ranging from raw tobacco and cigarette filters to manufacturing and packing equipment; and
- to raise awareness among consumers on the dangers of buying illicit tobacco products and the direct links to organised crime, as a means to reduce demand.

The 2<sup>nd</sup> Action Plan has been implemented on the basis of a roadmap defining the actions, their timeframe and the tools to be deployed during the period concerned.

The present document is a summary of the implementation of the 2<sup>nd</sup> Action Plan, outlining the activities that were carried out from 2018 to 2022 (as envisaged in the roadmap). It is accompanied by an annex describing the initiatives taken to implement each action of the Action Plan.

## **SECTION B: MAIN INITIATIVES IMPLEMENTED SINCE 2018**

### **1) ENGAGING KEY SOURCE AND TRANSIT COUNTRIES**

#### **a) MULTILATERAL RELATIONS - FCTC PROTOCOL**

One of the key points relating to the objective of engaging key source and transit countries refers to the activities connected to the implementation of the FCTC Protocol.

Since its entry into force on 25 September 2018, the FCTC Protocol counts 68 Parties including:

- the EU<sup>8</sup> and 19 Member States (Austria, Belgium, Croatia, Cyprus, Czechia, France, Germany, Greece, Hungary, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Slovakia, Spain and Sweden) are Parties to the Protocol;
- the following candidate countries: Moldova, Montenegro, Serbia and Türkiye are also parties to the FCTC Protocol.

The Commission has promoted the ratification and implementation of the FCTC Protocol in neighbouring and other key third countries. This activity includes dedicated meetings, participation in seminars and discussions in various fora at technical and political level, as well as actions in roadmaps or action plans under the EU's enlargement policy or cooperation policy and strategies.

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<sup>8</sup> Council Decision (EU) 2016/1749 of 17 June 2016 on the conclusion, on behalf of the European Union, of the Protocol to Eliminate Illicit Trade in Tobacco Products to the World Health Organisation's Framework Convention on Tobacco Control, with the exception of its provisions falling within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union, OJ L 268, 1.10.2016, p. 1.

Since 2018, the Commission and notably the European Anti-Fraud Office (OLAF) actively promoted the FCTC Protocol ratification and/or implementation with Montenegro, Serbia, North Macedonia, Albania, Bosnia and Herzegovina, Türkiye, Moldova, Armenia, Azerbaijan, Georgia, Ukraine, Belarus, Uzbekistan, Kazakhstan, Russia, Jordan, Israel, China, Tunisia, Algeria, Morocco, Ghana and Egypt (Action A.1.1).

One of the key provisions of the FCTC Protocol is the establishment of a Global Information Sharing Focal Point (GISFP), which is part of the global tracking and tracing regime and aims at enabling Parties to the Protocol to make enquiries and receive relevant information. The first Meeting of the Parties (MOP1), which was held in Geneva in October 2018, set up a Working Group on Tracking and Tracing System (WGTT)<sup>9</sup>.

From 2018 to 2021, the EU was one of the three key facilitators of the WGTT and worked in close cooperation with the FCTC Secretariat. The Commission had thus a leading role in the WGTT.

In the framework of the WGTT, the Commission provided:

- a detailed “issues paper” to analyse and assess various options to set up the GISFP, which was used as a basis for the proposed conceptual analysis that was approved by the WGTT in November 2020 and it is included in the report to the Second Meeting of the Parties (MOP2);
- a specific proposal for an interim manual GISFP, presented in the third meeting in April 2021.

The WGTT approved the various reports, which included the EU’s main contributions on the options for the GISFP and on the interim manual GISFP. The MOP2, which was held in November 2021, formally adopted these reports<sup>10</sup> with no amendment, underlining the quality and the relevance of the WGTT initiatives.

MOP2 approved also the continuation of the WGTT. A first meeting took place in June 2022, followed by a second meeting in October 2022. The EU continues to be one of the key facilitators of the WGTT (Action A.1.3).

From 2018 to 2021, the EU was a member of the drafting group of the Working Group on Cooperation and Assistance (WGAC), established by MOP1. The WGAC studied how to implement the new legal tools, such as information sharing and mutual assistance, under Part V of the FCTC Protocol. The recommendation of the WGAC was adopted at MOP2<sup>11</sup> (Action A.1.4).

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<sup>9</sup> [https://fctc.who.int/publications/m/item/fctc-mop1\(6\)-tracking-and-tracing-systems-including-the-global-information-sharing-focal-point-and-unique-identification-markings-for-cigarette-packets-and-packages](https://fctc.who.int/publications/m/item/fctc-mop1(6)-tracking-and-tracing-systems-including-the-global-information-sharing-focal-point-and-unique-identification-markings-for-cigarette-packets-and-packages)

<sup>10</sup> [https://untobaccocontrol.org/downloads/mop2/decisions/FCTC\\_MOP2\\_6\\_EN.pdf](https://untobaccocontrol.org/downloads/mop2/decisions/FCTC_MOP2_6_EN.pdf)

<sup>11</sup> [https://untobaccocontrol.org/downloads/mop2/decisions/FCTC\\_MOP2\\_7\\_EN.pdf](https://untobaccocontrol.org/downloads/mop2/decisions/FCTC_MOP2_7_EN.pdf)

The FCTC Protocol also contains provisions to ensure a better control on the movement of tobacco producing and packaging machinery. The Report on the application of the Tobacco Products Directive (Directive 2014/40/EU)<sup>12</sup>, presented by the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions in May 2021<sup>13</sup>, makes specific mention in paragraph 5.1 of problems with the quality of information on production machines collected from the EU tracking and tracing system. The lack of quality information in this respect impairs the EU's efforts towards a better control of intra-EU movements of machinery used in the manufacture and packaging of tobacco products. As a first step to address this issue, Commission Implementing Regulation (EU) 2023/448<sup>14</sup> amends the current definition of machines to reflect the various machines' configurations adopted in the sector, and establishes a definition of a 'machine part' which in accordance with the new Implementing rules, should also receive an identifier code and thus, be monitored by the tracking and tracing system.

The Commission is currently running an overarching evaluation of the legislative framework for tobacco control, which includes the Tobacco Products Directive 2014/40/EU, the Tobacco Advertising Directive 2003/33/EC and other related tobacco control policies across the EU.

The issue of information on production machines will be part of this evaluation and the next steps, including on better control of the machinery, will be decided based on the results of this evaluation.

In 2019, the Commission allocated a direct grant under the third EU Health Programme to support the FCTC Secretariat, among others for the implementation of Article 8 of the FCTC Protocol on tracking and tracing (T&T). The grant covered the years 2019 to 2021 and aimed to support the FCTC Secretariat in:

- the compilation of existing examples and best practices of tracking and tracing mechanisms across different jurisdictions, and
- identifying key requirements for the establishment of a GISFP in compliance with Article 8 of the Protocol (Action A.1.7).

#### **b) BILATERAL RELATIONS**

To improve cross-border coordination and cooperation in the fight against the illicit tobacco trade, the Commission has also worked bilaterally with key source and transit countries.

With regard to China, OLAF signed a Strategic Administrative Cooperation Arrangement (SACA) with the General Administration of China Customs (GACC) to facilitate practical

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<sup>12</sup> Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC, OJ L 127, 29.4.2014, p. 1.

<sup>13</sup> COM(2021)249 final of 20 May 2021.

<sup>14</sup> Commission Implementing Regulation (EU) 2023/448 of 1 March 2023 amending Implementing Regulation (EU) 2018/574 on technical standards for the establishment and operation of a traceability system for tobacco products, OJ L 65, 2.3.2023, p. 28.

investigative cooperation. In addition, the EU and China have concluded a Strategic Framework for Customs Cooperation for 2018-2020, which explicitly covers the strengthening of the cooperation in the fight against the smuggling of tobacco products. Moreover, the Commission carried out the evaluation of the Customs Cooperation and Mutual Administrative Assistance Agreement (CCMAA) with China and started feasibility talks for a Customs Cooperation and Mutual Administrative Assistance Agreement with the United Arab Emirates (Actions A.2.2, A.2.3 and A.2.5).

A key driver for cross-border trade in general and illicit trade in particular is the big differences in the price differential between EU Member States and candidates and potential candidate countries. Initiatives to reduce this fiscal incentive for smuggling have been taken with Western Balkans (Albania, Bosnia and Herzegovina (BIH), Kosovo\*<sup>15</sup>, North Macedonia, Montenegro and Serbia), Ukraine, Georgia and Moldova with a view to adjusting the level of their tobacco excise rates and structures (Action A.2.6).

**Conclusions:** During the period covered by the Action Plan, the EU has been active at the multilateral and bilateral level to combat the illicit tobacco trade. At the multilateral level, the Commission has played a leading role in the implementation of the FCTC Protocol, which is a key tool to fight the illicit tobacco trade. At the bilateral level, the Commission has sought to strengthen its cooperation with key source and transit countries not only through cooperation with law enforcement authorities but also with a view to reducing the price differential of tobacco products between the EU Member States and the countries concerned.

## 2) LIMITING SUPPLY

### a) SECURING THE SUPPLY CHAIN – NEW EU TRACEABILITY SYSTEM FOR TOBACCO PRODUCTS

The EU tracking and tracing system, established by the Tobacco Products Directive and Commission Implementing Regulation (EU) 2018/574, is the first regional system of its kind and applies to all tobacco products manufactured in the EU as well as those manufactured outside the EU if they are destined for, or placed on the EU market. It allows for the monitoring of the current location of a product within the supply chain, creation of a time and location record for all movements of that product through its supply chain (tracking), as well as identifying the past locations of a product to verifying the product's route back to its origin (tracing). This system has been operational with regard to cigarettes and roll-your-own tobacco since 20 May 2019. Since then, the system has stored information concerning over 107 billion unit packets of these products and the logistic and financial operations of a million economic operators and over one and a half million facilities. On 20 May 2024, the system will be extended to all other tobacco products, besides cigarettes and roll-your-own tobacco and thus, will cover the movements of all tobacco products.

In relation to support in roll out of the EU tracking and tracing system, further assistance has been provided to EU Member States via the regular meetings of the Expert Subgroup on tobacco

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*\*This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo declaration of independence.*

traceability and security features, consisting of the Member States' competent authorities and the Commission.

In addition, the Commission launched a contract with the operator of the tracking and tracing system's secondary repository, (which is provided under a concession contract with the Commission by Dentsu Aegis Network Switzerland AG) to provide to the national competent authorities (officials responsible for the use of the traceability data) a series of trainings and documentation material on the operations of the secondary repository. Thanks to the trainings over 600 staff in the MS familiarised themselves with the user interfaces available for the authorities and learnt how to view, interpret and make use of the data collected and stored in the secondary repository. The last trainings took place in the 1<sup>st</sup> quarter of 2023. The trainings were based on the design of the tracking and tracing system as presented in Commission Implementing Regulation (EU) 2018/574 and Article 15 of Directive 2014/40/EU. Currently, more than 3 000 people from the national competent authorities use the system for their enforcement activities and operations (Action B.1.1).

Concerning the measures to secure the legal supply chain, the promotion of the EU tracking and tracing system in candidate countries has played a fundamental role in securing the supply chain. The main efforts of the Commission concentrated on the Working Group on Track & Trace system established under the FCTC Protocol, which has also an impact on the regions close to the EU.

In October 2020, the Commission shared the information concerning the EU tracking and tracing system with Serbia and, in December 2020, delivered a presentation of the EU tracking and tracing at a TAIEX event in Georgia.

In February 2022, the Commission presented the experience of the EU tracking and tracing system to a Moldovan Parliamentary Working Group (Action B.1.2).

Concerning the review of EU tracking and tracing system, the Commission has already adopted Commission Implementing Regulation (EU) 2023/448. The Implementing Regulation that will be applicable from 21 December 2023, amends certain technical rules laid down by Implementing Regulation (EU) 2018/574 in order to facilitate the reporting by all actors involved in the trade of tobacco products, reinforce the good practices in terms of data management and analysis, and consequently, improve the functioning of the EU tracking and tracing system. The review of the Tobacco Products Directive which is scheduled over the four year period 2021 to 2025 may also look into this issue (Action B.1.3).

## **b) LIMITING SUPPLY OF INPUT MATERIALS**

Limiting access to input materials, that are essential for the production of illicit tobacco products, is an important component of the fight against illicit tobacco trade as this would disrupt illicit business.

The lack of control of raw tobacco is of particular concern with evidence of increasing diversion to the illicit manufacturing of cigarettes inside the EU. The control of the movement of raw

tobacco is under consideration in the context of the review of the Tobacco Taxation Directive<sup>16</sup> (Directive 2011/64/EU).

Concerning curtailing the access of illicit tobacco producers to acetate tow and cigarette filters, the Commission has conducted an analysis in this area. It appears that the main producers of acetate tow have taken – albeit not homogeneously - measures to control their supply chain, avoiding that this specific material is sold to illicit producers of cigarettes filters to be used in illegal production. Although it is difficult to evaluate the effectiveness of such measures, the action taken by few producers could represent an important contribution to the fight against illicit tobacco trade. Further aspects of this analysis are contained in a separate annex to this document (see Annex 2).

### **c) STRENGTHENING THE CUSTOMS FRAMEWORK**

In September 2020, the Commission presented the Customs Action Plan to take the Customs Union to the next level<sup>17</sup>, with focus in particular on ensuring greater availability and use of data and data analysis for customs purposes and intelligence, risk-based supervision of supply chains. A number of actions of this Action Plan are relevant to the fight against illicit tobacco trade.

The Excise Movement and Control System (EMCS) is a computerised system for monitoring the movement of excise goods including tobacco products. More than 190,000 economic operators currently use the system, and it is a key facilitation instrument for EU economic operators trading excise goods and a crucial tool for information exchange and cooperation between EU Member States. Directive 2008/118/EC establishes the control and movement requirements for excise goods, and notably tobacco products. . On 13 February 2023 the Excise Movement and Control System (EMCS) has been extended to business-to-business duty paid traffic<sup>18</sup> (Action B.3.1).

Another initiative referred to the Customs Control Equipment Instrument. This Instrument was established by Regulation (EU) 2021/1077<sup>19</sup>. It allows Member States to purchase, maintain and upgrade state-of-the-art customs equipment such as new scanners, automated number plate detection systems, teams of sniffer dogs and mobile laboratories for sample analysis (Action B.3.2).

