

**To:** [REDACTED] (TAXUD); [REDACTED] (TAXUD)  
**Cc:** [REDACTED] (TAXUD); TAXUD UNIT C2  
**Subject:** Meeting report ESTA February 12 2019

**Meeting with ESTA, February 12, 2019:**

The meeting was requested last November by ESTA to present the findings of the London Economics Study on the taxation structure for fine-cut tobacco, which ESTA commissioned in 2018.

**Participants:**

ESTA:

[REDACTED]

EC Taxud C2:

[REDACTED]

**Main issues presented by ESTA .:**

- **ESTA presentation**

The European Smoking Tobacco Association (ESTA), represents mainly smoking tobacco SMEs and mid-sized companies (and also three large tobacco companies) producing fine cut tobacco (FCT)

The EU market for fine cut tobacco market varies widely across the EU with very different usage (and sales) between Member States.

- **The "buffer" function role of fine cut tobacco**

ESTA insisted on the buffer function of fine cut tobacco: FCT could act as an alternative to illicit cigarettes

Consumers who would be priced out of the market by high prices for cigarettes would consume FCT instead

FCT therefore acts as a buffer between domestic cigarettes and cross border or illicit cigarettes.

- **Differentiated tax treatment**

ESTA insisted that the tax differential between cigarettes and FCT should remain

Affordability is the main criteria for consumers and not respecting the current differential would push those consumers to illicit products

- **The London Economics Study**

This is the second report on FCT. A third is under preparation. All commissioned by ESTA The report briefly presents the characteristics of FCT consumption and the buffer function It then provides for case studies of 4 national markets (BE, DE, NL, UK) where taxation regime for FCT had been modified and the resulting impacts on illicit trade.

- **Raw tobacco:**

ESTA indicated that there was an issue with illicit trade of raw tobacco but were unable to provide any data on the issue

All imported raw tobacco into the EU comes via TabakNatie, the large warehouse facility in the port of Antwerp

ESTA noted that it didn't favour the notion of 'illicit bulk' or 'illicit cut' tobacco as used in some studies, notably by CrimeTec

Definition of smoking tobacco: ESTA noted the alleged confusion in DE and SE after the CJEU judgement on Eko Tabak.

**Directive 2011/64/EU on the structure and rates of excise duty applied to manufactured tobacco :**

We took note of ESTA positions on a possible review of the rates as regards fine cut tobacco, notably on maintaining the current 'tax gap'

We indicated that we had taken note of ESTA submission to the OPC and the report by London Economics

We provided for a clarification of the timing of the external study and the evaluation of the Directive.