



EUROPEAN COMMISSION

Brussels, 6.3.2025
C(2025) 1551 final

Mr Caspar Veldkamp
Minister for Foreign Affairs
Rijnstraat 8
Postbus 20061
2500 EB Den Haag
NETHERLANDS

Subject: Notification 2024/678/NL

Draft Regulation of the State Secretary for Health, Welfare and Sport, laying down policy rules on cross-contamination with allergens and precautionary labelling (Policy Rule on Precautionary Labelling)

Delivery of comments pursuant to Article 5(2) of Directive (EU) 2015/1535 of 9 September 2015

Sir,

Within the framework of the notification procedure laid down in Directive (EU) 2015/1535 ⁽¹⁾, the Dutch authorities notified to the Commission on 13 December 2024 a draft “*Regulation of the State Secretary for Health, Welfare and Sport, laying down policy rules on cross-contamination with allergens and precautionary labelling (Policy Rule on Precautionary Labelling)*” (hereafter the “notified draft”).

According to the notification message from the Dutch authorities, the notified draft “*specifies the use of allergen labelling. The aim is to provide clarity on when there is cross-contamination with allergens and when allergen labelling should be applied as a precautionary measure.*” The notification message further states that “*For allergic consumers, it is important that the information on the label warns if an allergen is present in quantities that could pose an actual risk. Precautionary allergen labelling may therefore only be used if it appears that, despite preventive measures, there is a risk to consumers with allergies.*”

The examination of the notified draft has prompted the Commission to issue the following comments.

¹ () Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, OJ L 241, 17.9.2015, p. 1-15.

As far as the scope of application of the notified draft is concerned, the notification message specifies that:

- *“For the sake of completeness, it is noted that Article 13d of the Commodities Act contains a mutual recognition clause. The mutual recognition principle entails that an EU Member State shall not ban in its own territory the sale of goods that have been legally brought onto the market in another EU Member State on the grounds that the goods do not meet its own national regulations. It is important, however, that the legitimate public interests guaranteed by the national requirements in force are sufficiently protected.”*
- *“The Policy Rule is applied without discrimination. The rules apply to all food business operators in the Netherlands”.*

The Commission notes that the information concerning the mutual recognition clause and the protection of the legitimate public interests on the one hand, and the application of the rule without discrimination between all food business operators in the Netherlands on the other hand, are only contained in the notification message, and not in the notified draft itself.

Nevertheless, the Commission considers that the information contained in the notification message might create confusion as to the application of the rules to operators in the Netherlands in the case they place on the Dutch market products lawfully marketed in another EU Member State or Turkey (or originating and lawfully marketed in a Member State of the EFTA).

The Commission would like to recall that, according to recital 16 of Regulation (EU) 2019/515 on the mutual recognition of goods ⁽²⁾, to raise awareness on the part of national authorities and economic operators of the principle of mutual recognition, Member States should consider providing for clear and unambiguous ‘single market clauses’ in their national technical rules with a view to facilitating the application of the principle.

To ensure legal certainty and the correct application of the Regulation 2019/515 on the mutual recognition of goods the national authorities are invited to consider the need to include in the notified draft a single market clause, with wording that is consistent with the Commission suggestion in the Guidance on Regulation (EU) 2019/515³, which reads as follows:

“Goods lawfully marketed in another Member State of the European Union or in Turkey, or originating and lawfully marketed in the Contracting Parties to the EEA Agreement are presumed to be compatible with these rules. The application of these rules is subject to Regulation (EU) 2019/515 of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State”. In case the national authorities consider

²) Regulation (EU) 2019/515 of the European Parliament and of the Council of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State and repealing Regulation (EC) No 764/2008 (Text with EEA relevance.), OJ L 91, 29.3.2019, p. 1.

³ Guidance document for the application of Regulation (EU) 2019/515 of the European Parliament and of the Council of 19 March 2019 on the mutual recognition of goods lawfully marketed in another Member State and repealing Regulation (EC) No 764/2008.

mutual recognition to prejudice the objective of the notified draft, they are kindly invited to clarify and justify it. The Dutch authorities are invited to take into account the above-mentioned comments.

The Commission furthermore invites the Dutch Government to communicate the adoption of the definitive text of the draft technical regulation concerned, in accordance with Article 5(3) of Directive (EU) 2015/1535.

Yours faithfully,

For the Commission

Wolfgang Burtscher
Director-General
Directorate General for
Agriculture and Rural
Development