

# codex alimentarius commission



FOOD AND AGRICULTURE  
ORGANIZATION  
OF THE UNITED NATIONS

WORLD  
HEALTH  
ORGANIZATION



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Agenda Item 8

CX/FL 09/37/12

## JOINT FAO/WHO FOOD STANDARDS PROGRAMME

### CODEX COMMITTEE ON FOOD LABELLING

Thirty-seventh Session  
Calgary, Canada, 4 - 8 May 2009

**Discussion paper on the need to amend the *General Standard for the Labeling of Prepackaged Foods* (CODEX STAN 1-1985) in line with OIML recommendations regarding the declaration of the quantity of product in prepackages**

(prepared by the International Organization of Legal Metrology, OIML)

#### Background

1. Ensuring fair practices in the food trade, together with protecting the health of consumers, is the stated purpose of the Codex Alimentarius. Protecting consumers from deceptive practices and maintaining a level playing field in the market are among the objectives of national authorities controlling prepackaged products (including food products) placed on the market. National legislation generally contains provisions for the declaration of the quantity of food in prepackages based on Codex texts, in particular the *General Standard for the Labelling of Prepackaged Foods* (STAN-1:1985). National legislation generally also contains provisions for the quantity of product in prepackages for other products, based on other internationally agreed standards. Harmonizing legal requirements for the declaration and the control of the quantity of product in prepackages is in the scope of the International Organization of Legal Metrology.
2. The *General Standard for the Labelling of Prepackaged Foods* contains (in section 4.3) provisions for the declaration of 'net contents' and 'drained weight' on prepackaged food. The standard does not explicitly define 'contents'.
3. In 2004, the OIML published a revision of its Recommendation 87 *Quantity of product in prepackages* which contains revised definitions aiming to resolve issues that had arisen in the interpretation of requirements on the declaration of the quantity of product in prepackages.
4. At the 36<sup>th</sup> (2008) Session of CCFL, OIML submitted a discussion paper (CX/FL 08/36/12) with a proposal to amend the General Standard in line with OIML R 87:2004. Although it was recognized that the proposal satisfied the *Guidelines on Cooperation between CAC and International Intergovernmental Organizations in the Elaboration of Standards and Related Texts*, some delegations commented that because of the potential impact on national legislation and control practices a more detailed consideration of the proposal would be necessary. The Committee agreed that this proposal would be considered at the next session as a specific agenda item and that OIML would prepare a revised discussion paper, including some additional background information and addressing some of the questions raised by Committee members.

#### The International Organization of Legal metrology

5. The OIML is an intergovernmental organization, established by a Treaty, signed in 1955 (*Convention establishing an International Organization of Legal Metrology*). Membership is open to all States. Members have full voting rights in the OIML Conference and in the International Committee of Legal Metrology (CIML). The CIML consists of a representative of each of the Member States, designated by their respective governments.
6. The CIML establishes Technical Committees and Subcommittees to deal with specific legal metrology issues, such as: defining the elements of a national law on metrology, the technical and metrological

requirements for measuring instruments under legal control, procedures for metrological supervision and the control of the quantity of product in prepackages. The CIML approves OIML Recommendation and Documents drafted by the Technical Committees and Subcommittees. OIML Recommendations are sanctioned by the Conference.

7. Corresponding Members are countries that have not acceded to the OIML Convention. They may participate in the Conference, the CIML and all Technical Committees and Subcommittees as observers, but have no voting rights. Other international organizations, representing stakeholders (including standardization organizations, manufacturers' and users' organizations) may also participate as observers.

7. OIML Technical Committees and Subcommittees do their work under Directives set by the CIML and consist of experts nominated by Member States, Corresponding Members and Liaison Organizations. The first Committee Draft of each publication is circulated to all Members, Corresponding Members and Liaison Organizations for comment only and published on the OIML web site, where it is publicly available. All comments received are taken into consideration. The second and (if required) subsequent Committee Drafts are circulated for vote and comment and also published on the OIML web site.

8. Although formal voting rules apply both in the Technical Committees and in the CIML, every effort is made to ensure that OIML Recommendations and Documents are approved by consensus. The sanctioning of Recommendations by the Conference serves to emphasize the moral obligation under the OIML Convention that Member States have to implement these Recommendations into their national legislation.

9. OIML is an observer to the WTO/TBT Committee and, under the terms of the WTO/TBT Agreement, the OIML is an international standard setting organization and OIML Recommendations are considered international standards (model regulations). Signatories to the WTO/TBT Agreement are obliged to base their national legislation on international standards, including OIML Recommendations, to the extent possible.

