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REF: Proposta legislativa para aumentar o imposto sobre o Tabaco de enrolar

Caro Dr. Eduardo Cabrita,

A ESTA - European Smoking Tobacco Association tomou conhecimento que o Governo Português está a preparar alterações à legislação actual sobre o tabaco de enrolar, com o objetivo de aumentar o imposto mínimo sobre este de 90€ a 120€ por kg e a taxa específica de 65€ a 75€. Na nossa opinião, estas medidas taxariam de igual forma o tabaco de enrolar e os cigarros.

A ESTA gostaria de ter a oportunidade de transmitir a sua posição relativamente aos impostos especiais de consumo na União Europeia, bem como notar que quase todos os Estados-Membros têm, de facto, mantido uma diferenciação nas taxas de impostos especiais de consumo entre os cigarros e tabaco de enrolar quando implementada a Directiva 2011/64/UE.

A ESTA acredita que qualquer proposta que estabeleça taxas semelhantes para ambos os tipos de tabaco está a tratar de forma igual e errada um produto inacabado como o tabaco de enrolar e um produto acabado como os cigarros. Além desta questão, a capacidade de carga fiscal do tabaco de enrolar é muito menor do que a dos cigarros (ver explicação em anexo).

Por fim, e de maior importância para as autoridades fiscais, ao alinhar totalmente as taxas de impostos especiais de consumo, o governo vai retirar ao tabaco de enrolar o seu desempenho de tampão entre os cigarros e cigarros vendidos no mercado ilícito, que resulta num aumento significativo no consumo de tabaco ilegal e na perda de receitas para os governos, como mostram as evidências. Como a proposta de aumento das taxas de imposto vai levar a aumentos de preços em cerca de 25% para os consumidores, e tendo em conta que estes são sensíveis ao preço, estima-se que o volume de vendas do tabaco de enrolar diminua em 70%, levando a que as receitas de impostos sobre o tabaco caiam 62% em relação a 2013. Um exemplo recente é o da Holanda, que aumentou impostos especiais de consumo para o tabaco de enrolar em 60 centimos por um pacote de 40 gramas a 01 de março de 2013, resultando numa perda estimada de 400 milhões de euros (para todos os produtos do tabaco) em 2013 como foi oficialmente reconhecido pelo governo holandês. O governo holandês já decidiu abandonar o aumento de taxas de consumo para os produtos do tabaco previsto para 2014.

A ESTA gostaria de realçar que a Diretiva 2011/64/EU estipula que "é necessário aproximar os níveis mínimos para o tabaco de enrolar dos níveis mínimos aplicados ao tabaco industrial". "Aproximar" não significa torná-los "semelhantes" e a diretiva não exige aos Estados-Membros que ponham em prática níveis semelhantes de impostos especiais de consumo sobre o tabaco de enrolar e industrial. Durante as discussões que antecederam a presente directiva, as instituições europeias reconheceram claramente que é fundamental diferenciar a tributação, estando esta situação refletida na Diretiva da EU, com taxas de consumo mínimas diferentes para cigarros e tabaco de enrolar. A maioria dos países tem adotado essa abordagem e tem aplicado taxas sobre o tabaco de enrolar substancialmente inferiores às dos cigarros.

A ESTA gostaria de pedir ao governo Português que reconsiderasse qualquer proposta que não comtemple o princípio de diferenciação acima referido.

Em anexo a esta carta, segue um sumário com a posição da ESTA, clarificando os pontos acima referidos. Através dos nossos membros em Portugal, gostaríamos de ter a oportunidade de discutir esta questão consigo numa reunião pessoal a realizar logo que possível. Aguardamos a sua indicação de disponibilidade, para a realização da mesma.

Com os melhores cumprimentos,



Christian Greiveldinger
Presidente



Peter van der Mark
Secretário Geral

ESTA Summary Position on Excise Duty Differential for the Portuguese Government

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 48 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.

Why has fine-cut tobacco generally been taxed at a different rate than factory made cigarettes?

