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**Standing Committee on Plants, Animals, Food and Feed**

**Section *General Food Law***

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**SUMMARY REPORT**

**A.01 Update of state of play of the Farm to Fork Strategy – Front-of-pack nutrition labelling, nutrient profiles, origin labelling and date marking: exchange of views on the Inception Impact Assessment (IIA) published on 23 December 2020.**

The Commission presented the IIA as well as the next steps and input to be considered for drafting the impact assessment.

Member States generally welcomed the IIA and the next steps. Some Member States welcomed in particular the data collection by EFSA and JRC for the different topics. Two Member States asked for clarifications regarding the legal basis for nutrient profiles and date marking options. One Member State enquired whether updating the Reference Intakes for children would also be part of the FIC revision exercise.

Regarding front-of-pack (FOP) nutrition labelling and nutrient profiles, four Member States called not to link FOP nutrition labelling and nutrient profiles. One Member State questioned the reference in the IIA to ‘inequity in consumer access to information’. Some Member States made specific requests/comments, such as whether the FOP initiative also includes non-prepacked food which could also be of interest for consumers, to look also into hybrid FOP models, to have a particular focus on the most vulnerable consumers, to gather evidence regarding impact on purchasing behaviour and to look into possible exemptions.

Regarding origin labelling, some Member States also raised specific points, such as, to explore whether the current rules on the origin of the primary ingredients would not be sufficient, not to favour extension of origin indication from the start which would also not be in line with the Farm to Fork Strategy, and to include honey labelling. One Member State highlighted that the baseline should be the status quo with no national measures on origin labelling since such national measures were only adopted provisionally and should have been repealed.

Regarding date marking, two Member States requested to look also into the issue of conservation after opening of packaging and one Member State highlighted to look also into non-regulatory measures.

In its replies, the Commission took good note of all comments made and provided more explanations regarding the legal basis for nutrient profiles and the date marking options, the linkages between FOP labelling and nutrient profiles for specific options,

the issue of food shelf life considered by EFSA and the scope of the FIC revision exercise.

#### **A.02 Update of state of play of the Farm to Fork Strategy – Code of Conduct.**

The Commission explained the state of play on the Code of Conduct: it is a process of co-design with mainly the actors in the middle of the food chain. It is fully transparent, it has the highest political support, and its due date is Q2 2021. Currently, the process and content are being discussed with the middle actors of the food chain i.e. associations of food business, retail and hospitality and food service sectors.

The Commission mentioned that the issue of synergy between the future Code and existing similar initiatives at Member State level was raised by some stakeholders. A MS asked about the timeline and whether indicators are foreseen.

The Commission replied that the Code should be ready for signature by end of June 2021. The Code will consist of a general part with best practices and a part with more concrete quantitative commitments by individual companies. The Code is a dynamic document and signature can continue after June 2021. It will be accompanied by a monitoring framework. In addition, work is under preparation for a monitoring framework for the Farm to Fork Strategy, as a review of the strategy is scheduled for 2023. Monitoring is key not only to see if progress is made, but also to assess whether adjustment is needed.

A MS asked how EU MS will be involved and when.

There are no plans for meetings with Member States at this stage but the Commission will keep Member States informed when the Code already contains some substance and once the Commission has a clear indication from stakeholders how far they want to commit.

The Commission used the opportunity to flag to MS that experts appointed for the work on the Farm to Fork Strategy for the revamped expert group on the general food law and sustainability of food systems (EG GFL SFS) should come from different Ministries, so as to bring in different fields of expertise in the discussions.

#### **A.03 Information point on EU-UK readiness and preparedness as from 1 January 2021.**

In view of the end of the transition period provided in the EU-UK Withdrawal Agreement on 31 December 2020 and as part of the Commission's actions to ensure readiness following the UK withdrawal from the Internal Market and the EU Customs Union (among others) at the exception of Northern Ireland that remain aligned to certain provisions of EU law, the Commission invited Member States to pose questions relating to actions needed to implement the Withdrawal Agreement in the field of food information to consumers, nutrition and health claims, food for specific groups, food supplements, food fortification and natural mineral waters.

