

La Haya, Países Bajos
4 de septiembre de 2015

Subject: Consultations in the Netherlands on its implementation of EU Tobacco Products Directive 2014/40/EU.

Dear Sir/Madam,

The Dominican Republic appreciates the opportunity to comment on the Netherlands' consultation process for the implementation of EU Directive 2014/40/EU ("Directive"). In particular, the Dominican Republic would like to offer comments on Question 2, which relates to the option available to EU Member States, pursuant to Article 11 of the Directive, to exempt tobacco products for smoking, other than cigarettes, roll-your-own and waterpipe tobacco, from the obligation to carry the information message and the combined health warnings that is otherwise required for the packaging of tobacco products, by virtue of Articles 9(2) and 10 of the Directive, respectively.

We understand that in its draft decree implementing the Directive, the Netherlands has chosen currently not to exercise its option under Article 11 to exclude non-cigarette products (including cigars) from the requirement to carry the aforementioned information and warning messages on their packaging. This decision stems from an apparent concern that a differentiated approach to the packaging of tobacco products may give consumers the impression that one product is less harmful than another.

Question 2, referred to above, asks stakeholders whether they agree with the approach taken by the Netherlands. For the reasons explained in this letter, the Dominican Republic respectfully disagrees with the decision of the Netherlands to require that the packaging of cigars carry the information and health warnings referred to in Articles 9(2) and 10 of the Directive.

First, recital 26 to the Directive specifically provides that for tobacco products, other than cigarettes, roll-your-own and waterpipe tobacco, such as cigars:

which are mainly consumed by older consumers and small groups of the population, it should be possible to continue to grant an exemption from certain labelling requirements as long as there is no substantial change in terms of sales volumes or consumption patterns of young people. The labelling of these other tobacco products should follow rules that are specific to them.

The Directive fully recognizes that a different approach is warranted regarding health warnings for cigars, as long as there is no substantial increase in youth smoking of cigars. The 2015 Eurobarometer report, *Attitudes of Europeans Towards Tobacco and Electronic Cigarettes*, shows there has been no such increase in the cigar sales volumes or cigar consumption patterns of young people. Therefore, in light of recital 26, the Dominican Republic urges the Netherlands to make use of the Article 11 exception and exclude cigar packaging from the requirement to carry the information message and the combined health warnings contained in Articles 9(2) and 10 of the Directive, respectively.

Second, as acknowledged not only in the Directive but also in documents from the Directive's consultation process, there are certain differences between consumers of cigarettes and consumers of cigars, especially premium hand-rolled cigars, which warrant a different approach. In particular, the consumers of cigars, and especially premium hand-rolled cigars, tend to be older, earn a higher income and have higher levels of education. As

a result, cigar consumers tend to be very well informed about the risks associated with cigar smoking.

In this respect, we also note that Article 11 of the Directive provides that, even if the Netherlands were to avail itself of the exception in respect of cigars, these products would still be obligated to carry both the general warning prescribed in Article 9(1) of the Directive and an additional text warning, as listed in Annex I of the Directive. As a result, the warnings on the packaging will also adequately inform cigar consumers about the risks associated with smoking cigars. Hence, there is no risk that cigar consumers would be misled about the health risks of cigar smoking, if the cigar packaging carry a different warning than the cigarette packaging.

Third, and finally, a 2010 report by the U.S. Surgeon General, *How Tobacco Smoke Causes Disease*, affirmed a statement by the National Cancer Institute in its 1998 Monograph, *Cigars: Health Effects and Trends*, that:

[c]ompared with persons who smoke cigarettes, smokers who exclusively smoke pipes or cigars have lower risk for many smoking-related diseases (NCI 1998). Smoke from pipes and cigars contains the same toxic substances as cigarette smoke, but those who use a pipe or cigar usually smoke at lower intensity; observation indicates that they tend not to inhale the smoke, thus reducing their exposure to its toxic substances (USDHEW 1979; NCI 1998; Shanks et al. 1998). Most current cigar users are young males who often smoke less than one cigar daily (NCI 1998).

This suggests that, at the very least, given the smoking habits of cigar smokers, the harms associated with smoking cigars may be different to those associated with smoking cigarettes. For the reasons provided above, the Dominican Republic respectfully encourages the Netherlands to avail itself of the exception in Article 11 of the Directive and exclude cigar packaging from the requirement to carry the information message contained in Article 9(2) and the combined health warnings prescribed in Article 10 of the Directive.

Yours faithfully,