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 (CHAFEA) 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.c. Please specify:

- i) Provider of solutions for tracking and tracing systems (or parts thereof)
- ii) Provider of solutions for security features (or parts thereof)
- iii) Data Management Providers (or parts thereof)

*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

SICPA Security Solutions SA, Av. de Florissant 41, 1008 Prilly, Switzerland
Tel: +41 21 627 55 55 / Fax: +41 21 627 61 80 / www.sicpa.com / security.solutions@sicpa.com

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

(•) Yes ( ) No

*A.3.1. Please enter your registration number in the Transparency Register

505456818295-32

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

• **3f672ef3-9aae-4a70-be35-0ee54e5a2fe2/SICPA Security Solutions - Trade Register of Canton de Vaud - Extract.jpg**

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	○	○	○	○	◉	○
*Interoperability	○	○	○	○	◉	○
*Ease of operation for users	○	○	○	○	◉	○
*System integrity (e.g. low risk of manipulation)	○	○	○	○	◉	○
*Potential of reducing illicit trade	○	○	○	○	◉	○
* Administrative/financial burden for economic operators	○	○	○	○	◉	○
* Administrative/financial burden for public authorities	○	○	○	○	◉	○

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	◉	○	○	○	○	○
*Interoperability	◉	○	○	○	○	○
*Ease of operation for users	◉	○	○	○	○	○
*System integrity (e.g. low risk of manipulation)	◉	○	○	○	○	○
*Potential of reducing illicit trade	◉	○	○	○	○	○
* Administrative/financial burden for economic operators	◉	○	○	○	○	○
* Administrative/financial burden for public authorities	◉	○	○	○	○	○

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	○	○	◉	○	○	○
*Interoperability	○	○	◉	○	○	○
*Ease of operation for users	○	○	◉	○	○	○
*System integrity (e.g. low risk of manipulation)	○	○	◉	○	○	○
*Potential of reducing illicit trade	○	○	◉	○	○	○
* Administrative/financial burden for economic operators	○	○	◉	○	○	○
* Administrative/financial burden for public authorities	○	○	◉	○	○	○

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	◉	○	○	○	○	○
*Interoperability	◉	○	○	○	○	○
*Ease of operation for users	◉	○	○	○	○	○
*System integrity (e.g. low risk of manipulation)	◉	○	○	○	○	○
*Potential of reducing illicit trade	◉	○	○	○	○	○
* Administrative/financial burden for economic operators	◉	○	○	○	○	○
* Administrative/financial burden for public authorities	◉	○	○	○	○	○

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

- **23a1ee60-d89b-4bea-bb07-5cd7eac38fed/SICPA - Response to B.1.5. - 28Jul15.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	◉	○	○	○	○	○
*Interoperability	◉	○	○	○	○	○
*Ease of operation for users	◉	○	○	○	○	○
*System integrity (e.g. low risk of manipulation)	◉	○	○	○	○	○
*Potential of reducing illicit trade	◉	○	○	○	○	○
* Administrative/financial burden for economic operators	◉	○	○	○	○	○
* Administrative/financial burden for public authorities	◉	○	○	○	○	○

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	○	○	○	○	◉	○
*Interoperability	○	○	○	○	◉	○
*Ease of operation for users	○	○	○	○	◉	○
*System integrity (e.g. low risk of manipulation)	○	○	○	○	◉	○
*Potential of reducing illicit trade	○	○	○	○	◉	○
* Administrative/financial burden for economic operators	○	○	○	○	◉	○
* Administrative/financial burden for public authorities	○	○	○	○	◉	○

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	○	○	○	◉	○	○
*Interoperability	○	○	○	◉	○	○
*Ease of operation for users	○	○	◉	○	○	○
*System integrity (e.g. low risk of manipulation)	○	○	○	◉	○	○
*Potential of reducing illicit trade	○	○	◉	○	○	○
* Administrative/financial burden for economic operators	○	○	○	◉	○	○
* Administrative/financial burden for public authorities	○	○	○	○	◉	○

