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Opinion

Title **Impact Assessment on a Proposal for a Council Recommendation on Smoke-free Environments (draft of 8 August 2008)**

Lead DG **DG SANCO**

1) Impact Assessment Board Opinion

(A) Context

This initiative aims to assist Member States in implementing comprehensive smoke-free laws and thus help to comply with Member States' and EC obligations under the WHO Framework Convention on Tobacco Control (FCTC) that has been signed by all Member States (of which 26 have so far ratified it) and the Community. At EU level, the issue of smoke-free environments has been the subject of non-binding resolutions and recommendations, as well as being addressed in a number of occupational health and safety directives.

The Commission's Green Paper consultation on smoke-free environments demonstrated broad support for further EU action. The policy options in this Impact Assessment are based on the outcome of the consultation.

(B) Positive aspects

The report contains an elaborate analysis of the health effects of environmental tobacco smoke (ETS). It gives a good overview of current international and EU initiatives to promote a smoke free environment.

(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 the impact assessment report.

General recommendation: The impact assessment requires substantial improvements in a number of important areas. Most notably, the report should provide much clearer evidence on the value added of an EU initiative in this area on

top of an international instrument to which Member States have already subscribed. The baseline scenario should be based on existing policies, including implementation by Member States of the FCTC. The policy options should be made more explicit by providing information on the content as opposed to the form of the proposals (especially the Recommendation that is selected as the preferred option), and the estimated impacts should be presented more cautiously.

The IAB will examine a revised version incorporating these recommendations should DG SANCO decide to resubmit the report.

- (1) **The problem description should be based on a clear and realistic baseline scenario.** The baseline scenario should include realistic assumptions about implementation of the FCTC by Member States. It should clarify what value possible EU intervention can add over and above ratification and implementation of the Framework by Member States, especially in the light of subsidiarity considerations. It should also explain better to which extent regulatory measures aimed at protecting workers' health would already cover a considerable part of the issues that the proposed intervention would address.
- (2) **The policy options should be presented more explicitly.** Instead of mainly focusing on the choice of instruments, and subsequently making rather strong assumptions on the expected effects, the report should be much more explicit about the content of the policies proposed under the different options. It should clarify why certain instruments, such as the Open Method of Coordination, are summarily dismissed, and why others (such as a combination of options 2 and 3) are not considered.
- (3) **The report should present the expected impacts more cautiously.** The report should present the expected impacts with the qualification that these are outcomes of projections made on the basis of very strong assumptions. It should also clarify that the evidence base for the projected effect of using particular policy instruments is weak (surveys), and that the effects could vary considerably according to the actual content of such policies. It should therefore avoid spurious accuracy and remove the estimated figures given in Tables 6 and 7.

(D) Procedure and presentation

It appears that all necessary procedural elements have been complied with.

2) IAB scrutiny process

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External expertise used	No
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