



Minutes of the 139th meeting of the Technical Regulations Standing Committee (SG code: X01900)

Brussels, Wednesday 15 March 2023

1. Opening of the 139th meeting of the Committee

The Chair, Head of Unit GROW.E.3 “*Notification of Regulatory Barriers*” in the Commission Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, Mr Radek Maly, welcomed the Committee members/observers to the 139th meeting of the Technical Regulations Committee.

2. Adoption of the agenda of the 139th meeting of the Committee

The draft agenda of the meeting was adopted without any changes/amendments.

3. Approval of the minutes of the 138th meeting of the Technical Regulations Committee

The draft minutes of the 138th meeting were approved without any changes/amendments.

4. Statistical overview of the application of Directive (EU) 2015/1535 (SMTD) in 2022

The Commission presented statistics concerning notifications during the period from 1 January 2022 to 31 December 2022. During this period, 924 draft technical regulations were notified to the Commission. This is 45 notifications less than in 2021. Construction remains the sector with the highest percentage of notifications (32.9%). For more details, see the power-point presentation on CIRCABC.

5. New TRIS Database

The Commission gave an overall presentation of the new TRIS Database (TRIS-TBT). The development concerns both the restricted and the public TRIS and it aims to improve transparency, access to information, user friendliness and IT security. The growing number of users and the One Stop Shop principle were also considered during the development. Users will see changes for example in new user profiles (for

the affiliated countries there will be three profiles with different user rights) and in the new interface. The interface will guide users to fill the information on a step-by-step basis, which should make the system more user-friendly. The launch of TRIS-TBT is expected before the end of June 2023. The Member States were invited to use the testing environment which is currently open and to provide feedback to the Commission.

In the following discussion, the Committee discussed the availability of some features in TRIS-TBT. The Commission offered training courses on the TRIS-TBT to be organised after the launch.

6. Enhanced transparency of the notification procedure under SMTD

The Commission updated the Committee on the state of play of the enhanced transparency project.

In order to address the transparency needs in line with the relevant case law, the Commission has started to publish its reactions (comments, detailed opinions and blocking decisions) in public TRIS since 1 January 2022. The reactions are available in public TRIS 10 days after the initial standstill period has expired. In addition, the Commission provided the possibility to publish their reactions to the notified drafts also to Member States. National authorities are required to tick a dedicated box in the restricted TRIS when they upload their reactions if they agree to their disclosure in the public TRIS. If unmarked, such reactions remain undisclosed and subject to individual access-to-document requests. The Commission is currently working on the implementation of the third stage of the transparency project which includes the disclosure (subject to the approval of the relevant Member State) of certain documents containing communications between the Commission and the Member States following the issuance of a reaction to a notified draft.

7. Structural issues as regards notification procedure under SMTD

The Commission presented some problematic structural issues regarding the notification procedure under the SMTD, based on practice identified by the Commission in the recent past. These problematic trends include in particular non-notification of final texts, a low number of notifications from certain Member States, a low number of reactions to notifications from certain Member States, as well as multiple notifications which only concern one single measure. For more details, see the power-point presentation on CIRCABC.

8. Recent case-law related to SMTD

The Commission informed the Committee of developments in the case-law related to SMTD, in particular of the recent rulings in cases C-658/21 *Phytofar*, C-604/21 *Vapo Atlantic* and C-83/21 *Airbnb vs Italy* and of the ongoing cases C-606/21 *Doctipharma SAS*, C-86/22 *Papier Mettler Italia* and C-662/22, C-667/22 *Amazon, Google, Airbnb and Eg Vacation Rentals*. For more details, see the power-point presentation on CIRCABC.

9. Revision of Directive 94/62/EC on packaging and packaging waste

Directive 94/62/EC on Packaging and Packaging Waste (PPWD) regulates the placing on the market of packaging as well as packaging waste prevention and management. It covers all types of packaging and packaging waste placed on the European market. This means all materials (from cardboard, glass, plastic, wood to metal), and packaging including industrial, commercial, household and other sectors.

In order to make the packaging value chain comply with the ambitious goals enshrined in the European Green Deal and the new Circular Economy Action Plan, the Commission is reviewing the PPWD, with the aim to have all packaging recyclable or reusable by 2030. The initiative will reinforce the essential requirements for packaging to ensure its reuse and recycling and improve their enforceability. The proposal introduces a range of new measures, including targets for packaging waste reduction, which is one of the main problems identified in the related impact assessment, as well as reuse and recycled content targets, design for recycling criteria, mandatory deposit return schemes and improved labelling. For more details, see the power-point presentation on CIRCABC.

In the following discussion, the Commission clarified that notifications from Member States under the SMTD will still be possible in non-harmonised area where Member States are allowed to adopt stricter measures (e.g. packaging waste prevention, waste collection or recycling targets). Any such measures will have to comply with the future Regulation as well as the general Treaty requirements and not introduce non-proportionate or discriminatory barriers to the internal market.

10. Points for information

10.1. SMEI

The Commission provided a brief update on the state of play of the legislative process with regard to Single Market Emergency Instrument ⁽¹⁾ (SMEI), in particular on the notification obligations that could be introduced in this connection. The Commission offered to provide a more detailed information to the Member States in bilateral meetings.

11. Next meeting

The 140th Technical Regulations Committee meeting is scheduled for **Thursday 12 October 2023 (TBC)**, as an in-person meeting.

12. List of participants

Representatives of the EU Member States (Austria, Belgium, Cyprus, Czech Republic, Croatia, Denmark, Estonia, Finland, France, Germany, Hungary, Ireland, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden), EFTA (EFTA Secretariat and Norway), Türkiye and the Commission.

⁽¹⁾ COM(2022)459 - Proposal for a regulation of the European Parliament and of the Council establishing a Single Market emergency instrument and repealing Council Regulation No (EC) 2679/98