EUROPEAN COMMISSION
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs
Single Market Enforcement
Notification of Regulatory Barriers

Message 115

Communication from the Commission - TRIS/(2023) 3102

Directive (EU) 2015/1535

Notification: 2023/0490/BE

Forwarding of a detailed opinion received by a Member State (Bulgaria) (article 6, paragraph 2, second indent of Directive (EU) 2015/1535). This detailed opinion extends the standstill period until 08-02-2024.

Detailed opinion - Avis circonstancié - Ausführliche Stellungnahme - Подробно становище - Podrobné stanovisko - Udførlig udtalelse - Εμπεριστατωμένη γνώμη - Dictamen circunstanciado - Üksikasjalik arvamus - Yksityiskohtainen lausunto - Detaljno mišljenje - Részletes vélemény - Parere circostanziato - Išsamiai išdėstyta nuomonė - Sīki izstrādāts atzinums - Opinjoni dettaljata - Uitvoerig gemotiveerde mening - Opinia szczegółowa - Parecer circunstanciado - Aviz detaliat - Podrobné stanovisko - Podrobno mnenje - Detaljerat yttrande

Extends the time limit of the status quo until 08-02-2024. - Prolonge le délai de statu quo jusqu'au 08-02-2024.- Die Laufzeit des Status quo wird verlängert bis 08-02-2024.- Удължаване на крайния срок на статуквото до 08-02-2024. - Prodlužuje lhůtu současného stavu do 08-02-2024. - Fristen for status quo forlænges til 08-02-2024. - Παρατείνει την προθεσμία του status quo 08-02-2024. - Amplía el plazo de statu quo hasta 08-02-2024. - Praeguse olukorra tähtaega pikendatakse kuni 08-02-2024. - Jatkaa status quon määräaikaa 08-02-2024 asti. - Produžuje se vremensko ograničenje statusa quo do 08-02-2024. - Meghosszabbítja a korábbi állapot határidejét 08-02-2024-ig. - Proroga il termine dello status quo fino al 08-02-2024. - Status quo terminas pratęsiamas iki 08-02-2024. - Pagarina “status quo” laika periodu līdz 08-02-2024. - Jestendi t-terminu tal-istatus quo sa 08-02-2024. - De status-quoperiode wordt verlengd tot 08-02-2024. - Przedłużenie status quo do 08-02-2024. - Prolonga o prazo do statu quo até 08-02-2024. - Prelungește termenul status quo-ului până la 08-02-2024. - Predlžuje sa lehota súčasného stavu do 08-02-2024. - Podaljša rok nespremenjenega stanja do 08-02-2024. - Förlänger tiden för status quo fram till 08-02-2024.

The Commission received this detailed opinion on the 08-11-2023. - La Commission a reçu cet avis circonstancié le 08-11-2023. - Die Kommission hat diese ausführliche Stellungnahme am 08-11-2023 empfangen. - Комисията получи настоящото подробно становище относно 08-11-2023. - Komise obdržela toto podrobné stanovisko dne 08-11-2023. - Kommissionen modtog denne udførlige udtalelse den 08-11-2023. - Η Επιτροπή έλαβε αυτή την εμπεριστατωμένη γνώμη στις 08-11-2023. - La Comisión recibió el dictamen circunstanciado el 08-11-2023. - Komisjon sai üksikasjaliku arvamuse 08-11-2023. - Komissio sai tämän yksityiskohtaisen lausunnon 08-11-2023. - Komisija je zaprimila ovo detaljno mišljenje dana 08-11-2023. - A Bizottság 08-11-2023-án/-én kapta meg ezt a részletes véleményt. - La Commissione ha ricevuto il parere circostanziato il 08-11-2023. - Komisija gavo šią išsamiai išdėstytą nuomonę 08-11-2023. - Komisija saņēma šo sīki izstrādāto atzinumu 08-11-2023. - Il-Kummissjoni rċeviet din l-opinjoni dettaljata dwar il-08-11-2023. - De Commissie heeft deze uitvoerig gemotiveerde mening op 08-11-2023 ontvangen. - Komisja otrzymała tę opinię szczegółową w dniu 08-11-2023. - A Comissão recebeu o presente parecer circunstanciado em 08-11-2023. - Comisia a primit avizul detaliat privind 08-11-2023. - Komisia dostala toto podrobné stanovisko dňa 08-11-2023. - Komisija je to podrobno mnenje prejela dne 08-11-2023. - Kommissionen mottog detta detaljerade yttrande om 08-11-2023. - Fuair an Coimisiún an tuairim mhionsonraithe sin maidir le 08-11-2023.

MSG: 20233102.EN

1. MSG 115 IND 2023 0490 BE EN 08-02-2024 08-11-2023 BG DO 6.2(2) 08-02-2024

2. Bulgaria

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4. 2023/0490/BE - S20E - Waste

5. article 6, paragraph 2, second indent of Directive (EU) 2015/1535

6. The aim of the draft Belgian Cooperation Agreement is to establish a national legislative framework with regard to certain waste streams subject to extended producer responsibility, as provided for in Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment. However, the scope of the Belgian project does not comply with the requirements of Directive (EU) 2019/904 and also constitutes a potential obstacle to the smooth functioning of the EU internal market.
The Belgian draft legislation requires manufacturers and importers of tobacco products with filters to pay Extended Producer Responsibility (EPR) fees, whether or not the products have a filter and, accordingly, whether they contain plastic or not. This is not in line with Articles 7 and 8 of Directive (EU) 2019/904, which require measures to reduce the consumption of and market constraints for products containing plastic. Moreover, recital 16 of Directive (EU) 2019/904 explicitly states that "Innovation and product development are expected to provide viable alternatives to filters containing plastic and need to be accelerated. Extended producer responsibility schemes for tobacco products with filters containing plastic should also encourage innovation leading to the development of sustainable alternatives to tobacco product filters containing plastic. Member States should promote a wide range of measures to reduce litter from post-consumption waste of tobacco products with filters containing plastic.”. In general, Directive (EU) 2019/904 aims to promote the development and use of available and more sustainable alternatives to plastic products.
As a result of the Belgian legislative proposal, investments in research and development for plastic-free tobacco filter solutions, as well as their potential production, will be rendered meaningless and severely affected. By not distinguishing whether tobacco products are filtered, contain plastic or not, the Belgian proposal also creates potential future obstacles to the introduction of goods on the Belgian market and the unimpeded movement of goods within the EU, which would lead to an infringement of Article 34 of the Treaty on the Functioning of the European Union, prohibiting national measures having the effect of similar to quantitative restrictions on imports. Imposing the same amount and disproportionate levies on both plastic-containing and non-plastic tobacco products with filters makes huge investments in developing sustainable alternatives – plastic-free filters, meaningless – and the prices of tobacco products with non-plastic filters will be uncompetitive to those with current cellulose acetate filters. This will create conditions for unfair competition and failure to achieve the objectives of Directive (EU) 2019/904.
In conclusion, we consider that a Belgian draft law to be adopted contains provisions that are not in line with the provisions and main objectives of Directive (EU) 2019/904, they are disproportionate and pose a serious risk of unjustified obstacles to the free movement of goods in the internal market and distortion of competition. It is important to note that though each Member State is free to decide how to transpose the Directive into its national legislation, the EU regulatory framework aims to harmonise the rules, ensure transparent and efficient application of European rules, and ensure proportionate legislative acts, as an objective of the Better Regulation agenda.

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European Commission
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