



## **Meeting of the Expert Group on Tobacco Policy**

**03 May 2023**

**Meeting venue: Online 10:30-15:30**

**– SUMMARY RECORD –**

### **1. Welcome and introduction**

DG SANTE welcomed the participants and addressed the recent reorganisation and structure of the unit. DG SANTE also explained the arrangement of the meeting and the participation of additional experts in the morning session of the meeting. These experts were consulted during the targeted consultation activities related to the revision of the Council Recommendation. DG SANTE then presented the draft agenda, which was adopted without changes.

### **2. Revision of the Council Recommendation on Smoke-free Environments**

DG SANTE informed participants about the revision of the Council Recommendation on Smoke-free Environments regarding the inclusion of emerging products and specific outdoor spaces. A call for evidence was launched in June and July 2022 and targeted consultations in March to May 2023.

DG SANTE presented the list of products and spaces being considered for inclusion in the revised Council Recommendation. The rationale behind the inclusion of the products is that they: (1) release second-hand smoke or aerosols that can damage the health of second-hand smokers; and/or (2) are referred by the WHO, which notes that “both tobacco products and electronic nicotine delivery systems pose risks to health and the safest approach is not to use either” (and long-term risks are not fully known), therefore their use should not be normalised; (3) they deliver a highly addictive substance (nicotine); and (4) in cases where they are not covered in the same ways as traditional tobacco products, may promote dual use, with consumers adding to their consumption where it is allowed (in a context of high industry investment in these products with more market growth expected in the future). The rationale behind the inclusion of the specific outdoor spaces is that they are places where children or large groups of people congregate in and/or cannot avoid passing through and thus can be unwillingly exposed to second-hand smoke and/or aerosols.

The chair opened the floor for a tour de table. During the tour de table, discussions encompassed the possible inclusion of emerging products, both products that emit smoke/aerosols and those that do not. The importance of future-proofing the text and product definitions was mentioned.

The discussion also included the specific outdoor spaces to be considered for inclusion in the revised Recommendation. Although some possible implementation and enforcement challenges were highlighted, the majority of Member States agreed to the proposed approach of inclusion of products and spaces. Several Member States also noted that they have already adopted similar approaches within their national legislation. Member States were invited to submit written feedback<sup>1</sup> and any additional evidence by 17 May 2023.

### **3. Conference of the Parties (COP10)**

Member States were informed about the preparations for the 10th session of the FCTC Conference of the Parties, which will take place in Panama in November 2023. It was explained that it will be for the Spanish Presidency to lead the Council preparations on the positions; the formal procedure under Article 218(9) TFEU needs to be applied for the establishment of EU positions on COP decisions with legal effect. DG SANTE emphasized that it is important that the European Union talks with one voice on all items on the agenda. They added that as the previous COP9 was virtual, all substantive decisions were deferred to COP10. There will be a pre-COP10 in advance of the COP10, but the place and the date are still to be confirmed. The COP agenda and all underlying documents are, in principle, circulated only 60 days before the COP, so currently this is just draft information. Member States were invited to share their views. Spain spoke of the upcoming Presidency and their pleasure in being involved in COP10. Spain is currently preparing the team for this; and is aware of the challenge and cognisant that it will be hard work. Some Member States asked how the pre-COP10 could be made more fruitful, due to the likely lack of formal EU positions at the time. DG SANTE responded that this has already been discussed, and that there is a need for coordination to be able to provide the necessary input. The EU may participate in the discussions to ask questions and to listen, even if not yet expressing the EU position.

### **4. Evaluation of the legislative framework for tobacco control**

DG SANTE presented the status of the evaluation process and outlined various stages foreseen by “Better Regulation”. Member States were encouraged to engage in the ongoing consultation activities; the purpose of the public consultation (the deadline is 16 May 2023) and of the upcoming targeted consultation were outlined.

### **5. Commission Delegated Directive (EU) 2022/2100**

DG SANTE reminded Member States of the upcoming deadline for the transposition of the Delegated Directive (23 July 2023). Member States are to communicate the text of their laws which will be subject to the compliance assessment process. The participants were informed about the ongoing Court cases related to the Delegated Directive. One Member State informed about the challenge at national level and another Member State that a contest on the transposition has been made by letter. Another Member State added that they have fulfilled the transposition obligation without any challenges.

### **6. Conclusions and AOB**

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There was a presentation on a **recent study<sup>2</sup> on options to make cigarettes less appealing and addictive** followed by a discussion among some Member States. This was followed by an update on the halfway point of the three-year **Joint Action on Tobacco Control 2 (JATC-2)<sup>3</sup>**. The general objective is not only to support the implementation of the Tobacco Products Directives (TPD) and the Tobacco Advertisement Directive (TAD), but also to promote activities consistent with the objectives of the WHO Framework Convention on Tobacco Control. The JATC contributed to the implementation of the TPD in specific areas of laboratory capacity, testing methods for tobacco and related products, regulation of ingredients and developed data sharing agreements concerning the excessive amounts of data within EU-CEG. JATC 2 programme build on the results of the JATC and adds new pillars to the work of Joint Action within tobacco control. It was requested to have an official agenda item at the next expert group meeting to present the project in depth and to highlight findings and publications. DG SANTE then informed the participants of other collaborative work between Member States, such as the Joint Action on Cancer **NCD prevention** (“Joint Action Cancer and other NCDs prevention – action on health determinants”). DG SANTE updated participants on this recently launched joint action, under the EU4Health Programme. The Joint Action is a 75-million Euro collaborative action over four years on health determinants against non-communicable diseases and cancer. Tobacco plays a role in the Joint Action, as does nutrition and alcohol. Some Member States then gave short updates regarding some updates or issues in their national tobacco control policies. The Chair then thanked everyone for their attention and valuable contributions.

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<sup>2</sup> <https://www.rivm.nl/en/documenten/towards-smoke-free-generation-options-to-make-cigarettes-less-appealing-and-addictive>

<sup>3</sup> [jaotc.eu](http://jaotc.eu) | OUR MISSION - Jaotc Project