

Letter of 17 June 2024 from the Minister of Justice and Security Dilan Yesilgöz-Zegerius and the Minister for Healthcare Pia Dijkstra to the House of Representatives on the status of the Controlled Cannabis Supply Chain Experiment and coffee shop policy in general

We are writing to inform the House about the status of the Controlled Cannabis Supply Chain Experiment and coffee shop policy in general. This letter will address the following issues: the current state of the experiment, the experiences gained and lessons learned during the start-up , the progress made in implementing the motions adopted during the debate of 28 February, and a response to the question asked by MP Eline Vedder (Christian Democratic Alliance, CDA) during question time on 9 April.

The status of the Controlled Cannabis Supply Chain Experiment

We are pleased to report that the next stage of the experiment – the transitional phase – will begin on 17 June. This is a major milestone: from this point on, growers will be able to sell their products to coffee shops in all 10 participating municipalities,¹ and the coffee shops will be able to sell these controlled products to the consumer, in addition to the tolerated sale of illegally produced cannabis products. The purpose of the transitional phase is to give coffee shop owners the opportunity to gradually introduce the new range of products and to allow consumers to get used to them. An abrupt shift from the preparatory phase to the experimental phase would be undesirable because it is not realistic to expect coffee shop owners to replace their entire stock overnight. In addition, it could create public order problems as a result of an increase in street trade.

The experimental phase is scheduled to begin three months after the transitional phase, on 16 September. Once the experimental phase starts, the sale of formerly tolerated illegally produced cannabis products will no longer be permitted. It is therefore important that, when the experimental phase begins, the quantity, quality and diversity of the weed and hashish produced is sufficient to provide a complete and steady supply to participating coffee shops. Otherwise there is an increased risk of illicit (street) trade.

On 15 March² we informed the House that the transitional phase could be extended if, prior to the start of the experimental phase, there is an insufficient quantity, quality and diversity of products to supply the coffee shops. These preconditions are being monitored in the run-up to the expected start of the experimental phase on 16 September, in order to determine if such an extension is necessary. In the summer months the production figures for the other] growers who can supply the coffee shops will be available, and it will be possible to determine whether the relevant conditions have been met. If these conditions cannot be met, the transitional phase will again be extended, and the parties concerned will be informed accordingly, as stated by letter of 15 March. We aim to inform the House as soon as possible about the outcome of the monitoring.

Experiences gained and lessons learned from the start-up phase

On 15 December 2023 the start-up phase of the Controlled Cannabis Supply Chain Experiment was launched in Breda and Tilburg, for a period of six months. During this phase coffee shops in those two cities were permitted to purchase and sell controlled cannabis. The purpose of this phase was to give municipalities, growers, coffee shop owners, transporters and supervisory authorities the opportunity to gain experience on a small scale with a closed supply chain and all the processes this entails, so as to ensure that the transitional phase can proceed smoothly in all municipalities. The start-up phase also gave growers the chance to tailor their products to the demands of the consumer. The progress of the start-up phase was evaluated in collaboration with the parties who were directly involved.

In this letter we are going to discuss the experiences of the parties involved and the main lessons learned. The government requested input from the municipalities of Breda and Tilburg, coffee shops in those municipalities, the Justice and Security Inspectorate (IJ&V), the police, the Public Prosecution Service, the Netherlands Food and Consumer Product Safety Authority (NVWA), the three growers that supplied products during the start-up phase and the three municipalities where those growers are based.

Dual enforcement regime

¹ Almere, Arnhem, Breda, Groningen, Heerlen, Maastricht, Nijmegen, Tilburg, Voorne aan Zee, Zaanstad.

² Parliamentary Papers, House of Representatives 2023/2024, 24 077, no. 539.

During the start-up phase the coffee shops in Breda and Tilburg were permitted to sell both 'tolerated' products and controlled products, and this will remain the case during the transitional phase. Previously, the police and the Public Prosecution Service feared that the existence of a 'dual enforcement regime' could give rise to a lack of clarity among coffee shop owners, and that this could affect the regime's enforceability, viability and legal tenability. With that in mind, prior to the start-up phase an 'emergency brake' was developed, so that the start-up phase could be halted early if any serious problems occurred with respect to public order and safety.

In the end it was not necessary to end the start-up phase early. The municipalities of Tilburg and Breda and the IJ&V have stated that this 'dual enforcement regime' did not cause any problems for monitoring and enforcement. It emerged that keeping coffee shop owners up to date is important for maintaining clarity about the requirements that apply to them. This also ensured a smooth inspection procedure. The lesson for other municipalities is therefore that coffee shops should be informed well in advance about the relevant requirements and how they will be monitored, so as to ensure that there is clarity on this point during the transitional phase.

