



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR HEALTH AND FOOD SAFETY

Public Health, Cancer and Health Security
Disease Prevention and Health Promotion

EXPERT GROUP ON TOBACCO CONTROL MEETING OF THE SUBGROUP ON TRACEABILITY AND SECURITY FEATURES

- SUMMARY RECORD -

Date: 15 January 2024
Location: Online meeting (video-conference meeting)

1. Welcome and introduction

The Chair opened the meeting by welcoming the participants and reminding them of the basic rules for participating in online discussions and introduced the meeting's agenda and its indicative timing. The Commission emphasized the importance of Implementing Regulation (EU) 2023/448, effective December 21, 2023, requiring full compliance from all entities in the EU tobacco traceability system. The Commission also mentioned that the consolidated version of Implementing Regulation (EU) 2018/574, which includes the latest changes, is now available online.

2. Update from the Commission

Reporting on the functioning of the system

The Commission provided an update on the system's functionality. And emphasized the crucial role that Member States play in actively using the system, monitoring compliance, and promptly reporting any discrepancies.

General statistics on traceability system

The Commission provided a detailed overview of the status and performance of the T&T system, focusing on the Secondary Repository. The presentation covered the system's overall functioning, user management statistics, and significant improvements made in 2023. The Commission also highlighted key performance indicators that foster compliance with the implemented regulations. The following were some of the main discussion points:

The Secondary Repository has been efficiently storing and managing information since its launch in 2019.

All metrics presented, including response time, query response time, and monthly uptime, align with the rules of the implemented regulation.

An overview of the evolution of secondary repository's requests from June to November 2023 highlighted a notable increase in November.

Use Management statistics

The Commission provided a breakdown of T&T users in the EU, showing that the majority are Standard users. The number of national T&T users has significantly increased since 2019 indicating widespread use of the system in the Member States.

Secondary repository's and router's improvements

Dentsu's work regarding the system's improvements and new functionalities in 2023 was outlined.

Supply chain coverage

The Commission pointed out that supply chain coverage is a crucial performance indicator, highlighting cases where dispatches are below 50% or above 110% and signaling areas needing attention. The Commission explained that deviations from 100% may be influenced by stock management, thus requiring the consideration of a significant period of time for a more accurate assessment. Cases below 50% indicate that a substantial portion of production is not reaching the market, which underscores the need for enhanced control and enforcement of traceability rules. The Commission reported an average increase from 70% to 76% in the percentage of products dispatched compared to those manufactured from January 2021 to May 2022 to January 2021-November 2023.

Facilities breakdown per MS and Type

The Commission presented the distribution of facilities by Member State and type. Most facilities were identified as type 3 (first retail outlet). Notably, a significant percentage of facilities fell under the category "Other," in some Member States.

Facilities of type 3 – First retail outlet - with dispatches

The Commission shared insights into 750 first retail outlets across 20 countries that were detected in Quicksight to be engaged in dispatch activities. Notably, these retail outlets are generally not required to report dispatch events to the system. However, the Commission explained that where the transfer of products has the character of trade between economic operators or arises from the internal distribution of products along the supply chain, then such movements fall outside the scope of "retail" and remains subject to a reporting obligation. In this case, the new Article 16(1)(subparagraph 2) of Implementing Regulation (EU) 2018/574 applies and the retail outlet should be identified in the reporting with an FID that corresponds to its non-retail function .

Estimated Impact of Other Tobacco Products Inclusion in T&T System as of 20 May 2024

The Commission outlined estimates from tobacco sales volumes as reported in EUCEG (Common Entry Gate) and highlighted the system's expansion to include other tobacco products apart from cigarettes and roll-your-own tobacco from May 2024, according to Article 15(13) of the Tobacco Products Directive 2014/40/EU. The Commission emphasized that the extension of the system to include other tobacco products beyond cigarettes and roll-your-own tobacco, from May 20, 2024

would subject economic operators to the same obligations applicable to cigarettes and roll-your-own tobacco .

