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Committee on Market Access

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**QUESTIONS FROM SWITZERLAND TO THE KINGDOM OF BAHRAIN, TO
THE KINGDOM OF SAUDI ARABIA AND TO THE UNITED ARAB EMIRATES
REGARDING THE LEGISLATION ON THE SELECTIVE TAX**

COMMUNICATION FROM SWITZERLAND

The following communication, dated 20 September 2018, is being circulated at the request of the delegation of Switzerland.

1 QUESTION FROM SWITZERLAND TO THE KINGDOM OF BAHRAIN

The Excise Tax Treaty for the Cooperation Council for the Arab States of the Gulf forms the common framework for the introduction of excise tax across all six Member States. The treaty constitutes the basis of national Excise Tax legislations by each GCC Member State. Based on this Treaty the Kingdom of Bahrain has adopted Law number (40) for the year 2017 regarding the Excise tax¹, a Ministerial Order No (19) for the year 2017 for issuing the implementation regulations for the law number (40) regarding the Excise tax². The Excise Tax Treaty introduced a selective tax on goods, which are "goods that are deemed harmful to human health and to the environment."³

Energy drinks and carbonated soft drinks are among the goods subject to the excise tax. According to the Bahraini legislation, currently the tax rate for energy drinks is set at 100% of the retail sales price and the one for carbonated soft drinks is set at 50% of the retail sales price.

Switzerland would like to ask the Kingdom of Bahrain to clarify the following aspects:

1. Could Bahrain provide the scientific basis (studies, reports and other relevant material) used to determine the level of the selective tax for energy drinks and carbonated soft drinks?
2. Could Bahrain provide the detailed calculation used to determine the level of the tax in the case of energy drinks and in the case of carbonated soft drinks?
3. Could Bahrain provide an exhaustive list of all ingredients contained in energy drinks that are deemed to be harmful to human health and provide all relevant scientific evidence for such an assessment?
4. Could Bahrain provide an exhaustive list of all ingredients contained in carbonated soft drinks that are deemed to be harmful to human health and provide all relevant scientific evidence for such an assessment?

¹ <https://www.mof.gov.bh/Files/cdoc/FI686-%20قانون%20الضريبة%20الانتقائية%20للسنة%202017.pdf>

² [https://www.mof.gov.bh/Files/cdoc/FI706-%20قرار%20رقم%2017\(20%للسنة%202017%باصدار%20اللائحة%20التنفيذية%20للقانون%20رقم%2040\(20%للسنة%202017%بشأن%20الضريبة%20الانتقائية%20للسنة%202017.pdf](https://www.mof.gov.bh/Files/cdoc/FI706-%20قرار%20رقم%2017(20%للسنة%202017%باصدار%20اللائحة%20التنفيذية%20للقانون%20رقم%2040(20%للسنة%202017%بشأن%20الضريبة%20الانتقائية%20للسنة%202017.pdf)

³ [قرار%20رقم%2017\(20%للسنة%202017%باصدار%20اللائحة%20التنفيذية%20للقانون%20رقم%2040\(20%للسنة%202017%بشأن%20الضريبة%20الانتقائية%20للسنة%202017.pdf](https://www.mof.gov.bh/Files/cdoc/FI706-%20قرار%20رقم%2017(20%للسنة%202017%باصدار%20اللائحة%20التنفيذية%20للقانون%20رقم%2040(20%للسنة%202017%بشأن%20الضريبة%20الانتقائية%20للسنة%202017.pdf)

Published by the General Authority of Zakat and Tax Official website at 6 June 2017 (unofficial English translation).

³ Article 3 :1 of the Excise Tax Treaty.

5. Could Bahrain confirm whether the following beverages are subject to the selective tax? Please indicate the level of the tax for these beverages and the rationale for imposing the tax Ice tea, Sports drinks like Gatorade, fruit juices, fruit nectars, beer without alcohol, wine without alcohol.
6. Does Bahrain, within the GCC framework, foresee to modify the selective tax in the coming months in order to follow the recommendations of the World Health Organization (a specific tax based on the volume or the ingredient content)⁴? Which other amendments do you foresee (i.e. scope of the product coverage)?

2 QUESTIONS FROM SWITZERLAND TO THE KINGDOM OF SAUDI ARABIA

The Excise Tax Treaty for the Cooperation Council for the Arab States of the Gulf forms the common framework for the introduction of excise tax across all six Member States. The treaty constitutes the basis of national Excise Tax legislations by each GCC Member State. Based on this Treaty the Kingdom of Saudi Arabia has adopted an Excise Tax Law⁵, the Excise Tax Implementing Regulation⁶ and the Executive Regulation of Selective Tax Law⁷. The Excise Tax Treaty introduced a selective tax on goods, which are defined as "*goods that are deemed harmful to human health and to the environment.*"⁸

Energy drinks and carbonated soft drinks are among the goods subject to the excise tax. According to the Saudi legislation, currently the tax rate for energy drinks is set at 100% of the retail sales price and the one for carbonated soft drinks is set at 50% of the retail sales price.

