

Targeted stakeholder 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.

This is a targeted stakeholder consultation. The purpose of this consultation is to seek comments from stakeholders:

- directly affected by the upcoming implementation of an EU system for traceability and security features pursuant to Articles 15 and 16 of the new Tobacco Products Directive (Directive 2014/40/EU), or
- considering to have special expertise in the relevant areas.

In the Commission's assessment, the following stakeholders, including their respective associations, are expected to be directly affected:

1. manufacturers of finished tobacco products,
2. wholesalers and distributors of finished tobacco products,
3. providers of solutions for operating traceability and security features systems,
4. governmental and non-governmental organisations active in the area of tobacco control and fight against illicit trade.

Not directly affected are retailers and upstream suppliers of tobacco manufacturers (except the solution providers mentioned in point 3 above).

The basis for the consultation is the Final Report to the European Commission's Consumers, Health and Food Executive Agency (CHAFAEA) in response to tender n° EAHC/2013/Health/11 concerning the provision of an analysis and feasibility assessment regarding EU systems for tracking and tracing of tobacco products and for security features (hereafter the Feasibility Study). The Feasibility Study was published on 7 May 2015 and is available at http://ec.europa.eu/health/tobacco/docs/2015_tpd_tracking_tracing_frep_en.pdf. The interested stakeholders are advised to review the Feasibility Study before responding to this consultation.

The comments received in the course of this consultation will be an input to the further implementation work on a future EU system for traceability and security features. In particular, the comments will be taken into account in a follow-up study.

Stakeholders are invited to submit their comments on this consultation at the following web-address <https://ec.europa.eu/eusurvey/runner/trace> until 31 July 2015. The web-based survey 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 or to upload (a) separate document(s) in PDF format up to the limit of total number of standard A4 pages (an average of 400 words per page) indicated in the question. Submissions should be - where possible - in English. For a corporate group one single reply should be prepared. For responses from governmental organisations, which are not representing a national position, it should be explained 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 consult the [privacy statement](#)). Participants in the consultation are asked not to upload personal data of individuals.

The replies to the consultation will be published on the Commission's website. In this light no confidential information should be provided. If there is a need to provide certain information on a confidential basis, contact should be made with the Commission at the following email address: SANTE-D4-SOHO-and-TOBACCO-CONTROL@ec.europa.eu with a reference in the email title: "Confidential information concerning targeted stakeholder consultation on the implementation of an EU system for traceability and security features". A meaningful non-confidential version of the confidential information should be submitted at the web-address.

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

A. Respondent details

*A.1. Stakeholder's main activity:

- a) Manufacturer of tobacco products destined for consumers (finished tobacco products)
- b) Operator involved in the supply chain of finished tobacco products (excluding retail)
- c) Provider of solutions
- d) Governmental organisation
- e) NGO
- f) Other

*A.1.e. Please specify:

- i) NGO active in the area of fight against illicit trade of tobacco products
- ii) Other

- *A.2. Contact details (organisation's name, address, email, telephone number, 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

DNF-Les Droits des Non-Fumeurs (Non Smokers' Rights) is a French NGO acting, for more than 40 years, on several areas of Tobacco control: Judicial Watch and Litigation ; Education and Health Promotion ; Communication ; Information and Advocacy.
DNF's President is Secretary General of the French coalition, Alliance contre le tabac.
DNF is member of the Executive Board of the ENSP - European Network for tobacco and Smoking Prevention.
DNF is member of the FCA - Framework Convention Alliance.
DNF adress: 13 rue d'Uzès 75002 Paris, France
DNF telephone number : 00 33 1 42 77 06 56
DNF email : france@dnf.asso.fr

- *A.3. Please indicate if your organisation is registered in the Transparency Register of the European Commission (unless 1d):

Yes No

- *A.4. Extract from the trade or other relevant registry confirming the activity listed under 1 and where necessary an English translation thereof.

