

CODEX ALIMENTARIUS COMMISSION



Food and Agriculture
Organization of the
United Nations



World Health
Organization

Viale delle Terme di Caracalla, 00153 Rome, Italy - Tel: (+39) 06 57051 - E-mail: codex@fao.org - www.codexalimentarius.org

Agenda Item 5

CX/FL 21/46/5 Add.1

JOINT FAO/WHO FOOD STANDARDS PROGRAMME CODEX COMMITTEE ON FOOD LABELLING

46th Session
Virtual

27 September – 1 October and 7 October 2021

DRAFT GUIDANCE FOR THE LABELLING OF NON-RETAIL CONTAINERS OF FOODS Analysis of comments in reply to CL 2020/09/OCS-FL and amendment proposals

(Prepared by India and the CCFL Canadian Secretariat)

I. Introduction

At the 43rd Session of the Codex Committee on Food Labelling (CCFL), the Committee agreed to start new work on guidance for the labelling of non-retail containers of food through an electronic working group (eWG) chaired by India and co-chaired by USA and Costa Rica¹. Subsequently, the proposed draft guidance was discussed in the 44th and 45th sessions of the CCFL. The proposed draft guidance was agreed upon and forwarded to CAC42 for adoption at Step 5 by the CCFL at its 45th session.²

CAC42 adopted the guidance at Step 5. Thereafter, comments were sought from the members through Circular Letter (CL 2019/85-FL) comments were received from 18 member countries and 5 observer organizations.³ Comments have been compiled in CX/FL 21/46/5.

In view of the postponement of CCFL46 due to the COVID-19 pandemic, and to benefit from the additional time to continue to progress the work, the CCFL Canadian Secretariat and India, the eWG Chair, analysed and attempted to address the comments received. Accordingly, appropriate amendments have been made in the draft guidance with the objective to facilitate discussions at CCFL46.

Analysis and Consideration of comments

1. Amendments based on the comments

- a. **Restructuring of Sections:** A few comments suggested that the provisions in Sub-section 5.6 (Non-retail containers containing multiple types of foods), and 8 (Exemption), in Appendix II of the REP/FL 19, would be better placed under section 9.1. Provisions in Subsection 5.6, Sections 7 (Bulk transport containers) and 8 have been included into a proposed broader new section titled **“Provisions for specific types of non-retail containers”**. This has been done to simplify, by grouping together in a single section, the guidance pertaining to all specific types of non-retail containers.
 - **Sub-section 5.6 is now Sub-section 7.2 (Non-retail container containing multiple types of food):** The Section pertaining to non-retail containers containing multiple types of foods, as placed under Section 5, referred only to applicability of information required by Section 5. Logically, the information required by Section 6 also needs to be provided for all the types of foods in such non-retail containers. This has been addressed appropriately.
 - **Section 7 is now Sub-section 7.1 (Non-retail container used as food transportation unit):** Previous Section named “Bulk transport containers”, has been included as a Sub-section in the new broader section. The phrase “Bulk transport containers” along with

¹ REP 16/FL, Para 54

² REP19/FL, paras 29 – 64

³ Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Ecuador, Egypt, Guatemala, Indonesia, Iraq, New Zealand, Peru, Thailand, Tonga, Uganda, Uruguay, USA, CCTA, ICBA, IDF, IFT, IUFOST

examples has been replaced with the term “Food transportation unit” already defined in the *Code of Hygienic Practice for the Transport of Food in Bulk and Semi-Packed Food (CXC 47-2001)*). It is an established Codex definition, including examples, and appropriate to the purpose of this Sub-section. Since the previous Section was placed in square brackets, the new Sub-section title has been placed in square brackets.

