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REPORT OF THE INTERSESSION ELECTRONIC WORKING GROUP DISCUSSION PAPER ON NEW ENTRIES AND AMENDMENTS TO THE TABLE OF CONDITIONS IN THE GUIDELINES FOR THE USE OF NUTRITION AND HEALTH CLAIMS (CAC/GL 23-1997)

(Prepared by Canada with input from members of the electronic working group including: Brazil, Costa Rica, European Union, Japan, Morocco, Mexico, New Zealand, Norway, Singapore, Thailand, the United Kingdom, the United States of America, Comité Européen des fabricants de sucre, Confederation of the Food and Drink Industries of the EU, International Council of Beverages Association, International Dairy Federation, and World Sugar Research Organisation.)

Background

1. In 2009, at the 37th Session of the Codex Committee on Food Labelling, it was decided to continue the electronic working group (eWG) on labelling provisions dealing with the food ingredients identified in the WHO *Global Strategy on Diet, Physical Activity and Health* (CL 2006/44-CAC) with the following terms of reference.

Considering the food ingredients identified in paragraph 22 of the *Global Strategy on Diet, Physical Activity and Health*, i.e., fruits and vegetables and legumes, whole grains and nuts, and free/added sugars and salt (sodium), the electronic working group will:

- review and revise the list of proposed actions in CRD 1 in order to focus on those ingredients identified in the Global Strategy as mentioned above
- identify paragraphs in existing Codex texts on food labelling under which food ingredients identified in the Global Strategy can be addressed; and
- prepare a discussion paper for consideration by the 38th session of the CCFL.

2. The discussion paper was presented for consideration at the 38th session of the CCFL. Five suggested actions were put forward that might address the ingredients identified in paragraph 22 of the *Global Strategy on Diet, Physical Activity and Health*, specifically fruits, vegetables, legumes, whole grains, and nuts, and free/added sugars and salt(sodium). The Committee agreed to only discuss the suggested actions to establish if there was interest in them but not to review any suggested text during the session. As a result of the ensuing discussions, the Committee agreed to establish an electronic working group led by Canada and working in English only and a physical working group operating in English, French and Spanish just prior to the 39th session of the Committee with the terms of reference to prepare a discussion paper on:

1. New entries to the **Table of conditions for nutrient contents** in the *Guidelines for Use of Nutrition and Health Claims* (CAC/GL 23-1997) for the non addition of sugars and salt/sodium;
2. Additional conditions of use for comparative claims for sugars and salt/sodium content;
3. Reviewing the heading of the table of conditions for nutrient contents; and
4. Adding nutrient content claims in relation to trans-fatty acids*.

*Item 4 was added to the project document and the terms of reference for the working group as a result of the discussion on matters referred by the CCNFSDU (see paras. 105-108 in ALINORM 10/33/22)

A copy of the project document (ALINORM 10/33/22 Appendix V) is included in Appendix B.

3. At the 31st session of the Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU), the Chairman noted that it was the responsibility of CCNFSDU to develop conditions for nutrient content claims while CCFL is responsible for decisions related to labelling (ALINORM 10/33/26, para 15-22). Therefore, as CCFL considers these claims further they must work collaboratively with CCNFSDU to move this work forward through the step process.

4. In January 2011, an invitation to participate in this eWG was extended to Codex members and observer organizations, along with a first document seeking input on the four tasks listed in the Terms of Reference in order to develop a first draft of the discussion paper. A series of 8 questions was asked in order to solicit information from eWG to assist in developing a first discussion paper. Expressions of interest in participating were received from Argentina, Brazil, Costa Rica, European Union, France, India, Iran, Japan, Morocco, Mexico, New Zealand, Norway, Singapore, Sweden, Thailand, the United Kingdom, the United States of America, Comité Européen des fabricants de sucre, Confederation of the Food and Drink Industries of the EU, Institute of Food Technologists, International Council of Beverages Association, International Dairy Federation, and World Sugar Research Organisation. A total of 17 responses to the request for input were received from the group. These responses form the basis for this version of the discussion paper. A series of questions have been included in the current document to assist discussions during the physical working group (pWG) meeting on May 7, 2011. The document is divided into 5 main sections:

