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Agenda item 10

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## JOINT FAO/WHO FOOD STANDARDS PROGRAMME

### CODEx COMMITTEE ON FOOD LABELLING

Forty-eighth Session

Quebec City, Canada

27 October – 1 November 2024

### DISCUSSION PAPER ON APPLICATION OF FOOD LABELLING PROVISIONS IN EMERGENCIES

(Prepared by Electronic Working Group (EWG) chaired by the United States of America)

#### INTRODUCTION

1. Emergencies in recent years have caused many countries to consider implementing certain temporary flexibilities to food labelling requirements to ensure a safe and adequate food supply. Current Codex Committee on Food Labelling (CCFL) texts do not provide guidance on whether and how countries may consider such flexibilities in emergency situations, when deemed necessary.
2. As agreed at CCFL47, this discussion paper and project document have been updated based on the work of the EWG, chaired by the United States of America, on the application of food labelling provisions in emergencies. An EWG report is presented in Appendix I and Appendix III includes revised example text reflecting the EWG's input and recommendations from CCFL47.
3. This paper and project document (Appendix II) are submitted for consideration at CCFL48.

#### BACKGROUND

4. At CCFL47, the United States of America presented a [discussion paper and project document](#) (CX/FL 23/47/10) on food labelling flexibilities in emergencies. The paper and project document summarized several examples of emergency flexibilities that many countries offered in recent years, as well as the reasons that other countries did not choose to implement such flexibilities. Countries' responses included both substantive food labelling flexibilities (e.g. certain low risk changes temporarily allowed to ensure a safe and adequate food supply), and the process by which the need for such flexibilities was identified and considered by competent authorities. The paper also highlighted key areas of consideration regarding future work, including purpose, scope, definitions, principles and criteria.
5. Codex Members' feedback generally supported that any new text provide high-level principles and decision-making criteria, which could be useful when considering proposed food labelling exemptions in emergencies. The paper and project document recommended that there could be future work in this area, based on the significant and varied responses received from Codex members prior to CCFL47.
6. The [CCFL47 report](#) summarized the Committee's discussion on this agenda item (paragraphs 151 - 160). CCFL47 agreed to establish an EWG chaired by the United States of America working in English, to revise the discussion paper and project document, taking into account the discussions at this session, especially with respect to the scope and the need for definitions for "emergency" and "flexibility" for consideration by CCFL48.

#### SUMMARY OF ANALYSIS

7. The EWG issued two consultation papers to inform this updated discussion paper and project document. The first paper gathered information from EWG members on: whether guidelines on the application of food labelling provisions in emergencies would be beneficial, what the scope of such proposed work should be, whether definitions are necessary for certain terms such as "emergency" and "flexibilities," and what criteria may be needed to determine when the "emergency" threshold is reached.
8. Twelve (12) Codex Members, one (1) Codex Member Organization, and three (3) Codex Observers submitted responses to the first EWG consultation paper. A majority of Codex Members (11 out of 13) in the EWG development of guidelines on the application of food labelling provisions in emergencies. These members

supported high-level guidelines rather than a more technical standard and agreed that high-level guidelines would facilitate decision-making on the application of food labelling in emergencies, and that less prescriptive guidance would allow for flexibility when needed in a variety of different emergencies. These members also recommended that any guidelines maintain safety as the top priority of any labelling flexibility, underpinned by an assessment of risk. Members generally agreed that the guidelines should facilitate consistent and outcome-based decisions that retain consumer safety while also maintaining critical food supply chains. Responses varied considerably on the need to define certain key terms (e.g. “emergency” or “flexibility”), or to describe the intended meaning of such terms, perhaps by articulating outcome-based criteria and underpinning principles. The majority of members supported development of high-level criteria in determining when an “emergency” threshold has been reached, justifying consideration of temporary flexibilities.

