

WORLD TRADE ORGANIZATION

G/TBT/Notif.98.643
23 December 1998

(98-5190)

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>THE NETHERLANDS</u> If applicable, name of local government involved (Articles 3.2 and 7.2):
2.	Agency responsible: Ministry of Transport, Public Works and Water Management Agency or authority designated to handle comments regarding the notification shall be indicated if different from above: National Enquiry Point - EC WTO-TBT Enquiry Point
3.	Notified under Article 2.9.2 [], 2.10.1 [X], 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): Facilities by means of which the telecommunication established by means of wire-tapping is passed on by the provider of a public telecommunications network or public telecommunications service to the competent authority which has issued the special assignment for wire-tapping or to the bodies working under its competence.
5.	Title, number of pages and language(s) of the notified document: Regulation of the State Secretary for Transport, Public Works and Water Management of ..., No. HDTP/98/.../JdJ, Implementing Articles 2(b) and 4, of the Decree on the Wire-Tapping of Public Telecommunications Networks and Services (Interim Regulation on the Wire-Tapping of Public Telecommunications Networks and Services)
6.	Description of content: The draft Regulation contains further rules implementing Articles 2(b), 3 and 4 of the Decree on Wire-Tapping Public Telecommunications Networks and Services. In accordance with Article 3 of the said Decree, the facilities by means of which the telecommunication established by means of a wire-tap is passed on by the service provider shall be in line with the protocol to be laid down by Ministerial Regulation. In the draft Regulation, it is laid down - temporarily - that the relevant technical protocol is the technical protocol which is currently in use at the relevant authority which has issued the special assignment for wire-tapping or the bodies working under its competence. In the opinion of the Dutch Government, Article 8 of the draft Regulation on wire-tapping public telecommunications networks and services probably contains a technical regulation within the meaning of the Agreement to Technical Barriers to Trade.
7.	Objective and rationale, including the nature of urgent problems where applicable: The new Telecommunications Act provides for the obligation of providers of public telecommunications networks and services to ensure that their networks and services can be wire-tapped. To execute this obligation sensibly, it has to be specified in what way the wire-tapped telecommunication is to travel to the authority which has issued the assignment for wire-tapping. This must be laid down in a technical protocol which contains both

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7.	<p>Objective and rationale, including the nature of urgent problems where applicable (cont'd):</p> <p>procedures and regulations for the equipment used in this respect. Providers of the service shall comply with this protocol, which is currently in use by the competent authorities. The interests of public safety justify laying down this Regulation. This Regulation is in line with Section 3.2 of the Appendix to the Resolution of the Council of the European Union of 17 January 1995 concerning the legal interception of telecommunications traffic (OJ C 329).</p> <p>The agreement mentioned in this section has been achieved. The protocol is available to the relevant service provider. The Regulation is temporary in nature because a final protocol cannot be laid down at this stage. With the draft Temporary Regulation on the wire-tapping of public telecommunications networks and services, the Dutch Government is hoping to prevent the duties included in the current telecommunications legislation lapsing as a result of the coming into force of the new Telecommunications Act, whilst the new protocol for all providers of public telecommunications networks and services and all competent authorities is still in preparation. The Dutch Government is of the opinion that public safety requires that such a Regulation is not affected by any discontinuity as long as a final regulation has not been drafted. It could not be foreseen that a final regulation would not be finished on time. The urgency stemmed from the fact that the new telecommunications legislation should enter into effect by no later than 15 December 1998. Delaying the enactment of the Regulation leads to a lack of continuity, as referred to above. In that case, crime control and public safety could be seriously jeopardized.</p>
8.	<p>Relevant documents: To assess the draft Interim Regulation on the wire-tapping of public telecommunications networks and services, the following enclosed texts are significant: Articles 1.1 and 13.1 to 13.8 of the Telecommunications Act and Articles 1 to 6 of the Decree on the wire-tapping of public telecommunications networks and services.</p>
9.	<p>Proposed date of adoption: } Proposed date of entry into force: } 15 December 1998</p>
10.	<p>Final date for comments: -</p>
11.	<p>Texts available from: National enquiry point [X] or address, e-mail and telefax number of the other body:</p>