

CODEX ALIMENTARIUS COMMISSION



Food and Agriculture
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Organization

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Agenda Item 5 (CX/FL 19/45/5)

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JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX COMMITTEE ON FOOD LABELLING

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PROPOSED DRAFT GUIDANCE FOR THE LABELLING OF NON-RETAIL CONTAINERS

(Comments from Canada, Dominican Republic, FoodDrinkEurope)

CANADA

Canada thanks India, Costa Rica and the United States for their efforts in drafting the guidance for the labelling of non-retail containers. We would like to offer the following comments for consideration.

General Comments:

Canada supports that information required to be presented on the label of a non-retail container should be the minimum essential, and that the remaining information could be exchanged through accompanying documents or other acceptable means, which must include an effective mechanism to link the food in the non-retail containers to the accompanying documentation.

Canada suggests that, in cases where it is not necessary to distinguish a non-retail container from a retail container, the identification of a non-retail container as such would not be necessary.

Canada recommends that the draft guidance include a provision indicating that a manufacturer may choose to label a non-retail container in the format set out in the GSLPF, if the information provided is in line with this guidance, such as respecting the provision of information necessary to meet mandatory labelling requirements for prepackaged foods as outlined in Section 6.1. Such a provision may be suited in Section 8 (Presentation of Information).

Canada recommends that the guidance should include specifications respecting the presentation of information that is required in Section 6.1 (Sharing information by means other than the label), to ensure that this information is readily accessible and legible.

Canada notes that the General Standard for the Labelling of Prepackaged Food (GSPLF) includes food for catering purposes. As such, the scope of the non-retail container guidance should not apply to prepackaged foods that are sold to caterers. Specific comments have been made in the following sections to clarify this scope. Canada notes that there may be a distinction between foods intended directly for catering purposes and foods that will be further processed prior to being used for catering purposes.

Canada agrees that discussion on whether this guidance should be designated as a "Standard" or "Guideline" is necessary.

Canada suggests the following with respect to addressing the relationship between this guidance and the existing provisions/guidance on labelling of non-retail containers in the following texts, once the guidance in this draft document is finalized:

Commodity standards with provisions for labelling of bulk/non-retail containers (CX/FL 14/42/6, Annex 3);

Canada recommends that for consistency, commodity standards with provisions for labelling of bulk/non-retail containers should refer to this guidance once adopted. Additional provisions that are specific to non-retail containers for a given commodity, or different from this guidance once adopted, could be included in the commodity specific standard.

- a. General Standard for the Labelling of Food Additives When Sold as Such (CXS 107-1981); and,

As currently drafted, the scope of this guidance excludes the food additives and processing aids and indicates that the *General Guidance for the labelling of food additives when sold as such* applies. Canada suggests that this is sufficient to clarify the relationship between these two texts.

b. Codex Alimentarius Commission Procedural Manual.

Canada suggests that the guidance provided in the Codex Alimentarius Commission Procedural Manual, Format for Commodity Standards, Labelling be updated to include reference to this guidance on non-retail labelling.

Specific Comments:

Section 2: Scope

As indicated in the general comments, Canada suggests a clarification of scope respecting foods for catering purposes.

SCOPE: [These Guidelines] / [This Standard][apply] / [applies] to the labelling of non-retail containers of food¹ (excluding food additives and processing aids)^{1,2} not intended to be sold directly to the consumer¹ **or for catering purposes**, including the information provided in the accompanying physical/electronic documents or by other means, and the presentation thereof.

Section 3: Definition of Terms

Canada supports the following definition of non-retail container (option 2 with modifications):

["**Non-retail container**" means any container¹ that is not intended to be offered for direct sale to the consumer¹ **or for direct sale as a food for catering purposes**¹. The food¹ in the non-retail container is for further food business activities before being eventually used for sale/distribution/catering to the consumer¹, **and includes loose/non-packaged food that is contained in a conveyance such as a tanker or barge.** ~~in prepackaged⁴ form, either as such or after further processing (including use as an ingredient for manufacturing another food).]~~

Section 4: General Principles

Canada suggests adding catering in section 4.4 for clarify, as follows:

The label along with the documents accompanying a non-retail container or information provided by other acceptable means shall provide relevant information to enable the labelling of food, intended for sale to consumer, **including for catering purposes**, with required information.

Section 5: Mandatory Information

Canada suggests that the intent of the words "unless provided otherwise", as copied below, may require additional clarity. As written, this could be interpreted to mean "unless provided by other means when permitted by this guidance" or "unless commodity standards have different requirements", or both.

The following information shall appear on the label of non-retail containers of food, unless provided otherwise.

Section 5.1.1.5

Canada suggests that the use of generic descriptors as the name of the food requires further discussion to ensure this would provide sufficient information.

