



Plenary sitting

**B8-0313/2016 }
B8-0316/2016 } RC1**

7.3.2016

JOINT MOTION FOR A RESOLUTION

pursuant to Rules 128(5) and 123(4) of the Rules of Procedure

replacing the motions by the following groups:

ECR (B8-0313/2016)

PPE (B8-0316/2016)

on the tobacco agreement (PMI agreement)

(2016/2555(RSP))

Ingeborg Gräßle, Petri Sarvamaa

on behalf of the PPE Group

Ryszard Czarnecki

on behalf of the ECR 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 its Member States,
- 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),
- 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/EC,
- having regard to the Protocol to Eliminate Illicit Trade in Tobacco Products adopted during the fifth session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control by Decision FCTC/COP5(1) of 12 November 2012,
- having regard to its resolution of 11 October 2007 on the implications of the agreement between the Community, Member States and Philip Morris on intensifying the fight against fraud and cigarette smuggling and progress made in implementing the recommendations of Parliament’s Committee of Inquiry into the Community Transit System¹,
- having regard to Rules 128(5) and 123(4) of its Rules of Procedure,
 - A. whereas illicit trade in tobacco products, and in particular the smuggling of contraband and counterfeit cigarettes, causes the EU and its Member States revenue losses (in terms of customs, VAT and excise duties) of more than EUR 10 billion a year;
 - B. whereas tobacco smuggling is a serious crime that contributes to the funding of other international organised criminal activities, including human, drugs and arms trafficking;
 - C. whereas tobacco fraud undermines anti-smoking policies, thereby fuelling the tobacco epidemic: it increases access to (often cheaper) tobacco products, especially for young people and low-income groups;
 - D. whereas tobacco fraud is a public health concern, posing an even greater health risk than genuine cigarettes since counterfeit cigarettes are illegally manufactured and imported and the ingredients used are not known;
 - E. whereas the core aim of the PMI agreement is to reduce the prevalence of PMI contraband on the illicit EU tobacco market;

¹ OJ C 227 E, 4.9.2008, p. 147.

- F. whereas the Commission's technical assessment of the PMI agreement concludes that this core objective has been effectively met, but that the reduction in PMI contraband has not led to an overall reduction in the number of illicit products on the EU market;
- G. 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);
- H. whereas the PMI agreement has so far provided financial benefits to public revenue amounting to approximately USD 1 billion in annual payments and EUR 68.2 million in seizure payments, divided between the Commission (approximately 10 %) and the Member States (approximately 90 %);
- I. whereas the PMI agreement is set to expire on 9 July 2016;
- J. whereas there have been significant changes in the market environment since the current PMI agreement was signed, in particular the increased presence of non-branded cigarettes, often referred to as 'cheap whites';
- K. whereas there have been significant changes to the regulatory environment since the current PMI agreement was signed, in particular the adoption of Directive 2014/40/EU concerning the manufacture, presentation and sale of tobacco and related products, and of the Protocol to the WHO Framework Convention on Tobacco Control;
1. Welcomes the Commission's report on its assessment of the PMI tobacco agreement; regrets, however, the timing of the delivery of this technical assessment;
 2. Welcomes the Protocol to Eliminate Illicit Trade in Tobacco Products adopted in respect of the WHO Framework Convention on Tobacco Control (the 'FCTC Protocol'), and encourages the Member States to complete the ratification process as soon as possible;
 3. Welcomes the adoption of 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/EC (the Tobacco Products Directive);
 4. Takes note of the Commission's assessment that the PMI agreement has effectively met its objective of reducing the prevalence of PMI contraband on the illicit EU tobacco market, as shown by a drop of around 85 % in the volume of genuine PMI cigarettes seized by Member States between 2006 and 2014; notes, nevertheless, that according to the Commission the reduction in PMI contraband has not led to an overall reduction in the number of illicit products on the EU market; notes that contraband consisting of smuggled products from the large manufacturers has been increasingly replaced by other products, including non-branded cigarettes ('cheap whites') typically produced in third countries;
 5. Highlights the statement in the Commission's report that legally binding and enforceable instruments, if coupled with robust law enforcement, are the most efficient tools for ensuring a significant reduction in illegal trade in tobacco products;

6. Recalls that, as mentioned in the Commission's report, the Tobacco Product Directive already provides for a legal requirement for tobacco companies to introduce and maintain a track-and-trace system, which will take effect in 2019 at the latest, and whereas furthermore the 2015 Protocol to the WHO Framework Convention on Tobacco Control provides for a similar global requirement, which is to take effect in 2022 or 2023 at the earliest;
7. Emphasises that the Commission must take immediate steps to ensure the full transposition of the Tobacco Products Directive in all Member States; calls on the Member States to implement the Tobacco Products Directive in a timely manner, in particular its track-and-trace measures;
8. Is deeply concerned that the budget of the European Anti-Fraud Office (OLAF) is partly financed by yearly payments from the tobacco industry, as mentioned in the tobacco agreements, since this could lead to a certain conflict of interest;
9. Emphasises that the Commission should focus on European and international legislative tools in order to combat counterfeit and contraband cigarettes;
10. Reiterates the continuous need to fight illicit trade, counterfeiting and tax evasion; whereas the Commission should therefore look for ways to address the current situation in a transparent and accountable manner, with the involvement of the European Parliament, given the possible gap between the expiry of the PMI agreement currently in force and the entry into force of the Tobacco Products Directive and the FCTC Protocol;
11. Recommends, having weighed up all the arguments for and against an extension of the PMI agreement, that the Commission extend it; considers the extension to be a transitional arrangement to prevent a regulatory gap until both the Tobacco Products Directive and the FCTC Protocol take full effect;
12. Expresses concern at the fact that the PMI agreement currently in force could not deal with the issue of 'cheap whites', given that these are unbranded cigarettes and therefore fall outside the agreement's scope; calls on the Commission, therefore, to come forward with an action plan setting out new measures aimed at tackling this problem as a matter of urgency;
13. Calls on PMI to continue to apply the track-and-trace and due-diligence ('know your customer') provisions contained in the current agreement, regardless of whether or not it is extended;
14. Calls on the Commission to put forward an additional regulation to apply track-and-trace and due-diligence ('know your customer') provisions to raw cut tobacco, filters and papers used by the tobacco industry, as an additional tool to fight against contraband and counterfeit products;
15. Instructs its President to forward this resolution to the Council and the Commission.