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DISCUSSION PAPER ON INTERNET SALES / E-COMMERCE

(Prepared by the United Kingdom (UK), Chile, Ghana, India and Japan)

1. INTRODUCTION

At the 44th Session of the Codex Committee on Food Labelling (CCFL44) it was agreed that the UK, with co-drafters Chile, Ghana, India and Japan, would develop a discussion paper on internet sales/e-commerce. Internet sales/e-commerce was identified as a subject for possible new CCFL work, along with 5 other topics (REP18/FL, paragraph 58). Notably, "*Innovation – use of technology in food labelling*" was also identified as a subject for discussion, indicating a broader interest in current and emerging issues in the food labelling space.

This paper presents and analyses responses received from Codex Members and Codex Observers via Circular Letter (CL) 2018/24-FL (issued in April 2018) which was distributed following CCFL44. Annex 1 of the CL sought information through a series of questions specific to internet sales/e-commerce. Responses to Annex 1 were used to inform this discussion paper.

This paper is intended to assist CCFL in determining whether new Codex work should be undertaken to cover food labelling in an internet sales/e-commerce environment (i.e. the labelling of food which is sold online).

2. BACKGROUND

Internet sales/e-commerce is a growing platform for the sale of food. For the purpose of this discussion paper "*internet sales*" / "*e-commerce*" refers to commercial food transactions conducted electronically on the internet.

2.1 Annex 1 of CL 2018/24-FL

A total of 22 responses were received to Annex 1 of the CL (see Appendix 1 for a complete list of responses): 17 from Codex Members, and 1 from a Codex Member Organisation, the European Union (EU), and 4 from Codex Observers.

The Annex 1 questionnaire consisted of 12 questions, covering:

- National practices for internet sales/e-commerce
- International practices for internet sales/e-commerce
- Issues for CCFL to address
- Information to be required before/at the moment of delivery
- Appropriateness of considering non-prepacked food (i.e. loose foods) within scope of future internet sales/e-commerce work
- Internet sales of food as a proportion of all food sales
- Internet sales of food across international borders
- Business models for selling food online

2.2. Background research and information provided by some drafting partners

2.2.1. European data

Data from the EU shows that 69% of internet users in the EU shopped online for miscellaneous goods in 2018, while 33% of e-buyers made purchases from sellers in other EU countries, compared to 26% in 2013. The data also shows that 24% of those who shopped online bought food or groceries for private use in 2017¹.

Use of the internet to purchase goods is increasing annually. In the UK the market value of online grocery shopping is projected to rise from £11,306m in 2017 to £19,615m in 2022. It accounts for 6.7% of all grocery retail sales in 2017².

2.2.2. Japanese data

According to research led by the Ministry of Economy, Trade, and Industry of Japan, the volume and value of internet sales/e-commerce sales is \$11.6bn, accounting for 2% of all food sales³.

2.2.3. Chilean data

Data provided by Chile shows that in the first half of 2018 the Supermarket and Food sector in Chile showed a significant real increase of 109.5% in its internet sales in comparison with the increase achieved by the category in the first half of 2017 (34.9%). This data pertains to online supermarket sales as a whole as opposed to just food.

The category has shown a strong positive trend in the last two years, influenced mainly by supermarket online sales. This is due to new digital platforms emerging in the sector⁴.

2.3. The General Standard for the Labelling of Prepackaged Foods (GSLPF) (CXS 1-1985).

The GSLPF's scope (Paragraph 1) currently "*applies to the labelling of all prepackaged foods to be offered as such to the consumer or for catering purposes and to certain aspects relating to the presentation thereof*".

The General Principles of the GSLPF are that:

3.1 Prepackaged food shall not be described or presented on any label or in any labelling in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character in any respect.

3.2 Prepackaged food shall not be described or presented on any label or in any labelling by words, pictorial or other devices which refer to or are suggestive either directly or indirectly, of any other product with which such food might be confused, or in such a manner as to lead the purchaser or consumer to suppose that the food is connected with such other product.

Prepackaged food sold online is therefore within scope. That said, there are no paragraphs in the GSLPF which specifically relate to the labelling of food sold through internet sales/e-commerce, and how or at what point food information should be given to the consumer. Therefore, it can be considered that there is no requirement for food information to be disclosed at the point of sale on the internet.

3. EXISTING REGULATIONS

3.1. International regulations on food labelling for products sold online

The majority of responses indicated that they were not aware of existing international guidelines. There were no references to any international regulations which specifically relate to internet sales/e-commerce. Some countries did, however, point to Regulation (European Union) 1169/2011; particularly, Article 14 which specifies provisions for distance selling.

¹ Eurostat (2018). *E-commerce statistics for individuals*.

² Mintel (2018). *Online grocery retailing: UK*.

