

Brussels, 17 July 2025
(OR. en)

11725/25
ADD 2

Interinstitutional File:
2025/0580 (CNS)

FISC 181
ECOFIN 1014
MI 554
SAN 462
UD 166
IA 86

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	17 July 2025
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.:	SWD(2025) 560 final
Subject:	COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT REPORT Accompanying the document Proposal for a COUNCIL DIRECTIVE on the structure and rates of excise duty applied to tobacco and tobacco related products (recast)

Delegations will find attached document SWD(2025) 560 final.

Encl.: SWD(2025) 560 final



EUROPEAN
COMMISSION

Brussels, 16.7.2025
SWD(2025) 560 final

COMMISSION STAFF WORKING DOCUMENT

IMPACT ASSESSMENT REPORT

Accompanying the document

Proposal for a COUNCIL DIRECTIVE

**on the structure and rates of excise duty applied to tobacco and tobacco related products
(recast)**

{COM(2025) 580 final} - {SEC(2025) 560 final} - {SWD(2025) 561 final}

Table of contents

1. INTRODUCTION: POLITICAL AND LEGAL CONTEXT	7
2. PROBLEM DEFINITION.....	9
3. WHY SHOULD THE EU ACT?.....	19
4. OBJECTIVES: WHAT IS TO BE ACHIEVED?.....	21
5. WHAT ARE THE AVAILABLE POLICY OPTIONS?	23
6. WHAT ARE THE IMPACTS OF THE POLICY OPTIONS?	38
7. HOW DO THE OPTIONS COMPARE?	54
8. PREFERRED OPTION	58
9. HOW WILL ACTUAL IMPACTS BE MONITORED AND EVALUATED?	61
ANNEX 1: PROCEDURAL INFORMATION	64
1. LEAD DG, DECIDE PLANNING/CWP REFERENCES	64
2. ORGANISATION AND TIMING	64
3. CONSULTATION OF THE RSB	66
4. EVIDENCE, SOURCES AND QUALITY	70
ANNEX 2: STAKEHOLDER CONSULTATION (SYNOPSIS REPORT)	71
1. CONSULTATION STRATEGY	71
2. FEEDBACK ON THE POLICY PROBLEMS	72
3. FEEDBACK ON SPECIFIC POLICY OPTIONS	76
ANNEX 3: WHO IS AFFECTED AND HOW?.....	81
1. PRACTICAL IMPLICATIONS OF THE INITIATIVE	81
2. SUMMARY OF COSTS AND BENEFITS	81
3. RELEVANT SUSTAINABLE DEVELOPMENT GOALS	87
ANNEX 4: ANALYTICAL METHODS.....	91
1. INTRODUCTION.....	91
2. DATA COLLECTION.....	92
3. DESK RESEARCH.....	93
4. CALL FOR A DATA.....	94
5. CASE STUDIES	95
6. METHODOLOGICAL LIMITATIONS	95
7. BASELINE SCENARIO	96
8. IMPACT ANALYSIS	99
ANNEX 5: COMPETITIVENESS CHECK.....	109
1. OVERVIEW OF IMPACTS ON COMPETITIVENESS	109
2. SYNTHETIC ASSESSMENT	109
ANNEX 6: SME CHECK.....	112
ANNEX 7: SMOKING PREVALENCE AND PRICE LEVELS.....	118
1. SMOKING PREVALENCE.....	118

2.	SMOKING PREVALENCE. GENDER AND SOCIO-ECONOMIC GROUPS	119
3.	AFFORDABILITY AND THE ROLE OF EU MINIMA ON TOBACCO PRODUCTS	123
4.	EXCISE DUTY LEVELS	127
	ANNEX 8: CROSS-BORDER FLOWS OF TOBACCO AND NEW PRODUCTS.....	129
1.	CONTEXT	129
2.	ASSESSMENT OF CROSS-BORDER FLOWS.....	129
	ANNEX 9: ILLICIT TRADE AND MANUFACTURING OF TOBACCO PRODUCTS	137
1.	OVERVIEW	137
2.	ESTIMATED MAGNITUDE AND CHARACTERISTICS OF ITTP ACROSS THE EU.....	138
3.	ILLICIT MANUFACTURING WITHIN EU	141
	ANNEX 10: INCOHERENT FISCAL TREATMENT OF CIGARILLOS AND WATERPIPE TOBACCO.....	144
1.	CIGARILLOS	144
2.	WATERPIPE TOBACCO.....	144
	ANNEX 11: PURCHASING POWER PARITIES APPROACH.....	146
1.	OVERVIEW	146
2.	COMPARISON BETWEEN RELATIVE INCOME PRICE (RIP) AND PURCHASING POWER PARITIES (PPP) BASED MECHANISMS.....	146
3.	LIMITS OF THE PPP APPROACH	147
4.	CONCLUSION	148
	ANNEX 12: HEATED TOBACCO PRODUCTS	152
1.	MARKET AND DEMAND TRENDS.....	152
2.	LEGAL FRAMEWORK OF HTP IN MEMBER STATES.....	157
3.	TAX REVENUE	161
	ANNEX 13: LIQUIDS FOR ELECTRONIC CIGARETTES	162
1.	MARKET TRENDS AND DEMAND.....	162
2.	LEGAL FRAMEWORK FOR E-CIGARETTES IN MEMBER STATES	168
3.	LIQUIDS FOR E-CIGARETTES REGIME'S IMPLEMENTATION AND OBLIGATIONS.....	168
4.	TAX REVENUE	169
	ANNEX 14: OTHER TOBACCO-RELATED PRODUCTS	171
1.	MARKET TRENDS AND DEMAND.....	171
2.	LEGAL FRAMEWORK IN MEMBER STATES	172
	ANNEX 15: RAW TOBACCO	173
1.	RECONSTRUCTION OF THE TOBACCO SUPPLY CHAIN	173
2.	LEGAL FRAMEWORK FOR RAW TOBACCO IN MEMBER STATES	179
	ANNEX 16: CURRENT EXCISE DUTY RULES FOR MANUFACTURED TOBACCO.....	181
1.	EXCISE DUTY STRUCTURE.....	181
2.	RELEVANCE OF THE CURRENT EXCISE DUTY STRUCTURE.....	183
	ANNEX 17: IMPACTS OF THE PROPOSED OPTIONS	184

1.	REVISION OF EU MINIMA FOR TRADITIONAL TOBACCO PRODUCTS	184
2.	HOLDING, MOVEMENT AND CONTROL REQUIREMENTS UNDER HORIZONTAL DIRECTIVE	187
3.	ENLARGING THE SCOPE TO NEW PRODUCTS.....	189
4.	IMPACTS RELATED TO ENLARGING THE SCOPE OF THE DIRECTIVE TO RAW TOBACCO	194
5.	ENVIRONMENTAL IMPACTS	199
	ANNEX 18: ELASTICITY	201
1.	MARKET EFFECTS: ELASTICITY.....	201
2.	THE PRICE ELASTICITY OF THE DEMAND FOR TOBACCO PRODUCTS IN THE RELEVANT LITERATURE	201
	ANNEX 19: EXPRESSING REVISED EU MINIMA IN NOMINAL TERMS.....	203
1.	TRADITIONAL TOBACCO PRODUCTS	203
2.	NEW PRODUCTS	207

Glossary

Term or acronym	Meaning or definition
B2B	Business to business
CN	Combined Nomenclature
Horizontal Directive	Council Directive 2008/118/EC concerning the general arrangements for excise duty and repealing Directive 92/12/EEC
The Directive	Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco
Council Directive 2007/74/EC	Council Directive 2007/74/EC of 20 December 2007 on the exemption from value added tax and excise duty of goods imported by persons travelling from third countries
CJEU	Court of Justice of the European Union
Tobacco Products Directive	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
DG TAXUD	Directorate-General for Taxation and the Customs Union
DG SANTE	Directorate-General for Health and Food Safety
DG AGRI	Directorate-General for Agriculture and Rural Development
E-cigarette	Electronic cigarette, that can be used for consumption of vapour via a mouthpiece, or any component of that product, including a cartridge, a tank and the device without cartridge or tank
EDY	Excise duty yield
EMCS	Excise movement and control system

EU	European Union
EUROPOL	European Union Agency for Law Enforcement Cooperation
FCT	Fine-cut tobacco intended for the rolling of cigarettes
FCTC	Framework Convention on Tobacco Control
GDP	Gross Domestic Product
HICP	Harmonised Indices of Consumer Prices
HTP	Heated tobacco product
ITTP	Illicit trade of tobacco products
MED	Minimum Excise Duty
NGOs	Nongovernmental organisations
OLAF	European Anti-Fraud Office
OST	Other Smoking Tobacco
PPP	Purchasing Power Parity
RIP	Relative Income Price
RSP	Retail Selling Price
RFC	Release for consumption
SEED	System for Exchange of Excise Data
SDG	Sustainable Development Goals
SMEs	Small and medium enterprises
TEDB	Taxes in Europe Database
TFEU	Treaty on the Functioning of the European Union
WAP	Weighted average price

WHO	World Health Organization
WPT	Waterpipe tobacco

1. Introduction: Political and legal context

Tobacco consumption is one of the greatest avoidable health risks in the European Union.¹ Tobacco is a highly addictive substance, and its use is linked to cardiovascular and respiratory diseases, and 27% of all cancers. Tobacco consumption remains the largest behavioural risk factor to health and each year accounts for about 700 000 deaths across EU Member States. In Europe's Beating Cancer Plan², the European Commission proposed to create a 'Tobacco Free Generation' and set a target of reducing smoking prevalence to less than 5% of the population by 2040. The plan is based on a wide consultation with stakeholder groups, the European Parliament and the Member States.

The revision of Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco ('the Directive'), which is the subject of this impact assessment, as an integral part of Europe's Beating Cancer Plan, should focus on ensuring a high level of human health protection. Higher tobacco taxes and prices have been demonstrated to be the single most effective measure to reduce overall tobacco use, induce current smokers to quit, reduce uptake by young people, lower consumption among those who continue to smoke, improve population health, increase tobacco tax revenues, and produce additional public health benefits. The revision of the Directive will contribute to the delivery of these objectives.

Other actions contributing to these objectives include the adoption in December 2024 of updated Council Recommendation on Smoke-Free Environments (to extend its coverage to emerging products, such as electronic cigarettes and heated tobacco products)³ and a comprehensive evaluation of the Tobacco Products Directive and the Tobacco Advertising Directive⁴. The evaluation will determine whether and to what extent the current legal frameworks need to be amended.

reviewing the Tobacco Products Directive. Tobacco tax policy and other tobacco control policies act in synergy. Taxation in addition to its behavioural impact, delivers an overall 'price signal' to society that smoking is indeed harmful for consumers and should be discouraged by all possible means.

The revision of the Directive will support Member States in meeting the objectives of the WHO Framework Convention on Tobacco Control⁵, including by adopting tax measures to reduce the demand for tobacco.

The initiative shall also be considered in the context of the EU agenda to strengthen EU competitiveness and growth while upholding high standards and achieving economic, social, and environmental goals and to fight against fraud. These political objectives, in the tobacco context, have three main dimensions:

¹ OECD (2024), Beating Cancer Inequalities in the EU: Spotlight on Cancer Prevention and Early Detection, OECD Health Policy Studies, OECD Publishing, Paris, <https://doi.org/10.1787/14fdc89a-en>, p 12.

² [Europe's Beating Cancer Plan](#), SWD (2021) 44 final.

³ https://ec.europa.eu/commission/presscorner/detail/en/ip_24_6185

⁴ [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, OJ L 127, 29.4.2014, p. 1–38.

[Directive 2003/33/EC](#) of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products, OJ L 152, 20.6.2003, p. 16–19.

⁵ The WHO Framework Convention on Tobacco Control (FCTC) is a legally binding international treaty that aims to reduce the health and economic impact of tobacco consumption.

- To streamline rules and reduce the administrative burdens⁶ for businesses by introducing clear definitions of new tobacco and tobacco-related products to facilitate cross-border trade involving these products while, at the same time, helping Member States enforce tax rules and improve tax compliance, ensuring they can secure reliable tax revenues.
- The fight against illicit tobacco trade, in line with the 2nd EU Action Plan⁷, which focuses on limiting some of the key input materials going into the illicit manufacture of tobacco products, including raw tobacco, and the use of the Excise Monitoring and Control System (EMCS) for risk analysis and control.
- The fight against tax fraud and evasion, in line with the EU Action Plan for fair and simple taxation supporting the recovery⁸, which sets out measures to help Member States enforce tax rules and improve tax compliance, ensuring they can secure reliable tax revenues.

EU legislation for the taxation of manufactured tobacco products⁹, in place since the 1970s, lays down minimum tax rates that Member States must respect when taxing tobacco products. The Directive continues to be an instrument for Member States to collect tax revenues¹⁰. The legal framework has been revised and amended several times¹¹. The Directive is part of a broader EU policy framework that includes the common provisions applicable to all products subject to excise duty and the customs union legislation, as well as key tobacco control policies.

This revision follows the evaluation of the Directive published on 10 February 2020.¹² The evaluation highlights the main limitations of the current regulatory framework and concludes that the Directive no longer fully achieves its objectives. The current minimum tax rates have lost traction in terms of making an effective contribution to reducing tobacco consumption. Notwithstanding that the Directive contributed to the decline of smoking prevalence, to a certain extent, smoking prevalence levels remain higher than expected. Existing differentials incentivise cross-border flows. The current scope of the Directive is not adapted to market developments such as electronic cigarettes ('e-cigarettes') and heated tobacco products. Furthermore, illicit trade in tobacco products remains substantial and continues to constitute a source of concern in Member States. Most public health authorities of the Member States are not satisfied with the impact of the Directive on tobacco control targets and call for stronger fiscal measures.

⁶ https://commission.europa.eu/law/law-making-process/better-regulation/simplification-and-implementation_en

⁷ [COMMUNICATION](#) FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE 2nd Action Plan to fight the illicit tobacco trade 2018-2022 (COM/2018/846 final)

⁸ [COMMUNICATION](#) FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL AN ACTION PLAN FOR FAIR AND SIMPLE TAXATION SUPPORTING THE RECOVERY STRATEGY (COM(2020) 312 final)

⁹ For the purposes of the provisions of this Directive, manufactured tobacco are: cigarettes; cigars and cigarillos; smoking tobacco (fine-cut tobacco for the rolling of cigarettes and other smoking tobacco). For more details see ANNEX 15:

¹⁰ In 2020 at EU level tobacco excise duties provided around 2% share of tax revenues and 0.93% of GDP (Gross Domestic Product).

¹¹ Council Directive 92/79/EEC; Council Directive 92/80/EEC; Council Directive 95/59/EC; Council Directive 2002/10/EC; Council Directive 2003/117/EC, Council Directive 2010/12/EC. In 2011, the Council adopted the revised Directive which codified the previous legislation in a single act.

¹² [Evaluation](#) of the Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco, SWD(2020) 33 final.

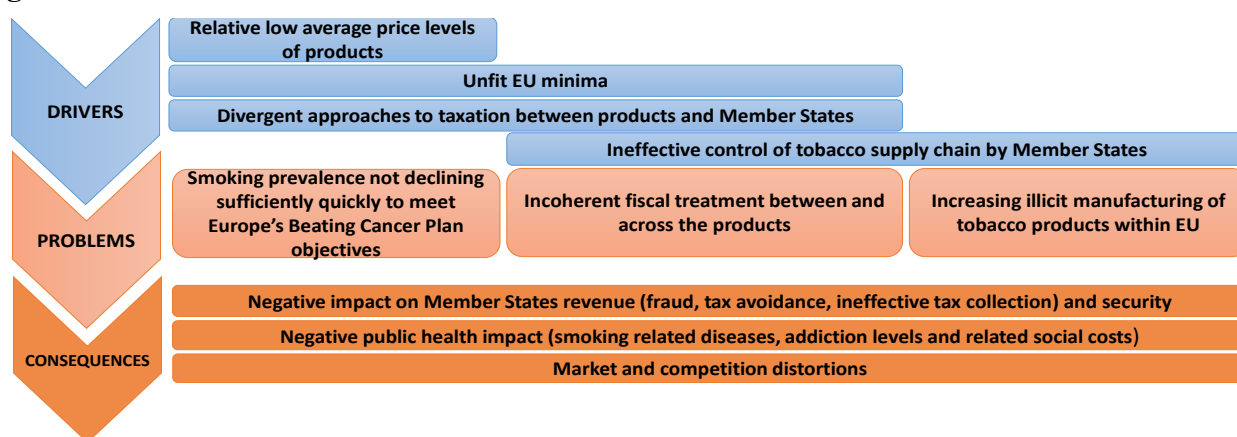
The Directive can support and complement the objectives of Europe’s Beating Cancer Plan by better aligning the taxation of tobacco and related products with health objectives, adapting to new developments and market trends, and introducing harmonised rules on tobacco and related products.

On 2 June 2020, the Council adopted conclusions on the review of the Directive¹³ based on the findings from the evaluation. The Council invited the European Commission to submit a legislative proposal for the revision of the Directive on the basis of an impact assessment.

2. Problem definition

This section defines and analyses the problems and their drivers and it assesses the expected evolution of these problems in the absence of any EU policy intervention. Figure 1 shows visually the problems, their drivers, as well as the consequences if unaddressed.

Figure 1. Problem tree



Source: Commission analysis

2.1. What is/are the problems?

At the time of its adoption, the Directive represented a positive contribution to the EU legislative framework by harmonising rules for the taxation of tobacco. However, the Directive has remained unchanged over the past 15 years, despite changes in the tobacco market, other EU legislation, and the political context with an increased focus on public health both at national and EU level. As noted above the evaluation found that the Directive no longer fully achieves its objectives, which for this impact assessment is translated into three intervention areas: (1) revising EU minima and certain categories for traditional tobacco products as smoking prevalence is not declining sufficiently quickly to meet Europe’s Beating Cancer Plan objectives; (2) enlarging the scope of the Directive to new products as the current scope of the Directive is not adapted to market developments and the fiscal treatment between and across products is incoherent; and (3) enlarging the scope of the Directive to raw tobacco to address increasing illicit manufacturing of tobacco products within the EU. As verified in the evaluation, in general the regulatory burden and the current excise duty structure for tobacco products is neither an issue for Member States authorities nor for operators (also see ANNEX 15:2 on relevance of the current excise duty structure). Only certain provisions of the Directive related to the definitions of and EU minima for traditional tobacco products need to be revised, and the regulatory framework should be updated due to the disparities in the tax treatment of new products across Member States and due to the lack of a proper control system for raw tobacco. The options

¹³ [Council conclusions concerning the structure and rates of excise duty applied to manufactured tobacco.](#)

envisaged for each of the identified problem areas will be subsequently presented. By tackling the problem drivers, each policy option aims at achieving one or several of the specific objectives. Acknowledging the complexity of the issues at stake and their analysis, Figure 3 offers an overview of the intervention logic behind the initiative (see section 4).

2.1.1. Smoking prevalence not declining sufficiently quickly to meet Europe's Beating Cancer Plan objectives

Although smoking prevalence has declined in the EU over the past decade (from 28% to 24% between 2012 and 2023), substantial differences remain between countries and population groups. In some Member States (e.g. Greece, Bulgaria and Croatia) smokers still represent more than 35% of the population, while in others (e.g. Denmark, the Netherlands and Sweden) prevalence has fallen below 15%.¹⁴ Without intervention, even at current rates of declining usage, the long-term target set out in Europe's Beating Cancer Plan, which is to reduce smoking prevalence to less than 5% by 2040, will not be achieved.

Around 40% of the smoking prevalence decline in the EU can be attributed to the impact of taxation policies.¹⁵ The effectiveness of taxing addictive substances in changing behaviour and improving public health is widely recognised and reflected by, amongst others, the World Health Organisation (WHO)¹⁶, the World Bank¹⁷, and academics.¹⁸ According to the WHO, a tax rise that increases tobacco prices by 10% decreases tobacco consumption by about 4% in high-income countries and by up to 8% in most low- and middle-income countries.

Furthermore, taxation, as a measure to reduce tobacco consumption, is specifically called for in Article 6 of the WHO Framework Convention on Tobacco Control.¹⁹ The European Union is a Party to the Convention.

While other policy measures such as product regulation, smoke-free environment policies, tobacco advertising bans, health warnings and labelling policy measures can reduce demand, the relationship between tobacco control policies and taxation is complementary in fostering greater reduction in smoking prevalence than each element would have achieved alone.²⁰

¹⁴ In the case of the Netherlands – from 24% to 11%; in the case of Sweden – from 13% to 8%; in the case of Denmark – from 26% to 14%. See ANNEX 6:1 for details.

¹⁵ Eкономисти Associati 'Impact analysis of the review of tobacco excise duty rules' ('EA 2021 study')..

¹⁶ <https://www.who.int/activities/raising-taxes-on-tobacco>

¹⁷ Chaloupka, FJ, Curbing the Epidemic - governments and the economics of tobacco control, Tobacco Control 1999;8:196-201. Marquez, Patricio V.; Moreno-Dodson, Blanca. 2017, Tobacco Tax Reform at the Crossroads of Health and Development: A Multisectoral Perspective, World Bank.

¹⁸ Kara A. Contreary, Sajal K. Chattopadhyay, David P. Hopkins, Frank J. Chaloupka, Jean L. Forster, Victoria Grimshaw, Carissa B. Holmes, Ron Z. Goetzal, Jonathan E. Fielding, Economic Impact of Tobacco Price Increases Through Taxation: A Community Guide Systematic Review, American Journal of Preventive Medicine, Volume 49, Issue 5, p. 801.

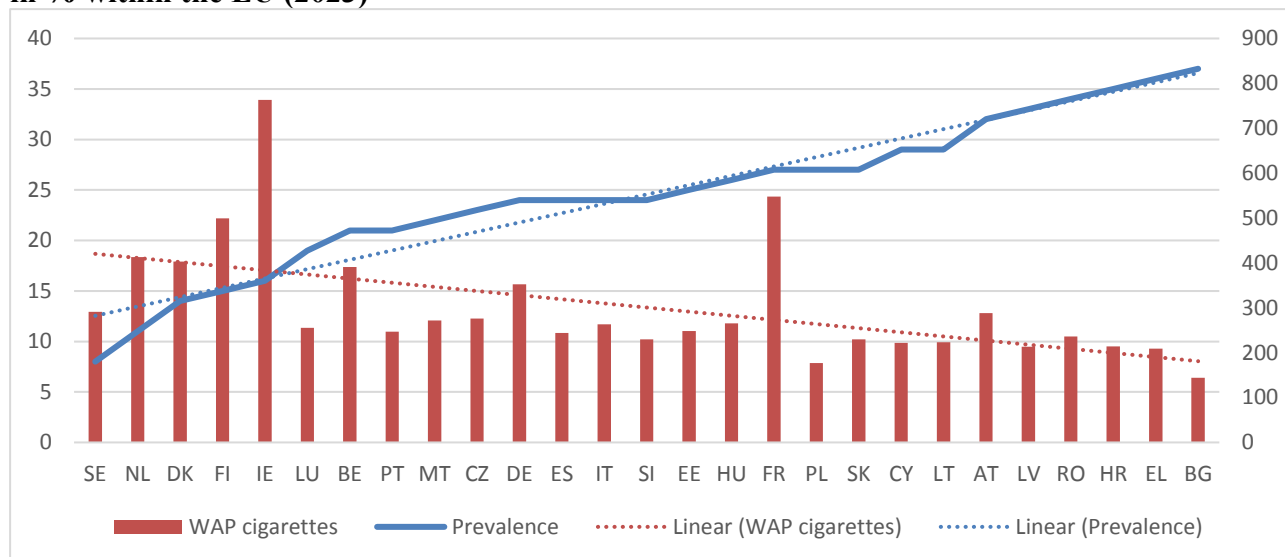
¹⁹ Article 6(1) provides: 'The Parties recognize that price and tax measures are an effective and important means of reducing tobacco consumption by various segments of the population, in particular young persons'. - [WHO Framework Convention on Tobacco Control](#).

²⁰ Ballester L, Auchincloss A, Robinson L, Mayne S. Exploring impacts of taxes and hospitality bans on cigarette prices and smoking prevalence using a large dataset of cigarette prices at stores 2001–2011, USA. Int J Environ Res Public Health. 2017;14(3):e318 ([Exploring Impacts of Taxes and Hospitality Bans on Cigarette Prices and Smoking Prevalence Using a Large Dataset of Cigarette Prices at Stores 2001–2011, USA - PMC \(nih.gov\)](#)), accessed 15 July 2022). White, V.M., Warne, C.D., Spittal, M.J., Durkin, S., Purcell, K. and Wakefield, M.A. (2011), What impact have tobacco control

Within the EU, the relationship between the Weighted Average Price (WAP) of cigarettes in each Member State and prevalence of smoking may be demonstrated (see

Figure 2 below). In general, the higher WAP of cigarettes, the lower the smoking prevalence within that Member State.

Figure 2. Weighted Average Price per 1000 cigarettes in EUR (WAP) and Smoking prevalence in % within the EU (2023)



Source: Commission analysis

The EU minima set in the Directive have been moderately effective in raising tax rates, and consequently, prices in Member States, especially in the case of cigarettes. However, EU minima have not been updated since 2010 and inflation²¹ has eroded their effectiveness. This loss of traction of EU minima is confirmed by public health authority's survey results, where a majority admitted that their smoking prevalence reduction objectives over the last few years could be achieved only to some moderate or limited extent, particularly among young people and women. In addition, the real effect of price increases on consumers is dependent on income levels within Member States and this is not reflected in the Directive. Artificial tax driven cross-border shopping, whereby private individuals buy tobacco products in another Member State and bring them home for consumption²², lowers the effective price at which tobacco is available. This lack of convergence is to be seen together with the difficulties of enforcing the concept of personal use as foreseen by Article 32 of the Horizontal Directive (guidance to what quantity of excise good a private person can transport across Member States borders for his/her own use). The high levels of (cheaper) cross border cigarettes clearly undermine national public health policies by reducing the effective price at which tobacco is available, hence affecting efforts to reduce smoking prevalence, although it is difficult to quantify. Such cross-border shopping distorts competition and market functioning by incentivising businesses to cluster in countries with lower tax rates. The loss of tax revenue is significant for some Member

policies, cigarette price and tobacco control programme funding had on Australian adolescents' smoking? Findings over a 15-year period. Addiction, 106: 1493-1502. <https://doi.org/10.1111/j.1360-0443.2011.03429.x>

²¹ EU minimum rates are not adjusted on inflation.

²² Personal use of excisable goods provided for by Article 32 of the [Horizontal Directive](#). See ANNEX 7: for more details on cross-border acquisitions.

States, while others register considerable extra revenue compared with local consumption²³. In 2023, the estimated volume of cross-border purchases of cigarettes by private individuals for their own use in other EU Member States was approximately 28 billion pieces, i.e. around 7% of total consumption. In some Member States, the magnitude of cross-border flows is estimated to reach well above 10% of domestic demand.²⁴ The aggregated forgone excise revenues throughout the EU amounts to approximately EUR 2.9 billion per annum (that can be used to compensate for the social costs of smoking). The incidence of cross-border flows is even greater for fine cut tobacco (FCT)²⁵ in relative terms, with volumes estimated to reach between 13% and 20% of the total consumption in the EU.²⁶ The estimated forgone excise revenue associated would range between EUR 1.3 billion and EUR 2 billion. For heated tobacco products (HTP)²⁷ and liquids for e-cigarettes²⁸, recent market developments show cross-border flows which are also relevant, albeit in a limited number of EU countries (see ANNEX 7:).

The travel restrictions during the COVID-19 period highlighted the extent of the phenomenon. During confinements, consumers had more limited access to cheaper tobacco products in other Member States resulting in increases in the sales of domestic products. For example, in the case of France - a Member State with high cross-border inflows of tobacco products - during the lockdown, the estimated volume of cigarettes purchased cross-border was 9.5% of domestic sales while in 2023 it was 23.4%.²⁹ There is a consensus among all stakeholders that the EU tobacco taxation policy should contribute to reduce differences in taxation between Member States and therefore decrease the incentive for cross-border flows.

2.1.2. Incoherent fiscal treatment of certain products

The lack of clarity as to the definition of products leads to the incoherent application of the Directive, resulting in difficulties for Member State authorities, economic operators, and consumers³⁰. This affects harmonised products, such as cigarillos and waterpipe tobacco as well as products that contain tobacco or nicotine but currently fall outside the scope of the Directive.

Until recently, the heterogeneous nature of cigars and cigarillos, and their limited demand, meant that a single tax category was appropriate. However, the development of economy cigarillos (low priced

²³ For a number of Member States, notably France and Germany, the revenue loss is significant. Conversely, three Member States, Luxembourg, Poland and Spain seemingly register considerable extra revenue in connection with cross-border shopping.

²⁴ In a number of Member States it reaches 10% or more of the total consumption of cigarettes (Austria, Belgium, Denmark, France, Finland, Germany, Ireland and the Netherlands). The Luxembourg's case stands out: seemingly almost 90% of the cigarettes released for consumption in the country are actually consumed abroad.

²⁵ Fine-cut tobacco is loose tobacco, which the consumer can use to make cigarettes, by either hand rolling it into cigarette paper or using a device.

²⁶ Lower and upper bound. Similar to cross-border trade in cigarettes, Germany and France were identified as the main destinations, while Poland and Luxembourg were the main sources of FCT purchased cross-border (External study).

²⁷ Tobacco products prepared for consumption only in a special electronic device in which the tobacco is heated without burning. According to the majority (eight out of ten) of the Member States authorities that replied to the consultation, the substitution between cigarettes and HTP has increased in the past few years (External study).

²⁸ E-cigarettes are disposable or refillable devices, which can be used for consumption of vapour from liquid (nicotine containing or nicotine free) for electronic cigarettes.

²⁹ See ANNEX 7: for details on magnitude of cross-border flows.

³⁰ There is a significant consensus among all categories of stakeholders that divergences in new products fiscal treatment, in particular heated tobacco products (HTPs) and e-cigarettes, hinder their free circulation in the internal market and is a source of legal uncertainty and distortion of competition.

cigarillos) as substitutes to cigarettes has differentiated these products. Economy cigarillos take advantage of lower taxation rates compared with cigarettes under the Directive and a lighter regulatory regime under the Tobacco Products Directive³¹, so undermining both price and non-price measures taken by Member States in pursuit of health objectives.

Waterpipe tobacco (WPT) currently falls under the category of ‘other smoking tobacco’ for excise purposes. The lack of a specific category reduces the ability of Member State authorities to monitor WPT consumption and movements specifically.³² The combination of an enhanced economic incentive and poor visibility acts as an incentive to illicit trade. It is estimated that around half of all WPT consumed in the EU could come from illicit sources.

Several products containing tobacco or nicotine fall outside the scope of the Directive. These include (1) other manufactured (smokeless) tobacco³³ (chewing tobacco³⁴, nasal tobacco³⁵ and other tobacco for oral use³⁶) and (2) related products (nicotine pouches, nicotine gums, other products for nicotine intake through chewing, dissolving, sniffing, etc.). The categorisation, and therefore fiscal status, of such products may be unclear, giving rise to uncertainty for economic operators and Member State authorities³⁷. Although their markets remain marginal, such products have become increasingly available across the EU, especially after a new generation of oral tobacco and tobacco-free products containing nicotine has appeared on the market³⁸. Nicotine pouches in this document refer to small flavoured pouches, placed between the lip and gum that releases a hit of nicotine to satisfy cravings. Approved nicotine replacement therapies are not part of this analysis.

The growth of new products, such as heated tobacco products (HTP), e-cigarettes, other manufactured tobacco and other tobacco-related products, which primarily includes nicotine pouches used in the past years as substitutes to traditional tobacco products, especially among young people, has raised concerns among tax and public health authorities alike. While in 2018 these products accounted for little more than 4% of the aggregated EU market value for smoking and other tobacco-related products, in 2023 this market had grown to nearly 13%, or an almost threefold increase. The existence of substitution patterns between traditional and new products is not only suggested by market trends but also confirmed on the supply side by the fact that these products (especially HTP and e-cigarettes) were developed as alternatives to cigarettes and are marketed as such by manufacturers. In 2023 15% of HTP users and 24% of e-cigarettes users were former smokers. While the percentage of former smokers among HTP users has increased since 2020 (from 9% to 15%) in the case of e-cigarettes it

³¹ Regarding flavour ban, minimum pack size, pictorial warnings. See ANNEX 9:1 for details.

³² See ANNEX 9: section 2 for details.

³³ Article 2 of the Tobacco Products Directive defines ‘chewing tobacco’ as a smokeless tobacco product exclusively intended for the purpose of chewing and ‘nasal tobacco’ as a smokeless tobacco product that can be consumed via the nose.

³⁴ Commercialised in several Member States, consumption levels are mostly negligible, except in Poland, Czechia, Denmark and Sweden.

³⁵ A niche product with some marginal consumption in Germany, Poland, Hungary and some Italian regions.

³⁶ Prohibited in the EU, except in Sweden, where snus is very popular. Snus is not covered in the proposed revision.

³⁷ As regards chewing tobacco 9 of 24 Member States that expressed an opinion during consultation that would favour its harmonisation at the EU level. As regards nasal tobacco – is not considered a product with future market growth or a risk for tobacco control policies by Member States authorities (External study).

³⁸ Majority of Member States tax authorities expect substantial growth in the next five years, especially of nicotine pouches (External study).

has declined (from 30% to 24%), possibly related to the younger age of e-cigarettes users. The majority of new products users remain ‘dual’ users of new and traditional products.³⁹

In particular, the value of total sales of HTP exceeded EUR 12 billion in 2023, i.e. more than doubling the value recorded in 2020 and with a eight-fold increase compared with 2018., i.e. accounting for around 8% of the total tobacco market value. The total HTP users’ population in the EU can be estimated at around 7.6 million, and the consumption prevalence in Member States is generally comprised between 1% and 5%. The prevalence of HTP use among people in the 25-39 years age group was 3%, compared with just 1% for older generations.⁴⁰

After a few years of stagnation, the e-cigarettes market has expanded considerably in recent years, from an EU aggregate value of EUR 2.9 billion in 2020 to nearly EUR 5 billion in 2023. The share of Europeans regularly using e-cigarettes was at 3%. Prevalence varies across Member States from below 1% in Portugal up to 9% in Estonia. The prevalence rate is higher among young people. Overall, the e-cigarettes users’ population in the EU can be estimated at around 11.5 million.⁴¹

Nicotine pouches are a relatively new product, and sales increased considerably in recent years. In 2023, the EU market for nicotine pouches was valued at about EUR 1.1 billion, i.e. almost three times more than the value recorded in 2020 and more than twenty times the value recorded in 2018. At EU level, 1% of the population uses nicotine pouches, and the relative majority of daily users of nicotine pouches are found primarily in younger generations (15 – 24 age bracket).⁴²

Neither HTP nor the current generation of e-cigarettes and other tobacco-related products were on the market when the Directive was last revised and Member States have implemented different national measures in respect of such products. Incoherent responses have resulted in a range of negative impacts on Member State authorities, economic operators, consumers, and the functioning of the Single Market. Differences in the structure and rates of taxation distorts competition between domestic and foreign manufacturers, especially in Member States that adopted relatively high tax rates⁴³. Different movement and control regimes result in additional administrative and compliance costs and cross-border movement difficulties. The absence of a common monitoring system reduces the capacity of Member State authorities to identify and prevent fraudulent trade and detect the emergence of ‘borderline’ products⁴⁴. Diverging excise rates based on tax categorisation rather than consumer usage incentivises economic operators to develop and market ‘borderline’ products to

³⁹ Substitution of traditional products with HTP and e-cigarettes appear only in part driven by lower prices. The Eurobarometer survey showed that frequently the drivers behind e-cigarettes and HTP tobacco use are not related to price but to the willingness to quit/reduce smoking, to the perceived lower risk involved, social acceptability of these products and etc. (External study).

⁴⁰ See ANNEX 11: section 1 for details.

⁴¹ See ANNEX 12: section 1 for details.

⁴² See ANNEX 13: section 1 for details.

⁴³ External study.

⁴⁴ E.g., according to interviews with Member States authorities, the lack of harmonised EU approach has created a breeding ground for illicit practices in liquid for e-cigarettes sector, which translates into severe tax losses, in percentage terms, for Member States (only about one-fifth of the theoretical tax revenue is actually collected). Due to their intrinsic characteristics, liquids can easily be moved across borders elusively, especially when directly shipped to consumers in small quantities, through ordinary courier delivery services. Additionally, business to business movements are also difficult to control, since the excise movement control system does not cover e-cigarettes (External study).

circumvent tax categories and induces consumers to adopt substitutes, which may be equally damaging to health.

Some Member States include HTP in a harmonised category, mainly other smoking tobacco (OST). However, this means that Member State authorities cannot distinguish between the regime applied to HTP and to other products in that category, such as pipe tobacco. Nor is it the case that the optimal tax rate for HTP is appropriate for pipe tobacco and vice versa.

2.1.3. Increasing illicit manufacturing of tobacco products within EU

Illicit (tax-evaded) trade of tobacco products represents a major, persistent threat to the functioning of the internal market. It is also a serious problem both in terms of revenue losses and security – as it may contribute to financing organised crime. Additionally, it undermines tobacco control policy causing adverse public health effects, as it reduces the cost of tobacco products making them more accessible to consumers. Finally, it distorts competition, as it subtracts consumers from the legal market.

It is estimated that around 13 billion illicit cigarettes are manufactured in the EU annually.⁴⁵ In the case of fine cut tobacco (FCT) and WPT, it can be assumed that half of illicit products are manufactured in the EU – i.e. more than 10 000 tonnes. Estimated foregone revenue associated to illicit trade of cigarettes amounts to approximately to EUR 9.0 billion while for other tobacco products – to approximately EUR 3.5 billion. Some Member States⁴⁶ have adopted national measures to monitor and control the movement of raw tobacco.⁴⁷ Measures include fiscal definitions, authorisation schemes for operators, administrative controls on holding and movements, deposits and financial guarantees to cover diversion risks, prohibitions on selling to unauthorised operators, and the application of tax rates on raw tobacco⁴⁸. However, divergent national definitions and procedures have led to legal uncertainty for legitimate economic operators and Member State authorities, and the number of seizures and disputes over shipments of (claimed) raw tobacco has increased in the majority of Member States. A majority of public consultation respondents see the need to fight illicit tobacco trade and manufacturing as a priority and called for increased EU action on the subject.

2.2. What are the problem drivers?

2.2.1. Relative low average price levels of tobacco products

The Directive aims at impacting consumption behaviour through taxation. However, the evaluation of the Directive concluded that current level of the minimum excise rates had been moderately effective in raising tax rates and end-users prices in Member States. The metric used to analyse this evolution is affordability, i.e. the ability for an end-user to buy a given product.⁴⁹ This indicator varies greatly across Member States: the lowest affordability levels for cigarettes (highest Relative Income

⁴⁵ Cigarettes illicitly manufactured in the EU account for approximately one-third of total illicit cigarettes consumed in the EU (External study). See ANNEX 8: for details.

⁴⁶ Such as Bulgaria, Greece, Croatia, Czechia, Hungary, Poland, Italy, Romania, Slovenia, Spain, Sweden, France.

⁴⁷ Raw tobacco refers to any form of tobacco that is neither a living plant nor a manufactured product, e.g. harvested tobacco leaves and intermediate products

⁴⁸ See ANNEX 14: section 2 for details on measures applicable in Member States.

⁴⁹ The standard indicator used to measure the affordability of a given product is the relative income price (RIP). In the case of cigarettes, it measures the percentage of per capita gross domestic product (GDP) required to buy 100 packs of cigarettes. An increase in the RIP value indicates that cigarettes have become less affordable (i.e. more expensive) and vice versa. See ANNEX 6: section 3 for details.

Price (RIP)) can be found in countries with comparatively lower income, such as Romania, Bulgaria and Hungary, but also in countries with relative high price, like France. Conversely, cigarettes are most affordable in Luxembourg and Sweden. The affordability of cigarettes has only marginally declined over time. In 2023, the EU average RIP index was only slightly higher than in 2011 (i.e. 2.4% instead of 1.9%). In practice, the price of cigarettes in real terms has barely increased (although trends varied across Member States).

2.2.2. Unfit EU minima

The current EU minima laid down in the Directive have lost traction and no longer make an effective contribution to reducing tobacco consumption. Excise levels in Member States are generally much higher than EU minima.⁵⁰

With respect to cigarettes, the Directive requires that the excise duty charged represents at least 60% of the weighted average retail selling price (WAP)⁵¹ and be not less than EUR 90 per 1 000 cigarettes.⁵² In comparison, the excise duty rates⁵³ levied by Member States range from EUR 95 to EUR 469 per 1 000 cigarettes, meaning that some Member States apply five times the EU minimum rate. On average, the excise rate effectively applied in 2023 (EUR 187) is more than twice the minimum. For FCT, the Directive requires that excise duty represents at least 50% of WAP or be no less than EUR 60 per kg. Actual excise rates in Member States range from EUR 61 to EUR 437 per kg.

The Directive requires excise duty levied on cigars and cigarillos to represent at least 5% of the retail selling price⁵⁴ or be no less than EUR 12 per 1 000 items; the average excise duty levied by Member States in 2023 was EUR 727 per 1 000 items for cigars, and EUR 137 per 1 000 items for cigarillos. As regards other smoking tobacco, the Directive requires excise duty levied to represents at least 20% of the retail selling price or be no less than EUR 22 per 1 000 items; the average excise duty in 2023 was EUR 132 per kg.

The main reason why EU minima are so low is that they have been set in nominal terms, meaning that both inflation and income growth compound to make them quickly obsolete. Assuming that smokers keep constant the quantity of tobacco they purchase, a 2% inflation rate coupled with a 1% increase in real disposable income, which would represent a conservative long-term trend for a catching-up⁵⁵ Member State, would imply that the excise burden on consumption falls by over 25% in ten years.

This problem is exacerbated by the fact that EU minima, having been set at the same nominal level for each Member State⁵⁶, take account of neither different income and price levels, nor different rates

⁵⁰ See ANNEX 6: section 4 for details.

⁵¹ Article 8(2) of the Directive: the weighted average retail selling price in Member States is calculated by reference to the total value of all cigarettes released for consumption, based on the retail selling price including all taxes, divided by the total quantity of cigarettes released for consumption.

⁵² Article 10(2) of the Directive provides that a Member State needs not to comply with the 60% requirement where an excise duty of at least EUR 115 per 1 000 cigarettes is levied (so called 'escape clause').

⁵³ Excise duty refers to excise duty yield (EDY), which is the excise duty levied at weighted average price level.

⁵⁴ Manufacturers or, where appropriate, their representatives or authorised agents in the EU, and importers of tobacco from third countries are free to determine the maximum retail selling price for each of their products.

⁵⁵ Catching-up refers to the process by which less developed or newer EU Member States experience faster economic growth rates to close the gap, or converge, with more established, high-income Member States.

⁵⁶ From 2018 in practice. Until then, a number of Member States were allowed a transitional period in order to reach EU minimum for cigarettes.

of economic growth. Worse, there is ample scope for divergence as both inflation rates and GDP growth rates differ significantly between Member States: the Harmonised Indices of Consumer Prices (HICP) inflation as of March 2022 ranged between a low of 4.5% in Malta to a high of 15.6% in Lithuania, whereas the 2021 real GDP growth rate ranged between 2.9% in Germany to 13.5% in Ireland. This situation leads to the rapid obsolescence of nominal minima fixed for all at the same level. As a result, in nominal terms, EU minima for cigarettes in Bulgaria and Romania are high relative to income levels because of a lower GDP per capita. Conversely, EU minima are low compared with price and tax levels in Denmark and Sweden, which are among the highest in the EU. In other words, EU minima fixed at the same level in nominal terms inevitably imply that they are too cheap in more prosperous Member States while being very expensive in Member States with a lower GDP per capita.

Almost all Member States have fought the erosion of the real value of EU minima by increasing their national excise duty rates. However, given freedom of movement within the EU, the effective price of tobacco products for consumers may be lowered, and health policy undermined, through access to cheaper tobacco products (due to cross-border shopping, substitution, and the illicit market). In particular, differentials in taxation and, consequently, retail prices between Member States continue to be a major driver of cross-border shopping. In turn, this can create negative economic incentives as Member States with a starting point of low excise duties may be held back from increasing them by the fear of a loss of tax revenue from cross-border tobacco sales. Diverging trends in prices, incomes and health policies inevitably make any set of nominal EU minima quickly obsolete over time.

Moreover, differentials in excise duty levels encourage price-sensitive consumers (especially youth) to substitute cigarettes with less expensive alternatives.⁵⁷ While the size of the cigarette market has fallen from some 678 billion sticks in 2005 to less than 400 billion in 2023, the volume of FCT sales had been increasing until 2012, when due to a reduction in the price gap, substitution plateaued and then started a slow decline which was reversed only in 2020 presumably in conjunction with the consumers' down-trading registered during the COVID – 19 confinement period.⁵⁸ The trend observed is a 3.78% year-on-year decline between 2020 and 2023. On the one hand, differentials in EU minima across harmonised products unduly create a tax advantage for certain products such as FCT and economy cigarillos (low priced cigarillos)⁵⁹ over cigarettes. On the other hand, the tobacco market has experienced the emergence of various new products, which are not covered by the Directive, being promoted as substitutes for cigarettes and other harmonised tobacco products. Tax-induced substitution has several adverse effects, such as competitive distortions, tax revenue losses, and the undermining of tobacco control policies.

⁵⁷ The results of the Member States authorities' survey support this finding. Nearly half of tax authorities have registered an increase in the substitution between cigarettes and FCT in the past three years. In the remaining Member States, the relative market share of these products has remained stable and only one country reported a decline. In the case of cigarillos, substitution trends have accelerated in a smaller number of countries (4 out of 20 Member States) with none reporting a decline (External study).

⁵⁸ External study.

⁵⁹ A few years ago, 'borderline' cigarillos (also called 'eco-cigarillos') have spread in around half of EU Member States, and in particular in Germany, Spain, Denmark and in the Baltic countries. These products were in many respects similar to cigarettes but enjoyed a more favourable tax regime because they were classified as cigarillos. The issue was addressed by revising the definition of the tax category and by the phasing out of the derogation extended to these types of products in Germany and Hungary. Additionally, various Member States increased the domestic taxation of low-price cigarillos products (External study).

In addition to creating difficulties for Member State authorities and economic operators, uncertainty as to the categorisation of products creates opportunities for those involved in illicit trade. Such problems exist in relation to both WPT and raw tobacco.

2.2.3. Divergent approaches to taxation between new products and Member States

The growth of HTP and e-cigarettes consumption prompted Member States to establish ad hoc national tax regimes in order to address substitution.

The varying excise regimes applicable to HTP may be summarised as follows:⁶⁰

- HTP taxed as a harmonised product in seven Member States (Bulgaria, Germany, Greece, Ireland, the Netherlands, Spain and Sweden) in most cases in the OST category. Sweden differentiates between HTP sticks (taxed as cigarettes) from other HTP formats (taxed per weight). In Germany, HTP is considered a harmonised product, but the rate is calculated in relation to the rates of both cigarettes and OST. This classification allows HTP to be controlled under the EU-wide Excise Movement and Control System (EMCS⁶¹).
- Specific tax regime for HTP. All other Member States where HTP is commercialised have adopted this national approach.

At the end of 2024, 21 Member States had established ad hoc national taxes on liquids for e-cigarettes, three more countries will join in 2025 bringing the total to 24 Member States taxing liquids for e-cigarettes. which may be summarised as follows.⁶²

- 18 Member States are taxing any liquid, irrespective of whether they contain nicotine. Excise duty rate varies from EUR 0.09 to 0.70 per ml. Croatia remains the only Member State having a tax regime with a zero rate in place.
- Denmark and Sweden apply tax only to nicotine-containing products.
- Since 2021, Latvia has abandoned its mixed system that involved a specific flat rate on the liquid plus another specific rate per mg of nicotine. Some Member States modulate the rates: Denmark, Spain and Sweden apply a higher rate if the nicotine concentration exceeds a certain threshold; Italy, Portugal and Slovenia apply a reduced rate to nicotine-free products.

2.2.4. Ineffective control of tobacco supply chain by Member States

In accordance with the provisions of the Horizontal Directive⁶³, excise goods are subject to the EMCS. Raw tobacco, including intermediate products such as first-processed tobacco, is outside the scope of the Directive and therefore not subject to EMCS. When diverted from the legitimate supply chain raw tobacco is an ingredient for illicit manufacturing activities. Member States tax authorities consider the poor control of the raw tobacco supply chain as a key driver of illicit domestic manufacturing.

⁶⁰ See ANNEX 11: section 2 for details on legal framework of HTP in Member States.

⁶¹ EMCS provides real-time monitoring of movements of excise goods between authorised and registered locations, and ensures that excise goods can only be dispatched to such locations (a movement of excise goods is documented at every stage through an electronic administrative document). One of the purposes of EMCS is to combat fiscal fraud, with real-time information and checks on goods being moved across the EU.

⁶² See ANNEX 12: section 2 for details on legal framework of liquids for e-cigarettes in Member States.

⁶³ [Council Directive \(EU\) 2020/262](#) of 19 December 2019 laying down the general arrangements for excise duty (recast)

2.3. How likely is the problem to persist?

In the absence of EU intervention, the problems identified will persist. The current EU minima for tobacco products will neither address the lack of convergence in price levels between countries, nor affect sufficiently consumption behaviours and tobacco products substitution. Spontaneous price convergence is – in line with historical experience - highly unlikely, as relative income prices are divergent among Member States and economic incentives for cross-border shopping remain. The incoherent treatment of new products will continue among Member States and control will remain limited as Member States will continue to apply different ad hoc regimes. Market fragmentation will persist. The lack of harmonised rules at EU level on substitutes to cigarettes and to other traditional tobacco products will lead to a competitive advantage for these products and their sellers. New products will remain out of scope of EU legislation, creating further distortions of competition in cross-border trade. The relevance of this problem is expected to intensify, in light of the speed of innovation and technological development⁶⁴ in this sector. At the same time, effective tax administration will not be ensured, as these products will not be subject to movement and control requirements established in the Horizontal Directive.

Due to substitution and to illicit trade of tobacco products (including diversion of raw tobacco for illicit manufacturing), Member States will continue to lose revenue. The absence of EU intervention in the area of excise duty will continue undermining the effectiveness of tobacco control policies, leading to a negative impact on national health policies, and contradicting the ambition of Europe's Beating Cancer Plan to reduce consumption of tobacco.

Currently witnessed global megatrends⁶⁵ are expected to increase the scale of the problems identified. Europe is facing shifting health challenges, as unhealthy lifestyles are causing an increasing burden on public health systems. Smoking is indirectly connected to two other megatrends:

- Aggravating resource scarcity: tobacco production is related to the use of pesticides, water, land and energy. The land used for tobacco growing is not dedicated to food production. In addition, tobacco manufacturing has an impact on the environment due to water, energy, paper use, CO₂ and pollutants emissions.
- Increasing inequalities: tobacco is a leading contributing cause to health inequities in Europe, and reduction in smoking has so far mainly benefitted middle- and high-income groups⁶⁶.

3. Why should the EU act?

3.1. Legal basis

The EU's right to act in the area of excise duty is established in Article 113 of the Treaty on the functioning of the European Union (TFEU)⁶⁷, which invites the EU to lay down harmonised taxation rules to ensure the proper functioning of the internal market and avoid distortion of competition.

It is therefore necessary for the Commission, which is responsible for ensuring the smooth functioning of the internal market to propose action in this field.

⁶⁴ See Accelerating Technological development, [The Megatrends Hub | Knowledge for policy \(europa.eu\)](https://euhub.europa.eu/knowledge-for-policy)

⁶⁵ [The Megatrends Hub | Knowledge for policy \(europa.eu\)](https://euhub.europa.eu/knowledge-for-policy)

⁶⁶ [Tobacco and inequities, WHO Regional Office for Europe](https://www.euro.who.int/en/health-topics/tobacco-use/news-and-events/tobacco-and-inequities)

⁶⁷ Consolidated version of the [Treaty on the Functioning of the European Union](https://eur-lex.europa.eu/eli/tf/2012/326/oj), OJ C 326, 26.10.2012, p. 47–390.

3.2. Subsidiarity: Necessity of EU action

In analysing the problems and their drivers, it is clear that EU action can best achieve the proper functioning of the internal market and a high level of health protection across the EU.

The increased divergence between excise duty rates since the Directive was last revised engenders significant cross-border shopping from low-tax to high-tax countries.

Unclear definitions of certain tobacco products at EU level (in particular waterpipe tobacco and cigarillos) resulted in varying national approaches to rates and taxation regimes as well as adapted business strategies aiming at circumventing the tax.

The lack of EU level regulation of new products (mainly heated tobacco products and e-cigarettes) has led to different tax regimes for these products, leading to administrative difficulties in movements between Member States. There is a large consensus among stakeholders on the need to harmonise new products in the EU excise legislation⁶⁸. The urgent necessity to upgrade the EU regulatory framework, in order to avoid legal uncertainty and regulatory disparities in the EU was highlighted in the Council conclusions on the evaluation of the Directive.⁶⁹

In most Member States, movements of raw tobacco are subject to notification obligations to the competent authorities. At the same time, Member States recognise that the strictly national scope of these regimes is a major limitation to their effectiveness. Cross-border movements of raw tobacco cannot be effectively controlled due to the absence of appropriate control rules at EU level. The latter is reiterated in the Council's conclusions.

The issues outlined above damage the interests of Member States and have common roots. These issues also negatively affect the effectiveness of national tobacco control policies, which undermines the objectives of Europe's Beating Cancer Plan.

It is not possible for Member States to address the problems and their drivers in isolation without a proposal to amend the provisions of the Directive. No alternative national, bilateral or other international initiative would provide the same level of effectiveness in terms of addressing this issue for all stakeholders at EU level.

3.3. Subsidiarity: Added value of EU action

Under the Directive, EU countries can freely set the rates for different products according to their national preferences, as long as they are above the EU minima. Scope is also left to Member States as regards to the structure of the tax.⁷⁰ As a result, the EU action is limited to addressing the issues that Member States cannot tackle at national level, in relation to the proper functioning of the internal market. The Directive remains the best instrument to achieve these objectives.

Clearer definitions of product categories, and the extension of the scope of the Directive to new products and to raw tobacco will support the effective enforcement of rules by Member States.

The increases of EU minima proposed are proportionate with the objective of ensuring a high level of human health protection set out in the TFEU, and other measures will support the effectiveness of national tobacco control policies. At the same time, several of the measures proposed aim at

⁶⁸ Further discussed in section 5.3.

⁶⁹ [Council conclusions concerning the structure and rates of excise duty applied to manufactured tobacco.](#)

⁷⁰ Except for cigarettes.

minimising the burden potentially generated by the revision of the Directive. For example, the structure of the excise duty rates, as currently implemented, remains broadly the same.

4. Objectives: What is to be achieved?

As detailed in the problem definition, given the scope of the Directive covering various tobacco products and provisions, the problem areas of this initiative are somewhat different from each other and require specific analysis. The revision of the Directive aims at filling the identified gaps and providing tools to effectively address shortcomings. By tackling the problem drivers, each policy option aims at achieving one or several of the general and specific objectives:

- with the revision of current EU minima for traditional tobacco products and the introduction of EU minima for new products, to approximate tax levels, discourage tax induced substitution between products, and ensuring legal certainty to support the proper functioning of the internal market;
- with the increase of EU minima (increasing relative price levels), to influence consumption behaviours and contribute to reduced smoking prevalence for a high level of public health;
- with the harmonisation (and hence monitoring and control) of raw tobacco and new products, to ensure effective excise administration and tax collection as well as tax avoidance mitigation.

The UN adopted the 2030 Agenda for Sustainable Development (the ‘2030 Agenda’) in 2015, at the heart of which are 17 Sustainable Development Goals (SDGs) and 169 associated targets. The 2030 Agenda represents a commitment to eradicate poverty and achieve sustainable development by 2030 worldwide. The EU is fully committed to be a frontrunner in implementing the 2030 Agenda and the SDGs, together with its Member States, in line with the principle of subsidiarity.

The revision of the Directive supports the achievement of sustainable development goals, in particular SDG 3 concerning health, SDGs 10 and 17, concerning equality and resource mobilisation, SDGs 6, 7, 8, 12, 14, 15 on the sustainable use of natural resources and the protection of the environment, and SDGs 2 and 11, concerning food security and sustainable communities. For more details on SDGs see ANNEX 2: section 3.

4.1. General objectives

Under Article 113 of the TFEU, the Directive aims to harmonise the excise duty regimes of tobacco products in Member States to ensure the proper functioning of the internal market and, at the same time, a high level of health protection. The public health approach is also supported by Article 168 of the TFEU bearing in mind that tobacco products can cause serious harm to health and that the Union is Party to the WHO Framework Convention on Tobacco Control. Although not explicitly mentioned, the Directive has also the overarching objective of ensuring an efficient excise administration.

The general objectives of the initiative are:

- ensure the proper functioning of the internal market;
- ensure high level of health protection;
- fight against fraud and safeguard Member States’ revenues.

4.2. Specific objectives

The specific objectives of the initiative are:

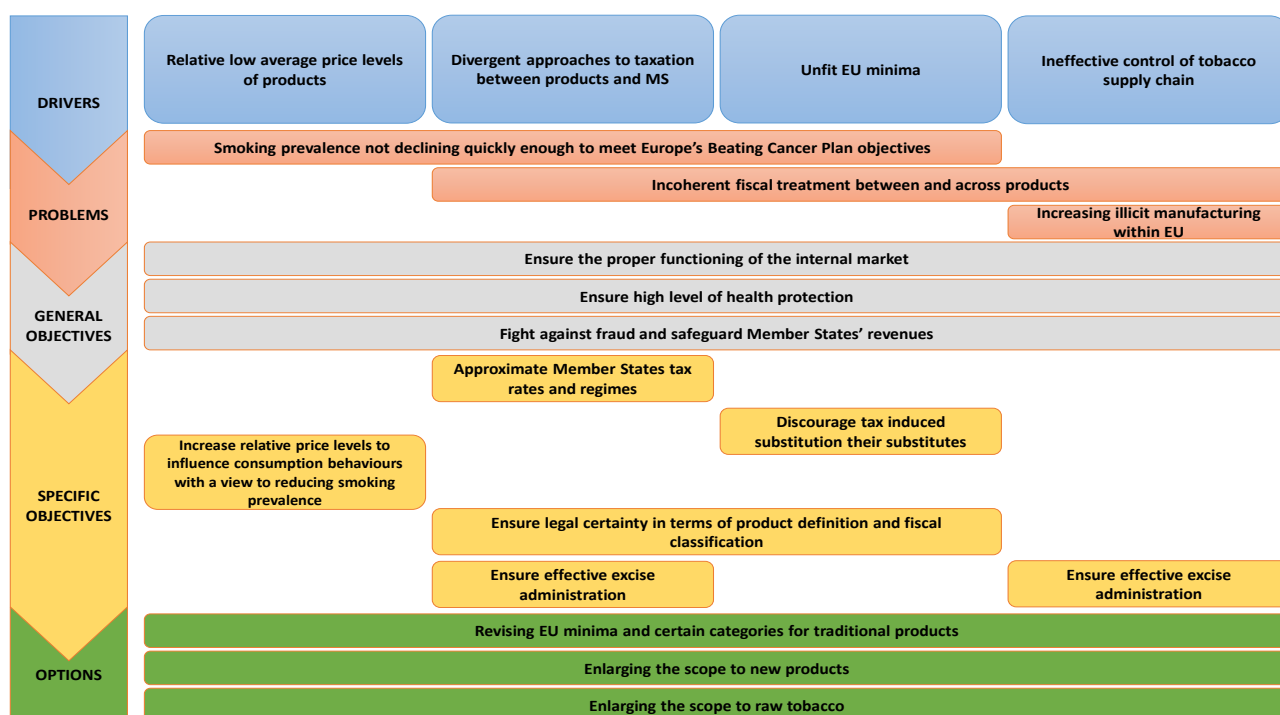
- approximate Member States tax rates and regimes over the medium term;⁷¹
- discourage tax induced substitution between different tobacco products and their substitutes within the short term;
- increase relative price levels to influence consumption behaviours with a view to reducing smoking prevalence along Europe's Cancer Beating Plan objective for 2040;
- ensure legal certainty in terms of product definition and fiscal classification for all stakeholders within the short term;
- ensure effective excise administration, including effective enforcement, tax collection, fraud and avoidance mitigation, within the short term by expanding application of the movement and control provisions.

The revision of the Directive aims at striking the right balance between these different objectives, which are equally important. Trade-offs exist between certain of these objectives: for instance, increasing EU minima will necessarily magnify the economic incentive behind illicit manufacturing and trade. Similarly, proposing EU minima based on relative income prices in different Member States may hamper upward convergence. These trade-off and related choices are further detailed in the following sections.

The problems, their drivers, objectives and corresponding options are illustrated in Figure 3 below. The baseline scenarios have not been included in this figure although they are systematically described under each policy area and constitute the framework against which all options will be assessed.

Figure 3. Overview of the intervention logic

⁷¹ In this paragraph, the short term refers to the period following implementation of the revised Directive until the preparation of the first evaluation (i.e., within five years of the application date of the new legislation), while medium-term effects are those measurable up to 15 years after the implementation of the revised Directive.



Source: Commission analysis

5. What are the available policy options?

As shown in Figure 3, the policy areas examined further through the impact analysis are (1) the revision of the minimum excise rates and of certain categories for traditional products; (2) enlarging the scope of the Directive to new products and (3) enlarging the scope of the Directive to raw tobacco. A wide range of options under each policy area were explored through the stakeholder consultation. The report considers all possible policy options but focuses its analysis on the ones which have been retained. The reasons for discarding some options early on are presented under each revision area. But first, an important element for review is the metric according to which excise duty rates are expressed.

5.1. Moving from nominal rates to an approach partially based on purchasing power parities

Under the current Directive, EU minima for each product category are expressed in nominal terms, i.e. as a fixed monetary amount applicable in all Member States. This is in line with the approach traditionally used for harmonising indirect taxes. However, as discussed in the problem section, from a tobacco control perspective this approach cannot provide a durable solution, as the combination of inflation and income growth results, over time, in a rapid erosion of the minima. The dissuasive effect of the tax depends on real parameters, such as the inflation-adjusted price and the percentage of one's personal income needed to sustain the habit, rather than simply its nominal value.

Furthermore, due to the substantial and persistent diversity in economic conditions in Member States (not only in income, but also in the general price level), any nominal minimum rate set at EU level is generally too low to have an impact in higher-income countries. This concern was highlighted in the Commission's evaluation of the Directive, and indeed the Council insisted that any future revision

should take into account the ‘specific economic situations’ of Member States⁷², which is also supported by stakeholders⁷³. Thus, in the current context where health objectives are a key driving factor behind the revision of the Directive (see section 2), moving away from an approach purely based on nominal rates is essential to ensure the effectiveness of the Directive in durably curbing tobacco consumption among individuals. What is needed is a mechanism that goes beyond a simple nominal value for the minima and can take into account the different economic growth trends for each Member State.

After examining various alternatives, the External study supporting this impact assessment⁷⁴ concluded that the approach that best achieves this objective requires abandoning the idea of a fixed nominal minimum in favour of an index whereby the minimum would be periodically adjusted for each individual Member State as a function of the purchasing power of its residents (see Box 1 and ANNEX 10: for details). In practice, when strong economic growth boosts the purchasing power of a given Member State, the minimum excise duty for that Member State would be automatically increased (or, conversely, cut, should purchasing power decrease). This approach would ensure that affordability of these products at national level is better reflected in the rates to have a more targeted impact on consumption.⁷⁵ At the same time, to ensure the durability of the policy stance over time, the minimum rate of excise duty should take into account the EU average inflation trends, based on the Harmonised Index of Consumer Prices (HICP). This periodic adaptation thus partially removes the two main sources of obsolescence of the minima discussed in the problem section.

All in all, the proposed policy option is clearly more future-proof than the current system. This is because the main weakness of the current fixed nominal minima, as shown by the External study, is their inability to remain relevant in case of changes in the general price level, within each Member State as well as between Member States.

Box 1. What is the Purchasing Power Parity adjustment?

It is common knowledge that directly comparing the value of a salary across countries using the going exchange rate is not a meaningful exercise because of large differences in price levels. Typically, in higher-income countries, prices are higher, eroding part of the benefit from higher salaries. The **Purchasing Power Parity or PPP** adjustment allows a meaningful comparison between salaries or GDP per capita by correcting for the differences in the price level. For example, if in country A GDP per capita is 20% higher than in country B, but the price level too is 20% higher,

⁷² [Council conclusions concerning the structure and rates of excise duty applied to manufactured tobacco.](#)

As regards purchasing power parity the majority of tax authorities did not anticipate any major impact. Some of tax authorities anticipates that it could have a negative impact on tax convergence and some public health experts even anticipate a possible negative impact on reducing tobacco affordability where most needed.

⁷³ There appears to be also substantial agreement among public consultation respondents (80%) that taxation levels be adjusted to income differences between Member States, and this was broadly shared by tobacco industry representatives (69%). This is particular so among respondents in Southern and Western Europe and among those who also deem tobacco products more affordable. Some experts would support a tax that reflects affordability, but expressed doubts about using purchasing power parity index. The possibility of introducing alternative approaches for EU minima was tested among Member States tax authorities through the targeted survey. The initial feedback was cautious (half of respondents did not provide feedback), which also indicates that there is a need for an in-depth, technical discussion on the benefits and constraints of this approach.

⁷⁴ ‘Impact analysis of the review of tobacco excise duty rules’ (‘EA 2021 study’) and ‘Study on the impact analysis of a review of tobacco taxation rules: update with recent market and regulatory developments’ (‘EA 2025 study’) (both hereinafter - External study).

⁷⁵ Member States have specifically asked in the [Council conclusions](#) to take into account their social and economic conditions.

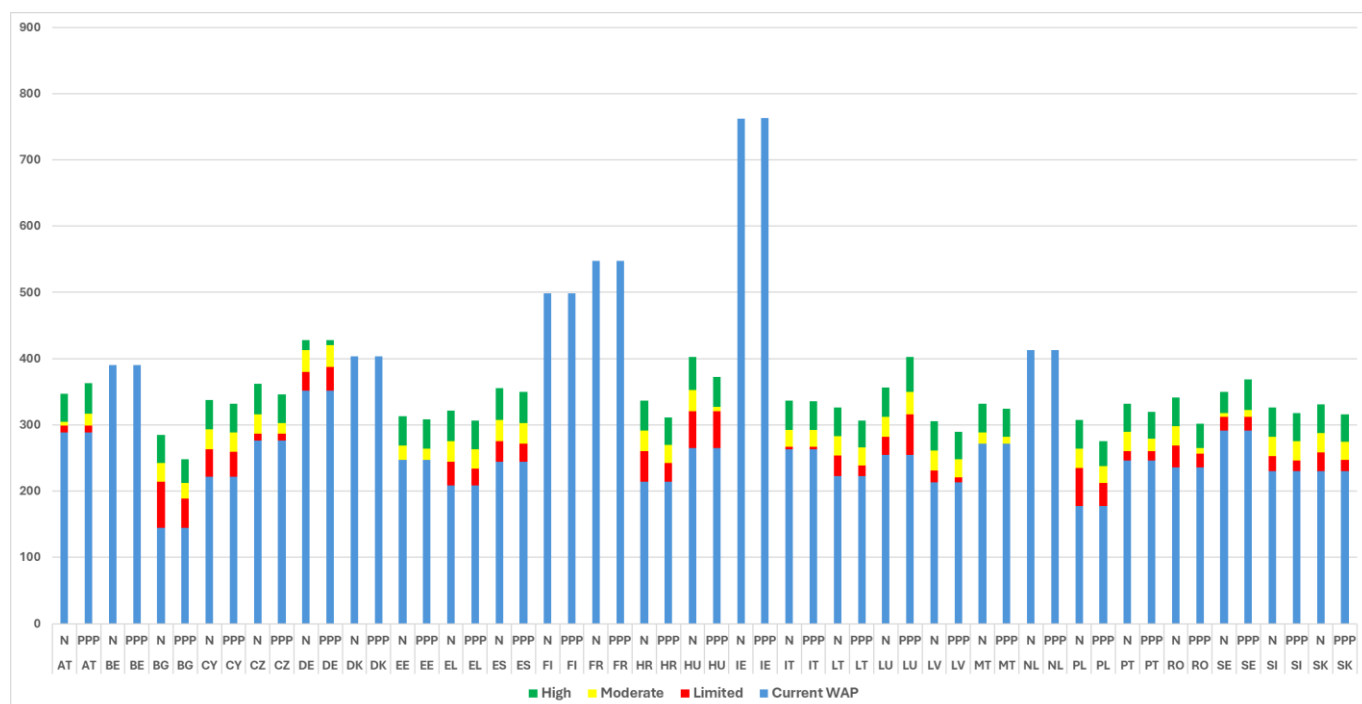
in PPP terms the two countries would be shown to have the same GDP per capita. The adjustment is calculated utilising a comparable basket of goods and services in each country. Eurostat publishes and updates regularly PPP coefficients.