- **Section 8 is now Sub-section 7.3 (Non-retail container providing visual access):** Previous Section “Exemption” relating to non-retail containers providing visual and legible access of the information on label of packed foods inside such non-retail containers has been placed under the new broader section, with some editorial corrections.

b. Section 6: It was considered that the consensus at the CCFL45 was as follows:

- All information required under section 5 and sub-section 6.1 must be shown in one place, either all on the label or all in the accompanying documents.
- Information identified under Section 5 must always be shown on the label.
- The other information set out in sub-section 6.1 may be shown on the label or in accompanying documents.
- If all shown on the label, then providing information on accompanying documentation is optional.
- If the information set out in sub-section 6.1 (net contents and other information to enable preparation and labelling of pre-packaged foods) is not shown on the label, then information required under section 5 and sub-section 6.1 must be all shown in an accompanying document.

Accordingly, a specific provision, proposed in sub-section 6.3, has been included to address a scenario where all the mandatory information (whether required on a label or by other means) is already given on the label. In such cases, when all information is already provided on label, it need not be repeated through other means.

- c. Grouping of all information on label in the same field of vision:** For Sub-section 9.1.3 (now 8.1.3), some members highlighted that due to different printing practices and techniques, it is not practical for a non-retail container to have all the information in the same field of vision. This has been addressed with appropriate amendments to the draft text with the understanding that while it may not be necessary to have all information in the same field of vision, it was still necessary to have the information legible and accessible by the food businesses and/or the competent authorities.
- d. Re-labelling or supplementary labelling:** Sub-section 9.2.1 (now 8.2.1) provides for re-labelling or supplementary labelling. A provision has been added to it to ensure that in case of either re-labelling or supplementary labelling, the original information is not covered/obscured.
- e. Editorial corrections:** A number of editorial corrections have been made, as suggested by members in various sections. The editorial corrections have been made to clarify the text and include changes to correct few statements grammatically, provide titles to sections and sub-sections where required and alignment of the language with that in the *General Standard for the Labelling of Prepackaged Foods (CXS 1-1985) (GSLPF)*, etc.

2. Comments that were considered but did not result in amendments

Several comments were considered but did not result in amendments as they have been previously discussed in detail; did not appear to result in significant improvement; were radically different from the approach generally agreed to so far; or pertained to a possible consequential amendment to other Codex text. Considerations taken on some specific comments include:

- a. Deletion of "not intended to be sold directly to the consumer" from the scope:** Although this clarification is already made in the definition of non-retail container, this phrase has been retained for clarity on applicability of the guidance.
- b. Inclusion of 'marketing' in the definition of "food business":** The phrase ‘distribution (including

trade)' is intended to cover all distribution activities whether commercial or non-commercial. In that sense, this already covers marketing.

- c. **Insertion of footnote regarding requirement of declaration of 'net content' on the label of a non-retail container by member countries:** This has not been included, since the draft guidance document does not preclude the possibility of providing any information on the label, in addition to that identified in section 5. Net content of the non-retail container is addressed in Section 6.
- d. **Inclusion of 'country of origin' under section 6:** This was discussed at CCFL45. In the GSLPF, country of origin is mandatory only if "its omission would mislead or deceive the consumer". Adding it as a mandatory requirement would go beyond the requirements of the GSLPF. Hence, an explicit mention under this Section was not considered necessary.
- e. **Renaming of Section 8 (now 7.3) to "Transparent non-retail container":** The section has not been renamed as proposed as it is not always the case that the whole non-retail container is transparent. However, the intent to provide a more appropriate title to the provision has been addressed in the new 7.3 renamed as "*Non-retail container providing visual access*".
- f. **Use of "should" or "shall":** A comment noted that as the document is titled as "guidance", the words "shall" be changed to "should" to reflect the voluntary nature of the text not as mandatory requirements. However, it was observed that the GSLPF and several other Codex standards/guidelines use the term "shall", for example, Guidelines relate to the use of nutrition and health claims (CXG 23-1997); all Codex standards/guidelines are voluntary; and that the current document at present uses the format of GSLPF.
- g. **Consequential amendment to the GSLPF:** A comment was received proposing to delete reference to the foods for catering purpose in the GSLPF. However, it was considered that foods for catering purpose could apply to both the GSLPF and the proposed guidance for NRC depending upon whether the food inside a NRC, and used for catering purposes, was prepackaged or not.