- I. **Amendment to the Title of the Table of conditions for Nutrient Contents (para 12-13)**
- II. **Claims on Added Sugars (para 14-17)**
- III. **Claims on Added Salt (Sodium) (para 18-21)**
- IV. **Comparative Claims (para 22-34)**
- V. **Claims on Trans-Fatty Acids (para 35-59)**

5. A physical working group will be held on the Saturday immediately prior to the 39th session of the CCFL with the objective of finalising the discussion paper for its presentation to the plenary session.

Nutrition Claims

6. In general, nutrition claims are optional claims that can be used by manufacturers on a voluntary basis on their foods. Manufacturers use claims in order to communicate to consumers the nutritional properties of a food or beverage, describing the presence or absence of one or more nutrients, or the relative presence or absence of one or more nutrients in the case of comparative claims. The *Codex Guidelines for Use of Nutrition and Health Claims* (CAC/GL 23-1997) provide guidance to countries and describe in their scope that nutrition claims should be consistent with national nutrition policy and support that policy. Only nutrition claims that support national nutrition policy should be allowed.

7. Definitions for the Purposes of this Discussion Paper (from Section 2 of the Guidelines)

Nutrition claim means any representation which states, suggests or implies that a food has particular nutritional properties including but not limited to the energy value and to the content of protein, fat and carbohydrates, as well as the content of vitamins and minerals. The following do not constitute nutrition claims:

- (a) the mention of substances in the list of ingredients;

- (b) the mention of nutrients as a mandatory part of nutrition labelling;
- (c) quantitative or qualitative declaration of certain nutrients or ingredients on the label if required by national legislation.

Nutrient content claim is a nutrition claim that describes the level of a nutrient contained in a food.

(Examples: “source of calcium”; “high in fibre and low in fat”.)

Nutrient comparative claim is a claim that compares the nutrient levels and/or energy value of two or more foods. (Examples: “reduced”; “less than”; “fewer”; “increased”; “more than”.)

8. In some of the responses received from eWG members, it was requested that a definition of sugars be added to the document to aide in discussions. Costa Rica suggested that the definition be limited to sucrose, while the United States suggested that sugars be defined as the sum of all free mono- and disaccharides. The term “sugars” is defined in section 2.6 of the *Guidelines on Nutrition Labelling* as all mono-saccharides and di-saccharides present in food for the purposes of nutrition labelling. The definition “**Sugars** mean all mono-saccharides and di-saccharides” is put forward in order to maintain consistency with the *Guidelines on Nutrition Labelling* and also to recognise that in the case of “added” sugars the definition cannot include all mono- and disaccharides contained in the finished food. At a minimum, this definition is also in line with the definitions used in Canada and the United States, however, information was not provided by other jurisdictions on definitions used elsewhere.

9. Proposed Definition for Sugars:

Sugars mean all mono-saccharides and di-saccharides.

Question 1: Does the physical working group agree to suggest that the definition of sugars be added to section 2 of the Guidelines?

10. In general, guidelines for nutrition claims are based on the fundamental principle of preventing false, misleading or deceptive practices. This is achieved through establishing consistent conditions or criteria that are in line with sound scientific nutrition policy. In order to prevent potentially misleading or deceptive claims, additional labelling conditions are also sometimes established. In line with this, the Guidelines for Use of Nutrition and Health Claims set out two types of conditions for nutrition claims – compositional, found mainly in the Table of conditions for nutrient contents, as well as labelling (and advertising) conditions, which are found throughout the Guidelines. For example:

- In the Table of Nutrient Contents, the compositional condition for “Free of Fat” claim requires that the food contain not more than 0.5 g fat per 100 g or 100 ml.
- In section 5.2, the Guidelines specify a labelling (and advertising) condition for “Low in/Free of” claims as follows:

Where a food is by its nature low in or free of the nutrient that is the subject of the claim, the term describing the level of the nutrient should not immediately precede the name of the food but should be in the form “a low (naming the nutrient) food” or “a (naming the nutrient)-free food”.
- Section 6 of the Guidelines for nutrient comparative claims lists both compositional and labelling (and advertising) conditions. Compositional conditions require a difference of 25% in the energy or nutrient content (or 10% in the case of micronutrients), while the labelling (and advertising) conditions specify that the claim must be shown with the full details of the comparison and the food being compared to must be identified.

11. Careful deliberation on the conditions for these claims is a necessity in order to prevent these claims from misleading consumers as to the true nature of a food. The deliberations must consider the amount of information necessary on the label to provide clear information and the potential impact or burden on the industry if there is no demonstrated effectiveness for consumers.

I. Amendment of the Title for the *Table of conditions for nutrient contents*

12. In general, eWG members were supportive of amending the title of the Table of conditions for nutrient contents to better reflect that the subject matter of the table lists the conditions in order to make the listed nutrient content claims. However, the addition of the words “and ingredients” did raise some debate. Some participants thought it should be added if claims regarding sugar and salt were added, others felt that it was not appropriate for various reasons. For one, there is the over-lap between ingredients and nutrients, and more importantly, the conditions listed in the table itself are numerical and are used to describe the level of a nutrient in a food. In the case of non-addition claims, they are merely regarding the absence of added ingredients (and their associated nutrients). The reference to the ingredients sugar and salt can be considered to imply that a food has a particular nutritional profile marked by the absence of the ingredient source of these nutrients. One member country has suggested what may be a better approach and that is to create a separate section in the *Guidelines for Use of Nutrition and Health Claims* for the non-addition of salt and sugar e.g. a new section 7. More information on the proposed text can be found in section II below.

13. It is thus proposed that the Committee consider amending the title of the table to read: *Table of conditions for nutrient content claims* to more appropriately reflect the contents of the table which is in fact the nutrition conditions for nutrient content claims, as defined in the Guidelines and which can be found in the definition section above.

Question 2: Does the physical working group agree that the title of the table should be amended from *Table of conditions for nutrient contents* to read *Table of conditions for nutrient content claims* ?

II. Claims on Added Sugars

14. Based on information provided by eWG respondents, the use of claims related to the non-addition of ingredients, such as sugars, is covered in a general sense in many countries' legislation through the over-riding provision that information on food labels must be truthful and not misleading. For instance, in Japan, a “no added sugar” claim would be permitted so long as the food does not contain added sugar (sucrose). Some countries allow these claims to only be used in conjunction with certain foods – such as “No added sugar” on chocolate and cocoa products using artificial sweeteners in Morocco. However, not all countries have specific guidance in place to cover this type of claim.

15. For those who do have specific regulations or guidelines on this type of claim, a food is subject to certain conditions in order for the claim to be made. These conditions have been put in place in order to define how this claim can be used in a manner that is truthful and not misleading to consumers. At a minimum, requirements specify that sugars may not be added directly to the food as an ingredient. Some countries have additional conditions which can be grouped into five main types of conditions including (1) the food cannot contain ingredients that contain added sugars; (2) other sugars containing ingredients cannot be added; (3) the sugars content is not increased through some other means; (4) the “regular” food usually contains added sugars; and (5) the use of additional labelling disclaimers. These are summarised as follows:

