

Public consultation on the implementation of an EU system for traceability and security features pursuant to Articles 15 and 16 of the Tobacco Products Directive 2014/40/EU

Fields marked with * are mandatory.

Introduction

This is a public consultation on the implementation of an EU system for traceability and security features for tobacco products, as required under Articles 15 and 16 of the Tobacco Products Directive 2014/40 /EU (TPD). The purpose of this consultation is to seek comments from the general public and interested parties, such as consumers, retailers of finished tobacco products, manufacturers of finished tobacco products, wholesalers and distributors of finished tobacco products, providers of solutions for operating traceability, security feature or data storage systems, and governmental and non-governmental organisations active in the area of tobacco control and the fight against illicit trade.

The basis for the consultation is the Commission's [Inception Impact Assessment](#). This document develops the main policy options currently under consideration for implementing the system for traceability and security features provided for under Articles 15 and 16 TPD. These policy options are outlined in Table 4 of the Inception Impact Assessment (page 8).

As the objective of this public consultation is, among others, to gain confirmation or otherwise of the assumptions made regarding the policy options mentioned above, **those participating are strongly advised to review the Inception Impact Assessment before responding**. The comments received in the course of this consultation will provide input for the ongoing implementation work on the future EU system.

Stakeholders are invited to submit their responses to this consultation via the survey form below until **4 November 2016**.

The survey form consists of closed and open questions. For open questions stakeholders will be asked to provide comments up to the limit of characters indicated in the question. Submissions

should - where possible - be in English.

In the case of corporate groups, one single reply should be prepared. For responses from governmental organisations not representing a national position, the reply should explain why the responding body is directly affected by the envisaged measures.

The information received will be treated in accordance with Regulation 45/2001 on the protection of individuals with regard to the processing of personal data by the Community (please see [here](#) for information on rules governing personal data protection and consult the [privacy statement](#) provided on the consultation webpage). In the case of submissions by corporate groups, respondents are asked not to upload personal data of individuals.

Please note that organisations falling under the following respondent groups should register in the [Transparency Register](#) before they begin to answer the questions:

- Manufacturers of tobacco products destined for consumers (finished tobacco products)
- Operators involved in the supply chain of finished tobacco products (excluding retail)
- Providers of solutions for operating traceability, security features or data storage
- Non-Governmental Organisations

The submissions of non-registered organisations will be published separately from those of registered ones and considered as the input of individuals.

The Commission reserves the right to contact you to request further explanation and/or justification of your calculations and/or the reasoning on which your responses rely. You may also be requested to provide further evidence for your detailed replies.

Answers that do not comply with the overall specifications outlined above cannot be considered.

A. Respondent details

*A1. Please identify which respondent group you fall under:

- ☐ a) Consumer/member of the general public
- ☒ b) Retailer of finished tobacco products
- ☐ c) Manufacturer of tobacco products destined for consumers (finished tobacco products)
- ☒ d) Operator involved in the supply chain of finished tobacco products (excluding retail)
- ☐ e) Provider of solutions for traceability, security features or data storage
- ☐ f) Governmental organisation
- ☐ g) NGO
- ☐ h) Other organisation

If you fall under groups **b)**, **c)**, **d)** or **e)** above, please indicate if you are a small or medium sized enterprise as defined in [Commission Recommendation 2003/361/EC](#) (i.e. an enterprise which employs fewer than 250 persons and which has an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.)

- ☐ Yes
☒ No

If other, please specify

Text of 1 to 800 characters will be accepted

A3. If you fall under respondent group **b)** above, please indicate the tobacco products you retail (multiple reponse options possible):

- ☒ Cigarettes
☒ Roll-Your-Own tobacco
☒ Cigarillos
☒ Cigars
☒ Pipe tobacco
☒ Water pipe tobacco
☒ Smokeless tobacco including chewing, oral and nasal tobacco
☐ Other

If other, please specify

Text of 1 to 800 characters will be accepted

A5. If you fall under respondent group **d)** above, please indicate your main area(s) of activity:

- ☒ Importer
☒ Distributor
☒ Wholesaler
☒ Warehouse operator
☒ Other

If other, please specify

Text of 1 to 800 characters will be accepted

Geco, a.s. ("Geco") is a company involved in several stages of the business with tobacco products in the Czech Republic, Slovakia and Germany. Geco is an exclusive importer and distributor of some products (CZ, SK) while also acting as a wholesaler for all the major tobacco companies (CZ). Geco also manages a group of specialised retail outlets in all the above mentioned countries. As such, Geco believes to be in a prominent position to comment on the present Consultation. The solution chosen will directly impact its business in every stage of the supply chain.

