

# 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

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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

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\*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*

If other, please specify

*Text of 1 to 800 characters will be accepted*

A6. If you fall under respondent group **e)** above, please indicate your main area of activity (multiple response options possible):

- ☒ Provider of solutions for tracking and tracing systems (or parts thereof)  
☐ Provider of solutions for security features (or parts thereof)  
☒ Data Management Providers (or parts thereof)

## B. Respondant contact details

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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*

FATA Logistic Systems - Via dei Prati, 7 - 10044 Pianezza (Torino) Italy;

FATA Logistic Systems is fully owned by Leonardo Finmeccanica Spa.

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*

Leonardo 02550382403

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

**edbb655e-fa74-40b5-af18-e13daf35f1dc/Estratto\_Visura\_FataLS.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

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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

- \* 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*

### 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*

Need to precise that the model we have in mind calls for a "centralized data storage" per each EU country (so split by geography) of all the t&t data collected along the process, from manufacturing up to point of sale. The initial data, available at manufacturing moment, should be kept by the production industries under their responsibility, used for their other manufacturing or marketing purposes, transferred periodically into the centralized data base of each EU country of destination where they will be maintained by each country certified third party chosen by tobacco manufacturers.

Defining an unique format for the "centralized data base" (even if split per EU countries) will guaranty the interoperability; the interconnectivity will not be a problem with modern internet protocols and security connections, actually supporting cost optimization to satisfy requests of the EU Directive 2014/40.

**\* 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*

If well implemented and operated, applying modern tools and criteria for ICT security and business continuity, we believe that a geographically centralized (one for each EU country) data storage is much quicker in access and safer than any decentralized data storage.

**\* 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

\* 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

*\*Subquestion to question C11: Please provide the reasoning for your response*

*Text of 1 to 1500 characters will be accepted*

See comments on previous answers.

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*

In few words: up to authentication and initial t&t data associated to product at production time, the data storage should be distributed among the several manufacturing industries and reversed time to time into each unique national data storage managed by each national certified third party chosen by tobacco manufacturers. Afterward all the data collected along the supply chain should stay in the national data storage and managed by the previous third party.

The third party chosen by tobacco manufacturers could provide furthermore consulting and technological services for the tracking of the product along the supply chain.

### 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*

Best solution in our opinion is to adopt one or few standards defined at implementation act of the EU Directive which can be evolved in time with technological progress.  
Standardization of code representation and single format of final data repository should avoid any technical problem for interoperability.

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*

**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*

It is difficult to make an exact assessment on the extra cost incurred by operating the traceability in real time; we believe being almost impossible (all different ERP systems of all operators along the supply chain should be "synchronized" ...) and at the same time completely useless.

*\*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*

We believe that a daily synchronization of different data bases is the optimal solutions under all point of view.

With modern ICT tools, systems and procedures every timely data transfer is automatic and do not require human intervention, so the cost impact is quite low.

**\* 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*

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*

### **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*

One of the main purpose established by Directive 2014/40 for the “security feature” is “anti-tampering” secure element to prove that the product has not been manipulated (at least this is the strict interpretation of the translation of Art. 16 into Italian language), being the “authentication” of the product completely provided through the information included in the unique identifier: so, the anti-tampering secure element should be a cheap and simple one with overt and covert information as required by Art. 16 of the Dir.

Eventually, in addition, the unique identifier can be protected from the only possible fraud: “cloning”; there are several technologies, more or less expensive, which can do that (fingerprint of the products packs, fingerprint of the printers who are authorized to print the unique identifier on the product lines (as bullets shut by a gun), etc.); So, we are very much in favor of and suggest to adopting:

- Simple and cheap security features as an anti-tampering proof (one potential technology could be a tear tape with tagging ink as covert element and Member States symbols and scripts as overt element);
- Eventually use fingerprint technologies to protect the unique identifier from cloning and prove authenticity of the packs.

Incentivizing control of the code allowing consumers to access the related information will greatly increase the effectiveness of the system. To fight illicit trade require controlling as much as possible the unique pack identifier.

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

## Contact

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