Message 791

Communication from the Commission - TRIS/(2026) 1684

Directive (EU) 2015/1535

Notification: 2024/0253/NL

Reaction of the Commission to the response of a Member State/Country notifying a draft regarding comments (5.2)/request for supplementary information (INFOSUP)

MSG: 20261684.EN

1. MSG 791 IND 2024 0253 NL EN 13-11-2024 26-06-2026 COM REACTION COM 13-11-2024

2. Commission

3. DG GROW/E/3 - N105 04/63

4. 2024/0253/NL - N00E - ENERGY CARRIER

5.

6. Within the framework of the notification procedure under Directive (EU) 2015/1535 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, the Dutch authorities notified to the Commission on 8 May 2024 the “Draft Act amending the Environmental Management Act and the Economic Offences Act with regard to increasing the share of gas from renewable sources in total gas supplies to customers” (hereinafter, “the notified draft”).

On 14 August 2024, the Commission issued a detailed opinion on the notified draft. Pursuant to Article 6 (2) of Directive (EU) 2015/1535 of 9 September 2015, the Member State concerned should report to the Commission on the action it proposes to take on such detailed opinions. The Commission should comment on this reaction.

After examination of the reply to the Commission’s detailed opinion sent by the Dutch authorities on 20 November 2025, as well as of the answer sent by the Duch authorities on 3 March 2026 following the Commission services’ communication of 16 February 2026, the Commission services wish to address to the Duch authorities some more questions for further clarification.

First, the Commission services invite the Dutch authorities to re-submit a consolidated version of the notified draft, as amended, along with the new text of the explanatory memorandum. At the same time, the Commission services would appreciate a confirmation of their understanding that deletion of letters a) and b) of Art. 9.9.4.1 of the notified draft means that energy suppliers can demonstrate compliance with the national requirement by (also) using green gas that has been produced using installations located in other EU Member States than The Netherlands and that, for that purpose, it is not anymore required that foreign green gas must have been physically transported to the Netherlands for injection into the Dutch gas network. If this understanding is correct, does the new Art. 9.9.4.1 provision “automatically” extend the new mechanism to green gas produced in other Member States or will it be necessary to still adopt a general administrative order for that purpose (as currently indicated in the explanatory memorandum)? In other terms, how should the following sentence of the explanatory memorandum be read: “A general administrative order may in the future allow either GOs from other Member States or PoS from other Member States to be allowed within the obligation”?

Secondly, the Dutch authorities have explained that, upon entry in the green gas units (GGE) register, the guarantees of origin (GOs) and proof of sustainability (PoS) expire and from that point onwards the GGEs can only be used to meet the blending obligation. In this regard, the explanatory memorandum explains that “Proof of purchase of gas from renewable sources, accompanied by a PoS, can be exchanged by suppliers with the NeA for a GGE” and these “can demonstrate that an energy supplier has fulfilled its obligation” and “in addition, GGEs can be traded between energy suppliers”. Indeed, in its latest communication of 3 March 2026, the Dutch authorities indicated that such purchasing of GGEs certificates between energy suppliers “does not involve trading in GOs and PoS” since these “have already expired at that point” but “is merely a way of complying with the national requirement”. In this regard, the Commission services would appreciate an explanation of how the new system will work, in particular the role of the Dutch Emissions Authority (NEa). In particular, the Commission services understand that Article 9.9.5.1 of the notified draft entrusts the implementation and monitoring of the system to NEa; that energy suppliers will be allowed to open only one account – and not multiple accounts – in the register, and that Article 9.9.5.3 of the notified draft provides that opening, maintenance and management of the account (in the GGE register) will be laid down by ministerial order. In addition, other draft rules also entrust various details of implementation of the new system to a general administrative order, such as detailed rules concerning refusal to open an account, the blocking and cancellation of accounts and the number of GGEs to be saved (see Articles 9.9.5.4, 9.9.5.5. and 9.9.5.6. of the notified draft). In this regard, please clarify the following:

