Message 115

Communication from the Commission - TRIS/(2026) 1950

Directive (EU) 2015/1535

Notification: 2026/0223/PL

Forwarding of a detailed opinion received by a Member State (Sweden) (article 6, paragraph 2, second indent of Directive (EU) 2015/1535). This detailed opinion extends the standstill period until 06-11-2026.

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 06-11-2026. - Prolonge le délai de statu quo jusqu'au 06-11-2026.- Die Laufzeit des Status quo wird verlängert bis 06-11-2026.- Удължаване на крайния срок на статуквото до 06-11-2026. - Prodlužuje lhůtu současného stavu do 06-11-2026. - Fristen for status quo forlænges til 06-11-2026. - Παρατείνει την προθεσμία του status quo 06-11-2026. - Amplía el plazo de statu quo hasta 06-11-2026. - Praeguse olukorra tähtaega pikendatakse kuni 06-11-2026. - Jatkaa status quon määräaikaa 06-11-2026 asti. - Produžuje se vremensko ograničenje statusa quo do 06-11-2026. - Meghosszabbítja a korábbi állapot határidejét 06-11-2026-ig. - Proroga il termine dello status quo fino al 06-11-2026. - Status quo terminas pratęsiamas iki 06-11-2026. - Pagarina “status quo” laika periodu līdz 06-11-2026. - Jestendi t-terminu tal-istatus quo sa 06-11-2026. - De status-quoperiode wordt verlengd tot 06-11-2026. - Przedłużenie status quo do 06-11-2026. - Prolonga o prazo do statu quo até 06-11-2026. - Prelungește termenul status quo-ului până la 06-11-2026. - Predlžuje sa lehota súčasného stavu do 06-11-2026. - Podaljša rok nespremenjenega stanja do 06-11-2026. - Förlänger tiden för status quo fram till 06-11-2026.

The Commission received this detailed opinion on the 16-07-2026. - La Commission a reçu cet avis circonstancié le 16-07-2026. - Die Kommission hat diese ausführliche Stellungnahme am 16-07-2026 empfangen. - Комисията получи настоящото подробно становище относно 16-07-2026. - Komise obdržela toto podrobné stanovisko dne 16-07-2026. - Kommissionen modtog denne udførlige udtalelse den 16-07-2026. - Η Επιτροπή έλαβε αυτή την εμπεριστατωμένη γνώμη στις 16-07-2026. - La Comisión recibió el dictamen circunstanciado el 16-07-2026. - Komisjon sai üksikasjaliku arvamuse 16-07-2026. - Komissio sai tämän yksityiskohtaisen lausunnon 16-07-2026. - Komisija je zaprimila ovo detaljno mišljenje dana 16-07-2026. - A Bizottság 16-07-2026-án/-én kapta meg ezt a részletes véleményt. - La Commissione ha ricevuto il parere circostanziato il 16-07-2026. - Komisija gavo šią išsamiai išdėstytą nuomonę 16-07-2026. - Komisija saņēma šo sīki izstrādāto atzinumu 16-07-2026. - Il-Kummissjoni rċeviet din l-opinjoni dettaljata dwar il-16-07-2026. - De Commissie heeft deze uitvoerig gemotiveerde mening op 16-07-2026 ontvangen. - Komisja otrzymała tę opinię szczegółową w dniu 16-07-2026. - A Comissão recebeu o presente parecer circunstanciado em 16-07-2026. - Comisia a primit avizul detaliat privind 16-07-2026. - Komisia dostala toto podrobné stanovisko dňa 16-07-2026. - Komisija je to podrobno mnenje prejela dne 16-07-2026. - Kommissionen mottog detta detaljerade yttrande om 16-07-2026. - Fuair an Coimisiún an tuairim mhionsonraithe sin maidir le 16-07-2026.

MSG: 20261950.EN

1. MSG 115 IND 2026 0223 PL EN 06-11-2026 16-07-2026 SE DO 6.2(2) 06-11-2026

2. Sweden

3A. Kommerskollegium

3B. Utrikesdepartementet, Regeringskansliet

4. 2026/0223/PL - S00S - HEALTH, MEDICAL EQUIPMENT

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

6. The free movement of goods is a core principle of the free market and a core value of the Swedish Government. The Government actively monitors proposals and negotiations at an international and EU level that affect the free movement of tobacco-free nicotine products and the conditions for global trade. The Government is also concerned that free movement is being adversely affected when individual Member States introduce restrictions that have an impact on tobacco-free nicotine products.

Poland proposes that the placing on the market of new nicotine-containing products that are not tobacco products or related products shall be prohibited. Under the draft legislation, exceptions are made for products that can be classified as medicinal products, medical devices or foodstuffs. In view of the wording of the prohibition and the proposed exemptions, the Government’s assessment is that, in practice, the regulation could lead to a de facto ban on the sale of new products containing nicotine.

It is further specified that a nicotine pouch must not contain any ingredients that impart a smell or taste other than that of tobacco. This is a far-reaching restriction as it is unusual for tobacco-free nicotine products to have a taste of tobacco. The draft law thus contains several provisions that affect cross-border trade in goods. These measures constitute restrictions on the free movement of goods, which may be contrary to the fundamental provisions of the TFEU.

Cigarettes and smoking tobacco pose a greater health risk than tobacco-free nicotine products. According to the OECD, smoking is the single most important cause of most diseases such as certain forms of cancer, heart attacks and strokes. In the OECD, lung cancer is the leading cause of cancer mortality and smoking is the leading risk factor for lung cancer. While the proportion of Swedish men over 15 years of age who smoke daily is 5.9 per cent, which is significantly lower than the EU average of 22.3 per cent, the age-adjusted standardised death rate for lung cancer among men (33.1 per 100,000 inhabitants) in Sweden is also significantly lower than the EU average of 69.9, according to Eurostat. To the extent that tobacco-free nicotine products replace cigarette consumption, the Swedish Government considers this to be a positive development from a public health perspective. Consequently, the kind of restrictions proposed in the draft legislation could risk having negative consequences for public health.

Poland has justified the proposal on the grounds that it will protect human health. It is also clear from case law that, in the absence of harmonisation, where there is uncertainty as to the danger of a product, Member States may decide how far they wish to go in order to ensure the protection of health. However, this must comply with the principle of proportionality. In the context of a proportionality assessment, it must be possible to prove that the protective effect sought cannot be achieved by other less intrusive or restrictive means. In its notification, Poland explains that people aged 13-20 years who use nicotine pouches prefer other flavours over tobacco flavour, and that it constitutes a basis for only products with the smell or taste of tobacco to be allowed on the market. However, in the context of the notification proceedings, Poland has not explained why other, less restrictive and less trade-restrictive measures, such as stricter age checks, would not be sufficient to achieve the objective pursued by the legislation.

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