COMMISSION DES COMMUNAUTÉS EUROPÉNNES



Bruxelles, le 8.7.2008 SEC(2008) 2268

AVIS DU COMITÉ DES ÉVALUATIONS D'IMPACT

PROPOSITION DE DIRECTIVE MODIFIANT LES DIRECTIVES 92/79/CEE, 92/80/CEE ET 95/59/CEE CONCERNANT LA STRUCTURE ET LES TAUX D'ACCISES APPLIQUES SUR LES CIGARETTES ET AUTRES PRODUITS SUR BASE DE TABAC

> {COM(2008) 459} {SEC(2008) 2266} {SEC(2008) 2267}



EUROPEAN COMMISSION IMPACT ASSESSMENT BOARD

Brussels, 0 8 MAI 2008 D(2008) 3858

Opinion

Title

Impact Assessment on: Council Directive amending Council Directive 95/59/EC, 92/79/EEC and 92/80/EEC on the structure and rates of excise duty applied to manufactured tobacco (draft version of 11 April 2008)

Lead DG

DG TAXUD

1) Impact Assessment Board Opinion

(A) Context

The legal context of the proposed Council Directive amending Council Directive 95/59/EC, 92/79/EEC and 92/80/EEC on the structure and rates of excise duty applied to manufactured tobacco is Article 4 of Council Directive 92/79/EEC and of 92/80/EEC, that requires the Commission to examine the taxation of tobacco every four years, taking into account the smooth operation of the single market, the real value of excise duty rates and the wider objectives of the Treaty. Also important is the Council recommendation of 2 December 2002 on the prevention of smoking and on initiatives to improve tobacco control (2003/54/EC) that recommends in Article 7 that Member States should adopt and implement appropriate price measures on tobacco products so as to discourage tobacco consumption. The Community has widely developed regulations on the manufacture, presentation and sale of tobacco products (directive 2001/37/EC) and on the ban of crossborder advertising (directive 2003/33/EC). Finally, the Council approved the WHO Framework Convention on Tobacco Control (FCTC). The legal basis is Article 93 of the EC Treaty, that provides for the Council, acting unanimously, "to adopt provisions for the harmonisation of Member States' rules in the area of indirect taxation (principally VAT and Excise Duties) because indirect taxes may create an immediate obstacle to the free movement of goods and the free supply of services within an Internal Market".

(B) Positive aspects

The report provides detailed information, and analyses the various policy options with the help of detailed simulation-based estimates of the expected impacts. It is well structured and contains extensive data.

(C) Main recommendations for improvements

The recommendations below are listed in order of descending importance. Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of

Commission européenne, B-1049 Bruxelles / Europese Commissie, B-1049 Brussel - Belgium. Telephone: (32-2) 299 11 11. Office: BERL 6/29. Telephone: direct line (32-2) 2981898. Fax: (32-2) 2965960.

E-mail: impact-assessment-board@ec.europa.eu

the impact assessment report, subject to the discussions that took place in the meeting with the Board.

General recommendation: The IA report should more clearly define the overall baseline and improve the comparison of the other options against this baseline. It should be clearer on the criteria that have been decisive in the selection of the preferred policy option. During its meeting with the board, DG TAXUD agreed to revise the impact assessment on this basis.

- (1) Describe more clearly the baseline scenario. The report should provide (at the end of the problem definition section) a clearer description of the baseline scenario that would result from leaving all the present arrangements in place (rather than presenting it only under the options as option A), and describe the causal relationships between the tobacco duties, public health, effects on industry, and on national budgets. It should provide an indication of expected health effects of unchanged policy as part of this baseline. Finally, it should provide a clearer presentation of the current framework of the excise duties levied on tobacco products.
- (2) Be more specific about criteria to assess the policy options against the objectives. The report should be more specific on the criteria used to assess the policy options against the policy objectives (e.g. desirable percentage reduction in tobacco consumption, standard deviation of prices, budgetary impact). The objectives themselves should be made more explicit. In particular the objective to reduce consumption by 2% annually over a five year period should be identified explicitly. Furthermore, the report should make clear how the objectives are interrelated and what the potential trade-offs are (e.g. more convergence of taxation could jeopardise national budgetary objectives).
- (3) Be more specific about assumptions on cross-border shopping and illicit trade. The report should be more specific about the assumptions that have been made in the various calculations as regards cross-border shopping and illicit trade. Given the importance of tax differentials as drivers of cross-border trade for certain Member States, the estimated effects, e.g. on budget revenue, should be presented together with the appropriate reservations about the reliability of information and data and the assumptions because of the sensitivity of the results. In the absence of clear and reliable data, consideration should be given to constructing a hypothetical example that would serve to illustrate the situation.

(D) Procedure and presentation

It appears that all procedural requirements have been complied with the IA report should be made more accessible to the reader by using clearer and less technical language and avoiding unnecessary jargon. It is also recommended to include a short non-technical summary and a glossary to explain all the different abbreviations. Page numbers should be added.

2) IAB scrutiny process

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Author DG	TAXUD		
External expertise used	No		
Date of Board Meeting	7 May 2008		
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