³ Japan's Consumer Affairs Agency (2016). *Report of the Panel to Discuss the Future Information Provision in Internet Sales of Foods*.

⁴ Chamber of Commerce, Chile (2018). *Commercial Internet sales by credit and debit card in Chile in the first half of 2018*.

EU Regulation 1169/2011 Article 14 states:

“1. Without prejudice to the information requirements laid down in Article 9, in the case of prepacked foods offered for sale by means of distance communication:

(a) mandatory food information, except the particulars provided in point (f) of Article 9(1), shall be available before the purchase is concluded and shall appear on the material supporting the distance selling or be provided through other appropriate means clearly identified by the food business operator. When other appropriate means are used, the mandatory food information shall be provided without the food business operator charging consumers supplementary costs;

(b) all mandatory particulars shall be available at the moment of delivery.

2. In the case of non-prepacked foods offered for sale by means of distance communication, the particulars required under Article 44 shall be made available in accordance with paragraph 1 of this Article.

3. Point (a) of paragraph 1 shall not apply to foods offered for sale by means of automatic vending machines or automated commercial premises”.

Therefore:

- All mandatory particulars must be available before the purchase is concluded except the date of minimum durability ('best before date') or 'use by date' (point (f) of Article 9(1)).
- In accordance with Article 44 (referenced in point 2 of Article 14), in the case of non-prepacked foods, regardless of the means of sale, the sole mandatory labelling requirement is allergen information unless EU member states adopt national measures requiring the provision of some or all other mandatory particulars.

3.2. Mandatory regulations

Some Members and a Member Organisation responded that they have regulations specific to internet sales/e-commerce and food labelling.

Table 1: Mandatory regulations for prepackaged foods by country/region

Country/Region	Regulation	Outline
Algeria	Article 5 of Executive Decree No. 13-378	Provisions on the distance selling of foodstuffs, requiring that the mandatory information provided for in Decree No. 13-378, with the exception of those relating to the duration of validity of the products, must be (clearly) provided before the conclusion of a purchase. All mandatory information is also to be provided at the moment of delivery. These provisions do not apply to foodstuffs offered for sale through vending machines or in automated business premises.
The EU	Article 14 of EU Regulation 1169/2011.	Provisions on distance selling. See paragraph 3.1 above.
India	The Food Safety and Standards (Licensing and Registration of Food Businesses) Regulation, 2011	As per a recent (2019) amendment, the regulation contains provisions relating to e-commerce food business operators. It is mandatory for the e-commerce food business operators to obtain a license from a central licensing authority. In Chapter 1 e-commerce is defined as “ <i>buying and selling through a digital and electronic network</i> ”. Other definitions, including “Digital and electronic platform”, “E-commerce FBO”, “Inventory based model of e-commerce FBOs”, “Marketplace based model of e-commerce FBO” are also provided. Mandatory food information shall be provided to consumers without charging supplementary costs and should be available before the purchase is concluded. FBOs who display or offer any “pre-packed food” for sale on an internet sales/e-commerce platform must clearly show the “principal display panel” of the pre-packed food, excluding

		batch number/lot number, best before, expiry date, date of manufacturing/packing and MRP.
Switzerland	Order 817.02	<p>Article 44 of the Ordinance on Foodstuffs and Commodities highlights provisions on foodstuffs offered by means of remote communication technology.</p> <p>In the case of pre-packaged foodstuffs offered for sale by means of distance communication techniques, all mandatory labelling requirements under the law on foodstuffs must be fulfilled, with information appearing “on the support of the distance sale”, or be made available free of charge by other means which must be clearly indicated.</p> <p>This is excluding the date indicating the shelf-life and the lot number of the goods. All mandatory information under the Law on foodstuffs, including the date indicating shelf-life and the lot number, is to be provided at the time of delivery of the goods.</p> <p>These requirements do not apply to foodstuffs proposed for sale by means of vending machines.</p>

It seems most mandatory regulations for prepackaged foods sold online do not require *all* usual mandatory labelling information to be required before the conclusion of a sale. The main exemptions are date marking ('best before' and 'use by' dates) and lot number.

Numerous responses gave information about regulations which pertain generally to consumer protection online, but with no specific requirements with regard to food labelling.

For example, in Brazil, Decree No. 7.962/2013 establishes that the electronic websites (and other electronic means) used to offer or conclude a consumer contract should provide the following information in a prominent and easily visible place:

- (a) Business name and supplier's registration number, if any.
- (b) Physical and electronic address, as well as other information necessary for its location and contact.
- (c) Essential characteristics of the product or service, including their safety and health risks.
- (d) Discrimination in the price of any additional expenses, such as delivery or insurance.
- (e) Full conditions of the offer, including payment methods, availability, form and term of execution of the service, delivery or availability of the product.
- (f) Any restrictions on the enjoyment of the offer.