### **Technical work of the OIML relevant to prepackaged products**

10. The OIML has published two Recommendations relevant to the labeling of prepackaged foods:

- OIML R 87:2004: Quantity of product in prepackages, and
- OIML R 79:1997: Labeling requirements for prepackaged products.

OIML R 87 specifies:

- legal metrology requirements for prepackages labeled in predetermined constant nominal quantities of weight, volume, linear measure, area or count, and
- sampling plans and procedures for use by legal metrology officials in verifying the quantity of product in prepackages.

Informative annexes include an examination procedure outline, procedures for determining average tare weight, the drained quantity of products in liquid medium, and the actual quantity of frozen products. Also included is a mandatory annex on misleading prepackages.

OIML R 79 specifies requirements for the labeling of prepackages with respect to

- the identity of the product;
- the name and place of business of the manufacturer, packer, distributor, importer or retailer, and
- the quantity of product.

OIML R79 is currently under revision.

11. Many economies in the world have implemented or are in the process of implementing OIML R 79 and R 87 requirements in their national legislation.

12. OIML Technical Committee 6 *Prepackaged products* is currently discussing the setting up of a voluntary international certification system for prepackaged products, which would contribute to the reduction of barriers to trade in prepackaged products and reduce resources required by national authorities in controlling imported prepackaged products and in market surveillance. OIML TC 6 is also considering harmonized requirements for prepackages where the nominally declared quantity of product has to satisfy a minimum requirement and requirements for prepackages where the declared quantity of product is the actual quantity.

13. OIML has established a liaison with the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS) in order to ensure that the envisaged certification system is compatible with existing CCFICS texts to the extend possible.

### Problems with the definition of ‘net content’

14. Disputes between national authorities and manufacturers of prepackages (packers) over what constitutes ‘net content’ and different interpretations between national authorities have led to a revision of the definitions in OIML R 87. OIML R 87 now defines a prepackage as the combination of a product and the packing material in which it is packed. To differentiate between product and packing material, it proved easier to define ‘packing material’ as ‘everything intended to be left over after use of the product’. The ‘content’ is the quantity of product in the prepackage. “Quantity of product” is the preferred term and may be qualified by ‘actual’, ‘average’, or ‘nominal’. Since ‘quantity of product’ in a prepackage is always net of packing material, the qualifier ‘net’ in this context is superfluous and its use should be avoided <sup>1</sup>.

15. Food products in prepackages are often packed with a liquid medium that is not an ingredient of the product, but may or may not be used by the consumer. This liquid medium is now considered as packing material in OIML R 87, whereas before it was unclear whether the liquid medium should be considered part of the ‘content’, or not. This has led to the interpretation that the ‘net content’ of a prepackage includes the liquid medium and therefore both this ‘net quantity’ and the ‘drained weight’ have to be declared on the prepackage.

16. With the new definitions in the revised OIML R 87 it is now easier to deal with the liquid medium packed with a food product in a prepackage:

- if the liquid medium is not intended to be part of the food product, but is clearly meant to be packing material (ie. to be left over after use of the product), the consumer would not be interested in the quantity of the liquid medium and this does not need to be declared separately on the prepackage;
- if the liquid medium is not intended to be part of the product, but may be used by the consumer, the quantity of the liquid medium may be declared separately on the prepackage;
- if the liquid medium is intended to be part of the food product, the quantity of product declared on the prepackage is inclusive of the liquid medium (the liquid medium is an ingredient of the food product).

### Conclusion

17. Considering the growing importance of trade in prepackaged products and the fact that there exists some discrepancies between Codex texts and OIML texts as regards the labeling and control of the quantity of product in prepackages, there is a need for harmonization of standards at the international level.

18. New definitions in OIML R 87 resolve a number of issues with respect to what constitutes the ‘content’ (the quantity of product) in prepackages.

19. The Codex *General Standard for the Labelling of Prepackaged Foods* (STAN-1:1985) should be amended to reflect the amended definitions in OIML R 87.

20. The Committee is invited to consider the project document provided in attachment 1

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<sup>1</sup> This would apply to the terminology in standards, regulations and other normative texts when referring to the quantity of product (food) in a prepackage and would not necessarily preclude the printing of terms such as: “net content” or “content” as synonyms for “quantity of product” on the prepackage, as long as it is clear that the quantity value declared on the prepackage corresponds to the quantity of product as defined in OIML R 87.