3. Comments for further consideration by the Committee

- a. **Standard or a Guideline:** Several delegations commented on whether the document, when completed, should be a Standard or a Guideline. Out of 14 responses received on this matter, 8 favoured it to be a standard while 6 considered that it could be Guideline. At CCFL45, the Codex Secretariat provided clarification on this noting "that while there was no clear guidance in Codex as to when a document should become a guideline or standard but that the present text had been drafted more in line with the practice used for standards so it could be called General Standard on the Labelling of Non Retail Containers. The Secretariat further noted that the naming of the text would entail no difference as to the significance and implications of a Codex standard or a Codex guideline"⁴.

II. Recommendations

The Committee is invited:

- 1) To consider the proposed amendments to the draft guidance in the Annex I of this document with the intent to progress it to Step 8 for final adoption by CAC44;
- 2) To decide whether the final document should be adopted as a Standard or a Guideline keeping in view the clarification provided by the Codex Secretariat at CCFL45⁴ ;

If the Committee agrees to forward the draft guidance to the CAC for adoption at Step 8, the Committee is also invited:

- 1) To consider the proposed draft amendment to the Procedural Manual for adoption by CAC (see Annex II); and,
- 2) To inform commodity committees of the finalization of the guidance, noting the Committee's observation that once the document is finalised there could be the need for consequential amendments to the commodity standards⁵.

⁴ REP 19/FL para 61

⁵ REP19/FL, paras 64-65

DRAFT GUIDANCE FOR THE LABELLING OF NON-RETAIL CONTAINERS OF FOODS
(Proposed amendments in response to comments from CL 2019/85-FL)

1. PURPOSE

The purpose of [these Guidelines] / [this Standard] is to facilitate appropriate harmonized labelling of non-retail containers of food and to outline what information shall be presented on the label and what information, while not required on the label, must be provided ~~for~~ with a non-retail container by other means.

2. SCOPE

[These Guidelines] / [This Standard] [apply] / [applies] to the labelling of non-retail containers of food (excluding food additives and processing aids)^{1,2} not intended to be offered directly to the consumer¹ including the information provided in the accompanying physical documents or by other means, and the presentation thereof.

3. DEFINITION OF TERMS

For the purpose of [these Guidelines] / [this Standard], the relevant definitions in the *General Standard for the Labelling of Prepackaged Foods* (CXS 1-1985) apply. In addition, the following terms have the meaning as defined below:

“**Food Business**” means an entity or undertaking, carrying out one or more activity(ies) related to any stage(s) of production, processing, packaging, storage and distribution (including trade) of food¹.

“**Non-retail container**” means any container¹ that is not intended to be offered for direct sale to the consumer¹. The food¹ in the non-retail containers is for further food business activities before being offered to the consumer¹.

4. GENERAL PRINCIPLES

~~The following general principles apply to the labelling of non-retail containers:~~

- 4.1 The general principles established in the *General Standard for the Labelling of Prepackaged Foods* (~~GSLPF~~ **CXS 1-1985**) apply equally, as appropriate, to the labelling of non-retail containers of foods.
- 4.2 The labelling requirements for non-retail containers of foods should be differentiated clearly from the labelling requirements for prepackaged¹ foods.
- 4.3 ~~The~~ **N**on-retail containers should be clearly identifiable as such.
- 4.4 The non-retail status of a container shall be determined by the food business selling or distributing the container of food
- 4.5 The labelling requirements for non-retail containers should be established taking into account the information requirements and implementation capabilities of the ~~relevant stakeholders~~ (food businesses and competent authorities).
- 4.6 Subject to the requirements outlined in Section 5, the information requirements in respect of non-retail containers of food may be met through means other than on a label as allowed by the competent authority in the country in which it is sold.
- 4.7 The label and information in the accompanying documents or information provided by other means shall be traceable to the food in the non-retail container and shall provide information to enable the

