



EUROPEAN PARLIAMENT

2009 - 2014

Committee on International Trade

2012/0366(COD)

29.5.2013

AMENDMENTS

4 - 235

Draft opinion
Metin Kazak
(PE510.734v02-00)

Approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products

Proposal for a directive
(COM(2012)0788 – C7-0420/2012 – 2012/0366(COD))

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PE513.031v01-00

EN

United in diversity

EN

Amendment 4
Henri Weber

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) In other areas there are still substantial differences between the Member States' laws, regulations and administrative provisions on the manufacture, presentation, and sale of tobacco and related products which impede the functioning of the internal market. In the light of scientific, market and international developments these discrepancies are expected to increase. This applies in particular to nicotine containing products, herbal products for smoking, ingredients and emissions, certain aspects of labelling and packaging and the cross-border *distance* sales of tobacco products.

Amendment

(4) In other areas there are still substantial differences between the Member States' laws, regulations and administrative provisions on the manufacture, presentation, and sale of tobacco and related products which impede the functioning of the internal market. In the light of scientific, market and international developments these discrepancies are expected to increase. This applies in particular to nicotine containing products, herbal products for smoking, ingredients and emissions, certain aspects of labelling and packaging and the cross-border, *internet and point-of-sale* sales of tobacco products.

Or. fr

Amendment 5
Yannick Jadot, Paul Murphy
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) In other areas there are still substantial differences between the Member States' laws, regulations and administrative provisions on the manufacture, presentation, and sale of tobacco and related products which impede the functioning of the internal market. In the light of scientific, market and international developments these discrepancies are

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expected to increase. This applies in particular to nicotine containing products, herbal products for smoking, ingredients and emissions, certain aspects of labelling and packaging and the cross-border *distance* sales of tobacco products.

expected to increase. This applies in particular to nicotine containing products, herbal products for smoking, ingredients and emissions, certain aspects of labelling and packaging and the cross-border *and internet sales of tobacco products and point of sale displays* of tobacco products.

Or. en

Amendment 6
Maria do Céu Patrão Neves

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) The size of the internal market in tobacco and related products, the increasing tendency of manufacturers of tobacco products to concentrate production for the whole of the Union in only a small number of production plants within the Member States and the resulting significant cross-border trade of tobacco and related products calls for legislative action at Union rather than national level to achieve the smooth operation of the internal market.

Amendment

(6) The size of the internal market in tobacco and related products, the increasing tendency of manufacturers of tobacco products to concentrate production for the whole of the Union in only a small number of production plants within the Member States and the resulting significant cross-border trade of tobacco and related products calls for *stronger* legislative action at Union level to achieve the smooth operation of the internal market.

Or. pt

Amendment 7
Maria do Céu Patrão Neves

Proposal for a directive
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Tobacco production in disadvantaged areas, especially the outermost regions, which is often associated with specific

environmental, geographical and cultural conditions and craft-based, environmentally-friendly methods, should receive special attention from the EU, which should allow the Member State the possibility of applying specific measures to maintain production in these regions, thereby safeguarding the jobs provided by this sector

Or. pt

Amendment 8
Henri Weber

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) In accordance with Article 114(3) of the Treaty of the Functioning of the European Union (hereinafter: ‘Treaty’), a high level of health protection should be taken as a basis, regard being had, in particular, to any new developments based on scientific facts. Tobacco products are not ordinary commodities and in view of the particularly harmful effects of tobacco, health protection should be given high importance, in particular to reduce smoking prevalence among young people.

Amendment

(8) In accordance with Article 114(3) of the Treaty of the Functioning of the European Union (hereinafter: ‘Treaty’), a high level of health protection should be taken as a basis, regard being had, in particular, to any new developments based on scientific facts. Tobacco products are not ordinary commodities and in view of the particularly harmful effects of tobacco, health protection should be given high importance, in particular to reduce smoking prevalence among young people, *especially adolescents and women. Calls, in order to promote education and prevention schemes, for the establishment of a European Smoking Prevention Fund which would also finance schemes to help people give up smoking, would prevent them from taking up smoking and would provide information about the harmful effects of smoking on health.*

Or. fr

Amendment 9
Ewald Stadler

Proposal for a directive
Recital 11

Text proposed by the Commission

(11) In relation to the fixing of maximum yields, it might be necessary and appropriate at a later date to adapt the yields fixed or to fix maximum thresholds for emissions, taking into consideration their toxicity or addictiveness.

Amendment

(11) In relation to the fixing of maximum yields, it might be necessary and appropriate at a later date to adapt the yields fixed or to fix maximum thresholds for emissions, taking into consideration ***scientific developments and internationally agreed standards against which*** their toxicity or addictiveness ***is assessed***.

Or. de

Amendment 10
Yannick Jadot, Paul Murphy
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Child labour is still a persisting feature of tobacco production. The increasing awareness of consumers about health and human rights problems related to production and processing methods equally require an improved tracking, tracing and reporting system with a view to identify the origin and the conditions under which tobacco was harvested and to give consumers the choice to choose tobacco produced without child labour and children exposed to toxic dangers;

Or. en

Amendment 11
Henri Weber

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) The current use of different reporting formats makes it difficult for manufacturers and importers to fulfil their reporting obligations and burdensome for the Member States and the Commission to compare, analyse and draw conclusions from the information received. ***In this light there should be a common mandatory format for the reporting of ingredients and emissions. The greatest possible transparency of product information should be ensured*** for the general public, while ensuring that appropriate account is taken of the commercial and intellectual property rights of the manufacturers of tobacco products.

Amendment

(13) The current use of different reporting formats makes it difficult for manufacturers and importers to fulfil their reporting obligations and burdensome for the Member States and the Commission to compare, analyse and draw conclusions from the information received. ***Making it mandatory to list the dangerous or potentially dangerous ingredients would enable greater transparency for the general public in terms of the harmful effects and the composition of tobacco products to be guaranteed***, while ensuring that appropriate account is taken of the commercial and intellectual property rights of the manufacturers of tobacco products ***and that the provisions of the directive are compatible with WTO obligations, the provisions on Technical Barriers to Trade (TBT) and agreements on Trade-Related Intellectual Property Rights (TRIPs)***.

Or. fr

Amendment 12
Yannick Jadot, Paul Murphy
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 13

Text proposed by the Commission

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compare, analyse and draw conclusions from the information received. In this light there should be a common mandatory format for the reporting of ingredients and emissions. The greatest possible transparency of product information should be ensured for the general public, while ensuring that appropriate account is taken of the commercial and intellectual property rights of the manufacturers of tobacco products.

compare, analyse and draw conclusions from the information received. In this light there should be a common mandatory format for the reporting of ***production and processing methods as well as*** ingredients and emissions. The greatest possible transparency of product information should be ensured for the general public, while ensuring that appropriate account is taken of the commercial and intellectual property rights of the manufacturers of tobacco products.

Or. en

Amendment 13

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Christofer Fjellner, Iuliu Winkler, Emma McClarkin, Metin Kazak

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) The current use of different reporting formats makes it difficult for manufacturers and importers to fulfil their reporting obligations and burdensome for the Member States and the Commission to compare, analyse and draw conclusions from the information received. In this light there should be a common mandatory format for the reporting of ingredients and emissions. The greatest possible transparency of product information should be ensured for the general public, while ensuring that appropriate account is taken of the commercial and intellectual property rights of the manufacturers of tobacco products.

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Or. en

Amendment 14

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Christofer Fjellner, Iuliu Winkler, Emma McClarkin

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) The likelihood of diverging regulation is further increased by concerns over tobacco products, including smokeless tobacco products, having a **characterising** flavour other than tobacco, which may facilitate uptake of tobacco consumption or affect consumption patterns. **For example, in many countries, sales of mentholated products gradually increased even as smoking prevalence overall declined. A number of studies indicated that mentholated tobacco products can facilitate inhalation as well as smoking uptake among young people. Measures introducing unjustified differences of treatment between flavoured cigarettes (e.g. menthol and clove cigarettes) should be avoided.**

Amendment

(15) The likelihood of diverging regulation is further increased by concerns over tobacco products, including smokeless tobacco products, having a **non-tobacco dominant** flavour other than tobacco **or traditional flavours such as menthol**, which may facilitate uptake of tobacco consumption or affect consumption patterns..

Or. en

Justification

Traditional flavours such as menthol must not be put on the same level as fashionable flavours such as mojito, strawberry, pineapple. Menthol is mainly consumed by adults of an advanced age and therefore its prohibition is not consistent with the main purpose of the Directive of preventing youth from taking up smoking. Banning menthol could be inconsistent with Article 2.2 TBT agreement as there should be less restrictive measures to trade rather than an outright prohibition.

Amendment 15

Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) The likelihood of diverging regulation is further increased by concerns over tobacco products, including smokeless tobacco products, having a characterising flavour other than tobacco, which may facilitate uptake of tobacco consumption or affect consumption patterns. ***For example, in many countries, sales of mentholated products gradually increased even as smoking prevalence overall declined. A number of studies indicated that mentholated tobacco products can facilitate inhalation as well as smoking uptake among young people. Measures introducing unjustified differences of treatment between flavoured cigarettes (e.g. menthol and clove cigarettes) should be avoided.***

Amendment

(15) The likelihood of diverging regulation is further increased by concerns over tobacco products, including smokeless tobacco products, having a characterising flavour other than tobacco ***and menthol***, which may facilitate uptake of tobacco consumption or affect consumption patterns.

Or. en

Amendment 16
Ewald Stadler

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) The likelihood of diverging regulation is further increased by concerns over tobacco products, including smokeless tobacco products, having a characterising flavour other than tobacco, which may facilitate uptake of tobacco consumption or affect consumption patterns. ***For example, in many countries, sales of mentholated products gradually increased even as smoking prevalence overall declined. A number of studies indicated that mentholated tobacco products can facilitate inhalation as well as smoking uptake among young people. Measures***

Amendment

(15) The likelihood of diverging regulation is further increased by concerns over tobacco products, including smokeless tobacco products, having a characterising flavour other than tobacco, which may facilitate uptake of tobacco consumption or affect consumption patterns.

introducing unjustified differences of treatment between flavoured cigarettes (e.g. menthol and clove cigarettes) should be avoided.

Or. de

Justification

The studies referred to do not provide a justification for discrediting menthol cigarettes in legislation.

Amendment 17

Maria do Céu Patrão Neves

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) The likelihood of diverging regulation is further increased by concerns over tobacco products, including smokeless tobacco products, having a characterising flavour other than tobacco, which may facilitate uptake of tobacco consumption or affect consumption patterns. *For example, in many countries, sales of mentholated products gradually increased even as smoking prevalence overall declined. A number of studies indicated that mentholated tobacco products can facilitate inhalation as well as smoking uptake among young people. Measures introducing unjustified differences of treatment between flavoured cigarettes (e.g. menthol and clove cigarettes) should be avoided.*

Amendment

(15) The likelihood of diverging regulation is further increased by concerns over tobacco products, including smokeless tobacco products, having a characterising flavour other than tobacco, which may facilitate uptake of tobacco consumption or affect consumption patterns. *The Commission is urged to carry out a scientific study of the real influence of these products on smoking uptake.*

Or. pt

Amendment 18

Metin Kazak

Proposal for a directive
Recital 15

Text proposed by the Commission

(15) The likelihood of diverging regulation is further increased by concerns over tobacco products, including smokeless tobacco products, having a characterising flavour other than tobacco, which may facilitate uptake of tobacco consumption or affect consumption patterns. ***For example, in many countries, sales of mentholated products gradually increased even as smoking prevalence overall declined. A number of studies indicated that mentholated tobacco products can facilitate inhalation as well as smoking uptake among young people.*** Measures introducing unjustified differences of treatment between flavoured cigarettes (e.g. menthol and clove cigarettes) should be avoided³⁶.

Amendment

(15) The likelihood of diverging regulation is further increased by concerns over tobacco products, including smokeless tobacco products, having a characterising flavour other than tobacco, which may facilitate uptake of tobacco consumption or affect consumption patterns. Measures introducing unjustified differences of treatment between flavoured cigarettes (e.g. menthol and clove cigarettes) should be avoided³⁶.

Or. en

Justification

An outright ban of traditional flavours would not contribute to the desired objective and would trigger illicit trade in popular products such as menthol cigarettes. Furthermore, since less trade restrictive alternatives measures are available such as a ban of flavours known to be attractive to youth, the measure would be inconsistent with Article 2.2 of the TBT agreement, which is vital in the protection of European exports against arbitrary and protectionist regulations in third countries.

Amendment 19

Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive
Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) One of the aims of the Directive is to

further reduce the consumption of tobacco products, especially among young and vulnerable consumers. In order to enhance the restructuring of farms and to help farmers to adjust to possible changes in consumption modes of tobacco products financial and technical support should be envisaged. In order to preserve jobs and encourage the industry to invest in the EU, financial and technical support for those, who are vulnerable should also be envisaged.

Or. en

Amendment 20

Yannick Jadot, Paul Murphy

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) Considering the Directive's focus on young people, tobacco products other than cigarettes, roll-your-own tobacco and smokeless tobacco which are mainly consumed by older consumers, should be granted an exemption from certain ingredients requirements as long as there is no substantial change of circumstances in terms of sales volumes or consumption patterns in relation to young people.

Amendment

deleted

Or. en

Justification

No loopholes should be created. It is impossible to predict which products are preferably consumed by younger and which ones by elder people. Consumption patterns can change very quickly.

Amendment 21
Albert Deß

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) Considering the Directive's focus on young people, tobacco products other than cigarettes, roll-your-own tobacco and smokeless tobacco which are mainly consumed by older consumers, should be granted an exemption from certain ingredients requirements as long as there is no substantial change of circumstances in terms of sales volumes or consumption patterns in relation to young people.

Amendment

(18) Considering the Directive's focus on young people, tobacco products other than cigarettes, roll-your-own tobacco and smokeless tobacco ***other than nasal tobacco*** which are mainly consumed by older consumers, should be granted an exemption from certain ingredients requirements as long as there is no substantial change of circumstances in terms of sales volumes or consumption patterns in relation to young people.

Or. de

Amendment 22
Maria do Céu Patrão Neves

Proposal for a directive
Recital 22

Text proposed by the Commission

(22) The labelling provisions also need to be adapted to new scientific evidence. For example the indication of the yields for tar, nicotine and carbon monoxide on cigarette packets have proven to be misleading as it makes consumers believe that certain cigarettes are less harmful than others. Evidence also suggests that large combined health warnings are more effective than text-only warnings. In this light combined health warnings should become mandatory throughout the Union and cover significant and visible parts of the packet surface. A minimum size should be set for all health warnings to ensure their visibility and effectiveness.

Amendment

(22) The labelling provisions also need to be adapted to new scientific evidence. For example the indication of the yields for tar, nicotine and carbon monoxide on cigarette packets have proven to be misleading as it makes consumers believe that certain cigarettes are less harmful than others. ***It is essential to carry out an independent study beforehand, in order to establish whether*** large combined health warnings are more effective than text-only warnings. In this light combined health warnings should become mandatory throughout the Union and cover significant and visible parts of the packet surface. A minimum size should be set for all health warnings to

ensure their visibility and effectiveness.

Or. pt

Amendment 23

Metin Kazak

Proposal for a directive

Recital 23

Text proposed by the Commission

Amendment

(23) In order to ensure the integrity and the visibility of health warnings and maximise their efficacy, provisions should be made regarding the dimension of the warnings as well as regarding certain aspects of the appearance of the tobacco package, including the opening mechanism. The package and the products may mislead consumers, in particular young people, suggesting that products are less harmful. For instance, this is the case with certain texts or features, such as ‘low-tar’, ‘light’, ‘ultra-light’, ‘mild’, ‘natural’, ‘organic’, ‘without additives’, ‘without flavours’, ‘slim’, names, pictures, and figurative or other signs. Likewise, the size and appearance of individual cigarettes can mislead consumers by creating the impression that they are less harmful. A recent study has also shown that smokers of slim cigarettes were more likely to believe that their own brand might be less harmful. This should be addressed.

deleted

Or. en

Justification

Will not improve the functioning of the internal market or achieve the public health objective. Also, there is no evidence that the pack or product designs are causal factors in the decision to smoke. Regarding a ban on slim cigarettes, this will be ineffective at reducing tobacco consumption, but will increase illicit trade as smokers of slim products will find them

available on the black market. This ban would also be contrary to the provisions of TBT and TRIPS agreements.

Amendment 24
Ewald Stadler

Proposal for a directive
Recital 23

Text proposed by the Commission

(23) In order to ensure the integrity and the visibility of health warnings and maximise their efficacy, provisions should be made regarding the dimension of the warnings as well as regarding certain aspects of the appearance of the tobacco package, including the opening mechanism. The package and the products **may mislead** consumers, in particular young people, **suggesting** that products are less harmful. For instance, this is the case with certain texts or features, such as ‘low-tar’, ‘light’, ‘ultra-light’, ‘mild’, ‘natural’, ‘organic’, ‘without additives’, ‘without flavours’, ‘slim’, names, pictures, and figurative or other signs. **Likewise, the size and appearance of individual cigarettes can mislead consumers by creating the impression that they are less harmful. A recent study has also shown that smokers of slim cigarettes were more likely to believe that their own brand might be less harmful. This should be addressed.**

Amendment

(23) In order to ensure the integrity and the visibility of health warnings and maximise their efficacy, provisions should be made regarding the dimension of the warnings as well as regarding certain aspects of the appearance of the tobacco package, including the opening mechanism. The package and the products **could, under certain circumstances, convey the impression to** consumers, in particular young people, that products are less harmful. For instance, this is the case with certain texts or features, such as ‘low-tar’, ‘light’, ‘ultra-light’, ‘mild’, ‘natural’, ‘organic’, ‘without additives’, ‘without flavours’, ‘slim’, names, pictures, and figurative or other signs.

Or. de

Justification

The image of consumers that underpins this recital is one-sided. A lack of information does not justify such restrictions on the freedom enjoyed by businesses in the field of product design.