Section 5.2

Canada supports removing the square brackets to allow the flexibility of using both SI and avoirdupois weight systems.

Section 5.3: Lot Identification

Canada notes there is an additional word needed in this information and suggests 'manner':

Each container shall be marked in code or in **a** clear **manner** to identify the producing factory and the lot.

Section 5.5: Identification of a non-retail container

As indicated in the general comments, Canada suggests that the identification of a non-retail container is not necessary if the container is easily identifiable as such and distinguishable from a retail package. It is the responsibility of the seller to label as required when foods are offered for sale directly to the consumer or for catering purposes.

Section 5.7

Canada supports removing the square brackets square brackets, with an addition to the wording on conditions for the storage of food to reflect the wording in the GSLPF.

[Notwithstanding the above in the present Section on the Mandatory Information Requirements on Label, an identification mark may replace the information on the label except the name of the product

(Section 5.1) and special conditions for the storage of the food (Section 5.4) and the Statement/mark used for identification of a non-retail container (Section 5.5), provided 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 **and, where a date mark is used, the validity of the date depends thereon**

Section 6.1 Sharing information by means other than label

Canada supports removing the square brackets.

- [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.]

Section 6.2

For greater clarity, it is suggested to revise the wording as follows:

Relevant information, ~~other than~~ **in addition to** the mandatory information identified in the preceding sections (Sections 5 and 6), may be shared by means other than the label. For example, information to enable nutrition and consumer preference claims etc.

Section 7: Shipping Containers

Canada notes that the term “shipping containers” may have more than one interpretation and suggests that for increased clarity, the title of Section 7 could be adjusted to “Bulk Transport Containers”, and the text adjusted as follows,

In case of **bulk transport** shipping containers such as tankers, barges, **drums**, etc., all the information stipulated in section 5 and section 6 shall be provided in the accompanying documents or through appropriate other means (e.g. electronically between food businesses) and shall be effectively traceable to the food in such containers.

Section 8: Presentation of Information

As indicated in the general comments, Canada recommends that this section include specifications on the presentation of labelling information that may be provided by alternative means. This may include, for example, that the information be readily accessible (e.g., if provided electronically, the information should be accessible using standard devices and software), that the information be presented in a format that is clearly displayed, readily discernible and in a language that is required by the competent authority. It may also consider grouping of information such that information provided by alternative means is together, as opposed to in multiple sources.

DOMINICAN REPUBLIC

República Dominicana envió las observaciones en respuesta a la carta circular CL2019/13 FL y están contenidas en el documento CX/FL 19/45/5. ADD. 1, pero desea destacar los siguientes puntos :

1. Considera que este anteproyecto debe ser denominado como directriz o guía únicamente, en todo el documento.
2. Considera adecuada la segunda definición de “Envase no destinado a la venta al por menor” significa cualquier envase que no tiene como propósito ser ofrecido directamente para la venta al consumidor. El alimento en el envase no destinado a la venta al por menor tiene como destino otras actividades de los negocios alimentarios antes de ser eventualmente utilizado para su venta/distribución/servicio de comida y bebida al consumidor en forma preenvasada, ya sea como tal o luego de una elaboración ulterior (incluido su uso como ingrediente para la preparación de otro alimento).
3. Para el contenido neto se apoya declararlo en el sistema métrico
4. (el Sistema Internacional de Unidades, SI) “o en el sistema de pesos avoirdupois o ambos sistemas de medida según lo requerido por la autoridad competente en el país en el que el alimento pretende ser vendido”.
5. Apoya se integre el artículo 5.7 con ambos párrafos completos, por considerarlos pertinentes a las directrices.

6. Apoya se integre la segunda viñeta propuesta en el artículo 6.1, por considerarla pertinente al documento.

FOODDRINKEUROPE

General comments

FoodDrinkEurope would like to thank the Chairs of the eWG (India, Costa Rica and the United States of America) for preparing this document. The proposed draft guidance has advanced significantly and we welcome the progress that has been made.

In response to the questions/recommendations posed in CX/FL 19/45/5:

- Based on the proposed content, a guideline seems to be the more appropriate approach;
- This proposed document should be the reference point for labelling of non-retail containers. Therefore commodity standards should only have a reference to this document and should not contain specific provisions for labelling of non-retail containers;
- Food additives are currently excluded from the scope, therefore document CXS-107-1981 remains as a stand-alone document for the labelling of food additives when sold as such.

Detailed comments

Please find below our detailed comments, in track changes and comment boxes.

1. PURPOSE: The purpose of these Guidelines is to facilitate international trade of non-retail containers of food and to promote fair trading practices, using appropriate harmonized labelling of such containers which are not destined to the final consumer. These Guidelines outline what information shall be presented on the label and what information, while not required on the label, must be provided with a non-retail container by other means.

