



Brussels, 24 February 2021  
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## **REPORT OF MEETING**

### **1. Meeting: Request by Pappas & Associates for a meeting with representatives of British American Tobacco, regarding HS classification and amendment to the HSEN in relation to novel nicotine products**

The meeting was requested by Pappas & Associates on behalf of their client, British American Tobacco (BAT) in order to explain to the competent Commission service the product characteristics of non-tobacco nicotine pouches, following the decision by the World Customs Organisation's (WCO) Harmonized System Review Sub-Committee (RSC) not to include examples of non-tobacco nicotine pouches in the Harmonized System Explanatory Notes (HSEN) to heading 2404.91 before the classification of these products is decided by the WCO's Harmonised System Committee (HSC).

The discussion focused on identifying the best way for ensuring clarity and global consistency of classification treatment of novel nicotine products.

### **2. Date and Place: 24 February 2021, Microsoft Teams, 11:00-12:00**

**3. Participants:** Pappas and Associates, 1 participant  
BAT, 3 participants  
DG TAXUD/A.4, 4 participants

### **4. Results:**

The representatives of BAT thanked DG TAXUD for the opportunity to express their views and provide further information regarding Harmonized System (HS) matters related to non-tobacco nicotine pouches tobacco products. They gave a short presentation of the nicotine pouch product as a relevant example, explaining that it does not include any tobacco, is used as a recreational product only, and that other tobacco companies produce this type of product. They further expressed a desire to better understand the reasons behind the decision of the RSC not to include examples of the nicotine pouch and other non-tobacco nicotine pouches tobacco products in the HSEN of heading 2404.91, following a proposal by the Russian Federation to include them.

DG TAXUD stated that a meeting report would need to be published in accordance with transparency principles. The representatives of BAT supported the goal of

transparency in its interactions with DG TAXUD and agreed to the publication of the meeting report. DG TAXUD thanked the representatives of BAT for the information provided, and informed that the decision by the RSC, which was also supported by the EU, was a result of insufficient understanding by the RSC delegations of the products concerned at this stage. The RSC's request for relevant products to first be classified by the HSC will first ensure that a better understanding of the products is developed by customs authorities globally, and then lead to consistency in their classification practices.

The representatives of BAT confirmed that they are faced with inconsistency in relation to classification of novel nicotine pouches by different customs authorities globally, causing a significant administrative burden of dealing with numerous customs challenges. They consider one of the main reasons for this inconsistency to be the lack of a direct link between subheading 2403.99 (HS 2017) and subheading 2404.91 (HS 2022) in the Correlation Tables published by the WCO.

The representatives of BAT further informed that they consider subheading 2404.91 as the only appropriate heading for classification of nicotine pouches and similar novel nicotine products, and inquired whether the EU would be considering to make a proposal for HSC classification of these products in subheading 2404.91.

DG TAXUD, without commenting the classification, responded that an EU proposal for the product at stake would be possible, but that BAT should be aware that the examination and coordination of such proposals to the HSC is a protracted process, requiring a number of steps of internal coordination with European Commission services, Member State experts and the Council. Even if this process were to start now, it is possible that the EU proposal would not be discussed by the HSC before its March 2022 session, bearing also in mind that a classification decision could be made by the HSC only after two or possibly more meetings. Alternatively, the discussion at the HSC may take place because of a proposal by another WCO Contracting Party.

The representatives of BAT also inquired whether changes could be made to the EU Combined Nomenclature (CN) to facilitate better statistical monitoring of trade of novel nicotine products in the EU. DG TAXUD responded that such a request should be made as soon as possible, so that it can be reviewed as part of the ongoing and already advanced work to transpose HS 2022 into the CN.

## **5. Conclusions:**

BAT will take under consideration the information provided and will inform DG TAXUD once it reaches a decision on how to proceed in terms of introducing a request for classification of novel nicotine products. In the meantime, BAT will provide additional technical data on these products to DG TAXUD, for information, in order to facilitate a better understanding of the products by the EU customs authorities.