# A Successfull European Track and Trace System

To fight illicit trade in tobacco products, the European Commission is proposing to track every single tobacco product made and trace it back after it has been sold. Approximatively 80 million products will be tracked and traced every day. However, tracking tobacco products legally manufactured in the EU will not stop illegal cigarettes being smuggled into EU market.

Nonetheless, tobacco companies will support a Track and Trace system if it is technically feasible, financially proportionate and allowing enough time for implementation.

To make this happen, the Member States must make three essential changes to the Commission's proposal:
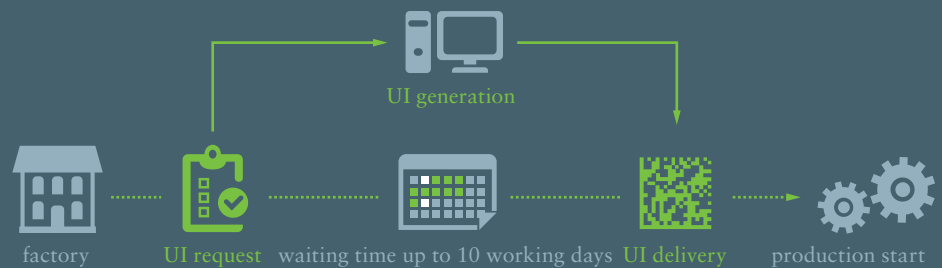
- **export products** do not fall within the system,
- the **Unique Identifier** (UI) can only be generated and applied on the packaging line, and
- the required **security feature** should be limited to 3 authentication elements, ensuring uniform application throughout the EU.

## EU Commission to introduce planned economy

The current Commission draft is not practical for a variety of reasons. The unique identifier (UI) - the code that makes each pack distinguishable - has to be requested from third parties with up to ten working days before delivery. As a result, extensive product and sales details have to be defined well before production. Every flexibility in the tobacco factory is eliminated. If, for example, the intended machine cannot be used for technical reasons, production must be stopped due to the fact that new UIs have to be ordered.



factory — UI request — waiting time up to 10 working days — UI generation — UI delivery — production start

**The following must be indicated up to 10 working days prior to production:**

- Type and brand of tobacco product
- Manufacturer, facility and machine identifier code
- Gross weight of unit packet
- Identification number from the database of tobacco additives
- Intended country of retail sale
- Intended shipment route (across country borders)

## Export products

Export products are excluded from the 2014 Tobacco Products Directive and cannot be included in the scope of the implementing Regulation. Moreover, the EU cannot regulate products that are placed on the market of third countries and ignore the existing regulations in these countries (e.g. standardised packaging in Australia).

Large multi-national companies can shut down manufacturing plants in Europe and shift production outside of the EU avoiding export restrictions. Smaller companies and family-owned businesses which are rooted in their locality of origin and export their traditional Western European products (e.g. fine-cut tobacco, pipe tobacco, traditional nasal snuff, cigars and cigarillos) to the rest of the world, cannot (economically viable) relocate and will be hard-hit by this unnecessary market distortion.

**Proposal**
Export products must be excluded from the Track & Trace system to avoid the self-imposed trade barrier. Export products are already covered by well-established EU law (e.g. EMCS).

## Unique Identifier

The draft regulation requires that UIs are supplied by a commercial third-party, appointed by the Member States. Production can therefore not commence until these UIs have been received, transforming a tobacco market economy into a state-directed business creating bottlenecks in the manufacturing and trading process.

The Proposal requires more information to be included in the UI than the 2014 Directive, increasing the length of the UI and departing from international standards widely in use, such as GS1. Some information cannot be available prior to packaging and the proposal tries to solve this by not legally derogating from the 2014 Directive, suggesting the date and time stamp can be applied separately from the UI.

The system is prohibitively costly disproportionally impacting smaller companies and family-owned businesses, with cost per product many times higher than for mass-manufactured products.

**Proposal:**
For the system to become operational by the May 2019 deadline, and for it to be compliant with competition law and national tender rules, the choice of the ID issuer should be that of the manufacturers based on standards set-, and audited by the Commission. Generating and applying the UI at the time of packaging is the only way to comply with the Directive and to overcome unnecessary complexity.

# Focus

**VdR**

## Security features

The draft regulation will result in too many different security features in use in the EU defeating the harmonisation objective of the 2014 Directive. The regulation fails to consider the specificities of smaller companies and the packaging materials and size of niche tobacco products (e.g. nasal snuff, chewing tobaccos).

**Proposal:**
Rather than listing compliant technologies, the regulation must set standards and simplify the requirements for the security feature, limiting the number of required authentication elements to three (instead of five).

## Conclusion:

Considering the complexity of the system, the number of economic operators involved, the amount and complexity of data to be recorded and transmitted, the lengthy selection procedures to be implemented by the Member States and the stringent obligations of the security feature, the Track & Trace system cannot be implemented and functional in due time (16 months) if not revised as suggested above.