ROLE OF WHO IN SOUTH AFRICA SSB TAX INITIATIVE

Tomas Roubal

With the support of the Department for International Development, United Kingdom
BACKGROUND

Over half of South Africa’s adults are overweight and obese with 42% of women and 13% of men obese. The National Department of Health (NDoH) published in 2013 Strategic Plan for the Prevention and Control of NCDs 2013 – 2017 which includes specific goals, including 10% reduction of people who are obese and/or overweight by 2020. It listed cost-effective interventions to be implemented by the Government, including fiscal measures. On top of this Strategic plan NDoH published National Strategy for the Prevention and Control of Obesity 2015 – 2020 where taxation of sugar content in beverages is also referenced. Research by local universities led by the Wits University (e.g. Hofman et al. 2014 or Manyema et al. 2014 or Manyema et al 2016) showed that weight gain from excess sugar consumption mainly stems from sugary beverages and high caloric energy dense foods and that SSB tax would decrease consumption of SSBs significantly.

South Africa is member of the Southern African Customs Union which includes 5 countries - Botswana, Lesotho, Namibia, South Africa and Swaziland. The customs union unifies import duties and excise taxes, collects duties on local production and customs duties on members’ imports from outside SACU into a common pool and redistributes them among its members. SACU revenue constitutes a substantial share of the state revenue of the SACU countries. Levies on specific products in South Africa are not part of the common pool. In South Africa this requires amendment of the Customs and Excise Act (Act 91 of 1964) by the act of Parliament, which predefines the consultation and legislative process.

The main aim of the introduction of SSB tax was to decrease sugar consumption and thus is was called “Health promotion levy”. The design of the tax incentivizes producers to show the sugar content on the label and to reformulate products by taxing sugar content proportionally to its volume. The tax structure was adapted to reduce potential negative impact on jobs after an extensive consultation. National Treasury committed (non-binding commitment) to use some of the revenue to support the health sector. The SSB tax has been always promoted as one of wider spectrum of intervention which have maximum impact on population behaviour when implemented together, as suggested by the Strategic Plan for the Prevention and Control of NCDs.

THE STAKEHOLDER INVOLVEMENT

The capacity of the National Treasury to design a SSB tax and the knowledge of WHO of the administrative and consultation process is essential in providing effective support. The expertise at the Tax unit in the National Treasury is very strong after developing excise taxes on tobacco and alcohol and long term discussion with these industries usually supported by local researchers and academic institutions. During the 1990s South Africa put in place strong regulatory framework for tobacco control including high excise taxes. In 2015 a review document on alcohol taxation was published by National Treasury. WHO actively contributed to

1 https://extranet.who.int/ncdccs/Data/ZAF_B3_NCDs_STRAT_PLAN_1_29_1_3[2].pdf
3 http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0105287
the consultation and organized training on alcohol excises in collaboration with local universities which developed evidence on the impacts of alcohol use and misuse. This further strengthened the skills at National Treasury and established working relationship between national policy makers, local researchers and WHO. When the policy document on SSB taxes was prepared, WCO knew the process and how to best engage with it.

The strong skills and knowledge at the National Treasury can be illustrated by the economic modelling exercise they conducted to estimate the impact of the SSB tax. NT estimated the socio-economic impact of the SSB tax based on a detailed analysis of the existing market, the demand changes, size of the beverage market in the economy and the socio-economic characteristics of the consumers. NT used Computable General Equilibrium analysis calibrated to a 2012 social accounting matrix. To estimate changes in the demand for SSBs they calculated price and income elasticities, including the cross-price elasticities in case of substitution of SSB to milk or other drinks (applying double-log model using ordinary least square method). Although the estimation of price and cross elasticities would not maybe withstand the scrutiny of a peer reviewed research/article, it provided NT with its own and thus “unbiased” analysis.