## Project document

Proposal for New Work – Codex Committee on Food Labelling

Proposal to amend *General Standard for the Labelling of Prepackaged Foods* (CODEX STAN 1:1985)

### 1. The purposes and the scope of the standard

The *General Standard for the Labelling of Prepackaged Foods* applies to the labeling of all prepackaged foods to be offered as such to the consumer or for catering purposes and to certain aspects relating to the presentation thereof.

### 2. Relevance and timeliness

The Codex standard and Recommendation 87 of the *International Organization of Legal Metrology* (OIML) have overlapping requirements as far as the declaration of the quantity of food is concerned. These requirements are not fully consistent with each other.

### 3. The main aspects to be covered

The proposal concerns in particular the subject matter of paragraph 4.3 of Codex STAN-1:1985 (*Net Contents and Drained Weight*) as well as some of the definitions.

### 4. An assessment against the *Criteria for the establishment of work priorities*

The proposal is consistent with the criteria as follows:

#### ***General criterion***

The proposal is conducive to ensuring fair practices in the food trade and to consumer protection.

#### ***Diversification of national legislations and apparent resultant or potential impediments to international trade***

Non-consistent international standards relative to the definition of ‘quantity of product’ in prepackages lead to different national regulations and hence to barriers to international trade.

#### ***Scope of work and establishment of priorities between the various sections of the work***

The scope of work is limited to the amendment of Codex STAN-1:1985 as concerns the definition of and the declaration of the quantity of food in prepackages.

#### ***Work already undertaken by other international organizations in this field and/or suggested by the relevant international intergovernmental body(ies).***

The proposal is based on the 2004 edition of OIML Recommendation 87 *Quantity of product in prepackages*.

### 5. Relevance to the Codex strategic objectives

The proposal is relevant to Goal 1 (Promoting sound regulatory frameworks) and Goal 4 (Promoting cooperation between Codex and relevant international organizations) as stated in the Codex Alimentarius Strategic Plan 2008-2013.

### 6. Information on the relation between the proposal and other existing Codex documents

Not applicable.

### 7. Identification of any requirement for and availability of expert scientific advice

Non required.

### 8. Identification of any need for technical input to the standard from external bodies so that this can be planned for

Non required.

### 9. The proposed time-line for completion of the new work

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## **Proposed amendments to Codex STAN-1: 1985 *General Standard for the Labelling of Prepackaged Foods***

The Codex *General Standard for the Labelling of Prepackaged Foods* (STAN-1:1985) is amended as follows:

- A. In section 2, the definition “Container” is amended to read:  
“**Container**” means any packing material for the delivery of food as a single item. A container may enclose several units or types of packages when such is offered to the consumer.
- B. In section 2, after the definition “Labelling”, a new definition is inserted:  
“**Liquid medium**” means the following products, possibly in mixtures and also when frozen or quick-frozen, provided that the liquid is merely an adjunct to the quantity of food in a prepackage and is thus not a decisive factor for the purchase: water, aqueous solutions of salts, brine, aqueous solution of food acids, vinegar, aqueous solutions of sugars or other sweetening substances, fruit or vegetable juices in the case of fruits and vegetables.
- C. In section 2, after the definition “Lot”, two new definitions are inserted:  
“**Packing material**” means everything of a prepackage that is intended to be left over after use of the food, except for items naturally in the food. Use includes consumption or subjecting to a treatment. Packing material serves to contain, protect, handle, deliver, preserve, transport and inform about the food, or aid while using the food (e.g. food serving tray).  
“**Prepackage**” means the combination of food and the packing material in which it is packed before being offered to the consumer, whether the packing material encloses the food completely or only partially, but in any case in such a way that the actual quantity of food in the prepackage cannot be altered without the packing material either being opened or undergoing a perceptible modification.
- D. In section 2, the definition “Prepackaged” is replaced by:  
“**Prepackaged food**” means food packaged or made up in advance in a container, ready for offer to the consumer, or for catering purposes.
- E. Paragraph 4.2.1.5 is amended to read:  
4.2.1.5 Added water shall be declared in the list of ingredients except when the water serves solely as packing material or forms part of an ingredient such as brine, syrup or broth used in a compound food and declared as such in the list of ingredients. Water or other volatile ingredients evaporated in the course of manufacture need not be declared.
- F. Paragraph 4.3 is amended to read:  
**4.3 Quantity of food in a prepackage**  
4.3.1 The quantity of food in a prepackage shall be declared in SI-units  
4.3.2 The quantity of food in a prepackage shall be declared in the following manner:  
(i) for liquid foods, by volume;  
(ii) for solid foods, by weight;  
(iii) for semi-solid or viscous foods, either by weight or volume.  
4.3.3 If the food is packed with a liquid medium serving as packing material only, the quantity of the liquid medium shall not be declared.  
4.3.4 If the food is packed with a liquid medium intended as packing material, but this liquid medium may be used by the consumer, the quantity of the liquid medium may be declared in addition to the quantity of food.
- G. The existing footnotes to paragraph 4.3 are deleted and a new footnote to 4.3.1 is inserted:  
(Footnote) The declaration of the quantity of food in a prepackage and, in case the quantity of liquid medium with which the food is packed is declared separately, the quantity of the liquid medium shall be subject to enforcement by reference to an appropriate OIML Recommendation.

