Message 103

Communication from the Commission - TRIS/(2023) 3127

Directive (EU) 2015/1535

Notification: 2023/0490/BE

Forwarding of the observations of a Member State (Portugal) (article 5, paragraph 2, of Directive (EU) 2015/1535). These observations do not have the effect of extending the standstill period.

MSG: 20233127.EN

1. MSG 103 IND 2023 0490 BE EN 08-02-2024 08-11-2023 PT COMMS 5.2 08-02-2024

2. Portugal

3A. Ministério da Economia e do Mar - Instituto Português da Qualidade, I.P.

3B. Ministério da Economia e do Mar - Instituto Português da Qualidade, I.P.

4. 2023/0490/BE - S20E - Waste

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

6. Following the notification to the European Commission by the Kingdom of Belgium of the implementation of the Cooperation Agreement on extended producer responsibility for certain waste streams and for litter – 'Cooperation agreement on the framework for extended producer responsibility for certain waste streams and for litter', which aims to implement Directive (EU) 2019/904 of the European Parliament and of the Council of 5 June 2019 on the reduction of the impact of certain plastic products on the environment, as well as the transposition into Belgian law of Directive (EU) 2018/851 of the European Parliament and of the Council of 30 May 2018 amending Directive 2008/98/EC on waste, Portugal expresses its concerns concerning the impact of this measure on the proper functioning of the Internal Market.

1) Articles 27 and 36 of the draft Belgian Cooperation Agreement

Examination of Articles 27 and 36 of the Belgian preliminary draft agreement reveals that tobacco producers that incorporate filters are intended to introduce levies to be borne by tobacco producers, whether or not these contain plastic.

Portugal considers that the application to tobacco products with plastic-free filters of the same rates as those containing plastics is disproportionate, as this undermines the development made in products with lower environmental impact, such as plastic-free tobacco filters, discourages further investments in this regard, and is not in line with Recital 16 of the Directive (EU) 2019/904 of the European Parliament and of the Council of 9 June 2019 (the SUP Directive), which states that 'Innovation and product development should present viable alternatives to plastic-containing filters, and this should be accelerated. Extended producer responsibility schemes applied to tobacco products with plastic-containing filters should also encourage innovation, leading to the development of sustainable alternatives to plastic-containing tobacco product filters'. In general, this Directive thus aims to promote the development and use of available and more sustainable alternatives to plastic products.

In this context, Portugal urges the Kingdom of Belgium to differentiate the value of levies in cases where tobacco products incorporate plastic-free filters, in line with the aim of promoting innovation in products with lower environmental impact, as set out in Recital 16 of the Directive (EU) 2019/904 of the European Parliament and of the Council of 9 June

2019 (the SUP Directive).

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