Despite the advantages of this approach, a changeover to a full purchasing power adjustment would not be advisable. This is because purchasing power differs so much across Member States that the method would create very large price swings at introduction, destabilising the market. Price Level Index (PLI) differences between Member States are significant (the PLI of Luxembourg is almost three times higher than the PLI of Bulgaria). Hence, a 100% conversion of minima into PPP may lead to (1) huge and potentially disrupting tax hikes for a few high-income countries (e.g., Luxembourg, Denmark, Austria, and Sweden) and, conversely, (2) keeping or even increasing the price gap between Member States. In this sense, overarching objectives of the Directive would be poorly supported. Therefore, the solution proposed is to adopt a partial PPP system where 2/3 of the tax is expressed in nominal terms and 1/3 in PPP terms.

This proportion between nominal and PPP components has been derived from the increase scenario for the EU minima on cigarettes. It strikes a good balance between increasing convergence and distributing the impact across Member States (see

Figure 4).

Figure 4. Comparison of nominal versus partial PPP approach in the case of cigarettes weighted average price, according to options



Source: Commission analysis based on the External study

A fixed reference year for the PPP and HICP adjustment would be established and periodic revisions of the PLI and HICP (e.g. every 3 years) would be scheduled to ensure that rates remain up to date (with changes in prices and income) while providing sufficient perspective for Member States to prepare their multi-annual tax increase plans. The calculation of the minima for each Member State is made slightly more complex as a result of the partial PPP approach as it entails introducing the PLI in the formula. Nevertheless, the periodicity of the adjustment would be such as to give ample preparation time for stakeholders.

For the sake of readability and conciseness, all the policy options envisaged are expressed in partial PPP. The impact of the different options expressed in nominal terms was however assessed and is broadly the same for most criteria. It is available in ANNEX 18:.

5.2. Revising the EU minima and certain categories for traditional tobacco products

The proposed options aim to foster the convergence of tax levels applied in Member States, to minimise cross-border flows, to contribute to fair competition between different types of products, preventing or mitigating tax-induced substitution and to support public health protection objectives, by triggering tax rise able to curb smoking prevalence and achieve Europe's Beating Cancer Plan objectives.

Despite citizens and industry respondents to the public consultation resisting the idea of increased taxation for a number of products, a majority conceded that further action to close excise rate gaps between cigarettes, fine-cut tobacco and cigarillos could be justified. Academics, NGOs, public health experts and other respondents categories almost universally agreed that taxation had to be increased and existing gap levels closed (see ANNEX 1: for details).

5.2.1. What is the baseline from which options are assessed?

The baseline for the revision of the EU minima for traditional tobacco products (cigarettes, fine-cut tobacco, cigars and cigarillos and other smoking tobacco) assumes no change in EU policy. This means that the EU minima remain the same, expressed in nominal terms. Their structure is shown in Table 1 below (see also ANNEX 15:).

Cigarettes are currently subject to a mixed structure of excise, comprising both a duty calculated with reference to the retail selling price (the ad valorem) and a duty calculated per unit of the product (the specific). The Directive requires that the overall excise duty levied by Member States must represent 60% of the weighted average retail selling price (WAP) of all cigarettes made available for consumption in that Member State (the relative minimum condition) and be no less than EUR 90 per 1 000 cigarettes (the fixed minimum). However, the 60% requirement needs not be met where an excise duty of at least EUR 115 per 1 000 cigarettes is levied. Member States may also establish a minimum excise duty.

All other manufactured tobacco products may be subject to an ad valorem duty based on the retail selling price, a specific duty per kg or per unit, as appropriate, or a mixture of both. In respect of cigars and cigarillos the overall excise duty must represent at least 5% of the retail selling price or EUR 12 per 1 000 items or kg. In respect of fine-cut tobacco intended for the rolling of cigarettes, the overall excise duty must represent at least 50% of WAP or EUR 60 per kg. In respect of other smoking tobacco, the overall excise duty must represent at least 20% of the retail selling price or EUR 22 per kg.

Table 1. EU minima for traditional tobacco products

Product category	Fixed minimum rate	Relative minimum condition	Notes
Cigarettes	EUR 90 per 1 000 units (irrespective of the average price)	60% of the WAP <u>unless</u> EUR 115 per 1 000 cigarettes at WAP level (so-called 'escape clause')	Both conditions
Cigars and cigarillos	EUR 12 per 1 000 units <u>or</u> per kg	5% of the retail selling price (irrespective of the WAP)	Alternative conditions
Fine-cut tobacco	EUR 60 per kg	50% of the WAP	Alternative conditions
Other smoking tobacco	EUR 22 per kg	20% of the retail selling price	Alternative conditions

Example of the calculation of the tax for a pack of 20 cigarettes

Retail Selling Price (excluding taxes): EUR 1.56
+ Excise duty - specific: EUR 1.27
+ Excise duty - ad valorem: EUR 5.5 (55% of RSP)
Total excise duty: EUR 6.77 (68% of WAP)
 = Price (excluding VAT): EUR 8.33
 + VAT 20%: EUR 1.67
= Retail Selling Price (including all taxes): EUR 10

The products covered by the Directive automatically fall into the category of harmonised products. As a result, EU procedures for handling excise goods apply: they involve specific authorisation, control and movement rules as per the Horizontal Directive. They are supported by two pan European IT systems: the Excise Movement and Control System (EMCS) and the System for Exchange of Excise Data (SEED).

5.2.2. Description of the policy options

The options considered differ across products based on both the starting conditions (how low are current EU minima compared to actual excise duty levels) and the targeted minima condition (i.e. fixed or relative).

Three increase options have been considered. For fine-cut tobacco (FCT) EU minima should be equivalent to those for cigarettes to better prevent and mitigate tax-induced substitution.⁷⁶ For other traditional tobacco products, the EU minima have remained so far very low and have become irrelevant. Given the lower baseline for OST and notably for cigars and cigarillos where current levels are well below the actual excise duty levels applied in Member States⁷⁷, substantial increases have been considered to partly bridge the gap with cigarettes while also bringing minima closer to actual practices by Member States. The average excise duty for OST currently applied in Member States is EUR 132 per kilogram of the product while for cigarillos, it is 137 per 1 000 units. The current EU minimum rate is EUR 12 per 1 000 units or kg in the case of cigarillos and EUR 22 per kilogram of the product in the case of OST. It is proposed to bring current fixed minimum to 107 EUR in option 1, and a more ambitious and progressive increase to EUR 143 over 8 years in option 2 and over 4 years in option 3. The gradual increase approach follows the model used in the current Directive to progressively raise the tax level of FCT.

Introduction of separate categories better tailored for cigarillos and waterpipe tobacco (WPT)

All three options envisage the introduction of separate categories for cigarillos and WPT.⁷⁸ This would imply the revision of current definitions. As regards cigarillos, the distinction already exists in the excise legislation⁷⁹ and thus could be based on physical characteristics of cigarillos (e.g. weight and other related criteria)⁸⁰ and, for consistency with the existing criterion used in the excise legislation, encompass all products that weigh less than 3 g. For WPT, the definition would be based on the one used in the Tobacco Products Directive⁸¹. The same minimum excise duty rates as for other smoking tobacco (OST) are proposed for cigars and cigarillos to avoid tax-induced substitution. WPT is a very specific product⁸², with around half its market estimated to be illicit.⁸³ To avoid

⁷⁶ If it is assumed that there are 1 333 cigarettes in a kg of tobacco (the weight of one roll your own cigarette taken to be 0.75 g), the current minimum rate of excise in respect of 1 000 RYO cigarettes is EUR 45.01. By way of contrast, the minimum rate of excise in respect of 1 000 cigarettes is EUR 90.

Gallus, Silvano; Lugo, Alessandra; Ghislandi, Simone; La Vecchia, Carlo; Gilmore, Anna B. [Roll-your-own cigarettes in Europe](#), European Journal of Cancer Prevention: May 2014 - Volume 23 - Issue 3 – p. 186-192.

⁷⁷ See ANNEX 6: section 4 for details on applicable excise duty levels Member States.

⁷⁸ Establishing a separate tax category for cigarillos has not elicited the support of the majority of tax authorities' respondents (50% were against), while it has for waterpipe tobacco (63% were in favour).

⁷⁹ Article 8 (cigarillos are cigars of a maximum weight of 3 grams each) of [Council Directive 2007/74/EC](#) and Article 32 ('cigarillos (cigars weighing not more than 3 g each)') of the [Horizontal Directive](#).

⁸⁰ In line with the opinion of Member States tax authorities. A distinction based on weight would be in line with standard market segmentation, as well as with the split regimes for cigars and cigarillos that already exist in the EU, namely in Portugal and Italy.

⁸¹ Article 2 of the [Tobacco Products Directive](#).

⁸² WPT is to a large extent made of molasses, which significantly increases the specific weight of WPT compared to any other tobacco product. This translates into high profit margins for illicit traders. Given the prevailing informality of this market segment, collecting accurate market figures is unfeasible.

⁸³ The illicit market could account for 50% of total consumption (exceeding 80% in a few Member States) (External study).

unintentionally incentivising the illegal trade, a lower increase of the EU minimum rate is proposed⁸⁴ when compared to OST. A gradual increase approach is also adopted for option 2 and 3.

Option 1: Limited increase of EU minima

Minima rates	Cigarettes	FCT	Cigars	Cigarillos	OST	WPT
Fixed minimum	EUR 155/ 1 000 units	EUR 155/kg	EUR 107/1 000 units or kg	EUR 107/1 000 units or kg	EUR 107/kg	EUR 72/kg
Relative minimum (% of WAP for cigarettes; % of RSP for other)	61%	56%	30%	30%	40%	40%
Comparison with the current average excise duty rate in Member States	-17%	1%	-85%	-22%	-19%	-45%
Escape clause (EUR/ 1 000 units)	203					

Option 2: Moderate increase of EU minima

Minima rates	Cigarettes	FCT	Cigars	Cigarillos	OST	WPT
Fixed minimum	EUR 179/ 1 000 units	EUR 179/kg	143/ 1 000 units or kg (gradual increase over 8 years)	143/ 1 000 units or kg (gradual increase over 8 years)	EUR 143/kg (gradual increase over 8 years)	EUR 107/kg (gradual increase over 8 years)
Relative minimum (% of WAP for cigarettes; % of RSP for other)	62%	58%	40% (gradual increase over 8 years)	40% (gradual increase over 8 years)	50% (gradual increase over 8 years)	50% (gradual increase over 8 years)
Comparison with the current average excise duty rate in Member States	-4%	17%	-80%	4%	8%	-19%
Escape clause (EUR/ 1 000)	232					

Option 3: High increase of EU minima

Minima rates	Cigarettes	FCT	Cigars	Cigarillos	OST	WPT
Fixed minimum	EUR 215/ 1 000 units	EUR 215/kg	143/1 000 units or kg (gradual increase over 4 years)	143/1 000 units or kg (gradual increase over 4 years)	EUR 143/kg (gradual increase over 4 years)	EUR 107/kg (gradual increase over 4 years)
Relative minimum (% of WAP for cigarettes; % of RSP for other)	63%	62%	40% (gradual increase over 4 years)	40% (gradual increase over 4 years)	50% (gradual increase over 4 years)	50% (gradual increase over 4 years)

⁸⁴ A relative majority of Member States authorities (44%) would be in favour of a separate tax regime for WPT. One-third is not in favour, and the remainder expressed a cautiously open attitude. Only one-fifth of respondents expressly supported lower minima for WPT, while the majority agreed the EU minima should be the same as OST (regardless of their position on split regimes). The proposed options are more ambitious than the average view emerging from Member States authorities' suggestions through the survey. As regards EU minima they roughly fall between the option 1 and 2 - EUR 78 for the fixed minimum and 36% for the relative minimum.

Comparison with the current average excise duty rate in Member States	15%	41%	-80%	4%	8%	-19%
Escape clause (EUR/ 1 000)	274					

5.3. Enlarging the scope to new products

The harmonisation of new products is important for the proper functioning of the internal market, collection of fiscal revenues, prevention of tax-induced substitution, fraud and tax evasion and a high level of health protection.

5.3.1. What is the baseline from which options are assessed?

The baseline for the harmonisation of the tax regime for new products assumes no change in EU policy. The new products - liquids for e-cigarettes, other manufactured tobacco and related products - continue not being covered by the Directive and hence would not be harmonised at EU level. Member States would continue to apply their national tax regimes, if any. As regards heated tobacco products (HTP), which are not explicitly defined in the Directive (however falling in the scope of the Directive due to the lack of clear harmonised taxation rules), the legal uncertainty remains.

5.3.2. Description of the policy options

Harmonising new products requires clarifying the application of excise duty rules for HTP, extending the Directive's scope to include e-cigarette consumables (liquids including other refill containers), other manufactured tobacco (for example, chewing and nasal tobacco) and related products, in particular alternative products containing nicotine which can be considered as substitutes to tobacco products from a fiscal perspective (for instance, nicotine pouches); and adopting a 'catch-all' approach, to ensure that future market developments are covered.⁸⁵ The approach is technologically neutral⁸⁶ and can encompass current and prospective new products, mitigating the risk of product engineering for the purpose of circumventing tax definitions.

The extension of the scope of the Directive entails an appropriate definition and tax regime for new products. As a result of this extension, new products would be covered by the holding, movement and control requirements from the Horizontal Directive (see ANNEX 16: section 2 for details).

5.3.2.1. Heated tobacco products

There is a broad consensus among stakeholders on the need to establish a separate excise duty category for HTP at EU level.⁸⁷

The options are based on wide but objective definitions to capture current and future formats. The HTP excise category would be based on the following characterising elements: (1) the heating or activation of products without combustion; (2) the delivery of an aerosol for inhalation; and (3) a

⁸⁵ Future developments are difficult to predict, but market developments, notably in Asia, indicate that a new generation of products is being developed (e.g. a hybrid product heating a liquid for e-cigarette, to create a vapour that is passed through a tobacco pod).

⁸⁶ The technological neutrality refers to the way the product is designed, packaged and offered to consumers.

⁸⁷ The EU harmonisation of HTP was generally deemed necessary by all stakeholders, based on targeted consultations with Member States' tax authorities and in-depth interviews; it was then confirmed by a majority (more than 60%) of public consultation respondents. As regards HTP minimum excise duty rates, the prevailing view is they should be lower than those of FCT.

substrate which may or may not consist of tobacco (for analogy with cigarettes and smoking tobacco, substitute products partly or entirely made of substances other than tobacco would be included in the excise category). For instance, this category should also include heated products partly or entirely made of substances other than tobacco. These elements, to a greater or lesser extent, reflect the definitions applicable in Member States⁸⁸.

Given the heterogeneity of this class of products, the tax base would reflect how the product is marketed: (i) **HTP sold in sticks** (minimum rates would be set ‘per stick’ as in the case of cigarettes, i.e. per 1 000 units); (ii) **other HTP**, to ensure a common denominator applicable to all different product formats⁸⁹, by setting a ‘per weight’ (in kg) tax base.

Two options for the minimum rates are proposed taking into account preferences of Member States for HTP taxation⁹⁰ (per weight, or per stick approach). To avoid major market distortion or regulatory loopholes an equivalent taxation level was designed.

Options for EU minima for heated tobacco products

Options		Fixed minimum	Relative minimum (% of the retail selling price)
Option 1: Moderate level of EU minimum	HTP stick	EUR 88/1 000 units	45%
	Other HTP	EUR 125/kg	45%
Option 2: Higher level of EU minimum	HTP stick	EUR 108/1 000 units	55%
	Other HTP	EUR 155/kg	55%

As for traditional tobacco products, this option includes the possibility to apply specific or ad valorem taxation, or a combination thereof and the minimum excise duty⁹¹.

5.3.2.2. Liquids for e-cigarettes

EU-level harmonisation of liquids for e-cigarettes excise duty is welcomed by tax authorities and most industry players (including 57% of companies declaring themselves as SMEs in the public consultation), while it remains debatable among consumers.⁹²

⁸⁸ See ANNEX 11:2 for details.

⁸⁹ The HTP market in the EU is currently dominated by stick-shaped products containing a mixture of specially prepared reconstituted tobacco. However, HTP could be available also in other formats, i.e. pods, hybrid capsules and even in loose format.

⁹⁰ See

Figure A11-8 for details.

⁹¹ In the case of application of fully ad valorem or mixed tax structure, Member States may establish a minimum amount of excise duty to apply (i.e. a fixed monetary amount per quantity applicable if the amount of the excise duty falls below a minimum floor).

⁹² Opinions of public consultation respondents, particularly among citizens (e-cigarette consumers were overrepresented), were divided on the fiscal harmonisation of e-cigarettes in general (46% in favour and 46% against), and a slim majority appears against liquids without nicotine being harmonised (52%).

The options propose creating a new excise category for liquids based on two key elements, in line with the Tobacco Products Directive and customs classification (Combined Nomenclature⁹³). The first element refers to the intended use in an ‘electronic cigarette’ device. The second element is the reference to the acts characterizing consumption of liquids, as implicitly opposed to smoke and smoking. These elements, to a greater or lesser extent, reflect the definitions currently applicable in Member States. Liquids used exclusively for medical purposes are excluded from the scope.

E-cigarettes are viewed as substitutes, from a fiscal perspective to traditional tobacco products and in particular to cigarettes. Alongside the similarity in the use and consumption behaviour, e-cigarettes filled with nicotine containing liquids also offer an alternative means for nicotine intake. The nicotine, which is highly addictive and toxic, is the trigger for substitution.

Regarding the tax base, all the options follow a ‘per volume’ approach (i.e. taxation proportional to the volume). This is in line with the practice of Member States. This is confirmed by the results of the stakeholder consultation.⁹⁴

Option 1: Zero rate for the EU minimum

Under this option a fixed minimum of EUR 0/ml of liquid applies. This option would allow Member States without excise duty in place to maintain the status quo, but at the same time to monitor the movement of liquids for e-cigarettes through the EMCS.

This level of taxation corresponds to the approach adopted in Croatia.

Option 2: Higher level for the EU minimum

Under this option, a fixed minimum of EUR 0.36/ml of liquid applies with a relative minimum of 40% of the retail selling price, as an alternative condition.

Option 3: Moderate level for the EU minimum with a higher rate for high nicotine concentrations in liquids for e-cigarettes

This option offers the possibility of applying a higher level of excise duty to liquids with a high concentration of nicotine⁹⁵, for example nicotine ‘boosters’ that are added to ‘shortfill’ nicotine-free liquids (underfilled bottles of flavoured liquids).

Under this option, a fixed minimum of EUR 0.12/ml of liquid applies for products⁹⁶ with up to 15 mg of nicotine per ml, including nicotine-free liquids, with a relative minimum of 20% of the retail selling

⁹³ The Combined Nomenclature (CN) is a tool for classifying goods, set up to meet the requirements both of the [Common Customs Tariff](#) and of the EU's external trade statistics.

⁹⁴ The prevailing view on EU minima for liquids for e-cigarettes among Member State's tax authorities converged around the minimum common denominator of some EUR 0.10 per ml, while both higher EUR 0.30 per ml rates and the zero rate option elicited less support. However, in the public consultation where e-cigarette consumers were, overrepresented, respondents preferred the zero EU minimum option (48%), closely followed by the EUR 0.10 per ml option (43%), while the EUR 0.30/ml value was preferred by a very small subset of stakeholders (6%). Respondents, excluding citizens were all in favour of a positive EU minimum (69%).

⁹⁵ In Sweden, liquids with a nicotine concentration exceeding 15 mg/ml are subject to a higher rate (EUR 0.40/ml instead of EUR 0.20/ml). In Denmark, the threshold is 12mg of nicotine per ml.

⁹⁶ In 2023 nicotine-containing products accounted for 87% of the total consumables market vs. just 13% for nicotine-free products. Among nicotine-containing products, consumers tend to prefer low strength liquids (with 1 to 9 mg/ml), although medium strength products (10 to 19 mg/ml) hold more than 50% of the market in half a dozen Member States (Austria, Denmark, Italy, the Netherlands and Romania) (External study).

price as an alternative condition. The minimum rate for products with any concentration higher than 15 mg/ml is set at EUR 0.36/ml, with a relative minimum of 40% of the retail selling price as an alternative condition.

5.3.2.3. Other manufactured tobacco and related products

The options propose creating an excise category for other manufactured tobacco and related products. There is consensus among tax authorities for including them in the scope of the Directive, although opinions then differ on how best this could be implemented. The public consultation confirms that, for this category of product, there is no prevailing view on implementing an EU minimum rate among stakeholders, except for citizens that were against.⁹⁷ To this end, two main catch-all categories with a broad, flexible definition are proposed:

- **Other manufactured tobacco.** This is a residual excise category designed to capture any manufactured tobacco product which does not belong to the smoking tobacco or heated tobacco products categories. To deal with the heterogeneity of the products concerned, it is proposed to establish a **catch all regime** covering all hypothetical other manufactured tobacco products that cannot be classified otherwise, and a **special regime**, for traditional ‘non-harmonised’ smokeless products, like chewing tobacco and nasal tobacco, but not including snus which is only allowed for sales in Sweden.⁹⁸
- **Related products.** The second category proposed concerns related products, such as smokeless products for final consumption that contain nicotine but not tobacco and which are intended for the intake of nicotine by the human body. Two regimes are also proposed: a **catch all regime** to capture a multitude of products for nicotine intake through chewing, dissolving, sniffing, etc., and a **special regime** for nicotine pouches, which is the main emerging product in this area. However, some nicotine-containing products should be explicitly excluded from the scope of these categories, such as approved nicotine replacement therapies⁹⁹, industrial nicotine¹⁰⁰, and products containing a minimal amount of nicotine.¹⁰¹

Regarding the EU minima for other manufactured tobacco, three options are proposed.

Under Article 20 of the Tobacco Products Directive it is not allowed to place on the market nicotine-containing liquid where the nicotine concentration exceeds 20 mg/ml.

⁹⁷ Member States tax authorities expressed a clear consensus for harmonising and introducing new oral products within the scope of the Directive. The consensus varies across products from almost unanimous for nicotine pouches and other oral products containing nicotine but not tobacco. Respondents to the public consultation were not against harmonising and creating EU minima on these goods (53%) and 57% of respondents other than citizens were clearly in favour.

⁹⁸ Placing on the market of tobacco for oral use (without prejudice to Article 151 of the Act of Accession of Austria, Finland and Sweden) is prohibited under Article 17 of the Tobacco Products Directive.

⁹⁹ As it is under current provisions of Article 2 of the Directive ‘products containing no tobacco and used exclusively for medical purposes shall not be treated as manufactured tobacco’.

¹⁰⁰ Both extracted from tobacco and obtained by synthesis - which is produced and traded B2B in a concentration higher than the 20 mg/ml limit established for liquids for intended uses other than intake into the human body. This is a chemical substance which is covered by the hazardous substances legislation.

¹⁰¹ A hypothetical threshold of 0.01 mg/ml is put forward.

The rationale for option 1 is to introduce these products in the scope of the Directive with a basic EU minimum rate, reflecting the marginal and declining consumption of smokeless tobacco products.¹⁰² The proposed rate is EUR 26/kg (or 10% of retail selling price (RSP)).

Under option 2 a limited EU minima of EUR 107/kg (or 40% of RSP) is proposed, to align with the minimum rate proposed for other smoking tobacco (OST) under this scenario. This approach aims at preventing tax-induced substitution and risks of abuse of this new category.

Under option 3, following the same approach as for OST under the high increase option, a gradual increase of the fixed minimum over 4 years to EUR 143/kg of the product is proposed. The gradual phase-in of the tax increase is justified by the considerable evolution from the current situation where no EU minimum is applicable.

Regarding the EU minima for related products, the same rates are proposed for simplicity and considering the similarity in consumption patterns between nicotine pouches and chewing tobacco¹⁰³. Regarding the structure, only an ad valorem excise rate (based on the retail selling price) is proposed as it is unrelated to the product's substrate or how it is prepared for sale. Indeed, as a heterogeneous category, the excise structure should be sufficiently flexible to adjust to different product characteristics.

Options for EU minima for other manufactured tobacco and related products

Products		EU minima	Option 1 (basic amount)	Option 2 (limited amount)	Option 3 (high amount) gradual increase over 4 years
Other manufactured tobacco	Smokeless tobacco products (nasal, chewing tobacco)	Fixed minimum (EUR/kg)	26	107	143
		Relative minimum (% of the retail selling price)	10%	40%	50%
	Catch all regime	Fixed minimum (EUR/kg)	26	107	143
		Relative minimum (% of the retail selling price)	10%	40%	50%
Related products	Nicotine pouches	Fixed minimum (EUR/kg)	26	107	143
		Relative minimum (% of the retail selling price)	10%	40%	50%
	Catch all regime	Relative minimum (% of the retail selling price)	10%	40%	50%

5.3.3. Options discarded at an early stage

Minimum rates set per nicotine content

The 'per nicotine' approach (i.e. taxation proportional to the concentration of nicotine contained in the liquid) is endorsed by some public health stakeholders on the hypothesis that it would discourage users to consume liquids with a higher concentration of nicotine, a highly toxic and addictive substance. However, the current market price of liquids is not linked to nicotine concentration,

¹⁰²According to available market data, chewing tobacco sales have decreased by 13% since 2020, and in 2023 were below 19 tonnes EU-wide. Moist snuff sales (except snus) amounted to 128 tonnes in 2023 and were rather stable since 2020 (External study).

¹⁰³ Smokeless tobacco product available loose or portioned (in pouches resembling tiny tea bags) and consumed by placing the pouch or a pinch between the gum and upper lip for a period of time.

consequently, setting EU minima to be proportional to nicotine concentration could be too disruptive of the current market practice. Finally, an entirely ‘per nicotine’ approach would exclude nicotine-free liquids from taxation, would require more burdensome procedures for economic operators and tax authorities to verify tax declarations, and would magnify the incentives behind the illicit trade of pure nicotine, which is a risk frequently highlighted by Member States. None of the Member States has adopted a ‘per nicotine’ approach to the taxation of liquids for e-cigarettes.

Excluding nicotine free liquids from taxation

Excluding nicotine-free liquids would fail to address ‘do it yourself’ practices, especially in the case of positive excise duty rate for nicotine containing liquids¹⁰⁴. Liquids still have a negative health impact (e.g. leading to cancer, pulmonary and cardiovascular diseases) because of the harmful products (e.g. formaldehyde, heavy metals) they contain. Among other things, SCHEER found a moderate to strong risk of adverse health effects for heavy users of e-cigarettes, while adding that more research and data are needed to estimate long-term effects, as these products are relatively new¹⁰⁵. While the relative health risks of e-cigarettes are still debated, excluding nicotine free liquids from taxation would hamper the pursuit of the public health goals in Member States as there is strong evidence that e-cigarettes play a role in the initiation of smoking, especially for young people¹⁰⁶. Finally, the need to include into the scope of the Directive nicotine free liquids is supported by an overwhelming majority of tax authorities.

5.4. Enlarging the scope to raw tobacco

Harmonising excise duty rules for raw tobacco would resolve disparities in interpretation of the demarcation between manufactured tobacco products and raw tobacco for excise purposes and would imply the application of movement and control requirements under the Horizontal Directive. This is supported by most tax authorities surveyed (75%). Also, more than two thirds of the respondents to the public consultation expressed support for monitoring raw tobacco movements through the Excise Movement and Control System (EMCS), to curb illicit manufacturing.

5.4.1. What is the baseline from which options are assessed?

The baseline for the harmonisation of the tax regime for raw tobacco assumes no change in EU policy. Raw tobacco would not be covered by the Directive, hence would not be harmonised at EU level and would be free to move unsupervised by national authorities throughout the EU. Member States would continue applying their own tax regimes and control measures.

5.4.2. Description of the policy options

The options propose creating a new excise category for raw tobacco. Taking into account Member States’ practices¹⁰⁷, raw tobacco would be defined in contrast with the existing manufactured tobacco categories, i.e. the definition of raw tobacco would include any form of tobacco that is neither a live plant nor a manufactured tobacco product. In practice it would include tobacco leaves and intermediate products.

¹⁰⁴ In the majority of Member States with excise duty in place, all liquids are taxed with a positive rate.

¹⁰⁵ [Opinion on electronic cigarettes](#). Scientific Committee on Health, Environmental and Emerging Risks SCHEER.

¹⁰⁶ WHO, ‘[WHO report on the global tobacco epidemic 2021: addressing new and emerging products](#)’. July 2021.

¹⁰⁷ See ANNEX 14: section 2 for details.

As a result of harmonisation, the same as for new products as already presented in section 5.3.2, the excise movement and control requirements established in the Horizontal Directive¹⁰⁸ would apply to raw tobacco, but with an exemption for the movements from cultivation areas (where the tobacco is grown) to the first processing¹⁰⁹ facility, as at this stage the risk of fraud is limited¹¹⁰. The EMCS would therefore start applying when raw tobacco is eventually received by the first processor. As most of the imported raw tobacco is first processed, this option would ensure equality of treatment as the EMCS obligation would apply at the same stage to both EU and non-EU grown raw tobacco.

As regards to EU minima, two options are proposed.

Option 1: Zero EU minimum

Under this option a fixed minima of EUR 0/kg of the product is proposed¹¹¹. This option is supported by almost all tax authorities.

Option 2: Positive EU minimum

Under this option a fixed minima, the same rate as for other smoking tobacco (OST), is proposed, with a gradual increase of the fixed minimum over 4 years to EUR 143 per kg. It should be noted that this option would be in line with the current practices of Member States which use taxation as a deterrent for trading raw tobacco outside of the recognised supply chain. In these countries, the tax rate applied to raw tobacco is typically the rate of OST¹¹².

5.4.3. Options discarded at an early stage

Application of excise movement and control requirements at the initial stage of the supply chain

This option would include applying the control requirements established in the Horizontal Directive at the initial stage supply chain stage¹¹³, i.e. to tobacco growers and their organisations. It would imply high administrative burden for economic operators, typically SMEs, who are not generally involved with the manufacture of tobacco products and their placing on the market. Furthermore, national agricultural legislation already imposes registering obligations to tobacco growers. This option has been discarded as disproportionate.

¹⁰⁸ See ANNEX 16: section 2 for details.

¹⁰⁹ First processing of tobacco includes a variety of activities that transform ‘leaf’ tobacco into ‘processed’ tobacco which manufacturers can use to produce tobacco products (cigarettes, FCT, cigars etc). The first processing includes inter alia: (a) threshing (separation of tobacco laminas from stems and veins); (b) cutting; (c) stabilisation; and (d) sorting into lots (i.e. grading of the products by quality). ‘Second processing’ designates a range of activities that transform tobacco by-products, originating from processing/manufacturing activities into reconstituted tobacco or other intermediate products (such as ‘expanded stems’), which can be used for the manufacturing of final products. By-products include tobacco stems, lamina scraps, dust and fines etc., which are typically classified as ‘refuse tobacco.’ (External study).

¹¹⁰ Movements of harvested tobacco from field to farm or collection centres, and then to first processing facilities, would not occur under EMCS. Collection centres are collective warehouses, where curing is often also performed, located nearby the cultivation areas and typically managed by producers’ organisations. When administrative arrangements are in place, to make farming of tobacco conditional upon the existence of contracts with first processors, these collection centres are usually not allowed to directly sell their members’ products, but the situation can vary from Member State to Member State and possible cases of collection centres operating in their private capacity have also been reported (External study).

¹¹¹ 0 is not the same as exemption. In practical terms, the exemption would mean that raw tobacco would continue to fall outside the scope of the Directive and excise movement and control requirements established in the Horizontal Directive would not apply.

¹¹² E.g., Lithuania, Sweden.

¹¹³ In this early stage, tobacco is moved from field to farm or collection centres and/or curing facilities in bulk.

6. What are the impacts of the policy options?

This section gives an overview of the main impacts of the options considered under the revision of the Directive by comparing them to the baseline. The impacts of the policy options for three revision areas have been assessed mainly on the basis of the External study.

The ‘no EU policy change’ scenario is based on a dynamic baseline. In this analysis, external factors e.g. fiscal developments at national level, other EU initiatives (e.g. in the context of anti-fraud or tobacco control policy) and broader economic and socio-cultural trends were considered. The baseline analysis focused on these specific aspects that are relevant to each of the three areas of intervention. For instance, in the area of new products, the External study looked at market value and price of e-cigarettes, heated tobacco products, other tobacco and related products, the number, type of consumer and consumption patterns, existing legal frameworks, estimated tax revenues in countries where taxes have been introduced, issues related to ad hoc regimes and disparities of treatment, related administrative burden for businesses and administrations.

The significant impacts considered in detail for each policy option relate to: (1) impacts on excise duties and on the market (including tax revenues and the impact on fraud and tax evasion); (2) administrative costs and savings (including the impact on SMEs and on competitiveness) taking into account digital aspects; (3) public health effects (smoking prevalence and related social costs); (4) impacts on employment.

The quantification of the impact of each policy option on the prices, quantities sold, and excise revenue was carried out following a partial equilibrium approach augmented with a module for intra-EU movements. The first step of the estimate was to identify, for each policy option, which Member States would have to increase their excise duties, for each market segment; this is because, in almost all cases, Member States currently levy higher excises than mandated by the Directive. Once determined which excises would have to be increased in each Member State, the resulting price increase was calculated taking into account that producers of tobacco and related products typically absorb part of the tax increase within their profit margin, adapting the price less than proportionately. On the basis of historical patterns, the expected degree of tax shifting to the consumer was determined by the External study at 0.7. The resulting impact on the demand for the various tobacco products was finally determined based on estimates for the price elasticity of demand calculated by the External study. The methodology also involved estimating how much consumption would shift from one product to another (notably from cigarettes to FCT, but also between higher- and lower-priced market segments of the same product), following a price increase. For new products, the pass-through rate was modulated to account for segment-specific price and demand dynamics, based on empirical evidence (see ANNEX 3: for details). The impact on revenue was finally calculated by adjusting the increase in unit tax revenue for the expected reduction in volume. Additionally, the analysis of market impacts has included a specific assessment of the expected variations in cross-border flows and of tax-driven substitution between cigarettes and FCT.

The External study assumed, conservatively, that only directly affected Member States would raise excise duties, ignoring the possibility that other Member States would ‘follow the example’ and hike their excise duties voluntarily.

This assumption was needed to disentangle the expected effects of the proposed revisions from other changes that would occur as a result of Member States’ internal excise policies. In this sense, these

scenarios should not be seen as a prediction of future evolution in excise and price levels across the EU.¹¹⁴ Details of the analytical methods are provided in ANNEX 3:.

Regarding impact on SMEs, the relevant impacts based on the SME check are presented in ANNEX 5:.

General impacts are expected in other areas. However, they are not assessed in detail because they are similar in all policy options and are less direct and significant. These are:

- **Environmental impacts.** Tobacco products are characterised by a peculiar environmental footprint in the various phases of their lifecycle. In particular, tobacco is characterised by being a crop with very high water demand, whose manufacturing can be seen as relatively energy-intensive, both because of curing requirements and because its complex logistics and distribution require a notable number of km be travelled. According to the WHO, tobacco growing is significantly more water-intensive than food crops such as tomatoes, rice or potatoes.¹¹⁵ Tobacco production requires substantial amounts of energy (oil), with consequential adverse environmental effects in terms of CO₂ emissions. Discarded cigarette butts present a danger to the environment, as filters do not biodegrade and can remain in the environment for very long periods of time in the form of microplastics. The European Commission has identified tobacco filters among the top five most common pieces of litter found on beaches.¹¹⁶ Any reduction in tobacco consumption triggered by taxation would, in theory, reduce such impact. This in line with the goals of the European Climate Law¹¹⁷ and other EU environmental legislation. As regards e-cigarettes, heated tobacco and smokeless tobacco products, there is a notable paucity of information on environmental impacts. However, it is reasonable to assume that e-cigarette emissions and waste are a significant source of environmental pollution.¹¹⁸ All the options and the baseline scenario considered the principle of ‘do no significant harm’ to the environment. For more details see ANNEX 16: section 5.

The right to a high level of human health protection is enshrined in the EU Charter of Fundamental Rights and already addressed under public health impacts. The interaction of the Directive and the potential impact of the policy options on other fundamental rights was not considered significant, in light of the fact that the scope of the Directive is limited to setting minimum taxation levels, and therefore is not assessed in detail.

¹¹⁴ According to the feedback received, 10 out of 19 the Member States which responded reported planned increases of national rates in the coming years.

¹¹⁵ Maria Zafeiridou, Nicholas S Hopkinson, Nikolaos Voulvoulis, ‘[Cigarette smoking: an assessment of tobacco’s global environmental footprint across its entire supply chain, and policy strategies to reduce it](#)’, 2018

¹¹⁶ Joana Mira Veiga, David Fleet, Susan Kinsey, Per Nilsson, Thomais Vlachogianni, Stefanie Werner, François Galgani, Richard C. Thompson, Jeroen Dagevos, Jesús Gago, Paula Sobral and Richard Cronin, [Identifying Sources of Marine Litter](#), p. 18.

¹¹⁷ Set the long-term direction of travel for meeting the 2050 climate neutrality objective through all policies, in a socially fair and cost-efficient manner. [European climate law](#) sets a binding Union climate target of a reduction of net greenhouse gas emissions by at least 55% by 2030 compared to 1990.

¹¹⁸ Ngambo G, Hanna EG, Gannon J, Marcus H, Lomazzi M, Azari R. [A scoping review on e-cigarette environmental impacts](#). Tob Prev Cessat. 2023 Oct 2;9:30. doi: 10.18332/tpc/172079. PMID: 37789930; PMCID: PMC10542855.

6.1. Revising the EU minima and certain categories for traditional tobacco products

6.1.1. Baseline

In 2023, smoking prevalence in the EU amounted to 24%, i.e. one percentage point less than 2020 and four points down compared to 2012 levels. Tobacco related healthcare costs attributable to tobacco are close to EUR 48 billion annually. In terms of years of life lost, the burden of tobacco is close to 11.3 million annually, which in economic terms may translate in EUR 587 billion for the EU overall (see Table 2).¹¹⁹

Under the baseline, smoking prevalence is likely to decrease by 1.7% a year, due to Member States spontaneous tax increases and the impact of other factors like tobacco control policies, and broader change in cultural attitude. The EA 2021 study estimated that such factors would reduce the social costs of tobacco consumption by roughly EUR 37 billion by 2025.

Table 2. Smoking prevalence and health costs

	Smoking prevalence			Health impacts					
	Consumption (items bn)	No. of smokers* (population mil)	Smoking prevalence* (%)	Tobacco-related deaths (thousand)	Tobacco-related DALYs (thousand)	Value of years of life lost (EUR bn)	Health-care costs (EUR bn)	Productivity losses (EUR bn)	Total monetised burden (EUR bn)
Baseline	502	92.1	24%	498	13 200	587	48	13	650

Source: External study based on TEDB / Euromonitor (unit consumption) and Eurobarometer (smoking prevalence and smokers' population). Baseline values refer to 2023. Health impacts are based on Global Burden of Disease data and Eurostat.

Legend: DALY=Disability adjusted life years.

Notes: FCT and OST have been converted into sticks applying a 0.75g=1 stick equivalence. (*) The estimates for these variables are presented with a higher degree of granularity for the sole purpose of showing the possible different impact.

Excise duty revenue from tobacco products in the EU for 2022 was estimated at approximately EUR 79 billion.¹²⁰ Table 3 shows how the market is expected to evolve under the baseline (current EU minima unchanged).

Table 3. Traditional tobacco products under the baseline

	Cigarettes	FCT	Cigarillos	Cigars	OST
EU average excise duty at WAP level (EU average) (2023)	EUR 187/1 000 units	EUR 153/kg	EUR 137/1 000 units	EUR 727/1 000 units	EUR 132/kg
EU average WAP (2023)	EUR 301/1 000 units	EUR 264/kg	EUR 497/1 000 units	n/a*	EUR 263/kg
Annual market sales (2023)	393 billion units	70 million kg	8.7 billion units	1.0 billion units	4.8 million kg

Source: External study

¹¹⁹ External study.

¹²⁰ Over the 2020 – 2022 period excise duty revenues continued increasing in nominal terms, moving from EUR 77.3 billion to over EUR 78.9 billion. However, the rate of increase (2.1%) has been much smaller than inflation rate for the same period (19.5%) so, in real terms the total amount of receipts actually declined (by around 14%). As actual excise rates applied in Member States have generally increased faster than the inflation rate, this downturn is mostly attributable to a decline in recorded consumption (External study).

Notes: * Given the inherent heterogeneity of cigars, it is impossible to compute a meaningful overall representative price, i.e. a WAP.

Under the baseline, the substitution between FCT and cigarettes is expected to decrease progressively in line with current trend, as the tax gap has been bridged progressively over time, through both scheduled increase in the EU minimum for FCT and Member States tax policies.¹²¹ However, the last increase mandated by the Directive entered into force in 2020 and there are no further required increases. Sales of FCT increased while COVID – 19 restrictions were in place, suggesting substitution increased during that time, possibly due to reduced access to (cheaper) cross-border products, however, FCT sales have since declined between 2020 and 2023.

6.1.2. Impacts on excise duties and the market

Table 4 presents the economic impacts of the three options presented for each traditional tobacco product (see section 5). For cigars, cigarillos and OST, a gradual increase of the fixed minimum from EUR 107 to EUR 143 over 8 years is proposed in option 2 and over 4 years in option 3. The impacts presented are those relevant to the EU minima at EUR 107 (for option 1) and EUR 143 level (for option 2 and 3). Disparities between Member States are greater for cigars and cigarillos, compared to cigarettes, so the proposed increases will inevitably have different impacts, with very low taxing Member States required to significantly increase rates, while others remaining unaffected. In absolute terms, the proposed increase would increase the average excise duty from EUR 137 (per 1 000 units) to between EUR 143 and EUR 150 for cigarillos, and from EUR 727 (per 1 000 units) to between EUR 732 and EUR 740 for cigars.

The impact on the price of traditional tobacco products would depend not only on the extent of excise duty increases prompted in Member States, but also on how much of the increase is passed on to consumers or, conversely, absorbed by manufacturers by reducing profit margins or implementing portfolio optimisation strategies. Price level increases would in turn reduce demand and sales of tobacco products. The EU average price (WAP) for 1 000 cigarettes is estimated at EUR 319 in option 1, at EUR 336 in option 2 and at EUR 368 in option 3. For 1 kg of FCT, it is estimated at EUR 277 under option 1, at EUR 282 under option 2 and at EUR 294 under option 3.

Table 4. Estimated impacts on excise duties, revenues and market

	Cigarettes	FCT	Cigars	Cigarillos	OST	Total
Option 1: Limited increase of EU minima						
Average increase of excise duty for Member states in %	11%	11%	14%	23%	12%	
Member States affected	19	9	5	6	6	
Market sales (%)	- 5%	-6%	-2%	-10%	-9%	
Impact on revenues (EUR million)	+ 4 090	+ 661	+ 55		+ 46	+ 4 900
Option 2: moderate increase of EU minima						

¹²¹ Over the past decade, excise duty levels for FCT have been increasing at an average annual rate of over 7%. More specifically, compared to the tax levels in 2020, the increase was, 27% in 2023, i.e. more than in the case of cigarettes (22%). Over the 2020 – 2023 period, excise duty levels remained unchanged in four Member States and increased in all remaining countries (External study).

Average increase of excise duty for Member states in %	22%	15%	26%	42%	26%	
Member States affected	21	11	9	8	12	
Market sales (%)	-9%	-6%	-5%	-13%	-12%	
Impact on revenues (EUR million)	+ 7 992	+ 806	+ 91		+ 77	+ 9 000
Option 3: high increase of EU minima						
Average increase of excise duty for Member states in %	41%	24%	26%	42%	26%	
Member States affected	21	17	9	8	12	
Market sales (%)	-14%	-9%	-5%	-13%	-12%	
Impact on revenues (EUR million)	+ 12 582	+ 1 185	+ 91		+ 77	+ 14 000

Source: External study

Notes: Estimates refer to the EU-wide aggregated market. For tax-driven price increases, a pass-through rate of 0.7 is assumed. The impact on demand is calculated assuming an elasticity coefficient of -0.54. Figures are rounded.

Traditional tobacco products consumed in the EU are mostly manufactured within the Union and, obviously, manufacturers could be affected by reduced demand, even if some losses could be offset through exporting. The impact of increased EU minima on market sales would affect primarily large companies, which dominate the cigarettes segment, whereas SMEs, which are more present in the FCT, cigars, and cigarillos segments, would be comparatively less affected. Certainly, the degree of market power that the four large transnational tobacco companies are capable of exercising may allow for raising prices, even beyond that required by higher taxes, in order to minimise reduced profitability.¹²² The impact on general retail is expected to be negligible, as retailers rarely sell only tobacco products. The impact may be more felt by first and second processors who depend directly on sales volumes and are typically bound to local markets.

Regarding the impact on fraud, while price levels may act to incentivise the illicit trade of tobacco products (ITTP) the main driver is not the relative levels of price or taxation¹²³, instead other drivers are at play such as the permeability of borders; the severity of sanctions for offenders; the geographic proximity to illegal production and/or distribution sites.¹²⁴ The World Health Organisation contends that weak governance has a greater influence on the scale of the illicit tobacco trade than price

¹²² R. Branstion, [Industry profits continue to drive the tobacco epidemic: A new endgame for tobacco control?](#), Tobacco Prevention & Cessation, 2021; Z.D. Sheikh, J.R. Branstion, A.B Gilmore, [Tobacco industry pricing strategies in response to excise tax policies: a systematic review](#), Tobacco Control, 2021.

¹²³ World Bank, Tobacco Tax at the Crossroads of Health and Development: A Multisectoral Perspective. 2017, p. 18.

¹²⁴ Member States that are more exposed to smuggling from external borders are generally more concerned about the unintended consequences of increasing EU minimums.

differentials.¹²⁵ By contrast, within the EU, tobacco is subject to strong fiscal and regulatory controls, overseen by Member States with effective administrative frameworks.

Evidence from Ireland, which is the Member State with the highest tobacco taxes and prices in the EU, has shown that sustained tax and price increases can coexist with a general downward trend in the use of illicit tobacco products¹²⁶.

In other words, there is no direct proportionality between tax levels and the level of illicit trade (also see ANNEX 16: section 1.1.).

The traceability and security features system for monitoring distribution of tobacco products in the EU under the Tobacco Products Directive is now well in place¹²⁷ in Member States for cigarettes and FCT. Since May 2024 it has been expanded to cigars, cigarillos and smokeless tobacco products.

Finally, the risk of ITTP should also be addressed by appropriate enforcement actions.

Impact on the consumer price index. The increase in the price of tobacco products, consequent to increased taxation, would impact inflation rates in the Member States, somehow proportionally to the extent of the increase and of the weight of products on consumer's basket - as measured by Eurostat's Harmonised Index of Consumer Price (HICP). Overall, EU aggregate HICP would increase by 0.18 percentage points in the case of option 1, 0.34 in the case of option 2 and 0.55 in the case of option 3 (see ANNEX 16: section 1.2).

Overall, the projected impact contributes in a limited way to inflation dynamics. However, it should be noted that price increases deriving directly from consumption tax increases usually fall outside the definition of inflation relevant for monetary policy purposes.¹²⁸ Moreover, it should be understood that the consumer price impact calculated is a purely arithmetic average between a zero impact for non-smokers and a higher (but intentional) impact for smokers, assuming other things being equal.

Separate categories for cigarillos and waterpipe tobacco (WPT) would allow Member States to adopt a more tailored taxation regime for these products according to their consumption patterns and risk analysis for these specific products.¹²⁹

A separate sub-category for WPT with a modest EU minima increase would improve legal certainty, allow tax authorities to monitor the WPT market more effectively, which could reduce illicit trade and tax evasion and give Member States more flexibility to adapt the WPT rate to discourage the illicit trade. According to the External study, while a lack of robust market data hampers a quantitative estimation, a decline in illicit sales is expected, especially under option 1. As regards the impact on annual tax revenue, an increase of EUR 10 million for option 1 and EUR 20 million for options 2 and 3 are expected.

¹²⁵ WHO technical manual on tobacco tax policy and administration. Geneva: World Health Organization; 2021. Licence: CC BY-NC-SA 3.0 IGO, p 176

¹²⁶ Dutta, S., *Confronting Illicit Tobacco Trade: a Global Review of Country Experiences* (English). WBG Global Tobacco Control Program Washington, D.C. World Bank Group, p 124.

¹²⁷ [Commission Report](#) on the application of Directive 2014/40/EU, COM(2021) 249 final.

¹²⁸ Firstly, monetary policy is concerned about a 'core inflation' that excludes some volatile items from the HICP inflation, usually including tobacco products. Secondly, changes in the indirect taxation belong to the list of exemptions that allow central banks to "look through" such changes when interpreting inflation developments.

¹²⁹ For WPT, market operators claim that the current homogenisation of taxation levels with 'other smoking tobacco' causes the prices for these products to become disproportionate.

6.1.3. Impact on substitution between products

Increase in the demand of FCT caused by substitution is likely to exceed the decline in sales caused by FCT own price increase. Regarding other products, the options proposed would mitigate tax-induced substitution across products¹³⁰ because current levels are well below the new EU minima proposed.

6.1.4. Impact on cross-border flows of cigarettes and FCT

Although the increase of the EU minima will foster price convergence among EU Member States to some extent, it will not eliminate the incentive for cross-border shopping¹³¹. However, the results, summarised in Table 5, show that the increase of EU minima would be associated with a reduction of cross-border flows¹³². Cross-border purchases of cigarettes are expected to reduce by approximately 1.8 to 5.8 billion cigarettes (equivalent to 6.4 % and 20.5% respectively) depending on the option.

Table 5. Impact on cross-border flows of cigarettes and FCT

	Volumes				Changes in volumes with respect to baseline		
	Baseline	Option 1	Option 2	Option 3	Option 1	Option 2	Option 3
Cigarettes (mln sticks)	28 400	26 600	25 000	22 600	-6.4%	-11.9%	-20.5%
FCT (t, lb)	8 300	8 100	8 050	7 800	-2.1%	-2.9%	-6.2%
FCT (t, ub)	14 000	13 700	13 600	13 150			

Source: External study

Note: lb and up stand for the lower and upper bound, respectively. Numbers were rounded with different precision applied to different products

6.1.5. Public health impacts

According to WHO estimates, an increase of tobacco prices by 10% decreases tobacco consumption by about 4% in high-income countries and about 5% in low- and middle-income countries.¹³³ Any reduction in tobacco consumption triggers health benefits (defined as reduced health costs). The number of smokers would reduce between 5 and 12 million approximately, depending on the option. The smoking prevalence (aged 15+) would drop from a minimum of 1.2 percentage points up to 3.2 depending on the option, and under the most ambitious option it would drop to 20.8% (from the current 24%) (see Table A16-1 in ANNEX 16:). This corresponds to the opinion of public health

¹³⁰ However, during public consultation some businesses claimed that increasing the minima for cigars and cigarillos, would have hardly any effect on product substitution trends with cigarettes, as prices are already well above cigarettes and consumption habits are different.

¹³¹ Stakeholders of public consultation also have doubts that EU excise harmonisation mechanism based on common EU minima will harmonise taxation levels soon and therefore will not reduce abuse of cross-border trade flows motivated by tax opportunities.

¹³² Changes in the volume of flows was estimated using the econometric model developed in the External study. For more details see ANNEX 7: section 2.1

¹³³ WHO, [Factsheet on Tobacco](#), accessed 18 April 2025

experts and NGOs who consider that increasing taxation of conventional tobacco products and closing tax differentials between cigarettes and other tobacco products were high priority for achieving the objectives of Europe's Beating Cancer Plan.

As presented in

Table 6, in line with the above projections of smoking prevalence, the proposed options would lead to possible savings in terms of social costs of between EUR 32 and 55 billion for option 1 and 2 and EUR 85 billion for option 3 by 2025 compared with the baseline.¹³⁴

Table 6. Impacts on public health costs

Options	Tobacco-related deaths (thousand)	Tobacco-related DALYs (thousand)	Value of years of life lost (EUR bn)	Health-care costs (EUR bn)	Productivity losses (EUR bn)	Total monetised burden (EUR bn)
Option 1	-25	-700	-29	-2	-1	-32
Option 2	-42	-1 100	-50	-4	-1	-55
Option 3	-66	-1 700	-77	-6	-2	-85

Source: External study

Notes: Estimates based on Global Burden of Disease data and Eurostat. Figures are rounded.

Legend: DALY=Disability adjusted life years.

6.1.6. Impacts on administrative costs and savings and on SMEs

The increase of EU minima would negatively affect consumers' ability to buy the products (and hence lead to reduced sales for economic operators) but would not per-se entail relevant increase of administrative costs for business and Member States.

6.1.7. Impacts on employment

The employment impact is likely to depend on the market segment. There are no official statistics on jobs linked to tobacco because these fall across three different sectors: growing of tobacco in the primary sector, tobacco manufacturing, and retail. These sectors differ considerably in terms of their production function, labour intensity and market structure; as such the impacts will be correspondingly diverse. Even within the sectors, the impact on each individual business will vary depending on its product mix.¹³⁵ In overall it can be concluded that impacts on economy-wide employment would be marginal and concentrated in a handful of Member States.¹³⁶ Tobacco manufacturing employment has tended to decline for years as growing automation and mechanisation has made the tobacco product industry capital intensive. It should be mentioned that to minimise possible negative impact it is at Member State (or regional) level that initiatives must be taken to organise retraining courses for tobacco sector workers, which is supported at EU level through policy

¹³⁵ Employment directly dependent from tobacco in the retail sector is marginal as in most cases tobacco products are only sold as a part of the product mix.

¹³⁶ Bulgaria is the most exposed Member States with a relatively high concentration of tobacco growers. Manufacturing is concentrated in Germany.

frameworks (such as the European Pillar of Social Rights Action Plan, the 2020 European Skills Agenda¹³⁷) and funding (such as the European Social Fund, Recovery and Resilience Facility, Just Transition Fund, Erasmus+). One particular action that the sector could take is to set up a partnership within the Pact for Skills¹³⁸, bringing together actors (authorities, companies, unions, training providers etc.) to analyse and respond to the skills challenges of the sector.

6.2. Enlarging the scope to new products

6.2.1. Baseline

Under the baseline scenario, Member States would continue to apply various national regimes for new products.

Regarding **heated tobacco products**, excise duty levels vary greatly, from EUR 55 to EUR 1 000 per kg (EUR 226 on average), which translates into EUR 73 per 1 000 units on average for the most popular product on the market and taking into account the different rates applied in some Member States¹³⁹.

Regarding **liquids for e-cigarettes**, Member States have adopted heterogeneous tax regimes as regards the tax base (per volume of liquid or per nicotine concentration) and scope (whether nicotine-free products are within scope or not). Whereas the average rate applied by those Member States who tax liquids for e-cigarettes is 0.20 per ml, positive rates vary significantly, from EUR 0.09 to EUR 0.70 per ml.

Certain traditional ‘other manufactured tobacco’ markets are broadly in decline, whereas **related products**, such as nicotine pouches are becoming increasingly popular, particularly among youth, and their market share is expected to grow substantially in the next five years. Not considering markets where nicotine pouches are banned or not taxed, the EU average rate applied is around EUR 88 per kg.

6.2.2. Impacts on excise duties and market

6.2.2.1. Heated tobacco products (HTP)

The impacts of proposed options 1 and 2 are based on the application of the excise duty ‘per unit’, as the near totality of HTP currently on the market would fall under this regime.

The main estimated impacts of harmonised excise duty minima for HTP are presented in Table 7. The average excise duty level at EU level would increase by EUR 32 (option 1) and EUR 39 (option 2) per 1 000 units compared to the baseline. Under option 1 the average excise rate would be EUR 105 per 1 000 items, and EUR 122 under option 2. Under these options, 17 and 18 Member States respectively would be affected, with an increase exceeding 100% in some Member States.

¹³⁷ [The 2020 European Skills Agenda](#) aims to empower individuals to learn and make sure their skills are fit for the changing labour markets. [The European Pillar of Social Rights Action Plan](#) further supports these labour market adjustments and sets an EU target of at least 60% of adults aged 25 -64 to participate in training annually by 2030, from some 37% today.

¹³⁸ [Pact for Skills](#) promotes joint action to maximise the impact of investing in improving existing skills (upskilling) and training in new skills (reskilling).

¹³⁹ France, Estonia, Denmark and Sweden.

Table 7. Impacts of proposed EU minima on excise duty, market, price levels, sales and excise duty revenues for heated tobacco products

	EU minima		Average excise duty (EUR / 1000 units)	Average price increase (%; 1 000 units)	Average price level (EUR/1 000 units)	Impact on sales (%)	Impact on sales (billion units)	Number of MS affected	Impact on revenues (EUR billion)
	Fixed minimum (EUR/1 000 units)	Relative (% of RSP)							
Option 1	88	45%	105	8%	271	-16%	-8	17	+4
Option 2	108	55%	122	17%	293	-27%	-13	18	+4.1

Source: External study

Notes: Relative=relative minimum condition. The impact on demand is calculated assuming an elasticity coefficient of -1.36. For more details on methodology and assumptions see ANNEX 3: and ANNEX 16: section 3.1. Figures are rounded.

The new excise duty levels are expected to influence the selling price, and consequently the sales of HTP products as shown in

Table 7. The retail price (WAP) would potentially increase by 8% under option 1 and 17% under option 2 on average with great variation across Member States (from 0% up to possibly 36% under option 1 and 55% under option 2). The impact on demand would be magnified by the price-sensitive nature of these products. Considering that over the past few years the HTP market has been growing¹⁴⁰, the anticipated impacts would translate into a growth deceleration rather than a decline of this market. Excise duty revenues collected would increase by 40 % in option 1, by 55% in option 2.

6.2.2.2. Liquids for e-cigarettes

Under option 1 (zero EU minimum rate for all liquids), no significant impact on excise duty and price levels is expected. The main impact would be a harmonisation of EU rules and placing these products under the excise movement and control system. For options 2 and 3, the main estimated impacts are shown in Table 8.

Table 8. Impacts of proposed EU minima on excise duty, market, price levels and revenues of liquids for e-cigarettes

Options	Average excise duty (in EUR/ml)	Price increase (%)	Average price levels, EUR/ml	Impact on sales (%)	Impact on sales (million ml)	Affected Member States	Impact on revenues (EUR million)
Option 1: EUR 0/ml							+370
Option 2: EUR 0.36/ml (or 40% of retail price)	0.37	21%	1.60	-40%	- 1.4	23	+750
Option 3: - above 15 mg/ml - EUR 0.36/ml (or 40% of RSP)	0.23	5.3%	1.39	-17%	-0.6	22	+530

¹⁴⁰ In 2023 the value of total sales exceeded EUR 12 billion, i.e. more than doubling the value recorded in 2020 (50 billion HTP sticks were sold in the EU in 2023).

- up to 15 mg/ml - EUR 0.12/ml (or 20% of the RSP)							
--	--	--	--	--	--	--	--

Source: External study

Notes: Average price for all products is EUR 1.32/ml (2023). For the tax-driven price increase a pass-through rate of 0.25 is assumed. The impact on demand is calculated assuming an elasticity coefficient of - 1.36. Figures are rounded.

Option 2. The impact of option 2 would be more substantial and would require 23 Member States to raise their tax levels. The average price of standard liquids would increase possibly by 21% Overall, consumption is expected to go down 40 %, which would markedly affect the sector. Nicotine-free liquids could be more affected, as in the baseline scenario they are less or not taxed in some Member States.

Option 3. The EU minima envisaged under option 3 would lead to a moderate price increase. 22 Member States would need to adapt their tax regime. Sales would possibly decline by 17% over 2023 levels.

The new tax regimes are expected to have positive effects on tax avoidance by limiting the incentives for ‘do-it-yourself’ behaviours.¹⁴¹ More importantly, a reduction in tax evasion could be expected, since all transactions would be subject to movement and control rules. Cross-border movements for commercial purposes would be subject to the EMCS and, therefore, bulk movements of e-cigarettes would be tracked. However, controls on business-to-consumer duty-paid distance sales would remain complex and burdensome to enforce. Furthermore, as products would be subject to excise duty in countries where they are not currently taxed, the incentive for cross-border shopping would reduce.

6.2.2.3. Other manufactured tobacco and related products

In Member States where nicotine pouches are taxed the average rate applicable is EUR 88 per kg, although there are substantial variations, from EUR 19 to EUR 429. For smokeless tobacco products, the average rate is EUR 103, varying from EUR 32 to EUR 211.

Depending on the scenario adopted, average prices for nicotine pouches would be expected to rise from EUR 293 per kg, to be between EUR 311 and EUR 406. For smokeless tobacco products, the average price is expected to increase from EUR 307 per kg to between EUR 368 and EUR 472.

Smokeless tobacco products and nicotine pouches. The market impact of option 1 would be very limited, with an indicative decline in smokeless tobacco products consumption of 1%. Under options 2 and 3, the decline could reach 38% and 44% respectively. As regards nicotine pouches the market impact of option 1 would be limited while under option 2 and 3 consumption could go down by 38% and 52% respectively (see Table 9).

The overall impact on excise revenues would be positive from nicotine pouches and smokeless tobacco products. The expected excise revenue would be EUR 150 million under option 1, EUR 280 million under option 2 and EUR 290 million under option 3.

Table 9. Impact on price, market and revenues of smokeless tobacco products

Options	Average price increase (%)	Impact on sales (%)	Impact on sales (tonnes)
---------	----------------------------	---------------------	--------------------------

¹⁴¹ Consumers would be discouraged to buy separately ‘nicotine boosters’ and the basic ingredients of liquids including propylene glycol, vegetable glycerine and flavourings for self mixing .

Smokeless tobacco products			
Option 1: EUR 26/kg or 10% of RSP	20%	- 1%	- 2
Option 2: EUR 107/kg or 40% of RSP	44%	- 38%	- 56
Option 3: EUR 143/kg or 50% of RSP	54%	- 44%	- 65
Nicotine pouches			
Option 1: EUR 26/kg or 10% of RSP	6%	- 5%	- 300
Option 2: EUR 107/kg or 40% of RSP	26%	- 38%	- 1 700
Option 3: EUR 143/kg or 50% of RSP	38%	- 52%	- 2 300

Source: External study

Notes: Estimates for these products are presented with a higher degree of granularity for the sole purpose of showing the possible different impact of scenarios, but they have to be considered as indicative¹⁴². The impact on demand is calculated assuming an elasticity coefficient of -1.36. Figures are rounded.

The introduction of excise movement and control provisions on other manufactured tobacco and related products may contribute to the reduction of irregular flows,¹⁴³ and induce consumers of smokeless products to purchase products taxed in their country of residence, thus increasing the total excise revenues collected.

6.2.3. Impacts on administrative costs and savings¹⁴⁴ and on SMEs

Introducing new harmonised tax categories would generate compliance costs for **economic operators**. These costs include:

- administrative costs which are primarily related to general excise arrangement obligations such as to obtain authorisation, adopt record-keeping tools and procedures, fill-in tax declarations.
- adjustment costs to establish and operate a tax warehouse (where required), to install and operate IT software for excise control and movement system management, and to issue financial guarantees (where required) by the Member States of operation.¹⁴⁵

Overall, estimated costs for the whole new product sector would amount to EUR 9.6 million of one-off costs and EUR 6.3 million of recurrent costs in each subsequent year depending on the option. The bulk of additional costs would be incurred by SMEs operating in the e-cigarette liquids

¹⁴² Nicotine pouches: in Belgium, Germany, Lithuania and the Netherlands nicotine pouches are currently prohibited. For Bulgaria, Cyprus, Greece, Spain, Luxembourg, Latvia, Portugal and Slovenia no market data are available. The EU average excise duty includes all countries, including those where these products are not marketed (and possibly banned). Smokeless tobacco products: estimates refer to the EU aggregated market, including chewing tobacco and moist snuff (but not including Swedish snus). The analysis is based on the 6 markets for which data are available (Bulgaria, Czechia, Denmark, Spain, Hungary, and Slovakia), but the EU average excise duty includes all countries (except Sweden as Euromonitor's market data do not allow to distinguish between snus and chewing tobacco).

For Member States where the products concerned were not in the market in the baseline year, the tax revenue impact is assumed to be nil.

¹⁴³ Irregular online sales of oral tobacco products can involve operators based in various extra-EU countries like Switzerland, Norway and Russia.

¹⁴⁴ See ANNEX 16: section 3.2 for details on costs for economic operators and public authorities.

¹⁴⁵ The costs of financial guarantees can be considered as being an indirect burden, given that these depend on Member States-level implementation.

segment¹⁴⁶, especially those based in countries where no national tax regimes are currently in place. Indeed, operators in the HTP and other manufactured tobacco sector (especially the nicotine pouch segment) are likely already compliant with the majority of obligations as both segments are largely controlled by transnational tobacco companies.¹⁴⁷

Focusing on **SME's and on competitiveness**, the following impacts can be expected:

- The expected reduction of sales that would follow tax increases would especially affect the SME component of the e-cigarette sector, with consolidation leading to a reduction in the number of SMEs, from the current 3 100 to between 1 600 and 2 400, depending on the option adopted. However, this impact must be put in perspective, considering the number of total SMEs in the EU (23 million) as well as the dynamics in the e-cigarettes market, which is evolving rapidly and where concentration is already underway. Similar consolidation processes have been registered and reported at Member State level (e.g. in Romania, Portugal, and Italy) after the introduction of national ad hoc tax regimes. In turn, this may push a number of operators out of the market and accelerate the expansion of large companies, which are better equipped to face more challenging competitive conditions. Market shares of large companies has already increased significantly in the past 3 years and would likely continue to rise. With the new regulation requirements (including the tobacco products regulation at EU level, and in all but four of the Member States ad hoc taxation), the withdrawal from the market or expected consolidation is part of the evolution of the market. The additional costs incurred would amount on average to EUR 1 800 annually. The impact on the costs of the final product would be minimal, less than 0.2 cent per ml of liquid.

Single market improvements and cost savings. The proposed excise harmonisation of new products would remove the market barriers caused by the fragmentation of Member State rules and regimes, improving the overall coherence of the regulatory framework, thus facilitating intra-EU trade and ensuring a level playing field across the single market for economic operators, and especially SMEs.¹⁴⁸

Setting an EU-wide regulatory framework by adopting a uniform, regulated approach across the single market would put economic operators on an equal footing to compete, giving them the necessary legal certainty to further their projects and develop their commercial strategies. By acting at the EU level, operators get the assurance of an equal treatment across the single market.

The harmonisation would contribute to removing disparities in taxation levels, which are behind unfair competition practices like direct business-to-consumers sales online from excise-free countries, and cross-border shopping. This issue affects primarily the liquids for e-cigarettes sector, which mostly consists of SMEs. There is a substantial degree of consensus among all categories of stakeholders that a clarified and harmonised EU-wide approach to new products will reduce trade uncertainties and increase legal certainty by reducing the divergent interpretations around product

¹⁴⁶ An estimated 3 400 companies in the EU, with a market share of about 30% of the e-cigarette liquids segment (External study).

¹⁴⁷ transnational tobacco companies (Philip Morris International, British American Tobacco, Japan Tobacco International and Imperial Brands).

¹⁴⁸ HTP is entirely dominated by large companies. The share of transnational tobacco companies is growing in the e-cigarette liquids sector. The other manufactured tobacco/related products sector composition appears mixed, with the traditional smokeless segment (chewing and nasal tobacco) largely made of small operators, while large companies are increasingly venturing in the nicotine pouches segment.

definition, administrative difficulties and associated costs for Member States and economic operators. The application of holding, movement and control requirements from the Horizontal Directive (including computerised movement supervision through EMCS¹⁴⁹) will ensure the secure movement of excise goods, simplified procedures for traders while contributing to the fight against tax evasion with real-time information and checks on goods.

As regards the administrative impact for **public authorities**, the introduction of harmonised regimes for the new products would require some adjustments in the legal and administrative frameworks for national excise duty. They would incur administrative costs due to extending the scope of excise duty, including IT systems, to products not previously covered and enforcement costs and savings connected to control and prosecution of abuses. Where national tax regimes are already in place for new products, it is assumed that additional regulatory costs would be negligible. Regulatory costs incurred by Member States with the extension of certain movement and control rules to operators and products which are not currently subject to those provisions would amount to EUR 10 million of one-off and around EUR 0.5 million for each subsequent year. According to Member States authorities, the benefits of harmonisation would clearly outweigh the costs.¹⁵⁰

6.2.4. Public health impacts

Whereas the public health debate is still ongoing regarding the health effects of these relatively new products, none of these products have been deemed to be safe or risk free.¹⁵¹ The debate on the health risks of these products continues to advance and it is currently not possible to provide a detailed picture. However, there is strong evidence that e-cigarettes play a role in the initiation of smoking, especially for young people¹⁵². Based on the same assumption used for traditional tobacco products, that an increase in price decreases consumption, the introduction of taxation will reduce the incentive to initiate smoking and contribute to a reduction in consumption.

6.3. Enlarging the scope to raw tobacco

6.3.1. Baseline

As possible obligations and control measures only apply at national level, cross-border movements of raw tobacco would remain poorly controlled. The diversion of raw tobacco to illicit manufacturing will continue. This could further prompt illicit manufacturing and trade activities. Consequently, Member States would continue to lose revenue.

6.3.2. Reduction of fraud and tax evasion

Irrespective of the excise duty rate levied (zero or positive rate), the establishment of a harmonised category for raw tobacco in EU excise legislation would trigger the application of EU rules and

¹⁴⁹See ANNEX 16: section 2 for details on movement and control requirements from the Horizontal Directive.

¹⁵⁰ It would improve administration and enforcement of the excise system. The perceived benefits regard aspects that are directly connected with the excise system administration and enforcement, particularly: the reduction of uncertainties with product definition and – to a lesser extent – the disparities of interpretations in cross-border movements, as well as improved monitoring, and facilitating detecting and tackling irregularities and fraud.