500g of stock on site

In consultation with the mayors, the IJ&V, the police and the Public Prosecution Service, the start-up phase was set up under restrictive conditions, so that the supply of cannabis and hashish to the coffee shops could take place on a small scale. At the launch of the start-up phase, coffee shops in Breda and Tilburg were permitted to have up to 500g of controlled products in stock as well as 500g of illegally produced cannabis under the toleration policy. Soon after this phase began, municipalities, coffee shops, growers and the IJ&V reported that this 500g limit for controlled products was causing a number of practical issues in the start-up phase. According to the mayors, it was inadvisable to create a situation where, as a result of the 500g rule, coffee shops would have to take deliveries several times a day. The secure transporters were keeping the products in their vehicles for the purpose of restocking the coffee shops later in the day. It was found to be safer and more manageable to keep the controlled products in the coffee shops instead of in vehicles that were driving around. In addition, the registration in the track & trace system was more prone to errors, due to the many additional actions that had to be performed, than if the deliveries had been done in bulk. Finally, the 500g limit made it difficult to align the supply of and demand for controlled cannabis during the start-up phase.

Following consultation with the parties involved, it was decided, as stated in the letter to parliament of 15 March, that the mayors could lift the restrictions on the quantity of controlled products that could be kept in stock. As a result of this decision, the coffee shops in Breda and Tilburg were permitted to keep a week's supply on hand. This is in line with the rules for the transitional and experimental phases, in which coffee shops are permitted to keep up to a week's supply in stock. This made it possible to gain experience with how quantifying and calculating a week's supply worked in practice, and these experiences were shared with the other municipalities.

Track & Trace System

The experiment uses a track & trace system, which follows the cannabis and hashish from production at the grower's premises to sale at the coffee shop. It is an important tool for monitoring the closed supply chain.

Thanks to the initial experiences with the system gained by growers and the national supervisory authorities, it was already clear that there would need to be a strong focus on learning to work with the system. Prior to the start, the coffee shops in Breda and Tilburg were given instructions on their own premises about the system. The supervisory authorities in Breda and Tilburg were instructed on their duties at a meeting at Tilburg town hall. Participants appreciated this intensive, customised approach. The use of on-location instructions was also adopted by other municipalities in preparation for the transitional phase.

Coffee shop owners indicated that after the first few months they were able to work reasonably well with the track & trace system. That said, it did take a certain amount of time and energy to get accustomed to this system and the new operational management practices it entailed. The IJ&V also indicated that coffee shops do not always correctly register their products in the system. The IJ&V will continue to engage in dialogue on this issue with coffee shops, municipalities and the developer of the system, Justid. A lesson learned from this is that the other municipalities will have to take account of the time it takes for all parties to get accustomed to the system and the new way of working.

The IJ&V has stated that the use of remote monitoring, as provided for by the system, demands more capacity than initially thought, and it spoke with the ministries about what this would mean for monitoring practices in the years ahead.

At this stage the coffee shops register all sales of controlled products both in their own point-of-sale system and in the track & trace system. Coffee shop owners have requested that the track & trace system be linked to their point-of-sale systems, so that they only have to scan their products once. The IJ&V also observes that doing so would reduce both the administrative burden on coffee shops and the potential for error. These experiences led to a decision that a link to the point-of-sale systems should be developed. A similar link is also being developed for the growers.

A system failure occurred on three occasions during the start-up phase. All malfunctions involving the track & trace system were resolved as quickly as possible. The three system failures that occurred were promptly communicated to all users, via the track & trace system and by email. Even when there is a malfunction in the track & trace system, the coffee shop is still able to proceed with the sale. The system has a function that allows for sales to be registered at a later time. The IJ&V has stressed that the system must function properly in order for the closed supply chain to be monitored.

A lesson learned from this is that once the malfunction has been resolved, coffee shop holders need to remember to go back and register the sold products. At the same time it is important to keep coffee shops well informed during a system failure. There were also various instances of system disruptions over which the authorities had no control, such as an unstable internet connection or a broken scanner.

The experiences gained and lessons learned in relation to the track & trace system proved to be highly valuable and led to improvements to the system and the way it is explained. Every month the track & trace system is given a (minor) update which incorporates feedback from the users and various technical improvements. For example, the speed has been enhanced; certain actions have been modified and new functionalities have been added.

Supervision of secure transport

Legislation stipulates that the delivery of cannabis products from growers to coffee shops must be done exclusively by secure transport, for which the grower is responsible.