1. Ingredients containing added sugars
 - The food cannot contain ingredients which contain added sugars (Brazil, Canada, Costa Rica, Thailand, USA);
 - no ingredients with added sugar, honey, malt and malt extract, with the exception of sugar alcohols, are added during the process (Singapore)
 - the food does not contain an ingredient containing added sugars such as jam, jelly, or concentrated fruit juice (Thailand, USA)
2. Other sugar containing ingredients:
 - The food contains no ingredients that contain natural sugars and substitute for sugars to provide sweet flavour (proposed in Brazil)
 - ingredients that contain sugars that functionally substitute for added sugars (Canada)
 - cannot contain any other food used for its sweetening properties (e.g. honey, concentrated apple juice, etc) (EU, Norway, UK)
3. Increase of sugars content through other means:

- The sugars content has not been increased above the amount present in the ingredients by some means such as the use of enzymes (with certain exceptions such as functionally insignificant increase) (USA)
- The sugars content is not increased through some other means, such as the use of enzymes (proposed in Brazil)
- the sugars content is not increased through some other means except where the functional effect is not to increase the sugars content of the food (Canada)

4. Reference food

- the reference food contains added sugars (Brazil, Canada, Thailand)
- the food that it resembles and for which it substitutes normally contains added sugars (USA)

5. Labelling disclaimers:

- The food meets the conditions set out for low or reduced in energy; or the words “not a low (or reduced) energy food” are placed on the label (Brazil, Costa Rica, Thailand)
- If the food does not meet the conditions for free of sugars, the words “contains sugars naturally present in the ingredients” must be placed on label close to the claim (proposed in Brazil)
- If sugars are naturally present in the food, the following indication must also appear on the food: “contains naturally occurring sugars” (EU, Norway, UK)
- The food bears a statement that the food is not low calorie or reduced calorie (unless it meets those requirements) and directs consumers’ attention to the nutrition label (USA).

16. Two participating countries and one NGO indicated that they felt that the use of “Non-addition of sugars” claims was misleading given that it is difficult to distinguish naturally occurring sugars from added sugars from an analytical standpoint. The observer further noted that they felt that allowing the use of “non addition of sugars claims would encourage false declarations when sugars have been added for commercial reasons such as to extend fruit juices with sugars and water. Another observer also objected to the use of such claims unless a disclaimer such as “contains naturally occurring sugars” also appears on the label where foods contain naturally occurring sugars.

17. Proposal for a New Section 7:

7. CLAIMS FOR THE NON-ADDITION OF SUGARS OR SALT

Claims for the non-addition of sugars or the ingredient salt (sodium chloride) to a food may also assist consumers in constructing healthful diets, provided such claims are truthful and not misleading. Provisions for these claims are identified below.

7.1 Non-Addition of Sugars

7.1.1 Claims about the non-addition of sugars (e.g. “no added sugar(s)”, without added sugar(s)”) may be used provided that:

- no amount of sugars is added during processing;
- no amount of any other ingredients that contain sugars is added during processing;
- the sugars content of the food has not been increased above the amount present in the ingredients by some means such as the use of enzymes;
- the food that it resembles and for which it substitutes normally contains added sugars; and
- the food label bears a disclaimer statement
 - options to be considered :
 - “not a low Calorie or reduced calorie food” (unless it meets the conditions for those claims);
 - “contains naturally occurring sugars” (if the food is not sugar-free or if sugars are naturally present)
 - direction to consult the nutrition information provided on the label.

3. For each of conditions (a) through (d), do the pWG members agree to the language proposed?

4. In relation to condition (e):

(i) do pWG members agree that it is appropriate to add an additional labelling criterion to further assist consumers in understanding the composition of the food?

(ii) Is there supporting evidence that this type of criteria enhances consumer understanding of the composition of the food?

(iii) Which of the options are preferred by pWG members?

(iv) Should conditions be added to specify the placement of such information in relation to the use of the claim – e.g. adjacent to the most prominent claim on the principal display surface?