¹⁵¹ New products not containing nicotine still have a negative health impact (e.g. leading to cancer, pulmonary and cardiovascular diseases) because of the various chemicals (e.g. formaldehyde) they contain.

¹⁵² WHO, 'WHO report on the global tobacco epidemic 2021: addressing new and emerging products'. July 2021. <https://www.who.int/publications/i/item/9789240032095>

procedures related to excise goods. Member States authorities would therefore have access to readily available IT tools (e.g. EMCS) that allow punctual monitoring of supply-chain operations, and could more easily detect irregularities and potential diversion routes. The output of the illicit manufacturing in the EU can amount to roughly 13 billion cigarettes, annually (i.e. around 30% of the total consumption of illicit cigarettes in the EU). According to the simulation¹⁵³, an improved monitoring system could potentially detect up to 20% of illicit raw tobacco movements (i.e. twice the current estimated detection levels) and up to an estimated 20% to 30% of the volume of illicitly manufactured cigarettes. Besides national regulations in place¹⁵⁴ the application of a coordinated and effective mechanism at EU level to monitor cross-border movements will create clear and significant EU added value. Improved coordination at EU level and better prevention tools will contribute to the measures already in place¹⁵⁵ to fight against the illicit manufacture and sale of tobacco products.

The proposed measure would affect raw tobacco diverted from the legitimate supply chain in the EU, but would not address irregularly imported (or cultivated) raw tobacco.

However, the reduction of EU-manufactured illicit products would not necessarily entail a reduction in the overall availability of illegal tobacco products, given that the former can be compensated - to varying degrees - by an increase in smuggling flows from non-EU countries, the extent of which cannot be predicted.¹⁵⁶

6.3.3. Impacts on tax revenues

The reduction of illicit manufactured tobacco would have direct positive effects on Member States tax revenues, as the losses caused by tax fraud will be partially recovered. Based on the estimated decline in illicit product volumes a reduction in foregone tax revenues of approximately EUR 1.3 billion under option 1 (i.e. with the zero rate applied) and of nearly EUR 2.6 billion under option 2 (i.e. with a positive excise duty applied) is anticipated¹⁵⁷. Considering that the total excise duty loss associated with illicit trade of tobacco products is estimated to exceed EUR 12.5 billion (including illicit products not manufactured in the EU), the impact of the proposed measures, in relative terms, would translate into recovering about 10% to 20% of current tax fraud.¹⁵⁸

¹⁵³ The simulations developed in the External study are purely speculative, since there is neither research nor empirical data allow for a more robust assessment. Therefore, numerical results have to be considered as rough orders of magnitude of expected impacts. The assumptions proposed are based on qualitative discussions with informed stakeholders and the review of law enforcement reports and studies. See ANNEX 14:.

¹⁵⁴ For example, the obligation to notify competent authorities of any movements (including transit) with very short notice (e.g. 2 days), and the obligation to sell/buy tobacco only to/from recognised supply chain operators, with penalising conditions applied to other types of traders (External study).

¹⁵⁵ The FCTC Protocol on illicit trade aims to eliminate any form of illicit trade in tobacco products. Among other things, the Protocol requires the Parties to establish tracking and tracing systems and a global information sharing focal point (Art. 8 of the Protocol, with a view to secure the supply chain of tobacco products). Additionally, the Protocol prescribes a series of measures to be adopted by governments including e.g. licensing of operators, record-keeping requirements, regulation of online sales, prosecution measures, international cooperation (information sharing, law enforcement cooperation, administrative cooperation), control of the raw tobacco supply chain etc.

¹⁵⁶ See ANNEX 16: section 4.1 for details on the impact on illicit manufacturing and trade.

¹⁵⁷ External study.

¹⁵⁸ Due to methodological limitations, these figures have to be considered as indicative.

6.3.4. Impact on administrative and adjustment costs and savings

Economic operators. Compliance costs for economic operators triggered by the proposed reform would amount to EUR 0.1 million for one off costs and EUR 2 million for annual, recurrent costs under option 1 and to EUR 40 million for one off costs and EUR 4 million for annual recurrent costs (under option 2).¹⁵⁹ These include both the administrative costs primarily related to general excise arrangement obligations such as the need to obtain authorisation, to adopt record-keeping tools and procedures, to fill-in tax declarations and the adjustment costs to establish and operate a tax warehouse, to install and operate IT software for EMCS management, and to issue financial guarantees (where required) by the Member States. The costs of financial guarantees can be considered as being an indirect burden, given that these depend on Member States-level implementation.¹⁶⁰ The most substantial cost component relates to the setting up and operation of tax warehouses for the storage and control of raw tobacco. The burden could be comparatively greater for those operators who engage in very frequent cross-border movements, due to the specificities of their business.

Impact on competitiveness. Introduction of control requirements at EU level would reduce the availability of illicit tobacco and tobacco products in the market, so that legal players would experience lower competitive pressure from the illegal value chain, and this could compensate for some of these extra costs. Furthermore, some manufacturers are already willing to pay a premium for tobacco sourced from verified suppliers, mitigating the cost of implementing EMCS.

The additional costs of compliance, estimated above, will affect economic operators' competitiveness differently, depending inter alia on their size (due to economies of scale) and position in the supply chain. The estimated additional costs are primarily of a transactional nature, the impact would be largely proportional to the volume of activities. Option 2 would affect the competitiveness of EU-grown tobacco more than imported tobacco while under Option 1 only negligible effects on their competitiveness are expected. Nevertheless, sectoral rearrangements could take place. The possible impacts on the sector would need to be monitored to address any unintended or disproportionate adverse effects.

Public authorities. The introduction of a harmonised excise category for raw tobacco would require Member States to revise their national administrative and legal framework, with a possible moderate increase in overall costs. They would incur administrative costs due to including new economic operators in excise system (registration and authorisation), and related IT systems and movements control under EMCS, and enforcement costs and savings connected to control. Overall, estimated costs¹⁶¹ are as follow:

- One-off costs would be around EUR 9.7 million. The bulk of the estimated additional costs relates to the adjustment of the IT system and related training costs.
- Recurrent costs would amount to EUR 0.7 million per year, mostly in relation to EMCS transactions.

As regards cost savings, EMCS and other control measures are expected to facilitate cross-border investigations and the prosecution of fraud. Moreover, harmonised movement and control

¹⁵⁹ External study.

¹⁶⁰ Member States can abate these costs by lowering the guarantee required or even waiving it.

¹⁶¹ The costs do not include costs already incurred in Member States where a fiscal regime for raw tobacco is already in place.

requirements could make at least some national control measures (e.g. registration, authorisation) redundant, which would mitigate the administrative burden for both economic operators and public authorities. Finally, the definition of raw tobacco in the Directive would increase legal certainty¹⁶².

6.3.5. Public health impacts

The proposed options would have a direct and positive impact on tobacco control: the increased price of illicit products and diminished availability of raw tobacco would increase the effectiveness of taxation policies in curbing consumption. The options would also have a positive but more indirect impact, due to the reduced availability of low-price illegal products. Health inequalities in implementing tobacco control policies would also be reduced as a result. However, the impact would be different across Member States, because the composition of illicit trade and, specifically, the share of products originating from outside of the EU, vary greatly.

6.3.6. Impacts on employment

As for tobacco growing, while worldwide this is the greatest employment creator in the sector, less than 4% of the worldwide annual tobacco crop is grown in the EU. The number of EU growers in 2024 can be estimated at about 14 500-15 000. Their number has constantly declined in the past decade from an estimated 60 000 in 2010 (including for comparability Bulgaria and Croatia). The largest number is found in Bulgaria (approximately 6 200), followed by Greece (4 600) and Poland (3 500)¹⁶³; in the other Member States tobacco growing is practised in two thousand farms or less. It is reasonable to assume that a reduction in demand for tobacco will have an impact on EU tobacco growers, but its size is not straightforward and not necessarily proportional. First, the agricultural market is highly dependent on policy decisions on subsidies, tariffs and quotas on imports; this is particularly the case for tobacco, as the vast majority of it is imported.¹⁶⁴ Indeed, the decline in EU production of tobacco¹⁶⁵ was particularly steep after the discontinuation of decoupled EU aid in 2014, with some 32% reduction in output. Second, the final impact on employment may be dampened by switching to other crops, which is frequent in agriculture.

7. How do the options compare?

This section compares the various options' impacts. The options are assessed against the criteria of effectiveness in reaching policy objectives, efficiency, as well as coherence with other EU policies. The comparison of options has been performed for each thematic area separately.

The baseline is used as point of comparison against which the other options are assessed, and **is thus scored zero**.

¹⁶² See ANNEX 16: section 4.3 for details on regulatory cost for business and public authorities.

¹⁶³ Differences between Member States can relate to the variety of tobacco cultivated. The main varieties cultivated in Bulgaria and Greece are entirely hand-grown, extremely labour intensive and require small mountain fields where extensive mechanised cultivation is not possible – External study.

¹⁶⁴ Raw tobacco available for manufacturing in the EU amounted about 440 thousand tonnes in 2020 whereas only roughly 140 thousand tonnes were grown in the EU in 2019.

¹⁶⁵ This reduction is in line with the drop in cultivated surface, which nearly halved in ten years, from an estimated 112 000 ha to less than 60 000 ha in 2019. Information collected indicates that this trend has continued in recent years. Tobacco leaf growing employed, according to the International Labour Organisation, close to 38 000 people in Bulgaria.

7.1. Revising the EU minima and certain categories for traditional tobacco products

Table 10 provides a comparison of the policy options for increasing the minimum rates for cigarettes, fine-cut tobacco, cigars, cigarillos and other smoking tobacco, as well as the introduction of separate categories for cigarillos and waterpipe tobacco (WPT).

Table 10. Comparison of the options

Options	Baseline	Option 1: limited increase of EU minima	Option 2: moderate increase of EU minima	Option 3: high increase of EU minima	Introduction of separate categories for cigarillos and WPT
EFFECTIVENESS					
Increased relative price levels	0	+	+	++	0
Reduced substitution	0	+	0/+	0/-	+
Legal certainty	0	0	0	0	++
Harmonisation of tax rates and regimes	0	0/+	0/+	+	0/+
Effective excise administration	0	0	0	0	++
EFFICIENCY					
Tax revenue	0	+	+	++	+
Impact on economic operators	0	0/-	-	-	0/+
Administrative costs	0	0	0	0	0/-
COHERENCE					
Europe's Beating Cancer Plan	0	+	++	++	0/+
Internal market	0	0/+	+	+	+
EU policy on illicit trade	0	0	0	0/-	+

Legend:

<i>Negative impact</i>	<i>Somewhat negative impact</i>	<i>Negligible impact</i>	<i>Somewhat positive impact</i>	<i>Positive impact</i>	<i>Very positive impact</i>
------------------------	---------------------------------	--------------------------	---------------------------------	------------------------	-----------------------------

Effectiveness. Overall, all the proposed options would help reduce the relative affordability of tobacco products, to a high or very high extent depending on the options. Option 3 could lead to significant excise duty increase in 8 to 21 Member States depending on products, with unpredictable market effects.¹⁶⁶ However, the PPP-adjusted approach would mitigate most extreme effects, and the transitional period envisaged would partly absorb market shocks. Regarding substitution, all the scenarios would reduce the tax gap between different products. On the other hand, option 3 is more likely to encourage consumers to switch from cigarettes to fine-cut tobacco.

Efficiency. The proposed measures display a positive cost/benefit ratio for Member States. Efficiency would be even greater if the impacts on the social costs of smoking are considered. Member States would raise additional revenue under all options, proportional to the extent of the EU minima increase under the different options. Economic operators in the tobacco sector would face reduced sales of between 5% and 14%, depending on products and options. Minor administrative costs would stem from the introduction of separate categories for cigarillos and waterpipe tobacco, possibly mitigated by savings brought by increased legal certainty.

¹⁶⁶ For cigars and cigarillos, the increase could be of up to more than 400% and be associated with 'negative demand' in some Member States.

Coherence. All the proposed options are conducive to meeting Europe’s Beating Cancer Plan target.¹⁶⁷ Option 3 would allow a higher reduction of smoking prevalence, i.e. a one-off decrease of smoking prevalence from the current 24% to an estimated 20.8%, and related social costs. All the proposed options risk incentivising illicit trade by increasing the price of tobacco products. This would be particularly salient under option 3, as it would entail unprecedented tax increases in certain countries.

Enlarging the scope to new products Table 11 provides a comparison of the policy options for harmonising the excise duty for HTP, e-cigarette liquids and other manufactured tobacco and related products respectively.

Table 11. Comparison of the options for enlarging the scope to new products

Options	Baseline	Heated Tobacco Products		Liquids for E-Cigarettes			Other manufactured tobacco		
		Option 1 moderate	Option 2 higher	Option 1 zero	Option 2 higher	Option 3 mixed	Option 1 basic	Option 2 limited	Option 3 high
EFFECTIVENESS									
Increased relative price levels	0	+	++	0	++	++	0	+	++
Reduced substitution	0	0/+	+	0	+	++	0/+	+	+
Legal certainty	0	++	++	+	+	+	+	+	+
Harmonisation of tax rates and regimes	0	++	++	0/+	++	+	+	+	+
Effective excise administration	0	+	+	+	+	+	+	+	+
EFFICIENCY									
Tax revenue	0	+	++	0	+	+	0	+	++
Impact on economic operators	0	0/-	-	-	-	-	0/-	-	-
Administrative costs	0	0	0	-	-	-	0/-	0/-	0/-
COHERENCE									
Europe's Beating Cancer Plan	0	+	++	0	++	++	0	+	+
Internal market	0	++	++	+	++	++	+	+	+
EU policy on illicit trade	0	0	0	0	0	0	0	0	0

Legend:

Negative impact	Somewhat negative impact	Negligible impact	Somewhat positive impact	Positive impact	Very positive impact
-----------------	--------------------------	-------------------	--------------------------	-----------------	----------------------

Effectiveness. For heated tobacco products, option 2 would be more effective in raising relative price levels and also reducing tax-induced substitution from traditional tobacco products. For e-cigarettes liquids, option 1, in addition to not reducing consumption, would be less effective in terms of harmonisation and reducing substitution. Option 3 would possibly generate more variety among Member States tax regimes.

EU wide harmonisation of excise duty rates for liquids for e-cigarettes and other manufactured tobacco and related products would remove the market barriers caused by the fragmentation of

¹⁶⁷ In Europe’s Beating Cancer Plan, the EU has endorsed the WHO’s long-term objective of creating a ‘Tobacco-Free Generation’, where less than 5% of the population will use tobacco by 2040

Member State rules and regimes, creating new opportunities for operators, and especially SMEs, to expand their activities to other markets. On the other hand, their competitiveness may be affected because of their limited capacity to absorb cost increases compared to large companies.

Efficiency. All the proposed options would generate a moderate increase in compliance costs for economic operators, which can occasionally be more significant for SMEs (mainly in the e-cigarettes segment) due to the need to implement movement and control requirements applying to excise goods. Transnational tobacco companies active in the segment of new products are already equipped to deal with these rules.

Additional administrative burden for tax authorities would also be moderate. Member States that have introduced excise duties for HTP and liquids for e-cigarettes already apply similar rules and control measures as for conventional tobacco products. Although option 3 for e-cigarette liquids could appear to bring additional complexity for competent authorities, according to Article 20 of Tobacco Products Directive, Member States are already responsible for controlling appropriate levels of nicotine content, as well as ensuring that unit packets and any outside packaging of electronic cigarettes and refill containers include an indication of the nicotine content and the delivery per dose.

High increases of EU minima (option 2 for HTP and e-cigarettes, option 3 for other manufactured tobacco and related products) can lead to additional tax revenue. While the proposed minima for liquids are smaller than for option 2, option 3 would also better address the ‘do-it-yourself’ practices and related tax avoidance.

Coherence. All options are coherent with the goals of Europe’s Beating Cancer Plan, targeting the youth in particular, except option 1 for e-cigarette liquids, other manufactured tobacco and related products which would send a signal that appear in contradiction with public health objectives. Option 3 for e-cigarettes liquids, by placing an additional tax burden on high-nicotine strength products, would offer a good level of public health protection in spite of not proposing the highest increases.

7.2. Enlarging the scope to raw tobacco

Table 12 provides a comparison of the policy options for the introduction of raw tobacco in the scope of the Directive.

Table 12. Comparison of options of the introduction of raw tobacco in the scope of the Directive

Options	Baseline	Option 1: create an excise category for raw tobacco with a zero EU minimum	Option 2: create an excise category for raw tobacco with a positive EU minimum
EFFECTIVENESS			
Increased relative price levels	0	0	0
Reduced substitution	0	0	0
Legal certainty	0	+	+
Harmonisation of tax rates and regimes	0	+	+
Effective excise administration	0	++	++
EFFICIENCY			
Tax revenue	0	0/+	+
Impact on economic operators	0	0	0/-
Administrative costs	0	-	-
COHERENCE			
EU policy on illicit trade of tobacco products	0	++	++
Europe’s Beating Cancer Plan	0	+	+
Internal market	0	+	+

Legend:

Negative impact	Somewhat negative impact	Negligible impact	Somewhat positive impact	Positive impact	Very positive impact
-----------------	--------------------------	-------------------	--------------------------	-----------------	----------------------

Effectiveness. Under both options, enlarging the scope of the Directive to raw tobacco would automatically trigger the application of movement and control measures set out in the EU excise duty legislation. Together with effective tax administration and control, this would lead to a reduction in tax fraud. Option 2 would enhance the deterrent effect against diversion to illicit manufacturing, because fraudulent movements would become liable to duty payment (in addition to the sanctions envisaged in the country's legislation). That being said, option 1 would still give flexibility to Member States to adopt positive excise duty rates according to the level of tax evasion they face.

Efficiency. The anticipated reduction in sales of illicit manufactured tobacco would have direct positive effects on Member States tax revenue under both options 1 and 2, as the losses caused by tax fraud would be partially recovered. However, while generating more revenue, option 2 would trigger substantial compliance costs for economic operators, although the amount ultimately depends on Member State level implementation.¹⁶⁸

Coherence. Both options are coherent with and would contribute to EU policy on illicit trade of tobacco products, mainly the 2nd Action Plan to fight the illicit tobacco trade 2018-2022¹⁶⁹, setting up operational tools to better monitor and control cross-border movements of raw tobacco. Both options are also coherent with the FCTC Protocol on illicit trade. All the proposed options would have moderate benefits on public health induced by the reduced availability of low-price illegal products.

8. Preferred option

This section provides an overview of the preferred options in each thematic area through which the revision of the Tobacco Taxation Directive could effectively and efficiently contribute to the delivery of the policy objectives.

8.1. Revising the EU minima and certain categories for traditional tobacco products

Based on the analysis carried out in this impact assessment, the preferred option for cigarettes, fine-cut tobacco, cigars, cigarillos and other smoking tobacco is **option 3 - high increase of the EU minima with transitional period of 4 years for cigars, cigarillos, waterpipe tobacco and other smoking tobacco (with minima partially expressed in Purchasing Power Parities)**.

This option would be the most effective in curbing tobacco consumption. It would reduce smoking prevalence from current 24% to 20.8%, putting the EU firmly on the path to meet Europe's Beating Cancer Plan target. The contribution is therefore tangible, although further steps, including the use of complementary non-fiscal policy, will evidently be necessary at a later stage. Associated savings in terms of social costs would potentially be significant (in the range of EUR 85 billion overall).

This option would generate EUR 14 billion of tax revenue for EU-27. It would nonetheless have a strong impact on consumers and economic operators in a number of Member States (notably Bulgaria, Cyprus, Luxembourg, Poland). The average increase of excise duty rates would be substantial (estimated at 41%) and reach up to 94% in the case of cigarettes, 24% in the case of fine-cut tobacco,

¹⁶⁸ E.g. actual excise duty rate, guarantees required, which is usually linked to the amount of excise duty due.

¹⁶⁹ [ANNEX to the Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee \(europa.eu\)](#)

while for cigars and cigarillos a few Member States would face an increase of national levels exceeding 300%.

The impact would be softened by the proposed ‘partial PPP approach’ because it would mitigate the risk of disproportionate impacts on Member States where, in nominal terms, excise duty levels are the lowest but where the price of tobacco products, relative to income levels, is high. Furthermore, this approach would extend the EU minima effects to Member States that have traditionally been unaffected, despite the relative affordability of tobacco there. In this sense, this approach would introduce more equity in EU minima implementation. The increase of EU minima for fine-cut tobacco, cigars, cigarillos and other smoking tobacco are designed to progressively bridge the gap with the rate for cigarettes to achieve a progressive convergence between products, to minimise the risk of cross-product substitution.

Importantly, option 3 could incentivise the illicit trade of tobacco products, although other factors are also at play. For example, the permeability of borders, the severity of sanctions against offenders and in general the capacity of local authorities to detect and prosecute illicit activities.

Option 3 would provide a strong signal. The significant public health benefits of option 3, as well as the excise duty revenue generated, would largely compensate the expected impact on consumers and economic operators as well as the risks of rising illicit trade.

The proposed revision of the minimum EU tax rates for tobacco products does not imply any discrimination between domestic/imported products as excises duties are charged in the place of consumption (i.e. it is not linked to the place of origin of the excisable goods). Minima are already in place for manufactured tobacco products.

With respect to the cross-border shopping effect, it is important to note that increasing minima would mitigate, albeit moderately, price-level differences among Member States. Hence the economic incentive behind cross-border flows, particularly as regards irregular cross-border flows will remain.

In parallel, the introduction of a separate sub-category for cigarillos would allow Member States to adopt a more tailored taxation regime. Similarly, a separate sub-category for waterpipe tobacco within the larger ‘smoking tobacco’ category would improve legal certainty and help Member States fight illicit trade.

8.2. Enlarging the scope to new products

The preferred option is to **introduce new excise categories for each of these product categories with high amount of excise duty (partial PPP)**: option 2 for heated tobacco products; for liquids for e-cigarettes option 3 is preferred, combining two flat rates for low and high-nicotine content products; option 3 for other manufactured tobacco and related products with a gradual increase of the fixed minimum over 4 years to EUR 143.

First, **establishing new excise categories** for HTPs, liquids for e-cigarettes, other manufactured tobacco and related products would close a regulatory gap and remove substantial fragmentation caused by different national regimes. It would also be coherent with the orientation of the FCTC and WHO recommendations on the taxation of these products.

Establishing harmonised definitions, tax treatment and movement and control requirements, would enhance the functioning of the market for these products. The preferred option relies on the extension of already proven IT systems for handling excise goods. Related administrative obligations follow the ‘digital by default’ principle. In line with the regimes currently in place in most Member States, the simple tax structures proposed would be straightforward and efficient to implement.

The increased legal clarity of the regulatory framework at EU level would support businesses acting across borders and ultimately improve their competitiveness. Also, it would guarantee the fair treatment of all products across business sectors. On the other hand, SMEs, present in particular in the e-cigarettes sector, would be less capable overall to deal with new administrative requirements and absorb cost increase than large companies, and therefore would be disproportionately affected.

Regarding the **proposed excise duty rates**, the introduction of high EU minima would decrease the tax gap between new products and traditional tobacco products and so reduce tax induced substitution. The proposed introduction of minimum excise duty rates would not imply any discrimination between domestic/imported products as excises duties are charged in the place of consumption (i.e. it is not linked to the place of origin of the excisable goods). On the other hand, it would trigger an increase in consumer prices in most EU countries, leading to marked drops in sales, affecting companies operating in the new products sector.

For HTP, option 2 would set the minimum excise rates closer to the taxation of cigarettes. For e-cigarette liquids, option 3 would better address the variety and peculiarities of the products and related consumption patterns. Indeed, this approach introduces a modulation of rates based on health considerations (low- and nicotine-free products are taxed less) and to some extent discourages ‘do-it-yourself’ practices (by taxing nicotine boosters more). For other manufactured tobacco and related products, option 3 would prevent the risk of regulatory loopholes.

The introduction of a high amount of excise duty for a range of new products, which are particularly appealing to young people, who are at risk of developing addiction, would contribute to achieving the long-term goal of Europe’s Beating Cancer Plan of a tobacco-free generation.

8.3. Enlarging the scope to raw tobacco

The specific analysis carried out in this impact assessment suggests **option 1 - new excise category for raw tobacco with a zero minimum rate** as the best option to tackle the problems specified in section 2.

The establishment of a harmonised category for raw tobacco in the EU excise legislation, even with a zero rate, would extend the movement and control measures set out in the EU excise duty legislation to raw tobacco. This option envisages applying the EMCS system to cross-border movements. In this sense, Member States authorities would have access to a readily available tool that allows monitoring of supply-chain operations, and therefore assists in detecting irregularities and potential diversion routes. Related administrative obligations follow the ‘digital by default’ principle.

The implementation of this option would generate additional costs for Member States authorities and supply-chain operators. In the case of authorities, such costs would be offset, and possibly overcome, by the benefits of a reduction in tax fraud. Regarding economic operators, the costs would be mitigated through the exemption of the first steps of the raw tobacco supply chain.

By introducing a zero rate, the mechanism remains proportionate with the objective of addressing tax evasion, fraud and avoids double taxation. At the same time, it will give flexibility to Member States in setting positive rates according to the level of tax evasion they face.

8.4. REFIT (simplification and improved efficiency)

The administrative and adjustment costs and savings related the revision of the Directive is different for each area of intervention. The increase in excise duty for traditional tobacco will affect demand and thus lead to reduced sales but will not increase administrative costs for economic operators and public authorities.

Enlarging the scope to new products, the bulk of additional costs (estimated for the whole *new-product* sector of EUR 9.6 million of one-off costs and EUR 6.3 million annually would be incurred by SMEs operating in the e-cigarette liquids segment, especially those based in countries where no national tax regimes are currently in place. Operators in the HTP and other manufactured tobacco sector (especially the nicotine pouch segment) are considered already compliant with the majority of obligations as both segments are largely controlled by transnational tobacco companies. Regulatory costs incurred by Member States would amount to EUR 10 million of one -off and around EUR 0.5 million for each subsequent year.

Including raw tobacco in the scope of the EMCS and making it subject to other control measures set out in the Horizontal Directive would lead to additional regulatory costs. Compliance costs for economic operators would amount to EUR 0.1 million for one off costs and EUR 2 million for annual, recurrent costs while for public authorities it would amount to EUR 9.7 million of one -off and around EUR 0.7 million for each subsequent year. However, doing so is expected to facilitate cross-border investigations and the prosecution of cases of fraud. Moreover, harmonised movement and control requirements could lead to the abandonment of at least some national control measures (registration, authorisation and additional control measures). This could in turn mitigate the administrative burden for both economic operators (as presented in ANNEX 2: on ‘one in, one out’ approach) and public authorities.

Additional administrative and adjustment costs incurred by economic operators because harmonising new products and raw tobacco would amount to 9.7 million of one-off costs and to EUR 8.3 million of recurrent costs.

Finally, Member States authorities consider that the benefits of harmonising new products and raw tobacco and application of movement and control requirements would be expected to outweigh the costs (in total it would amount to EUR 19.7 million of one -off costs and to EUR 1.2 million of recurrent costs).

9. How will actual impacts be monitored and evaluated?

9.1. Indicators for monitoring and evaluation

The table below provides an overview of the objectives, the indicators to measure whether they will be achieved, and the tool for monitoring them.

Objectives	Indicators	Data sources
Approximate tax rates and regimes	Excise duty rates in Member States	Commission excise statistics
Prevent tax induced substitution between different tobacco products and their substitutes	Market structure, prices of and demand for different tobacco products and their substitutes More equal tax burden	Market analysis (E) Questionnaires to/interviews with industry (E) Statistics (E)
Increase relative price levels to influence consumption behaviours	Smoking prevalence Prices of and demand for different tobacco products and their substitutes	Market analysis (E) Questionnaires to/interviews with excise administrations (E) Statistics (E)

Ensure legal certainty for all stakeholders	Number of disputes (including CJEU cases)	Work of the Committee on Excise Duty/ the Indirect Taxation Expert Group Questionnaires to/interviews with excise administrations (E)
Strengthen the fight against fraud and tax evasion	Excise fraud: - number of audits - number of controls - reported fraud - suspected fraud Enforcement costs for excise and customs authorities Impact on revenues (collected and foregone)	Questionnaires to/interviews with excise administrations and with industry (E)
Ensure effective excise administration by expanding application of the movement and control provisions	Administrative costs and gains for excise administrations	Questionnaires to/interviews with excise administrations (E)

Legend: E: evaluation study.

9.2. Monitoring structures

Tobacco taxation is regularly monitored, at least once a year by collecting information from Member States on the basis of the Commission Implementing Decision of 28 July 2011 concerning the list of statistical data on the structure and rates of excise duty applied on manufactured tobacco to be provided by the Member States pursuant to Council Directives 92/79/EEC and 92/80/EEC.¹⁷⁰ Moreover, DG TAXUD and Member States update the information database on the applicable tax rates twice a year (Taxes in Europe Database). The Commission's traceability and security features system, established by the Tobacco Products Directive, allows for real-time monitoring of the tobacco supply chain.¹⁷¹

The Committee on Excise Duty, an advisory committee on excise issues chaired by the Commission in which representatives of all Member States participate, will monitor the implementation and functioning of the revised rules. The Committee on Excise Duty will report on implementation issues and the evolution of problems identified in this impact assessment. It will discuss and clarify possible interpretation issues between Member States. In case new legislative developments are required, the Indirect Taxation Expert Group might be further consulted.

Finally, in view of the fast evolution of the market for heated tobacco, liquids for electronic cigarettes, nicotine pouches and other nicotine products the Commission will review minimum levels of excise duties for those products after 2 years after the application date of the new legislation taking into account regulatory and market developments.

9.3. Evaluation

Member States shall communicate to the Commission relevant information to jointly examine and evaluate the functioning and evolutions of the new legislation, including in respect of legal certainty, market and economic distortions, excise fraud, the application of the new provisions on raw tobacco,

¹⁷⁰ [Commission Implementing Decision](#) of 28 July 2011 concerning the list of statistical data on the structure and rates of excise duty applied on manufactured tobacco to be provided by the Member States pursuant to Council Directives 92/79/EEC and 92/80/EEC, OJ L 197, 29.7.2011, p. 17–19.

¹⁷¹ In respect of cigarettes and roll-your-own tobacco since 20 May 2019 and for all other tobacco products from 20 May 2024.

etc. It will be used to evaluate the effectiveness, efficiency, coherence with other interventions with similar objectives, and continued relevance and EU added value of the new legislation. The evaluation should also collect input from all relevant stakeholders as regards the level and the evolution of their administrative burden and compliance costs. The Commission will prepare the evaluation at the earliest 5 years after the application date of the new legislation, allowing the markets to adjust and the results and impacts to materialise.

ANNEX 1: PROCEDURAL INFORMATION

1. Lead DG, Decide Planning/CWP references

The lead Commission service for this file is DG TAXUD. The Decide reference for this initiative is PLAN/2020/8656.

In June 2020, following publication of the Commission evaluation of the Directive, the Council invited the Commission to submit a legislative proposal for the revision of the Directive on the basis of an impact assessment.

This initiative is part of Europe's Beating Cancer plan, which notes the pivotal role of taxation in reducing tobacco consumption. It is also included in the Commission work programme 2021.

2. Organisation and timing

The following DG were invited to the Inter-Service Steering Group (ISSG): AGRI, OLAF, SANTE, SG, LS, GROW, TAXUD and JRC.

Between 2020 and 2021 a consortium led by Economisti Associati s.r.l. (EA) and commissioned by DG TAXUD undertook the assignment titled 'Impact analysis of the review of tobacco excise duty rules' ('EA 2021 study'). The EA study 2021 study relies on the findings of the previous external studies carried out by EA in 2017 ('EA 2017'¹⁷²) and in 2019 ('EA 2019'¹⁷³). In particular, the study expands and updates the previous works in the light of market developments and new emerging issues.

The study carried out an accurate analysis of existing policy issues and consistently with other EU policies on tobacco (in particular tobacco control policies and the policies against illicit trade of tobacco products and related tax fraud) in order to elaborate policy options which could be introduced to address these issues. It also assessed and compared the expected impacts of different possible options and reviewed their feasibility.

Additionally, EA assisted the Commission in conducting a public consultation to collect citizens' comments and feedback on the initiative and the possible options envisaged for the revision of the Directive.

The ISSG reviewed and approved the following documents:

- all ISSG meetings' minutes;
- questionnaires (public consultation, Member States, economic operators) for the stakeholders' consultation;
- inception and interim reports¹⁷⁴ of the External study;
- final report of the External study;
- Commission's Impact Assessment Report (this document).

¹⁷² [Study](#) on Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco, 2017.

¹⁷³ [Study](#) on Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco, 2019.

¹⁷⁴ Intermediate deliverables, describing the problems, options, methodology and approach of the study.

As the impact assessment was not followed by a legislative proposal at that time, a study was commissioned in 2024 to provide for an update of market and regulatory developments and related analysis. The update study ('EA 2025 study') provided a comprehensive update of EA 2021 study addressing market and fiscal changes and conducted a focused consultation to collect feedback from stakeholders.

Throughout, DG TAXUD engaged directly with stakeholders, organising a stakeholder event on the revision of the Tobacco Taxation Directive in May 2022 and participating in a Fiscalis workshop concerning new tobacco products, hosted by Poland, in October 2024.

The chronology of the main events is as follow:

16/11/2020	First ISSG meeting on the draft inception impact assessment.
12/01/2021	Kick-off meeting of the EA 2021 study.
26/02/2021	Approval of the public consultation questionnaire by the ISSG.
30/03/2021	Public consultation in all EU languages.
to	
26/06/2021	
28/05/2021	ISSG meeting on the External study interim report and on the available policy options.
24/09/2021	ISSG meeting on final report of the ISSG meeting on the External study.
05/05/2022	1 st ISSG meeting on the draft Impact Assessment Report
18/05/2022	Tobacco taxation stakeholder event (online)
02/06/2022	2 nd ISSG meeting on the draft Impact Assessment Report
03/10/2024	Fiscalis workshop 'Exchange of information and practises on implementation of excise duty for new products (heated tobacco, liquids for electronic cigarettes and other)', Warsaw
09/01/2025	Kick-off meeting of the EA 2025 study.
19/12/2024	Focussed stakeholder consultation.
to	
12/02/2025	
04/04/2025	ISSG meeting on the draft final report of the EA 2025 study.

3. Consultation of the RSB

On 22 June 2022, DG TAXUD submitted the draft Impact Assessment to the Regulatory Scrutiny Board and the Board meeting took place on 19 July 2022. The opinion of the Board, as issued on 22 July 2022, was positive with reservations.

The Board's recommendations have been addressed as presented in the table below.

Board recommendation	What has been done?	Where?
<p>(1) The report should make better use of the available evidence to better demonstrate how taxation can be an effective and critical policy instrument to reduce tobacco consumption on health grounds.</p> <p>The problem section should more clearly link the problems and their drivers with the scope and objectives of the revision. The report should add a visual setting out the intervention logic underpinning the revision of the Directive.</p>	<p>The recommendation was addressed by making clearer the evidence from different sources (WHO, World Bank and academic evaluations) supporting the essential role of taxation in reducing tobacco use. At the same time it was emphasised that tobacco taxation policies and other tobacco control policies work synergistically.</p> <p>The recommendation was addressed by adding the intervention logic diagram underpinning the revision of the Directive and clarifying connections between drivers, problems and specific objectives. The report elaborated on the origin of the three general objectives in line with the goals and responsibilities set by the EU Treaty. Based on the evaluation of the Directive it was clarified that in general the regulatory burden (including current excise duty structure for tobacco products) is neither an issue for Member States authorities nor for economic operators. However, certain provisions of the Directive related to tobacco products (definitions, EU minima, recent market developments of new products, the lack of proper control system for raw tobacco) need to be revised. Finally, the synergies with relevant Sustainable Development Goals (SDG) were clarified.</p>	<p>Section 2</p> <p>Sections 1, 2 and 4</p> <p>ANNEX 2: section 3</p>
<p>(2) The report should further assess how economic operators will be</p>	<p>The recommendation was addressed by expanding the analysis of</p>	<p>Section 6 (more specifically,</p>

<p>impacted. The impacts should be presented in a more detailed and systematic way whenever disaggregated data is available. This should include the assessment of the impacts on SMEs on the basis of the SME test. The mitigation measures should be made more explicit. The analysis should also include a territorial impact analysis, since tobacco producers seem to be concentrated in a limited number of geographic clusters. Given this concentration, the report should assess potential labour and social impacts for the regions concerned.</p>	<p>impacts for economic operators and inclusion of new sections (6.1.6 and 6.3.6) on impacts on employment taking into account the concentrated nature of the tobacco sector. Impact on SMEs was clarified based on the SME test. Moreover impacts on SMEs (most relevant for the e-cigarette liquids sector, highly dominated by SMEs) is put into perspective as a very small proportion of the total number of SMEs in the EU. Additionally, the dynamics of the e-cigarettes market are considered, with the withdrawal of some operators and increased consolidation, an expected part of market evolution.</p>	<p>sections 6.1.2; 6.1.6; 6.2.3; 6.3.6.)</p> <p>ANNEX 5:</p>
<p>(3) The report should better explain the risk of potential unintended consequences. In particular, the risk of the increase in the illicit trade of tobacco products caused by higher prices should be assessed, taking into account the importance of other, non-tax specific, factors.</p>	<p>The recommendation was addressed by explaining in a more transparent manner the impact of the increase of EU minima on illicit trade. Based on WHO estimates and the experience of the Member State with the highest tobacco taxes and prices in the EU, explanations are given on the role of governance.</p>	<p>Section 6.1.2</p>
<p>(4) The report should better explain the econometric modelling of the expected reduction in tobacco consumption and additional tax revenue, integrating it with the recent available evidence of consumers' behaviour during the COVID-19 emergency. It should explain how the expected reduced sales and reduced demand were factored into the estimates of additional tax revenues. It should clarify how the potential increase in illicit trade was included in the modelling.</p>	<p>The recommendation was addressed by further clarifying the methods, key assumptions, and baseline of the econometric modelling. It was clarified that the quantification of the impact of each policy option on the prices, quantities sold, and excise revenue was carried out following a partial equilibrium approach augmented with a module for intra-EU movements. The methodology also involved estimating how much consumption would shift from one product to another. Finally, it was explained that the modelling did not specifically include the effects from the recent COVID-19 epidemic as it would be risky to derive quantitative inferences from an</p>	<p>Section 6</p> <p>ANNEX 3:</p>

	abnormal situation. Similarly, illicit trade was not specifically modelled owing to data unavailability. Furthermore, it was highlighted the lack of a strong direct relationship between tax levels and illicit trade.	
<p>(5) The report should improve the cost benefit analysis with a more systematic and comparable approach and clearer presentation. It should provide the assessment of all types of relevant impacts for all options.</p> <p>It should be clearer about the health benefits and explain why they were not estimated for the options related to enlarging the scope to new products and raw tobacco.</p> <p>The report should provide overview tables of costs and benefits under each policy area and for the preferred option, including costs and cost savings in scope of the One In, One Out approach.</p>	<p>All relevant impacts have been presented in a more structured way. Environmental impacts are presented, bearing in mind that the Directive is not motivated by any environmental rationale.</p> <p>The report does not include more accurate and precise impacts of the proposed options for new products as the debate on the health risks of these products continues to advance. The excise harmonisation proposal in respect of new products is assessed in the report in terms of the risks to fiscal revenues and the internal market.</p> <p>As regards raw tobacco the impacts of the proposed options are presented through possible indirect effects: the diminished availability of raw tobacco and increased prices of illicit products would increase the effectiveness of taxation policies in curbing consumption.</p> <p>The recommendation was addressed by presenting in a more structured way the costs and benefits under each policy area in overview tables, including clarifications of costs and cost savings in scope of the One In, One Out approach.</p> <p>However for the sake of clarity, the combined impact analysis is not presented as the three areas of intervention have different objectives (as presented in the overview of the intervention logic), and therefore a different costs and benefit analysis impacting a</p>	<p>Section 6</p> <p>ANNEX 16:</p> <p>ANNEX 2: section 2</p>

	<p>different set of economic operators and markets.</p> <p>Finally, annexes (mainly annexes 4, 6, 7 and 12) were revised and shortened, focusing on the information more specifically relevant to the impact analysis. Cross-references were revised to facilitate access to more detailed information provided in relevant annexes.</p>	
<p>(6) The report should indicate in more detail to what extent the preferred option is futureproof. It should better explain the effect of inflation on the success of a PPP-based EU excise duty system. It should clarify which other variants or combinations of the proposed partial PPP system have been assessed and better justify the one included in the preferred option.</p>	<p>The choice of PPP approach was described upfront as it would be applicable to all the products to be covered by the Directive (traditional and new ones). It was clarified that the main weakness of the current fixed nominal minima, is their inability to remain relevant in case of changes in the general price level, within each Member State as well as between Member States. Given that inflation is a normal monetary phenomenon, the effect of any fixed nominal minimum is doomed to be eroded over time. Also it was explained that this approach would ensure that affordability of tobacco and related products at national level is better reflected in the rates to have a more targeted impact on consumption (as Member States have specifically asked in the Council conclusions of 2020 to take into account their social and economic conditions).</p> <p>Finally, the role of two IT systems related to excise goods (System for Exchange of Excise Data and Excise Movement and Control System) were clarified in relation to the inclusion of new products listed in the initiative.</p>	<p>Section 5.1.</p> <p>ANNEX 16: section 2</p>
<p>(7) The report should more systematically present the views of different stakeholder categories throughout the text, in particular on</p>	<p>The recommendation was addressed by including references and further insight from the feedback obtained from different stakeholder during the public consultation. Views of</p>	<p>Sections 2.1.3; 5.1; 5.3.2.3; 5.4.2; 6.1.4; 6.1.5; and 6.2.3.</p>

the problems, options and their impacts.	different stakeholders on the problems, different policy options, as well as on anticipated impacts have been integrated in the body of the report.	
--	---	--

4. Evidence, sources and quality

The evidence for the impact assessment report was gathered through various activities and from different sources:

- Evaluation of the Council Directive 2011/64/EU of 21 June 2011 on the structure and rates of excise duty applied to manufactured tobacco, SWD(2020) 33 final;
- Council conclusions concerning the structure and rates of excise duty applied to manufactured tobacco;
- Europe's Beating Cancer Plan, SWD (2021) 13 final;
- PwC PricewaterhouseCoopers LLP, 'Study assessing articles 32 and 36 of Council Directive 2008/118/EC concerning the general arrangements for excise duty', 2020;
- Economisti Associati, 'Study on Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco', 2019 and 2021 (EA 2019 and EA 2021 study);
- Economisti Associati, 'Study on the impact analysis of a review of tobacco taxation rules: update with recent market and regulatory developments', 2025 (EA 2025 study);
- Feedback on the published Inception Impact Assessment and from the public consultation;
- Results of the seminar organised by DG TAXUD with participation with experts from Members States on raw tobacco;
- Desk research.

ANNEX 1: STAKEHOLDER CONSULTATION (SYNOPSIS REPORT)

1. Consultation strategy

The consultation strategy incorporated a range of different activities to comprehensively gather stakeholder opinions through interviews and various, general and specific surveys. In particular, the following activities were carried out:

- A. Feedback on the Inception Impact Assessment.** The consultation on the Inception Impact Assessment was launched on 8 December 2020, and closed on 5 January 2021, and it obtained 134 feedbacks mainly from Italy (52) and France (23). The majority of the replies came from EU citizens (94). There were also several replies from industry representatives (20) and NGOs (8).
- B. An online Public Consultation** (30 March 2021 - 22 June 2021), to which economic operators (businesses), business associations, professionals, public health and consumers NGOs, academicians, researchers, local authorities and EU and third country citizens, responded. The consultation, though not statistically representative, elicited 7262 responses, covering all EU Member States but also third countries (including UK), with 235 position papers. The vast majority of contributions came from EU citizens (88%). The presence of repeated open comments with identical wording suggested that some feedback could have been coordinated. Open comments also suggested that respondents were consumers of e-cigarettes concerned with the possible taxation of these products.
- C. A virtual tobacco event was organised on 18 May 2022.** This small-scale event was opened to any stakeholder interested in tobacco taxation and the upcoming proposal. It gave the opportunity for all interested parties to express their views on the latest developments in the area. Participants appeared to support the increase of EU minima, the regulation of novel products (although opinions on taxation of nicotine free products diverged) and the control of raw tobacco to address illicit manufacturing.
- D. Targeted consultations with Member States' public authorities.** It consisted of a questionnaire survey sent to:
 - a) *tax and customs authorities* competent for tobacco excise duty legislation and administrative implementation: 25 respondents from 27 Member States;
 - b) *public health authorities* that are members of the Commission Expert Group on Tobacco Policy: 18 respondents from 27 Member States.
- E. In-depth interviews** with Member States authorities, Commission staff, industry representatives, public health experts and NGOs, professionals, research institutions and other stakeholders for a total of 97 interviewees. Most of interviews were 'deep-dives' from a sample of selected countries, namely: France, Italy, Sweden, Poland, Bulgaria, Croatia, Ireland, Denmark, Czechia and Finland. Regarding economic operators, interviews addressed companies operating at different stages of the tobacco value chain, i.e. growers, first and second processors, storage companies, manufacturers, and retailers organisations. In terms of products, consultations included manufacturers from all 'traditional' tobacco products (cigarettes, fine-cut tobacco (FCT), pipe tobacco, cigars and cigarillos, waterpipe tobacco (WPT), traditional chewing tobacco and snus) and from new products like e-cigarettes, heated tobacco products (HTP), nicotine pouches and the Cannabidiol industry.
- F. A call for data** (19 December 2024 - 12 February 2025) was conducted to collect factual evidence (e.g. data, reports, studies, legal acts etc.) in the context of the update of the External study. 53 responses were received, of which 19 from Member States authorities and 34 from industry representatives operating in various segments. Despite the call addressed also public health

NGOs, no feedback was received from this group. Eight interviews have been carried out, involving European Commission relevant staff, national tax authority and law enforcement authorities, mostly revolving around unrecorded tobacco.

- G. A Fiscalis workshop** ‘Exchange of information and practises on implementation of excise duty for new products (heated tobacco, liquids for electronic cigarettes and other)’ (3 October 2024) allowed to collect up-to-date information from experts from the Member States on tax policies and measures in place for the monitoring of new products (heated tobacco, liquids for e-cigarettes and others).

The stakeholder consultation gathered views and evidence in four broad areas namely on:

- Member States’ legal and operating frameworks, as well as the situation and dynamics of the corresponding national markets;
- opinions on the perceived performance of the current EU legislation and key issues to be redressed;
- hypothetical statements about the possible evolution of legal frameworks and markets in the absence of EU intervention;
- stakeholders’ expectations and stated preferences on the diverse possible policy scenarios outlined.

2. Feedback on the policy problems

➤ Product substitution

The public consultation confirmed the importance of tackling the increasing substitution of factory-manufactured cigarettes with existing harmonised products and even more so, for new unregulated ones. It risks eventually eroding tobacco excises tax base and undermining tobacco control policy efforts. The importance of product substitution varies for the different forms used. Substituting cigarette-mimicking cigarillos is of growing concern in a small subset of Member States. Nonetheless, no Member State sees this as declining and can be therefore, a potential threat. It is substituting cigarettes and HTP and, to a lesser extent, e-cigarettes and FCT that has attracted considerable attention over the past three years. Despite citizens and industry respondents resisting the idea of increased taxation for a number of products, a majority conceded that further action to close excise rate gaps between cigarettes, FCT and cigarillos could be justified. Academics, NGOs, Public Health Experts and other respondent categories almost universally agreed that taxation had to be increased and existing gap levels, closed.

Among the latest developments, many Member States reported increasing consumption of FCT at the expense of traditional cigarettes as a consequence of the COVID-19 epidemic. This has been empirically confirmed through other sources. The increase is attributed to income-related factors with substantially increasing cigarette prices and availability constraints of cheaper illicit and cross-border products due to lockdown restrictions.

While the above trend is likely to reverse once the situation is back to normal, substituting cigarettes with HTP is deemed a structural market phenomenon not driven by income-related factors, as prices are similar to traditional cigarettes in many Member States. Similarly to previous evaluation study findings, it appears that substantial consensus has been reached among public health experts that taxation should be equivalent at a ‘single act of consumption’. This implies that cigarette and FCT excise rates be substantially equalised and HTP taxed on a stick basis equivalent to cigarettes excise duties.

So far sudden and major increases of cigarette substitute's, market shares were short-lived and plateau quickly, as seen for instance with e-cigarettes in some national markets. However, there is growing concern among public health experts that an increasing variety of substitute products with poorly harmonised fiscal treatment would eventually decrease the effectiveness of current tobacco control policies, particularly in taxation. Of particular concern is nicotine-based products other than e-cigarettes, particularly nicotine-pouches that are gaining market share in some Member States, at the expense of both traditional tobacco including 'old' smokeless products, such as snus, and chewing tobacco. This is supported by public health authorities survey results citing nicotine pouches, as a more serious tobacco control problem faced by Member States over the last few years. Some public health experts were particularly concerned about consequences of these trends in the long-term, as new nicotine products can induce addiction that could lead to consuming other tobacco products, including traditional smoking ones. This concern is also shared by public health authorities that consider alternative products appearing as a more serious threat to the future effectiveness of tobacco control policies than cross-border flows or illicit trade.

Conversely and similar to previous consultations, new product users and economic operators (especially of e-cigarettes) considered that tobacco products and their substitutes should be taxed according to the concept of harm reduction. They expressed strong concerns about taxation discouraging smokers switching from conventional tobacco to new products, which in their view are less harmful.

➤ **Affordability of tobacco products and excise duties**

Overwhelming consensus remains in favour of taxation as the single most effective tool to curb smoking prevalence, and for factoring affordability into taxation levels. Taxation is especially important for fast growing Eastern Europe countries that should capitalise on its deterrent effect on consumption before income-related factors over compensate taxation increases.

Individual respondents to the public consultation from one third of the Member States and particularly from Southern and Eastern Europe acknowledged that traditional tobacco products including cigarettes and FCT remain affordable. It appears therefore that statistical affordability based on a population's 'average income' can be biased by broader urban/rural disparities and pensioners or income-dependent individuals' weight on the population's structure and not necessarily reflect consumers' perceptions. Perceived affordability of tobacco products vary from product to product and tend to increase as one moves from cigarettes to FCT and to cigars and cigarillos. These are deemed affordable by around half of respondents across Europe overall.

Moreover, slightly less than half of public authorities in questionnaire replies were able to confirm that tobacco's overall affordability decreased in their countries in the last three years. This was possibly also, as a result of the COVID-19 pandemic and its impact on income levels rather than an explicit taxation effort raising prices. This is also in line with what public health experts reported as taxation losing its momentum in controlling consumption in some Member States in the last few years, while others made significant efforts to reduce affordability through taxation.

Public health authority's survey results confirmed this loss of traction, where a majority admitted that their smoking prevalence reduction objectives over the last few years could be achieved only to some moderate or limited extent, particularly among young people and women. Few public health authorities were satisfied (or very) with observed domestic consumption trends. Moreover, public health authorities considered increases in excises as second in importance after national restrictions (bans on sales, etc.) in contributing to decrease smoking prevalence. Natural market trends and the

surge of e-cigarettes and oral products also contributed to this result, although at the price of continued nicotine addiction.

Various stakeholders largely agreed that the EU should consider income levels disparities when setting minimum tax rates. Tax and customs authorities expressed a less positive view, which reflects the need to carefully assess the concrete functioning and impact of this reform as the number of Member States affected by EU minima would increase. Some experts would support a tax that reflects affordability but expressed doubts about using purchasing power parity index.

➤ **Cross-border flows**

Strong consensus remains among all stakeholders that the EU tobacco taxation policy should contribute to reduce differences in taxation between Member States and therefore decrease any incentive to irregular cross-border flows. However, it is also widely recognised as unlikely that EU excise harmonisation mechanism based on common minima will harmonise taxation levels soon and therefore will not reduce abuse of cross-border trade flows motivated by tax opportunities. The awareness of this structural limitation has led some stakeholders to imagine radically new mechanisms for reshaping EU tobacco taxation policy from scratch. These range from introducing price capping for cigarettes and other tobacco products, to regional-level weighted average prices, as well as restricting the amount of tobacco that can be legally sold at the point of sale.

Since cross-border flows are poorly known and measured with a degree of approximation, a considerable level of uncertainty remains for Member States authorities about its evolution in the last three years. Most respondents concur that cross-border trade has not changed substantially, although this assessment tends to prevail in countries openly admitting no change in tobacco affordability. While those more active in increasing domestic taxation and curbing domestic affordability, also tend to be among those more concerned by a general worsening of cross border flows and are more vocal about the need to take action.

Although many report a lack conclusive data to assess, both tax and customs authorities and public health authorities' survey respondents reported a substantially unchanged situation as to the significance of cross-border flows. For the interviewees, the evidence clearly indicates greatly increased sales of domestic duty-paid products in regions bordering countries with much lower tax and price levels as a result of the COVID-19 enforced travel restrictions. This further supports the evidence already gathered in EA 2017 and 2019 studies¹⁷⁵, showing price differentials as a major driver of cross-border flows. A majority of public consultation respondents also believe this, as they maintain that reducing Member States price differentials as key to effectively tackling cross-border trade, irrespective of additional administrative measure on travel allowances to further mitigate the problem.

➤ **Illicit manufacturing and trade of tobacco products**

A majority of public consultation respondents see the need to fight illicit tobacco trade and manufacturing as a priority. There is a notable increased consensus that the fight against illicit manufacturing should include, as a key policy, a better regime for monitoring raw tobacco, including

¹⁷⁵ Economisti Associati, '[Study](#) on Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco', 2017
Economisti Associati, '[Study](#) on Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco', 2019

fiscal sanctions for diverting trade flows at the origin, although major differences between stakeholders' groups were noted. In particular, both survey and interviews show a sizeable share of industry representatives and some academics remained broadly unpersuaded - also on proportionality grounds - that the availability of raw tobacco for illicit production could be dealt with using fiscal controls. They suggested the problem could be better tackled using an ad hoc administrative mechanism rather than including raw tobacco in the scope of excise goods. Conversely, enforcement practitioners, tax and customs authorities, citizens and tobacco control NGOs overwhelmingly favoured this as practical and enforceable. Some proposed the regime be extended to the tobacco plant itself. For those more sceptical, of this approach, it should only be considered at the EU level after a proper evaluation of Member States pilot experiences. However, an increasing number of Member States have adopted this solution, including tobacco producing countries often over and above the strengthening of their ordinary administrative controls on domestic tobacco agricultural production. These early adopters have generally reported that implementing fiscal monitoring measures has been successful in curbing illicit domestic manufacturing, but gaps in monitoring cross-border trade flows remain.

The salience of illicit domestic tobacco manufacturing as a source of illicit products in the EU has increased since the latest consultations. Conversely, fiscal and public health authorities indicate a moderate increase in the availability of illicit products. Nowadays, broad consensus between industry representatives and public authorities at EU and national levels could be found in estimating the share of illicit products (8 to 11%) in the overall tobacco market in the region. For specific products, cigarettes remain the most smuggled and illicitly manufactured. Member States most affected are those with the highest prices and taxes, although supply factors are also at play. A number of sources have also agreed that illicit factories are usually close to countries with high taxation levels and markets for which they cater.

However, while there is broad consensus for fiscal regulation of raw tobacco in the EU and 60 % of Member States fiscal authorities consider the poor control of the raw tobacco supply chain as a key driver of illicit domestic manufacturing, uncertainty about the phenomenon's size remains. In particular, 30% of respondents estimated the share of EU-made (non-domestic) illicit cigarettes of seizures at no more than 10%. Finally, for new products (e.g. both e-cigarettes and HTPs), there is growing and poorly recognised illicit trade already in place, and this would also threaten to distort the legal market and the competitiveness of the players without a degree of tax and price harmonisation.

➤ **Incoherent treatment of certain new non-harmonised products**

Stakeholder consultations also confirm new products, in particular HTPs and e-cigarettes, while progressively gaining traditional tobacco products' market shares, are not yet fiscally harmonised and are increasingly seen as requiring attention. This is not only because divergences in their fiscal treatment hinder their free circulation in the internal market, but also because a common and more stable approach to classification for fiscal reasons is warranted to avoid products expressly designed to exploit loopholes and constantly changing definitions to keep up with market developments. This would increase legal certainty among market operators and public authorities.

Diverging practices were confirmed. A majority of Member States tax HTP as non-harmonised products, but a sizeable share of Member States treat them as harmonised products. Furthermore, the tax base for HTPs also changes with a majority of Member States opting for a per weight approach, other ad valorem or per unit criteria have also been reported. There are diverging e-cigarette taxation practices. While a vast majority of Member States tax all substances for use in these devices, others

restrict taxation to nicotine-containing liquids. Volume of the e-cigarettes liquid is by far the preferred tax base, but a few Member States have also introduced specific tax rates for products with a high concentration of nicotine.

A majority of public consultation respondents would like harmonised tax rules and minimum rates for HTP. Whether e-cigarettes should be harmonised at EU level remains deeply controversial among consumers. However, a number of very similar replies to the public consultation survey specifically on this subject were received. As a result, a majority of public consultation respondents, particularly among citizens, appear against fiscal harmonisation of e-cigarettes in general, and particularly liquids without nicotine. Whether this fiscal harmonisation should be accompanied by a minimum rate at EU level is even more controversial. One public health authority replied that this was not its priority. Whether to use taxation to discourage e-cigarette uptake or to grant them a privileged tax status as a smoking cessation tool, remains a hotly debated issue among public health experts. Although, compared to previous studies, the importance attributed to discouraging youth from using e-cigarettes and avoiding nicotine addiction appears on the increase. The latter argument is often the rationale behind, specifically taxing nicotine content.

Strongly diverging views remain also for new smokeless products. There is unanimous consensus among tax and customs authorities for including them in the scope of the EU excise legislation. Although opinions then differ on how best this could be implemented. The public consultation confirms that, for this category of product, once product classification definitions are agreed and clarified, there is no prevailing view on implementing a minimum EU tax among stakeholders. Industry representatives generally consider classification under the same smokeless category of novel and traditional products as either inadequate or fiscally inefficient for the wide variety of oral products on the market and which generally target different consumers' groups compared to traditional ones.

3. Feedback on specific policy options

This last section reviews stakeholders' feedback on proposed policy options for change. These are grouped into three areas: (1) increase EU minima and articulate current excise categories; (2) review of modalities through which novel products can be harmonised and, finally, (3) the way raw tobacco can be included in the scope of the excise system for monitoring and control purposes of related flows and not to raise revenues. According to the Flash Eurobarometer 562 on Citizens' attitudes towards taxation, the highest share (48%) of respondents believes that taxes on tobacco and alcohol are the taxes to be raised first if taxes need to be increased to pay for public services.¹⁷⁶

➤ Increase of EU minima and excise duty categories

There appears to be substantial agreement among public consultation respondents that taxation levels be adjusted to income differences between Member States, and this was broadly shared by tobacco industry representatives. Some industry stakeholders underlined that attempts to equalise excise levels across Member States in nominal terms will not support, but work against, the internal functioning of the EU single market. Hence, in revising excise duties, it would be important not only to adjust the minima according to indicators capable of reflecting the real level of prices and tobacco affordability across the EU, but also to review excise levels as a whole. This will prompt real harmonising and converging between Member States. However, very few tax and customs authorities' respondents see such a reform having positive impact. The majority do not anticipate any major impact. However, a third anticipate it will have a negative impact on tax convergence with

¹⁷⁶ Flash Eurobarometer 562 – Citizens' attitudes towards taxation (2025). Unpublished.

neighbouring countries or reduce stability in the level of domestic prices and raise risks of market disruptions. Others even anticipated possible negative impacts in reducing tobacco affordability where most needed.

Similar concerns voiced by some public health experts, for whom implementing an income equalisation principle could eventually risk running counter to the objective of decreasing tobacco affordability in lower income countries with high smoking prevalence. Therefore, they called for explicitly including tobacco affordability indicators in the mechanisms to calculate 'real' excise levels inclusive of local available income considerations or proposed the principle be somehow mitigated or weighted by other criteria such as smoking prevalence.

Some industry interviewees expressed scepticism at the feasibility of this option, claiming that in the long run automatic adjustment mechanisms can have the unintended side effect of enforcing too low a minima, barely significant for the majority of Member States, or excessively high ones, disproportionately affecting EU countries with the lowest purchasing power parity and disposable income, and where the bulk of growth in these parameters can be anticipated.

Opinions did substantially vary on the proposed revised levels of excise duty minima to be applied to conventional tobacco products (cigarettes, fine-cut tobacco, cigars and cigarillos and other smoking tobacco) to ensure achieving these tobacco control objectives. In particular, for cigarettes, some tax and customs authorities' respondents would like to see no change in current levels of fixed and relative minima respectively. This is broadly in line with public consultation findings where the number of different stakeholders in favour of increasing the minima slightly exceeds those who maintain they remain unchanged or decrease. Completely diverging opinions were reported in interviews with public health experts and tobacco control NGOs. There, it was widely recognised that increasing taxation of conventional tobacco products and closing tax differential gaps between cigarettes and other tobacco products were high priority for achieving the objectives of Europe's Beating Cancer Plan.

There was considerable uncertainty identifying appropriate relative minimum rates as a share of the weighted average price (WAP), particularly as far as products other than cigarettes were concerned. More than half of tax and customs authorities respondents did not consider the proposed rates as adequate, or were in no position to state which could be most appropriate to implement.

While there appears to be growing consensus among public health experts in favour of making taxation rates equivalent for any single act of consumption irrespective of underlying products, this view is not shared by a majority of public consultation respondents. They see a market rationale in taxing traditional tobacco products differently. The prevailing view in the public consultation is that tobacco products should not necessarily be taxed at equivalent levels. However, there is a degree of consensus among all stakeholders and citizens for further bridging the tax gap between cigarettes, FCT and cigarillos. However, for cigars and cigarillos, some market operators claimed that increasing the minima would have hardly any effect on product substitution trends with cigarettes, as prices are already well above cigarettes and consumption habits are different.

Establishing a separate tax category for cigarillos has not elicited the support of the majority of tax and customs authorities' respondents, while it has for waterpipe tobacco. The need for the latter is particularly felt by market operators who claim that the current homogenisation of taxation levels with 'other smoking tobacco' causes the prices for these products to become disproportionate. This opens huge arbitration opportunities for illicit traders to profit. Nevertheless more than half of tax and customs authorities' respondents are in favour of creating one, but maintaining the same minima levels as other smoking tobacco.

➤ **Harmonisation of new products (liquids for e-cigarettes, HTP, other manufactured tobacco and related products)**

The EU harmonisation of new products, starting with HTP, was generally deemed necessary by all stakeholders (survey and interviews). It is expected to bring several benefits, and particularly more efficiency in the regulation of these products in the internal market. Inclusion in the excise movement and control system (EMCS) should reduce administrative and transaction costs for market operators and allow Member States to implement better tailored and efficient fiscal policies. The risk highlighted by some industry stakeholders is that a new tax category, if not accurately defined, may create opportunities for ‘borderline’ products, which would exploit any definition ambiguity. Finally, tax and customs authorities deem related administrative adaptation costs as negligible or modest. The only exception might be represented by the additional costs connected to updating the underlying IT system.

As regards HTP minimum rates, the prevailing view is that they be aligned with those of fine-cut-tobacco or cigarettes. This is followed by alignment with ‘other smoking tobacco’. Very little support was given for aligning EU minima with rates for cigars and cigarillos. Unsurprisingly, public health experts unanimously supported HTP that the taxation being fully aligned with cigarettes. In the public consultation, where consumers were overrepresented, the clear preference was for taxation to be similar to the FCT rate, not cigarettes.

A similar degree of consensus exists concerning EU level harmonising of e-cigarettes and an overwhelming majority of tax and customs authorities would also include nicotine-free products. Respondents from companies qualifying as SMEs (394) supported the harmonisation of e-cigarette liquids containing nicotine at 57% (64% of medium-sized companies, 65% of small-sized companies, 54% of micro-sized companies), and not containing nicotine at 46% (40% of medium-sized companies, 52% of small-sized companies, 44% of micro-sized companies). A majority of public consultation respondents were also in favour of including cannabidiol-based products, if they were expressly for smoking. The rationale behind taxing nicotine-free liquids was variously to: 1) avoid encouraging illicit trade of pure nicotine; 2) eliminate fiscal incentives for consumer ‘do-it-yourself’ behaviour and 3) simplify the classification burden on national administrations caused by tax exemption of nicotine-free products. There was a general concern about fiscal harmonisation encouraging consumers to switch to ‘do-it-yourself’ products. Member States tax authorities have generally deemed administrative adaptation costs as negligible, modest or moderate. These are, however expected to be higher than those for HTP on average because of different underlying market structures that are more fragmented and complex to monitor and manage.

The prevailing view on minima for e-cigarettes converged around the minimum common denominator of some EUR 0.10 per ml, while both higher EUR 0.30 per ml rates and the zero rate option elicited less support. In the public consultation where e-cigarette consumers were, however, overrepresented, respondents preferred the zero minimum rate option, closely followed by the EUR 0.10 per ml option, while the EUR 0.30/ml value was preferred by a very small subset of stakeholders. 45% of the companies qualifying as SMEs expressed a preference for the EUR 0.10 per ml option (36% of medium-sized companies, 56% of small-sized companies, 43% of micro-sized companies), while 40% of them preferred no taxation at all (48% of medium-sized companies, 29% of small-sized companies, 42% of micro-sized companies). Economic operators emphasised setting adequate tax levels, to ensure fair market competition, without destroying it with exceedingly high excise rates, which would enhance cross-border flows from extra-EU countries, smuggling and tax avoidance practices.

Finally, tax and customs authorities had strong consensus for harmonising and bringing new oral products within the scope of the EU excise legislation. The consensus varies across products from almost unanimous for *nicotine pouches* and *other oral products containing nicotine but not tobacco*. Conversely, only a few Member States deem it important to introduce other oral tobacco products (e.g. ‘snus’) within the EU excise legislation. Tobacco for oral use cannot be commercialised legally in any Member State other than Sweden according to the Article 17 of the Tobacco Products Directive. As already noted with e-cigarettes most consumer respondents replying to the public consultation voiced their opposition to fiscally harmonising and creating EU minima on these goods. Finally, as mentioned, the tax and customs authorities survey also shows a lack of agreement on the best method of including these products in a new EU excise regime, since neither the option of creating a comprehensive excise category covering all relevant smokeless products containing or not nicotine nor that of creating a separate excise subcategory to distinguish between tobacco-containing and free-products had a clear consensus.

There were a number of different opinions on adequate levels of minimum rates for other smokeless products. Tax and customs authorities respondents were split into three roughly equal groups: those who believe that the proposed minima should be commensurate to FCT, those who benchmarked HTP and finally those who would set equal tax levels for liquids and e-cigarettes. The public consultation confirmed that respondents either proposed a minimum rate corresponding to that of HTP; or proposed no minimum tax at all. A sizeable share, however, admitted to having no idea of what should be an efficient rate.

Many stakeholders reiterated the importance of defining newly introduced categories with a high degree of flexibility, to accommodate new products that could be developed and be consumed by means other than oral. Furthermore, for a tax base, the ‘per weight’ approach is seen as most adequate, and for avoiding revenue losses due to unpredictable market developments. Finally, it is worth also mentioning that there were dissenting voices among industry stakeholders claiming that harmonising smokeless products as a whole was unnecessary because: 1) its negligible market share would lead to higher administrative and collecting costs for Member States than revenue collected and 2) the category is composed of so many product varieties that including all in one will be inaccurate and inefficient from a normative and fiscal perspective.

➤ **Inclusion of raw tobacco among excisable goods**

Including raw tobacco in the scope of excisable goods was supported by a large majority of tax and customs authorities’ respondents. A definition of raw tobacco for fiscal monitoring purposes should be as broad as possible and include: 1) non-processed leaf tobacco; 2) first-processed tobacco; 3) tobacco refuse and 4) homogenised / reconstituted tobacco. This is in line with reported growing trends towards a comprehensive domestic fiscal regulation of these products, complementing and supplementing the agricultural regulation in tobacco producing countries. There are just a few Member States where raw tobacco is not currently regulated either as an agricultural product or a fiscal good. One Member State reportedly regulated raw tobacco in its health legislation.

Hence, most tax and customs authorities (75%) confirmed that they would be in favour of extending the same monitoring and control obligations that apply to conventional harmonised tobacco products to raw tobacco, but without imposing a positive rate. Almost all Member States would be in favour of imposing a zero rate on raw tobacco. This is mainly expected to deter illicit manufacturing activities. Over the last three years, seizures of raw tobacco increased in 8 Member States, of which for 3 significantly and, no Member State reported a decrease in seizures.

Public consultation findings confirm high levels of consensus, with more than two third in favour of the harmonised monitoring of raw tobacco movements through EMCS, to curb illicit manufacturing. This is higher than those favouring other administrative approaches over EMCS.

For implementation, many support registering and authorising operators as the most stringent requirement. Other desired features frequently mentioned include: adding administrative sanctions, followed by suspending or withdrawing infringement authorisation, criminal sanctions and, lastly, product seizures. In terms of effectiveness, the majority of Member States believe that if obligations mentioned are included in the EU excise system; with adequate monitoring and control measures, they will prove beneficial in dealing with illicit trade.