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	◉	○	○	○	○	○
*Interoperability	◉	○	○	○	○	○
*Ease of operation for users	◉	○	○	○	○	○
*System integrity (e.g. low risk of manipulation)	◉	○	○	○	○	○
*Potential of reducing illicit trade	◉	○	○	○	○	○
* Administrative/financial burden for economic operators	◉	○	○	○	○	○
* Administrative/financial burden for public authorities	◉	○	○	○	○	○

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

- **323bd620-78a9-413e-b7e9-08033d0d6b80/SICPA - Response to B.2.5. - 28Jul15.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	○	◉	○	○	○	○
*The cost analysis presented in section 11.3.2 of the Feasibility Study	○	○	○	◉	○	○

*C.1.1. If you selected option "Disagree" or "Somewhat disagree" in the previous question, please upload your main reasons for disagreement (max. 5 pages)

- **35357e1c-4561-4df6-a548-ac1c88483083/SICPA - Response to C.1.1. - 28Jul15.docx**

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)?

- [x] a) A single standard provided by a relevant standardization body
- [x] 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.1.a. Please indicate your preferred standardization body

Text of 1 to 400 characters will be accepted

GS1 and ISO

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)

- **a9287383-56c8-4b83-b69d-6177fda639aa/SICPA - Response to D.2. - 28Jul15.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)?

- [x] 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

2D data matrix and/or QR codes are well-established, proven and supported by international standards.
Our solutions mark globally up to over 2'000 items /min with unique machine-readable 2D codes, supported by industrial & consumer equipment, and compatible with supply chain processes & technology providers. QR codes become popular for consumer engagement platforms.

*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;
- [x] 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)

- **a21be31e-138e-45cb-bbbb-0a5c3230b9fd/SICPA - Response to D.5. - 28Jul15.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;
- [x] 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)

- **e2597e4d-0095-4616-bf39-ed579563b1c7/SICPA - Response to D.7. - 28Jul15.docx**

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	○	○	○	◉	○
*Marking products with serialized unique identifiers on the production line	○	○	○	◉	○
*Verifying if products are properly marked on the production line	○	○	○	◉	○
*Scanning products upon dispatch from manufacturer's/importer's warehouse	○	○	◉	○	○
*Scanning products upon receipt at distributor's/wholesaler's premises	○	○	◉	○	○

*Scanning products upon dispatch from distributor's/wholesaler's premises	○	○	◉	○	○
*Aggregation of products	○	○	○	◉	○

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

Export products should be marked so as to avoid “export fraud” schemes circumventing the payment of excise tax and VAT when reintroduced illicitly into the European Union’s Customs territory.
Even though the physical aggregation (pack <-> carton <-> mastercase) would be performed by the operator, the data aggregation should be performed by the independent third party.

*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)?

- [x] a) A security feature is affixed;
- [x] b) A security feature is affixed and integrated with the tax stamps or national identification marks;
- [x] c) A security feature is printed;
- [ ] d) A security feature is put on the pack/tin/puch/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)

- **a4cccdeb-9415-4740-a581-eaa8715c6f12/SICPA - Response to D.11. - 28Jul15.docx**

*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);
- [x] c) Another solution
- [ ] d) No opinion

*D.12.c. Please explain your other solution

Text of 1 to 800 characters will be accepted

Please see document uploaded in D.13

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

- **3ee41f5b-9424-4ff4-b484-f726a76350e1/SICPA - Response to D.13. - 28Jul15.docx**

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

- [x] a) Provider of solutions to collect the data from the manufacturing and distribution chain;
- [x] 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)

- **b424f38a-9adb-4f79-bfca-66a507b7eb3c/SICPA - Response to D.15. - 28Jul15.docx**

*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

SICPA provides smartphone readable secured features & codes with an application to authenticate material security features and report on non-compliant products. This could also be used by small business retailers, must be limited to authentication and be consistent with tobacco control public policies.

