



EUROPEAN COMMISSION

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Minister Caspar Veldkamp
Minister van Buitenlandse Zaken
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Subject: Notification 2024/523/NL

Regulation of the Minister of Infrastructure and Water Management, of [date], No IENW/BSK-, amending the Soil Quality Regulation 2022 in connection with the updating of standard documents

Delivery of comments pursuant to Article 5(2) of Directive (EU) 2015/1535 of 9 September 2015

Sir,

Within the framework of the notification procedure laid down by Directive (EU) 2015/1535 ⁽¹⁾, the Dutch authorities notified to the Commission on 19 September 2024 the draft 'Regulation of the Minister of Infrastructure and Water Management, of [date], No IENW/BSK-, amending the Soil Quality Regulation 2022 in connection with the updating of standard documents' (2024/523/NL), hereinafter, 'the notified draft'.

According to the notification message, the notified draft 'identifies updated standard documents in the Soil Quality Regulation 2022. The Soil Quality Regulation 2022 addresses the requirements of the Soil Quality Decree (2006/0496/NL). The standard documents lay down detailed rules to ensure that work on soil research and protection is carried out with good quality and integrity (the 'Kwalibo' system). Companies carrying out work must be approved by the Minister, on the basis of accreditation or certification. Standard documents are regularly updated. The designation in the 2022 Soil Quality Regulation takes place on the basis of the Soil Quality Decree.'

¹ Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1.

Examination of the notified draft has prompted the Commission to deliver the following comments pursuant to Article 5(2) of Directive (EU) 2015/1535.

COMMENTS

The Dutch notification relating to construction products states in the message: 'Mutual recognition is possible on the link of Article 13 of the Soil Quality Decree (2006/0496/NL), provided that a comparable level of protection for Dutch soil is achieved. All standards documents referred to have been checked for possible incompatibility with the European Construction Products Regulation (Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC). One standard document concerns the establishment of the environmental quality of recycling granulate; the other standard documents lay down rules on work.'

Article 13(3) of the notified text under No 2006/0496/NL states:

‘(3) Recognition or similar shall be deemed equivalent to recognition. decision issued by a competent authority in another Member State of the European Union or the Netherlands or in another State which is a Party to the Agreement on the European Economic Space, based on conditions providing a level of protection which is at least equivalent to the level of the conditions Article 10 (2) is guaranteed. Article 9 (4) and Article 24 shall apply mutatis mutandis’.

The Commission would like to recall, according to recital 16 of Regulation (EU) 2019/515 on the mutual recognition of goods ⁽²⁾, that in order *to raise awareness on the part of national authorities and economic operators of the principle of mutual recognition, Member States should consider providing for clear and unambiguous ‘single market clauses’ in their national technical rules with a view to facilitating the application of the principle.*

The Commission further notes that the notified draft does not contain the single market clause included in the Guidance on Regulation (EU) 2019/515 (2 ³), which reads as follows:

‘Goods lawfully marketed in another Member State of the European Union or in Turkey, or originating and lawfully marketed in the Contracting Parties to the EEA Agreement are presumed to be compatible with these rules. The application of these rules is subject to Regulation (EU) 2019/515 of 19 March 2019 on the mutual recognition of goods

²Regulation (EU) 2019/515 of the European Parliament and of the Council of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State and repealing Regulation (EC) No 764/2008, OJ L 91, 29.3.2019, p. 1.

³Guidance document for the application of Regulation (EU) 2019/515 of the European Parliament and of the Council of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State and repealing Regulation (EC) No 764/2008.

lawfully marketed in another Member State’.

Therefore, in order to ensure legal certainty and the uniform interpretation of the notified draft, the Dutch national authorities are invited to include a single market clause, whose wording is consistent with the Commission suggestion as included above, into the notified draft.

The Commission invites the Dutch authorities to take the above comments into account.

The Commission furthermore recalls that once the definitive text has been adopted, it must be communicated to the Commission in accordance with Article 5(3) of Directive (EU) 2015/1535.

Yours faithfully,

For the Commission

Kerstin JORNA
Director-General

Directorate-General for Internal
Market, Industry, Entrepreneurship
and SMEs