### **d) STRENGTHENING ENFORCEMENT, DETECTION AND SANCTIONS**

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<sup>16</sup> Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco (codification), OJ L 176, 5.7.2011, p. 24.

<sup>17</sup> COM(2020)581 final of 28 September 2020.

<sup>18</sup> Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty, OJ L 58, 27.2.2020, p. 4.

<sup>19</sup> Regulation (EU) 2021/1077 of the European Parliament and of the Council of 24 June 2021 establishing, as part of the Integrated Border Management Fund, the instrument for financial support for customs control equipment, OJ L 234, 2.7.2021, p. 1.

One of the key objectives of the 2<sup>nd</sup> Action Plan is to strengthen law enforcement at EU and Member State level and to enhance cooperation between the relevant actors. In this respect, a number of major legislative instruments have recently been adopted:

- Council Regulation (EU) 2017/1939 of 12 October 2017<sup>20</sup> implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office (EPPO) (Action B.4.1.1).
- Regulation (EU, Euratom) No 883/2013<sup>21</sup> (the OLAF Regulation) as amended by Regulation (EU, Euratom) 2020/2223 of the European Parliament and of the Council of 23 December 2020<sup>22</sup> provides for close cooperation with the EPPO based on complementarity, exchange of information and non-duplication of efforts. The revised OLAF Regulation also strengthens the way OLAF can conduct its own investigations by streamlined rules for on-the-spot checks and inspections, providing rules on access to bank account information and ensuring stronger guarantees for persons concerned by OLAF investigations (Action B.4.1.2).
- Directive (EU) 2017/1371 of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (the 'PIF Directive')<sup>23</sup>. As of April 2021, the number of notified complete transpositions had gone up to 26, which means that all Member States bound by the Directive have now notified its transposition into national law<sup>24</sup> (Action B.4.1.3). Currently, there are infringement proceedings ongoing against 19 Member States for non-compliance of national legislation with the PIF Directive.

OLAF has recently taken a number of initiatives to strengthen strategic inter-agency cooperation in the fight against illicit tobacco trade. The Working Arrangement between OLAF and Europol was agreed and signed in 2020<sup>25</sup> (Action B.4.1.4). On 7 June 2021, OLAF and the World Customs Organization (WCO) signed an Administrative Cooperation Arrangement (ACA)<sup>26</sup>. This ACA expands the scope of the 2003 arrangement between the WCO and OLAF covering only the exchange of information on tobacco seizures (Action B.4.1.6).

Efforts have recently been made to strengthen operational coordination of customs and law enforcement targeting the illicit tobacco trade at European level, including notably the work under the EMPACT project and the Action Plan elaborated in the context of the Council Law Enforcement Working Party (Customs) (Action B.4.1.5).

Following the lack of agreement on the Commission's 2013 proposal for a Union legal framework for customs infringements and sanctions, the Commission has proposed another approach to this subject as part of its Customs Action Plan to take the Customs Union to the next level. The Commission has proposed to draw up an updated comprehensive report on the

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<sup>20</sup> <https://eur-lex.europa.eu/eli/reg/2017/1939/oj>

<sup>21</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02013R0883-20210117>

<sup>22</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32020R2223>

<sup>23</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017L1371>

<sup>24</sup> <https://data.consilium.europa.eu/doc/document/ST-11630-2021-INIT/en/pdf>

<sup>25</sup> [https://ec.europa.eu/anti-fraud/system/files/2021-09/working\\_arrangements\\_olaf\\_europol\\_en.pdf](https://ec.europa.eu/anti-fraud/system/files/2021-09/working_arrangements_olaf_europol_en.pdf)

<sup>26</sup> [https://ec.europa.eu/anti-fraud/media-corner/news/olaf-and-wco-strengthen-cooperation-tackle-customs-fraud-2021-06-07\\_it](https://ec.europa.eu/anti-fraud/media-corner/news/olaf-and-wco-strengthen-cooperation-tackle-customs-fraud-2021-06-07_it)

individual systems of penalties in each Member State in accordance with Article 42 of the Union Customs Code (UCC)<sup>27</sup>. Based on this report a project group on sanctions was launched in the last quarter of 2021.

The fact finding resulted in a report on the assessment of infringements and sanctions under the UCC in Member States.<sup>28</sup> The report has been drawn up based on the information provided by the Member States and checked by them and is now under internal consultation. After this consultation, the report will be adopted by the Commission and sent to the Council and the Parliament (Action B.4.1.7).

OLAF together with Customs and other law enforcement authorities in the Member States, and other European bodies such as Eurojust, Europol and Frontex, have participated in a number of operational activities to combat illicit tobacco trade in the last years including joint customs operations.

These operations targeted:

<p>Fight illegal tobacco production inside the EU (Action B.4.2.1)</p>	<p>Member State law enforcement authorities, Eurojust, Europol and OLAF coordinated their efforts to detect and dismantle illicit tobacco production sites inside the EU. For example, in 2021 OLAF’s work resulted in the seizure of 91 million cigarettes illegally produced at sites across the EU, leading to overall seizures of 437 million illicit cigarettes<sup>29</sup>.</p>
<p>Operational activity targeted on EU- Eastern land border (Action B.4.2.2)</p>	<p>Member State law enforcement authorities, OLAF, Eurojust, Europol and Frontex carried out operational activities focusing on cigarette smuggling across the EU-Eastern land border. For example, in 2021 a joint action named ARKTOS 3 led by Frontex and co-led by Lithuania and Poland, supported by Interpol, OLAF, Eurojust and Europol along with border guards, police officers and customs officers from Estonia, Latvia, Slovakia, Finland and Sweden allowed law enforcement authorities to detect more than 400 innovative tobacco products, such as electronic cigarettes and e-cigarettes liquids, and to seize 6.7 million illegal cigarettes and 2.6 tonnes of raw tobacco<sup>30</sup>. Also in 2021, a joint customs operation named SCORPION II and co-organised by the European Union Border Assistance Mission to Moldova and Ukraine (EUBAM) and OLAF targeted the smuggling of tobacco products at the EU eastern border and resulted in the seizures of 8,500 million cigarettes<sup>31</sup>.</p>

<sup>27</sup> [https://ec.europa.eu/transparency/documents-register/detail?ref=SWD\(2023\)2&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2023)2&lang=en)

<sup>28</sup> [https://ec.europa.eu/transparency/documents-register/detail?ref=COM\(2023\)5&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=COM(2023)5&lang=en)

<sup>29</sup> See for example press release from OLAF about 2021 activities at [https://anti-fraud.ec.europa.eu/media-corner/news/olaf-helps-stop-over-430-million-illicit-cigarettes-flooding-eu-market-2022-02-23\\_en](https://anti-fraud.ec.europa.eu/media-corner/news/olaf-helps-stop-over-430-million-illicit-cigarettes-flooding-eu-market-2022-02-23_en)

<sup>30</sup> See OLAF Report 2021 at [https://anti-fraud.ec.europa.eu/system/files/2022-07/olaf-report-2021\\_en.pdf](https://anti-fraud.ec.europa.eu/system/files/2022-07/olaf-report-2021_en.pdf)

<sup>31</sup> See footnote 22.

Operational activity targeted on Eastern Mediterranean, Adriatic and Black Sea (Action B.4.2.3)	Member State law enforcement authorities and OLAF carried out operational activities focusing on cigarette smuggling in the Eastern Mediterranean, Adriatic and the Black Sea. For example, in 2021 OLAF cooperated with national authorities in Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia and several EU Member States about suspicious imports, exports and further movements of water pipe tobacco <sup>32</sup> .
Operational activity targeted on Water Pipe tobacco (Action B.4.2.4)	Member State law enforcement authorities and OLAF carried out operational activities focusing on the smuggling of water pipe tobacco, an emerging trend that OLAF had detected a few years ago. For example, in 2021, OLAF continued to be active on water pipe tobacco smuggling and was able to identify suspicious consignments for over 60 tonnes of water pipe tobacco <sup>33</sup> .
Operational activity targeted on illicit tobacco sales over the internet (Action B.4.2.5)	Member State law enforcement authorities and OLAF carried out operational activities focusing on the sale of illicit tobacco products via the internet. For example, in 2021 a joint customs operation named POSTBOX III and co-organised by Italian customs and the Guardia di Finanza, the Italian financial crime police, with the support of OLAF, the collaboration of Europol and the participation of 20 Member States, focused on illegal products using both the open and the dark web. This operation led to the detention of more than 1400 shipments of illicit goods, including 240 kg of smuggled cigarettes and tobacco <sup>34</sup> .
Transit Procedures (Action B.4.2.6)	Member State law enforcement authorities and OLAF carried out joint intensified activities to tackle infringements on transit procedures for excise products. For example, the Customs Eastern and South-eastern Land Border Expert Team (CELBET) organised a Joint Intensified Activity (JIA) with the support of OLAF focusing on the risk analysis and operational control during the application of T2 transit procedures and T2L document.

**Conclusions:** The EU has taken a number of initiatives during the period covered by the Action Plan to limit the supply of tobacco products. One of the key initiatives has been the establishment of the EU tracking and tracing system, which is operational since 20 May 2019. Other initiatives have focused on a better control of input materials, such as raw tobacco, which is part of the ongoing review of the Tobacco Taxation Directive, and cigarette filters, which have been subject to a particular attention in a separate report. More generally, the legal framework has been reinforced and the cooperation between law enforcement authorities and with OLAF has been strengthened in the fight against the illicit tobacco trade, in particular in terms of operational activities.

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<sup>32</sup> See footnote 22.

<sup>33</sup> See footnote 22.

<sup>34</sup> See footnote 22.

### 3) LIMITING DEMAND

#### a) AWARENESS RAISING

One of the key factors of the illicit trade in tobacco products is the demand for illicit products. To understand the level of awareness of citizens on this phenomenon, a specific initiative has been held: the Survey for Special Eurobarometer 482 on the public perception of illicit tobacco trade was carried in the 28 EU Member States in December 2018. The Eurobarometer report was published in July 2019<sup>35</sup>.

Some 27,643 respondents from different social and demographic groups were interviewed face-to-face at home in their mother tongue.

As key findings, the low price is by far considered as the main reason for smoking black market cigarettes, and most of those who have been offered black market cigarettes say that they were at least 30% cheaper than legal cigarettes, with more than a third saying they were at least 50% cheaper. Only a small proportion of Europeans recognise that the black market for cigarettes is one of the key revenue sources for organised crime groups<sup>36</sup>. The survey also found that the majority of respondents would not be confident in being able to distinguish a packet of black market cigarettes from a legal packet (Action C.1.1).

#### b) REDUCE INCENTIVES

The price of tobacco products, which is strictly linked with the level of taxation, plays a key factor in making illegal cigarettes attractive for consumers. A possible convergence between the tax levels applied in the Member States could support a reduction of illicit trade of cigarettes. The evaluation of Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco was adopted in 2020<sup>37</sup>. The evaluation highlights the main limitations of the current regulatory framework and concludes that the Directive does not fully achieve its objectives in relation to the proper functioning of the internal market and at the same time a high level of health protection, as the minimum tax rates have lost their effect. Moreover, the Directive is not able to cope with market developments and the impact of the entry into the market of new products. Furthermore, illicit trade in tobacco products remains substantial and continues to constitute a source of concern in Member States. This Directive is currently under review (Action C.2.1).

**Conclusions:** During the period concerned, the EU has also been active to limit the demand of tobacco products. With regard to awareness raising, the Eurobarometer has provided the EU

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<sup>35</sup> [https://ec.europa.eu/anti-fraud/system/files/2021-09/eurobarometer\\_2019\\_summary\\_en.pdf](https://ec.europa.eu/anti-fraud/system/files/2021-09/eurobarometer_2019_summary_en.pdf)

<sup>36</sup> The annual revenues derived from the illicit cigarette market in the EU range between EUR 8 billion and EUR 10 billion. Source: European Commission, Directorate-General for Migration and Home Affairs, Mapping the risk of serious and organised crime infiltrating legitimate businesses: final report , Disley, E.(editor), Blondes, E.(editor), Hulme, S.(editor), Publications Office, 2021.

<sup>37</sup> SWD(2020)33 final, [https://ec.europa.eu/taxation\\_customs/system/files/2020-02/10-02-2020-tobacco-taxation-report-summary\\_en.pdf](https://ec.europa.eu/taxation_customs/system/files/2020-02/10-02-2020-tobacco-taxation-report-summary_en.pdf)

useful information on the public perception of the illicit tobacco trade. In order to reduce incentives, the revision of the tobacco taxation rules is ongoing.

#### **4) ANALYSIS AND INTELLIGENCE**

##### **a) DATA COLLECTION AND ANALYSIS**

The Anti-Fraud Information System (AFIS) is an umbrella term for a set of anti-fraud IT applications operated by OLAF under a common technical infrastructure. The aim of these applications is to exchange fraud-related information between the competent national and EU administrations in a timely and secure manner. AFIS also helps to store and analyse relevant data. AFIS applications include the Customs Information System (CIS). OLAF and the EU Intellectual Property Office (EUIPO) have recently signed a Service Level Agreement<sup>38</sup> which includes the development of an IT tool, which will make it easier to share and analyse data related to fraud related cases at EU level. This will increase the systematic reporting by Member States of relevant seizures and intelligence in the CIS, facilitated by implementing the "one seizure-one report" approach, (Action D.1.1).

Under the Union Anti-Fraud Programme (UAFP)<sup>39</sup> a dedicated section on the operational budget line of EUR 1,425,000 in 2021, has been established to support Member State capacity by funding the development of IT tools, the funding of tobacco analysis and the purchasing of access to commercial Databases.

Moreover, under the financing of the UAFP (and its predecessor the Hercule programme), OLAF together with the Member States and the Joint Research Center (JRC), have worked on a text-mining project related to tobacco frauds. This has confirmed the potential of the European Media Monitor (EMM) to identify and share articles on tobacco frauds (Action D.1.3).

In 2020, the Commission started working on a project to establish whether data from the EU traceability system could be used in the fight against illicit trade in tobacco products (action D.1.5).

Concerning the measuring of the illicit tobacco market as a basis for informed operational and policy decision making, the Commission commissioned a feasibility study which was published on 13 January 2021<sup>40</sup>. The study identified a shortlist of five preferred methods and some interesting new data sources. The shortlisted methods were combined in various ways, creating as a final output options for methodologies that also take into account the different levels of resource intensity required to apply them. This study will be a useful reference for any future action in this area (Action D.1.6).

