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European Union Comments
CODEX COMMITTEE ON NUTRITION AND FOODS FOR
SPECIAL DIETARY USES

Berlin, Germany, 26-30 November 2018

AGENDA ITEM 6

Proposed Draft Definition for Biofortification

(CX/NFSDU 18/40/7)

Mixed competence
European Union vote

The European Union and its Member States (EUMS) would like to thank the Republic of Zimbabwe and the Republic of South Africa for their work as Chairs of the electronic working group.

The EUMS would like to first provide some general comments on this agenda item and specific comments on the recommendations proposed by the co-Chairs.

General comments

The EUMS are concerned about the proposed draft definition for 'biofortification' resulting from the eWG consultation for a number of reasons.

Firstly, the EUMS would like to recall that the Codex alimentarius Commission approved the new work on the definition for 'biofortification' and endorsed at the same time the recommendation of the CCEXEC70 to request CCNFSDU to clarify how the definition would be used and where it would be best placed. This recommendation was made to address the concern on how the definition would be used in Codex. The EUMS note that this request for clarification has still not been met by CCNFSDU and that, as a consequence, this concern has still not been addressed.

Considering the difficulties encountered to clarify the use of this definition in Codex texts, the EUMS doubt that the current work falls under the mandate of Codex. In addition, the EUMS would like to highlight that they do not support Codex work that would allow food products fortified by other processes than conventional fortification to be positively labelled and advertised without complying with the conditions set under the general Principles for the addition of essential Nutrients to Food and those for the use of nutrition and health claims, that seems to be supported by some members.

Secondly, the EUMS point out that proposing a definition without any criteria does not seem to be of much value. Used as such there would be a great risk of misleading the consumer by practicing fortification without specifying the significant amounts of increased or more available nutrients in the foods (mainly agricultural products). Conformity with the definition cannot be verified. The absence of means to verify the compliance of labelled products makes the definition useless at the moment.

Thirdly, the proposed draft definition for 'biofortification' does not appear to be based on a consensus as it does not appropriately balance the comments made by the delegations, in particular on the use of the term 'biofortification' or an alternative, and on the reference to 'nutrients' versus 'essential nutrients'. The EUMS would like in particular to reiterate that the prefix “bio” is in the EU exclusively devoted to organic production which does not permit certain production methods like for instance GM technology.

Finally, the EUMS recognise the challenges to find a universal term for the draft proposed 'biofortification' definition. In this context, the EUMS acknowledge that the proposal from the chairs of the eWG to allow competent and national authorities discretion on the term will provide a high level of flexibility on use of equivalent terms. That said, the EU considers that a single term different from 'biofortification' for the definition (for example “agro-fortification” or “agri-fortification”) would be appropriate in case a need for use in Codex text is identified. As a consequence, a footnote associated to the term that would be defined would not be necessary.

Comments on the draft definition and use of the term 'biofortification' (recommendations 1 and 2)

The term 'biofortification' is still part of the concept definition and is not appropriate as the prefix 'bio' does not allow the inclusion in the EU of a number of methods currently used to fortify foods by other methods than the conventional fortification. The footnote allows Member governments to use an equivalent term. However, the EUMS consider that a single term for this concept definition should preferably be agreed upon in order to avoid any confusion or misunderstanding at international level. Considering the range of process that some members wish to cover with the concept, the EUMS are of the view that the term 'agro-fortification' or 'agri-fortification' would be the most appropriate even if strictly speaking, a few methods might not fully result from agronomic methods. The EUMS could also envisage the use of the term 'Nutri-fortification' that can cover any fortification technique and is relevant as the prefix 'nutri' clearly indicates that the food has been improved for a nutritional purpose.

The EUMS consider that the concept definition should only refer to 'essential nutrients' and not to 'nutrients' in general, in line with the General principles for the Addition of Essential Nutrients to Foods. The concept of fortification agreed in Codex is linked to the addition of **essential nutrients** which should not be considered differently when other methods than the conventional addition of nutrients are used i.e. when only a prefix is added. It should also be noted that the term 'fortification' is used in some Member Countries to describe different types of addition of essential nutrients for the purpose of the principles described in the General principles for the Addition of Essential Nutrients to Foods (see footnote 1).

Furthermore, the understanding of the EUMS is that the purpose of the definition is to distinguish foods generally resulting from agronomic processes from foods to which essential nutrients have been added by the processes already covered in the General Principles for the Addition of Essential Nutrients to Foods (CAC/GL 9-187). The EUMS therefore consider that the same principles should apply to both approaches which otherwise would create misunderstanding and confusion.

Comments on recommendations 3 to 5 of the report of the electronic Working Group (CX/NFSDU 18/40/7).

1. Where the 'biofortification' definition would be best placed (recommendation 3)

The EUMS reiterate that the proposed concept definition does not fit in the scope of the Guidelines for Use of Nutrition and Health Claims (CAC/GL 23-1997) as the definition is a concept related to a fortification process which *a priori* has no link with claims. The EUMS consider that this concept should be inserted in the General principles for the Addition of Essential Nutrients to Foods which precisely relates to the question of fortification in general and where a reference is already made to different types of addition of essential nutrients to food for the purposes described in the document.

The EU is of the opinion that a clarification on the placement of the definition is a pre-requisite for further meaningful discussions on the development of a definition. As a consequence, the EUMS do not support recommendation 3 suggesting that the discussion on the placement of the definition for 'biofortification' with CCFL should be entertained only after the finalisation of the definition.

2. How the 'biofortification' definition could be used (recommendation 4)

In its 38th session in July 2015, the Codex alimentarius Commission approved the new work on the definition for 'biofortification' and endorsed the recommendation of the CCEXEC70 to request CCNFSDU to clarify how the definition would be used and where it would be best placed. The EUMS note that this request for clarification has still not been met by CCNFSDU.

The EUMS cannot agree with recommendation 4 that is envisaging a scenario where the areas of use of the definition would not be stipulated. The EUMS are of the view that this approach does not answer the request made by CAC38 when approving the work on the definition of biofortification.

3. Distinction between 'biofortified' and 'non-biofortified' foods (recommendation 5)

As expressed above, the EUMS consider that this concept could be inserted in the General principles for the Addition of Essential Nutrients to Foods. Nevertheless, if an operator using this type of other fortification methods wants to make a claim on the resulting food, the rules for nutrition and health claims set by the Guidelines for Use of Nutrition and Health Claims (CAC/GL 23-1997) apply.

The EUMS are of the view that this recommendation is premature. Depending on the evolution of the discussions, it should be left to the appreciation of CCFL to decide whether a discussion on the distinction between 'biofortified' and 'non-biofortified' foods could be justified.