Amendment 25

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Christofer Fjellner, Iuliu Winkler, Emma McClarkin, Metin Kazak

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) In order to ensure the integrity and the visibility of health warnings and maximise their efficacy, provisions should be made regarding the dimension of the warnings as well as regarding certain aspects of the appearance of the tobacco package, including the opening mechanism. The package and the products may mislead consumers, in particular young people, suggesting that products are less harmful. For instance, this is the case with certain texts or features, such as ‘low-tar’, ‘light’, ‘ultra-light’, ‘mild’, ‘natural’, ‘organic’, **‘without additives’, ‘without flavours’, ‘slim’, names, pictures, and figurative or other signs. Likewise, the size and appearance of individual cigarettes can mislead consumers by creating the impression that they are less harmful. A recent study has also shown that smokers of slim cigarettes were more likely to believe that their own brand might be less harmful. This should be addressed.**

Amendment

(23) In order to ensure the integrity and the visibility of health warnings and maximise their efficacy, provisions should be made regarding the dimension of the warnings as well as regarding certain aspects of the appearance of the tobacco package, including the opening mechanism. The package and the products may mislead consumers, in particular young people, suggesting that products are less harmful. For instance, this is the case with certain texts or features, such as ‘low-tar’, ‘light’, ‘ultra-light’, ‘mild’, ‘natural’ **or ‘organic’.** ***In case the package creates a misleading impression that the cigarettes are less harmful, health warnings must be adapted accordingly.***

Or. en

Justification

Misleading texts should be prohibited, but those which objectively reflect a reality about the product should be allowed in order to inform the consumer. An outright ban as proposed by the EC could be inconsistent with Article 2.2 TBT agreement as there should be other measures that are less restrictive to trade such as education campaigns oriented to young people.

Amendment 26

Maria do Céu Patrão Neves

Proposal for a directive
Recital 23

Text proposed by the Commission

(23) In order to ensure the integrity and the visibility of health warnings and maximise their efficacy, provisions should be made regarding the dimension of the warnings as well as regarding certain aspects of the appearance of the tobacco package, including the opening mechanism. The package and the products may mislead consumers, in particular young people, suggesting that products are less harmful. For instance, this is the case with certain texts or features, such as ‘low-tar’, ‘light’, ‘ultra-light’, ‘mild’, ‘natural’, ‘organic’, ‘without additives’, ‘without flavours’, ‘slim’, names, pictures, and figurative or other signs. ***Likewise, the size and appearance of individual cigarettes can mislead consumers by creating the impression that they are less harmful. A recent study has also shown that smokers of slim cigarettes were more likely to believe that their own brand might be less harmful. This should be addressed.***

Amendment

(23) In order to ensure the integrity and the visibility of health warnings and maximise their efficacy, provisions should be made regarding the dimension of the warnings as well as regarding certain aspects of the appearance of the tobacco package, including the opening mechanism. The package and the products may mislead consumers, in particular young people, suggesting that products are less harmful. For instance, this is the case with certain texts or features, such as ‘low-tar’, ‘light’, ‘ultra-light’, ‘mild’, ‘natural’, ‘organic’, ‘without additives’, ‘without flavours’, ‘slim’, names, pictures, and figurative or other signs. ***The Commission is urged to carry out a scientific study of the real influence of these products on tobacco consumption.***

Or. pt

Amendment 27
Peter Šťastný

Proposal for a directive
Recital 23

Text proposed by the Commission

(23) In order to ensure the integrity and the visibility of health warnings and maximise their efficacy, provisions should be made regarding the dimension of the warnings as well as regarding certain aspects of the appearance of the tobacco package,

Amendment

(23) In order to ensure the integrity and the visibility of health warnings and maximise their efficacy, provisions should be made regarding the dimension of the warnings as well as regarding certain aspects of the appearance of the tobacco package,

including the opening mechanism. The package and the products may mislead consumers, in particular young people, suggesting that products are less harmful. For instance, this is the case with certain texts or features, such as ‘low-tar’, ‘light’, ‘ultra-light’, ‘mild’, ‘natural’, ‘organic’, **‘without additives’, ‘without flavours’, ‘slim’, names, pictures, and figurative or other signs. Likewise, the size and appearance of individual cigarettes can mislead consumers by creating the impression that they are less harmful. A recent study has also shown that smokers of slim cigarettes were more likely to believe that their own brand might be less harmful. This should be addressed.**

including the opening mechanism. The package and the products may mislead consumers, in particular young people, suggesting that products are less harmful. ***In this case, consumer information provisions should be adapted to effectively address these issues.*** For instance, this is the case with certain texts or features, such as ‘low-tar’, ‘light’, ‘ultra-light’, ‘mild’, ‘natural’, **or** ‘organic’.

Or. en

Justification

The simple ban of descriptors is inconsistent with Article 2.2 of the TBT Agreement because it is more trade restrictive than necessary to achieve objectives. Elements that are misleading should not be permitted but products categories such as slim cigarettes should be properly addressed through specific health warnings instead of a ban that could turn some consumers towards the black market.

Amendment 28

Yannick Jadot, Paul Murphy

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 24

Text proposed by the Commission

(24) Tobacco products for smoking, other than cigarettes and roll-your-own tobacco products, which are mainly consumed by older consumers, should be **granted an exemption from certain labelling requirements as long as there is no substantial change of circumstances in terms of sales volumes or consumption**

Amendment

(24) Tobacco products for smoking, other than cigarettes and roll-your-own tobacco products, which are mainly consumed by older consumers, should be **subject to the same labelling as all** other tobacco products. The visibility of the health warnings on smokeless tobacco products needs to be ensured. Warnings should

patterns in relation to young people. The labelling of these other tobacco products should follow specific rules. The visibility of the health warnings on smokeless tobacco products needs to be ensured. Warnings should therefore be placed on the two main surfaces of smokeless tobacco product packaging.

therefore be placed on the two main surfaces of smokeless tobacco product packaging.

Or. en

Justification

No loopholes should be created. It is impossible to predict which products are preferably consumed by younger and which ones by elder people. Consumption patterns can change very quickly.

Amendment 29 **Henri Weber**

Proposal for a directive **Recital 26**

Text proposed by the Commission

(26) Considerable volumes of illicit products, which do not comply with the requirements laid down in Directive 2001/37/EC, are placed on the market and indications are that these volumes might increase. Such products undermine the free circulation of compliant products and the protection provided for by tobacco control legislations. In addition, the FCTC obliges the Union to fight against illicit products, as part of a comprehensive tobacco control policy. Provision should thus be made for unit packets of tobacco products to be marked in a unique and secure way and their movements to be recorded so that these products can be tracked and traced in the Union and their compliance with this Directive can be monitored and better enforced. In addition, provision should be made for the introduction of security

Amendment

(26) Considerable volumes of illicit products, which do not comply with the requirements laid down in Directive 2001/37/EC, are placed on the market and indications are that these volumes might increase. Such products undermine the free circulation of compliant products and the protection provided for by tobacco control legislations. In addition, the FCTC obliges the Union to fight against illicit products, as part of a comprehensive tobacco control policy. Provision should thus be made for unit packets ***and any outside packaging*** of tobacco products to be marked in a unique and secure way and their movements to be recorded so that these products can be tracked and traced in the Union ***and the illegal trafficking of tobacco and tobacco products can be combated, particularly along the external borders of the Union***

features that will facilitate the verification of whether or not products are authentic.

*but also from non-EU countries; and so that their compliance with this Directive can be monitored and better enforced. In addition, provision should be made for the introduction of security features **for individual authentication** that will facilitate the verification of whether or not products are authentic. **The EU and the Member States must take and must reinforce adequate steps to combat contraband and counterfeiting by improving checks of the product supply chain and imposing penalties on criminal networks.***

Or. fr

Amendment 30
Nora Berra

Proposal for a directive
Recital 26

Text proposed by the Commission

(26) Considerable volumes of illicit products, which do not comply with the requirements laid down in Directive 2001/37/EC, are placed on the market and indications are that these volumes might increase. Such products undermine the free circulation of compliant products and the protection provided for by tobacco control legislations. In addition, the FCTC obliges the Union to fight against illicit products, as part of a comprehensive tobacco control policy. Provision should thus be made for unit packets of tobacco products to be marked in a unique and secure way and their movements to be recorded so that these products can be tracked and traced in the Union and their compliance with this Directive can be monitored and better enforced. In addition, provision should be made for the introduction of security features that will facilitate the verification

Amendment

(26) Considerable volumes of illicit products, which do not comply with the requirements laid down in Directive 2001/37/EC, are placed on the market and indications are that these volumes might increase. Such products undermine the free circulation of compliant products and the protection provided for by tobacco control legislations. In addition, the FCTC obliges the Union to fight against illicit products, as part of a comprehensive tobacco control policy. Provision should thus be made for unit packets **and any outside packaging** of tobacco products to be marked in a unique and secure way and their movements to be recorded so that these products can be tracked and traced in the Union and their compliance with this Directive can be monitored and better enforced. In addition, provision should be made for the introduction of security features that will

of whether or not products are authentic.

facilitate the verification of whether or not products are authentic.

Or. fr

Amendment 31

Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive

Recital 29

Text proposed by the Commission

(29) Council Directive 89/622/EEC of 13 November 1989 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products and the prohibition of the marketing of certain types of tobacco for oral use³⁸ prohibited the sale in the Member States of certain types of tobacco for oral use. Directive 2001/37/EC confirmed this prohibition. Article 151 of the Act of Accession of Austria, Finland and Sweden grants the Kingdom of Sweden derogation from this prohibition³⁹. The prohibition of the sale of oral tobacco should be maintained in order to prevent the introduction to the internal market of a product that is addictive, has adverse health effects and is attractive to young people. For other smokeless tobacco products that are not produced for the mass market, a strict labelling and ingredients regulation is considered sufficient to contain market expansion beyond their traditional use.

Amendment

(29) Council Directive 89/622/EEC of 13 November 1989 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products and the prohibition of the marketing of certain types of tobacco for oral use³⁸ prohibited the sale in the Member States of certain types of tobacco for oral use. Directive 2001/37/EC confirmed this prohibition. Article 151 of the Act of Accession of Austria, Finland and Sweden grants the Kingdom of Sweden derogation from this prohibition³⁹. ***Upholds the ban on tobacco products for oral use, however, such a ban should not affect historically traditional smokeless tobacco products, which may be allowed by individual Member States.*** The prohibition of the sale of oral tobacco should be maintained in order to prevent the introduction to the internal market of a product that is addictive, has adverse health effects and is attractive to young people. For other smokeless tobacco products that are not produced for the mass market, a strict labelling and ingredients regulation is considered sufficient to contain market expansion beyond their traditional use.

Or. en

Amendment 32

Nora Berra

Proposal for a directive

Recital 30

Text proposed by the Commission

(30) Cross-border distance sales of tobacco facilitate access to tobacco products of young people and risk to undermine compliance with the requirements provided for by tobacco control legislation and in particular by this Directive. ***Common rules on a notification system are necessary to ensure that this Directive achieves its full potential. The provision on notification of cross-border distance sales of tobacco in this Directive should apply notwithstanding the notification procedure set out in Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services. Business to consumer distance sale of tobacco products is further regulated by Directive 97/7/EC of the European Parliament and the Council of 20 May 1997 on the protection of consumers in respect of distance contracts, which will be replaced by Directive 2011/83/EU of the European Parliament and the Council of 25 October 2011 on consumer rights, as of 13 June 2014.***

Amendment

(30) Cross-border distance sales of tobacco facilitate access to tobacco products of young people and risk to undermine compliance with the requirements provided for by tobacco control legislation and in particular by this Directive. ***Therefore, cross-border distance sales of tobacco should be prohibited.***

Or. fr

Amendment 33

Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive

Recital 30

Text proposed by the Commission

(30) Cross-border distance sales of tobacco

Amendment

(30) Cross-border distance sales of tobacco

facilitate access to tobacco products of young people and risk to undermine compliance with the requirements provided for by tobacco control legislation and in particular by this Directive. ***Common rules on a notification system are necessary to ensure that this Directive achieves its full potential. The provision on notification of cross-border distance sales of tobacco in this Directive should apply notwithstanding the notification procedure set out in Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services. Business to consumer distance sale of tobacco products is further regulated by Directive 97/7/EC of the European Parliament and the Council of 20 May 1997 on the protection of consumers in respect of distance contracts, which will be replaced by Directive 2011/83/EU of the European Parliament and the Council of 25 October 2011 on consumer rights, as of 13 June 2014.***

products as well as free promotional or discounted distribution of tobacco products facilitate access to tobacco products of young people and risk to undermine compliance with the requirements provided for by tobacco control legislation and in particular by this Directive. ***Therefore, cross-border distance sales of tobacco and free and/or discounted distribution of tobacco should be prohibited.***

Or. en

Amendment 34
Yannick Jadot, Paul Murphy
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 30

Text proposed by the Commission

(30) ***Cross-border distance*** sales of tobacco facilitate access to tobacco products of young people and risk to undermine compliance with the requirements provided for by tobacco control legislation and in particular by this Directive. ***Common rules on a notification system are necessary to ensure that this Directive achieves its full potential. The***

Amendment

(30) ***Internet*** sales of tobacco facilitate access to tobacco products of young people and risk to undermine compliance with the requirements provided for by tobacco control legislation and in particular by this Directive, ***and should therefore be prohibited, in line with the implementing Guidelines of the Framework Convention on Tobacco Control (FCTC), the EU is a***

provision on notification of cross-border distance sales of tobacco in this Directive should apply notwithstanding the notification procedure set out in Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services. Business to consumer distance sale of tobacco products is further regulated by Directive 97/7/EC of the European Parliament and the Council of 20 May 1997 on the protection of consumers in respect of distance contracts, which will be replaced by Directive 2011/83/EU of the European Parliament and the Council of 25 October 2011 on consumer rights, as of 13 June 2014.⁴¹

party to. Business to consumer distance sale of tobacco products is further regulated by Directive 97/7/EC of the European Parliament and the Council of 20 May 1997 on the protection of consumers in respect of distance contracts, which will be replaced by Directive 2011/83/EU of the European Parliament and the Council of 25 October 2011 on consumer rights, as of 13 June 2014.⁴¹

Or. en

Amendment 35
Henri Weber

Proposal for a directive
Recital 30 a (new)

Text proposed by the Commission

Amendment

(30a) The Commission and the Member States must increase their efforts to improve, under their agreements with non-EU countries, the checking, prevention and suppression of illegal employment in the tobacco sector.

Or. fr

Amendment 36
Henri Weber

Proposal for a directive
Recital 31

Text proposed by the Commission

(31) All tobacco products have the potential to cause mortality, morbidity and disability and their consumption should be contained. It is therefore important to monitor developments as regards **novel** tobacco products. A notification obligation for novel tobacco products should be put on manufacturers and importers, without prejudice to the power of the Member States to ban or to authorise them. The Commission should monitor the development and submit a report 5 years after the transposition deadline of this Directive, in order to assess whether amendments to this Directive are necessary.

Amendment

(31) All tobacco products have the potential to cause mortality, morbidity and disability and their **sale and** consumption should be contained, **in particular by means of education and prevention from taking up the habit of smoking**. It is therefore important to monitor developments as regards **new** tobacco products, **how they are produced and their sales channels**. A notification obligation for novel tobacco products should be put on manufacturers and importers, without prejudice to the power of the Member States to ban or to authorise them. The Commission should monitor the development and submit a report 5 years after the transposition deadline of this Directive, in order to assess whether amendments to this Directive are necessary.

Or. fr

Amendment 37
Ewald Stadler

Proposal for a directive
Recital 38

Text proposed by the Commission

(38) In order to make this Directive fully operational and to keep up with technical, scientific and international developments in tobacco manufacture, consumption and regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission, in particular in respect of adopting **and adapting maximum yields for** emissions **and their measurement methods**, setting maximum levels for ingredients that

Amendment

(38) In order to make this Directive fully operational and to keep up with technical, scientific and international developments in tobacco manufacture, consumption and regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission, in particular in respect of adopting **the methods of measuring** emissions, setting maximum levels for ingredients that increase toxicity **or** addictiveness, the use

increase toxicity, addictiveness *or attractiveness*, the use of health warnings, unique identifiers and security features in the labelling and packaging, defining key elements for contracts on data storage with independent third parties, reviewing certain exemptions granted to tobacco products other than cigarettes, roll-your-own tobacco and smokeless tobacco products and reviewing the nicotine levels for nicotine containing products. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

of health warnings, unique identifiers and security features in the labelling and packaging, defining key elements for contracts on data storage with independent third parties, reviewing certain exemptions granted to tobacco products other than cigarettes, roll-your-own tobacco and smokeless tobacco products and reviewing the nicotine levels for nicotine containing products. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

Or. de

Amendment 38
Henri Weber

Proposal for a directive
Recital 40

Text proposed by the Commission

(40) A Member State that deems it necessary to maintain more stringent national provisions for aspects falling inside the scope of this Directive should be allowed to do so, for *all* products alike, on grounds of overriding needs relating to the protection of public health. A Member State should also be allowed to introduce more stringent provisions, applying to *all* products alike, on grounds relating to the specific situation of this Member State and provided the provisions are justified by the need to protect public health. More stringent national provisions should be necessary and proportionate, not constitute

Amendment

(40) A Member State that deems it necessary to maintain more stringent national provisions for aspects falling inside the scope of this Directive should be allowed to do so, for *domestic and imported* products alike, on grounds of overriding needs relating to the protection of public health. A Member State should also be allowed to introduce more stringent provisions, applying to *domestic and imported* products alike, on grounds relating to the specific situation of this Member State and provided the provisions are justified by the need to protect public health *and comply with the exceptions*

a means of arbitrary discrimination or a disguised restriction on trade between Member States. Stricter national provisions require prior notification to, and approval from, the Commission taking into account the high level of health protection achieved through this Directive.

which apply to public health such as those set out, for example, in Article XX of the GATT, the preamble to the TBT Agreement and in bilateral trade and investment agreements. More stringent national provisions should be necessary and proportionate, not constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States. Stricter national provisions require prior notification to, and approval from, the Commission taking into account the high level of health protection achieved through this Directive.

Or. fr

Amendment 39
Ewald Stadler

Proposal for a directive
Recital 40

Text proposed by the Commission

(40) A Member State that deems it necessary to maintain more stringent national provisions for aspects falling inside the scope of this Directive should be allowed to do so, for all products alike, on grounds of overriding needs relating to the protection of public health. A Member State should also be allowed to introduce more stringent provisions, applying to all products alike, on grounds relating to the specific situation of this Member State and provided the provisions are justified by the need to protect public health. More stringent national provisions should be necessary and proportionate, not constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States. Stricter national provisions require prior notification to, and approval from, the Commission taking into account the high level of health protection achieved

Amendment

(40) A Member State that deems it necessary to maintain more stringent national provisions for aspects falling inside the scope of this Directive should be allowed to do so, for all products alike, on grounds of overriding needs relating to the protection of public health. A Member State should also be allowed to introduce more stringent provisions, applying to all products alike, on grounds relating to the specific situation of this Member State and provided the provisions are justified by the need to protect public health. More stringent national provisions should be necessary and proportionate, not constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States. Stricter national provisions require prior notification to, and approval from, the Commission taking into account the high level of health protection achieved

through this Directive.

through this Directive. ***One example of a means of arbitrary discrimination is the rule that the surface covered by warnings be raised to over 60 %. The aim of this Directive is to introduce uniform packaging and labelling requirements, so strict criteria must be applied regarding the leeway for Member States to adopt standards that diverge considerably from the rules laid down in this Directive.***

Or. de

Amendment 40

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Christofer Fjellner, Iuliu Winkler, Emma McClarkin, Metin Kazak

Proposal for a directive

Recital 40

Text proposed by the Commission

(40) A Member State that deems it necessary to maintain more stringent national provisions for aspects falling inside the scope of this Directive should be allowed to do so, for all products alike, on grounds of overriding needs relating to the protection of public health. A Member State should also be allowed to introduce more stringent provisions, applying to all products alike, on grounds relating to the specific situation of this Member State and provided the provisions are justified by the need to protect public health. More stringent national provisions should be necessary and proportionate, not constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States. Stricter national provisions require prior notification to, and approval from, the Commission taking into account the high level of health protection achieved through this Directive.