SICPA solution combines secured codes decoding (digital security) with material security features authentication: these 2 combined functionalities give the most robust solution against fake marks.

Consumers are given a secure & reliable mechanism to authenticate legitimate products. EU & Member State authorities can use this consumer engagement platform to extend the reach of law enforcement & inspection efforts to include consumers & small retailers.

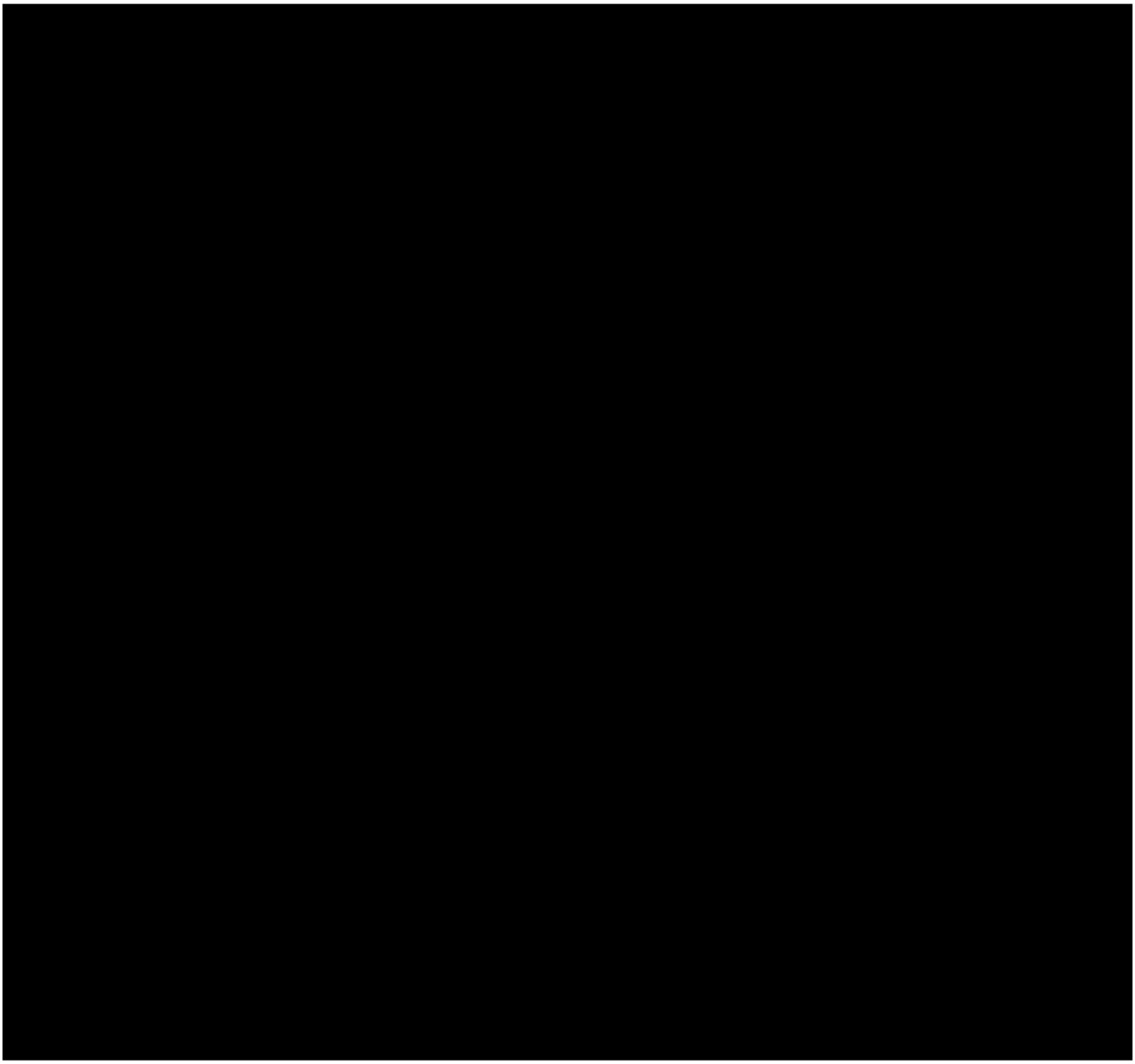
D.17. Please upload any additional comments on the subject of this consultation (max. 10 pages)

