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REPORT FROM THE COMMISSION

TO THE COUNCIL, THE EUROPEAN PARLIAMENT,
THE ECONOMIC AND SOCIAL COMMITTEE
AND THE COMMITTEE OF THE REGIONS

**PROGRESS ACHIEVED IN RELATION TO PUBLIC
HEALTH PROTECTION FROM THE HARMFUL
EFFECTS OF TOBACCO CONSUMPTION**

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INTRODUCTION:

1. The Commission published its 1996 Communication with the purpose of contributing to a review of existing and possible future anti-smoking strategies both at Community and at Member State level, aimed at reducing the public health impact of smoking on European citizens¹. It outlined existing Community measures in this area and set out possible options for further action at the Community level and by way of improved cooperation between the Member States. The Commission presents this report to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on the progress achieved in this regard, as proposed in the "Follow-Up" section of the Communication.
2. The preparation of this document has been informed by a number of written consultation exercises addressed to the Member States. The Commission has in recent months requested information on the following subjects: additives in tobacco products; tar and nicotine content in cigarettes; sales of cigarettes and tobacco to minors; sales by automatic vending machines, sale of cigarettes in "Kiddy Packs" of less than 20, and smoking in public places, (as required by the 1989 Resolution of the Council and the Ministers of Health of the Member States meeting within the Council on banning smoking in public places open to the public²).

PURPOSE:

3. This report serves to update the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on the work undertaken at a Community level by the Commission since publication of its Communication.
4. It also aims to provide policy makers across the Union with a synopsis of the various measures being employed by the Member States to reduce smoking, and an evaluation of their effectiveness. This pooling of knowledge at a Community level will enable the dissemination of examples of best practice, which can only be of benefit in the fight against tobacco consumption.
5. These benefits do not stop at the frontiers of the Union however. The information gathered together in this, and future, reports will serve as an important tool elsewhere in the world, particularly in the context of enlargement. Many countries look to the European Community and its Member States to lead the way in the field of tobacco control; actions at both the Community and the national level can serve as a model. It is important here to underline the Commission's commitment to cooperation with other international organisations in the field of tobacco control. For example, there is active Commission participation in the World Health Organisation (WHO) Committee for a Tobacco-Free Europe, and in the development of the WHO project for a Framework Convention on Tobacco Control. Both of these initiatives could have an important influence on tobacco control in EU candidate countries and also in developing countries. This future Convention will be reinforced by the activities of the World Bank in the field of smoking prevention, with which the Commission is also closely associated³. This issue is of growing importance to the EU, in view of the fact that total health care expenditure in Europe today amounts to between 5% and 10% of Gross Domestic Product. The fight against smoking can

therefore have a significance on two fronts: improving the quality of life of citizens by reducing disease and suffering, and by making a contribution to a reduction in the health care costs resulting from smoking-related diseases.

THE NEED FOR ACTION:

6. Tobacco smoking is one of the leading causes of morbidity and mortality in the European Community⁴. It is the major causative factor in an estimated 30% of cancers⁵, including lung cancer (85% of which is estimated to be caused by smoking), cancer of the oral cavity (lips, mouth, tongue, throat), cancer of the pharynx, larynx, oesophagus, bladder and the kidneys. Respiratory diseases, such as chronic bronchitis, emphysema, and asthma, are also attributable to and/or exacerbated by smoking. Furthermore, smoking is a major contributor to cardiovascular disease, the risk of developing ischaemic heart disease being approximately twice as high among smokers as among non-smokers⁶. Passive smoking is also considered a risk factor for a number of diseases, in particular lung cancer⁷.
7. Besides the generic risks associated with smoking, women smokers face a number of additional gender-specific health risks because smoking can influence their hormonal balance. Specifically, smoking may contribute to a reduction in fertility^{8 9} and increase the risk of early menopause. Furthermore, it is a contributory factor to calcium loss and consequent osteoporosis in post-menopausal women. Smoking when combined with oral contraceptive use may also appreciably increase the risk of developing cardiovascular disease¹⁰. Smoking during pregnancy has been associated with increased risk of spontaneous abortion, complications of pregnancy, stillbirth, premature delivery, low birth-weight, and neo-natal death. It also increases the risk of sudden infant death and is associated with a number of other long-term health consequences for the offspring (e.g., reduced lung capacity, increased infection rates)¹¹.
8. Half a million persons die in the Community each year from the effects of tobacco consumption. The death rate will continue to rise sharply into the next century and smoking will remain the biggest single form of avoidable death in the Community according to statistics from the World Health Organisation and the International Centre for Cancer Research. Deaths from smoking will rise substantially over the coming decades as changes in the population structure and the delayed impact of smoking on health come fully into effect. A study by Peto, Lopez et al.¹² reveals the following worrying statistics:

N° of deaths attributed to smoking as a proportion of total deaths (thousands) in the European Union in 1995

	<u>Males</u>	<u>Females</u>	<u>Males + Females</u>
<u>All Cancer</u>	202/521 (39%)	33/412 (8%)	235/933 (25%)
<u>All Causes</u>	434/1856 (23%)	114/1869 (6%)	548/3725 (15%)

In middle age (35-69 years), the relative importance of death risk from smoking is greater still:

N° of deaths attributed to smoking as a proportion of total deaths in middle age (thousands) in the European Union in 1995

	<u>Males</u>	<u>Females</u>	<u>Males + Females</u>
<u>All Cancer</u>	107/235 (45%)	13/152 (9%)	120/387 (31%)
<u>All Causes</u>	205/645 (32%)	32/333 (10%)	237/978 (24%)

ACTION UNDERTAKEN AT COMMUNITY LEVEL:

PRIORITY GROUPS:

9. Since publication of the 1996 Communication, the Commission has launched a number of initiatives at Community level that should result in a reduction of the public health impact of smoking on European citizens. While some of these initiatives are, first and foremost, measures aimed at improving the functioning of the internal market, the Community also has a duty, in all its activities, and particularly those concerned with the approximation of laws, to ensure a high level of human health and consumer protection.
10. Three groups in particular will benefit from the work of the Commission in this field, namely; young people, smokers who want to quit and non-smokers. Within these three specific groups, women must be a particular priority. Not only are they exposed to additional risks (smokers and non-smokers alike), as set out in the previous section, but we are also now seeing smoking prevalence among women rise while prevalence among men continues slowly to decline. If the prevailing trend continues, it is estimated that by 2020, the death toll will double so that more than a million women around the world will die each year from tobacco¹³. A recent conference supported by the "Europe against Cancer" Programme only served to highlight the growing problem of smoking among women¹⁴.
11. Young people must also be a priority for prevention activities, particularly in an era when more and more youngsters, and in particular young women, are taking up the habit. One in two teenagers starting to smoke now will die from tobacco if he or she continues to smoke steadily. The younger a person is when he or she starts smoking, the greater the risk of suffering from a smoking-related disease and the harder it is to stop. A smoker who starts at the age of 15 years is three times more likely to die from lung cancer than someone who starts in his or her mid-20s¹⁵. However, if we can succeed in reversing this trend, we should begin to achieve some real reductions in smoking prevalence, as those people who do not take up smoking as a teenager are much less likely to become smokers later in life. In the USA alone for example, approximately 80% of smokers begin before the age of 18¹⁶. This figure rises to 82% for the UK¹⁷.
12. Many smokers would dearly love to quit the habit, not only to save money, but also for health reasons. Stopping smoking has immediate health benefits. For example, only 48 hours after stopping there is no nicotine left in the body, and capacity for taste and smell are already greatly improved. Blood circulation improves only 2-12 weeks after stopping, making walking and running a lot easier, while breathing problems improve inside of a year¹⁸.
13. In the long term, the benefits can be even greater. Smoking cessation reduces the risk of lung cancer. Ten years after stopping, the risk is reduced by about 30-50% compared to that of a continuing smoker. Smoking cessation also reduces the risk of coronary heart disease (CHD) for men and women of all ages. One year after cessation, the risk of CHD mortality is halved. It takes about 15 years of abstinence before the risk of CHD becomes similar to that of those who have never smoked¹⁹.

Those who quit before the age of 35 have a life expectancy not significantly different from that of a non-smoker. For those who stop later, the risk is between that of a smoker and a non-smoker²⁰. These statistics show us that we must do all we can to help those smokers who want to quit to achieve their goal.

14. Non-smokers have every right to expect that smokers not impair their health. This is especially the case for persons with respiratory diseases, pregnant women, children, and workers exposed at their place of work, all of whom are particularly vulnerable to the effects of environmental tobacco smoke (ETS). ETS is a major source of indoor air pollution, containing over 4000 chemicals in the form of particles and gases²¹. Some of the immediate effects of passive smoking include eye irritation, headache, cough, sore throat, dizziness and nausea. Adults with asthma can experience a significant decline in lung function when exposed, while new cases of asthma may be provoked in children whose parents smoke. Non-smokers are also at increased risk of heart attacks²². In the longer term, passive smokers suffer an increased risk of a range of smoking-related diseases. For example, non-smokers who are exposed to passive smoking in the home have a 25% increased risk of heart disease and lung cancer²³. Passive smoking is causally associated with an increased risk of lower respiratory tract infections such as bronchitis, pneumonia and bronchiolitis in children. One recent study found that, in households where both parents smoke, young children have a 72% increased risk of respiratory illnesses²⁴. Passive smoking causes a reduction in lung function and increased severity in the symptoms of asthma in children, and is a risk factor for new cases of asthma in children²⁵.

TOBACCO ADVERTISING DIRECTIVE:

15. Young people, which are particularly exposed to the negative effects of smoking will benefit from the implementation of the Tobacco Advertising Directive²⁶, adopted on 6 July 1998. As regards its basic justification, the need to ensure proper and efficient working of the Internal Market required the adoption of a harmonised approach, based on a high level of public health protection and taking account of the measures already adopted to ban or restrict tobacco advertising in many Member States. The potential effects of this European-wide initiative should not be underestimated not only for the existing Member States, but also in the perspective of a future enlargement. Of significance here is the fact that most adult smokers began smoking before the age of 18 years²⁷. It follows that efforts to recruit new smokers must concentrate on this age group, to replace the over 500,000 smokers who die in the Union annually from this habit. If, by means of this Directive, promotion can no longer occur, the introduction of cigarettes to a new generation of children and adolescents will be more difficult in the future.
16. When transposed into domestic law, the Directive will:
 - ❖ Prohibit all forms of commercial communications and sponsorship with the aim or direct or indirect effect of promoting a tobacco product;

- ❖ Allow tobacco advertising to continue: in communications intended solely for the tobacco trade; in imported media from third countries not primarily intended for the EU market, and; at point of sale;
 - ❖ Require that brand names used for both non-tobacco and tobacco products prior to 30.07.98 be presented in a clearly distinguishable manner;
 - ❖ Exclude the free distribution of cigarettes;
 - ❖ Bring an end to transitional arrangements not later than 1 October 2006, allowing the affected sectors (e.g. tobacco-sponsored events, publishing industries etc.) the necessary time to adjust.
17. These measures will complement and reinforce the existing 1989 Directive²⁸ banning the television advertising of tobacco products and the sponsorship of television programmes by tobacco companies.

COMMUNITY TOBACCO FUND:

18. The 1996 Communication proposed that the Community should promote studies and pilot projects under the Community Fund for Research and Information on Tobacco to improve understanding of why young people commence smoking; on the impact of health education programmes on young people in schools; on the factors which motivate young people to smoke and on the development of a comprehensive smoking prevention approach aimed at adolescents.
19. The Fund was set up in 1994 by the reform of the Common Agricultural Policy²⁹. The reform created a fund for research and information consisting of 1% of the premium paid to tobacco growers. Half of that is devoted to research into less dangerous tobacco plants (less chemical fertilisers, less nicotine and tar, less heavy metals) and alternative farming methods. The other half is used for information projects on the dangers of smoking, especially for young people.
20. Following a further reform of the raw tobacco market, this area of Community-funded action was strengthened by:
- increasing the contribution to the fund from 1% to 2% of the premium paid to tobacco growers³⁰;
 - improving the objectives.

This should allow the information and education elements set out in the 1996 Commission Communication to be carried out more effectively and for projects to be spread more widely across the Community, thus reaching out to a larger audience of young people and adults alike. Furthermore, delays in opening access to the Fund as well as the tender and contract procedures involved could be improved to encourage public health agencies to applying.

LABELLING AND CONTENT OF TOBACCO PRODUCTS:

21. All smokers (42% of the Community adult population are smokers³¹), many of whom would like to quit, have the right to be as well informed as possible about the health effects arising from their use of tobacco products and the ingredients contained within them. Furthermore, consumers should be informed of where they can get access to additional information about that product and its effects. Consumers expect these standards from other products on the Community market and there is no reason why they should not expect the same from tobacco products. Indeed, were these standards required of the tobacco industry, a greater number of smokers could, armed with a more complete picture of the harm caused to their health by smoking, be motivated to begin a quitting programme. Those product information rules that do exist only operate on a national level, leading to an absence of public health protection in the framework of the Internal Market.
22. The Community has a duty, in all its activities, and particularly those concerned with the approximation of laws, to ensure a high level of human health and consumer protection. It is therefore only right and proper that such benefits as those described above are considered as an integral part of any proposed legislation with the aim of seeking further completion of the internal market.
23. Since the adoption of the tobacco advertising Directive, the Commission has been concentrating on a review of the existing Directives on labelling of tobacco products and maximum tar yields of cigarettes. Following on from the proposals made in the Communication, the opinion of the European Parliament³², the Council, the Economic and Social Committee³³, the recommendations of the High Level Cancer Experts Committee, and in light of comments received from industry and non-governmental organisations, this review process is now complete. The resulting proposal will be transmitted to the Parliament and the Council as soon as it has been agreed at Commission level.