3. Update from Member States

One Member State brought attention to a case of illegal activity involving confiscating cigarettes that featured counterfeit user interfaces. The presentation shed light on the incident, providing further details about this notable case of illicit activity.

Subsequently, representatives from another Member State presented two national projects designed to crack down on the illegal tobacco trade.

4. Q&As/Discussion of the Member States' questions

What needs to be assigned a Machine Identifier code

One Member State sought clarification on the requirements for obtaining a Machine Identifier Code (MID) in light of the new definition of "machine part." In response, the Commission clarified that each machine and machine part should be identified by a single MID. The revised definition of 'machine' emphasizes the equivalence of a machine to a complete production line (i.e. "assemblies of machinery that are used for the manufacture of tobacco products and are integral to the manufacturing process"), while the new definition of "machine part" covers identifiable fixed or mobile parts of the machine provided that such parts constitute complete modules.

The Commission emphasized the significance of registering machine parts forming a complete modules. It was explained that all identifiable machines used in the tobacco product manufacturing, such as those for curing, processing, paper preparation, and tobacco leaf stripping or cutting, should be identified as machine parts and assigned a MID.

The Subgroup agreed that each of the above-mentioned machines and any other machine that is used for the manufacture of tobacco and is part of the assemblies of machinery should be identified as a machine part within the meaning of Article 2(11a) of Implementing Regulation (EU) 2018/574 and be assigned an MID. All these machines assembled together for the manufacture of tobacco products constitute a machine within the meaning of Article 2(11) of the Implementing Regulation and should also be assigned an MID.

Upon an inquiry from a Member State, the Commission further clarified that message 2.1. ('Request for unit level UIs') should indicate the MID of the (entire) 'machine', namely the assemblies of machinery that are used for the manufacture of tobacco products.

Facilities that can be assigned two FIDs

The Commission emphasized that according to Article 16(1) of Implementing Regulation (EU) 2018/574, the general rule is for all facilities to be identified by a single FID. The only exception to this rule pertains to retail outlets integrated into a non-retail type of facility, as stipulated in Article 16(2) of the Implementing Regulation.

In the case of a single building serving as both a standalone storage warehouse and a tax warehouse, the Commission clarified that only one FID should be assigned to this facility. The relevant economic operator must provide the necessary information regarding its tax (excise) status to the system, as outlined in Part 1.4 of Annex II to the Implementing Regulation.

Use of VPN and impact on the operation of the secondary repository

Concerns were raised about using VPNs by several Member States for database access, potentially posing issues for the secondary repository. The Commission clarified that VPN usage does not impact the system.

Possibility for a grace period regarding the acceptance of incorrect or incomplete messages by the system

One Member State asked about the possibility of a grace period regarding the acceptance of incorrect or incomplete messages by the system. DG SANTE explained that such a grace period cannot be established because Implementing Regulation (EU) 2018/574 does not provide for it. It was also stressed that the Implementing Regulation establishes in Article 28(4) a 'data reprocessing mechanism' that allows the operator of the secondary repository to carry out data reprocessing operations as far as they are necessary to eliminate consequences of past IT incidents and failures.

Enforcement of rule on de-registration of facilities

The Commission addressed the inquiry of one Member State regarding Article 14(5) of the Commission Implementing Regulation (EU) 2023/448. This inquiry was related to economic operators ceasing to exist without deregistering their facility. The Commission clarified that, per Article 14(5), the de-registration of an EOID should automatically lead to the de-registration of related facility identifier codes and machine identifier codes by the ID issuer. This cascade effect ensures that if an EO ceases to exist and their EOID is deregistered, it impacts the associated facilities. Several Member States provided information on the enforcement of this rule.

Rules of the application of UIs on tobacco products imported into the Union

According to Article 6(2) of Implementing Regulation (EU) 2018/574, the Commission clarified that UIs for products manufactured outside the EU should be applied on the unit packet before import. The Implementing Regulation does not specify the exact time or place for marking, allowing flexibility in the process, either at the non-EU manufacturing facility or when the product reaches the customs warehouse .