Amendment

(40) A Member State that deems it necessary to maintain more stringent national provisions for aspects falling inside the scope of this Directive should be allowed to do so, for all products alike, on grounds of overriding needs relating to the protection of public health. A Member State should also be allowed to introduce more stringent provisions, applying to all products alike, on grounds relating to the specific situation of this Member State and provided the provisions are justified by the need to protect public health. More stringent national provisions should be necessary and proportionate, not constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States ***and consistent with WTO international obligations***. Stricter national provisions require prior notification to, and approval from, the Commission taking into account the high level of health protection achieved through this Directive.

Justification

The EU should respect its international commitments agreed with its trade partners.

Amendment 41
Ewald Stadler

Proposal for a directive
Recital 40 a (new)

Text proposed by the Commission

Amendment

(40a) This Directive lays down very comprehensive uniform rules governing the manufacture, design and marketing of tobacco products and similar products. Many of its provisions encroach on fundamental rights. In the interests of legal certainty, Member States should not be allowed to adopt provisions which depart from any of the labelling and packaging requirements laid down in this Directive.

Or. de

Amendment 42
Maria do Céu Patrão Neves

Proposal for a directive
Recital 40 a (new)

Text proposed by the Commission

Amendment

(40a) A Member State that deems it necessary to maintain and/or introduce national and/or regional provisions geared to preserving traditional tobacco plantations, for justified reasons relating to the socio-economic dependence of local communities, should be allowed to do so.

Amendment 43
Henri Weber

Proposal for a directive
Recital 41

Text proposed by the Commission

(41) Member States should remain free to maintain or introduce national legislations applying to **all** products alike for aspects falling outside the scope of this Directive, provided they are compatible with the Treaty and do not jeopardise the full application of this Directive. Accordingly, Member States could, for instance, maintain or introduce provisions providing standardisation of packaging of tobacco products provided that those provisions are compatible with the Treaty, **with WTO obligations and do not affect the full application of** this Directive. A prior notification is required for technical regulations pursuant to Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and on rules on Information Society services.

Amendment

(41) Member States should remain free to maintain or introduce national legislations applying to **domestic and imported** products alike, for aspects falling outside the scope of this Directive, provided they are compatible with the Treaty and do not jeopardise the full application of this Directive. Accordingly, Member States could, for instance, maintain or introduce provisions providing standardisation of packaging of tobacco products **other than cigarettes and roll your own**, provided that those provisions **do not affect the full application of this Directive and** are compatible with the Treaty. **They must also be compatible with WTO obligations, in particular those set out in the Agreement on Technical Barriers to Trade (TBT), agreements on Trade-Related Intellectual Property Rights (TRIPS), and commitments undertaken in compliance with bilateral trade and investment agreements, which usually contain exceptions applying to public health. These provisions must form an instrument which will complement the fight against the counterfeiting of products concerned by** this Directive. A prior notification is required for technical regulations pursuant to Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and on rules on Information Society services.

Amendment 44**Yannick Jadot, Paul Murphy**

on behalf of the Verts/ALE Group

Proposal for a directive**Recital 41***Text proposed by the Commission*

(41) Member States should remain free to maintain or introduce national legislations applying to all products alike for aspects falling outside the scope of this Directive, provided they are compatible with the Treaty and do not jeopardise the full application of this Directive. Accordingly, Member States *could*, for instance, maintain or introduce provisions providing standardisation of packaging of tobacco products *provided that those provisions* are compatible with the Treaty, with WTO obligations and do not affect the full application of this Directive. A prior notification is required for technical regulations pursuant to Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and on rules on Information Society services⁴⁴.

Amendment

(41) Member States should remain free to maintain or introduce national legislations applying to all products alike for aspects falling outside the scope of this Directive, provided they are compatible with the Treaty and do not jeopardise the full application of this Directive. Accordingly, Member States *should*, for instance, maintain or introduce provisions providing standardisation of packaging of tobacco products *as provisions aiming at health protection* are compatible with the Treaty, with WTO obligations and do not affect the full application of this Directive. A prior notification is required for technical regulations pursuant to Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and on rules on Information Society services⁴⁴.

Amendment 45**María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Christofer Fjellner, Iuliu Winkler, Metin Kazak****Proposal for a directive****Recital 41**

Text proposed by the Commission

(41) Member States should remain free to maintain or introduce national legislations applying to all products alike for aspects falling outside the scope of this Directive, provided they are compatible with the Treaty ***and do not jeopardise the full application of this Directive. Accordingly, Member States could, for instance, maintain or introduce provisions providing standardisation of packaging of tobacco products provided that those provisions are compatible with the Treaty, with WTO obligations*** and do not ***affect*** the full application of this Directive. A prior notification is required for technical regulations pursuant to Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and on rules on Information Society services⁴⁴.

Amendment

(41) Member States should remain free to maintain or introduce national legislations applying to all products alike for aspects falling outside the scope of this Directive, provided they are compatible with the Treaty ***and with the WTO provisions***, and do not ***jeopardise*** the full application of this Directive. A prior notification is required for technical regulations pursuant to Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and on rules on Information Society services⁴⁴.

Or. en

Justification

There is no sound scientific evidence on the efficiency of a plain packaging measure. The existence of less restrictive measures to trade makes this option inconsistent with Article 2.2 of the TBT. Moreover, the limitation on the use of the trade marks without proving that this would achieve the public health objective is inconsistent with Article 20 of TRIPS. There are currently four panels before the WTO dispute settlement mechanism and so it is appropriate to await the decision of the WTO.

Amendment 46
Henri Weber

Proposal for a directive
Recital 41 a (new)

Text proposed by the Commission

Amendment

(41a) Accordingly, Member States shall supplement the legal provisions of this Directive with any measures to protect the health of European citizens. Member States which benefit substantially from taxes and duties on the production and sale of tobacco might, for example, be urged to use this revenue to finance prevention and information campaigns in the media and targeting young people and schools.

Or. fr

Amendment 47
Yannick Jadot, Paul Murphy
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 41 a (new)

Text proposed by the Commission

Amendment

(41a) The provisions mentioned in the Directive are justified and consistent with intellectual property rights as enshrined in TRIPS, as the TRIPS aim, which is to guarantee distinction between brands and protect against undue use of trademarks, is maintained.

Or. en

Amendment 48
Ewald Stadler

Proposal for a directive
Recital 41 a (new)

Text proposed by the Commission

Amendment

(41a) If tobacco products or similar products comply with the requirements of this Directive, Member States may not prohibit or unreasonably restrict the import, sale or consumption of these products. Manufacturers must continue to enjoy the safeguard of a minimum level of legal certainty.

Or. de

Amendment 49
Ewald Stadler

Proposal for a directive
Recital 42

Text proposed by the Commission

Amendment

(42) Member States should ensure that personal data are only processed in accordance with the rules and safeguards laid down in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

(42) Member States should ensure that personal data are only processed in accordance with the rules and safeguards laid down in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. ***National data protection provisions must also be taken into account.***

Or. de

Amendment 50
María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler, Metin Kazak

Proposal for a directive
Recital 43 a (new)

Text proposed by the Commission

Amendment

(43a) This Directive should not lead to deterioration in the living conditions of people whose livelihoods depend on tobacco growing in Europe and who often live in disadvantaged areas. Given that the aim of the Directive is solely to discourage consumption of tobacco products, any decisions concerning ingredients and additives should take due account of the possible socioeconomic repercussions for groups whose livelihoods depend on tobacco growing. The European tobacco growing sector should be protected because it accounts for only a very small proportion of consumption in the EU and, at the same time, contributes to the economic stability of certain European regions where the range of alternative crops is limited. A decrease in or an end to tobacco growing in the EU would have no impact on consumption levels, but would lead to an increase in imports from third countries and a reduction in quality standards.

Or. en

Justification

The growing sector is the weakest link in the manufacture chain of tobacco and therefore is necessary to protect them from unnecessary and excessive regulation.

Amendment 51

Ewald Stadler

Proposal for a directive

Recital 45

Text proposed by the Commission

Amendment

(45) The proposal affects several fundamental rights as laid down in the

(45) The proposal affects several fundamental rights as laid down in the

Charter of Fundamental Rights of the European Union, notably the protection of personal data (Article 8), the freedom of expression and information (Article 11), freedom of economic operators to conduct business (Article 16), and the right to property (Article 17). ***The obligations imposed on manufacturers, importers and distributors of tobacco products are necessary to improve the functioning of the internal market while ensuring a high level of health and consumer protection as set out in Articles 35 and 38 of the Charter of Fundamental Rights of the European Union. The application of this Directive should respect the EU law and relevant international obligations.***

Charter of Fundamental Rights of the European Union, notably the protection of personal data (Article 8), the freedom of expression and information (Article 11), freedom of economic operators to conduct business (Article 16), and the right to property (Article 17).

Or. de

Justification

The meddling in trademark rights which the Commission proposal engages in is in no way necessary to improve the functioning of the internal market. What is more, it is not the legislator who decides whether measures which curtail fundamental rights are lawful, but rather independent courts.

Amendment 52

Yannick Jadot, Paul Murphy

on behalf of the Verts/ALE Group

Proposal for a directive

Article 1 – paragraph 1 – point b

Text proposed by the Commission

(b) the labelling and packaging of tobacco products including ***the*** health ***warnings*** to appear on unit packets of tobacco products and any outside packaging as well as traceability and security features to ensure compliance with this Directive;

Amendment

(b) the labelling and packaging of tobacco products including ***warnings concerning*** health ***of producers and direct and indirect consumers*** to appear on unit packets of tobacco products and any outside packaging as well as traceability and security features to ensure compliance with this Directive;

Or. en

Amendment 53
Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive
Article 1 – paragraph 1 – point d

Text proposed by the Commission

(d) cross-border distance sales of tobacco products;

Amendment

(d) ***the prohibition of*** cross-border distance sales of tobacco products;

Or. en

Amendment 54
Nora Berra

Proposal for a directive
Article 1 – paragraph 1 – point d

Text proposed by the Commission

(d) cross-border distance sales of tobacco products;

Amendment

(d) ***the prohibition of*** cross-border distance sales of tobacco products;

Or. fr

Amendment 55
Yannick Jadot, Paul Murphy
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 1 – point d

Text proposed by the Commission

(d) ***cross-border distance*** sales of tobacco products;

Amendment

(d) ***the prohibitions of internet*** sales of tobacco products;

Or. en

Amendment 56
Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive
Article 1 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) the requirement to implement a system, outside the control of the tobacco industry, for the tracking and tracing of tobacco products, in order to secure the supply chain and assist in the detection, prevention and punishment of illicit trade;

Or. en

Amendment 57
Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive
Article 2 – paragraph 1 – point 2 a (new)

Text proposed by the Commission

Amendment

(2a) ‘essential additive’ means an ingredient which is indispensable for the manufacturing of a tobacco products;

Or. en

Amendment 58
Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive
Article 2 – paragraph 1 – point 3

Text proposed by the Commission

Amendment

(3) ‘age verification system’ means a computing system that unambiguously confirms the consumer’s age in electronic

deleted

form according to national requirements;

Or. en

Amendment 59

Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive

Article 2 – paragraph 1 – point 4

Text proposed by the Commission

(4) ‘characterising flavour’ means a distinguishable aroma or taste other than tobacco, resulting from an additive or combination of additives, including but not limited to fruit, spice, herb, alcohol, candy, ***menthol*** or vanilla observable before or upon intended use of the tobacco product;

Amendment

(4) ‘characterising flavour’ means a distinguishable aroma or taste other than tobacco, resulting from an additive or combination of additives, including but not limited to fruit, spice, herb, alcohol, candy or vanilla observable before or upon intended use of the tobacco product.
Menthol as a traditional tobacco product flavour is not considered to be a characterising flavour;

Or. en

Amendment 60

Emma McClarkin

Proposal for a directive

Article 2 – paragraph 1 – point 4

Text proposed by the Commission

(4) ‘characterising flavour’ means a distinguishable aroma or taste other than tobacco, resulting from an additive or combination of additives, including but not limited to fruit, spice, herb, alcohol, candy, menthol or vanilla observable before or upon intended use of the tobacco product;

Amendment

(4) ‘characterising flavour’ means a distinguishable aroma or taste other than tobacco ***and traditional flavours such as menthol***, resulting from an additive or combination of additives, including but not limited to fruit, spice, herb, alcohol, candy, menthol or vanilla observable before or upon intended use of the tobacco product;

Or. en

Justification

Traditional flavours such as menthol are consumed largely by the adult population and therefore should not be categorised with fashionable flavourings in order to prevent youths from taking up smoking. Less restrictive measures could be applied rather than banning menthol altogether, which would comply with Article 2.2 TBT.

Amendment 61 **Ewald Stadler**

Proposal for a directive **Article 2 – paragraph 1 – point 4**

Text proposed by the Commission

(4) ‘characterising flavour’ means a distinguishable aroma or taste other than tobacco, resulting from an additive or combination of additives, including but not limited to fruit, spice, herb, alcohol, candy, ***menthol*** or vanilla observable before or upon intended use of the tobacco product;

Amendment

(4) ‘characterising flavour’ means a distinguishable aroma or taste other than tobacco ***or menthol***, resulting from an additive or combination of additives, including but not limited to fruit, spice, herb, alcohol, candy or vanilla observable before or upon intended use of the tobacco product;

Or. de

Amendment 62

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler

Proposal for a directive **Article 2 – paragraph 1 – point 4**

Text proposed by the Commission

(4) ‘***characterising*** flavour’ means ***a*** distinguishable aroma or taste other than tobacco, resulting from an additive or combination of additives, ***including but not limited to fruit, spice, herb, alcohol, candy, menthol or vanilla observable before or*** upon intended use of the tobacco product;

Amendment

(4) ‘***non-tobacco dominant*** flavour’ means ***an overt*** distinguishable aroma or taste other than tobacco ***or menthol***, resulting from an additive or combination of additives ***evident*** upon intended use of the tobacco product;

Justification

The wording of the Commission text needs to be amended to ensure that any additives essential for differentiating between end products are not banned, provided that those additives are not the reason why the main flavour of the end product is different from that of tobacco. Traditional flavours such as menthol must not be put on the same level as fashionable flavours such as fruit, candy or vanilla.

Amendment 63**Maria do Céu Patrão Neves****Proposal for a directive****Article 2 – paragraph 1 – point 4***Text proposed by the Commission*

(4) ‘characterising flavour’ means a distinguishable aroma or taste other than tobacco, resulting from an additive or combination of additives, including but not limited to fruit, spice, herb, alcohol, candy, menthol or vanilla observable before or upon intended use of the tobacco product;

Amendment

(4) ‘characterising flavour’ means a distinguishable aroma or taste other than tobacco **or menthol**, resulting from an additive or combination of additives, including but not limited to fruit, spice, herb, alcohol, candy or vanilla observable before or upon intended use of the tobacco product;

Or. pt

Amendment 64**Metin Kazak****Proposal for a directive****Article 2 – paragraph 1 – point 4***Text proposed by the Commission*

(4) ‘characterising flavour’ means a **distinguishable aroma or** taste **other than tobacco**, resulting from **an additive** or combination of **additives, including but not limited to fruit, spice, herb, alcohol, candy, menthol or vanilla observable before or upon intended use of the**

Amendment

(4) ‘characterising flavour’ means a **distinctive sweet, fruity or confectionary-like** taste resulting from **a flavouring** or combination of **flavourings, observable before or upon intended use of the tobacco product. For the purpose of this definition, tobacco and menthol are not**

tobacco product,

*considered a sweet, fruity or
confectionary-like taste;*

Or. en

Justification

The EU is bound by WTO rules to prefer less restrictive alternatives to achieve its public health objective. An outright ban of traditional flavours would fail to contribute to the desired objective and would trigger illicit trade. Furthermore, since less trade restrictive alternative measures are available, the measure would be inconsistent with Article 2.2 of the TBT agreement. Care must also be taken against introducing measures which could be copied onto other products (e.g. food and alcohol products) by the EU's trading partners and which would undermine the EU's ability to defend EU exporters in WTO.

Amendment 65

Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive

Article 2 – paragraph 1 – point 6

Text proposed by the Commission

(6) ‘cigar’ means a roll of tobacco consumed via a combustion process and further defined in Article 4(1) of Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco⁴⁶ ;

Amendment

(6) ‘cigar’ *or* ‘cigarillo’ means a roll of tobacco consumed via a combustion process *including a small type of cigar with a diameter of up to 8 mm* and further defined in Article 4(1) of Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco⁴⁶ ;

Or. en

Amendment 66

Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive

Article 2 – paragraph 1 – point 8

Text proposed by the Commission

Amendment

(8) ‘cigarillo’ means a small type of cigar with a diameter of up to 8 mm; *deleted*

Or. en

Amendment 67

María do Céu Patrão Neves

Proposal for a directive

Article 2 – paragraph 1 – point 8

Text proposed by the Commission

Amendment

(8) ‘cigarillo’ means a small type of cigar with a diameter of up to 8 mm; *deleted*

Or. pt

Amendment 68

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler, Metin Kazak

Proposal for a directive

Article 2 – paragraph 1 – point 13

Text proposed by the Commission

Amendment

(13) ‘flavouring’ means an additive that imparts aroma and/or taste;

(13) ‘flavouring’ means an additive that imparts aroma and/or taste *except for menthol*

Or. en

Justification

Menthol is mainly consumed by adults of an advanced age and therefore its prohibition is not consistent with the main purpose of the Directive of preventing youth from taking up smoking. Banning menthol could be inconsistent with Article 2.2 TBT agreement as there should be fewer restrictive measures to trade rather than an outright prohibition.

