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From: General Secretariat of the Council
To: Council

Subject: **Employment, Social Policy, Health and Consumer Affairs Council**
meeting on 16 June 2017
Implementation of Articles 15 and 16 of Directive 2014/40/EU - Traceability
system for tobacco products
– *Information from the French delegation*
(Any Other Business item)

Delegations will find attached an information note from the French Delegation on the above mentioned subject in view of the Council (EPSCO) meeting on 16 June 2017.

**Implementation of Articles 15 and 16 of the Directive 2014/40/UE
- Traceability system of tobacco products**

In application of the World Health Organization Framework Convention on Tobacco Control (FCTC) and its Additional Protocol of 2012, articles 15 and 16 of the Directive 2014/40/EU provide the implementation of a system for traceability and secured identifier of tobacco products.

The Commission has been empowered to define, by means of implementing acts, the technical standards for the security feature.

France takes note of the system envisaged by the Commission, whose main features were presented during expert working groups and would like to express some concerns regarding both the schedule for implementation and the proposed technical options.

Considering the technical papers emanating from the Commission, France would like to recall that the future tracking and tracing system should be:

- independent, through the conclusion of data storage agreements between manufacturers and independent third parties, so as to warrant to all Member States a real time and full access to stored data, without prior authorization;
- interoperable between all actors without pre-empting a single technical solution (in particular for the decoding of unique security identifiers);
- proportionate in terms of costs for manufacturers, in particular through the possibility for manufacturers and importers of tobacco products to increase the selling price accordingly.

The traceability of tobacco products is both a public health and finance issue. It is therefore important that the proposed tracking and tracing system be efficient, while imposing only proportionate obligations in order to avoid any litigation risk.

To do so and in view of the forthcoming presentation by the Commission of a draft implementing act, France wishes to reassert the following:

- the need to ensure that products are traced up to their final delivery to consumers by the first retailer: indeed this principle warrants that the traceability system is efficient and allows real control on the product's routing. It is of utmost importance that the last operator before the first retailer transmits all data relating to a delivery (e.g. date, place, quantity, type of goods, customer, address, quality, means of payment ...) to the first retailer. The current features of the system presented during the expert working groups does not seem to sufficiently specify this aspect provided for in article 15 of Directive 2014/40/EU.
- the need to ensure that the cost of implementing the tracking and tracing system is neutral for the Member States, ensuring that the governance of the system does not weight on member States, i.e. that the system is based on technologies already available (preferably "Open standards " solutions) or allowing that the selling price of tobacco products is increased in accordance.

In view of the above elements, France invites all Member States to share its concerns and to exchange views on the technical options proposed by the Commission.