• **84400eaf-f1f8-49d2-88dc-2317996359b0/TGI de Colmar 2013 Attestation d'inscription.pdf**

B. Options proposed in the Feasibility Study

B.1. Please rate the appropriateness of each option for tracking and tracing system set out in the Feasibility Study in terms of the criteria listed in the tables below

B.1.1. Option 1: an industry-operated solution, with direct marking on the production lines carried out by tobacco manufacturers (for further details on this option, please consult section 8.2 of the Feasibility Study)

	Appropriate	Somewhat appropriate	Neutral	Somewhat inappropriate	Inappropriate	No opinion
*Technical feasibility	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
*Interoperability	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
*Ease of operation for users	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
*System integrity (e.g. low risk of manipulation)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
*Potential of reducing illicit trade	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* Administrative/financial burden for economic operators	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Administrative/financial burden for public authorities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

B.1.2. Option 2: a third party operated solution, with direct marking on the production lines carried out by a solution or service provider (for further details on this option, please consult section 8.3 of the Feasibility Study)

	Appropriate	Somewhat appropriate	Neutral	Somewhat inappropriate	Inappropriate	No opinion
*Technical feasibility	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Interoperability	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Ease of operation for users	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*System integrity (e.g. low risk of manipulation)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Potential of reducing illicit trade	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Administrative/financial burden for economic operators	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Administrative/financial burden for public authorities	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

B.1.3. Option 3: each Member State decides between Option 1 and 2 as to an entity responsible for direct marking (manufacture or third party) (for further details on this option, please consult section 8.4 of the Feasibility Study)

	Appropriate	Somewhat appropriate	Neutral	Somewhat inappropriate	Inappropriate	No opinion
*Technical feasibility	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Interoperability	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Ease of operation for users	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*System integrity (e.g. low risk of manipulation)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
*Potential of reducing illicit trade	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
* Administrative/financial burden for economic operators	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Administrative/financial burden for public authorities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

B.1.4. Option 4: a unique identifier is integrated into the security feature and affixed in the same production process (for further details on this option, please consult section 8.5 of the Feasibility Study)

	Appropriate	Somewhat appropriate	Neutral	Somewhat inappropriate	Inappropriate	No opinion
*Technical feasibility	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Interoperability	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Ease of operation for users	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*System integrity (e.g. low risk of manipulation)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Potential of reducing illicit trade	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Administrative/financial burden for economic operators	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Administrative/financial burden for public authorities	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

B.1.5. Please upload any additional comments on the options referred to in question B.1 (max. 5 pages)

- **49f17637-7fcd-4f35-8a4c-715901f2fd05/DNF additional comments on the options referred in question B.1.docx**

B.2. Please rate the appropriateness of each option for security features set out in the Feasibility Study in terms of the criteria listed in the tables below

B.2.1. Option 1: a security feature using authentication technologies similar to a modern tax stamp
 (for further details on this option, please consult section 9.2 of the Feasibility Study)

	Appropriate	Somewhat appropriate	Neutral	Somewhat inappropriate	Inappropriate	No opinion
*Technical feasibility	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Interoperability	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Ease of operation for users	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*System integrity (e.g. low risk of manipulation)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Potential of reducing illicit trade	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Administrative/financial burden for economic operators	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Administrative/financial burden for public authorities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

B.2.2. Option 2: reduced semi-covert elements as compared to Option 1 (for further details on this option, please consult section 9.3 of the Feasibility Study)

	Appropriate	Somewhat appropriate	Neutral	Somewhat inappropriate	Inappropriate	No opinion
*Technical feasibility	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Interoperability	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Ease of operation for users	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*System integrity (e.g. low risk of manipulation)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Potential of reducing illicit trade	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Administrative/financial burden for economic operators	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Administrative/financial burden for public authorities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

B.2.3. Option 3: the fingerprinting technology is used for the semi-covert and covert levels of protection (for further details on this option, please consult section 9.4 of the Feasibility Study)

