



1st MEETING of the SUBGROUP ON TRACEABILITY AND SECURITY FEATURES OF THE EXPERT GROUP ON TOBACCO POLICY¹

FINAL Summary record

**Meeting date: 10 December 2014, 10.00 – 18:00
BRUSSELS**

(1) Welcome and Introduction

This was the first meeting of the Expert Subgroup on Traceability and Security Features of the Expert Group on Tobacco Policy.¹ The Chair opened the meeting and welcomed the participants, explaining that the subgroup is in particular tasked to examine and discuss questions relating to implementation of the provisions on traceability and security features, as set out in Articles 15 & 16 of the revised Tobacco Products Directive (TPD).² The Chair highlighted the challenges involved in addressing these questions, namely (1) their cross-sectorial nature (potential involvement of Ministries of Health, Tax and Finance and of Customs authorities), (2) different levels of obligations (EU, international, contracts), (3) the need to find viable technical solutions for highly complex situations. The Commission underlined it is aware of the complexity of the task, and indeed had begun work on the issue even before adoption of the TPD. The Chair explained today's meeting was to inform Member States of the ongoing work, in particular the external contractor's work, and to gain their initial feedback. The Commission reminded participants of the confidential nature of this meeting and the deliberations and invited them to disclose any conflict of interest. No expert declared a potential conflict.

(2) Role of Expert Subgroup on Traceability and Security Features

The Commission briefly outlined the function of the subgroup, which is a subgroup of the main Expert Group on Tobacco Policy mentioned above (also referred to as “Plenary”). This Expert Group has an advisory role in the preparation of Delegated Acts foreseen in the tobacco control legislation, but can also act as a forum for all other exchanges on tobacco-related matters (the group and its subgroups might also be involved in the preparation of

¹ established under Commission Decision C(2014) 3509

² Directive 2014/40/EU

Implementing Acts, but the Committee established under Art. 25 TPD will formally discuss and vote on these).

Following the first meeting of the Expert Group in June 2014, two sub-groups were set up to work on more specific matters: the current sub-group on traceability and security features, and another on ingredients. The role of these sub-groups is to provide specific technical expertise and to report back to the Plenary sessions. The Commission underlined that the sub-groups do not meet in Council formation and no formal Member State positions are voiced.

(3) Implementation of the Tobacco Products Directive (TPD) (2014/40/EU) in the area of traceability and security features

The Commission explained that preventing illicit trade is an important element of the TPD, as illicit trade undermines the internal market for licit tobacco products and the rules introduced by the TPD. The TPD distinguishes between 1) tracking and tracing of tobacco products and 2) authentication of products (security features). Article 15 (Traceability) provides for serialisation of unit packets via a unique identifier, for tracking through the supply chain until, but not including, retail level, and for storage of the data by an independent party, allowing for queries e.g. by Member States and the EU. Article 16 (Security Feature) has been designed to assist in distinguishing authentic products from counterfeits, and will be useful for consumers, market surveillance and law enforcement.

Implementing and Delegated Acts are foreseen for defining the technical standards (in both Articles 15 and 16) and ensuring compatibility of the tracking and tracing systems across the EU, as well as for defining the key elements of the data storage contracts. The system must be in place for cigarettes and RYO tobacco by May 2019 and for all other tobacco products by May 2024. To assist it in the preparation of the relevant acts, the Commission employed an external contractor – Eurogroup Consulting supported by Sovereign Border Solutions – the interim results of whose work were presented to the subgroup.

The Commission reassured participants that the development of a system with added value is a central objective. It is in favour of a collaborative approach (across-sectors/DGs) and welcomes that many Member States have adopted a similar approach. As regards the external contractor, the Commission underlined – in reply to questions from experts – that given the sensitivity of this project, particular vigilance was exercised concerning conflict of interest.

(4) Ongoing project: presentation by the external contractor and discussion

a) Presentation of the draft Report

The contractor began by introducing the draft interim report, explaining that its starting points, amongst others, were the tender specifications, the text of the new TPD and the FCTC Protocol on Illicit Trade. To assess the current situation as regards tracking and tracing and security features, it undertook an extensive overview exercise, conducting desk and market research, carrying out wide-reaching stakeholder surveys (to which there was a good response) and site visits, and engaging with other stakeholders (distributor organisations, FCTC Secretariat, data storage providers etc.). Sectors other than tobacco were also analysed.

Challenges in this process included the number and diversity of potential actors and operators, time and budget constraints, complexity of the questions etc. The contractor sought to address

these challenges in various ways, including by the use of proven methodologies and by engaging a multi-disciplinary team.

Objectivity was a primary goal in the initial mapping exercise and the results can be linked back to the original problem statement, based on the tender specifications, the TPD and the FCTC Protocol.

In relation to Article 15, the contractor underlined the importance of ensuring the uniqueness of every code. The key concepts are “serialisation” through the unique identifier on unit packets and the possibility for “aggregation”. For Article 16, the contractor explained that several categories of security feature are possible e.g. overt, semi-covert, covert, forensic etc., and that many different solutions are in operation already today.