Comment: FoodDrinkEurope considers that the purpose has been considerably improved compared to the previous version as it captures the overall idea behind the labelling of non-retail containers.

However, we believe that some points are still missing, most notably an explicit reference to the fact that it is not destined to the final consumer.

In addition, as the Codex Alimentarius Procedural Manual stipulates (26th edition, page 21) “ensuring fair practices in the food trade” is one of the purposes of Codex texts. This is particularly true for guidance on non-retail containers, whose aim should be to facilitate international trade between business operators (B2B). Using an appropriate harmonized labelling for non-retail containers is a way to achieve it.

2. SCOPE: These Guidelines apply to the labelling of non-retail containers of food¹ (excluding food additives and processing aids)^{[1], [2]} not intended to be sold directly to the consumer¹, including the information provided in the accompanying physical/electronic documents or by other means, and the presentation thereof.

3. DEFINITION OF TERMS: For the purpose of these Guidelines, the relevant definitions in the General Standard for the Labelling of Prepackaged Foods (CXS 1-1985) apply. In addition, the following terms have the meaning as defined below:

“Food Business” means an entity or undertaking, carrying out one or more activity(ies) related to any stage(s) of production (excluding production at farm level), processing, packaging, storage and distribution (including trade) of food¹.

[“Non-retail container” means any container¹ that is not intended to be offered for direct sale to the consumer¹. The food¹ in the non-retail containers is for further food business activities before being eventually used for sale/distribution/catering to the consumer¹ in prepackaged¹ form, either as such or after further processing (including use as an ingredient for manufacturing another food).]

Some examples of non-retail containers are illustrated in the Annex.

Comment: Whereas the second version of the definition of “non-retail container” above is preferable over the first, FoodDrinkEurope believes that the definition is still rather unclear. Furthermore, the examples provided in the Annex are not very easy to understand.

4. GENERAL PRINCIPLES: The following general principles apply in respect of non-retail containers:

- 4.1 The general principles established in the General Standard for the Labelling of Prepackaged Foods (GSLPF) apply equally, as appropriate, to the labelling of non-retail containers of foods.

- 4.2 The labelling requirements for non-retail containers of foods should be differentiated clearly from the labelling requirements for prepackaged¹ foods.
- 4.3 The non-retail containers should be clearly identifiable as such.
- 4.4 The label along with the documents accompanying a non-retail container or information provided by other acceptable means shall provide relevant information to enable the labelling of food, intended for sale to consumer, with required information.
- 4.5 The non-retail status of a container shall be based on the intention of the manufacturer, packer, distributor, importer, exporter or vendor.
- 4.6 The labelling requirements for non-retail containers should be established taking into account the information requirements and implementation capabilities of the relevant stakeholders (food business and competent authorities).
- 4.7 Where appropriate, the information requirements in respect of non-retail containers of food may be met through appropriate means other than on a label (including accompanying documents or other globally acceptable innovative practices for sharing the relevant information, for example, electronic transfer of information), as allowed by the competent authority in the country in which it is sold. []
5. MANDATORY INFORMATION REQUIREMENTS ON LABEL: The following information shall appear on the label of non-retail containers of food, unless provided otherwise:

Comment:

Considering the importance for these guidelines to facilitate international trade practices and logistics operations, it is relevant to consider them from a practical point of view. More specifically, only explicit and unambiguous mandatory labelling information should be provided on the label, i.e. the name of the transported food product(s), the lot identification and details for traceability of the container.

As mentioned above, regarding non-retail containers, the Codex Alimentarius Procedural Manual (26th edition, page 60) reads that “information [...] shall be given either on the container or in accompanying documents, except that the name of the product, lot identification, and the name and address of the manufacturer or packer shall appear on the container. However, lot identification, and the name and address of the manufacturer or packer may be replaced by an identification mark provided that such a mark is clearly identifiable with the accompanying documents.”

Thus, only this most essential information is necessary on the label of non-retail containers. Any other mandatory and relevant information can be exchanged between B2B sender/receiver by means other than label. This information can be shared thanks to electronic means (e.g. EU TRACES database on TRAdE Control and Expert System). In the case of electronic goods flow programs, it may even be sufficient to enter an EAN code on the container for identification purposes, as any other information is stored electronically.