B. Respondant contact details

B2. In the case of organisations, please provide the organisation's name, address, email, telephone number and, if applicable, name of the ultimate parent company or organisation (if possible, please do not include personal data)

Text of 1 to 800 characters will be accepted

GECO, a.s.
Company ID: 63080737
Praha 8, Pod Čimickým hájem 190/11, 18100 Czech Republic

[REDACTED]
[REDACTED]

B3. Please indicate if your organisation is registered in the [Transparency Register of the European Commission](#)* (unless you fall under respondent groups **a)**, **b)** or **f)** of Question 1A above):

(*Please note that organisations falling under the relevant respondent groups should register in the Transparency Register before they begin to answer the questions. The submissions of non-registered organisations will be published separately from those of registered ones and considered as the input of individuals.)

- ☒ Yes
☐ No

If you indicated yes, please enter your Transparency Register registration number:

Text of 1 to 20 characters will be accepted

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Where applicable please upload extract from the trade or other relevant registry confirming the activity indicated under Question A1 (English translation where possible)

cf02ce69-eff4-4fa7-b8b6-5498d32b79c5/Geco_CommReg_Extract_20161102.pdf

* B4. Please state your preference with regard to the publication of your contribution
(Please note that regardless of the option chosen, your contribution may be subject to a request for access to documents under [Regulation 1049/2001](#). In such cases, the request will be assessed against the conditions set out in the Regulation and in accordance with applicable data protection rules.)

- ☒ My contribution may be published under the name indicated; I declare that none of it is subject to copyright restrictions that prevent publication
- ☐ My contribution may be published but should be kept anonymous; I declare that none of it is subject to copyright restrictions that prevent publication
- ☐ I do not agree that my contribution will be published at all.

C. Consultation questions

Please carefully read the [Inception Impact Assessment](#) document before answering the questionnaire

Questions on the governance model

* C1. Out of the three governance models outlined in the Inception Impact Assessment for the traceability system for tobacco products, which one do you consider most suitable for operating the traceability system from your perspective:

- ☒ Option A1: industry operated solution
- ☐ Option A2: third party operated solution
- ☐ Option A3: mixed solution (industry and third party)
- ☐ No opinion

* C2. Do you agree that the industry operated model (option A1) will require, on the part of the public authorities, additional control measures to ensure traceability of tobacco products?

- ☐ Yes
- ☒ No
- ☐ No opinion

* C3. Do you consider that traceability of tobacco products can only be achieved on condition that the supply chain is controlled by a third party independent from the tobacco industry?

- ☐ Yes
- ☒ No
- ☐ No opinion

* C4. If options A1 and A2 are to be compared in terms of their overall impact on cost per pack of product (excluding potential additional costs for the public authorities related to monitoring and enforcement in option A1), do you consider*

- ☒ Option A1 to be cheaper than option A2
- ☐ Both options to have the same cost impact
- ☐ Option A1 to be more expensive than option A2
- ☐ No opinion

**Subquestion a) to question C4: What is your estimate of the average likely increase in the cost of a pack of product that would be incurred in establishing and operating the traceability system under option A1 (in Euro, ex-factory level, before taxes. If relevant please indicate an exchange rate)? Please outline your justifications/reasoning for this estimate including a clear indication of your sources of information. If needed please indicate how your estimate may differ for different categories of products*

Text of 1 to 1500 characters will be accepted

We are not in a position to estimate this. Either the tobacco companies or any provider of the technical solution should have more insight. The tobacco industry is already running a well functioning system (implemented within our processes as well). The question is whether the previously incurred costs should also be reflected in the costs of Option A1. In addition, it seems unclear from the Consultation how the system (even if Option A1 is chosen) would work and thus how much extra investment would be needed.

