



Plenary sitting

B8-0314/2016

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 B-0115/2016

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

on the Tobacco Agreement (PMI Agreement)
(2016/2555(RSP))

Marco Valli, Piernicola Pedicini, Isabella Adinolfi
on behalf of the EFDD Group

**European Parliament resolution on the Tobacco Agreement (PMI Agreement)
(2016/2555(RSP))**

The European Parliament,

- having regard to its previous resolutions, in particular that of 11 March 2015 on the Annual Report 2013 on the Protection of the EU's Financial Interests – Fight against fraud¹, and to 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 agencies²,
- 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', concerning a possible decision on opening negotiations between the European Union and the tobacco industry (SWD(2016)0044),
- having regard to the World Health Organisation Framework Convention on Tobacco Control ('WHO FCTC') and the Protocol to Eliminate Illicit Trade in Tobacco Products,
- having regard to the proposal 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 (2015/0100(NLE)),
- 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/EC³ (the Tobacco Products Directive, or TPD),
- having regard to the four cooperation agreements currently in force between the Member States and the EU, and Philip Morris International (PMI), Japan Tobacco International (JTI), Imperial Tobacco Limited (ITL) and British American Tobacco (BAT) respectively,
- having regard to the questions to the Commission on the Commission recommendation concerning the decision on opening/pursuing negotiations between the European Union and Philip Morris (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-000019/2016 – B8-0115/2016),

¹ Texts adopted, P8_TA(2015)0062.

² Texts adopted, P8_TA(2015)0118.

³ OJ L 127, 29.4.2014, p. 1.

- having regard to Rules 128(5) and 123(2) of its Rules of Procedure,
- A. whereas protection of the EU's financial interests is one of the Commission's key priorities, and whereas illicit trade in tobacco products, in particular smuggling of contraband and counterfeit cigarettes, costs national and EU budgets, at a conservative estimate, more than EUR 10 billion in lost public revenue per year;
- B. whereas illicit trade is a serious crime that contributes to the funding of other international organised criminal activities, including human, drugs and arms trafficking, and, in some cases, terrorist groups;
- C. whereas tobacco smuggling undermines EU public health policies and means that illicit tobacco products are available – including to young people – at a substantial illegal discount in many places; whereas not only are counterfeit cigarettes illegally manufactured and imported, but the ingredients used in them are not known, thus constituting a serious health risk;
- D. whereas according to the World Health Organisation (WHO), tobacco smoking is the second leading cause of death worldwide and the leading cause of preventable death; whereas smoking claims 5.4 million victims worldwide each year;
- E. whereas, in order to address the problem of contraband and counterfeit cigarettes, the EU and the Member States (with the exception of Sweden in the case of the BAT and ITL agreements) have signed legally binding agreements with Philip Morris International (PMI) (2004), Japan Tobacco International (JTI) (2007), British American Tobacco (BAT) (2010) and Imperial Tobacco Limited (ITL) (2010); whereas, through these agreements, the companies have committed to paying a collective total of USD 2.15 billion to the EU and the signatory states in order to combat illegal trade in cigarettes;
- F. whereas 15 years ago the illicit EU market was dominated by contraband from the four main manufacturers; whereas the prevalence of contraband from these manufacturers has been declining; whereas today's market sees an ever-growing share of non-branded cigarettes ('cheap whites') and whereas out of the more than 600 million cigarettes seized with support from the European Anti-Fraud Office (OLAF) in 2015, almost all were cheap whites; whereas estimates by the data research company Euromonitor as of 11 June 2015 show that the total volume of the EU illicit cigarette market has slightly increased from 64 billion to 66 billion cigarettes over the last five years; whereas despite the overall decline in seizures of PMI cigarettes and the brands of the other three main tobacco manufacturers, the volume and availability of illicit products on the EU tobacco market remains troubling;
- G. whereas the agreements were entered into with a total opacity and lack of transparency; whereas there are no data on how the Member States have spent the money received under such agreements;
- H. whereas the agreement with PMI is due to expire in July 2016 and requires the parties to meet soon with a view to exploring whether or not the cooperation agreement should be extended; whereas the Commission has also committed to ratifying the WHO Illicit Trade Protocol in order to combat the illicit trade in tobacco products and has

committed itself to inviting third countries to ratify the Protocol;

- I. whereas all EU Member States will be expected to ratify the FCTC Protocol, and five have done so already; whereas the Protocol will enter into force once 40 Parties have ratified it;
 - J. 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 as they serve the interests of tobacco companies and threaten progress in tobacco control;
1. Strongly deplores the fact that the Commission released its assessment of the agreement with PMI only on 21 February 2016 despite several requests from Parliament to do so; considers this delay in publication to be a serious failure on the part of the Commission to meet its obligations of transparency, vis-à-vis both Parliament and EU citizens;
 2. Notes that the assessment declares that it is not possible to demonstrate any direct ‘causality’ between the PMI Agreement and the decrease in seizures, even if seizures of genuine PMI products have dropped by some 85 % since 2006;
 3. Stresses that the specific parameters used in the PMI Agreement provide for a notification threshold of 50 000, and that the drop in reported seizures could be linked to different operational methods, notably an increase in ‘ant trafficking’ (i.e. repeated smuggling of smaller volumes); recalls that available data on ant trafficking is limited since Member States rarely report below that threshold;
 4. Regrets the fact that the Commission and the Member States receive significant annual payments from the tobacco industry for fighting counterfeiting of their cigarettes and believes that the consideration of a possible extension of agreements with the tobacco industry could undermine the credibility of a real fight against cigarette smuggling; recalls that no data is available on the use of these payments by Member States and deplores this lack of transparency;
 5. Stresses that the Tobacco Products Directive already foresees a legal requirement for tobacco companies to introduce and maintain a track-and-trace system which must be operational for cigarettes and roll-your-own tobacco products from 20 May 2019 and for other tobacco products from 20 May 2024; recalls that the 2015 Protocol to the WHO Framework Convention on Tobacco Control foresees a similar global requirement, which is likely to take effect in 2022 or 2023; further stresses that the implementing and delegated acts on the future traceability system to be adopted under Article 15 of the Tobacco Products Directive must be compatible with the provisions of the Protocol on the same matter (Article 8);
 6. Deplores the fact that the Commission and the Member States are not able to provide an independent track-and-trace system; further deplores that some of the Member States are already discussing agreements with tobacco companies for setting up track-and-trace systems prior to the traceability standards being laid down by means of delegated acts and prior to the EU’s ratification of the Protocol to Eliminate Illicit Trade in Tobacco Products to the World Health Organisation’s Framework Convention on Tobacco Control;

7. Urges the Commission to promptly ratify the Protocol to Eliminate Illicit Trade in Tobacco Products to the World Health Organisation's Framework Convention on Tobacco Control and welcomes its commitment to invite Member States and third countries to ratify it; recalls that the Protocol clearly prohibits inappropriate interactions with the tobacco industry;
8. Asks the Commission to halt any further contacts with PMI and other tobacco manufacturers regarding a possible extension of the tobacco agreements and requests it not to renew, prolong or renegotiate the current agreements;
9. Instructs its President to forward this resolution to the Council and the Commission.