Harmonising raw tobacco is expected to lead to additional administrative and enforcement costs for tax administrations, but these were deemed moderate in magnitude. Stronger resistance was voiced by industry stakeholders claiming possible significant operational costs connected to raw tobacco harmonisation, even when in favour of it. Particular concerns were voiced by logistic operators, for which a transaction-based system would significantly increase costs and reduce competitiveness, due to the huge amounts of raw tobacco currently stored and moved across the EU (including tobacco not destined for the EU market). Another frequently-voiced concern regards change in weight of raw tobacco during processing and storage operations, which would require complicated and burdensome reconciling in record-keeping and excise duty liability risks. Finally, in particular for the EMCS, some economic operators were sceptical about the effectiveness of these measures in tackling illicit flows of raw tobacco, as smugglers would never comply.

This would therefore result in imposing additional administrative costs only on legal economic operators, thereby harming their market competitiveness and further enhancing illegal players' advantages.

ANNEX 2: WHO IS AFFECTED AND HOW?

1. Practical implications of the initiative

This initiative affects national authorities. On the one hand, it would incur costs related to the update of national IT systems. On the other hand, they would benefit from cost reduction due to harmonisation, legal certainty, and public health improvement in the long run.

This initiative affects a wide range of economic operators. It would incur compliance and administrative costs for those involved in manufacturing, holding and movement of traditional tobacco products and new products, as well as raw tobacco processors and traders.

On the other hand, this initiative would reduce the legal uncertainties that currently exist and competitive distortions between economic operators involved in cross-border trade.

Most of the economic operators affected by this initiative are large companies. However, the introduction of new products in the scope of the Directive is expected to affect mainly SMEs (especially in liquids for e-cigarettes sector).

Finally, EU citizens are affected by this initiative, in terms of tobacco product price increase for consumers, while benefitting from public health improvement and related costs savings.

2. Summary of costs and benefits

The tables here below summarise the costs and benefits (in million euros) of the options under each policy area and of the preferred option.

First area: revision of the minimum rates for traditional tobacco products		
I. Overview of Benefits (million euros)– Preferred Option		
<i>Description</i>	<i>Amount</i>	<i>Comments</i>
Direct benefits		
Healthcare and social costs savings	85 000	Preferable option is conducive to meeting a long term Europe's Beating Cancer Plan's target of creating a 'Tobacco-Free Generation', where less than 5% of the population will use tobacco by 2040. The smoking prevalence* (aged 15+) would drop to 20.8% from the current 24%. In line with the above projections of smoking prevalence, the preferable option would lead healthcare costs savings for national authorities which include (1) the expenses incurred because of the illnesses caused by smoking; (2) the value of lost production because of reduced working time; (3) early mortality from smoking-related diseases; (4) productivity losses.
Excise duty revenue	14 000	
Indirect benefits		
Environmental impact	Reduction in CO2 emissions by 4-12 Mt, water depletion by 1,100-3,100 Mt, and solid waste by 1.2-3.5 Mt.	Reduction in environmental impacts associated with the reduction in

		consumption associated to increased EU minima for traditional tobacco products.
--	--	---

Note:* One-off impact from smoking prevalence value 24% (2023), i.e. directly attributable to EU minima revision. Impact on smoking prevalence calculated assuming the reduction in the demand for tobacco equal to the reduction in sales volume.

First area: revision of the minimum rates for traditional tobacco products II. Overview of costs - Preferred option		
<i>Description</i>	<i>Amount</i>	<i>Comments</i>
For citizens: - impact on inflation	Very low	The increase of price of tobacco products would contribute in a limited way to inflation dynamics.
For businesses (market sales)	Decline in market sales: Cigarettes: - 14% FCT: - 9% Cigarillos: - 13% Cigars: - 5% OST: -12%	

First area: revision of the minimum rates for traditional tobacco products III. Application of the 'one in, one out' approach - Preferred option			
	One-off	Recurrent	Total
[M€]	(annualised total net present value over the relevant period)	(nominal values per year)	
Businesses			
New administrative burdens (INs)	0	0	0
Removed administrative burdens (OUTs)	0	0	0
<i>Net administrative burdens*</i>	0	0	0
Adjustment costs**	0	0	
Citizens			

New administrative burdens (INs)	0	0	0
Removed administrative burdens (OUTs)	0	0	0
<i>Net administrative burdens*</i>	0	0	0
Adjustment costs**	0	0	
Total administrative burdens***	The increase of EU minima would not impact administrative costs for business and Member States.		

(*) *Net administrative burdens* = *INs* – *OUTs*;

(**) *Adjustment costs falling under the scope of the OIOO approach are the same as reported in Table 2 above. Non-annualised values;*

(***) *Total administrative burdens* = *Net administrative burdens for businesses* + *net administrative burdens for citizens*.

Second area: introduction in the scope of the Directive of e-cigarettes liquids, heated tobacco products (HTP), other manufactured tobacco and related products (million euros)			
I. Overview of Benefits – Preferred Option			
<i>Description</i>		<i>Amount</i>	<i>Comments</i>
Direct benefits			
Tax revenues for new products	HTP	4 100	Introduction excise duty rates for new products will lead to increase of revenue EUR 4 920 million under preferred option
	Liquids for e-cigarettes	530	
	Other products	290	
Reduction of tax evasion and fraud		Introduction of holding, movement and control requirements for new products and will improve monitoring of cross-border movements.	Less scope for tax evasion and avoidance.
Indirect benefits			
Impact on market, competition and SMEs		<p>Potentially lower substitution between traditional tobacco and new products will lead to less market and competition distortions.</p> <p>Harmonisation of taxation of new products will improve market integration and monitoring of market trends. Economic operators who are currently compliant with the tax rules will benefit from ensuring their competitors also pay their fair share. Greater transparency and legal certainty may result in fairer competition and improve the ease of doing business cross-border. The proposed harmonisation for new products would help establish a level playing field, whose benefits will be mostly reaped by small players.</p>	

Public health, and healthcare system	<p>Harmonised taxation of new products will reduce affordability, benefitting especially young people.</p> <p>Introduction excise duty rates for new products, higher excises for traditional tobacco product will lead to potentially lower substitutability, cross-border flows and affordability.</p>	The debate on the health risks of these products continues to advance and it is currently not possible to provide an overall detailed picture. The impacts of proposed harmonisation of excise duty for new products are coherent with the policy recommendations issued by WHO, and more generally by public health authorities.
---	--	---

Second area: introduction in the scope of the Directive of e-cigarettes liquids, heated tobacco products (HTP), other manufactured tobacco and related products (million euros) II. Overview of costs – Preferred option							
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Registrati on in the excise system	Direct adjustment costs	-	-				
	Direct administrative costs	-	-	0.5		0.2	Less than 0.1
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Set up/operat e warehous e	Direct adjustment costs			9.1			
	Direct administrative costs				1.0		
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Obligatio ns related to the EMCS	Direct adjustment costs	-	-		4.4	9.6	
	Direct administrative costs	-	-		0.92		0.5
Description		Amount			Comments		
For businesses (market sales)		Decline in market sales of HTP: - 27%					

Note: No direct regulatory fees and charges, no direct enforcement and no indirect costs are anticipated.

Second area: introduction in the scope of the Directive of e-cigarettes liquids, heated tobacco products (HTP), other manufactured tobacco and related products (million euros)			
III. Application of the 'one in, one out' approach – Preferred option			
[M€]	One-off (annualised total net present value over the relevant period)	Recurrent (nominal values per year)	Total
Businesses			
New administrative burdens (INs)	0.5	1.9	2.4
Removed administrative burdens (OUTs)	0	0	0
<i>Net administrative burdens*</i>	0.5	1.9	2.4
Adjustment costs**	9.1	4.4	
Total administrative burdens***	0.5	1.9	2.4

(*) *Net administrative burdens = INs – OUTs;*

(**) *Adjustment costs falling under the scope of the OIOO approach are the same as reported in Table 2 above. Non-annualised values;*

(***) *Total administrative burdens = Net administrative burdens for businesses + net administrative burdens for citizens.*

Third area: introduction in the scope of the Directive of raw tobacco (million euros)		
I. Overview of Benefits - Preferred option		
Description	Amount	Comments
<i>Direct benefits</i>		
Tax revenues	1 300	Reduction in foregone tax revenues due to new category for raw tobacco
Reduction of tax evasion and fraud	The proposed measure could translate into recovering about 10% of current excise fraud.	Introduction of holding, movement and control requirements for raw tobacco will improve monitoring of cross-border movements of tobacco products.
<i>Indirect benefits</i>		
Public health, and healthcare system	It is expected to decrease health inequalities in implementing tobacco control policies, as it will increase the effectiveness of tobacco control measures on the layers of the population more sensitive to income constraints and for which they risk being less effective. Also, it would reduce availability of low-price illegal products.	

Impact on market, competition and SMEs	Introduction of control requirements EU level for raw tobacco would increase administrative and adjustment costs for operators, thus reducing their competitiveness, although many businesses operating in these segments are already compliant with EU requirements or similar requirements at national level. At the same time the availability of illicit tobacco and tobacco products in the market could be reduced so that legal players will experience lower competitive pressure from the illegal value chain.
---	---

Third area: introduction in the scope of the Directive of raw tobacco II. Overview of costs – Preferred option (million euro)							
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Registration in the excise system	Direct adjustment costs	-	-	-	-	-	-
	Direct administrative costs	-	-	0.1	-	0.1	Less than 0.05
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Obligations related to the EMCS	Direct adjustment costs	-	-	-	0.07	9.7	-
	Direct administrative costs	-	-	0.2	1.3		0.7

Note: No direct regulatory fees and charges, no direct enforcement and no indirect costs are anticipated.

Under the zero-rate option, operators are assumed to opt for the duty-paid procedure instead of the duty suspension and would therefore not be compelled to set up a tax warehouse.

Third area: introduction in the scope of the Directive of raw tobacco III. Application of the ‘one in, one out’ approach – Preferred option			
[M€]	One-off (annualised total net present value over the relevant period)	Recurrent (nominal values per year)	Total
Businesses			
New administrative burdens (INs)	0.1	1.3	1.4
Removed administrative burdens (OUTs)	0	0	0

Net administrative burdens*	0.1	0.1	1.4
Adjustment costs**	0	0.7	
Total administrative burdens***	0.1	0.1	1.4

(*) *Net administrative burdens = INs – OUTs;*

(**) *Adjustment costs falling under the scope of the OIOO approach are the same as reported in Table 2 above. Non-annualised values;*

(***) *Total administrative burdens = Net administrative burdens for businesses + net administrative burdens for citizens.*

Note: no administrative burdens are anticipated for citizens.

Application of the general excise arrangements obligations under Horizontal Directive for new products and raw tobacco will lead to not significant increase of burden for Member States authorities, likely offset by the legal and administrative benefits of harmonisation and reduction in tax fraud. Increase of regulatory burdens it is anticipated for economic operators, which can occasionally be significant for smaller, EU-based operators. The bulk of additional costs would regard the e-cigarettes liquids segment, since HTP operators can be considered already compliant with the majority of obligations (as this segment consists exclusively of transnational tobacco companies, and ‘other manufactured tobacco segment (including related products)’ is small and largely controlled by transnational tobacco companies (especially the nicotine pouch segment).

In the case of raw tobacco, costs are very depending on the volume of cross-border transactions and on Member State-level implementation rules¹⁷⁷.

3. Relevant sustainable development goals

IV. Overview of relevant Sustainable Development Goals – Preferred Option(s)		
Relevant SDG	Expected progress towards the Goal	Comments
SDG No 2. Zero hunger - No 2.4: By 2030, ensure sustainable food production systems and implement resilient agricultural practices that increase productivity and production, that help maintain ecosystems, that strengthen capacity for adaptation to climate change, extreme weather, drought, flooding and other disasters and that	A reduction in tobacco consumption will reduce incentives to grow tobacco, allowing land currently for tobacco cultivation to be used for productive and sustainable agriculture, contributing to greater food security.	

¹⁷⁷ Operator’s choices would also be influenced by other factors, which could not be considered in the simulation model, and relate for instance to individual operator’s capacity, size and type of operations, local business environment, etc. The calculations of costs are based on how the EU raw tobacco sector is currently composed and structured but the simulations provided refer to the current situation, as it is not feasible to predict how players, practices and flows would change as a consequence of the reform (e.g. shift toward shorter / domestic supply chains, storage at farm level, recourse to offshore processing, establishment of storing facilities outside of the EU, and, possibly, reliance on non-EU raw tobacco etc.).

progressively improve land and soil quality.		
SDG No 3. Good health and well-being. - No 3.a: Strengthen the implementation of the WHO Framework Convention on Tobacco Control in all countries.	Expected reduction in the smoking prevalence among the general population (ages 15+) from approximately 24% today to 20.8 %.	Reduced tobacco consumption leads to benefits for Member States. Due to the reduction in tobacco consumption from 24% today to 20.8% the public health benefits would amount to approximately EUR 85 billion in social costs savings (EUR 6 billion savings in healthcare costs; EUR 77 billion savings related to value of years of life loss and EUR 2 billion savings related to productivity losses). Reduced consumption of new products will bring public health benefits that can be considered proportional to the expected reduction in consumption.
SDG No 6. Clean water and sanitation - No 6.4: By 2030, substantially increase water-use efficiency across all sectors and ensure sustainable withdrawals and supply of freshwater to address water scarcity and substantially reduce the number of people suffering from water scarcity.	A reduction in tobacco consumption will consequentially reduce the water required to grow the plants. It might reduce water depletion by 1 00-3 100 Mt.	
SDG No 7. Affordable and clean energy	A reduction in tobacco consumption will consequentially reduce tobacco cultivation, manufacturing, and distribution, all of which activities consume energy.	
SDG No 8. Decent work and economic growth - No 8.4: Improve progressively, through 2030, global resource efficiency in consumption and production and endeavour to decouple economic growth from environmental degradation, in accordance with the 10-year framework of programmes on sustainable consumption and production, with	Apart from the negative health consequences arising from the consumption of tobacco, its production cycle requires the use of pesticides, land, water and energy, and generates post-consumption waste. A reduction in tobacco consumption can be expected to reduce incentives to produce tobacco, so reducing environmental degradation.	

developed countries taking the lead.		
SDG No 10. Reduced inequality - No 10.4: Adopt policies, especially fiscal, wage and social protection policies, and progressively achieve greater equality.	As low-income groups are more sensitive to price increases, the health, social and economic benefits of higher taxes – fewer people starting to smoke and more quitting – accrue much more to these groups.	
SDG No 11. Sustainable cities and communities - No 11.6: By 2030, reduce the adverse per capita environmental impact of cities, including by paying special attention to air quality and municipal and other waste management.	A reduction in tobacco consumption will reduce the adverse impact of tobacco smoking on air quality.	Tobacco smoking results in high local concentrations of pollution and also make a measurable contribution to ambient air pollution within a city.
SDG No 12. Responsible production and consumption. SDG No 13. Climate action. SDG No 14. Life Below Water. - No 14.1: By 2025, prevent and significantly reduce marine pollution of all kinds, in particular from land-based activities, including marine debris and nutrient pollution. SDG No 15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss.	Any reduction in tobacco consumption can be expected to have consequences, as incentives to grow tobacco will decrease. This reduces the use of pesticides, the need for surface water for agriculture, the need for energy and the CO ₂ footprint. In terms of production, reduced tobacco consumption not only reduces energy demand and CO ₂ emissions, but also reduces the need for transport, packaging, reduces paper consumption and thus deforestation, reduces wastewater emissions and post-consumption waste, in particular litter from cigarette butts. Finally, reduced consumption brings reduced contribution to outdoor air pollution.	

<p>SDG No 17. Partnerships. 17.1. Strengthen domestic resource mobilisation <...> to improve domestic capacity for tax and other revenue collection.</p>	<p>Due to improved excise administration a reduction in fraud and tax evasion is expected.</p>	<p>Due to the introduction of movement and control requirements under the Horizontal Directive:</p> <ul style="list-style-type: none"> - recovery of about 10% of current tax fraud in illicit sales of manufactured tobacco; - improved excise duty collection from e-cigarettes liquids¹⁷⁸.
---	--	--

¹⁷⁸ Only about one-fifth of the theoretical tax is actually collected (theoretical – EUR 230 million, factual – EUR 35 million).

ANNEX 3: ANALYTICAL METHODS

1. Introduction

An External study¹⁷⁹ was undertaken by the contractor to support the impact assessment for the revision of the Directive. More particularly, due to notable changes in the market – i.e. the decline of traditional products, increasingly replaced by new products, including the rapidly emerging nicotine pouches market – and in the fiscal legislation applied in Member States – i.e. the adoption of non-harmonised taxes in a growing number of countries, the update of the EA 2021 study was necessary. To ensure methodological continuity and coherence the updated results as presented in the EA 2025 study followed the same approach (where feasible) as in the EA 2021 study by only extending the analysis to new evidence, i.e. market or policy evolutions occurred in the 2020-2024 period. The stakeholder consultations and the case studies carried out in 2021 were not repeated.

However, in the following cases the methodology used has been expanded:

- In addition to the standard methodology used previously, an alternative approach has been introduced for impact analysis in the area of new products. This approach regards in particular the ‘pass-through’ factor applied in the impact simulation model – i.e. the extent of tax increase that would be passed on to retail prices. Indeed, for these products, the standard simulation model returned estimates indicating unrealistic market effects in some Member States, whereas experience from Member States where similar tax measures were introduced recently shows that segment specific price and demand dynamics should be accounted for. Alternative assumptions have therefore been developed, based on the empirical evidence – see section 8 for more details. These estimates are presented in the impact analysis, while the estimates derived from the standard methodology are presented in ANNEX 17 section 3.1.
- Another area where some departure from the previous methodological setting was envisaged regards the estimation of cross-border flows. On this topic, issues not covered previously (new products) were investigated and sources not available before (e.g. national household budget survey data, studies on the impact of COVID-19 restrictions on cross-border flows etc.) were exploited.

The methodological approach for the revised and new EU minima and the respective impacts took into account the evolution of the Harmonised Index of Consumer Prices (HICP) that occurred in the period 2021-2024, namely an increase by 19.2%.

Regarding estimation on cross-border flows see ANNEX 7: dedicated to this topic.

¹⁷⁹ The EA 2021 study involved an extensive consultation of relevant stakeholders, including Member States tax, public health authorities; economic operators and their organisations; tobacco control experts; and the general public (as presented in ANNEX 1:). In addition to comprehensive data from various sources, the desk work involved a substantial review of literature and documentary sources, market and sectoral analyses, and scientific literature on tobacco economics and tobacco control policies. Finally, findings of the five ‘case studies’ carried out in 2021 on specific thematic aspects were used where relevant. Finally, five ‘case studies’ on specific thematic aspects are presented. The purpose of the case studies was primarily to collect concrete evidence on the national measures in place and assess their effectiveness and efficiency for the design of the EU policy in the most revealing problem areas.

2. Data collection

The following Table A3-1 provides an updated overview of the main data and sources that have been used: (1) excise duty rates and structures; (2) tax revenues; (3) market size data; (4) price levels and affordability; (5) unrecorded tobacco consumption; (6) raw tobacco; (7) consumption data; (8) public health impact data.

Table A3-1. Data sources

Data	Main sources
Excise duty rates and structures	Data collected from the Taxes in Europe Database (TEDB) ¹⁸⁰ and complemented by information on tax regimes applied to non-harmonised products provided by Member States authorities either through the call for data or a survey of Member States authorities carried out in June 2024. ¹⁸¹
Tax revenues	Same sources as above. To ensure consistency, the baseline values of tax revenues used in the impact simulation model have been reconstructed (based on volume sales and applicable rates).
Market size data	The main sources used include: (1) RFC published on TEDB; (2) market data published by Euromonitor International ¹⁸² , and (3) other specific estimates gathered through the ‘call for data’.
Price levels and affordability	Price levels data come from the same sources of the previous point, with the addition of TEDB for data on WAP (where available). Relative income price (i.e. measure of affordability) has been estimated used Eurostat’s GDP per capita data.
Unrecorded tobacco consumption	Based on triangulation of sources (since there are no official data available), including: (1) seizure data provided by the European Commission and Member States; (2) consumer survey data, i.e. Eurobarometer and national surveys; (3) third-party modelled estimates, i.e. Euromonitor International and KPMG; (4) a review of scientific papers published on this subject and (5) the estimation model applied by the contractor. ¹⁸³
Raw tobacco	Based on information collected through Eurostat (Prodcom, Comext), complemented by inputs from the call for data.
Consumption and Public health impact data	The main sources used were the Eurobarometer survey (various editions) and the Global Burden of Disease data published by IHME. ¹⁸⁴ Where relevant, this has been complemented by estimates and data collected from Eurostat, WHO and stakeholders (through the ‘call for data’), as well as by relevant scientific literature. ¹⁸⁵

¹⁸⁰ In accordance with [Commission Implementing Decision](#) of 28 July 2011, concerning statistical data to be provided by the Member States pursuant to Directives 92/79/EEC and 92/80/EEC

¹⁸¹ Survey ‘Taxation of liquids for electronic cigarettes, heated tobacco and other modern oral products’, June 2024 (unpublished).

¹⁸² The Euromonitor’s coverage of tobacco and related market has substantially improved over time. The use of a single source also enhanced the consistency of estimates across market segments and product categories. Regarding data the following disclaimer apply: “While every attempt has been made to ensure accuracy and reliability, Euromonitor International cannot be held responsible for omissions or errors of historic figures or analyses”.

¹⁸³ External study.

¹⁸⁴ See: <https://www.healthdata.org/research-analysis/gbd>.

¹⁸⁵ For instance, Dean T Jamison et al., Global health 2050: the path to halving premature death by mid-century, the Lancet, [Volume 404, Issue 10462](#), p1561-1614 October 19, 2024.

Other economic and statistics	Various Eurostat-sourced indicators and data on sociodemographic trends, Member States' macroeconomic variables, purchasing power parities, etc.
--------------------------------------	--

3. Desk research

The results of the External study are also based on desk review activities which involved the mapping and review of various types of documents, such as legal frameworks (Directive, the Horizontal Directive and other EU excise legislation), policy documents (the public health policy framework, the policy framework concerning the fight against illicit trade of tobacco and fraud, relevant customs administrative framework and etc.), CJEU jurisprudence, market and consumption reports and surveys, reports, studies (including PwC PricewaterhouseCoopers LLP, 'Study assessing articles 32 and 36 of Council Directive 2008/118/EC concerning the general arrangements for excise duty', 2020¹⁸⁶), research papers, scientific and grey literature both published and unpublished. Desk research also includes more recent documentary sources (see Table A3-2).

Table A3-2. Documentary sources

Category	Sources
EU policy and regulatory frameworks	EU tobacco control policy, including the Tobacco Products Directive and the reports and studies produced in the context of the evaluation of the legislative framework for tobacco control. ¹⁸⁷ Internal documents produced by the European Commission on this subject (unpublished).
International sources	The WHO Framework Convention on Tobacco Control (FCTC), and related documents from most recent Conference of the Parties (COP) sessions, i.e. the 9 th (2021) and the 10 th (2023) sessions, as well as related implementation database, global progress reports, and other WHO background work. FCTC Protocol to Eliminate Illicit Trade in Tobacco Products, and the documents related to the Third Session of the Meeting of the Parties (MOP3) that took place in Panama in February 2024. ¹⁸⁸
Policy frameworks in Member States	Review of selected policies and measures put in place by Member States to tackle ITTP, cross-border shopping, and practices undermining national tobacco control policies, including studies and reports on their implementation and impact. Review of selected policies and measures put in place by Member States for the taxation and monitoring of new products, including Member States presentation made at the Fiscalis 2024 Workshop on the taxation of new products and survey of Member States authorities carried out in June 2024 results on this topic.
Other sources	Report, studies and other documents on unrecorded tobacco issued by EU entities – such as EMPACT ¹⁸⁹ reports, and documents from the European Commission expert group on the Fight against Illicit Trade in Tobacco.

¹⁸⁶ [Study assessing articles 32 and 36 of Council Directive 2008/118/EC concerning the general arrangements for excise duty - Publications Office of the EU](#)

¹⁸⁷ [Evaluation of the legislative framework for tobacco control - European Commission](#)

¹⁸⁸ [Third Session of the Meeting of the Parties](#)

¹⁸⁹ [The European Multidisciplinary Platform Against Criminal Threats.](#)

	<p>Recent publications on modelling and analysing tobacco market dynamics, especially on new products.</p> <p>Recent publications on trends and factors underlying demand for tobacco products and smoking prevalence, including the relative impact of taxation and other tobacco control measures on demand, as well as publications on the public health burden of tobacco use.¹⁹⁰</p> <p>Recent publications estimating and analysing cross-border flows of harmonised products and/or new products in EU countries, especially in relation to the restrictions to cross-border movements in place during the COVID-19 period.</p> <p>A variety of stakeholder's suggested publications as well as internal report, papers and data sheets, collected through the 'call for data'.</p>
--	---

4. Call for a data

Methodology also involved a focused consultation of stakeholders (national authorities and other stakeholders, e.g. industry representatives, public health NGOs and civil society organisations, and other experts/ professionals) via call for data and in-depth interviews.

The call for data focused on collecting factual evidence (e.g. data, reports, studies, legal acts etc.) rather than views and positions of respondents to address data and information 'gaps', especially in areas poorly covered by the available datasets and it allowed involving stakeholders in the process, while keeping the consultation on a pure technical level.

The call was launched on 19th December 2024 12th February 2025. 53 responses were received, of which 19 from Member States authorities and 34 from industry representatives (see Table A3-3). Despite the call addressed also public health NGOs, no feedback was received from this group.

Table A3-3. Participants to the call of the data

A) Participants to the call for data for national authorities	B) Participants to the call for data for stakeholders
<p>Overall participants: 19</p> <p>Countries represented: Austria, Belgium, Cyprus, Czechia, Denmark, Greece, Finland, Croatia, Ireland, Italy, Luxembourg, Malta, the Netherlands Poland, Portugal, Romania, Sweden, Slovenia, Slovakia</p>	<p>Overall participants: 34</p> <p>Countries represented: Belgium, Bulgaria, Germany, Greece, Spain, France, Italy, Luxembourg, , BG, DE, EL, ES, FR, IT, LU, the Netherlands Poland, Romania (in addition to 9 'EU-level' stakeholders</p> <p>Respondents by sector:</p> <ul style="list-style-type: none"> ▪ Tobacco products industry: 10 (including 2 for cigars/cigarillos and 1 for WPT) ▪ E-cigarettes industry: 7 ▪ Raw tobacco sector: 7 ▪ Other: 1 (retailers)

Eight interviews have been carried out, involving (1) European Commission relevant staff; (2) national tax authorities; and (3) law enforcement authorities engaged in the fight against unrecorded

¹⁹⁰ [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(24\)01439-9/abstract](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(24)01439-9/abstract)

tobacco. Most interview discussions revolved around unrecorded tobacco, and specifically (1) cross-border flows and the measures put in place in Member States to implement existing rules (or additional national measures in place); (2) illicit trade, illicit manufacturing and how criminal operations have evolved; and (3) source of data and estimates of the magnitude of unrecorded tobacco consumption.

5. Case studies

The contractor in 2021 implemented five ‘case studies’ on specific thematic aspects: (1) Cross-border flows; (2) Illicit manufacturing and trade; (3) Raw tobacco; (4) Heated tobacco products (5) Electronic cigarettes (see Table A3-4). This approach aimed to provide deeper analysis of impacts and comparison of different options. Findings of the case studies were incorporated were relevant in the impact analysis.

Table A3-4. Case studies and Member States

Cross-border flows	Illicit manufacturing and trade	Raw tobacco	Heated tobacco products	Electronic cigarettes
France, Ireland, Sweden, Denmark, Finland, Bulgaria	France, Ireland, Bulgaria, Poland, Czechia, Croatia	Italy, Poland, Czechia, Croatia, Bulgaria, Sweden	Italy, Poland, France, Portugal	Croatia, Poland, Sweden, Portugal

6. Methodological limitations

Mixed methodologies and tools have been employed for the impact analysis by the contractor. Every quantitative or qualitative methodology used is prone to a set of limitations which can be roughly grouped as follows: (1) limitations related to the robustness of underlying data used; (2) intrinsic limitation of the assessment model adopted; (3) limitations related to the validity of findings; and (4) limitations related to unforeseeable intervening factors.

Data validity limitations regard the availability/completeness of data (e.g. market data for new products and for products with marginal consumption are significantly less robust than cigarettes data); and the reliability (e.g. third-party estimates on illicit trade and cross-border flows).

The analytical models used. Particularly complex was the estimation of impact related to unrecorded consumption as, by definition, no reliable data exist. Regarding the limitations in the estimation of regulatory costs, it should be mentioned that, while the Standard Cost Model method is widely accepted, its implementation largely relied on costs parameters elaborated in existing previous assessments. *The validity of findings* is based primarily on the triangulation of different data sources. Most of the information gathering activities focused on factual and verifiable evidence regarding tobacco and other relevant products, market conditions, evolutions and legal and administrative frameworks.

In various cases, impacts have been estimated using the baseline situation as benchmark. However, a series of *unpredictable intervening factors* may occur, which can alter the results. These include, of course, exogenous factors (an example was the COVID-19 pandemic, which have modified consumption patterns and cross-border flows). More importantly, it also includes endogenous factors, like Member States reaction to revised EU rules, changes in the business practices, product

developments, market consolidation, demand evolution in unforeseeable directions etc., which are likely (affected operators will certainly take measures to minimise the adverse effects on their businesses) but cannot be properly factored in the analysis. Also in this case, the more radical is the change of rules, the weaker impact predictions are.

The limitations of the stakeholder consultations conducted in 2021 could be summarised as follows:

- *Representativeness.* Despite the large participation, the open public consultation inevitably remains a consultation tool subject to a strong self-selection bias. Participants typically have a direct interest in the subject matter, so respondents cannot be considered as a representative sample of the population. The vast majority of responses received to the open public consultation came from e-cigarettes consumers, concerned about the possible taxation of these products. The identification of repeating patterns in the open-ended questions suggests a possible degree of coordination in responses.

The tax authorities' survey saw large participation and can be considered fully representative. The participation in the public health authorities' survey was partly lower (two-thirds of the Member States), hence a certain bias can be assumed.

In-depth interviews have, by default, no intent of offering an accurate representation of the groups involved. However, to ensure that all perspectives and interests on the subject matter were adequately covered, the interview programme was particularly broad and included full range of relevant stakeholders from several countries.

- *Validity of evidence.* The consultation activities also involved the collection of stakeholders' views and considerations on policy problems and possible solutions. Considering that all stakeholders involved have a clearly identifiable interest in the subject matter (as a regulator, trader, public health expert etc.) this kind of statement has an inherent bias that needs to be understood and made explicit. As a rule of thumb, this risk has been addressed by posing the same questions to stakeholders having different perspectives and interests, to reconstruct the full picture from all angles, and to mutually cross-check and verify the information provided.
- *Interpretation of answers.* Lastly, it is worth mentioning that the survey has intrinsic limitations regarding the correct interpretation of the answers. Close-ended questions have the advantage of returning clear and straightforward pictures of stakeholders' views on a given subject, but the nuances and caveats are inevitably ironed out, and respondents may interpret the same questions differently. Some open-ended questions were added to the questionnaire, to allow respondents to elaborate on their feedback, but this option was not frequently used.

7. Baseline scenario

Baseline scenario besides indicators listed below includes predictions on the future evolution of the baseline¹⁹¹ (quantitative modelling, which can predict market evolutions under a business-as-usual situation; review of industry strategies; analysis of the literature on consumers' behaviour and cultural trends; analysis of policy trends and legal frameworks at national level; direct feedback from stakeholders, e.g. authorities, public health experts, economic operators, market intelligence sources etc.)

¹⁹¹ The baseline year is 2023.

7.1. Traditional tobacco products

Table A3-5 and Box A3-1 provides an outline of baseline indicators for traditional tobacco products.

Table A3-5. Baseline indicators

Impact area	Baseline indicators
Tax rates and revenues	<ul style="list-style-type: none"> • Tax rates and structures applied to cigarettes and other manufactured tobacco in the Member States. • Tax revenue trends, in relation to actual rates and price levels.
Market data	<ul style="list-style-type: none"> • Volume and value of sales of tobacco products in Member States. • Retail price levels of cigarettes and other manufactured tobacco in Member States (average price, lowest market price).
Unrecorded consumption	<ul style="list-style-type: none"> • Estimated cross-border shopping, and impact on Member States tax revenues. • Estimated illicit manufacturing / trade, and impact on Member States tax revenues.
Public health impact	<ul style="list-style-type: none"> • Smoking prevalence trends by demographic and socio-economic groups. • Public health burden associated to tobacco use.

Box A3-1. Estimation source and methodology for baseline variables

<ul style="list-style-type: none"> ▪ The excise duty level ‘baseline situation’ in Member States has been calculated based on data collected and published on TEDB. ▪ Excise duty yield (EDY) indicator refers to the excise duties applicable to the WAP (weighted average price level). A few Member States apply MED which is higher than the sum of the specific and ad valorem components at the WAP level. In those cases, the EDY coincides with the MED. Where Member States reported a MED value that includes also VAT (‘minimum total tax’), the latter component has been removed to ensure comparability of the calculations. ▪ The EDmin indicator refers to the excise duty applicable on the lowest price category in the market (Pmin). Again, in some Member States the EDmin coincides with the MED. ▪ In the case of cigars and cigarillos, some Member States applies a tax structure per kg instead of per unit. However, in some Member States the distinction is only apparent as the weight applied is conventional weight and not the ‘real’ weight (e.g. 1 kg = 800 cigarillos or 400 cigars). In all other cases a conversion has been applied in line with the typical weight of these products, i.e. 1.33g for cigarillos and 2.7g for cigars. ▪ The WAP was calculated based on Euromonitor sales data, except for official estimates published on TEDB (cigarettes – and in some cases FCT). ▪ The Pmin (lowest price in the market) was estimated based on the information gathered through the call for data. Where unavailable, the average proportion between WAP and Pmin was used for reference. ▪ Sales volume of cigarettes and FCT is based on ‘releases for consumption’ (RFC) figures reported by Member States to the Commission. RFC is a proxy indicator of consumption, however, it does not coincide with actual consumption because of (a) unrecorded consumption (cross-border flows and illicit products); (b) forestalling practices and (c) possible time lags in the registration of RFC. Some countries do not separate FCT RFC

from OST ones. In those cases, the respective proportion has been estimated through Euromonitor International's sales data.

- Sales volume of other tobacco products (cigars, cigarillos, OST) are based on Euromonitor sales data, except waterpipe tobacco (WPT) whose market volume is estimated combining call for data feedback, External study 2021 data and assumptions on the proportion between pipe and WPT within the OST category.
- To ensure consistency in the analysis of impact, Member States tax revenues have been recalculated based on the sales figures and the applicable excise duties. The results do not always coincide with the tax revenue values communicated by Member States for various reasons, including time lags in the payment / registration and the effects of the MED. Furthermore, various Member States do not provide disaggregated data between products.
- Regarding public health and social costs the baseline value have been calculated updating healthcare expenditure data in the EU with most recent Eurostat statistics (i.e. 2022) and assuming that the share attributable to tobacco is 2.9%.¹⁹² For the current impact of tobacco consumption on avoidable mortality, the Global Burden of Disease's most recent estimates were used.¹⁹³ In terms of years of life lost, the burden of tobacco is calculated based on a conventional value of life year lost (VLYL) of EUR 52 000 in accordance with the estimates used in the studies underpinning the Tobacco Products Directive.

Indirect costs include also impact on *employment and productivity* caused by tobacco-related health conditions. In particular, economic loss of productivity can take the form of: 1) workplace absenteeism and the resulting loss of income from the days off work, and 2) premature retirement due to smoking-induced illnesses.¹⁹⁴ The following assessments were used:

- It is well established in the literature¹⁹⁵ that smokers, on average, have a higher rate of workplace absenteeism than non-smokers.
- The cost of smoking-related absenteeism amounts to roughly 5% of its related estimated direct healthcare costs.¹⁹⁶ Smoking can also represent a cause of permanent disability and early retirement due to the incapacity to work. Roughly 25% of cases regard those incapacitated by the typical smoking-related diseases.

Illicit manufacturing and trade

Measuring the illicit tobacco trade is complicated and there is no widely accepted methodology¹⁹⁷. The most recent ITTP trends in the EU have been assessed by triangulating three main data sources:

¹⁹²The 2.9% value eventually retain comes from Tobacco Products Directive background impact assessment studies and, specifically: GHK, A study on liability and the health costs of smoking, DG SANCO, April 2012 (External study).

¹⁹³ Data source: <https://www.thelancet.com/lancet/visualisations/gbd-compare>

¹⁹⁴ The premature deaths of smoking employees during productive years would also cause productivity losses, but this component is already accounted for in the value of life year lost.

¹⁹⁵ Bunn WB, Stave GM, Downs KE, et al. *Effect of smoking status on productivity loss*. J Occup Environ Med 2006.

¹⁹⁶ The source was the preparatory study for the Tobacco Products Directive, which used the results of a major EU survey on absenteeism from work in Germany and Austria^T to extrapolate EU-level estimates. Results were that in 2009 some 0.8% of total days lost from work were deemed directly attributable to smoking. In monetary terms, this amounted to a total of EUR 1.3 bn EU-wide.

¹⁹⁷ OLAF commissioned a study (RAND 2020) reviewing the main existing methodologies. These include:

(1) Euromonitor International's estimates (2) the KPMG illicit cigarettes report (2023 edition)¹⁹⁸, based on empty pack surveys (commissioned by tobacco manufacturers); and (3) statistics on ITTP seizures that the Commission gathers from Member States authorities. Further evidence has been collected from the call for data. However, only a minority of Member States was in the position to provide an estimate of the magnitude of ITTP (between 5 and 10 Member States, depending on the type of tobacco product), and in most cases the source of estimates was the KPMG Report.¹⁹⁹

7.2. New products

Heated tobacco products. The key variables for the baseline scenario were based on the following sources:

- National tax regimes have been gathered through the call for data and Member States' survey conducted in June 2024.
- Market sales data for each Member States (volumes and value) have been drawn from Euromonitor International, distinguishing between devices and consumables.
- Price data (WAP) have been calculated based on Euromonitor International's sales data.

Liquids for e-cigarettes and other manufactured tobacco and tobacco related products. With minor changes related to market characteristics and data availability similar approach for baseline scenario for liquids of e-cigarettes and other manufactured tobacco products as for heated tobacco was used. More specifically, the available e-cigarettes market data are far more comprehensive and accurate than in the past. The same regards other manufactured tobacco and tobacco related products as availability of data in this area has largely improved in the 2020-2024 period (16 Member States are now covered in the Euromonitor database).

8. Impact analysis

The main focus of the analytical work was to compare the baseline scenario, developed on the basis of an in-depth baseline assessment, with several policy change scenarios, using both quantitative and qualitative methods and case study-based approach (where relevant). The impacts considered for the policy options belong to these main categories: (1) impacts on excise duties and on the market (including tax revenues and the impact on fraud and tax evasion); (2) administrative costs and cost savings (including impact for SMEs and competitiveness check) taking into account digital aspects; (3) public health effects (smoking prevalence and related social costs), (4) impact on employment. To address

- empty-pack surveys (collection of discarded cigarette packs to obtain a sample of packs that is representative of the patterns of cigarette consumption in a given area);

- consumer surveys with and without pack inspection: with inspection – survey of tobacco users asking about various aspects of their smoking behaviour. During the survey respondents present their latest tobacco product for inspection or surrender the product to the research team for verification; without inspection - survey of tobacco users asking about various aspects of their smoking behaviour without any request or requirement for physical evidence.

- tax gap analyses (i.e. comparison of sales volumes and consumption statistics), and various estimation models.

The RAND 2020 study suggests that none of these methods would be sufficient if used in isolation and that a combination of multiple methods should be employed to obtain reliable estimates.

¹⁹⁸ External study.

¹⁹⁹ Among call for data respondents, Member States that reported own sources of ITTP estimates include Ireland, Finland, Sweden and the Netherlands (External study).

the specific problems presented in the case of substitution (cigarettes with FCT) and impacts on cross-border flows are distinguished.

8.1. Traditional tobacco products

The market simulations refer to the reduction directly attributable to the EU minima revision and do not include the effects of other relevant factors, which would likely magnify the estimated sales decline although cannot be precisely quantified. In particular, it can be expected that the increase of rates (hence prices) in a given Member State might trigger an increase also in neighbouring countries even where this is not strictly required by EU minima. As the survey of Member States authorities showed²⁰⁰, Member States authorities often consider the price levels of cigarettes in bordering countries when setting national rates, as large price differentials are associated with substantial cross border shopping, hence excise revenue losses. Similarly, when bordering countries' price levels increase, Member States authorities may see an opportunity to increase their own rates without incurring a cross-border shopping issue. In this sense, the effects of higher EU minima would possibly have repercussions beyond directly affected Member States and lead to more widespread tax increases in most Member States. Such effects would mix with other exogenous effects, completely unrelated to EU minima, such as the impact of tax increases spontaneously adopted by Member States, the impact of tobacco control policies and the broader societal changes of attitude towards tobacco.

The two main conditions are required to be examined separately to estimate the increase of Member States excise rates following an increase of EU minima, i.e.:

- a) Calculation of the required increase (in %) induced by the revised fixed minimum (if the current excise duty level is higher than the revised minimum the expected effect is 0%). This condition generally refers to all marketed products, so compliance have been checked against the excise duty at lowest market price level (except when this could not be calculated, in which case the EDY has been used).
- b) Calculation of the required increase (in %) induced by the revised relative minimum (if the current excise duty is higher than the revised minimum the effect is 0%). For the relative condition, 'recursive effects' have been considered, because the increase of excise duties would lead to an increase in price, which implies, in turn, a further increase of the excise duty levels and so on.
- c) In the case of cigarettes, a third step was required, i.e. to estimate the required increase (in %) induced by the revised escape clause (if the current EDY is higher than the revised escape clause level the effect is 0%).

The estimation of the combined effects varied across products. For cigarettes the highest value between (a) and (b) have been retained (since fixed and relative minimum are conditions to be fulfilled simultaneously). However, if (c) was lower than (b) the escape clause would be triggered, so the combined effects would become the highest value between (a) and (c). For other products the lowest value between (a) and (b) have been retained (since fixed and relative minimum are alternative conditions).

Overall, impact estimates for cigarettes are more reliable than for other products as underlying market data are more robust and comprehensive. Secondly, the reliability of estimates is inversely correlated to the extent of the tax increase. Some of the scenarios examined have no precedent at Member State level so market reactions are more difficult to predict.

²⁰⁰ EA 2021 study.

These possible effects of an increase of EU minima were assessed **on excise duties and market**. Where national excise levels are set to increase, due to the new EU minima, price levels can be also expected to increase. The standard approach used in impact simulations involved a pass-through elasticity of tax onto prices equal to 0.7. In practice, an increase of 10% in EDY²⁰¹ is associated with an increase of 7% of WAP (and P_{min}). The effects of VAT (i.e. the fact that VAT applies also to excise duties) was deemed included in the overall price impact.

Regarding **the impact on the demand**, the elasticity coefficient of -0.54 have been applied. In practice, a WAP increase of 10% is estimated leading to a decline in the demand by 5.4%.

The **impact on tax revenues** have been then calculated by multiplying the revised EDY by the revised sales volume (net of market losses due to reduced demand).

Regarding impacts on tax fraud it should be noted there was no attempt to estimate in a quantitative manner as the independent literature does not support the existence of a direct, causal link between tax policies and ITTP. Among others, the EU-funded PPACTE project (Pricing Policies and Control of Tobacco in Europe)²⁰² showed the absence of a statistically relevant correlation between illicit trade and the price of cigarettes. In the same vein, other authors suggested that ‘the supply of illicit tobacco, rather than its price, is a key factor contributing to tax evasion’.²⁰³ Overall, high prices appear more as an enabler of ITTP rather than its determinant²⁰⁴.

The methodology for **substitution between cigarettes and FCT** included the following:

- a) Estimated variation in the tobacco price index associated with the increase of EU minima.
- b) Estimated variation in the aggregated expenditure in tobacco products linked to the above variation in the tobacco price index.
- c) Estimated reduction in the conditional demand of each individual products (based on the elasticity coefficients).
- d) Estimated variation in the conditional demand due to a variation in the price of substitutes (based on the ‘cross’ elasticity coefficient).
- e) Aggregation of impacts – (b), (c) and (d) – and estimation of the magnitude of substitution under the different EU minima increase options.

The **analysis of public health impacts** included two parts:

- a) the first part involved estimating the impact of the proposed EU minima increase scenarios on consumption, hence *smoking prevalence* among the population. This has been assumed corresponding to the estimated decline in sales, assuming no change in the average smoking intensity and no mitigation due to the availability of cheaper and ‘unrecorded’ products (including illegal products and/or cross-border legal products).
- b) The second part regarded *ultimate public health impacts, and the social* costs related to smoking. The analysis estimated the ‘savings’ in terms of years of life lost and healthcare

²⁰¹ In accordance with the original model specifications, the rate of increase was always calculated as the difference of natural logarithms.

²⁰² See: <https://www.tri.ie/ppacte.html>

²⁰³ Joossens L, Lugo A, La Vecchia C et al. Tob Control 2014; 23:e17-e23 (cited from EA 2019).

²⁰⁴ The price of illegal products is typically set in relation to the price of legal ones, and at about 50%-60% of it. So, assuming production costs as fixed, the higher legal prices go the more profitable ITTP is. For this reason, there is an economic incentive for illegal suppliers to focus on markets where the level of price is comparatively higher (External study).

costs associated to a reduction in smoking prevalence. Savings are largely hypothetical as they would materialise in the long run.

The ultimate public health impact has been estimated following a cost of illness approach.²⁰⁵ In this perspective, the economic consequences of smoking can be divided into ‘direct costs’ – the expenses incurred because of the illnesses caused by smoking, and ‘indirect costs’ – the value of lost production because of reduced working time and early mortality from smoking-related diseases.

Also, the following key calculation coefficients was used:

- the unit value of life years lost, equal to EUR 52 000 across the EU (in accordance with Tobacco Products Directive underlying studies);
- the percentage of Member States’ healthcare expenditure that can be attributed to tobacco-related conditions, i.e. 2.9% - based again on the Tobacco Products Directive background studies;
- productivity losses have been calculated by adjusting to inflation and to change in smoking prevalence that occurred.

8.2. New products

The overall approach to the impact analysis of the measure proposed to harmonise the tax regime for new products in the EU is similar to the approach used for traditional tobacco products, albeit with two notable differences. Firstly, unlike traditional tobacco, new products are not harmonised, so – in addition to the market effects of applying excise duty – relevant impact includes also additional administrative and adjustment costs for national authorities and economic operators to comply with the rules and procedures applicable to harmonised excise goods. Secondly, while the debate on the health risks of new products continues to advance and new evidence is produced, the excise harmonisation proposal assessed no direct connections with the health risks of these new products. Hence, impact analysis does not include public health impacts.

The approach used to estimate the market impacts of the proposed policy options on non-harmonised products is analogous to the approach used for harmonised products. However, a few notable differences are worth highlighting. Firstly, the baseline situation is much more heterogeneous across Member States, so harmonisation implies a more substantial change, especially where target products are currently not taxed. Secondly, market data are less robust and comprehensive than for harmonised products. Thirdly, the price and demand dynamics are likely different from the dynamics of cigarettes and other well-established products, in particular:

- The impact of taxation on the price of new products is far from straightforward. Currently, the incidence of taxation on price is relatively low (or zero) so manufacturers have more room for absorbing part of the tax increase rather than passing it on to consumers. Furthermore, as new products and conventional products are often produced by the same companies, some researchers have observed ‘portfolio strategies’ at play, e.g. with HTP price seemingly more likely driven by cigarettes’ price than own HTP taxation.
- Unlike cigarettes, the demand for new product is considered elastic but as the market is not yet mature, demand elasticity measures vary and are subject to fluctuations.

²⁰⁵ Description available in: World Health Organization. Economics of tobacco toolkit: assessment of the economic costs of smoking. Geneva, Switzerland: World Health Organization; 2011. <https://apps.who.int/iris/handle/10665/44596> (External study)

8.2.1. Heated tobacco products

In the impact analysis all key baseline variables (tax rates, price, sales volume) have been converted into 'per stick' unit of measure, using a standard 1 stick = 0.3g conversion rate that roughly corresponds to the most popular HTP products in the market. The impact analysis of proposed EU minima has also been conducted making reference to HTP sticks, as separate market data for other types of HTP were unavailable (and at any rate sales volume are deemed very limited). For the impact analysis it is considered that the 'per stick' fixed minimum is 70% of the 'catch all' (per weight) minimum. Considering that one HTP stick is approximately 0.3g, the above ratio implies that the equivalent unit of consumption for other HTP format is assumed around 0.4g.

These possible effects of EU minima were assessed **on excise duties and market**. The impact analysis consisted of the following steps:

- **Impact of EU minima of Member States excise rates.** The impact of the fixed and relative minima have been examined separately. The lowest value between the effects of the two conditions have been eventually retained (since fixed and relative minimum are alternative conditions).
- **Impact on price levels.** It has been assumed that part of the tax would not be passed on to consumer. Regarding the estimation of the tax pass-through, the approach is based on the assumption that HTP's WAP shall remain in a fixed proportion with cigarettes WAP, and specifically at 83% of cigarettes' level, which is the HTP / cigarettes price ratio in 2023. This assumption is supported empirically by the fact that the WAP of HTP in Member States appears more robustly correlated with the WAP of cigarettes than with the HTP tax rate (the correlation coefficient with cigarettes' WAP is 0.89, against 0.36 in the case of HTP tax rate). This suggests that, where feasible, manufacturers would rather maintain HTP price somehow pegged to the price of cigarettes. This appears realistic also considering that the excise duty incidence on retail price would remain comprised between 35% and 40%, i.e. higher than the current 25% but in line or lower than what is already the situation in various Member States (Germany, Lithuania, Latvia, Sweden) where HTP is marketed. This is in line with the empirical observation of tax / price dynamics in Member States in recent years.
- **Impact on the demand.** Regarding the price elasticity of the demand for HTP, coefficient of -1.36 was used.
- **The impact on tax revenues** have been then calculated by multiplying the new EDY levels by the revised sales volume (net of market losses due to reduced demand).

8.2.2. Liquids for e-cigarettes

The impact analysis on excise duties and market followed the following the same steps as for HTP:

- **Impact of EU minima of Member States excise rates.** To estimate market impacts at Member State level, the effects of the fixed minimum and relative minimum were assessed separately and retained the lowest of the two (as these would be set as alternative conditions). Where a national ad hoc tax already existed, the incremental effects of the EU minima (if any) was estimated.

- **Impact on price levels and demand.** As for the price elasticity of demand, the coefficient of -1.36 was used.²⁰⁶ Regarding the tax pass-through, the approach takes into account the price strategies that operators might adopt to offset in part the effects of tax increase. Liquids of e-cigarettes price is poorly correlated with the price of cigarettes, so an alternative approach has been developed based on the empirical observation of tax and price data in the 2020-2023 period. In summary, while tax rates increased on average by 81%, the WAP increased by only 20%.²⁰⁷ This translates into a pass-through factor elasticity of 0.25, which have been used to simulate the impact of the introduction of EU minima.
- The **impact on tax revenues** have been then calculated by multiplying the new excise duty levels by the revised sales volume (net of market losses due to reduced demand).

8.2.3. Other manufactured tobacco and related products

Other manufactured tobacco and related products (except nicotine pouches). The estimation model is the same used for traditional tobacco products, but with the elasticity coefficient applied to new products. However, compared to HTP and e-cigarettes, the underlying data remain less robust, so the validity of estimates have to be taken with greater caution.

Nicotine pouches. The coverage and reliability of available market data has improved, allowing a more reliable baseline assessment. At the same time, the impact of harmonisation remains complex to estimate because nicotine pouches have only recently been introduced, so price, demand, and product characteristics have not yet stabilised and, secondly, despite the steep growth, nicotine pouches remain a niche product in most Member States. The standard simulation model estimates that for some Member States indicate a possible market collapse would be possible. While this scenario cannot be entirely ruled out, it appears more probable that operators will adopt pricing strategy to minimise such risk, especially considering that nicotine pouches are mostly marketed by transnational tobacco companies, which are commonly more resilient than SMEs to market shocks. The impact simulation has therefore been developed based on the assumption that in each Member State the WAP will not increase more than the monetary value of the tax increase caused by EU minima. This assumption is based on the empirical observation of price trends before and after the introduction of national tax in the three Member States that did so in the 2020-2023 period.²⁰⁸ A demand elasticity coefficient of -1.36 has been considered. Analysis relates to standard 20 units container weighting 14g – i.e. 0.7g per unit. Given the limited number of observations available, the results of this simulation have to be considered as indicative.

Administrative costs and savings for new products

²⁰⁶ Huang J, Gwamnicki C, Xu X, Caraballo RS, Wada R, Chaloupka FJ. A comprehensive examination of own- and cross-price elasticities of tobacco and nicotine replacement products in the U.S. *Prev Med.* 2018 Dec; 117:107-114. doi: 10.1016/j.ypmed.2018.04.024. Epub 2018 Apr 21. PMID: 29684418; PMCID: PMC6195827.

²⁰⁷ The analysis focussed on 11 Member States where the taxation of e-cigarettes has increased between 2020 and 2023. In monetary values, the average rate moved from EUR 0.11 to EUR 0.20 per ml, while the average WAP, in the same countries, moved from EUR 0.48 to EUR 0.57 per ml. To avoid distortions due to market composition, the analysis focussed on the price of liquids for open systems.

²⁰⁸ Specifically, Hungary introduced a national tax on nicotine pouches in 2021, Italy and Denmark in 2022. The analysis of price effect is based on the empirical observation of WAP over a three-year period starting in the year before the tax adoption of the tax and ending in the year after the tax adoption. The following step involved estimating the ratio between the price increase and the tax increase (both in monetary terms). It turned out that in Denmark the price level increase was higher than the tax; in Hungary it was much lower, while in Italy the price increase corresponded to the monetary value of the tax. So, it was eventually assumed that – on average – the price increase in other Member States would roughly correspond to the monetary value of the tax increase.

The proposed introduction of new harmonised tax categories would generate additional administrative and adjustment costs. These additional costs include information obligations, such as the need for economic operators to obtain authorisation, fill-in tax declarations, etc., as well as substantive obligations, such as establishing and operating a tax warehouse, setting up an appropriate IT system for managing movements under the EMCS, and keeping fiscal records.

The estimation methodology is based on the Standard Cost Model (see Box A3-2) and encompasses recent inflation trends.

Box A3-2. Overview of the Standard Cost Model approach

The approach of reference for the estimation of administrative and adjustment costs is the Standard Cost Model, which consists, in summary, of the following steps:

- (i) identification of the new obligations established by the proposed policy revision and of the specific actions (procedures, operations) required to comply with them;
- (ii) removal of '*business-as-usual*' (BAU) costs, i.e. the actions and the related costs that concerned entities would incur anyway, even in the absence of the policy reform (only incremental costs are relevant for the analysis);
- (iii) quantification of the *unit costs* associated with the specific actions identified, including appropriate depreciation of investment costs, and the possible variability of unit costs depending on the nature and size of the affected entities (e.g. SME or large firms);
- (iv) identification of the *frequency* of required actions, i.e. whether the required action is 'one-off' or recurrent and – if recurrent – whether it is periodical (e.g. annual fixed costs) or transactional (linked to operations);
- (v) identification and quantification of the concerned *population*, i.e. which and how many entities would be affected.

The actions required have been classified in relation to the periodicity involved (one-off v. recurrent actions) and the nature of the costs generated (investment, staff time, fees, etc.). Some of the required actions may differ depending on the economic operator's profile. It was elaborated different estimates for manufacturers (which are, for instance, assumed to register as tax warehouse-keepers and operate under duty suspension) and importers/wholesalers, who are more likely to seek authorisation as registered or certified consignees (with no duty suspension-related obligations involved).

The estimation of each required action's costs is based on the simple formula 'Price x Quantity', where the unit price (expressed in monetary terms) can refer to various quantities, such as number of economic operators (like registration costs), number of operations (like EMCS transaction costs), etc. The unit price may vary depending on several factors, not all of which can be considered in the model. EU average price in the calculations (e.g. the EU average cost of labour including overheads) it was used.

The methodology includes estimations of obligations which would not stem from Directive but from the extension of the obligations of the Horizontal Directive to new products/economic operators, namely the obligations related to producing, holding and moving of excise goods in the EU.²⁰⁹ The

²⁰⁹ Wherever feasible, the regulatory costs parameters that were estimated in previous external studies, (1) Ramboll, 'Evaluation of current arrangements for the holding and moving of excise goods under excise duty suspension', and (2) 'Study contributing to an Impact Assessment on Council Directive 2008/118/EC concerning the general arrangements for excise duty'. In this sense, they present a substantial degree of uncertainty. Some estimates are based on the e-cigarettes economic operators survey conducted under the EA 2019 (External study).

analysis does not include obligations involving negligible effects that are not strictly connected to the EU legislation (e.g. additional national rules and provisions, or side-effects on non-directly involved operators), or impossible to quantify (e.g. the risk of errors).

Also, cost parameters have been increased by a standard 19.2%, which is the overall increase in the HICP index over 2021-2024. Calculation parameters like labour costs and unit costs (e.g. of EMCS operations) refer to the EU average and not to specific costs in Member States as the information was insufficient to break down costs by country in a robust manner.

There are no official data on the *number and type of enterprises* active in the sectors concerned. The number of affected economic operators was estimated in two ways: (1) assuming the number of enterprises varied proportionally to the size of the market; and (2) removing enterprises based in Member States that have recently introduced national taxes (i.e. assuming in such cases, EU-level harmonisation would not translate into additional costs).²¹⁰

It has been assumed that the *incremental costs would be negligible* as in a number of cases the products and/or the operators at stake are already subject to similar obligations due to national fiscal legislation. Evidently, the actual costs incurred might vary greatly depending on how Member would transpose and enforce the new rules, as the Horizontal Directive leaves substantial margins of freedom to Member regarding implementation.

The reported impact might be affected by a whole set of additional Member State-level obligations that would plausibly be put in place to implement the reform at the country level. Also, it was that the new requirements would apply to the current business models and practices, but in reality, we could expect that such practices would be modified to offset as much as possible the effects of the new rules.

8.3. Raw tobacco

Impact on illicit manufacturing and trade because of putting raw tobacco under the scope of the Directive cannot be precisely quantified because (1) the magnitude of the problem can only be roughly estimated and (2) the proposed measure is a radical innovation for which there is no benchmark, and the impact of similar Member States regimes can only partly be leveraged to this end.

Regarding impact on administrative and adjustment costs for economic operators the following worth highlighting:

- It has been assumed that the proposed measures would be equally implemented in all Member States, although various aspects will actually remain up to Member to decide (e.g. actual excise duty rates, level of guarantees required, registration criteria and conditions, treatment of internal movements, etc.);
- It has been assumed that economic operators would choose to implement the new rules by choosing the options that would minimise the costs incurred (e.g. establishing a tax warehouse or not, moving products under the duty-paid or duty-suspension procedures), but *operator choices would also be influenced by other factors*, which cannot be considered in the model, and relate to individual economic operators capacity, operations, local business environment, etc.

²¹⁰ External study.

- Simulations developed are based on the current situation, as it is not feasible to predict how players, practices and flows would change as a consequence of the reform (e.g. shift toward shorter/domestic supply chains, storage at farm level, recourse to offshore processing, establishment of storing facilities outside of the EU, and, possibly, reliance on non-EU raw tobacco etc.).

Quantification of the administrative and adjustment costs is based on the same methodology as for new products. The methodology – based on the standard cost model – consists of estimating (1) the ‘price’ (unit costs) of each new action that would be required of economic operators, and (2) the ‘quantity’ of actions required, in relation to the number of operators, the number of transactions, the periodicity of the requirement, etc. The business-as-usual costs, which are the costs that EO’s would incur anyway (even in the ‘no change’ scenario), have to be subtracted from the total.

The estimates provided are subject to the following caveats and limitations and should be viewed as indicative:

- There are no Eurostat or other official data on the number and type (first or second processors, importers etc.) of economic operators in the raw tobacco sector. Where available, estimates have been gathered from authorities and stakeholders, otherwise the EA 2021 study figures have been revised assuming the number of operators varied with the size of the market.
- The unit costs of requirements were primarily drawn from the background studies of the Horizontal Directive, and/or stakeholders.
- Inflation rates and calculation parameters like labour costs and unit costs (e.g. of EMCS operations) refer to the EU average and not to specific costs in Member States as the information was insufficient to break down costs by country in a robust manner.

The costs that Member States authorities would incur from the adoption of a harmonised excise category for raw tobacco are of two main kinds:

- (1) the costs for including new economic operators in the excise system, which relate to *registration and authorisation* activities (one-off and periodical renovation); and
- (2) the costs related to operations, which include capital costs of adapting the *IT infrastructure* (EMCS interface, etc.) to the enlarged scope of the system, and the costs of individual *transactions* (verification and confirmation of movements under EMCS).

The costs analysis focussed on *incremental costs*, i.e. it did not include costs already incurred in Member States where a fiscal regime for raw tobacco is already in place. In particular, fiscal registration and/or authorisation related costs are deemed nil where similar provisions are already in place. For the costs on operations, it has been assumed that all Member States would incur additional costs, as EMCS is not currently used for cross-border movement of raw tobacco in any Member State.

The different policy scenarios examined can influence the extent of the costs incurred by Member States’ authorities. In particular, the zero-rate option might prompt operators to use the *duty-paid procedure* instead of duty suspension where feasible.

8.4. Comparison of the options

The final step in the impact analysis was a comparison of policy options. The issues addressed in this analysis call for policy reviews that are relatively independent of each other (e.g. new products and raw tobacco). Therefore, the options were compared for each thematic area separately rather than cumulatively.

ANNEX 4: COMPETITIVENESS CHECK

1. Overview of impacts on competitiveness

One of the key objectives of the initiative is to reduce demand and consumption of tobacco and related products by raising their prices through taxation. As such, and differently from other initiatives, it is by definition affecting market sales of businesses involved. Having said that, it is also important to identify where the initiative brings competitive benefits, and verify whether the proposed measures interfere with competition between different types of operators.

Dimensions of Competitiveness	Impact of the initiative (++ / + / 0 / - / -- / n.a.)	References to sub-sections of the main report or annexes
Cost and price competitiveness	--	Main report sections 6, 7 and 8; ANNEXES 3 and 17.
International competitiveness	0	Main report sections 6, 7 and 8; ANNEXES 3, 12, 13, 14, 15 and 17.
Capacity to innovate	0	Main report sections 6, 7 and 8.
SME competitiveness	-	Main report sections 6, 7 and 8; ANNEXES 3, 13, 15 and 17.

2. Synthetic assessment

Cost and price competitiveness

The impact of the preferred options on the cost and price competitiveness is overall negative. This overall estimation takes into consideration the different and diverging impacts, as explain here below.

The impact of the revision on excise duty levels would be higher for certain products (cigars/cigarillos) and lower for others (cigarettes), but this should be interpreted as redressing current disparities in the tax levels applied to different product categories. In particular, the proposed revision would help approximating the tax rate of cigarettes and fine-cut tobacco, mitigating tax-induced substitution.

The revision of EU minima would lead to price increase, hence reduction of demand and subsequently of market sales, even if some losses could be offset through exporting (the EU being a net exporter of cigarettes and fine-cut tobacco). The preferred option, which foresees high increase of minima for tobacco products, would have more pervasive effects. Specifically, the preferred option is expected to generate a 14% reduction in market sales of cigarettes, -9% in the case of fine-cut tobacco, -13% for cigarillos, -5% for cigars, -12% for other smoking tobacco.

The proposed introduction of separate excise categories for cigarillos and waterpipe tobacco, would allow to apply tailored tax regime, thus reducing unintended negative impact on other products (cigars and pipe tobacco).

The impact will differ across Member States, with substantial impact in some countries, while others are not affected at all, depending on existing excise rates. The proposed PPP-based adjustment will allow to mitigate most significant effects.

The four large transnational tobacco companies that dominate the tobacco market may be able to adjust retail prices to minimise reduced profitability.²¹¹ First and second processors who depend directly on sales volumes and are typically bound to local markets, may be more affected.

Regarding new products, the negative effects of price increase would be in part offset by the benefit of harmonisation, and the removal of obstacles to cross-border trade in the internal market (currently affected by national fragmentation).

On the other hand, the introduction of harmonised categories for new products and raw tobacco would increase administrative and adjustment costs for operators, thus reducing their competitiveness, although many businesses operating in these segments are already compliant with EU requirements or similar requirements at national level.

International competitiveness

Excise taxes apply when the goods are released for consumption in the EU thus at the level of importers or manufacturers, whereas exports are not subjected to excise duty. Foreign and domestic operators are therefore equally impacted by the increase of EU minima.

Regarding new products, the impact of administrative burden is not relevant as (1) heated tobacco manufacturers are big companies that already incur in such costs; (2) e-cigarettes export is currently negligible compared to import.

Under the preferred option, the cost increase for first processed tobacco would remain below 0.1% for both raw tobacco in the EU and imported tobacco, with negligible effects on competitiveness.

Capacity to innovate

None of the elements proposed for revision appear to have any impact regarding the capacity to innovate of business. The introduction of ‘catch-all’ categories allows fiscal regimes to remain neutral vis-à-vis future product developments.

SME competitiveness²¹²

In general, the increase in taxation and related administrative costs would affect all operators. However, SMEs would be comparatively more affected as they are less capable to absorb the cost increase. On the other hand, the tobacco sector is largely dominated by big tobacco companies, so negative effects for SMEs are expected only in the e-cigarettes sector, and to a much lesser extent, in the raw tobacco sector, and in limited subsectors (e.g. cigars, pipe tobacco, smokeless tobacco).

Focusing on SMEs in the e-cigarettes sector, the following impacts can be expected:

- The reduction in the demand and sales that would follow the increase of taxation will lead to some market consolidation, as evidenced after the introduction of national ad hoc tax regimes. Assuming a consolidation proportional to sales reduction it can be expected a reduction in the number of SMEs of up to 1 500 SMEs. In turn, this would accelerate the expansion of large companies, which are better equipped to face worsened competitive conditions. It is noteworthy that concentration is already underway in the e-cigarette segment, with

²¹¹ R. Branston, [Industry profits continue to drive the tobacco epidemic: A new endgame for tobacco control?](#), Tobacco Prevention & Cessation, 2021; Z.D. Sheikh, J.R. Branston, A.B. Gilmore, [Tobacco industry pricing strategies in response to excise tax policies: a systematic review](#), Tobacco Control, 2021.

²¹² See ANNEX 5: (SME check) for details.

transnational tobacco companies and large companies taking up a greater share of the market over time.

- The impact of regulatory costs (described in ANNEX 2:) would be mainly borne by SMEs, as the large companies active in this segment are already equipped to deal with the holding and movement rules for excise goods. However, the average additional costs incurred by operators is estimated at around EUR 1 500 - 2 000 annually, with a negligible effect on overall SME competitiveness.
- The impact of regulatory costs increase is estimated to be slightly higher for manufacturer than for importers. However, since manufacturers' operation volumes are deemed larger than importers' ones, the effects on price levels would be similar and no trade-off between EU-manufactured and imported products is expected.

From the other side, the initiative will harmonise regimes for new products that, in turn, would remove the market barriers caused by the fragmentation of national rules and regimes, creating new opportunities for operators, and especially SMEs, to expand their activities to other markets. Furthermore, the harmonisation would contribute to remove the disparities in taxation levels, which are behind unfair competition practices such as B2C online sales from countries where no excise is levied, and cross-border shopping. This issue affects primarily the e-cigarettes sector, which is mostly made of SMEs. Therefore, the proposed revision would help establish a level playing field, whose benefits will be mostly reaped by small players.

ANNEX 5: SME CHECK

OVERVIEW OF IMPACTS ON SMEs

Relevance for SMEs

The initiative is only partly relevant for SMEs. With regards to the different elements of the proposed revision:

- The revision of EU minima for tobacco products is not relevant for SMEs, as they play a negligible role limited to the manufacture of cigars, pipe tobacco and other specialty products.
- The enlargement of the scope to HTP and tobacco related products is not relevant for SMEs, as these segments are largely dominated by transnational tobacco companies and other large companies. However, the harmonisation of the tax regime for e-cigarettes is considered relevant for SMEs involved in the manufacture and trade of liquids. However, due to the ongoing concentration in this segment, its relevance for SMEs is expected to decline in the future.
- The enlargement of the scope to raw tobacco is considered relevant for SMEs involved in the tobacco growing sector.

(1) Identification of affected business and assessment of relevance

Are SMEs directly impacted? Yes

In which sectors?

The manufacturing stage, which would be directly affected by the initiative, is largely dominated by large enterprises, with SMEs playing a limited role only in selected market segments, in particular:

- **Manufacture of Tobacco Products.** The manufacture of traditional tobacco products is largely dominated by large enterprises. In 2023 there were 306 enterprises involved in the manufacture of tobacco products, of which 34 were large enterprises.²¹³ However, these enterprises accounted for nearly 87% of the workforce and for 90% of total turnover. The importance of large enterprises has increased in recent times, as their share of total employment and turnover has increased since 2021. In practice, the manufacture of tobacco products is largely controlled by four transnational tobacco companies, plus some national players, which in particular dominate the cigarettes markets. Only the production of cigars/cigarillos, pipe and waterpipe tobacco is mostly controlled by a limited number of medium sized players.
- **Manufacture of Non-Harmonised Products.** The production of HTP is dominated by transnational tobacco companies, with SMEs virtually playing no role. Regarding e-cigarettes, it is estimated that this sector includes 300 manufacturers of e-cigarettes liquids²¹⁴, SMEs accounting for the near totality of e-cigarettes manufacturers/importers. However, in recent years the market value controlled by transnational tobacco companies and other large

²¹³ EUROSTAT's Structural Business Statistics (SBS)

²¹⁴ Based on information gathered directly from authorities and stakeholders and other secondary sources. External study

corporation (especially Asian companies) has increased, in conjunction with the expansion of the ‘closed systems’. The share of transnational tobacco companies in the e-cigarette segment has grown from 2% in 2014 to possibly 70% in 2023. The nicotine pouches sector appears largely dominated by transnational tobacco companies and their subsidiaries although there are also a few independent producers, especially in Sweden and Denmark, which are often also snus producers. In value terms, large company accounts for the large majority of the market, with small players below 1% of market share.