## **Explanatory notes**

### ***To Paragraph 2 (definition of terms) – Elements A - D of the proposal***

Key to the proposed amendments in the definitions is the inclusion of the definition of 'prepackage' as the combination of the food and the packing material in which the food is packed. The term 'container' is maintained, but it is used now to indicate that part of the packing material that serves to deliver food as a single item to the consumer. By defining packing material as everything intended to be left over after the use of the food in a prepackage, and by defining 'liquid medium' which is packed with the food product, but not part of the food product itself, it becomes easy to determine which quantity shall be declared on the prepackage as its 'content' (quantity of food), without the need to define 'content'.

### ***To Paragraph 4.2.1.5 (declaration of added water) – Element E of the proposal***

When added water serves as packing material only, and is not an ingredient of the prepackaged food, there should be no need to declare it in the list of ingredients on the prepackage.

### ***To Paragraph 4.3 (net contents and drained weight) – Element F of the proposal***

With the proposed new definitions, the requirements for the declaration of the food content of a prepackage in terms of quantity can now be amended to apply unambiguously to the 'quantity of food' in a prepackage. There is no longer a need to distinguish between 'net content' and 'drained weight' and the confusion over what constitutes 'net content' is now resolved. The 'quantity of food' is the prepackage less the packing material and this quantity shall be declared.

In case the food is packed with a liquid medium, which is not intended to be an ingredient of the food product, but which may be used by the consumer (use includes consumption and processing), the quantity of this liquid medium may be declared separately.

The existing notes to paragraph 4.3 have been deleted in the proposal. These notes refer to the enforcement of the declaration of 'net contents' and 'drained weight' by reference to an average system of quantity control. The average system for the control of quantities in prepackages takes account of the fact that in the production of prepackages with nominally the same quantity of food, variations in the actual quantity of food in the prepackage naturally occur. Such prepackages shall on average contain at least the declared nominal quantity of food and the actual quantity of food in each single prepackage shall not be less than a certain value. OIML R 87 provides the requirements for a harmonized system for the control of quantity of product in prepackages with predetermined constant nominal quantities.

Not all prepackages, however, are packed with nominally the same quantity of food. On many prepackages the declaration of the quantity of food is the actual quantity in the individual prepackage as determined prior to the food being packed or as calculated after packing by taking account of the gross weight and the tare weight of the prepackage. In these cases the average system is not applicable.

OIML is currently considering a harmonized system for the control of quantities in prepackages with a declaration of the actual (individual) quantity.

Also, sometimes it may be more practical to apply a minimum system for the control of the quantity of product in a prepackage where the general requirement is that each single prepackage with a declaration of the nominal value of the quantity of product contains at least the declared quantity. OIML is also considering to incorporate harmonized requirements for a minimum system.

A new note has been added in the proposal referring to appropriate OIML Recommendations for the enforcement of the declaration of the quantity of food in a prepackage.

**CODEX STAN-1:1985 (Proposed amendments in track changes)**

[...]

**2. DEFINITION OF TERMS**

For the purpose of this standard:

**“Claim”** means any representation which states, suggests or implies that a food has particular qualities relating to its origin, nutritional properties, nature, processing, composition or any other quality.

**“Consumer”** means persons and families purchasing and receiving food in order to meet their personal needs.

**“Container”** means any packaging of food for the delivery of food as a single item, ~~whether by completely or partially enclosing the food and includes wrappers~~. A container may enclose several units or types of packages when such is offered to the consumer.

For use in **Date Marking** of prepackaged food:

**“Date of Manufacture”** means the date on which the food becomes the product as described.

**“Date of Packaging”** means the date on which the food is placed in the immediate container in which it will be ultimately sold.

**“Sell-by-Date”** means the last date of offer for sale to the consumer after which there remains a reasonable storage period in the home.

**“Date of Minimum Durability”** (“best before”) means the date which signifies the end of the period under any stated storage conditions during which the product will remain fully marketable and will retain any specific qualities for which tacit or express claims have been made. However, beyond the date the food may still be perfectly satisfactory.

