

**First Circular / 15 Dec 2016****CCFL Electronic Working Group (e-WG) on the development of proposed draft guidance for the labelling of non-retail containers of foods**

1. At the 41<sup>st</sup> session of the CCFL (May 2013), the Delegation of India, outlining the issue of absence of any general guidelines for labelling of wholesale packages, made a proposal to develop a 'General Standard for the Labelling of Wholesale Packages of Food'. After some discussion, the Committee agreed that the Delegation of India would prepare a discussion paper on the labelling of non-retail containers that would identify gaps in Codex texts and implications for international trade and consumer protection for further discussion at the next session.
2. Accordingly, India prepared a discussion paper for consideration of the Committee at its 42<sup>nd</sup> session (October 2014). Additionally, India also attempted to develop a project document and a draft of the proposed General Standard for Labelling of Non-Retail Containers of Food. At the session, however, the Agenda Item 6 - Labelling of non-retail containers (Discussion paper) (CX/FL 14/42/6) could not be discussed in the plenary owing to lack of time.
3. Based on the informal inputs from delegations during the 42<sup>nd</sup> CCFL, it was proposed to develop the guidance through a limited revision of the General Standard for Labelling of Prepackaged Foods (CODEX STAN 1-1985) (GSLPF). Accordingly a revised discussion paper along with project document and draft Proposed Text to Provide Guidance for Labelling of Non-Retail Containers of Food was prepared and presented before the 43<sup>rd</sup> Session of CCFL (May 2016).
4. With strong support for the new work confirmed, the Committee proceeded to examine the Project Document and:
  - i) Amended the title, section 1 (scope) and section 3 (main aspects to be covered) to provide for development of outcome based guidelines that would be broad enough to enable stakeholders to take advantage of innovative approaches/practices;
  - ii) Agreed to decide on the location of the guidelines (either as a stand-alone document or otherwise) at a future date when the work had progressed;
  - iii) Clarified that the current definition for the term "labelling" in CODEX STAN 1 -1985 was broad enough to allow for innovative approaches/practices other than providing information on labels only.
5. The CCFL43 (May 2016) took the following decisions (REP/16 FL, Para 54):
  - i) Agreed to start new work on guidance for the labelling of non-retail containers of food,
  - ii) Submit the project document to CAC39 for approval and
  - iii) Establish an Electronic Working Group chaired by India and co-chaired by the United States of America working in English only to develop proposed draft guidance for the labelling of non-retail containers of foods for comments at Step 3 and consideration at the next session of the Committee.

6. CAC39 approved the new work and also agreed that Costa Rica may co-host with India and United States of America (REP/16 CAC, Para 111 and Appendix VI).

7. The time table for the work of this EWG has been adjusted as follows:

15 <sup>th</sup> December 2016	Circulation of 1st Draft of the Working Document
30 <sup>th</sup> January 2017	Deadline for submission of comments
31 <sup>st</sup> March 2017	Circulation of the 2nd draft of the working document
01 <sup>st</sup> May 2017	Deadline for submission of comments
30 <sup>th</sup> June 2017	Submission of the final report to the CCFL Secretariat and Codex Secretariat for inclusion in the CCFL Agenda

8. The proposed draft guidance on the labelling of non-retail containers of foods has been presented as Appendix I. The following approach has been taken for the guidance that is proposed to be adopted from the General Standard for Labelling of prepackaged foods (Codex/Stan 1)

- Concerning General Principles, a reference is made to GSLPF indicating that the general principles apply *mutatis mutandii*, to convey that those are not open for discussion.
- For other sections, the relevant text from the GSLPF is amended, as appropriate. These amendments and reproduced text is open for discussion.
- In some cases, a cross reference is made to the relevant provisions of the GSLPF through a footnote that such information is to be provided as per the guidance in the GSLPF. These are also open for discussion.

9. Any discussions in the EWG on the provisions of the GSLPF would be in the context of labelling of non-retail containers only and will have no bearing for labelling of prepackaged foods.

10. The EWG members are requested to provide comments on the following questions and the proposed draft guidance in Appendix I.

**Questions:**

- Should this guidance be a stand-alone document?
- Should this guidance be inserted within the General Standard for the Labelling of Prepackaged Foods?
- Is the scope (as described in the draft guidance) sufficient?
- Should other definitions be included?

## Appendix I

**PROPOSED DRAFT GUIDANCE FOR THE LABELLING OF NON-RETAIL CONTAINERS OF FOODS**

1. **SCOPE:** The guidance in this document applies to the labelling of foods contained in the non-retail containers that are not intended to be sold directly to the consumer, the information provided in the accompanying documents or by other means, and to certain aspects relating to the presentation thereof.
  
2. **PURPOSE:** The purpose of the guidance in this document is to facilitate explicit and appropriate harmonized labelling requirements for food packages that are not intended to be sold to consumer directly, with an intention to avoid hindrance to international trade of such bulk packaged foods and promote fair trade practices by reducing inconsistent and burdensome labelling practices. The document can be used by the food businesses as well as the competent authorities of countries, where appropriate, with regards to the labelling of non-retail containers in domestic as well as international trade.
  