Based on the analysis conducted, four possible solutions for tracking and tracing and for security features were identified, as requested by the tender specifications. The contractor underlined that it has not chosen any one of these options as the preferred one, as this is the job of the legislator. All are, however, workable and compliant with requirements. Also developed was a cost-benefit analysis (including for data storage).

As regards tracking and tracing, one of the key findings of the interim report is that full traceability of EU tobacco products is feasible and relevant technology solution providers already exist. However, there is no 'one size fits all' model.

More details on the four options identified for the traceability solution were then provided. **Option 1** would be an industry-operated solution, with direct marking carried out by manufacturers, based on EU-defined standards. In addition to normal auditing/supervision at factory level, Member States and EU Agencies could access traceability data via a query tool/interface operated by an independent third party. Under **Option 2** an independent solution provider would undertake the marking of packs, based on EU-defined standards, and upload data to the third party providing the data storage facility. Again, Member States and EU Agencies could access the data via a query tool/interface. **Option 3** is a mixed solution in which Member States decide about the solution applied on their territory. Under **Option 3a**, Member States could choose an industry-operated solution which proceeds along the lines of Option 1, while under **Option 3b**, Member States appoint an independent solution provider, which proceeds along the lines of Option 2. Both 3a and 3b allow Member States and EU Agencies to access traceability data via a query tool/interface operated by an independent third party. **Option 4** is a combined traceability and security feature option. Member States need to choose a solution provider to generate both the Unique Identifier and the security feature. The security feature (which in this option includes the Unique Identifier) is then applied and verified by the solution provider's vision equipment on the manufacturing line. The solution provider records the data and uploads it to a 3rd party data storage provider. Access to this data is available to Member States and EU Agencies via a query tool/interface.

The options for the Security Feature were also outlined. **Option 1** would operate similar to a tax stamp. **Option 2** would operate partially similar to a tax stamp, with reduced semi covert elements, **Option 3** would make use of emerging technologies (e.g. "fingerprinting" using specific properties of the material itself) and **Option 4** would be linked to the traceability Option 4 (outlined above) and would include the Unique Identifier code in the security feature.

It was clarified that tax stamps can be used to fulfil the requirements of the security feature as long as they comply with the requirements decided upon,

The contractor also provided an outline of the cost-benefit analysis it has conducted. All in all it explained that the benefits of the future system outweigh the costs under all circumstances.

(5) Any other business/Next steps

Some experts underlined the importance of a timely adoption of the secondary legislation (also beyond illicit trade). The Chair explained that a timely adoption of the secondary legislation is a common priority, that the Commission had started to work on implementation well before the TPD adoption and that efforts will be made to speed up. At the same time the Chair underlined the need to respect quality standards and legal procedures.

The Commission thanked participants and indicated that the next meeting of the Expert Subgroup on Traceability and Security Features is likely to take place on 3 July 2015 in Brussels. It informed that the presentations given would be sent out in coming weeks. The report itself will be made available when finalised. This is foreseen well in advance of the next meeting of the Expert Subgroup.

Annex I – List of Participants

Members of Expert subgroup

Austria	(Ministry of Finance)
Belgium	(Ministry of Finance; PermRep of Belgium to the EU)
Bulgaria	(Ministry of Finance)
Croatia	(Central Office – Section for Custom Control)
Czech Republic	(Ministry of Finance; Ministry of Agriculture)
Denmark	(PermRep of Denmark to the EU)
Estonia	(Estonian Tax and Customs Board; PermRep of Estonia to the EU)
Finland	(Finnish Customs)
France	(Direction générale des douanes et droits indirects; Ministère de la Santé)
Germany	(Ministry of Finance; Ministry of Food and Agriculture)
Greece	(Ministry of Finance)
Hungary	(PermRep of Hungary to the EU)
Ireland	(Department of Health; Office of the Revenue Commissioners)
Italy	(Ministry of Health)
Latvia	(Supervision Division of Excise)
Lithuania	(Drug, Tobacco and Alcohol Control Department; PermRep of Lithuania to the E.U.)
Luxembourg	(Direction des douanes et accises)
Poland	(Ministry of Finance; Ministry of Economy)
Romania	(Ministry of Public Finance)
Slovakia	(Tax and Customs Section, Excise Duty Division; PermRep of the Slovak Republic to the EU)
Spain	(Customs and Excise Department; PermRep of Spain to the EU)
The Netherlands	(Netherlands Food and Consumer Product Safety Authority; Dutch Customs / Excise Department)
United Kingdom	(UK HM Revenue and Customs; UK Department of Health)

Contractor

Eurogroup Consulting supported by Sovereign Border Solutions

Commission services

Mr Dominik Schnichels	DG SANCO D4 (Chair)
Ms Sigrid Wimmer	DG SANCO D4
Ms Patricia Murray	DG SANCO D4
Mr Stefano Delle Chiaie	DG SANCO D4
Mr Emmanouil Daskalakis	DG SANCO D4
Mr Markus Kalliola	DG SANCO A4
Mr Rainer Holz	DG OLAF
Ms Annerie Bouw	DG TAXUD
Ms Ana Mancho Rojo	CHAFEA