The Commission received questions from LT, SE and FR and provided the following replies:

Lithuania posed the questions below:

*According to the Directive 2002/46/EC, Regulation (EU) 2016/127, Regulation (EU) 2016/128 food business operators (FBO) notify to the State Food and Veterinary Service of the marketing of food supplements, infant formulae, follow-on formulae,*

*made from protein hydrolysates or the infant formulae, containing the substances not listed in Annex II of Regulation (EU) 2016/127, and foods for special medical purposes. In Lithuania different types of notification procedures are applied to products imported from third countries and to products coming from the EU. After Brexit the status of the products notified by the UK based food business operators has changed and now they are subject to the different notification procedure.*

*Therefore we wish to ask which measures would the European Commission recommend to apply to the products which are already notified by the UK based food business operators? Should they be re-notified or some other procedures should be applied to them?*

EU law allows Member States to require the notification for monitoring purposes of food supplements and fortified foods placed in their markets, and requires the notification for foods for specific groups (infant formula and follow-on formula; processed cereal-based food and baby food; food for special medical purposes; and total diet replacement for weight control). However, EU law does not regulate the particular notification requirements that should apply.

As of 1/1/2021 food originating in Great Britain must comply with notification rules applicable to products originating in non-EU Member States. The notification rules are national provisions and Member States are responsible for their correct application.

Without prejudice to any specific national provisions, it has to be noted that there is no requirement under EU law for the resubmission of notifications submitted before 1/1/2021. In accordance with the EU law principle of legitimate expectations, notifications submitted by Food Business Operators established in Great Britain before 1/1/2021 shall be processed in accordance with the law applicable at the time of their submission.

*What additional labelling requirements should be applied for the export of non-animal food products to the UK: is it necessary to indicate the country of origin?*

*Is it necessary to provide additional certificates substantiating the safety and quality of products when exporting non-animal food products to the UK (i.e. to declare that the self-control is performed in the establishment (HACCP system or GHP rules) or to declare that additional self-control laboratory tests are performed?*

According to the information available to us, the UK has retained all EU legislation in the food area that was in force on 31 December 2020. Therefore, as a general principle, the Commission's understanding is that any requirement in the EU law applicable to products imported from third countries is now required by the UK for products imported into Great Britain from EU Member States.

Specific information on food labelling can be found on UK official website: <https://www.gov.uk/guidance/food-labelling-giving-food-information-to-consumers>

According to the same webpage any changes on food labelling in Great Britain relating to Brexit will be enforced as from 30 September 2022: <https://www.gov.uk/guidance/food-labelling-giving-food-information-to-consumers#enforcement-for-brexit-label-changes>

Sweden posed the question below:

*We have understood it from the trade agreement between the EU and UK that there are specific transitional measures for trade in wine and organic food. We would like to ensure that we understand it correctly that other foodstuffs which do not have transitional measures should be labelled with contact information to the importer within the EU in order to be sold within the EU and that only a UK contact information is not compatible with the EU legislation, i.e. Article 8.1 of Regulation (EU) No 1169/2011 on the provision of food information to consumers.*

*The issue concerns both products to be imported but also products imported to the EU before 1/1 2021 and are in stock with companies within the EU.*

*We read under the A3 in EUR-Lex – 52020DC0324 – EN – EUR-Lex (europa.eu) page 9 that:*

*Markings or labelling of goods placed on the Union market, which refer to bodies or persons established in the United Kingdom, will no longer comply with Union labelling requirements.*

*"Etiketter eller märkningar på produkter som släpps ut på unionens marknad och innehåller hänvisningar till organ eller personer som är etablerade i Förenade kungariket kommer inte längre att uppfylla märkningskraven."*

*In addition we read the [notice for stakeholders food law.pdf \(europa.eu\)](#) :*

*"As a consequence, in some instances, EU food law may require changes of the labelling of food compared to the labelling practice in force of food originating from the UK before the end of the transition period. Examples for such requirements include the following:*

- Mandatory origin labelling of a food product, where applicable; 7*
- Mandatory labelling of the name or business name and address of the EU importer of food from the United Kingdom; /.../"*

*Should we interpret it as foodstuffs (except for wine and organic foods) cannot be considered correctly labelled to be sold within the EU regardless of whether they are already in store or in stock at the wholesaler or importer if they only have a contact information to a company in United Kingdom"?*