The role of SMEs is more important in the other stages of the tobacco supply chain, on which the initiative would have a direct effect, in particular:

- **Tobacco Processing.**²¹⁵ First processing is carried out by around 30 enterprises, with the bulk of activities being accounted for by subsidiaries of key players in the tobacco industry, vertically integrated manufacturers of tobacco products, and other large operators. There are possibly 12-15 small processors, estimated to cumulatively accounting for 10% of total tobacco processed in the EU. Second processing is even more concentrated, with one main operator based in France, a few subsidiaries of first processing large companies, and possibly less than ten small processors.
- **Importing and Wholesaling.** In 2022 there were almost 2 000 enterprises involved in wholesaling of tobacco products.²¹⁶ With an average workforce of 25 employees and turnover of EUR 45 million, these enterprises would qualify as SMEs. Regarding non-harmonised products, there are around 3 000 importers dealing with e-cigarettes, with a clear prevalence of SMEs, while import of HTP and nicotine pouches is mostly carried out by transnational tobacco companies.²¹⁷

Estimated number of directly affected SMEs

The number of SMEs potentially directly affected by the initiative is estimated at around 5 300 EU-wide.

Estimated number of employees in directly affected SMEs

There is no data on the associated employment. However, since over half of these SMEs are importers, the number of employees is expected to be minimal.

Are SMEs indirectly affected? Yes

In which sectors? What is the estimated number of indirectly affected SMEs and employees?

The initiative would have an indirect effect on the following sectors, because of reduced tobacco consumption:

- **Tobacco Growing.** 15 000 farmers grow tobacco, down from an estimated 60 000 active in 2010. These are typically small operators, on average cultivating 2-3 hectares. Tobacco growers are usually members of umbrella organisations (Producers’ Organisations and Associations of Producers Organisations). As a result of a progressive concentration, tobacco farms are controlled by just two to four umbrella organisations in most tobacco growing countries.

²¹⁵ See ANNEX 14: for details on the raw tobacco supply chain

²¹⁶ EUROSTAT’s Structural Business Statistics (SBS)

²¹⁷ External study.

- **Retailing of tobacco and related products.** This sector shows significant differences across Member States, with countries where tobacco products is/used to be a state monopoly, and others where tobacco products are mostly sold in supermarkets and grocery stores. There are no consolidated statistics on tobacco retailers in the EU: while EUROSTAT statistics identify 67 181 retailers of tobacco products, industry sources and national reports concerning a sample of nine Member States provide an estimate of 133 000 tobacco shops and another 90 000 points of sales (gas stations, bars & restaurants, supermarkets' outlets). Tobacco shops are overwhelmingly micro and small businesses.²¹⁸ To a large extent new products are sold at retail in the same generalist or specialised stores that sell tobacco. In addition to this, e-cigarettes can be purchased in small, specialised 'vape-shops' and online (where national legislation allows).²¹⁹ A few HTP specialised shops also exist in few large EU cities.

Source: External study

(2) Consultation of SMEs Stakeholders

How has the input from the SME community been taken into consideration?

SMEs were consulted in the context of the different consultation activities ran in preparation for the impact assessment, and their input has been duly taken into consideration.

First, the public consultation has been implemented through an on-line questionnaire survey, accessible through the Commission website Have Your Say, from 30 March to 22 June 2021.

518 economic operators, including business associations and organisations, companies, trade unions, contributed to the public consultation and have been grouped in a category called 'industry' for the purpose of the analysis. Among these, 321 (62%) were micro enterprises, 83 (16%) were small enterprises, and 41 (8%) were medium enterprises, with SMEs cumulatively accounting for about 86% of industry bodies participating in the public consultation. In particular, 101 industry stakeholders from the e-cigarette manufacturing/importing business, among which 89 SMEs.

From the analysis of the public consultation results, it appears that respondents from companies qualifying as SMEs (394) supported the harmonisation of e-cigarette liquids containing nicotine at 57% (64% of medium-sized companies, 65% of small-sized companies, 54% of micro-sized companies), and not containing nicotine at 46% (40% of medium-sized companies, 52% of small-sized companies, 44% of micro-sized companies). Regarding the potential excise duty rate to be applied to e-cigarette liquids, 45% of the companies qualifying as SMEs expressed a preference for the EUR 0.10 per ml option (36% of medium-sized companies, 56% of small-sized companies, 43% of micro-sized companies), while 40% of them preferred no taxation at all (48% of medium-sized companies, 29% of small-sized companies, 42% of micro-sized companies).

²¹⁸ Confédération Européenne des Détaillants en Tabac - CEDT survey involving over 9,000 tobacco shops in eight Member States: 59% shops employed one or two persons, another 31% employed three or four people, and just 10% employed five or more. First EU-wide CEDT Survey for Tobacco Retailers, 2024

²¹⁹ The exact number of vape-shops across the EU is unknown, but according to industry's stakeholders there are no less than 65 000 specialised e-cigarettes retailers based in eight main EU markets, i.e. Belgium, Germany, Spain, France, Italy, the Netherlands, and Romania.

SMEs were also consulted in the context of targeted interviews, which involved 41 entities across the EU, through the associations representing their interests in various product segments at national and EU levels. While these bodies typically represent an entire market segment or stage in the tobacco products supply chain, due attention was paid to aspects of relevance for SMEs. This was particularly the case for interviews with entities active in tobacco growing, tobacco processing, manufacturing and wholesaling of new products (notably e-cigarettes), and retailing, which as indicated above in Step 1 are those with the greatest involvement of SMEs. These interviews were particularly useful to gather information for the estimation of administrative burdens potentially linked to the harmonisation of new products and raw tobacco.

Finally, the call for data allowed for the collection of information on SMEs involved in the retailing of tobacco products.

Are SMEs' views different from those of large businesses? Not fundamentally according to the consultation activities carried out.

(3) Assessment of impact on SMEs

What are the estimated direct costs for SMEs of the preferred policy option?

The assessment of direct impacts on SMEs focuses on the proposed harmonisation of e-cigarette taxation and on the enlargement of the scope of the Directive to raw tobacco. SMEs operating in the manufacture, import and wholesale of traditional tobacco products are deemed already compliant.

Distinctions between large companies and SMEs have been fully considered, in the data and assumptions underlying the cost benefit assessment of the proposed measures, which were tailored to the specific constraints faced by SMEs.²²⁰ Other elements have been assessed qualitatively.

The proposal for EU excise duty minima on e-cigarette liquids would generate compliance costs for all economic operators involved including SMEs:

- administrative costs which are primarily related to general excise arrangement obligations such as to obtain authorisation, adopt record-keeping tools and procedures, fill-in tax declarations;
- adjustment costs to establish and operate a tax warehouse (where required), to install and operate IT software for excise control.

The exact amount of these costs depends on how each EU country implements EU rules. Indeed, while common provisions are agreed at EU level, Member States retain room for manoeuvre when setting up specific requirements and obligations on economic operators. Second, as e-cigarettes are already subject to fiscal regulation in several Member States, some of the compliance costs linked to the EU intervention would simply replace costs resulting from national legislation and, therefore, would not be fully incremental.

²²⁰ For instance, the costs of setting up a tax warehouse (where required for new products) is deemed much higher for large company than for SMEs, in relation to the different volume of activities.

The additional costs incurred would amount on average to EUR 1 500 – 2 000 annually for each SME operating in the e-cigarettes segment (costs are higher for manufacturers than for wholesalers/importers).

Additional costs incurred to the e-cigarette industry sector (aggregated) are distributed as follow:

- registration in the excise system: one-off cost, around EUR 0.5 million;
- set up a tax warehouse: one-off set-up cost of EUR 9.1 million²²¹, and recurrent costs of EUR 1.0 million per year;
- IT set-up and operation related to the EMCS: recurrent costs of EUR 5.4 million.

The proposal to enlarge the scope of the Directive to raw tobacco would generate compliance costs for economic operators involved in tobacco processing including a few SMEs. The additional costs for SMEs would include a one-off component of approximately EUR 0.1 million (essentially registration costs), and a recurrent cost component of EUR 0.8 million (mostly EMCS-related costs). For instance, annual costs for a first processing SME would amount to roughly EUR 6 000 / year, and to EUR 2,000 / year for an SME importing raw tobacco.

What are the estimated direct benefits/cost savings for SMEs of the preferred policy option?

The proposed excise harmonisation of new products would remove the market barriers caused by the fragmentation of Member States rules and regimes, creating new opportunities for operators, and especially SMEs, to expand their activities to other European markets. EU-wide approach will reduce trade uncertainties and increase legal certainty by reducing the divergent interpretations around product definition, administrative difficulties and associated costs. Furthermore, the initiative would contribute to remove the disparities in taxation levels, which are behind unfair competition practices like the direct B2C sales online from excise-free countries, and cross-border shopping. This issue affects primarily the e-cigarettes sector, which is mostly made of SMEs. Therefore, the legislative initiative would help establish a level playing field, whose benefits would be mostly reaped by small players. Although they are tangible, these benefits cannot be quantitatively assessed.

1. What are the indirect impacts of this initiative on SMEs?

The EU minimum rates foreseen under the preferred policy option are expected to have an impact on sales. Reduced consumption would indirectly affect businesses including SMEs operating at all stages of the supply chain. As far as SMEs are concerned:

- The impact of a reduction in demand for tobacco would have an impact on tobacco growers, but its size is not straightforward and not necessarily proportional. First, the agricultural market is highly dependent on policy decisions on subsidies, tariffs and quotas on imports; this is particularly the case for tobacco, as the vast majority of it is imported.²²² Second, the EU production of tobacco has been continuously declining due to a combination of different

²²¹ Setting up a tax warehouse is a one-off investment cost that can be annualised based on the depreciation period.

²²² Raw tobacco available for manufacturing in the EU amounted about 440 thousand tonnes in 2020 whereas only roughly 140 thousand tonnes were grown in the EU in 2019.

reasons over the past decade.²²³ Third, the final impact on employment may be dampened by switching to other crops, which is frequent in agriculture.

- The impact of a reduction in demand on retailers would vary across EU countries due to the diversity of market structures, as explained at step (1). Retail outlets typically do not sell only tobacco products. Ultimately, the impact will depend on the share of revenue from tobacco products out of the total revenue. It is not possible to quantify it due to the lack of reliable data.

Source: External study

(4) Minimising negative impacts on SMEs

Are SMEs disproportionately affected compared to large companies? Yes, to some extent.

SMEs are less capable overall to deal with new administrative requirements and absorb cost increase than large companies. In addition, since management of the excise regime is characterised by economies of scale in administrative and financial costs, SMEs would be comparatively more affected.

Have mitigating measures been included in the preferred option/proposal? No, it is not appropriate.

Tobacco is a peculiar product for which the standard criteria of industry competitiveness and market impact must be considered with caution, since the ultimate policy goal is to reduce demand and consumption. Accordingly, no mitigation measures are foreseen for SMEs. Nonetheless, the proposed measures have been conceived to minimise the risk of giving a competitive edge to certain products against others, in particular by preventing tax-induced substitution, and therefore to companies operating in certain segments.

Contribution to the 35% burden reduction target for SMEs

Are there any administrative cost savings relevant for the 35% burden reduction target for SMEs? No, the initiative is only partly relevant for SMEs, and for the reasons stated above, no SME-specific cost saving measures are envisaged.

²²³ This reduction is in line with the drop in cultivated surface, which nearly halved in ten years, from an estimated 112 000 ha to less than 60 000 ha in 2019. Information collected indicates that this trend has continued in recent years.

ANNEX 6: SMOKING PREVALENCE AND PRICE LEVELS

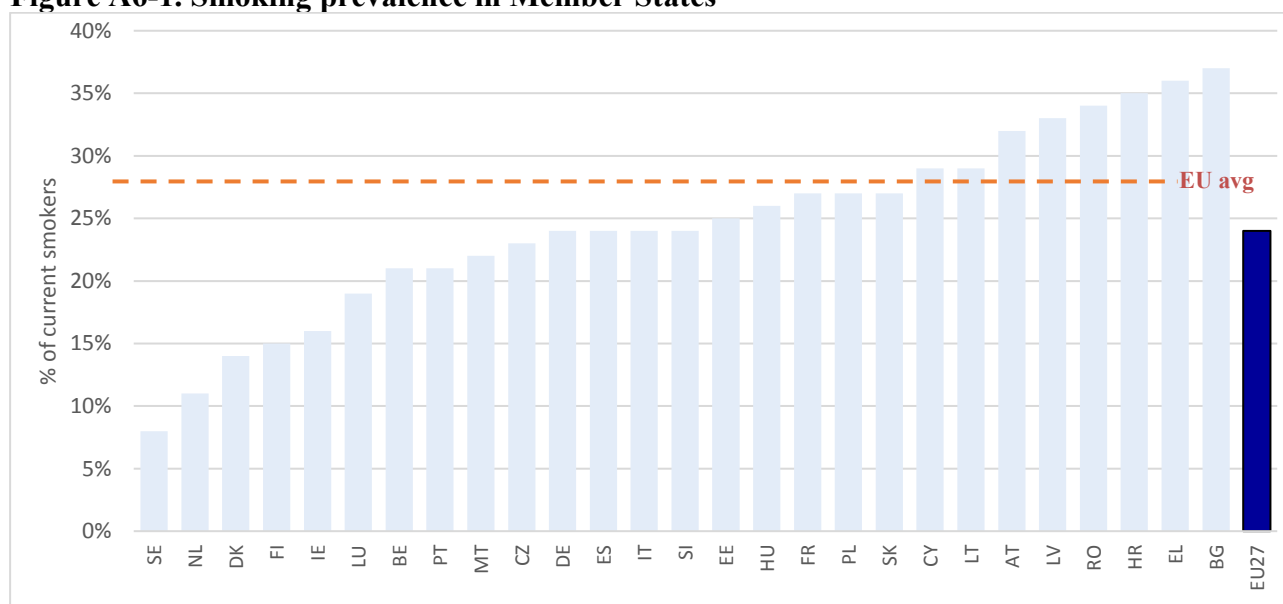
1. Smoking prevalence

In 2023, smoking prevalence amounted to 24% of EU population (older than 15 years old), which corresponds to approximately 92.1 million people (see

Figure A6-1), i.e., one percentage point less than 2020 and four points down compared to 2012 levels. However, there remain substantial differences between countries and population groups. In some Member States (e.g. Greece, Bulgaria and Croatia) smokers still represent more than 35% of the population, while in others (e.g. Finland, the Netherlands, and Sweden) prevalence has fallen below 15%.

Figure A6-1 summarises the smoking prevalence trends occurred in 2020-2023 in Member States. While Eurobarometer estimates are subject to some margin of errors (due to the numerosity of samples), data would indicate a substantial decline (more than 3 percentage points) in some countries (Czechia, Greece, Slovenia, Luxembourg) but also substantial increase in others (e.g. Romania, Austria, Estonia).

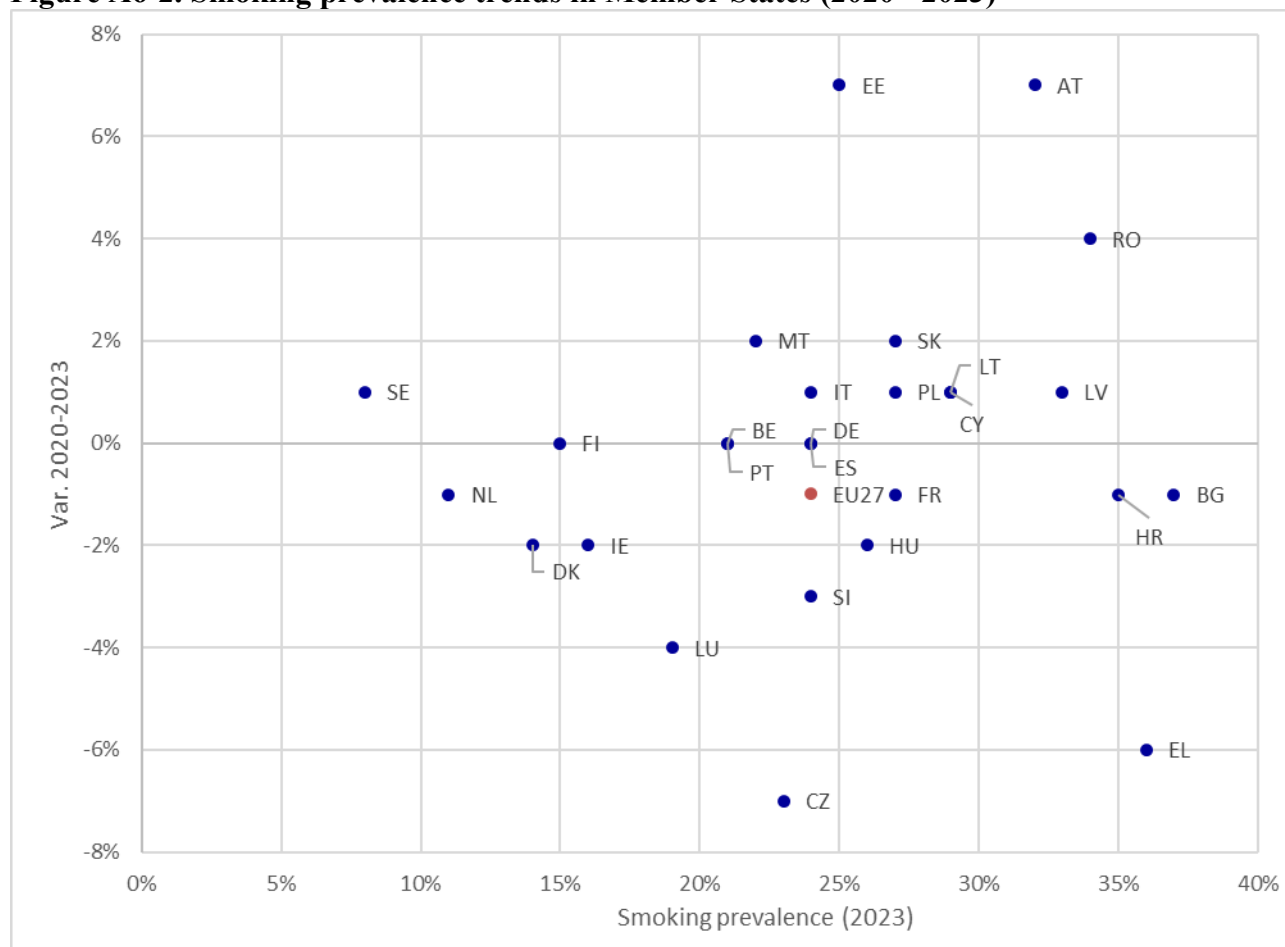
Figure A6-1. Smoking prevalence in Member States



Source: External study based on Eurobarometer, wave 99.3.

Note: Data refer to current use of any of the following products: cigarettes, cigars, cigarillos or a pipe.

Figure A6-2. Smoking prevalence trends in Member States (2020 - 2023)



Source: External study based on Eurobarometer (various editions)

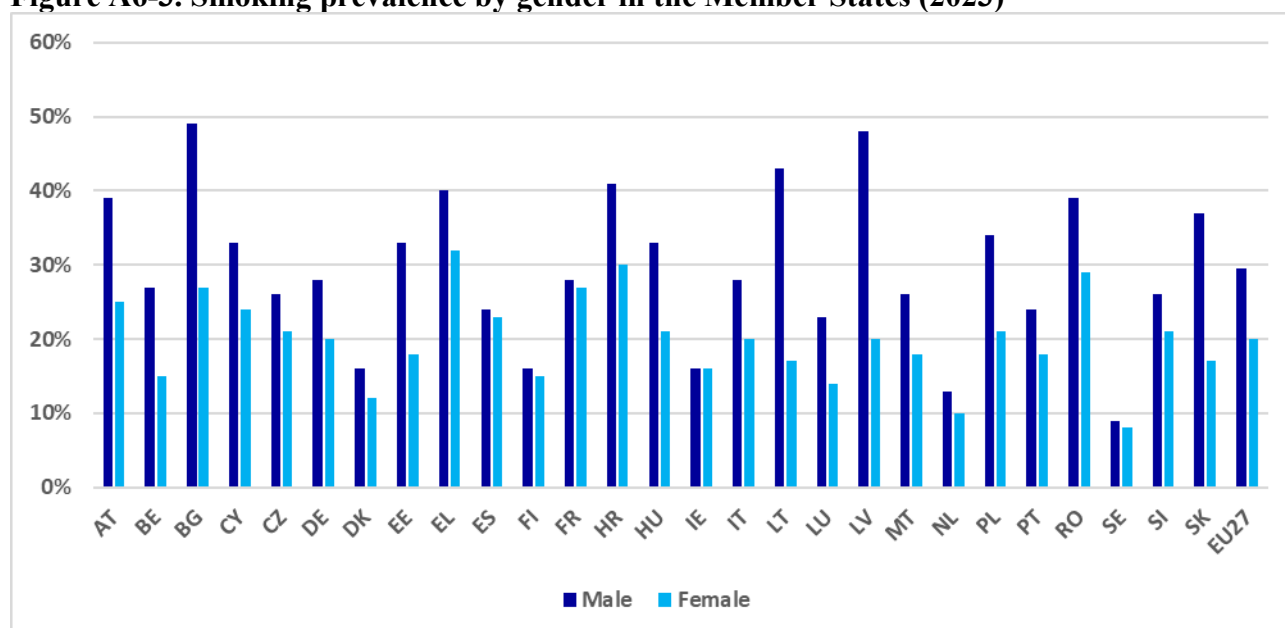
2. Smoking prevalence. Gender and socio-economic groups

Gender. Males are heavier smokers than females. In 2023, the prevalence of smoking among males at the EU level was 30%, with compared with 20% among females. Since 2012, when the first Eurobarometer survey on attitudes towards smoking was carried out, prevalence declined in both gender groups, but the decrease was relatively stronger among males. Indeed, among males, prevalence passed from 32% in 2012 to 24% in 2023, with a decline of 8 percentage points, i.e. about one quarter. Among females, prevalence declined by one fifth (i.e. from 24% to 20%).²²⁴ As shown in

²²⁴ External study.

Figure **A6-3** below, gender attitudes towards smoking vary considerably across Member States: in 20 countries the difference between males and females is wider than at the EU level, reaching or exceeding 15 percentage points in Bulgaria, Estonia, Lithuania, Latvia and Slovakia. In the remaining Member States, the gender gap is within 1 to 4 percentage points (Denmark, Spain, Finland, France, the Netherlands, and Sweden) or simply non-existent (Ireland, where 16% of both males and females declared smoking).

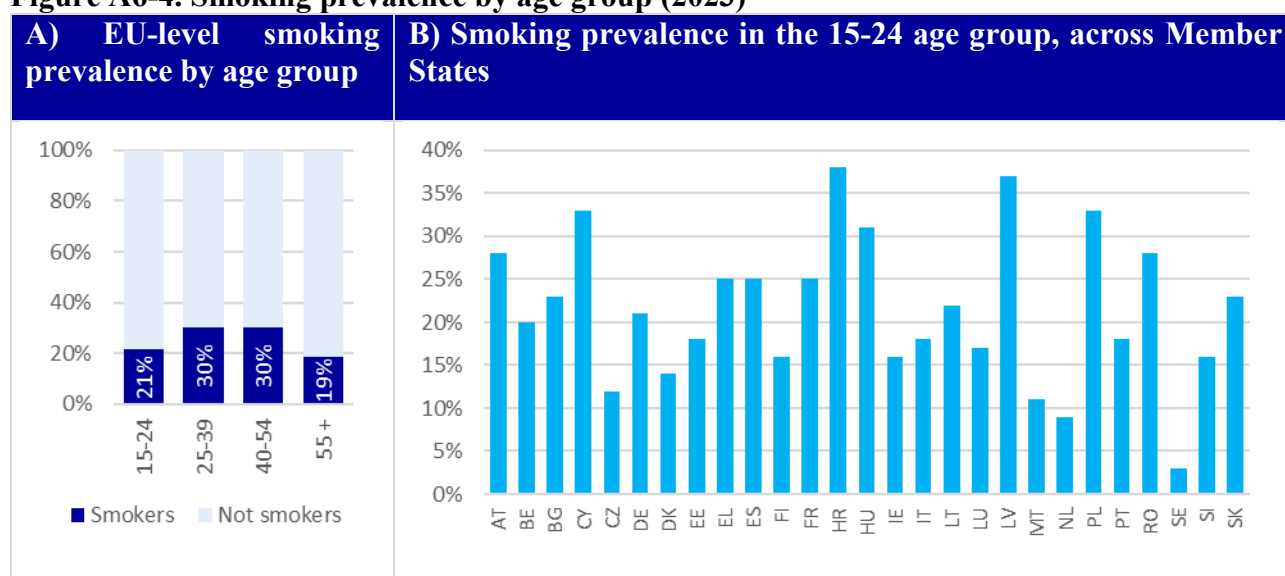
Figure A6-3. Smoking prevalence by gender in the Member States (2023)



Source: External study based on Eurobarometer wave 99.3

Age group. Smoking prevalence is distributed across age groups follow a reverse U curve (see Figure A6-4. Prevalence is below average in the youngest age group (15-24) and in the oldest one (55+). Since 2015, the prevalence among young people has declined by 3 percentage point. However, in five countries it remains above 30% (Poland, Hungary, Cyprus, Croatia and Latvia). The lowest prevalence among people aged 15-24 is found in Sweden (3%) where, however, there is a high prevalence of consumption of snus (8% among the 16-29).²²⁵

Figure A6-4. Smoking prevalence by age group (2023)



Source: External study based on Eurobarometer wave 99.3

²²⁵ External study.

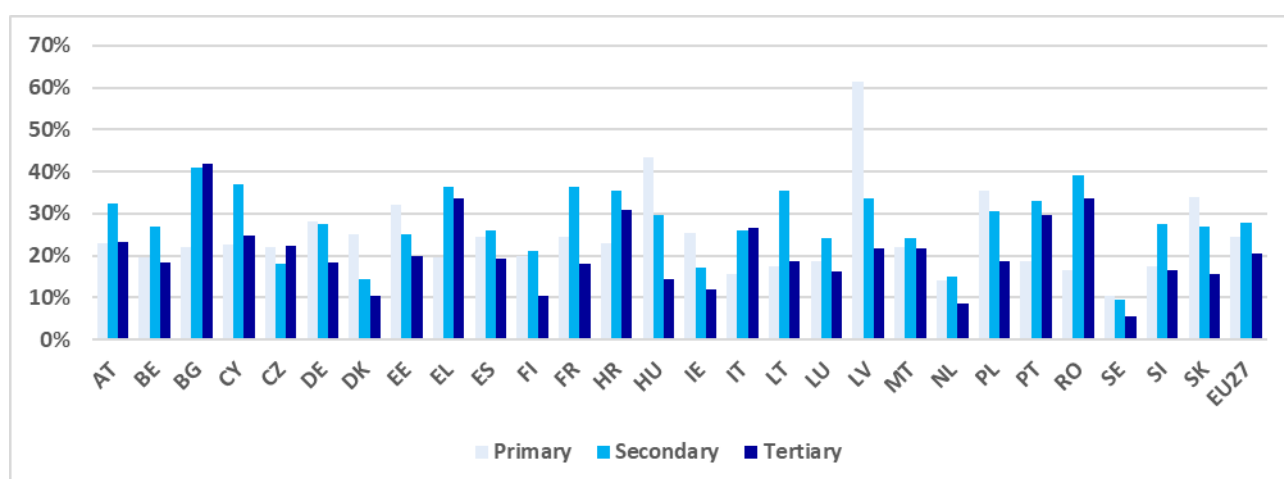
Note: in Panel A, figures refer to simple average of Member State value

Education and socio-economic conditions. Smoking prevalence is inversely correlated with socio-economic conditions, represented by the professional status. In 2023, prevalence was highest among the unemployed (40%) and manual workers (37%), and lowest among managers (20%) and especially, retired people and students (both at 16%), with self-employed, white collars and house falling in between (at, respectively, 28%, 25% and 23%). Compared with the situation in 2012 found by the first Eurobarometer survey, smoking prevalence declined for all professional categories, with the only exception of house persons which displayed a marginal increase from 21% to 23%. Again, there are differences across Member States, but the pattern found at the EU level is generally confirmed. In 2023, in no less than 22 countries the unemployed and/or the manual workers displayed the highest prevalence of smoking. Only in five Member States the ranking was led by other categories, namely self-employed (in Italy, Luxembourg and Portugal) and house persons (in Belgium and Hungary).

Level of education. Smoking prevalence is partly negatively correlated with the level of education. In 2023, the highest prevalence of smoking (28%) was found among people holding a secondary degree, followed by individuals with only primary education (24%) and those with tertiary education (20%). No precise comparison is possible with results of earlier surveys, but data on the age of leaving formal education suggests a decline in smoking prevalence by 3 to 5 percentage points since 2012. As usual, there are differences across countries, but as shown in Figure A6-5 below, in nearly two thirds Member States the highest prevalence of smoking was found among people with a secondary degree. In the remaining Member States the ranking is usually led by holders of primary education, with only a couple of cases (Italy and Bulgaria), where prevalence is highest among those with tertiary education.²²⁶

Figure A6-5. Smoking prevalence by education level (2023)

²²⁶ External study.



Source: External study based on Eurobarometer wave 99.3

Note: The three levels of education result from the aggregation of data for the nine categories of educational achievement (from pre-primary education to doctoral education) used in the Eurobarometer survey. This is intended to smooth differences attributable to the varying structure of education systems across Member States.

3. Affordability and the role of EU minima on tobacco products

As scientific literature shows, the causal link between taxation and smoking cessation patterns is far from linear. Many policy measures can reduce demand, namely: product regulation, smoke-free environment policies, tobacco advertising bans, health warnings and labelling, smoking cessation support, mass media campaigns, etc. Still, there is overwhelming consensus among the public health experts' community and concerned stakeholders that taxation is the single most effective measure to curb tobacco consumption. The analysis of the scant literature on the subject and the public health experts' own guess-estimates indicates that – depending on the country – it is reasonable to believe that between one-third and a half of the smoking prevalence decline might be roughly attributed to the impact of taxation policies.²²⁷ It is generally observed that in reality tobacco control policies and tobacco taxation tend to operate in synergy with one another, and the credibility and effectiveness of the former is greatly enhanced by consistency with the latter, in that taxation policy delivers an overall 'price signal' to society that smoking is indeed a harmful activity for consumers that should be discouraged by all possible means. So, the relationship between the two in the achievement of certain targets is not substitutive but rather complementary in fostering a greater reduction in smoking prevalence than each element would have achieved alone.

The standard indicator used in scientific literature to measure the affordability of cigarettes is represented by the relative income price (RIP), i.e. the percentage of per capita gross domestic product (GDP) (as a proxy for disposable income) required to buy 100 packs of cigarettes.²²⁸ An increase in the RIP value roughly indicates that cigarettes have become less affordable and vice versa.²²⁹ Figure A6-6 below provides the current RIP levels in Member States concerning both the weighted average price (WAP) of cigarettes registered in 2023 and the lowest price category available on the market (P_{\min}). As shown, affordability levels vary greatly across Member States: the highest RIP levels (hence lowest

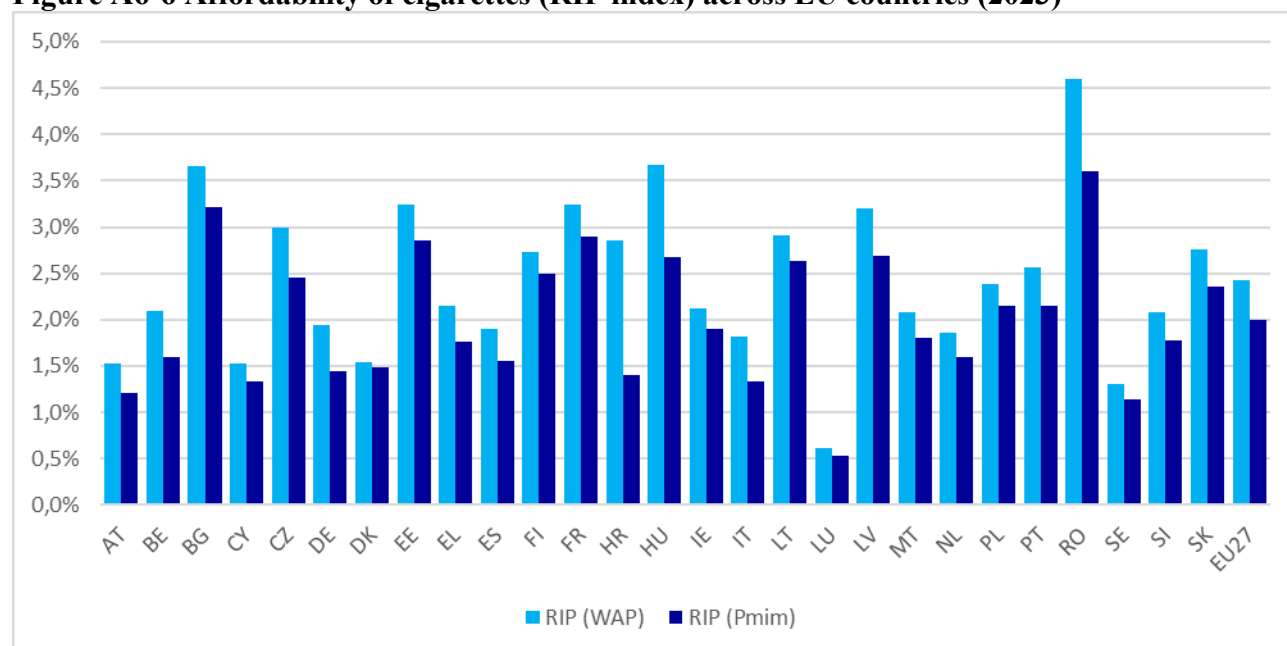
²²⁷ External study.

²²⁸ See: Blecher EH, van Walbeek CP, "An international analysis of cigarette affordability", Tobacco Control 2004.

²²⁹ Cross-country comparisons of cigarette affordability based on simple RIP values would nevertheless require some words of caution since there can be significant inequalities in income distribution and/or in the consumption patterns among different socioeconomic groups between countries that can eventually distort the results (External study).

affordability levels) can be found in countries with comparatively lower income, such as Romania, Bulgaria and Hungary. Conversely, cigarettes are most affordable in Luxembourg and Sweden.²³⁰

Figure A6-6 Affordability of cigarettes (RIP index) across EU countries (2023)



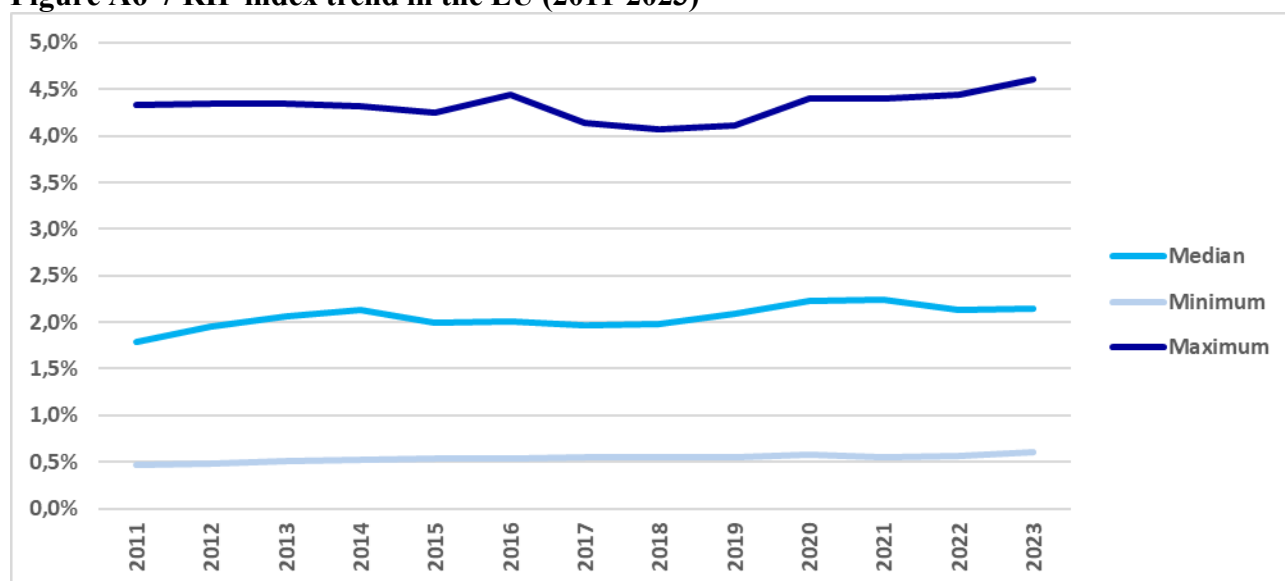
Source: External study

Notes: The RIP index is calculated by dividing the price of 100 packs of cigarettes (WAP or lowest price – P_{min}) by the GDP per capita (as a proxy of average income). The highest is the index, the lowest is the affordability.

The affordability of cigarettes has only marginally declined over time: decreased until 2014, then substantially stalled until 2019, and registered a decrease again in 2020. In 2023, the EU median RIP index was only slightly higher than in 2011 (i.e. 2.1% instead of 1.8%) and no relevant change occurred between 2020 and 2023. In the case of FCT, some reduction in affordability has instead been registered, as the affordability index moved from 1.5% in 2020 to 1.7% in 2023.

²³⁰ The GDP per capita is an imperfect proxy of consumer's income. Other metrics can be developed reflecting more accurately the disposable income and, therefore, the actual affordability. The current RIP formulation has the advantage of being immediately available for virtually all countries in the world, thus allowing WHO to conduct comparisons at the international level. In the EU, a more precise index can be elaborated starting from the Eurostat's disposable income indicator, which is, however, expressed in purchasing power terms and, therefore, have to be translated in nominal terms to make it coherent with the numerator of the RIP formula, i.e. price levels (or prices have to be translated in PPP terms). As alternative metrics for the calculation of a EU-specific RIP needs are not readily available (they need to be developed, validated and made stable by Eurostat). It was used provisionally the RIP standard formulation, based on GDP per capita, as it nonetheless provides a sufficiently accurate picture of the affordability situation in Member States (External study).

Figure A6-7 RIP index trend in the EU (2011-2023)



Source: External study based on DG TAXUD (Price data); Eurostat (GDP per capita data)

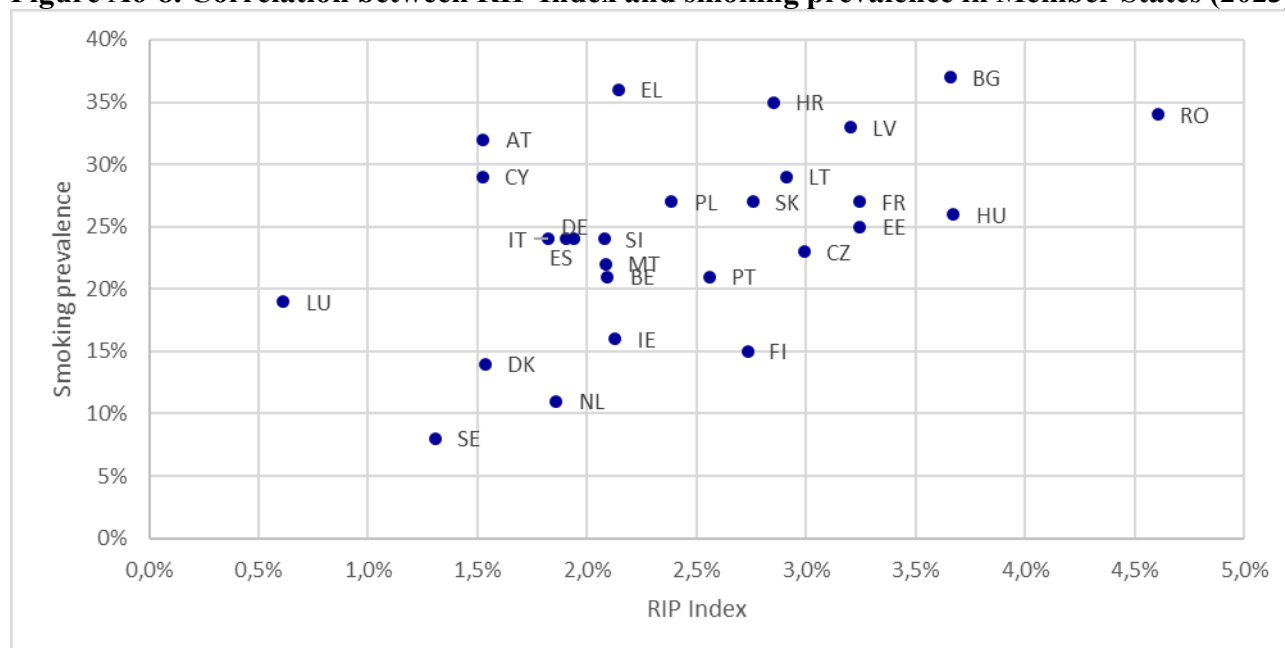
Notes: The RIP index is calculated by dividing the price of 100 packs of cigarettes (WAP) by the GDP per capita (as a proxy of average income). The higher the index, the lowest is affordability. The three values presented in the diagram refer to the minimum, median and maximum RIP value among Member States.

The lack of change in RIP levels registered in the past few years can be attributed partly to the fact that the EU minima have lost their traction on actual rates applied in Member States. Additionally, the current approach to EU minima is not conducive to the reduction of affordability as they are expressed in nominal terms and do not consider the disparities of income or purchasing power that exist between Member States. For instance, in nominal terms cigarettes in Bulgaria and Romania are among the cheapest in the EU, but the RIP index in these countries is the highest. Conversely, price and tax levels in Denmark and Sweden are among the highest in the EU, but in terms of RIP, cigarettes are more affordable there than in most EU countries.

At the same time, it is worth noting that the relation between affordability and prevalence is complex. As

Figure A6-8 shows, prevalence is counterintuitively higher where the RIP index is also higher (thus affordability is lower). This is due to manufacturer's pricing policies and the inelastic nature of the demand for cigarettes.

Figure A6-8. Correlation between RIP Index and smoking prevalence in Member States (2023)



Source: External study based on Eurostat, Eurobarometer, Euromonitor and TEDB data.

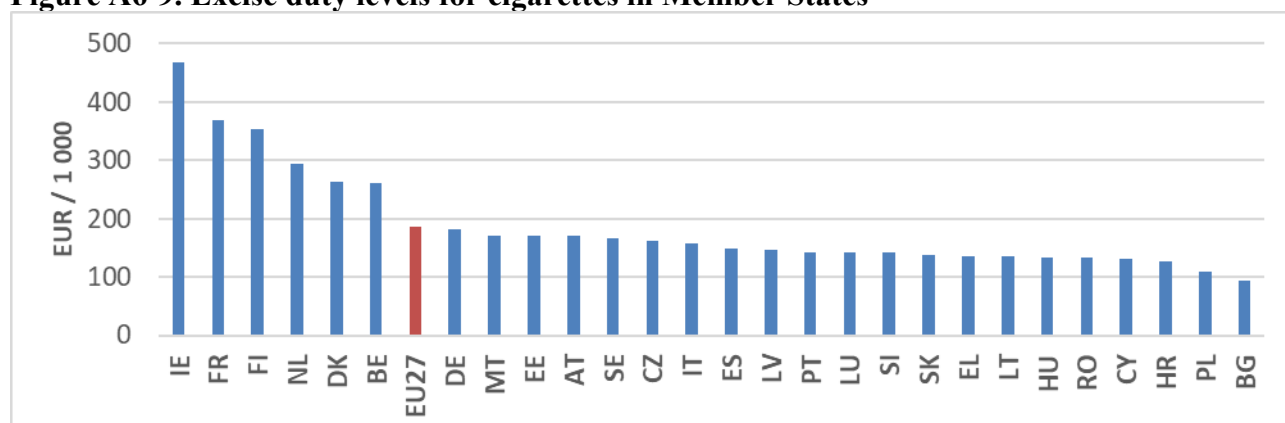
Note: The RIP index is calculated by dividing the price of 100 packs of cigarettes (WAP) by the GDP per capita (as a proxy of average income): the higher the index, the lower the affordability.

4. Excise duty levels

Member States apply different levels of excise duties to tobacco products. In most cases, cigarettes are subject to the highest excise levels per unit of consumption, but exceptions exist (notably for cigarillos).

In 2023, the average EU excise duty levied on cigarettes was about EUR 187 (per 1 000 sticks). As shown in Figure A6-9 below, there are significant differences between Member States. On the one hand, six Member States (Denmark, Belgium, Finland, France, the Netherlands, and Ireland) charge excise duty above the EU average, with values ranging between EUR 262 and EUR 469, i.e. between 1.4 and 2.5 times the EU average. On the other hand, in a number of Member States duty levels remain below EUR 150, i.e. about 25% below the EU average.

Figure A6-9. Excise duty levels for cigarettes in Member States

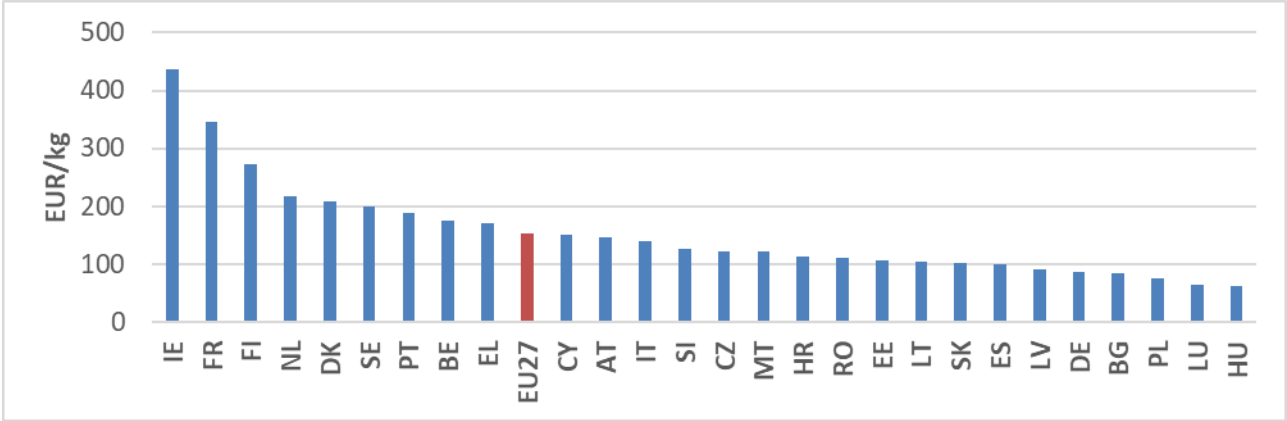


Source: External study

Note. Figures refer to EDY at WAP.

The average EU duty levied on FCT was EUR 153 per kg. As shown in, the Figure A6-10 extent of divergence between national levels is even higher than for cigarettes, with five countries applying rates exceeding EUR 200/kg (Finland, the Netherlands, Denmark, France and Ireland), while a number of Member States charge less than EUR 100/kg (Hungary, Luxembourg, Poland, Germany, Bulgaria, Latvia and Spain).

Figure A6-10. Excise duty levels for FCT in Member States



Source: External study

Note. Figures refer to EDY at WAP.

The EU average excise for cigars is EUR 727 per 1 000 items while for cigarillos it is EUR 137 per 1 000 units, and for OST, EUR 132 per kg of the product.

ANNEX 7: CROSS-BORDER FLOWS OF TOBACCO AND NEW PRODUCTS

1. Context

Significant price differences between Member States (due to differences in excise duty rates) continue to be a major driver of excessive ‘cross-border shopping’, i.e. the activity wherein private individuals buy tobacco products abroad because of lower taxes and bring them home for their consumption. It leads to situations where the conditions currently provided in Article 32 of the Horizontal Directive are abused. This article establishes that, when excise goods are acquired and moved to another Member State by private individuals for their own use, these goods are subject to the excise duties of the country of purchase and not of the country of consumption. To prevent abuses, Member States may establish rules to quantify the extent of the individual’s own use principle, including setting ‘guide levels’ of allowed goods, which cannot be lower than 800 cigarettes, 400 cigarillos, 200 cigars and 1 kg of smoking tobacco.

Abusing the current rules includes: (1) purchases for family members, friends etc.; (2) ant-smuggling, also referred to as ‘bootlegging’ (i.e. frequent shopping trips, e.g. multiple trips per day or week to purchase small, legitimate quantities of tobacco for re-selling at a profit); and (3) organised smuggling activity, especially when it involves buying cigarettes in low-price markets to resell them in high-price markets that are not geographically close.

Excessive cross-border flows of tobacco products have negative effects that are mainly:

- They can undermine Member States policies to deter tobacco consumption through taxation, since a consumer may procure cheaper products in neighbouring countries.
- They have a distributional impact on Member States’ tax revenues, with low-tax Member States registering an increase of revenue at the expenses of high-tax Member States.

They can distort competition and market functioning through ‘cross-border substitution’. In the past, some cases were registered (and sanctioned), involving manufacturers’ practice of oversupplying one market, with the surreptitious aim of reaching a neighbouring market.

2. Assessment of cross-border flows

2.1. Methodology

Accurate estimates of the extent of cross-border flows are difficult to produce, however certain assessments of this phenomenon are possible. To measure the extent of cross-border flows, the External study applied the following methods:

- Counterfactual sales benchmarking
- Survey-based estimates
- ‘Trade shock’ method

However, due to methodical limitations (presented in the Table A 7-1) the estimates provided should be interpreted with caution.

Table A 7-1. Methodological approach

Method	Description	Limitations
Counterfactual sales benchmarking	Relies on two sources of information: (1) Eurobarometer survey results, which provide insights into consumption patterns and the	▪ Releases for consumption are an

	average per capita consumption of different products by country residents, and (2) releases for consumption, which serve as a proxy for sales to final consumers within the domestic territory.	<p>imperfect proxy for sales to final consumers.</p> <ul style="list-style-type: none"> ▪ The average number of cigarettes smoked per capita estimated with survey data is subjected to errors related to the sample size and design of the error. These errors are proportional to the volumes/frequency of products used. Thus, the relative error for cigarettes is incomparably lower than for other products. ▪ The impact of travellers and cross-border purchases cannot be distinguished.
Survey-based estimates	Based on the Special Eurobarometer 385, titled 'Attitudes of Europeans towards Tobacco' conducted by the European Commission's Directorate-General for Health and Consumers. ²³¹ The survey included questions on the frequency of cigarette consumption and, for daily regular smokers, a question about the average number of cigarettes smoked per day. Additionally, it asks about the share of cigarettes purchased across borders, with response options: less than 5%, 5% to 19%, 20% to 50%, and more than 50%. This set of questions allows for the calculation of lower and upper bounds for the volume of cross-border purchases for each of the 2 137 respondents who answered this question. Consequently, a central estimate between the lower and upper bounds can also be derived.	<ul style="list-style-type: none"> ▪ The estimates are outdated, and in Member States where relative prices compared to neighbouring countries have changed significantly, the estimates (expressed as a percentage of consumption) cannot be used to approximate current levels. ▪ Does not capture or estimate fraudulent purchases. ▪ Natural limitations due to sample size.

²³¹ [Attitudes of Europeans towards Tobacco - May 2012 - - Eurobarometer survey](#). The fieldwork took place between February and March 2012, with the report published in May 2012. This survey aimed to assess tobacco consumption patterns, public attitudes towards tobacco use, and awareness of tobacco-related policies across EU Member States. It involved a representative sample of EU citizens aged 15 and over from all 27 Member States at that time, totalling approximately 26 751 respondents.

	<p>The calculation algorithm follows several steps. In the first stage, it estimates the yearly cigarette consumption for each respondent based on the variable concerning daily cigarette consumption. In the second stage, the lower, upper, and central estimates of the volume are calculated. In the final step, each household is weighted using the appropriate frequency weight to obtain estimates at the country level and for the EU overall.</p>	
‘Trade shock’ method	<p>With the spread of COVID-19, EU governments introduced restrictions on cross-border travel, starting in most cases in March 2020.²³² These restrictions, implemented throughout 2020, were gradually eased later but remained substantially in place in 2021, significantly limiting travel across borders as well as purchases by tourists and cross-border shoppers. According to Eurostat, the value of purchases made on domestic territory by non-residents dropped by 58% (in nominal terms), reflecting the fact that restrictions were only in effect from March onwards and that some travel was still permitted. It can be reasonably expected that cross-border shopping was similarly constrained, with a reduction proportionate to the decline in other types of purchases.</p> <p>The measurement is based on shifts in two key indicators: (1) the value or volume of domestic sales, and (2) the purchases (value or volume) made by residents, regardless of the country where the purchase occurs. The difference between the measurement of product volumes or values at the consumption level and the sales level allows to observe the disparity between domestic</p>	<ul style="list-style-type: none"> ▪ Releases for consumption used in the formula are an imperfect proxy for sales to final consumers. ▪ Highly reliant on the accuracy of underlying data, particularly Eurostat’s published changes in the value of purchases on domestic territory by non-residents. ▪ Poor data availability.²³³ ▪ The impact of travellers and cross-border purchases cannot be distinguished

²³² Due to the inability or significant restrictions on cross-border shopping, individuals who previously purchased tobacco cross-border in 2020 had to rely on domestic purchases and may have also reduced their overall consumption because of the restrictions to buy cheaper products across border. Moreover, the COVID-19 pandemic and associated lifestyle changes likely had broader implications that influenced all consumption habits, including those related to manufactured tobacco products.

²³³ Complete implementation would require granular summary data or access to micro-level data from all Member States, which are often not published, require a lengthy application process, or are not available at all.

	sales to non-residents and residents' purchases abroad.	
--	---	--

In addition to the estimates derived with these methods, available figures from credible sources covering recent periods, notably for Denmark, France, Ireland, the Netherlands and Finland were leveraged. Furthermore, various rescaling and extrapolation procedures were implemented²³⁴, using both the study's own estimates and results from other relevant work. The combination of these models allows measurement of the sensitivity of cross-border flows to price differentials between bordering regions and provides for a quantitative estimate of flows that can be attributed to such flows.

The analysis involved cigarettes, FCT, HTP and liquids e-cigarettes. For e-cigarettes and HTP, the estimates of cross-border flows were derived for the expected main destinations of such flows (see Figure A7-3). The estimates for Member States where cross-border flows were expected to be low (due to small price differentials) were subject to large imprecisions and were excluded from the analysis.

For other products (cigars, cigarillos and OST) data were insufficient due to relatively small market size and the influence of average cross-border prices to develop any quantitative estimate but it can be assumed that the contribution of products other than those considered to cross-border flows is negligible.²³⁵

2.2. Cigarettes

The estimated volume of cross-border purchases of cigarettes in other EU Member States amounted to 28 billion cigarettes, corresponding to 7% of the total volume of cigarettes released for consumption. Due to the lower excise burden in the Member States of acquisition cross-border purchases generate forgone excise revenue around EUR 2.9 billion. This corresponds to about 4.1% of the total excise revenue on cigarettes collected in the EU.

In volume terms, the main destinations for cross-border trade were Germany and France, while the main sources of cigarettes purchased abroad were Poland, Spain and Luxembourg (see

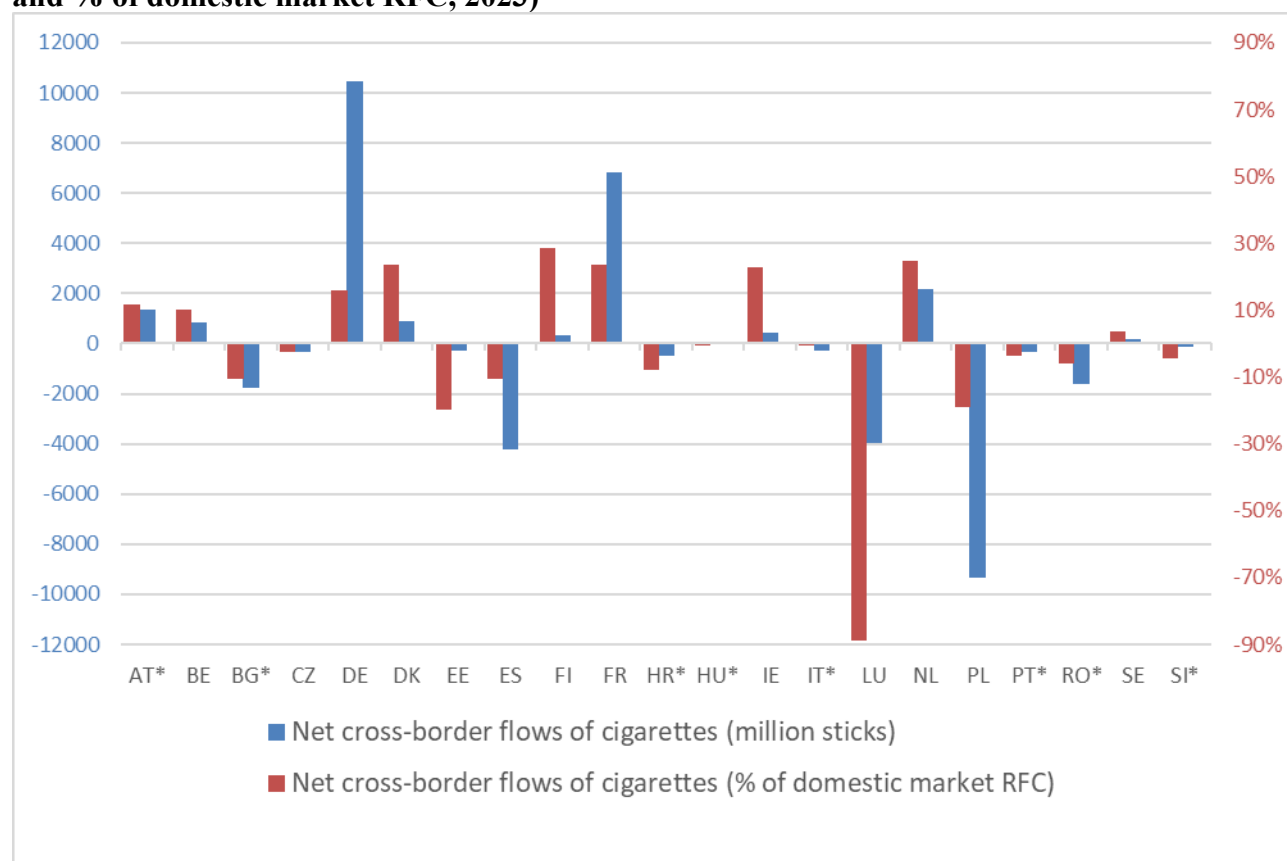
²³⁴ In particular in the case of liquids for e-cigarettes and HTP due to data unavailability

²³⁵ External study.

Figure A7-1).²³⁶

²³⁶ Although the numbers are subject to measurement error, the estimates for countries with relatively high confidence in the data represent over 80% of both inflows and outflows providing a useful validation of the chosen methods and assumptions (External study).

Figure A7-1. Estimated net cross-border flows of cigarettes by Member State (million sticks and % of domestic market RFC, 2023)



Source: Commission analysis based on External study

Note: for Member States not displayed quantification of flows was unfeasible. * Denotes lower confidence around estimates.

The highest inflows of cigarettes in relation to domestic release for consumption, were estimated for Finland (28.6%), Netherlands (24.8%), Denmark (23.5%), France (23.4%), and Ireland (22.7%), all of which have some of the highest excise-induced cigarette prices in the EU. The estimates for Ireland are high despite no land border with the EU. This is due to the fact that Ireland has the highest cigarette prices in the EU. The highest share of cigarettes released for consumption was observed in Luxembourg, with a net flow ratio of nearly -89%.

The estimated volume of cross-border purchases of FCT in other EU Member States amounted in the range of 8.3 to 14 thousand tonnes (equivalent to 11.1-18.5 billion sticks).²³⁷ 8.3 thousand tonnes, represents the sum of estimated cross-border flows between neighbouring country pairs with significant price differentials for which individual estimates could have been derived using counterfactual sales benchmarking method. In other countries, where price differentials are smaller and cross-border flows not individually estimated, flow volumes are likely lower. 14 thousand tonnes, based on market size, should be considered as an upper bound.²³⁸

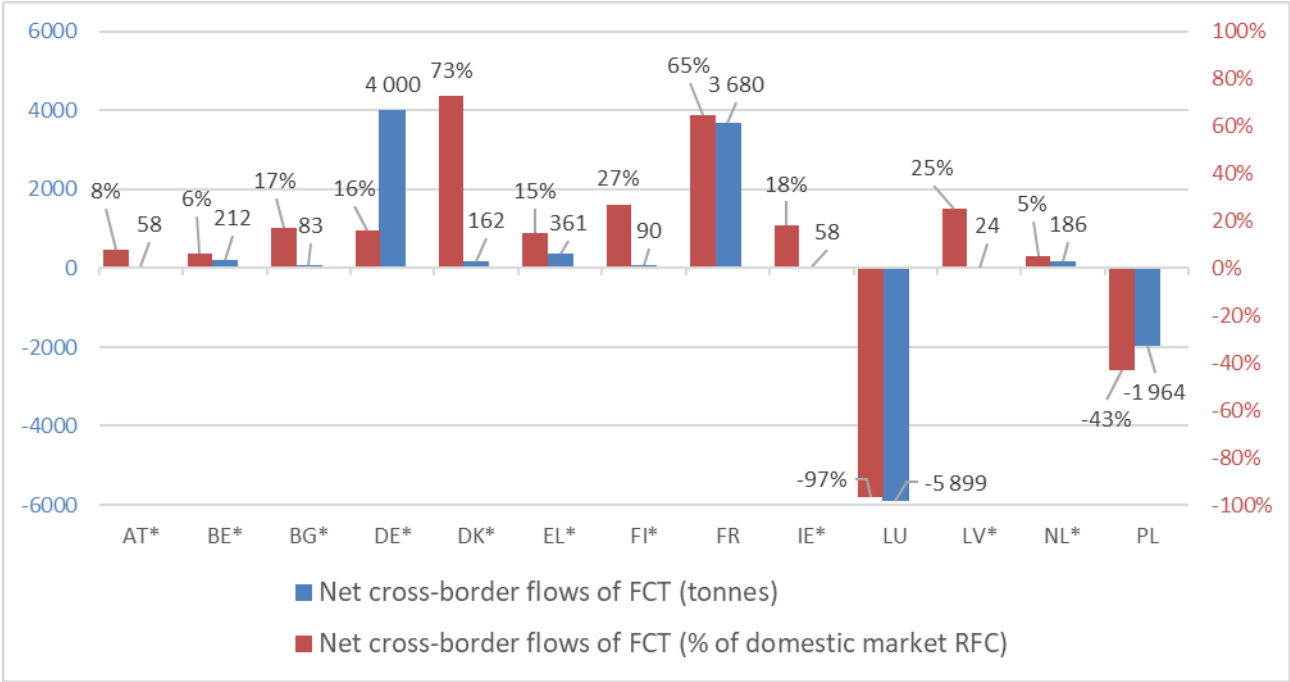
²³⁷ A conversion rate of 0.75g=1 stick was applied.

²³⁸ The dispersion of the lower and upper bound is relatively broad, as the individual estimates, treated as a lower bound, were derived for approximately 60% of the FCT market, necessitating extrapolation for the remaining 40% to obtain an upper-bound estimate. The largest FCT markets not covered by individual estimates are Spain, Italy, and Hungary, which

In relative terms, the volume of flows ranged between 12.6 % and 20. % of FCT released for consumption. The estimated forgone excise revenue was between EUR 1.26 billion and EUR 2 billion.

Similar to cross-border trade in cigarettes, Germany and France were identified as the main destinations, while Poland and Luxembourg were the main sources of FCT purchased cross-border. In relative terms, compared to domestic releases for consumption, the movement of FCT was higher, with the volume of purchases exceeding 60% of recorded sales in Denmark and France.

Figure A7-2. Estimated net cross-border flows for FCT by Member State (tonnes and % of domestic market RFC, 2023)



Source: Commission analysis based External study
Note: for Member States not displayed quantification of flows was unfeasible * Denotes lower confidence around estimates.

2.3. HTP and liquids for e-cigarettes

For HTP and liquids for e-cigarettes, more substantial cross-border activities occur only in a limited number of Member States (for HTP in Germany, France and Austria, for e-cigarettes in Belgium, Germany, Ireland, France, Austria and Finland).²³⁹

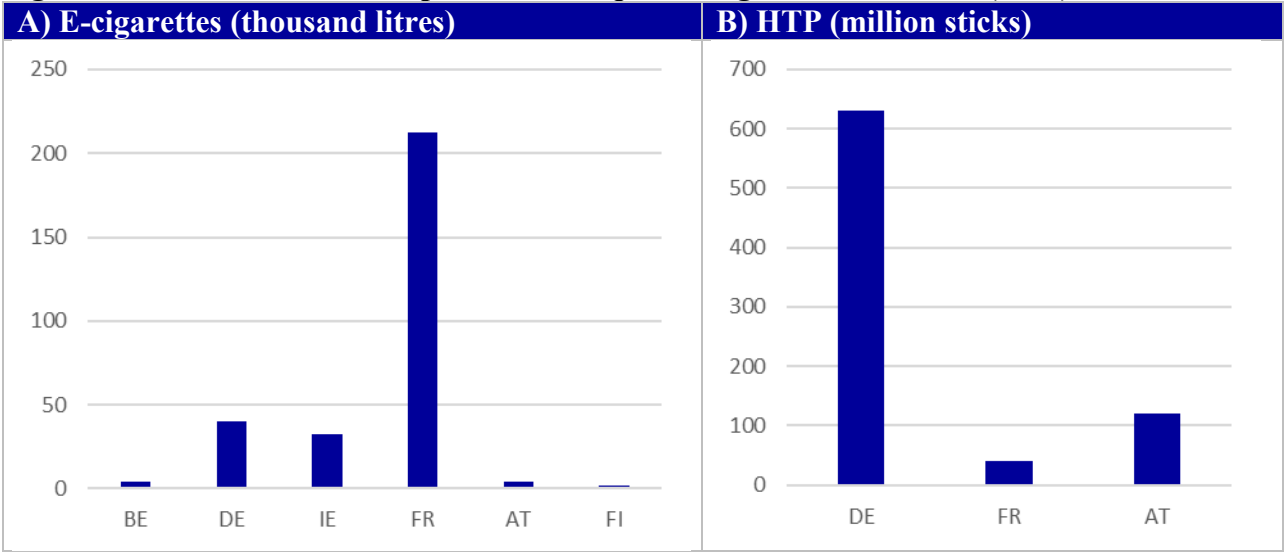
together accounted for approximately 21% of the EU FCT market by volume in 2023. However, with the exception of Slovenia neighbouring with Italy, all EU Member States bordering Spain, Italy, and Hungary had higher FCT prices giving no incentives for large scale cross-border flows.

²³⁹ Estimations can be made: if there is data concerning WAP and releases for consumption and if there is a similar price relationship among neighbouring Member States like it is for cigarettes. Due to these limitations, estimations could be derived only for listed Member States in Figure A7-3.

In the case of liquids for e-cigarettes, the estimated volume of cross-border purchases was close to **300 thousand litres** in 2023, close to 9 % of recorded sales. The aggregated forgone excise revenue was estimated at around EUR 14 million. Due to the domestic market size and relatively high prices, the largest inflows of cross-border liquids for e-cigarettes were recorded for France. The largest ratio of cross-border inflows to the recorded domestic market of 41.7% was estimated for Ireland.

The estimated volume of cross-border purchases of HTP was around **800 million sticks** in 2023, equivalent to less than 2% of recorded sales. The aggregated forgone excise revenue was estimated at EUR 64 million. Due to the domestic market size and relatively high prices, the largest inflows of cross-border HTP were recorded for Germany. The largest ratio of cross-border inflows to the recorded domestic market of 20.7% was estimated for France.

Figure A7-3. Net cross-border purchase of liquids e-cigarettes and HTP (2023)



Source: External study

Note: for Member States not displayed quantification of flows was unfeasible

ANNEX 8: ILLICIT TRADE AND MANUFACTURING OF TOBACCO PRODUCTS

1. Overview

The illicit trade of tobacco products (ITTP) has different magnitude and characteristics across Member States. Some countries can be more exposed to illicit trade for geographical reasons (bordering with illicit trade hubs), others for enforcement capacity deficits, or widespread social acceptability of illicit products consumption. The value of the potential market – determined by the number of consumers and price levels - is another relevant factor.

Most of the illicit tobacco trade consists of cigarettes, but tax authorities, industry and public health stakeholders agree that the illicit trade of other tobacco products (e.g. waterpipe tobacco (WPT), heated tobacco products) is on the rise. Also, tobacco related products (especially in the case of liquids for e-cigarettes) and unmanufactured tobacco are subject to illicit trade.