**Subquestion b) to question C4: What is your estimate of the average likely increase in the cost of a pack of product incurred in establishing and operating the traceability system under option A2 (in Euro, ex-factory level, before taxes. If relevant please indicate an exchange rate)?*

Please outline your justifications/reasoning for this estimate including a clear indication of your sources of information. If needed please indicate how your estimate may differ for different categories of products

Text of 1 to 1500 characters will be accepted

We are unable to estimate the costs of any such solution because (1) it is not clear how the models presented in the Consultation would be operating, and (2) such costs would depend on the solution chosen. However, given how much the industry already invested in developing a functioning tracking system (to comply with requirements imposed by the Cooperation Agreements between the tobacco manufacturers and the EU and its Member States), it seems reasonable to assume that development and implementation of any new system would come with extra costs.

*** C5. Do you agree that a mixed model of governance, in which the choice of governance is separately made with respect to each distinct technological block/process (e.g. generation, printing/affixing and visual control of a unique identifier) can both provide for full traceability of tobacco products and mitigate the overall public-private cost of establishing and operating the system?**

- ☐ Yes
- ☒ No
- ☐ No opinion

C6. Would you like to add any comments or suggestions on the choice of the governance model?

Text of 1 to 1500 characters will be accepted

Being involved in various positions within the tobacco trade we can testify to the fact that it is a complex chain of processes, organisations, ownership titles, data. It is difficult as it is now to determine such issues as ownership, product liability, etc. Any model where the responsibility is not vested in one subject - the manufacturer - which is fully accountable during the whole process/chain (from applying any tax stamps, security features, controlling their accuracy, inputting the data into systems, connecting them with other systems further down the supply chain, etc.) will not stand a chance when it comes to questions of legal responsibility. The tobacco manufacturers are currently applying tracking features on their products and in cooperation with entities such as ours follow the route up to the first external customer. Adding more complexity by through a third party control where it is not needed seems very unreasonable.

Plus, the objective of the T&T system is to control the route after the products leave factory. By imposing a third party controlling body into the private premises of the factories will not help in any way to achieve such goal."

Questions on the data storage location

* C7. Out of the two data storage locations outlined in the Inception Impact Assessment, which option do you consider most suitable from your perspective:

- ☐ Option B1: centralised data storage
- ☒ Option B2: decentralised data storage
- ☐ No opinion

* C8. Do you agree with the assumption made in the Inception Impact Assessment (p. 12) that centralised data storage can provide for important economies of scale (construed as savings in costs gained by an increased level of centralisation), in particular given the related costs of interconnectivity and interoperability present in the option of decentralised data storage?*

- ☐ Yes
- ☒ No
- ☐ No opinion

**Subquestion to question C8: Please provide the reasoning for your response*

Text of 1 to 1500 characters will be accepted

On a contrary to the assumption mentioned in the Impact Assessment, given the amount of goods manufactured, transported and sold regularly on the whole EU market and thus the amount of data created in the process of tracking it, a centralised data storage for all the information of all the Europe would represent an enormous scale and would most likely lead to long response times, technical complexity, etc. Or, in order to avoid those implications, investment in well functioning system able to absorb such scale would have to be unprecedented within the European structures.

In addition to that all the systems inputting the data from member states would have to be inter-operable and represent further costs if this is not secured and systems have to be changed. Given that a considerable portion of the data is already stored in the manufacturers' or distributors data centres this seems unnecessary.

* C9. Which type of data storage represents higher risks in terms of time required to access data and/or potential downtimes?*

- ☒ Centralised data storage
- ☐ Decentralised data storage
- ☐ No opinion

**Subquestion to question C9: Please provide the reasoning for your response*

Text of 1 to 1500 characters will be accepted

"The requirement to save any data on manufacturing, transport and sale for all EU tobacco products for several years in one place could mean a very long response time and risks of frequent down-times. This should be unacceptable for the controlling organisations (customs offices, etc.) in the Member States. We would also envisage that such a data centre would be very challenging from the space, connection, etc. perspective. The TPD gives an option by which the data is stored separately, e.g. per manufacturer, by a third party provider commissioned that entity. Such provider could be approved by the European Commission and under audit of an independent organisation. This solution would be more appropriate. This would also provide for a better security of the respective data. This is a model that is at present used within a test project done in the Czech Republic with participation of the Ministry of Finance and Ministry of Agriculture. Our information indicates that this works well. The state officials are provided access to the databases via an AIT portal through which they extract any data needed."

