



## Health organisations outraged by EU’s “possible” decision to extend agreement with tobacco transnational Philip Morris

*Embargo: Not for publication before 12pm Thursday 25 February 2016*

**Brussels, 25<sup>th</sup> February 2016** – The Smoke Free Partnership (SFP) and health organisations across the EU have expressed alarm at the possibility that the European Commission will try to extend its legal agreement on tobacco smuggling with the major tobacco multinational Philip Morris International (PMI). The renewal could derail global efforts to combat the illicit tobacco trade by delaying the ratification of the only Treaty able to effectively address this problem, the WHO FCTC Protocol to Eliminate Illicit Trade in Tobacco Products. A technical assessment of the Agreement produced by Commission officials fails to provide any convincing reasons for continuing it.

At a plenary session in the European Parliament today, the European Commission refused to say that it would not renew the controversial Agreement, which is due to expire in July 2016. The Agreement was signed 12 years ago, after the EU brought legal proceedings against PMI for cigarette smuggling. It was intended to end the tobacco industry’s complicity in cigarette smuggling, and introduced annual payments to the EU and its Member States as well as fines when genuine PMI products were seized in illicit channels. It is the first of four similar agreements signed with each of the major tobacco companies.

Health organisations are very concerned that the Commission has not produced any good evidence that the Agreement has been successful. The Impact Assessment admits that “no direct causality can be established” between the Agreement and a fall in PMI products being smuggled. [i] It declines to consider whether the Agreement has established too close a relationship between EU institutions such as OLAF and the tobacco manufacturers, calling this “a matter of political appreciation”. [ii] Although it cites figures showing that the amount of PMI products seized in illicit channels has fallen by 85% during the lifetime of the Agreement, it fails to consider figures from the industry’s own funded research, including Project Sun, which appears to show that the level of genuine tobacco company products in the EU illicit market is still well over 50%. Finally, it fails entirely to give any assessment of what would happen to the illicit market if the Agreement was not renewed.

**Florence Berteletti, SFP Director said:** *“It is astonishing that the Commission is even considering the extension of an Agreement that has nothing useful left to offer. The Impact Assessment we have seen, which seems to support renewing the Agreement, is completely inadequate. The illicit tobacco trade is not just a budget issue, depriving governments of revenue – it also undermines tax and other public health policies to reduce tobacco use. There are better means available to fight illicit trade, including the Tobacco Products Directive and the global WHO FCTC Protocol to Eliminate Illicit Trade in Tobacco Products. Instead of*

*weakening them through industry agreements, the EU should focus its political efforts and resources towards implementing the Directive and promoting the global ratification of the Protocol.”*

**Luk Joossens, Advocacy Officer Association of European Cancer Leagues said:** *“The rest of the world is looking at the European Union, which has tried to play a leadership role in the global fight against illicit tobacco, and would be likely to conclude that the close working relationship with tobacco companies has damaged its reputation and violated its international commitments. There is a fundamental and irreconcilable conflict between the tobacco industry and public health. This close collaboration is in direct conflict with article 5.3 of the FCTC and article 8.12 of the FCTC Protocol to eliminate illicit trade in tobacco products”*,

The illicit tobacco trade does not only hurt the economy (rough estimates show that it amounts about \$40.5 billion a year with \$17.6 billion loss for governments in high income countries), it is a public health problem and it deprives the health sector of additional financing, deepens health inequalities and encourages smoking among young people. Around 164,000 lives a year could be saved if the illicit trade was tackled properly. [iii]

The Smoke Free Partnership and health organisations in Europe remain strongly committed to promoting effective measures for combating the illicit tobacco trade. **Over and above, the Commission should be aware that EU’s close working relationship with tobacco companies will undermine Europe’s credibility and international commitments on the ratification of the Illicit Trade Protocol.**

**Note to editors:**

Contact:

Ms Florence Berteletti, SFP Director

[florence.berteletti@smokefreepartnership.eu](mailto:florence.berteletti@smokefreepartnership.eu), +32 496 124 302

***The SFP Coalition is a specialised network of more than 25 independent EU and national organisations with technical expertise in tobacco control policy created in 2014. Led by SFP, Coalition partners work together to promote and support smoking prevention through the development of advocacy strategies that deliver specific EU tobacco control policies as well as to promote and support smoking prevention at international, European and national level through the development and implementation of the FCTC, its protocols and guidelines.***