Finally, it should be noted that some of the existing regulations highlighted by this paper apply to all “remote” or “distance” selling as opposed to online sales which is only one method of distance selling. One response noted that future CCFL work should consider internet sales/e-commerce alongside all other forms of distance selling so as to ensure foods sold by catalogue, for instance, are within the scope of future text developed. However, the scope of the task assigned to the Drafting Group at CCFL44 relates to internet sales/e-commerce only.

3.3. Voluntary practice

One response indicated awareness of industry-led voluntary practices, such as providing labelling information online which is not currently required by law. This was, however, on an anecdotal basis and no further details were provided.

The Japanese Government, in coordination with industry representatives and academics, developed a detailed report in December 2016 to “Discuss the Future Information Provision in Internet Sales of Foods”. This Report offers one of the most detailed insights into the area at present. The main recommendations of the report are included in Appendix 2.

4. ISSUES FOR CCFL TO ADDRESS

Question 3 (Q3) of the questionnaire asked which issues relating to food sales and internet sales/e-commerce CCFL should address. This section outlines the key themes of the responses received.

4.1. Lack of a consistent international framework of guidance for selling food online

The vast majority of responses (86%) indicated that CCFL should undertake further work to provide international guidance on the labelling of food sold through internet sales/e-commerce for clearer information to consumers, businesses, and to facilitate fair trade practices. The absence of such guidance was highlighted as a key issue in and of itself, but is informed by further issues (as outlined in para. 4.2. to 4.9 below.).

A further two responses (9%) indicated that Codex should scope the area first. 1 response (5%) did not have an opinion.

Further work and scope might mean addressing the following issues outlined in 4.2. to 4.9.

4.2. Information to be provided at different points of a sale (e.g. before the conclusion of an online sale versus at the moment of delivery)

Under Q3, three responses highlighted that CCFL should address confusion over what information/labelling should be provided by businesses before the conclusion of an online sale as opposed to information provided at the moment of delivery.

- Six responses stated that CCFL should, more generally, clarify what existing mandatory information requirements are to be provided when food is sold online.
- Two responses noted that CCFL work on e-commerce should address at what point information pertaining to date marking and lot numbers must be provided.
- 50% of responses therefore raised the issue of what information should be provided to the consumer (and, in some cases, at what stages of the sale) in the context of e-commerce.

Question 8 asked: *In your opinion, for pre-packaged food sold online, what information do you think should be provided at the moment of delivery only?*

- The majority of responses noted that not all mandatory labelling requirements can be met before the conclusion of a sale of food sold online. This observation was particularly common amongst Codex Members with national legislation for labelling food sold online (as outlined in Table 1).
- Some information (e.g. date marking and lot number) may not be available until the food is picked up for delivery or at the moment of delivery. For example, in the case of Regulation (EU) 1169/2011 and its provisions on distance selling, date marking ('best before' and 'use by' dates) do not need to be provided before a distance sale is concluded.

4.3. Lack of key definitions

Three responses stated that their ability to respond to the questionnaire was inhibited by the absence of uniform definitions of internet sales/e-commerce and that addressing the lack of clear definitions is a core issue for CCFL to address. Two of these responses were from Codex Observers.

Further, two responses noted that CCFL should review current Codex definitions of "label" and "labelling" to render them applicable to food sold online. Clarification may be required in Codex texts (namely, the GSLPF) to address innovative, emerging ways of purchasing food since:

- "*Label*" means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to, a container of food (*General Standard for the Labelling of Prepackaged Foods, CXS 1-1985*)
- "*Labelling*" includes any written, printed or graphic matter that is present on the label, accompanies the food, or is displayed near the food, including that for purpose of promoting its sale or disposal (*General Standard for the Labelling of Prepackaged Foods, CXS 1-1985*)

A further solution to altering the existing definitions of "label" and "labelling" could be to clarify that, in the case of internet sales/e-commerce, the same food information required on the label by the GSLPF must be provided online.

The idea was also raised that clarification should be sought over various points of an online sale, e.g. the terms: "before the conclusion of an online sale" and "at the moment of delivery" (see 4.2.).

4.4. Absence of nutritional information for online food products

Some responses (18%) highlighted problems relating to accessing nutritional information regarding food products sold online. Some highlighted that claims made on food products have a direct and often decisive impact on consumer choice – for example, especially in the health foods and sports nutrition sector. It is important that the same standards apply to products advertised and sold online as for those provided in-store. For example, the requirements of the *Guidelines on Nutrition Labelling (CXG 2-1985)* should be met.