In order to support Member States in determining the authenticity or counterfeit nature of the tobacco products seized, the Commission (OLAF and the JRC) launched in 2015 a project

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<sup>38</sup> [https://ec.europa.eu/anti-fraud/media-corner/news/olaf-and-euipo-sign-new-working-agreement-2022-03-01\\_en](https://ec.europa.eu/anti-fraud/media-corner/news/olaf-and-euipo-sign-new-working-agreement-2022-03-01_en)

<sup>39</sup> Regulation (EU) 2021/785 of the European Parliament and of the Council of 29 April 2021 establishing the Union Anti-Fraud Programme and repealing Regulation (EU) No 250/2014, OJL 172, 17.5.2021, p. 110-122.

<sup>40</sup> <https://op.europa.eu/fr/publication-detail/-/publication/82d1029f-5620-11eb-b59f-01aa75ed71a1/language-en>

aiming to establish an independent testing facility (TOBLAB)<sup>41</sup>. During the period covered by the Action Plan, Member States have increased their use of the TOBLAB facility, and supported its continuation over the years, during which more than 500 samples were analysed. During trainings, workshops and conferences the Commission (OLAF and JRC) has promoted the potential and the work of TOBLAB.

TOBLAB has continued to produce tangible results demonstrating the added value of the project for the protection of the EU's financial interests, in particular with regard to OLAF and Member State investigators of tobacco cases (Action D.1.7).

#### **b) ENHANCED CO-OPERATION AND CO-ORDINATION**

The Commission organises and chairs two meetings of the Expert Group on the Fight Against Illicit Trade in Tobacco (FITT) per year<sup>42</sup>. The group's mission is to provide advice and expertise to the Commission in relation to anti-fraud questions concerning the illicit trade in tobacco, in particular the smuggling of cigarettes. Due to the COVID-19 restrictions, some meetings were conducted in virtual form. The 9<sup>th</sup> FITT meeting was held in May 2022 and the 10<sup>th</sup> in October 2022.

During the FITT meetings, information on the illicit tobacco trade is shared with the Member States. The information provided covers operational activities, trend and statistics (Action D.2.2). In addition, statistics on tobacco seizures are collected from and shared with Member States annually (Action D.2.1).

**Conclusions:** The EU has launched or continued a number of projects to develop analysis and intelligence and support EU Member States in the fight against the illicit tobacco trade. A dedicated section in the budget of the Union Anti-Fraud Programme (UAFP) supports Member States' technical capacity by funding the purchase and development of IT tools. A feasibility study on measuring the illicit tobacco market was published. The work of the FITT, gathering representatives of the Commission and Member State experts, has been instrumental in stimulating cooperation and coordination on operational activities, the analysis of illicit trade trends and statistics on cigarette seizures.

### **SECTION C: FINAL CONCLUSIONS AND WAY FORWARD**

After two dedicated action plans covering more than 8 years of activity, the illicit tobacco landscape has changed significantly and the EU now has effective tools to fight the illicit tobacco trade. The legal framework has been enhanced, for example, the OLAF Regulation has been updated (in force since January 2021) and OLAF has strengthened its cooperation with its partners such as Europol (October 2020), the EPPO (July 2021), the WCO (June 2021) and the

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<sup>41</sup> TOBLAB was launched in 2015 by OLAF and the JRC located in Geel, Belgium, to establish an independent testing facility providing support at EU level to investigators of tobacco cases by determining the authenticity or counterfeit nature of seized tobacco products, by establishing links between seizures and by identifying the geographical origin of seized tobacco products, including raw tobacco, cut tobacco, and so-called 'cheap whites' (i.e. legally produced cigarettes but traded illegally).

<sup>42</sup> [https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?do=groupDetail\\_groupDetail&groupID=3534](https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?do=groupDetail_groupDetail&groupID=3534)

EUIPO (February 2022). In addition, the EU tracking and tracing system for tobacco products is operational since 20 May 2019, and the ongoing review of the Tobacco Products Directive 2014/40/EU and the Tobacco Taxation Directive 2011/64/EU is expected to allow for a better control of tobacco products. The FCTC Protocol to eliminate illicit trade in tobacco products, which is in force since September 2018 and , is a key tool to fight the illicit tobacco trade at the global level, today has 66 parties including the EU and 18 Member States.

Moreover, most actions of the 2<sup>nd</sup> Action Plan targeting long-term key objectives have been covered by other EU strategic initiatives adopted by the Commission since 2018. This is the case for example of the Europe's Beating Cancer Plan (February 2021) which includes an initiative to achieve a tobacco-free Europe, or the Customs Action Plan to take the Customs Union to the next level (September 2020) which focuses in particular on ensuring greater availability and use of data and data analysis for customs purposes and intelligent, risk-based supervision of supply chains.

Given that the actions planned under the Action Plan have for the most part been completed, it is proposed to close the 2<sup>nd</sup> Action Plan. The fight against the illicit tobacco trade is and will remain a priority for the Commission and for OLAF in particular. OLAF will continue to support the effective implementation of all actions to fight the illicit tobacco trade including in particular the following activities:

- OLAF will focus on operational activities including investigations, coordination of Member State activities and organising joint customs operations in this area including to tackle illegal manufacture and counterfeiting.
- OLAF will promote the use of funds under by the UAFP to support the Member States in their efforts to combat the illicit trade in tobacco products.
- OLAF will continue to support EMPACT activities as well as relevant actions in the context of the Action Plan of the LEWP-Customs and will consider how to contribute to the broader law enforcement work against the organised crime groups behind illicit tobacco activities.
- OLAF has started reinforcing its data analysis capacity which could lead to improved intelligence to detect, prevent and support operational activities and investigations.
- OLAF intends to improve the availability of tobacco seizure statistics (and possibly additional data related to illicit tobacco products).
- OLAF will continue support the laboratory facility (TOBLAB) insofar as Member States rely on it.

As regards the FCTC Protocol's work, the Commission will continue to participate in the Working Group on Track & Trace in 2023 with a view to establishing a roadmap to assess the needs and the resources for a phased implementation of an effective Global Information Sharing Focal Point (GISFP). The EU will be compliant with its obligations by the next Meeting of the Parties scheduled by the end of 2023 (MOP3) in which the GISFP will be established. The EU tools in place by then (including the tracking and tracing system) will be sufficient for the implementation of the Protocol and no further developments are required.

The objectives set in the 2<sup>nd</sup> Action Plan have been comprehensively addressed and in the light of new challenges, OLAF will continue to exchange views with the Member States. This implementation document will be a basis on which OLAF can explore possible new priorities and orientations in the fight against the illicit tobacco trade.

**ANNEX 1**

**Outcome of the implementation of the 2<sup>nd</sup> Action Plan to fight the illicit tobacco trade 2018-2022**

<b>A</b>	<b>ENGAGING SOURCE AND TRANSIT COUNTRIES</b>	<b>KEY AND</b>				
<b>A.1</b>	<b>Multilateral relations - FCTC Protocol</b>					
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>	
A.1.1	Making the Framework Convention on Tobacco Control (FCTC) Protocol an effective tool of global governance	Promote ratification and implementation of the FCTC Protocol in relevant third countries, esp. in the EU's neighbourhood (notably candidate countries and potential candidates, and Neighbourhood countries) including via the EU's institutional frameworks with the countries concerned	Targeted engagement with relevant countries	Continuous	Commission EEAS	

<p><b>Outcome</b></p>	<p>66 Parties have joined the Protocol to Eliminate Illicit Trade in Tobacco Products to the WHO FCTC Protocol.</p> <p>The EU<sup>43</sup> and 18 Member States are Parties to the Protocol: Austria, Belgium, Croatia, Cyprus, Czechia, France, Germany, Greece, Hungary, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovakia, Spain and Sweden.</p> <p>Since all Member States are Parties to the FCTC, Member States that are not Parties to the Protocol are observers to the Protocol and may take part in numerous activities, including Meeting of Parties (MOP) and working groups (WG).</p> <p>EU Parties (EU and MS) have a key position in the EURO Region, which has six non-EU Parties (Montenegro, Norway, Serbia, Türkiye, Turkmenistan and the UK).</p> <p>In the framework of the FCTC Protocol, the Commission has carried out the following tasks:</p> <ul style="list-style-type: none"> <li>• represented the EU and the Member States during the second Meeting of the Parties (MOP2) held on 15-17 November 2021 in a virtual setting, as well as during the pre-MOP meeting of the EURO Region on 13-14 October 2021;</li> <li>• provided regularly updates to the Member States about the activities under the FCTC Protocol (WGs, budget, various reports and recommendations to the MOP, organisation of the MOP2) and coordinated the EU and the Member States' positions to be taken by the EU and the Member States in the framework of the MOP and of the WG meetings;</li> <li>• coordinated Member State applications for FCTC Protocol positions and managed to have two Member States elected respectively as EURO Region Bureau Member for 2022-2023 (Cyprus, continued mandate) and as Chair of Committee B of MOP2 (Austria);</li> <li>• had regular meetings with the EURO region member of the MOP Bureau and the EURO region coordinator.</li> </ul> <p>The Commission has promoted the ratification and implementation of the FCTC Protocol in neighbouring and key third countries. This activity covers dedicating meetings, participations in seminars and discussions in various fora at technical and political level, as well as actions foreseen in roadmaps or action plans under the EU's enlargement or cooperation strategy.</p> <p>Since 2018, the Commission and notably OLAF actively promoted the FCTC Protocol ratification and/or implementation with Montenegro, Serbia, North Macedonia, Albania, Bosnia and Herzegovina, Türkiye, Moldova, Armenia, Azerbaijan, Georgia, Ukraine, Belarus, Uzbekistan, Kazakhstan, Russia, Jordan, Israel, China, Tunisia, Algeria, Morocco, Ghana and Egypt.</p> <p>In accordance with the Implementation Assistance Strategy, activities related to the implementation of the Protocol should focus on priority areas, notably on tracking and tracing.</p>				
<p><b>ITEM</b></p>	<p><b>TITLE</b></p>	<p><b>DESCRIPTION</b></p>	<p><b>ACTION</b></p>	<p><b>TIMELINE</b></p>	<p><b>RESPONSIBLE</b></p>

<sup>43</sup> Council Decision (EU) 2016/1749 of 17 June 2016 on the conclusion, on behalf of the European Union, of the Protocol to Eliminate Illicit Trade in Tobacco Products to the World Health Organisation's Framework Convention on Tobacco Control, with the exception of its provisions falling within the scope of Title V of Part Three of the Treaty on the Functioning of the European Union, OJ L 268, 1.10.2016, p. 1.

A.1.2	FCTC Protocol Implementation Support	Support Member States in implementing the FCTC Protocol via a dedicated project group for Member States	Guidance documentation	2019	Commission
<b>Outcome</b>	<p>The Commission has set up a Project Group on FCTC Protocol implementation issues as a collaborative forum for both Member States and the Commission to address implementation issues at both EU and national level. The project group met twice, first on 27 June 2018 and then on 30 January 2019.</p> <p>The Project Group broadly dealt with the preparations for the working groups established by the first Meeting of the Parties (MOP1) at an international level and specific aspects of Protocol implementation for the EU and MS.</p>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
A.1.3	Global Information Sharing Focal Point (GISFP)	Take a leading role in the Working Group on Tracking and Tracing Systems established at the 1 <sup>st</sup> Meeting of the Parties (Geneva, 8-10 October 2018) which will discuss how to set up an effective and efficient GISFP, in close cooperation with the FCTC Secretariat (Art. 8 FCTC Protocol)	Contribute to a Report to be presented at the 2 <sup>nd</sup> Meeting of the Parties under the FCTC Protocol	2020	Commission

<p><b>Outcome</b></p>	<p>The MOP1 held in Geneva in October 2018 set up a Working Group (WG) on Tracking and Tracing Systems (WGTT)<sup>44</sup>. In accordance with Article 8 of the Protocol, the mandate of the WGTT focussed on various practices as regards tracking and tracing and identification markings, as well as with elaborating on the future Global Information Sharing Focal Point (GISFP).</p> <p>From 2018 to 2021, the EU was one of the three key facilitators of the WGTT and worked in close cooperation with the FCTC Secretariat. The Commission had thus a leading role in the WGTT.</p> <p>The Commission took part in all the meetings to prepare the work of the WGTT, drafted the questionnaire on practices regarding tracking and tracing systems as well as drafted and reviewed the various reports of the WGTT. The Commission also took an active part in the WG meetings in chairing the meetings or making presentations.</p> <p>In total, there have been three WGTT meetings, including several working meetings (November 2019 in Panama, November 2020 and April 2021 in a virtual setting).</p> <p>In the framework of the WG, the Commission provided:</p> <ul style="list-style-type: none"> <li>• a detailed “issues paper” to analyse and assess various options to set up the GISFP, which was used as a basis for the proposed conceptual analysis that was approved by the WG on November 2020 and is included in the report to the second Meeting of the Parties (MOP2);</li> <li>• a specific proposal for an interim manual GISFP, presented in the third meeting in April 2021.</li> </ul> <p>The WGTT approved the various reports, which included EU’s main contributions on the options for the GISFP and on the interim manual GISFP. The MOP2 held in November 2021 formally adopted these reports<sup>45</sup> with no amendment, underlining the quality and the relevance of the WG’s initiatives.</p> <p>MOP 2 approved also the continuation of the WGTT. A first meeting took place in June 2022, followed by a second meeting in October 2022. The EU continues to be one of the key facilitators of the WGTT.</p>				
<p><b>ITEM</b></p>	<p><b>TITLE</b></p>	<p><b>DESCRIPTION</b></p>	<p><b>ACTION</b></p>	<p><b>TIMELINE</b></p>	<p><b>RESPONSIBLE</b></p>

<sup>44</sup>[https://fctc.who.int/publications/m/item/fctc-mop1\(6\)-tracking-and-tracing-systems-including-the-global-information-sharing-focal-point-and-unique-identification-markings-for-cigarette-packets-and-packages](https://fctc.who.int/publications/m/item/fctc-mop1(6)-tracking-and-tracing-systems-including-the-global-information-sharing-focal-point-and-unique-identification-markings-for-cigarette-packets-and-packages)

