

Mr. Katainen, Vice-President of the European Commission  
Jobs, Growth, Investment and Competitiveness

By Post & Email  
European Commission  
Rue de la Loi / Wetstraat 200  
1049 Brussels - Belgium

Copy: European Commissioner for Trade, Ms. Cecilia Malmström

Brussels, 10 May 2019

Ref: Track and Trace System for Tobacco Products – Export Issues

Dear Vice-President,

We are writing to you with grave concerns resulting from the European Tobacco Products Directive, and more particular from the subsequent regulations on Track and Trace. The European Smoking Tobacco Association, ESTA, represents mainly smaller and mid-sized specialised tobacco manufacturers that are significantly impacted by these regulations.

However, first we would like to thank the European Commission for the successful dialogue with the Australian government after which the Australian tobacco labelling regulation was changed. This change was crucial as EU legislation requires that all EU manufactured tobacco products, including those for export, have to carry a unique identifier on the packaging, whilst the original Australian regulation did not allow such a 'marking' on the packaging. We also understand that Canada allows the printing of the EU UI on the unit packaging in their recently proposed plain packaging regulations.

Other States are now implementing national or regional tracking and tracing systems. It has come to our attention that the Russian Federation is introducing its own track and trace system that is also applicable to products imported into its territory.

As you can understand those companies that export from the EU to Russia will be faced with the possible incompatibility of two established track & trace systems. The need to apply two track and trace markings on the same packaging where space is already limited is a sheer impossibility. Packaging machinery lines would have to incorporate different printers, code readers and impossibly complicated, and yet non-existent, software to ensure data incorporation into the different codes to ensure adequate transmission of data in line with each applicable regulation. Worse, a de facto export ban is likely, resulting either from Russia not allowing the EU track and trace markings or the two being simply incompatible.

Lastly, many EU companies producing niche tobacco products export these products all over the world and it is unimaginable that they would have to install as many different systems as for all third-party countries they export to. The foreseen establishment of an international regime that would ensure inter-operability of national and regional Track & Trace systems, as per the WHO AIT Protocol, will not be ready for many years to come, and in any case, Russia is not a signatory to this Protocol.



These scenarios are damaging for our smaller and mid-sized companies manufacturing specialised tobacco products in the EU as it denies them the ability to export their products due to incompatibilities or to unsupportable cost increases without any benefit of having two track and trace systems for one product in terms of the stated aim of combatting illicit trade.

We assume that neither the EU track and trace system nor the AIT Protocol were meant to introduce competing systems that would make international trade impossible or would distort competition by rendering smaller and mid-sized companies uncompetitive as they do not have manufacturing sites all over the world.

We would therefore appeal the Commission to not further disadvantage smaller and mid-sized companies and open a dialogue with Russia and other States developing track and trace systems to ensure that products manufactured in the EU can still be exported despite the existence of other Track & Trace regulations.

You may want to excuse us in advance for considering that the EU, by implementing a Track & Trace system prior to the establishment of an International Track & Trace Regime capable of ensuring international inter-operability as is foreseen in the AIT Protocol, has disadvantaged its own smaller and mid-sized tobacco companies and the employment they bring without any clear benefit in doing so. The large multinational tobacco companies will simply shift production to their internationally available manufacturing sites, avoiding the problems of having to apply multiple systems and identifiers.

Given the compliance deadlines involved in both the EU (20 May 2019) and Russia (1 July 2020), we would appreciate your urgent attention to this issue.

As a suggestion, with many more issues slowly surfacing, we invite you to consider a technical meeting between the responsible unit in DG SANTE and international trade experts of ESTA's smaller and mid-sized member companies.

Yours sincerely,