4.5. Health and safety standards for food sold online

Health and safety concerns around food sold online were expressed implicitly in most responses, and explicitly in 18% of responses to Q3. These responses suggested that the lack of international guidance on food labelling in the context of internet sales/e-commerce could create health and safety risks to consumers through inadequately and/or inappropriately labelled food.

- Four responses highlighted the lack of clarity at an international level over what information should be provided to the consumer buying food online. These responses stressed that the lack of information fails to provide for consumer health protection. One response stated that CCFL should assess whether there are risks associated with food safety and the availability of consumer information and, if so, lay down general guidelines to reduce these risks.
- One response was concerned that there is a gap in CCFL texts on the labelling of unpackaged food since loose foods can contain allergens.

Health and safety concerns were also raised in relation to cross-border trade, where it was highlighted that it is sometimes unclear with which regulations the product's labelling must comply; those of the country where the food is delivered to the consumer or those of the source of the food or the vendor.

The *Discussion Paper on Future Work and Direction for CCFL* (CX/FL 17/44/9) stated that work on internet sales/e-commerce should consider the rules for claims and marketing (paragraph 36). However, only 2 responses to CL 2018 24-FL noted that work on internet sales/e-commerce should consider claims made online.

4.6. Accountability/responsibility and traceability

Issues of accountability, traceability and responsibility were raised in 27% of responses to Q3. The issues raised covered:

- The authenticity of products sold online
- Traceability and transparency throughout the supply chain in the context of internet sales/e-commerce
- Suggestions that issues related to traceability might provide opportunity to work with other committees (e.g. the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS))

4.7. Preventing barriers to trade

Several responses (32%) highlighted ambiguity surrounding the cross-border trade of food *or* stated that CCFL should undertake work to prevent barriers to cross-border trade for foods sold via the internet.

One response noted that CCFL work on food sales by internet sales/e-commerce creates an opportunity to confirm which country's regulations are the basis for compliance, as well as an opportunity to create guidelines relating to jurisdictions for manufacturers to consider.

4.8. Manner of display

A recurring theme was that information must be clear; 23% of responses noted that properties of the internet (e.g. hyperlinks) can be used to obscure consumers' access to information.

Some responses therefore advised that CCFL consider what is an appropriate manner of display for mandatory food labelling requirements for internet/e-commerce food sales.

A few responses raised the issue of the use of images of labels to fulfil labelling requirements. Often these can be unclear.

Three responses suggested that CCFL should consider language requirements of labelling for internet sales/e-commerce foods sold internationally. Namely:

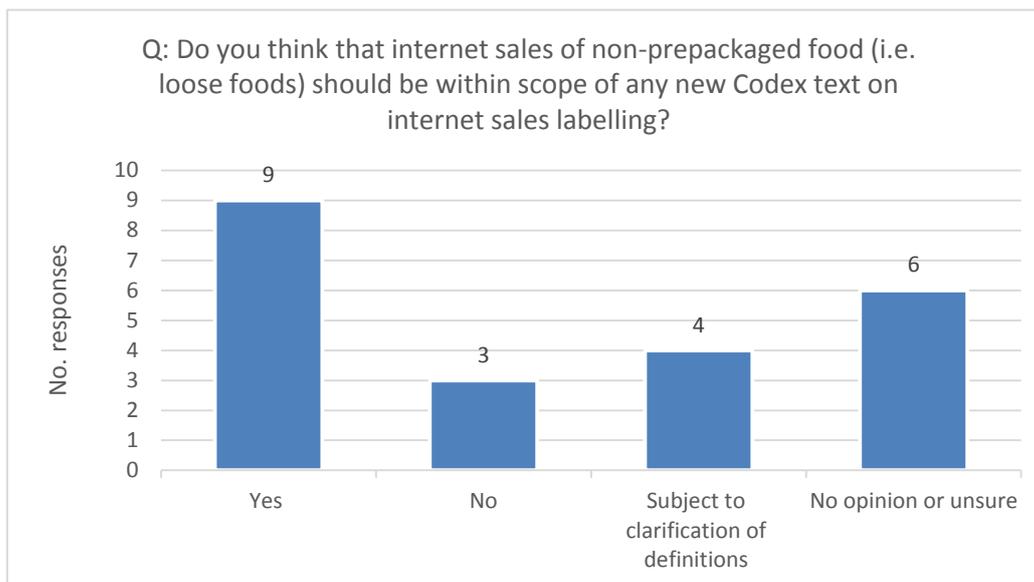
- The appropriate language(s) providing food information on the packaging of a food sold online and delivered cross-border.
- The appropriate language(s) providing food information on the online platform on which the food is sold.

