



JOINT FAO/WHO FOOD STANDARDS PROGRAMME CODEX COMMITTEE ON FOOD LABELLING

Forty-fifth Session

Ottawa, Ontario, Canada

13 - 17 May 2019

PROPOSED DRAFT GUIDANCE FOR THE LABELLING OF NON-RETAIL CONTAINERS

(Prepared by the electronic working group led by India, Costa Rica and the United States of America)

Codex members and Observers wishing to submit comments at Step 3 on this draft should do so as instructed in CL 2019/13/OCS-FL available on the Codex webpage/Circular Letters 2019: <http://www.fao.org/fao-who-codexalimentarius/circular-letters/en/>

I. INTRODUCTION

1. The 43rd session of the Committee on Food Labelling (CCFL43) (May 2016) agreed to start new work and establish an electronic working group (EWG), chaired by India and co-chaired by USA to develop a proposed Draft Guidance on the Labelling of non-retail containers of foods for consideration at its next session (REP 16/FL, Para 54). The CAC39 approved the new work and agreed that Costa Rica may also co-host the work (REP/16 CAC, Para 111 and Appendix VI).
2. The report of the EWG including the Proposed Draft Guidance was discussed by the CCFL44 under Agenda Item 6¹. The Committee agreed that the guidance would be developed as a stand-alone document and to use cross-references to relevant Codex texts in the final document to ensure consistency.
3. CCFL44 also agreed to re-establish an EWG, chaired by India and co-chaired by Costa Rica and USA, working in English and Spanish, to continue developing the guidance, while taking into account the comments submitted at that session and the views expressed in plenary, for consideration at the next session (REP 18/FL, Para 41).

II. SUMMARY OF PROCESS OF THE EWG

4. 27 member countries and 10 observer organizations nominated representatives to participate in the work of this EWG.
5. The EWG began its work by circulating the first draft of the proposed guidance on the labelling of non-retail containers of foods in March 2018. Comments were received from 12 member countries and 5 observer organizations. The draft document was amended based on the comments received and the second draft of the document thus prepared was circulated for comments in August 2018. Comments were received from 10 member countries and 6 observer organizations. The draft document has been amended after considering all the comments received and is provided in Appendix I.
6. List of EWG members is provided in Appendix II.

III. MAJOR DISCUSSION POINTS IN THE EWG

7. The following main points were discussed:
 - i) Definitions: Members generally agreed on the new terms included. Some members observed that the definition of the term 'Non-retail container' was not very clear specifically with respect to the exclusions from it. The same has been further simplified and two options are now included for consideration by the Committee. An Annex depicting some examples of the non-retail containers has also been included for better understanding.
 - ii) General Principles: Some members proposed to include a new principle that recognizes that the non-retail status of a container is based on the intention of the manufacturer, packer, distributor, importer, exporter or vendor. This has been affected.
 - iii) Information on label: Name of food, net contents, lot identification, date marking, statement to identify

¹ CL 2017/71-FL, CX/FL 17/44/6

a non-retail container and name/address of manufacturer appear to be generally acceptable by the members as necessary information on the label of a non-retail container.

- iv) Replacing information on label with an identification mark: In respect of the Codex commodity standards that are not limited to prepackaged foods, the Codex Alimentarius Commission Procedural Manual allows relevant Codex Committees to decide what information is to be included for labelling of non-retail containers in commodity standards. It also provides for the label on a non-retail container to have only the name of the product and an identification mark with all other information being shared through the accompanying documents. In this context, several members felt that when a set of information is identified as being the minimum essential required on the label of a non-retail container, it is not appropriate to allow replacing most of it with an identification mark on the label. The provision is identified for further discussions by putting it in square brackets.
- v) Statement of identification of non-retail container: Most members supported the identification through use of a statement as per the draft provision in the document circulated. Some members were concerned that such identification was not always necessary as non-retail containers were readily distinguished without such a statement. Some other members pointed out that it was possible to use means other than a statement on the label to identify a non-retail container. The provision has been amended to address both these concerns. Only those examples of the statements, that use defined terms, have been retained.
- vi) Information by means other than label: Members made useful comments to simplify Section 6.
- vii) Inclusion of shipping containers: Most members who responded on this issue were agreeable to the inclusion of shipping containers in the definition of the term 'non-retail container', with a provision to allow sharing of all the information through means other than the label as it is not amenable to put labels on them. The document now has provisions accordingly.
- viii) Containers traded as non-retail containers among food businesses but also used for presenting contents to the 'consumer' as defined in the *General Standard for the Labelling of Prepackaged Foods (GSLPF)*: Most members who responded were of the opinion that such containers qualified as 'prepackaged' as defined in the GSLPF, and should be labelled accordingly.
- ix) Use of wrappers on containers: The GSLPF says that if a container is covered by a wrapper, the wrapper should contain label information or the label information on the container should be readable through the wrapper or not obscured by it. This has been also included in this draft guidance document with an additional provision, based on inputs from members, that allows exchange of all the information through means other than label as agreed among the component authorities of trading countries in such cases. In this context, it may be kept in view that wrapping is generally carried out at manufacturing facilities and it may, therefore, be possible to provide label information on the wrappers in most cases, where required.

