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From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: ANNEX to the Communication from the Commission to the European
Parliament, the Council and the European Economic and Social Committee
2nd Action Plan to fight the illicit tobacco trade 2018-2022

Delegations will find attached document COM(2018) 846 final, ANNEX 1.

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Brussels, 7.12.2018
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ANNEX 1

ANNEX

to the

**Communication from the Commission to the European Parliament, the Council and the
European Economic and Social Committee**

2nd Action Plan to fight the illicit tobacco trade 2018-2022

ANNEX

2nd Action Plan to fight the illicit tobacco trade 2018-2022

ITEM	TITLE	DESCRIPTION	ACTION	TIMELINE	RESPONSIBLE
A	ENGAGING KEY SOURCE AND TRANSIT COUNTRIES				
A.1	Multilateral relations - FCTC Protocol				
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
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

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 st 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 nd Meeting of the Parties under the FCTC Protocol	2020	Commission
A.1.4	Utilise new legal tools in international cooperation	Actively contribute to the Working Group on Cooperation and Assistance established at the 1 st 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 nd Meeting of the Parties under the FCTC Protocol	2020	Commission Member States
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 (Art 6 FCTC Protocol)	Feasibility study	2019	Commission

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
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
A.2	Bilateral relations				
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
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

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
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
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
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
A.2.7	Customs cooperation with Belarus	Strengthen customs cooperation with Belarus through the appropriate framework	Strengthen effective engagement and cooperation	Continuous	Commission EEAS OLAF

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
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B	LIMITING SUPPLY				
B.1	Securing the supply chain – new EU traceability system for tobacco products				
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.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.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.2	Limiting supply of input materials				

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.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.3	Strengthening the customs framework				
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.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
B.4	Strengthening enforcement, detection and sanctions				
B.4.1	Enforcement framework				
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.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.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.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.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.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.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
B.4.2	Operational activities				

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.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
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.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.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.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

C	LIMITING DEMAND				
C.1	Awareness raising				
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
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
C.2	Reduce Incentives				
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

D	ANALYSIS AND INTELLIGENCE				
D.1	Data collection and analysis				
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
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
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

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
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
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
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
D.2	Enhanced co-operation and co-ordination				
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

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
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
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