	Appropriate	Somewhat appropriate	Neutral	Somewhat inappropriate	Inappropriate	No opinion
*Technical feasibility	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Interoperability	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Ease of operation for users	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*System integrity (e.g. low risk of manipulation)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Potential of reducing illicit trade	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Administrative/financial burden for economic operators	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
* Administrative/financial burden for public authorities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

B.2.4. Option 4: security feature is integrated with unique identifier (see Option 4 for traceability)
 (for further details on this option, please consult section 9.5 of the Feasibility Study)

	Appropriate	Somewhat appropriate	Neutral	Somewhat inappropriate	Inappropriate	No opinion
*Technical feasibility	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Interoperability	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Ease of operation for users	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*System integrity (e.g. low risk of manipulation)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Potential of reducing illicit trade	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Administrative/financial burden for economic operators	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*Administrative/financial burden for public authorities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

B.2.5. Please upload any additional comments on the options referred to in question B.2 (max. 5 pages)

- **8e67401d-bc8c-4eab-bdeb-0b714b0871a0/DNF B2 additional comments.docx**

C. Cost-benefit analysis

C.1. Do you agree with?

	Agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Disagree	No opinion
*The benefit analysis presented in section 11.3.1 of the Feasibility Study	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
*The cost analysis presented in section 11.3.2 of the Feasibility Study	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

D. Additional questions

The questions in this section relate to different possible building blocks and modalities of the envisaged system (questions D.1, D.3, D.4, D.6, D.8, D.10, D.12, D.14 and D.16). When replying please take into account the overall appropriateness of individual solutions in terms of the criteria of technical feasibility, interoperability, ease of operation, system integrity, potential of reducing illicit trade, administrative/financial burden for economic stakeholders and administrative/financial burden for public authorities.

*D.1. Regarding the generation of a serialized unique identifier (for definition of a unique identifier, see Glossary in the Feasibility Study), which of the following solutions do you consider as appropriate (multiple answers possible)?

- a) A single standard provided by a relevant standardization body
- b) A public accreditation or similar system based on the minimum technical and interoperability requirements that allow for the parallel use of several standards;
- c) Another solution
- d) No opinion

D.2. Please upload any additional comments relating to the rules for generation of a serialized unique identifier referred to in question D.1. above (max. 2 pages)

• **ba86449a-9a81-46c5-9966-0201f1706d80/DNF D.1.a. additional comments.docx**

*D.3. Regarding (a) data carrier(s) for a serialized unique identifier, which of the following solutions do you consider as appropriate (multiple answers possible)?

- a) Solution based on a single data carrier (e.g. 1D or 2D data carriers)
- b) Solution based on the minimum technical requirements that allow for the use of multiple data carriers;
- c) Another solution;
- d) No opinion

*D.3.a. Please indicate your preferred data carrier and explain why

Text of 1 to 400 characters will be accepted

DNF's preferred data carrier would be a 2D barcodes because they have been used in other industry, are cheap to make and easy to generate, can be used to link to a wide variety of types of information, are internationally standardised, can quickly be read by scanning machines.

*D.4. Regarding (a) data carrier(s) for a serialized unique identifier, which of the following solutions do you consider as appropriate (multiple answers possible)?

- a) System only operating with machine readable codes;
- b) System operating both with machine and human readable codes;
- c) No opinion

D.5. Please upload any additional comments relating to the options for (a) data carrier(s) for a serialized unique identifier referred to in questions D.3 and D.4 above (max. 2 pages)

• **83815cfd-81a3-4658-b76e-5b5f20f38c32/DNF D3 D4 additional comments.docx**

*D.6. Regarding the physical placement of a serialized unique identifier, when should it happen (multiple answers possible)?

- a) Before a pack/tin/pouch/item is folded/assembled and filled with products;
- b) After a pack/tin/pouch/item is folded/assembled and filled with products;
- c) No opinion

D.7. Please upload any additional comments relating to the placement of a serialized unique identifier referred to in question D.6. above (max. 2 pages)

D.8. Which entity should be responsible for?

