



27 May 2013

EP INTERNATIONAL TRADE COMMITTEE: TOBACCO PRODUCTS DIRECTIVE – EXCHANGE OF VIEWS ON THE TRADE IMPLICATIONS OF THE DIRECTIVE

- Chairman, Members of the European Parliament, Ladies and Gentlemen, thank you for giving me this opportunity. Before starting, I would like to underline that I'm here as representative of BUSINESSEUROPE – and hence the wider European business community. Therefore I will not deal with sector-specific tobacco issues – but focus on the overall trade implications of this directive.
- I would also like to thank the INTA committee for their continuous engagement to further advance free trade. We share your conviction for stronger multilateral trade rules to progressively open markets for trade and investment globally. We are also keenly aware that the integration of emerging markets into the global trading system requires constant engagement with them bilaterally and multilaterally. And we welcome that the International Trade (INTA) Committee of the European Parliament provides an opinion on the potential trade policy implications of the Commission proposal on a Tobacco Products Directive (COM (2012) 788 Final).
- Concerning this directive, I would firstly like to underline that we respect the right of governments to regulate products for legitimate public health and safety reasons. We understand the importance of improving public health and appreciate the European Union's role in furthering this vital objective. However, it is important that regulations be consistent with international law, and in particular the WTO.
- We are concerned that some of the proposed measures in the tobacco products directive are more trade restrictive than is necessary to address public health concerns. This would not only affect the rights of companies exporting tobacco products to Europe. It is important that the Tobacco Products Directive pursues the EU's public policy objectives in a manner which is proportionate to those aims. For example, it is extremely challenging to demonstrate how the standardization obligations foreseen meet the aims of the Commission proposal. These and other proposed measures directly undermine WTO rules on trademark protection. Hence, the EU risks being taken to the WTO.
- But my main concern is that the EU would set a harmful example in international trade in doing this. Similar measures could be used by other countries to regulate other products in a way that could dramatically affect the ability of our companies to export to them. And this does not necessarily concern tobacco. Let me give you two examples:
 - How could the EU challenge another country that for public health reasons would like to introduce similar measures in order to reduce the consumption



- of alcohol? What would be the EU's reaction if bottles of Czech or Belgian beer, French wine or Irish whisky would fall under plain packaging rules?
- Similarly, what would be the EU's reaction if the export of high quality Belgian chocolate is restricted? Third countries could invoke the fight against obesity as a legitimate public health reason!
- Were the EU to adopt its measures as foreseen in the tobacco directive – how could they then credibly criticise other countries that do not respect their WTO obligations in these other instances?
 - We see already quite a number of countries around the world that want to introduce measures targeting our exports of alcohol or food. For example, the Eurasian Economic Union (which includes Russia) is proposing regulations on the beer and wine sector which could be very damaging for our commercial interests.¹ Similarly, many Asian countries around the world want to limit market access for different EU food and drink products on discriminatory terms. It would be unfortunate if an EU directive would serve as a model for such restrictions.
 - We are also very concerned that this could set a precedent for similar intellectual property right violations affecting other types of products and pave the way to a flow of counterfeited products.
 - Moreover, I would also underline that the WTO Technical Barriers to Trade (TBT) agreement requires the EU to consult with its trading partners on measures that could restrict trade. I know that the TBT committee has been notified earlier this year. It is important therefore that the measures proposed in the tobacco products directive to prevent or reduce smoking are backed up by credible evidence.
 - Let me conclude by reiterating that the EU has the full right to regulate products for health and safety reasons. And we hope that it will do so in full respect of its multilateral trade obligations. The EU must also take into account that its own regulations could be emulated by other trade partners – with potential very harmful effects for EU exports.
 - Our companies face a number of restrictive and discriminatory measures in emerging markets. Often times, these measures are ostensibly pursued for health reasons. It is therefore essential for the EU to ensure the full conformity of its regulations with WTO rules. We must not set a bad precedent.
 - I thank you for your attention.

¹ The Customs Union is proposing special definitions of beer and wine without any clear evidence although the purpose is legitimate – too get young people to drink less (binge drinking). The end result is that premium EU exports are most affected by the proposed measures.