Illicit cigarettes are generally segmented into three categories:²⁴⁰ (1) contraband products, i.e. branded products manufactured by a legitimate operator in a third country that are smuggled into the EU; (2) counterfeit products, i.e. fraudulent imitations of branded products illegally manufactured and sold by non-authorised operators; and (3) ‘illicit whites’, i.e. non-branded cigarettes which are generally manufactured by a legitimate operator in a third country, which are diverted to illicit trade and smuggled into the EU.²⁴¹ Illegal tobacco products are mostly smuggled into the EU through the Eastern borders, the Balkan route, or from North Africa.

Smuggling through external borders is enabled inter alia by tax (hence price) differences with non-EU countries (both neighbouring and far away) and can be influenced by the extent of permeability of borders and by the penalties imposed. However, in recent years, a surge in illicit manufacturing within the EU has been registered. Illicit manufacturing has developed within the EU through exploiting the weaknesses in the monitoring and control of the tobacco supply chain and the widespread availability of idle machinery following the downsizing and concentration of the legal sector. Policy measures against illicit manufacturing require strengthening controls over the tobacco and precursors supply chain. As it is noted in the report on the implementation of the Strategy to step up the fight against the illicit tobacco trade²⁴² published in May 2017²⁴³, the measures taken in the first 4-year period had limited impact on the challenge posed by illicit tobacco trade in the EU. In particular, the report took note of an upsurge in illicit tobacco manufacturing inside the EU. This

²⁴⁰ This classification does not include intra-EU cross border flows of products duty-paid in another country although in some cases they possibly abuse excise duty rules.

²⁴¹ The contraband products remain the relative majority (43%), followed by counterfeit products (35% and increasing), and illicit white (21% and declining, mainly due to the armed conflict in Ukraine and regional tensions) (External study).

²⁴² [COM\(2013\) 324 final](#). ITTP Strategy laid down the Commission’s overall approach to illicit trade of tobacco products, and related action plan, which set out 50 specific measures to be implemented by the Commission and/or the Member States. After the implementation review carried out in 2017 (COM(2017) 235 final) a second, revised Action Plan was adopted, to cover the period 2018-2022 (COM(2018) 846 final). Before the adoption of the Strategy in 2013, an Action Plan was in place to fight the smuggling of cigarettes and alcohol along the EU’s eastern border (SEC(2011) 791 final of 24 June 2011).

²⁴³ Progress report on the implementation of the Commission Communication ‘Stepping up the fight against cigarette smuggling and other forms of illicit trade in tobacco products - a comprehensive EU strategy (Com (2013) 324 final of 6.6.2013)’, COM(2017) 235 final. The salient conclusions of the Report were taken up in the Council Conclusions on stepping up the fight against illegally traded tobacco products in the EU, issued in December 2017.

trend is consistent with the more recent findings of Europol's Analysis Project 'Smoke' based on evidence from law enforcement raids and intelligence reports. The Action Plan (2018-2022) adopted in 2018 by the Commission in support of the fight against ITTP builds on a mix of legislative measures, law enforcement, and cooperation at the EU and international level.²⁴⁴ As regards measures specifically touching upon excise duty rules and arrangements for tobacco, the Action Plan, included a review of the minimum rates applicable under the Directive and the development of operational tools to better monitor and control cross-border movements of raw tobacco within and into the EU. The latter is also included as a way forward in the Outcome on the implementation of the 2nd Action Plan to fight the illicit tobacco trade for the years 2018 to 2022.²⁴⁵

2. Estimated magnitude and characteristics of ITTP across the EU²⁴⁶

Cigarettes. Overall, the illicit trade of cigarettes declined between 2016-2017 and 2019. Then, it bounced while reaching in 2023 a level higher than in 2018. The incidence on total EU cigarettes consumption²⁴⁷ fell from 9.0% to 8.4% between 2017 and 2020 and bounced back to 8.8% in 2023.²⁴⁸

The volume of seizures of illicit cigarettes follows a similar trend, i.e. declining between 2016 and 2019 then reversing in 2022 the same level of 2016 (see

Figure A8-1). The growth of ITTP in more recent years is confirmed also by independent national reports, e.g.:

- in Ireland, illicit cigarettes increased from 13% of the total in 2021 to 19% in 2023 (FCT: from 13% to 20%)²⁴⁹;
- in the Netherlands, illicit cigarettes increased from 1.4% of the total in 2021 to 4.1% in 2023.²⁵⁰

The forgone tax revenue associated to illicit trade of cigarettes could amount to EUR 9 billion.²⁵¹ Between 2018 and 2023 the estimated forgone revenue has increased by EUR 2.3 billion, i.e. nearly 35%.²⁵² In terms of incidence, it increased from 8% of total tobacco revenues²⁵³ in 2018 to 11% in 2023 (see Figure A8-2). As

Figure A8-1 B shows the countries with the highest volume of illicit trade of cigarettes are France and – to a smaller extent – Germany and Italy. In terms of incidence on total consumption, the highest rates are found in Ireland, France, Finland, Greece, Lithuania and Latvia²⁵⁴.

Figure A8-1. Estimates of illicit trade of cigarettes and seizures

²⁴⁴ 2nd Action [Plan](#) to fight the illicit tobacco trade 2018-2022.

²⁴⁵ [Outcome](#) on the implementation of the 2nd Action Plan to fight the illicit tobacco trade for the years 2018 to 2022, SWD (2023) 409 final

²⁴⁶ See ANNEX 3: for the methodological approach and limitations.

²⁴⁷ The total consumption is the sum of recorded consumption and ITTP.

²⁴⁸ Assuming ITTP volume corresponding to the average of Euromonitor and KPMG estimates.

²⁴⁹ Source: <https://www.revenue.ie/en/corporate/documents/research/tobacco-surveys-2023.pdf>

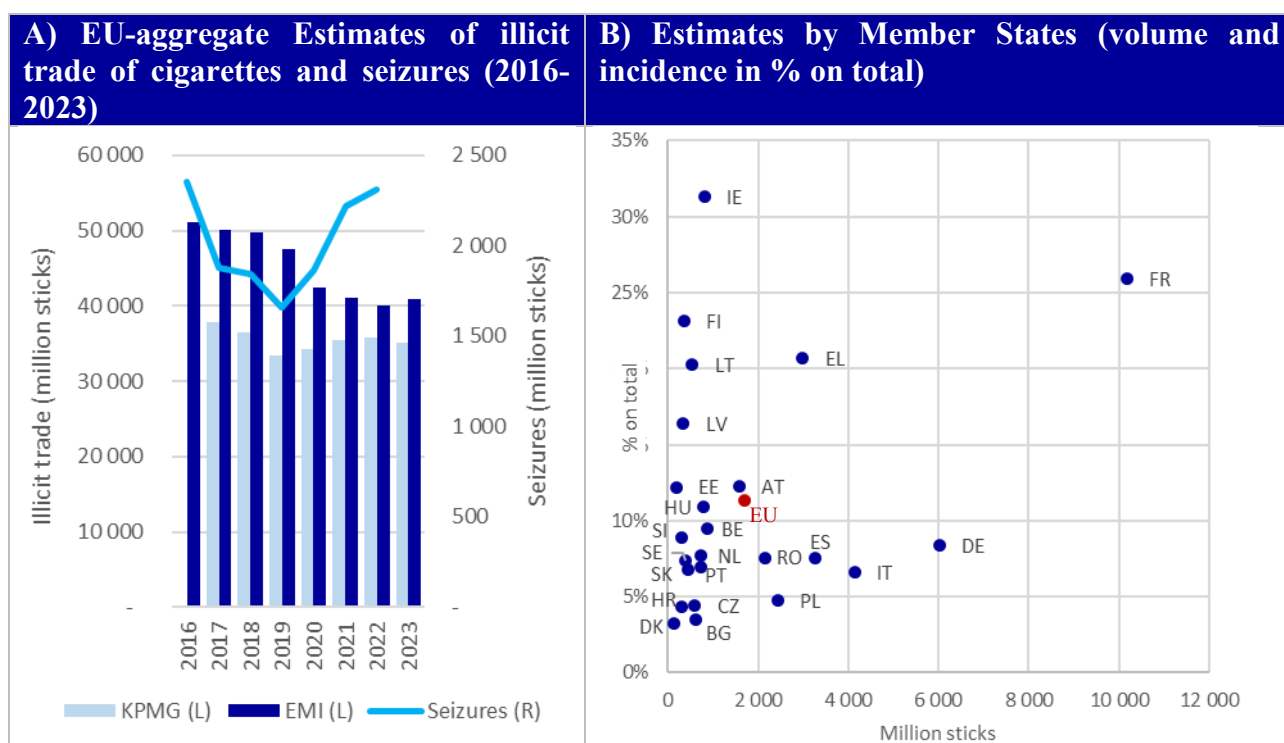
²⁵⁰ Source: <https://open.overheid.nl/documenten/d700225c-f7a0-4c28-9a4c-6278cdf9f877/file>

²⁵¹ Based on the average value of Euromonitor and KPMG estimates (2023).

²⁵² In the same period, the EU consumer's price index increased by 22%. In this sense, the ITTP has increased also in 'real' terms.

²⁵³ From harmonised products.

²⁵⁴ Euromonitor estimates may not coincide with Member States own estimates. In the case of Ireland and Denmark, own country's estimates are substantially lower.

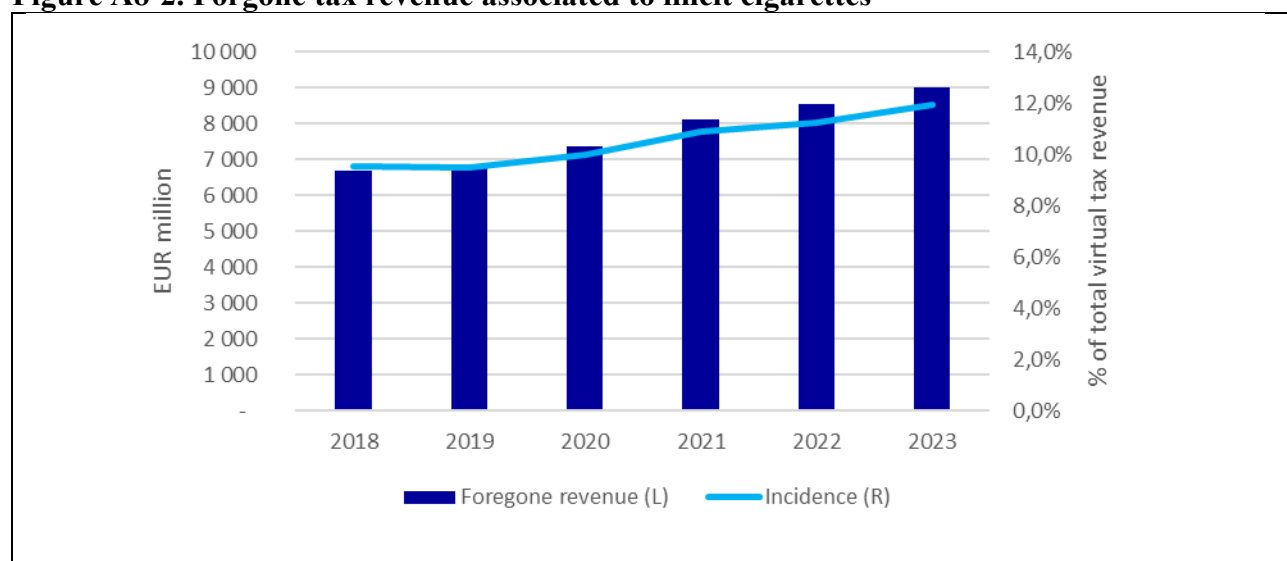


Source: External study based on Panel A: Euromonitor International, KPMG study, statistics on seizures gathered by OLAF. Panel B: Euromonitor International

Legend: (L)=scale displayed on the left axis; (R)=scale displayed on the right axis; EMI=Euromonitor International.

Notes: Estimates regard illicit cigarettes (i.e. contraband and counterfeit products). Non-domestic legal products purchased in another country (i.e. ‘cross-border shopping’) are not included. In Panel B, the incidence is estimated on the total consumption (licit + illicit). In Panel B, Cyprus, Malta and Luxembourg are not displayed due to lack of data.

Figure A8-2. Forgone tax revenue associated to illicit cigarettes



Source: External study based on Euromonitor International, KPMG study, and TEDB.

Legend: (L)=scale displayed on the left axis; (R)=scale displayed on the right axis.

Other tobacco products. Concerning the illicit trade of other tobacco products than cigarettes, data and evidence are still fragmented, which makes quantification hardly feasible. The following indicative estimates can be put forward, assuming that the seizures/illicit trade volume ratio of cigarettes (5% on average in a period between 2017 and 2022) applies as well.

Table A 8-1. Illicit trade of tobacco products other than cigarettes

Product	Amount (tonnes)	Forgone revenue (EUR million)
FCT	15 000	2 500
WPT	6 000	900
Cigars/cigarillos	32	3.5
HTP	20	3.6
Oral tobacco	16	1

Source: Commission analysis based on External study.

Overall, in 2022, the illicit trade of tobacco products other than cigarettes in the EU amounted to around 21 000 tonnes representing a forgone revenue at around EUR 3.5 billion. Of the above total, smoking tobacco (mainly FCT likely accounts for the majority (75%, i.e. 15 000 tonnes, corresponding to nearly EUR 2.5 billion of forgone revenue). It is likely that part of this illegal smoking tobacco ends up being used for the manufacturing of cigarettes and not sold as FCT. The following most-seized tobacco product is WPT, with approximately 6 000 tonnes (EUR 0.9 billion of forgone revenue). For other products volumes are much more limited (see Table A 8-1).

For liquids of e-cigarettes, Member States authorities were seldom in a position to provide an estimate on the share of illicit products. A very rough estimate of what this might amount to 10% of the total market, which would amount to 350 thousand litres. This would correspond to EUR 150 million forgone tax revenue.

3. Illicit manufacturing within EU

If the volume of illicit tobacco products consumed in the EU is difficult to measure, determining where and how illicit products are manufactured and shipped is even more challenging. The main information source on illicit manufacturing used in this respect consists of law enforcement reports and some studies that examined them to draw an accurate, though qualitative, picture. More specifically two sources have been reviewed: (1) an internal report made under the EUROPOL's AP Smoke initiative, which examined 130 investigations carried out in the 2016-19 period; and (2) KPMG Project Stella 2019 report dedicated to illicit manufacturing.²⁵⁵ The salient findings from these analyses can be summarised as follows:

- Based on interviews held by the contractor the number of reported illicit manufacturing facilities dismantled in the EU is declining, but this does not entail they have become fewer. On the contrary, criminal organisations have increasingly moved operations in Member States where detection capacity is weaker, and penalties are lighter. Moving closer to consumption markets (e.g. France and the United Kingdom) remains a relevant driver.
- Most reports underline that clandestine factories were equipped with full production lines, from tobacco cutting machinery to packaging lines. In many cases, production lines were relatively modern and highly performing, with a capacity comparable to legal big factories. Machinery

²⁵⁵ External study.

was operated by skilled workers, often formerly employed in legal manufacturing plants in the EU or abroad. The scale of operation has further expanded in recent years. Most of sites dismantled have capacity of up to 7-8 million cigarettes per week.

- As the profitability of ITTP has increased, the business has increasingly attracted organised crime group that are active in drug trafficking. As reported by law enforcement experts, this has led to an increase in violent crime related to ITTP – a trait that was previously absent in this activity.
- Reports seldom state where the tobacco used in illicit factories was sourced. In general, intelligence data indicate connections with Eastern Europe - both EU and third countries like Ukraine and Belarus. Some reports mentioned the involvement of networks in the Baltic region, Turkey and the Balkans, as well as the overseas origin of tobacco (e.g. Brazil). Italy is reportedly another relevant point of entry of illicit tobacco into the EU.

A quantitative estimation of the volume of illicit manufacturing activities allows an indicative assumption that approximately one-third of total illicit cigarettes consumed in the EU are also manufactured in the EU – i.e. around 13 billion sticks. In the case of FCT and WPT, it can be assumed that half of illicit products are manufactured in the EU – i.e. more than 10 000 tonnes.

Concerning the supply chain of diverted raw tobacco, the lack of stringent EU-wide monitoring and control rules can facilitate the emergence of parallel supply chains operating in a grey area, outside of the conventional channels. Evidently, the availability of raw tobacco is a precondition for illicit manufacturing activities. Raw tobacco, including intermediate products like first-processed tobacco, reconstituted/homogenised tobacco and tobacco refuse, is not legally defined and no harmonised excise good.

It is difficult to determine how raw tobacco is diverted to illicit manufacturing. Theoretical patterns of diversion from the legitimate supply chain (see Figure A8-3) were described in EA 2021 study.

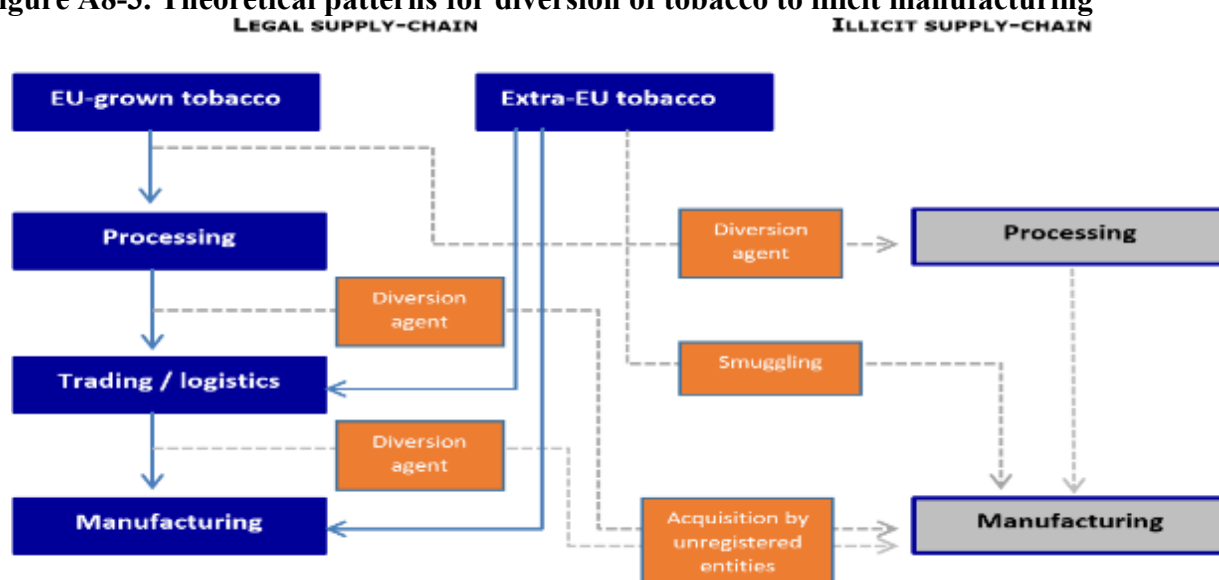
- **Diversion of EU-grown tobacco before being processed by a legitimate processor** (i.e. green or leaf tobacco). Leaf tobacco requires some treatment to become a smokable product, so diversion at this stage of the supply chain would require some processing prior to manufacturing. Law enforcement reports indicate that 96 illicit tobacco ‘cutting facilities’ were raided in 2020, i.e. more than cigarettes manufacturing facilities (61).
- **Diversion of EU-grown processed tobacco.** The most common cases at this level seems the acquisition of tobacco by intermediaries (e.g. ‘diversion agents’) based in countries where no or limited obligations exist for trading and tracking the movement of raw tobacco. The mechanism consists in a sort of ‘tobacco laundering’: a foreign customer purchases and moves tobacco outside of the country, then sells it to an unregistered entity (sometimes after a few transactions), which illegally moves the tobacco back into the country to supply clandestine factories there or transports it to another manufacturing site in Western Europe. The legal frameworks introduced in some Member States, including Croatia, Poland, Czechia, Hungary and Lithuania, can prevent this, as a specific authorisation is required to buy/sell/hold etc. raw tobacco.
- **Diversion of foreign raw tobacco.** The mechanism described above for EU-processed tobacco can also apply to foreign tobacco. It seems unlikely that illicit manufacturing sites can be primarily supplied with EU-grown tobacco, as this would require significant unrecorded tobacco cultivation. It is plausible that part of the problem is linked to tobacco of foreign origin.

At this level, a distinction has to be made between raw tobacco legally entering the EU and smuggled tobacco. In the first case, diversion is a bit more complex as the tobacco is also subject

to the customs regime and control. Most of the tobacco used for manufacturing cigarettes in the EU is imported by transnational tobacco companies, stored in large warehouses either in customs suspension regime or in free circulation regime, and then moved to the companies' tax warehouses for manufacturing. The same process applies also to the raw tobacco that transnational tobacco companies purchase from global tobacco merchants (processed both in the EU or externally). Foreign raw tobacco is generally cheaper than European tobacco, which could create a further incentive for it. However, the economics of illicit manufacturing activities suggest that the differences in the costs of raw materials are of little relevance compared to the gains in tax avoidance.

Direct smuggling of raw tobacco, e.g. through false import declarations (tobacco enters the EU disguised as another product, such as vegetables) is also a possibility. This mechanism is fairly common for finished products (especially WPT) and could also be used for raw tobacco. Conversely, in external border regions (e.g. in the Balkans and along the Eastern border with Ukraine, Moldova etc.) smaller scale smuggling of raw tobacco hidden in trucks or passenger vehicles are more frequently reported.²⁵⁶

Figure A8-3. Theoretical patterns for diversion of tobacco to illicit manufacturing



Source: EA 2021 study

To tackle this supply chain monitoring gap, some Member States have adopted ad hoc policies and measures for raw tobacco and related operators. These measures include, for instance, fiscal definition of raw tobacco, authorisation schemes for operators, administrative controls on holding and movement of raw tobacco, deposits and financial guarantees to cover diversion risks, prohibition to sell to unauthorised operators, and application of tax rates on raw tobacco (see ANNEX 14: section 2).

²⁵⁶ External study.

ANNEX 9: INCOHERENT FISCAL TREATMENT OF CIGARILLOS AND WATERPIPE TOBACCO

1. Cigarillos

Differentiation between cigarettes and cigarillos. Some types of low-price cigarillos (i.e. the so-called ‘borderline’ cigarillos²⁵⁷) have the potential to become a relevant substitute product for cigarettes, taking advantage of the lighter regulatory regime imposed on them under the Tobacco Products Directive – regarding flavour ban, minimum pack size, pictorial warnings, etc.²⁵⁸ – as well as of lower excise duty rates. In addition to the affordability and substitution issues, legal aspects of cigarillos need to be mentioned. In particular, April 2019 the CJEU issued a ruling on this matter in response to a question posed by the Lithuanian authorities (Case C-638/17). The appellant requested (i) whether the definition of ‘cigars and cigarillos’ in the Directive covers or not cases where part of the wrapper of natural or reconstituted tobacco is additionally covered by another outer (paper) layer, and (ii) if it is relevant that the use of paper as an additional layer in the outer wrapper of the tobacco product (where the filter is) makes it visually similar to a cigarette.²⁵⁹

Differentiation between cigars and cigarillos. A substantial issue regards the suitability of placing cigars and cigarillos in the same tax category. The emergence of the ‘eco-cigarillos’ issue a few years ago and the appearance on the market of flavoured cigarillos and of products otherwise designed to take advantage of the lighter Tobacco Products Directive rules, raise questions on the suitability of the current approach. Unintended effects would be magnified in Member States where these products are taxed per weight, and where the tax structure relies exclusively or prevalently on the ad valorem component. This issue was addressed by Member States through the revision of the product definition, and increasing national rates. Differentiated tax levels for cigarillos and cigars are applied in Portugal and Italy. The demarcation line can be drawn based on the product weight in line with the 3-gramme threshold laid down in the Horizontal Directive and the Council Directive 2007/74/EC.²⁶⁰

2. Waterpipe tobacco

Two main issues have been identified in connection with WPT (which currently falls under other smoking tobacco for excise purposes). Firstly, there is generally poor knowledge of the WPT market,

²⁵⁷ A few years ago, ‘borderline’ cigarillos (also called ‘eco-cigarillos’) have spread in some Member States like Germany, Hungary, Spain, Denmark and in the Baltic countries. These products were in many respects similar to cigarettes but enjoyed a more favourable tax regime because they were classified as cigarillos. The issue was addressed by revising the definition of the tax category and by the phasing out of the derogation extended to these types of products in Germany and Hungary. Additionally, various Member States increased the domestic taxation of low-price cigarillos products.

²⁵⁸ The Tobacco Products Directive:

- prohibits cigarettes, heated tobacco products and roll-your-own tobacco with characterising flavours;
- requires health warnings on tobacco and related products: combined health warnings (picture, text and information on how to stop) must cover 65% of the front and back of cigarette and roll-your-own tobacco packages;
- sets minimum dimensions for warnings and prohibits small packages for certain tobacco products.

²⁵⁹ The CJEU ruling eventually rejected the Lithuanian authorities’ interpretation stating that: ‘Article 4(1)(a) of Directive 2011/64 must be interpreted as meaning that tobacco products, such as those at issue in the main proceedings, part of whose outer wrapper of natural tobacco is covered, at the filter, by an additional paper layer, liable to make those products visually similar to cigarettes, fall within the category of cigars or cigarillos, within the meaning of that provision’.

²⁶⁰ Article 8 (cigarillos are cigars of a maximum weight of 3 grams each) of [Council Directive 2007/74/EC](#) and Article 32 (‘cigarillos’ (cigars weighing not more than 3 g each)) of the [Horizontal Directive](#).

and of the consumption magnitudes and trends. Secondly, a large share of the WPT consumed in the EU is estimated to come from illicit sources. The share of EU illicit trade of WPT amounts to around 5 900 tonnes, i.e. approximately 59% of the nearly 10 000 tonnes consumed annually. These issues are partly connected to the lack of a separate excise category for this product. In particular:

- Currently, WPT fall within the broad excise duty category of ‘other smoking tobacco’ (OST), along with pipe tobacco and, in some Member States, heated tobacco products. There is no separate recording of the taxes collected on WPT, hence Member States are not in the position to monitor WPT trade and consumption. Conversely, there is an ad hoc category for WPT in the customs nomenclature²⁶¹, so there is also a misalignment between the two classifications.
- The inclusion of WPT in the OST category can also unintentionally foster illicit trade. Current OST excise rates – which are expressed per kg – can lead to very high levels of taxation for WPT. Due to its composition – WPT is only partly made of tobacco (generally around 20%), while the rest consists of molasses - this product’s specific gravity is much higher than other tobacco products, which translate into a much higher taxation per consumption unit. In some Member States, such high taxation levels, combined with limited monitoring, represent an incentive for various types of tax avoidance practices and fraud.²⁶²

²⁶¹ HS 2403 11. Note. The Harmonized System (HS) is a standardized numerical method of classifying traded products. It is used by customs authorities around the world to identify products when assessing duties and taxes and for gathering statistics. <https://www.tariffnumber.com/info/abbreviations/1637>

²⁶² The estimated share of WPT illicit trade in the EU is around 50%, possibly exceeding 80% in a few countries (e.g. Germany, country with the highest consumption of WPT in the EU). (External study).

ANNEX 10: PURCHASING POWER PARITIES APPROACH

1. Overview

Fixing a single minimum for the excise duty on tobacco products is challenging because of the substantial diversity in economic conditions between Member States. Not only the income level, but also the general price level, differs substantially. As a result, any minimum that is the same for all Member States will have different impacts on affordability depending on income differentials between Member States. This concern was highlighted in the European Commission's evaluation of the Directive and the Council insisted that any future revision should take into account the specific economic situations of Member States.

2. Comparison between Relative Income Price (RIP) and Purchasing Power Parities (PPP) based mechanisms

Several alternative formulations of how to express nominal monetary amounts in real terms were analysed. The simplest solution would be tying the minimum to the average income per capita in the Member State. This could be done by adjusting EU minima by reference to average income levels, through the 'relative income price' (RIP) indicator. The RIP indicator is defined as the ratio between the cigarette price and the average national income per capita. In simple terms, this expresses how many cigarettes could be bought by an average citizen of the country in question. The RIP, however, does not adjust for differences in the cost of living. If the price level in country 'A' is twice that of country 'B', but the average income is also twice, one can conclude that in real terms, the citizens of country 'A' are no better off than the citizens of country 'B'. However, applying the RIP in such a context would imply a tax level that is twice as high in country 'A' than in country B. To correct for this effect, this impact assessment suggests utilising a more sophisticated indicator that takes into account the differences in price levels, i.e. the Purchasing Power Parity (or PPP indicator). In the example presented above, the PPP indicator would be the same in country 'A' as in country 'B'. Figure A10-1 below shows the baseline situation for cigarettes, comparing national excise duty levels in nominal terms and Purchasing Power Parities (PPP), i.e. adjusting levels by the country's Price Level Index (see Box A10-1 for details). Except Ireland, France, and Finland, which remains the highest-tax countries also in PPP terms, Figure A10-1 shows that in various Member States nominal excise duty levels are substantially higher than in real terms (e.g., Luxembourg, Sweden, Austria, and Denmark) or vice versa (e.g., Romania, Poland, Bulgaria, Hungary, and Croatia).

Box A10-1. PPP-based adjustment and affordability

As described by Eurostat, purchasing power parities (PPPs) are indicators of price level differences across countries. They indicate how many currency units a particular quantity of goods and services costs in different countries. In this sense, PPP is the method of choice to statistically compare Member States economies with one another (e.g. GDP), the material well-being of their residents, as well as Europeans' income levels (as in the case of Eurostat's indicator on the 'adjusted gross disposable income of households per capita'). PPP is primarily a static indicator, able to compare economic variables at a specific point in time, but not suitable for describing trends within an individual country.

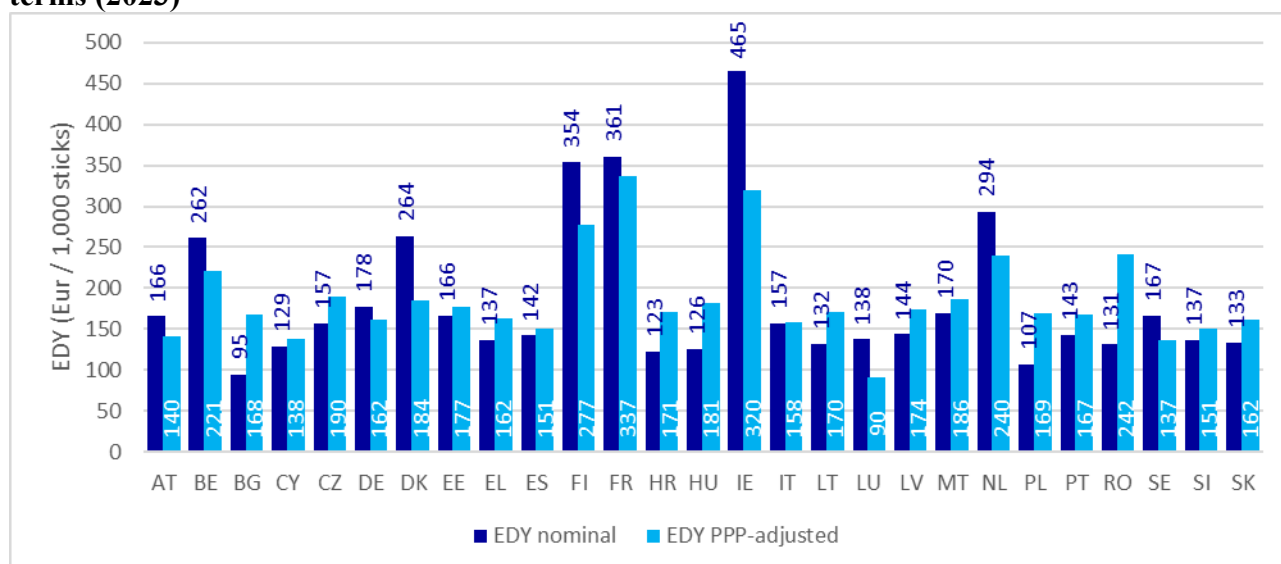
The choice to favour PPP was made for the following reasons:

- PPP is a reasonably stable and well-accepted indicator, which is regularly elaborated by Eurostat, with the specific purpose of allowing economic comparisons between Member States, whereas RIP is not an established EU statistical measure. Conversely, the RIP is published by the WHO

but with reference to most popular price category and in US dollars. It would therefore be calculated on an ad hoc basis, and an appropriate EU statistical methodology would need to be developed and validated for this purpose.

- PPP, as a measure of ‘price affordability’, is also more appropriate in the context of EU tax harmonisation, where the aim of harmonisation for internal market functioning relates to price convergence and not to underlying income convergence. In this sense, PPP appears more consistent with both the overarching objectives of the Directive and is not skewed towards the public health protection objective, as is the RIP.
- The arguments in support of RIP-based adjustments emphasize the greater precision of this indicator to reflect affordability, which is the public health objective of taxation. However, the potential impact of EU minima should not be overestimated, as EU minima remain thresholds and not the actual level of excise duty imposed by Member States. Only Member States that fall below this threshold would be compelled to increase their rates, while the rest would be free to apply different rates. The PPP approach would offer a more neutral policy perspective on the matter, as its underlying logic is to correct technical ‘distortions’ in the EU minima ‘tool’ (the distortions that arise due to a monetary amount having different ‘weight’ in different countries) and not to encourage specific policymaking approaches in Member States (such as setting excise duty levels in connection with the measured affordability).

Figure A10-1. Cigarettes’ excise duty yield in Member States, in nominal and PPP-adjusted terms (2023)



Source: External study based on TEDB excise duty data and Eurostat 2023 Price Level Indexes.

Legend: PPP=purchasing power parity; EDY at WAP level.

Note: The EDY levels displayed take into account the effect of the minimum excise duty (MED), where relevant.

3. Limits of the PPP approach

Even adjusting in this way for higher price levels in higher-income Member States, introducing full proportionality between the EU minima and the PPP (pure PPP-based system) would result in very large and socially destabilising changes in the minima in several countries. The Price Level Index (PLI) differences between Member States are significant (the PLI of Luxembourg is almost three times higher than the PLI of Bulgaria). Hence, a 100% conversion of minima into PPP may lead to (1) large and potentially disruptive tax increases for a few high-income countries (e.g. Luxembourg, Denmark, Austria, and Sweden) and, conversely, (2) keeping or even increasing the price gap

between Member States. In this sense, both overarching objectives of the Directive (harmonization of tax levels and the public health protection) would be poorly supported. A more detailed assessment of expected market impacts under a pure PPP system is provided in the External study.

For this reason, it is proposed that one third of the difference in the PPP is taken into account for fixing the EU minima while the remainder would be fixed (in nominal terms).

The choice of a partial PPP approach implies that EU minima are not uniform across Europe. This approach is therefore less supportive (although still conducive) of the Directive's price convergence objective, which is of mitigating cross-border flows, than high minima increases in nominal terms.

The calculation of the EU minima for each individual Member State is made slightly more complex due to the introduction of the partial PPP approach. The formal expression for the calculation of the minimum applicable in Member States would be as follows:

$$MS_{min} = 2/3 * EU_{min} + 1/3 * EU_{min} * PLI_{MS} / 100$$

where:

- MS_{min} = New minimum applicable in a specific Member State
- EU_{min} = Current EU minimum in nominal terms
- PLI_{MS} = Price Level Index of the Member State²⁶³

Examples:

For Member State A (PLI = 119)

$$\text{New minimum} = 2/3 * 215 + 1/3 * 215 * 119/100 = \text{EUR } 228$$

For Member State B (PLI = 49.1)

$$\text{New minimum} = 2/3 * 215 + 1/3 * 215 * 49.1/100 = \text{EUR } 178$$

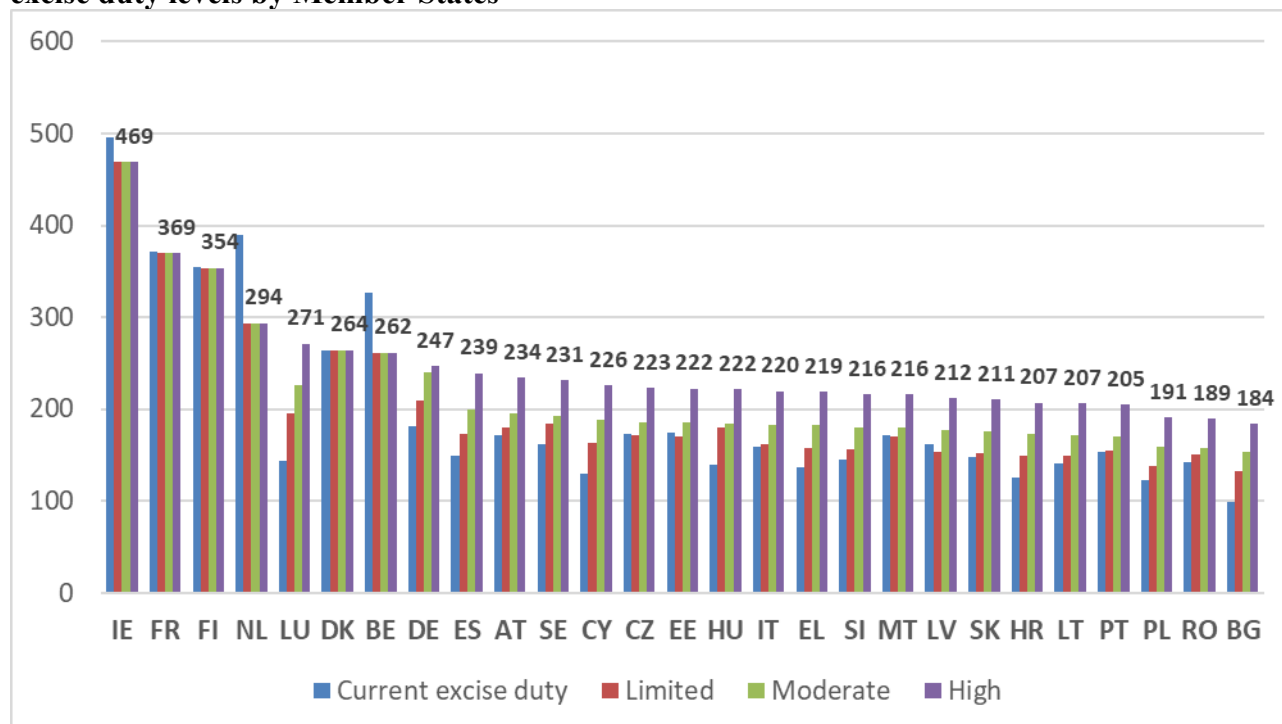
This proportion has been derived from the increase scenario for the EU minima on cigarettes that correspond to the average expectations of Member States, as emerged from the tax authorities' survey. The average new fixed minimum for cigarettes would amount to EUR 128 per 1 000 sticks, i.e. EUR 38 more than the current EUR 90. This translated into a revised level that is composed by roughly 2/3 of the old minimum and 1/3 of the increase. By expressing the first component in nominal terms, the risk that EU minima go below the current level (e.g. in countries with a very low PLI) is removed. At the same time, expressing the increase in PPP terms would mitigate the burden for countries where, in real terms, excise duties are already above the EU average.

4. Conclusion

The partial PPP approach achieves a more balanced distribution of impacts across Member States, while at the same time mitigating the risk of radical effects, which may derive from the application of a pure PPP system.

²⁶³ PLI expresses the price level of a given country relative to another (or relative to a group of countries like the European Union), by dividing the Purchasing power parities (PPPs) by the current nominal exchange rate. If the price level index of a country is higher than 100, the country concerned is relatively expensive compared to the one to which it is compared (for example the EU), while if the price level index is lower than 100, then the country is relatively inexpensive compared to the other country.

Figure A10-2. Proposed minima for cigarettes based on a partial PPP approach and current excise duty levels by Member States



Source: Commission analysis based on External study data.

PPP levels evolve and are re-estimated annually.²⁶⁴ However, annual revision of EU minima would not be suitable as would be more difficult for certain Member States to prepare multi-annual tax increase plans. It is rather suggested to establish a fixed reference year of PLI and schedule periodical revisions on longer periods (e.g. three or five years), along with the periodical revision and update of the Directive and of the EU minima.

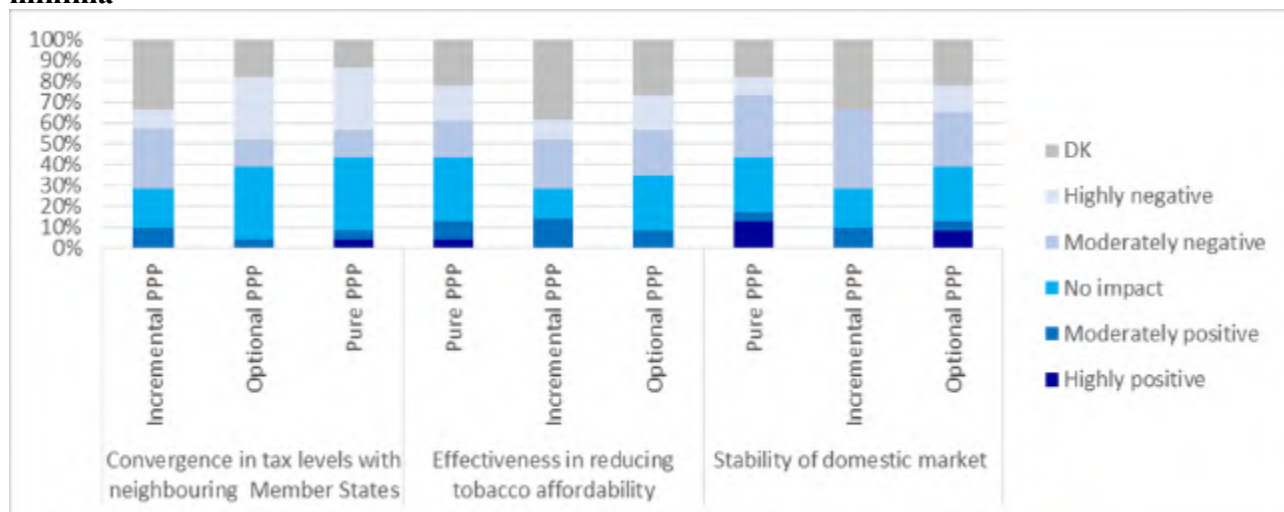
The possibility of introducing alternative approaches for EU minima was tested among Member States tax and customs authorities through the targeted survey. As

²⁶⁴ [Statistics | Eurostat \(europa.eu\)](https://statistics.eurostat.eu)

Figure A10-3 shows, the initial feedback was cautious,²⁶⁵ but a substantial share of survey participants did not provide a concrete answer (i.e. only half of participants replied with respect to the incremental PPP approach). In particular, various Member States expressed the concern that PPP-based approaches could negatively affect convergence in tax levels. The tested approaches were therefore dropped and the partial-PPP approach was developed to mitigate the adverse effects anticipated by Member States authorities.

²⁶⁵ It should be added that the objective of the proposed reform is to expand the impact of EU minima to Member States that so far have never been touched because of their high income levels. A certain resistance towards the reform is therefore not surprising.

Figure A10-3. Member States authorities' feedback on PPP-adjusted approaches for EU minima



Source: External study based on the results of tax and customs authorities survey.

ANNEX 11: HEATED TOBACCO PRODUCTS

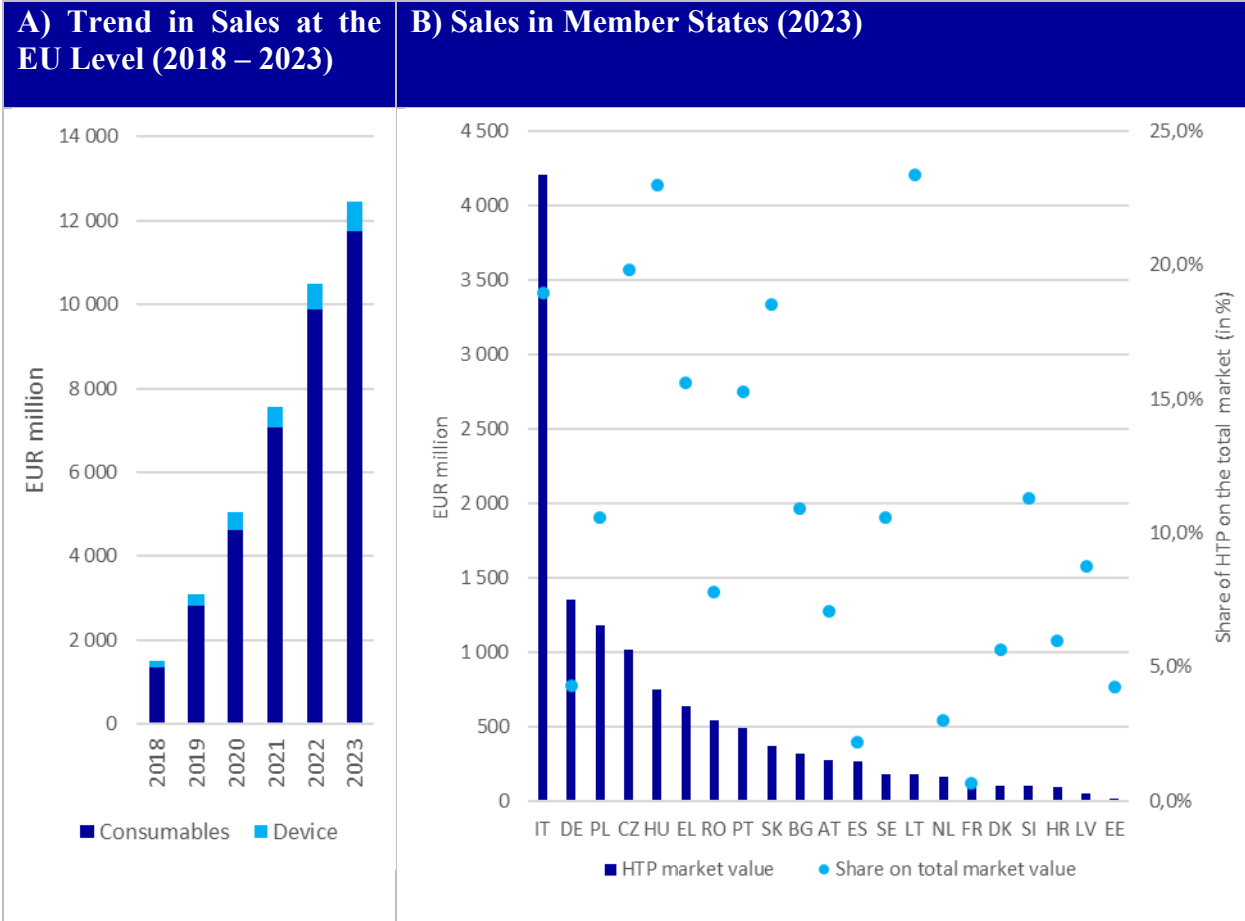
1. Market and demand trends

Since its first introduction in EU markets²⁶⁶, sales of heated tobacco products (HTP) sales have constantly been growing at a steep pace (Figure A11-1 and

²⁶⁶ This sentence refers to the products currently on the market. Previously, other types of HTP had been launched but did not succeed. Hence they are no longer commercialised.

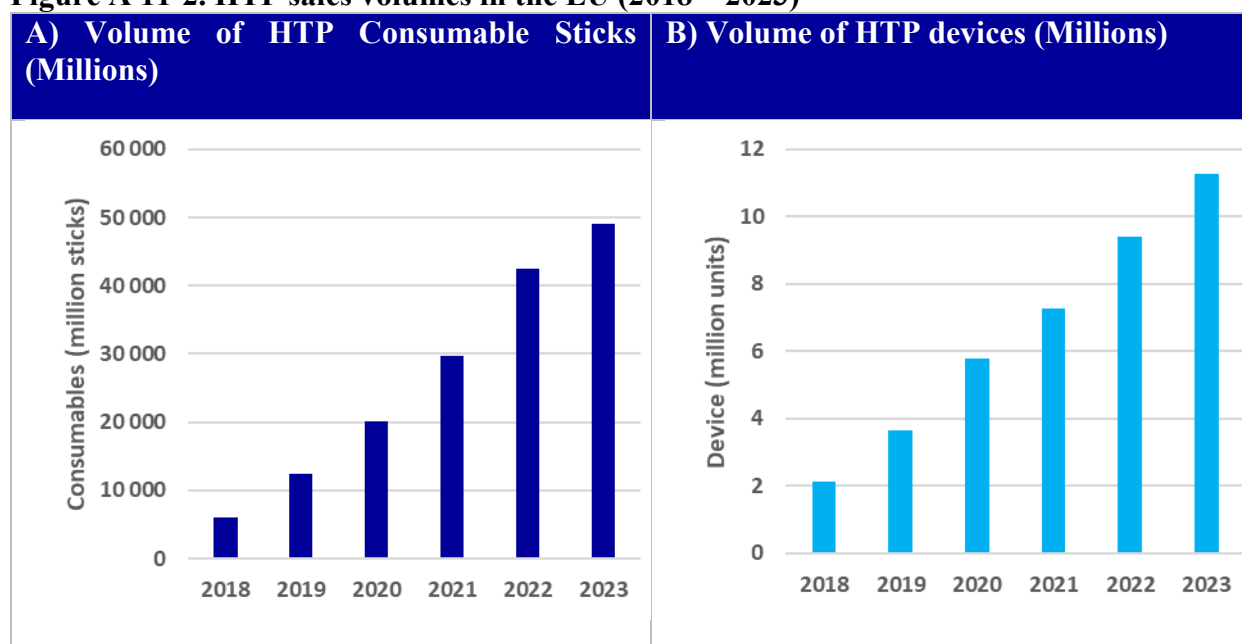
Figure A 11-2). Heated tobacco was introduced progressively, firstly in some pilot cities of a few countries (Italy and Romania), then to more countries and larger areas. Therefore, part of the growth is explained by the expanded geographical availability of these products, and not only consumer uptake. There are major differences across countries. In 11 Member States (Bulgaria, Czechia, Greece, Hungary, Italy, Lithuania, Poland, Portugal, Slovenia, Slovakia and Sweden) a significant market penetration is recorded, with HTP market shares of at least 10%. In contrast, in six countries the product has not (yet) really taken off. Italy is by far the largest HTP market, with 2023 sales exceeding EUR 4 billion and 14 billion consumable sticks.

Figure A11-1. HTP market in the EU



Source: External study based on: panel A: Euromonitor International; Panel B: Euromonitor International and TEDB.

Figure A 11-2. HTP sales volumes in the EU (2018 – 2023)



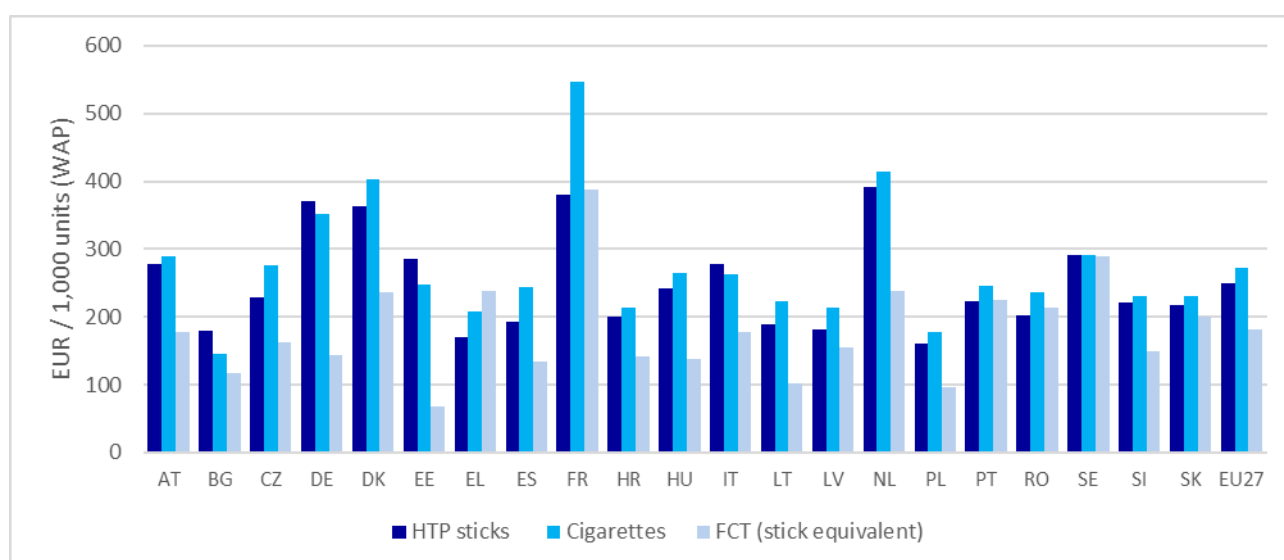
Source: External study based on Euromonitor International.

Note: figures do not include Member States where HTP was not commercialised in the corresponding year, as well as Member States for which no data are available.

As

Figure A 11-3 shows, HTP prices are usually lower than the WAP for cigarettes and significantly higher than the price for FCT. In 2023, in the 21 Member States the average HTP price was almost EUR 250, compared with a cigarettes price of EUR 272 and FCT price of EUR 180. In eight Member States the differential between HTP and cigarettes was in the 5 to 10 percentage points range, while in the remaining countries, the differential exceeded 10 percentage points. The highest price differentials were in France (where HTP sell at a 31% discount compared with the cigarettes WAP), Spain (where the discount was about 21%) and Bulgaria (where HTP were 25% more expensive than cigarettes). Only in four countries (Bulgaria, Germany, Estonia and Italy), HTP sticks were more expensive than cigarettes.

Figure A 11-3. Average price for HTP, cigarettes and FCT (WAP, 2023)



Source: External study

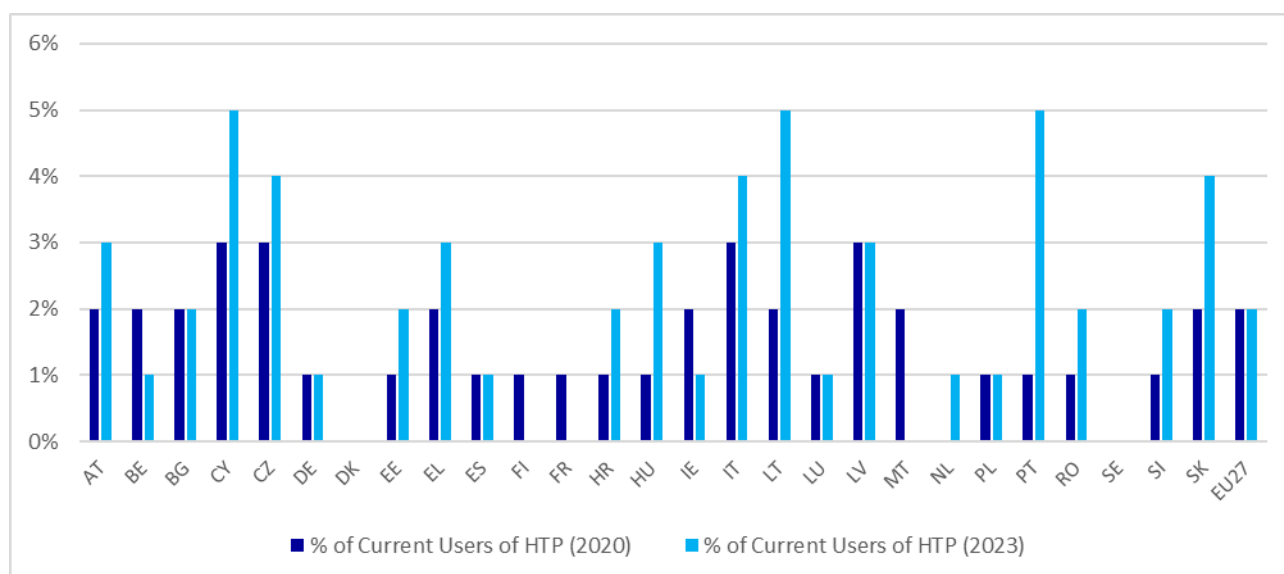
Note: HTP figures do not include Member States where the product was not commercialised in 2023 as well as Member States for which no data are available (Belgium, Cyprus, Malta, Luxembourg, Ireland and Finland).

Demand trends

Overall, the total HTP users' population in the EU can be estimated at around 7.6 million and prevalence is generally comprised between 1% and 2%.²⁶⁷ The prevalence varies across Member States. There are some differences in the prevalence of HTP use across Member States. In 2023, prevalence was highest, at 4% or 5%, in six countries (Cyprus, Czechia, Italy, Lithuania, Portugal and Slovakia), while it was lowest, at 1% or lower, in 11 Member States (Belgium, Germany, Denmark, Spain, Finland, France, Ireland, Luxembourg, the Netherlands, Poland, and Sweden) (see Figure A 11-4).

Figure A 11-4. HTP prevalence in the EU (daily use, 2023 vs 2020)

²⁶⁷ Eurobarometer 99.3 wave.



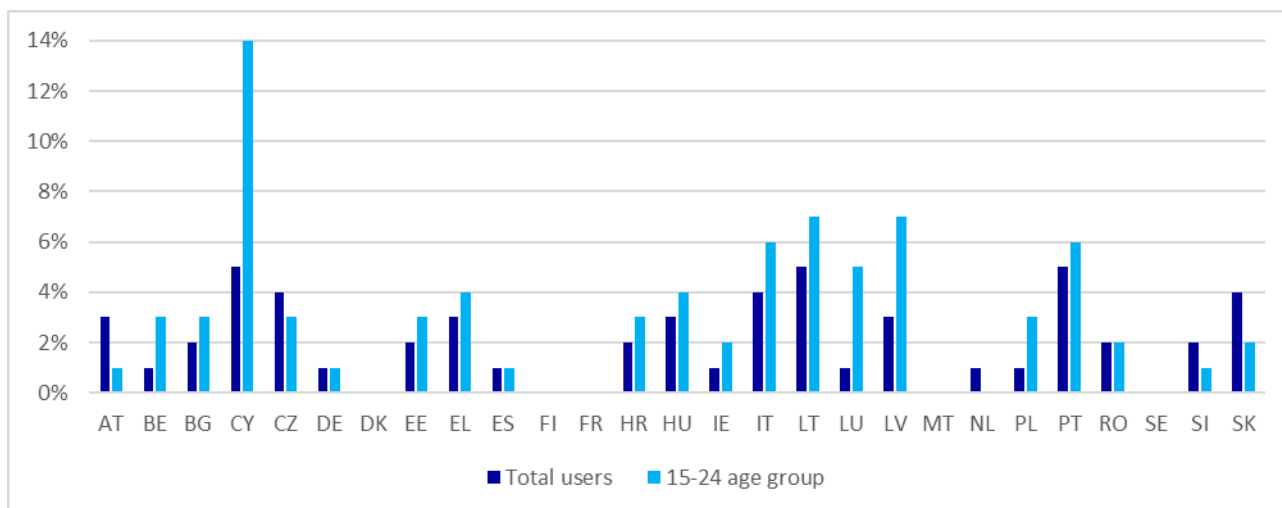
Source: External study based on Eurobarometer 99.3 (2023) and 96.3 (2020).

Based on Eurobarometer estimates, the prevalence of HTP use by socio-economic groups could be summarised as follows:

- Young adults are more intensive users. In 2023, the prevalence of HTP use among people was 3%, compared just 1% for older generations (see Figure A 11-5).
- HTP use is broadly similar among males and females. There are some differences across Member States, but these differentials are offset at the EU level, where both gender groups had a 2% prevalence in 2023.
- HTP use increases with the level of education. In 2023, 4% of people with tertiary education used HTP, compared with a prevalence of 3% among those with secondary education and just 1% among people with primary education.
- HTP is mildly associated with higher socio-economic status. In 2023, the prevalence of HTP use among people identifying themselves as upper-middle class was 3%, while it was 2% among people belonging to the middle class. In all other socio-economic groups (working class, lower middle class and upper class) prevalence was at 1%.²⁶⁸

Figure A 11-5. Prevalence of HTP use among young people (2023)

²⁶⁸ External study.



Source: External study based on Eurobarometer 99.3 (2023)

Finally, frequency of use has increased overtime, while intensity of daily use remains stable. In 2023, 70% of users consumed HTP daily, compared with 60% in 2019. On average, users of HTP consumed 12 sticks per day in 2019 and 2023.

2. Legal framework of HTP in Member States

Definition of HTP in Member States' legislation

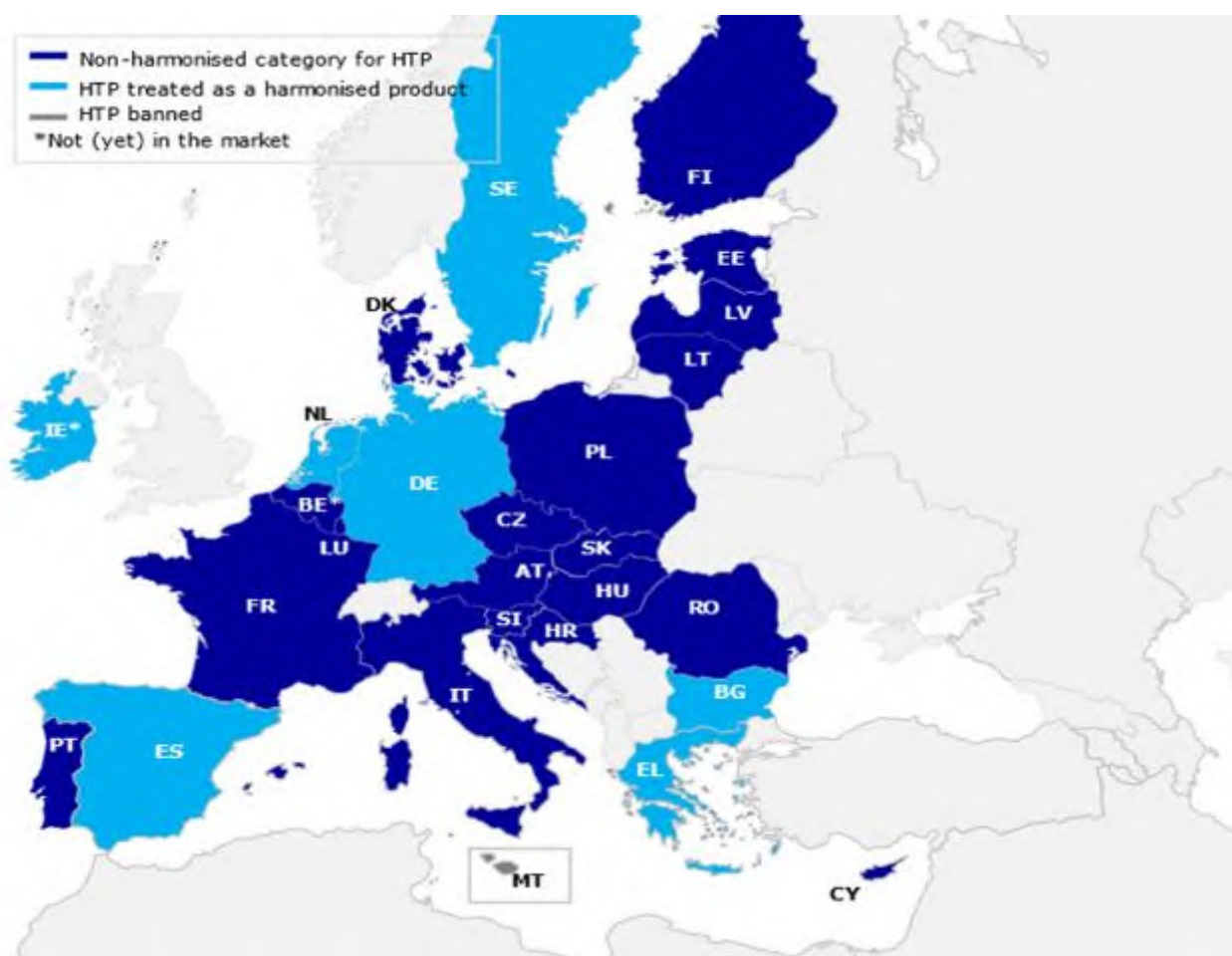
Member States where an ad hoc tax category for HTP is in place have adopted substantially similar product definitions by making explicit reference to the absence of combustion or 'burning' in their definitions, and to the production of a vapour aerosol as an output. In this sense, the product is defined not by intrinsic characteristics (except the obvious reference to tobacco) but by a specific modality of consumption.

Tax structures and rates across the EU

The fiscal policies for HTP have evolved since HTP appeared in the market. One of the challenges faced by Member States tax authorities in designing the tax regime for HTP was the absence of clear benchmarks for establishing the appropriate tax rate. Italy was the only Member State to design an ad hoc tax regime connected with the tax regime of cigarettes, under the assumption of direct substitution effects. Other countries adopted the tax rate of smoking tobacco (other smoking tobacco (OST) or fine cut tobacco (FCT)) as reference, either to classify HTP as such or to introduce ad hoc regimes applying de facto the same rates as OST and FCT.

As shown in Figure A11-6, all EU countries currently tax HTP, except Malta where HTP is banned. HTP is treated as a harmonised product in seven Member States. In most cases, it is considered as OST, except Sweden that differentiate between HTP sticks (taxed as cigarettes) from other HTP formats (taxed per weight). In Germany, HTP is considered a harmonised product, but the rate is calculated in relation to the rates of both cigarettes and OST. In all other countries, HTP is subject to a non-harmonised national tax, which consists of a flat rate per kg in nine countries, a flat rate per 1 000 units in two countries, while three Member States have differentiated rates for HTP sticks and other formats of HTP. In all Member States considered, the structure of the tax is 'specific', but three Member States apply also an ad valorem component.

Figure A11-6. Tax treatment of HTP in Member States (as of end 2024)



Non-harmonised category for HTP	HTP treated as harmonised product
<p>AT: € 164/kg</p> <p>BE*: Ad valorem: 31.5% of RSP and specific: € 136/kg, Minimum Excise: €228.1/kg</p> <p>CY: € 150/kg</p> <p>CZ: € 127/kg</p> <p>DK: € 201/kg if deemed equivalent to OST, or € 208/kg if deemed equivalent to FCT</p> <p>EE: € 112,4/kg if not smokable as a cigarette, otherwise € 169 per 1 000 items</p> <p>FI: € 300/kg</p> <p>FR: €30.2 per 1,000 items for HTP sticks, or €113.9/kg for other formats plus an ad valorem of 51.4% and a MED of €268 / 1,000 items or € 1011.3 per kg (since 2025, the specific rate has increases to €41.1 per 1000 and €155.2 per kg, plus a MED of €303.8 per 1 000 or € 1,146.4 per kg)</p> <p>HR: € 186/kg</p> <p>HU: € 90 per 1 000 sticks</p> <p>IT: €39.5% of the excise duty applied to cigarettes (for reference €63 per 1 000 items in 2024)</p> <p>LT: € 79.5 per 1 000 items</p> <p>LU: Ad valorem: 28% of RSP and specific: € 16.8/kg</p> <p>LV: € 251/kg</p> <p>MT*: banned</p>	<p>BG: € 169.2/kg</p> <p>DE: the rate is a combination of the tax rate for pipe tobacco and an additional amount equal to 80% of the difference between the tax on cigarettes and that of pipe tobacco. For reference, the rate of most popular product in 2024 was equal to €144.75 per 1 000 items.</p> <p>EL: € 156.7/Kg</p> <p>ES: Ad valorem 28.4% of RSP, Minimum Excise € 22/kg</p> <p>IE*: 335.3 €/kg</p> <p>NL: € 347/kg</p> <p>SE: same rate as cigarettes for HTP sticks (i.e. €166.7 per 1 000 items in 2024), same rate of OST for other formats (€ 230/kg)</p>

PL: Ad valorem: 32.05% of WAP and specific: € 85.77/kg
PT: Ad valorem: 15% of RSP and specific: € 93.5/kg, Minimum Excise: €180/kg
RO: € 220.1/kg (as of end 2024, then € 230.5 since 2025)
SI: €180/kg
SK: €188/kg

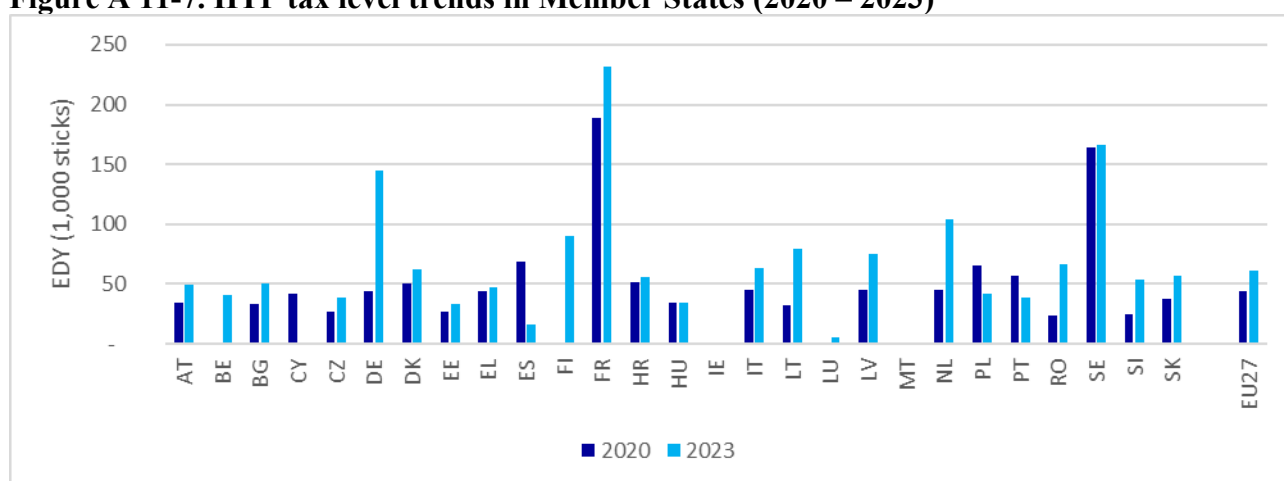
Source: External study

Note: (*) not on the market at the end of 2024.

