SUMMARY  Smoking is the leading cause of preventable diseases in the EU. Tobacco-related diseases kill around 700 000 Europeans per year. Measures to reduce smoking include taxation, restrictions on advertising, health warnings, education and awareness-raising campaigns and smoking bans in public places. Some 175 countries and the EU have signed the UN Framework Convention on Tobacco Control, committing them to taking measures to reduce tobacco demand and supply.

In order to make tobacco products less attractive to young people, the Commission proposed on 19 December 2012 a revision of the Tobacco Products Directive (TPD) which would ban additives, flavours and slim cigarettes, require large pictorial health warnings, and regulate smokeless products, novel tobacco products and electronic cigarettes. The European Parliament’s Environment Committee appointed Linda McAvan (S&D, UK) as rapporteur and held a public hearing on tobacco products in February 2013. The tobacco industry is concerned that the proposed legislation violates intellectual property and trademark rights and could lead to increased illicit trade. On the other hand, public-health NGOs advocate plain packaging without any branding. Legal experts argue that the proposed legislation is at the limits of EU competence.

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Tobacco in the EU

Tobacco products market

In 2012, 576 billion cigarettes were consumed in the EU, a fall of 100 billion since 2007. The total value of the EU tobacco market is €136.5 billion, including €79 billion in excise duties, and taxes. Four tobacco companies control 90% of the EU market.

Factory-made cigarettes make up 88% of the market, and roll-your-own tobacco 7%. The remaining 5% is pipe tobacco, cigars, cigarillos and other products. Industry analysts expect falling cigarette sales and 4 million fewer smokers in western Europe by 2016. However, the cigarette industry maintains profitability by cost-cutting, price increases for ‘premium’ brands, and product innovation.

Recent product innovations include flavoured cigarettes (e.g. with fruit or vanilla flavours) and new package designs aimed notably at girls and young women.

Products containing nicotine, such as electronic cigarettes (e-cigarettes), have emerged as an alternative to tobacco products.

Employment

In the EU, 200 000 persons are employed in tobacco wholesale and retail, more than 43 000 in tobacco manufacture (most in
Germany and Poland), and over 84,000 in tobacco farming (most in Bulgaria).

**Tobacco consumption**

Although **tobacco consumption** has fallen in the EU, it has a higher proportion of smokers (28%) than other regions. Sweden has the lowest proportion of smokers (13%), while Greece has the highest (40%).

94% of smokers start before the age of 25, with 70% under 18.

Two thirds of Europeans have heard of e-cigarettes, but only 1% used them in 2012.

**Tobacco control measures**

Tobacco smoking is the largest single cause of avoidable death in the EU, with 700,000 premature deaths per year from smoking-related diseases. The Commission estimates that treating the six main tobacco-related disease categories costs around €25 billion per year, and productivity losses from these diseases amount to some €8 billion per year.

Tobacco control measures aim to limit this damage by helping citizens stop smoking, by protecting non-smokers from tobacco smoke and by preventing young people from starting to smoke.

**WHO Framework Convention**

The **WHO Framework Convention on Tobacco Control** (FTCT), in force since 2005, obliges its 176 signatories (including the EU and its MS) to reduce the demand for and supply of tobacco products, and to protect tobacco control policies from the influence of the tobacco industry. Article 5.3 says that contacts between regulators and the tobacco industry should be transparent and kept to a minimum.

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**Limits on nicotine and tar**

**Directive 2001/37/EC** (TPD) sets maximum levels of nicotine, tar and carbon monoxide. However, experts consider such limits ineffective since smokers may end up consuming more cigarettes in order to compensate for their reduced nicotine content.

**Smoking bans**

**Directive 89/654/EEC** on health and safety at work obliges employers to protect non-smokers from tobacco smoke at work.