- **b70fd35c-0419-4827-818e-1055b20f2c8b/SICPA - Response to D.17. - 28Jul15.docx**

Contact

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

Attachment A4



B.1.5.

Question:

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

SICPA's Response:

For B.1.1:
Regarding "Ease of operation for user": it is unclear who the users are. If the user is meant to be "law enforcement agents", then the answer is "Inappropriate".
In addition, please note that Option 1 should not have been considered a legitimate Option in the report, as it is not compliant with WHO FCTC Art 8.12 (additional comments in section D.17 below) that the European Union has signed and is in the course to ratify, as per the Proposal by the European Commission to the Council of the European Union, dated May 4th 2015 and Article 18 of the Vienna Convention on the Law of Treaties. The European Union is a Party to the WHO FCTC which in its Art. 5.3 prohibits interference of the tobacco industry into public health policies.

For B.1.2:
We consider Option 2 as a good option; however it may carry the risk of restricting competition by selecting a single solution provider. This risk should be mitigated by prescribing interoperability and common standards, so as to allow multiple independent vendors to participate in the short-list selection process as a necessary step to selecting a single solution provider.
Benefits of Option 2 include:

- Lower margin taken by the supplier thanks to economy of scale and competitive bidding amongst solution providers;
- Shorter time and less effort required by the European Commission in order to provide specifications for data standards (storage, exchange) and query tools, as required to ensure interoperability;
- Less effort required by the EU to develop a query tool;
- Less risk of operational issues in following a product across multiple borders;
- Consistency with existing EU wide systems, like RAPEX, or EMCS which is part of the Multi Annual Strategic Plan of the EU.

For B.1.3:
We cannot answer through the proposed table because we consider Option 3a as "Inappropriate" and Option 3b as "Appropriate".
Regarding option 3b, the rationale for qualifying it as "Appropriate" is the same as for Option 2. Selection of Option 3b should come with implementation guidelines by the EU Commission, to ensure interoperability, as the implementation would be under the responsibility of each Member State. As compared to Option 2, there is likely additional overhead (and redundancy) as a result of potentially 28 different solution providers as opposed to a small number.

Member States should be allowed to capture potential synergies through integration with their national stamps solutions for product serialization, combined with data aggregation operating under a single European framework (i.e. shared scheme) to access information on demand.
As Option 3a is a tobacco industry solution, the same comments as for B.1.1 apply.

For B.1.4:
Option 4 allows the full integration of existing tax stamps schemes with FCTC and TPD requirements. Synergies with existing tax stamp schemes make it cost effective and minimise the disruptive factor that could be caused by a totally new technology.
This Option is a well-balanced combination of sovereign interests for traceability of excisable tobacco products with EU / global requirements for FCTC traceability. We therefore consider Option 4 as the best option in terms of value for money, levels of security, and compliance.

--- end of response ---

B.2.5.

Question:

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

SICPA's Response:

For B.2.1:
Proven technology adopted in a large number of countries.

For B.2.2:
Semi-covert security features are often more secure than overt features: they are more difficult to reproduce and therefore more difficult to fake. Semi-covert features are revealed by dedicated authentication devices, and are generally applied in conjunction with forensic features requiring laboratory equipment.
Therefore, we don't support any Option that excludes semi-covert features, as this reduces the overall security of the solution.

For B.2.3:
The fingerprinting technology is currently not commercially proven and deployed at a large scale. Robustness is not proven over long-term programs and it is more expensive than other solutions. Fingerprinting does not currently match the versatility of security inks.