Over the 2020 – 2023 period, most Member States revised upward the tax levels for HTP (see Figure A 11-7). On average, the actual rate applied throughout the EU moved from EUR 44 sticks to EUR 61 per 1 000. Such increase was higher than the inflation rate occurred in the same period, so in real term the taxation of HTP has increased.

In 2023, the EU average tax incidence on HTP price was 25.3% and well below the average excise duty incidence on the price of cigarettes, which is 61.7%.

Figure A 11-7. HTP tax level trends in Member States (2020 – 2023)

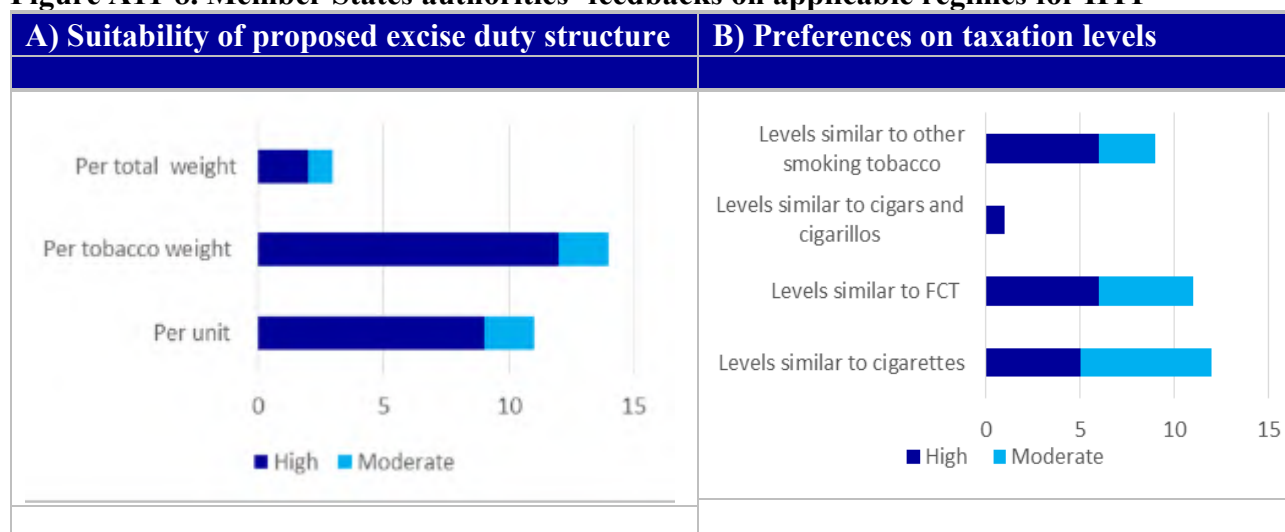


Source: External study

The current regimes in place in Member States has almost exclusively adopted a ‘per weigh’ tax base for HTP, but the survey results suggest there is interest in a ‘per unit’ approach (

Figure A11-8). A flexible, two-tiered regime could therefore meet the expectation of the greater number of Member States and maximise benefits.

Figure A11-8. Member States authorities' feedbacks on applicable regimes for HTP



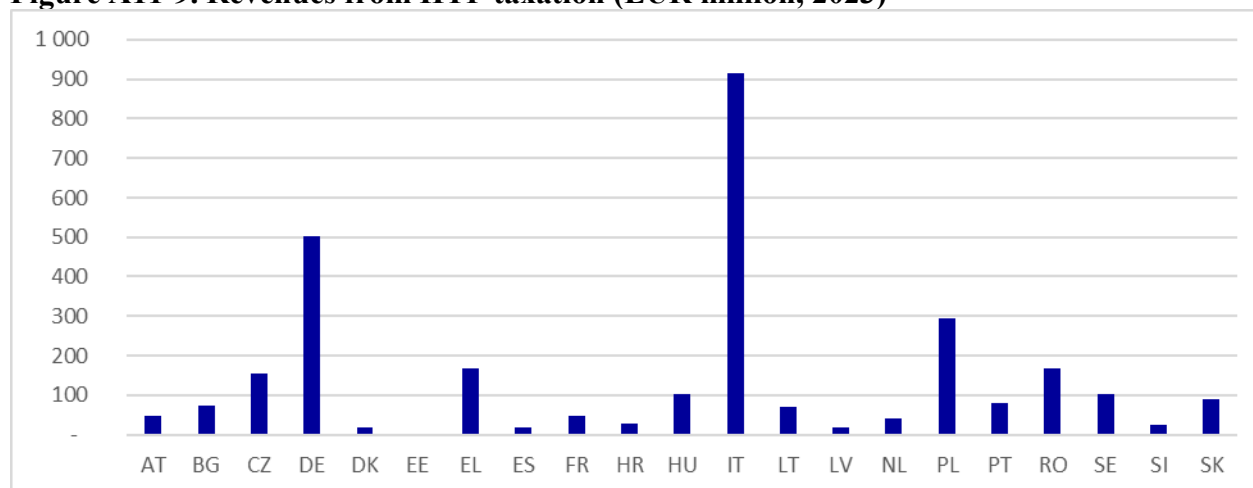
Source: External study based on tax and customs authorities survey.

Note: answers refer to the number of Member States that expressed a 'high' or 'moderate' appreciation of the scenarios proposed. The scenarios were not presented as mutually exclusive, so the totals do not add-up to the number of participants (25 Member States).

3. Tax revenue

As shown in Figure A11-9 estimated total revenue close to EUR 3 billion.²⁶⁹ Italy displays the highest revenue, with about EUR 916 million. It is followed by Germany and Poland (each with revenues in the EUR 300 – 500 million range), while in the majority of Member States reviewed values are well below EUR 100 million.

Figure A11-9. Revenues from HTP taxation (EUR million, 2023)



Source: External study

Note: Member States where HTP are not commercialised or for which market sales data are not available are not displayed.

²⁶⁹ Most recent information dates back to 2022 and refers to only a subset of 17 Member States. In particular, no information is available for Germany, which is the second largest HTP market after Italy. Overall, the figures reported by Member States indicated a total of EUR 1.46 billion.

ANNEX 12: LIQUIDS FOR ELECTRONIC CIGARETTES

1. Market trends and demand

Market trends

As shown in Figure A12-1, after a few years of stagnation, the e-cigarettes²⁷⁰ market has expanded considerably in recent years, from an EU aggregate value of EUR 2.9 billion in 2020 to nearly EUR 5 billion in 2023.

The recent growth was mostly attributable to ‘closed systems’ and – in particular to a new generation of single use products growing from a mere EUR 89 million in 2020 to EUR 1.6 billion three years later. The growth of single use products (and closed system in general) goes in parallel with a possible reduction of ‘do-it-yourself’ practices²⁷¹ among consumers. This is mainly because most Member States have extended taxation to nicotine-free liquids, thus removing a relevant economic incentive to ‘do-it-yourself’. Refills for rechargeable closed systems also expanded their market by 76% (from EUR 236 million to EUR 416 million), while liquids for open systems have increased more moderately (19% in 2020-2023, i.e. from EUR 1.46 to EUR 1.74 billion), but remains the largest segment.

In the past the e-cigarettes market was largely segregated between the closed system segment, largely dominated by big companies and the open system segment, mostly formed by independent companies and SMEs. In 2023 independent companies and SMEs accounted for nearly 90% of the liquids for open systems market, but they have also increased their involvement in the single-use e-cigarettes segment, with an aggregate market value that have grown EUR 920 million (from around EUR 90 million in 2020). Big companies and large Asian companies have expanded their business in the single-use segment even more rapidly, and in 2023 controlled 43% of the market (up from 9% in 2020).

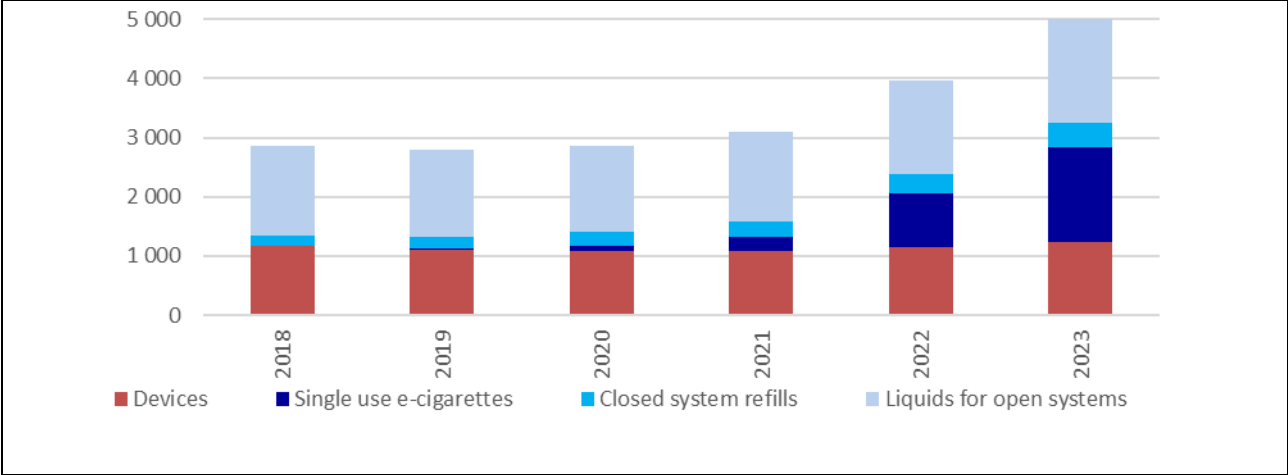
At the EU level closed refills have become the main component of the e-cigarettes market, accounting for 41% of total sales in 2023, compared with 35% for liquids for open systems and 25% for devices. Closed refills are the main component in 12 countries, with a market share of 50% or more in 10 Member States (accounting for 50% or of sales in Austria, Germany, Greece, Ireland, Lithuania, Latvia, Poland, Portugal and Romania). Liquids for open systems have the largest market share in 10 countries, but they account for 50% or more of total sales only in 6 Member States (Denmark, France, Croatia, Hungary, the Netherlands and Sweden). The differences in the composition of the e-cigarettes market in value and volume terms is mainly due to unit price: closed refills and single-use products are much more expensive, and this obviously inflates their relative importance in value terms.

²⁷⁰ E-cigarettes market includes two main components, namely (i) the devices used for vaping, and (ii) the liquids to be vaporised (also referred to as the ‘consumables’). The liquids to be vaporised may have different flavours (tobacco, menthol, fruit, candy, coffee, etc.) and may or may not contain nicotine. The e-cigarettes can be roughly subdivided into the so called ‘open systems’, which required the user to manually pour a certain amount of liquid into the device’s tank, and the ‘closed systems’, which might be further divided into rechargeable systems (consisting of pre-filled pods or cartridges that can be easily inserted into the device, i.e. the ‘closed system refills’, and disposable or single-use e-cigarettes).

²⁷¹ There can be various degrees of ‘do-it-yourself’ from simply adding neutral ‘nicotine booster’ to ‘shortfills’, i.e. underfilled bottles of flavoured liquids, to more radical homemade mixing of all basic ingredients of liquids.

E-cigarettes are often sold by retailers of tobacco products. However, there are also specialised retailers, focusing exclusively on the sale of devices and consumables (liquids for e-cigarettes, cartridges, etc.). In 2024 there were about 11 500 specialised e-cigarettes shops in 9 Member States (Belgium, Germany, Greece, Spain, France, Italy, the Netherlands, Poland and Romania). France is the country with the largest number of specialised shops (about 4 000), followed by Italy (2 500), Germany (1 200) and Greece, the Netherlands and Poland (each with some 900 to 1 000 shops).

Figure A12-1. Trend in sales of e-cigarettes at the EU level (EUR million)

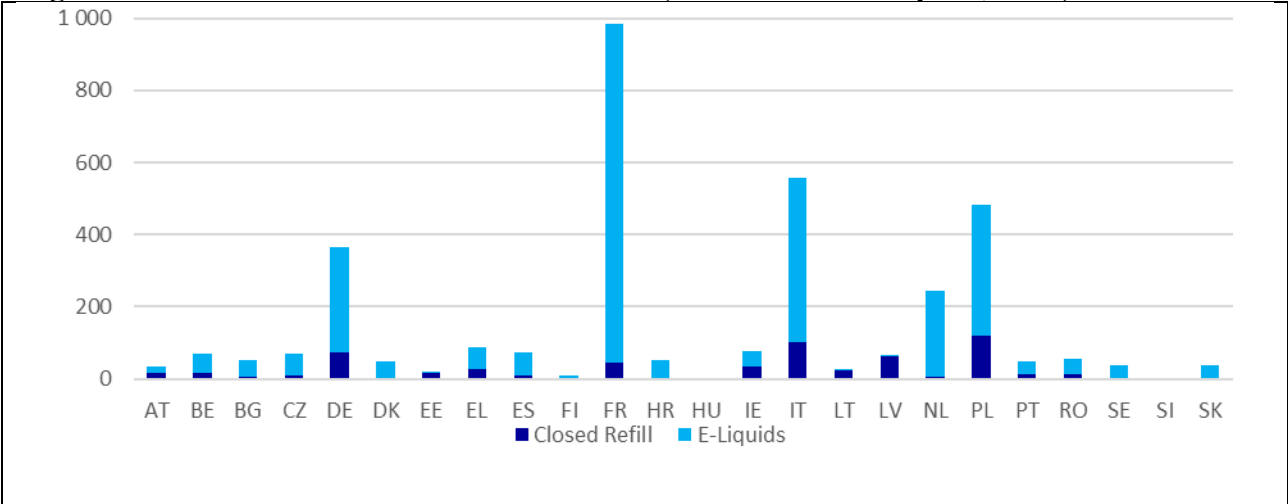


Source: External study based on Euromonitor International.

Note: Information is not available for three Member States (Cyprus, Luxembourg and Malta).

In 2023 the sales of liquids for open systems in the EU were almost 2.9 million litres, accounting for no less than 83% of the total volume of consumables sold (approximately 3.5 million litres)²⁷². Liquids also dominate most national markets and liquids for closed systems (refills and disposable) account for the largest share of volumes sold only three Member States, i.e. Estonia, Lithuania and Latvia.

Figure A 12-2. Sales volume in Member States (in 1000 litres of liquids, 2023)



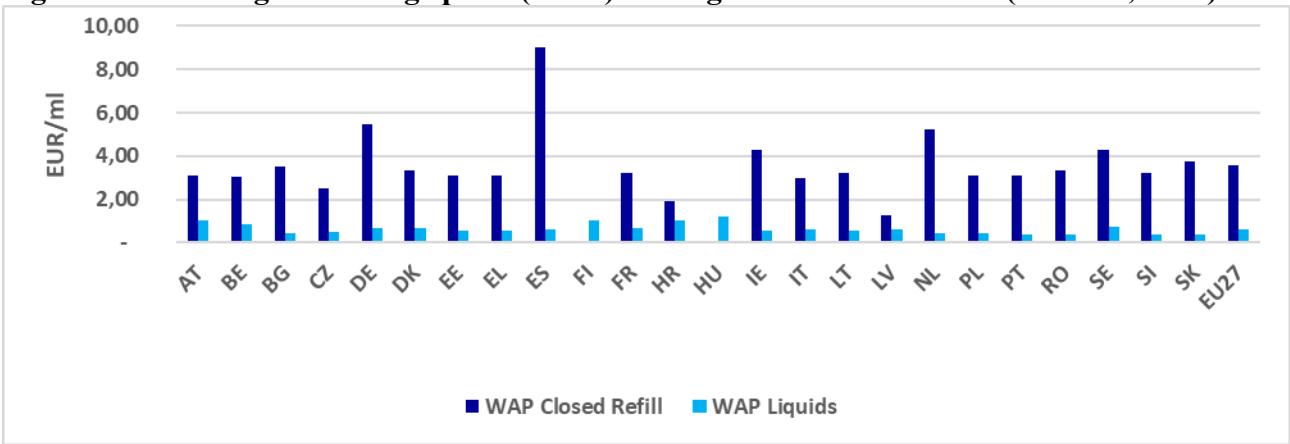
²⁷² It is assumed an average of 2ml for closed system refills and single-use e-cigarettes, but accurate estimates are unavailable (External study).

Source: External study based on Euromonitor International.
Note: Information is not available for three Member States (Cyprus, Luxembourg and Malta).

The retail price of e-cigarettes products varies significantly across different types of products. Regarding consumables, closed refills are the most expensive product. In 2023, the EU weighted average price (WAP) for closed refills was EUR 3.60 per millilitre, compared with just EUR 0.64/ml for e-cigarette liquids.

The retail price of consumables displays significant variations across countries. As shown in Figure A12-3, in 2023, the WAP for closed refills ranged from a minimum of EUR 1.91/ml in Hungary to a maximum of EUR 9.01/ml in Spain, with only five Member States displaying prices close to the EU average (i.e. within a +/- 10% band). The WAP for liquids of e-cigarettes ranged from a minimum of EUR 0.37/ml in Slovakia to a maximum of EUR 1.20/ml in Hungary, and the distribution of prices is somewhat more compact, with seven Member States displaying prices close to the EU average (i.e. +/- 10%) and a coefficient of variation of 36%.

Figure A12-3. Weighed average price (WAP) of e-cigarettes consumables (EUR/ml, 2023)



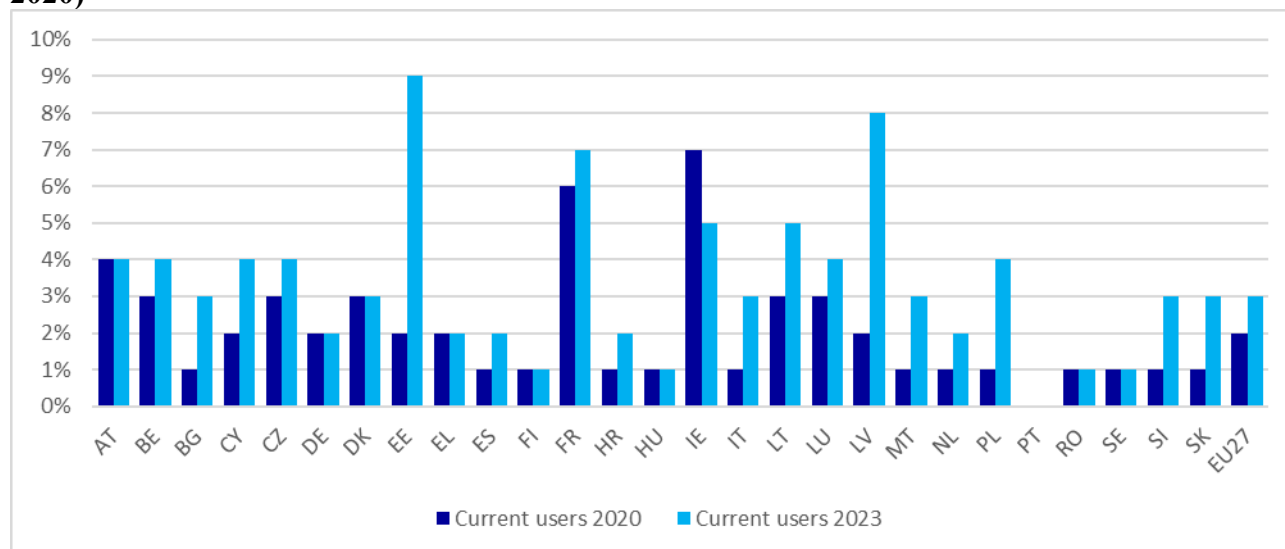
Source: External study based on Euromonitor International.
Note: Information is not available for three Member States (Cyprus, Luxembourg and Malta). Also, information on closed refills WAP is not available for Hungary and Finland.

Demand trends

According to the most recent Eurobarometer survey, in 2023 current users of e-cigarettes accounted for about 3% of the EU adult population, compared with 2% found in 2020. Overall, the total number of users in the EU can be estimated at almost 11.5 million. As shown in

Figure A12-4 there are some differences in the prevalence of e-cigarettes use across Member States. In 2023, prevalence was highest at 9% in Estonia, followed by Latvia (8%) and France (7%). On the other hand, prevalence is below 1% in Portugal and around 1% in four countries (Finland, Hungary, Romania and Sweden). Overall, between 2020 and 2023, the use of e-cigarettes increased in 17 Member States, with the highest increases recorded in Estonia (7 percentage points) and Latvia (6 percentages points). Prevalence remained stable in nine countries (typically at low/very low levels) and declined in Ireland (from 7% to 5%).

Figure A12-4. Prevalence of use of e-cigarettes in the EU (current use, percentages, 2023 vs. 2020)



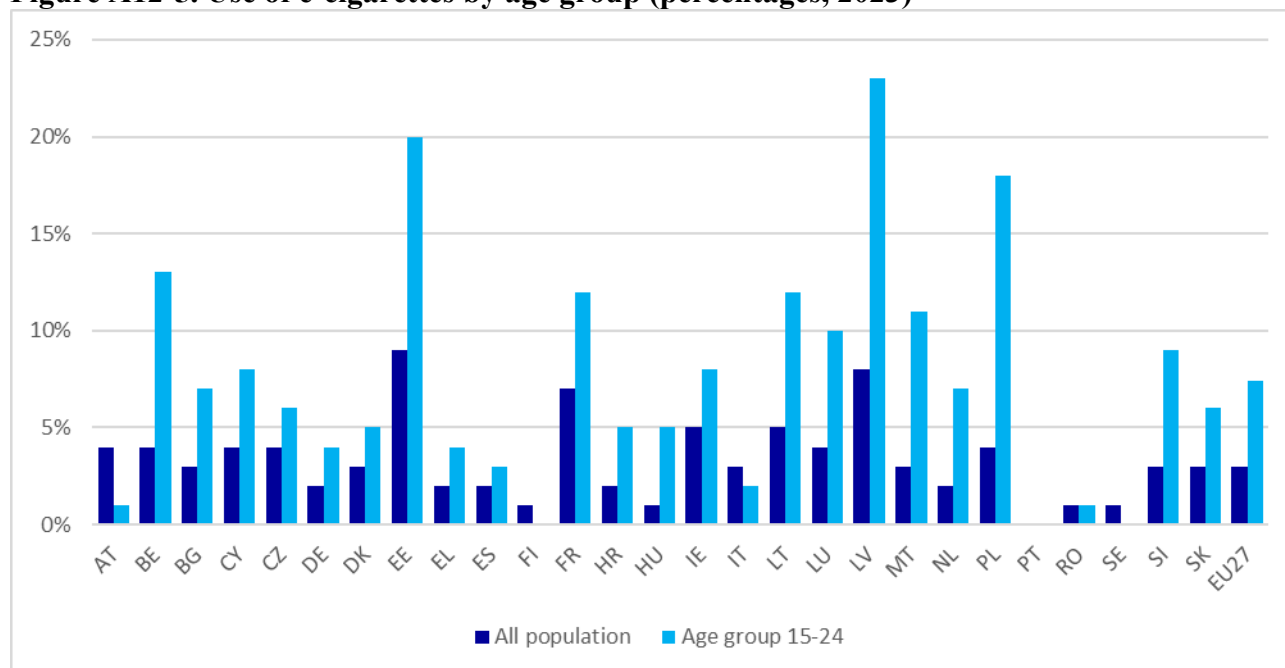
Source: External study based on Eurobarometer 99.3 (2023) and 96.3 (2020).

Smokers of e-cigarettes are mostly regular users. In 2023, 83% used e-cigarettes on a daily or weekly basis, with only 17% making a less frequent use. Irrespective of the frequency in use, on average EU smokers used e-cigarettes 11.5 times per day. In 2023, 74% of EU regular smokers of e-cigarettes only used products containing nicotine, 13% only products without nicotine and another 13% used both nicotine and non-nicotine products.

Based on Eurobarometer estimates, the prevalence of e-cigarettes use by socio-economic groups could be summarised as follows:

- E-cigarettes are more popular among young people. In 2023, the prevalence of e-cigarettes among people in the 15-24 years age group was 6%, compared with between 2 and 5% for older generations (see Figure A12-5).
- E-cigarettes use is similar among males and females. In 2023 there were no differences in e-cigarettes' use between males and females, as both genders had a 3% prevalence.
- E-cigarettes use is highest among people with secondary education. In 2023, 7% of people with secondary education used e-cigarettes, compared with a prevalence of 4% among those with primary education and 3% among people with tertiary education.
- E-cigarettes use is uncorrelated with socio-economic status. In 2023, the prevalence of e-cigarettes in the various socio-economic groups was generally aligned with the 3% found in the general population. There are, however, some differences across Member States, e.g. prevalence is highest in the upper class in Estonia, Croatia and Latvia.

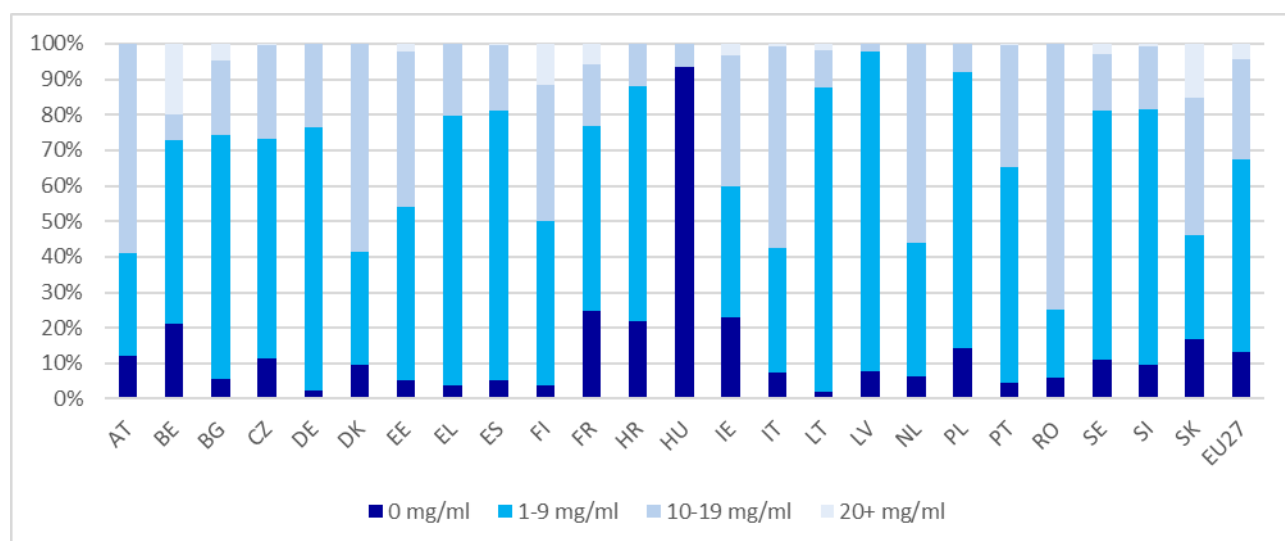
Figure A12-5. Use of e-cigarettes by age group (percentages, 2023)



Source: External study based on Eurobarometer 99.3.

Data on market composition shows (see Figure A12-6) in 2023 nicotine-containing products accounted for 87% of the total consumables market vs. just 13% for nicotine-free products. Among nicotine-containing products, consumers tend to prefer low strength liquids (with 1 to 9 mg/ml), although medium strength products (10 to 19 mg/ml) hold more than 50% of the market in 5 Member States (Austria, Denmark, Italy, the Netherlands and Romania).

Figure A12-6. Composition of e-cigarette liquids market value by nicotine concentration band (market share in %, 2023)



Source: External study based on Euromonitor International

Note: Information not available for three Member States (Cyprus, Luxembourg and Malta). In some countries, not all the four types of liquids are sold and/or consumed.

2. Legal framework for e-cigarettes in Member States

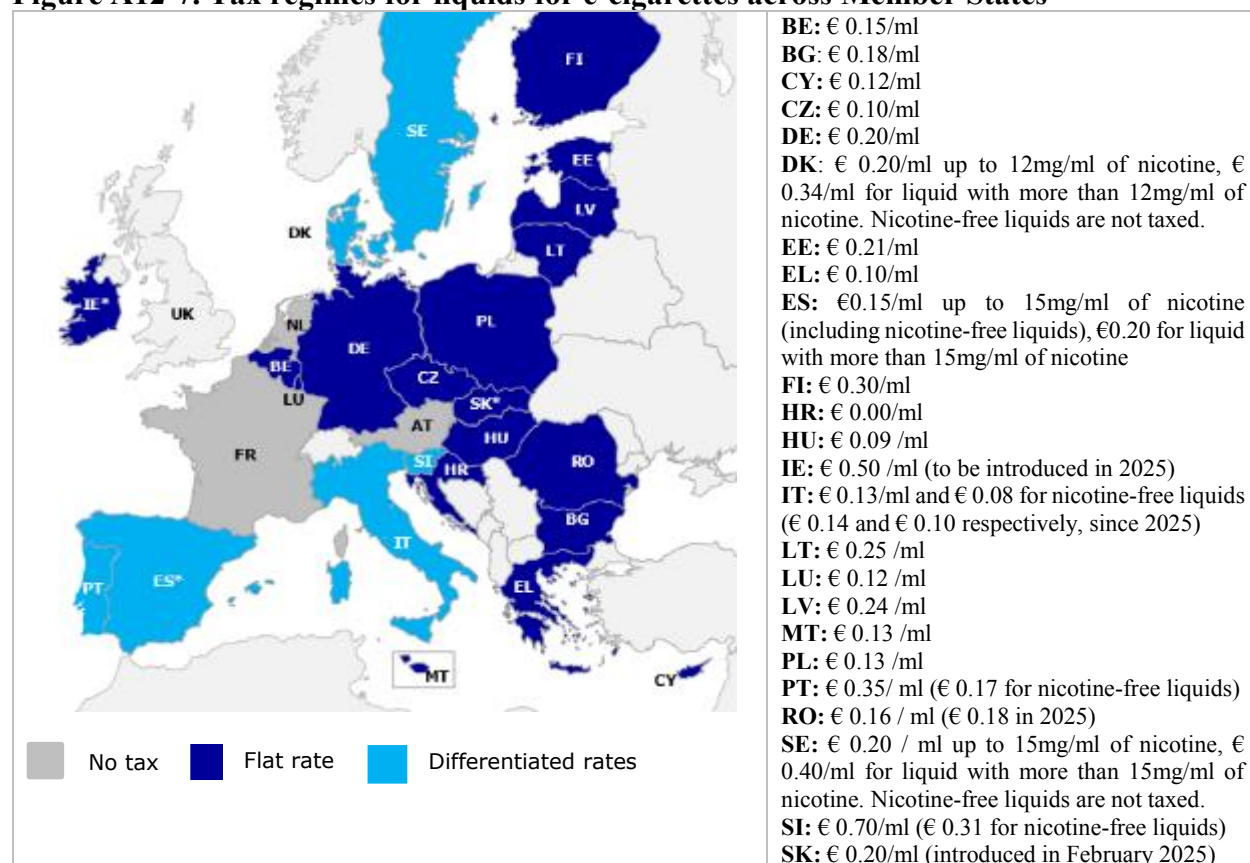
Definition of liquids for e-cigarettes in Member States' legislation

Member States with an ad hoc taxation of e-cigarettes in place (see

Figure A12-7) have adopted various approaches to define the related tax category. Considering a typical liquid for e-cigarettes containing 6 mg/ml of nicotine, and including Member States that start levying taxes in 2025, the average tax level is EUR 0.20/ml, ranging from nil (Croatia) to EUR 0.70/ml (Slovenia).

According to the definitions implemented, Member States can be divided into three categories: (1) making reference to liquid used in e-cigarettes (e.g. Cyprus, Croatia, Latvia, Poland); (2) making reference to the classification under Combined Nomenclature (e.g. Greece, Romania); and (3) making reference to the vapour, vaporising, inhaling of liquid (e.g. Italy, Slovenia, Portugal). Meanwhile, in Estonia, liquids for electronic cigarettes fall under the broad category of products intended for use similarly or for similar purposes with tobacco products.

Figure A12-7. Tax regimes for liquids for e-cigarettes across Member States



Source: External study

Note: Note: (*) taxation introduced/to be introduced in 2025.

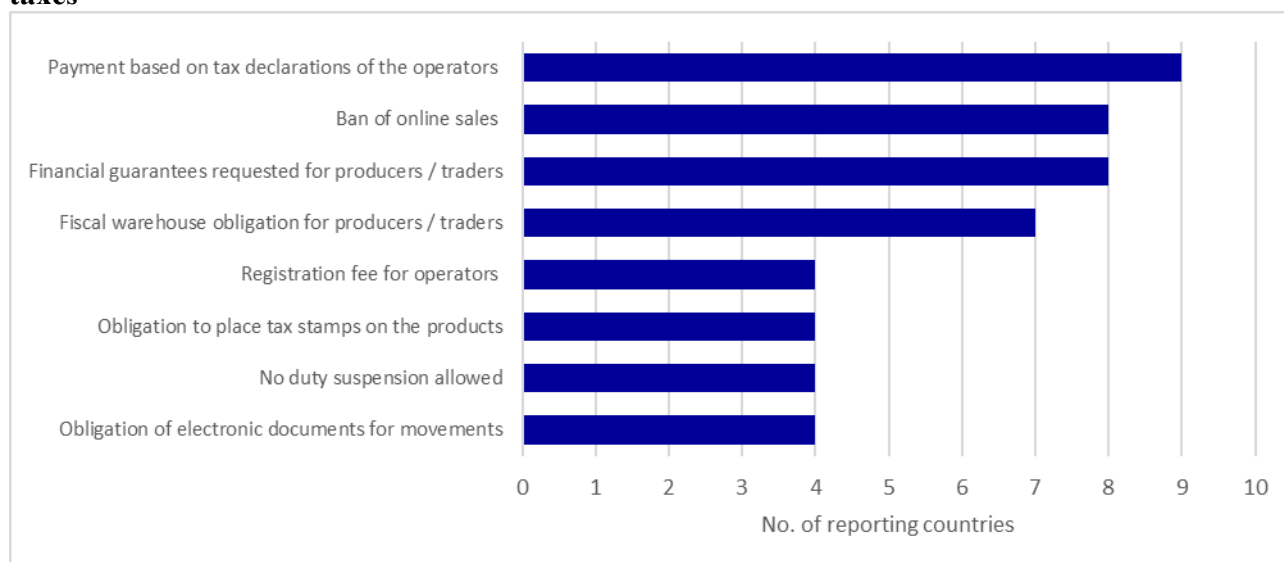
3. Liquids for e-cigarettes regime's implementation and obligations

- The relative majority of Member States apply similar rules and arrangements as for traditional tobacco products. These similarities particularly regard the obligation for

manufacturers / importers of liquids to provide a financial guarantee. Similarly, in most cases it is requested to keep products in tax warehouses until they are released for consumption.

- The majority of countries allow movement under duty suspension. This permission can be coupled – but not necessarily – with the obligation to use electronic documents for the movement of products.
- Most of the countries with a tax regime on e-cigarettes have prohibited distant selling online to avoid tax circumvention. E-commerce is challenging to control, and most stakeholders estimate that a significant share of ‘unrecorded’ consumption is actually linked to cross-border transactions made online.

Figure A12-8. Administrative arrangements and obligations linked to ad hoc e-cigarettes taxes



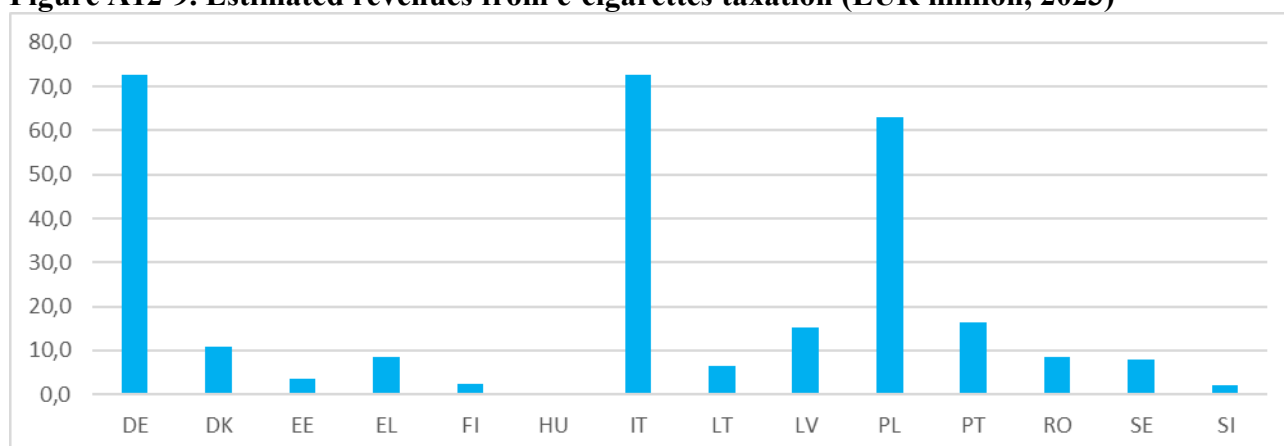
Source: External study (based on EA 2019²⁷³, based on feedback from 11 Member States with an ad hoc e-cigarettes tax in place).

4. Tax revenue

In 2022, tax revenues from e-cigarette taxation amounted to almost 170 million. In 2023, such revenues, based on the market size and the rates applied in the Member States, amount to 290 million. EUR, i.e. significantly more than in 2022. In addition to the inevitable discrepancies in estimates, the difference may be due to various reasons, primarily the significant increase in market value (+34% between 2022 and 2023).

²⁷³ Economisti Associati, ‘[Study](#) on Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco’, 2019

Figure A12-9. Estimated revenues from e-cigarettes taxation (EUR million, 2023)



Source: External study based on tax rates applicable in Member States and market data from Euromonitor International.

Note: The figure shows only Member States that had a tax regime with positive rates in place in 2023, and for which market data were available (Cyprus, Malta and Luxembourg are not covered by Euromonitor).

ANNEX 13: OTHER TOBACCO-RELATED PRODUCTS

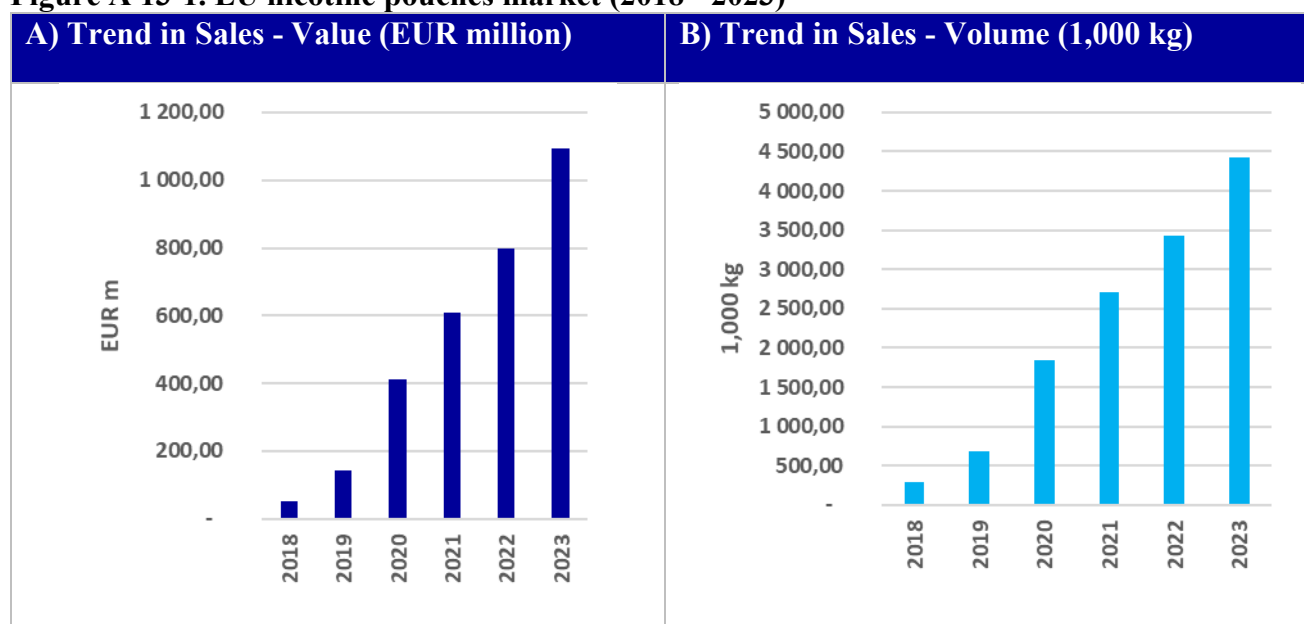
1. Market trends and demand

Nicotine pouches²⁷⁴ are a relatively new product, and sales increased considerably in recent years. As shown in Figure A 13-1, in 2023, the EU market for nicotine was valued at about EUR 1.1 billion, i.e. almost three times more than the value recorded in 2020 and more than twenty times the value recorded in 2018. A similar trend emerges from data in volumes, with 2023 sales surpassing 4 400 tonnes, compared with 800 tonnes in 2020 and a mere 200 tonnes in 2018. Sales of nicotine pouches are concentrated in few countries, mostly in Scandinavia and Central Eastern Europe. Sweden is by far the main market, and in 2023 it accounted for about 37% of total sales in value, followed by Denmark, accounting for about 26%. In 2023, nicotine pouches were sold in another 13 Member States, but significant sales were recorded only in Austria and Czechia accounting for, respectively, 13% and 11% of the total market.

From a public health perspective, nicotine pouches are sometimes regarded as particularly harmful, and their sale is prohibited in several Member States (Belgium, Cyprus, Germany, Lithuania, the Netherlands and Portugal).

Demand trends. Nicotine pouches are a niche product and according to the 2023 Eurobarometer survey, at the EU level only 1% of the population used them on a less than monthly basis. Daily users are found only in Sweden (6%), Denmark (2%) and in four other Member States (Estonia, Finland, Italy and Luxembourg). Both in Sweden and in Denmark, the relative majority of daily users of nicotine pouches are found primarily in younger generations (15 – 24 age bracket). Compared to traditional tobacco products, the consumption of nicotine pouches is more popular among upper / mid-upper classes than in the working class.

Figure A 13-1. EU nicotine pouches market (2018 - 2023)



²⁷⁴Nicotine pouches are small bags containing nicotine powder designed for oral use, usually placed under the lip, to facilitate nicotine absorption. Nicotine pouches can be regarded as a modern evolution of traditional oral tobacco products and where they are not prohibited are sold in a variety of flavours and nicotine strengths.

Source: Euromonitor International

Note: Market data for 2023 refers to 15 Member States (Austria, Belgium, Czechia, Denmark, Estonia, Finland, France, Croatia, Hungary, Ireland, Italy, Poland, Romania, Sweden, and Slovakia). In the remaining 12 countries, nicotine pouches sales are prohibited or otherwise not available in the market or simply no information is available, presumably because of the very limited sales.

Other manufactured tobacco product category covers chewing tobacco, nasal tobacco, and other products.²⁷⁵ These products are often prohibited or very marginally consumed in EU countries. The consumption of these products is small and declining. Chewing tobacco sales have decreased by 13% since 2020, and in 2023 were below 19 tonnes EU-wide. Moist snuff sales (except snus) amounted to 128 tonnes in 2023 and are rather stable for the past 3 years. In Member States where smokeless tobacco is commercialised, sales exceed the EUR 10 million benchmark only in Czechia, Denmark and Slovakia, whereas sales are negligible (below EUR 1 million), in Bulgaria, Spain and Hungary.

According to the latest Eurobarometer survey found an extremely limited utilisation of smokeless products EU-wide. In fact, in 2023 95% of the people interviewed never used these products, while the rest either only tested them once or twice or stopped using them.²⁷⁶

2. Legal framework in Member States

Nicotine pouches are taxed in 14 Member States (including Spain and Slovakia that introduced tax in 2025). No duties are levied in six countries (Austria, France, Croatia, Ireland, Poland and Slovenia). In two Member States, taxes are linked to the nicotine content expressed in milligrams. In the other countries, nicotine are charged a fixed amount per weight, expressed in kg (plus an ad valorem component used by Finland). Taxation levels show significant variation across countries. Duties levied on the weight range from a maximum of EUR 120/kg in Latvia (closely followed by Estonia with EUR 112/kg, the same rate applied to fine cut tobacco) to a minimum of around EUR 19/kg in Sweden.

Other manufactured tobacco products are taxed in nine Member States. In seven Member States there is a ban in place, which may regard only chewing tobacco, only nasal tobacco or both. In all other cases these products are not taxed (regardless of whether actually in the market or not). All countries charge a fixed amount per kg, except Italy where the tax is purely ad valorem, and Portugal where a mixed regime is applied. Sweden applies differentiated rates across products, where snus is taxed about EUR 47/kg, while chewing tobacco is taxed less than € 54 kg. In addition, Sweden has a ‘catch-all’ regime of EUR 226/kg on any other tobacco products, aimed at discouraging the commercialisation of bulk tobacco or the like. Among taxing Member States, the highest rate is in Denmark – EUR 154 / kg.

²⁷⁵ Sale of snus has been prohibited in the EU, except for Sweden, since 1992 (Article 17 of the Tobacco Products Directive).

²⁷⁶ External study.

ANNEX 14: RAW TOBACCO

1. Reconstruction of the tobacco supply chain

Table A14-1 below provides an overview of the supply chain's building blocks and flows between different steps, from the tobacco leaf to the retail sale of final products. The tobacco supply-chain is complex and ever-changing²⁷⁷ and the reconstruction is inevitably simplified and subject to a series of caveats.²⁷⁸

Table A14-1. The tobacco supply-chain

Phase	Description
Tobacco growing	<ul style="list-style-type: none"> Overall, there are approximately 14 500 – 15 000 tobacco growers registered in Member States in 2024. Their number has constantly declined in the past decade from an estimated 60 000 in 2010. In Bulgaria, Germany, Greece, Spain and Italy, the number of growers cumulatively declined by some 35%. The largest numbers are found in Bulgaria (about 6 200), Greece (approximately 4 600), and Poland (3 500). Tobacco growers are generally organised in Producers' Organisations (PO) and Associations of Producers Organisations (APO), often charged with market self-regulatory purposes. These also have been increasingly concentrating and in most growing countries, 2-4 POs account for 100% of tobacco crops. According to Eurostat data, roughly 86 000 tonnes of tobacco were harvested in the EU in 2023, with a marked decline compared with the about 180 000 tonnes recorded in 2016. The decline in EU production of tobacco accelerated after the discontinuation of decoupled EU aid in 2014, which led to a more than 50% drop in output. In 2023, tobacco was cultivated in 11 Member States. IT is the main producer, accounting for about one third of total output. Other significant producers include Poland, Greece and Spain. Compared to 2020, the decline in production was particularly steep in Spain (-50%), Greece (-42%) and Croatia (-41%); but less marked in Poland (-15%). In 2023, tobacco was cultivated in 11 Member States. Italy is the main producer, accounting for about one third of total output. Other significant producers include Poland, Greece and Spain.²⁷⁹ Tobacco is a commodity whose market prices fluctuate. To allow some form of regulated market, in most EU-growing countries cultivation plans and contractual agreements are negotiated in advance and under the supervision of public authorities. PO/APOs set out multi-annual plans in line with the

²⁷⁷ A common trait, which can be observed in all Member States, is a progressive consolidation and concentration of the supply chain in the hands of few operators. This process led to unprecedented cross-border flows of raw material.

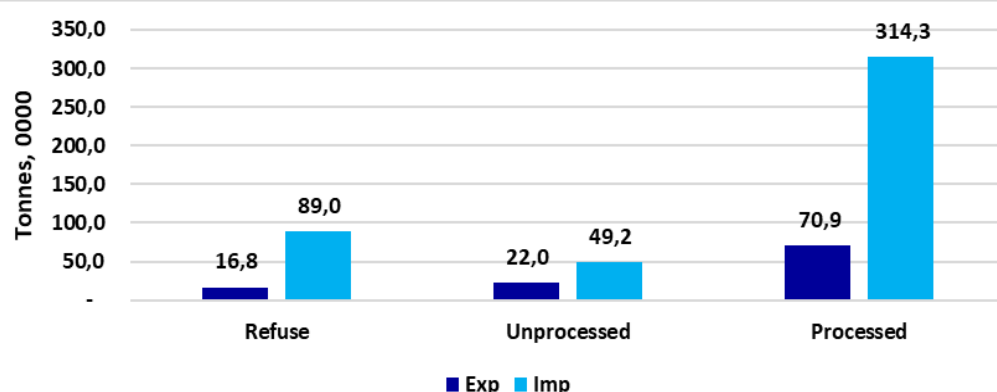
²⁷⁸ Such as lack of robust and detailed production data at all stages of the supply chain; the difficult use of Comext data to reconstruct the path of raw tobacco; diachronic reconciliation issues, with tobacco grown in year Y ending up in being used in a product released for consumption in 2-3 years or more; different units of measurement used by different sources for the range of products involved, i.e. volume (tonnes/ Kg) or units (pieces etc.); limitations with the time-significance of 'release for consumption' data, due to the authorities' registration methods and possible 'forestalling' practice. (External study).

²⁷⁹ Compared to 2020, the decline in production was particularly steep in Spain (-50%), Greece (-42%) and Croatia (-41%); less marked in Poland (-15%).

	<p>requirements of tobacco buyers, which can be: (a) first processors; (b) final manufacturers; or (c) tobacco merchants. The majority of buyers are large companies, but there are still some SMEs among manufacturers and first processors. In most Member States, there is a legal obligation to sell tobacco only to registered operators.</p> <p>Figure A14-1 Trends in EU tobacco harvested production (2016 – 2023, thousand tonnes)</p>
<p>First processing</p>	<ul style="list-style-type: none"> First processing includes a variety of activities that transform ‘leaf’ tobacco into ‘processed’ tobacco which manufacturers can use to produce cigarettes, FCT, cigars etc. The first processing includes inter alia: (a) threshing (separation of tobacco laminas from stems and veins); (b) cutting; (c) stabilisation; and (d) sorting into lots (i.e. grading of the products by quality). First processing is carried out in dedicated facilities, generally located in the growing areas (although increasingly less so). The number of first processors has consolidated over time (less than 30 operators were likely active in 2024). The bulk of activities carried out by a handful of operators, including some entities owned by transnational tobacco companies. With an estimated output of less than 1,000 tons / year, other minor processors can be found other countries (Hungary, Bulgaria, Greece, Italy, Poland, Czechia) and in the outermost regions of Spain and Portugal. There are no longer active first-processing plants in France, Hungary, and Germany, so the tobacco grown in these countries is processed elsewhere (for instance Hungarian tobacco is mostly sent for processing to Italy).
<p>Import of raw tobacco</p>	<ul style="list-style-type: none"> As shown in Figure A14-2, in 2023, EU imports of ‘unmanufactured tobacco’ (i.e. CN 2401 heading) were at little more than 450 000 tonnes, while exports were almost 110 000 tonnes. First processed tobacco was the main item. The importers of processed tobacco are primarily final manufacturers. Once processed, the tobacco is then moved to the EU for storage until it is needed for production. In this system, there are no intermediaries involved (except ‘on service’ suppliers) and they own the tobacco from the plant to the final product. However, the tobacco acquired through this channel is insufficient to fulfil manufacturing needs, so manufacturers also buy tobacco on the free market

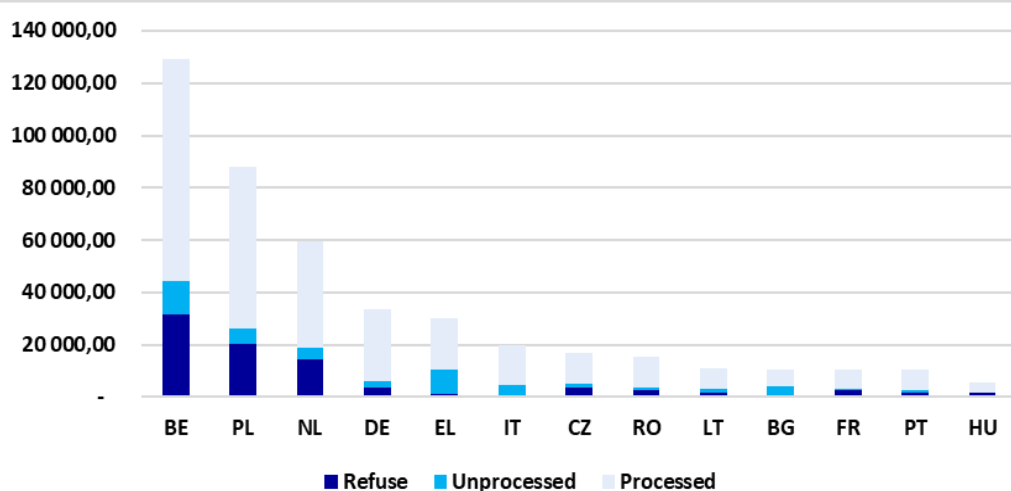
from tobacco merchant companies. These companies have their supply chains in producing countries (Brazil, India, China, Far East, Africa etc.).

Figure A14-2 Import / export of raw tobacco (1 000 tonnes, 2023)



- As shown in Figure A14-3, Belgium is the main entry point for EU imports of raw tobacco, accounting for nearly 29% of total EU imports in 2023. A large share of imported tobacco is stored in warehouses in Antwerp, which are the world's largest tobacco storage facilities. Other relevant storage facilities are reported in Rotterdam (the Netherlands), Hamburg (Germany), and other EU major ports. Imports are also significant in countries where processing/manufacturing facilities are located, notably Poland, the Netherlands, Germany, Greece and Italy.

Figure A14-3 Import of raw tobacco into the EU by Member State and type of tobacco (1 000 tonnes, selected Member States, 2023)



Raw tobacco trade and logistics within the EU

- A rough estimate of the amount of raw tobacco available for manufacturing in the EU can be obtained by combining the above import / export data with EU 'own' production. The result suggests a total of about indicates a total of 333

000 tonnes of ‘available’ raw tobacco in 2023.²⁸⁰ In 2023, almost 300,000 tonnes of raw tobacco were moved between Member States, i.e. nearly 90% of the abovementioned total ‘available’ processed tobacco.

- Belgium emerges as the main logistics platform for intra-EU movements. Big manufacturers keep substantial amounts of their tobacco in Antwerp’s storage facilities, to then move it to their manufacturing facilities based on the production needs.
- Inward movements of leaf tobacco in countries like Italy, Croatia, Poland, and Germany has seemingly a transformation purpose. The first processing plants located in these countries receive ‘leaf’ tobacco from other tobacco growing Member States like Hungary, Spain and Greece.
- After processing, the tobacco is either moved to the above-mentioned storage facilities (especially tobacco owned by big manufacturers and processed ‘on service’ by first processors), or to manufacturing facilities. The latter movements are mostly directed to big manufacturing plants in Germany, Poland and Romania.

Figure A14-4 Cross-border flows of ‘leaf’ tobacco – CN 2401 10 (1 000 tonnes, selected Member States, 2023)

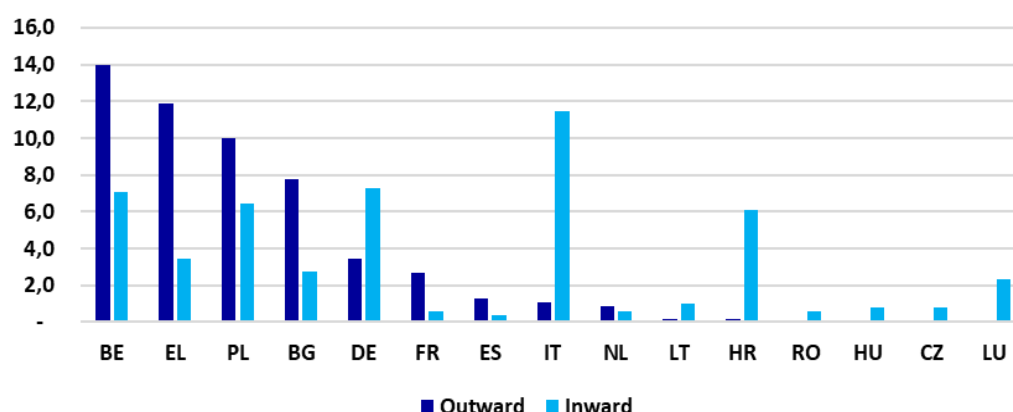
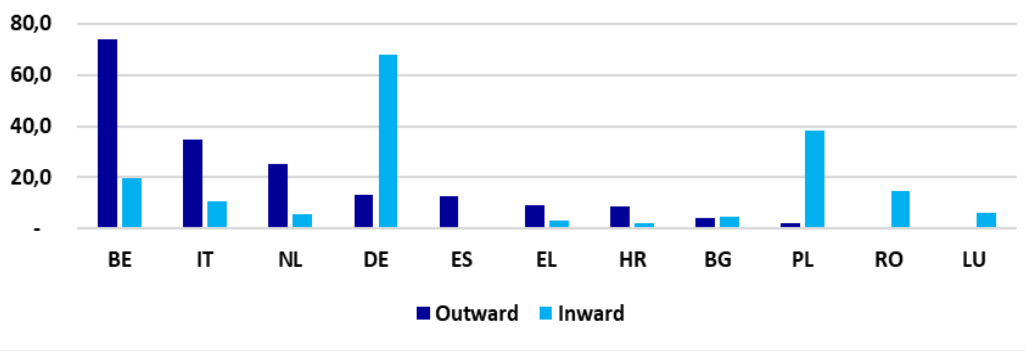


Figure A14-5 Cross-border flows of ‘processed’ tobacco – CN 2404 20 (1 000 tonnes, selected Member States, 2023)

²⁸⁰ Of the leaf tobacco available, an estimated 80% become first processed tobacco (around 90 000 tonnes), while the remaining 20% is tobacco refuse, which is used for the production of reconstituted tobacco. Considering a net import of first processed tobacco of 245 000 tonnes, the total available for manufacturing in the EU amounts to roughly 333 000 tonnes.

	 <table><thead><tr><th>Country</th><th>Outward</th><th>Inward</th></tr></thead><tbody><tr><td>BE</td><td>75.0</td><td>20.0</td></tr><tr><td>IT</td><td>35.0</td><td>10.0</td></tr><tr><td>NL</td><td>25.0</td><td>5.0</td></tr><tr><td>DE</td><td>15.0</td><td>65.0</td></tr><tr><td>ES</td><td>15.0</td><td>0.0</td></tr><tr><td>EL</td><td>10.0</td><td>2.0</td></tr><tr><td>HR</td><td>10.0</td><td>2.0</td></tr><tr><td>BG</td><td>5.0</td><td>5.0</td></tr><tr><td>PL</td><td>2.0</td><td>40.0</td></tr><tr><td>RO</td><td>0.0</td><td>15.0</td></tr><tr><td>LU</td><td>0.0</td><td>5.0</td></tr></tbody></table>	Country	Outward	Inward	BE	75.0	20.0	IT	35.0	10.0	NL	25.0	5.0	DE	15.0	65.0	ES	15.0	0.0	EL	10.0	2.0	HR	10.0	2.0	BG	5.0	5.0	PL	2.0	40.0	RO	0.0	15.0	LU	0.0	5.0
Country	Outward	Inward																																			
BE	75.0	20.0																																			
IT	35.0	10.0																																			
NL	25.0	5.0																																			
DE	15.0	65.0																																			
ES	15.0	0.0																																			
EL	10.0	2.0																																			
HR	10.0	2.0																																			
BG	5.0	5.0																																			
PL	2.0	40.0																																			
RO	0.0	15.0																																			
LU	0.0	5.0																																			
Second processing	<ul style="list-style-type: none">▪ “Second processing” designates a range of activities that transform tobacco by-products, originating from processing/manufacturing activities into reconstituted tobacco or other intermediate products (such as ‘expanded tobacco’), which can be used for the manufacturing of final products. Reconstituted tobacco is then used in cigarettes’ blend (up to 15% of the volume) and as the basis for HTP products (up to 100% of the blend). In the latter case, the tobacco leaf (and not only by-products) is also used.▪ There is one major producer of reconstituted tobacco in the EU, based in France, that processes several thousand tonnes of tobacco / year, to a large extent on a service contract for. Other smaller plants linked to large first processors are located in the Netherlands and Germany. Other transnational tobacco companies operate a vertical-integrated approach to the production of HTP, controlling the entire supply chain from raw tobacco to reconstitution to final manufacturing in dedicated facilities (in Italy), from which most EU and international markets are served.▪ In 2023, the refuse tobacco generated by first processing activities likely amounted to 23 000 tonnes. A further (estimated) 33 000 tonnes²⁸¹ of refuse tobacco is generated during final product manufacturing (primarily cut rags, dust and fines) and re-injected in the cycle. Additionally, the EU is also a net importer of refuse tobacco, so the total ‘available’ refuse tobacco within the EU can be estimated at approximately 128 000 tonnes.▪ Not all refuse tobacco is transformed into reconstituted tobacco. Refuse tobacco is also used for preparing smokeless tobacco like ‘snus’ in Sweden or chew bags in Denmark and other EU countries (tentatively 8 000 tonnes /year). Considering that the EU is a net exporter of reconstituted tobacco (6 000 tonnes																																				

²⁸¹ Based on Comext data, in 2023 cross-border movements of refuse tobacco amounted to approximately 56000 tonnes. As there are few plants in the EU transforming refuse tobacco into reconstituted tobacco, this figure can be taken as a proxy for the total refuse tobacco generated by processing/manufacturing activities within the EU.

in 2023), the total second processed tobacco ‘available’ for manufacturing amount to around 114 000 tonnes.

Figure A14-6 Cross-border flows of refuse tobacco – CN 2401 30 (1 000 tonnes, selected Member States, 2023)

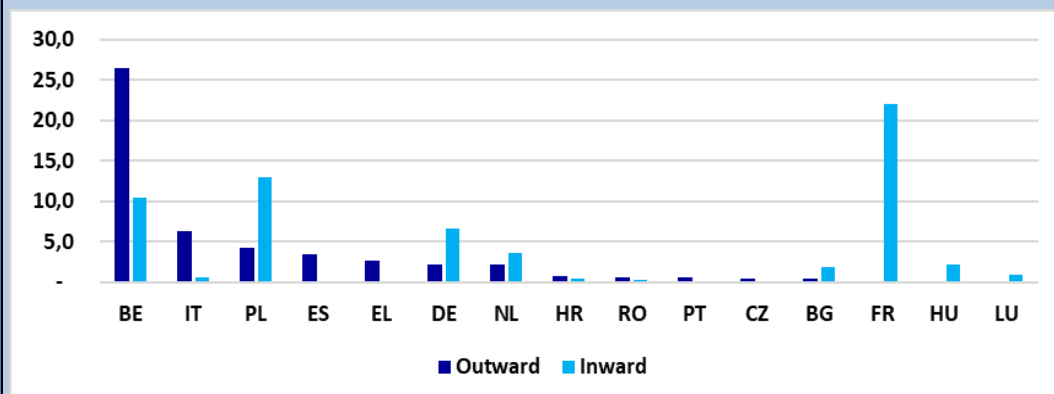
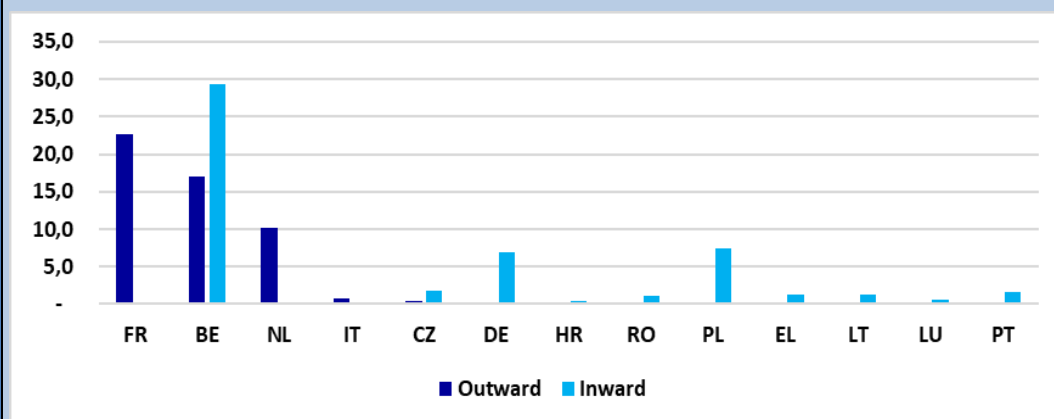


Figure A14-7 Cross-border flows of reconstituted tobacco (1 000 tonnes, selected Member States, 2023)



Manufacturing and sales

- The last steps of the tobacco supply chain include the manufacturing of final products and their commercialisation, i.e. the release for consumption (RFC) within the EU and sales to third countries. At this level, first and second processed tobacco is blended, cut, rolled, pressed and transformed into final products, i.e. cigarettes, cigars/cigarillos, fine-cut tobacco, pipe tobacco and water-pipe tobacco.
- The manufacturing of tobacco products is quite widespread across the EU, and in 2023 only five Member States (Austria, Cyprus, Estonia, Finland and Malta) did not have any production facility. The largest number of manufacturers of tobacco products was found in Germany, with 57 enterprises, followed by Sweden and Spain, with 37 and 32 enterprises, with Poland and Greece ranking in fourth and fifth places, with respectively 28 and 24 enterprises. Since 2019 the number of producers has hovered around 300. In 2023 the EU tobacco industry consisted of 34 large enterprises, i.e. employing 250 persons or more, and 272 small and medium enterprises (SMEs). The turnover was marginally above EUR 29 billion, with a significant increase over the previous two years,

	<p>but still lower than in 2019 and 2020. As for employment, in 2023 the tobacco industry had almost 41 000 employees, which marked a recovery from the declining trend recorded over the 2019 – 2022 period.</p> <ul style="list-style-type: none"> ▪ The manufacture of tobacco products is largely controlled by four transnational tobacco companies - (PMI, BAT, JTI and IB²⁸²), plus some important national players. Transnational tobacco companies dominate the cigarettes and HTP markets. Other cigarette-makers have tiny market shares and mostly operate in one or few countries (Greece, Luxembourg, Hungary, Bulgaria, Italy, Germany). Only the production of cigars/cigarillos, pipe tobacco, and some specialty products (e.g. snus) is mostly controlled by a limited number of medium sized players, with transnational tobacco companies playing a modest role. ▪ 508 billion cigarettes sticks were produced in the EU in 2023, while the production of FCT amounted to 115 000 tonnes. The FCT segment is less concentrated, with a more limited role played by transnational tobacco companies and with some 10-15 mid-size or small players involved). Cigars and cigarillos are mostly produced by some 20 – 25 medium-sized manufacturers. In 2023 the production was about 10.8 billion pieces. HTP has become the second-largest segment with a production that reached 360 000 tonnes in 2023 (of which a substantial share for export). Like cigarettes, HTP is mostly controlled by transnational tobacco companies. ▪ EU's imports of manufactured tobacco products are minimal, i.e. less than 15 000 tonnes in 2023, mostly consisting of cigarettes and FCT. Export flows are much higher and more diversified. In 2023, EU sales to third countries surpassed 170 000 tonnes, with cigarettes accounting for 40%, HTP for 25%, and FCT for 20%. ▪ The number of retailing outlets dealing with tobacco products in the EU is in the order of some 250 000 – 300 000.
--	---

Source: External study

2. Legal framework for raw tobacco in Member States

The review's focus is primarily on the fiscal legislation that was adopted in certain Member States to tackle the issues connected to the diversion of raw tobacco outside of the legitimate channels. However, in tobacco-growing countries, the first part of the supply chain, i.e. growing and first processing, is typically in the remit of agricultural policy. So, where relevant, the review contains also relevant information on control measures and obligations applicable under the EU common agricultural policy and on the interaction between fiscal and agricultural legal frameworks. The review focuses on the definition of raw tobacco adopted in different Member States; the legal and administrative obligations for supply-chain players; and applicable excise duty.

Member States can be divided into three categories according to the definition implemented,: (1) defining raw tobacco by contrast with manufactured tobacco (e.g. Croatia, Sweden); (2) making reference to the classification under Combined Nomenclature (e.g. Lithuania); and (3) making reference to the harvested tobacco (e.g. Bulgaria, Poland, Spain). Meanwhile, in Czechia the

²⁸² Philip Morris International (PMI), British American Tobacco (BAT), Japan Tobacco International (JTI) and Imperial Brands (IB).

definition of natural tobacco covers a heterogeneous range of products, i.e. leaf tobacco, first-processed tobacco, refuse tobacco and reconstituted tobacco.

Legal and administrative obligations implemented by Member States include:

- **Registration obligations:** mandatory registration of entities involved in growing, handling, selling and manufacturing (e.g. Bulgaria, Greece, Croatia, Czechia, Hungary, Poland, Italy, Spain). In the case of Bulgaria, any person who produces, imports or recycles machines for manufacturing tobacco products is subject to obligatory registration.
- **Reporting obligations:** obligation for raw tobacco players to provide a list of transactions to competent authorities on monthly or quarterly basis (Greece, Poland); report electronically of all tobacco shipments (received/dispatched) (Greece, Czechia, Italy, Spain)²⁸³. In the case of Greece, additional due diligence obligations are in place for licensed processors, manufacturers, wholesalers and warehouse keepers in the framework of renewed anti-fraud national policies (e.g. an electronic submission of transactions and customers/suppliers involved to the competent anti-smuggling agency).