The Commission explained that tobacco products that are placed under a customs suspensive procedure or arrangement upon their entry into the Union, are still not considered imported and can be labelled with upUIs. The UIs application process should not take place after the import of the products, namely after the release of the products from a customs suspensive procedure or arrangement.

Finally, the Commission stressed that regarding products manufactured outside the EU, all traceability obligations fall on the importers and not on the non-EU manufacturers.

Question on the unit packet when someone sells individual cigars from an open box

The Commission stressed that when an individual cigar is sold to consumers from an open box of cigars the individual cigar needs to comply with all the necessary requirements of Tobacco Products Directive 2014/40/EU, Implementing Regulation (EU) 2018/574 and Implementing Decision (EU) 2018/576, including the obligation to be marked with a unique identifier and a tamper proof security feature, and to comply with all the labelling and packaging requirements of the Directive (including the obligation to carry the necessary health warnings). The Commission emphasized that the unique identifier and tamper proof security feature must be placed on the unit

packets of tobacco products which are placed on the market while the labelling and packaging requirements apply to each unit packet of the tobacco products and any outside packaging. In particular, regarding the marking of unit packets with a unique identifier and security feature, the Commission explained that these two obligations will apply to cigars from 20 May 2024.

The Commission also referred to the use of transparent wrappers, stating that the definition of ‘outside packaging’ in Article 2(29) explicitly excludes transparent wrappers. Finally, the Commission reminded the Subgroup of its previous discussion on the application of security features on transparent wrappers. In particular, the Group had agreed that “it was considered doubtful that transparent wrappers form part of the unit packet. Therefore, a security feature, or authentication solution, that is applied onto a transparent wrapper would probably not comply with the requirements of Article 16 of the TPD”.

5. AOB & Closing remarks

The Chair expressed gratitude to the participants for their active contribution to the meeting and expressed anticipation for the next Subgroup's meeting.

List of participants

Austria	(Ministry of Finance - Tax and Customs Administration, Monopolverwaltung)
Belgium	(Customs and Excise Administration, FPS Health, Food Chain Safety and Environment)
Bulgaria	(The National Customs Agency)
Croatia	(Customs Administration)
Cyprus	(Department of Customs and Excise)
Czech Republic	(Ministry of Agriculture, CAFIA, State Printing Works of Securities)
Finland	(Customs department, National Supervisory Authority for Welfare and Health, Ministry of social affairs and health)
France	(Direction générale des douanes et droits indirects, DGDDI (French Customs))
Germany	(Bundesdruckerei GmbH, Federal Ministry of Food and Agriculture)
Greece	(Ministry of digital governance, General secretariat of information systems, Independent Authority for Public Revenue)
Hungary	(Ministry of Construction and Transport, National Tax and Customs Administration, Supervisory Authority for Regulatory Affairs)
Iceland	(The State Alcohol and Tobacco Company of Iceland)
Ireland	(Department of Health, Office of the Revenue Commissioners)
Italy	(Customs and Monopolies Agency, Custom Agency)
Latvia	(State Revenue Service of the Republic of Latvia)
Lithuania	(State Tax Inspectorate under the Ministry of Finance)
Luxembourg	(Luxembourg Health Directorate, Customs and Excise Administration)
Malta	(Malta Tax and Customs Administration)
Netherlands	(Customs Department, Ministry of Health, Welfare and Sport)
Norway	(Directorate of Health, Norwegian Customs, Ministry of Health and Care Services)

Poland	(Ministry of Finance, Polish Security Printing Works, Revenue Administration Regional Office in Katowice)
Portugal	(Tax and Customs Authority)
Romania	(Compania Nationale Imprimeria Națională, Romanian Customs Authority)
Slovakia	(Datacentrum under the Ministry of Finance of the Slovak Republic, Financial Directorate under the Ministry of Finance of the Slovak Republic)
Slovenia	(Financial Administration of Republic of Slovenia)
Spain	(Comisionado para el Mercado de Tabacos. FNMT-RCM)
Sweden	(Public Health Agency, Folkhälsomyndigheten)

European Commission

DG SANTE
 DG TAXUD
 DG OLAF