III. Claims on Added Salt (Sodium)

18. Members of the eWG provided information on regulations that currently exist in their countries. Currently, jurisdictions such as Costa Rica, the European Union and its Member States, Japan, Mexico, Morocco, and New Zealand do not have guidelines or regulations in place that govern the use of non addition of salt claims, however, the EU and its Member States are considering amendments to the EU list of permitted claims and their conditions of use to introduce a claim for “no added salt/sodium”. Other countries such as Brazil, Canada, Singapore, Thailand and the USA do have regulations in place on the use of this type of claim.

19. The WHO *Global Strategy on Diet, Physical Activity and Health* states that recommendations for populations and individuals should include direction on limiting salt (sodium) consumption from all sources. Given that sodium consumption and hypertension are correlated and that hypertension is the leading preventable risk factor for non-communicable chronic diseases world-wide, many countries are moving towards implementing strategies and tools to lower excessive sodium intakes. The use of non-addition of salt (sodium) claims can help consumers more easily identify foods at a glance that do not contain added salt or sodium which can in turn enable informed choices. Thus this claim can potentially be a tool that can support larger strategic efforts to reduce population intakes of sodium provided that such claims are made in a way that are truthful and not misleading.

20. It is proposed that text regarding non addition of salt (sodium) claims be structured in the same manner suggested above for non addition of sugars claims, as follows:

7.2 Claims about the non addition of salt (sodium)

7.2.1 Claims about the non addition of salt (sodium) may be used provided that:

- (a) no amount of salt or other sodium salts are added during processing;
- (b) no other ingredients that contain sodium and functionally substitute for added salt are added during processing;
- (c) the sodium content has not been increased above the amount present in the ingredients by some means such as use of enzymes or hydrolysis;
- (d) the food that it resembles and for which it substitutes normally contains added salt;
- (e) the food label bears a disclaimer statement:

options to be considered:

- “not a sodium-free food” (unless it meets the conditions for sodium free)
- “contains naturally occurring sodium” (if the food is not sodium free or contains naturally occurring sodium)
- There is a direction to consult the nutrition information provided on the label

21. Additionally, it is proposed that that wording be added to the text under the new proposed section 7 to address the use of the claim “salt-free” which is also a claim that could be considered to be a non-addition claim. It is proposed that this claim be considered to be synonymous with “sodium-free” and thus would have to meet the conditions for a sodium-free claim already listed in the Guidelines. Proposed text is as follows:

7.2.2 Claims to the effect that a food is “salt free” are permitted provided that the food meets the conditions for “sodium free” listed in the Table of conditions for nutrient content claims.

Questions

5. For each of conditions (a) through (d), do the pWG members agree to the language proposed?
6. In relation to condition (e):
 - (i) Do pWG members agree that it is appropriate to suggest adding an additional labelling criterion to further assist consumers in understanding the composition of the food?
 - (ii) Is there supporting evidence that this type of criterion enhances consumer understanding of the composition of the food?
 - (iii) Which of the options are preferred by pWG members?
 - (iv) Should conditions be added to specify the placement of such information in relation to the use of the claim – e.g. adjacent to the most prominent claim on the principal display surface?
7. Do pWG members agree to propose that the claim “salt-free” should be equivalent to the claim “sodium-free” and therefore have to meet the conditions set out for sodium-free?

IV. Claims Regarding the Reduced Content of Sugars or Sodium (Salt)

Minimum Difference for Comparative Claims

22. The current section 6.3 in the Guidelines states that a comparison between foods should be based on a relative difference of at least 25% in the energy value or nutrient content, except micronutrients where a 10% difference in the NRV would be acceptable, between the compared foods. As well, a minimum absolute difference in the energy value or nutrient content should be equivalent to the figure defined as “low” or “source” in the Table in the Guidelines.