	Economic operator involved in the tobacco trade without specific supervision	Economic operator involved in the tobacco trade supervised by the third party auditor	Economic operator involved in the tobacco trade supervised by the authorities	Independent third party	No opinion
*Generating serialized unique identifiers	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Marking products with serialized unique identifiers on the production line	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Verifying if products are properly marked on the production line	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Scanning products upon dispatch from manufacturer's/importer's warehouse	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Scanning products upon receipt at distributor's/wholesaler's premises	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

*Scanning products upon dispatch from distributor's/wholesaler's premises	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Aggregation of products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

D.9. In relation to question D.8. above, please specify any other measures that your organisation considers relevant

Text of 1 to 1200 characters will be accepted

*D.10. Regarding the method of putting the security feature on the pack/tin/pouch/item, which of the following solutions do you consider as appropriate (multiple answers possible)?

- a) A security feature is affixed;
- b) A security feature is affixed and integrated with the tax stamps or national identification marks;
- c) A security feature is printed;
- d) A security feature is put on the pack/tin/pouch/item through a different method;
- e) No opinion

D.11. Please upload any additional comments relating to the method of putting the security feature on the pack referred to in question D.10 above (max. 2 pages)

*D.12. Regarding the independent data storage as envisaged in Article 15(8) of the TPD, which of the following solutions do you consider as appropriate (multiple answers possible)?

- a) A single centralised storage for all operators;
- b) An accreditation or similar system for multiple interoperable storages (e.g. organised per manufacturer or territory);
- c) Another solution
- d) No opinion

D.13. Please upload any additional comments relating to the independent data storage referred to in question D.12. above (max. 2 pages)

*D.14. In your opinion which entity(ies) is/are well placed to develop reporting and query tools (multiple answers possible)?

- a) Provider of solutions to collect the data from the manufacturing and distribution chain;
- b) Provider of data storage services;
- c) Another entity
- d) No opinion

D.15. Please upload any additional comments relating to the development of reporting and query tools referred to in question D.14. above (max. 2 pages)

*D.16. Do you consider that the overall integrity of a system for tracking and tracing would be improved if individual consumers were empowered to decode and verify a serialized unique identifier with mobile devices (e.g. smartphones)?

