

Tobacco track and trace system: Questions and Answers

Why do tobacco products on the EU market need to be tracked and traced?

Tobacco use is extremely harmful to health. Smoking is the biggest cause of preventable death in the EU. Illicit trade amplifies its negative effects by making it easier for people – including children and young adults, to buy tobacco products. Illicit tobacco products are often substantially cheaper than legal products, and they are less likely to comply with important rules, such as the obligation to carry combined health warnings.

Furthermore, illicit tobacco trade is responsible for millions of euros in tax revenue losses by EU countries every year. Measuring the extent of this illicit tobacco trade is extremely challenging, but the amount of duty that EU tax administrations lose to illicit trade has been estimated at about €11.1 billion a year^[1]. Illicit tobacco trade has also been identified as a primary source of revenue for organised crime, and, in some cases, for terrorist groups.

To tackle illicit trade, the [EU Tobacco Products Directive \(2014/40/EU\)](#) provides for the establishment of an EU-wide track and trace system for the legal supply chain of tobacco products (article 15), as well as a system of security features to help detect illicit products (article 16).

What are the main steps in setting up a traceability system?

Each Member State must appoint an 'ID issuer' to be responsible for generating and issuing unique identifier codes to be applied to unit packets, and ensure the ID issuer's independence from the tobacco industry. National authorities should notify the Commission of the appointment of the ID issuer and of its identification code **within one month** of their appointment and make this information publically available.

The appointed ID issuer must generate unique identifiers, composed of numbers and/or letters, for unit packets, and where requested, aggregated packaging. These unique identifiers need to be applied to the product within a period of six months. ID issuers can also be requested to issue 'identifier codes' for all relevant economic operators, facilities and machines, so they may be easily identified under the system.

In the meantime, each manufacturer and importer of tobacco products will be required to conclude a contract with a data storage provider (a 'primary' repository), to host the traceability data exclusively related to their products. The Commission will examine each draft contract and the suitability of all proposed providers, particularly in terms of independence and technical capability, and approve or reject them. In the absence of a reply by the Commission within a given timeframe, the provider will be deemed to be approved.

Once the primary data storage providers have been selected and approved, the Commission will be responsible for selecting the provider of a 'secondary' repository. The secondary repository will store a copy of all traceability data (including that stored in the various primary repositories) and be responsible for ensuring that Member State authorities have access to a single data set. This system will provide authorities with an overview of all product movements.

Once these key steps have been completed, the traceability system will begin to take shape. The products will begin to be marked with unique identifiers, and their movements scanned and recorded throughout the supply chain.

How does the system ensure independence from industry?

The Framework Convention on Tobacco Control (FCTC)'s Protocol to Eliminate Illicit Trade in Tobacco Products^[2], which the EU ratified in 2016, requires the traceability system to be independent from the tobacco industry. The secondary legislation adopted by the Commission ensures full compliance with this rule by placing full control of the system in the hands of the national authorities (and not the tobacco industry).

The **key task of issuing a part of the unique identifier** is the responsibility of national competent authorities. This task was identified in the course of the implementation process as most fundamental to system control, as it provides control over the supply of identifiers, offers the possibility to ensure their uniqueness and best protects against manipulation.

Member States may either choose to issue unique identifiers themselves, or appoint third parties – which would be subject to strict independence criteria, to carry out the task.

When third parties are contracted to provide other services, for example repository systems or anti-tampering devices, the Regulation lays down clear criteria to assess their independence from the tobacco industry, which Member States and the Commission must apply.

Last but not least, the system's independence is embedded in a careful design of its overall architecture covering all the movements of tobacco products, defining timelines for reporting, and prescribing a specific format for individual reports. The system is designed to provide high quality data, which in turn will enable Member States and the Commission to effectively control the supply chain of tobacco products and better detect the instances of illicit trade.

What are the main requirements for the security feature?

Security features should enable authorities and citizens to verify the authenticity of a tobacco product. To ensure they are secure, they should be composed of five types of 'authentication elements'. At least one of these must be visible by the human eye – or 'overt'. At least one must be invisible and only detectable with purpose built tools or professional lab equipment – or 'covert'. There must also be at least one 'semi-covert' feature, which is

invisible but can be detected with non-specialist equipment such as a UV torch or a special pen. The security features should be applied to packs by means of printing and/or affixing.

What are the measures to protect against forgery?

If a Member State has reason to believe that the integrity of any authentication element of a security feature currently in use on its market is compromised, they will need to replace or modify it. The competent national authority is also obliged to inform, within five days, manufacturers and importers of compromised security features.

EU countries may also lay down formal guidelines or requirements on the security of production and distribution procedures to protect against forgery or theft. For example, they may insist on the use of secure equipment, regular audits, monitoring tools for production quantities, and secure shipping.

Who was consulted when preparing the legal acts?

The Commission conducted a thorough consultation process to prepare these acts. The views of all relevant stakeholders were sought via 1) a targeted stakeholder consultation; 2) a 12 week public consultation; and 3) the organisation of two stakeholder workshops in Brussels. In addition, the draft acts were published on the Commission's website in September 2017 and the general public and interested parties had four weeks to provide their feedback. The received feedback was published on the website and analysed in detail by the Commission. Justified comments have been taken into account where possible. The advice of independent experts was also sought at various stages throughout the process, and two external studies were commissioned to provide technical input. Regular discussions with Member States, including on amendments to the draft acts, continued throughout the whole process, and the two implementing acts were adopted after a written vote by an overwhelming majority.

When will the new rules take effect?

Both the traceability system and the security features should be in place **by 20 May 2019** for cigarettes and roll-your-own tobacco and **by 20 May 2024**, for all other tobacco products (such as cigars, cigarillos and smokeless tobacco products).

For more information:

https://ec.europa.eu/health/tobacco/tracking_tracing_system_en

[1] [Study](#) on measuring and reducing administrative costs for economic operators and tax authorities and obtaining a higher level of compliance and security in imposing excise duties on tobacco products ('Ramboll Study')

[2] <http://www.who.int/fctc/protocol/en/>