IV. CONCLUSIONS AND RECOMMENDATIONS

8. The Committee is invited to:

- a) consider the draft document in Appendix I keeping in view the following points:
 - i. Information presented on the label should be the minimum essential. The remaining information being exchanged appropriately through accompanying documents or other acceptable means should be traceable to the food in a non-retail container.
 - ii. The text from the GSLPF, wherever included in Appendix I, will ultimately be replaced with a reference to the GSLPF, if it remains unaltered in this document at the end of the discussions. During the elaboration stages, therefore, the focus is on assessing whether the GSLPF text applies as such in respect of a non-retail container or needs to be amended to meet labelling requirements of a non-retail container.
- b) discuss whether this guidance should be designated as a 'Standard' or a 'Guideline'.
- c) decide, once the guidance in this draft document is finalized, how best to address the relationship between it and the existing provisions/guidance on labelling of non-retail containers in the following:
 - a. Commodity standards with provisions for labelling of bulk/non-retail containers (CX/FL 14/42/6, Annex 3);
 - b. *General Standard for the Labelling of Food Additives When Sold as Such* (CXS 107-1981); and,
 - c. Codex Alimentarius Commission Procedural Manual.

APPENDIX I

PROPOSED DRAFT GUIDANCE FOR THE LABELLING OF NON-RETAIL CONTAINERS OF FOODS

(for comments at Step 3 through CL 2019/13/OCS-FL)

1. **PURPOSE:** The purpose of [these Guidelines] / [this Standard] is to facilitate appropriate harmonized labelling of non-retail containers of food and to 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.
2. **SCOPE:** [These Guidelines] / [This Standard][apply] / [applies] to the labelling of non-retail containers of food² (excluding food additives and processing aids)^{2,3} not intended to be sold directly to the consumer², 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] / [this Standard], 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 food².

[“**Non-retail container**” means any container² that is not intended to be offered for direct sale to the consumer². The food² in non-retail containers is intended for further food business activities, except for direct sale/distribution/catering to the consumer² in loose/non-packaged form.]

Or,

[“**Non-retail container**” means any container² that is not intended to be offered for direct sale to the consumer². The food² in the non-retail containers is for further food business activities before being eventually used for sale/distribution/catering to the consumer² in prepackaged² 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.

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 prepackaged² 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:

¹ As defined in the *General Standard for the Labelling of Prepackaged Foods* (CXS 1-1985)

² This Guideline/Standard is not intended to apply to the labelling of food additives and processing aids for which the ‘*General Standard for the labelling of food additives when sold as such*’ (CXS 107-1981) applies.

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 contents⁴ 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 marked in code or in clear to identify the producing factory and the lot.

5.4 Date marking and storage instructions⁵

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.

⁴ The declaration of net contents represents the quantity at the time of packaging and is subject to enforcement by reference to an average system of quantity control.

⁵ Information to be provided as per the guidance in the relevant section of the *General Standard for the Labelling of Prepackaged Foods* (CXS 1-1985)

Such an identification may not be necessary for large shipping containers (for example tankers, barges etc.) and, in other cases, the competent authority of a country may identify and allow exemptions where such an identification is determined to be not necessary to distinguish a non-retail container from a retail package (prepackaged food), in respect of the product sold in that country.

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 requirements⁵ 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.

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.