The economic principle behind different tax regimes is the different tax bearing capacity for each specific product category. The tax bearing capacity reflects the percentage or specific amount of tax that a specific good can undergo without disturbing the functioning of a specific market situation.

Fine-cut tobacco has a lower tax bearing capacity than cigarettes for the following reasons:

- Fine-cut tobacco is a semi-finished product from the point of the consumer: smokers of fine-cut tobacco must make separate purchases of rolling paper, or tubes, and making-device, before investing time in manually preparing fine-cut smoking articles for use. The semi-finished character of fine-cut tobacco is also reflected in international trade (customs) agreements where it is labelled in the semi-finished category commodity code. As a semi-finished product, fine-cut tobacco has a lower convenience level than factory made cigarettes and is not a luxury product within the category;
- As a semi-finished product, fine-cut tobacco has a lower value added than that of factory made cigarettes and is not a luxury product within the category;
- Fine-cut tobacco is predominantly consumed by price sensitive consumers with low income. Aligning taxes to fine-cut tobacco to those on cigarettes would mainly hurt the poorer part of the population. It would lead to a disproportionate tax burden, as fine-cut smokers would pay a much higher share of their income as taxes than cigarette smokers would;
- In contrast to factory made cigarettes, smokers of fine-cut tobacco cannot consume all the tobacco. Some of the tobacco is thrown away (too short, tobacco stems, crumbs) because it is impossible to roll a cigarette with it. Furthermore, a substantial part of a hand-rolled cigarette functions as a hand piece and is not smoked but discarded as butt.
- The fine-cut tobacco manufacturing process is relatively labour intensive; and
- There are many SMEs, often family owned, that produce fine-cut tobacco. These are often located in economically less developed regions with high levels of unemployment.

These factors have led to the historical and current relationship between different excise regimes for different product categories in the Member States of the EU, fulfilling all internal market conditions. Fine-cut tobacco therefore has its own structure of excise duties with appropriate and unique levels.

How can fine-cut tobacco perform a role as buffer to cheap smuggled cigarettes?

The share of non-domestic duty-paid cigarettes has grown significantly in many Member States that are / were in the process of moving towards higher rates to meet the EU minimum requirements as well as in many of the EU 15 Member States that have faced considerable excise increases in recent years.

Non-domestic duty-paid cigarettes, being a widely available cheap alternative, are equally a threat to legal fine-cut tobacco sales. However, as seen in some Member States, fine-cut tobacco can serve as a legal alternative for consumers who would alternatively turn to illicitly traded cigarettes. The availability of fine-cut tobacco as a legal alternative to illicitly traded cigarettes therefore limits the emergence of a disorderly market and protects their tax revenue.



The potential buffer of fine-cut tobacco should however not be overestimated. Cigarettes satisfy certain needs which cannot be fulfilled by fine-cut tobacco products. However, for law-abiding consumers, fine-cut tobacco can offer an alternative for consumption of illicitly traded cigarettes, as long as a sufficient distance is safeguarded between excise rates. In the case where excise rates for fine-cut tobacco reach the same level as for cigarettes; there is a real danger that a market for illicitly traded fine-cut tobacco flourishes. In the two Member States that have similar excise level for fine-cut tobacco and cigarettes, i.e. UK and Ireland, fine-cut tobacco is illicitly traded, whereas this is not a common practice in the EU.