4.9. Labelling of non-prepackaged/loose foods

One response to Q3 highlighted a gap in the labelling of non-prepackaged/loose food in current Codex labelling texts. This is a relevant concern as businesses often sell bulk foods to consumers (and business to business) via the internet. The questionnaire later asked, "*In your opinion, do you think that internet sales of non-*

prepackaged food (i.e. loose foods) should be within scope of any new Codex text on internet sales labelling?" (Question 9). Responses are summarised in the graph below.

Graph 1: Opinions on the inclusion of loose foods within the scope of a new Codex text



The reasons given by responses for including loose foods within the scope of a CCFL text on internet sales/e-commerce included:

- That the rationale for exempting loose food from labelling requirements, (i.e. that the consumer can obtain information from the business at the moment of sale), no longer applies online.
- That there is a need to inform consumers of the presence of food allergens. For example, confectionary can be sold as a bulk food but can contain one or more food allergens. In the case of non-prepacked (i.e. loose) foods, EU Food Information for Consumers Regulation No 1169/2011 requires as a minimum information on allergens/substances causing intolerances.
- That there is a need to indicate if foods meet certain dietary requirements (e.g. vegetarian, vegan, halal or kosher).

One response noted that the internet sale of non-pre-packaged food (i.e. loose foods) could follow the same guidelines for mandatory labelling information as for non-retail containers, and could therefore consider the provision of information by means other than the label.

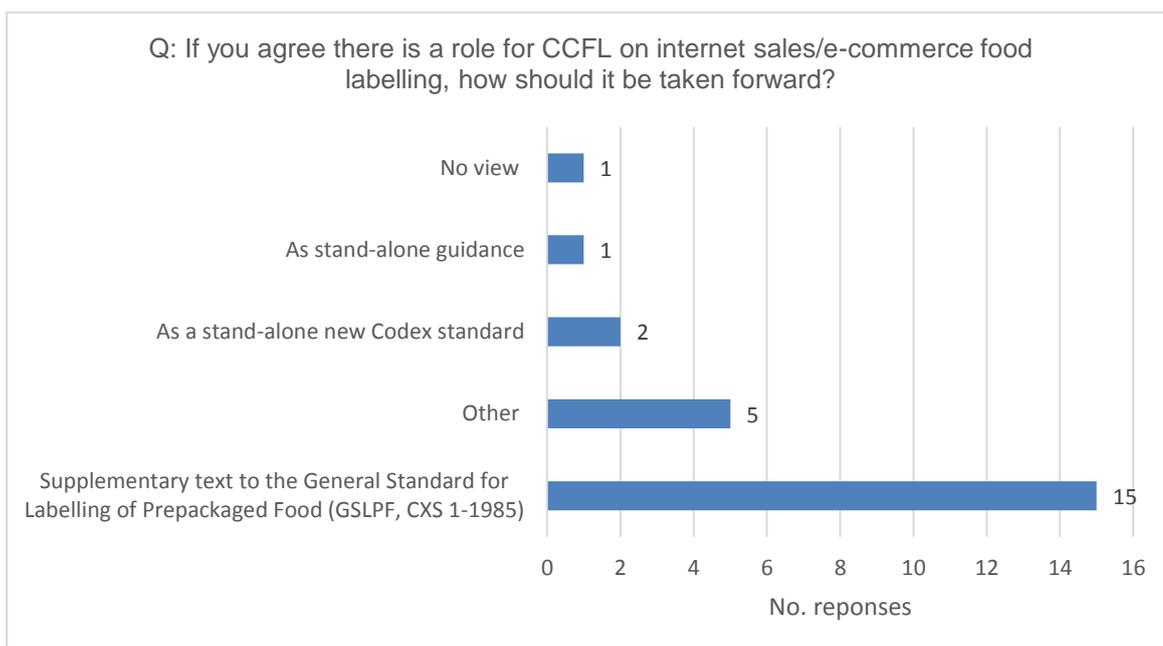
The reasons given for *not* including loose foods included:

- Loose foods are currently exempt from mandatory labelling requirements, are not within the scope of the GSLPF, and so should also be exempt in the case of internet sales/e-commerce.
- At present, there is no clear legal definition of non-prepackaged food: loose food may comprise single ingredient foods (e.g. apples) or mixed ingredients (e.g. confectionery/food sold by a catering company).
- It is important that provisions do not create a disproportionate burden on food businesses operators, and in particular on small and medium size businesses.

5. POSSIBLE FORMATS FOR FUTURE CODEX WORK

Question 4 asked, "If you agree there is a role for CCFL on internet sales/e-commerce food labelling, how should it be taken forward?"

Responses to Q.4 are summarised in the graph below. Note that some responses chose multiple options (One response chose either (I) or (II) and 1 response chose either (I) or (III)).

Graph 2: Preferred formats of future Codex work

5.1. Supplementary text to the GSLPF

Most responses (68%) expressed a preference for a supplementary text to the GSLPF. A recurring theme was that a supplementary text would avoid the need to develop text on any aspects of labelling that have already been established.

