



Brussels, 29 May 2026
(OR. en)

9465/26

Interinstitutional Files:
2025/0580 (CNS)
2025/0581 (CNS)

LIMITE

FISC 179
ECOFIN 629
MI 498
SAN 318
UD 148

NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee

Subject: Tobacco taxation package
a) Draft Council Directive on the structure and rates of excise duty applied to raw tobacco, manufactured tobacco and tobacco related products (recast)
b) Draft Council Directive amending Directive (EU) 2020/262 as regards the general arrangements for excise duty in respect of raw tobacco, manufactured tobacco and tobacco related products
- General approach

I. INTRODUCTION

1. On 16 July 2025 the Commission submitted to the Council a proposal for a Council Directive on the structure and rates of excise duty applied to tobacco and tobacco related products (recast) (TTD).¹ The aim of the proposal is to modernise and harmonise the excise system by aligning fiscal policy with current market dynamics and public health objectives, thereby improving both the coherence of internal market rules and the effectiveness of control measures. On the same day, the Commission also submitted to the Council a 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 (general arrangements

¹ 11725/25 + ADD 1-4.

Directive).² The objective of this proposal is to ensure that the general arrangements for excise duty will be applicable to the newly defined tobacco, tobacco related products and raw tobacco covered by the TTD proposal.

2. In February 2026 the European Economic and Social Committee published its opinion on both proposals.³ Opinions of the European Parliament on the two proposals are pending.

II. STATE OF PLAY IN THE COUNCIL

3. On 10 October 2025, the Council (Ecofin) held a policy debate on the TTD proposal. The Ministers broadly welcomed the proposal and in particular the extension of the scope of the directive to include new products. The Ministers acknowledged the aim to update and harmonise the taxation of tobacco and tobacco-related products within the internal market. Several Ministers noted that taxation is an important measure in reducing tobacco prevalence and contributing to public health objectives. However, some Ministers raised serious concerns about the size of the proposed increase in minimum excise duty rates for tobacco, the need for transitional periods and the mechanism for the periodic adjustments of these rates, which are partially linked to inflation and purchasing power parity. Several of these elements were already outlined in the Council conclusions of June 2020.⁴
4. The Danish Presidency launched an intensive technical analysis of the tobacco taxation package in the Working Party on Tax Questions (Indirect Taxation – Excise duties) (WPTQ). This covered also the impact assessment of the TTD proposal.
5. Building on the progress made, the Cyprus Presidency continued this work at the WPTQ meetings on 21 January, 25 February, 24 March and 13 May 2026 on the basis of compromise texts and background notes prepared by the Presidency. The package was discussed at the Working Party on Tax Questions (High Level) (HLWP) on 24 April and 20 May 2026.

² 11736/25.

³ 6827/26.

⁴ 8483/20.

6. During the discussions a number of key contentious issues emerged, including the review and possible adjustment of Union rates to determine minimum excise duties on the basis of inflation, the price level index adjustment to reflect differences in price levels between Member States when applying minimum excise duty levels, minimum rates of excise duties that Member States must apply to tobacco and tobacco-related products and quantitative limits for cross-border purchases for own use.
7. Over the course of negotiations, solutions were found to a number of issues in relation to both technical and legal aspects of the proposals. The Presidency further clarified the text, in particular as regards the scope and treatment of new product categories, raw tobacco and the practical application of movement and control rules. In general, significant progress was made in converging sometimes opposite views and finding solutions, while keeping in mind the overall objectives of the proposals.
8. At the meeting of the HLWP on 20 May 2026, which concluded the examination at the working party level, a number of delegations indicated that they could support the Presidency compromise texts as a good basis for reaching an agreement. However, a number of delegations still maintained reservations on certain elements of the package. In light of that discussion and following informal contacts with delegations, the Presidency further revised the compromise texts with a view to finding compromise solutions on the remaining outstanding issues.

III. KEY ISSUES

9. The main modifications made compared to the compromise texts submitted to the HLWP on 20 May 2026 are described below.

a) Tobacco taxation Directive:

Indexation based on inflation (Articles 12 and 12a)

10. This concept enables to update the Union rates used to determine excise duties on a regular basis to ensure that they remain up to date. In particular, this provision establishes a regular three-year review and adjustment mechanism for the Union rates used to determine minimum excise duties, ensuring that they remain up to date and aligned with inflation developments. Each three-year harmonised index of consumer prices (HICP) adjustment would be capped at

6%, in order to avoid disproportionate increases. In response to outstanding concerns regarding fiscal sovereignty, the Presidency proposed to allow Member States, where duly justified, not to apply the HICP adjustment for specific products for a three-year period (so-called emergency brake). A Member State making use of this derogation would be required to notify the Commission in advance and provide a justification. The Commission could issue an opinion on the compatibility of the derogation.