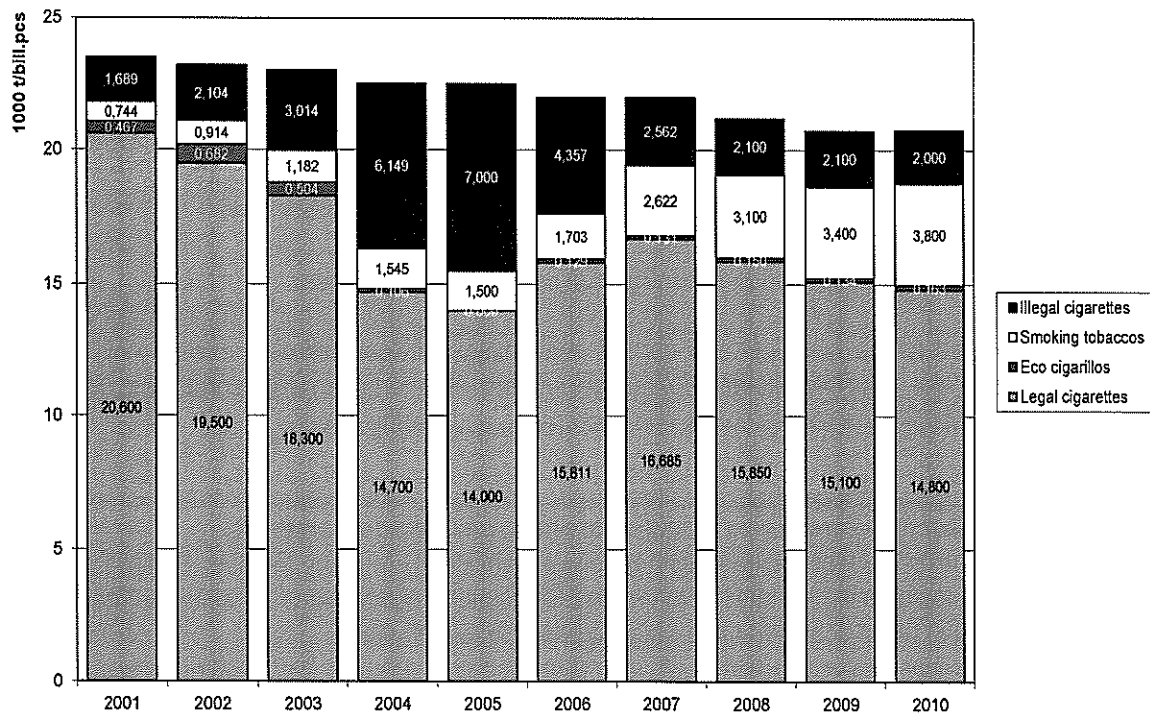
What is a concrete example of fine-cut tobacco’s role as a buffer?

Hungary:

The Hungarian market developments between 2000 and 2005 (see below slide) demonstrate that as a result of excessive excise increases (94.5% in 18 months), the consumption of Hungarian-taxed cigarettes declined with 34%. Consumption of cigarettes for which no Hungarian tax was paid, increased by 205%.

Since 2006, -due to improved law enforcement measures and only moderate excise increases- the legal cigarette market recovered, while the black market for cigarettes decreased significantly. Since then, Hungarian-taxed smoking tobacco has been seen as a standard valid alternative for illegal cigarettes, resulting in a continuous increase of smoking tobacco consumption between 2000 and 2010. The availability of legal smoking tobacco attracted part of the price-sensitive consumers, who otherwise would most likely have had turned to illegal cigarettes without any income for the government. There seems to be no market for smuggled smoking tobacco products as far as a difference in excise rates between fine-cut tobacco and factory-made cigarettes is respected.

Evolution of the total tobacco market in Hungary 2001-2010



Other Countries:

Experiences in other countries confirm the view that moderate taxation of fine-cut tobacco can play an important role in reducing illicit trade and act as buffer between cigarettes and illicit trade:

- In Poland, the tax burden on fine-cut tobacco more than doubled from 2008 to 2011, bringing the level of taxes much closer to cigarettes. During the same period, the market volume of smoking tobacco decreased by around 40%, the share of non-domestic duty paid cigarettes rose from around 10% to 14% (source: KPMG: Project STAR 2011 results).
- In Hungary, where lower fine-cut taxation still is around half of level on cigarettes, the opposite was the case: the share of non-domestic duty paid cigarettes decreased from 9.3% to 4.4% in the same period, whereas the volume of locally taxed smoking tobacco increased by around two-thirds (source: KPMG: Project STAR 2011 results).