Some responses noted that a supplementary text might manifest as an annex to the GSLPF.

However, the idea also arose amongst these responses that if further work demonstrates the need to update a number of Codex texts in order to include internet sales within their scope then a standalone text might be more appropriate. Examples of Codex texts which might need to be updated include *Guidelines on Nutrition Labelling* and *Guidelines for the Use of Nutrition and Health Claims*.

5.2. As a stand-alone new Codex standard

A stand-alone Codex standard could address issues relating to commerce that are not limited to food labelling.

One response that advocated for a new Codex standard suggested that this could be either a stand-alone document or a new section in the GSLPF.

5.3. As stand-alone guidance

Stand-alone guidance would also facilitate guidance for food sales online in general, rather than applying solely to labelling. Such guidance could go beyond consumer-facing sales and address multiple business models, as well as issues relating to trade.

5.4. Other

Three responses (14%) supported Codex work on internet sales/e-commerce and food sales but could not determine an appropriate format for future work until:

- “Internet sales” and “internet sales/e-commerce” are defined
- CCFL develops a broader understanding of the scope of internet sales/e-commerce and associated business models

One response felt that there may not need to be specific guidelines for online food labelling since the GSLPF already applies. They stated that in this instance the work for CCFL might be on enforcement.

5.5. No view

One response did not have a view on the format of any future Codex text.

6. CONCLUSIONS

The internet/e-commerce is a new and emerging platform for selling food which is growing in use globally (see Section 2). From the responses to Annex 1 of Circular Letter 2018/24-FL, the general view was that there is

ambiguity surrounding food labelling requirements in an internet sales/e-commerce environment. This is considered to be a potential risk to the protection of consumers and barrier to international trade.

The majority of responses (86%) showed support for CCFL to undertake new work on the labelling of food sold through internet sales/e-commerce. This would help in providing a harmonised approach on the labelling of foods sold by the internet; protecting consumer health, enabling consumers and businesses to make informed choices, and facilitating trade.

Some key issues for CCFL to address relate to developing a harmonised approach on the information to be provided to the consumer by businesses: what information is mandatory and at what points of the sale, and how this information should be presented.

In order to address this, most responses (68%) expressed a preference for a supplementary text to the GSLPF. Amongst these, however, some suggested that if initial work indicates a broader scope than anticipated, a stand-alone standard or guidance could be more suitable.

Issues raised relating to accountability/responsibility and traceability (see 4.6.) may need to be referred to other Codex committees such as the Codex Committee on Food Import and Export Inspection and Certification Systems.

7. Recommendations

Given the above analysis and conclusions, it is recommended that CCFL initiates new work on internet sales/e-commerce. The drafting group proposes the attached Draft Project Document (Appendix 3), recommending the development of a supplementary text to the GSLPF that provides clear guidance on the labelling of foods sold by internet/e-commerce.

This should address, at a minimum, the key issues raised by responses to Annex 1 of Circular Letter CL 2018/24-FL.

1) It is proposed that work to develop supplementary text should at least cover the following aspects:

- a. The GSLPF's applicability to food sold by internet sales/e-commerce.
- b. The development, if deemed appropriate and necessary, of a definition of internet sales/e-commerce for the purposes of this new work.
- c. Supplementary text should help to prevent obfuscation of Codex texts and, therefore, misleading of consumers and businesses in respect of the particularities of the internet.
- d. The mandatory labelling requirements which, because of practicalities, may be allowed to be provided after an online sale has concluded, though provided before or at the moment of delivery to the consumer. CCFL may need to define these points in an online sale (the "end/conclusion of an online sale" and the "moment of delivery") in order to clearly convey the latest point in the process of an online sale at which certain mandatory requirements need to be provided.

2) In addition, it is recommended that CCFL discuss and agree that the following issues be explored and taken forward, as relevant, when developing the new CCFL text:

- e. How loose foods should be treated within the scope of future work on internet sales/e-commerce.
- f. The suggestion to clarify what GSLPF definitions of "label" and "labelling" mean for labelling food sold online.
- g. If current text on language requirements in the GSLPF is adequate, without some adjustment for food sold online.

Issues raised relating to accountability/responsibility and traceability (see 4.6.) may need to be referred to other Codex committees such as the Codex Committee on Food Import and Export Inspection and Certification Systems.