Amendment 69
Bernd Lange

Proposal for a directive
Article 2 – paragraph 1 – point 18

Text proposed by the Commission

(18) ‘ingredient’ means *an* additive, *tobacco (leaves and other natural, processed or unprocessed parts of tobacco plants including expanded and reconstituted tobacco), as well as any substance* present in a finished tobacco product including paper, filter, inks, capsules and adhesives;

Amendment

(18) ‘ingredient’ means *any* additive present in a finished tobacco product including paper, filter, inks, capsules and adhesives;

Or. de

Amendment 70
Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive
Article 2 – paragraph 1 – point 18 a (new)

Text proposed by the Commission

(18a) ‘reconstituted tobacco’ is a product which results from the enhancement of different parts of the tobacco plant from threshing and the manufacture of tobacco products, whether used as a wrap for cigars and cigarillos either as sheets or individual strands as a component of the tobacco blend for cigarettes and other tobacco products.

Amendment

Or. en

Amendment 71
Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive
Article 2 – paragraph 1 – point 25

Text proposed by the Commission

(25) ‘place on the market’ means *to make* products *available to consumers located* in the Union, with or without payment, including by means of distance sale; *in case of cross-border distance sales the product is deemed to be placed on the market in the Member State where the consumer is located;*

Amendment

(25) ‘place on the market’ means *any supply of* products *for distribution, consumption or use* in the Union, with or without payment, including by means of distance sale;

Or. en

Amendment 72

Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive
Article 2 – paragraph 1 – point 30

Text proposed by the Commission

(30) ‘substantial change of circumstances’ means an increase of the sales volumes by product category, such as pipe tobacco, cigar, cigarillo, by at least **10%** in at least 10 Member States based on sales data transmitted in accordance with Article 5(4); or an increase of the prevalence level in the consumer group under 25 years of age by at least 5 percentage points in at least 10 Member States for the respective product category based on ____ [this date will be set at the moment of adoption of the Directive] Eurobarometer report or equivalent prevalence studies;

Amendment

(30) ‘substantial change of circumstances’ means an increase of the sales volumes by product category, such as pipe tobacco, cigar, cigarillo, by at least **20%** in at least 10 Member States based on sales data transmitted in accordance with Article 5(4); or an increase of the prevalence level in the consumer group under 25 years of age by at least 5 percentage points in at least 10 Member States for the respective product category based on ____ [this date will be set at the moment of adoption of the Directive] Eurobarometer report or equivalent prevalence studies;

Or. en

Amendment 73

Maria do Céu Patrão Neves

Proposal for a directive
Article 2 – paragraph 1 – point 30

Text proposed by the Commission

(30) ‘substantial change of circumstances’ means an increase of the sales volumes by product category, such as pipe tobacco, cigar, cigarillo, by at least **10** % in at least 10 Member States based on sales data transmitted in accordance with Article 5(4); or an increase of the prevalence level in the consumer group under 25 years of age by at least 5 percentage points in at least 10 Member States for the respective product category based on ____ [this date will be set at the moment of adoption of the Directive] Eurobarometer report or equivalent prevalence studies;

Amendment

(30) ‘substantial change of circumstances’ means an increase of the sales volumes by product category, such as pipe tobacco, cigar, cigarillo, by at least **20** % in the 10 Member States **with the highest volume of sales**, based on sales data transmitted in accordance with Article 5(4); or an increase of the prevalence level in the consumer group under 25 years of age by at least 5 percentage points in at least 10 Member States for the respective product category based on ____ [this date will be set at the moment of adoption of the Directive] Eurobarometer report or equivalent prevalence studies;

Or. pt

Amendment 74

Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive
Article 2 – paragraph 1 – point 36 a (new)

Text proposed by the Commission

Amendment

(36a) ‘unique identification markings’ means a security feature which is both material-based and digitally-based

Or. en

Amendment 75

María do Céu Patrão Neves

Proposal for a directive
Article 2 – paragraph 1 – point 36 a (new)

Text proposed by the Commission

Amendment

(36a) ‘reduced risk product’ means any product containing tobacco which, when marketed, significantly reduces the risk of illnesses associated with the consumption of conventional tobacco products. A product used to treat addiction to tobacco consumption, including cessation, is not a reduced risk product if it has been approved as a medicinal product.

Or. pt

Amendment 76

Bernd Lange

Proposal for a directive

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. The yield of cigarettes placed on the market ***or manufactured*** in the Member States shall not be greater than:

1. The yield of cigarettes placed on the market in the Member States shall not be greater than:

Or. de

Amendment 77

Bernd Lange

Proposal for a directive

Article 3 – paragraph 2

Text proposed by the Commission

Amendment

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to adapt the maximum yields laid down in paragraph 1, taking into account scientific development and internationally agreed standards.

deleted

Amendment 78
Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission

Amendment

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to adapt the maximum yields laid down in paragraph 1, taking into account scientific development and internationally agreed standards. *deleted*

Or. en

Justification

Article 3(1) establishes maximum yields for cigarettes placed on the market or manufactured in the Member States and thus directly impacts the scope of the proposed Directive. Therefore maximum yields are considered as essential elements of a legislative act and any amendment to those elements should be subject to the ordinary legislative procedure.

Amendment 79
Ewald Stadler

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission

Amendment

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to adapt the maximum yields laid down in paragraph 1, taking into account scientific development and internationally agreed standards. *deleted*

Or. de

Amendment 80

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler, Emma McClarkin, Metin Kazak

**Proposal for a directive
Article 3 – paragraph 2**

Text proposed by the Commission

Amendment

**2. The Commission shall be empowered to
adopt delegated acts in accordance with
Article 22 to adapt the maximum yields
laid down in paragraph 1, taking into
account scientific development and
internationally agreed standards.** *deleted*

Or. en

Justification

Changes in the maximum levels of additives or combination of both, should be considered as changes to the essential legislative act. Therefore any amendment with this as its purpose should follow the legislative ordinary procedure.

Amendment 81

Maria do Céu Patrão Neves

**Proposal for a directive
Article 3 – paragraph 2**

Text proposed by the Commission

Amendment

**2. The Commission shall be empowered to
adopt delegated acts in accordance with
Article 22 to adapt the maximum yields
laid down in paragraph 1, taking into
account scientific development and
internationally agreed standards.** *deleted*

Or. pt

Amendment 82

Ewald Stadler

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall notify the Commission of the maximum yields that they set for other emissions of cigarettes and for emissions of tobacco products other than cigarettes. Taking into account internationally agreed standards, where available, and based on scientific evidence and on the yields notified by Member States, the Commission shall be empowered to adopt delegated acts in accordance with Article 22 to adopt and adapt maximum yields for other emissions of cigarettes and for emissions of tobacco products other than cigarettes that increase in an appreciable manner the toxic or addictive effect of tobacco products beyond the threshold of toxicity and addictiveness stemming from the yields of tar, nicotine and carbon monoxide fixed in paragraph 1.

deleted

Or. de

Amendment 83

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler, Emma McClarkin, Metin Kazak

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall notify the Commission of the maximum yields that they set for other emissions of cigarettes and for emissions of tobacco products other than cigarettes. ***Taking into account internationally agreed standards, where available, and based on scientific evidence and on the yields notified by Member***

3. Member States shall notify the Commission of the maximum yields that they set for other emissions of cigarettes and for emissions of tobacco products other than cigarettes.

States, the Commission shall be empowered to adopt delegated acts in accordance with Article 22 to adopt and adapt maximum yields for other emissions of cigarettes and for emissions of tobacco products other than cigarettes that increase in an appreciable manner the toxic or addictive effect of tobacco products beyond the threshold of toxicity and addictiveness stemming from the yields of tar, nicotine and carbon monoxide fixed in paragraph 1.

Or. en

Justification

What the Commission proposes in this Article should be considered as changes to the essential legislative act. Therefore any amendment with this as its purpose should follow the legislative ordinary procedure.

Amendment 84

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler, Metin Kazak

**Proposal for a directive
Article 4 – paragraph 3**

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to adapt the methods of measurement of the tar, nicotine and carbon monoxide yields, taking into account scientific and technical developments and internationally agreed standards. *deleted*

Or. en

Justification

What the Commission proposes in this Article should be considered as changes to the

essential legislative act. Therefore any amendment with this as its purpose should follow the legislative ordinary procedure.

Amendment 85

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler, Metin Kazak

Proposal for a directive

Article 4 – paragraph 4

Text proposed by the Commission

4. Member States shall notify the Commission of the methods of measurement that they use for other emissions of cigarettes and for emissions of tobacco products other than cigarettes. ***Based on these methods, and taking into account scientific and technical developments as well as internationally agreed standards the Commission shall be empowered to adopt delegated acts in accordance with Article 22 to adopt and adapt methods of measurement.***

Amendment

4. Member States shall notify the Commission of the methods of measurement that they use for other emissions of cigarettes and for emissions of tobacco products other than cigarettes..

Or. en

Justification

What the Commission proposes in this Article should be considered as changes to the essential legislative act. Therefore any amendment with this as its purpose should follow the legislative ordinary procedure.

Amendment 86

Malgorzata Handzlik, Pawel Zalewski

Proposal for a directive

Article 6 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall prohibit the placing on the market of tobacco products with a

Amendment

Member States shall prohibit the placing on the market of tobacco products with a characterising flavour. ***Menthol as a***

characterising flavour.

traditional tobacco product flavour is not considered to be characterising flavour and therefore, the use of menthol shall be allowed.

Or. en

Amendment 87

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler

Proposal for a directive

Article 6 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall prohibit the placing on the market of tobacco products with *a characterising* flavour.

Amendment

Member States shall prohibit the placing on the market of tobacco products with *additives that create or release a* flavour *which is not predominantly that of tobacco or menthol, in accordance with the provisions of paragraph 2.*

Or. en

Justification

The wording of the Commission text needs to be amended to ensure that any additives essential for differentiating between end products are not banned, provided that those additives are not the reason why the main flavour of the end product is different from that of tobacco.

Amendment 88

Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive

Article 6 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Member States shall not prohibit the use of additives which are essential for the manufacture of tobacco products, *as long*

Amendment

Member States shall not prohibit the use of additives which are essential for the manufacture of tobacco products, *such as*

as the additives do not result in a product with a characterising flavour.

sugar.

Or. en

Amendment 89
Bernd Lange

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

Amendment

2. The Commission shall at the request of a Member State or may on its own initiative determine by means of implementing acts whether a tobacco product falls within the scope of paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21.

deleted

The Commission shall adopt by means of implementing acts uniform rules on the procedures for determining whether a tobacco product falls within the scope of paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21.

Or. de

Amendment 90
Malgorzata Handzlik, Pawel Zalewski

Proposal for a directive
Article 6 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

The Commission shall adopt *by means of implementing acts* uniform rules on the procedures for determining whether a

The Commission shall *be empowered to* adopt *delegated acts, in accordance with Article 22, to determine* uniform rules on

tobacco product falls within the scope of paragraph 1. *Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 21.*

the procedures for determining whether a tobacco product falls within the scope of paragraph 1.

Or. en

Amendment 91
Bernd Lange

Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

Amendment

3. In case the experience gained in the application of paragraphs 1 and 2 shows that a certain additive or a combination thereof typically impart a characterising flavour when it exceeds a certain level of presence or concentration the Commission shall be empowered to adopt delegated acts in accordance with Article 22 to set maximum levels for those additives or combination of additives that cause the characterising flavour.

deleted

Or. de

Amendment 92

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler

Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

Amendment

3. In case the experience gained in the application of paragraphs 1 and 2 shows that a certain additive or a combination thereof typically impart a characterising flavour when it exceeds a certain level of

deleted

presence or concentration the Commission shall be empowered to adopt delegated acts in accordance with Article 22 to set maximum levels for those additives or combination of additives that cause the characterising flavour.

Or. en

Justification

Maximum levels for additives or combination of additives are considered as essential elements of a legislative act and any amendment to those elements should be subject to the ordinary legislative procedure.

Amendment 93

Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive

Article 6 – paragraph 3

Text proposed by the Commission

3. In case the experience gained in the application of paragraphs 1 and 2 shows that a certain additive or a combination thereof typically impart a characterising flavour when it exceeds a certain level of presence or concentration the Commission shall be empowered to adopt delegated acts in accordance with Article 22 to set maximum levels for those additives or combination of additives that cause the characterising flavour.

Amendment

3. In case the experience gained in the application of paragraphs 1 and 2 shows that a certain additive, ***which is not essential for manufacture***, or a combination thereof typically impart a characterising flavour when it exceeds a certain level of presence or concentration the Commission shall be empowered to adopt delegated acts in accordance with Article 22 to set maximum levels for those additives or combination of additives that cause the characterising flavour.

Or. en

Amendment 94

Maria do Céu Patrão Neves

Proposal for a directive

Article 6 – paragraph 3

Text proposed by the Commission

3. In case the experience gained in the application of paragraphs 1 and 2 shows that a certain additive or a combination thereof typically impart a characterising flavour when it exceeds a certain level of presence or concentration the Commission shall ***be empowered to adopt delegated acts in accordance with Article 22*** to set maximum levels for those additives or combination of additives that cause the characterising flavour.

Amendment

3. In case the experience gained in the application of paragraphs 1 and 2 shows that a certain additive or a combination thereof typically impart a characterising flavour when it exceeds a certain level of presence or concentration the Commission shall ***submit proposals*** to set maximum levels for those additives or combination of additives that cause the characterising flavour ***on the basis of validated scientific studies***.

Or. pt

Amendment 95
Metin Kazak

Proposal for a directive
Article 6 – paragraph 5

Text proposed by the Commission

5. Member States shall prohibit the use of flavourings in the components of tobacco products such as filters, papers, packages, capsules or any technical features allowing modification of flavour or smoke intensity. Filters and capsules shall not contain tobacco.

Amendment

deleted

Or. en

Justification

Technical regulations such as this which are highly restrictive on trade are not permitted under WTO rules on the sole grounds of ‘harmonizing the internal market’ and no health justification or related evidence is presented by the Commission to justify this provision.

Amendment 96
Emma McClarkin

Proposal for a directive
Article 6 – paragraph 5

Text proposed by the Commission

5. Member States shall prohibit the use of **flavourings** in the components of tobacco products such as filters, papers, packages, capsules or any technical features allowing modification of flavour or smoke intensity. Filters and capsules shall not contain tobacco.

Amendment

5. Member States shall prohibit the use of **characterising flavours** in the components of tobacco products such as filters, papers, packages, capsules or any technical features allowing modification of flavour or smoke intensity. Filters and capsules shall not contain tobacco.

Or. en

Justification

This amendment takes into consideration the amendment to Article 2, point 4

Amendment 97
Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive
Article 6 – paragraph 5

Text proposed by the Commission

5. Member States shall prohibit the use of flavourings in the components of tobacco products such as filters, papers, packages, capsules or any technical features allowing modification of flavour or smoke intensity. Filters and capsules shall not contain tobacco.

Amendment

5. Member States shall prohibit the use of flavourings, **except menthol**, in the components of tobacco products such as filters, papers, packages, capsules or any technical features allowing modification of flavour or smoke intensity. Filters and capsules shall not contain tobacco.
Technical features aimed at reducing some harmful components of smoke or increasing the biodegradability of tobacco products are not affected.

Or. en

Amendment 98

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler, Metin Kazak

**Proposal for a directive
Article 6 – paragraph 9**

Text proposed by the Commission

Amendment

9. In case scientific evidence and the experience gained in the application of paragraphs 7 and 8 shows that a certain additive or a certain quantity thereof amplify in an appreciable manner at the stage of consumption the toxic or addictive effect of a tobacco product the Commission shall be empowered to adopt delegated acts in accordance with Article 22 to set maximum levels for those additives.

deleted

Or. en

Justification

The decision to limit or prohibit a particular product for their additives referred to in paragraphs 7 and 8 must be based on sound and measurable scientific evidences and discussed in the context of a future revision of the Directive. In addition, these aspects are considered as essential elements of a legislative act and any amendment to those elements should be subject to the ordinary legislative procedure.

Amendment 99

Bernd Lange

**Proposal for a directive
Article 6 – paragraph 10**

Text proposed by the Commission

Amendment

10. Tobacco products other than cigarettes, roll-your-own tobacco and smokeless tobacco products shall be exempted from the prohibitions laid down in paragraphs 1 and 5. *The Commission shall be empowered to adopt delegated acts in*

10. Tobacco products other than cigarettes, roll-your-own tobacco and smokeless tobacco products shall be exempted from the prohibitions laid down in paragraphs 1 and 5.

accordance with Article 22 to withdraw this exemption if there is a substantial change of circumstances as established in a Commission report.

Or. de

Amendment 100
Albert Deß

Proposal for a directive
Article 6 – paragraph 10

Text proposed by the Commission

10. Tobacco products other than cigarettes, roll-your-own tobacco and smokeless tobacco products shall be exempted from the prohibitions laid down in paragraphs 1 and 5. ***The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to withdraw this exemption if there is a substantial change of circumstances as established in a Commission report.***

Amendment

10. Tobacco products other than cigarettes, roll-your-own tobacco and smokeless tobacco products ***other than nasal tobacco*** shall be exempted from the prohibitions laid down in paragraphs 1 and 5.

Or. de

Justification

As nasal tobacco is used almost exclusively by older consumers, the ban cannot be justified on the grounds that it protects young people. From the point of view of general health protection, too, nasal tobacco should not be placed at a disadvantage vis-à-vis other tobacco products, such as cigars, pipe tobacco or cigarillos.

Amendment 101
Maria do Céu Patrão Neves

Proposal for a directive
Article 6 – paragraph 10

Text proposed by the Commission

10. Tobacco products other than cigarettes, roll-your-own tobacco and smokeless tobacco products shall be exempted from the prohibitions laid down in paragraphs 1 and 5. ***The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to withdraw this exemption if there is a substantial change of circumstances as established in a Commission report.***

Amendment

10. Tobacco products other than cigarettes, roll-your-own tobacco and smokeless tobacco products shall be exempted from the prohibitions laid down in paragraphs 1 and 5.

Or. pt

Amendment 102

Małgorzata Handzlik, Paweł Zalewski, Jarosław Leszek Wałęsa

**Proposal for a directive
Article 6 – paragraph 10**

Text proposed by the Commission

10. Tobacco products other than cigarettes, roll-your-own ***tobacco and smokeless*** tobacco products shall be exempted from the prohibitions laid down in paragraphs 1 and 5. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to withdraw this exemption if there is a substantial change of circumstances as established in a Commission report.

Amendment

10. Tobacco products other than cigarettes ***and*** roll-your-own tobacco products shall be exempted from the prohibitions laid down in paragraphs 1 and 5. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to withdraw this exemption if there is a substantial change of circumstances as established in a Commission report.

