



Please note that, although every effort has been made to ensure this translation is accurate and consistent, it is for informational purposes only. In case of any dispute or inconsistencies, the Dutch version is authentic.

[Confidential]

Social and Economic Council - SER
P.O. Box 90405
2509 LK The Hague, the Netherlands

Sent by email (to [Confidential])

The Hague, 13 February 2025

Our reference : ACM/UIT/640620
Subject : ACM/24/193134 Informal guidance TruStone Initiative

Dear [Confidential],

Under the guidance of the Dutch Social and Economic Council (SER) parties in the natural stone sector have drawn up a covenant regarding International Responsible Business Conduct (IRBC, in Dutch: IMVO), also called the TruStone Initiative (hereafter: the Initiative). The Initiative is a collaboration between businesses, sector organizations, trade unions, and civil society organizations (hereafter: participants). Its objective is to conduct business in a more socially responsible manner in the production and supply chains of businesses in the natural stone sector.

The secretariat of the Initiative which is hosted by the SER (hereafter: the secretariat) has indicated that the Initiative is compatible with the competition rules. You have asked the Netherlands Authority for Consumers and Markets (ACM) whether it can follow that conclusion.¹ ACM has informally assessed the Initiative in accordance with the Policy Rule regarding ACM's oversight of sustainability agreements (the Policy Rule).²

On the basis of the information provided by the secretariat on behalf of the participants, ACM, at this point, does not see any risk of an appreciable restriction of competition as a result of the Initiative. The Initiative mostly contains arrangements about how each of the participating businesses will conduct business in a more socially responsible manner within their own chains.

In the below sections, ACM will first provide a summary of the Initiative. After that, ACM will explain its informal assessment of the Initiative.

The TruStone Initiative

The Initiative is an agreement between sector organizations and companies in the Dutch and Flemish natural stone sector, trade unions, civil society organizations, and contracting authorities. In the Initiative, participants make arrangements regarding IRBC and due diligence. IRBC means that businesses counteract their negative impact on humans, animals and the environment in the entire chain, including outside of the Netherlands. Think of improvement of working conditions in production countries, and reduction of greenhouse gas emissions. Due diligence is a process, consisting of a number of steps to be

¹ Email dated 25 November 2024 with reference ACM/IN/949778.

² ACM, 4 October 2023, [Policy Rule regarding ACM's oversight of sustainability agreements](#).

taken by businesses, with which they identify and deal with risks of a negative impact on humans, animals and the environment in their own chain in order to prevent this negative impact.

The Initiative is based on the guidelines of the Organization for Economic Cooperation and Development (OECD) for IRBC³ and on the Guiding Principles on Business and Human Rights of the United Nations.⁴ Under these guidelines, businesses have a responsibility for the conditions in as well as for the impact of their chains.

One basic principle in the Initiative is that the participating businesses, each for their own, apply IRBC within their own chain. Businesses that import natural stone are required to carry out a due diligence process within one year after joining the Initiative, and to periodically draw up a report as part of the due diligence process. The report contains among other things a plan of action in which businesses indicate, supported with reasons, what risks they will prioritize, and how they will deal with those risks.⁵ Each participant carries out its own due diligence process, and draws up its own report.⁶ The plans of action are submitted to and are assessed by the independent secretariat of the Initiative. This secretariat consists of employees of the SER.

Besides that the participants work together by bringing about improvements with regard to specific IRBC risks, by offering a joint solution to problems that businesses are unable to fully solve themselves, and by offering businesses tools for carrying out their due diligence process. Within the Initiative, several specific IRBC areas have been identified that, at the moment, require prioritized attention, such as discrimination and gender, child labor, and living wages.⁷ In order to bring about improvements on specific themes, participants can initiate joint (or bilateral) projects or dialogs.⁸ Participation in joint projects is not mandatory.⁹

The Initiative concerns the second period of a collaboration that has existed since 2019.¹⁰ The Initiative is valid from March 1, 2025 for a period of five years.¹¹

ACM's informal assessment

The Initiative is a collaboration between, among other organizations, undertakings that are active in the Netherlands and Belgium in the natural stone sector, and, therefore, the Initiative is an agreement between competitors. As such, the cartel prohibition is applicable. Also, there is a potential cross-border effect. That is why the Initiative is also subject to the European competition rules, next to the Dutch competition rules.¹²

ACM has assessed whether the Initiative is a sustainability agreement, and whether there is a risk of an appreciable restriction of competition.

³ [OECD Guidelines for Multinational Enterprises on Responsible Business Conduct](#), 2023.

