



**ECO/605**  
**Revision of the Tobacco Taxation Directive**

**WORKING DOCUMENT**

Section for Economic and Monetary Union and Economic and Social Cohesion

**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 - 2025/0580 (CNS))

**Proposal for a Council Directive amending Directive (EU) 2020/262 as regards the general arrangements for excise duty in respect of tobacco and tobacco related products**

(COM(2025) 581 final - 2025/0581 (CNS))

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Legislative procedure  
Referrals

EU Law Tracker  
Council of the European Union, 12/9/2025 (COM(2025) 580 final)

Legal basis

European Commission, 29/8/2025  
Articles 113 and 304 of the Treaty on the Functioning of the European Union

European Commission documents

COM(2025) 580 final - 2025/0580 (CNS)  
Summary of COM(2025) 580 final - 2025/0580 (CNS)  
COM(2025) 581 final - 2025/0581 (CNS)  
Summary of COM(2025) 581 final - 2025/0581 (CNS)

Relevant Sustainable  
Development Goals (SDGs)

SDG X

Section responsible

Economic and Monetary Union and Economic and Social Cohesion

Adopted in section  
Outcome of vote  
(for/against/abstentions)

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Adopted at plenary session  
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Outcome of vote  
(for/against/abstentions)

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For the attention of the study group members

Study group meeting 18/12/2025, 10:00  
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Administrator  
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## 1. RECOMMENDATIONS

The European Economic and Social Committee (EESC)

## 2. EXPLANATORY NOTES

2.1 The EESC recognises the need to update Directive 2011/64/EU in order to align the taxation of tobacco and nicotine products with market developments and the EU's public health objectives. However, it stresses that the revision must respect the principles of proportionality and fiscal neutrality, avoiding distortions and disproportionate economic impacts on European production chains.

### 2.2 Risk of expansion of illicit trade

2.2.1 According to official data collected by Europol and national customs authorities, illicit trade in tobacco and nicotine products is increasing in several Member States. The EESC believes that a sudden hike in excise duties could lead to an undesired increase in illicit trade. Therefore, the future rates should be based on option 1 of the Commission impact assessment report, which would see the minimum rates for cigarettes increased to EUR 155 per 1 000 cigarettes instead of the EUR 215 per 1 000 cigarettes actually proposed by the Commission. In addition, any increase in excise duties must be accompanied by strengthened enforcement capacity, customs cooperation and cross-border anti-smuggling measures to avoid substitution effects towards illegal and unregulated products. The risk of illicit trade expansion warrants explicit and robust counter-measures.

2.2.2 Evidence from France and Netherlands illustrates how abrupt excise hikes can fuel illicit market penetration. The current excessive excise increase proposal could undermine the objective to raise additional excise revenues and actually generate EUR 15.5 billion in significant revenue losses (excise - VAT) if it triggers a 5% increase in illicit trade.

2.2.3 The EESC underlines that excise adjustments should be predictable and economically sustainable and in line with Recital 12 of the proposal, which states that different minimum duties should be established for each category according to their distinctive product characteristics and their intended use. Excessive or abrupt increases risk undermining both tax revenues and public health objectives by fuelling illicit trade and market distortions.

2.2.4 The EESC therefore calls on the Commission and the Member States to strengthen enforcement capacity, inter-agency data-sharing and prevention strategies in parallel with tax increases.

2.2.5 The EESC also calls on the Commission and the Member States to reconsider alternative approaches to the increases in the EU-wide minimum rates, in parallel with strengthening enforcement capacity, inter-agency data-sharing and illicit trade prevention strategies.

### 2.3 Protection of young people and prevention

2.3.1 The Committee supports the goal of deterring young people from smoking. A comprehensive approach combining health education, age-verification controls, oversight of online sales and marketing regulation is required.

## 2.4 Technological neutrality and innovation

2.4.1 The Directive must maintain technological neutrality between product categories and avoid penalising innovation in lower-risk products. Overly broad definitions or taxation that covers any substance or device capable of containing nicotine could include products not intended for human consumption, creating legal uncertainty and discouraging technological development in Europe.

## 2.5 Socio-economic and agricultural impact

2.5.1 The EESC asks the Commission to carry out a socio-economic and territorial impact assessment, focusing on regions where tobacco cultivation and processing remain an important source of income and employment. Given that the EU contributes around 46% of global tobacco exports, the Directive should also take into account its potential impact on manufacturing activities, investment and the risk of job losses. It is advisable to provide accompanying measures to support producers.

## 2.6 Flexibility and subsidiarity

2.6.1 The revision of the Directive must allow for national adaptation, enabling the Member States to adjust excise duties according to their own economic and social conditions, while respecting the EU-wide minimum levels. Flexibility for the Member States must remain a guiding principle. National authorities should retain the possibility to adapt excise structures within agreed EU minima in order to balance public health, fiscal sustainability and socio-economic conditions.

2.6.2 The EESC suggests expanding this flexibility to mitigate disproportionate impacts in Member States experiencing above-average inflation or acute risks of illicit trade displacement. The EESC therefore recommends a careful sequencing of adjustments and consideration of a methodological shift towards core inflation indexing, as already established in the Energy Tax Directive proposal. This would enhance policy coherence across excise regimes and contribute to predictability and stability of fiscal planning in the Member States.

## 2.7 Delegated and implementing acts

2.7.1 The EESC notes that the proposal grants the Commission an indefinite delegated power to amend the rates to account for inflation every three years. However, the proposal should be made clearer to underline that the delegated powers are related to inflation adjustments only and that it cannot be used to modify any elements that determine the taxable base, product categorisation or minimum excise rates, which remain essential components of tax sovereignty under Article 113 TFEU.