Or. en

Amendment 103

Yannick Jadot, Paul Murphy
on behalf of the Verts/ALE Group

**Proposal for a directive
Article 7 – paragraph 7 a (new)**

Text proposed by the Commission

Amendment

7a. Unit packages should also carry traceable information on the place of harvest of the tobacco used, with a view to identify whether it was produced on the basis of child labour.

Or. en

Amendment 104

Maria do Céu Patrão Neves

Proposal for a directive Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. For cigarette packets the general warning and the information message shall be printed on the lateral sides of the unit packets. These warnings shall have a width of not less than 20 mm and a height of not less than 43 mm. For roll-your-own tobacco the information message shall be printed on the surface that becomes visible when opening the unit packet. Both the general warning and the information message shall cover 50% of the surface on which they are printed.

3. For cigarette packets the general warning and the information message shall be printed on the lateral sides of the unit packets, **taking up most of the surface area in a highly visible manner**. For roll-your-own tobacco the information message shall be printed on the surface that becomes visible when opening the unit packet. Both the general warning and the information message shall cover 50% of the surface on which they are printed.

Or. pt

Amendment 105

Metin Kazak

Proposal for a directive Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. For cigarette packets the general warning and the information message shall

3. For cigarette packets the general warning and the information message shall

be printed on the lateral sides of the unit packets. ***These warnings shall have a width of not less than 20 mm and a height of not less than 43 mm.*** For roll-your-own tobacco the information message shall be printed on the surface that becomes visible when opening the unit packet. Both the general warning and the information message shall cover 50% of the surface on which they are printed.

be printed on the lateral sides of the unit packets. For roll-your-own tobacco the information message shall be printed on the surface that becomes visible when opening the unit packet. Both the general warning and the information message shall cover 50% of the surface on which they are printed.

Or. en

Justification

There is no evidence that a minimum size for packs (deriving from the minimum dimensions of health warnings) will achieve the public health objective. These restrictions are incompatible with the TBT and TRIPS agreements, will reduce consumer choice, damage competition, damage the businesses of service industries and deprive manufacturers of intellectual property rights.

Amendment 106 **Ewald Stadler**

Proposal for a directive **Article 8 – paragraph 4**

Text proposed by the Commission

Amendment

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to:

deleted

(a) to adapt the wording of the health warnings laid down in paragraphs 1 and 2 to scientific and market developments;

(b) to define the position, format, layout and design of the health warnings laid down in this Article, including their font type and background colour.

Or. de

Amendment 107

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler, Emma McClarkin, Metin Kazak

Proposal for a directive Article 8 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 22: *deleted*

(a) to adapt the wording of the health warnings laid down in paragraphs 1 and 2 to scientific and market developments;

(b) to define the position, format, layout and design of the health warnings laid down in this Article, including their font type and background colour.

Or. en

Justification

What the Commission proposes in this Article should be considered as changes to the essential legislative act. Therefore any amendment with this as its purpose should follow the legislative ordinary procedure.

Amendment 108

Henri Weber

Proposal for a directive Article 9 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Each unit packet and any outside packaging of tobacco for smoking shall carry combined health warnings. The **combined health** warnings shall:

1. Each unit packet and any outside packaging of tobacco for smoking shall carry combined health warnings **ensuring the right of consumers to have access to sufficient and reliable information**. The warnings shall:

Or. fr

Amendment 109
Peter Šťastný

Proposal for a directive
Article 9 – paragraph 1 – point c

Text proposed by the Commission

(c) cover **75 %** of the external area of **both** the front and back surface of the unit packet and any outside packaging;

Amendment

(c) cover **40 %** of the external area of the front and **50 % of the external area of the** back surface of the unit packet and any outside packaging;

Or. en

Justification

Health warnings are informative: the proposed percentages of 40%/50% are enough to inform about the dangers of tobacco products and are proportionate (in line with TRIPS agreement). Where possible, less trade-restrictive measures should be considered, in full consistency with WTO rules.

Amendment 110
Metin Kazak

Proposal for a directive
Article 9 – paragraph 1 – point c

Text proposed by the Commission

(c) cover **75 %** of the external area of both the front and back surface of the unit packet and any outside packaging;

Amendment

(c) cover **50 %** of the external area of both the front and back surface of the unit packet and any outside packaging;

Or. en

Justification

Combined health warnings covering 50% of both the front and the back surface are proportionate and in line with international obligations resulting from the TRIPS agreements and the FCTC.

Amendment 111

**María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García,
Emma McClarkin**

Proposal for a directive

Article 9 – paragraph 1 – point c

Text proposed by the Commission

(c) cover **75** % of the external area of both the front and back surface of the unit packet and any outside packaging;

Amendment

(c) cover **50** % of the external area of both the front and back surface of the unit packet and any outside packaging;

Or. en

Justification

There is no scientific evidence ensuring that the coverage of 75% could achieve the goal of pursued by the Commission of preventing young people from taking up smoking. Moreover, it would affect the right of tobacco manufacturers to use their brand, violating the obligations provided under the TRIPS agreement.

Amendment 112

Maria do Céu Patrão Neves

Proposal for a directive

Article 9 – paragraph 1 – point c

Text proposed by the Commission

(c) cover **75** % of the external area of both the front and back surface of the unit packet and any outside packaging;

Amendment

(c) cover **50** % of the external area of both the front and back surface of the unit packet and any outside packaging;

Or. pt

Amendment 113

Ewald Stadler

Proposal for a directive

Article 9 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) cover **75 %** of the external area of **both** the front and back surface of the unit packet and any outside packaging;

(c) cover **a maximum of 43 %** of the external area of the front and **62 % of the external area of the back** surface of the unit packet and any outside packaging;

Or. de

Justification

The most stringent current rules are those in force in Belgium (43 % of the front surface and 62 % of the back surface). Specifying that an even larger area should be set aside for health warnings would certainly infringe trademark rights. In a Eurobarometer study 82 % of those questioned stated that health warnings had no bearing on their decision to smoke.

Amendment 114

Yannick Jadot, Paul Murphy

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) cover 75 % of the external area of both the front and back surface of the unit packet and any outside packaging;

(c) cover 75 % of the external area of both the front and back surface of the unit packet and any outside packaging; **Member States are, however, encouraged to proceed with plain packaging;**

Or. en

Amendment 115

Peter Šťastný

Proposal for a directive

Article 9 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) be positioned at the **top** edge of the unit packet and any outside packaging, and in

(e) be positioned at the **bottom** edge of the unit packet and any outside packaging, and

the same direction as any other information appearing on the packaging;

in the same direction as any other information appearing on the packaging;

Or. en

Justification

Health warnings are equally informative at the top or at the bottom of the pack; the placement at the bottom does not interfere with the opening method and therefore can be considered as less trade restrictive (Article 2.2 of the TBT agreement).

Amendment 116

Maria do Céu Patrão Neves

Proposal for a directive

Article 9 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) be positioned **at** the top **edge** of the unit packet and any outside packaging, and in the same direction as any other information appearing on the packaging;

(e) be positioned **in** the top **half** of the unit packet and any outside packaging, and in the same direction as any other information appearing on the packaging;

Or. pt

Amendment 117

Maria do Céu Patrão Neves

Proposal for a directive

Article 9 – paragraph 1 – point g

Text proposed by the Commission

Amendment

(g) for unit packets of cigarettes, respect the following dimensions:

deleted

(i) height: not less than 64 mm;

(ii) width: not less than 55 mm.

Or. pt

Amendment 118
Metin Kazak

Proposal for a directive
Article 9 – paragraph 1 – point g

Text proposed by the Commission

Amendment

(g) for unit packets of cigarettes, respect the following dimensions: **deleted**

(i) height: not less than 64 mm;

(ii) width: not less than 55 mm.

Or. en

Justification

There is no evidence that a minimum size for packs (deriving from the minimum dimensions of health warnings) will achieve the public health objective or discourage children to start smoking. These restrictions on the pack size are incompatible with the TBT and TRIPS agreements, will reduce consumer choice, damage competition, damage the business of service industries and deprive manufacturers of intellectual property rights.

Amendment 119
Peter Šťastný

Proposal for a directive
Article 9 – paragraph 1 – point g – point i

Text proposed by the Commission

Amendment

(i) height: not less than 64 mm; **deleted**

Or. en

Justification

Consistency with previous amendments on the size of health warnings.

Amendment 120
María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García

Proposal for a directive
Article 9 – paragraph 1 – point g – point i

Text proposed by the Commission

Amendment

(i) height: not less than **64** mm;

(i) height: not less than **46** mm;

Or. en

Justification

There is no scientific evidence proving will have the desired effect of preventing young people from taking up smoking. The dimensions proposed by the Commission would imply the standardisation of the package which will damage free competition.

Amendment 121
Peter Šťastný

Proposal for a directive
Article 9 – paragraph 1 – point g – point ii

Text proposed by the Commission

Amendment

(ii) *width: not less than 55 mm.*

deleted

Or. en

Justification

Consistency with previous amendments on the size of health warnings.

Amendment 122
Ewald Stadler

Proposal for a directive
Article 9 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to:

deleted

(a) adapt the text warnings listed in Annex I to this Directive taking into account scientific and technical developments;

(b) establish and adapt the picture library referred to in point (a) of paragraph 1 of this Article taking into account scientific and market developments;

(c) define the position, format, layout, design, rotation and proportions of the health warnings;

(d) by way of derogation from Article 7(3), lay down the conditions under which health warnings may be broken during unit packet opening in a manner that ensures the graphical integrity and visibility of the text, photographs and cessation information.

Or. de

Amendment 123

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler, Emma McClarkin, Metin Kazak

Proposal for a directive Article 9 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to: *deleted*

(a) adapt the text warnings listed in Annex I to this Directive taking into account scientific and technical developments;

(b) establish and adapt the picture library referred to in point (a) of paragraph 1 of this Article taking into account scientific and market developments;

(c) define the position, format, layout, design, rotation and proportions of the

health warnings;

(d) by way of derogation from Article 7(3), lay down the conditions under which health warnings may be broken during unit packet opening in a manner that ensures the graphical integrity and visibility of the text, photographs and cessation information.

Or. en

Justification

What the Commission proposes in this Article should be considered as changes to the essential legislative act. Therefore any amendment with this as its purpose should follow the legislative ordinary procedure.

Amendment 124

María do Céu Patrão Neves

Proposal for a directive

Article 9 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to: *deleted*

(a) adapt the text warnings listed in Annex I to this Directive taking into account scientific and technical developments;

(b) establish and adapt the picture library referred to in point (a) of paragraph 1 of this Article taking into account scientific and market developments;

(c) define the position, format, layout, design, rotation and proportions of the health warnings;

(d) by way of derogation from Article 7(3), lay down the conditions under which health warnings may be broken during unit packet opening in a manner that

ensures the graphical integrity and visibility of the text, photographs and cessation information.

Or. pt

Amendment 125
Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive
Article 9 – paragraph 3 – point d

Text proposed by the Commission

Amendment

*(d) by way of derogation from Article 7(3),
lay down the conditions under which
health warnings may be broken during
unit packet opening in a manner that
ensures the graphical integrity and
visibility of the text, photographs and
cessation information.* *deleted*

Or. en

Amendment 126
Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive
Article 10 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The general warning shall be printed on the most visible surface of the unit packet and any outside packaging. The text warnings listed in Annex I shall be rotated in such a way as to guarantee their regular appearance. These warnings shall **be printed** on the other most visible surface of the unit packet and any outside packaging.

The general warning shall be printed **or affixed by means of non-removable stickers** on the most visible surface of the unit packet and any outside packaging. The text warnings listed in Annex I shall be rotated in such a way as to guarantee their regular appearance. These warnings shall **appear** on the other most visible surface of the unit packet and any outside packaging.

Or. en

Justification

The use of non-removable stickers on cigars should remain, as producers use internationally standardised packs which are customised through country specific, non-removable health warning stickers in the last stage of the production process. Banning non-removable stickers would hamper international trade.

Amendment 127

Bernd Lange

Proposal for a directive

Article 10 – paragraph 4 – point a

Text proposed by the Commission

(a) printed in black **Helvetica** bold type on a white background. In order to accommodate language requirements, Member States may determine the point size of the font, provided that the font size specified in their legislation is such as to occupy the greatest possible proportion of the area set aside for the text required;

Amendment

(a) printed in black bold type on a white background. ***The warnings may also be printed on stickers, provided that these remain firmly affixed to the packaging.*** In order to accommodate language requirements, Member States may determine the point size of the font, provided that the font size specified in their legislation is such as to occupy the greatest possible proportion of the area set aside for the text required;

Or. de

Justification

Many products other than cigarettes and roll-your-own tobacco are imported from producers, particularly small producers from third countries. In this case a specific indication of the country and address of the producer must be given by means of a sticker affixed to the packaging.

Amendment 128

Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive

Article 10 – paragraph 4 – point a

Text proposed by the Commission

(a) **printed** in black Helvetica bold type on a white background. In order to accommodate language requirements, Member States may determine the point size of the font, provided that the font size specified in their legislation is such as to occupy the greatest possible proportion of the area set aside for the text required;

Amendment

(a) **appear** in black Helvetica bold type on a white background. ***The warnings may be affixed by means of stickers, provided that such stickers are irremovable.*** In order to accommodate language requirements, Member States may determine the point size of the font, provided that the font size specified in their legislation is such as to occupy the greatest possible proportion of the area set aside for the text required;

Or. en

Amendment 129

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García

Proposal for a directive

Article 10 – paragraph 4 – point a

Text proposed by the Commission

(a) printed in black Helvetica bold type on a white background. In order to accommodate language requirements, Member States may determine the point size of the font, provided that the font size specified in their legislation is such as to occupy the greatest possible proportion of the area set aside for the text required;

Amendment

(a) printed in black Helvetica bold type on a white background. ***The general warning could be shown using self-adhesive paper provided that they cannot be removed.*** In order to accommodate language requirements, Member States may determine the point size of the font, provided that the font size specified in their legislation is such as to occupy the greatest possible proportion of the area set aside for the text required;

Or. en

Justification

Tobacco products other than cigarettes and rolling tobacco are subject to the provisions contained in Directive 2001/37/EC. This section was part of such regulation. According to Recital (18) of Directive 2001/37/EC the use of self-adhesive irremovable labels should be introduced in order to facilitate the introduction of the labelling requirements of the Directive.

Amendment 130
Maria do Céu Patrão Neves

Proposal for a directive
Article 10 – paragraph 4 – point a

Text proposed by the Commission

(a) printed in black Helvetica bold type on a white background. In order to accommodate language requirements, Member States may determine the point size of the font, provided that the font size specified in their legislation is such as to occupy the greatest possible proportion of the area set aside for the text required;

Amendment

(a) printed in black Helvetica bold type on a white background. ***The warnings may be attached in adhesive form, provided that they cannot be removed.*** In order to accommodate language requirements, Member States may determine the point size of the font, provided that the font size specified in their legislation is such as to occupy the greatest possible proportion of the area set aside for the text required;

Or. pt

Amendment 131
Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive
Article 10 – paragraph 4 – point b

Text proposed by the Commission

(b) centred in the area in which they are required to ***be printed***, parallel to the top edge of the unit packet and any outside packaging;

Amendment

(b) centred in the area in which they are required to ***appear***, parallel to the top edge of the unit packet and any outside packaging;

Or. en

Amendment 132
Bernd Lange

Proposal for a directive
Article 10 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 22, to withdraw the exemption laid down in paragraph 1 if there is a substantial change of circumstances as established in a Commission report. *deleted*

Or. de

Amendment 133

Małgorzata Handzlik, Paweł Zalewski

**Proposal for a directive
Article 10 – paragraph 5**

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 22, to withdraw the exemption laid down in paragraph 1 if there is a substantial change of circumstances as established in a Commission report. *deleted*

Or. en

Justification

Establishing new obligations with regard to the relevant tobacco products impacts the scope of Articles 8-10; therefore it should remain at the discretion of the co-legislators and should be subject to the ordinary legislative procedure.

Amendment 134

Ewald Stadler

**Proposal for a directive
Article 10 – paragraph 5**

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 22, to withdraw the exemption laid down in paragraph 1 if there is a substantial change of circumstances as established in a Commission report. *deleted*

Or. de

Amendment 135

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler, Emma McClarkin

**Proposal for a directive
Article 10 – paragraph 5**

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 22, to withdraw the exemption laid down in paragraph 1 if there is a substantial change of circumstances as established in a Commission report. *deleted*

Or. en

Justification

What the Commission proposes in this Article should be considered as changes to the essential legislative act. Therefore any amendment with this as its purpose should follow the legislative ordinary procedure.

Amendment 136

Maria do Céu Patrão Neves

**Proposal for a directive
Article 10 – paragraph 5**

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 22, to withdraw the exemption laid down in paragraph 1 if there is a substantial change of circumstances as established in a Commission report.

deleted

Or. pt

Amendment 137

Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

**Proposal for a directive
Article 11 – paragraph 1**

Text proposed by the Commission

Amendment

This tobacco product *can damage* your health and is addictive

This tobacco product *is harmful to* your health and is addictive

Or. en

Amendment 138

Ewald Stadler

**Proposal for a directive
Article 11 – paragraph 2 – point b**

Text proposed by the Commission

Amendment

(b) cover **30 %** of the external area of the corresponding surface of the unit packet and any outside packaging. That proportion shall be increased to **32 %** for Member States with two official languages and **35 %** for Member States with three official languages.

(b) cover **15 %** of the external area of the corresponding surface of the unit packet and any outside packaging. That proportion shall be increased to **18 %** for Member States with two official languages and **20 %** for Member States with three official languages.

Or. de

Justification

In a Eurobarometer survey, 82 % of respondents stated that health warnings had no bearing on their decision to consume tobacco products.

Amendment 139

Ewald Stadler

**Proposal for a directive
Article 11 – paragraph 3**

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to adapt the requirements in paragraphs 1 and 2 taking into account scientific and market developments. *deleted*

Or. de

Amendment 140

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler, Metin Kazak

**Proposal for a directive
Article 11 – paragraph 3**

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to adapt the requirements in paragraphs 1 and 2 taking into account scientific and market developments. *deleted*

Or. en

Justification

What the Commission proposes in this Article should be considered as changes to the essential legislative act. Therefore any amendment with this as its purpose should follow the legislative ordinary procedure.

Amendment 141
Metin Kazak

Proposal for a directive
Article 12 – paragraph 1

Text proposed by the Commission

Amendment

1. The labelling of a unit packet and any outside packaging and the tobacco product itself shall not include any element or feature that: *deleted*

(a) promotes a tobacco product by means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions;

(b) suggests that a particular tobacco product is less harmful than others or has vitalising, energetic, healing, rejuvenating, natural, organic or otherwise positive health or social effects;

(c) refers to flavour, taste, any flavourings or other additives or the absence thereof;

(d) resembles a food product.