⁴ [United Nations](#) Guiding Principles on Business and Human Rights, 2011.

⁵ Annex I-TS T2.0 Agreement text TruStone 2.0 final from SER's email dated 20 December 2024 with reference ACM/IN/942038 (hereafter: Agreement text), p. 14.

⁶ Agreement text, p. 14 and annex I-TS T2.0 self-assessment for ACM from SER's email dated 20 December 2024 with reference ACM/IN/942038 (hereafter: SER's self-assessment), p. 5.

⁷ Agreement text, p. 18.

⁸ Agreement text, p. 39.

⁹ SER's self-assessment, p. 8.

¹⁰ The changes compared with the 2019 IRBC Agreement for the natural stone sector include: the addition of European upscaling as an objective, the Dutch and Belgian governments are observer members instead of parties to the Initiative, joining a supra-sectoral dispute settlement board and looking for an alternative to the complaints commission, adding admission criteria, and shortening the cancellation period.

¹¹ Agreement text, p. 24.

¹² Article 101 of the Treaty on the Functioning of the European Union. See also section 9 of the [Guidelines on the applicability of Article 101](#) of the Treaty on the Functioning of the European Union to horizontal cooperation agreements, 17 July 2023, C/2023/4752.

Sustainability agreement

The purpose of the Initiative is to conduct business in a more socially responsible manner in the production and supply chains of businesses in the natural stone sector. As such, the Initiative pursues a sustainability objective within the meaning of the Policy Rule.

No appreciable restriction of competition

In its self-assessment, the secretariat comes to the conclusion that the Initiative does not pose any risks to competition. ACM agrees with the secretariat that it is plausible that the Initiative does not appreciably restrict competition. In that context, ACM finds the following circumstances important, which apply at the time of writing this informal assessment:

- I. Participation in the Initiative is on a voluntary basis. The Initiative does impose several requirements on businesses that choose to participate in the Initiative, such as carrying out a due diligence process and submitting periodic reports. Participation in the joint projects, however, is not mandatory.
- II. The Initiative is open to all (direct) competitors that meet the criteria laid down in the Initiative. Those criteria are, among other ones: endorsing the contents of the Initiative, signing a confidentiality protocol, the willingness to make compromises, making available sufficient time and capacity for the execution of the Initiative, and a financial contribution, the amount of which depends, among other factors, on the type of business and the number of locations.¹³ ACM agrees with the secretariat that, on this point, the Initiative does not result in a restriction of competition, as long as, in practice, the criteria are applied in an objective, transparent, and non-discriminatory manner.
- III. The arrangements in the Initiative do not serve as a maximum, thus leaving participants free to make further sustainability efforts (either jointly or individually).¹⁴
- IV. No competition-sensitive information is exchanged between businesses for the execution of the Initiative. In this context, ACM takes the following into consideration:
 - a) Competition-sensitive information from individual businesses is not shared with other businesses. Businesses share the information that is needed for monitoring and reporting via the secretariat, which removes competition-sensitive information or replaces this with anonymized or aggregated data before further disseminating information, if necessary.¹⁵
 - b) The secretariat publishes the plans of action of participating businesses. The secretariat checks these plans for competition-sensitive information, and removes that information before publishing the plans (or further disseminating the plans).
 - c) The secretariat compiles a complete list of quarry subdistricts where the participating businesses buy from. This list is published. The purpose of the list is, among other things, that employees in these quarry subdistricts can file a complaint if their rights are harmed and that civil society organizations can do research on the basis of the list.¹⁶ The latter increases insight into IRBC risks, and enhances the strategy for handling such risks. According to the secretariat, the list of quarry subdistricts is not competition-sensitive because no connection is made between importer and quarry subdistrict. Furthermore, the geographical size of the areas is usually so big that

¹³ Agreement text.

¹⁴ Minutes of meeting of 14 January 2024 with reference ACM/UIT/639068, p. 1.

¹⁵ SER's self-assessment SER, p. 15.

¹⁶ [List of quarry subdistricts](#)

businesses cannot find out who the supplier(s) is/are. ACM sees no major risk of an appreciable restriction of competition here.

- d) Some participants (not being businesses) have access to more information or are able to request the secretariat for more information. For example, civil society organizations can gain access to a list of suppliers, which reveals which participating businesses buy from which supplier(s). The civil society organizations can use this list to decide in which locations they will initiate projects aimed at combating IRBC risks and to follow up on complaints quickly.¹⁷ In addition, participating contracting authorities can have the secretariat verify chain information or plans of action that suppliers submit to these contracting authorities in the context of procurement or tender processes. This information is not accessible for other parties, including (competing) businesses.¹⁸ ACM sees no major risk of an appreciable restriction of competition since no information is exchanged between competitors.