- a) Yes
- b) No
- c) No opinion

D.16.a. If yes, please explain your considerations

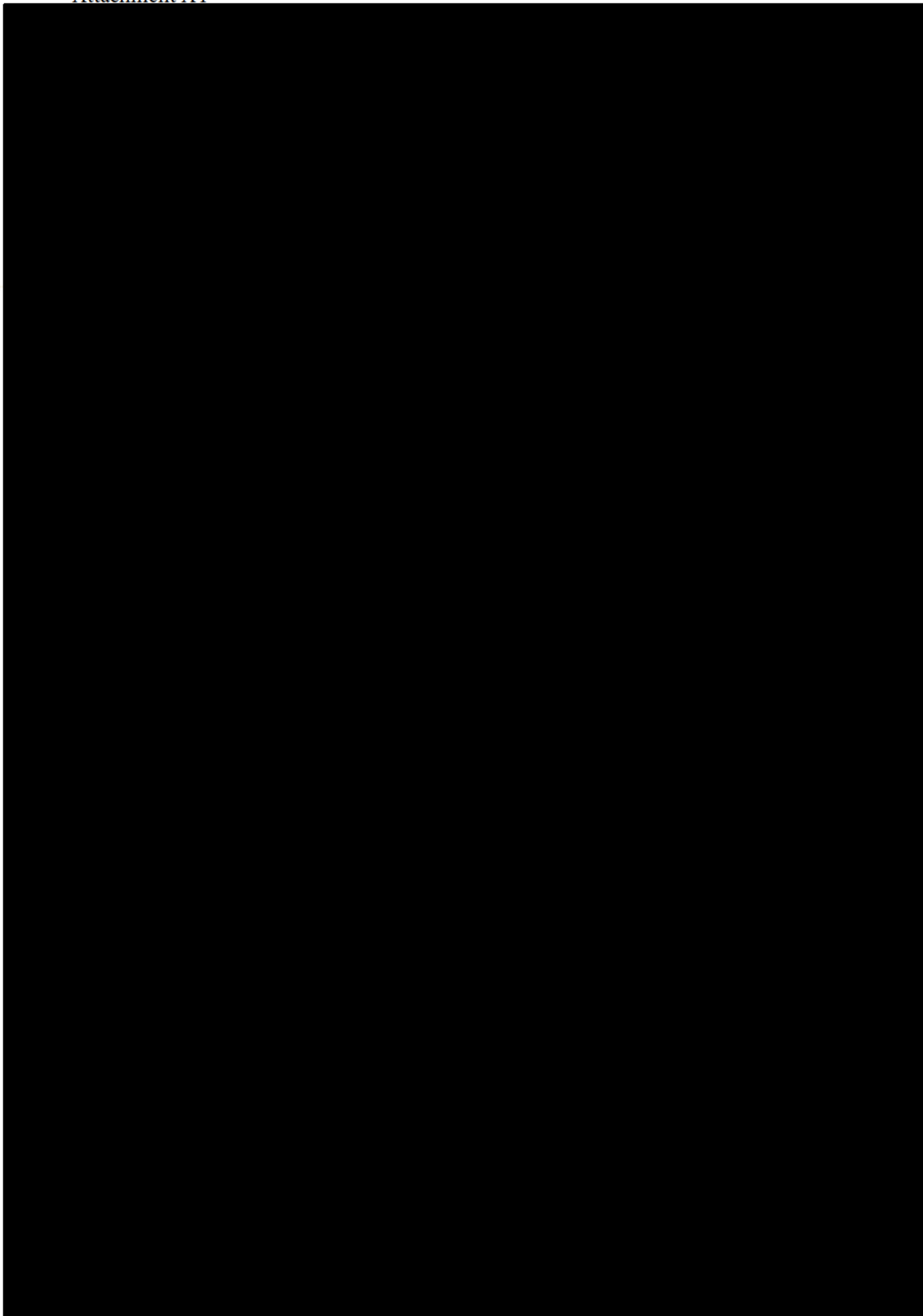
Text of 1 to 800 characters will be accepted

