26/06/2024

European Union comments on

Codex Circular Letter CL 2024/20-CAC

Request for information on a proposal for the investigation and development of recycling guidance in Codex Alimentarius

Mixed Competence
European Union Vote

The European Union and its Member States (EUMS) welcome the ongoing reflections on the opportunity to initiate Codex work on recycled material for food packaging.

Specific comments:

a. Would it be useful for Codex to develop guidance on food safety considerations related to the use of recycled material in food packaging?

The EUMS support, in principle, Codex work on recycled plastics for food contact. We would be interested to participate in this work and share our experience in terms of legislative requirements.

With respect to the recycling of metal and glass, the EUMS are of the view that the development of Codex standards or guidance concerning their recycling is not needed. Recycled metals and glass to be used as food contact materials have to comply with the same specific legislation as “virgin” metals and glass (specific migration limits for certain metals). Hence, the question is whether there is a need for Codex standards for metals and glass food contact materials, independent of the question whether the material is recycled or not.

With respect to materials containing fibres from natural origins such as paper, board, wood and certain textiles, the EUMS note that the health risks related to possible contamination of these materials if recycled are serious. While the Technical guide on paper and board used in food contact materials and articles of the Council of Europe provides useful information, there is currently no authoritative international standard on this matter. Codex work could thus be considered for these materials.

b. Are there any aspects in addition to those outlined in CAC/46 CRD36 that should be considered for future work?

Safety requirements related to the collection of high quality materials used as inputs in the recycling of plastics is an important aspect that was not identified in CAC/46 CRD36 and should be considered for work on recycling plastics.

c. Would you be interested in participating in work on this topic?

The EUMS support, in principle, Codex work on recycled plastics for food contact. We would be interested to participate in this work and share our experience in terms of legislative requirements.

For Codex Members:

a. Do you currently have national programs in place to review and assure the safety of recycled material in food packaging, or are such programs under development?

The plastic legislation Regulation (EU) 2022/1616, takes into account all the listed factors and comprehensively regulates the recycling of plastics intended for contact with food. This requires the authorisation of mechanical Polyethylene Terephthalate (PET) recycling processes and sets out a procedure for the establishment of other suitable recycling technologies. The Regulation on the recycling of plastic food contact materials allows for the development of novel technologies, and several such technologies are under development in the EU.

Safety is determined by means of a characterization of maximum foreseeable contamination levels in input material, and then by ensuring adequate decontamination during recycling so that the residual contamination in the recycled material does not pose any risks to consumer health. Currently only PET Post Consumer Waste containing maximum 5 % of materials and articles that were used in contact with non-food materials or substances is permitted, as well as recycling of all plastics from a closed and controlled chain.

For metal and glass there are no requirements as these are presently not considered to be required to ensure adequate protection of consumer health. This view is based on the nature of the production process. Due to the high temperatures used during the recycling of these materials it is unlikely that organic contaminants would remain, and inorganic contaminants would be subject to limits already applicable to these materials.

In the case of paper and board, specific requirements do not yet exist at the level of the European Union, even though for these materials specific requirements would seem necessary. It is also worth to note that the Council of Europe developed the Technical guide on paper and board used in food contact materials and articles (Resolution CM/Res (2020) 9) on the safety and quality of materials and articles for contact with food which includes certain general principles around recycled paper and board and in addition some migration limits for some known contaminants. To demonstrate compliance with the requirements of the Technical Guide of the Council of Europe, it has to be ensured that the migration of all constituents and all possible impurities is below the limits applicable to them. When using recovered cellulose-based fibres, precautionary considerations and measures are needed to fulfil also the General requirements. The use of input materials of suitable quality is necessary and a cleaning process may be applied. These measures are part of the recycling process that should be performed in accordance with good manufacturing practices. Relevant quality criteria always have to be specified and checked. Additional measures such as the use of functional barriers (on the paper or board or as an internal bag) or functional adsorbents (added to the recycled material to retain substances in the paper or board) might be needed in order to ensure and demonstrate compliance of the final material or article.