For B.2.4:
In addition to our comments on B.2.1, coding each mark/stamp allows them to be individually tracked and traced, even prior to their application to tobacco packs. This can help with stock / inventory control, but also provide additional security should security feature stocks go missing, be stolen, or attempts are made to re-use.

Overall:
The selection of security features technology should consider also the mass operations at stake across the EU (over 30 billion marks). Its robustness and practicality should be equivalent to what is used for fiduciary, identity and value documents (e.g. passports, IDs, currencies…).
A combination of overt, semi-covert and covert security features is needed in order to provide the appropriate protection against fake products, and to allow easy authentication: therefore it is important to have a multi-layers security features approach.

--- end of response ---

C.1.1.

Question:

If you selected option "Disagree" or "Somewhat disagree" in the previous question, please upload your main reasons for disagreement (max. 5 pages)

SICPA's Response:

The analysis of the cost reveals some discrepancies with our own calculation methods:

- The cost estimate for the security feature is likely to be lower than that estimated in the report, as pragmatically the selection of the Option should be based on capitalizing on the existing tax stamps already being applied for fiscal reasons in Member States (in 23 of 28 already);
- We consider that cartons and master cases will also benefit from self-adhesive labels that can incorporate traceability and security features. The robust authentication label would lead us to consider that there will be an incremental cost for the aggregation processes;
- The report does not clearly mention how many field auditors / inspectors the project assumes. Our assumption is of approximatively 90 field auditors on average per country, who would each require a dedicated audit device, with significant variations, depending on the scale of the country, scope of control, and what equipment would be required for field inspection / authentication. Therefore a supplementary cost should be considered;
- Depending on the business model, financing costs may need to be added to the model, related to equipment that would be leased or managed "as a service" on behalf of the government, again leading to incremental cost.

Beyond the fact that Option 1 is incompatible with the requirements of the FCTC Protocol Art. 8.12, the cost for this Option are estimated at between 294 million euros (S/F Option 2) and 324 million euros (S/F Option 3). This highlights a reality that is very different to that communicated relentlessly by the tobacco industry: Codentify is not free. In addition, considering the weaknesses of Option 1 flagged in the report p. 158, the cost for this solution need to be increased to include additional expenditures to cover the field enforcement controls which will undoubtedly impact the budget of Member States concerned.

Regarding the analysis of benefits, the final report (p. 276) makes reference to Euromonitor reports on the illicit tobacco market for 2012 and 2013. The figure for 2012 is taken as the reference value, without clear explanation; however the figure for 2013 is higher and if taken would show larger total public benefit of T&T and security solutions.

--- end of response ---

D.2.

Question:

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)

SICPA's Response:

We encourage the adoption of a single standard, which would at minimum contain a prefix (e.g. the "(021)" prefix of GS1 standards) together with the unique encrypted identifier as well as all the potential information required by the TPD and the FCTC Protocol.

--- end of response ---

D.5.

Question:

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)

SICPA's Response:

We favour D.3.a.
We support global standards such as ISO, and such as GS1 application identifiers.
We recommend the use of secure ink and / or secure marks combined with the printing of such identifiers.
The ECC 200 format is currently more robust than the ISS Dotcode used by the tobacco industry.
From a government standpoint, the codes must also be readable by publicly available devices to allow fraud detection. It would also help supply chain operators' verifications.

--- end of response ---

SICPA

D.7.

Question:

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

SICPA's Response:

Answer D.6.a could represent the risks of manipulations at production of cigarettes packs

--- end of response ---

D.11.

Question:

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)

SICPA's Response:

Tick box D.10.b is preferred for domestic markets, as the recommended security features are best incorporated on tax stamps.

For export markets, the security features could be printed directly on the tobacco pack (tick box D.10.c) to facilitate identification, authentication and traceability in the destination country. This is even more relevant if in the destination country a fiscal stamp already exists. Such security features must be printed by a supplier independent from the tobacco industry, and include an encrypted code combined with semi-covert security ink and forensic marker.