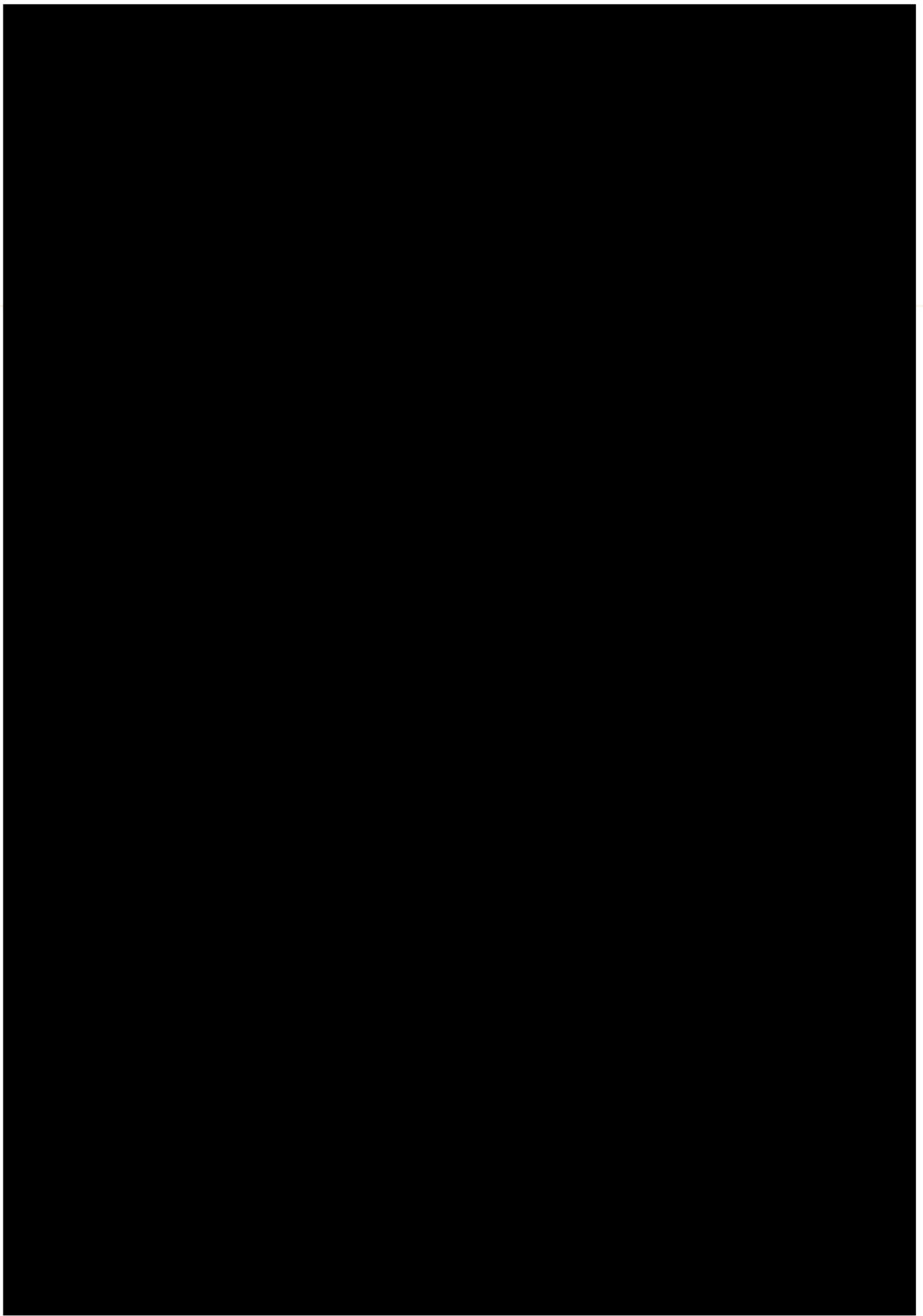
QR code-scanning apps have successfully been used for consumers to immediately check the authenticity of tobacco products or luxury goods. This opportunity puts the counterfeit detection capability directly in the hands of consumers and give them the ability to curtail the spread of illicit cigarettes. (Boon, R. Local firm creates mobile app to detect fake goods. April 2015
(<http://business.asiaone.com/sme-central/ebiz-hub/local-firm-creates-mobile-app-detect-fake-goods>)

D.17. Please upload any additional comments on the subject of this consultation (max. 10 pages)

Contact

✉ SANTE-D4-SOHO-and-TOBACCO-CONTROL@ec.europa.eu





Siège Administratif
13 rue d'Uzès
75002 PARIS
Téléphone/fax
01.42.77.06.56
france@dnf.asso.fr
http://dnf.asso.fr

Attachment B.1.5



B.1.5. Please upload any additional comments on the options referred to in question B.1 (max. 5 pages)

Article 8 of the WHO FCTC – Protocol to Eliminate Illicit Trade in Tobacco Products specifically notes that Parties should not delegate tracking and tracing obligations to the tobacco industry:

“Article 8.12. Obligations assigned to a Party shall not be performed by or delegated to the tobacco industry.

Article 8.13. Each Party shall ensure that its competent authorities, in participating in the tracking and tracing regime, interact with the tobacco industry and those representing the interests of the tobacco industry only to the extent strictly necessary in the implementation of this Article.”¹

Option 2: DNF’s preferred option for tracking and tracing tobacco products

DNF’s preferred option would be Option 2 as it suggests a standardised solution with a unique system across all 28 EU countries, which would allow consistency of information and facilitate the exchange of data, as well as being in line with EU Directive and the ITP.

