

Committee on Technical Barriers to Trade

NOTIFICATION

The following notification is being circulated in accordance with Article 10.6.

1.	Member to Agreement notifying: <u>NETHERLANDS</u> If applicable, name of local government involved (Articles 3.2 and 7.2):
2.	Agency responsible: Ministry of Justice Agency or authority designated to handle comments regarding the notification can be indicated if different from above: National enquiry point
3.	Notified under Article 2.9.2 [X], 2.10.1 [ ], 5.6.2 [ ], 5.7.1 [ ], other:
4.	Products covered (HS or CCCN where applicable, otherwise national tariff heading. ICS numbers may be provided in addition, where applicable): Breath testing equipment, blood taking equipment (hypodermic syringes, sampling tubes, packaging, phials), breath test tubes, breath testing equipment.
5.	Title, number of pages and language(s) of the notified document: Regulation of the Minister for Justice Amending the Breath Test Regulation, the Blood and Urine Sampling Regulation, the Provisional Breath Test Regulation and the Regulation on the Type Designation of Breath Testing Equipment in Connection with the Amendment to the Shipping Traffic Act (Alcohol Test on Sailing under the Influence of Alcohol)
6.	Description of content: The present subject is identical to the subject of the draft Decree, amending the Alcohol Test Decree in Connection with the Amendment to the Shipping Traffic Act, which was notified at the same time as this Regulation. The Shipping Traffic Act has long since stipulated that it is an offence to operate a ship under the influence of a certain amount of alcohol. Pursuant to the Act of 10 April 1997, Bulletin of Acts and Decrees 200, the Regulation on "Sailing under the Influence of Alcohol" has been amended in a few places to facilitate the tracing of this offence and implement punitive measures. In this light, the alcohol content in blood and breath is established whereby (in each case) it is forbidden to operate or be in control of a ship (see Article 27, paragraph 2 of the Shipping Traffic Act). In addition to the existing breath test, two new types of alcohol test were also introduced in this regard: the blood test (Article 28a, paragraphs 5 to 10 inclusive) and the so-called provisional breath test, which regardless of due suspicion, may be carried out by routine check (Article 28). The new Regulation on "Sailing under the Influence of Alcohol" is identical to the existing Regulation on "Driving under the Influence of Alcohol" for road traffic, as per the 1994 Road Traffic Act. This also means that the implementing regulations based on the Road Traffic Act, which issue rules for the different types of alcohol test may also be deemed applicable to "Sailing under the Influence of Alcohol".

6.	Description of content (cont'd): This applies <i>inter alia</i> to the provisional Breath Test Regulation, the Breath Test Regulation, the Regulation on the Type Designation of Breath Testing Equipment and the Regulation on Blood and Urine Sampling. These Regulations have already been notified. The draft Regulation stated under point 5, therefore, declares the four aforementioned Regulations to be applicable to shipping traffic by referring to the Shipping Traffic Act wherever reference is still made to "the Act" (i.e. the 1994 Road Traffic Act). According to the Dutch Government, such broadening of the sphere of application of technical regulations which are included in another Regulation is also probably deemed to be a technical regulation which must be notified. The present Regulation extends the sphere of application of the technical regulations in the Breath Test Regulation (Articles 2 to 7 inclusive), the Blood and Urine sampling Regulation (Articles 3, 4 and 6), the provisional Breath Test Regulation (Article 2) and the Regulation on the Type Designation of Breath Testing Equipment (Article 1). The relevant Articles establish requirements for equipment and other auxiliary devices used for carrying out the blood and/or breath test. For the sake of clarity, it is indicated that the present Regulation carries no amendment to these requirements in terms of content.
7.	Objective and rationale: The draft Regulation was established in the interests of maintaining public order and safety. The technical regulations stated in point 6 apply without distinction to national and imported products. With regard to foreign products which conform to the requirements established in the country of origin, the existing four Regulations contain provisions relating to mutual recognition (Article 24 Decree on Alcohol Tests, Article 15 Blood and Urine Sampling Regulation, Article 10 Breath Test Regulation, Article 2, paragraph 2, provisional Breath Test Regulation, Article 1, paragraph 2 Regulation on the Type Designation of Breath Testing Equipment).
8.	Relevant documents: Act of 10 April 1997, Bulletin of Acts and Decrees 200, with the new Articles 27, 28 and 28a of the Shipping Traffic Act, the provisional Breath Test Regulation, the breath test Regulation, the Regulation on the Type Designation of Breath Testing Equipment and the blood and urine sampling Regulation.
9.	Proposed date of adoption: 23 December 1997 Proposed date of entry into force: 25 December 1997
10.	Final date for comments: 22 December 1997  The Netherlands will proceed to implement the proposed measure after 45 days if no comments or requests for extension of the time-limit have been received from other Members within that time.
11.	Texts available from: National enquiry point [ ] or address and telefax number of other body: