

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 5XXX GIBRALTAR XXX XXth XXX 2026

LEGAL NOTICE NO. XX OF 2026

TREATY ON GIBRALTAR AND THE EUROPEAN UNION ACT 2026

TGEU IMPLEMENTATION (TOBACCO PROTOCOL) REGULATIONS 2026

In exercise of the powers conferred on the Government by section 13 of the Treaty on Gibraltar and European Union Act 2026, and for the purposes of implementing, in part, the Protocol on the traceability, cooperation to fight smuggling of tobacco and additional measures related to tobacco products to the Agreement in respect of Gibraltar entered into between the European Union and the European Atomic Energy Community and the United Kingdom of Great Britain and Northern Ireland, and the Administrative Arrangement on tobacco traceability, cooperation in the fight against tobacco smuggling and additional measures relating to tobacco products within the framework of the Agreement in respect of Gibraltar between the European Union and the United Kingdom, and for connected purposes, the Government has made these Regulations-

Title.

1. These Regulations may be cited as the TGEU Implementation (Tobacco Protocol) Regulations 2026.

Commencement.

2. These Regulations come into operation on the Implementation Date.

Interpretation.

3. In these Regulations-

“Administrative Arrangement” means the arrangement on tobacco traceability, cooperation in the fight against tobacco smuggling and additional measures relating to tobacco products within the framework of the Agreement in respect of Gibraltar between the European Union and the United Kingdom, signed on the 25th June 2026;

“Annex I” means Annex I in the Administrative Arrangement;

“Articles PTOB.1 and PTOB. 2” mean Articles PTOB.1 and PTOB.2 of the Protocol;

“Article 250” means Article 250 in the TGEU;

“Competent authorities within the Union” means customs or other relevant authorities of the Member States or of the Union that are competent to deal with the matters set out in the Protocol;

“Collector” means the Collector of Customs appointed under section 3(1) of the Imports and Exports Act, 1986;

“customs officer” has the meaning given in section 2(1) of the Imports and Exports Act, 1986;

“Gibraltar Competent Authority” means the Collector of Customs, as assisted by customs officers or other relevant authorities in Gibraltar;

“Member State” has the same meaning as in section 3(3) of the Treaty on Gibraltar and the European Union Act 2026;

“paragraph” refers to a numbered paragraph in the Administrative Arrangement;

“Protocol” means the Protocol on the traceability, cooperation to fight smuggling of tobacco and additional measures related to tobacco products of the TGEU;

“request” means a request for assistance under the Protocol; and

“the Treaty on Gibraltar and the European Union” (or “TGEU”) has the meaning given by section 5 of the Treaty on Gibraltar and the European Union Act 2026.

Purpose and interpretation.

4.(1) The Regulations supplement sections 120 and 121 of the Treaty on Gibraltar and the European Union Act 2026 and give-

- (a) further effect to Articles PTOB.1 and PTOB.2; and
- (b) effect to the Administrative Arrangement.

(2) These Regulations must be read and construed together with sections 120 and 121 of the Treaty on Gibraltar and the European Union Act 2026.

Information exchange and exchange form.

5.(1) This regulation implements, in part, Article PTOB.1 and paragraph 1.2

(2) The information under Article PTOB.1 must be provided by the Gibraltar Competent Authority in accordance with Article 250(2)(a), and using the form in Annex I.

(3) The Gibraltar Competent Authority may receive information under Article PTOB.1 from Competent authorities within the Union pursuant to Article PTOB.1.

Cooperation and enforcement.

6.(1) This regulation implements paragraphs 3.1, 3.2, 3.3 and 3.5 of the Administrative Arrangement.

(2) Pursuant to paragraph 3.2, the Gibraltar Competent Authority must provide information relating to-

(a) the prevention, investigation, detection and prosecution of smuggling activities; and

(b) the enforcement of penalties imposed in the matters referred to in paragraph (a).

(3) The information under paragraph 3 must be provided in accordance with the provisions of Article 250(2)(a).

(4) The Gibraltar Competent Authority must cooperate with the Competent authorities within the Union for the purpose of identifying persons who are not resident in their respective territories, who in proceedings undertaken in relation to the smuggling of products originating in Gibraltar or destined for Gibraltar, may be found directly or indirectly responsible for these acts.

(5) The Gibraltar Competent Authority may, to the extent permitted under domestic law, and subject to the applicable provisions under domestic law, provide information relating to persons or goods under investigation-

(a) in response to a request made under paragraph 3; or

(b) on a spontaneous basis.

(6) Information may be requested or provided under this regulation unless domestic law requires the request or transmission of information to be made through a court.

(7) The Gibraltar Competent Authority may-

(a) make a request of the Competent authorities within the Union pursuant to paragraph 3; or

(b) receive information from the Competent authorities within the Union on a spontaneous basis.

(8) Pursuant to paragraph 3.1, before and after the traceability mechanism referred to in Article PTOB.3 becomes fully operational, the Gibraltar Competent Authority shall, to the extent permitted by domestic law, respond within seven days to requests for information made in connection with proceedings relating to the smuggling of tobacco products to or from Gibraltar.

Urgent cases.

7.(1) This regulation implements paragraph 3.8 of the Administrative Arrangement.

(2) In urgent cases, the Gibraltar Competent Authority must respond to a request, or provide any spontaneous information as soon as possible.

Use of evidence.

8.(1) This regulation implements paragraphs 3.9 and 3.10 of the Administrative Arrangement.

(2) Where the Gibraltar Competent Authority makes a request it may, when making that request or at any later stage, seek the consent of the Competent authorities within the Union, for the information provided to be used as evidence in proceedings before a court in Gibraltar.

(3) The Gibraltar Competent Authority may agree to any conditions imposed by the Competent authorities within the Union in providing its consent, and must comply with any conditions imposed on the use of that information by the Competent authorities within the Union.

(4) The Gibraltar Competent Authority may at the time of receiving a request, or at a later stage, provide its consent to the Competent authorities within the Union to allow any information provided under paragraph 3 to be used in evidence in any judicial proceedings.

(5) The Gibraltar Competent Authority may, at the time of providing its consent under subregulation (4), impose conditions on the use of the information in any judicial proceedings.

(6) Where information is provided on a spontaneous basis by the Competent authorities within the Union to the Gibraltar Competent Authority, the Gibraltar Competent Authority may seek consent to the use of the information obtained as evidence in proceedings before a court in Gibraltar.

(7) The Gibraltar Competent Authority may at the time of transmitting spontaneous information to the Competent authorities within the Union or at a later stage, provide its consent to the Competent authorities within the Union to allow any information provided under paragraph 3 to be used in evidence in any judicial proceedings, and may impose conditions on the use of that evidence.

(8) Where consent is not granted under the subregulations (6) or (7), the information shall not be used as evidence in any court or judicial proceedings.

Application of Part III of the Mutual Legal Assistance (European Union) Act 2005.

9.(1) For the purposes of cooperation and assistance under Articles PTOB.1 to 3, where Part III of the Mutual Legal Assistance (European Union) Act 2005 makes provision for the type of assistance or cooperation required under that Article, the provisions in Part III must apply to that assistance or cooperation with the necessary modifications.

(2) Any provision in the Mutual Legal Assistance (European Union) Act 2005 that is inconsistent with the TGEU shall not apply for the purposes of assistance under Articles PTOB.1 to 3.

Language.

10.(1) The Gibraltar Competent Authority may only receive communications or requests under this Part that are in English.

(2) Any communications or requests to the Competent authorities within the Union must be in the official language of those authorities as notified by them to the Gibraltar Competent Authority.

Dated:

F R PICARDO,
Chief Minister,
For the Government.

EXPLANATORY MEMORANDUM

These Regulations further implement the Protocol on the traceability, cooperation to fight smuggling of tobacco and additional measures related to tobacco products to the Agreement in respect of Gibraltar entered into between the European Union and the European Atomic Energy Community and the United Kingdom of Great Britain and Northern Ireland, and implement those parts of the Administrative Arrangement on tobacco traceability, cooperation in the fight against tobacco smuggling and additional measures relating to tobacco products within the framework of the Agreement in respect of Gibraltar between the European Union and the United Kingdom that are not otherwise provided for under Gibraltar law.

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