Option 4: one to be considered (after option 2) under certain conditions

This option could be considered only as a second choice after Option 2, and under the condition that the tobacco industry is not involved, whether it is to operate markings or generate “low risk components”. Further requirements should be put in place to mark cartons, master cases and pallets, in order to have a full tracking solution.

Option 1: A system that should be excluded

Given the history of the tobacco industry involvement in illicit trade and the clear recommendations in article 8 of the Protocol, DNF believe that choosing any industry-operated solution, namely “Codentify”, for tracking and tracing systems such as Option 1, would be highly and utterly inappropriate and can prove to be counter-productive or even damaging to the existing work in tackling illicit trade.

“Codentify”, a code generator system rather than a tracing and tracking system, developed by Philip Morris, and now used by all four tobacco manufacturers, has been promoted by the industry as an effective system that provides “full traceability” and “product verification”. However, concerns around traceability have been raised regarding the printing of the codes, which only feature on packs and cartons but not onto master cases or pallets. This would defeat the purpose of monitoring the complete tobacco trade.

Also, the risk with an industry system is that access to information will certainly be limited and selective. Potential issues in terms of data storage, access and confidentiality may arise as the data is generated, recorded and stored by tobacco manufacturers.²

Option 3: An option that might allow the involvement of the tobacco industry

A national system selected by each country would make information exchange and data sharing amongst the 28 member states really complicated as it will depend on high number of external providers.

This option 3 would also allow member states to potentially choose Option 1 (an industry-operated solution), and consequently go against the Protocol’s article 8.

¹ http://apps.who.int/iris/bitstream/10665/80873/1/9789241505246_eng.pdf?ua=1

² Joosens L, Gillmore A. The transnational tobacco companies’ strategy to promote Codentify, their inadequate tracking and tracing standard. March 2013 (<http://tobaccocontrol.bmj.com/content/early/2013/04/26/tobaccocontrol-2012-050796.full>)

Background on the Tobacco Industry's involvement in the illicit trade

*Tobacco Industry has had a significant track record in generating, boosting and sustaining the European illicit trade, as they are the primary beneficiary from all tobacco sales, whether they are legit or not.*³

*Internal documents from the tobacco industry have revealed the acknowledgement and active participation by manufacturers in sustaining the illicit trade, ensuring that markets are supplied with products qualified as "duty not paid", "general trade" and "transit". They also ensure that national markets are swamped with quantities of products that far exceed domestic demands. Those products then end up in parallel markets.*⁴

*The tobacco multinationals have been convicted of smuggling tobacco products onto national markets to evade taxes. In 2000, they were fined for "an on-going global scheme to smuggle cigarettes, launder the proceeds of narcotics trafficking, obstruct government oversight of the tobacco industry, fix prices, bribe foreign public officials, and conduct illegal trade with terrorist groups and state sponsors of terrorism". In 2008 and 2010, five tobacco companies pleaded guilty and admitted "aiding persons to sell or be in possession of tobacco products manufactured in Canada that were not packaged and were not stamped in conformity with the Excise Act".*⁵

*In 2003, ten EU countries joined forces in a lawsuit against tobacco manufacturers for their contribution in contraband on a global scale. In order to have the lawsuit dropped, the 4 manufacturers signed an agreement with the EU, which would force them to pay penalties in case of seizures over 50.000 cigarettes. However, as authorities depend on tobacco manufacturers to confirm whether seized products are genuine or counterfeit, the amount "recognised genuine" only come to 0.5% of the 3.8 billion cigarettes seized in 2012. Therefore, the fines paid by the tobacco companies have been negligible and the signed agreement failed to tackle contraband.*⁶

³ ASH Fact Sheet on Illicit Trade, April 2015 (http://ash.org.uk/files/documents/ASH_122.pdf)