*** C10. In the case of a decentralised data storage, how should data be split among individual data storages:**

- ☐ Geographic decentralisation with regional/national data storages
- ☐ Product decentralisation with all the data on a single product stored in one place
- ☒ Other option
- ☐ No opinion

**Subquestion to question C10: If other option is selected, please specify*

Text of 1 to 1500 characters will be accepted

As indicated above, we find data storage per manufacturer/distributor /wholesaler with access given to relevant bodies most suitable.

* C11. If the option of geographic decentralisation of data storages is considered, the relevant data on a given product should be placed

- ☐ In the storage of the region/country of product origin
- ☐ In the storage of the region/country of intended retail market
- ☐ In all the regional/national data storages of a given product's presence, incl. transit countries
- ☒ No opinion

C12. Would you like to add any comments or suggestions on the choice of the data storage location?

Text of 1 to 1500 characters will be accepted

Reflecting on our answer to Q C9 and C10, the location should be left open for the data storing entity. Any of the described models does not seem to take into account anomalies such as products manufactured outside EU (place of origin would not work), products manufactured in the EU for a non-EU country (intended retail?), etc.

Questions on the allowed data carriers

* C13. Out of the three options for data carriers outlined in the Inception Impact Assessment which one do you consider most suitable for operating the traceability system from your perspective

- ☐ Option C1: system with a single data carrier
- ☒ Option C2: system with a limited variety of data carriers
- ☐ Option C3: free system allowing any existing data carrier
- ☐ No opinion

* C14. Do you agree with the assumption made in the Inception Impact Assessment (p. 12) that a system with a single data carrier may offer insufficient flexibility in view of different requirements of various economic operators, including small and medium enterprises?

- ☒ Yes
- ☐ No
- ☐ No opinion

- * C15. Do you agree with the assumption made in the Inception Impact Assessment (p. 12) that a free system (allowing any existing data carrier) introduces a risk that certain data carriers will not be readable by all the scanners installed in the system and that its functioning would require frequent updates of the scanners, which may not be technically feasible and/or economically viable?

- ☒ Yes
☐ No
☐ No opinion

**Subquestion to question C15: Please provide the reasoning for your response*

Text of 1 to 1500 characters will be accepted

The data carriers should probably comply with some of the commonly used international standards such as GS1. The data carriers we currently use are compliant with that and it makes inter-operability between various systems possible.

- C16. Would you like to add any comments or suggestions on the choice of the allowed data carriers?

Text of 1 to 1500 characters will be accepted

We would suggest to use GS1 standard bar-codes for outside packaging such as outer or master box, and the ISS DotCode on the unit packs (also currently tested within the Czech pilot and working smoothly), placed in a position and in a sufficient size that allows for an easy reading of the of the code. Ideally, the codes are positioned in a unified manner by all manufacturers.

Questions on the allowed delays in reporting events

- * C17. Out of the three options for the allowed delays in reporting events outlined in the Inception Impact Assessment, which one do you consider most suitable for operating the traceability system from your perspective:

- ☐ Option D1: real-time (or limited delay – max. several minutes – reports)
☒ Option D2: once daily reports
☐ Option D3: once weekly reports
☐ No opinion

* C18. Do you agree with the assumption made in the Inception Impact Assessment (p. 12) that option D1, which envisages real-time reporting (or limited delays of maximum several minutes), would be particularly efficient to track products in transit as it would avoid duplicating scanning operations (e.g. by both a dispatcher/recipient and a transport operator)?

- ☐ Yes
☒ No
☐ No opinion

* C19. Do you agree with the assumption made in the Inception Impact Assessment (p. 12) that option D1 (real-time or limited delays of maximum several minutes) would support effective realtime risk analysis so that controls by competent authorities can be better targeted on illicit trade?

- ☐ Yes
☒ No
☐ No opinion

* C20. Do you agree with the assumption made in the Inception Impact Assessment (p. 13) that the once-daily frequency of data uploads provides for important cost savings for the economic operators as compared to the option of real-time reporting (or limited delays of maximum several minutes)?