NON-SMOKERS - SMOKING IN PUBLIC PLACES:

24. The Resolution of the Council and the Ministers of Health of the Member States meeting within the Council on banning smoking in places open to the public, invited the Member States to inform the Commission every two years of action taken in response to the text. The Commission, on the basis of the information received, presented an interim report on 30.10.92³⁴, and a further report on 14.11.96³⁵. In order to allow the Commission to prepare a new report on Member State action to implement this resolution, and to examine if further initiatives are specifically required for smoking in the workplace, the Commission Services have written to each of the Member States³⁶ requesting information on the following areas:

- ❖ Introduction of any new legislation or voluntary agreements on smoking in public places;
- ❖ Amendment or withdrawal of existing legislation or voluntary agreements on smoking in public places;
- ❖ Possible classification of ETS as a workplace carcinogen;

- ❖ Introduction or intention to introduce legislation on smoking in the workplace;
25. The responses received from the Member States will enable the Commission to produce a report analysing the current situation with regard to smoking in public places. Policy in this area is drawing more and more concern among citizens, with most public places also being recognised as places of work. The Community must keep abreast of all the latest research and legislative developments in this area to find the best ways to ensure that non-smokers are not subjected unnecessarily to other people's smoke.
 26. The Commission hopes to organise a seminar on smoking in the workplace in 2000 which will bring together representatives of the social partners, the Member States, the World Health Organisation and other interested parties, to discuss possible future action in this field at Community and Member State level.

TOBACCO TAXATION:

27. The Council will soon adopt a proposal for a Council Directive amending Directive 92/79/EEC on the approximation of taxes on cigarettes, Directive 92/80/EEC on the approximation of taxes on manufactured tobacco other than cigarettes and Directive 95/59/EC on taxes other than turnover taxes which affect the consumption of manufactured tobacco. The Economic and Social Committee and the European Parliament have given a favourable opinion on this proposal.
28. This proposal, which mainly introduces technical amendments to current tobacco tax legislation, also provides that every three years, and for the first time not later than 31 December 2000, the Council, acting on the basis of a Commission Report or proposal, shall examine the rates of duty, the overall minimum excise duty and the structure of excise duties and shall then, acting unanimously after consulting the European Parliament, adopt the necessary measures. This process shall taken into account the proper functioning of the internal market and the wider objectives of the Treaty. In this context, health aspects will be taken into account to fix the minimum levels of taxation. The final responsibility to set excise duty levels belongs to the individual Member States provided that they comply with the Community minimum levels. These measures will be important as part of the overall plans to contain or reduce tobacco consumption. Research has shown that demand for tobacco products is closely related to their price. High tobacco prices are particularly effective in discouraging young people from smoking due to their limited disposable income.
29. Therefore, the recommendations contained in the report of the High Level group on fraud in the tobacco and alcohol sectors can be used as a basis to set up appropriate measures to tackle fraud and smuggling.

COMMUNITY FUNDED PROJECTS UNDER THE THIRD ACTION PLAN TO COMBAT CANCER (1996-2000) AND THE COMMUNITY FUND FOR RESEARCH AND INFORMATION ON TOBACCO:

30. The Third Cancer Action Plan³⁷ contains four main action areas: data collection and research, information and health education, early detection and screening, and,

training and quality control. Following the consultation and evaluation of all the proposed projects, 100 projects were selected for Community financing in 1996 (€10,415,688 distributed in total), 66 projects were selected for Community financing in 1997 (€9,363,281 distributed in total), and 59 projects were selected for Community financing in 1998 (€11,732,77 distributed in total). In the field of smoking prevention, funds are channelled through two networks, details of which are given below at paragraph 39. On average, the funds devoted to smoking prevention activities by the Europe against Cancer Programme amount to €2 million per annum. Further details on all these projects can be found on the European Commission website³⁸.

31. The Community Fund for Research and Information on Tobacco³⁹ approved 11 information projects in 1996 and 7 information projects in 1998. Further details on these projects can also be found on the European Commission website⁴⁰.

2ND EUROPEAN CONFERENCE ON TOBACCO OR HEALTH:

32. The European Commission, through the "Europe against. Cancer" Programme, provided funding for the 2nd European Conference on Tobacco or Health for a Smoke-Free 21st Century. The conference took place in Spain from the 23rd to the 27th of February, 1999. It was an occasion to bring together experts from around the world in the field of tobacco control to discuss a variety of topics including, new ways to protect children from becoming smokers, new strategies on smoking cessation and the role of health professionals in smoking prevention and cessation. Research results on the effects on human health of tobacco consumption were also reviewed.

CONSUMER COMMITTEE:

33. The Commission's Consumers Committee adopted, on 14 June 1998, an opinion on a Socially responsible Community tobacco policy⁴¹. This document sets out a series of observations on future tobacco control policy at the Community level.

FUTURE ACTION AT COMMUNITY LEVEL:

EUROPE AGAINST CANCER WEEK 1999 FOCUSING ON SMOKING PREVENTION AND YOUNG PEOPLE:

34. In addition to the body of follow-up work to the Commission Communication detailed in the previous section, the "European Week against Cancer" in October 1999 will concentrate on smoking prevention issues. This will further increase the visibility of European action in this area, and will enable the dissemination of a pan-European prevention campaign. The high profile that this will lend to the Community's actions in the field of smoking prevention will be an important factor in the overall strategy at both Member State and Community level to reduce tobacco consumption, acting in liaison with the non-governmental organisations concerned with this issue.

CANCER EXPERTS CONSENSUS CONFERENCE ON NICOTINE:

35. The European Commission plans to fund a conference intended to reach agreement on scientific recommendations with regard to the control and possible regulation of nicotine, tar and known carcinogens in tobacco and tobacco smoke. The recommendations will provide scientific support for future Community action in the field of tobacco control. The meeting will take place under the auspices of the Commission's Advisory Committee for Cancer Prevention⁴².

EUROPEAN SMOKING PREVENTION NETWORKS:

36. In order to improve coordination of activities in the fight against smoking the Commission Services have supported the creation of the European Network for Smoking Prevention⁴³ (ENSP), which has the task of coordinating national initiatives in this field. The work of ENSP is complemented by the European Network on Young People and Tobacco⁴⁴ (ENYPAT). Tobacco-related projects seeking funding from the Cancer Programme will be submitted to the Networks for coordination and integration into a global project. This ensures the coherency of projects supported, and improves their Community added-value by ensuring proper planning and evaluation of project activities and diffusion of outcomes.