- Role of the NEa for participation in the new mechanism and other requirements:
o How will the Dutch authorities ensure that the NEa will manage entry of green gas units in the GGE register properly and will not apply discriminatory behaviour such as e.g. refusing foreign suppliers to exchange GOs and PoS with green gas units (GGEs) for the purpose of compliance with national obligation?
o Please explain the meaning of this sentence (from the explanatory memorandum – English machine translation): “For example, energy suppliers who have created too few GGEs themselves through purchases of GGE surpluses from other energy suppliers may still fulfil the blending obligation. In order to limit NEa’s export burden, only energy suppliers are registered with NEa as bookers and merchants.” In particular:
▪ How will the Dutch authorities ensure that additional requirements of a discriminatory nature versus foreign operators would not be imposed via general administrative order concerning the opening, blocking or cancellation of accounts by the NEa?
▪ Clarify if the conditions for registration with the NEa apply equally to Dutch and foreign energy suppliers;
▪ Clarify if there will be no other formal requirements for a foreign energy supplier to open an account in the GGE register, such as a requirement to set up a branch in The Netherlands or to obtain a licence to participate in the national blending mechanism;
▪ Clarify if there will be no other formal requirements for a foreign energy supplier regarding the sustainable origin of the product, such as demonstrating the type, origin or quantity of methane feedstocks beyond what is in the GOs and PoS, as a condition for exchanging those GOs and PoS with GGEs with the NEa;
▪ Clarify how the savings system will work (Article 9.9.5.6 of the notified draft), in particular what would be the limit of the number of GGEs to be saved that will be determined by general administrative regulation. In fact, the Commission services understand that the aim is to limit the level of savings given that “if the level is too high there is a risk that some energy suppliers ‘hide’ too many GGEs and thus withdraw them from the market”. In this regard, please explain how the Dutch authorities will reconcile this aim with the (currently low) liquidity of the market and what measures do they plan to put in place to avoid that the provision on savings will be used by market participants to tighten the market (thus driving up prices);
▪ Similarly, clarify how the Dutch authorities will reconcile this mechanism with the current provisions on flexibility. In fact, the Commission services understand that the aim is to “avoid creating too much flexibility. Too much flexibility makes it worthwhile to act with restraint. On the contrary, it is desirable for energy suppliers to maximise their efforts to meet their target, for example by taking a role in the production of green gas themselves.” In particular, how do the Dutch authorities plan to reconcile this latter statement, i.e. encouraging energy suppliers to become producers themselves, with the statement submitted on 3 March 2026 by which “energy suppliers can also be producers of green gas, but that is not necessarily the case”, in particular where those energy suppliers - who happen to be also producers possibly benefitting of subsidy schemes - would decide to privilege national production instead of producing (unsubsidized) “green” gas for export?

Third, more generally, explain how the Dutch authorities plan to abide by the opinion of the Advisory Division of the

Council of State published on 23 March 2026 (https://www.raadvanstate.nl/adviezen/@154888/w19-25-00336-iv/) regarding the present notification procedure - see point 6 of that opinion where the Advisory Division of the Council of State recommends to "pay more attention in the explanatory memorandum to the relationship of the proposal to the free movement of goods and services, and the freedom of establishment" and that "the explanatory notes address the relationship with the free movement of goods and services and the freedom of establishment" (English machine translation from Dutch). In this regard, please explain in detail how the Dutch authorities intend to comply with these recommendations, in particular to ensure compliance of the new draft bill with the single market rules of the TFEU on free movement of goods and services and on the freedom of establishment. In this context, please point to the parts of the explanatory memorandum or notes that will clarify the relationship of the Bill, as amended, with those EU Treaty rules and with the notification procedure.

Fourth, we request clarification in particular with regard to the following:
• Please clarify whether the GGE register is the National Database that will be linked with the UDB according to article 31a(5) of the Renewable Energy Directive and if the Dutch Authorities intend to notify this 'register' to the Commission as required in 31a(5).
• In the response 4/3-26 NL say that "The blending obligation essentially requires import to conform to the CEN EN 16325 standard. This standard ensures that import fulfils the requirements of the RED article 19(6) which requires that the transfer of GOs from other Member States is electronic, accurate, reliable and fraud-resistant. Implementing this standard is possible through mutual agreements between VertiCer and national issuing bodies in for instance Denmark and Germany". This implies that the GO is the main carrier of information/certification for cross border import of gas. However, since such a transaction is implemented through the AIB gas scheme it is not clear how the proofs of sustainability (PoSs) are transferred. Such a transfer of PoS can only take place in the Union Database (UDB) pursuant to Article 31a(2) of the Renewable Energy Directive. How would the Dutch authorities ensure that such a transfer can be done in parallel in the UDB without a disproportionate burden to the actors involved?

We have furthermore taken note that the initiative has been dealt with in the Advisory Division of the Council of State opinion mentioned above (https://www.raadvanstate.nl/adviezen/@154888/w19-25-00336-iv/). Specifically, in that opinion there is the recommendation to ensure "a clear and effective approach for oversight by the Dutch Emissions Authority (NEa), especially regarding emission reductions reported by market participants" and "the need to ensure reliable control, including for foreign links in the chain." We welcome your reflections on those recommendations since the UDB as stipulated in article 31a (2) will include data on the "greenhouse gas emissions of the fuels up to the injection point to the interconnected gas infrastructure". We would also appreciate information on any changes as the result of that.

****

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