<sup>45</sup>[https://untobaccocontrol.org/downloads/mop2/decisions/FCTC\\_MOP2\\_6\\_EN.pdf](https://untobaccocontrol.org/downloads/mop2/decisions/FCTC_MOP2_6_EN.pdf)

A.1.4	Utilise new legal tools in international cooperation	Actively contribute to the Working Group on Cooperation and Assistance established at the 1 <sup>st</sup> Meeting of the Parties (Geneva, 8-10 October 2018) which will study how to implement the new legal tools (such as information sharing and mutual assistance) under Part V of the FCTC Protocol	Contribute to a Report to be presented at the 2 <sup>nd</sup> Meeting of the Parties under the FCTC Protocol	2020	Commission Member States
<b>Outcome</b>	<p>From 2018 to 2021, the EU was a member of the drafting group of the Working Group on Cooperation and Assistance (WGAC), established by MOP1. The WG studied how to implement the new legal tools, such as information sharing and mutual assistance, under Part V of the FCTC Protocol.</p> <p>The Commission took part in all three meetings to prepare the work of the WG (December 2019 in Ecuador, June 2020 and April 2021 in a virtual setting), as well as to draft and review the report to MOP2, including other technical meetings and a range of virtual drafting meetings.</p> <p>The Commission also took an active part in the WG meetings in chairing the meetings or making presentations.</p> <p>More specifically, the Commission provided a substantial part of the report to MOP2 and of the draft recommendations.</p> <p>The recommendation of the WG was adopted by the Parties<sup>46</sup>.</p>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
A.1.5	Movement of tobacco producing and packaging machinery	Launch a feasibility study to develop a system to better control intra-EU movements of machinery used in the manufacture and packaging of tobacco products (Article 6 FCTC Protocol)	Feasibility study	2019	Commission

<sup>46</sup> [https://untobaccocontrol.org/downloads/mop2/decisions/FCTC\\_MOP2\\_7\\_EN.pdf](https://untobaccocontrol.org/downloads/mop2/decisions/FCTC_MOP2_7_EN.pdf)

<b>Outcome</b>	<p>The Report on the application of the tobacco Products Directive (Directive 2014/40/EU)<sup>47</sup> presented by the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions in May 2021<sup>48</sup> makes specific mention of challenges with the quality of information on production machines collected with the EU tracking and tracing system. The lack of quality information in this respect impairs the EU efforts towards a better control of intra-EU movements of machinery used in the manufacture and packaging of tobacco products.</p> <p>As a first step to address this issue, Commission Implementing Regulation (EU) 2023/448 amends the current definition of machines to reflect the various machines' configurations adopted in the sector, and establishes a definition of a 'machine part' which in accordance with the new Implementing rules, should also receive an identifier code and thus, be monitored by the tracking and tracing system.</p> <p>The Commission is currently running an overarching evaluation of the legislative framework for tobacco control, which includes the Tobacco Products Directive 2014/40/EU, the Tobacco Advertising Directive 2003/33/EC and other related tobacco control policies across the EU.</p> <p>The issue of information on production machines will be part of this evaluation and the next steps, including on better control of the machinery, will be decided based on the results of this evaluation.</p>				
ITEM	TITLE	DESCRIPTION	ACTION	TIMELINE	RESPONSIBLE
A.1.6	Prohibition to intermingle tobacco products with non-tobacco products in a single container in EU Free Trade Zones	Present a proposal of prohibiting to intermingle tobacco products with non-tobacco products in a single container in EU Free Trade Zones (Art. 12(2) FCTC Protocol)	Proposal presented	2021	Commission
<b>Outcome</b>	<p>Concerning the presentation of a proposal of prohibiting to intermingle tobacco products with non-tobacco products in a single container in EU Free Trade Zones based on the provisions of Art. 12(2) of the FCTC Protocol, the Commission, after a detailed analysis, considered that an amendment to the Union Customs Code (UCC) was not necessary.</p> <p>Article 1 of Council Decision (EU) 2016/1749 establishes that the FCTC Protocol, including Article 12(2), is approved on behalf of the Union. In addition, the second paragraph of Article 1(1) of the UCC stipulates that 'Without prejudice to international law and conventions and Union legislation in other fields, the Code shall apply uniformly throughout the customs territory of the Union'. Article 12(2) of the FCTC Protocol establishes a prohibition which has a direct effect within the EU territory. The enforcement of this measure falls under the competence of the National Authorities of the Member States. No further implementing legislation at the EU level is needed.</p>				

<sup>47</sup> Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC, OJ L 127, 29.4.2014, p. 1.

<sup>48</sup> COM(2021)249 final of 20 May 2021.

ITEM	TITLE	DESCRIPTION	ACTION	TIMELINE	RESPONSIBLE
A.1.7	FCTC Secretariat Support	Support the FCTC Secretariat with expertise and materially in helping Parties with implementation of the FCTC Protocol	Technical assistance	Continuous	Commission
<b>Outcome</b>	<p>In 2019, the Commission allocated a direct grant under the EU Health Programme to support the FCTC Secretariat among others in the implementation of Article 8 of the FCTC Protocol. The grant covered the years 2019 to 2021 and aimed to support the FCTC Secretariat in:</p> <ul style="list-style-type: none"> <li>• the compilation of existing examples and best practices of tracking and tracing mechanisms across different jurisdictions, and</li> <li>• identifying key requirements for the establishment of a Global Information Sharing Focal Point in compliance with Article 8 of the Protocol.</li> </ul> <p>Moreover, the Union Anti-Fraud Programme 2021-2027 (UAFP) provides for the possibility of supporting the FCTC Secretariat in its functions related to the Protocol, as well as other activities organised by the Secretariat in connection with the fight against illicit trade in tobacco products.</p>				
<b>A.2</b>	<b>Bilateral relations</b>				
ITEM	TITLE	DESCRIPTION	ACTION	TIMELINE	RESPONSIBLE
A.2.1	Exchange of customs related information with third countries	Follow up on Council Conclusions of 19 December 2016 on Enhanced Exchange of Customs-Related Information with Third Countries as well as the High Level Seminar organised by the Bulgarian Presidency on 7-8 June 2018	Evaluation and possible follow-up measures if appropriate	2019	Commission
<b>Outcome</b>	<p>The Commission initially considered the establishment of a framework to enhance the exchange of Customs related information with third countries.</p> <p>Following further internal consultation, the Commission refocused its efforts to include relevant provisions in its bilateral agreements with third countries.</p> <p>Moreover, in the implementation of Action 12 of the new Customs Action Plan (CAP), the Commission has been working on a new initiative to analyse the Union's international cooperation in customs matters.</p>				
ITEM	TITLE	DESCRIPTION	ACTION	TIMELINE	RESPONSIBLE

A.2.2	Strategic Administrative Cooperation Arrangement (SACA) with the General Administration of China Customs (GACC)	Effective implementation of the activities foreseen in the SACA following its signature in July 2018	Completion of activities foreseen in the SACA	2021	OLAF
<b>Outcome</b>	The effective implementation of the activities foreseen in the SACA with China Customs (GACC) following its signature in July 2018 has been completed. A pilot project on transshipment fraud, which is a well-established mechanism used by tobacco smugglers to avoid payment of customs duties and other taxes, was conducted under the framework of the SACA.				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
A.2.3	Customs Cooperation and Mutual Administrative Assistance Agreement (CCMAA) with China	Review of the 2004 Customs Cooperation and Mutual Administrative Assistance Agreement with China	Evaluation and possible follow-up measures if appropriate	2020	Commission
<b>Outcome</b>	The Commission carried out an evaluation study on the implementation of the Agreement between the EU and China on CCMAA and published a report in July 2020. Possible follow-up measures are still under consideration.				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
A.2.4	Administrative Cooperation Arrangement (ACA) with the United Arab Emirates	Continue the discussions with the United Arab Emirates Federal Customs Authority to conclude an ACA with OLAF	ACA signature	2019	OLAF
<b>Outcome</b>	Discussions on the conclusions of an ACA with OLAF are on hold pending the possible negotiation of a CCMAA agreement.				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>

A.2.5	Customs Cooperation and Mutual Administrative Assistance Agreement (CCMAA) with the United Arab Emirates	Explore the feasibility of a Customs Cooperation and Mutual Administrative Assistance Agreement with the United Arab Emirates	Conclusion of feasibility talks and possible follow-up measures if appropriate	Continuous	Commission EEAS
<b>Outcome</b>	The Commission has received an official proposal from the UAE authorities to launch negotiations for a CCMAA. The UAE proposal is currently under consideration by the Commission.				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
A.2.6	Approximation of excise duties by third countries	Negotiate new commitments with key candidate countries and potential candidates, and other relevant countries in the European neighbourhood to approximate their excise rates with the applicable EU levels	Commitments to be obtained	Continuous	Commission EEAS

<p><b>Outcome</b></p>	<p><u>Western Balkans</u></p> <p>In the case of Western Balkans (WB6), Albania, Bosnia and Herzegovina (BIH), Kosovo, North Macedonia, Montenegro and Serbia, the commitment is that of continuous approximation to EU legislation on tobacco excise with a view to completing adoption of the relevant acquis and meeting EU minima by date of accession.</p> <p>The obligation to align is the consequence of the different countries' application for accession. Of all six, only Montenegro has opened negotiations on Chapter 16.</p> <p><u>Ukraine</u></p> <p>The Commission held discussions with Ukraine on approximation of criminal laws with the applicable EU levels.</p> <p>Ukraine has committed to have gradual increase of tobacco excises and reach the level of €90 per 1,000 by 2025. Starting from 1 January 2021, Ukraine is increasing the excise tax rate on tobacco products for heating purposes and cigarillos to the level of the rate on cigarettes. Work is underway to implement Directive 2014/40/EU; a draft law has been registered in the Parliament in 2021 that would significantly strengthen the fight against the negative impact of tobacco products on public health with smoking, and set the requirements for the turnover of electronic cigarettes and the latest tobacco products in Ukraine.</p> <p><u>Georgia</u></p> <p>A meeting with Georgia on Cluster II organised by EEAS (covering taxation) took place on 17 June 2021; however, the country has indicated already in 2018 that they will keep the deadline set in the Tax Annex of the Association Agreement and will reach the EU minimum levels of taxation on tobacco products by 2026. EEAS is preparing an Association Council Decision, which will cover the Georgian timetable for tobacco excise duty rates.</p> <p><u>Moldova</u></p> <p>Moldova has sent a provisional timetable for the development of the national levels of taxation on tobacco products, indicating that the country cannot meet the deadline set in the Association Agreement and reach the EU minimum tax rates by 2025. The country stated during the cluster II meeting in September 2021 that they would need two more years, namely end 2027.</p> <p>Further clarification has been requested on this approach.</p>				
<p><b>ITEM</b></p>	<p><b>TITLE</b></p>	<p><b>DESCRIPTION</b></p>	<p><b>ACTION</b></p>	<p><b>TIMELINE</b></p>	<p><b>RESPONSIBLE</b></p>
<p>A.2.7</p>	<p>Customs cooperation with Belarus</p>	<p>Strengthen customs cooperation with Belarus through the appropriate framework</p>	<p>Strengthen effective engagement and cooperation</p>	<p>Continuous</p>	<p>Commission EEAS OLAF</p>
<p><b>Outcome</b></p>	<p>The Commission have been given the mandate from the Council to open negotiations with Belarus for an agreement on Customs Cooperation and Mutual Administrative Assistance (CCMAA) in December 2019. CCMAA negotiations with Belarus are on hold due to political reasons.</p>				

ITEM	TITLE	DESCRIPTION	ACTION	TIMELINE	RESPONSIBLE
A.2.9	OLAF liaison officers	Increase number of OLAF liaison officers placed in key third countries, within available resource constraints	Increased number of OLAF liaison officers	2022	Commission OLAF EEAS
<b>Outcome</b>	The number of OLAF liaison officers, within the available resource, continues to cover the key third countries (United Arab Emirates, Ukraine, and China). Due to the political situation in Ukraine, the Liaison officer has been recalled. The Liaison officer in China has completed his term and this responsibility will continue to be assured by the EU Delegation in Beijing.				

<b>B</b>	<b>LIMITING SUPPLY</b>				
<b>B.1</b>	<b>Securing the supply chain – new EU traceability system for tobacco products</b>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
B.1.1	Support in roll out of new traceability system	Support Member States in the roll out of the new EU traceability system foreseen under the 2014 Tobacco Products Directive	Assistance provided	2019	Commission
<b>Outcome</b>	Further assistance is being provided to Member States via the regular meetings of the Expert Subgroup on tobacco traceability and security features. In addition, the Commission launched a contract with Dentsu, as the operator of the secondary repository, to provide a series of trainings to the national competent authorities. Thanks to the trainings over 600 staff in MS will familiarise themselves with the user interfaces available for the authorities. The last trainings took place in the 1 <sup>st</sup> quarter of 2023.				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
B.1.2	Promote EU traceability system in neighbouring countries	Offer assistance and support to countries in the EU's wider neighbourhood (especially candidate countries and potential candidates, and Neighbourhood countries) to introduce similar and possibly integrated traceability systems	Effective alignment of traceability systems in relevant countries	2022	Commission EEAS

<b>Outcome</b>	<p>The main efforts of the Commission were concentrated on the Working Group on Track &amp; Trace system established under the FCTC Protocol.</p> <p>In October 2020, the Commission shared the information concerning the EU T&amp;T system with Serbia and in December 2020 delivered a presentation of the EU T&amp;T at a TAIEX event in Georgia. OLAF, on several occasions, notably at the regular meetings of the Customs Subcommittees with third country partners, promoted the FCTC Protocol ratification and implementation. The extension of the FCTC and the FCTC Protocol to Gibraltar was an effect of the combined pressure from the Commission and the Spanish authorities on the UK counterparts. In February 2022, the Commission presented the experience of the EU T&amp;T system to a Moldovan Parliamentary Working Group.</p>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
B.1.3	Review of EU traceability system	Review the functioning of the EU track and trace system, in particular the selection procedures for independent third parties	Review	2021	Commission
<b>Outcome</b>	<p>Concerning the review of EU tracking and tracing system, the Commission has already adopted Commission Implementing Regulation (EU) 2023/448. The Implementing Regulation that will be applicable from 21 December 2023, amends certain technical rules laid down by Implementing Regulation (EU) 2018/574 in order to facilitate the reporting by all actors involved in the trade of tobacco products, reinforce the good practices in terms of data management and analysis, and consequently, improve the functioning of the EU tracking and tracing system. The review of the Tobacco Products Directive which is scheduled over the four year period 2021 to 2025 may also look into this issue.</p>				
<b>B.2</b>	<b>Limiting supply of input materials</b>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
B.2.1	Movements of raw and cut tobacco	Develop operational tools to better monitor and control cross-border movements of raw and cut tobacco within and into the EU, including by organising a technical workshop to analyse relevant national systems	Measures taken to monitor and control movements of raw and cut tobacco	2021	Commission Member States
<b>Outcome</b>	<p>The control of the movement of raw tobacco is under consideration in the context of the review of the Tobacco Taxation Directive.</p>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>

B.2.2	Curtailling access to filters	Analyse possibilities to curtail the access of illicit tobacco producers to acetate toe and cigarette filters in cooperation with relevant source countries	Report	2022	Commission
<b>Outcome</b>	The Commission has conducted an analysis in this area. It appears that the main producers of acetate tow have taken – albeit not homogenously - measures to control their supply chain, avoiding that this specific material is sold to illicit producers of cigarettes filters to be used in illegal production. Although it is difficult to evaluate the effectiveness of such measures, the action taken by few producers could represent an important contribution to the fight against illicit tobacco trade. Further aspects of this analysis are contained in a separate annex to the outcome of the implementation of the 2 <sup>nd</sup> Action Plan (see Annex 2).				
<b>B.3</b>	<b>Strengthening the customs framework</b>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
B.3.1	Excise Movement Control System	Extend the Excise Movement Control System (EMCS) created by Directive 2008/118 to business-to-business duty paid traffic so as to improve the monitoring of movements, based on the Commission's proposal of 25 May 2018 for a revision of that Directive	Adoption	2022	European Parliament Council
<b>Outcome</b>	As of 13 February 2023, EMCS has been extended to business-to-business duty paid traffic <sup>49</sup> .				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
B.3.2	Technical assistance to Member States' customs investigative authorities	Support Member States in the acquisition of customs control equipment, based on the Commission's proposal of 12 June 2018 (COM(2018)474)	Programme adopted	2019	European Parliament Council

<sup>49</sup> Council Directive (EU) 2020/262 of 19 December 2019 laying down the general arrangements for excise duty, OJ L 58, 27.2.2020, p. 4.

<b>Outcome</b>	The Customs Control Equipment Instrument was established by Regulation (EU) 2021/1077 <sup>50</sup> .				
<b>B.4</b>	<b>Strengthening enforcement, detection and sanctions</b>				
B.4.1	Enforcement framework				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
B.4.1.1	Setting up EPPO	Set up a functioning EPPO that is well-equipped to investigate large-scale cases of illicit tobacco trade	EPPO operational	End of 2020	Commission EPPO
<b>Outcome</b>	EPPO was set up by Council Regulation (EU) 2017/1939 of 12 October 2017 <sup>51</sup> and it became operational in 2021.				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
B.4.1.2	OLAF legal framework	Commission proposal of 23 May 2018 to enhance the effectiveness of OLAF investigations by modifying Regulation 883/2013	Adoption	2019	European Parliament and Council
<b>Outcome</b>	Regulation 2020/2223 of 23 December 2020 <sup>52</sup> amending Regulation (EU, Euratom) No 883/2013 (the OLAF Regulation) provide for close cooperation with the EPPO based on complementarity, exchange of information and non-duplication of efforts. The revised OLAF Regulation also strengthens the way OLAF can conduct its own investigations by streamlined rules for on-the-spot checks and inspections, providing rules on access to bank account information and ensuring stronger guarantees for persons concerned by OLAF investigations.				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>

<sup>50</sup> Regulation (EU) 2021/1077 of the European Parliament and of the Council of 24 June 2021 establishing, as part of the Integrated Border Management Fund, the instrument for financial support for customs control equipment, *OJ L 234, 2.7.2021, p. 1*.

<sup>51</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO'), *OJ L 283, 31.10.2017, p. 1*.

<sup>52</sup> Regulation (EU, Euratom) 2020/2223 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU, Euratom) No 883/2013, as regards cooperation with the European Public Prosecutor's Office and the effectiveness of the European Anti-Fraud Office investigations, *OJ L 437, 28.12.2020, p. 49*.

B.4.1.3	Implementation of Directive (EU) 2017/1371	Monitor full implementation of Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests (PIF) by means of criminal law, as regards offences relating to the illicit tobacco trade	Monitoring of full implementation	As from July 2019	Member States Commission
<b>Outcome</b>	Directive (EU) 2017/1371 on the fight against fraud to the Union's financial interests by means of criminal law (the 'PIF Directive') was adopted on 5 July 2017 <sup>53</sup> . As of April 2021, the number of notified complete transpositions had gone up to 26, which means that all Member States bound by the Directive have now notified its full transposition into national law <sup>54</sup> .				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
B.4.1.4	OLAF-Europol Working Arrangements	Europol and OLAF to agree expanded working arrangements and the subsequent association by OLAF to Europol's Analytical Project Smoke	Working Arrangements agreed	2019	Europol OLAF
<b>Outcome</b>	<p>The Working Arrangements between OLAF and Europol were agreed and signed in 2020<sup>55</sup>. The cooperation relates to the relevant areas within the respective mandates of the Parties, including, but not limited to, fraud, corruption, money laundering, intellectual property crime or any illegal activity affecting the financial interest of the EU.</p> <p>The cooperation may, additional to the exchange of operational, tactical, strategic or technical information in particular include:</p> <ul style="list-style-type: none"> <li>• exchange of information including case-related information;</li> <li>• cooperating or participating in joint operations;</li> <li>• exchange of specialist knowledge, reports and result of analyses;</li> <li>• information on criminal investigation procedures and on crime prevention methods;</li> <li>• training activities and staff exchange for training purposes; and</li> <li>• support concerning the use of technical tools/equipment.</li> </ul>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>

<sup>53</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law, *OJ L 198*, 28.7.2017, p. 29.

<sup>54</sup> COM(2021)536 final of 6 September 2021.

<sup>55</sup> [https://ec.europa.eu/anti-fraud/system/files/2021-09/working\\_arrangements\\_olaf\\_europol\\_en.pdf](https://ec.europa.eu/anti-fraud/system/files/2021-09/working_arrangements_olaf_europol_en.pdf)

B.4.1.5	Strengthen coordination of customs enforcement	Strengthen coordination of customs enforcement targeting the illicit tobacco trade at European level, including notably the work cycles under EMPACT (Europol) and the Operational Action Plan (Customs Cooperation Working Party)	Effective enforcement coordination	Continuous	Europol Member States Commission OLAF
<b>Outcome</b>	Efforts have recently been made to strengthen operational coordination of customs and law enforcement targeting the illicit tobacco trade at European level, including notably the work under the EMPACT project and the Action Plan elaborated in the context of the Council Law Enforcement Working Party (LEWP) - Customs.				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
B.4.1.6	OLAF - WCO Memorandum of Understanding (MoU)	Upgrade and strengthen the 2003 OLAF-WCO cooperation arrangement on cigarette seizure data	MoU adopted	2019	OLAF
<b>Outcome</b>	On 7 June 2021, OLAF and the World Customs Organisation (WCO) signed an ACA <sup>56</sup> . This Arrangement, which widens a previous agreement from 2003, focuses on both operational cooperation and information sharing. The 2003 Arrangement between OLAF and the WCO covered only the exchange of information on tobacco seizures. This new Arrangement expands the exchange of information to a wider range of fraudulent activity (counterfeiting, illicit trade in protected species, etc.). It also aims to help the two bodies to work more closely and effectively together on joint operations in the field.				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
B.4.1.7	Administrative sanctions	Commission proposal of a Directive on the Union legal framework for customs infringements and sanctions (COM/2013/0884 final)	Adoption	2020	European Parliament and Council

<sup>56</sup> [https://ec.europa.eu/anti-fraud/media-corner/news/olaf-and-wco-strengthen-cooperation-tackle-customs-fraud-2021-06-07\\_it](https://ec.europa.eu/anti-fraud/media-corner/news/olaf-and-wco-strengthen-cooperation-tackle-customs-fraud-2021-06-07_it)

<b>Outcome</b>	<p>Following the lack of agreement on the Commission’s 2013 proposal for a Union legal framework for customs infringements and sanctions, the Commission has proposed another approach to this subject as part of its Customs Action Plan to take the Customs Union to the next level. The Commission has proposed to draw up an updated comprehensive report on the individual systems of penalties in each Member State in accordance with Article 42 of the Union Customs Code<sup>57</sup>. Based on this report a project group on sanctions was launched in the last quarter of 2021.</p> <p>The fact finding resulted in a report on the assessment of infringements and sanctions under the Union Customs Code in Member States<sup>58</sup>. The report has been drawn up based on the information provided by the Member States and checked by them and is now under internal consultation. After this consultation, the report will be adopted by the Commission and sent to the Council and the European Parliament.</p>				
B.4.2	Operational activities				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
B.4.2.1	Fight illegal tobacco production inside the EU	Strengthening operational cooperation between police and customs forces to detect and dismantle illicit tobacco production sites inside the EU	Illicit tobacco production sites detected and closed	Continuous	Member States Europol OLAF
<b>Outcome</b>	<p>Member State law enforcement authorities, Eurojust, Europol and OLAF coordinated their efforts to detect and dismantle illicit tobacco production sites inside the EU. For example, in 2021 OLAF’s work resulted in the seizure of 91 million cigarettes illegally produced at sites across the EU, leading to overall seizures of 437 million illicit cigarettes<sup>59</sup>.</p>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
B.4.2.2	Operational activity targeted on EU-Eastern land border	Carry out operational activities focusing on cigarette smuggling across the EU-Eastern land border	Volume seized and estimated financial impact	Continuous	Member States OLAF Frontex

<sup>57</sup> [https://ec.europa.eu/transparency/documents-register/detail?ref=SWD\(2023\)2&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2023)2&lang=en)

<sup>58</sup> [https://ec.europa.eu/transparency/documents-register/detail?ref=COM\(2023\)5&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=COM(2023)5&lang=en)

<sup>59</sup> See for example press release from OLAF about 2021 activities at [https://anti-fraud.ec.europa.eu/media-corner/news/olaf-helps-stop-over-430-million-illicit-cigarettes-flooding-eu-market-2022-02-23\\_en](https://anti-fraud.ec.europa.eu/media-corner/news/olaf-helps-stop-over-430-million-illicit-cigarettes-flooding-eu-market-2022-02-23_en)

<b>Outcome</b>	<p>Member State law enforcement authorities, OLAF, Eurojust, Europol and Frontex carried out operational activities focusing on cigarette smuggling across the EU-Eastern land border.</p> <p>For example, in 2021 a joint action named ARKTOS 3 led by Frontex and co-led by Lithuania and Poland, supported by Interpol, OLAF, Eurojust and Europol along with border guards, police officers and customs officers from Estonia, Latvia, Slovakia, Finland and Sweden allowed law enforcement authorities to detected more than 400 innovative tobacco products, such as electronic cigarettes and e-liquids, and to seize 6.7 million illegal cigarettes and 2.6 tonnes of raw tobacco<sup>60</sup>. Also in 2021, a joint customs operation named SCORPION II and co-organised by the European Union Border Assistance Mission to Moldova and Ukraine (EUBAM) and OLAF targeted the smuggling of tobacco products at the EU eastern border and resulted in the seizures of 8,500 million cigarettes<sup>61</sup>.</p>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
B.4.2.3	Operational activity targeted on Eastern Mediterranean, Adriatic and Black Sea	Carry out operational activities focusing on cigarette smuggling in the Eastern Mediterranean, Adriatic and the Black Sea	Volume seized and estimated financial impact	Continuous	Member States OLAF
<b>Outcome</b>	<p>Member State law enforcement authorities and OLAF carried out operational activities focusing on cigarette smuggling in the Eastern Mediterranean, Adriatic and the Black Sea. For example, in 2021 OLAF cooperated with national authorities in Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia and several EU Member States about suspicious imports, exports and further movements of water pipe tobacco<sup>62</sup>.</p>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
B.4.2.4	Operational activity targeted on Water Pipe tobacco	Carry out operational activities focusing on the smuggling of water pipe tobacco	Volume seized and estimated financial impact	Continuous	Member States OLAF
<b>Outcome</b>	<p>Member State law enforcement authorities and OLAF carried out operational activities focusing on the smuggling of water pipe tobacco, an emerging trend that OLAF had detected a few years ago. For example, in 2021, OLAF continued to be active on water pipe tobacco smuggling and was able to identify suspicious consignments for over 60 tonnes of water pipe tobacco<sup>63</sup>.</p>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>

<sup>60</sup> See OLAF Report 2021 at [https://anti-fraud.ec.europa.eu/system/files/2022-09/olaf-report-2021\\_en.pdf](https://anti-fraud.ec.europa.eu/system/files/2022-09/olaf-report-2021_en.pdf)

<sup>61</sup> See footnote 59.

<sup>62</sup> See footnote 59.

<sup>63</sup> See footnote 59.

B.4.2.5	Operational activity targeted on illicit tobacco sales over the internet	Carry out operational activities focusing on the sale of illicit tobacco products via the internet	Volume seized and estimated financial impact	2021	Member States OLAF
<b>Outcome</b>	Member State law enforcement authorities and OLAF carried out operational activities focusing on the sale of illicit tobacco products via the internet. For example, in 2021 a joint customs operation named POSTBOX III and co-organised by Italian Customs and the Guardia di Finanza, the Italian financial crime police, with the support of OLAF, the collaboration of Europol and the participation of 20 MS, focused on illegal products using both the open and the dark web. This operation led to the detention of more than 1 400 shipments of illicit goods, including 240 kg of smuggled cigarettes and tobacco <sup>64</sup> .				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
B.4.2.6	Transit Procedures	Carry out joint intensified activities (JIA) to tackle infringements on transit procedures for excise products	Increase in detected infringements	2020	Member States (via CELBET) OLAF
<b>Outcome</b>	Member State law enforcement authorities and OLAF carried out joint intensified activities to tackle infringements on transit procedures for excise products. For example, the Customs Eastern and South-eastern Land Border Expert Team (CELBET) organised a Joint Intensified Activity (JIA) with the support of OLAF focusing on the risk analysis and operational control during the application of T2 transit procedures and T2L document.				

