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Will EU renew \$1.25bn deal with tobacco firm PMI?



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Michel Petite signs the tobacco agreement on behalf of the European Commission, 9 July 2004, with on the left PMI CEO André Calantzopoulos, and behind them, standing, budget commissioner Schreyer (Photo: European Commission)

By **PETER TEFFER**  

BRUSSELS, TODAY, 09:02

The clock is ticking until 9 July 2016.

There are 222 days left until an unprecedented treaty between tobacco company Philip Morris International (PMI) and the European Union expires. The 2004 deal saw Europe halt all its legal claims against PMI in exchange for the multinational's cooperation in the fight against cigarette smuggling. The EU had previously sued PMI and other tobacco companies in the US over suspected

involvement in smuggling operations.

That cooperation included annual payments of, in total, \$1.25 billion to the EU and its member states. Since the deal with PMI, the EU signed similar agreements with three other tobacco giants. Until June 2015, the EU and its members have received €1,346,899,492 in annual instalments from the four firms.

With the PMI agreement the first to expire, several policy watchers in Brussels have begun to wonder if it will be extended.

The [agreement](#) itself explicitly mentioned the option of an extension.

“It is the intention of the Parties, if feasible, to extend the duration of this Agreement beyond the Expiration Date,” it said, referring to the date 12 years after it went into force in July 2004.



Georgieva: “There are no ongoing negotiations. None” (Photo: European Commission)

“Accordingly, beginning no later than two years prior to the Expiration Date ... the representatives of the Parties shall meet and attempt in good faith to reach another agreement between the Parties covering the same subject matter addressed herein.”

'Exploratory talks'

These “exploratory talks” between the EU and PMI began just before the summer break in 2014.

“The result of that meeting was that Philip Morris International is ready to engage in discussions on an extension of the agreement,” European commissioner for anti-fraud Algirdas Semeta said in a prepared speech on 7 October 2014.

“We have also begun to raise this prospect with member states. The preliminary feedback so far received has encouraged us to continue these exploratory talks later this year,” added the Lithuanian official.

Because a new administration was due to take over on 1 November of that year, Semeta said that no decision should be taken during his mandate. However, he did note that Commission staff had begun “to assess possible benefits that

could be expected from an extension of the agreement.”

A full year later, that assessment is not yet ready, said EU budgetary affairs commissioner Kristalina Georgieva, who took over the political responsibility for the file.

Several MEPs have asked the Bulgarian politician to come to a parliament session in Strasbourg and lay out the state of play of a possible extension, which Georgieva did on 18 May 2015.

“There are no ongoing negotiations - none,” Georgieva told the plenary. “There will be no negotiations you are not aware of. If at all.”

“There have been, as per the agreement, exploratory talks. They're required by the agreement with Philip Morris International. Two years before expiration, we need to look into potential for prolongation,” she added.

Ongoing assessment

“These talks have addressed one issue: Would there be interest on the side of Philip Morris? They seemed to be interested. We also have indicated on both sides, that before we move towards any step for or against negotiations, we

need to complete our own assessments. Our assessment is ongoing.”

PMI is obliged to write compliance reports every year. This website gained access to them after a freedom of information request.

In every report the company has written, including the one dated [3 July 2015](#), PMI said it “continues to be extremely pleased with the operation of the Agreement.”

In an e-mailed response PMI did not explicitly say it wants to renew the deal, but a spokesperson said the agreement “has been an important part of advancing the fight against illegal tobacco trade in the EU.”

“As the Agreement contemplates, we participated in initial, exploratory talks with [EU anti-fraud agency] Olaf about the future of this cooperation beyond the expiration of our current agreement in 2016. These talks are at an early stage and no decision has been made yet,” PMI spokesperson Iro Antoniadou told this website.

'Responsible approach'

Georgieva promised the decision whether to pursue prolongation or not will be

“on the basis” of its assessment of the agreement's benefits.

The commissioner said in her statement in May that the commission is “going to finalise an assessment in a couple of weeks,” but that finalisation has been delayed.

The new promise is by the end of this year.

“We have taken a very responsible, I think, approach not to rush to any conclusions,” she told members of the EP's budgetary control committee on 19 October 2015.

She noted the commission has asked EU member states, which are also a party to the agreement, to relay to Brussels their experience of the deal.

“We have received now feedback from 20 member states, we consider this sufficient to integrate these comments and finalise the assessment, we still aim to finalise and publish the assessment during the present quarter,” said Georgieva, adding again that there were “no contacts with Philip Morris in the meanwhile” on prolongation.

In its public communication so far, the commission says the agreement has

helped reduce smuggling of cigarettes in the brands that fall under the pact - including brands of the three other multinationals which signed similar agreements following the PMI deal.

But some critics say the deal is obsolete.

The track and trace system which was a requirement in the PMI deal, has become EU-wide law with the adoption of the tobacco directive.

Legal agreement

MEPs have also been critical of lack of transparency in contacts between PMI and EU officials.

"As it stands now, we have been allowed to view the documents in a secure reading room for a couple of hours, and this took place after a rather frustrating correspondence with [commissioner Georgieva's] predecessor," said centre-right Finnish MEP Petri Sarvamaa in May's plenary debate. "As a matter of fact, it would require a specialist lawyer to understand anything that is in those papers."

The commission was also criticised for the very fact it is cooperating with

tobacco firms in the first place.

Far-left Dutch MEP Dennis de Jong reminded Georgieva that the agreement was a product of a legal settlement, following a court case which the EU filed against PMI and other tobacco companies for their part in controlling smuggling operations.

“We are now many years down the line and it has become clear that the tobacco industry is continuing its lobby unabridged,” noted De Jong, adding that they “even started a lawsuit against the European Commission over the tobacco directive”.

Subsidiaries of PMI have challenged the 2014 directive before the Court of Justice of the EU.

For his part, the EU's health commissioner, Vytenis Andriukaitis, told this website last May he has “doubts about the need” to extend the deal.

This is part one in a series of articles about the EU's agreement with tobacco company PMI. Tomorrow we will look at how EU anti-fraud agency Olaf has used the agreement to investigate cigarette smuggling

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