Finally, it is worth to note that the EU legislative framework is complemented with national legislation that varies across Member States and that a revision of the EU legislation on food contact materials is currently under consideration.

- What factors do these programs encompass (feedstock specifications, recycling process technology, etc.)?

The plastic legislation (Regulation (EU) 2022/1616) takes into account all of the listed factors and comprehensively regulates the recycling of plastics intended for contact with food.

- How is safety determined (for example, by general or specific migration limits)?

Safety is determined by means of a characterization of maximum foreseeable contamination levels in input material, and then by ensuring adequate decontamination during recycling so that the residual contamination in the recycled material does not pose any risks to consumer health.

- Do these requirements vary depending upon packaging type (e.g., plastic, metal, paper)?

Yes, In the case of paper and board, specific requirements do not yet exist at the level of the European Union, even though for these materials specific requirements also seem necessary. A revision of EU legislation on food contact materials is in progress.

b. Do you currently have recycling requirements for food packaging, or are such mandates under development? Do these mandates vary depending upon packaging type (e.g., plastic, metal, paper)?

Yes, under new EU legislation on packaging and packaging waste extensive requirements are being set out, for plastic beverage bottles a minimum recycled content percentage of 25% will be required by 2025.

- What factors were considered in setting these requirements?

The more sustainable use of food packaging that encompasses approximately 50% of all packaging waste, as well as the prevention of litter.

c. What types of technologies are currently approved for use or are currently under development to ensure the safety of recycled material suitable for use in food packaging? Are you evaluating new, innovative recovery/recycling processes that could allow for the use of non-food contact materials to be used in food-contact packaging applications?

The only technologies approved for recycling plastic packaging is the mechanical recycling of PET and recycling of material originating from a fully closed and controlled trade loop that hasn't been provided to consumers. The Regulation on the recycling of plastic food contact materials allows for the development of novel technologies, and several such technologies are under development in the EU.

Subject to restrictions, currently only PET Post Consumer Waste containing maximum 5 % of materials and articles that were used in contact with non-food materials or substances is permitted, as well as recycling of all plastics from a closed and controlled chain.

For Observers:

a. Do you currently have voluntary programs to facilitate the use of recycled material in food packaging?
    - If yes, what criteria were considered in developing this program to ensure food safety?
    - Do these criteria vary depending upon packaging type (e.g., plastic, metal, paper)?

b. Have you experienced issues, or do you expect to experience issues pertaining to food safety or trade related to the use of recycled material in food packaging? (for example, inability to find sufficient feedstock of recycled material of suitable quality, inhibition of trade related to recycling mandates or incorporation of recycled material into food packaging.)

c. What types of technologies are currently approved for use or are currently under development to ensure the safety of recycled material suitable for use in food packaging? Are you evaluating new, innovative recovery/recycling processes that could allow for the use of non-food contact materials to be used in food- contact packaging applications?

APPENDIX I

PROJECT DOCUMENT

PROPOSAL FOR THE INVESTIGATION AND DEVELOPMENT OF RECYCLING GUIDANCE IN CODEX ALIMENTARIUS

(Prepared by the United States of America)

Background

Food packaging[1] serves a vital role in ensuring food safety, fair trade, and food sustainability. Packaging protects food from contamination and spoilage, reducing the opportunity for foodborne illness. Packaging facilitates fair trade of food by enabling transport and storage of diverse food products across longer distances and timeframes. Packaging also promotes food sustainability by reducing food waste and loss as well as ensuring better food access to underserved and vulnerable populations.