<b>C</b>	<b>LIMITING DEMAND</b>				
<b>C.1</b>	<b>Awareness raising</b>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
C.1.1	Eurobarometer on illicit tobacco	Gather objective data, at national level, on the public perception of the illicit tobacco trade, as a follow-up to the Special Eurobarometer 443 of 2016	Publication of Eurobarometer report	2019	Commission

<sup>64</sup> See footnote 59.

<b>Outcome</b>	A survey for Special Eurobarometer 482 was conducted in December 2018 and the Eurobarometer report was published in July 2019 <sup>65</sup> .				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
C.1.2	Awareness raising campaigns	Provide a platform allowing Member States to exchange good practices with awareness raising campaigns focusing on the risks associated with buying illicit tobacco products	Good practices exchanged between Member States	2020	Commission Member States
<b>Outcome</b>	Member States were consulted on 24 February 2021 on the exchange of best practise concerning awareness campaigns. Only a few Member States expressed an interest in this initiative. Estonia shared a detailed presentation. Romania and Italy conducted awareness campaigns to fight illicit tobacco trade.				
<b>C.2</b>	<b>Reduce Incentives</b>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
C.2.1	Rates and structures applied to manufactured tobacco	Review the minimum rates applicable under Directive 2011/64/EU regarding the structure and rates of excise duty applied to manufactured tobacco, on the basis of the conclusions of the Commission's Report of 12 January 2018 (COM(2018)017)	Report on progress in reviewing minimum rates	2020	Commission
<b>Outcome</b>	The evaluation of Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco <sup>66</sup> has been adopted. The evaluation highlights the main limitations of the current regulatory framework and concludes that the Directive does not fully achieve its objectives in relation to the proper functioning of the internal market and at the same time a high level of health protection, as the minimum tax rates have lost their effect. The evaluation also points out that the Directive is not able to cope with market developments and the impact of the entry into the market of new products. Furthermore, it is stressed that illicit trade in tobacco products remains substantial and continues to constitute a source of concern in Member States.				

<sup>65</sup> [https://ec.europa.eu/anti-fraud/system/files/2021-09/eurobarometer\\_2019\\_summary\\_en.pdf](https://ec.europa.eu/anti-fraud/system/files/2021-09/eurobarometer_2019_summary_en.pdf)

<sup>66</sup>SWD(2020)33 final of 10 February 2020 [https://ec.europa.eu/taxation\\_customs/system/files/2020-02/10-02-2020-tobacco-taxation-report-summary\\_en.pdf](https://ec.europa.eu/taxation_customs/system/files/2020-02/10-02-2020-tobacco-taxation-report-summary_en.pdf).

<b>D</b>	<b>ANALYSIS AND INTELLIGENCE</b>				
<b>D.1</b>	<b>Data collection and analysis</b>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
D.1.1	Enhance reporting	Systematic reporting by Member States of relevant seizures and intelligence in the AFIS application (CIS+), facilitated by implementing the "one seizure-one report" approach and based on orientations to be discussed at a technical workshop for customs authorities	Comprehensive coverage in CIS+	2020	Member States Commission
<b>Outcome</b>	OLAF and the EU Intellectual Property Office (EUIPO) have recently signed a Service Level Agreement <sup>67</sup> which includes the development of an IT tool, which will make it easier to share and analyse data related to fraud related cases at EU level. This will increase the systematic reporting by Member States of relevant seizures and intelligence in CIS+, facilitated by implementing the "one seizure-one report" approach.				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
D.1.2	Upgraded IT tool for seizure statistics	Provide Member States with an upgraded IT tool for the reporting on seized cigarettes and for intelligence sharing in the tobacco area (CIS+)	IT application provided	As from 2018	Commission
<b>Outcome</b>	OLAF and EUIPO have recently signed a Service Level Agreement that includes the development of an IT tool which, in addition to the functions referred to the action D.1.1, will facilitate data collection, enabling Member States to transfer data in automated way in CIS+.				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>

<sup>67</sup> [https://ec.europa.eu/anti-fraud/media-corner/news/olaf-and-euipo-sign-new-working-agreement-2022-03-01\\_en](https://ec.europa.eu/anti-fraud/media-corner/news/olaf-and-euipo-sign-new-working-agreement-2022-03-01_en)

D.1.3	Data analysis	Provide support to Member States' analytical capacities to detect illicit consignments, including through expert meetings and appropriate IT infrastructure	Technical assistance	Specific project on tobacco products as from 2019	Commission
<b>Outcome</b>	<p>Under the Union Anti-Fraud Programme (UAFP)<sup>68</sup> a dedicated section on the operational budget line of EUR 1,425,000 in 2021, has been established to support Member State capacity by funding the developments of IT tools, the funding of tobacco analysis and the purchasing of access to commercial Databases.</p> <p>Moreover, under the financing of the UAFP (and its predecessor the Hercule programme), OLAF together with Member States and the JRC, have worked to a text-mining project related to tobacco frauds. This has confirmed the potential of the European Media Monitor (EMM) to identify and share articles on tobacco frauds.</p>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
D.1.4	Risk analysis on the Excise Movement Control System (EMCS)	Make better use of data from the Excise Movement Control System (EMCS) for the purpose of risk analysis	Report	Until 2020	Commission Member States
<b>Outcome</b>	<p>A review of EMCS highlighted the limitations of possible data analysis at the level of the Commission. Therefore, after internal consultation, it has been decided that the action “Risk analysis on the Excise Movement Control System (EMCS)” would be better addressed and developed by the Member States at national level than at EU level using EMCS data to perform an appropriate risk analysis.</p>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
D.1.5	Use of data generated by the EU traceability system for tobacco products for data analysis	Support Member States by providing practical and analytical means of using the information collected in the track and trace data storage system	Assistance offered to Member States	As from 2020	Commission
<b>Outcome</b>	<p>The Commission is working on a project to establish whether data from the EU tracking and tracing system could be used in the fight against illicit trade in tobacco products.</p>				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>

<sup>68</sup> Regulation (EU) 2021/785 of the European Parliament and of the Council of 29 April 2021 establishing the Union Anti-Fraud Programme and repealing Regulation (EU) No 250/2014, OJL 172, 17.5.2021, p. 110-122.

D.1.6	Measuring the illicit tobacco market	Feasibility study on measuring the illicit tobacco market as a basis for informed operational and policy decision making	Publish the study and if appropriate launch pilot to test the methodology	2020	Commission
<b>Outcome</b>	A study on measuring the illicit tobacco market as a basis for informed operational and policy decision making was commissioned by the Commission and published on 13 January 2021 <sup>69</sup> .				
<b>ITEM</b>	<b>TITLE</b>	<b>DESCRIPTION</b>	<b>ACTION</b>	<b>TIMELINE</b>	<b>RESPONSIBLE</b>
D.1.7	EU Tobacco laboratory	Provide chemical and technical analysis on selected samples of seized tobacco products, and promote the capacities of the laboratory facility to national customs services	Number of analyses offered  Promotional activities	Continuous	Commission  OLAF
<b>Outcome</b>	<p>The TOBLAB project<sup>70</sup> was launched in 2015 by the Commission (OLAF and the JRC). Its objective is twofold:</p> <ul style="list-style-type: none"> <li>• to establish an independent testing facility providing support at EU level to OLAF and Member State investigators of tobacco cases by determining the authenticity or counterfeit nature of seized tobacco products;</li> <li>• to collect links between seizures by identifying the geographical origin of seized tobacco products (including raw tobacco, cut tobacco, and so-called 'cheap whites').</li> </ul> <p>Member States have increased their use of TOBLAB and supported its continuation over the years, during which more than 500 samples have been analysed. During trainings, workshops and conferences the Commission (OLAF and JRC) has promoted the potential and the work of TOBLAB.</p> <p>TOBLAB has continued to produce tangible results demonstrating the added value of the project for the protection of the EU's financial interests, in particular with regard to OLAF and Member States investigators of tobacco cases.</p>				
<b>D.2</b>	<b>Enhanced co-operation and co-ordination</b>				

<sup>69</sup> <https://op.europa.eu/fr/publication-detail/-/publication/82d1029f-5620-11eb-b59f-01aa75ed71a1/language-en>

<sup>70</sup> TOBLAB was launched in 2015 by OLAF and the JRC located in Geel, Belgium, to establish an independent testing facility providing support at EU level to investigators of tobacco cases by determining the authenticity or counterfeit nature of seized tobacco products, by establishing links between seizures and by identifying the geographical origin of seized tobacco products, including raw tobacco, cut tobacco, and so-called 'cheap whites' (i.e. legally produced cigarettes but traded illegally).

ITEM	TITLE	DESCRIPTION	ACTION	TIMELINE	RESPONSIBLE
D.2.1	Annual report on the illicit tobacco trade	Provide an annual report to inform Member States' Customs authorities on gathered information on the illicit tobacco trade	Report	As from 2019	OLAF
<b>Outcome</b>	<p>Information on the illicit tobacco trade is provided to the Member States during the FITT meetings that take place twice a year. The information provided covers <i>inter alia</i> operational activities, trend and statistics.</p> <p>In addition, statistics on tobacco seizures are collected and shared with Member States annually.</p>				
ITEM	TITLE	DESCRIPTION	ACTION	TIMELINE	RESPONSIBLE
D.2.2	Exchange of information with Member States on illicit tobacco trade	Exchange information with Member States' experts on trends and possible remedies in the framework of the Commission's Expert Group on Fighting the Illicit Tobacco Trade (FITT)	Two annual meetings	Continuous	Commission Member States
<b>Outcome</b>	<p>The Commission organises two meetings of the FITT every year<sup>71</sup>. Due to the COVID-19 restrictions, in the last years some meetings were conducted remotely. The 9<sup>th</sup> FITT meeting was held in-presence in Brussels in May 2022 and the 10<sup>th</sup> FITT meeting took place remotely on 6 and 7 October 2022.</p>				
ITEM	TITLE	DESCRIPTION	ACTION	TIMELINE	RESPONSIBLE
D.2.3	Cooperation in strategic analysis	Sharing of strategic analyses between OLAF and Europol, and other relevant public entities, as appropriate	Analysis shared and discussed	Continuous	OLAF Europol Other relevant public entities
<b>Outcome</b>	<p>In the Working Arrangement concluded between OLAF and Europol in 2020 there is a specific provision allowing for the exchange of strategic analysis. Moreover, Europol shared with OLAF a situation report on illicit tobacco production facilities in the EU.</p>				
ITEM	TITLE	DESCRIPTION	ACTION	TIMELINE	RESPONSIBLE

<sup>71</sup> <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?do=groupDetail.groupDetail&groupID=3534>

D.2.4	Stakeholder conference on the illicit tobacco trade	Organise an event with stakeholders to inform on trends in the illicit tobacco trade and to discuss public perceptions of that challenge	Stakeholder conference organised	2022	Commission
<b>Outcome</b>	<p>A first stakeholder conference took place in Brussels on 23 March 2018.</p> <p>Since 2020 to date, the COVID-19 related sanitary situation has prevented OLAF from organising a second stakeholder event.</p> <p>In these circumstances, the Commission considers that the most appropriate way of informing stakeholders on illicit tobacco trade is to use the existing channels of communication with Member States, such as the Commission's Expert Group on Fighting the Illicit Tobacco Trade (FITT), and to make available to the public the report on the implementation of the 2<sup>nd</sup> Action Plan.</p>				

**ANNEX 2**  
**Implementation of Action B.2.2 of the Commission's 2<sup>nd</sup> Action Plan to fight the illicit tobacco trade 2018-2022**

## 1. Introduction

On 7 December 2018, the Commission adopted its Second Action Plan to fight the illicit tobacco trade 2018-2022<sup>72</sup>. Among the 49 actions of this Action Plan, the Commission proposed to address the issue of supply of input materials, in particular by curtailing access to filters (Action B.2.2). The Commission indicated that it would examine possibilities to curtail the access of illicit tobacco producers to acetate tow and cigarette filters in cooperation with relevant countries.

This analysis evaluates:

- a) the extent of the problem of illicit tobacco producers access to acetate tow for the illegal production of cigarette filters;
- b) the ease to purchase filters and the connected risk of possible diversion; and
- c) the scale of the illegal production of cigarette filters.

## 2. Acetate Tow

Acetate tow is the main ingredient of a standard cigarette filter. It is also known as cellulose acetate tow. It is a material that looks like cotton and is made using unbraided fibres. Acetate tow and triacetin<sup>73</sup> are converted into filter rods using special filter maker machines.

In the past, a trade association known as the Global Acetate Manufacturers Association (GAMA) represented the interests of the main companies active in this sector. As one of its core activities, it developed industry anti illicit trade programmes. Contacts have been held with this association to discuss how the industry they represent could better control their supply chain and prevent the access of illicit tobacco producers to acetate tow and cigarette filters. This trade association had established a “Know Your Customer Compliance Certificate” (KYC) programme with all of its members.

In late 2017, GAMA was dissolved, however, most former GAMA members continued to develop their own “Know Your Customer” policy.

### 2.1 Main producers of Acetate Tow

Five main producers have been identified on this specific market:

- a) Eastman  
[https://www.eastman.com/brands/Eastman\\_Estron/Pages/Overview.aspx](https://www.eastman.com/brands/Eastman_Estron/Pages/Overview.aspx);
- b) Celanese  
<https://www.celanese.com/>;
- c) Cerdia:  
<https://www.cerdia.com/>;
- d) Daicel:  
[https://www.daicel.com/cell\\_ac/en/](https://www.daicel.com/cell_ac/en/);
- e) China National Tobacco Corporation  
<http://www.tobacco.gov.cn/gjyc/index.shtml>.

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<sup>72</sup> COM(2018) 846 final.

<sup>73</sup> Triacetin plasticizer is used to harden the filter and regulate the level of air permeability through the filtration agent.

## 2.2 Codes of conduct

In order to better control their supply chain the companies active in this sector have adopted individual codes of conduct<sup>74</sup>.

- a) **Eastman** has elaborated both a Code of Business Conduct, as well as a third-party Code of Conduct named “Doing business with Eastman”. In this latter document, it is stated that Eastman is committed to conducting all business activities in accordance with the highest legal and ethical standards.

