



Commissioner F. Timmermans  
European Commission  
Rue de la loi / Wetstraat 200  
B – 1049 Brussels

Duizel, November 21<sup>st</sup>. 2017

Dear Mr. Timmermans,

On November 6th. we have send you a letter in which we express our deepest worries about the adoption of the EU implementing acts on Track and Trace plus Security Features as set out in art. 15 and 16 in the Tobacco Products Directive 2014/40/EU.

In the meantime, we have received the feedback on the outcome of the Tobacco Product Committee meeting of November 8<sup>th</sup>. , which confirms to us that we – as a smaller family-owned cigar manufacturer – will have to face an unproportioned economical and administrative burden, that will put our future on stake. In not any possible manner companies of our scale have been taken into account. On contrary: We were informed that the four large multinational cigarette companies have accepted the draft T&T regulations, which obviously means that no further adjustments will be made.

Compared to the previous draft only minor changes were made. With this, the situation for the smaller (cigar) manufacturers has not improved. For this reason, we need to stress once more,

- That this is a disproportionate measure for the cigar industry. Cigars and cigarillos are not subject to any kind of tobacco smuggle. Companies such as Royal Agio will only be confronted with financial and organizational burdens, which are a severe threat to our company's future.
- That the drafts will not lead to a harmonization of the internal market. On contrary: They will only accomplish the opposite. In this respect we can for instance refer to the different security features that can be chosen by different member states. Because of the different regulations per member state further trade barriers will exist between the member states which will explicitly go on the account of SME's.
- That many regulations of the implementing act are not a 1:1 transposition of the relevant Art. 15 and 16 of the Tobacco Products Directive. They go much further than that. As an example we can mention the so-called Anti-Tampering Devices and the overload of requested data, as – for example – the license plate of the truck transporting tobacco goods.
- That many regulations are, in particular for the cigar industry, not executable. According to the last draft it is for instance not possible for the manufacturers to mention the market of destination, because with cigars products are not produced on order. Instead they are being produced on stock. For this reason we absolutely need the possibility to add this kind of information at a later stage in the production process.
- That this is not in line with the relevant contents of the FCTC Protocol concerning tobacco smuggle. Else, Exports would not have become a part of a system for traceability sooner than 5 or 10 years after coming into force of the Protocol.



- These regulations are more than hostile to SME's! The particular ways of working of smaller and medium sized companies have not taken into consideration whatsoever. Indeed, there is an exemption on the anti-tampering device foreseen. However, this of no use to the Cigar Industry, as in article 7 of the draft following is stated:

*"By way of derogation from paragraphs 2, 4 and 5, the obligation to install an anti-tampering device shall not apply:*

- (a) until 20 May 2020 to production processes operated by economic operators, or where applicable, the group of undertakings to which they belong, that handled less than 120 million unit level Uls at Union level during the calendar year 2019;*
- (b) until 20 May 2021 to production processes operated by economic operators falling under the definition of small and medium enterprises set out in Commission Recommendation 2003/361/EC*
- (c) to fully manual production processes."*

This means there will be an exemption for one year (2020) or two years (2021) for SME's. To us this is total nonsense. According to art.15 and 16 in the Tobacco Products Directive 2014/40/EU the requirements for traceability and security features shall apply cigarettes and roll-your-own tobacco from 20 May 2019, but for tobacco products other than cigarettes and roll-your-own tobacco from 20 May 2024. This means that the above exemption does not have any meaning to the cigar industry at all!

We addressed our major concerns on November 6<sup>th</sup>. to you because we were desperate and we did not know who to turn to any longer. In this whole process nobody wants to listen to us, or even does an attempt to understand the specific challenges of the cigar industry.

For us it has become very clear that Everest Consultancy, that was appointed by the European Commission and the European Commission itself has only based their findings and considerations on the interest of the four large multinational cigarette companies. Nothing has been taken into account, whatsoever, for smaller companies like ours.

Dear Mr. Timmermans, please explain to us what this has to do with "Better Regulations" and "Transparency"?

Again, we are desperate and we have set all our hope now on you to help us to survive. We will accept any kind of regulation, as long as the regulation can also be executed in companies of our size and they are not only trimmed for large multinationals. For this we urgently ask for a dialogue with the people involved in making the draft regulations, in order to come to a system of traceability for tobacco products which takes the conditions of every company involved under consideration.

We really need your support in this.

Yours sincerely,

M. M. J. Michels  
Chief Sales Officer