STATISTICS:

37. Several developments of interest are underway as regards statistical information on smoking at Community level:

- ECHP (European Community Household Panel)

In 1998, questions about people's smoking habits were included for the first time in the ECHP.

This source should be of particular interest since it will be possible to analyse the data according to a wide variety of social variables, such as income level, educational background and social relations.

It is foreseen that data from the 1998 ECHP will become available some time in 2001.

- Eurostat/OECD HIS (Health Interview Survey) project

In May 1999 Eurostat, in partnership with OECD, wrote to all Member States with a request for data on 12 health topics, to be taken from existing surveys within the Member States. Two of these topics are concerned with present and former smoking habits.

As with the ECHP data, analysis will be possible by a number of variables: gender, age, educational level and economic activity. Data are expected to be available by the end of 1999.

RESEARCH:

38. The Fifth Framework Programme of the European Community for research, technological Development and demonstration activities (1998 to 2002)⁴⁵ covers research related to tobacco use both in the theme "Quality of life and management of living resources" and in the theme "Confirming the international role of Community research".

In the context of the Fourth Framework Programme for research, technological development and demonstration (1994-1998)⁴⁶, research related to tobacco use was initiated under the Biomedicine and Health Programme (BIOMED 2) and two projects were funded:

- Transnational variation in prevalence of adolescent smoking: the role of national tobacco control policies and the school and family environment (BMH4-CT98-3721), and
- East-West European comparison of chronic disease risk factors, related health behaviours and effects of innovative antismoking interventions, with special reference to Russian Karelia (BMH4-CT96-1224).

WORK IN OTHER INTERNATIONAL ORGANISATIONS:

39. Attention is particularly drawn to the work on smoking prevention underway in the World Health Organisation (WHO). The 52nd World Health Assembly on 24.05.99 decided to establish an intergovernmental negotiating body to draft and negotiate a proposed WHO framework convention on tobacco control and possible related protocols, open to participation by regional economic integration organisations. The first meeting of this body is planned for November, 1999⁴⁷.

In the WHO European Region, support is being given to a joint British Medical Association, World Health Organisation and European Union project to create and manage a tobacco resource centre for health professionals⁴⁸.

The Commission is also represented on the WHO Committee for a Tobacco Free Europe, which met for the first time in Copenhagen on 4.06.1999⁴⁹.

COMMISSION REPORT CONCLUSIONS:

40. The various initiatives that have been, and will be, taking place at Community level can be even more effective tools in the fight against smoking, if they are part of an overall global strategy of prevention and cessation measures. The wide range of measures being undertaken in the Member States on different tobacco control issues would indicate that there are some excellent opportunities for sharing of knowledge and experience. The added-value of Community-level action would seem clear in this regard, by ensuring that best practice is identified, objectives agreed, and progress evaluated. Recommendations made at Community level, which build on examples of best practice from the Member States, would provide a basis for the individual Member States to formulate a more complete global strategy for smoking prevention, tailored to their own individual needs.
41. In response to the reactions to this Report from the European Parliament, the Council and other interested institutions and parties, the Commission will examine the preparation of proposals for Council Recommendations, made under Article 152 of the Treaty, as well as a review and completion of existing provisions in the framework of the Internal Market, taking account in particular of any new development based on scientific facts.

ANNEX 1: ACTION UNDERTAKEN AT MEMBER STATE LEVEL

ADDITIVES IN TOBACCO PRODUCTS:

42. It has been established that tar in tobacco products is a carcinogenic substance⁵⁰ and that mainstream and sidestream smoke is composed of a number of constituents that are harmful to human health⁵¹. It is also known that tobacco manufacturers add a number of additives to tobacco for flavouring, aroma and presentation⁵². What is not known is the extent to which the additives to tobacco contribute to the carcinogenic and other harmful properties of the product. However, many health professionals are of the opinion that additives to tobacco do play a role in contributing to tobacco related disease and are increasingly calling for regulation and control of additives to tobacco⁵³.
43. In 1997, the Commission Services wrote to all the Member States regarding their policy on additives in cigarettes⁵⁴. The analysis of the replies below indicates that there is a wide disparity in the rules on additives in cigarettes between the Member States. This analysis establishes the current system of legal regulation in the Member States governing tobacco additives, and has served as a basis for preparations of an appropriate Community response, as detailed in paragraph 27 above; to ensure that, in the operation of the Internal Market, barriers to free circulation (such as the existence of a variety of different national rules) are eliminated, whilst ensuring a high level of public health protection.
44. In particular, attention is drawn to the fact that in some Member States, additives rules for tobacco are assimilated to those for foodstuffs. This appears problematic as Directive 92/41/EEC⁵⁵ amending Directive 89/622/EEC⁵⁶ on the approximation of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products prohibits the free circulation of tobacco for oral use. The vast majority of tobacco products are, in fact, intended to be burnt and ingested as smoke, with some intended to be administered nasally in particulate form. Therefore, the relevance of rules which were designed to cover additives in foodstuffs is unclear.
45. The analysis set out below was circulated to the Member States on 23 October 1998⁵⁷.

AUSTRIA

46. Paragraph 3 of the 1995 Austrian Tobacco Law (Tabakgesetzes - BGBl. Nr. 431/1995) provides that regulations may be adopted in the interests of public health to control the use and amounts of ingredients, additives, aroma, flavourings, pesticides and residues in tobacco products. Any regulations adopted are to take into consideration the international comparability of test results in relation to other EU Member States. To date no implementing legislation has been passed.

BELGIUM

47. Article 2 of the Royal Decree of 13 August 1990 (Arrêté Royal du 13 août 1990 relatif à la fabrication et à la mise dans le commerce de produits à base de tabac et de produits similaires) concerning the manufacture and marketing of tobacco products prohibits the use of all ingredients and additives in tobacco products except for those listed in Annex 1 of the law. These substances include acid salts, ammonia, ethanol, gelatine and colourings.

DENMARK

48. Denmark has no rules on the use of additives in tobacco but the law on foodstuffs contains an authorisation for rules on additives in tobacco to be established.

FINLAND

49. Chapter 3 (Composition and Quality Control) of the Act on Measures to Reduce Tobacco Smoking (13.8.1976/693) permits the Council of State to issue regulations on substances harmful to health which tobacco products may not contain, and to regulate the maximum permissible amounts of additives which may be used in tobacco products. Chapter 2 of the 1977 Decree on Measures to Reduce Tobacco Smoking (25.2.1977/225) allows only those ingredients, colours and flavourings that are not harmful to health.
50. These are listed as: tobacco, tobacco substitutes originating from other plants which are not dangerous or harmful to health, sugars, cocoa and honey, tobacco leaves for wrapping, ground tobacco and paper or man-made sheets manufactured from other plant fibres and spices, odorants, other additives, glues and colourings which are not harmful to health. However, it is the responsibility of the manufacturers to ensure that they comply with the legislation and there is no monitoring of compliance on this point. The Council of State has powers under section 5 of the Act on Measures to Reduce Tobacco Smoking to prohibit the use of dangerous substances in tobacco but these powers have not been used so far in connection with additives in cigarettes.