**“Use-by Date”** (Recommended Last Consumption Date, Expiration Date) means the date which signifies the end of the estimated period under any stated storage conditions, after which the product probably will not have the quality attributes normally expected by the consumers. After this date, the food should not be regarded as marketable.

**“Food”** means any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drinks, chewing gum and any substance which has been used in the manufacture, preparation or treatment of “food” but does not include cosmetics or tobacco or substances used only as drugs.

**“Food Additive”** means any substance not normally consumed as a food by itself and not normally used as a typical ingredient of the food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food results, or may be reasonably expected to result, (directly or indirectly) in it or its by-products becoming a component of or otherwise affecting the characteristics of such foods. The term does not include “contaminants” or substances added to food for maintaining or improving nutritional qualities.

**“Ingredient”** means any substance, including a food additive, used in the manufacture or preparation of a food and present in the final product although possibly in a modified form.

**“Label”** means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to, a container of food.

**“Labelling”** includes any written, printed or graphic matter that is present on the label, accompanies the food, or is displayed near the food, including that for the purpose of promoting its sale or disposal.

**“Liquid medium”** means the following products, possibly in mixtures and also when frozen or quick-frozen, provided that the liquid is merely an adjunct to the quantity of food in a prepackage and is thus not a decisive factor for the purchase: water, aqueous solutions of salts, brine, aqueous solution of food acids, vinegar, aqueous solutions of sugars or other sweetening substances, fruit or vegetable juices in the case of fruits and vegetables.

“**Lot**” means a definitive quantity of a commodity produced essentially under the same conditions.

“**Packing material**” means everything of a prepackage that is intended to be left over after use of the food, except for items naturally in the food. Use includes consumption or subjecting to a treatment. Packing material serves to contain, protect, handle, deliver, preserve, transport and inform about the food, or aid while using the food (e.g. food serving tray).

“**Prepackage**” means the combination of food and the packing material in which it is packed before being offered to the consumer, whether the packing material encloses the food completely or only partially, but in any case in such a way that the actual quantity of food in the prepackage cannot be altered without the packing material either being opened or undergoing a perceptible modification.

“**Prepackaged food**” means food packaged or made up in advance in a container, ready for offer to the consumer, or for catering purposes.

“**Processing Aid**” means a substance or material, not including apparatus or utensils, and not consumed as a food ingredient by itself, intentionally used in the processing of raw materials, foods or its ingredients, to fulfil a certain technological purpose during treatment or processing and which may result in the non-intentional but unavoidable presence of residues or derivatives in the final product.

“**Foods for Catering Purposes**” means those foods for use in restaurants, canteens, schools, hospitals and similar institutions where food is offered for immediate consumption.

[...]

4.2.1.5 Added water shall be declared in the list of ingredients except when the water serves solely as packing material or forms part of an ingredient such as brine, syrup or broth used in a compound food and declared as such in the list of ingredients. Water or other volatile ingredients evaporated in the course of manufacture need not be declared.

[...]

### 4.3 NET CONTENTS AND DRAINED WEIGHT

4.3.1 The ~~net contents~~quantity of food in a prepackage shall be declared in ~~the metric system~~SI-units (“Système International” ~~units~~).<sup>5</sup>

4.3.2 The ~~net contents~~quantity of food in a prepackage shall be declared in the following manner:

- (i) for liquid foods, by volume;
- (ii) for solid foods, by weight;
- (iii) for semi-solid or viscous foods, either by weight or volume.

4.3.3 ~~In addition to the declaration of net contents, a food packed in a liquid medium shall carry a declaration in the metric system of the drained weight of the food. For the purposes of this requirement, liquid medium means water, aqueous solutions of sugar and salt, fruit and vegetable juices in canned fruits and vegetables only, or vinegar, either singly or in combination.~~If the food is packed with a liquid medium serving as packing material only, the quantity of the liquid medium shall not be declared.

4.3.4 If the food is packed with a liquid medium intended as packing material, but this liquid medium may be used by the consumer, the quantity of the liquid medium may be declared in addition to the quantity of food.<sup>6</sup>

<sup>5</sup> The declaration of ~~net contents~~the quantity of food in a prepackage and, in case the quantity of liquid medium with which the food is packed is declared separately, the quantity of liquid medium, represents the quantity at the time of packaging and ~~is~~ shall be subject to enforcement by reference to an ~~average system of quantity control~~appropriate OIML Recommendation.

<sup>6</sup> ~~The declaration of drained weight is subject to enforcement by reference to an average system of quantity control.~~

[...]