**Figure: Own, cross-price and income elasticities estimated by National Treasury model**

<table>
<thead>
<tr>
<th>Own, Cross price &amp; income elasticities</th>
<th>Carbonates Disposable household income</th>
<th>100% juice</th>
<th>Carbonates Disposable household income</th>
<th>Low calorie cola carbonates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Elasticity</td>
<td>-0.77*</td>
<td>0.85*</td>
<td>0.93*</td>
<td>-0.59*</td>
</tr>
<tr>
<td>p-value</td>
<td>0.00*</td>
<td>0.00*</td>
<td>0.00*</td>
<td>0.00*</td>
</tr>
<tr>
<td>t-value</td>
<td>-4.81**</td>
<td>4.49**</td>
<td>2.75**</td>
<td>-3.81**</td>
</tr>
<tr>
<td>Adjusted R-squared</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The National Department of Health (NDoH) used international and SA specific evidence to advocate for the Health Promotion Levy (HPL) and contributed significantly to the consultation process and supported the National Treasury in the media. NDoH’s mandate and experiences were limited in the discussions on the economic impact of the SSB tax and focused on the health benefits of the tax for the population. NDoH also drafted potential investment cases with support from local university (Wits) for which the revenues from SSB tax could be used to tackle non-communicable diseases and advocated for a “non-binding commitment” to which the National Treasury notionally consented.

The SSB tax industry was able to harness different groups in the society to lobby against the SSB tax. Although only one international company controls the SSBs market in South Africa they did not actively participate in public discussions, and were represented by the “industry association” and other representatives of the society. During the public consultation process various stakeholders voiced their discontent from potential investors into phosphate mining, to

---


7 Someone claimed that the SSB tax will prevent the investor from mining phosphates which were planned to be supplied to fruit farmers whose products will be taxed
producers of sugar\textsuperscript{8} and fruits\textsuperscript{9}, as well as a pro-market lobby\textsuperscript{10}. The industry hired consultant groups\textsuperscript{11} who succeeded in communicating their stories and messages in business-friendly media. Their perspectives were further supported by local and international experts\textsuperscript{12} funded by industry quoting the negative impact of SSB tax\textsuperscript{13}. The main industry claims during the process were as follows:

- The proposed SSB tax will cause significant economic harm
- Industry-led measures and self-regulation have successfully delivered significant health benefits.
- South Africa first needs to conduct a dietary intake study before it can implement an SSB tax\textsuperscript{“}
- Sugary drinks account for just 3 percent of daily calorie intake in South Africa
- We cannot compare other country experiences with South Africa.
- because SA has different elasticities and a more labour intensive supply chain

The media communication was driven by industry against the SSB tax with limited ability or capacity of WHO to respond to their claims. The local researchers and NGOs not funded by the industry were the main advocates of the benefits of the SSB tax. In addition, funding from Bloomberg Philanthropies to strategic NGOs\textsuperscript{14} allowed for a limited, but effective counter-campaign to be launched which highlighted harm of SSBs as well as directly advocated for the SSB tax. WHO’s position was often quoted as the argument for the tax, but WHO did not have capacity, experience or skills to influence the public discussion. As the tax was perceived as an economic instrument, WHO was not considered by the media as the relevant contributor to the discussion. Its role was restricted to commenting on the health effects, not on the tax structure, impact on jobs or the economy.

Labour unions were drawn into the discussion by the industry’s claims on large negative impact of the SSB tax on employment and economic growth of the country. Consultation with labour unions shifted the topic of the discussion from health benefits to economic harms in line with the industry claims. The position of labour unions can be described by the statement of the SAFTU general secretary – “the tax should not attain good health at the expense of jobs in the sector.”\textsuperscript{25}

**THE ROLE OF WORLD HEALTH ORGANIZATION**

The World Health Organization supports the Government of South Africa by providing technical assistance to health financing reform as well as to various programmatic areas including the non-communicable diseases. WHO is perceived as unbiased, independent stakeholder with evidence based proposals of public policies towards Universal Health Coverage. WHO contributed by providing written and oral submission during the public consultation process organized by the National Treasury, as well as oral presentation in the Parliament during the

\begin{footnotesize}
8 Heavily concentrated in one province in South Africa, producing sugar cane and supplying international markets, represented often by small holder black farmers rather than large industrial producers
9 Actively lobbying to exclude fruit juices from the SSB tax
10 The Free market foundation is a staunch long-term critique of any excise taxes or government interventions in general
11 Some research groups did not publicly acknowledge the funding from industry, thus risking their reputation
12 James Rippe appeared at NT stakeholder workshop and during the Parliamentary hearings
14 See for example – http://heala.org/
\end{footnotesize}
hearings of the Finance Standing committee. It also provided background information to the government of South Africa on international evidence and experiences as and when requested. The WCO and regional office were involved in the preparation of the written and oral submissions and the WHO HQ provided background documents and feedback to the submission. WHO HQ experts directly participated in the Parliamentary hearings together with the WCO. All submissions were well received by the government, but usually represented a lone voice supporting the government echoed only by few local NGOs and researchers. The main contributions of WHO to the SSB tax introduction process included:

- Developing evidence to inform policy makers – evidence on the NCD burden of diseases and impact of risk factors on obesity causing many non-communicable diseases
- Normative guidelines – global sugar consumption guidelines (and nutrition in general)
- Convening experts and policy makers – NCD best buys and experts technical briefs
- Advocacy role for health improvement – collaboration with local NGOs and universities and media engagement
- Technical assistance – support in developing NCD Strategy, Obesity strategy, SSB tax impact modelling in cooperation with local researchers

In the SSB tax discussion mostly the country and global levels of WHO were involved. Within the country office the health economist and the NCD technical officer collaborated with National Department of Health and with the National Treasury as the SSB tax lies within their remit. Previous engagement with the excise tax department on tobacco and alcohol established good working relationship where WHO is a recognized “interested” party providing evidence and pushing for introduction or increase of excise taxes as an important public health policy. The Global level was providing WCO with expert information, country experiences and finally was involved in the presentation to the Parliament. The SSB tax topic is new to the agenda and South Africa is first country to request such support in the AFRO region.

The global evidence of NCD Best buys influenced the SSB tax, but local evidence and technical analysis proved decisive in supporting the government’s agenda. The national strategy to combat NCDs16 and was based on international evidence and experience in cost-effectiveness of fiscal measures, listing food taxes on unhealthy foods high in fats and sugar in combination with subsidies on healthy food. Information from modelling of various policies was provided in 201017 were one of the main arguments for its inclusion in the Strategy. Whereas the international evidence was not so much contested by the industry stakeholders, it was regarded as less relevant when deliberating about the specifics of implementation. Policy makers preferred to use local research results which reflect on the socio-economic situation18.

WHO is limited by its mandate which was limiting especially until April 2017 when SSB tax was not included in the NCD “best buys”. The WHO’s mandate in the area of sugar consumption were the global guidelines for overall sugar consumption19 and prevention of children obesity20. When the SSB tax was introduced, WHO did not have any mandate from the World Health Assembly to advocate for SSB taxes and the responses and support provided by WHO was thus in many respects limited by this fact. Technical recommendation of 20% of the price increase with the first in country analysis by PRICELESS SA21 was very helpful as a reference level which

16 Strategic plan for the prevention and control of non-communicable diseases 2013-17, URL
[https://extranet.who.int/ncdccs/Data/ZAF_B3_NCDs_STRAT_PLAN_1_29_1_3[2].pdf]
18 impact on disadvantaged groups, economic growth and employment
19 WHO Global Strategy on Diet, Physical Activity and Health
20 Report of the commission on ending childhood obesity
21 http://www.pricelesssa.ac.za/
was also used by the Policy document. The National Treasury and other “economic” stakeholders are often not aware of South African international commitments or do not perceive them as a reason to introduce new policies.

WHO together with OECD updated the estimates of SSB tax based on the model published in 2010. This modelling complemented the existing published research simulating the health impacts of SSB taxes in South Africa and the socio-economic model used by the National Treasury to estimate the impact on the economy (consumption, revenue, job market etc.) by providing estimates of the number of deaths prevented or disability life years.

Lacking expertise or information requested by the Government was contracted from OECD who modelled the impact of SSB tax using the South African data and evidence. Estimates of the impact of SSB tax was updated by OECD using the most recent international and local evidence. In close collaboration with local university and experts and extensive engagement with the National Treasury, WHO collaborated with OECD which prepared the estimates of life saved and disability prevented through the introduction of SSB tax. The OECD modelled several tax rates as requested by the policy makers with the same inputs as were used by their socio-economic model. The 12% SSB tax SSB would reduce of obesity in the whole population and save 3500 lives every year. A 20% tax would save nearly 100 000 lives over next 10 years. SSB tax would also save the public sector expenditures on health and social care. This would save not only to R700 million in healthcare costs, but would decrease household expenditures for medicines and transport to health facilities and decreasing medical scheme contributions.

THE PROCESS OF INTRODUCTION OF SSB TAX IN SOUTH AFRICA

The process of introducing the SSB tax followed standard consultation process by National Treasury, from the announcement by the Minister of Finance, consultation of a policy document, to parliamentary consultation on the legislation. Minister of Finance announced in his “budget speech” in February 2016 the intention to implement SSB tax since April 2017 to help reduce excessive sugar intake. The public consultation process started in July 2016 when National Treasury published a policy paper where the SSB tax rate was in line with the WHO recommendation (20% tax rate). As WHO makes no recommendations on tax structures with respect to SSBs NT had to use international evidence to support its proposal on the tax structure. WHO together with other stakeholders submitted their position (more than 135 written comments were received).