3. **DEFINITION OF TERMS:** For the purpose of this standard, the relevant definitions in the *General Standard for the Labelling of Prepackaged Foods (Codex/Stan 1)* apply. In addition, the following terms have the meaning as defined below:  
  
    **“Business”** means a food business or a person other than the final consumer<sup>1</sup> who buys or sells the food in non-retail containers.  
  
    **“Business to business sale”** means sale to a business for the intent of further business operations or processing activities, including but not limited to distribution, processing, reprocessing and repackaging.  
  
    **“Non-retail containers”:** means any container which contains food or food material of same kind, prepackaged<sup>1</sup> or not, intended for business to business sale and not for direct sale to the consumer<sup>1</sup>.  
  
    [**Explanation:** The above definition is applicable to non-consumer packages, not intended for direct consumption or for sale in retail stores.]
  
4. **GENERAL PRINCIPLES:** The following general principles apply in respect of labelling of non-retail containers:
  - 4.1 The general principles established in the General Standard for the Labelling of Prepackaged foods (GSLPF) apply *mutatis mutandii* to the labelling of non-retail containers of foods.
  - 4.2 Labelling requirements of foods in non-retail containers should be differentiated clearly from those for prepackaged<sup>1</sup> foods.
  - 4.3 There are two stakeholders to the label or labelling of non-retail containers – business and the competent authority.

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<sup>1</sup>As defined in the General Standard for the Labelling of Pre-packaged Foods (Codex/Stan 1)

## **5. GENERAL GUIDANCE:**

- 5.1 The labelling requirements for non-retail containers should be established with a view to prevent difficulties and unfair practices in trade, taking into account the information requirements and implementation capabilities of the relevant stakeholders.
- 5.2 The non-retail containers of food should be clearly distinguishable from the food containers or prepackaged<sup>1</sup> foods intended for direct sale to consumer<sup>1</sup>.
- 5.3 Where appropriate, the information requirements in respect of non-retail containers may be met through appropriate means other than labelling (including innovative practices), as allowed for by the competent authority in the country of sale.
- 5.4 Businesses may address information requirements, in addition to those mandated by the competent authorities, as agreed mutually among themselves.

**6. MINIMUM LABELLING REQUIREMENTS:** The following information shall appear on the label of foods in non-retail container:

### **6.1 The name of the food**

- 6.1.1 The name shall indicate the true nature of the food and normally be specific and not generic:
  - 6.1.1.1 Where a name or names have been established for a food in a Codex standard, at least one of these names shall be used.
  - 6.1.1.2 In other cases, the name prescribed by national legislation shall be used.
  - 6.1.1.3 In the absence of any such name, either a common or usual name existing by common usage as an appropriate descriptive term which is not misleading or confusing shall be used.
  - 6.1.1.4 A “brand” name or “trade mark” may be used provided it accompanies one of the names provided in Subsections 6.1.1.1 to 6.1.1.3.
- 6.1.2 Specific information related to processing or treatment may be stated in appropriate descriptive terms in close proximity to the name of the food.

### **6.2 Net Contents:**

- 6.2.1 The net contents should be declared in either the metric system (System international Units) or avoirdupois pound or both the systems of measurement as required by country in which the food is intended to be sold. It may be made in terms of net<sup>2</sup> or gross contents as required by the country in which the food is intended to be sold.

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<sup>2</sup> The declaration of net contents represents the quantity at the time of packaging and is subject to enforcement by reference to an average system of quantity control.

### 6.3 Lot identification<sup>3</sup>

#### 6.4 Date Marking:

- 6.4.1 If not otherwise determined in an individual Codex standard, the following date marking shall apply, unless clause 6.4.1(vii) applies:
- (i) When a food must be consumed/utilized before a certain date to ensure its safety and quality the “Use-by Date” or “Expiration Date” shall be declared<sup>4</sup>.
  - (ii) Where a “Use-by Date” or “Expiration Date” is not required, the “Best-Before Date” or “Best Quality Before Date” shall be declared.
  - (iii) The date marking should be as follows:
    - On products with a durability of not more than three months; the day and month shall be declared and in addition, the year when competent authorities mandate it.
    - On products with a durability of more than three months at least the month and year shall be declared.
  - (iv) The date shall be introduced by the words:
    - “Use-by <insert date>” or “Expiration Date <insert date>” or “Best before <insert date>” or “Best Quality Before <insert date>” as applicable where the day is indicated; or
    - “Use-by end <insert date>” or “expiration date <insert date>” or “Best before <insert date>”; or “Best Quality Before <insert date>” as applicable in other cases.
  - (v) The words referred to in paragraph (iv) shall be accompanied by:
    - either the date itself; or
    - a reference to where the date is given.
  - (vi) The day and year shall be declared by uncoded numbers with the year to be denoted by 2 or 4 digits, and the month shall be declared by letters or characters or numbers. Where only numbers are used to declare the date or where the year is expressed as only two digits, the competent authority should determine whether to require the sequence of the day, month, year, be given by appropriate abbreviations accompanying the date mark (e.g. DD/MM/YYYY or YYYY/DD/MM).
  - (vii) Notwithstanding 6.4.1 (i) and 6.4.1 (ii), a date mark shall not be required for a food if one or more of the following criteria apply:
    1. where safety is not compromised and quality does not deteriorate
      - 1.1 because of the preservative nature of the food is such that it cannot support microbial growth (e.g. alcohol, salt, acidity, low water activity); and/or
      - 1.2 under stated storage conditions;
    2. Where the key/organoleptic quality aspects of the food are not lost;
    3. Where the food is intended to be consumed within 24 hours of its manufacture.