Switzerland would like to ask the Kingdom of Saudi Arabia to clarify the following aspects:

1. Could Saudi Arabia provide the scientific basis (studies, reports and other relevant material) used to determine the level of the selective tax for energy drinks and carbonated soft drinks?
2. Could Saudi Arabia provide the detailed calculation used to determine the level of the tax in the case of energy drinks and in the case of carbonated soft drinks?
3. Could Saudi Arabia provide an exhaustive list of all ingredients contained in energy drinks that are deemed to be harmful to human health and provide all relevant scientific evidence for such an assessment?
4. Could Saudi Arabia provide an exhaustive list of all ingredients contained in carbonated soft drinks that are deemed to be harmful to human health and provide all relevant scientific evidence for such an assessment?
5. Could Saudi Arabia confirm whether the following beverages are subject to the selective tax? Please indicate the level of the tax for these beverages and the rationale for imposing the tax.

Ice tea, Sports drinks like Gatorade, fruit juices, fruit nectars, beer without alcohol, wine without alcohol
6. Does Saudi Arabia, within the GCC framework, foresee to modify the selective tax in the coming months in order to follow the recommendations of the World Health Organization (a specific tax based on the volume or the ingredient content)⁹? Which other amendments do you foresee (i.e. scope of the product coverage)?

⁴ WHO, Fiscal policies for diet and prevention of noncommunicable diseases, Technical meeting report, 5-6 May 2015.

⁵ Published by the General Authority of Zakat and Tax on the official Saudi Gazette « Um Al-Qura » at 26 May 2017 (unofficial English translation).

⁶ Published by the General Authority of Zakat and Tax Official website at 6 June 2017 (unofficial English translation).

⁷ Issued under the Board of Directors Resolution No.9-I-2017 (unofficial English translation).

⁸ Article 3 :1 of the Excise Tax Treaty.

⁹ WHO, Fiscal policies for diet and prevention of noncommunicable diseases, Technical meeting report, 5-6 May 2015.

3 QUESTIONS FROM SWITZERLAND TO THE UNITED ARAB EMIRATES

The Excise Tax Treaty for the Cooperation Council for the Arab States of the Gulf forms the common framework for the introduction of excise tax across all six Member States. The treaty constitutes the basis of national Excise Tax legislations by each GCC Member State. Based on this Treaty the United Arab Emirates (UAE) have adopted the Federal Decree-Law no (7) of 2017 on Excise Tax¹⁰, the Cabinet decision No (38) of 2017 on Excise Goods, Excise Tax Rates and the Method of Calculating the Excise Price¹¹. The Excise Tax Treaty introduced a selective tax on goods, which are "*goods that are deemed harmful to human health and to the environment.*"¹²

Energy drinks and carbonated soft drinks are among the goods subject to the excise tax. According to the UAE legislation, currently the tax rate for energy drinks is set at 100% of the retail sales price and the one for carbonated soft drinks is set at 50% of the retail sales price in principle.

Switzerland would like to ask the UAE to clarify the following aspects:

1. Could UAE provide the scientific basis (studies, reports and other relevant material) used to determine the level of the selective tax for energy drinks and carbonated soft drinks?
2. Could UAE provide the detailed the calculation used to determine the level of the tax in the case of energy drinks and in the case of carbonated soft drinks?
3. Could UAE provide an exhaustive list of all ingredients contained in energy drinks that are deemed to be harmful to human health and provide all relevant scientific evidence for such an assessment?
4. Could UAE provide an exhaustive list of all ingredients contained in carbonated soft drinks that are deemed to be harmful to human health and provide all relevant scientific evidence for such an assessment?
5. Could the UAE confirm whether the following beverages are subject to the selective tax?

Ice tea, Sports drinks like Gatorade, fruit nectars, beer without alcohol, wine without alcohol
6. Does the UAE, within the GCC framework, foresee to modify the selective tax in the coming months in order to follow the recommendations of the World Health Organization (a specific tax based on the volume or the ingredient content) ¹³? Which other amendments do you foresee (i.e. scope of the product coverage)?

¹⁰ unofficial English translation: Ministry of finance website:
<https://www.mof.gov.ae/en/lawsAndPolitics/qovLaws/Documents/Federal%20Decree-Law%20No.7%20of%202017%20on%20Excise%20Tax.pdf>

¹¹ unofficial English translation: Ministry of finance website:
[https://www.mof.gov.ae/en/lawsAndPolitics/CabinetResolutions/Documents/Cabinet%20Decision%20No%20\(38\)%20of%202017%20on%20Excise%20Goods,%20Rates%20and%20Excise.pdf](https://www.mof.gov.ae/en/lawsAndPolitics/CabinetResolutions/Documents/Cabinet%20Decision%20No%20(38)%20of%202017%20on%20Excise%20Goods,%20Rates%20and%20Excise.pdf)

¹² Article 3 :1 of the Excise Tax Treaty.

¹³ WHO, Fiscal policies for diet and prevention of noncommunicable diseases, Technical meeting report, 5-6 May 2015.