

**CODEX COMMITTEE ON FOOD LABELLING  
(Forty-fourth Session)  
Asunción, Paraguay, 16 – 20 October 2017**

**European Union Comments on**

**Agenda item 6:**

**Proposed Draft Guidance for the Labelling of Non-Retail Containers  
(CX/FL 17/44/6)**

*Mixed Competence  
European Union Vote*

The European Union and its Member States (EUMS) would like to thank India, the United States and Costa Rica for updating the proposed draft guidance on the basis of the outcome of the eWG.

**1. Comments on the proposed draft guidance text annexed to the discussion paper**

**1.1. Section 5.2**

The EUMS note that information on allergenic foods has been added in the list of information requirements to be provided on the label of non-retail containers. The EUMS do not recall any previous discussion on this addition in the e-WG and questions the need to require this type of information on the label itself. The EUMS agree that this information has to be provided by means other than the label but not on the label itself. The EUMS consider that direct information on the labels about the allergenicity of foods is necessary at the stages of purchase and consumption for final consumers. However, at the stage of transformation/processing, it is sufficient that such information is available on the accompanying documents.

The EUMS therefore propose to delete section 5.2.

**1.2. Section 5.6.**

The EUMS consider that the obligation to apply an identification statement on non-retail containers is not necessary as non-retail containers are easily distinguishable from those that are intended for retail.

In addition, the EUMS note that this would not always reflect the situation in practice. There are a number of situations where foods are packed in non-retail containers which are also used to present the foods contained therein for retail (e.g. fruits, olives, rice...). Having a statement on such containers identifying them as a non-retail container might be very confusing for consumers.

The EUMS therefore consider that an identification statement should not be imposed on non-retail containers.

Consequently, the EUMS propose to delete section 5.6.

### 1.3. Section 5.8

The EUMS note that the current text of the guidance allows the identification mark to replace the information on the label except the name of the product, ingredients of hypersensitivity and the statement that it is a non-retail container under certain conditions.

The EUMS would like to ensure consistency with other relevant standards such as the standard on Jams, Jellies and Marmalades (CODEX STAN 296-2009) and the General Standard for Cheese (CODEX STAN 283-1978) where the identification mark only replaces the name and address of the business as well as the lot identification.

In addition, the EUMS consider that allowing the identification mark to replace information such as net contents and date marking which are essential information for businesses might prevent to attain one of the objectives of this guidance which is to provide direct information on labels of non-retail containers and promote fair trade practices.

Consequently, the EUMS propose to amend the text in the following way:

Notwithstanding the above in the present Section on Information Requirements on Label and if permitted by the competent authority in the country in which it is sold, <u>lot identification and the name and address of the manufacturer, packer, distributor, importer, exporter or vendor may be replaced by an identification mark</u> <del>may replace the information on the label except the name of the product (Section 5.1), ingredients of hypersensitivity (Section 5.2) and the statement that it is a non-retail container (Section 5.6)</del> , provided <u>that</u> such mark is clearly identifiable with the accompanying documents or other means of information exchange where all such information shall be provided.
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### 1.4. Section 6.1

The EUMS note that some of the information necessary to meet mandatory labelling requirements for pre-packaged foods are listed in this section such as the list of ingredients or the written statement concerning irradiated foods while the others are not listed. The EUMS question this way of presenting the information and would propose in order to avoid confusion to only refer to the 'information necessary to meet mandatory labelling requirements for pre-packaged foods' without highlighting some of those requirements.

Consequently, the EUMS propose to amend the text in the following way:

The following additional mandatory information, if not provided on the label, shall be provided in the accompanying documents or through appropriate other means (e.g. electronically between businesses), provided such documents or information is effectively traceable to the food in non-retail container:
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- List of Ingredients;
- Irradiated Foods A written statement indicating that the food or its ingredient, as the case may be has been treated with ionizing radiation.
- Information necessary to meet mandatory labelling requirements for pre-packaged foods in which the food in non-retail container will be used or packaged<sup>4</sup>. E.g. Country of origin<sup>4</sup>, nutrition information etc.
- [Any other information required by the importing country such as Halal Certification, Kosher Certification, Vegetarian/Non Vegetarian logo etc.]

## **2. Replies to questions of section 14 of the discussion paper**

### **2.1. (ii)**

#### ***2.1.1. Provision 5.1.1.4 (coined, fanciful name etc)***

This provision concerns voluntary information which can accompany the name of the food as for pre-packed foods. To the question whether this provision is required for the labelling of non-retail containers or can be accepted in the accompanying documents, the EUMS see no reason not to allow this practice for non-retail containers.

#### ***2.1.2. Provision 5.1.2 (processing/treatment information)***

This provision relates to specific information to accompany the name of the food in order to specifically name the food in question and inform about the true nature of the food in non-retail containers.

To the question whether this provision is required for the labelling of non-retail containers, the EUMS consider that to attain the objective of informing about the true nature of the food in non-retail containers, this provision is needed. The EUMS consider that the same rules as regards the name of the food for pre-packed foods should apply to non-retail containers.

To the question whether this information can be accepted in the accompanying documents, the EUMS consider that all information concerning the name of the food is part of the name of the food and should not be split.

Therefore the EUMS consider that this provision should be maintained as it is.

#### ***2.1.3. Provision 5.5.1, (vii), 4 (where the food is intended to be consumed within 24 hours of its manufacture)***

This provision relates to the exemption to provide a date mark where foods such as bakery foods are intended to be consumed within 24 hours of its manufacture.

To the question whether this exemption should apply to non-retail containers, the EUMS question the need for a stricter approach than the one followed for the labelling of pre-packed foods to be offered as such to the consumer (CODEX STAN 1-1985). It considers that this exemption should be maintained for non-retail containers and that no date mark should be

provided on the label of non-retail containers when the food is intended to be consumed within 24 hours of its manufacture.

**2.2. (iii)**

To the question how to best address the relationship between the guidance being developed and the provisions on labelling of non-retail containers/bulk packs included in the commodity standards, the EUMS consider that as a principle, the guidance being developed should apply to all foods except for foods where specific rules on the labelling of non-retail containers exist in individual Codex Standard.

Consequently, the EUMS propose to include a provision in the scope section in the following way:

**SCOPE:** [These Guidelines] / [This Standard][apply] /[applies] to the labelling of non-retail containers of food not intended to be sold directly to the consumer, including the information provided in the accompanying physical/digital documents or by other means, and the presentation thereof.

[These Guidelines] / [This Standard] [apply] /[applies] to the labelling of non-retail containers of all foods, with the exception of foods where specific provisions on the labelling of non-retail containers exist in an individual Codex standard.

Nevertheless, the EUMS consider that at a later stage, the Committee should consider whether the labelling provisions on non-retail containers in the individual standards have to be adapted to the horizontal guidance or not.

### **2.3. (iv)**

To the question whether this guidance should be a stand-alone document or should be inserted within the *General Standard for the Labelling of Prepackaged Foods*, the EUMS would favour the non-retail guidance to be a stand-alone document rather than inserted in the *General Standard for the Labelling of Prepackaged Foods* to keep the two subjects separate.

However, if the inclusion option is retained, the EUMS consider that a clear demarcation between the two situations should be made by introducing a new section in the General Standard for labelling of non-retail containers to avoid any potential confusion or ambiguities.