During the start-up phase the police suggested a number of points for attention and improvement with regard to the practicalities of issuing licences, the implementation of the applicable requirements for secure transport and the monitoring of compliance. The Ministry of Justice and Security, the Integrity and Screening Agency (Dienst Justis) as the licensing authority, and the police are in discussion about implementing these points at the start of the transitional and experimental phases, for example by drawing up a work instruction and by, as needed, offering clarification to transporters about the applicable requirements and making agreements about them. In addition, many of these points relate to the system of transport for money and valuables under the Private Security Organisations and Detective Agencies Act (WPBR) as a whole. These points are being incorporated into a review of the system governed by that Act,³ so as to ensure practicable and effective monitoring.

Contact between participants in the experiment

Prior to and during the start-up phase, the parties involved were in contact with one another at various times. Almost all parties involved are pleased about the communication with the other parties and the ministries during the start-up phase, and agree that this is important for the experiment.

The IJ&V has stated that communication and information exchange with the ministries and the other supervisory authorities has been smooth. The NVWA appreciates the periodic consultations between the supervisory authorities and is pleased that the various inspectors work together to conduct inspections. The municipalities of Tilburg and Breda held multiple meetings between the municipality, supervisory authorities and coffee shops prior to and during the start-up phase, ensuring that the eventual inspections proceeded smoothly. In addition, Tilburg and Breda shared

³ Parliamentary Papers, House of Representatives 2021/2022, 29 628, no. 1100; Parliamentary Papers, House of Representatives 2022/2023, 29 628, no. 1175.

their experiences with the other participating municipalities. Growers have expressed their appreciation for the good communication with the Ministry of Health, Welfare and Sport.

The municipalities, growers and coffee shops in Breda have indicated that it is important for all parties, including coffee shop owners, growers, inspectors and municipalities, to be in regular contact and to share information with one another when problems arise, and to seek solutions together. We will continue to work to make this happen.

Conclusion

The start-up phase proved to be a useful way of gaining experience with all the processes and systems on a small scale. The lessons learned may have prevented possible hurdles from arising on a larger scale during the transitional phase, and they have helped the other coffee shops and municipalities as they prepare for the start of the transitional phase. The next phase will undoubtedly generate new lessons. These will also be taken seriously so that further improvements can be made to processes and systems. After all, identifying and resolving challenges and problems is part of the experiment. This makes it necessary sometimes to modify the preconditions set at an earlier stage to ensure feasibility. A pragmatic approach is important in this regard whereby account is always taken of the legal framework and the methodological boundaries of the study.

Progress on implementing the motions

This letter is also to inform the House about the progress made on implementing a number of motions submitted during the parliamentary debate of 28 February on the amendment of the legislation to allow the addition of an 11th municipality to the experiment.

- The motion by MP Diederik van Dijk (Calvinist Party, SGP) et al.⁴ requested the government, in consultation with the mayors of the participating municipalities, to call for strict enforcement of the legislation where local policy determines the enforcement of the experiment. On behalf of the Minister of Justice and Security, the State Secretary for Justice and Security discussed the motion during the inter-authority discussions on the Controlled Cannabis Supply Chain Experiment on 25 March and called for strict enforcement of local policy. The mayors of the participating municipalities, as members of this consultative body, were informed accordingly. The motion has thus been implemented.
- The motion by MP Songül Mutluer (Green Left-Labour Party, GL-PvdA)⁵ asked the government to determine what the current status of all the selected growers is and whether they can be ready to produce within nine months, and to explore how they can be given support in order to remove any hurdles. Quarterly discussions are held with all growers to discuss progress. The last discussions were concluded in April. At this meeting the growers were explicitly asked about their schedules and when they expected to start cultivation and other activities related to production. Every quarter the authorities also consider how best to support growers so as to eliminate any hurdles. The motion has thus been implemented.
- The other motion by MP Songül Mutluer (GL-PvdA)⁶ asked the government to include a nine-month compliance requirement for growers. The government was also asked to revoke the designation of growers that fail to meet the conditions of the compliance requirement and to approach the next grower on the waiting list for participation in the experiment. Five growers have now started production. For the remaining five growers, a nine-month compliance requirement makes sense, and it will be included in their designation. The exact details of this compliance requirement will be determined for each individual grower. In preparation for this, two growers have already been asked to provide an overview of the progress they have made. The possibility that their designation could be revoked has been explained to them. In this connection it is relevant to note that article 5, paragraph 2 of the Ministerial Order on the Controlled Cannabis Supply Chain Experiment states that the waiting list for growers will be discontinued once the experimental phase has begun. In all likelihood the experimental phase will have begun by the time the nine-month period of the compliance requirement has elapsed. If a grower is deemed to have made insufficient progress at that point and the authorities decide to revoke their designation, it would be useful to still have the waiting list. If the waiting list

⁴ Parliamentary Papers, House of Representatives 2023/2024, 36 279, no. 12.