23. Countries with conditions in place for comparative claims generally follow the same minimum requirement for reductions of at least 25% compared to a reference food. However, some jurisdictions have different requirements:

- Mercosur countries (Argentina, Brazil, Paraguay and Uruguay) currently have a proposal in place which would require a relative difference of at least 30% in the energy value or nutrient content in relation to the reference food, except for micronutrients where a 10% increase in the amount of these nutrients is allowed. They are also proposing a minimum decrease in sugars of 5 g and that the statement “not a low energy food” appear on the label of foods which do not meet the conditions for low energy foods.
- In Canada and the US, the minimum reduction required for a comparative claim on sodium is 25% compared to a reference food.
- In the EU, EC No 1924/2006 allows for the use of the claims reduced (naming the nutrient), “light” or any claims meaning the same where the following minimum reductions are met:
 - 10% for micronutrients
 - 25% for sodium (salt)
 - 30% for other nutrients
- For sugars, Japan requires an absolute reduction of 5 g sugars per 100 g (or 2.5 g per 100 ml for beverages), and for sodium a minimum 120 mg reduction in sodium per 100 g (120 mg/100 ml for beverages). For salt claims, the food must meet the criteria for sodium. Note: Information on a % reduction was not provided.

24. There appears to be general support for maintaining a minimum of a 25% reduction particularly for sodium and sugars in order to ensure that such claims are truthful and not misleading. When using analytical methods to verify whether the food meets the conditions to make the claim, a minimum reduction of 25% is required in order to reliably detect the difference where tolerances on the presence of macronutrients run in the order of 20% due to various factors, including distribution of nutrients in foods, seasonal variations, process controls, etc. The use of smaller increments runs the risk of claims being made, but without a meaningful change or reduction the level of the nutrient present in the food. Careful control is required during the addition of vitamins and mineral nutrients to foods, and therefore it is likely still pertinent to consider a minimum of a 10% increase in the presence of these nutrients in foods.

25. In order to provide greater clarity in the Guidelines, it may be important to further elaborate the current text to assist in differentiating between claims for reducing the level of energy or nutrient content or increasing the presence of certain nutrients. Proposed text is found below.

- 6.3 **For “reduced” or “less than” claims (e.g. for nutrients such as sodium, saturated fat and sugars) and for claims of “fewer calories”,** the comparison should be based on a relative difference of at least 25% in the energy or nutrient content, ~~except for micronutrients where a 10% difference in the NRV would be acceptable,~~ between the compared foods, and a minimum absolute difference in the energy value or nutrient content equivalent to the figure as “low” ~~or as a “source”~~ in the Table to these Guidelines.
- 6.4 The use of the work “light” should follow the same criteria as **claims** for “reduced”, “**less than**” or “**fewer**” and include an indication of the characteristics which make the food “light”
- 6.5 **For claims that a food has more of a nutrient (e.g. protein, dietary fibre, vitamins, minerals) than an appropriate comparison food, the comparison should be based on a relative difference of at least 25% in the nutrient content or at least 10% of the NRV between compared foods, and a minimum absolute difference in the nutrient content equivalent to the figure as a “source” in the Table to these Guidelines.**

Question 8: Is there support from the pWG members to propose amending the text in section 6 as suggested above?

Claims in Conjunction with Gradual Reformulation Strategies to Reduced Energy or Nutrient Content in the Food Supply

26. The European Union and its Member States have been discussing the possibility of adding a claim specifically targeting the reformulation of food products and through minor recipe changes over time. The claim would read “Now contains X% less (fat/saturated fat/energy/sodium/salt/sugars)”. To date, the discussions have focused on around using either 10 or 15% condition for the reduction of the energy value or nutrient content. It is felt that this claim would likely allow the comparison of the nutrient content of a reformulated product with the “same” product before recipe changes and may additionally require products to be labelled with the original nutrient content prior to reformulation. Furthermore, the use of the claim would be limited to one year. The use of this type of claim could potentially support gradual reformulation programs that are being undertaken in a number of jurisdictions on sodium, Calories and other nutrients. Exploration of this type of claim was also supported by one observer member.

