EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Health systems and products
Health in all Policies, Global Health, Tobacco Control

Meeting of the Group of Experts on Tobacco Policy
Final Summary Record
Meeting date: 08 November 2017, 09.30 – 17:00

Date: 08 November 2017

Place: Brussels

(1) Welcome and Introduction

The Chair opened the meeting and welcomed all participants. A brief outline of the general context for the meeting was provided. It was explained that revised drafts of the acts had been prepared and circulated in advance of the meeting, based on the discussions that took place at the last meeting of the Tobacco Product Committee on 16 October and the written comments subsequently received.

(2) Presentation on ISO/IEC 15459

DG SANTE then gave a presentation on the application of ISO/IEC 15459 to the tobacco traceability system, outlining how this standard will be able to be applied by economic operators, as well as its limitations in this respect. Member States said that the presentation was useful for gaining a better understanding of the topic and some further clarifications were sought. DG SANTE confirmed that it believes the system will guarantee interoperability and that the measures proposed do not prevent the standards already used by the distribution industry from being employed. Finally, one Member State asked whether it would be possible to make explicit reference to the GS1 system in the acts, given that such reference is made in the Pharmaceuticals Directive. DG SANTE replied that it is necessary to ensure the full independence of the traceability system from the tobacco industry (hence any 'self-generation' of unit packet unique identifiers, as provided for under the GS1 general specification, would not be legally acceptable).

DG SANTE confirmed that Member States could share the presentation with external stakeholders should they wish to do so.

(3) Secondary legislation under the Tobacco Products Directive 2014/40/EU (TPD)

DG SANTE then went on to present the amendments it proposed to introduce to the draft Implementing Regulation on technical standards for the traceability system as well as to the draft Implementing Decision on security features. It began by re-confirming that it remained of the view that tobacco products for export fall within the scope of Article 15(1) TPD, and that this is confirmed by a reading of Article 8(2) of the FCTC Protocol.

Several Member States welcomed the revisions introduced to the drafts. Others reiterated that they support the establishment of an effective, simple and independent system, which tackles the illicit trade of tobacco within the framework of the Directive and is proportionate for small and medium size enterprises. One Member State indicated it would not be able to support the text as it stands, and asked for a postponement of the vote until the Competitiveness Council can reflect on the challenges affecting small businesses, while another said it would not be in a position to agree to further concessions for SMEs. Some other Member States requested additional clarification with regard to the provisions on independence in relation to public authorities and their subcontractors and one Member State suggested requiring that the information to be encoded on packs contain only that necessary to form the unique identifier. Some Member States re-expressed the opinion that the Commission should be directly responsible for appointment of the provider of the secondary repository. Concerns were also raised with regards to the tight timeline. Finally, some Member States pointed to the importance of achieving consensus, as failure to do so risks leading to a patchwork of different solutions in the EU.

At this point, several Member States presented further suggestions to modify the draft texts. The provisions that were discussed and for which further modifications were requested included: *ID issuers; structure and marking of unit level UIs; identifier codes; provisions relating to subcontracting; the repositories system*; *recording and transmission of data and key messages*; *final provisions*.

DG SANTE acknowledged the comments and suggestions made by Member States, in particular the request for the Commission to play a larger role under the system. It said that it would reflect on where this might be possible, in particular in relation to the secondary repository, but that its engagement will primarily take the form of technical support to Member States. It confirmed that a review of the provisions related to the systems of traceability and security features, including their implementation and impact, will form part of the report to be submitted to the Council and European Parliament by the Commission under Article 28 of the TPD.

(6) Conclusions

The Commission thanked all participants for their input and confirmed that revised versions of the act would be prepared, based on the discussion in the Committee and written comments that would be welcome until the end of the week. DG SANTE recalled that for cigarettes and roll-you-own tobacco products, the TPD requires the system to apply from 20 May 2019, and for all other tobacco products from 20 May 2024 (this will allow this category of businesses to benefit from the prior experience gained). Given this, even if the TPD has set a challenging timeframe it is not possible to grant exemptions based on product category or business type. DG SANTE stressed that comments should be sent as soon as possible, in order to allow the possibility for further amendments to be considered and to proceed with launching the written procedure in the coming week. Once launched, Member States will have 10 working days to reply. Finally, DG SANTE assured Member States that the Commission is ready to offer intensive assistance to them in the roll-out phase, in the form of regular meetings of the Subgroups, country visits and regional workshops where required. It also confirmed that, following a request from participants, a short paper on interoperability of the system would be circulated before the closure of the written procedure. Finally, it reaffirmed its commitment to discussing the issues related to international trade, in particular the interplay of traceability markings and plain packaging provisions, with international partners.

1. Annex I

List of participants

Austria	(Federal Ministry of Health and Women´s Affairs)
Belgium	(Federal Public Service Public Health)
Bulgaria	(Permanent Representation to the EU; Algemene Administratie van de Douane en Accijnzen)
Cyprus	(Department of Customs and Excise)
Czech Republic	(Ministry of Agriculture)
Croatia	(Ministry of Health; Customs Administration)
Denmark	(Ministry of Health; Danish Safety Technology Authority; Danish Ministry of Taxation)
Estonia	(Ministry of Social Affairs)
Finland	(Permanent Representation to the EU)
France	(Permanent Representation to the EU; Ministry of Social Affairs and Health)
Germany	(Federal Ministry of Food and Agriculture)
Greece	(Ministry of Finance)
Hungary	(Ministry of Human Capacities, Focal Point on Tobacco Control; Ministry for National Economy; Permanent Representation to the EU)
Ireland	(Department of Health; Revenue Commissioners)
Italy	(Italian Custom and Monopolies Agency)
Latvia	(The State Revenue Service of the Republic of Latvia)
Lithuania	(State Tax Inspectorate)
Luxembourg	(Ministère de la Santé)
Malta	(Customs Department; Ministry for Energy and Health)
Poland	(Ministry of Finance)
Portugal	(General Directorate of Health)
Romania	(Ministry of Health)
Slovakia	(Financial Directorate; Permanent Representation to the EU)
Slovenia	(Financial administration of the Republic of Slovenia; Ministry of Health)
Spain	(Agencia Estatal de Administracion Tributaria (AEAT), Customs and Excise Department; Permanent Representation to the EU)
Sweden	(Public Health Agency of Sweden)
The Netherlands	(Ministry of Health, Welfare and Sport)
United Kingdom	(HM Revenue & Customs; Department of Health)

Observers

Norway	(Norwegian Ministry of Health and Care Services; Directorate of Norwegian Customs)

External Contractor

Everis

Commission:

DG SANTE B2	Filip Borkowski (chair) Patricia Murray Marta Legnaioli Jan Hoffmann
CHAFEA	Ana Mancho Rojo