⁵ Parliamentary Papers, House of Representatives 2023/2024, 36 279, no. 17.

⁶ Parliamentary Papers, House of Representatives 2023/2024, 36 279, no. 18.

were to be discontinued, a new lottery selection procedure would have to be set up before a new grower could be designated. For this reason the ministerial order will have to be amended so that the waiting list is not discontinued until the experimental phase has ended. We will inform the House when this motion has been implemented.

- The motion by MPs Ingrid Michon-Derkzen (People's Party for Freedom and Democracy, VVD) and Mirjam Bikker (Christian Union, CU)⁷ asked the government to explore the possibility of introducing a periodic probity screening for participating growers. We can inform the House that all designated growers will be subject to a renewed probity screening this year. We can also inform the House that the designation for the growers states that the probity screening can be repeated every two to three years. The motion has thus been implemented.
- The motion by MP Mirjam Bikker (CU) et al.⁸ asks the government to follow the recommendations of the police and the Public Prosecution Service when making future decisions about transitional periods and rules for coffee shops during this experiment. This motion was taken up by the Minister of Justice and Security. The police and Public Prosecution Service have been involved from the start in any decision-making process, and the government always asks for their advice. Their recommendations are then incorporated into the considerations related to the experiment. We therefore consider this motion implemented.

Finally, we will address the question submitted by MP Eline Vedder to the Minister of Infrastructure and Water Management during question time on 9 April that the minister referred to the Minister of Justice and Security. The question pertained to whether municipalities can revoke the licence of a coffee shop if its presence causes a public nuisance due to hazardous traffic situations.

The national 'toleration criteria'⁹ laid down in the Opium Act Instructions of the Public Prosecution Service also contain a public nuisance prevention criterion. If coffee shop owners comply with these criteria, the Public Prosecution Service will not initiate criminal proceedings. Mayors are also authorised to set local requirements. Most national criteria are also part of local coffee shop policy. The municipality can impose administrative sanctions on coffee shops that do not meet the conditions and criteria. All 102 municipalities in the Netherlands with coffee shops have included the public nuisance criterion in local coffee shop policy.¹⁰

Under the Opium Act Instructions the criterion 'public nuisance' is defined as follows: 'illegal parking, noise annoyance, litter and/or customers hanging around in front of or near the coffee shop'. It is clear from this that the public nuisance criterion relates to situations occurring in the immediate vicinity of the coffee shop. Driving under the influence of cannabis can also occur outside the immediate vicinity of the coffee shop and therefore does not generally fall under this criterion. Most of the time, if someone is arrested for driving under the influence of cannabis, it is impossible to determine where the cannabis was purchased. Thus, the owner of the coffee shop cannot be held responsible for the behaviour of their customers. Incidentally, a certain number of coffee shops offer only a 'takeaway' option, and the cannabis cannot be consumed on the premises.¹¹

Although it is not possible for the municipality to revoke a coffee shop's licence due to hazardous traffic situations caused by cannabis users, municipalities *can* set training requirements for coffee shop staff which also address the element of prevention. In the municipalities taking part in the Controlled Cannabis Supply Chain Experiment, coffee shop staff are required to take special training modules. These modules are intended to impart knowledge and skills with regard to health risks and the provision of accurate information and on how to refer customers whose usage has become problematic to useful information or appropriate care. A set of guidelines drawn up by the Netherlands Institute of Mental Health and Addiction (Trimbos-instituut) was shared with the participating municipalities. It describes how the necessary knowledge can be imparted to sales staff. These guidelines specify that the training given should pay particular attention to knowledge

⁷ Parliamentary Papers, House of Representatives 2023/2024, 36 279, no. 16.

⁸ Parliamentary Papers, House of Representatives 2023/2024, 36 279, no. 11.

⁹ These criteria state as follows: coffee shops are not allowed to advertise; they are not allowed to sell or stock hard drugs; they are not allowed to cause a public nuisance; they are not allowed to sell to minors or allow them on their premises; they can sell only a limited quantity of product per transaction and can keep only a limited stock; they are not allowed to sell to non-residents of the Netherlands or allow them on their premises.

¹⁰ See the report 'Coffeeshops in Nederland 2022', p. 27.

¹¹ In 2022, 110 of the 565 coffee shops (19.5%) were takeaway only. See the report 'Coffeeshops in Nederland 2022', p. 14.

about situations in which the use of cannabis is prohibited, for example when driving. Finally, it should be noted that driving under the influence is a criminal offence, enforceable by the police and subject to criminal prosecution by the Public Prosecution Service. This response implemented the undertaking given.