

MOP4 DUTY-FREE INDUSTRY POSITION PAPER

December 2024

Executive summary

The duty-free industry strongly supports the implementation of the provisions of the WHO Protocol to Eliminate the Illicit Trade in Tobacco Products (ITP) such as the establishment of licensing, due diligence, requirement of record keeping, and security and preventive measures. Many of these measures are already active industry practice and pre-date the regulatory requirements proposed in the Protocol.

At the Third Meeting of the Parties (MOP3) in February 2024, Parties to the Protocol agreed to proceed with an evidence-based study to “ascertain the extent of illicit trade in tobacco products related to duty-free sales of such products”, as called for in Article 13.2 of the Protocol.

The Duty Free World Council welcomes the certainty provided by the study roadmap that has been published by Parties to the Protocol, and remains firmly of the view that a fair and objective study will demonstrate that the duty-free industry is a secure trading channel that makes no significant contribution to the illicit trade in tobacco products.

It is vitally important that Protocol Parties are actively engaged in the study and ensure that it is conducted in a fair and objective manner.

KEY POINTS

Regarding Article 13.2 of the Illicit Trade Protocol, the duty-free industry makes four key points:

- 1 The duty-free industry operates within a well-established, highly regulated, transparent and secure supply chain**, with strict allowances consistent with the Revised Kyoto Convention. The Duty Free World Council and the wider industry have advocated for the elimination of all forms of illicit trade for over two decades, and continue to do so. The duty-free industry has a long history of collaborating with Customs and enforcement bodies to adopt practices and processes contributing to the eradication of all forms of illicit trade.

2 The duty-free industry makes no significant contribution to the illicit trade in tobacco products. The DFWC therefore expects that any objective and fair study will conclude this to be the case. Duty- and tax-free retailers suffer significant economic damage in lost sales opportunities as a result of illicit trade in tobacco products and products fraudulently mislabelled as duty-free. The DFWC strongly supports the elimination of criminal activity wherever it occurs.

3 The Duty Free World Council offers its full assistance to the consultants tasked with conducting the study, including its expertise on the structure of the industry and aspects such as supply chain security. Our industry has already commissioned **in-depth, independent economic analysis** of the macroeconomics of duty-free tobacco retailing including **a range of case studies examining the extent of illicit trade related to genuine duty-free – which is demonstrably shown to be negligible at less than 0.1% of total duty-free sales.** DFWC will continue to extend its offer to governments, IGOs and NGOs to share this research freely and openly, and to provide any additional detail, data and expert knowledge required.

We understand that the study will be designed to examine levels of illicit trade in duty-free tobacco products – if any – compared to duty-free sales. Without the contribution of duty-free expertise, the study risks lacking crucial data and information, making it difficult to establish fully accurate findings. Without industry input, the study authors may struggle to adequately assess key issues such as the distinction between duty-free sales to eligible individual passengers at airports, ports and borders, and activity in free trade zones, which are fundamentally two different frameworks. Additionally, it will be critical that the authors distinguish between genuine duty-free and the fraudulent mislabelling of illicit tobacco products as duty-free by organised crime groups. The DFWC is ready to contribute data, insights and analysis to support this important study.

4 If genuine supply chain issues are identified in particular geographies, they should be dealt with on a location-by-location basis, with solutions tailored to address local challenges and utilising local resources. While the DFWC fully supports steps to eradicate illicit trade in all its forms, there can be no justification for penalizing legitimate, law-abiding businesses globally under a pretext of controlling illicit trade in a specific market.

→ FURTHER DETAILS

Ensuring a fair and objective process for study called for under Article 13.2 of the Illicit Trade Protocol

This study is the opportunity for Parties to the Protocol to develop a comprehensive understanding of the duty-free supply chain. It is critical that the appointed researchers work with duty-free stakeholders to ensure the study is complete and accurate. We are ready to share any relevant industry insights with the WHO, as we have been doing with national Customs authorities for decades past.

The duty-free industry is a business that spans the world and operates in nearly every jurisdiction. There is no single common framework of rules for the operation of duty-free, or consistency in terms of application of the rules across the world which would enable a study to derive accurate conclusions without examining all jurisdictions individually. To that end, the DFWC welcomes the approach of Protocol Parties to examine a range of jurisdictions as case studies. This mirrors an approach the duty-free industry has already employed in its independently conducted economic analysis. The DFWC has updated this analysis to add further country case studies and observations in 2024, and is willing to share these updated findings with Protocol Parties and the WHO.

