



Council of the
European Union

Brussels, 15 February 2019
(OR. en)

9139/03
DCL 1

SAN 90

DECLASSIFICATION

of document: 9139/03 RESTREINT UE/EU RESTRICTED
dated: 8 May 2003
new status: Public

Subject: WHO Framework Convention on Tobacco Control
- Draft common position in view of the 19-28 May 2003 World Health
Assembly

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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SAN 90

NOTE

from : The General Secretariat
to : Permanent Representatives Committee

Subject : WHO Framework Convention on Tobacco Control
- Draft common position in view of the 19-28 May 2003 World Health Assembly

1. The sixth session of the Intergovernmental Negotiating Body for the WHO Framework Convention on Tobacco Control (17 February - 1 March 2003) agreed a text which is to be adopted at the 19 - 28 May 2003 session of the World Health Assembly. This adoption will in due course be followed by the later signature and ratification of the Convention.
2. The EPSCO Council, at its extraordinary meeting on 6 May 2003, agreed that a common position should be agreed by the Community and its Member States in regard to the adoption of the Framework Convention, and that this common position should enable all Member States to vote in favour of the adoption.

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3. The Working Party on Public Health examined a draft common position which the Presidency has revised on the basis of the discussion.

All delegations maintain an overall scrutiny reservation on the revised text. The Commission has indicated that it is able to accept the text, taking into account the importance of reaching a common position on the adoption.

4. The Permanent Representatives Committee is invited to examine the text set out in the Annex with a view to agreeing on a common position.

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DRAFT COMMON POSITION IN VIEW OF THE WORLD HEALTH ASSEMBLY

19 - 28 MAY 2003

The Permanent Representatives Committee and Representatives of the governments of the Member States agree on the following common position:

- 1) All Member States will vote in favour of the adoption of the text of the Framework Convention on Tobacco Control ("FCTC") as set out in document A56/8 of the World Health Organisation and submitted to the World Health Assembly.
- 2) The following statements will be entered into the minutes of the meeting of the Council at which the decision to sign the FCTC is adopted:
 - a) "The Council acknowledges that a Member State of the European Community whose national constitution or constitutional principles do not permit the introduction of a comprehensive ban on all tobacco advertising, promotion and sponsorship [**may make / makes**] use of the provision enshrined in Article 13(3) of the Framework Convention on Tobacco Control to accommodate regulations adopted on national responsibility ¹."
 - b) "For the settlement of disputes arising from the Framework Convention on Tobacco Control, the European Community and its Member States will have recourse to the procedure set out in Article 27(1), unless the Council or Member States, within their respective competences, decide to make the additional use of Article 27(2) of the Convention."
 - c) "The Council considers that, unless otherwise provided by Community² law, the provision of Article 13(7) of the Framework Convention on Tobacco Control does not affect any rights of Community citizens to have access to publications which circulate principally in another Member State which, due to its constitution or constitutional principles, does not undertake a comprehensive ban on tobacco advertising".

¹ S: "... to accommodate regulations **so as to respect national constitutional constraints**"

² UK: "...unless otherwise provided by Community **or national** law, ..."

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- 3) The following interpretative declaration will be made by the Community and its Member States when signing and ratifying the FCTC:

"The Community and its Member States declare that a Member State of the European Community whose national constitution or constitutional principles do not permit the introduction of a comprehensive ban on all tobacco advertising, promotion and sponsorship [**may make / makes**] use of the provision enshrined in Article 13(3) of the Framework Convention on Tobacco Control to accommodate regulations adopted on national responsibility".

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