**Council Recommendation on Smoke-free Environments** (2009/C 296/02) calls upon Member States (MS) to limit smoking in enclosed public places, workplaces and public transport. Currently 17 MS have **smoking bans** which have substantially reduced exposure to environmental tobacco smoke. Smoking bans are most effectively enforced when smoking is completely prohibited in enclosed public places, on public transport and in workplaces.

**Taxes**

Taxation is effective in reducing tobacco consumption. **Directives 92/79/EEC and 92/80/EEC** establish harmonised minimum tax rates (€1.80 per pack of 20 cigarettes **from 2014**) but many Member States impose higher taxes.

However, high taxes in some countries encourage purchases in countries with lower taxes and make the sale of smuggled and counterfeit cigarettes more profitable.

**Education and awareness**

In addition to national anti-smoking campaigns, the EU-wide campaign "**Ex-smokers are unstoppable**", launched in 2011, encourages Europeans to stop...
smoking by highlighting the benefits of quitting.

**Advertising and display bans**

Directive **2003/33/EC** bans tobacco advertising in printed media, radio, and the internet as well as sponsorship of certain events by tobacco companies. The 2001 TPD prohibits descriptions such as "light" or "mild" which suggest that the product is less harmful. A number of countries, including some MS, prohibit the display of cigarette packs at points of sale.

**Health warnings**

The 2001 TPD requires health warnings on each cigarette pack. Ten MS use pictorial warnings in addition to the text warnings.

**Plain packaging**

Since 1 December 2012, all tobacco products sold in Australia must have plain (and standardised) packaging without branding.

Tobacco companies claim that a ban on company branding infringes their intellectual property rights. However, a legal challenge by the tobacco industry against plain packaging was rejected by the High Court of Australia on 15 August 2012.

The UK government is evaluating the effects of mandatory plain packaging and carried out a public consultation.

Industry claims that plain packaging will lead to increased counterfeiting and illicit trade, a view which is disputed by tobacco control experts.

**Sales to minors**

Council **Recommendation 2003/54/EC** encourages MS to prevent tobacco sales to minors by requiring age verification, restricting access to tobacco vending machines and removing tobacco products from self-service sale.

**Fighting illicit trade**

A protocol to the FCTC aimed at reducing and eventually eradicating illicit trade in tobacco products was adopted in November 2012. The signatories commit to controlling the supply chain through a global tracking and tracing system.

**Revision of the Tobacco Products Directive**

On 19 December 2012, the Commission submitted a legislative proposal for the revision of the Tobacco Products Directive **(2001/37/EC)**. The revised Directive aims to improve the functioning of the internal market for tobacco products while ensuring a high level of public health. It aims to bring EU legislation into line with the FTCT, react to new scientific findings and developments in the market, and to make tobacco smoking less attractive for young Europeans. It was preceded by a public consultation which received over 85 000 submissions.

The Commission's impact assessment estimates that the annual benefit of a 2% reduction in tobacco consumption would be €4 billion, and that job losses in the tobacco sector would be offset by increased employment in other sectors.

The legislative proposal comprises the following measures:

**Health warnings**

Health warnings on the packaging of cigarettes and roll-your-own tobacco would comprise text and a picture. Pictorial
warnings are considered an effective means to deter young people from starting to smoke. They would be larger, covering 75% of the front and back of cigarette packs. ‘Cessation information’ would also be required.

MS remain free to require plain packaging without any branding.

Pictorial warnings would initially not be required for other tobacco products (cigars, pipe tobacco), as these are mostly used by older smokers. Text warnings covering 30% of the front and 40% of the back would continue to be required for these products.

Health warnings would also be required on herbal products for smoking.

**Ingredients and packaging**

Based on the principle that "tobacco should look and taste like tobacco", the proposal would outlaw ‘characterising’ flavourings (such as menthol, fruit or chocolate flavours) that change the taste of tobacco and additives such as vitamins, caffeine or taurine. It would prohibit ‘slim’ cigarettes and packs containing fewer than 20 cigarettes.

Ingredients are to be reported in a harmonised format.