To achieve a clear picture, any research into alleged illicit trade in duty-free products should examine the issue of illicit trade at a local level, and focus on local solutions if and where illicit trade in genuine duty-free is identified. This must not be confused with illicit trade where the duty-free name or label is coopted by criminal actors to make their illicit product appear authentic.

Customs agencies across the world are in the front line of the fight against illicit trade and have unrivalled expertise in this field. Given this fact, we trust that Customs agencies will be consulted as part of the study process. The duty-free industry has a long, exemplary history of working closely with Customs and enforcement bodies worldwide to ensure the security of the industry's supply chain, and we stand ready to share our own expertise and experience to help ensure that the study is an accurate reflection of the subject.

Penalising legitimate responsible retailers, airports, airlines and maritime companies who have been selling duty-free tobacco legally and responsibly for many decades will have no impact on reducing illicit trade. Moreover, seeking the removal of legitimate, genuine tobacco products from a secure supply chain such as duty-free will likely provide the opportunity for products derived from illicit trade sources to fill the demand gap – undermining the overall objective of the Protocol.

Duty-free sales take place in one of the most transparent, trusted and secure supply chains in the world

The duty- and tax-free industry's supply chain is one of the most secure in the world with processes and technologies in place to provide for verification of registration, compliance, certification, review and audit.

Duty-free retail revenue is a cornerstone of growth for airports, ports, the global aviation and maritime industry. It is enshrined in international conventions (the New York Convention, 1954, and more recently the Revised Kyoto Convention, 2006), and governed by domestic legislation with strict controls, allowances, and reporting requirements to Customs authorities by retailers.

Its importance to the global travel sector cannot be overstated, delivering crucial non-aeronautical revenue for airports. Duty-free is a transparent, controlled, and legitimate retail channel which is vital to maintaining and improving transport infrastructure, lowering travel costs, and enhancing the overall travel experience for consumers.

The duty-free industry already fully complies with a range of unique and important controls that help secure our channel and contribute to the wider fight against illicit trade. We have checks and balances in place on a mandatory level through legal requirements, while Customs authorities have full oversight to ensure there is no abuse of individual passenger allowances.

Duty-free retailers have adopted cutting-edge technologies and strict controls to ensure only eligible international travellers can purchase excisable goods. This commitment to advanced tracking and monitoring from production to sale minimizes oversupply risks and upholds best in class regulatory standards.

DUTY-FREE SALES ARE NOT 'FREE ZONE SALES'



Duty-free sales are not 'Free Zone sales', and are entirely distinct from Free Trade Zones which are generally a B2B trading area. Duty-free sales are a B2C activity and take place in a highly regulated retail environment, such as in airports, ports, ferries, cruise ships, land border shops, and rail crossings, where retailers sell to the travelling public and where operations are governed by national Customs authorities.



Duty-free retailers fully comply with all legal requirements and have introduced some of the most advanced technologies to ensure that the origin, intended destination and manufacture information of tobacco products can be traced – including 'know your customer', and 'legitimate demand' processes.



Duty-free retailers maintain supply chain records which are made available to Customs authorities to review as required, and retain all documents relating to the movement of goods in and out of duty-free shops, typically for a period of five years.



Duty-free retailers are subject to substantial financial penalties from Customs authorities should there be discrepancies in their reconciliation and stock control procedures, and are subject to detailed controls by Customs authorities to ensure that only eligible international travellers may purchase excisable goods. Manufacturers and duty-free retailers use sophisticated tracking, reconciliation, and point of sale technology to ensure that duty-free goods are traced throughout the supply chain.

➔ ABOUT THE DUTY FREE WORLD COUNCIL (DFWC)

The Duty Free World Council is the global voice for the duty- and tax-free industry.

In 2013, the industry’s regional associations from around the globe and TFWA, the representative of the brand companies active in the industry, came together to form the Duty Free World Council to highlight the importance of the duty- and tax-free industry in generating significant levels of employment and in providing vital revenues for the aviation, travel and tourism and maritime sectors. The crucial role our industry plays in the broader travel and tourism sectors and the interdependence of the industry with the aviation and maritime industries has been underlined more than ever in recent years.

The DFWC’s objectives include increasing awareness and knowledge of the industry, providing support to the industry’s regional associations and developing standards throughout the industry through educational activities.

THE DFWC COMPRISES THE FOLLOWING MEMBERS

