



EUROPEAN COMMISSION
 DIRECTORATE-GENERAL
 TAXATION AND CUSTOMS UNION
 Indirect Taxation and Tax administration
Indirect taxes other than VAT

Brussels, 2017
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MEETING REPORT

- 1. Subject** **Memorandum outlining a fair, focused and effective tax on borderline cigarillos**
- 2. Date and Place** 12 December 2016, Brussels
- 3. Participants** DG TAXUD: [REDACTED]
 PA International: [REDACTED]
 [REDACTED]
 AKD: [REDACTED]

4. Summary of the discussion

PA International requested a meeting to present a memorandum prepared by AKD concerning borderline cigarillos and taxation (see attached). In the memorandum AKD outlined what in their view a fair, focused and effective tax on borderline cigarillos would be. TAXUD mentioned the borderline products in the Inception Impact Assessment, as it was one of the issues highlighted in the Ramboll evaluation report.

Currently cigars and cigarillos are considered as one category for taxation purposes in Directive 2011/64/EU. Therefore it is not possible to apply different rates. Borderline products have been introduced to the market with the specific aim of being classified in a product category with a lower excise duty rate compared to competing products.

Tobacco products could be considered as borderline products if they fulfil the minimum criteria for one excise tax category but their classification is disputed or called into question by tax authorities on the basis of their properties and normal consumer expectations; for example a product which fulfils the requirements of the definitions to be classified as cigar/cigarillo in order to benefit the preferential rate of this category while being in essence a cigarette substitute. Such borderline products might cause a reduction of revenue, distortion of competition. The difference in rates between excise duty categories can lead to an undesirable substitution of higher taxed products by lower taxed products.

PA International believes that the option as suggested by Ramboll, to align the rates for cigars/cigarillos with the rates on cigarettes, would damage the interests of the traditional cigarillos and cigars industry. Therefore, they requested prof. Rene van der Paardt to formulate a regulatory option that meets the concerns of NGOs, while safeguarding public health and tax revenue. Summarized, the suggestion of AKD is to introduce an Additional Prevention Tax (APT), which foresees in an additional excise duty on products of the

cigar/cigarillo category with a retail selling prices below the retail selling price of the cheapest cigarettes representing 1% of the market share in a given Member State. This would remove the incentive for producers to bring cheap borderline products on the market.

TAXUD explained that the first step in the Impact Assessment is to quantify if the problem of borderline products (lower revenue, distortion of competition) still exists and what the magnitude of the problem is. After this, it will be decided if a solution is necessary and what kind of option is suitable.

PA international mentioned their experience with elite stakeholder consultations. They would be prepared to share their questionnaire concerning borderline products with TAXUD if this is considered to be useful. TAXUD informed PA international that currently a public consultation is carried out, including the subject of borderline cigarillos. It will be mentioned to the consultant, Economisti Associati, that PA International has the possibility to provide contacts with NGOs, academics, governments and industry concerning borderline cigarillos if necessary.

Report by: [REDACTED]

c.c.: [REDACTED], TAXUD LIST C2