Appendix 1**List of respondents to Circular Letter CL 2018/24-FL**Codex Member Countries

1. Algeria
2. Australia
3. Brazil
4. Canada
5. Chile
6. Colombia
7. Costa Rica
8. Guatemala
9. India
10. Indonesia
11. Japan
12. Mexico
13. New Zealand
14. Peru
15. Switzerland
16. Thailand
17. United States of America (USA)

Codex Member Organisation

18. The European Union (EU)

Codex Observers

19. European Specialist Sports Nutrition Alliance (ESSNA)
20. Food Industry Asia (FIA)
21. International Fruit and Vegetable Association (IFU)
22. International Council of Grocery Manufacturer Associations (ICGMA)

Appendix 2**Japan's Consumer Affairs Agency (2016)⁵: Key recommendations**

- Consumers must have access to greater information (starting with, but not limited to, mandatory labelling information) in order to make appropriate choices in accordance with diverse consumer needs.
- It is important to provide information in a manner that is easy to understand for consumers: FBOs should refer to a familiar labelling style but also take advantage of the internet's unique features relating to font/images/links etc.
- There should be greater communication between business operators to ensure the above: appropriate communication based on mutual understanding of suppliers and sellers enables efficient information provision to consumers.
- It is desirable to build a relationship where suppliers promptly convey information when there is a change.

National and local governments, consumer organizations, trade associations and others are expected to work for dissemination and awareness of not only the food containers/packaging labelling system but also efforts for provision of information pertaining to the Mandatory Labelling Information in Internet sales. Action based on the recommendations of this report are voluntary.

⁵ Japan's Consumer Affairs Agency (2016): *Report of the Panel to Discuss the Future Information Provision in Internet Sales of Foods*.

Appendix 3**DRAFT PROJECT DOCUMENT ON NEW WORK ON INTERNET SALES/E-COMMERCE:
REVISION OF THE *GENERAL STANDARD FOR THE LABELLING OF PREPACKAGED FOODS*
(CXS 1-1985)****1. PURPOSE AND SCOPE OF THE NEW WORK**

The scope and purpose of the work is to develop a supplementary text to the *General Standard for the Labelling of Prepackaged Foods* (GSLPF)¹ which provides for the labelling of food sold through internet sales/e-commerce. The work would seek to review and revise the current Codex provisions under the GSLPF to ensure it provides for the selling of food in an internet sales/e-commerce environment.

2. RELEVANCE AND TIMELINESS

This proposal relates to the development of a text which would provide Governments and other stakeholders with clear and transparent standards/guidance on the labelling of foods sold through the internet/e-commerce. According to the stock take undertaken by CCFL, a significant proportion of Codex members support such work.

Internet sales/e-commerce is a transboundary issue and therefore requires global standards to protect consumers and assure fair trading practices.

3. MAIN ASPECTS TO BE COVERED

1) It is proposed that work to develop supplementary text should at least cover the following aspects:

- a. The GSLPF's applicability to food sold by internet sales/e-commerce.
- b. The development, if deemed appropriate and necessary, of a definition of internet sales/e-commerce for the purposes of this new work.
- c. Supplementary text should help to prevent obfuscation of Codex texts and, therefore, misleading of consumers and businesses in respect of the particularities of the internet.
- d. The mandatory labelling requirements which, because of practicalities, may be allowed to be provided after an online sale has concluded, though provided before or at the moment of delivery to the consumer. CCFL may need to define these points in an online sale (the "end/conclusion of an online sale" and the "moment of delivery") in order to clearly convey the latest point in the process of an online sale at which certain mandatory requirements need to be provided.

2) In addition, the following issues will be considered:

- e. How loose foods should be treated within the scope of future work on internet sales/e-commerce.
- f. Clarification of what GSLPF definitions of "label" and "labelling" mean for labelling food sold online.
- g. If current text on language requirements in the GSLPF is adequate, without some adjustment for food sold online.

Issues raised relating to accountability/responsibility and traceability (see 4.6. of discussion paper) may need to be referred to other Codex committees such as the Codex Committee on Food Import and Export Inspection and Certification Systems.

¹ CXS 1-1985

4. ASSESSMENT AGAINST THE CRITERIA FOR THE ESTABLISHMENT OF NEW WORK PRIORITIES

General criterion

Consumer protection from the point of view of health, food safety, ensuring fair practices in the food trade and taking into account the identified needs of developing countries.

The internet/e-commerce is a new and emerging platform for selling food which is growing in use globally. The lack of standardised guidance for the labelling of food sold via internet sales/e-commerce raises significant issues pertaining to health, food safety, and the protection of fair practices in the food trade.

Criteria applicable to general matters

a) Diversification of national legislations and apparent resultant or potential impediments to international trade

A number of countries have adopted regulations which specifically relate to e-commerce, often through references to distance/remote selling. These regulations are broadly similar in that they state that all practically feasible mandatory information needs to be provided before the end of an online sale. However, there are slight differentiations in terms of what information does not need to be provided until the point of delivery.