In case a country would not have tax stamps, tick box D.10.a is also applicable, however it is not our preferred option, as the most efficient solution we recommend against illicit practices is to have multi-layers security features incorporated into tax stamps.

--- end of response ---

D.13.

Question:

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

SICPA's Response:

The data storage solution should be centralized (one per country): selection of the supplier should be made by government ensuring independence from the industry. The activity of data storage at national level could be combined with activity of providing serialization / activation in the manufacturing sites as far as the provider is independent from the industry. Selection and operation of such a system shall not be performed by or delegated to the tobacco industry, directly or indirectly. The data format for such systems should be specified by the European Commission in cooperation with the FCTC Parties, such as EPCIS extended standards.

At EU level, there should be the provision for a single query tool (e.g. the GISFP model of the FCTC Protocol) that allows exchange of data between Member States. The data format allowing such international data exchanges should be specified by the EU in cooperation with the FCTC parties.

--- end of response ---

[redacted]

D.15.

Question:

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

SICPA's Response:

Each Government should select one "unique provider" for its country for serialization / activation solution + data management + reporting tool (all together).

The query management tool should be specified by the EU to allow State interrogations of data across Member States. The query management tool could be provided by the above-mentioned "unique provider".

The reporting and query tool should provide the following attributes: Deep data mining and business intelligence, dashboard of economic operators' activities, monitoring of legitimate trade facilitation, tax collection optimization, support for risk profiling, maximize law enforcement controls and optimize inspections' campaigns, and cockpit with key indicators and alerts.

SICPA has already developed and installed serialization / activation solution + data management + reporting tool and query tools, in multiple countries, such as Kenya (presentation made by the Kenya Revenue Authority at the World Conference on Tobacco or Health, Abu Dhabi, 17-21st March 2015). SICPA's solutions already cover cross-border trade: marking in country of origin + verification in destination country.

--- end of response ---

D.17.

Question:

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

SICPA's Response:

SICPA welcomes the exhaustive report of CHAFEA, which highlights the readiness of the track and trace industry at large to offer a range of solutions for the future implementation of the TPD and the FCTC protocol.

We have identified a number of shortcoming and/or errors in the report:

- First, we observe that SICPA solution was not presented and articulated at the same level of details as Codentify;
- Second, contrary to what is mentioned in p. 357, the solution in operation in Georgia is not provided by Zorya, but rather by SICPA;
- Third, we believe that proven and sustainable operational experience is fundamental in order to avoid business disruption while implementing a secure traceability solution for tobacco control; SICPA's experience in 9 countries for the control of tobacco for more than 10 years has been largely ignored in this report, even though SICPA provided information in the CHAFEA survey.

SICPA is astonished to see that Codentify is mentioned no less than 23 times into the Report.

We consider the industry Options (1 and 3a) as non-compliant with the FCTC and its Protocol. To this extend, we welcome the recommendation made in the Report "*that the EU Commission request a legislative and technical analysis of Option 1 and its compatibility to both the FCTC Protocol and Tobacco Products Directive*" (p. 158); this study should also be extended to any options indicating that tobacco industry systems could be an option.
The European Commission recognizes that Art. 15 of the TPD is affected by Article 8 of the Protocol (COM(2015) 194 final 2015/0101 (NLE)), notably its Art. 8.12 that prescribes that the tracking and tracing of tobacco products should not be delegated directly or indirectly to the tobacco industry. In addition, the Protocol requires that the marking is "secure", which is not the case of the Tobacco Products Directive, and which constitutes another validation to be encompassed in the suggested legislative and technical analysis.