FRANCE

51. In June 1994 the Conseil Supérieur d'Hygiène Publique de France issued an opinion (Proposition d'avis pour la section évaluation des risques de l'environnement sur la santé) on the evaluation of the risks to health of additives to tobacco. This opinion recommended that a positive list of additives for use in tobacco should be established. The Law of 12 September 1995 (Arrêté du 12 septembre 1995 relatif aux produits d'addition autorisés dans la fabrication des produits du tabac et de leurs succédanés) concerning additives in the manufacture of tobacco products and products derived from tobacco, sets out which additives may be used. The list of approved substances is divided into seven categories, including products that may be used as humectants, glues, preservatives and colorants. The products listed are similar to those permitted under Belgian and German law. Maximum permitted

amounts are given for certain substances. France also has an advisory group on additives in tobacco products.

GERMANY

52. The German Tobacco Ordinance (Tabakverordnung) of 20 December 1977 contains a positive list of permitted ingredients which was last updated in February 1998 following the introduction of further EU legislation on permitted additives in foodstuffs. Annex 1 of the law lists the permitted ingredients which are divided into fourteen categories, including generally permitted additives in the manufacture of tobacco products; humectants; bonding, adhesion and thickening agents; ash-bleaching agents and combustion accelerators; substances used in binder leaves and cigarette paper; colouring agents and substances used in cigarette filters and tips, cigars, cigar-tips and pipes. Annex 2 lists prohibited odorants and flavouring agents.

GREECE

53. Has no legislation, agreements or standards on additives in tobacco.

IRELAND

54. Ireland has enabling legislation (Section 5 Tobacco [Health promotion and Protection] Act, 1988) which gives the Minister of Health the power to make regulations to control or prohibit the use of any material in tobacco products other than water, tobacco or reconstituted sheet made wholly from tobacco. To date, the Minister has not made use of these powers. In the absence of such legislation, the convention is that the tobacco industry complies with the directions of the UK Hunter Committee. This compliance is unsupervised and entirely voluntary.

ITALY

55. There are no national standards or regulations governing the use of additives in tobacco products in Italy. However, the State Monopolies Administration, which makes its own regulations, uses only those additives listed in the specific regulations applying in France and Germany (see above).

LUXEMBOURG

56. Luxembourg has a tobacco law but the use of additives and ingredients in tobacco products is not regulated under the legislation.

THE NETHERLANDS

57. The Netherlands imposes no requirements and possesses no legislation concerning the use of additives in tobacco products.

PORTUGAL

58. Portugal has no legislation concerning the use of additives in tobacco products.

SPAIN

59. The additives used by Tabacalera (the Spanish State tobacco monopoly) comply with Section 8 of the Spanish Food Code (Point 3.25.79, Processing operations), and with the German legislation on tobacco products (the Tabakverordnung, see above). Additives obtained directly from the USA for use in Spanish tobacco products comply with the US Food and Drug Administration legislation and the GRAS (Generally Recognised As Safe) provisions. All of them appear in the list of ingredients added to tobacco in the manufacture of cigarettes by the six largest American cigarette manufacturing companies, as published in "Tobacco Reporter" July 1994.

SWEDEN

60. The 1993 Tobacco Act (1993:581) provides for the prescription of limit values for the harmful substances that a tobacco product may contain or give rise to. The Act authorises the government, or an authority designated by the government, to notify provisions concerning the declaration of contents and limit values. To date no action has been taken in this respect except for tar and nicotine declarations and there is no binding legislation or voluntary agreement in respect of additives or other ingredients. The same Act also provides that the packaging of tobacco products intended to be offered for sale to consumers within Sweden must include a notice giving information about harmful substances that the product contains or gives rise to, known as a declaration of contents.

UNITED KINGDOM

61. The UK has a Voluntary Agreement on the Approval and Use of New Additives in Tobacco Products, which provides that manufacturers seeking to introduce a new additive into their products must seek approval from the Department of Health. There is a published list for additives in existing use. Additives that are approved for use in another Member State may also be used. The Agreement provides for the establishment of usage limits by the Department of Health. Tobacco manufacturers are required to sign a Certificate of Compliance with the Agreement annually.

TAR AND NICOTINE CONTENT IN CIGARETTES:

62. Article 2 of Directive 90/239/EEC⁵⁸ on the approximation of the laws, regulations and administrative provisions of the Member States concerning the maximum tar yield of cigarettes states that the tar yield of cigarettes marketed in the Member States shall not be greater than: 15 mg per cigarette as from 31 December 1992, and,

12 mg per cigarette as from 31 December 1997. A temporary derogation for the Hellenic Republic states the following limits: 20 mg until 31 December 1992, 18 mg until 31 December 1998, 15 mg until 31 December 2000, and 12 mg until 31 December 2006.

63. There is currently no Community limit on nicotine levels, although Article 3 of Directive 89/622/EEC⁵⁹ on the approximation of the laws, regulations and administrative provisions of the Member States concerning the labelling of tobacco products (as amended by Directive 92/41/EEC⁶⁰) requires that both tar and nicotine yields be indicated on cigarette packets. It also requires the Member States to forward to the Commission, in January each year, a list of the tar and nicotine contents of the cigarettes sold on their markets. The Commission then publishes this information⁶¹.
64. The Commission wrote to all the Member States⁶² regarding their policies on tar and nicotine content of cigarettes. Their responses are set out below, and this information has been used in the preparation of the draft text referred to in paragraph 23 above.

AUSTRIA

65. There are no plans to reduce the tar content beyond the requirements laid down in Directive 90/239. No measures concerning the fixing of a maximum nicotine level have been proposed.

BELGIUM

66. There are no plans to reduce tar content beyond the requirements laid down in Directive 90/239. The nicotine level in cigarettes was set at 1.5mg per cigarette from 31.12.92, and was reduced to 1.2mg per cigarette as from 31.12.97. There are no plans to reduce this level further.

DENMARK

67. No reply received.

FINLAND

68. There are no national legal provisions on a reduction in tar content beyond the requirements laid down in Directive 90/239/EEC. Between 1977 and 1995, before Finland joined the EU, there was national legislation in place which prohibited levels of nicotine in cigarettes above 1mg. Since 1995 there has been no limit on levels of nicotine.

FRANCE

69. France would welcome a further reduction in tar levels, and a limit on nicotine levels in cigarettes.

GERMANY

70. There are no national level legal provisions on a reduction in tar content beyond the requirements laid down in Directive 90/239/EEC. There are no plans to introduce provisions relating to maximum nicotine yields of cigarettes.