***EPHA is a change agent – Europe’s leading NGO advocating for better health. We are a dynamic member-led organisation, made up of public health NGOs, patient groups, health professionals, and disease groups working together to improve health and strengthen the voice of public health in Europe. EPHA is a member of, among others, the Social Platform, the Health and Environment Alliance (HEAL), and the EU Civil Society Contact Group.***

[i] Page 4 of the Impact Assessment, point 1

[ii] Page 5 of the Impact Assessment, sub-paragraph c

[iii] [http://global.tobaccofreekids.org/files/pdfs/en/ILL\\_global\\_cig\\_trade\\_full\\_en.pdf](http://global.tobaccofreekids.org/files/pdfs/en/ILL_global_cig_trade_full_en.pdf)

## More information at:

Factsheet on the PMI Agreement with the EU: <http://smokefreepartnership.eu/documents/factsheet-about-agreement-between-eu-and-philip-morris-international>

FCA Factsheet on Codentify: [http://www.fctc.org/images/stories/Codentify\\_final\\_220515.pdf](http://www.fctc.org/images/stories/Codentify_final_220515.pdf)

Joossens L, Gilmore A, Stoklosa M, Ross H, **Assessment of the European Union's illicit trade agreements with the four major Transnational Tobacco Companies, *Tob Control*** doi:10.1136/tobaccocontrol-2014-052218

<http://tobaccocontrol.bmj.com/content/early/2015/05/20/tobaccocontrol-2014-052218.full.pdf+html>

**Why is illicit trade detrimental to public health and the public interest?** [WHO World No Tobacco Day 2015:](#)

**Are the agreements effective in helping Member States to regain lost tax revenues?**

Figures at [Questions and Answers on fighting the illicit trade in tobacco products](#): OLAF 14 August 2015

According to data provided by the MS to the Commission, the total volume of seized cigarettes across the EU was 3.8 billion sticks in 2012 and 3.1 billion in 2013. However, according to OLAF, from the start of the PMI Agreement in July 2004 to June 2015, a total of 898 million cigarettes manufactured by the four multinationals had been seized. These seizure figures seriously underestimate the proportion of the EU illicit market that is genuine products of the four manufacturers. The latest Project Sun report suggests that the illicit EU market in 2014 consisted of:

-6.6% counterfeit

-37.4% illicit whites, and

-56.0% “contraband”, which appears to mean genuine products in illicit channels.

[KPMG Project Sun report 2015: Executive Summary, page 11](#)

**Have the Agreements ended the multinationals’ global complicity in illicit trade?**

- The Thai Government announced on 19<sup>th</sup> January 2016 that it was charging PMI with tax evasion through under-declaring imports.

[Tobacco giant Philip Morris faces \\$2.2B Thai tax fine](#): *the Daily Star* 19 January 2016

- Internal anti-illicit trade investigators employed by Japan Tobacco International were sacked after presenting the company with evidence of JTI distributors be involved in smuggling in Afghanistan, Moldova, Russia, the Balkans and the Middle East

[Big Trouble with Big Tobacco](#): *Organised Crime and Corruption Reporting Project* 2011

- UK HM Revenue and Customs issued a fine of £650,000 to BAT in 2014 for oversupplying hand-rolled tobacco to Belgium.

[BAT fined for oversupplying tobacco in low-tax European jurisdictions](#): *Observer* 16 November 2014

**Is it possible to have a public debate in the absence of reliable data?**

- It is very difficult to assess the impact of the current Agreements, since there is no established consensus on the overall level of illicit trade across the EU, or of the proportion of this trade that consists of genuine tobacco industry products that have been diverted into illicit channels.
- There are two main sources of data on the illicit trade – seizure data and industry data/studies (e.g. Project Star and Project Sun). Both are problematic and give very different findings.
- Our own data from three countries (Belgium, Italy and Spain) suggests that **the major falls in the illicit market took place** from the mid-1990s to 2000, i.e. after OLAF, in partnership with the MS, began investigations on tobacco industry involvement in illicit trade, but **before the PMI Agreement was signed in 2004**.
- **OLAF has not reported any interim assessments of the impact of the agreements**

**The Agreements do not address the problem of “illicit whites”.** The Agreements do nothing to resolve the problem of Cheap Whites. According to Member States’ seizure data from 2013, eight of the ten most seized cigarette brands were illicit whites.

**There is a huge reputation risk if the EU renews the agreement:**

Renewing this Agreement would undermine the Commission’s efforts to convince other parts of the world to ratify the Protocol. It could be seen as the EU negotiating with an Industry (PMI joined by BAT, ITL and other tobacco companies) which is currently suing them and other governments trying to introduce legislation to protect public health.