27. One eWG member suggested the following text for consideration:

“Now contains X% less (energy, fat, saturated fat, sodium/salt and/or sugars)” claim:

Reformulated products where the reduction in content is at least X% for energy, fat, saturated fat, salt/sodium, and/or sugars may bear the claim “now contains X% less (energy, fat, saturated fat, sodium/salt and/or sugars) or any claim likely to have the same meaning for the consumer.

This claim shall be accompanied by the labelling of its content prior to reformulation, expressed per 100 g (for solids) or 100 ml (for liquids), of the energy or the nutrient having been reduced.

For saturated fat, this claim may only be made if the sum of saturated fatty acids and trans-fatty acids in the reformulated product is at least X% less than the sum of saturated fatty acids and trans-fatty acids in the original food (reference food?) prior to the reformulation.

For sugars, this claim may only be made if the amount of energy of the reformulated product is equal to or less than the amount of energy in the original product (reference food?).

This claim may be used for a maximum of one year following the placing on the market of the reformulated product.

Under consideration in the EU and its member states, X = 10% or 15%.

Question:

9. Is there support to propose that the Committee consider also smaller minimum reductions such as 10% or 15% specifically in relation to gradual reduction programs as suggested in the text above?
10. Are there other conditions that should be explored prior to considering a proposal to the

Committee?

“Reference Food”

Defining a “Reference Food”

28. One eWG member requested clarification of the text in section 6.1 as they felt that a range of products should be taken into consideration, and not a single brand or product. They also stated that the reference level of comparison should be a value that is representative for that type of product in the market.

29. Section 6.1 of the Guidelines sets out requirements in respect to the foods being compared (reference food) for comparative claims in that they should be different versions of the same food or similar foods. The foods being compared should be clearly identified. A number of jurisdictions have also noted that they have definitions set out for the “reference food”. Of note:

30. Canada defines a few terms in relation to the use of comparative claims for the reference food as follows:

Similar Reference Food: means a food of the same type as the food to which it is compared and that has not been processed, formulated, reformulated or otherwise modified in a manner that increases or decreases either the energy value, or the amount of a nutrient that is the subject of the comparison. For example, whole milk is a similar reference food for partly skimmed milk; regular chocolate chip cookies are a similar reference food for fat-reduced chocolate chip cookies.

Reference Food of the Same Food Group: means a food which can be substituted in the diet for the food to which it is compared, and which belongs:

- to the same food group as the food to which it is compared (e.g., cheese as a reference food for milk, or chicken as a reference food for tofu);
- to the category of other foods, if the food to which it is compared also belongs to that category (e.g., pretzels as a reference food for potato chips); or
- to the category of combination foods, if the food to which it is compared also belongs to that category (e.g., pizza as a reference food for lasagne).

31. The EU regulations require that the comparison must be made with a range of foods of the same category which do not have a composition which allow them to bear a claim.

32. In their guidance, New Zealand defines the “normal counterpart” or “reference foods” against which a food may be compared in making a nutrient content claim, must fall into one of the following categories:

- The “weighted average” food of that type based on an industry norm for the particular type of food – this category is not appropriate where the composition of “normal” foods of that type on the market varies over a wide range;
- The “regular” product which has been produced for a significant period by the manufacturer making the claim;
- Food of the type in question whose composition is determined by reference to published food composition tables.

33. Some jurisdictions also require that the “reference food” not meet the conditions for “low in” claims for the energy or the nutrient content that is the subject of the comparison. For instance, Canada requires that the reference food for “reduced/lower in” energy, fat, saturated and/or trans-fatty acids, cholesterol, and sodium claims not meet the conditions for low in energy, low in fat, low in saturated fats, low in cholesterol, and low in sodium, respectively. Mercosur countries and the United States have also suggested that in the case of sodium, the reference food should not be permitted to meet the conditions for “low in sodium”.