While the report does identify significant weaknesses relating to Codentify, surprisingly these are not fully highlighted in the Executive Summary. It would have been more appropriate to include in the Executive Summary a balanced statement summarising these findings:

- "*Codentify by itself is not a secure marking solution and includes no safeguards to prevent valid codes from legitimate packs being duplicated onto unauthorized tobacco packs*" (p. 103);
- "*Codentify relies on the assumption that the intensity and frequency of verification requests will be high enough to spot that the same code is being reported and they will "catch" the counterfeit*

product" (p. 103). "*Given standard practice with respect to enforcement models and statistical significance and number of validations required, this assumption may be weak*" (p. 104);
- Codentify has a "*high impact on labour force requirements for law enforcement agencies*" (p. 319);
- "*Risk is that the system might not provide reliable guarantees for independent control and management of the codes at pack level*" (p. 104);
- *"[…] potential incompatibility of an industry-operated solution with the WHO FCTC Protocol, and in particular its Article 8.12. […] It is therefore recommended that the EU Commission request a legislative and technical analysis of Option 1 and its compatibility to both the FCTC Protocol and Tobacco Products Directive.*" (p. 158).
- "*[...] it remains an open question whether the actual shared industry software components are free from vulnerabilities and functions that may compromise its integrity*" (p. 158).

SICPA considers that, out of the 5 proposed traceability Options (1, 2, 3a, 3b and 4), only 3 Options (2, 3b and 4) should be considered as compliant with the FCTC protocol, which prescribes provision of the track and trace system independent from the tobacco industry. Under Option 3b, it must be noted that interoperability between individual Member States solutions will be critical; SICPA's solution implemented around the world are built on the principle of interoperability between systems (e.g. economic operators, Governments, key stakeholders). Additionally, Options 2, 3b and 4 would best preserve fair competition amongst potential solution providers responding to Member States tenders as, beside SICPA, several solution providers independent from the tobacco industry deliver today tracking and tracing solutions to Governments. Whereas Options 1 and 3a are reliant on a monopolistic solution built, owned and operated by the tobacco industry.

Option 1 has also revealed, in contradiction to DCTA's marketing messages, that tobacco industry solution is not free (p. 34, and § 11.3.2 pp. 277- 283) and provides less benefits in terms of assurance, independence and security than independent solutions at comparable all-inclusive prices.

SICPA believes that Options 1 and 3a are in breach of the FCTC protocol rules (in particular Art. 8.12), and more importantly would lead to a de-facto monopoly of the tobacco industry solution through either a standalone system (Codentify) or its disguised variant through an alliance of selected vendors promoting and advocating Codentify or Codentify-like solutions. Such a monopoly could potentially be in breach of the Treaty on the Functioning of the EU.
In that latter respect, the report mentions in Chapter 7.1 p. 128, that "*Four organisations responded as providers of a track and trace solution that, in effect, was the same underlying track and trace solution being promoted by the tobacco industry under the umbrella of the Digital Coding and Tracking Association (DCTA). While the underlying technical solution is the same, there are some key differences in the solution offering and experience characteristics of each of these organisations'. As a result, there is some variation as to where these organisations are plotted on the Assessment Matrix*". SICPA is aware of several initiatives by the industry to promote the tobacco industry solution under the cover of independent solution providers.

Regarding the format of this questionnaire:

- Question A.1.c allows for only one radio-button to be selected. SICPA would have selected all 3 radio-buttons namely: Provider of solutions for tracking and tracing systems (or parts thereof); Provider of solutions for security features (or parts thereof); and Data Management Providers (or parts thereof);
- Question B.1.3 Option 3 does not allow for differentiated responses between Option 3a and Option 3b. These two sub-options are described in the Report p. 28 and in chapter 8.4 pp 179-196. Please consider our response to question B.1.5 above.
- Answer boxes to questions D.3.a and D.16.a only allow for a limited number of characters, which prevented us from providing detailed answers.

Finally, SICPA welcomes the statement by which synergies with existing tax stamps in place in 23 out of 28 EU countries make tax stamps preferable from multiple points of view, including the level of security, a practicality of implementation, user experience, as well as being a cost-effective way to make evolving the current operational standards to the proposed next generation of FCTC compliant stamps.

--- end of response ---