GREECE

71. There are no plans for a reduction in tar content beyond the requirements laid down for Greece in Directive 90/239/EEC. There is no existing legislation regarding nicotine yields and there are no plans to propose such measures.

IRELAND

72. There are currently no proposals to amend existing legislation or to introduce new legislation lowering the tar content of cigarettes.

ITALY

73. There are currently no proposals to introduce new, lower limits on tar or to introduce maximum nicotine levels. Italy would nevertheless favour Commission proposals further restricting tar levels and introducing restrictions on levels of nicotine.

LUXEMBOURG

74. There are currently no proposals to further reduce the tar content of cigarettes.

THE NETHERLANDS

75. At present, the Netherlands has no provisions regulating the maximum nicotine content or further reducing the tar content at national level. The Netherlands has nevertheless indicated that it would welcome European Commission proposals for amendment of the existing Directives.

PORTUGAL

76. Portuguese legislation limits tar to 12mg and nicotine to 1.3mg. There are no plans to make further reductions.

SPAIN

77. Spain's national legislation regulates the maximum levels of nicotine permitted in cigarettes. The first transitional provision of Royal Decree 192/1998 lays down that "as of 31 December 1992, the nicotine content of all cigarettes sold on the national market must not exceed 1.3 mg". In the case of cigarettes described as "low in nicotine and tar", the nicotine content must not exceed 0.8mg. There are no

proposals to amend this legislation at present. The tar content of cigarettes is regulated by Royal Decree 510/1992. No changes to this situation are envisaged in the short term.

SWEDEN

78. There are no plans to amend existing legislation in this area, although proposed amendments to the existing Directive would be welcomed.

UNITED KINGDOM

79. The UK has no existing national legislation on maximum permitted levels of nicotine in tobacco products. The UK Government, in its' White Paper on tobacco⁶³, announced that it was keen to help the Commission develop effective, practical proposals in this area.

SALES OF CIGARETTES AND TOBACCO TO YOUNG PEOPLE:

80. The Commission Services wrote to all the Member States⁶⁴ regarding their legislative framework on sales of cigarettes and tobacco to young people. The Member States were asked for information on the following points:
- ❖ The minimum age limit, if any, for the purchase of tobacco;
 - ❖ The sale of cigarettes from vending machines, and;
 - ❖ The sale of cigarettes in unit packages of less than 20.

The responses are set out below.

MINIMUM AGE LIMITS:

AUSTRIA

81. The sale of tobacco products to young people falls within the field of protection of minors, which means that legislation and its enforcement in this area is the responsibility of the nine provinces. In seven of the nine provinces, children and young people are forbidden to smoke and/or consume tobacco products until they have reached the age of 16 (in four of the nine provinces this ban applies to smoking/consumption in public). In one province, children (defined as persons up to the maximum age of compulsory education, even if in individual cases they are exempted from the requirement to attend school) are forbidden to consume tobacco products. In the final province, children and young people are not explicitly forbidden to smoke.

82. None of the provinces lay down a minimum age for the purchase of tobacco products. Instead, three provinces prohibit the sale (or the delivery, passing on, supply or provision) of tobacco products (in one province the ban specifically refers to tobacco for personal use) to persons aged under 16. In another province, there is a ban on the supply of tobacco products in bars/restaurants/hotels to persons recognisable as children or young people. Five provinces currently have no legal provisions on the sale of tobacco products, although in two provinces detailed discussions are currently underway for a ban on the sale and supply of such products in the context of planned amendments to legislation on the protection of minors.

BELGIUM

83. Belgium's legislation does not specify a minimum age for the purchase of tobacco products.

DENMARK

84. Currently drawing up an action plan to combat smoking among young people. No minimum age at present.

FINLAND

85. Finland has had a ban on selling tobacco products to under 18s since 1995. Between 1976 and 1995 the age limit was set at 16.

FRANCE

86. The prohibition of cigarette sales to under-16s was rejected by the French Parliament in 1990, as it was thought to glamorise the product by making it unattainable, and would also encourage adults to resell packets to young people. The current evaluation of the French law regarding the fight against smoking and alcoholism will provide an opportunity to consider this issue again.

GERMANY

87. In Germany, there is no prohibition on the supply of tobacco products to children and young people. However, The Protection of Young Persons in Public Act states that children and young people under 16 years of age shall not be permitted to smoke in public.

GREECE

88. There is no minimum legal age for purchasing tobacco products in Greece.

IRELAND

89. The minimum age for the purchase of tobacco is 16 years, which is under review at present – possibly 18 years is permitted.

ITALY

90. No reply received.

LUXEMBOURG

91. Smoking is prohibited in all educational establishments and in all establishments intended for use by under 16s.

THE NETHERLANDS

92. No reply received.

PORTUGAL

93. Portugal has no legislation banning the sale of tobacco to young people. The Council on Smoking is currently considering the possibility of putting forward proposals to regulate the installation of automatic cigarette vending machines. However, until such regulations are introduced, the Portuguese authorities do not see any practical purpose in banning the sale of tobacco products to young people.

SPAIN

94. It is prohibited to sell or give to persons under 16 years of age tobacco products or products which imitate tobacco products or which encourage smoking.

SWEDEN

95. It is prohibited to sell tobacco to children under 18 years of age.

UNITED KINGDOM

96. It is prohibited to sell tobacco to children under 16 years of age.

SALES BY VENDING MACHINE:

AUSTRIA

97. The provinces do not have any legal provisions specifically concerned with the sale of cigarettes to young people from vending machines.

BELGIUM

98. The Royal Decree of 13 August 1990 concerning the manufacture and marketing of tobacco-based and similar products prohibits the sale of tobacco products via automatic vending machines, with the exception of vending machines installed in premises where such tobacco products are simultaneously sold in the traditional way. The aim of this regulation is to prevent such vending machines being installed in places that are easily accessible to children. It is thus illegal to install cigarette vending machines on the streets or in schools.

DENMARK

99. No rules governing the sale of cigarettes from vending machines.

FINLAND

100. Cigarette vending machines are permitted, but they must be located in an area that is under continuous supervision by an adult. A ban on vending machines has been discussed, and public opinion seems to be in favour of such a move.

FRANCE

101. Cigarette vending machines have all but disappeared in France. Since 1987 it has been prohibited to install a machine on the wall of any premises on a public thoroughfare.

GERMANY

102. There is no prohibition on the sale of cigarettes to young people from automatic vending machines. However, the Federal Association of German Tobacco Wholesalers and Vending Machine Installers (*Bundesverband Deutscher Tabakwaren-Großhändler und Automatenaufsteller – BDTA*) is subject to voluntary self-restriction regarding the installation of cigarette vending machines within 50 metres of the entrance to schools or youth centres. This agreement was concluded with the BDTA in 1997, at the initiative of the Federal Ministry.

