



EUROPEAN COMMISSION
 DIRECTORATE-GENERAL
 TAXATION AND CUSTOMS UNION
 Indirect Taxation and Tax administration
Indirect taxes other than VAT

Brussels,
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MEETING REPORT

- 1. Subject** Directive 2011/64/EU, e-cigarettes, Heated Tobacco Products
- 2. Date and Place** 25 June 2018, Brussels
- 3. Participants** DG TAXUD: [REDACTED]
 Philip Morris International (PMI): [REDACTED]
 [REDACTED]

4. Summary of the discussion

PMI requested a meeting to meet with the new Head of Unit of TAXUD Unit C2 and to present their view on the evaluation and possible revision of the Tobacco Excise Duty Directive (Directive 2011/64/EU). The focus of the meetings was on new products such as heated tobacco products.

Traditional tobacco products

PMI is of the opinion that the tax gap between other tobacco products and cigarettes should be reduced by for example increasing the tax rate on fine-cut tobacco. Some countries have attempted to do this on national level but according to PMI an EU initiative would help to reduce cross-border shopping.

Novel products and e-cigarettes

PMI believes that the Tobacco Excise Duty Directive should be updated in the same way as the Tobacco Products Directive (Directive 2014/40/EU). With the revision of the TPD, a chapter for non-combustible products was included. In addition, definitions of e-cigarettes and novel tobacco products were included. PMI has no difficulties with the wording 'capable of being smoked' in the current Tobacco Excise Directive and does not believe clarification of this terminology is needed. Instead, a definition of 'combustion' should be included.

Within the European Union there are currently 12 Member States who tax or are going to tax (parts of) e-cigarettes. PMI support the suggestion which was made in the external

study on Directive 2011/64/EU to harmonise excise duties on e-cigarettes in two steps. Step one would be to develop a definition which, according to PMI, should cover all liquids, regardless if they contain nicotine. PMI believes this would be the only enforceable approach, in particular since research has shown that many liquids contain nicotine, even while they are declared as 'non-nicotine' liquids. The second step would be to agree upon a harmonised minimum rate.

PMI produces Heated Tobacco Products (HTP) and have brought them on the market of 19 EU MS. All Member States, except CZ which is in the process of passing a law, tax HTP at the same rate as other smoking tobacco. Some MS decided to include a separate definition in national legislation, however, the same rate as for other smoking tobacco is applied. According to the information from PMI, this results in the following situation:

Definition in national law, same rate as other smoking tobacco

Mixed structure PL, PT

Specific excise duty BG, HR, CY, EL, HU, IT, LV, RO, SK, SI.

No definition in national law, other smoking tobacco rate

Mixed structure FR, DE, ES

Specific excise duty DK, EE, LT, NL, SE, UK

PMI launched their HTP in 2014. In 2015 the aluminium layer between the paper and reconstituted tobacco was added. Currently the sticks (rebranded as 'HEETS') are in the EU only sold with the aluminium layer. This is to avoid that the product can be smoked as it is. The price of a pack of HEETS is similar to the price of a pack of traditional cigarettes. PMI would like a harmonised separate definition for HTP in the directive with a rate per kilogram. To the question why HTP should have a different rate than cigarettes, PMI answered that there should be a tax differentiation for 'less harm' products. Moreover, there has always been a gap between the taxation of different product categories.

Furthermore, PMI mentioned that developments will continue, leading to new products on the market. Recently, a hybrid product was launched by competitors of PMI. Hybrid products combine the technology of e-cigarettes but in contrary to most e-cigarettes, they do contain tobacco. PMI believes a revision of the directive should anticipate on such developments.

Report by: [REDACTED]

c.c.: [REDACTED], TAXUD LIST C2,
[REDACTED] (TAXUD UNIT C3)