2.7.2 The EESC therefore recommends that any empowerment to adopt delegated acts be narrowly defined, time-limited and subject to prior consultation of the Member States and relevant

stakeholders, including the Committee where appropriate. In the Committee's view, substantial amendments affecting the scope of taxation or the classification of new products should be introduced only through the ordinary legislative procedure, ensuring democratic scrutiny and legal certainty.

## 2.8 Structure and definitions

2.8.1 The EESC welcomes the intention to broaden the scope of the Directive but recommends ensuring clarity in definitions and proportionality in rates. Taxation should focus on the consumable component of the product (ml of liquid, grams of tobacco or nicotine pouch), excluding hardware or accessories.

2.8.2 The EESC notes stakeholder calls to improve alignment between tax definitions and the Combined Nomenclature (CN) used for customs classification. While it is neither technically feasible nor necessary for the two systems to be identical, the Committee considers it appropriate that the Commission maintain and regularly update correlation tables and issue interpretative guidance whenever amendments to the CN affect the excise categorisation of tobacco and nicotine products. Such coordination would enhance legal certainty, administrative consistency and coherence between customs and tax frameworks across the EU.

2.8.3 The EESC also recommends a simplified single-base excise model, for the newly introduced categories, under which taxation would be applied per category with a unique tax base either per unit or grams or millilitres rather than more than one tax application for the same category. This approach, already applied in alcohol taxation, could improve transparency, better achieve tax harmonisation between the Member States, reduce administrative complexity and facilitate adaptation to hybrid or novel products that do not fit traditional classifications.

## 2.9 New products and harm reduction

2.9.1 New-generation products should be treated in a manner proportionate to their reduced risk profile, maintaining a consistent tax differential compared with combustible products.

2.9.2 The Committee also suggests that the Commission establish an assessment mechanism based on scientific evidence that supports excise differentials that reflect the relative risk profiles of products compared to combustible products. Such calibration, based on evidence periodically reviewed by independent public health authorities, would ensure that tax incentives remain consistent with the objectives of the Europe's Beating Cancer Plan and the principle of evidence-based policymaking.

## 2.10 Coherence with existing EU regulation

2.10.1 Tax rules must be coherent with the current TPD, the EU customs combined nomenclature and best practices from the EU Member States' tax policies which the TPD revision intends to harmonise. The EESC recommends avoiding regulatory inconsistencies while maintaining a clear distinction between product policy and tax policy.

## 2.11 Cigars and cigarillos

2.11.1 The EESC stresses that cigars and cigarillos constitute a distinct category within the tobacco market, representing less than 2% of total consumption. With distinct consumer profiles and occasional use, these products are not substitutes for cigarettes. They are typically used occasionally by a different consumer group and are produced largely by small and medium-sized enterprises (SMEs), often family-owned and rooted in European regions. Excessive uniform increases in EU minimum rates would be disproportionate and detrimental to SME competitiveness, without significant public health benefits. The EESC therefore recommends maintaining a proportionate tax differential and avoiding abrupt harmonisation of minimum excise levels. Finally the EESC invites the Commission to re-address this issue, as in the proposed solution the system may disadvantage lower-priced European products versus premium imports.

## 2.12 Combating illicit trade

2.12.1 The EESC supports introducing monitoring and control requirements under the EMCS system for raw tobacco and recommends considering similar traceability measures for raw nicotine, for control purposes only and not for taxation (i.e. without imposing a minimum excise rate). Enhanced cooperation between customs, police and tax authorities, supported by Europol and OLAF, is necessary to counter illicit manufacturing and distribution.

2.12.2 The EESC recommends a unified data interface between the EMCS, OLAF, Europol and national customs systems which would enhance enforcement efficiency while avoiding duplication of reporting requirements.

## 2.13 Raw tobacco

2.13.1 The EESC notes that raw tobacco, classified as an agricultural product under Annex I of the TFEU, is already subject to well-established national systems for tracking and control. These mechanisms, adapted to the specific contexts of tobacco-producing Member States, have been enforced under government oversight, ensuring transparency and security for both public authorities and private operators, while also contributing to the fight against illicit trade.

2.13.2 The Commission proposal, while setting an EU minimum excise duty at EUR 0/kg, explicitly allows Member States to apply higher national rates where they identify 'high evasion risks'. The EESC stresses that such flexibility risks fragmenting the internal market, as producers could face different tax burdens solely based on their location.

2.13.3 Furthermore, the Commission's Impact Assessment acknowledges that extending the EMCS to raw tobacco would impose significant compliance costs – estimated at EUR 0.1 million in one-off expenses and EUR 2 million annually for economic operators – alongside additional administrative burdens for public authorities. Introducing raw tobacco as a new excise category risks duplicating existing controls, given that national monitoring systems already ensure compliance, and could undermine the competitiveness of EU tobacco producers.

## 2.14 Monitoring and reporting

2.14.1 Monitoring obligations should be harmonised and must not duplicate existing tools such as Eurobarometer or WHO surveys. Indicators must be clearly defined to ensure comparability of data across the Member States.

2.14.2 The EESC supports the development of a harmonised data architecture integrating EMCS records, Eurostat trade data and national health surveys. The Committee recommends establishing standardised indicators for consumption, illicit trade, and product substitution, aligned with WHO and OECD methodologies. This would promote evidence-based evaluation and comparability across the Member States.

### 3. PROPOSED AMENDMENTS TO THE LEGISLATIVE PROPOSAL OF THE EUROPEAN COMMISSION

#### Amendment 1

linked to recommendation XX

<b>Text proposed by the European Commission</b>	<b>EESC amendment</b>
<b>Reason</b>	

#### Amendment 2

linked to recommendation XX

<b>Text proposed by the European Commission</b>	<b>EESC amendment</b>
<b>Reason</b>	