In recent years, emphasis has been placed on the need for global sustainability. The UN Food Systems Summit in September 2021 reinforced the importance of encouraging sustainable food systems and the need for consumers to be making purchases with a sustainability lens. The UN Environment Assembly in 2024 is scheduled to continue work on an international instrument on plastic pollution, and recycling is expected to play a role in this effort. National legislation across the globe has implemented mandates to produce packaging material with recycled content requirements. Overall, these mandates have led to significant changes in the way food is packaged nationally, regionally, and globally, with additional changes forthcoming.

While certain types of food packaging have historically utilized recycled material to increase the sustainability of food packaging (e.g., the use of recycled aluminum in beverage cans), the incorporation of recycled materials in food packaging raises the potential to create food safety and trade concerns that currently do not exist for food packaging made from original material. Recycled material represents a new vector for the introduction of contaminants into food, either through the use of recycled material from uncontrolled sources that were contaminated from their original non-food use, re-use as non-food containers by the consumer prior to recycling, or through the waste collection process. In addition, the (regulatory landscape for food packaging is currently fragmented. While many countries do not have specific requirements for the use of recycled material in food packaging, other countries are enacting or developing national requirements. This diversity in regulatory approaches at the national level may discourage rather than promote the use of recycled material, and cause issues for the trade of pre-packaged food that utilizes recycled material in its packaging.

Implementation in Codex Alimentarius

Codex's mission is to "protect consumer health and promote fair practices in food trade by setting international science-based food safety and quality standards."[2] The first goal in the Codex Strategic Plan 2020-2025 is to address current, emerging, and critical issues in a timely manner. This requires Codex to be proactive and flexible to respond to opportunities and challenges. The Strategic Plan also recognizes the role of Codex and Codex standards in supporting countries in their efforts to achieve United Nations' Sustainable Development Goals (SDGs). The Strategic Plan identifies several SDGs where Codex can particularly assist, including SDG12: "ensuring sustainable consumption and production patterns." SDG12 includes 11 targets, including reducing waste generation through prevention, reduction, recycling and reuse; and encouraging companies to adopt sustainable practices.

Codex Alimentarius has been an integral part of the development of standards, guidance, and guidelines that have supported safe food and fair trade throughout the world for over 60 years. It is within Codex's mandate pertaining to food safety not only to address production of food itself, but also other aspects of the production chain such as food packaging. Due to development of national and regional legislation across the globe requiring programs and production infrastructure that improve sustainability, the Codex Alimentarius has a role in providing guidance to align these sustainability initiatives in a manner that facilitates fair trade in safe food.

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[1] The term "food packaging" includes packaging for both food and beverage that is in direct contact with the consumable product.

[2] Codex Strategic Plan, 2020-2025, p. 7

- Safe food aspect – There is a need to develop guidelines pertaining to appropriate recycled material feedstock for food packaging as well as recycling technologies to produce such material. Food safety could be compromised by the incorporation of inappropriate recycled material into food packaging which provides a route for toxic substances to migrate to food. Food safety could also be compromised by the production of inferior food packaging from recycled material which could itself contaminate the food or increase food spoilage during holding and transport.
- Fair-trade aspect –There is a need for consistency in the criteria used to determine appropriate recycled material feedstock and recycling technologies used for food packaging for food in international trade. It should be expected that the patchwork of national legislation across the globe and the implementation of divergent criteria pertaining to packaging material, particularly recycled material, could result in trade barriers and create confusion for countries still developing policies and regulatory frameworks.

Recommendation:

The United States suggests that CCEXEC consider the issuance of a circular letter (CL) to gauge whether there is interest, value, or need for new work on guidance from Codex Alimentarius on the use of recycled material in food packaging. Such a CL would request comments from both Codex Members and Observers. From Codex Members the CL could request information on existing relevant regulatory programs or mandates, as well as programs currently under development. From Observers, the CL could request information on voluntary programs already undertaken or currently under development, as well as any issues experienced or expected related to availability of appropriate recycled material or trade impacts. The United States would then propose to compile the responses to the CL into a discussion paper for further consideration of potential next steps.