GREECE

103. The retail sale of cigarettes is a legally regulated right reserved for certain categories of individuals (war disabled, war victims etc.). The retail sale of cigarettes by such persons via automatic vending machines, although not expressly prohibited, does not occur in Greece.

IRELAND

104. Restricted, and under review.

ITALY

105. No reply received.

LUXEMBOURG

106. There are no specific regulations concerning the sale of cigarettes from vending machines.

THE NETHERLANDS

107. No reply received.

PORTUGAL

108. The Council on Smoking is currently considering the possibility of putting forward proposals to regulate the installation of automatic cigarette vending machines.

SPAIN

109. Tobacco products may be sold from automatic vending machines, subject to the following restrictions: such vending machines must be sited exclusively in enclosed places; they may not be used by persons under 16 years of age. The owner of the establishment in which they are sited is responsible for enforcing this prohibition. A notice warning that tobacco is harmful to health must be affixed to the front of such machines. The notice must have a surface area of not less than 20 cm² and be fixed in such a way as to prevent its removal.

SWEDEN

110. Cigarette vending machines must either be supervised or located in a place to which under-18s are not admitted. In practice, the Swedish rules prevent cigarette vending machines from being sited outdoors.

UNITED KINGDOM

111. The sale of cigarettes from vending machines is permitted, but machines are required to carry a notice stating "this machine is only for the use of people aged 16 and over". It has not been found necessary to impose legal restrictions on the location of vending machines, as in practice their location has been restricted to premises licensed to sell alcohol and access by children is thus limited. . The UK Government, in its' White Paper on tobacco⁶⁵, announced that the National Association of Cigarette Machine Operators had revised its Code of Practice so that the primary consideration when siting a vending machine is now the need to prevent sales to children.

SALES OF CIGARETTES IN UNIT PACKS OF LESS THAN 20:

AUSTRIA

112. The provinces do not have any legal provisions specifically concerned with sale of cigarettes in individual packs of less than 20.

BELGIUM

113. The Belgian Parliament has adopted an amendment to its legislation prohibiting the sale of cigarettes in packs containing fewer than 19 cigarettes, with the exception of "luxury cigarettes" sold in smaller packs at or above the price of the standard 20 packs. The aim is to raise the threshold for the purchase of cigarettes, with a view to curbing tobacco use by young people. This will come into force following royal assent.

DENMARK

114. It is prohibited to sell cigarettes individually, but not for example in packets of 5. However, cigarettes are sold exclusively in packets of 10 or 20 in Denmark.

FINLAND

115. There are no restrictions on pack sizes. Fixing the size of tobacco packets is one of the items on the tobacco control agenda of the Finnish Ministry of Social Affairs and Health.

FRANCE

116. No reply received.

GERMANY

117. There is no legislation in Germany governing the sale of cigarettes in individual packets of fewer than 20 cigarettes.

GREECE

118. The sale of cigarettes in packs of less than 20, although not expressly prohibited, does not occur in Greece. Nowadays, cigarette packets contain 20 or 25 cigarettes.

IRELAND

119. No allowed in units of less than 10 cigarettes; under review.

ITALY

120. No reply received.

LUXEMBOURG

121. There are no specific regulations concerning the number of cigarettes contained in a packet. The Luxembourg authorities are unaware of the sale of any packets containing less than 20 cigarettes.

THE NETHERLANDS

122. No reply received.

PORTUGAL

123. No reply received.

SPAIN

124. No reply received.

SWEDEN

125. Cigarettes are usually sold in packs of 10 in Sweden. In some cases, when new brands are launched, the cigarettes may be in packs of 3-5. It is prohibited to sell individual cigarettes, as this would conflict with tax legislation. Packs must be marked "tax paid" and may not be broken up.

UNITED KINGDOM

126. The sale of cigarettes in unit packages of less than 20 is permitted, provided the packets are unbroken and they contain at least 10 cigarettes.

SMOKING IN PUBLIC PLACES:

127. The responses listed below have been received from the Member States following the questions put to them by the Commission Services in its letter of 15 October 1998 (see paragraph 28).

AUSTRIA

128. The 1995 Tobacco Act applies a ban on smoking to premises used for education, further education, negotiations and school sporting activities. In multi-purpose halls and premises not used exclusively for the above-mentioned purposes, a ban on smoking applies for the period during which such premises are used for these purposes and for a period prior to such use which is necessary to properly ventilate the premises concerned. There is no ban on smoking in premises used exclusively for private purposes. Smoking is banned in rooms accessible to the public in public authority buildings, educational or other establishments in which children or teenagers are supervised, admitted or provided with accommodation, universities and vocational training establishments, and establishments used for performances or exhibitions. Rooms may, in establishments which have a sufficient number thereof, be specified as an area where smoking is permitted, provided that it is ensured that tobacco smoke does not get into the areas where the smoking ban applies. This exemption does not however apply to educational or other establishments in which children or teenagers are supervised, admitted or provided with accommodation. A sufficient number of no-smoking areas must be provided in fixed location facilities of public and private bus, rail, air and shipping operators.
129. Environmental tobacco smoke is not classified as a workplace carcinogen, and there are no plans to do this in the near future.
130. Article 30 of the Employment Protection Act requires that employers must ensure that non-smokers are protected from the effects of tobacco smoke in the workplace. If, for reasons relating to the nature of the business, smokers and non-smokers have to work together in a single room, smoking is forbidden unless the non-smokers can be adequately protected by means of additional ventilation. Article 4 of the Maternity Protection Act states that pregnant women who do not smoke may not be employed in locations within the workplace where they are exposed to the effects of tobacco smoke. If it is not possible for employees to work in separate areas, the employer must take appropriate measures to ensure that other employees working in the same area as pregnant women do not expose the latter to the effects of tobacco smoke.

BELGIUM

131. No reply received.

DENMARK

132. Act N° 436 of 14 June 1995 on smoke-free environments in public buildings, means of transport etc. lays down rules applicable to the public sector. The Act obliges every local authority and every county council to establish regulations on smoke-free environments in public sector workplaces, institutions and means of transport. No further legislation has been introduced since the previous Commission Report⁶⁶, but the Danish authorities are involved in an ongoing dialogue with the social partners concerning the introduction of smoking policies in private undertakings. Environmental tobacco smoke is not classified as a workplace carcinogen, and there are no plans to change this situation.

FINLAND

133. Finnish workplaces have been totally smoke-free since 1995, with the exception of restaurants and solo workplaces without any customer contacts. This provision forms part of the Finnish tobacco legislation. Smoking may be allowed only in separate smoking rooms, from which no smoke may disperse into smoke-free rooms. This means that every smoking room must have independent ventilation. It is not obligatory for employers to provide smoking rooms. The enforcement of these controls is the responsibility of the workplace occupational health and safety organisation and the occupational health and safety authorities. The Finnish Parliament adopted in February 1999 legislation providing progressively more smoke-free areas in restaurants. The new law enhances the main rule of smoke-free working and customer areas in all workplaces, including restaurants, as it contains provisions under which smoking may be permitted. By July 2001, smoking may only be permitted in 50% of the restaurant area, at maximum, on condition that no smoke may spread to the smoke-free areas. Small restaurants (less than 50m²) are exempt.