Or. en

Justification

Consumers should not be deprived of information about the product but this information must not be misleading. The lack of science and the existence of less trade-restrictive alternative measures (such as banning only false or misleading descriptors) makes this measure inconsistent with Article 2.2 of the TBT Agreement.

Amendment 142
Ewald Stadler

Proposal for a directive
Article 12 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) suggests that a particular tobacco product is less harmful than others, except in cases in which it can be scientifically demonstrated that the harmful effect is significantly less than that of tobacco products already available for purchase;

Or. de

Justification

When tobacco products are consumed, the combustion process generates various hazardous substances. At the present juncture it would be foolish to thwart the development of tobacco products which emit less hazardous substances, a move which would, moreover, deprive manufacturers of any incentive to conduct further research into the impact of tobacco consumption in an effort to develop novel products.

Amendment 143

Ewald Stadler

Proposal for a directive

Article 12 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) suggests that a particular tobacco product ***is less harmful than others or has vitalising, energetic***, healing, rejuvenating, ***natural, organic*** or otherwise positive health or social effects;

(b) suggests that a particular tobacco product has healing, rejuvenating or otherwise positive health effects;

Or. de

Justification

Different tobacco products have different effects. In choosing among tobacco products, adult consumers concern themselves less with the product description than with their actual subjective experience of consuming the products. The categories ‘energetic’/‘energising’ and ‘vitalising’ are subjective in nature, while the categories ‘organic’ and ‘natural’ can be accepted on the grounds that the consumption of tobacco products unquestionably results in biochemical reactions.

Amendment 144

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Christofer Fjellner, Iuliu Winkler

Proposal for a directive

Article 12 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) refers to flavour, taste, any flavourings or other additives or the absence thereof; ***deleted***

Or. en

Justification

Consumers should not be deprived of information about the product but this information must not be misleading. Less trade-restrictive alternative measures (such as banning only misleading descriptors) make this measure inconsistent with Article 2.2 of the TBT Agreement.

Amendment 145

Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive

Article 12 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) refers to technical features aiming to reduce some harmful components of smoke or increase the biodegradability of tobacco products.

Or. en

Amendment 146

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler

Proposal for a directive

Article 12 – paragraph 2

Text proposed by the Commission

Amendment

2. Prohibited elements and features may include but are not limited to texts, symbols, names, trade marks, figurative or other signs, misleading colours, inserts or other additional material such as adhesive labels, stickers, onserts, scratch-offs and sleeves or relate to the shape of the tobacco product itself. Cigarettes with a diameter of less than 7.5 mm shall be deemed to be misleading. *deleted*

Or. en

Justification

This provision allows Member States restrictions of trade mark use and put the EU in breach of TRIPS and other WTO obligations. Also, the lack of any scientific evidence to ban slims cannot prove that consumers are being misled.

Amendment 147

Peter Šťastný

**Proposal for a directive
Article 12 – paragraph 2**

Text proposed by the Commission

Amendment

2. Prohibited elements and features may include but are not limited to texts, symbols, names, trade marks, figurative or other signs, misleading colours, inserts or other additional material such as adhesive labels, stickers, onserts, scratch-offs and sleeves or relate to the shape of the tobacco product itself. Cigarettes with a diameter of less than 7.5 mm shall be deemed to be misleading. *deleted*

Or. en

Justification

If slims cigarettes are a concern, it should be properly addressed through specific health warnings instead of a ban that could turn some consumers towards the black market. The paragraph that refers to prohibited elements and features is already addressed in Article 12.1. Where possible, less trade-restrictive measures should be considered in full consistency with WTO rules, especially with Article 2.2 of the TBT agreement.

Amendment 148 **Metin Kazak**

Proposal for a directive **Article 12 – paragraph 2**

Text proposed by the Commission

2. Prohibited elements and features may include but are not limited to texts, symbols, names, trade marks, figurative or other signs, ***misleading colours***, inserts or other additional material such as adhesive labels, stickers, onserts, scratch-offs and sleeves ***or relate to the shape of the tobacco product itself. Cigarettes with a diameter of less than 7.5 mm shall be deemed to be misleading.***

Amendment

2. Prohibited elements and features may include but are not limited to texts, symbols, names, trade marks, figurative or other signs, , inserts or other additional material such as adhesive labels, stickers, onserts, scratch-offs and sleeves

Or. en

Justification

There is no definition of ‘misleading colours’ and there is no credible justification for colours deemed to be misleading. This provision would mean extensive restrictions of trade mark use and put the EU in breach of TRIPS and other WTO obligations. The ban on slims is an entirely disproportionate response to concerns, which lack any scientific basis that consumers are being misled as to the relative risk associated with different products.

Amendment 149 **Bernd Lange**

Proposal for a directive **Article 12 – paragraph 2**

Text proposed by the Commission

2. Prohibited elements and features **may include but are not limited to texts, symbols, names, trade marks, figurative or other signs, misleading colours, inserts or other additional material such as adhesive labels, stickers, onserts, scratch-offs and sleeves or relate to the shape of the tobacco product itself. Cigarettes with a diameter of less than 7.5 mm shall be deemed to be misleading.**

Amendment

2. Prohibited elements and features **are** symbols, names, trade marks, figurative or other signs, misleading colours, inserts or other additional material **which conveys the impression that a particular tobacco product is less harmful than others.**

Or. de

Justification

Competitive advantages enjoyed by European manufacturers in the area of packaging design must not be called into question if they are not misleading.

Amendment 150

Malgorzata Handzlik, Pawel Zalewski

Proposal for a directive Article 12 – paragraph 2

Text proposed by the Commission

2. Prohibited elements and features may include but are not limited to texts, symbols, names, trade marks, figurative or other signs, misleading colours, inserts or other additional material such as adhesive labels, stickers, onserts, scratch-offs and sleeves or relate to the shape of the tobacco product itself. ***Cigarettes with a diameter of less than 7.5 mm shall be deemed to be misleading.***

Amendment

2. Prohibited elements and features may include but are not limited to texts, symbols, names, trade marks, figurative or other signs, misleading colours, inserts or other additional material such as adhesive labels, stickers, onserts, scratch-offs and sleeves or relate to the shape of the tobacco product itself.

Or. en

Amendment 151
Emma McClarkin

Proposal for a directive
Article 12 – paragraph 2

Text proposed by the Commission

2. Prohibited elements and features may include but are not limited to texts, symbols, names, trade marks, figurative or other signs, misleading colours, inserts or other additional material such as adhesive labels, stickers, onserts, scratch-offs and sleeves or relate to the shape of the tobacco product itself. ***Cigarettes with a diameter of less than 7.5 mm shall be deemed to be misleading.***

Amendment

2. Prohibited elements and features may include but are not limited to texts, symbols, names, trade marks, figurative or other signs, misleading colours, inserts or other additional material such as adhesive labels, stickers, onserts, scratch-offs and sleeves or relate to the shape of the tobacco product itself.

Or. en

Justification

A ban on slim cigarettes would be a disproportionate response to concerns. Alternative measures could be employed, such as supplying consumers with correct information, which would be less trade-restrictive.

Amendment 152
Ewald Stadler

Proposal for a directive
Article 12 – paragraph 2

Text proposed by the Commission

2. Prohibited elements and features may include but are not limited to texts, symbols, names, trade marks, figurative or other signs, misleading colours, inserts or other additional material such as adhesive labels, stickers, onserts, scratch-offs and sleeves or relate to the shape of the tobacco product itself. ***Cigarettes with a diameter of less than 7.5 mm shall be deemed to be misleading.***

Amendment

2. Prohibited elements and features may include but are not limited to texts, symbols, names, trade marks, figurative or other signs, misleading colours, inserts or other additional material such as adhesive labels, stickers, onserts, scratch-offs and sleeves or relate to the shape of the tobacco product itself.

Justification

An assumption of this kind would be based on a non-existent study, and should therefore be rejected.

Amendment 153
Maria do Céu Patrão Neves

Proposal for a directive
Article 12 – paragraph 2

Text proposed by the Commission

2. Prohibited elements and features may include but are not limited to texts, symbols, names, trade marks, figurative or other signs, misleading colours, inserts or other additional material such as adhesive labels, stickers, inserts, scratch-offs and sleeves or relate to the shape of the tobacco product itself. ***Cigarettes with a diameter of less than 7.5 mm shall be deemed to be misleading.***

Amendment

2. Prohibited elements and features may include but are not limited to texts, symbols, names, trade marks, figurative or other signs, misleading colours, inserts or other additional material such as adhesive labels, stickers, inserts, scratch-offs and sleeves or relate to the shape of the tobacco product itself.

Or. pt

Amendment 154
María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler

Proposal for a directive
Article 13

Text proposed by the Commission

Article 13
Appearance and content of unit packets

1. A unit packet of cigarettes shall have a cuboid shape. A unit packet of roll-your-own tobacco shall have the form of a pouch, i.e. a rectangular pocket with a

Amendment

deleted

flap that covers the opening. The flap of the pouch shall cover at least 70% of the front of the packet. A unit packet of cigarettes shall include at least 20 cigarettes. A unit packet of roll-your-own tobacco shall contain tobacco weighing at least 40 g.

2. A cigarette packet can be of carton or soft material and shall not contain an opening that can be re-closed or re-sealed after the opening is first opened, other than the flip-top lid. The flip-top lid of a cigarette packet shall be hinged only at the back of the packet.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to define more detailed rules for the shape and size of unit packets in so far as these rules are necessary to ensure the full visibility and integrity of the health warnings before the first opening, during the opening and after reclosing of the unit packet.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to make either cuboid or cylindrical shape mandatory for unit packets of tobacco products other than cigarettes and roll-your-own tobacco if there is a substantial change of circumstances as established in a Commission report.

Or. en

Justification

This Article contains proposals which are technical barriers to trade without being based on any scientific evidence about its effects on smoking initiation by young people. Moreover, the opening mechanism of a pack of cigarettes does not increase or decrease the tendency to smoke.

Amendment 155
Metin Kazak

Proposal for a directive
Article 13

Text proposed by the Commission

Amendment

Article 13

deleted

Appearance and content of unit packets

1. A unit packet of cigarettes shall have a cuboid shape. A unit packet of roll-your-own tobacco shall have the form of a pouch, i.e. a rectangular pocket with a flap that covers the opening. The flap of the pouch shall cover at least 70% of the front of the packet. A unit packet of cigarettes shall include at least 20 cigarettes. A unit packet of roll-your-own tobacco shall contain tobacco weighing at least 40 g.

2. A cigarette packet can be of carton or soft material and shall not contain an opening that can be re-closed or re-sealed after the opening is first opened, other than the flip-top lid. The flip-top lid of a cigarette packet shall be hinged only at the back of the packet.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to define more detailed rules for the shape and size of unit packets in so far as these rules are necessary to ensure the full visibility and integrity of the health warnings before the first opening, during the opening and after reclosing of the unit packet.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to make either cuboid or cylindrical shape mandatory for unit packets of tobacco products other than cigarettes and roll-your-own tobacco if there is a substantial change of circumstances as established in a Commission report.

Justification

The requirements to standardize the size and shape of cigarette packs fail to contribute to the desired legitimate policy objective because there is no evidence that youth initiation is influenced by the shape of tobacco packaging or specific opening mechanisms. The proposal could have reasonably considered less trade restrictive alternative measures to pack standardization, such as regulating only those aspects of the packs for which credible evidence shows that affect youth initiation or the effectiveness of GHWs. These requirements are, therefore, inconsistent with Article 2.2 of the TBT agreement as they are more trade-restrictive than necessary to protect against negative health effects, reduce youth initiation and increase consumer information.

Amendment 156
Bernd Lange

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

Amendment

1. A unit packet of cigarettes shall have a cuboid shape. A unit packet of roll-your-own tobacco shall have the form of a pouch, i.e. a rectangular pocket with a flap that covers the opening. The flap of the pouch shall cover at least 70% of the front of the packet. A unit packet of cigarettes shall include at least 20 cigarettes. A unit packet of roll-your-own tobacco shall contain tobacco weighing at least 40 g.

deleted

Or. de

Justification

It is not the form of packaging which creates the dependence. The Commission's choice of an approach based on harmonising the dimensions and design of tobacco product packaging will nullify competitive advantages enjoyed by production locations in Europe and destroy jobs, without having any impact on health.

Amendment 157
Maria do Céu Patrão Neves

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

1. A unit packet of cigarettes shall have a cuboid shape. A unit packet of roll-your-own tobacco shall have the form of a pouch, i.e. a rectangular pocket with a flap that covers the opening. The flap of the pouch shall cover at least 70 % of the front of the packet. A unit packet of cigarettes shall include at least 20 cigarettes. A unit packet of roll-your-own tobacco shall contain tobacco weighing at least 40 g.

Amendment

1. A unit packet of cigarettes shall have a cuboid shape. A unit packet of roll-your-own tobacco shall have the form of a pouch, i.e. a rectangular pocket with **or without** a flap that covers the opening. The flap, **if any**, of the pouch shall cover at least 70 % of the front of the packet. A unit packet of cigarettes shall include at least 20 cigarettes. A unit packet of roll-your-own tobacco shall contain tobacco weighing at least 40 g.

Or. pt

Amendment 158
Bernd Lange

Proposal for a directive
Article 13 – paragraph 2

Text proposed by the Commission

2. A cigarette packet can be of carton or soft material and shall not contain an opening that can be re-closed or re-sealed after the opening is first opened, other than the flip-top lid. The flip-top lid of a cigarette packet shall be hinged only at the back of the packet.

Amendment

deleted

Or. de

Justification

It is not the form of packaging which creates the dependence. The Commission's choice of an approach based on harmonising the dimensions and design of tobacco product packaging will nullify competitive advantages enjoyed by production locations in Europe and destroy jobs,

without having any impact on health.

Amendment 159

Maria do Céu Patrão Neves

Proposal for a directive

Article 13 – paragraph 2

Text proposed by the Commission

2. A cigarette packet can be of carton or soft material and shall not contain an opening that can be re-closed or re-sealed after the opening is first opened, other than the flip-top lid. The flip-top lid of a cigarette packet shall be hinged only at the back of the packet.

Amendment

2. A cigarette packet can be of carton or soft material and shall not contain an opening that can be re-closed or re-sealed after the opening is first opened, other than the flip-top lid. The flip-top lid, ***if any***, of a cigarette packet shall be hinged only at the back of the packet.

Or. pt

Amendment 160

Bernd Lange

Proposal for a directive

Article 13 – paragraph 3

Text proposed by the Commission

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to define more detailed rules for the shape and size of unit packets in so far as these rules are necessary to ensure the full visibility and integrity of the health warnings before the first opening, during the opening and after reclosing of the unit packet.

Amendment

deleted

Or. de

Amendment 161

Małgorzata Handzlik, Paweł Zalewski

**Proposal for a directive
Article 13 – paragraph 3**

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to define more detailed rules for the shape and size of unit packets in so far as these rules are necessary to ensure the full visibility and integrity of the health warnings before the first opening, during the opening and after reclosing of the unit packet.

deleted

Or. en

**Amendment 162
Emma McClarkin**

**Proposal for a directive
Article 13 – paragraph 3**

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to define more detailed rules for the shape and size of unit packets in so far as these rules are necessary to ensure the full visibility and integrity of the health warnings before the first opening, during the opening and after reclosing of the unit packet.

deleted

Or. en

**Amendment 163
Ewald Stadler**

**Proposal for a directive
Article 13 – paragraph 3**

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to define more detailed rules for the shape and size of unit packets in so far as these rules are necessary to ensure the full visibility and integrity of the health warnings before the first opening, during the opening and after reclosing of the unit packet. *deleted*

Or. de

Amendment 164
Maria do Céu Patrão Neves

Proposal for a directive
Article 13 – paragraph 3

Text proposed by the Commission

Amendment

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to define more detailed rules for the shape and size of unit packets in so far as these rules are necessary to ensure the full visibility and integrity of the health warnings before the first opening, during the opening and after reclosing of the unit packet. *deleted*

Or. pt

Amendment 165
Bernd Lange

Proposal for a directive
Article 13 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission shall be empowered to *deleted*

adopt delegated acts in accordance with Article 22 to make either cuboid or cylindric shape mandatory for unit packets of tobacco products other than cigarettes and roll-your-own tobacco if there is a substantial change of circumstances as established in a Commission report.

Or. de

Amendment 166

Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive

Article 13 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to make either cuboid or cylindric shape mandatory for unit packets of tobacco products other than cigarettes and roll-your-own tobacco if there is a substantial change of circumstances as established in a Commission report. *deleted*

Or. en

Amendment 167

Emma McClarkin

Proposal for a directive

Article 13 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to make either cuboid or cylindric shape mandatory for unit packets of tobacco products other than *deleted*

cigarettes and roll-your-own tobacco if there is a substantial change of circumstances as established in a Commission report.

Or. en

Amendment 168
Ewald Stadler

Proposal for a directive
Article 13 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to make either cuboid or cylindric shape mandatory for unit packets of tobacco products other than cigarettes and roll-your-own tobacco if there is a substantial change of circumstances as established in a Commission report. *deleted*

Or. de

Amendment 169
Maria do Céu Patrão Neves

Proposal for a directive
Article 13 – paragraph 4

Text proposed by the Commission

Amendment

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to make either cuboid or cylindric shape mandatory for unit packets of tobacco products other than cigarettes and roll-your-own tobacco if there is a substantial change of circumstances as established in a Commission report. *deleted*

Amendment 170
Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive
Article 14 – paragraph 1

Text proposed by the Commission

1. Member States shall ***ensure that*** all unit packets ***of tobacco products shall be marked with a unique identifier***. In order to ensure their integrity, unique identifiers shall be irremovably printed/affixed, indelible and in no way hidden or interrupted in any form, including through tax stamps and price marks, or by the opening of the packet. In relation to products manufactured outside the Union the obligations laid down in this Article apply only to those destined to or placed on the Union market.

Amendment

1. Member States shall ***require that unique, secure and non-removable identification markings hereafter called unique identification markings, such as codes or stamps, are affixed to or form part of*** all unit packets ***and packages and any outside packaging of cigarettes***. In order to ensure their integrity, unique identifiers shall be irremovably printed/affixed, indelible and in no way hidden or interrupted in any form, including through tax stamps and price marks, or by the opening of the packet. In relation to products manufactured outside the Union the obligations laid down in this Article apply only to those destined to or placed on the Union market.

