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Page: 1/1

Committee on Technical Barriers to Trade

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**PROPOSAL TO INTRODUCE STANDARDIZED PLAIN PACKAGING OF  
TOBACCO PRODUCTS IN IRELAND**

**STATEMENT BY MALAWI TO THE COMMITTEE ON TECHNICAL BARRIERS TO TRADE AT ITS  
MEETING OF 30-31 OCTOBER 2013**

The following communication, dated 5 November 2013, is being circulated at the request of the delegation of Malawi.

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1. When this Committee met in June, Malawi joined a number of other Members in urging Ireland to ensure that any measures it introduced to address smoking were WTO-consistent.
  2. Ireland has not yet released any draft law on plain packaging. However, Malawi reiterates its position that the measures that Ireland intends to adopt should await the outcome of the WTO proceedings in the Australian plain packaging case.
  3. A large number of WTO Members have expressed serious concern about the WTO-consistency of Australia's plain packaging law. In the area of TBT, these concerns relate to the lack of available evidence that plain packaging would be likely to result in an increased perception of risk or in a change in behavior, in particular when it comes to smoking initiation by minors. It is therefore questionable whether plain packaging would contribute to the stated public health objective. In addition, imposing plain packaging requirements does not take into account the existence of less trade-restrictive alternatives, such as measures aiming at tackling sales to under-aged consumers.
  4. In light of these concerns, the European Union has so far failed to explain how the introduction of plain packaging by Ireland would be consistent with the requirements of the TBT Agreement. Malawi also notes that some other WTO Members, such as the United Kingdom, have recently taken the decision to wait for additional evidence before further considering plain packaging.
  5. As Members are aware, the DSB has established panels requested by Ukraine and Honduras against Australia, and three other Members are at varying stages of the dispute settlement process. These proceedings will clarify whether plain packaging is consistent with the TBT Agreement, and indeed the TRIPS Agreement.
  6. In Malawi's view, it would be prudent for Ireland to await the outcome of the Australian case, which will provide authoritative guidance on whether plain packaging is consistent with WTO rules.
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