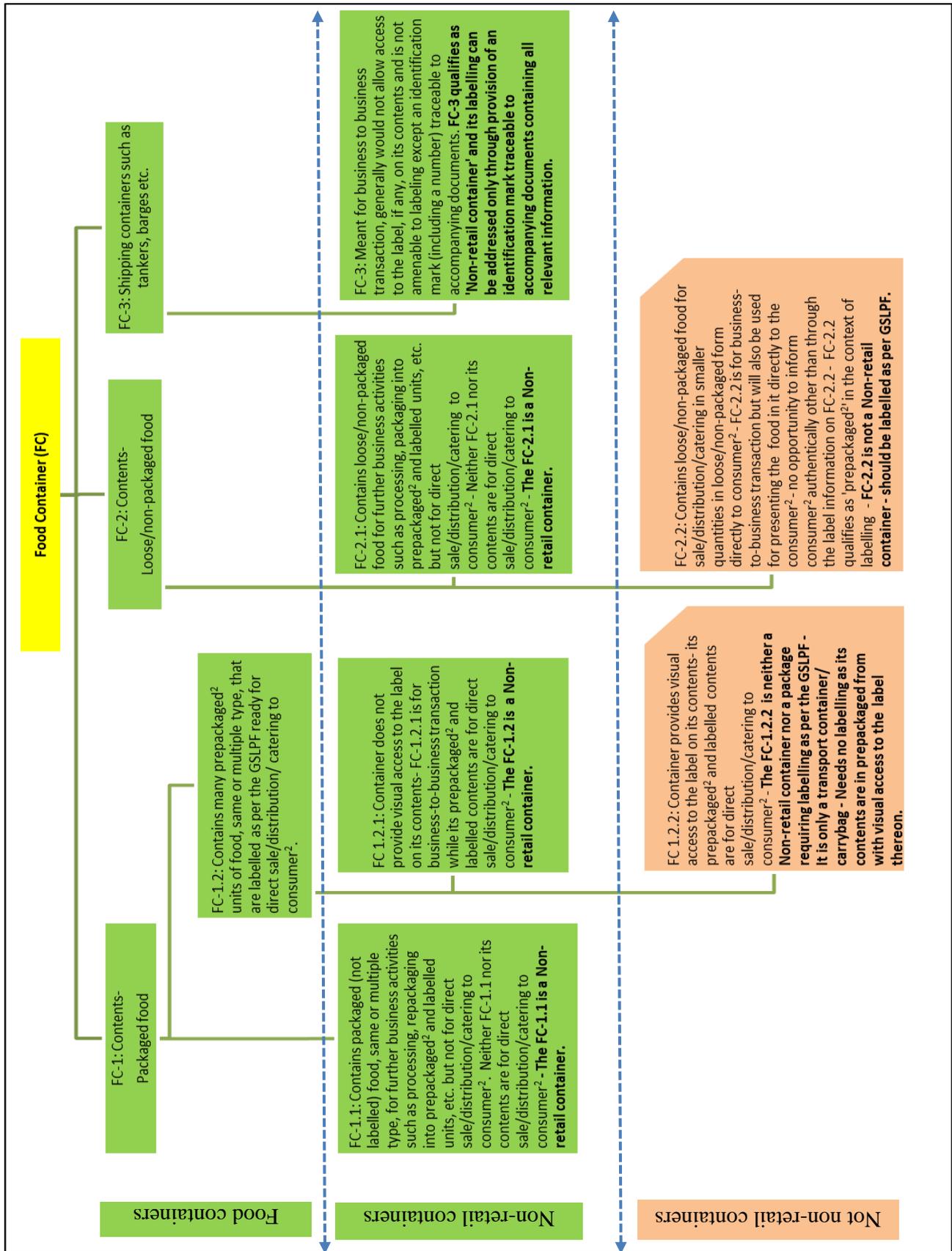
8.1.3 Where the non-retail container(s) is covered by a wrapper, the wrapper shall carry the necessary information, or the label on the non-retail container shall be readily legible through the outer wrapper or not obscured by it or the information may be exchanged through other means as agreed among 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 not acceptable to the competent authority in the country in which the product is sold, 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.
- 8.2.2 The information provided through translation in the required language shall fully and accurately reflect that in the original labelling.

SOME EXAMPLES OF NON-RETAIL CONTAINERS



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