11. Instead of empowering the Commission to update the rates through delegated acts, the method for calculating the adjustment is set out directly in the legal act itself through a formula.
12. However, at the last meeting at the working party level, it appeared that the above approach was not acceptable to all delegations. Therefore, the compromise text was further modified. In particular, the adjustment of the rates was made optional, the emergency brake mechanism as well as capping were removed and it was set out that the decision to adjust the Union rate would be taken by the Council, by means of an implementing act adopted by unanimity on a proposal by the Commission. The Commission would submit a first proposal by 1 January 2034, with a view to application from 1 January 2035 and additional proposals every three years thereafter.

Price level index (PLI) (Articles 12 and 12b)

13. The Commission's proposal introduced the concept to better reflect the differences in price levels between Member States. The adjustment ensures that the application of minimum excise duty levels takes into account differences in purchasing power across the Union. This should avoid unequal effects in Member States with lower price levels, while maintaining the overall objectives of the proposal. Over the negotiations, the text related to the process of adjustment was clarified and simplified.
14. To ensure a balanced distribution of the impact of the minimum excise duties across Member States, Member States can choose to adjust, at national level, the Union rates used to determine the minimum excise duty for each category by the price level index of each Member State, as published by Eurostat. Under this option, one third of the Union rate is adjusted by the relevant price level index, while two thirds of the Union rate remain unchanged. Such adjustment should be revised every three years.

15. As a follow-up to the last meeting at the working party level, an additional option was proposed according to which Member States can choose to adjust, at national level, the Union rates used to determine the minimum excise duty for each category by applying an upward adjustment of 3 percent. Upon implementation of this Directive, Member States should inform the Commission of the option chosen for adjusting the minimum excise duties at national level.

Rates (Articles 16, 16a, 20 and 22)

16. The proposal seeks to strengthen the harmonisation of minimum tax levels across the Union, while ensuring that the EU tobacco taxation framework remains effective, coherent and adapted to market developments.
17. The minimum rates have been adjusted downwards compared to the Commission proposal, in order to take into account different economic situation, geographical location and consumption patterns of the Member States. In addition, transitional periods have been extended to all products in order to enable the Member States to reach the new levels of rates gradually. The approach applies to rates of cigarettes, manufactured tobacco other than cigarettes and tobacco related products, including liquids for electronic cigarettes, nicotine pouches and other nicotine products. In addition a targeted derogation was introduced regarding the rate for cigarettes in order to grant extended transitional periods to some Member States. This phased approach should facilitate a smooth implementation, giving those Member States that need it sufficient time to adapt while still ensuring progress towards the objectives of the proposal.
18. After the last meeting at the working party level, modifications are introduced in relation to the derogation for cigarettes, in particular, a list of Member States covered by the provision is provided and the respective transitional periods are extended by one year (Article 16a). In addition, the rates of fine cut tobacco and heated tobacco are modified (Article 20).

b) General arrangements Directive:

Quantitative limits (Article 32)

19. The proposal introduces the possibility for Member States to apply fixed quantitative limits in order to determine whether manufactured tobacco and tobacco related products are intended for the own use of private individuals. This modification of a provision that has not been substantially amended since the adoption of Directive 92/12/EEC would allow Member States to better tackle tax driven cross-border shopping, a phenomenon which lowers the effective price at which tobacco is available and the extent of which was highlighted by the travel restrictions during the COVID-19 period.⁵
20. With a view to ensuring the practical application of this tool, the Presidency proposes to further lower the quantitative limits applicable to cross-border movements of tobacco and tobacco-related products for own use. A specific derogation is introduced to allow Member States to charge manufactured tobacco, tobacco-related products, including tobacco for oral use, in the Member States of consumption, when those products are acquired by a private individual and transported from another Member State, and their placing on the market is prohibited in the Member State of consumption.
21. As a follow-up to the last meeting at the working party level, the text was further clarified to address cases where manufactured tobacco and tobacco-related products are transported to a Member State in which their placing on the market is prohibited. Furthermore, a provision was inserted in order to set out that private individuals would retain the right to provide evidence that the products were acquired in another Member State for their own use, even where the fixed quantities laid down by the Member State have been exceeded.
22. In light of the above, the Presidency believes that the latest compromise texts set out in documents 9504/26 and 9508/26 represent the best possible balance achievable, given the different interests at stake. In this context, the Presidency invites the Member States to show flexibility and lift remaining reservations on the package, with a view to the meeting of the Council (Ecofin) on 12 June 2026.

⁵ Commission impact assessment report accompanying the proposal for a Council Directive on the structure and rates of excise duty applied to tobacco and tobacco related products (SWD (2025) 561 final, p. 11 and 12).

IV. CONCLUSION

23. Against this background, Coreper is invited to:

a) confirm its agreement on the compromise texts of

- the draft Council Directive on the structure and rates of excise duty applied to raw tobacco, manufactured tobacco and tobacco related products (recast), as set out in document 9504/26, and

- the draft Council Directive amending Directive (EU) 2020/262 as regards the general arrangements for excise duty in respect of raw tobacco, manufactured tobacco and tobacco related products, as set out in document 9508/26;

b) suggest to the Council to reach a general approach on the aforementioned draft Council Directives at the meeting of the Council (Ecofin) on 12 June 2026.

Agence Europe