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Mr van Rijn
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Brussels, **15. 11. 2017**
ARES(2017)

Dear Mr van Rijn,

Thank you for your letter of 20 October 2017, in which you present your views regarding the measurements of tar, nicotine and carbon monoxide (TNCO) in tobacco products.

Let me assure you that the Commission is well aware of the risk of using ventilation holes to lower the measured values of tar, nicotine and CO emissions, in so called "light cigarettes". Branding such cigarettes as "light, "mild" or "ultra-light" is shown to mislead consumers. This is why the EU banned such descriptors on cigarette packages in 2001 as part of the earlier Tobacco Products Directive (2001/37/EC)¹ and required TNCO to be indicated on the packages of cigarettes and roll your own tobacco. However as these values were found not to reflect the actual emissions during use, the revised Tobacco Products Directive 2014/40/EU² does not foresee labelling of TNCO levels on cigarette packs.

The appropriate measurement of TNCO emissions has been discussed at international fora, including at the WHO Framework Convention on Tobacco Control (FCTC) and specifically within the Working Group on Articles 9 and 10 (Regulation of the contents and disclosures of tobacco products) where the EU is one of the key facilitators. In its report to the Conference of the Parties (COP6) in 2014, the working group encouraged parties to consider the use of two sets of smoking

¹ OJ L 194, 18.7.2001, p. 26

² OJ L 127, 29.4.2014, p. 1-38

measurement regimens, the "Canadian intense" method which you mention in your letter, and the "ISO" method.

However, the working group also highlighted that no machine-smoking regimen can represent all human smoking behaviours. In this respect, no conclusion should be drawn from the nominal machine-measured TNCO values regarding the "harmful effect" of the cigarette in question. During the negotiations of the EU position in the Council Working Group on Public Health, several Member States expressed concern about imposing emission measurements via a second smoking regime in addition to the ISO methodology.

In the absence of a "gold standard", and for the purpose of regulatory continuity, it was agreed during the negotiations on the Tobacco Products Directive that the ISO methodology should continue to be used for emission measurement. However, Article 4.3 of the Tobacco Products Directive gives the Commission delegated power to adapt the TNCO measurement methods, based on scientific and technical developments or internationally agreed standards. Furthermore, Article 3.2 of the Tobacco Products Directive gives the Commission delegated power to decrease the maximum emission levels for TNCO, where this is necessary based on internationally agreed standards. To that end, the Commission closely follows international discussions, on this issue.

The Commission and the Member States have discussed measurement methods in the Expert Group on Tobacco Policy on several occasions.³ In accordance with Article 28 of the Tobacco Products Directive, the Commission will report on the application of the Directive by 2021.

I hope that this information is useful and look forward to a fruitful co-operation in the years to come.

Yours sincerely,

³ https://ec.europa.eu/health/sites/health/files/tobacco/docs/ev_20161202_mi_en.pdf