



**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** Fiscalis Project Group classification and inclusion of (new) tobacco products in the scope of excisable tobacco products
- 2. Date and Place** 17 January 2017, Brussels, Belgium
- 3. Participants** DG JRC D.5: [REDACTED]  
 DG SANTE: [REDACTED]  
 DG TAXUD: [REDACTED]  
 Economisti Associati: [REDACTED]  
 Delegates from Member States: attendee list attached  
 Representatives from British American Tobacco (BAT), Imperial Tobacco (ImTob) and the British Independent Vape and Trade Organisation (IBVTA): attendee list attached

### **4. Summary**

COM opened the fifth meeting and welcomed all participants, in particular a few new members to this group. The agenda was approved as proposed by COM, including an AOB item from one Member State.

One participant asked for a change of the minutes of the meeting on 7 October 2015 in Belfast. The proposed change will also be submitted in writing.

COM asked the participants to share new information concerning raw tobacco and e-cigarettes such as data and experiences with national taxation of new products. Most participants reported that the situation in their Member State remains unchanged. However, in some Member States national taxes on e-cigarettes were introduced, including a Member State who introduced a zero rate for e-liquids in order to monitor the market. In one Member State new legislation has been introduced in order to ensure that heat not burn tobacco products are taxed according to the same rates as smoking tobacco. Most participants confirmed to remain interested in a common approach for taxation of new products.

Economisti Associati carries out a study on Directive 2011/64/EU which will to the Impact Assessment on the possible revision of Directive 2011/64/EU. Economisti Associati gave a presentation on the preliminary results of the study concerning raw tobacco and e-cigarettes. Interesting difference is that in the US states introduced ad

valorem taxation on e-liquids, while in the EU, the Member States who introduced a national tax, only apply a specific tax.

One Member State asked to include an AOB item on the agenda concerning Directive 2014/40/EU on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products. Article 18 of this Directive gives Member States the option to prohibit cross border distance selling of tobacco products. It was discussed which Member States use this option and prohibit cross border online distance selling. In practice such a prohibition seems to be difficult to control, in particular because not all Member States prohibit cross border distance selling. One participant raised the questions why it is only optional. DG SANTE explained that this was the result of a compromise during the negotiations of Directive 2014/40/EU.

Upon request, some industry/trade organization representatives have been invited to present their view on a possible harmonized taxation of e-cigarettes to the members of the FPG. In general, the speakers were of the opinion that taxation of e-cigarettes is premature or would not be a good idea at any stage. In the view of the representatives taxation of e-cigarettes would bring a lot of practical problems. It was also mentioned that these products should not be associated with traditional products. The possibility to generate substantive revenue was questioned.

COM repeated that there are no plans to tax e-cigarettes for the moment, but that COM is looking into the manner upon request of the Council. Depending on what the outcome of the IA will be, a decision on the way forward will be taken.

Finally, the JRC presented the results of the analysis of the composition of e-liquids. Concerning the research on tobacco alkaloids, the analysis showed that there is a bad agreement between the declared and measured nicotine contents. More than half of the products with declared nicotine content contained much less nicotine than declared. Additionally, many zero-nicotine labelled products contain traces of nicotine, some of them even above guidance levels.. Minor tobacco alkaloids are not suitable for identifying the natural origin of nicotine contained in e-liquids as purified nicotine is used for the manufacturing of e-liquids.

For the flavour analysis of the project, the JRC concluded that flavour profile based identification of tobacco products was possible for the tested samples. Models allow discrimination between tobacco and non-tobacco e-liquids, although expanding the data basis for modelling and consideration of additional product related information should further improve models.

**Report by:** [REDACTED]