Or. en

Amendment 171
Henri Weber

Proposal for a directive
Article 14 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that all unit packets of tobacco products shall be marked with a unique ***identifier***. In order to ensure their integrity, unique identifiers shall be irremovably printed/affixed, indelible and in no way hidden or

Amendment

1. ***In order to enable effective monitoring and identification***, Member States shall ensure that all unit packets of tobacco products, ***including all outside packaging***, shall be marked with a unique ***identification mark which is clear and***

interrupted in any form, including through tax stamps and price marks, or by the opening of the packet. In relation to products manufactured outside the Union the obligations laid down in this Article apply only to those destined to or placed on the Union market.

permanent. In order to ensure their integrity, *these* unique *and secure* identifiers shall be irremovably printed/affixed, indelible and in no way hidden or interrupted in any form, including through tax stamps and price marks, or by the opening of the packet. In relation to products manufactured outside the Union the obligations laid down in this Article apply only to those destined to or placed on the Union market.

Or. fr

Amendment 172
Nora Berra

Proposal for a directive
Article 14 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that the unique identifiers on the packets are linked to the unique identifiers on the outside packaging. Any change made to the link between unit packets and outside packaging must be entered into the database referred to in paragraph 6.

Or. fr

Amendment 173
Yannick Jadot, Paul Murphy
on behalf of the Verts/ALE Group

Proposal for a directive
Article 14 – paragraph 2 – point a (new)

Text proposed by the Commission

Amendment

(a) the place of origin of the tobacco used; as well as health and human rights conditions under which it was harvested

(in particular child labour rate);

Or. en

Amendment 174

Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive

Article 14 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) the product name;

(e) the product name *and description*;

Or. en

Amendment 175

Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive

Article 14 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) the intended shipment route;

(g) the intended shipment route, *the shipment date, shipment destination, point of departure and consignee*;

Or. en

Amendment 176

Henri Weber

Proposal for a directive

Article 14 – paragraph 2 – point g

Text proposed by the Commission

Amendment

(g) the intended shipment route;

(g) the intended shipment route, *the shipment date, the destination of the shipment, the sender and the addressee*.

Amendment 177
Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive
Article 14 – paragraph 3

Text proposed by the Commission

3. Member States shall **ensure that** all economic operators involved in the trade of tobacco products from the manufacturer to the last economic operator before the first retail outlet, record the entry of all unit packets into their possession, as well as all intermediate movements and the final exit from their possession. This obligation **can** be fulfilled by recording in aggregated form, e.g. of outside packaging, provided that tracking and tracing of unit packets remains possible.

Amendment

3. Member States shall **require that track and trace technology capable of reading and transmitting data electronically to the storage facility pursuant to paragraph 6, the ownership for which is outside the control of tobacco manufacturers and their partners in the supply chain, is made available to** all economic operators involved in the trade of tobacco products from the manufacturer to the last economic operator before the first retail outlet, **including importers, warehouses and transporting companies. Such economic operators shall** record the entry of all unit packets into their possession, as well as all intermediate movements and the final exit from their possession. **In conformity with Article 14(1),** this obligation **shall** be fulfilled by recording in aggregated form, e.g. of outside packaging, provided that tracking and tracing of unit packets remains possible.

Or. en

Justification

The amendment aims to clarify that the track and trace obligation falls upon Member States and cannot be performed by or delegated to the tobacco industry. Otherwise the proposed draft, if implemented, would result in the opposite.

Amendment 178
Nora Berra

Proposal for a directive
Article 14 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that all economic operators involved in the trade of tobacco products from the manufacturer to the last economic operator before the first retail outlet, record the entry of all unit packets into their possession, as well as all intermediate movements and the final exit from their possession. This obligation can be fulfilled by recording in aggregated form, e.g. of outside packaging, provided that tracking and tracing of unit packets remains possible.

Amendment

3. Member States shall ensure that all economic operators involved in the trade of tobacco products from the manufacturer to the last economic operator before the first retail outlet, record the entry of all unit packets **and outside packaging** into their possession, as well as all intermediate movements and the final exit from their possession. This obligation can be fulfilled by recording in aggregated form, e.g. of outside packaging, provided that tracking and tracing of unit packets remains possible.

Or. fr

Amendment 179
Henri Weber

Proposal for a directive
Article 14 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall ensure, in accordance with the Seoul Protocol to Eliminate Illicit Trade in Tobacco Products, that the technology used for tracking and tracing should belong to economic entities without any legal or commercial link to the tobacco industry in the supply chain.

Or. fr

Amendment 180
Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive
Article 14 – paragraph 4

Text proposed by the Commission

Amendment

4. Member States shall ensure that manufacturers of tobacco products provide all economic operators involved in the trade of tobacco products from the manufacturer to the last economic operator before the first retail outlet, including importers, warehouses and transporting companies with the necessary equipment allowing for the recording of the tobacco products purchased, sold, stored, transported or otherwise handled. The equipment shall be able to read and transmit the data electronically to a data storage facility pursuant to paragraph 6.

deleted

Or. en

Justification

Deletion necessary as a result of the rewording of paragraph 3.

Amendment 181

Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive
Article 14 – paragraph 5

Text proposed by the Commission

Amendment

5. Recorded data cannot be modified or deleted by any economic operator involved in the trade of tobacco products, but the economic operator that introduced the data and other economic operators directly concerned by the transaction such as the supplier or the recipient can comment on previously introduced data. The economic operator concerned shall add the correct data and a reference to the previous entry

5. Recorded data cannot be modified or deleted by any economic operator involved in the trade of tobacco products, but the economic operator that introduced the data and other economic operators directly concerned by the transaction such as the supplier or the recipient can comment on previously introduced data. The economic operator concerned shall add the correct data and a reference to the previous entry

which requires rectification in their view. In exceptional circumstances and upon submission of adequate evidence, the competent authority in the Member State in which the recording took place or if the recording took place outside the Union the competent authority in the Member State of importation, can authorise the modification *or deletion* of data previously registered.

which requires rectification in their view. In exceptional circumstances and upon submission of adequate evidence, the competent authority in the Member State in which the recording took place or if the recording took place outside the Union the competent authority in the Member State of importation, can authorise the modification of data previously registered.

Or. en

Amendment 182

Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive Article 14 – paragraph 6

Text proposed by the Commission

6. Member States shall ***ensure that manufacturers and importers of tobacco products conclude data storage contracts with an independent third party***, which shall host the data storage facility for data relating to the manufacturer and importer concerned. The data storage facility shall be physically located on the territory of the Union. The suitability of the third party, in particular its independence and technical capacities, as well as the contract, shall be approved and monitored by an external auditor, who is proposed and paid by the tobacco manufacturer and approved by the Commission. Member States shall ensure full transparency and accessibility of the data storage facilities for the competent authorities of the Member States, the Commission and the independent third party on a permanent basis. In duly justified cases Member States or the Commission can provide manufacturers or importers access to this information, provided commercially sensitive information remains adequately protected

Amendment

6. Member States shall ***conclude data storage contracts with a third party, which may be an agency of the Member State, and which is legally independent from the tobacco companies or their partners in the supply chain***, which shall host the data storage facility for data relating to the manufacturer and importer concerned. The data storage facility shall be physically located on the territory of the Union. ***Member States shall ensure full transparency.*** The suitability of the third party, in particular its independence and technical capacities, as well as the contract, shall be approved and monitored by an external auditor, who is proposed and paid by the tobacco manufacturer and approved by the Commission. Member States shall ensure full transparency and accessibility of the data storage facilities for the competent authorities of the Member States, the Commission and the independent third party on a permanent basis. In duly justified cases Member States or the Commission can provide

in conformity with the relevant national and Union legislations.

manufacturers or importers access to this information, provided commercially sensitive information remains adequately protected in conformity with the relevant national and Union legislations.

Or. en

Amendment 183

Nora Berra

Proposal for a directive

Article 14 – paragraph 6

Text proposed by the Commission

6. Member States shall ***ensure that manufacturers and importers of tobacco products*** conclude data storage contracts with an independent third party, which shall host the data storage facility for data relating to the manufacturer and importer concerned. The data storage facility shall be physically located on the territory of the Union. The suitability of the third party, in particular its independence and technical capacities, as well as the contract, shall be approved and monitored by an external auditor, ***who is proposed and paid by the tobacco manufacturer and approved by the Commission***. Member States shall ensure full transparency and accessibility of the data storage facilities for the competent authorities of the Member States, the Commission and the independent third party on a permanent basis. In duly justified cases Member States or the Commission can provide manufacturers or importers access to this information, provided commercially sensitive information remains adequately protected in conformity with the relevant national and Union legislations.

Amendment

6. Member States shall conclude data storage contracts with an independent third party which shall host the data storage facility for data relating to the manufacturer and importer concerned. The data storage facility shall be physically located on the territory of the Union. The suitability of the third party, in particular its independence and technical capacities, as well as the contract, shall be approved and monitored by an external auditor, who ***shall be appointed*** by the Commission. ***The costs incurred as a result of the contract with the auditor and the database management services shall be covered by the tobacco manufacturers and importers.*** Member States shall ensure full transparency and accessibility of the data storage facilities for the competent authorities of the Member States, the Commission and the independent third party on a permanent basis. In duly justified cases Member States or the Commission can provide manufacturers or importers access to this information, provided commercially sensitive information remains adequately protected in conformity with the relevant national and Union legislations.

Amendment 184
Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive
Article 14 – paragraph 8

Text proposed by the Commission

8. In addition to the unique identifier, Member States shall require that all unit packets of tobacco products which are placed on the market carry a visible, tamper proof security feature of at least 1 cm², which shall be irremovably printed or affixed, indelible and in no way hidden or interrupted in any form, including through tax stamps and price marks, or other elements mandated by legislation.

Amendment

8. In addition to the unique identifier, Member States shall require that all unit packets of tobacco products which are placed on the market carry a visible, tamper proof security feature of at least 1 cm², which shall be irremovably printed or affixed, indelible and in no way hidden or interrupted in any form, including through tax stamps and price marks, or other elements mandated by legislation. ***Member States may combine their national fiscal marking with the tamper-proof security feature, provided that it complies with the technical specifications mentioned into this paragraph.***

Amendment 185
Ewald Stadler

Proposal for a directive
Article 14 – paragraph 9

Text proposed by the Commission

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to:

a) to define the key elements (such as duration, renewability, expertise required, confidentiality) of the contract referred to in paragraph 6, including its regular

Amendment

deleted

monitoring and evaluation;

b) to define the technical standards to ensure that the systems used for the unique identifiers and the related functions are fully compatible with each other across the Union and

c) to define the technical standards for the security feature and their possible rotation and to adapt them to scientific, market and technical development.

Or. de

Amendment 186

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler

**Proposal for a directive
Article 14 – paragraph 9**

Text proposed by the Commission

Amendment

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 22:

deleted

(a) to define the key elements (such as duration, renewability, expertise required, confidentiality) of the contract referred to in paragraph 6, including its regular monitoring and evaluation;

(b) to define the technical standards to ensure that the systems used for the unique identifiers and the related functions are fully compatible with each other across the Union and

(c) to define the technical standards for the security feature and their possible rotation and to adapt them to scientific, market and technical development.

Or. en

Justification

What the Commission proposes in this Article should be considered as changes to the essential legislative act. Therefore any amendment with this as its purpose should follow the legislative ordinary procedure.

Amendment 187

Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive

Article 14 – paragraph 9 – introductory part

Text proposed by the Commission

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 22:

Amendment

9. The Commission shall be empowered, ***taking into account existing practices, technologies and commercial practicalities as well as global standards for tracking and tracing and authentication of fast-moving consumer goods and relevant requirements under the WHO FCTC Protocol to Eliminate Illicit Trade in Tobacco Products***, to adopt delegated acts in accordance with Article 22:

Or. en

Amendment 188

Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive

Title 2 – chapter 3 – title

Text proposed by the Commission

Tobacco for oral use

Amendment

Smokeless tobacco products

Or. en

Amendment 189

Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive
Article 15 a (new)

Text proposed by the Commission

Amendment

Article 15 a

Member States shall set maximum limits for toxic or carcinogenic substances present in smokeless tobacco products placed on the market.

Or. en

Amendment 190
Christofer Fjellner, María Auxiliadora Correa Zamora

Proposal for a directive
Article 15 – paragraph 1

Text proposed by the Commission

Amendment

Member States shall prohibit the placing on the market of tobacco for oral use, without prejudice to Article 151 of the Act of Accession of Austria, Finland and Sweden. *deleted*

Or. en

Justification

The EU ban on oral tobacco products is inconsistent with Article 2.2 of the WTO Agreement on Technical Barriers to Trade (TBT), since it is more trade restrictive than necessary to achieve the EU's stated health objectives. The proposal unjustifiably discriminates between like products of different WTO Members [Articles I and III of the GATT Agreement and Article 2.1 of the TBT Agreement] and prohibits products that are less harmful than all other tobacco products allowed to be placed on sale in Europe.

Amendment 191
Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive
Article 16 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ***oblige retail outlets intending to engage in*** cross-border distance sales ***to consumers located in the Union to register with the competent authorities in the Member State where the retail outlet is established and in the Member State where the actual or potential consumer is located.*** ***Retail outlets established outside the Union have to register with the competent authorities in the Member State where the actual or potential consumer is located.*** ***All retail outlets intending to engage in*** cross-border distance sales ***shall submit at least the following information to the competent authorities:***

Amendment

1. Member States shall ***prohibit*** cross-border distance sales ***of tobacco products to consumers*** located ***in*** the Union ***as well as distribution of free or discounted tobacco products including through*** cross-border distance sales.

Or. en

Amendment 192
Nora Berra

Proposal for a directive
Article 16 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ***oblige retail outlets intending to engage in*** cross-border distance sales to consumers located in the Union ***to register with the competent authorities in the Member State where the retail outlet is established and in the Member State where the actual or potential consumer is located.*** ***Retail outlets established outside the Union have to register with the competent authorities in the Member State where the actual or potential consumer is located.*** ***All retail outlets intending to engage in cross-border distance sales shall submit at least***

Amendment

1. Member States shall ***prohibit*** cross-border distance sales ***of tobacco*** to consumers located in the Union.

the following information to the competent authorities:

Or. fr

Amendment 193

Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive

Article 16 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) name or corporate name and permanent address of the place of activity from where the tobacco products are supplied;

deleted

Or. en

Amendment 194

Nora Berra

Proposal for a directive

Article 16 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) name or corporate name and permanent address of the place of activity from where the tobacco products are supplied;

deleted

Or. fr

Amendment 195

Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive

Article 16 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the starting date of the activity of offering tobacco products for cross-border distance sales to the public by means of information society services; *deleted*

Or. en

Amendment 196

Nora Berra

Proposal for a directive

Article 16 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the starting date of the activity of offering tobacco products for cross-border distance sales to the public by means of information society services; *deleted*

Or. fr

Amendment 197

Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive

Article 16 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the address of the website/-s used for that purpose and all relevant information necessary to identify the website. *deleted*

Or. en

Amendment 198

Nora Berra

Proposal for a directive
Article 16 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) the address of the website/-s used for that purpose and all relevant information necessary to identify the website.

deleted

Or. fr

Amendment 199
Henri Weber

Proposal for a directive
Article 16 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Cross-border sales of cigarettes and roll-your-own tobacco, including via the Internet, shall be prohibited in the Union; Internet sales of other tobacco products and related nicotine-containing products shall be subject to more stringent monitoring by the Union and the Member States.

Or. fr

Amendment 200
Henri Weber

Proposal for a directive
Article 16 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. It shall continue to be possible for Member States, on grounds of overriding needs relating to the protection of public health, to impose restrictions on imports of tobacco for personal use. Such restrictions shall be possible, in

particular, where there is a significant difference of price between products of different geographic origins or if the health warnings are not in the official language(s) of the country where the product is purchased.

Or. fr

Amendment 201
Henri Weber

Proposal for a directive
Article 16 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

1c. Member States shall prohibit retail outlets established on their territory from distributing free or discounted tobacco products through cross-border distance channels or through any other channel.

Or. fr

Amendment 202
Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive
Article 16 – paragraph 2

Text proposed by the Commission

Amendment

2. The competent authorities of the Member States shall publish the complete list of all retail outlets registered with them in accordance with the rules and safeguards laid down in Directive 95/46/EC. Retail outlets may only start placing tobacco products on the market in form of distance sales as of the moment the name of the retail outlet is published in the relevant Member States.

deleted

Amendment 203

Nora Berra

Proposal for a directive

Article 16 – paragraph 2

Text proposed by the Commission

Amendment

2. The competent authorities of the Member States shall publish the complete list of all retail outlets registered with them in accordance with the rules and safeguards laid down in Directive 95/46/EC. Retail outlets may only start placing tobacco products on the market in form of distance sales as of the moment the name of the retail outlet is published in the relevant Member States.

deleted

Or. fr

Amendment 204

Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive

Article 16 – paragraph 3

Text proposed by the Commission

Amendment

3. If it is necessary in order to ensure compliance and facilitate enforcement, Member States of destination may require that the retail outlet nominates a natural person who is responsible for verifying the tobacco products before reaching the consumer comply with the national provisions adopted pursuant to this Directive in the Member State of destination.

deleted

Or. en

Amendment 205
Nora Berra

Proposal for a directive
Article 16 – paragraph 3

Text proposed by the Commission

Amendment

3. If it is necessary in order to ensure compliance and facilitate enforcement, Member States of destination may require that the retail outlet nominates a natural person who is responsible for verifying the tobacco products before reaching the consumer comply with the national provisions adopted pursuant to this Directive in the Member State of destination.

deleted

Or. fr

Amendment 206
Małgorzata Handzlik, Jarosław Leszek Wałęsa, Paweł Zalewski

Proposal for a directive
Article 16 – paragraph 4

Text proposed by the Commission

Amendment

4. Retail outlets engaged in distance sales shall be equipped with an age verification system, which verifies at the time of sale, that the purchasing consumer respects the minimum age foreseen under the national legislation of the Member State of destination. The retailer or nominated natural person shall report to the competent authorities a description of the details and functioning of the age verification system.

deleted

Or. en

Amendment 207

Nora Berra

**Proposal for a directive
Article 16 – paragraph 4**

Text proposed by the Commission

Amendment

4. Retail outlets engaged in distance sales shall be equipped with an age verification system, which verifies at the time of sale, that the purchasing consumer respects the minimum age foreseen under the national legislation of the Member State of destination. The retailer or nominated natural person shall report to the competent authorities a description of the details and functioning of the age verification system. *deleted*

Or. fr

Amendment 208

Małgorzata Handzlik, Paweł Zalewski

**Proposal for a directive
Article 16 – paragraph 5**

Text proposed by the Commission

Amendment

5. Personal data of the consumer shall only be processed in accordance with Directive 95/46/EC and not be disclosed to the manufacturer of tobacco products or companies forming part of the same group of companies or to any other third parties. Personal data shall not be used or transferred beyond the purpose of this actual purchase. This also applies if the retail outlet forms part of a manufacturer of tobacco products. *deleted*

Or. en

Amendment 209
Nora Berra

Proposal for a directive
Article 16 – paragraph 5

Text proposed by the Commission

Amendment

5. Personal data of the consumer shall only be processed in accordance with Directive 95/46/EC and not be disclosed to the manufacturer of tobacco products or companies forming part of the same group of companies or to any other third parties. Personal data shall not be used or transferred beyond the purpose of this actual purchase. This also applies if the retail outlet forms part of a manufacturer of tobacco products.

deleted

Or. fr

Amendment 210
Maria do Céu Patrão Neves

Proposal for a directive
Article 17 – title

Text proposed by the Commission

Amendment

Notification of novel tobacco products

Notification of novel tobacco products **and potentially lower-risk novel tobacco products**

Or. pt

Amendment 211
Maria do Céu Patrão Neves

Proposal for a directive
Article 17 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall require that manufacturers and importers of tobacco products notify the competent authorities of Member States of any novel tobacco product they intend to place on the markets of the Member States concerned. The notification shall be submitted in electronic form six months before the intended placing on the market and shall be accompanied by a detailed description of the product in question as well as information on ingredients and emissions in accordance with Article 5. The manufacturers and importers notifying a novel tobacco product shall also provide the competent authorities in question with:

Amendment

1. Member States shall require that manufacturers and importers of tobacco products notify the competent authorities of Member States of any novel tobacco product which they intend to place on the markets of the Member States concerned ***and which, on the basis of substantial scientific evidence, they intend to make the subject of a claim that it is less harmful, or constitutes a lower risk, than conventional tobacco products.*** The notification shall be submitted in electronic form six months before the intended placing on the market and shall be accompanied by a detailed description of the product in question as well as information on ingredients and emissions in accordance with Article 5. The manufacturers and importers notifying a novel tobacco product shall also provide the competent authorities in question with:

Or. pt

Amendment 212

Maria do Céu Patrão Neves

**Proposal for a directive
Article 17 – paragraph 2**

Text proposed by the Commission

2. Member States shall require that manufacturers and importers of tobacco products inform their competent authorities of any new or updated information referred to in point (a) to (c) of paragraph 1. Member States shall be entitled to require tobacco manufacturers or importers to carry out additional tests or submit additional information. Member States shall make available to the Commission all information received pursuant to this

Amendment

2. Member States shall require that manufacturers and importers of tobacco products inform their competent authorities of any new or updated information referred to in point (a) to (c) of paragraph 1. Member States shall be entitled to require tobacco manufacturers or importers to carry out additional tests or submit additional information. Member States shall make available to the Commission all information received pursuant to this

Article. Member States shall be entitled to introduce an authorisation system and charge a proportionate fee.