In addition, Eastman strives to conduct business only with third parties who share their commitments to compliance with legal requirements and to high ethical standards. It is mentioned that if someone is aware that a third party doing business, or seeking to do business with Eastman, is engaged in activity that is illegal or unethical, he is invited to contact Eastman’s Office of Global Business Conduct.

Eastman encourages its suppliers, vendors, contractors, agents, distributors, customers and other third parties to seek guidance regarding Eastman’s policies when needed and to raise concerns regarding activities that may involve illegal activity, violations of policy or unethical conduct.

Eastman offers a helpline operated by an independent third party and provides avenues for direct contact with Eastman’s Office of Global Business Conduct<sup>75</sup>.

- b) **Celanese** has in place both a third party Code of Conduct as well as a Know Your Customers (KYC) programme and policy on illicit trade<sup>76</sup>.

The KYC programme is structured as follows:

- validation of the tow consumption required for customer production;
- verification of the legal intended markets;
- required participation for all tobacco industry customers;
- conduct of biannual audit to ensure compliance.

- c) **Cerdia** has developed a Code of Conduct Group Personnel where a chapter refers to relationships with third parties. Once a third party is engaged, Group Personnel who deal with third parties must always be aware of potential red flags.

Red flags are certain actions or facts which should alert a company that there is a possibility of improper conduct by a third party. A red flag does not mean that something illegal has happened, but rather that further investigation is necessary. Red flags are highly fact dependent. Nevertheless, the code of conduct mentions some examples such as:

- unusual or excessive payment requests, such as requests for over-invoicing, up-front payments, ill-defined or last-minute payments, success fees, unusual commissions, or mid-stream compensation payments;
- requests for payments to an account in a country other than where the third party is located or is working on behalf of the Group;

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<sup>74</sup> The information below has been extracted from the websites of the companies concerned.

<sup>75</sup> Doing business with Eastman - Third-party code of conduct [ENGLISH Brochure.pdf \(q4cdn.com\)](#)

<sup>76</sup> Celanese company policy.

- requests for payment to another third party, to a numbered account, or in cash or other untraceable funds;
- any refusal or hesitancy by the third party to disclose its owners, partners, or principals;
- the third party uses holding companies or other methods to obscure its ownership, without adequate business justification;
- the third party expresses a desire to keep his representation of the Group or the terms of his retention secret<sup>77</sup>.

However, the above-mentioned reference to the word ‘payments’ suggests that the recipients of this system of monitoring are more likely to be the suppliers of the company than the customers.

- d) **Daicel**, as corporation, has developed its Code of Conduct. In a specific chapter named “We shall conduct honest trade in accordance with the basic principles of fair and free competition” there is a paragraph related to compliance with laws relating to imports/exports.

The Code stipulates that as an importer and exporter of technology and products, Daicel shall examine and comply with the laws and regulations relating to imports/exports. The export of their technology and products shall in no way be illegally connected to the development and manufacture of weapons, munitions or narcotics<sup>78</sup>. No specific mention is made to illegal production of cigarettes.

- e) **China National Tobacco Corporation (CNTC)** is a state-owned Chinese company, it is owned by the Chinese State Tobacco Monopoly Administration (STMA). The production of acetate tow is based on licensing scheme of STMA.

In order to have reasonable investment and prevent overcapacity problems, the enterprises who intend to produce cigarette paper, acetate tow and filter rods must apply for license for this production. In fact, the current production meets the demand of acetate tow in the domestic market. Therefore, in practice, STMA does not need to authorise more companies to produce acetate tow, and no new licences have been issued, except where there has been significant innovation in the relevant technology. It has been noted that the CNTC Chinese website does not mention any “know-your-client” scheme or similar code of conduct.

The main Chinese acetate tow producers are joint-venture enterprises, with one main shareholder (70%) represented by CNTC or STMA.

- Nantong Cellulose fibres CO., LTD (1987, with registered capital 350 million USD);

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<sup>77</sup> Cerdia Code of Conduct

[https://static1.squarespace.com/static/61fcfe2a6736d51dcfd46072/t/621fd282f89b713c15506071/1646252674431/Code+of+Conduct\\_Cerdia+Group.pdf](https://static1.squarespace.com/static/61fcfe2a6736d51dcfd46072/t/621fd282f89b713c15506071/1646252674431/Code+of+Conduct_Cerdia+Group.pdf)

<sup>78</sup> <https://www.daicel.com/en/sustainability/governance/compliance/standard.html>

- Zhuhai Cellulose fibres CO., LTD(1993, with registered capital 110 million USD);
- Kunming Cellulose fibres CO., LTD (1993, with registered capital 64 million USD).

### **2.3 Import of acetate tow in the EU**

On the basis of the analysis conducted on the import of acetate tow in the EU (see Attachment 1) based on COMEXT, Eurostat's reference database for detailed statistics on international trade in goods, it has been noted that:

- a) in 2020, the global import in the EU was an amount of 57,771,092 kg for a corresponding value of EUR 210,806,521.

The main flows of import were from QZ<sup>79</sup> to the Netherlands, from the United States to Belgium and from Japan to Portugal, Lithuania, Poland, Romania, Hungary and Bulgaria;

- b) in 2021, the global import in the EU was an amount of 32,099,706 kg for a corresponding value of EUR 110,537,250.

The main flows of import were from the United States to Belgium and from Japan to Germany, Portugal, Lithuania, Poland, Romania, Hungary and Bulgaria.

Due to the fact that the acetate tow is a raw material, a further analysis conducted on import declarations relating to commodity code 550210 or the description "acetate tow" in the new SURVEILLANCE format, demonstrates that purchasers are often intermediaries or wholesalers making it difficult to identify the real consignee.

### **2.4 Possible uses of acetate tow**

An analysis (see Attachment 2) has been conducted of the operators active in the import of acetate tow.

For this analysis, transit declarations relating to commodity code 550210 or the description "acetate tow" have been extracted from the Anti-Fraud Transit Information System (ATIS) that contains information on the movement of goods placed under the transit regime.

Even if the majority of importers deal with the production of tobacco filters, it appears that a few companies may not be linked to this activity at all.

These companies appear to be involved in the production of:

- a) cleaning and disinfectant products;
- b) furniture; and/or
- c) fabrics.

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<sup>79</sup> Countries and territories not specified for commercial or military reasons in the framework of trade with third countries.

Furthermore, an open sources search reveals information about possible uses of acetate tow in the suction part of pen refills, absorbent layer of diapers and the non-woven fabric for face masks.

## 2.5 Combined Nomenclature

Concerning the Combined Nomenclature, Acetate tow has a specific CN code 5502 10 00:

- a) Heading 5502 “Artificial filament tow”;
- b) Subheading 5502 10 00 “of cellulose acetate”.

## 3. Acetate filter rods

Information on the main producers of cigarettes filters inside and outside the EU<sup>80</sup> has been collected.

### 3.1 Main producers of filters in the EU

- a) Bulgaria
  - Yuri Gagarin Plc  
Rogoshko shosse 1 str., Plovdiv 4003  
<https://gagarin.eu/en/page/about-us/mission-and-vision>
  - M Tobacco Ltd.  
26 Mladejka Str., Plovdiv 4002  
<http://www.mtobacco.bg/en/intro>
- b) Germany
  - Cerdia Productions GmbH  
Engesserstrasse 8, 79108 Freiburg  
<https://www.cerdia.com/>
  - McAirlaid’s Vliesstoffe GmbH  
Muensterstr. 61–65 , 48565 Steinfurt  
<https://www.genia-filter.com/>
- c) Lithuania
  - LLC Nemuno Banga  
Kestucio str. 1, 25124 Lentvaris, Trakai distr.  
<http://www.nemunobanga.com/>

### 3.2 Main producers of filters outside the EU

- a) China
  - Guandi Industrial Pte. Ltd  
China, Beijing city, Xicheng district, Yuetan south road 55, 100045  
<https://tobexchina.com/en>
- b) India

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<sup>80</sup> <https://www.tobaccojournal.com/about-us/>

- Hitkari Multifilters Ltd.  
Hitkari House, 6<sup>th</sup> & 7<sup>th</sup> floor,  
284 Shahid Bhagat Singh Road, Fort Mumbai – 400 001
  - Hitkari Trading Corporation  
Hitkari House, 6<sup>th</sup> & 7<sup>th</sup> floor,  
284 Shahid Bhagat Singh Road, Fort, Mumbai – 400 001
- c) Indonesia
- BMS Filterrods Industry  
DS. Gondosari, Geborg, Kudus, Jawa Tengah  
<https://www.bmsfilterrods.com/>
- d) Lebanon
- Silver Logistics LB S.A.L  
Mazraat Yachouh, Beirut, Lebanon facing Civil defense  
Kaslik, Pink Center, North Metn 1899 Jounieh  
<http://www.silverlogisticslb.com/>
- e) Pakistan
- Filters Pakistan Pvt. Ltd. (Filpak)  
6<sup>th</sup> Floor, Jason Trade Centre, 39-A/1, Block 6,  
PECHS Shahrah-e-Faisal, 75400 Karachi  
<http://www.filterspakistan.com/>
- f) Singapore
- Essentra Pte Ltd  
36 Robinson Road, #17-01 City House, Singapore 068877  
<https://www.essentra.com/en/industries/tobacco>
- g) United Arab Emirates
- ARD Filters FZC  
Warehouse No. 206 F, POB 4856,  
Fujairah Free Zone Phase 2, Fujairah, Fujairah 4856  
<http://ardfilters.com/>
- h) United States
- Knex Worldwide  
8161 Ardrey Kell Rd, Suite 102, Charlotte, NC, 28277  
<https://knex-ww.com/>

### **3.3 Codes of conduct**

On the basis of the analysis of the websites of the filters rods producers, it has been noted that none of them reported the existence of a Know Your Customer (KYC) programme or of a Code of Conduct.

Cerdia, as reported in sub-paragraph 2.2, has developed a Code of Conduct Group Personnel where a chapter deal with the relationship with third parties.

Essentra has its own ethics code that essentially refers to the employees conduct. Moreover, the company has developed a Standard Terms and Conditions for the Supply of Filter Products and Tapes Solutions<sup>81</sup>.

In this document it is expressly mentioned that the buyer warrants, represents and undertakes that the product will not be incorporated into any illegal or counterfeit product or sold with, or to be used in connection with, any product that is an illegal or counterfeit product. Buyer agrees to comply with the Essentra Anti-Counterfeiting Policy as notified to it from time to time.

### **3.4 Possibility to purchase filters online**

In order to evaluate all the possibilities to purchase filters, a specific research (see Attachment 3) has been conducted indicating all possible means to contact suppliers of cigarette filters for industrial production. This research showed that suppliers can either be contacted directly via their own website<sup>82</sup>, or through a B2B platform demonstrating how easy it would be to purchase this kind of product.

The analysis demonstrated the relative ease by which filters may be purchased online. The Alibaba platform alone makes it easy to contact numerous potential suppliers<sup>83</sup>. It is also possible to purchase this product using other B2B platforms including IndiaMART or ECPlaza<sup>84</sup>.

### **3.5 Combined nomenclature**

Cigarettes filters do not have a specific CN code.

However, “*Rods for making cigarette filter tips consisting of cellulose acetate fibres treated with triacetin and wrapped in cigarette paper*” are classified as a specific product included under the Harmonized System (HS):

- a) Heading 5601 “*Wadding of textile materials and articles thereof; textile fibres, not exceeding 5 mm in length (flock), textile dust and mill neps;*”
- b) HS subheading 5601.22 “*-Of man-made fibres*”.

## **4. Illegal production of filters**

Despite a large number of illegal production of cigarettes and storage facilities discovered in the 2021 (see paragraph 4.2), information concerning only two instances of illegal production of filters identified by law enforcement authorities in the EU in the period 2021-2022 has been collected.

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<sup>81</sup> <https://www.essentra.com/en/industries/tobacco>

<sup>82</sup> e.g. <https://tobexchina.com/en/product-en/47-filter-rods>

<sup>83</sup> Some examples are provided below:

[https://www.alibaba.com/product-detail/Acetate-Cigarette-Filter-Rods-Cigarette-Production\\_62502737117.html](https://www.alibaba.com/product-detail/Acetate-Cigarette-Filter-Rods-Cigarette-Production_62502737117.html)

[https://www.alibaba.com/product-detail/Cigarette-MONO-ACETATE-FILTER-RODS-7\\_11000001889761.html](https://www.alibaba.com/product-detail/Cigarette-MONO-ACETATE-FILTER-RODS-7_11000001889761.html)

[https://www.alibaba.com/product-detail/Cigarette-filter-rods-monoacetate-premium-quality\\_62000979943.html](https://www.alibaba.com/product-detail/Cigarette-filter-rods-monoacetate-premium-quality_62000979943.html)

<sup>84</sup> <https://www.indiamart.com/hind-filters-limited/cigarette-filters.html>

[https://www.ecplaza.net/products/cigarette-filter-rod\\_4586931](https://www.ecplaza.net/products/cigarette-filter-rod_4586931)

#### 4.1 Illegal production of filters

The two cases where illegal production of filters was discovered are detailed as follows:

- a) Czech Republic, September 2021<sup>85</sup>;

On the basis on an agreement between the General Prosecutors of the Czech Republic, Slovakia and Poland, a joint action named 'BOB' was conducted to detect illegal production of cigarettes.

During this activity the Czech customs arrested a person of Czech nationality and four people of Polish nationality. Operation BOB discovered technological machines for the printing and production of cigarette boxes bearing the brand name 'Marlboro', 380,000 pieces of cut box sheets, and machinery for the production of cigarette filters.

- b) Spain, May 2022<sup>86</sup>;

The National Police acting together with Customs dismantled a criminal organization that ran an illegal factory producing illicit tobacco in the town of Alcalá de Henares near Madrid.

In addition, the first illegal factory producing cigarette filters detected in Spain was dismantled, 20 tons of acetate tow and the complete machinery for the manufacture of cigarette filters with the capacity to produce 600,000 filters per hour, was discovered.

#### 4.2 Illegal production of cigarettes compared to illegal production of filters

Illicit tobacco products are increasingly being produced in the EU in modern and more professional illegal production facilities, established closer to destination markets.