¹ As defined in the *General Standard for the Labelling of Prepackaged Foods* (CXS 1-1985)

² This Guideline/Standard is not intended to apply to the labelling of food additives and processing aids for which the *General Standard for the Labelling of Food Additives When Sold as Such* (CXS 107-1981) applies.

labelling of food, intended for sale to the consumer.

5. MANDATORY INFORMATION REQUIREMENTS ON **THE LABEL**:

The following information shall appear on the label of non-retail containers of food:

5.1 The name of the food

5.1.1 The name shall indicate the true nature of the food and normally be specific and not generic.

5.1.1.1 Where a name or names have been established for a food in a Codex standard, at least one of these names shall be used.

5.1.1.2 In other cases, the name prescribed by national legislation shall be used.

5.1.1.3 In the absence of any such established or prescribed name, either a common or usual name existing by common usage as an appropriate descriptive term which is not misleading or confusing to the food business or in the country in which the food is intended to be sold shall be used.

5.1.1.4 A "coined", "fanciful", "brand" name or "trade mark" may be used provided it accompanies one of the names provided in Subsections 5.1.1.1 to 5.1.1.3.

5.1.1.5 Where the non-retail container contains multiple types of food, the names of all the foods contained therein and/or a commonly understood descriptor that best explains the foods present together in the container shall be provided on the label, as allowed by the competent authority in the country in which the product is sold.

5.2 Lot identification

Each non-retail container shall be marked in code or in a manner to clearly identify the ~~producing~~ **production** factory and the lot.

5.3 **Date marking and storage instructions**³

Date marking and storage instructions **shall be provided** only when they are related to the safety and integrity of the product.

5.4 Identification of a non-retail container

The non-retail containers of foods shall be clearly identifiable as such. If the container is not clearly identifiable as a non-retail container, the container shall:

- bear a statement to indicate that the food is not intended to be sold directly to **the** consumer² ¹ or to clearly identify it as a non-retail container. Some examples of such statements are:

"NON-RETAIL CONTAINER"

"NON-RETAILCONTAINER - NOT FOR DIRECT SALE TO CONSUMER"

Or,

- carry any other mark that indicates that the container is not intended to be sold directly to a consumer

5.5 **Name and address**

Name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the food shall be declared.

~~5.6 Where a non retail container contains multiple types of food, the information in respect of all the above provisions in Section 5 should be provided for all the foods contained therein.~~

6. MANDATORY INFORMATION REQUIREMENTS BY MEANS OTHER THAN **ON THE LABEL**

6.1 The information that shall be provided in the accompanying documents, or through other ~~appropriate~~ means, is the following:

³ Information to be provided as in the relevant section of the *General Standard for the Labelling of Prepackaged Foods* (CXS 1-1985)

- i. Information provided on the label as identified in Section 5;
 - ii. ~~If not all on the label:~~ Information sufficient to enable the **safe** preparation and **the** labelling of pre-packaged foods from the food in the non-retail container⁴;
 - iii. Net contents of the non-retail container.
- 6.2 The information provided in the accompanying documents, or through other ~~appropriate~~ means, shall be ~~effectively~~ traceable to the food in non-retail container.
- 6.3 **If all mandatory information is made available on the label, provisions of 6.1 and 6.2 need not apply.**

7. ~~[BULK TRANSPORT~~ **PROVISIONS FOR SPECIFIC TYPES OF NON-RETAIL CONTAINERS**

7.1 **Non-retail container used as food transportation unit⁵**

In the case of **a non-retail container used as a food transportation unit** ~~bulk transport containers such as shipping containers, tankers, barges, drums, etc., that is~~ are not amenable to possess a label, all the information stipulated in sections **5 and 6** shall be provided in the accompanying documents or through appropriate other means (e.g. electronically between food businesses) and shall be effectively traceable to the food in such containers.

