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) 3125

Directive (EU) 2015/1535

Notification: 2023/0490/BE

Forwarding of a detailed opinion received by a Member State (Slovakia) (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.

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

2. Slovakia

3A. Úrad pre normalizáciu, metrológiu a skúšobníctvo SR
Odbor skúšobníctva a európskych záležitostí

Centrálna jednotka pre smernicu (EÚ) 2015/1535
P. O. Box 76
Štefanovičova 3
810 05 Bratislava 15
2015.1535@normoff.gov.sk

3B. Ministerstvo životného prostredia Slovenskej republiky
Námestie Ľudovíta Štúra 1
812 35 Bratislava
Telefón: +421 2 59562206;
Email: gabriela.svedlarova@enviro.gov.sk

4. 2023/0490/BE - S20E - Waste

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

6. The Belgian draft legislation was published in the TRIS database of the European Commission on 7 August 2023 under notification number 2023/0490/BE (Belgium) under the notification procedure under Directive 1535/2015/EU to inform Member States and the EU. The purpose of the draft Belgian cooperation agreement is to establish a national framework for certain waste streams covered by extended producer responsibility as set out in Directive (EU) 2019/904 on single-use plastic products.
The Slovak Republic submits the following detailed opinion on the matter.
The scope of the Belgian draft is not in line with Directive (EU) 2019/904 and also poses potential obstacles to the smooth functioning of the EU internal market.
Recital 16 of Directive (EU) 2019/904 explicitly states: '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.'. In general, Directive (EU) 2019/904 aims to promote the development and use of available and more sustainable alternatives instead of plastic products.
In the light of the above, we consider that the draft Belgian national law to be adopted contains provisions that do not comply with the provisions of Directive (EU) 2019/904 are disproportionate, with a serious risk of creating unjustified obstacles to the free movement of goods in the internal market and distorting competition. The Belgian draft cooperation agreement requires manufacturers and importers of filtered tobacco products to pay extended producer responsibility fees, regardless of whether the products contain plastic or not. This is not in line with Articles 7 and 8 of Directive (EU) 2019/904, which require measures to reduce consumption and restrict the market depending on the content of plastics.
By not distinguishing between filters on the basis of their plastic content, the Belgian draft may unintentionally infringe Article 34 of the Treaty on the Functioning of the European Union (TFEU), which prohibits measures which have similar consequences to quantitative restrictions on imports. This approach creates potential obstacles to the unrestricted movement of goods within the EU. In the accompanying recital of the Belgian TRIS Notice 2023/0490/BE, the Belgian Government even acknowledges the extension of the scope of products to be covered by Directive (EU) 2019/904, on the grounds that this will avoid discrimination between producers of packaging materials containing plastics and those that do not. However, this argument is not sufficient as other packaging waste materials in Belgium are already subject to pre-existing EPR requirements under the transposed Packaging Waste Directive and the addition of non-plastic packaging to the scope of transposition of the SUP Directive is not in line with its stated objective. The Belgian Government’s intention to add non-plastic packaging to the transposition of Directive (EU) 2019/904 as part of the declared objective of preventing discrimination unintentionally creates a legislative overlap. This obscures the clear definition established by the Packaging Waste Directive, leading to potential confusion and regulatory problems for businesses. It essentially creates a superfluous layer of legislation for non-plastic packaging already regulated in Belgium by the Packaging Waste Directive.
For example, Hungarian manufacturing of plastic-free tobacco product filters and related exports are also negatively affected by the adoption of the Belgian draft legislation, as companies based in Hungary have already invested significantly in research and development of plastic-free solutions for tobacco filters. For this reason, we consider it

necessary to deliver a detailed opinion and request that Belgium amend those provisions in order to comply with the objectives set out in Directive (EU) 2019/904, as well as with the fundamental principles of free movement of goods and free competition.
The Belgian authorities are invited to consider the Slovak detailed opinion and it is proposed that the text of the draft Belgian cooperation agreement be amended.

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European Commission
Contact point Directive (EU) 2015/1535
email: grow-dir2015-1535-central@ec.europa.eu