Movement control: electronic tracking (SENT system) implemented by Poland includes prior registration of the transport on an electronic platform and GPS tracing of the vehicle. In the case of Croatia, the carrier must notify transits of raw tobacco through the territory of Croatia. For most authorities with a fiscal regime on raw tobacco in place, the main weakness of the current arrangements related to the fact that their coverage is limited to the national territory and that there is no coordinated, efficient mechanism to track movements across borders. While the measures taken have contributed to solving this problem, it is widely acknowledged that it would be necessary to extend and harmonise the obligation to comply with such measures to all EU countries.

²⁸³ Croatia: any inward/outward movement has to be notified via email to customs authority no less than 24h prior to the entry of tobacco in the territory of Croatia (notification also contains the details of the consignee, the consignor, the carrier, the product and the intended use).

Czechia: all subjects handling tobacco must inform the tax administrator of all raw tobacco receiving / dispatching events. The notification must be sent electronically between 24 and 72 hours before the movement.

Spain: all movements of raw tobacco through the Spanish territory (including cross-border movements) are subject to prior notification to the tax administration at least 24h ahead of transport.

ANNEX 15: CURRENT EXCISE DUTY RULES FOR MANUFACTURED TOBACCO

1. Excise duty structure

EU legislation only sets harmonised minimum rates. Member States are free to apply excise duty rates above these minima, according to their own national needs.

Harmonised excise duty rates for tobacco are either ‘ad valorem’²⁸⁴, ‘specific’²⁸⁵, or a combination of both. The overall excise duty has to represent a minimum percentage of the average retail selling price²⁸⁶ and at least a minimum fixed amount in euro.

EU minima have two components: the fixed minimum and the relative minimum conditions.

- The minimum rates for cigarettes consist of two conditions that must be simultaneously fulfilled: a fixed amount in Euro (per thousand sticks); and a percentage of the weighted average price (WAP) of cigarettes in the country considered. The latter condition need not be met if the overall excise duty (specific plus ad valorem) levied at the WAP level exceeds a certain monetary amount.
- For tobacco products other than cigarettes, the Directive leaves Member States more freedom in establishing the applicable structure, which can be fully specific (per kg or per units, where relevant), fully ad valorem, or a mix thereof. Depending on the excise structure chosen, the Directive indicates the applicable minimum rates or amounts. The tax base of fine-cut tobacco and other smoking tobacco is per kg of product, while in the case of cigars and cigarillos the excise duty is typically calculated per 1 000 items except for a few countries where it is calculated per weight (or per ‘conventional kg’).
- Article 8.6 of the Directive allows Member States to apply an optional minimum excise duty (MED), i.e. a sort of excise minimum ‘floor’. Nearly all Member States opted to apply the MED to cigarettes. The option of setting a MED is available also for products other than cigarettes, but is less frequently used there, because these products are often taxed with a fully specific structure.

Table A15-1. Overview of the excise duty rates and structures applicable under the Directive

Product category	Tax structures and rates
Cigarettes	<ul style="list-style-type: none"> ▪ Mandatory mixed structure including both an ad valorem excise duty and a specific excise duty. The specific component has to respect the following thresholds: <ul style="list-style-type: none"> ○ Upper threshold: 76.5% of the total tax burden (i.e. the sum of the specific component and the ad valorem component and VAT levied at the WAP level). ○ Lower threshold: 5% (until the end of 2013) and 7.5% (since January 2014)

²⁸⁴ Excise duties calculated as a percentage of the (maximum) tax-included retail selling price of a product.

²⁸⁵ Excise duties calculated as a fixed monetary amount per volume of product, expressed ‘per weight’ (per kg) or ‘per unit’ (per 1 000 sticks).

²⁸⁶ The average price is calculated as the weighted average retail selling price = value (based on retail selling price including all taxes) of cigarettes / total quantity released for consumption.

	<ul style="list-style-type: none"> ▪ Minimum rates for the overall excise duty (not including VAT), as described below: <ul style="list-style-type: none"> ○ Until the end of 2013: 57% of the WAP <u>and</u> not less than EUR 64 per 1 000 cigarettes (irrespective of the WAP), <u>or</u> EUR 101 per 1 000 cigarettes at the WAP level. ○ Since 1st January 2014: 60% of the WAP <u>and</u> not less than EUR 90 per 1 000 cigarettes (irrespective of the WAP), <u>or</u> EUR 115 per 1 000 cigarettes at the WAP level. ○ Certain Member States – namely Bulgaria, Estonia, Greece, Lithuania, Latvia, Hungary, Poland, Romania and Croatia – were granted a transitional period until the end of 2017 to reach the above minimum levels. ▪ A minimum excise duty (MED) may apply (i.e. a fixed monetary amount per quantity applicable if the amount of the excise duty falls below a minimum floor), provided the ‘mixed structure’ requirement is respected.
FCT	<ul style="list-style-type: none"> ▪ Member States may opt for a fully specific (per kg) or a fully ad valorem excise duty (calculated on the maximum retail selling price of each product), or a mixture of the two. ▪ The overall excise duty (not including VAT) must be no less than: <ul style="list-style-type: none"> ○ 40% of WAP <u>or</u> EUR 40 per kg (until end of 2012), ○ 43% of WAP <u>or</u> EUR 47 per kg (until end of 2014), ○ 46% of WAP <u>or</u> EUR 54 per kg (until end of 2017), ○ 48% of WAP <u>or</u> EUR 60 per kg (until end of 2019), ○ 50% of WAP <u>or</u> EUR 60 per kg (since 1st January 2020). ▪ If the structure chosen is fully ad valorem or mixed, Member States may establish a minimum amount of excise duty.
Cigars and cigarillos	<ul style="list-style-type: none"> ▪ Member States may opt for a fully specific (per kg <u>or</u> number of items) or a fully ad valorem excise duty (calculated on the maximum retail selling price²⁸⁷ of each product), or a mixture of the two. ▪ The overall excise duty (not including VAT) must be no less than 5% of the retail selling price or EUR 12 per 1000 items or per kg. ▪ If the structure chosen is fully ad valorem or mixed, Member States may establish a minimum amount of excise duty.
Other smoking tobacco	<ul style="list-style-type: none"> ▪ Member States may opt for a fully specific (per kg) or a fully ad valorem excise duty (calculated on the maximum retail selling price of each product), or a mixture of the two. ▪ The overall excise duty (not including VAT) must be no less than 20% of the retail selling price or EUR 22 per kg. ▪ If the structure chosen is fully ad valorem or mixed, Member States may establish a minimum amount of excise duty.

²⁸⁷ Manufacturers or, where appropriate, their representatives or authorised agents in the EU, and importers of tobacco from third countries are free to determine the maximum retail selling price for each of their products.

Note: Certain special treatments applicable to specific Member States or specific regions or territories are not displayed.

EU minima are currently expressed in nominal terms for the specific excise duty part. Due to substantial diversity in economic conditions in Member States (not only in income, but also in general price level), any nominal EU minima that is the same for all Member States will be too cheap for higher-income countries and too expensive for lower-income countries.

Calculation of the tax for a pack of 20 cigarettes (example):

Retail Selling Price (excluding taxes): EUR 1.56
+ Excise duty - specific: EUR 1.27
+ Excise duty - ad valorem: EUR 5.5 (55% of RSP)
Total excise duty: EUR 6.77 (68% of WAP)
= Price (excluding VAT): EUR 8.33
+ VAT 20%: EUR 1.67
= Retail Selling Price (including all taxes): EUR 10.0

2. Relevance of the current excise duty structure

Modifying the current structure of the minimum rates was not considered in the External study for several reasons.

First, both components are needed to achieve the main objectives ‘to ensure the functioning of the internal market and at the same time a high level of health protection’. The relative minimum helps avoid EU levels becoming obsolete too quickly and that they maintain some relevance also in moderately wealthier EU economies. As highlighted in the literature, including recent WHO guidelines, pure ad valorem taxes are less effective from a tobacco control perspective because they encourage the development of the low-price segment (manufacturers could be encouraged to refrain from increasing prices and rather seek margins through expanding volumes of sales of low-price products).

Moreover, differentiated tax regimes have been adopted for different products, which reflect major differences in the industry, the product, and the demand patterns and characteristics. Thus, it would alter competition in the internal market and it would be very complex and burdensome for Member States to alter the current structure.

Finally, neither economic operators nor national tax authorities expressed the need to switch from the current approach. Related administrative procedures (accounting, tax declaration, calculation and other related information systems) are in place and function properly.

ANNEX 16: IMPACTS OF THE PROPOSED OPTIONS

1. Revision of EU minima for traditional tobacco products

1.1. Impacts on fraud and tax evasion

It is not possible to estimate in a quantitative manner the impact of the proposed policy options on ITTP as the independent literature does not support the existence of a direct, causal link between tax policies and ITTP. Among others, the EU-funded PPACTE project (Pricing Policies and Control of Tobacco in Europe)²⁸⁸ could not find statistically significant association between illicit trade and the price of cigarettes. As some of its authors suggested: ‘the supply of illicit tobacco, rather than its price, is a key factor contributing to tax evasion’.²⁸⁹ The results of the Evaluation Study²⁹⁰ were also consistent with these findings.

High prices appear more as an enabler of ITTP rather than its determinant, or as a ‘pre-condition’. As Member States authorities confirmed, the price of illegal products is typically set in relation to the price of legal ones, and at about 50%-60% of it. In this sense, assuming production costs as fixed, the higher legal prices go the more profitable is ITTP business. For this reason, there is an economic incentive for illegal suppliers to focus on markets where the level of price is comparatively higher. On the other hand, there are other evident drivers behind the supply of illicit products, including (a) the permeability of borders and in general the capacity of local authorities to detect and prosecute ITTP (b) the severity of sanctions against offenders; (c) the geographical proximity to illicit production/distribution sites, which minimise the travel risks; (d) the ‘real’ price of legal products, in terms of consumer’s affordability etc.

1.2. Impacts on inflation

The increase in the price of tobacco products would virtually impact inflation rates in the Member States, somehow proportionally to the extent of the increase and of the weight of products on consumer’s basket - as measured by Eurostat’s HICP.

The methodology applied to assess the impact is the following:

- Estimate the aggregate price increase of tobacco products in each EU country and for all the change options considered. The aggregate price increase takes into account the different products’ weight in the specific national markets.
- Extract from the Eurostat’s database the most recent (2025) HICP weight for tobacco products and for each EU countries.
- Estimate the expected HICP increase in Member States (in percentage). This was obtained by applying the HICP weight to the expected aggregate tobacco price increase under the various change scenarios.

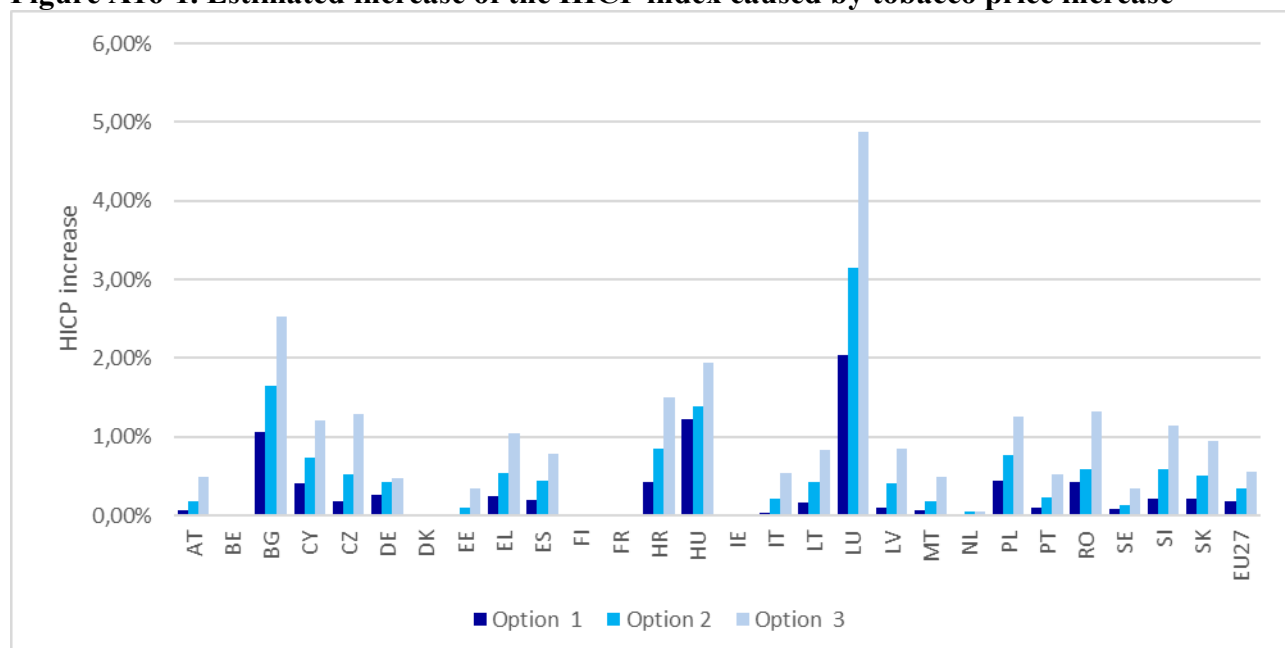
²⁸⁸ <https://www.tri.ie/ppacte.html>

²⁸⁹ Joossens L, Lugo A, La Vecchia C et al. *Tob Control* 2014; 23:e17-e23 (cited from EA 2019).

²⁹⁰ [Study](#) on Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco, 2019

The EU aggregate HICP would increase by 0.18 percentage points (weighted EU average) in the case of option 1, by 0.34 percentage points under option 2, and 0.55 percentage points under option 3.

Figure A16-1. Estimated increase of the HICP index caused by tobacco price increase



Source: External study

Note: The figures represent the HICP ‘rate of increase’. The estimates for Luxembourg appear inflated by cross-border flows.

The additional inflation created by the tax increase has to be viewed in the light of the total inflation in a Member State. The additional inflation created by the tax change can be also viewed in the light of price increases of other items in the HICP basket.

1.3. Public health impacts

Reduction in smoking prevalence is the focus of the revision of the Directive as this represents the bulk of expected impacts on public health. Indeed, certain health risks are non-linear and do not vary in line with smoking intensity. In certain cases, health risks are triggered by the act of consumption itself and persist statistically unabated by subsequent smoking cessation.

Any increase in taxation is always justified on public health grounds, provided that any year of life saved is priced in monetary terms irrespective of whether individuals are in their working life or not. The key assumption is that smoking is considered as an activity triggered by nicotine addiction and therefore not a willing consumer behaviour of which the consumers themselves bear the related responsibility and cost. The existence of addiction, in fact, allows it to be considered as an externality and therefore a social cost that should be compensated for and would justify a taxation far exceeding current levels.

The first dimension examined regards the reduction of smoking prevalence.²⁹¹ In terms of individuals concerned, the contribution of the revision of the EU minima could amount to between

²⁹¹ In Europe’s Beating Cancer Plan, the EU has endorsed the WHO objective of creating a ‘Tobacco-Free Generation’, where less than 5% of the population will use tobacco by 2040, compared to around 24% today. .

5 and 12 million fewer smokers, depending on the option considered. This represents a one-off drop in smoking prevalence from the current 24% to 22.8 under scenario 1, 22% under option 2 and 20.8% under option 3.

Table A16-1. Estimated impact on consumption and smoking prevalence in the EU

Options	Impact on consumption		Impact on the no. of smokers*	Impact on smoking prevalence*
	Billion items	in %	Million population	in %
Baseline	502		92.1	24.0%
Option 1	-25	-5%	-4.6	22.8%
Option 2	-42	-8%	-7.8	22.0%
Option 3	-66	-13%	-12.1	20.8%

Source: External study. Baseline values are sourced from TEDB / Euromonitor (unit consumption) and Eurobarometer (smoking prevalence and smokers' population). Baseline values refer to 2023.

Note: FCT and OST have been converted into items applying a 0.75g=1 stick equivalence.

(*) The estimates for these variables are presented with a higher degree of granularity for the sole purpose of showing the possible different impact across scenarios.

In Europe's Beating Cancer Plan, the EU has endorsed the WHO's long-term objective of creating a 'Tobacco-Free Generation', where less than 5% of the population will use tobacco by 2040. The revision of EU minima is expected to contribute to this goal, but evidently other measures would also be required, such as the periodical revision of EU minima, to maintain affordability at low levels; Member States commitment to constantly increase rates regardless of EU minima obligations to do so; and various non-fiscal measures and policies.

In the short run, the reduction in smoking prevalence is more than proportional to the reduction in the ultimate social costs of tobacco consumption. This is because tobacco consumption leaves a legacy of health risks that are usually reduced, but not completely eliminated by smoking cessation. So smoking-related mortality and morbidity continue to apply to some extent also to former smokers, although on a declining trend over time. In fact, on average, epidemiological data show that over a generation's time the decline in the share of smoking-related deaths on total mortality does coincide with the parallel decline in smoking prevalence.²⁹²

The impact of the revision on public health social costs has been estimated following a cost of illness approach.²⁹³ In this perspective, the economic consequences of smoking can be divided into 'direct costs' – the expenses incurred because of the illnesses caused by smoking, and 'indirect costs' – the value of lost production because of reduced working time and early mortality from smoking-related diseases.

Regarding direct costs, healthcare costs attributable to tobacco are close to EUR 48 billion annually. The reduction of smoking prevalence associated with the envisaged revision of EU minima would generate cost savings ranging from EUR 2 to EUR 6 billion, depending on the options considered.

Regarding avoidable mortality, the Global Burden of Disease's most recent estimates indicated that tobacco-attributable deaths in the EU amounted to nearly 0.5 million in 2021. In terms of years of life lost, the burden of tobacco is close to 11.3 million annually, which in economic terms may translate in EUR 587 billion for the EU on the whole. In addition to years of life lost, tobacco is a major cause of years of life with disability, which – according to the Global Burden of Disease's

²⁹² External study.

²⁹³ See ANNEX 3: section 8.1 on methodology for public health impacts.

estimates – currently amounts to around 1.9 million years in the EU. The policy options under consideration may reduce these impacts between 6% and 18%, possibly contributing to social costs savings ranging from EUR 29 to 77 billion, depending on the option.

Indirect costs include also impact on employment and productivity caused by tobacco-related health conditions²⁹⁴, which is estimated to amount to EUR 13.4 billion (2023). The proposed revision of EU minima would deliver a benefit comprised between EUR 1 and 2 billion.

2. Holding, movement and control requirements under Horizontal Directive

Inclusion of in the scope of the Directive of e-cigarette liquids, heated tobacco products, other manufactured tobacco and related products and raw tobacco would entail application of holding, movement and control requirements set out in the Horizontal Directive.²⁹⁵ They involve specific authorisation, holding and movement rules (see Table A16-2).

Table A16-2. Monitoring rules and provisions applicable under Horizontal Directive

Building blocks of the monitoring system	Corresponding tools and provisions
Authorisation of involved operators	<p>Economic operators engaged in the holding and moving of excisable goods would be subject to the authorisation requirements set out in the Horizontal Directive, according to the different available profiles, namely:</p> <ul style="list-style-type: none"> ▪ the tax warehouse keeper (producing, processing, holding, receiving or dispatching excise goods under a duty suspension arrangement in a tax warehouse); ▪ the registered consignor/consignee (dispatching/receiving excise goods moving under suspension arrangements); and ▪ the certified consignor/consignee (dispatching/receiving excise goods released for consumption via cross-border movements). <p>The conditions for granting and managing authorisations are set up by Member States competent authorities and involve technical, financial and legal requirements to be fulfilled.</p> <p>Additionally, all authorised traders should be registered on the System for Exchange of Excise Data (SEED²⁹⁶).</p>
Monitoring of stocks	<p>Excise goods produced, processed, held, stored, received or dispatched under duty suspension arrangements must be kept in a tax warehouse. In addition to the authorisation requirements, warehouse keepers must keep accounts of stock and movements of excise goods and must consent to any monitoring and stock</p>

²⁹⁴ Comprising of workplace absenteeism and the resulting loss of income from the days off work, and premature retirement due to smoking-induced illnesses.

²⁹⁵ [Council Directive \(EU\) 2020/262](#) of 19 December 2019 laying down the general arrangements for excise duty (recast).

²⁹⁶ SEED is a register of economic operators, involved in the movement of excise goods and is maintained by each Member State. Using this system traders can consult online, to see whether a given excise number is valid and what categories of goods the operator in question is authorised to trade.

	<p>checks requested by authorities. Tax warehouses are also subject to specific security requirements established by Member States.</p> <p>Record-keeping and stock-check obligations also apply to registered and certified consignees of excise goods. For movements of duty-paid excise goods (as defined under Chapter V of the Horizontal Directive), there is no tax warehouse obligation, which makes this option lighter and more suitable for small and/or occasional traders.</p>
Control and validation of movements	<p>Movements of excise goods in the EU shall take place under the excise movement and control system (EMCS). This includes both movements under duty suspension and duty-paid cross-border movements for commercial purposes.</p> <p>The movement of excise goods from dispatch to destination are documented under EMCS utilising an electronic Administrative Document (eAD) or an electronic simplified administrative document (eSAD) in case of a business-to-business (B2B) duty-paid movement. EMCS allows the validation of eADs against SEED to determine if the traders involved in the transaction are indeed entitled to dispatch/receive the declared products, as well as the tracking of every stage of the movement, thus facilitating control and helping prevent irregularities.</p>
Financial guarantees covering excise duty risks	<p>The Horizontal Directive envisages two main types of financial guarantees that can be requested to operators to cover the fiscal risk inherent in duty payment suspension:</p> <ul style="list-style-type: none"> ▪ General guarantees for the production, processing, holding and storage of excise goods on duty suspension and applicable to authorised warehouse keepers. ▪ Specific guarantees on movements under duty suspension and on cross-border movements of duty-paid goods. In the first case, the financial security is typically covered by the consignor, while the guarantee is generally required from the consignee for duty-paid B2B movements. <p>The amount and management of financial guarantees are established by Member States, which can also waive this obligation in specific circumstances. The guarantee is set to cover inherent fiscal risk, but is not necessarily proportional to the excise duty value involved (i.e. in the case of raw tobacco, it could relate to the risk of diversion and tax fraud).</p>

Monitoring procedures related to excise goods are supported by two pan European IT systems:²⁹⁷

- **EMCS: Excise Movement and Control System**

The Excise Movement and Control System (EMCS) is a computerised system for monitoring the movement of excise goods. EMCS provides Member States with an electronic system to monitor the movement of these goods in real-time, in order to ensure the correct and timely collection of

²⁹⁷ A pan-European IT system is a set of IT applications and components at the Commission, each Member State and each economic operator, integrated with each other in order to share information between all stakeholders

duties. Prior to the dispatch of the goods, each movement of goods is registered in EMCS by the economic operator (trader) by completing the (simplified) Administrative document (eAD or eSAD). The competent authorities of the Member State of dispatch assigns to the (simplified) Administrative Document a unique reference number (ARC). The system provides the tools to the Member States to monitor the movements of excise goods from the beginning and until the completion of each movement after ensuring that all necessary fiscal formalities have been completed.

▪ **SEED: System for Exchange of Excise Data**

This IT system is a registry of all Economic Operators authorised to trade excise goods and is maintained by each Member State. All authorised traders must be registered on SEED and be issued with a SEED number. The SEED number is issued by the local Excise Control Officer and must be quoted on all e-ADs, i.e. each Economic Operator is uniquely identified in SEED by its 'SEED number'. Using this system traders can consult online, to see whether a given excise number is valid and what categories of goods the operator in question is authorised to trade.

Both systems are crucial tool for information exchange and cooperation (including preventing tax evasion) between Member States.

3. Enlarging the scope to new products

3.1. Impacts on the market and excise duty revenue of enlarging the scope of the Directive to new products – Estimates derived from the standard methodology²⁹⁸

For simulation purposes, it was assumed a pass-through factor equal to 0.7 (i.e. 70% of the tax increase, expressed in nominal terms, would be passed on to consumers, while the rest would be absorbed by manufacturers).²⁹⁹ As presented in ANNEX 3: section 8.2, this approach has limitations for new products, this is why it has been adapted and the results according to the adapted methodology are presented in the main report (see section 6.2.2.1). However, for completeness and comparison, the impacts estimated under the standard approach are presented for the different categories of new products below.

²⁹⁸ See ANNEX 3: section 8.2. on methodology applied for new products.

²⁹⁹ External study.

Table A 16-3. Estimated impact of proposed EU minima on HTP market price and demand

Options	Impact on price levels	Market sales	
	WAP (avg), EUR/1 000	bn units	%
Baseline 2023	250	49	
Option 1	329	-20	-41%
Option 2	357	-26	-53%

Source: External study

Legend: avg =average value among Member States.

Notes: Estimates refer to the EU aggregated market Belgium, Cyprus, Finland, Ireland, Luxembourg and Malta are not included as in the baseline year (2023) they did not have HTP products on the market. For tax-driven price increase, a pass-through of 0.7 is assumed. The impact on demand is calculated assuming an elasticity coefficient of -1.36. Figures are rounded.

Table A 16-4. Estimated impact of proposed EU minima on liquids e-cigarettes market price and demand

Options	Impact on price levels	Market sales	
	WAP (avg)/ EUR/ml	million litres	%
Baseline 2023	1.32	3.5	
Option 2	1.89	- 2.2	-62%
Option 3	1.47	- 0.9	-26%

Source: External study

Legend: avg = average value among Member States.

Notes: Estimates refer to the EU aggregated market. Cyprus, Luxembourg and Malta are not included as market data are unavailable. The impact on demand is calculated assuming an elasticity coefficient of -1.36. A pass-through of 0.7 is assumed. Figures are rounded.

Table A 16-5. Estimated impact of proposed EU minima on nicotine pouches

	Impact on price levels	Impacts on market sales	
	WAP (avg), EUR/ kg	tonnes	%
Baseline 2023	293	4 400	
Option 1	297	0	-0%
Option 2	437	- 3 700	-78%
Option 3	489	- 3 800	-86%

Source: External study

Legend: avg = average value among Member States.

Notes: Estimates refer to the EU aggregated market. In Belgium, Germany and Lithuania nicotine pouches are currently prohibited. For Bulgaria, Cyprus, Greece, Spain, Luxembourg, Latvia, the Netherlands, Portugal and Slovenia no market data are available. The impact on demand is calculated assuming an elasticity coefficient of -1.36. Figures are rounded.

Table A 16-6. Estimated impact on tax revenues from the harmonisation of new products

	HTP		Liquids for e-cigarettes		OMT / TRP	
	EUR m	Var. (in %)	EUR m*	Var. (in %)	EUR m*	Var. (in %)
Baseline 2023**	2 900		370		150	
Option 1	2 800	-4%	370	0%	170	27%
Option 2	2 700	-9%	450	21%	130	-3%
Option 3			490	30%	110	-17%
Grand total						
Change in total revenue	Between EUR -150 million and EUR -50 million					

Source: External study

Notes: For Member States where the products concerned were not in the market in the baseline year, the tax revenue impact is assumed to be nil. For the 'grand total' estimation, it has been assumed that the HTP's scenario 1 corresponds to both scenarios 1 and 2 of e-cigarettes and other manufactured tobacco and related products. (*) Estimates for these products are presented with a higher degree of granularity for the sole purpose of showing the possible different impact of scenarios. (**) The baseline value used in the analysis has been reconstructed multiplying the volume of sales by the applicable duty, and it might not coincide with the values officially reported by Member States. Figures are rounded.

3.2. Administrative costs and savings

Economic operators

The approach developed to estimate the impacts associated with obligations under the Horizontal Directive is based on the following considerations:

- EU-level estimates have been developed aggregating Member State-level estimates. In many cases, Member States already have tax regimes in place involving obligations that are similar to those envisaged in the policy revisions. The economic operators based in those countries have been assumed as already compliant and no additional costs have been estimated. The estimated regulatory costs refer exclusively to additional costs with the exclusion of business-as-usual costs.³⁰⁰
- The bulk of additional costs would regard the e-cigarette segment and in particular SMEs, as large transnational tobacco companies operating in this market can be assumed already compliant with the EU requirements in relation to harmonised product activities.³⁰¹ In the HTP and nicotine pouches segments, operators are considered already compliant, as they exclusively consist of large, transnational tobacco companies (and HTP is already taxed in all Member States where it is marketed). Regarding other smokeless products like chewing and nasal tobacco the information on industry is very limited so, considering that the market size is also negligible, this segment has been also excluded from the analysis.
- It was assumed that all Member States would apply the relevant obligations to economic operators, although Member States could actually derogate from the application of EMCS in domestic movements (and in cross-border movements subject to bilateral arrangements with another Member State).
- Estimation also includes the costs of financial guarantees that Member States can require on duty-suspended movements. Financial guarantees are envisaged in the Horizontal Directive, but their amounts are established by Member States. In this sense, the corresponding costs are only indirectly attributable to the policy revision concerned.

Bearing limitations presented in ANNEX 3: ANNEX 3:8.2 on administrative costs and savings for new products, the results of the cost analysis are reported in the Table A 16-7 below.

³⁰⁰ The assumptions should be taken as purely indicative estimates.

³⁰¹ Minor adjustments to pre-existing systems would be required, but the bulk of costs (e.g. infrastructure, IT systems etc.) can be considered as 'business-as-usual' and excluded from the analysis.

Table A 16-7. Overview of regulatory costs for liquids for e-cigarettes operators

Obligations	Brief description	Incremental costs
Registration in the excise system	Operators must be authorised by the competent authority according to the relevant profile (warehouse keepers, registered or certified consignor/consignee). It is assumed that manufacturers would register for duty-suspension operations, whereas importers may opt for duty-paid operations. Registration for duty-suspension operations is deemed more costly.	One-off costs: EUR 0.5 million
Set up / operate a tax warehouse	This obligation has two main costs components: (1) the investment to set up appropriate premises (one-off); and (2) recurrent costs for operations, including keeping registers of in/out movements.	<u>Only Scenarios 2 and 3:</u> One-off costs: EUR 9.1 million (annualised 0.6 million) Recurrent costs: EUR 1.0 million
EMCS system	This obligation has two main cost components: (1) adopting an IT system to operate the EMCS (assumed on annual subscription basis); and (2) recurrent costs for movements (inclusive of book-keeping, weighing of products, and all EMCS-related procedures). These costs will regard all EOs including from countries where national taxes are already in place.	Recurrent costs: EUR 5.4 million
GRAND TOTAL	<u>Option 1:</u> One-off costs: EUR 0.5 million Recurrent costs: EUR 5.4 million <u>Options 2 and 3:</u> One-off costs: EUR 9.6 million Recurrent costs: EUR 6.3 million	

Source: External study

Notes: one-off costs = costs applicable to the first year only; recurrent costs = costs incurred annually

Member States public authorities

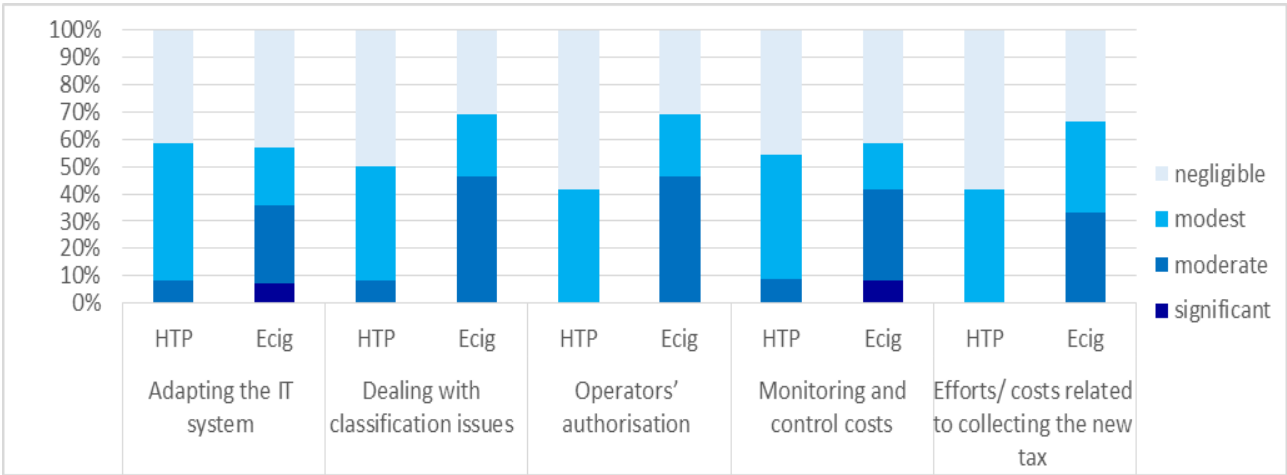
The survey of tax and customs authorities confirmed that, where Member States have adopted ad hoc regimes for new products, these are accompanied by rules and obligations that are, in many respects, similar to the obligations currently imposed on harmonised products. In this sense these Member States would incur only minor additional costs, while in most cases it would be sufficient to adjust existing national procedures.

As

Figure A16-2 shows, the regulatory cost increases tend to be higher for liquids of e-cigarettes compared to heated tobacco products (HTP). This relates to many factors, including the greater

number of economic operators to register and manage, the fact that HTP manufacturers are already in the excise system (as conventional tobacco manufacturers), and the intrinsic difficulties of controlling cross-border irregular flows of e-cigarette liquids. Overall, the share of survey respondents reporting a significant or moderate increase in costs remains below 45% for electronic cigarettes and 10% for HTP. For other manufactured tobacco products it is estimated that the number of economic operators would fall between the number of liquids for electronic cigarettes and HTP economic operators.

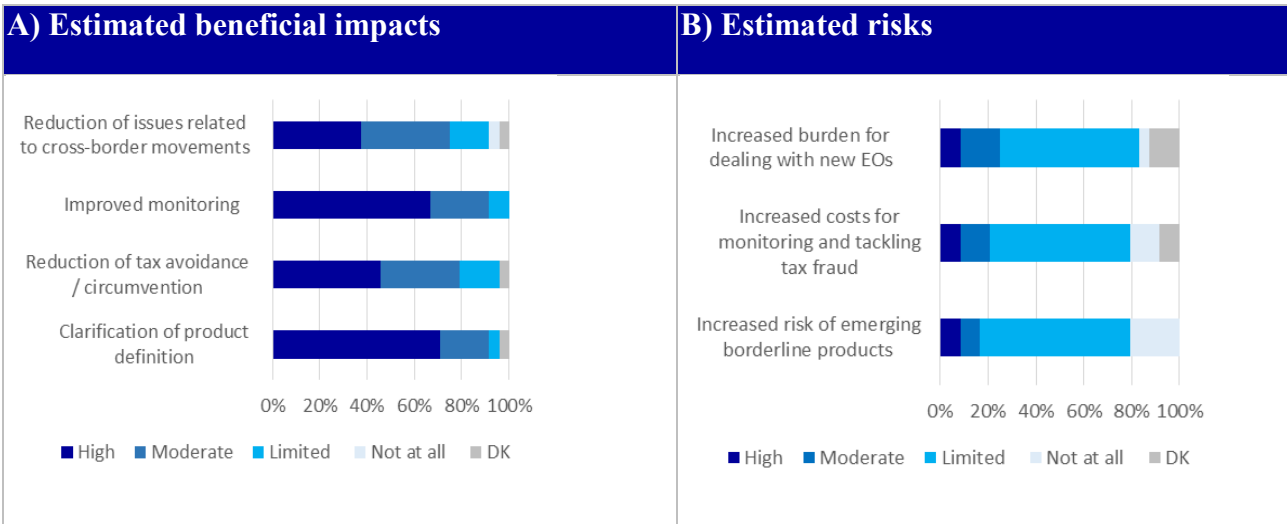
Figure A16-2. Increase in administrative and enforcement costs following the introduction of ad hoc regimes in the Member States



Source: External study based on tax and customs authorities survey

In Member States authorities’ views (Figure A16-3), the benefits of harmonisation would clearly outweigh the risks. Coherently, only a minority of Member States authorities foresee a moderate or high increase of burden required to deal with a greater number of operators and products, and an even smaller number of Member States anticipate a substantial increase of burden linked to new ‘borderline’ products or greater monitoring and enforcement efforts.

Figure A16-3. Member States authorities’ expected administrative and enforcement impact from the excise harmonisation of new products



Source: External study based on tax and customs authorities’ survey

Where national tax regimes are already in place for new products, additional regulatory costs are assumed to be negligible. Total additional costs related to registration of economic operators and movement control would amount to less than EUR 10.0 million of one-off costs and approximately EUR 0.5 million recurrent costs in each subsequent year thereafter.³⁰²

4. Impacts related to enlarging the scope of the Directive to raw tobacco

The aim of introducing movement and control requirements to raw tobacco is to prevent illegal diversion from the supply chain. Based on salient features presented in Box A16-1 below, introducing movement and control requirements to raw tobacco would mean that all raw tobacco would fall in the scope of the Directive. However, agricultural products would be exempted from movement and control requirements under the Horizontal Directive. In practical terms, raw tobacco would become an excise good in this initial step, but the associated obligations are postponed to the moment where the product is received by the first processor (buyer) who should be obliged to register under the relevant excise duty profile.

Box A16-1. Salient features. Raw tobacco.

No evidence was collected on the diversion of green tobacco. Typically, fictitious, unregistered companies acquire legitimate raw tobacco (i.e. legally imported or already processed) and divert it to clandestine factories.

As presented in ANNEX 14: section 2 a number of Member States have already implemented in their national legislation monitoring rules and obligations applicable to the tobacco sector under their agricultural regulations.

Furthermore, in the early stages, raw tobacco is moved from fields to farms or collection centres and/or curing facilities in bulk, and it would be extremely complicated to perform control measures, such as weighing. Harvested tobacco is held by the farmer (or collection centres) provided that no processing other than drying or curing is carried out. The weight of tobacco changes rapidly and unpredictably after harvesting, which would make record-keeping cumbersome and subject to large variations. In keeping with these facts, none of the national fiscal regimes for raw tobacco examined impose obligations involving tax warehouses or, at any rate, the weighing of green tobacco in the initial stage. Therefore, the proposed system does not involve the application of obligations involving excise duty determination, weighing or other control measures (tax warehouse, record keeping) while harvested tobacco is held by the farmer (or collection centres) provided that no processing other than drying or curing is carried out.

4.1. Impact on illicit manufacturing and trade

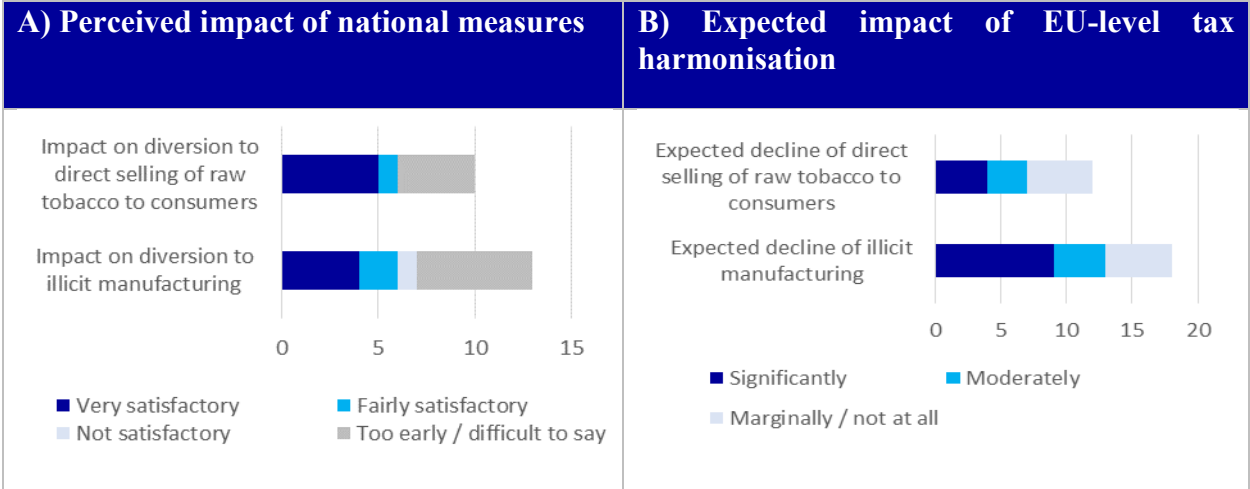
The impact of the introduction of movement and control requirements under the Horizontal Directive on the reduction of illicit manufacturing cannot be precisely quantified because (1) the magnitude of illicit manufacturing can only be roughly estimated and (2) the proposed measure is a radically new approach for which there is no benchmark and the impact of similar Member States regimes can only partly be leveraged to this end.

³⁰² The estimation does not include possible additional costs related to enforcing option 3, which involve differentiated rates for liquids exceeding 15 mg of nicotine per ml. In principle additional checks might be required to avoid and tackle abuses. On the other hand, it is worth noting that there is little economic rationale for operators to place on the market products with a nicotine content which differ from the label, as consumers would not be aware, and they would not only infringe the excise legislation but also the Tobacco Products Directive (External study).

Some useful indications can be drawn from the experience of Member States which introduced a fiscal regulation of raw tobacco and from competent authorities’ expectations about the effects of harmonisation at the EU level. In particular:

- Member States that introduced a tax regime on raw tobacco frequently registered satisfactory results regarding diversion of both illicit manufacturing and direct selling to consumers, although in many cases it is too early to draw conclusions and effects are difficult to measure (see Figure A16-4). National tax regimes help eliminate the raw tobacco trade ‘grey area’ (unregistered, occasional traders) that were deemed conducive to diversion.
- The majority of Member States expect positive impacts from the prospected EU-level harmonisation, especially in terms of the decline of illicit manufacturing (less so regarding direct selling of unmanufactured tobacco to consumers).

Figure A16-4. Impact of raw tobacco tax regimes according to Member States tax and customs authorities



Source: External study based on tax and customs authorities survey.

Note: ‘Don’t know’ answers are not displayed.

Regarding the magnitude of the policy problem, as already mentioned, the illicit manufacturing in the EU can amount to roughly 13 billion cigarettes, annually (i.e. around 30% of the total consumption of illicit cigarettes in the EU).

The expected impacts would vary across countries, and it can be assumed that for Member States that already have a tax regime for raw tobacco benefits would be more limited than for EU countries with no mechanism in place.

Estimated effects of the proposed measures on the economics of illicit manufacturing. In the context of the proposed policy review, it is worth separately examining the impact of the tax regime on the availability of raw tobacco for diversion to illicit manufacturing. The simulations presented here are purely speculative, since neither research nor empirical data allow for a more robust assessment. The assumptions proposed are based on qualitative discussions by the external contractor with informed stakeholders and the review of law enforcement reports and studies.

The price of illicit cigarettes is typically pegged to the price of legal products (i.e. 50% to 60%).³⁰³ In this sense, producing illicit cigarettes in the EU is likely more costly than producing them in

³⁰³ This estimate was confirmed by feedback gathered through the call for data (External study).

low-cost third countries, but the increase in black market prices (induced by the increase of legal products' prices) have seemingly created economic opportunities to establish profitable illicit businesses closer to end consumption markets, typically in Western Europe, Nordic countries and the United Kingdom. At the same time, this assumption entails that any increase in the manufacturing costs of illicit products (in the form of increased risks and more difficult procurement of diverted raw tobacco) would erode the illicit trade margin.³⁰⁴ It can be expected that an increase of costs beyond certain levels would make illicit manufacturing in the EU no longer profitable. To what extent the proposed measures would raise illicit manufacturing costs and trigger such beneficial effects is difficult to say. Analysing further, the assessment shows a drop in profitability under both a zero rate and a positive rate of excise duty scenarios. However, the application of excise duties (namely the current excise levels applied to OST) to seized products would further accelerate the drop in illicit profit levels. For instance, an improved monitoring system that could potentially detect up to 20% of illicit raw tobacco movements (i.e. twice the current estimated detection levels) would lead to a reduction of illicit profit margins by less than 20% in the absence of excise duty and by 35% if excise duties are applied. In a hypothetical scenario where excise duties are applied and one-third of illicit raw tobacco is seized, illicit manufacturing activities would no longer be economically viable.

The estimates outlined are merely indicative. However, the feedback collected from countries that have set up fiscal regimes for the control of raw tobacco (along with positive excise duties) would confirm that a significant reduction of the grey trade deemed conducive to diversion can be achieved. It seems plausible to assume, for analytical purposes, that the proposed measures could lead to increases in the current detection and seizures (or risks thereof) from the current estimated 10% up to an estimated 20% to 30% of the volume of illicit manufactured cigarettes. Data on other products (i.e. fine-cut tobacco and waterpipe tobacco) are sparser, but it can be assumed that effects of similar magnitude would be registered on the illicit manufacturing of these products.

4.2. Impact on revenue

The expected reduction in the sale of illicit products manufactured in the EU would have direct positive effects on Member States tax revenues, as the losses caused by tax fraud will be partially recovered. A tentative assessment of the magnitude of such impact has been carried out, based on the estimated decline of illicit product volumes. The indicative results illustrated in Table A16-8 below.

Table A16-8. Indicative impact on forgone revenue associated to illicit manufacturing within the EU

Product	Baseline		Reduction under Option 1 (zero rate)		Reduction under Option 2 (positive rate)	
	Volume	Foregone revenue (in billion)	Volume	Foregone revenue (in billion)	Volume	Foregone revenue (in billion)
Cigarettes	13 billion sticks	EUR 3.1	3.5 billion sticks	EUR 0.8	6.8 billion sticks	EUR 1.6
FCT	10 500 tonnes	EUR 1.6	2 800 tonnes	EUR 0.4	5 500 tonnes	EUR 0.8
WPT	3 000 tonnes	EUR 0.4	800 tonnes	EUR 0.1	1 600 tonnes	EUR 0.2
Total		EUR 5.1		EUR 1.3		EUR 2.6

Source: External study

³⁰⁴ Compared to legal products, where an increase in manufacturers costs (including tax charges) is passed on to the retail selling price, it can be assumed that the increase of costs for illegal products should be absorbed by the operator.

4.3. Impacts on administrative costs and savings of enlarging the scope of the Directive to raw tobacco

Administrative and compliance costs for economic operators

The results of the analysis on costs incurred by economic operators (see Table A 16-9) inevitably present some degrees of uncertainty due to data gaps and the variability in the unit costs of required actions for different types of operators (by country, size, efficiency and position on the value chain).

Table A 16-9. Regulatory costs for raw tobacco economic operators

Obligation	Brief description	Aggregated incremental costs (EUR million)
Registration in the excise system	Operators must be authorised by the competent Member State authority according to the relevant excise duty profile (warehouse keepers, registered or certified consignor/consignee). Registration for duty-suspension operations is deemed more costly. In 15 Member States, economic operators are already deemed compliant (national fiscal regimes are in place). Manufacturers and second processors are assumed to be already compliant. The simulation assumes that growers and their organisations are exempted. First processors would opt for duty-paid authorisations under option 1 (zero rate) and duty suspension authorisations under option 2 (positive rate), while importers would possibly opt for duty-paid transactions in both cases.	One-off costs Option 1: EUR 0.1 Option 2: EUR 0.1
Set up/ operate a tax warehouse	This obligation would regard primarily first and, storage warehouse operators while second processors and manufacturers are assumed compliant. It is applicable only where the proposed raw tobacco regime involves a positive excise duty rate (option 2) The obligation has two main cost components: (1) the investment to set up appropriate premises (one-off); (2) the recurrent costs of operations, including keeping registers of in/out movements.	One-off costs EUR 39.7 Recurrent costs: EUR 2.4 (only under Option 2)
EMCS	This obligation has two main cost components: (1) adopting an IT system to operate the EMCS (assumed on annual subscription basis); and (2) recurrent costs for movements (inclusive of book-	Recurrent costs: EUR 2

	keeping, weighing of products, and all EMCS-related procedures ³⁰⁵). These costs will regard all economic operators including from countries where national fiscal legislation is already in place. Manufacturers and second processors are assumed already compliant with the IT system obligation. It is assumed that growers and their organisations are exempted.		
	Total	Option 1: One-off costs: EUR 0.1 million Recurrent costs: EUR 2 million	Option 2: One-off costs: EUR 39.7 million Recurrent costs: EUR 4.4 million

Source: External study

Administrative and adjustment costs for Member States authorities

The costs that Member States authorities would incur from the adoption of a harmonised excise category for raw tobacco are of two main kinds: (1) the costs for including new economic operators in the excise system, which relate to registration activities (one-off and periodical renovation); and (2) the costs related to operations, which include capital costs of adapting the IT infrastructure (EMCS interface, etc.) to the enlarged scope of the system, and the costs of individual transactions (verification and confirmation of movements under EMCS).

The costs examined are incremental, i.e. they do not include costs already incurred in Member States where a fiscal regime for raw tobacco is already in place. Fiscal registration is already envisaged in 15 Member States, in which no additional costs for registration have been estimated. For the IT infrastructure costs, it was assumed that all Member States would incur additional costs, as EMCS is not currently used for raw tobacco in any Member State.

Overall, estimated costs would amount to:

- One-off costs would be around EUR 9.7 million. The bulk of the estimated additional costs relates to the adjustment of the IT system and related training costs
- Recurrent costs would amount to EUR 0.7 million per year, mostly in relation to EMCS transactions.

The different policy scenarios examined can influence the extent of the costs incurred by Member States authorities. In particular, the zero-rate option (Option 1) might prompt operators to use the duty-paid procedure instead of duty suspension where feasible. The former is associated with reduced costs regarding authorisation.

³⁰⁵ The estimation of the number of annual movements have been assumed based on the volume of intra-EU movements of raw tobacco (by typology) and establishing a typical movement of 20 tonnes per large enterprise and of 2 tonnes per SME. The outcome of the analysis is indicative.

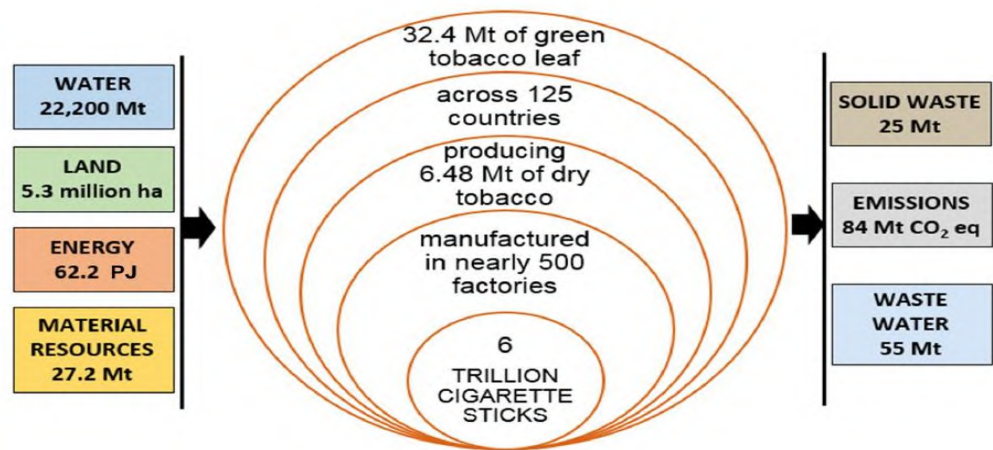
The costs incurred by specific Member State would vary depending on the number of operators and transactions.

5. Environmental impacts

The first comprehensive assessment of the environmental footprint of tobacco was provided in a seminal report of the WHO FCTC Secretariat in 2018. This study concludes that every stage in the global tobacco supply chain involves considerable resource inputs, and results in the production of wastes and emissions. The environmental damage that tobacco causes makes it incompatible with the global development agenda. Since then, the interest on environmental impact of the tobacco value chain has grown and, eventually, the topic gained prominence in the latest edition of the FCTC Conference of Party (COP10 - February 2024, Panama), which took the decision of urging Parties to consider the environmental impacts of the tobacco cycle - from cultivation to waste disposal – and adopt national policies to protect the environment from the externalities of tobacco.

The tobacco supply chain is characterised by intensive water and energy demand, especially for curing and the complex logistics and distribution. The output of tobacco supply chain includes solid waste, wastewater, and CO2 emissions. Based on a paper presented at the United Nations Climate Change Conference (COP27), the key environmental impact of tobacco can be summarised as in Figure A 16-5.

Figure A 16-5. Scale of global tobacco impact



Source: Prof. Nick Voulvoulis (Imperial College of London), “Tobacco’s global environment footprint” (presentation, 2022).

The European Commission has identified tobacco filters among the top five most common pieces of litter found on beaches. With the adoption of the single use plastics Directive³⁰⁶ and the introduction of an Extended Producer Responsibility scheme, manufacturers are expected to cover the costs of waste management and clean-up, as well as awareness raising measures for tobacco products with filters (such as cigarette butts). The single use plastics Directive also foresees that

³⁰⁶ Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment (europa.eu)

Member States should promote a wide range of measures to reduce litter from post-consumption waste of tobacco products with filters containing plastic.

The environmental impact of the proposed revision of the Directive cannot be estimated precisely. However, as the EU market consists of around 0.5 trillion stick-equivalent / year (i.e. one-sixth of global market), it somehow accounts - directly or indirectly - for about 17% of the global environmental impact of tobacco. The estimated reduction in consumption associated to increased EU minima ranges between 5% and 14% of the total EU market for traditional tobacco products. In this sense, if applied to the estimates put forward in Figure A 16-5, the revision of EU minima might reduce, inter alia, CO₂ emissions by 4-12 mega tonnes (Mt), water depletion by 1 100-3 100 Mt, and solid waste by 1.2-3.5 Mt.

In conclusion, any reduction in tobacco consumption triggered by taxation would, in theory, reduce its environmental impact. Also, it is likely that any reduction in tobacco consumption would be associated with some reduction in the overall energy intensity and CO₂ emissions of the economy as a whole, as well as water consumption. The closer the environmental impact takes place to the final act of tobacco consumption, the more likely the impact itself is to occur within the EU. This is fully in line with the EU environmental and climate policy and would contribute to achieving the objectives of the European Climate Law.

ANNEX 17: ELASTICITY

1. Market effects: elasticity

The demand estimation model developed consisted of three-level estimations:

1. at the first level, the price elasticity of the demand for tobacco products was assessed i.e. how the expenditure of consumers on any kind of tobacco products varies in relation to the average price of tobacco products;
2. at the second level, the conditional demand for the different types of products was measured, i.e. how the above-mentioned expenditure would be allocated by consumers between the different products in relation to their relative prices, thereby measuring the conditional own- and cross-price elasticity between different products;
3. at the third level, the conditional demand for cigarettes belonging to different price segments, namely premium vis-à-vis low- and mid-price cigarettes was estimated, i.e. how the above expenditure on cigarettes estimated at the second level would be further split between different segments depending on the respective price levels, that is the conditional own- and cross-price elasticity between different market segments of cigarettes.

The impact of the tax on prices was also estimated in a log-linear model and therefore the model actually measured the ‘pass-through elasticity’, i.e. the percentage increase in price levels that is associated to a percentage increase of taxes. An overall pass-through elasticity of 0.7 was applied for traditional tobacco products, which means that an excise duty increase of 10% translates, on average, into a price increase of 7%. The effects on VAT were included in the overall price impact.

Regarding the impact on the demand, the elasticity coefficient of -0.54 was used, which is broadly in line with the relevant economic literature on this matter (see section 2 below).

Regarding the price elasticity of demand for HTP, liquids for e-cigarettes and nicotine pouches, the coefficient applied is -1.36.³⁰⁷

2. The price elasticity of the demand for tobacco products in the relevant literature

The impact of tax increases on cigarettes demand worldwide is modelled in a seminal World Bank report published nearly 20 years ago (Jha & Chaloupka, 1999). Compiling point estimates from a range of country-level studies, the report assumed an elasticity of the demand for cigarettes of -0.4 in high income countries (based on UK and US studies) and of -0.8 in low/middle income countries (averaging estimates from China, Brazil, South Africa etc).

As argued by Gallus et al. (2006), the assumptions on which that model is based are highly conservative, therefore the results possibly underestimate the actual impact. A more recent meta-analysis, reviewing 86 different econometric studies on smoking, reported a mean price elasticity of -0.48 (Gallet & List, 2003). This encompassed various country-level studies, providing different estimates, for instance the UK (-0.37) (Townsend, 1996), Finland (-0.5 to -0.95) (Pekurinen, 1989), Italy (-0.44) (Gallus et al., 2003), Spain (-0.2 to -1.25) (Fernandez et al., 2004), California (around -0.5) (Keeler et al., 1993; Sheu et al., 2004) and Canada (-0.52) (Gruber, 2003).

³⁰⁷ External study.

As regards Europe on the whole, in a seminal study based on cross-sectional data from 27 European countries, Townsend (1988) reached a point estimate of price elasticity of -0.4 and of income elasticity of -0.5. In a more recent work on price and cigarette consumption in Europe, Gallus et al. (2006) concludes that ‘controlling for male to female prevalence ratio, price elasticities for consumption were -0.46 (95% confidence interval (CI) -0.74 to -0.17) and -0.74 (95% CI -1.13 to -0.35) for local and foreign brand, respectively.’

The recent monograph published by the U.S. National Cancer Institute and the WHO confirmed the inelastic nature of the demand for cigarettes in high income countries: ‘nearly all empirical studies have found that the price elasticity of demand for tobacco products lies between zero and minus one.’ The study recognised the variability of the point estimates available in the literature, while confirming that the -0.4 average value laid down in the previous World Bank report can still represent a valid benchmark.

The econometric estimates elaborated are therefore broadly in line with the relevant economic literature. In particular, both the range (from -0.39 to -0.64) and the retained point estimate (-0.54) of the price elasticity for tobacco products is rather consistent with the abovementioned results of previous keynote studies.³⁰⁸

³⁰⁸ Economisti Associati, ‘Study on Council Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco’, 2019.

ANNEX 18: EXPRESSING REVISED EU MINIMA IN NOMINAL TERMS

1. Traditional tobacco products

The impacts of revising EU minima for traditional tobacco product in EUR expressed in nominal terms were also assessed. The options (limited, moderate and high increase) are the same as the ones described in section 5.2.

1.1. Economic impacts

Table A18-1. The main impacts of the options expressed in nominal terms

Current EU minima (EUR/1,000 for cigarettes; per kg for other products)	Cigarettes EUR 90	FCT EUR 60	Cigars EUR 12	Cigarillos EUR 12	OST EUR 22
Option 1: Limited increase of EU minima					
Fixed minimum	155	155	107		107
Increase of the fixed minimum (%)	72%	158%	792%		386%
Average increase of excise duty for Member states (%)	14%	12%	14%	23%	13%
Member States affected	19	9	3	6	7
Market sales (%)	-6%	-6%	-2%	-10%	-9%
Impact on revenues (EUR million)	+ 4 700	+ 700	+ 50		+ 50
Option 2: Moderate increase of EU minima					
Fixed minimum	179	179	143		143
Increase of the fixed minimum (%)	99%	198%	1092%		550%
Average increase of excise duty for Member states (%)	27%	16%	27%	42%	28%
Member States affected	21	12	8	8	12
Market sales (%)	-10%	-7%	-5%	-13%	-12%
Impact on revenues (EUR million)	+ 8 900	+ 800	+ 90		+ 80

Option 3: High increase of EU minima					
Fixed minimum	215	215	143		143
Increase of the fixed minimum (%)	139%	258%	1092%		550%
Average increase of excise duty for Member States (%)	47%	25%	27%	42%	28%
Member States affected	21	17	8	8	12
Market sales (%)	-16%	-9%	-5%	-13%	-12%
Impact on revenues (EUR million)	+ 13 700	+ 1 200	+ 90		+ 80

Source: External study.

Note: Estimates refer to the EU-wide aggregated market. Figures are rounded.

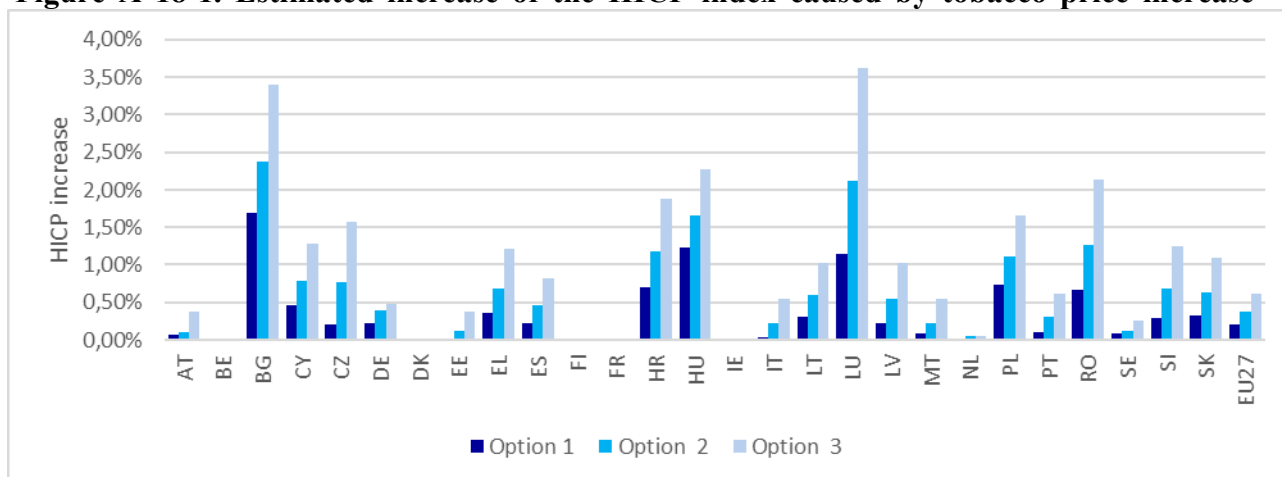
As regards cigarettes the majority of Member States would be forced to increase their rates under all options (up to 21 Member States under option 3). The average rates increase in Member States would be respectively +14%, +27% and +47% under option 1' (limited increase), 2' (moderate increase) and 3' (high increase).

Price level increases would in turn reduce demand and sales of tobacco products. Based on the estimation model applied, such reduction would range from 2% to 10% under option 1, from 5% to 13% under option 2 and from 5% to 16% under option 3. The average weighted average price (WAP) for 1 000 cigarettes is estimated at EUR 322 in option 1, at EUR 343 in option 2 and at EUR 376 in option 3. For kg of FCT, it is estimated at EUR 279 under option 1, at EUR 285 under option 2 and at EUR 295 under option 3.

The global impact on tax revenues would be an increase of EUR 5.5 billion for option 1, 9.9 billion for option 2 and 15.1 billion for option 3.

Regarding **impact on inflation**, the increase in the price of tobacco products would impact on inflation rates in the Member States, proportionally to the extent of the increase and of the weight of products on consumer's basket - as measured by Eurostat's HICP. The results are reported in Figure A 18-1 below. Overall, the 'rate of increase' for the HICP would amount to 0.21% (weighted EU average) in the case of option 1, to 0.38% for option 2 and reach 0.62% for option 3.

Figure A 18-1. Estimated increase of the HICP index caused by tobacco price increase



Source: External study.

The results, summarised in Table A 18-2, show that the increase of EU minima would be associated with a **reduction of cross-border flows** of cigarettes and FCT, however the impact would be very similar to the impact under the PPP approach (as presented in section 6) for FCT and slightly lower for cigarettes.

Table A 18-2. Impact on cross-border flows of cigarettes and FCT

	Volumes				Changes in volumes with respect to Baseline		
	Baseline	Option 1	Option 2	Option 3	Option 1	Option 2	Option 3
Cigarettes (mln sticks)	28 400	26 800	25 200	22 800	-5.6%	-11.1%	-19.7%
FCT (t, lb)	8 300	8 100	8 050	7 800	-2.2%	-2.9%	-6.1%
FCT (t, ub)	14 000	13 700	13 600	13 150			

Source: External study.

Note: lb and up stand for the lower and upper bound, respectively. Numbers were rounded with different precision applied to different products.

1.2. Public health impacts

As presented in

Table A 18-3 all the options considered would contribute to reducing smoking prevalence among the general population (aged 15+) and to meeting the target of Europe's Beating Cancer Plan goals.

Table A 18-3. Estimated impacts on tobacco consumption

Options	Impact on consumption		Impact on the number of smokers*	Impact on smoking prevalence*
	Billion items	in %		
Baseline	502		92.1	24.0%
Option 1	-30	-6%	-5.4	22.6%
Option 2	-49	-10%	-9.0	21.7%
Option 3	-73	-15%	-13.5	20.5%

Source: External study.

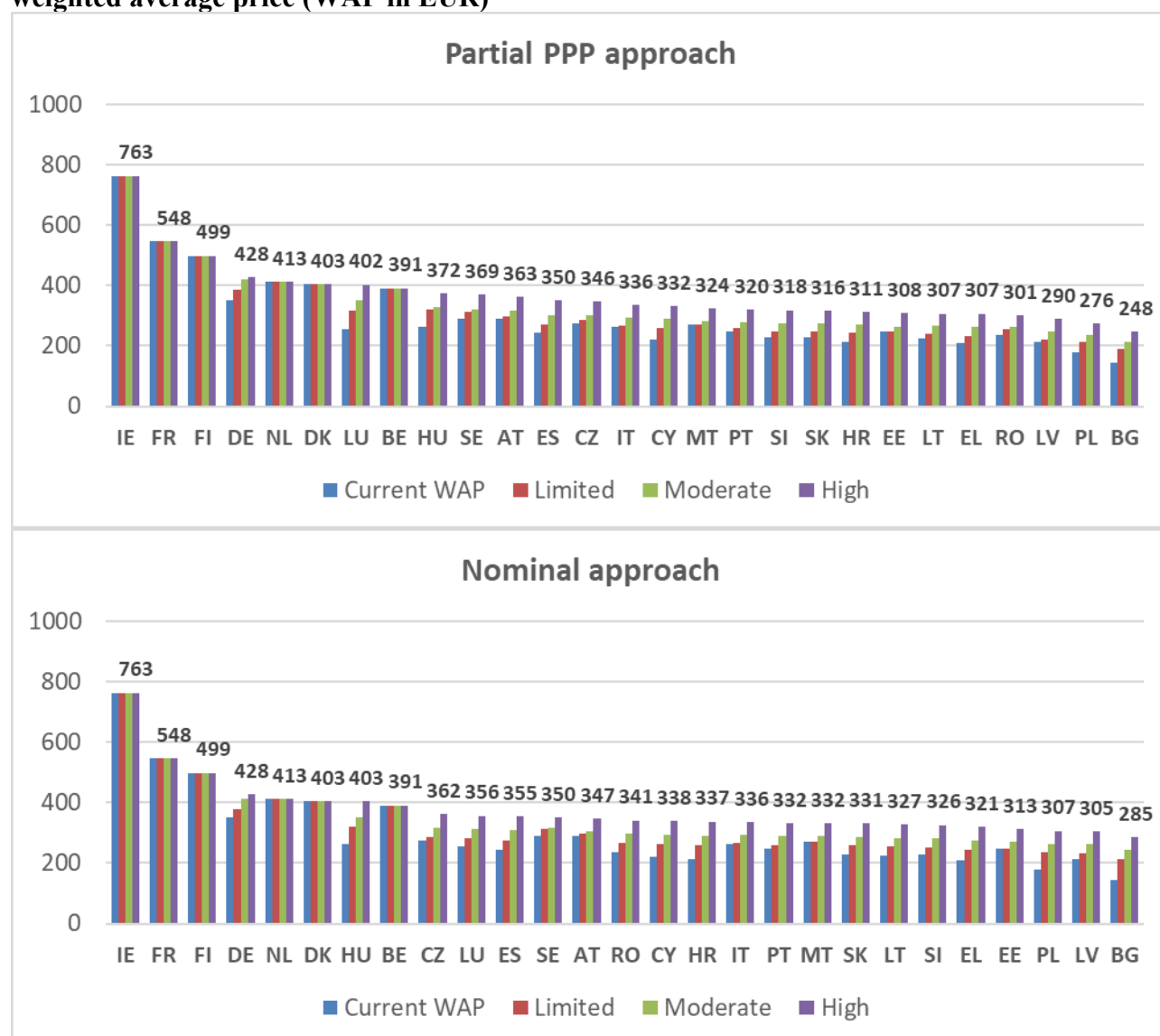
Notes: FCT and OST have been converted into items applying a 0.75g=1 stick equivalence. (*) The estimates for these variables are presented with a higher degree of granularity for the sole purpose of showing the possible different impact across scenarios.

1.3. Comparison of nominal versus partial PPP approach

The proposal for the revision of EU minima is to adopt a partial PPP system where 2/3 of the tax is expressed in nominal terms and 1/3 in PPP terms.

This proportion between nominal and PPP components has been derived from the increase scenario for the EU minima on cigarettes that corresponds to the average expectations of Member States, as emerged from the tax authorities' survey. It strikes a good balance between increasing convergence and distributing the impact across Member States.

Figure A18-2. Comparison of nominal versus partial PPP approach in case of cigarettes weighted average price (WAP in EUR)



Source: Commission analysis based on External study

Note: Figures in this figure represent 'High' value.

2. New products

As regards new products (heated tobacco products, liquids for e-cigarettes, other manufactured and related products), the possibility of applying excise duty based in nominal terms has been assessed. However, the impact would not essentially differ from the purchasing power values as presented in section 6.2.