WHO’s role was highly regarded by the National Treasury. There was no other UN agency or IGO (e.g. World Bank, IMF or UNDP) that had the interest, capacity, expertise or experience to provide National Treasury with the independent technical advice that WHO did.

National Treasury organized a public consultation hearing where many stakeholders, including the advocates of the SSB tax, presented their written submissions. WCO publicly supported the proposed SSB tax during the hearings. On February 22, 2017, National Treasury published the Draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill for public comments.

---

23 There is some experimentation on tax structures on SSBs, with Mexico implementing a uniform specific tax, the UK a tiered specific tax and SA a dose tax, with both SA and the UK using sugar content thresholds
After the public comments to which WHO also contributed the legislation was tabled in the Parliament and discussed jointly by the Standing Committee on Finance and Portfolio Committee on Health (SCOF). WHO participated in the first Parliamentary hearing, supporting the introduction of the SSB tax. There have been a number of further hearings held by the SCOF where WHO was not present.

The Parliamentarians had considered four main issues in relation to the SSB tax: “The impact on job losses, the impact on small African emerging farmers, what the Department of Health is doing to create awareness about the dangers of sugary drinks and how the levy can be used to address obesity.”

During the Parliamentary hearing the stakeholders from industry succeeded in referring the discussion to the National Economic Development and Labour Council (Nedlac) as the industry experts claimed that the SSB tax “will cost between 62000-72000 jobs and slash the GDP by R14 billion”. WHO was not invited and did not participate in the meeting of labour unions, government and employers, where industry claimed job losses across the value chain would number about 24,000, with 1,795 permanent and 2,835 seasonal jobs being lost in sugarcane farming. Labour union federation estimate was that about 7,000 jobs would be lost due to the SSB tax. Nedlac was working on a mitigation strategy to limit the effects of the proposed levy on sugary beverages on jobs and on the sugar industry as a whole.

PROPOSED SSB TAX AND TAX STRUCTURE

In their initial policy document National Treasury suggested to tax beverages that contain added caloric sweeteners or fruit-juice concentrates and exempt unsweetened milk and milk products and 100 % fruit juices. The tax should be based on the sugar content and proposes 2.29 cent per gram of sugar based on the current product labelling. In case the producer does not apply nutritional labelling a higher tax was proposed to incentivize labelling of products until mandatory labelling legislative framework is put in place. The duty-at-source was proposed to ease the administration of the tax collection. After the consultation process the draft legislation included reduction of the sugar tax to 2.1c per gram of sugar, and that the tax will now only apply to sugar content over a 4g per 100ml threshold.

The main discussion points were on the products to be taxed, the tax rate and the tax structure. Various product groups were advocating for exemption from the tax, most vocal were fruit juice producers and local producers of concentrates. International evidence does not support the inclusion of fruit juices which are also in general perceived as “healthy”, although the local researchers showed the high sugar content in these beverages. Concentrates were specifically mentioned during the parliamentary hearings. Such drinks which are mixed with water are a significant source of sugar in the diet of South Africans, and the proportional tax rate would increase the unit price of a product prohibitively. Although the tax rate was proposed at the 20%
of price per sugar content, the industry advocated for a “single digit” tax, which was finally proposed by introducing a threshold of sugar content which is not taxed.

National Treasury estimated that the revenues from the SSB tax could amount to R11 bil (0.9 bil USD) annually but rejected earmarking this to health as “unsound fiscal policy”. “The sugar tax is being proposed to reduce the rates of obesity but a welcome side-effect is that it will generate revenue. The Minister said he would support a proposal to see all or a portion of this put into the health system and be used for health promotion,” said Yogan Pillay, deputy director general for the National Department of Health. Treasury plans to will work with NDoH to find how best to allocate these funds “through the normal budget process for programmes to fight NCDs.”

The Standing Committee on Finance voted on 7 November to adopt the Rates and Monetary Amounts and Amendment of the Revenue Laws Bill, which includes the Health Promotion Levy. The National Assembly and the National Council of Provinces have to approve the Bill before the SSB tax can be implemented in April 2018.

---