7.2 **Non-retail container containing multiple types of food**

~~5.6—Where a non-retail container contains multiple types of food, the~~ **mandatory** information ~~in respect of all the above provisions in~~ **required by** Section 5 **on the label and section 6 through means other than on the label** ~~should~~ **shall** be provided for all the **types of** foods contained therein.

7.3 **8 [EXEMPTION Non-retail container providing visual access]**

In the case of **a** non-retail container, which provides **s** visual and legible access to **all** the information **required by section 5** on the label of pre-packaged foods within the non-retail container, the information stipulated in section 5 is not required.

8. ~~9-~~ **PRESENTATION OF INFORMATION**

8.1 ~~9.1~~ **General**

- 8.1.1 ~~9.1.1~~ Labels on non-retail containers of foods shall be applied in such a manner that they will not become separated from the container.
- 8.1.2 ~~9.1.2~~ Information and the statements required to appear on the label by virtue of [these Guidelines] / [this Standard] or any other Codex Standards shall be clear, prominent, readily legible and applied in such a manner that any tampering with it will be evident.
- 8.1.3 ~~9.1.3~~ The mandatory information requirements on label (Section 5 **above**) shall appear in a prominent position on the non-retail and ~~in the same field of vision~~ **shall be readily accessible under normal handling and use of the container.**
- 8.1.4 ~~9.1.4~~ Information that is provided by means other than the label shall be readily accessible, ~~discernible~~ **legible** and clearly displayed.

8.2 ~~9.2~~ **Language**

⁴ CXS1-1985 and other relevant Codex labelling text

⁵ **"Food transportation unit" as defined in the Code of Hygienic Practice for the Transport of Food in Bulk and Semi-Packed Food (CXC 47-2001).** [For ease of CCFL46 discussion: Definition from CXC 47-2001 reads: "Food transportation unit: Includes food transport vehicles or contact receptacles (such as containers, boxes, bins, bulk tanks) in vehicles, aircraft, railcars, trailers and ships and any other transport receptacles in which food is transported."]

- 8.2.1 ~~9.2.1~~ If the language in the original labelling is not acceptable to the competent authority or the food business in the country in which the product is sold, a translation of the information in the labelling should be provided in the required language in the form of re-labelling, supplementary label and/or in the accompanying documents or **by means** other **than on the label** ~~appropriate means~~ to meet the requirements of the country in which the product is sold. **If re-labelling or a supplementary label is used, it shall not obscure the original label.**
- 8.2.2 ~~9.2.2~~ The information provided through translation in the required language shall fully and accurately reflect that in the original labelling.

Annex II

Proposed draft amendment to the Procedural Manual
Section II Elaboration of Codex Standards and Related Texts: Format for Codex Commodity
Standards: Section on labelling

Replace the following:

Where the scope of the Standard is not limited to pre-packaged goods, a provision for labelling of non-retail containers may be included:

In such cases the provision may specify that:

“Information on¹² shall be given either on the container or in accompanying documents, except that the name of product, lot identification, and the name and address of the manufacturer or packer shall appear on the container.¹³

However, lot identification, and the name and address of the manufacturer or packer may be replaced by an identification mark provided that such a mark is clearly identifiable with the accompanying documents.”

12 Codex Committees should decide which provisions are to be included

13 Codex Committees may decide that further information is required on the container. In this regard, special attention should be given to the need for storage instructions to be included on the container.

With:

Where the scope of the Standard is not limited to pre-packaged foods, a provision for the labelling of non-retail containers may be included as follows:

“The labelling of non-retail containers should be in accordance with the Guidance (Standard/Guideline) on the Labelling of Non-Retail Containers.”