⁴ All Party Parliamentary Group on Smoking and Health, Inquiry into the illicit trade in tobacco products, March 2013 (<http://www.ash.org.uk/APPGillicit2013>)

⁵ Joosens, L. Smuggling The Tobacco Industry and Plain Packs, November 2012 (http://www.cancerresearchuk.org/prod_consump/groups/cr_common/@nre/@pol/documents/generalcontent/smuggling_fullreport.pdf)

⁶ Smoke Free Partnership, Factsheet about the Agreement between the EU and Philip Morris International, May 2015 (http://smokefreepartnership.eu/sites/sfp.tcp.eu/files/EN_Factsheet%20on%20the%20PMI%20Agreement.pdf)

Attachment B.2.5

Siège Administratif	Association sans but
13 rue d'Uzès	lucratif reconnue de
75002 PARIS	mission d'utilité publique
Téléphone/fax	et habilitée, aux termes
01.42.77.06.56	de l'article L3512-1 du
france@dnf.asso.fr	Code de la Santé
http://dnf.asso.fr	publique à exercer les
	droits reconnus à la
	partie civile pour les
	infractions aux
	dispositions de la loi.



B.2.5. Please upload any additional comments on the options referred to in question B.2 (max. 5 pages)

DNF does not have enough expertise in security systems to express an opinion on this matter. However, the use of overt, covert and forensic features seems like an effective combination and should be highly recommended.

Attachment D.2

Siège Administratif	Association sans but
13 rue d'Uzès	lucratif reconnue de
75002 PARIS	mission d'utilité publique
Téléphone/fax	et habilitée, aux termes
01.42.77.06.56	de l'article L3512-1 du
france@dnf.asso.fr	Code de la Santé
http://dnf.asso.fr	publique à exercer les
	droits reconnus à la
	partie civile pour les
	infractions aux
	dispositions de la loi.



DNF does not have a preferred standardized body as it does not sufficient expertise to suggest a solution. However, similarly to the tracking and tracing systems in questions B, we firmly believe that the standardization body needs to be completely independent from the tobacco industry and manufacturers.

Attachment D.5

Siège Administratif	Association sans but lucratif reconnue de mission d'utilité publique
13 rue d'Uzès	et habilitée, aux termes de l'article L3512-1 du
75002 PARIS	Code de la Santé publique à exercer les
Téléphone/fax	droits reconnus à la partie civile pour les
01.42.77.06.56	infractions aux dispositions de la loi.
france@dnf.asso.fr	
http://dnf.asso.fr	



DNF's preferred data carrier would be a 2D barcodes (also known as QR codes or data matrix codes) because:

- They have been used in other industry such as the pharmaceuticals, food, alcohol and parcel delivery services;
- They are cheap to make and easy to generate;
- They can be used to link to a wide variety of types of information;
- They are internationally standardised;
- They can quickly be read by scanning machines and portable readers (including smartphones), with no need for specific data-transmission program¹
- They are difficult to counterfeit
- They enable individual identity for each marked items²

Other solutions should not totally be ruled out:

According to the Framework Convention Alliance (FCA), new digital tax stamps, using invisible ink and featuring a unique covert (hidden) code with data for each cigarette pack, make it harder for criminals to manufacture fakes (and are preferable to paper tax stamps). The digital stamps contain encrypted information, which can be read using a portable scanner. This allows enforcement officials "to distinguish real tax stamps from even the most sophisticated fakes".

Radio-frequency identification (RFID) is a more costly technology than barcodes or invisible ink.³

¹ Framework Convention Alliance. Factsheet on The use of technology to combat the illicit tobacco trade. October 2008

² Joossens, L. Marking, coding and tracing of tobacco products. September 2008
(http://smokefreepartnership.org/IMG/pdf/Luk_Joossens_-2-.pdf)

³ Hedley, D. Fighting Illicit Trade in Tobacco with Technology: Does it Work? December 2012
(<http://blog.euromonitor.com/2012/12/fighting-illicit-trade-in-tobacco-with-technology-does-it-work.html>)

