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NOTE

from: General Secretariat of the Council
to: Council

Subject: **Employment, Social Policy, Health and Consumers** Council meeting on 6 and 7 December 2012

5th Session of the Conference of the Parties to the WHO Framework Convention on Tobacco Control (FCTC CoP5)
- Information from the Presidency and the Commission
(Other business item)

Delegations will find annexed an information note on the above-mentioned subject.

EPSCO Council on 7 December 2012
Fifth Conference of the Parties (COP5) of the Framework Convention on
Tobacco Control (FCTC)

Written Information by the Commission and by the Presidency

The Fifth Conference of the Parties (COP5) of the WHO Framework Convention on Tobacco Control (FCTC) took place from 12 to 17 November, in Seoul, Republic of Korea.

The most significant result was the adoption of the **Protocol on the Elimination of the Illicit Trade in Tobacco Products ("the Protocol")**, after four years of negotiations. The Protocol will be an international Treaty in its own right, building upon but independent from the FCTC. The Protocol will be open for signature in Geneva from 10 to 11 January 2013 and thereafter at United Nations Headquarters in New York until 9 January 2014 and shall enter into force on the 90th day following the deposit of the 40th instrument of ratification. Once ratified and in force, the Protocol will be a strong instrument in fighting the illicit trade in tobacco products which causes losses of approximately €10 billion per year to the EU and Member States budget. The core provisions of the Protocol relate to the control of the supply chain for tobacco products through notably licensing (or equivalent approval), due diligence, record keeping, control of duty free sales, of internet sales and of free zones and, in particular, a tracking and tracing system. Fighting the illicit trade is an integral part of a comprehensive tobacco control policy, as illicit products undermine tobacco product regulation and policies.

The COP5 amended the existing partial guidelines for Articles 9 and 10 FCTC with new guidelines and recommendations on **reduced ignition propensity** cigarettes ("fire-safe" or RIP cigarettes) and on the **public disclosure of toxic constituents and emissions and other information** of tobacco products. The EU supported these two amendments as they fully correspond to the situation at EU level. In the EU, RIP standards are obligatory since 17 November 2011. There is clear evidence that such standards, if made mandatory, considerably reduce the number of fire deaths and injuries caused by unattended cigarettes. The part on public disclosure is a further step towards transparent information to the public about the harm caused by tobacco consumption. The work in the area of product content regulation (Article 9 FCTC) will continue, notably on the basis of additional research in the key areas of dependence liability and toxicology as well as by developing guidelines on the testing and measuring of contents and emission of tobacco products.

Concerning the implementation of Article 6 FCTC (**price and tax measures to reduce the demand for tobacco**), the COP5 did not adopt the full guidelines as proposed by the working group, but adopted a set of guiding principles and recommendations in the area of tobacco taxation, after intensive discussions. Work on more detailed guidelines will continue by an open-ended inter-sessional drafting group. The result is satisfactory for the EU.

Concerning the issue of **economically sustainable alternatives to tobacco growing** (related to Articles 17 and 18 FCTC), the EU achieved the objective of not adopting the proposed policy options and recommendations as submitted to the COP5. Instead, it was decided that the working group shall continue with a more focused mandate and shall submit a report, including policy options and recommendation to COP6.

In relation to Article 19 FCTC (Liability), COP5 decided to establish an expert group on liability (including litigation) with no more than three experts per WHO region. The expert group shall prepare a report for COP6. The EU agreed to setting up of this focused expert group.

On the proposal from African and American regions, the COP 5 set up a **new working group on mechanisms of assistance** and international cooperation for strengthening the sustainable implementation of the WHO FCTC.

On the proposal from Uruguay and the Republic of Korea, a declaration ("the Seoul Declaration") was adopted by consensus as regards the danger of **interference by the tobacco industry** into tobacco control policies. This political declaration follows on the "Punta del Este Declaration" adopted by COP4.

Concerning **budgetary matters**, the EU priority has been to maintain a zero nominal growth for the budget of 2014-15. Related to that and in view of shifting more money to the concrete activities under FCTC, the EU advocated cuts in travel support costs. At the end, after lengthy discussions, COP5 agreed the **budget for 2014 – 2015**, which includes some work for preparing for the entry into force of the Protocol on illicit trade. Travel support remains at its current level until COP6 that should revert to this issue once again.

The **sixth Conference of the Parties** will take place in two years' time in **Moscow**, on an invitation of the Russian Federation.

The EU was a very active player throughout the Conference of the Parties and successfully **spoke with one voice**. The cooperation between the Member States and the EU **Team** (Presidency, Commission and External Action Service) was good. Coordination meetings were held several times every day, which allowed for a thorough discussion and agreement of EU positions.

The results of COP5 are **satisfactory for the EU**. The FCTC implementation has moved a step forward and some new areas of work have been opened up.

For reference: All COP5 documents are available at http://apps.who.int/gb/fctc/E/E_cop5.htm