9. The EWG sought additional feedback in a second consultation on: advantages and/or disadvantages of defining terms (“emergency”, “flexibility”) versus providing a description of these situations in the Scope; the need for additional sections, proposed text for example draft guidelines.
10. Eleven (11) Members, one (1) Member Organization, and four (4) Observers responded to the second consultation. Eight (8) Members and three (3) Observers did not see a need for formal definitions and supported the approach in the proposed draft text using descriptions of terms in the scope instead. In general, those respondents supporting descriptions versus definitions stated that defining terms such as “emergency” or “flexibilities” could inadvertently exclude situations for competent authorities in times of emergency. Defining terms was also viewed as infeasible and potentially confusing. Three Members did not express support or opposition to defining terms versus descriptions in the Scope. One Member supported developing formal definitions for terms, asserting that definitions may be necessary to ensure clarity throughout the guideline, and one Observer noted its own definition of “emergency” and emphasized that emergencies encompass situations where communities face significant challenges in accessing food due to various factors.
11. Five (5) Members and two (2) Observers supported adding sections on stakeholder roles and responsibilities, and/or processes for considering flexibilities in emergencies. Among these, one recommending clarifying “Food Business Operators” and other stakeholders, developing high-level criteria to assist decision-making for what and when to report emergencies, and criteria and/or good practices to assist the competent authority in assessing if a situation constitutes an emergency. Another response noted that these sections could provide examples of stakeholder roles/responsibilities and decision-making processes in emergencies. Three responders did not support additional sections on stakeholder roles/responsibilities or processes for considering flexibilities in emergencies. One Member stated that in an emergency, competent authorities require guidelines that are not overly specific and complex. Another member not supporting additional sections suggested these sections could be outside CCFL’s mandate.
12. Members and Observers showed considerable interest and provided thoughtful feedback and edits regarding the purpose, scope, and principles of a potential guideline that are summarized in the EWG report in Appendix I and have been incorporated into the sample proposed text for information in Appendix III. A common theme in all responses was that safety must always be the top priority and several members were of the view that any labelling flexibilities in emergencies must be underpinned by an assessment of the likely risk of granting the flexibility.

## **CONCLUSION**

13. There was general support for proceeding with the consideration of this new work proposal at CCFL48. Only one Codex Member opposed moving forward with the proposal, while the remaining EWG members supported proceeding with consideration of guidelines on the application of food labelling provisions in emergencies and provided responses and recommendations that helped to improve the scope, purpose, and main aspects to be considered in the proposed new work. This feedback has informed the update of the project document in Appendix II for CCFL48’s consideration.

## **RECOMMENDATIONS**

14. CCFL48 is invited to:
  - a) consider the updated discussion paper and project document (Appendix II) as potential new work.
  - b) establish an EWG to prepare a draft of the proposed guidelines for consideration at CCFL49.

## Appendix I

## FULL REPORT OF THE EWG

The EWG was established in August 2023, with a first consultation posted in September 2023, and a second round of consultation conducted in February 2024. Overall, there were 29 total participants in the EWG, including Twenty-one (21) Codex Members, one (1) Codex Member Organization, and seven (7) Observer Organizations. A list of participants can be found in Appendix IV.

The EWG issued two consultation papers to inform this updated discussion paper and project document. The first paper gathered information from Members on the following questions:

- Whether guidelines on the application of food labelling provisions in emergencies would be beneficial.
- What the scope of such proposed work should be, such as high-level guidance and criteria to aid decision-making or a more technical guidance.
- Whether definitions are necessary for terms such as “emergency” and “flexibilities,” among others, considering other international organizations’ definitions and use of these terms.
- What criteria may be needed to determine when the “emergency” threshold is reached.

Twelve (12) Codex Members, one (1) Codex Member Organization, and three (3) Codex Observers submitted responses to the first EWG consultation paper. A majority of Codex Members in the EWG (11 of 13) supported development of guidelines on the application of food labelling provisions in emergencies. Of these 11, all supported high-level guidelines rather than a more technical standard. Members generally agreed that high-level guidelines would facilitate decision-making on the application of food labelling in emergencies, and that less prescriptive guidance would allow for flexibility when needed in a variety of different emergencies.

Members generally recommended that any guidelines maintain safety as the top priority of any labelling flexibility, underpinned by an assessment of risk. With these principles in view, Members generally agreed that the guidelines should facilitate consistent and outcome-based decisions that retain consumer safety while also maintaining critical food supply chains. Responses to the first consultation paper varied considerably on the need to define certain key terms (e.g. “emergency” or “flexibility”), or to describe the intended meaning of such terms, perhaps by articulating outcome-based criteria and underpinning principles. 11 out of 13 Codex Members supported development of high-level criteria in determining when an “emergency” threshold has been reached, justifying consideration of temporary flexibilities.

With the feedback from the first consultation paper in view, the second consultation paper summarized EWG responses on these questions, reflected on the feedback received, and provided an example of text for high-level guidelines on the application of food labelling in emergencies. The paper also sought EWG feedback on the following:

- **Question one:** Advantages and/or disadvantages of defining terms (“emergency”, “flexibility”) versus providing a description of these situations in the Scope;
- **Question two:** Whether Members see need for additional sections, including a potential section on stakeholder (e.g. competent authorities, food business operators, consumers) roles and responsibilities, and/or processes for requesting, considering, and applying flexibilities;
- **Question three:** Review of proposed text for an example draft *Guidelines on Flexibilities to the Application of Food Labelling in Emergencies*

16 responses were received to the second EWG consultation paper (11 members, one member organization, and four observers). The responses are summarized below. In terms of general comments, one respondent (a Codex Member) opposed moving forward with the proposal, while the majority of EWG Members and Observers supported proceeding with consideration of guidelines on the application of food labelling provisions in emergencies.

**Question one:** In response to the first question (i.e. advantages and/or disadvantages of defining terms (“emergency”, “flexibility”) versus providing a description of these situations in the Scope”), eight Members and three Observers did not see a need for formal definitions and supported the approach in the proposed draft text using descriptions of terms instead. In general, those respondents supporting descriptions versus definitions stated that defining terms such as “emergency” or “flexibilities” could inadvertently exclude situations for competent

authorities in times of emergency, therefore unnecessarily constricted the range of action that could be taken. Defining terms was also viewed by these respondents as infeasible and potentially confusing.

One Member supported developing formal definitions for terms such as “emergency,” “flexibility,” and “food labelling requirement,” asserting that definitions may be necessary to ensure clarity throughout the guideline. Three Members did not express support or opposition to defining terms versus descriptions in the Scope. Finally, one Observer noted its own definition of “emergency”<sup>1</sup> and emphasized that emergencies encompass situations where communities face significant challenges in accessing food due to various factors, not solely limited to disruptions in the international supply chain. The Observer further commented that these situations may include but are not limited to inadequate food supply at the local level, economic crises affecting food affordability, and localized conflicts or crises. By acknowledging the diverse range of circumstances that can precipitate food-related emergencies, this Observer stated, the framework for food labelling provisions may more effectively address the nuanced needs of affected populations and facilitate targeted interventions to ensure food security for all individuals, regardless of the scale or nature of the emergency.

**Recommended approach:** Based on this feedback from the EWG, the proposed example guideline below retains the approach of describing, rather than defining, certain key terms (e.g. “emergency,” “flexibility”). This approach is intended to account for the variability of situations, causes, experiences, and consequences of emergencies, as well as the need for competent authorities to remain nimble and flexible to respond decisively and in a targeted manner to specific emergency scenarios.

**Question two:** In response to the second question (i.e. whether Members see need for additional sections, including a potential section on stakeholder (e.g. competent authorities, food business operators, consumers) roles and responsibilities, and/or processes for requesting, considering, and applying flexibilities), five Members and two Observers supported adding sections on stakeholder roles and responsibilities, and/or processes for considering flexibilities in emergencies. Among these Members, one recommending clarifying “Food Business Operators” and other stakeholders, developing criteria for reporting emergencies (e.g. high-level criteria to assist decision-making for what and when to report), and criteria for applying flexibilities (e.g. criteria and/or good practices to assist the competent authority in assessing if a situation constitutes an emergency). Another Member supporting additional sections noted that they could provide examples of such stakeholder roles/responsibilities and decision-making processes in emergencies.

Three Members did not support additional sections on stakeholder roles/responsibilities or processes for considering flexibilities in emergencies. One Member stated that in an emergency, competent authorities need to act promptly, boldly, and flexibly, requiring guidelines that are not overly specific and complex. Another member not supporting additional sections suggested these sections could be outside CCFL’s mandate. Four Members did not address the question.

**Recommended approach:** Given the variety of responses to the question and lack of clear consensus in the EWG, the United States recommends that this issue of potential additional, high-level sections on stakeholder role/responsibilities and decision-making processes for competent authorities on the application of food labelling in emergencies be further discussed at CCFL48.

**Question three:** In response to the third question (i.e. review of the proposed example text for *Guidelines on the Application of Food Labelling in Emergencies*), Members and Observers showed considerable interest and provided thoughtful feedback and edits. Below is a summary of EWG responses on the example guidelines provided in the second consultation paper.

#### **General Comments, Purpose, Scope:**

Several Members reiterated that safety must always be the top priority and any labelling flexibilities in emergencies must be underpinned by an assessment of the likely risk of granting the flexibility. These Members generally agreed that any guidelines should not inadvertently relax labelling requirements when not strictly necessary to maintain a safe and adequate food supply in emergencies.

Some Members recommended that any new work and resulting guidance identify labelling elements that are critical to ensuring food safety for consumers as elements that must always be provided irrespective of any labelling flexibilities that may be granted (e.g. ‘basic product information’ and ‘non-food safety labelling flexibilities’).

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<sup>1</sup>“Urgent situations in which there is clear evidence that an event, or series of events, has occurred which causes human suffering or imminently threatens lives or livelihoods, and which the government concerned has not the means to remedy; and it is a demonstrably abnormal event, or series of events, which produces dislocation in the life of a community on an exceptional scale.”

Identifying these elements would offer significant potential for harmonization of any labelling flexibilities considered across countries, leading to principles and decision-making guidance on when and how flexibilities for remaining labelling elements could be considered in emergency situations.

Several Members and Observers recommended that the scope of the proposal not be limited to emergencies with only international impacts, but include regional, national, and local impacts as well, since competent authorities could benefit from the guidelines applying to these situations as well. Furthermore, Members and Observers noted that regional, national, and locally impacted emergencies often have international effects as well. Some Members also recommended including “climate change” and “extreme weather events” to the examples of situations that can cause an emergency.

One Member stated that the current example guideline focuses on enabling FBOs to continue operations in an emergency, with competent authorities seeking to maintain a safe and adequate food supply as the entire society. However, this Member noted, there should also be a balanced focus on how to ensure that food labelling requirements, applied under normal conditions, do not unnecessarily hinder the food supply for the people in the disaster-affected areas, while maintaining safety for consumers. This Member also identified that both “evidence-based” and “risk-based” are used in the example guideline, preferring “risk-based” because in an emergency, the competent authority often needs to act promptly based on the risk rather than waiting for sufficient evidence suitable under normal conditions.

Some Members recommended that the description of “emergency” and/or the principles for identifying an emergency elaborate on the meaning of “exceptional nature”, “significant impact/disruption,” and “availability/maintenance of a safe and adequate food supply”. For example, one Member offered that consideration could be given to whether a “significant” interruption that affects the “availability of a safe and adequate food supply” of food products from a specific food industry sector, for example the availability of beef products in terms of volume and hence price/cost to consumers, would fall within the definition of an “emergency” if there are alternative products still available for sale to consumers, such as pork or chicken products. Furthermore, this Member asked if interests of a food sector could be a determining factor in whether a situation should be considered an emergency or if only the public interest be the determining factor. Some Members suggested it may be beneficial to explore the development of a decision tree to assist competent authorities in determining if a particular situation would be considered an emergency.

One Member commented that flexibilities at the national level in the enforcement of food labelling provisions can be made on a case-by-case basis, under the condition that these flexibilities are temporary (*i.e.* for the period strictly necessary), justified (*i.e.* evidence-based) and proportionate (*i.e.* to the extent strictly necessary), and that food safety is not compromised. This Member recommended that national competent authorities responsible of the enforcement of the labelling legislation should be the primary responsible for the implementation of these guidelines. This Member also added these guidelines should not allow a national competent authority to decide unilaterally on the non-application of certain food labelling requirements for foods exported to and sold/consumed in another country and to merely inform that other country of the derogations it decided, even if these flexibilities are temporary and, according to the national competent authority, justified, proportionate and not compromising food safety. The flexibilities offered by the national competent authorities should therefore not apply to products exported to other countries.

### **Principles:**

**Notifying other Countries:** Members differed on the need and extent to which countries should notify all countries, impacted countries, or no countries when competent authorities determine a need to implement labelling flexibilities in an emergency. Some stated that “advance” notification would be unnecessary and potentially burdensome in some time of emergency, while others considered notification an important and essential element of ensuring international cooperation and facilitation of safe and fair trade in an emergency. One Member also recommended referencing the International Food Safety Authorities Network (INFOSAN), the FAO/WHO network for the dissemination of important information about food safety issues globally.

**Technology:** Members differed on the importance and need of including reference to technology solutions in emergencies. Some Members felt the reference to technology was too specific and that in times of emergency, technological solutions may in fact be limited or less widely accessible, and therefore less relevant. Others recommended that technology could provide avenues for disclosure of certain non-food safety labelling information when an emergency makes application of such information on the physical label difficult or impossible. Awareness should be maintained between the existing work on innovation and technology in food labelling and this proposal. Some Members and an Observer also suggested adding examples, to include technology solutions, to the list of

examples used to maintain continuity in basic product information while providing flexibility in the means of communicating such information (e.g. temporary stickering, in-store materials, use of technology in labelling, websites, accompanying documents).

**Criteria for Reporting and Applying Flexibilities:** Some Members identified a potential need for high-level criteria on reporting and applying flexibilities in emergencies, *i.e.* reporting an emergency to a competent authority. These criteria could include what must be reported (e.g. a current or imminent emergency, updates to the status of information submitted, the end of an emergency) and when an emergency should be reported (e.g. within a specified number of business days), recognizing that processes for reporting an emergency, requesting labelling flexibilities, and implementing those flexibilities may still differ across Codex Members, at the national level. Such criteria could help ensure that flexibility measures are only applied in genuine emergency situations and are not used to distort international trade. Criteria could also help competent authorities assess whether a situation constitutes an emergency and therefore support decision-making. It could help prioritize many requests that could be received from FBOs, local authorities, or others for labelling flexibilities in an emergency, and support competent authorities' review of information submitted for those requests.

**Before an Emergency Occurs:** One Member stated that principles addressing activities before an emergency occurs are unnecessary, since development of a risk-based plan for considering requests for food labelling flexibilities in times of emergency would entail considering comprehensively all possible emergencies and their consequences. Some Members requested clarification or re-wording of the principle on the need to review national legislation prior to an emergency to determine competent authorities' authority to grant flexibilities in times of emergency.

**Duration of Emergency Flexibilities and Records:** One Member recommended that competent authorities should, at the onset of implementing measures in emergencies, record an outline (even if it is high-level) of the conditions, which, when they come to pass, will warrant the standing down of these emergency measures. These conditions would be discussed by competent authorities and FBOs. This Member proposed that such an approach would improve accountability and prevent in extreme cases, the misuse of emergency labelling rules when in fact the aspect of the emergency situation which was threatening food security is over.

**Harmonization:** Some Members noted that approaches to flexibilities should be more targeted or tailored to specific commodities, rather than harmonized across commodities, since the varying kind and nature of emergencies may impact separate commodities in different ways.

**New Principles Proposed:** One Member and one Observer recommended adding a principle such as, "Not disproportionately impact vulnerable populations or exacerbate existing inequalities," to ensure the protection of the most vulnerable population in cases of providing flexibilities during emergencies. Another Member suggested that any guidance address 'stock in trade' (*i.e.* products produced during the 'emergency situation' that remain available for sale once that situation is over). Consideration should also be given to allowing time to find an alternative solution, should the situation created by the emergency be ongoing – e.g. the need to permanently change an ingredient.

**Examples:** One Member suggested that, as a general rule, Codex texts should not include examples, and therefore to delete the section on examples of flexibilities. Another Member proposed deleting "food additive" in the examples section, as food additives are included in the definition of ingredients according to the *General standard for the labelling of prepackaged foods* (CXS 1-1985; GSLPF). One Observer offered several additional examples that could be included for consideration as well.

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## PROJECT DOCUMENT FOR NEW WORK ON THE APPLICATION OF FOOD LABELLING PROVISIONS IN EMERGENCIES

### Background

Emergencies in recent years have caused many countries to consider implementing certain temporary flexibilities to food labelling requirements to ensure a safe and adequate food supply. Current Codex Committee on Food Labelling (CCFL) texts do not provide guidance on whether and how countries may consider such flexibilities in emergency situations, when deemed necessary

### 1. PURPOSE AND SCOPE OF THE NEW WORK

The purpose and scope of the proposed work is to provide high-level guidance (*i.e.* principles and criteria) to assist governments in considering development and application of food labelling measures in emergencies, including any flexibilities that might support a safe and adequate food supply in such emergencies.

### 2. RELEVANCE AND TIMELINESS

Supply chain disruptions caused by recent emergencies have caused many countries to consider implementing certain temporary food labelling measures to ensure a safe and adequate food supply. Current CCFL texts do not provide guidance on whether and how countries may consider such emergency measures, when deemed necessary. A high-level framework to facilitate decision-making regarding such labelling measures would help ensure both consumer protection and fair trade. There is currently no global guidance for governments to facilitate decision-making on food labelling measures in times of emergency and, given continued and potential supply chain disruptions due to emergencies, this proposed work would be timely. This proposed work would also support Goal One of the Codex

Codex Strategic Plan for 2020-2025, by addressing current, emerging and critical issues in a timely manner. High-level guidance in this area would be beneficial to countries' decision-making, given the number of countries that have considered or implemented emergency food labelling measures in times of emergency in recent years.

### 3. MAIN ASPECTS TO BE COVERED

It is recommended that the following aspects be considered for inclusion in the proposed guidance:

- Purpose
- Scope
- Principles and/or criteria
- Examples of food labelling measures in emergencies
- Stakeholder role/responsibilities and decision-making processes for competent authorities on the application of food labelling measures in emergencies

### 4. ASSESSMENT AGAINST THE CRITERIA FOR ESTABLISHMENT OF NEW WORK PRIORITIES

#### General criterion

***Consumer protection from the point of view of health, food safety, ensuring fair practices in the food trade and taking into account the identified needs of developing countries***

Global decision-making principles and criteria would assist governments in considering such measures in a manner that mitigates the risk of consumers being misled and lacking the ability to make informed choices when purchasing food products. Furthermore, such guidance would aim to increase harmonization and facilitate fair trade in an area where no global guidance exists despite significant divergence in approach and practice among countries in emergencies. Such guidance could also help to mitigate the implementation of non-risk-based measures in emergencies.

#### Criteria applicable to general matters

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

The need for guidance on food labelling measures in emergencies to ensure a safe and adequate food supply has been identified, as there is no global guidance or any other framework to facilitate risk-based decision-

making in this area. As a result, multiple approaches have been taken by countries to evaluate, identify, and implement food labelling measures in emergencies, impacting both domestic and international trade.

**b) Scope of work and establishment of priorities between the various sections of the work.**

- c) It is recommended that guidance provide principles and high-level decision-making criteria for considering food labelling measures in emergencies to assist governments in such situations. The guidance would focus on food in international trade. ***Work already undertaken by other international organizations in this field and/or suggested by the relevant international intergovernmental body(ies)***

The first consultation paper identified several indirectly related documents from international organizations, though none directly addressed the intended goals and needs of this proposed work in CCFL. As such, there is no known work already undertaken by other international organizations in this area or suggested by other international intergovernmental bodies. Work undertaken in this area should consider the wide range of scenarios that may cause disruption to the international, regional, or domestic supply chain, necessitating consideration of food labelling measures by government authorities to help ensure a safe and adequate food supply. The work should also keep in view the efforts of other international organizations and countries' efforts to prepare for, address, and respond to emergencies more broadly. As part of the work, it is proposed to coordinate with any relevant activities being undertaken by other international organizations, including relevant international organizations.

**d) Amenability of the subject of the proposal to standardization**

High-level rather than more technical guidance will be more amenable to standardization and will balance the need for flexibility among countries given the range of emergencies that may arise. More detailed or technical standards are not recommended as these would provide less flexibility and offer less opportunity for standardization in Codex.

**e) Consideration of the global magnitude of the problem or issue.**

It is reasonable to expect that emergencies disrupting supply chains will occur in the future, such as human pandemics, climate change, animal disease outbreaks, natural disasters, disruption of critical infrastructure networks, war, or famine. Such emergencies disrupting supply chains may occur in combination with one another and may be experienced globally or regionally, though even local or regional emergencies can have far-reaching global effects.

Considering the plausibility of future emergencies, it is likely that governments will again experience a need to make timely, risk-based decisions on food labelling exemptions to ensure safe and adequate food supply, as well as to facilitate fair trade in such scenarios. Emergencies typically are not specifically predicted, involving critical time constraints and pressure on decision-makers. Therefore, it would be useful to have high-level global guidance and criteria in place to facilitate decision-making.

## **5. RELEVANCE TO CODEX STRATEGIC OBJECTIVES**

The EWG consultations supported that the proposed work is aligned with the Commission's mandate for the development of international standards, guidelines and other recommendations for protecting the health of consumers and ensuring fair practices in food trade. In addition, the proposed work will support advancement of Codex Strategic Goals 1, 2, 3:

**Strategic Goal 1: Address current, emerging and critical issues in a timely manner**

The proposed work will address a gap in Codex texts by responding to emerging and critical issues related to supply chain disruptions and other emergency-related consequences that risk compromising a safe and adequate food supply in emergencies.

**Strategic Goal 2: Develop standards based on science and Codex risk-analysis principles:**

The proposed work will provide principles and criteria for considering food labelling measures in emergencies, emphasizing the need for science-based decision making, conducted using risk analysis principles and with adequate stakeholder input. This proposed work is also intended to mitigate the possibility that such emergency measures are not based on science and not based on Codex risk analysis principles, given no such global guidance currently exists.



**Strategic Goal 3: Increase impact through the recognition and use of Codex standards**

Since no global guidance exists to address consideration of food labelling measures in emergencies, the proposed work will raise awareness of the need for Codex guidance and facilitate greater understanding and implementation of existing Codex standards in an area where none currently exist. It is recommended that the proposed work be conducted through an EWG, facilitating the broadest-possible participation from Codex members and observers. The proposed guidance could also be referenced and disseminated by other international organizations that deal directly with emergencies, multiplying the likelihood of increased recognition of Codex standards.

**6. RELATION BETWEEN THE PROPOSAL AND OTHER EXISTING CODEX DOCUMENT**

Current CCFL texts do not address the need for risk-based decision-making on food labelling exemptions in times of emergency. It is noted that the *General standard on the labelling of pre-packaged foods* (CXS 1-1985) and *General standard for the labelling of non-retail containers of foods* (CXS 346-2021) include certain mandatory elements and provide for sharing information through means other than the label. However, existing texts do not contemplate the effects of supply chain disruptions caused by emergencies in recent years. Guidance on claims also includes certain mandatory elements, including that claims should be truthful and not misleading, but similarly do not envision the impacts of emergency scenarios and what factors governments should consider in approving or denying temporary food labelling measures to support a safe and adequate food supply in emergencies.

**7. REQUIREMENT FOR AND AVAILABILITY OF EXPERT SCIENTIFIC ADVICE**

Expert scientific advice is not anticipated to be required for this proposed work since the guidance would include general principles and high-level criteria and would not be a detailed technical standard.

**8. NEED FOR TECHNICAL INPUT TO THE STANDARD FROM EXTERNAL BODIES**

Consultation with other relevant international bodies will likely be necessary to ensure alignment with any related international organizations' work or activities to prepare for, address, and respond to emergencies.

**9. PROPOSED TIMELINE**

Subject to the Codex Alimentarius Commission approval at its next session, it is estimated that the work can be completed in two CCFL plenary sessions.

**SAMPLE PROPOSED TEXT****Guidelines on the Application of Food Labelling Measures in Emergencies  
(for information)****Purpose**

The purpose of these guidelines is to provide guidance through general principles and decision-making criteria for the consideration and flexible application of food labelling requirements in emergencies that cause supply chain disruptions, and to ensure that the food labelling flexibilities applied by competent authorities in such emergencies are as harmonized and risk-based as possible to maintain food safety and fair trade in uncertain situations.

**Scope**

For the purposes of these guidelines, an emergency is understood to mean an exceptional and temporary event that causes significant disruption to the international, regional, national, or local food supply chain, in whole or in part. Emergencies and consequent supply chain disruptions may occur due to human pandemics, animal disease outbreaks, natural disasters, climate change, disruption of critical infrastructure networks, war, or famine, as well as combinations of these and other scenarios. Such emergencies may be experienced globally, regionally and may prompt competent authorities to consider the flexible application of food labelling requirements to help maintain a safe and adequate food supply. For the purposes of these guidelines, such flexibilities are risk-based derogations from food labelling requirements to the extent and for the periods strictly necessary to facilitate a safe and adequate food supply during an emergency, as determined by competent authorities. This guideline applies to both prepackaged foods and non-retail containers of food.

**Principles**

Competent authorities should consider the following principles regarding the application of food labelling requirements in an emergency:

The *General principles of the general standard on the labelling of prepackaged food* (CXS 1-1985), section 3.1-2, apply to these guidelines.

Before an emergency occurs, competent authorities should:

- Review national legislation to determine what authorities are available to determine which flexibilities authorities are able to grant in an emergency and, if no flexibilities could be offered in such emergencies, harmonize national legislation with these guidelines.
- Develop a transparent and risk-based plan for considering requests for food labelling flexibilities in times of emergency, indicating stakeholder responsibilities, procedures to be followed, as well as communication with the public and notification to affected countries. Such a plan should be part of an overall national food safety emergency plan.

