



Plenary sitting

B8-0312/2016

2.3.2016

MOTION FOR A RESOLUTION

further to Questions for Oral Answer B8-0109/2016, B8-0110/2016, B8-0111/2016, B8-0112/2016, B8-0113/2016, B8-0114/2016 and B8-0115/2016

pursuant to Rule 128(5) of the Rules of Procedure

on the tobacco agreement (PMI agreement)
(2016/2555(RSP))

Bart Staes, José Bové, Igor Šoltes, Benedek Jávor, Bronis Ropė
on behalf of the Verts/ALE Group

**European Parliament resolution on the tobacco agreement (PMI agreement)
(2016/2555(RSP))**

The European Parliament,

- having regard to the Anti-Contraband and Anti-Counterfeit Agreement and General Release of 9 July 2004 among Philip Morris International (PMI) and affiliates, the Union and 10 Member States ('the agreement'),
- having regard to Directive 2014/40/EU of the European Parliament and of the Council of 3 April 2014 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products and repealing Directive 2001/37/EC¹ (the Tobacco Products Directive, or TPD),
- having regard to the World Health Organisation Framework Convention on Tobacco Control (the 'WHO FCTC'),
- having regard to the Protocol to Eliminate Illicit Trade in Tobacco Products adopted in respect of the WHO FCTC ('the Protocol'),
- having regard to its resolution of 11 March 2015 on the Annual Report 2013 on the Protection of the EU's Financial Interests – Fight against fraud², its decision of 29 April 2015 on discharge in respect of the implementation of the general budget of the European Union for the financial year 2013, Section III – Commission and executive agencies³, and its resolution of ... March 2016 on the Annual Report 2014 on the Protection of the EU's Financial Interests – Fight against fraud,
- having regard to the Ombudsman's Press Release 12/2015 of 5 October 2015 entitled 'European Commission not transparent enough about tobacco lobbying',
- having regard to the Commission proposal of 4 May 2015 for a Council decision on the conclusion, on behalf of the European Union, of the Protocol to Eliminate Illicit Trade in Tobacco Products to the World Health Organisation's Framework Convention on Tobacco Control, in so far as the provisions of the Protocol which fall under Title V of Part III of the Treaty on the Functioning of the European Union are concerned (COM(2015)0193),
- having regard to the Commission proposal of 4 May 2015 for a Council decision on the conclusion, on behalf of the European Union, of the Protocol to Eliminate Illicit Trade in Tobacco Products to the World Health Organisation's Framework Convention on Tobacco Control, in so far as the provisions of the Protocol which do not fall under Title V of Part III of the Treaty on the Functioning of the European Union are concerned (COM(2015)0194),

¹ OJ L 127, 29.4.2014, p. 1.

² Texts adopted, P8_TA(2015)0062.

³ Texts adopted, P8_TA(2015)0118.

- having regard to the requests adopted by the Council on 24 February 2016 for Parliament’s consent to the two Council decisions on the conclusion, on behalf of the European Union, of the Protocol to Eliminate Illicit Trade in Tobacco Products to the World Health Organisation’s Framework Convention on Tobacco Control,
 - having regard to the Commission staff working document of 24 February 2016 entitled ‘Technical assessment of the experience made with the Anti-Contraband and Anti-Counterfeit Agreement and General Release of 9 July 2004 among Philip Morris International and affiliates, the Union and its Member States’ (SWD(2016)0044) (‘the assessment’),
 - having regard to the questions to the Commission on the tobacco agreement (PMI agreement) (O-000010/2016 – B8-0109/2016, O-000014/2016 – B8-0110/2016, O-000015/2016 – B8-0111/2016, O-000016/2016 – B8-0112/2016, O-000017/2016 – B8-0113/2016, O-000018/2016 – B8-0114/2016 and O-000019 – B8-0115/2016),
 - having regard to Rules 128(5) and 123(2) of its Rules of Procedure,
- A. whereas both the legal framework vis-à-vis, and the practical characteristics of, the illicit tobacco trade have changed substantially since the signing of the agreement;
 - B. whereas the Commission has committed to ratification of the Protocol in order to combat illicit trade in tobacco products, which is a major step towards strengthening the legal framework for the fight against illicit trade in tobacco products;
 - C. whereas the Commission has undertaken to invite third countries to ratify the Protocol;
 - D. whereas the Commission would take a major and unnecessary reputational risk by renewing the agreement with PMI while inviting third countries to ratify the Protocol;
 - E. whereas the Secretariat of the WHO FCTC has stated that agreements with the tobacco industry, including those of the EU and Interpol, are in conflict with the WHO FCTC because they serve tobacco companies and threaten progress on tobacco control¹;
1. Recalls that in May 2015 the Commission promised to deliver its assessment of the agreement with PMI as soon as possible; stresses that the Commission postponed the publication of the assessment several times and that it was finally published on 21 February 2016, one day before a plenary debate in Parliament; firmly considers such delayed publication to constitute a serious failure to meet the Commission’s obligations of transparency, both to Parliament and to the citizens of the EU; stresses that on the basis of the current data and evidence there is no ample basis for claiming that the agreement has been successful;
 2. Welcomes the Commission’s proposal to ratify the Protocol, and its undertaking to invite Member States and third countries to ratify it, but believes that renewal of the agreement would send a damaging and counterproductive message to third countries that the EU engages in inappropriate interactions with the tobacco industry even though the Protocol clearly prohibits such interactions;

¹ <http://www.who.int/fctc/protocol/faq/en/index3.html>

3. Points out that the Guidelines for implementation of Article 5.3 of the WHO Framework Convention on Tobacco Control state that '[t]here is a fundamental and irreconcilable conflict between the tobacco industry's interests and public health policy interests', and believes that renewal of the agreement would be incompatible with the EU's obligations under Article 5.3;
4. Considers that in 2004 the agreement with PMI was an innovative tool for tackling the illicit tobacco trade, but stresses that both the legal framework vis-à-vis, and the practical characteristics of, that illicit trade have now changed substantially; is therefore of the opinion that all the elements covered in the agreement with PMI are now covered by the new legal framework, and stresses that the agreement does not address important characteristics of the illicit tobacco trade today, in particular the high proportion of the trade that is now made up of 'illicit whites'; stresses, furthermore, that smuggling is an international affair, while the agreement applies only to the EU;
5. Concludes that the agreement with PMI should not be renewed, prolonged or renegotiated, and strongly urges the Commission not to do so;
6. Instructs its President to forward this resolution to the Council, the Commission, the governments and parliaments of the Member States, and the Secretariat of the World Health Organisation Framework Convention on Tobacco Control.