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Committee on Market Access

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**REPLIES BY THE KINGDOM OF SAUDIA ARABIA TO THE QUESTIONS POSED BY
SWITZERLAND REGARDING THE 2017 LEGISLATION ON EXCISE TAX
(G/MA/W/132)**

COMMUNICATION FROM THE KINGDOM OF SAUDI ARABIA

The following communication, dated 24 April 2018, is being circulated at the request of the delegation of the Kingdom of Saudi Arabia.

1. Could Saudi Arabia share it's assessment on the consistency of the excise tax and its modalities with its legal obligations under the WTO?

Response:

The excise Tax is implemented under the decision of the GCC Supreme Council and the provisions of the GCC Common Agreement on Excise Tax as well as under the relevant national law and by-law. It is imposed on all carbonated and energy drinks regardless if they are locally produced or imported as it is clearly laid down in Article (2) of the above-mentioned Common Agreement. Therefore, the Tax system is consistent with GATT Article III (National Treatment).

The Excise Tax does not intend to protect local industry of like products and therefore it is consistent with GATT Article III paragraph 1.

The Excise Tax is not applied to imported like products with higher rate than that imposed to local like products. Therefore, it consists with GATT Article III paragraph 2.

The Excise Tax is not used to provide any preferential treatment to local like products to conform with GATT Article III paragraph 4.

2. Could Saudi Arabia confirm that the taxes referred to above are aimed at reducing the consumption of products containing sugar, notably in view of decreasing the prevalence of diabetes and obesity?

Response:

The Excise Tax was adopted with the aim of protecting human health and environment as it is stated out in Article (3) of the above-mentioned Common Agreement.

The Excise tax is imposed on selective goods containing components that are deemed harmful to human health or the environment, products containing sugar as well as the combination of other components that are deemed harmful to human health are targeted through the Excise Tax.

3. Could Saudi Arabia indicate which criteria have been used to select and define the products subject to the excise tax, i.e. "goods that are deemed harmful to human health and to the environment"?

Response:

The Excise tax is imposed on selective goods and is based on the combination of the product's ingredients that are deemed harmful to human health and to the environment.

4. Could Saudi Arabia indicate the reasons why it has chosen to impose an *ad valorem* excise tax instead of a specific tax based on the volume or on the content of relevant ingredients as recommended by the World Health Organization?

Response:

While the objective of the Excise Tax is to prevent possible harm to human health, the *ad valorem* excise tax impacts better on the consumption of the product because when production, prices or consumption increase the amount paid in taxes rises which is a tool that contributes to the reduction of consumption of such products.

5. Could Saudi Arabia detail which criteria have been applied to determine the level of the tax?

Response:

The difference of the components of the product remains the criteria on which the level of the tax is determined. The GCC Member States are convinced that the components of Energy drinks could have more possible impact on the human health than those of the soft sweetened drinks. Therefore, the GCC Member States have agreed to impose excise tax rates of 50% on soft drinks, and 100% on energy drinks.

6. Could Saudi Arabia explain the reasons why the tax on energy drinks (100%) has been set at twice the level of that for soft drinks (50%), whereas the sugar content is similar in both categories of products?

Response:

The component of the two product are different. In addition to sugar, energy drinks contain other ingredients (such as caffeine, taurine, etc.), which justify the differentiation of the level of the excise tax.

7. Could Saudi Arabia elaborate on the tax suspension in regard of locally produced selective commodities?

Response:

Regarding Tax Suspension, it is worth noting that the provisions of both Articles 5 and 6 of the Excise Tax on Goods Implementing Regulation should be read in conjunction.

"Article 5:

Selective goods are deemed available for consumption and are therefore taxable in the following cases:

1. Imports of selective goods unless they are in a suspended tax position.
2. Production of selective goods outside of tax-suspension status.

Article (6) of the Saudi by Law of the excise tax Law state out that excise tax on selective goods shall be suspended in the following two cases:

- a) Production of selective goods, transformation, possession, storage or receipt of locally produced selective goods by the licensee.
- b) Transfer of selective goods in any of the following cases:

- i. From a tax warehouse in the Kingdom to another tax warehouse in the Kingdom;
 - ii. From a tax warehouse in the Kingdom to a tax warehouse in any Member State;
 - iii. From a tax warehouse in any member country to a tax warehouse in the Kingdom;
 - iv. From a tax warehouse in the Kingdom or in any Member State outside the GCC Region for export - or re-export in accordance with the provisions of the unified customs law(s); and
 - v. Upon importation to a tax warehouse in the Kingdom or any Member State."
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