V. ACM finds it plausible that the Initiative does not have any negative effects on competition between businesses in the natural stone sector. In this context, ACM takes the following into consideration:

- a. Each participant carries out its own due diligence process, and draws up its own report and its own plan of action.¹⁹ Participants do jointly identify IRBC risks, and choose priorities or topics to which extra attention is given, for example, through joint projects.²⁰ In this context however, it must be noted that the Initiative does not relieve businesses from their individual responsibility to examine for themselves what is needed (additionally) for their own business in order to comply with statutory (IRBC) requirements.
- b. During the term of the Initiative, participants are able to make more-detailed arrangements or initiate joint projects. If participants wish to jointly deal with risks in the chain or wish to jointly move a supplier into cooperating with IRBC improvements in the chain, they will make a separate competition-law assessment, if necessary.

One such example is living wages. This could include jointly identifying the level of the living wage in a certain region, and educating businesses about how to have the conversation with suppliers about living wages. According to the secretariat, the following basic principles are used in this context: (i) importing businesses do not exchange any information about wages and prices, (ii) businesses themselves choose what method they will use for calculating a living wage, and (iii) individual business each have conversation with their own supplier(s).²¹ On the basis of these basic principles, ACM does not see any major competitive risks. However, in this case too, participants conduct a separate competition-law assessment, if necessary.

- c. In addition, ACM does not expect any appreciable effect on prices. Conducting due diligence can obviously carry costs. The magnitude of these costs can vary per business, thereby making it difficult for the secretariat to give an estimate of this. According to the secretariat, participation in the Initiative actually offers opportunities to minimize due diligence costs, which businesses would have possibly incurred also if they had not participated in the Initiative. That is because participating businesses receive assistance in the implementation of due diligence. Moreover, tackling IRBC risks can, according to the secretariat, generate cost advantages, for example due to higher satisfaction among

¹⁷ Agreement text, p. 17

¹⁸ SER's self-assessment, p. 13.

¹⁹ Agreement text, p. 14 and SER's self-assessment, p. 5.

²⁰ Agreement text, p. 35.

²¹ SER's self-assessment, p. 10-11.

workers and, as a result thereof, higher productivity or quality.²² Although the secretariat cannot provide exact insight into the effect on prices that is associated with participation in the Initiative, ACM finds the arguments put forward by the secretariat to be plausible. ACM does not expect the Initiative to have an appreciable effect on (sales) prices, also because explicitly no agreements are made about the passing on of costs in the (sales) prices.

- VI. In the Initiative, it has been agreed that any information about (alleged) involvement of a participating business in unwanted societal effects in its chain is not published just like that. In response to questions from ACM, the secretariat explained that a participant that wishes to publish the information in such a situation first contacts the business in question in order to verify the information or to ask for a response. Only then will the information be published, if still relevant.²³ In short, the aim is to include hearing both parties as a safeguard in the process.
- VII. Participation in the Initiative's complaints and dispute-settlement commission does not stand in the way of participation in other, recognized remedial mechanisms. Also if complaints come to businesses through different routes, businesses are expected to follow up on these complaints.

Conclusion

On the basis of the information of the secretariat, ACM finds it plausible that the Initiative does not appreciably restrict competition (on the Dutch market). That is why ACM will not conduct a further investigation into the Initiative at the moment.

ACM points out that this assessment has an informal character. ACM assumes that the information that was submitted by the secretariat is correct. ACM did not conduct an investigation of its own.

ACM may still decide to investigate the Initiative in greater detail at some point in the future, for example, if ACM receives a complaint about the Initiative. After such an investigation, it may turn out that the Initiative is, in fact, at odds with the competition rules. In that case, ACM will not impose a fine if the secretariat on behalf of the participants informed ACM in good faith, and if the participants cooperate with a subsequent adjustment process to bring the Initiative in line with said rules. It is a policy choice of ACM not to impose a fine in such a situation. Other (competition) authorities are not bound by this policy choice or by the contents of this informal assessment.

Your sincerely,

The Netherlands Authority for Consumers and Markets,
on its behalf,

D.I. Bos
Director
Competition Department

²² Annex request for informal assessment by ACM attached to SER's email dated 25 November 2024 with reference ACM/IN/949778, p. 3.

²³ SER's self-assessment, p. 9.