

7 May 2019

CODEX COMMITTEE ON FOOD LABELLING
(Forty-fifth Session)
Ottawa, Ontario, Canada 13 – 17 May 2019

European Union Comments on

Agenda item 5:

Proposed Draft Guidance for the Labelling of Non-Retail Containers
(CX/FL 19/45/5)

Mixed Competence
European Union Vote

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Member States (EUMS) would like to thank India, Costa Rica and the United States of America for updating the proposed draft guidance on the basis of the outcome of the eWG.

Section IV, point 8.a) i)

1. Comments on Appendix I: PROPOSED DRAFT GUIDANCE FOR THE LABELLING OF NON RETAIL CONTAINERS OF FOODS

1.1. Section 3

EUMS do not support either of the new proposed definitions for “Non-retail container” as both of them are incomplete in terms of all possible scenarios of food in non-retail containers not covered by the definition in option 1 or of food covered by the definition in option 2.

However, given the difficulties to express all of the possible scenarios in both options, the EUMS are of the opinion that the definition proposed in July 2017 at the 44th Session of CCFL in document CX/FL 17/44/6 should be taken back with some slight adaptation. The terms '*of same kind*' should be deleted as different kinds of foods can be present in the same non-retail container.

The EUMS therefore propose the following definition:

<p>“Non-retail container” means any container³ that is not intended to be offered for direct sale to the consumer³. The food³ in such containers is of same kind, prepackaged³ or not, and intended for further business operations or processing activities.</p>

1.2. Section 5.5.

The EUMS consider that the obligation to apply an identification statement on non-retail containers or any other mark that clearly identifies that this is a non-retail container 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 in supermarkets such as discount supermarkets to present the foods contained therein for retail (e.g. canned, bottled, food in tetrapack containers). Having a statement or any other mark on such containers identifying them as a non-retail container might be very confusing for consumers.

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

1.3. Section 5.7

The EUMS note that the current text of the guidance allows an identification mark to replace the information on the label except the name of the product, 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 is 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 the Mandatory Information Requirements on Label, an identification mark may replace the lot identification and the name and address of the manufacturer, packer, distributor, importer, exporter or vendor ~~the information on the label except the name of the product (Section 5.1), and the Statement/mark used for identification of a non-retail container (Section 5.5)~~, provided that such mark is clearly identifiable with the accompanying documents or other means of information exchange where all such information shall be provided. ~~Provided also that any special conditions for the storage of the food shall be declared on the label in cases where they are required to support the integrity of the food.]~~

1.4. Section 6.1

The EUMS are of the view that all the information necessary to meet the mandatory labelling requirements, if not provided on the label of the non-retail container or on the label of the food contained in the non-retail container, shall be provided in the accompanying documents or through appropriate means in order to ensure that a complete set of mandatory information is available in one place.

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

6.1 All the information necessary to meet mandatory labelling requirements⁴ for prepackaged foods ~~The following additional mandatory information, if not provided on the label of the non-retail container or on the label of the food contained in the non-retail container,~~ shall be provided in the accompanying documents or through other appropriate means (e.g. electronically between food businesses), provided such documents or information is effectively traceable to the food in non-retail container.±

~~□ Information necessary to meet mandatory labelling requirements⁴ for prepackaged foods in which the food from the non-retail container will be used or packaged.~~

~~□ [In cases where an identification mark is used on the label, all the information replaced by the identification mark on label should be included in the accompanying documents or shared through other means.]~~

~~□ In cases where a non-retail container contains multiple types of foods, the above details shall be provided for each food contained in the non-retail container.~~

Section IV, point 8.b)

The EUMS consider that the guidance for the labelling of non-retail containers should be designated as a ‘Guideline’.

Section IV, point 8. c)

The EUMS note that non-retail containers of food additives are already excluded from the scope of the proposed draft guidance. The EUMS propose to follow the same approach for commodities having specific provisions on the labelling of non-retail containers.

The EUMS consider that the Codex Alimentarius Commission Procedural Manual has to be aligned to the provisions of this guidance once adopted.