When identifying an emergency, and during an emergency, competent authorities should consider whether the event:

- Reveals that existing food labelling requirements, though effective under normal conditions, now compromise or otherwise negatively impact the availability of a safe and adequate food supply;
- Demonstrates that flexibility in non-food safety or otherwise low-risk food labelling requirements will assist in mitigating the effects of the emergency on the availability of a safe and adequate food supply, and;
- Is exceptional and temporary in nature.

Any flexibilities provided by the competent authority during an emergency should:

- Not compromise food safety or introduce risks such as foods or ingredients that are known to cause hypersensitivity (e.g. allergen labelling);
- Be tailored to proportionally address significant negative impacts resulting from the emergency, such as risk of shortage of a safe and adequate food supply, as demonstrated by the food business operator (FBO);

- Be effective only for the period in which significant negative impacts are experienced, as demonstrated by the competent authority, FBO, or other stakeholders;
- [Consider how products produced during the emergency that remain available for sale after the emergency is over should be addressed (*i.e.* stock in trade)];
- Be based on an assessment of risk relative to the emergency, using all relevant, available information, including consideration of impacts on nutrition or health claims and whether any proposed substitute ingredients are already approved by the competent authority;
- Arise from issues identified by FBOs and communicated to competent authorities;
- Be [monitored and] supported by records kept by the FBO [and the competent authority] to support and document implementation of the flexibility, [and enable traceability]. [All records kept by the FBO should be made available to the competent authority.]
- Not provide undue competitive advantage to one or more FBOs over others;
- Not apply to product exported to other countries, unless acceptance from the country or countries importing the product is confirmed by the competent authority.
- Be communicated in a transparent manner, as far in advance as possible using all effective means, including the use of technology, to FBOs, trading partners, and consumers;
- Leverage technology-based approaches where feasible to enhance the availability of food information to all appropriate stakeholders (*i.e.* FBOs, trading partners, consumers, and competent authorities). A potential lack of access to technology in an emergency should be considered by competent authorities when assessing the feasibility of technology-based approaches
- Ensure continuity in the basic product information while providing flexibility in the means of communicating such information (*e.g.* temporary stickering, [in-store materials, use of technology in labelling, websites, accompanying documents]).
- Not substantially change the basic nature of the product;
- Be harmonized [across commodities, FBOs, and trading partners,] as far as possible, [and be applied to foods/food groups identified on the basis of the kind and nature of emergency.]
- Be notified to and coordinated with other countries, [leveraging international networks such as the International Food Safety Authorities Network (INFOSAN)]
- Be considered as part of a broader national, regional, or international framework to enhance food supply chain resilience in emergencies.

After an emergency, competent authorities should:

- Evaluate the results of any flexibilities provided during the period of the emergency and adapt the country's food labelling emergency plan accordingly to promote resilience in future emergencies.
- Communicate to FBOs, countries, and the public that time-limited flexibilities offered during the emergency are no longer effective.

**Examples of flexibilities**

The following are non-exhaustive examples of flexibilities that competent authorities may choose to provide, when sufficiently demonstrated by the FBO as necessary to mitigate the effects of an emergency on a safe and adequate food supply:

- Labelling format flexibility in how the information is provided.
- Permit alternative ingredient lists for circumstances when an alternative approved food or ingredient was sourced, allowing formulation changes to be communicated through accompanying documents, websites, in-store materials, or stickering if labelling modification is not possible.
- Slight variations in nutrition information not reflected in nutrition information panels.
- Depletion of existing labelling stocks.

- Provide flexibility around language labelling requirements, except for labelling requirements that impact health and safety, such as allergen labelling.
- Permit non-food safety labelling flexibilities to allow food made for catering purposes (e.g. hotels, restaurants, and institutions) to be sold at retail.]

[Stakeholder Roles, Responsibilities/Processes]

## Appendix IV

## LIST OF PARTICIPANTS IN THE EWG

<b>Chair of the EWG</b>
United States of America
<b>Codex Members and Member Organizations</b>
Argentina
Brazil
Canada
Colombia
Costa Rica
Dominican Republic
Egypt
European Union
Honduras
India
Indonesia
Japan
New Zealand
Norway
Panama
Philippines
Republic of Korea
Saudi Arabia
Singapore
Thailand
United Kingdom

<b>Codex Observer Organizations</b>
Food Drink Europe
Food Industry Asia
International Council of Beverages Association
European Federation of Allergy and Airways Diseases Patients' Associations
International Confectionary Association
United Nations Food and Agriculture Organization
United Nations World Food Programme