

## **Deputado Eduardo Cabrita**

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Brussels, 23 October 2014

### **REF: Draft legislative proposal to increase the taxation of fine-cut (rolling) tobacco.**

Dear Mr. Cabrita,

The European Smoking Tobacco Association, ESTA, has learnt that the Portuguese government is drafting legislation to amend excise rates on fine-cut tobacco (FCT). These changes would increase the minimum excise duty on FCT from €120 to €135 per kg. This would set the minimum excise duty for FCT higher than that of cigarettes, i.e. €135 per kg for FCT versus €127.07 per 1,000 cigarettes (based on the projected MPPC of €4.10).

ESTA would like the opportunity to convey the position of the European smoking tobacco industry on excise rates in the European Union. We would also like to note that the majority of Member States have maintained a differential in excise rates between cigarettes and FCT when implementing Directive 2011/64/EU. Today, many EU countries set the minimum excise on FCT at between 60-80% of the minimum excise on 1,000 cigarettes.

ESTA believes that any proposal that will set the same or higher rates of excise for FCT in relation to cigarettes is inappropriately treating an unfinished product, such as FCT, as a finished product. In addition, the tax-bearing capacity of fine-cut tobacco is much lower than that for cigarettes. This will lead to the establishment of unbalanced tax policy and jeopardize Portugal's future tobacco excise revenues.

The proposed minimum excise duty increase from €120 per kg to €135 per kg will not bring the desired excise revenue increase.. In 2013 the minimum excise level on FCT rose by €15 per kg (from €75 to €90) resulting in a volume decrease of 33.8 %. This was followed by a further €30 per kg increase at the end of 2013, which we expect to have led to a further volume decrease of 29.5% by the end of 2014. These figures will be confirmed when TAXUD data for the whole period is released. As such, FCT volumes have already contracted by 53% in two years. Rises in the rate of minimum excise for FCT should not be seen as part of the solution to such falling volumes, but rather as part of the cause.



In 2013, government excise revenue from “other tobacco products” (FCT plus pipe tobacco), as reported by TAXUD, declined by 8.3% *despite* the first of the excise rises taking place in this period. Accordingly, tax revenues are expected to decline yet further in 2014, when the impact of the second excise increase is felt.

ESTA would like to point out that the Tobacco Products Directive 2014/40/EU will have to be transposed into national legislation by 20 May 2016. An important new requirement of the Directive is that FCT must be sold in packs of at least 30g. Currently, around 70% of all FCT sold in Portugal is currently in packaging smaller than 30g (the most popular format is below 15g). By increasing the weight, the price of a unit packet of FCT will obviously also increase. The lowest possible out-of-pocket price for FCT would rise from €2.40 for a 12g pack today to €6.00 for 30g. This compares to an out-of-pocket expenditure of €4.10 for the most popular 20 cigarette pack.

Therefore, to sustain the revenue generated from the FCT the government has to seriously consider a “no tax increase” approach until the effect of the implementation of TPD requirements on the FCT market are known.

Finally, and most importantly for tax authorities, by fully aligning excise rates, the government would take away the buffer that FCT offers between cigarettes and illicit-traded cigarettes, which may result in increases in the consumption of illicitly traded cigarettes and the accompanying loss of revenue for governments.

ESTA would like to point out that Tobacco Excise Directive 2011/64/EU stipulates that “it is necessary to bring the minimum levels for fine-cut tobacco intended for the rolling of cigarettes closer to the minimum levels applicable to cigarettes”. “Closer” being different in meaning than “similar”, the Directive absolutely does not call for Member States to put in place similar levels of excise duties for fine-cut tobacco and factory made cigarettes. During the discussions leading up to this Directive, the European institutions clearly recognized that a tax differential is crucial – this is most clearly reflected in the EU Directive, which lays out different minimum excise rates for FCT and cigarettes of €60 and €90 respectively (by 2020), a two-thirds differential.



ESTA would like to ask the Portuguese government to reconsider any Proposal that would not embrace the above principle of maintaining a differential and which takes into account the expected rise in price per unit pack resulting from the 30g minimum packaging weight requirement of the Tobacco Products Directive 2014.

We would welcome the opportunity to discuss this issue further with you and your colleagues in a personal meeting in the coming week. Could you please indicate any available dates when we could hold such a meeting?

Yours sincerely,



Christian Greiveldinger  
Chairman



Peter van der Mark  
Secretary General

## About ESTA

**The European Smoking Tobacco Association (ESTA) represents the interests of the European manufacturers, distributors and importers of fine-cut tobacco, pipe tobacco, chewing tobacco and nasal snuff tobacco. The 50 members of ESTA are mainly small and medium sized companies (SMEs) as well as national associations from Member States and from Norway and Switzerland. Smoking tobacco comprises approximately 9% of the total sales of tobacco products in the European Union: around 8% for fine-cut tobacco and less than 1% for pipe tobacco.**