- 5.1 The name of the food
- 5.1.1 The name shall indicate the true nature of the food and normally be specific and not generic.
- 5.1.1.1 Where a name or names have been established for a food in a Codex standard, at least one of these names shall be used.
- 5.1.1.2 In other cases, the name prescribed by national legislation shall be used.
- 5.1.1.3 In the absence of any such established or prescribed name, either a common or usual name existing by common usage as an appropriate descriptive term which is not misleading or confusing in the country in which the food is intended to be sold shall be used.
- 5.1.1.4 A “coined”, “fanciful”, “brand” name or “trade mark” may be used provided it accompanies one of the names provided in Subsections 5.1.1.1 to 5.1.1.3.
- 5.1.1.5 Where the non-retail container contains multiple types of food, the names of all the foods contained therein and/or a generic descriptor that best explains the foods present together in the container shall be provided on the label, as allowed by the competent authority in the country in which the product is sold.
- 5.2 Net Contents
- 5.2.1 The net contents^[3] should be declared in the metric system (The International System of Units, SI) [or avoirdupois weight system or both the systems of measurement as required by the competent authority in the country in which the food is intended to be sold]. This declaration shall be made in the following manner:
- (a) for liquid foods, by volume or weight;

(b) for solid foods, by weight;

(c) for semi-solid or viscous foods, either by weight or volume;

5.3 Lot identification

Each container shall be embossed or otherwise permanently marked in code or in clear to identify the producing factory and the lot.

Comment:

Alignment with wording of the General Standard for the Labelling of Pre-Packed Foods.

5.4 Date marking and storage instructions^[41]

5.5 Identification of a non-retail container

The non-retail containers of foods shall be clearly identifiable as such. To this end, a non-retail container may:

- bear a statement to indicate that the food is not intended to be sold directly to consumer² or to clearly identify it as a non-retail container. Some examples of such statements are:

“NON-RETAIL CONTAINER”

“NOT FOR CONSUMER SALE”

“NOT FOR DIRECT SALE TO CONSUMER”.

“NON-RETAILCONTAINER - NOT FOR DIRECT SALE TO CONSUMER”

Or,

- carry any other mark that indicates that the container is not intended to be sold directly to consumer or clearly identifies it as a non-retail container in the country in which the product is sold.

Such identification enables labelling of non-retail containers as per the relevant provisions that allow minimum information to be presented on label with the rest being shared through other means, informs consumers that such containers were not intended to be sold to them, and prompts Competent Authorities to take into account the nature (non-retail) of the container at the time of verifying labelling compliance.

Comment: Section 7.1 provides guidance for shipping containers. Therefore, we propose to delete this text in section 5.5 in order to avoid duplication.

5.6 Name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the food shall be declared.

5.7 [Notwithstanding the above in the present Section on the Mandatory Information Requirements on Label, an identification mark may replace 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 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.]

Some examples of identification marks are Quick Response Code, Barcode, alphanumeric identification code etc.

6. SHARING INFORMATION BY MEANS OTHER THAN LABEL

6.1 The following additional mandatory information, if not provided on the label, 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.]

Comment: FoodDrinkEurope notes that there is no definition at Codex level of ‘Identification mark’; therefore, this could be a hurdle for harmonization. CCFL may wish to address this.

- 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.

6.2 Relevant information, other than the mandatory information identified in the preceding sections (Sections 5 and 6), may be shared by means other than the label. For example, information to enable nutrition and consumer preference claims etc.

7. SHIPPING CONTAINERS

7.1 In case of shipping containers such as tankers, barges etc., all the information stipulated in section 5 and section 6 shall be provided in the accompanying documents or through appropriate other means (e.g. electronically between food businesses) and shall be effectively traceable to the food in such containers.

8. PRESENTATION OF INFORMATION

8.1 General

8.1.1 Labels on non-retail containers of foods shall be applied in such a manner that they will not become separated from the container.

8.1.2 Information and the statements required to appear on the label by virtue of [these Guidelines] / [this Standard] or any other Codex Standards shall be clear, prominent, readily legible and applied in such a manner that any tampering with it will be evident.

8.1.3 Where the non-retail container(s) is covered by a wrapper, the wrapper shall carry the necessary information, or the label on the non-retail container shall be readily legible through the outer wrapper or not obscured by it or the information may be exchanged through other means as agreed among the competent authorities.

8.1.4 The mandatory information requirements on label (Section 5) shall appear in a prominent position on the non-retail container and in the same field of vision.

8.2 Language

8.2.1 If the language in the original labelling is the official language(s) of the receiving country, a translation of the information in the labelling should be provided in the required language in the form of re-labelling, supplementary label and/or in the accompanying documents to meet the requirements of the country in which the product is sold.

Comment: Within the scope of the international B2B exchange of goods, we maintain that the labelling of the goods only in English should be sufficient.

This would be a genuine and useful simplification of the labelling, as individual labelled “non-retail containers” (with resulting costs and efforts) could be avoided. One single labelling of “non-retail containers” would be sufficient for the worldwide transport.

8.2.2 The information provided through translation in the required language shall fully and accurately reflect that in the original labelling.