<sup>3</sup> Information to be provided as per the guidance in the relevant section of the General Standard for the Labelling of Pre-packaged Foods (Codex/Stan 1)

<sup>4</sup> Consideration should be given to other Codex texts

For example, foods such as:

- fresh fruits and vegetables, including tubers, which have not been peeled, cut or similarly treated;
- wines, liqueur wines, sparkling wines, aromatized wines, fruit wines and sparkling fruit wines;
- alcoholic beverages containing at least 10% alcohol by volume;
- bakers' or pastry-cooks' wares which, given the nature of their content, are normally consumed within 24 hours of their manufacture;
- vinegar;
- non-iodized food grade salt;
- non-fortified solid sugars;
- confectionery products consisting of flavoured and/or coloured sugars;
- chewing gum.

In such cases, the "Date of Manufacture" or the "Date of Packaging" may be provided.

- (viii) A "Date of Manufacture" or a "Date of Packaging" may be used in combination with 6.4.1 (i) or (ii). It shall be introduced with the words "Date of Manufacture" or "Date of Packaging", as appropriate, and use the format provided in clause 6.4.1 (vi).

#### **6.5 Statement for indication of business-to-business sale**

The non-retail containers of foods shall bear a statement to indicate the intent of sale of the food as business to business sale. For this, one of the statements as given under may be used as acceptable in the country of sale:

"NON-RETAIL CONTAINER - NOT FOR DIRECT SALE TO CONSUMER"

or

"NOT FOR DIRECT SALE TO CONSUMER".

#### **6.6 Irradiated foods<sup>3</sup>**

### **7. OTHER MEANS TO PROVIDE INFORMATION**

#### **7.1 Mandatory information:**

**7.1.1** The following information, if not provided on the label, may be provided in the accompanying documents or through appropriate other means, provided such documents or information is effectively traceable to the food in non-retail container and if acceptable to the competent authority in the country of sale:

- List of Ingredients<sup>3</sup>
- Name and address of the manufacturer or packer etc. <sup>3</sup>  
(Approval number of establishments, where applicable)
- Country of Origin<sup>3</sup>
- Any special conditions for the storage of the food where they are required to support the integrity of the food and, where a date mark is used, the validity of the date depends thereon.
- Information necessary to meet mandatory labelling requirements for pre-packaged foods in which the food in non-retail container will be used or packaged.
- Any other information required by the importing country such as Halal Certification,

Kosher Certification, Vegetarian/Non Vegetarian logo etc.

**7.1.2** Notwithstanding the guidance in Section 6 Minimum Labelling Requirements and if permitted by the competent authorities in the country of sale, an identification mark may replace the information on the label, except the name of food and the statement of business to business sale on a non-retail container, provided such an identification mark is readily identifiable to the accompanying documents or other means of information exchange where all such information shall be provided.

**7.2 Other information:** Additional information may be exchanged through supporting documents or means other than labelling of the non-retail container, as may be agreed among the businesses. This may include information like handling instructions etc.

## **8. PRESENTATION OF MANDATORY INFORMATION:**

### **8.1 General**

- 8.1.1 Labels in non-retail containers of foods shall be applied in such a manner that they will not become separated from the container.
- 8.1.2 Statements required to appear on the label by virtue of this standard or any other Codex standards shall be clear, prominent, indelible and readily legible.
- 8.1.3 Where the container is covered by a wrapper, the wrapper shall carry the necessary information or the label on the container shall be readily legible through the outer wrapper or not obscured by it.
- 8.1.4 The name of the food, the statement of business to business sale and the identification mark, where used, shall appear in a prominent position and in the same field of vision.
- 8.1.5 Where feasible and acceptable to the competent authority, the information as described in this document with respect to the non-retail containers of foods may also be provided in the form of a barcode.

### **8.2 Language**

- 8.2.1 If the language on the original label is not acceptable to the relevant competent authority, a supplementary label containing the mandatory information in the required language may be used instead of relabelling.
- 8.2.2 In the case of either relabelling or a supplementary label, the mandatory information provided shall fully and accurately reflect that in the original label.