*Since it has great economic impact if it is so that already imported products need to be relabelled and we have received several questions on this, we are keen to answer correctly would therefor appreciate guidance from the Commission and Member States.*

*Any foods placed on the market after 31/12/2020 must indicate the name or business name and address of the EU importer of food from the United Kingdom, in order to comply with Articles 8(1) and 9(1)(h) of Regulation (EU) No 1169/2011.*

*However, any good that was lawfully placed on the market in the Union or the United Kingdom before the end of the transition period may be further made available on the market of the Union or of the United Kingdom and circulate between these two markets until it reaches its end-user (See Article 41(1)(a) of the Withdrawal Agreement). Hence, any foodstuff placed on the market in the United Kingdom before the end of the transitional period can lawfully circulate in the EU after 31/12/2020. This is also true for goods that are still physically in the UK after 31/12/2020. Yet, in those cases, the economic operator bears the burden of proof that the product was*

placed on the market before the end of the transition period in accordance with Article 42 of the Withdrawal Agreement.

France inquired whether foods imported from the United Kingdom after the end of the transition period may indicate both the name or the business name of the EU importer of the food and the details of the food business operator established in the United Kingdom.

In accordance with Articles 8(1) and 9(1)(h) of Regulation (EU) No 1169/2011 pre-packed foods imported into the EU have to be labelled with the name or business name and address of the operator in the EU that imports of the food from a third country. This rule applies to products originating in Great Britain placed on the market after 1.1.2021.

The information of the food business operator established in a third country is considered information provided on a voluntary basis. Article 36 of Regulation (EU) No 1169/2011 provides that food information provided on a voluntary basis, amongst others, shall not mislead the consumer and shall not be ambiguous or confusing for the consumer.

National authorities are responsible to monitor the enforcement of the provisions mentioned above and should decide on a case by case basis, whether consumers in their territories can clearly understand on the basis of the label that the EU importer of the food is the person responsible for the food information.

**C.01 Exchange of views of the Committee on a draft Commission Regulation authorising a health claim made on foods, other than those referring to the reduction of disease risk and to children's development and health.**

As provided for in Article 18(4) of Regulation (EC) No 1924/2006, Member States were consulted on one health claim made on foods, other than those referring to the reduction of disease risk and to children's development and health.

More specifically, the application subject to this draft measure relates to the effects of carbohydrate solutions and the contribution to the improvement of physical performance during a high-intensity and long-lasting physical exercise (Question No EFSA-Q-2017-00621). The claim was submitted pursuant to Article 13(5) and has received a favourable assessment by the European Food Safety Authority (EFSA). Accordingly, it should be authorised.

The Commission reminded the Committee of the delegations' concerns on this claim, discussed in a previous Standing Committee meeting. The Commission presented the draft Regulation and explained that the conditions of use were redrafted to make clearer which carbohydrates could be used for the carbohydrate solutions and under which conditions. The Commission also explained that it introduced text in the conditions of use to ensure the information to consumers that the beneficial effect is obtained by trained adults performing high-intensity and long-lasting physical exercise is provided, together with explanations as to the type of that physical exercise. This additional text aimed at addressing delegations' concerns relating to the scope of this claim and its target population. Last, the Commission informed the Committee that EFSA was consulted on the conditions of use, as presented by the Commission at the meeting, in order to ensure that the claim remains scientifically sound.

The delegations welcomed the Commission's effort to clarify the conditions of use for this claim. Moreover, it was highly appreciated that EFSA had been consulted. One delegation commented that it preferred the previous wording to the one as submitted to the Committee for discussion, without however providing justification for this.

Further to this exchange of views and the consent of the Member States, the Commission will continue with the authorisation of this claim.

#### **M.01 List of ingredients and nutrition declaration**

Upon question from a Member State the Commission informed about the adoption of its Communication on Europe's beating cancer on 3 February 2021 (COM 2021/44/final). The Communication announces, inter alia, that the Commission will "*propose a **mandatory indication** of the list of ingredients and the nutrition declaration on alcoholic beverage labels before the end of 2022 and of **health warnings on labels** before the end 2023*". The Commission clarified that the obligations regarding the list of ingredients and the nutrition declaration should be part of the Commission proposal planned for 2022 to amend the FIC Regulation.