- ☒ Yes
☐ No
☐ No opinion

**Subquestion a) to question C20. What is your estimate of the average likely increase in the cost of a pack of product that would be incurred in operating the traceability system with the option of real-time (or limited delay of maximum several minutes) reporting (in Euro, ex-factory level, before taxes. If relevant please indicate an exchange rate)?*

Please outline your justifications/reasoning for this estimate including a clear indication of your sources of information. If needed please indicate how your estimate may differ for different categories of products

Text of 1 to 1500 characters will be accepted

We cannot quantify the increase of cost of having real time transmission throughout the supply chain because the final design of the system is still unclear and this outside our expertise. But common sense dictates that given the complexity of such solution much higher standards of all the components would apply in order to secure functioning of the system.

**Subquestion b) to question C20: What is your estimate of the average likely increase in the cost of a pack of product that would be incurred in operating the traceability system with the option of once-daily reporting (in Euro, ex-factory level, before taxes. If relevant please indicate an exchange rate)? Please outline your justifications/reasoning for this estimate including a clear indication of your sources of information. If needed please indicate how your estimate may differ for different categories of products*

Text of 1 to 1500 characters will be accepted

Dtto sub-answer to C20 a) - depends on final solution design and resulting technical requirements to evaluate this.

*** C21.** Do you agree with the assumption made in the Inception Impact Assessment (p. 13) that the once-weekly frequency of data uploads provides for important cost savings for the economic operators as compared to the option of once-daily reporting?

- ☐ Yes
- ☒ No
- ☐ No opinion

**Subquestion to question C21: What is your estimate of the average likely increase in the cost of a pack of product that would be incurred in operating the traceability system with the option of once-weekly reporting (in Euro, ex-factory level, before taxes. If relevant please indicate an exchange rate.)? Please outline your justifications/reasoning for this estimate including a clear indication of your sources of information. If needed please indicate how your estimate may differ for different categories of products*

Text of 1 to 1500 characters will be accepted

Once-weekly reporting may provide cost savings but will not be an acceptable solution to fulfil the purpose of the A15 requirement. Given that tobacco products are fast moving consumer goods (FMCG) in extreme situations in one week the product can be moved from production to warehouse, wholesaler, retailer and even consumer. As such, the controlling bodies would have extremely outdated data for their work.

C22. Would you like to add any comments or suggestions on the choice of the allowed delays in reporting events?

Text of 1 to 1500 characters will be accepted

We believe that given the down-sides of the real time and once-weekly solution, once-daily (or "in timely manner" etc.) reporting solution should be adopted. In addition, currently in most cases the products are being prepared one day and dispatched the next, so in effect the once-daily in reality represents a real-time solution.

Questions on the method of adding a security feature

* C23. Out of the three options for the method of adding a security feature that are outlined in the Inception Impact Assessment which one do you consider most suitable for securing the product from your perspective?

- ☐ Option S1: affixing
- ☐ Option S2: printing or integrating through a different method
- ☒ Option S3: any method
- ☐ No opinion

* C24. Do you agree with the assumption made in the Inception Impact Assessment (p. 13) that by broadening the range of available methods, it will be easier for economic operators (including small and medium enterprises) to obtain the necessary level of security in a cost-efficient manner?

- ☒ Yes
- ☐ No
- ☐ No opinion

* C25. How do you rate the importance for consumers of having visible security features on unit packs of tobacco products?

- ☐ Important
- ☐ Rather important
- ☐ Neutral
- ☐ Rather unimportant
- ☒ Unimportant
- ☐ No opinion

* C26. Do you consider that enabling individual consumers to decode and verify a serialized unique identifier with mobile devices (e.g. smartphones) would bring added value to the effectiveness of the tracking and tracing system?

- ☐ Yes
- ☒ No
- ☐ No opinion

C27. Would you like to add any comments or suggestions on the choice of the method of adding a security feature?

Text of 1 to 1500 characters will be accepted

From our experience in both the markets (CZ & SK) where tax banderols/stamps are used we understand that the national customs offices are very keen to keep their overt and covert security features embedded in these stamps as they have long proven record to work and seem to be impossible to counterfeit or circumvent. As such, it seems best to give member states to the opportunity to retain these (either as a sole or additional SF) while allowing the others an open standard solution.

C28. Please upload any additional comments on the subject of this consultation (max. 5 pages)

Contact

SANTE-B2-TOBACCO-CONTROL@ec.europa.eu