134. In 1994, the Finnish Parliament asked the Government to study whether environmental tobacco smoke is a carcinogenic agent. The Parliament has now approved a provision classifying environmental tobacco smoke as a carcinogen, and that the Occupational Health and Safety legislation applies to it. This will come into force in the year 2000.

FRANCE

135. Law 91-32 of 10 January 1991 introduced the principle of prohibiting smoking in public places. Decree 92-478 of 29 May 1992 set out how this prohibition should be applied, the principal objective being the protection of non-smokers. The decree sets out four categories of establishment concerned by the ban – public transport, places of work, schools, and bars and restaurants. Under certain conditions, smokers may smoke in designated smoking areas. With regard to places of work, the prohibition applies to all areas except individual offices. Shared offices or workshops must be

arranged in such a way as to allow smokers and non-smokers to work together, without non-smokers being bothered by tobacco smoke. In order to reach consensus on these arrangements, the employer is required to consult the company doctor, the Committee on Health and Safety at Work, or otherwise, the staff representatives. A 1995 study by the French Health Education Committee showed that more than a third of companies had introduced new provisions following implementation of the decree. Slightly more than 1 company in 10 operate a total ban on smoking, and there is a general respect for such measures.

136. Environmental tobacco smoke has not been classed as a workplace carcinogen. However, l'Académie de médecine published a report in 1997 on passive smoking underlining the need both to strictly respect the law on smoking in public places, and to inform pregnant women of the dangers of active and passive smoking during pregnancy.

137. No further provisions on smoking in the workplace are envisaged. Work continues on ensuring that the current legislation is respected. Information and prevention campaigns in the media aim to inform about the dangers of smoking, both active and passive.

GERMANY

138. No reply received.

GREECE

139. There have been no developments in Greek legislation on smoking in the workplace since 1995, and no voluntary agreements are in place. To date, ETS has not been classified as a workplace carcinogen.

IRELAND

140. A fundamental review of smoking policy is underway.

ITALY

141. No reply received.

LUXEMBOURG

142. Smoking is prohibited inside hospitals, establishments for elderly people and public buildings, although specific smoking rooms may be made available. The Ministry of Health and the Ministry of Employment have invited unions and employers to integrate arrangements on workplace smoking into their collective agreements, although this is yet to produce convincing results. There are no plans for further legislation in this area, or for classification of environmental tobacco smoke as a workplace carcinogen.

THE NETHERLANDS

143. No reply received.

PORTUGAL

144. On the 17 September 1998, legislation was published banning smoking in those parts of the underground railway system that are accessible to the public. It should, however, be noted that smoking on underground trains has been banned since 1988. None of the existing regulations or agreements on smoking in public places have been withdrawn or amended since 1995.
145. The classification of ETS as a workplace carcinogen should be considered, given the scientific evidence on the role of tobacco in causing cancer.
146. There are no plans in the short term to amend current legislation on smoking in the workplace. Since 1988, smoking may be banned "at workplaces where the need to protect non-smokers and, for example, the existence of alternative areas make a smoking ban feasible". Since 1989, there has been a ban on workplace smoking within the Ministry of Health and in places where non-smoking persons or officials have to spend time. Smoking is however permitted in the individual offices of workers who are smokers, in rooms where everyone is a smoker or in specially designated areas. Also since 1989, smoking has been banned in educational establishments, although smoking is allowed in the staff room in specially designated areas.

SPAIN

147. There has been no change in the existing legislation on smoking in public places in Spain since the Commission's previous Report⁶⁷. There have been legislative developments regarding smoking in the workplace:
- annex 5 of Royal Decree 486/97 laying down minimum health and safety requirements for the workplace states that measures must be adopted for rest rooms to ensure the protection of non-smokers from the nuisances arising from tobacco smoke. This Decree applies to all workplaces excluding means of transport used outside the workplace, workplaces located within means of transport, construction sites, the extraction industries, fishing vessels, and land forming part of an agricultural or forestry undertaking;
 - annex 1:13 of Royal Decree 1216/97 laying down minimum health and safety requirements for work on board fishing vessels, states that wherever possible, measures should be adopted in the crew's quarters to protect non-smokers from the nuisances arising from tobacco smoke;
 - similar provisions are set out in Royal Decrees 150/96 and 1627/97 laying down minimum health and safety requirements for the extraction and construction industries.

148. Spain would be content to implement a Community measure classifying environmental tobacco smoke as a workplace carcinogen.

SWEDEN

149. There has been no change in the existing legislation in Sweden since the Commission's previous Report. There are no current plans to introduce additional legislation on this issue, or to classify environmental tobacco smoke as a workplace carcinogen.

UNITED KINGDOM

150. There has been no change in UK legislation concerning smoking in public places since the Commission's previous Report. Legislation on smoking in the workplace has not been introduced, and environmental tobacco smoke has not been classified as a workplace carcinogen.

ANNEX 2: REFERENCES

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- ²⁶ Directive 98/43/EC (OJ L 213 of 30.07.1998, pp. 9-12)
- ²⁷ See endnote 15
- ²⁸ Directive 89/552/EEC (OJ L 298, 17.10.1989, p. 23, as last amended by Directive 97/36/EC (OJ L 202 30.07.1997, p.60)
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- ³⁴ SEC (92) 1976 final
- ³⁵ COM (96) 573 final
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- ⁴³ ENSP, 48 rue de Pascale, B-1040 Bruxelles, Belgium. Internet: <http://www.ensp.org>
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- ⁵⁶ OJ L 359, 08.12.89, p.1
- ⁵⁷ Letter of 23 October 1998 from Director General of DG V to the Permanent Representatives of the Member States
- ⁵⁸ OJ L 137, 30.05.90, p.36
- ⁵⁹ OJ L 359, 08.12.89, p.1
- ⁶⁰ OJ L 158, 11.06.92, p.30
- ⁶¹ Doc. CAN 18/98 "Tar and nicotine contents of the cigarettes sold on the European market" is available from DG V/F/2 of the European Commission, L-2920 LUXEMBOURG
- ⁶² Letter of 26 February 1998 from Director General of DG V to the Permanent Representatives of the Member States
- ⁶³ Smoking Kills – A White Paper on Tobacco. Published by The UK Stationery Office
- ⁶⁴ Letter of 15 October 1998 from Director General of DG V to the Permanent Representatives of the Member States
- ⁶⁵ Smoking Kills – A White Paper on Tobacco. Published by The UK Stationery Office
- ⁶⁶ COM (96) 573 final
- ⁶⁷ COM (96) 573 final