Article. Member States shall be entitled to introduce an authorisation system and charge a proportionate fee. ***Member States shall be entitled to adopt specific labelling and packaging rules different from the requirements of this Directive for less harmful products. They shall notify such rules to the Commission.***

Or. pt

Amendment 213
Emma McClarkin

Proposal for a directive
Article 18 – paragraph 1 – introductory part

Text proposed by the Commission

1. ***The following nicotine-containing products*** may only be placed on the market if they were authorised pursuant to Directive 2001/83/EC:

Amendment

1. ***If nicotine containing products are presented as having properties for treating or preventing disease they*** may only be placed on the market if they were authorised pursuant to Directive 2001/83/EC:

Or. en

Justification

Nicotine containing products such as electronic cigarettes make no claims to improve human health and should not be classified as medicinal products. Such a classification would limit their availability on the market, while more harmful tobacco products remain freely available, therefore unnecessarily restricting international trade.

Amendment 214
Emma McClarkin

Proposal for a directive
Article 18 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) products with a nicotine level exceeding 2 mg per unit, or **deleted**

Or. en

Amendment 215
Emma McClarkin

Proposal for a directive
Article 18 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) products with a nicotine concentration exceeding 4 mg per ml or **deleted**

Or. en

Amendment 216
Ewald Stadler

Proposal for a directive
Article 18 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) products with a nicotine concentration exceeding 4 mg per ml or

(b) products with a nicotine concentration exceeding 24 mg per ml or

Or. de

Justification

When switching from regular cigarettes to e-cigarettes, smokers initially need 24 mg /ml. The Commission proposal would therefore increase the number of smokers again.

Amendment 217
Emma McClarkin

Proposal for a directive
Article 18 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) products whose intended use results in a mean maximum peak plasma concentration exceeding 4 ng of nicotine per ml. *deleted*

Or. en

Amendment 218

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler, Emma McClarkin, Metin Kazak

Proposal for a directive
Article 18 – paragraph 2

Text proposed by the Commission

Amendment

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to update the nicotine quantities set out in paragraph 1 taking into account scientific developments and marketing authorisations granted to nicotine- containing products pursuant to Directive 2001/83/EC. *deleted*

Or. en

Justification

What the Commission proposes in this Article should be considered as changes to the essential legislative act. Therefore any amendment with this as its purpose should follow the legislative ordinary procedure.

Amendment 219
Ewald Stadler

Proposal for a directive
Article 18 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to adapt the requirements in paragraphs 3 and 4 taking into account scientific and market developments and to adopt and adapt the position, format, layout, design and rotation of the health warnings. **deleted**

Or. de

Amendment 220

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler, Emma McClarkin, Metin Kazak

Proposal for a directive
Article 18 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall be empowered to adopt delegated acts in accordance with Article 22 to adapt the requirements in paragraphs 3 and 4 taking into account scientific and market developments and to adopt and adapt the position, format, layout, design and rotation of the health warnings. **deleted**

Or. en

Justification

What the Commission proposes in this Article should be considered as changes to the essential legislative act. Therefore any amendment with this as its purpose should follow the legislative ordinary procedure.

Amendment 221
Emma McClarkin

Proposal for a directive
Article 18 – paragraph 5

Text proposed by the Commission

5. The Commission shall *be empowered to adopt delegated acts in accordance with Article 22 to adapt the requirements in paragraphs 3 and 4 taking into account scientific and market developments and to adopt and adapt the position, format, layout, design and rotation of the health warnings.*

Amendment

5. The Commission shall, *by 1 January 2017, carry out a study on nicotine containing products in consultation with the relevant stakeholders and the Member States. This study will include a comprehensive safety evaluation, a risk assessment and a cost-benefit analysis, and will present a variety of potential legislative options.*

Or. en

Justification

Electronic cigarettes are not a medicinal product as they make no claim to improve human health or to prevent disease. Moreover, although they vaporise nicotine, they are also not a tobacco product. Consequently they do not belong in either medicinal or tobacco product legislation. This amendment calls for a study to present legislative options appropriate to these new products.

Amendment 222
Ewald Stadler

Proposal for a directive
Article 19 – paragraph 3

Text proposed by the Commission

3. The health warning shall comply with the requirements laid down in Article 10(4). It shall cover not less than **30 %** of the area of the corresponding surface of the unit packet and of any outside packaging. That proportion shall be increased to **32 %** for Member States with two official languages and **35 %** for Member States with three official languages.

Amendment

3. The health warning shall comply with the requirements laid down in Article 10(4). It shall cover not less than **15 %** of the area of the corresponding surface of the unit packet and of any outside packaging. That proportion shall be increased to **18 %** for Member States with two official languages and **20 %** for Member States with three official languages.

Amendment 223

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Iuliu Winkler

Proposal for a directive

Article 22

Text proposed by the Commission

Amendment

Article 22

deleted

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Articles 3(2), 3(3), 4(3), 4(4), 6(3), 6(9), 6(10), 8(4), 9(3), 10(5), 11(3), 13(3), 13(4), 14(9), 18(2) and 18(5) shall be conferred on the Commission for an indeterminate period of time from [Office of Publications: please insert the date of the entry into force of this Directive].

3. The delegation of powers referred to in Articles 3(2), 3(3), 4(3), 4(4), 6(3), 6(9), 6(10), 8(4), 9(3), 10(5), 11(3), 13(3), 13(4), 14(9), 18(2) and 18(5) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act pursuant to Articles 3(2), 3(3), 4(3), 4(4), 6(3), 6(9), 6(10), 8(4), 9(3), 10(5), 11(3), 13(3), 13(4), 14(9), 18(2) and 18(5) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Or. en

Justification

The proposed Directive leaves the possibility for the Commission to adopt delegated acts in 16 cases which are justified in the need to update and supplement the Directive to adapt it to scientific progress or to the evolution of market and the international framework. This option could be contrary to the purpose of the delegation of powers as envisaged in Article 290 paragraph 1) TFEU (Treaty on the Functioning of the European Union), because these delegated acts are not in fact completing certain elements of the basic legislative act. On the contrary, it would leave it in the hands of the EC to amend the basic legislative act.

Amendment 224 **Ewald Stadler**

Proposal for a directive **Article 22 – paragraph 1**

Text proposed by the Commission

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

Amendment

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
Delegated acts may be adopted only in those cases where provision is expressly made in this Directive for such a delegation of power.

Or. de

Justification

It seems inefficient to list in the subsequent paragraphs each and every delegation of power under this directive.

Amendment 225

Ewald Stadler

Proposal for a directive
Article 22 – paragraph 2

Text proposed by the Commission

2. The power to adopt delegated acts *referred to in Articles 3(2), 3(3), 4(3), 4(4), 6(3), 6(9), 6(10), 8(4), 9(3), 10(5), 11(3), 13(3), 13(4), 14(9), 18(2) and 18(5)* shall be conferred on the Commission for *an indeterminate period of time* from [Office of Publications: please insert the date of the entry into force of this Directive].

Amendment

2. The power to adopt delegated acts shall be conferred on the Commission for *two years* from [Office of Publications: please insert the date of the entry into force of this Directive].

Or. de

Justification

The duration of the delegation of power must be limited in order to enhance parliamentary scrutiny. Two years seems appropriate because Parliament must be able to exercise some measure of scrutiny over the Commission in the course of a single parliamentary term.

Amendment 226

Ewald Stadler

Proposal for a directive
Article 22 – paragraph 3

Text proposed by the Commission

3. The delegation of powers *referred to in Articles 3(2), 3(3), 4(3), 4(4), 6(3), 6(9), 6(10), 8(4), 9(3), 10(5), 11(3), 13(3), 13(4), 14(9), 18(2) and 18(5)* may be revoked at any time by the European Parliament or by

Amendment

3. The delegation of powers may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall

the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Or. de

Amendment 227

Ewald Stadler

Proposal for a directive Article 22 – paragraph 5

Text proposed by the Commission

5. A delegated act *pursuant to Articles 3(2), 3(3), 4(3), 4(4), 6(3), 6(9), 6(10), 8(4), 9(3), 10(5), 11(3), 13(3), 13(4), 14(9), 18(2) and 18(5)* shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Amendment

5. . A delegated act shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Or. de

Amendment 228

Ewald Stadler

Proposal for a directive Article 24 – paragraph 2

2. However, a Member State may maintain more stringent national provisions, applicable to all products alike, in areas covered by the Directive, on grounds of overriding needs relating to the protection of public health. A Member State may also introduce more stringent provisions, on grounds relating to the specific situation of this Member State and provided the provisions are justified by the need to protect public health. Such national provisions shall be notified to the Commission together with the grounds for maintaining or introducing them. The Commission shall, within six months from the date of receiving the notification, approve or reject the provisions after having verified, taking into account the high level of health protection achieved through this Directive, whether or not they are justified, necessary and proportionate to their aim and whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between the Member States. In the absence of a decision by the Commission within this period the national provisions shall be deemed to be approved.

deleted

Or. de

Justification

Legal certainty would be seriously undermined if Member States were to be allowed to grant too many exemptions. What is more, the public health aspect is relevant only in the case of bans on smoking in public places. The manufacture, design and marketing of tobacco products have no bearing on public health.

Amendment 229
Henri Weber

Proposal for a directive
Article 24 – paragraph 2

Text proposed by the Commission

2. However, a Member State **may** maintain more stringent national provisions, applicable to all products alike, in areas covered by the Directive, on grounds of overriding needs relating to the protection of public health. ***A Member State may also introduce more stringent provisions, on grounds relating to the specific situation of this Member State and provided the provisions are justified by the need to protect public health.*** Such national provisions shall be notified to the Commission together with the grounds for maintaining or introducing them. The Commission shall, within six months from the date of receiving the notification, approve or reject the provisions after having verified, taking into account the high level of health protection achieved through this Directive, whether or not they are justified, necessary and proportionate to their aim and whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between the Member States. In the absence of a decision by the Commission within this period the national provisions shall be deemed to be approved.

Amendment

2. However, a Member State ***shall have the right to*** maintain more stringent national provisions, applicable to all products alike, in areas covered by the Directive, on grounds of overriding needs relating to the protection of public health, ***provided that such provisions are compatible with the Treaties and this Directive as well as WTO obligations, notably the rules on Technical Barriers to Trade (TBT) and the Agreement on Trade-Related Aspects of International Property Rights (TRIPs).*** Such national provisions shall be notified to the Commission together with the grounds for maintaining or introducing them. The Commission shall, within six months from the date of receiving the notification, approve or reject the provisions after having verified, taking into account the high level of health protection achieved through this Directive, whether or not they are justified, necessary and proportionate to their aim and whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between the Member States. In the absence of a decision by the Commission within this period the national provisions shall be deemed to be approved.

Or. fr

Amendment 230

María Auxiliadora Correa Zamora, Pablo Zalba Bidegain, Esther Herranz García, Christofer Fjellner, Iuliu Winkler, Metin Kazak

Proposal for a directive
Article 24 – paragraph 2

Text proposed by the Commission

2. However, a Member State may maintain

Amendment

2. However, a Member State may maintain

more stringent national provisions, applicable to all products alike, in areas covered by the Directive, on grounds of overriding needs relating to the protection of public health. A Member State may also introduce more stringent provisions, on grounds relating to the specific situation of this Member State and provided the provisions are justified by the need to protect public health. Such national provisions shall be notified to the Commission together with the grounds for maintaining or introducing them. The Commission shall, within six months from the date of receiving the notification, approve or reject the provisions after having verified, taking into account the high level of health protection achieved through this Directive, whether or not they are justified, necessary and proportionate to their aim and whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between the Member States. In the absence of a decision by the Commission within this period the national provisions shall be deemed to be approved.

more stringent national provisions, applicable to all products alike, in areas covered by the Directive, on grounds of overriding needs relating to the protection of public health. A Member State may also introduce more stringent provisions, on grounds relating to the specific situation of this Member State and provided the provisions are justified by the need to protect public health. Such national provisions shall be notified to the Commission together with the grounds for maintaining or introducing them. The Commission shall, within six months from the date of receiving the notification, approve or reject the provisions after having verified, taking into account the high level of health protection achieved through this Directive, whether or not they are justified, necessary and proportionate to their aim, ***compliant with the Treaty and the EU's international obligations, including WTO obligations***, and whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between the Member States. In the absence of a decision by the Commission within this period the national provisions shall be deemed to be approved.

Or. en

Amendment 231
Peter Šťastný

Proposal for a directive
Article 24 – paragraph 2

Text proposed by the Commission

2. However, a Member State may maintain more stringent national provisions, applicable to all products alike, in areas covered by the Directive, on grounds of overriding needs relating to the protection of public health. A Member State may also

Amendment

2. However, a Member State may maintain more stringent national provisions, applicable to all products alike, in areas covered by the Directive, on grounds of overriding needs relating to the protection of public health. A Member State may also

introduce more stringent provisions, on grounds relating to the specific situation of this Member State and provided the provisions are justified by the need to protect public health. Such national provisions shall be notified to the Commission together with the grounds for maintaining or introducing them. The Commission shall, within *six* months from the date of receiving the notification, approve or reject the provisions after having verified, taking into account the high level of health protection achieved through this Directive, whether or not they are justified, necessary and proportionate to their aim and whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between the Member States. In the absence of a decision by the Commission within this period the national provisions shall be deemed to be approved.

introduce more stringent provisions, on grounds relating to the specific situation of this Member State and provided the provisions are justified by the need to protect public health. Such national provisions shall be notified to the Commission together with the grounds for maintaining or introducing them. The Commission shall, within *12* months from the date of receiving the notification, approve or reject the provisions after having verified, taking into account the high level of health protection achieved through this Directive, whether or not they are justified, necessary and proportionate to their aim, *consistent with WTO rules* and whether or not they are a means of arbitrary discrimination or a disguised restriction on trade between the Member States. In the absence of a decision by the Commission within this period the national provisions shall be deemed to be approved.

Or. en

Justification

The EU has to take into account its international obligations when proposing legislation.

Amendment 232 **Ewald Stadler**

Proposal for a directive **Article 24 – paragraph 3**

Text proposed by the Commission

3. This Directive shall not affect the right of Member States to maintain or introduce, in accordance with the Treaty, national provisions concerning aspects not regulated by this Directive. These national provisions must be justified by overriding reasons of public interest and be necessary and proportionate to their aim. They must

Amendment

3. This Directive shall not affect the right of Member States to maintain or introduce, in accordance with the Treaty, national provisions concerning aspects not regulated by this Directive. These national provisions must be justified by overriding reasons of public interest and be necessary and proportionate to their aim. They must

not be a means of arbitrary discrimination or a disguised restriction on trade between the Member States **and must not jeopardise the full application of this Directive.**

not be a means of arbitrary discrimination or a disguised restriction on trade between the Member States.

Or. de

Justification

The last phrase is redundant, because the directive must in any case be transposed in accordance with the provisions of the Treaty.

Amendment 233
Ewald Stadler

Proposal for a directive
Article 24 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. This Directive shall under no circumstances affect the right of Member States to adopt more stringent rules, provided they are essential for the protection of public health and do not go disproportionately further than the standards laid down in, or fall outside the scope of, this Directive.

Or. de

Justification

Disproportionate deviations from the rules laid down in this directive would represent a gross violation of the principle of legal certainty and undermine, rather than promote, the intended purpose of this directive.

Amendment 234
Małgorzata Handzlik, Paweł Zalewski

Proposal for a directive
Article 26 – paragraph 1 – introductory part

Text proposed by the Commission

Member States may allow the following products, which are not in compliance with this Directive, to be placed on the market until [Publications Office, please insert the exact date: entry into force + **24** months]:

Amendment

Member States may allow the following products, which are not in compliance with this Directive, to be placed on the market until [Publications Office, please insert the exact date: entry into force + **42** months]:

Or. en

Amendment 235

Maria do Céu Patrão Neves

Proposal for a directive

Article 26 – paragraph 1 – point a

Text proposed by the Commission

(a) tobacco *products*;

Amendment

(a) *cigarettes and roll-your-own* tobacco;

Or. pt