With the growth of e-commerce, it is important that some consistency is maintained at a global level to ensure that consumers are protected and impediments to trade that may arise from different approaches are minimised.

b) Scope of work and establishment of priorities between the various sections of the work.

It is proposed that a review of Codex texts, primarily the GSLPF, will focus on the GSLPF's applicability for food sold by internet sales/e-commerce in order to formulate a supplementary text to the GSLPF.

c) Work already undertaken by other international organizations in this field and/or suggested by the relevant international intergovernmental body(ies)

There are no international regulations which specifically relate to internet sales/e-commerce. However, Article 14 of Regulation (European Union) 1169/2011 contains provisions on distance selling. There are also some instances of national regulations pertaining to internet sales/e-commerce, as highlighted in the discussion paper.

Codex is the relevant international organization responsible for developing international standards in the area of internet sales/e-commerce.

d) Amenability of the subject of the proposal to standardization

The information to be provided to the consumer in an internet sales/e-commerce context should be comparable to that which is already outlined by the GSLPF. A supplementary text should make the GSLPF's applicability to internet sales/e-commerce clear. The purpose of the new work is to develop unambiguous labelling requirements for food sold to consumers through internet sales/e-commerce. Such labelling requirements can be effectively standardized with the involvement of and inputs from Codex Members.

e) Consideration of the global magnitude of the problem or issue.

E-commerce, and the sale of food via online platforms, is growing at an international level and is a transboundary issue. Business-to-consumer web platforms are being increasingly utilised by food business operators and these platforms offer significant convenience to the consumer. The rise in internet sales, while offering tangible benefits to consumers, also presents risks to consumer protection, consumer safety and public health. There may be a particular risk, in the absence of clear, internationally recognised guidelines, of deliberate and non-deliberate misleading practices leading to significant market failure and/or consumer detriment.

Mandatory regulations for the labelling of food sold via internet sales/e-commerce are in place in a number of countries. Further countries have regulations which outline consumer rights online.

5. RELEVANCE TO CODEX STRATEGIC OBJECTIVES

The proposed work is in line with the Commission's mandate for the development of international standards, guidelines and other recommendations for protecting the health of consumers and ensuring fair practices in food trade. The new work proposal will contribute to advancing Strategic Goals 1 and 3 as described below.

Strategic Goal 1: *Establish international food standards that address current and emerging food issues*

Guidance for labelling food sold by internet sales/e-commerce is of significant interest and activity in a number of countries globally. Codex's FAO website reads: "Over the last century the amount of food traded internationally has grown exponentially, and a quantity and variety of food never before possible travels the globe today"². This is largely facilitated by e-commerce. A supplementary Codex text would facilitate the development of a more standardised approach to the topic at an international level.

Strategic Goal 3: *Facilitate the effective participation of all Codex members*

Bringing this topic to CCFL will enable all members who have an interest in internet sales/e-commerce to participate in discussions. The work could also provide an opportunity to discuss, more broadly, remote/distance selling.

In relation to the new draft Strategic Plan/Goals (2020-2025) under development:

Strategic Goal 1: *Address current, emerging and critical issues*

This work offers CCFL to address one of the most topical developments in the food labelling space.

Strategic Goal 3: *Deliver impact through the recognition and use of Codex standards*

To the extent that internet sales/e-commerce is driven by an increasing number of players globally, the development and adoption of Codex standards in this area will deliver significant benefits to consumers and businesses. This, in turn, will deliver impact through recognition of a harmonised Codex approach which can be used universally for the benefit of all stakeholders.

6. RELATION BETWEEN THE PROPOSAL AND OTHER EXISTING CODEX DOCUMENTS

The proposal is to review and then revise the GSLPF, and subsequently assess the need to amend any further Codex documents. It is noted that the provisions relevant to internet sales/e-commerce labelling in the GSLPF are applicable horizontally across all pre-packaged foods.

7. REQUIREMENT FOR AND AVAILABILITY OF EXPERT SCIENTIFIC ADVICE

None identified at this stage. There will be opportunities to consult with relevant bodies if necessary throughout the process.

8. NEED FOR TECHNICAL INPUT TO THE STANDARD FROM EXTERNAL BODIES

None identified at this stage. There will be opportunities to consult with relevant bodies if necessary throughout the process.

9. PROPOSED TIMELINE

If approved by the Commission in 2019, the work is expected to take the Committee at least 2 sessions to complete.

May 2019	Agreement to new work and endorsement of new work proposal by CCFL.
July 2019	Approval of new work by CAC.
2020	Consideration of proposed draft revision by CCFL and advancement to Step 5.
2021	CAC adoption of proposed draft amendment at Step 5.
2022	CAC adoption of the draft revision at Step 8

² <http://www.fao.org/fao-who-codexalimentarius/about-codex/en/>