The following statistics demonstrate the scale of the phenomena of the illegal production in the EU. Europol, in the context of Action 2.1 of the EMPACT Excise Fraud Operation Action Plan, reported (only for 2021) the dismantling of:

- a) 74 cigarettes production sites;
- b) 28 waterpipe tobacco production sites;
- c) 72 tobacco cutting facilities;
- d) 186 storage facilities.

In this context, 565 criminals have been jailed, more than 421,000,000 cigarettes have been seized, together with more than 1,500,000 kg of raw and fine cut tobacco, a huge quantity of precursors (filters, cigarettes paper, filter paper, glue, aluminium foil, flavours) and cars, forklifts and trailers.

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<sup>85</sup> <https://tydenikpolicie.cz/ceskym-celnikum-se-podarilo-ve-spolupraci-se-slovenskymi-a-polskymi-kolegy-rozbit-mezinarodni-paserackou-skupinu/>

<https://www.celnisprava.cz/cz/tiskove-zpravy/2021/Stranky/%C3%9Aasp%C4%9B%C5%A1n%C3%A1-spolupr%C3%A1ce-%E2%80%93-Rozbili-jsme-pa%C5%A1er%C3%A1ckou-skupinu.aspx>

<sup>86</sup> [https://www.niusdiario.es/espana/madrid/20220703/desarticulan-organizacion-criminal-cigarrillos-alcala-henares\\_18\\_06918744.html](https://www.niusdiario.es/espana/madrid/20220703/desarticulan-organizacion-criminal-cigarrillos-alcala-henares_18_06918744.html)

It has been noted that in the context of the impressive results of operational action 2.1 of the EMPACT Excise Fraud Operation Action Plan, no information on illegal or unauthorised production of filters was established.

## **5. Consultation of Member States**

The Commission Expert Group on the Fight against Illicit Trade in Tobacco<sup>87</sup> (FITT) has the mission to provide advice and expertise to the Commission in relation to anti-fraud questions concerning the illicit trade in tobacco, in particular the smuggling of cigarettes. The expert group is composed of representatives of the Member States (MS) authorities competent to deal with illicit tobacco related issues.

On 10 May 2022 the FITT delegates have been consulted to evaluate the magnitude of the phenomenon of illegal production filters. The Member States were requested to provide information on acetate tow and illegal cigarette filter production. In particular, whether during the period 2018-2022, for example in the context of the dismantling of illicit cigarettes production sites, Member States had identified instances of unlawful production of cigarettes filters, and/or illegal storage/movements of acetate tow.

No Member State reported relevant information concerning storage/movements of acetate tow or illegal production of filters.

## **6. Other key inputs used in the production of cigarettes**

In addition to the examination of the possibility to curtail access by illicit tobacco producers to acetate tow and cigarette filters, the analysis also provides information on the main tobacco and non-tobacco materials that are used in cigarette production.

### **5.1 Cigarette components**

Other than filters made of 95% cellulose acetate, cigarettes are composed of:

- a) tipping paper to cover the filter;
- b) rolling paper to cover the tobacco (HS codes 4813.10; 4813.20; 4813.90);
- c) tobacco blend (HS codes 2401.10; 2401.20; 2401.30, 2403.91) with humectants substances.

### **5.2 Machinery for preparing or making up tobacco products**

(HS codes 8478.10; 8478.90)

### **5.3 Tapes (possible HS codes 5910.00)**

- a) garniture tape: it is an essential part of the cigarette making and filter rod making machines because it's used for tobacco rod forming purposes;
- b) suction tape: it is used for the transport of tobacco during the production of cigarettes.

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<sup>87</sup> <https://ec.europa.eu/transparency/expert-groups-register/screen/expert-groups/consult?do=groupDetail.groupDetail&groupID=3534>

#### **5.4 Components of the packaging**

- a) foils: standard hard box cigarette packs contain an aluminium layered foil or ‘inner bundle’ that can be easily embossed with a chosen brand or design;
- b) polypropylene wrappings and tear tapes: most standard hard box cigarette packs are wrapped in a polypropylene film or wrapper, accompanied by a ‘tear off strip’ that opens the wrapper;
- c) adhesives: bulk orders of adhesives are required for the production of cigarettes, both for the cigarette itself but also to glue packaging together;
- d) printed materials: the printed materials are required for the final packing process of the cigarettes.

#### **7. Evidence based research on key inputs under the FCTC Protocol**

The Framework Convention Tobacco Control (FCTC) Protocol to Eliminate Illicit Trade in Tobacco Products is an international treaty with the objective of eliminating all forms of illicit trade in tobacco products through a package of measures to be taken by countries acting in cooperation with each other<sup>88</sup>.

In Part III of the FCTC Protocol, referring to the supply chain control, Article 6 on “Licence, equivalent approval or control system” mentions an evidence based research to be conducted on key inputs that are essential to the manufacture of tobacco products.

In particular, five years following the entry into force of the Protocol (that took place in 2018), the Meeting of the Parties shall ensure that an evidence based research is conducted to ascertain whether any key inputs essential to the manufacture of tobacco products, are identifiable and can be subject to an effective control mechanism.

On the basis of the outcomes of this research, the Meeting of the Parties shall consider whether an effective control mechanism can be implemented.

The outcome of this evidence based research may provide useful information to be considered in addition to this analysis, on the possibilities to curtail the access of illicit tobacco producers to key inputs.

#### **8. Findings and conclusions**

- a) It results from the above that the main producers of acetate tow have taken – albeit not in a homogenous or complete manner - measures to control their supply chain, avoiding that this specific material is sold to illicit producers of cigarettes filters to be used in illegal production.

Although it is difficult to evaluate the effectiveness of those measures, the action taken by these producers could represent an important contribution to the fight against illicit tobacco trade. Apart from organising industry anti illicit trade programmes, by implementing a “Know Your Customer Compliance Certificate”

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<sup>88</sup> <https://fctc.who.int/protocol/overview>

(KYC) programme, the action coordinated by GAMA has represented an important step to standardise the procedures giving more transparency and the same level of effectiveness to the codes of conduct. The role played by GAMA in the past was extremely useful;

- b) as concerns imports of cigarettes filters, it is noted that there is no specific HS code and therefore it is not possible to make a meaningful analysis on cigarette filter imports. Moreover, the easy availability to purchase this product online makes it difficult to track the supply chain. The development of Know Your Customer (KYC) programmes would help the filter industry to fight illicit cigarette trade, by making it more difficult for organised criminal groups involved in illegal production of cigarettes to acquire mono acetate filters.

In the context of the FCTC Protocol, an evidence based research could ascertain whether any key inputs essentials to the manufacturers of tobacco products are identifiable and can be subject to an effective control mechanism. The research would provide useful indications to the steps to be followed to track the precursors used in the illegal production of cigarettes;

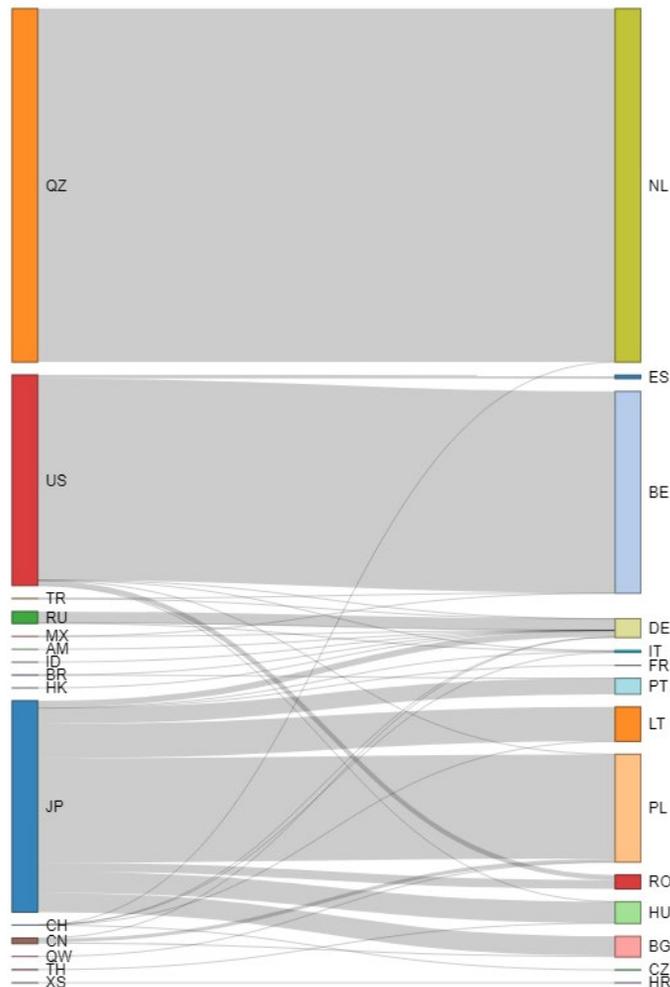
- c) despite the high number of illegal cigarette production sites and related cutting and storage facilities dismantled in 2021 by law enforcement authorities in the EU, only an insignificant number of cases (2) of illegal production of filters was discovered. OLAF will continue to work closely with the law enforcement authorities of the Member States to collect evidence of illegal production of filters in the EU and to monitor the development of the situation.

### Analysis of aggregated trade flow active of acetate tow

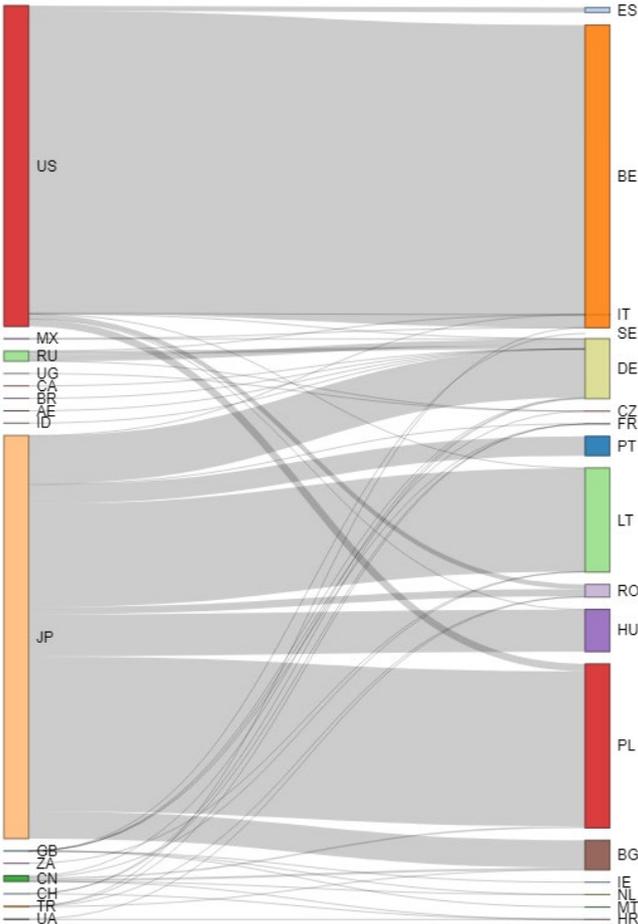
For this analysis, COMEXT data have been used. COMEXT is Eurostat's reference database for detailed statistics on international trade in goods. The data have been downloaded using the Bulk Download Facility. The Bulk Download facility allows the users to download the Eurostat datasets in a format which can easily be imported into a chosen tool for further analysis.

The data for the years 2020 and 2021 have been downloaded and used. The data have been filtered to keep only imports into the EU from third countries with the commodity code 55021000. The results of this analysis can be visualised using Sankey diagrams for the year 2020 and for the year 2021. Such a diagram represents the flow of goods between their origins (left side) and their destinations (right side).

### Flows (imports) in 2020 for 55021000



Flows (imports) in 2021 for 55021000



### **Analysis of operators active in the transit of acetate tow**

For this analysis, transit declarations mentioning the commodity code 550210 or the description "acetate tow" (*contains*) have been extracted from the A-TIS application. The Anti-Fraud Transit Information System (A-TIS) contains information on the movement of goods placed under the transit regime by means of a declaration in the New Computerised Transit System (NCTS), including the TIR procedure.

Declarations with an issuing date after or equal to 01/01/2019 have been extracted. The variables Consignee Trader and Consignor Trader were subjected to a quick entity resolution and network analysis.

It has been conducted a preliminary analysis of the online sale of cigarette filters for industrial production.

Based on the initial information available to us, it has been seek to verify whether a product with approximately the following characteristics is available on the web in large quantities:

- filter made of 95% cellulose acetate,
- often declared as 'cellulose acetate rods', 'monoacetate filters' or 'filter rods',
- allowing the production of several cigarettes (e.g. 108mm allows the production of 4 cigarettes),
- usually transported in boxes or trays (with an indication of 4600 filters per tray),
- usually supplied from China.

The analysis focuses on the "surface web" only. This analysis could be completed by an analysis of the "dark web", which requires the implementation of an adapted and secured IT infrastructure. Queries are formulated using "advanced" Google searching techniques (also known as "Google dorks") for better targeting.

The results of our research show that it is possible to get in touch with suppliers of cigarette filters matching the specifications. Suppliers can either be contacted directly via their own website (e.g. <https://tobexchina.com/en/product-en/47-filter-rods>), or through a B2B platform. Suppliers claim to be based in Europe or other parts of the world.

The Alibaba platform alone makes it easy to get in touch with many potential suppliers. Some examples are provided below:

[https://www.alibaba.com/product-detail/Acetate-Cigarette-Filter-Rods-Cigarette-Production\\_62502737117.html](https://www.alibaba.com/product-detail/Acetate-Cigarette-Filter-Rods-Cigarette-Production_62502737117.html)

[https://www.alibaba.com/product-detail/Cigarette-MONO-ACETATE-FILTER-RODS-7\\_11000001889761.html](https://www.alibaba.com/product-detail/Cigarette-MONO-ACETATE-FILTER-RODS-7_11000001889761.html)

[https://www.alibaba.com/product-detail/Cigarette-filter-rods-monoacetate-premium-quality\\_62000979943.html](https://www.alibaba.com/product-detail/Cigarette-filter-rods-monoacetate-premium-quality_62000979943.html)

It is also possible to get in touch with suppliers using other B2B platforms:

<https://www.indiamart.com/hind-filters-limited/cigarette-filters.html>

[https://www.ecplaza.net/products/cigarette-filter-rod\\_4586931](https://www.ecplaza.net/products/cigarette-filter-rod_4586931)