The existing limits on nicotine, tar and carbon monoxide remain unchanged.

**Smokeless tobacco products**

The existing ban on oral tobacco (snus - see box) would be maintained, and the derogation for Sweden continued. Nothing will change for chewing tobacco and nasal tobacco (snuff).

**Novel tobacco products**

Manufacturers and importers would be obliged to notify any novel tobacco products to the competent authorities of the MS. MS would have the right to introduce an authorisation system.

**Nicotine-containing products**

The proposed legislation would cover ‘nicotine-containing products’ without tobacco. Products below a certain nicotine threshold would be allowed on the market with mandatory health warnings, while products above the threshold (including most electronic cigarettes on the market today) would only be allowed if authorised as pharmaceuticals under the Human Medicinal Products Directive (2001/83/EC).

**Cross-border sales**

Internet retailers would have to notify their activity and verify the age of the customers.

**Traceability**

The proposal foresees an EU tracking and tracing system at packet level throughout the supply chain, excluding retail.

**Role of the European Parliament**

The EP has called for a revision of the TPD in resolutions adopted in 2007 and 2009.

After publication of the Commission’s proposal, the Environment Committee nominated Linda McAvan (S&D, UK) as rapporteur. It plans to vote on the report in July 2013.

James Reilly, Irish Minister for Health, assured the Environment Committee that the revision of the tobacco legislation is a priority for the Irish EU Presidency.

On 25 February 2013, the Committee held a public hearing on tobacco products.
Making tobacco less attractive

**Expert and stakeholder views**

**Member States**

Poland, the EU's largest tobacco exporter, opposes bans on menthol and slim cigarettes.

In an informal meeting of the Health Council on 4-5 March, Italy, Greece, the Czech Republic and Poland expressed concerns about the impact of the proposed legislation on tobacco-growing regions and on MS manufacturing tobacco products.

**Experts**

Alberto Alemanno, professor of EU law, argues that the proposed Directive is at the limit of EU competences with regard to subsidiarity, proportionality, the trademark system and fundamental rights.

**Industry**

Tobacco retailers say that proposed legislation will put thousands of jobs at risk. Thousands protested in Brussels in January 2013.

The International Chamber of Commerce considers that the proposed legislation violates intellectual property and trademark rights and destroys brand values.

Michiel Reerink, chairman of the Confederation of European Community Cigarette Manufacturers, said the proposal would not achieve its stated objectives, infringe freedom of choice and have negative consequences on MS' revenues.

**NGOs**

Smoke Free Partnership (SFP) and European Public Health Alliance welcome the proposed Directive, but regret that it does not require plain packaging. They warn of the influence of the tobacco lobby and call for full transparency. SFP calls for a ban of all flavours, including sugar and sweeteners.

The Alliance for Lobbying Transparency and Ethics Regulation alleges that Commission officials held undisclosed meetings with tobacco lobbyists, and calls on the Commission to strengthen implementation of article 5.3 of the FCTC, which requires contacts with the tobacco industry to be transparent and kept to a minimum.

**Main references**

- Attitudes of Europeans towards tobacco, Special Eurobarometer 385, 2012
- Economic analysis of the EU market of tobacco, nicotine and related products, Matrix Insight, May 2012
- Plain tobacco packaging: A systematic review
- Reducing smoking rates in the EU, European Parliament Library Briefing, 2011

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http://www.library.ep.eu
http://libraryeuroparl.wordpress.com

**Endnotes**

1 Other products include smokeless oral tobacco (snus and chewing tobacco), nasal tobacco (snuff), as well as products containing nicotine such as e-cigarettes.

2 The study "Illicit cigarettes and hand-rolled tobacco in 18 European countries: a cross-sectional survey" (2012) found that the use of illicit cigarettes was high in countries bordering countries which produce illicit cigarettes. It found no relation between price and the use of illicit cigarettes.

3 Telephone numbers (‘quit lines’), e-mail addresses or websites where smokers can get support to help them quit smoking.