34. It is proposed that the text of subsections 6.1-6.2.2 of the current section 6 be modified in order to enhance their clarity. Suggested text is as follows:

6.1 The foods being compared should be different versions of the same food or similar foods.
~~The foods being compared should be clearly identified~~

6.1.1 The reference food against which a food may be compared in making a nutrient content claim, should meet one of the following criteria:

- a food of the same type as the food to which it is compared and that has not been processed, formulated, reformulated or otherwise modified in a manner that increases or decreases either the energy value, or the amount of a nutrient that is the subject of the comparison;
- a food which can be substituted in the diet for the food to which it is compared (e.g. tofu for chicken, or pretzels for potato chips)

- The “weighted average” food of that type based on an industry norm within the country for the particular type of food – this category is not appropriate where the composition of “normal” foods of that type on the market varies over a wide range;
- Food of the type in question whose composition is determined by reference to published food composition tables applicable to the country.

6.1.2 The reference food should not meet the conditions for “low in” claims for energy or the nutrient content that is the subject of the comparison.

6.2 A statement of the amount of difference in the energy value or nutrient content **in relation to the reference food** should be given. **The foods being compared should be clearly identified.** The following information should appear in close proximity to the comparative claim:

6.2.1 The amount of the difference **in relation to the reference food** related to the same quantity, expressed as a percentage, fraction or an absolute amount. Full details of the comparison should be given.

6.2.2 The identity of the **reference** food(s) to which the food is being compared. The **reference** food(s) should be described in such a manner that it (they) can be easily identified by consumers.

Question 11: Do pWG members support proposing the changes to clarify the definition of the “reference food” in the text for comparative claims to the Committee?

V. Claims for Trans-Fatty Acids

35. The 2009 *WHO Scientific Update on trans-fatty acids: summary and conclusions* notes that the current recommendation is that the mean population intake of TFA,

that is, partially hydrogenated oils and fats, should be less than 1% of daily energy intake and noted that there is sufficient epidemiological and experimental evidence to support revising this recommendation so that it encompasses the great majority of the population, and not just the population mean, to protect large subgroups from having high intakes. Some countries, where consumption of trans-fatty acids are high, have started reformulation efforts to reduce and eliminate the use of industrially produced trans-fatty acids in their food supplies.

36. Some countries have made it mandatory to declare the amount of trans-fatty acids per 100 g or per serving of food as part of nutrition labelling. The issue of the nutrients to always be declared as part of nutrition information is currently under review at CCFL and the current text at step 7, proposes the inclusion of a footnote that would read as follows: “*Countries where the level of intake of trans-fatty acids is a public health concern should consider the declaration of trans-fatty acids in nutrition labelling.*”

37. Currently, some countries have also started to introduce nutrient content claims for trans-fatty acids to encourage the reformulation of foods and to provide manufacturer means to promote lower contents of trans-fatty acids in their foods. However, countries who have or are considering provisions for trans-fatty acid claims have also included conditions for the food in relation to its saturated fatty acids content due to the negative impact on health of these fatty acids. There is also concern that placing undue emphasis on the reduction of trans-fatty acids, without consideration for the saturated fatty acid content may lead to manufacturers replacing trans-fatty acids with saturated fats which also has negative impacts on cardiovascular health.

38. The following information was made available to the eWG:

Free of Trans-fatty Acids Claims

Summary Table of Conditions for Free of Trans-fatty Acids Claims

Jurisdiction	Conditions for Free of Trans-fatty Acids Claims			
	Trans-fatty acid content	Saturated fatty acid content	Combined saturated and fatty acid content	Other
Mercosur (regulation)	0.1 g or less per serving		1.5 g or less per 100 g prepackaged meals or per serving	10% or less energy from saturated fatty acids

Canada (regulation)	0.2 g or less (a) per reference amount and serving or (b) per serving of stated size for prepackaged meals		2 g or less of saturated fatty acids and trans-fatty acids combined per (a) reference amount and serving of stated size; or (b) 100 g, if the food is a prepackaged meal.	15% or less energy from the sum of saturated fatty acids and trans-fatty acids
Japan (guidelines)	less than 0.3 g of trans-fatty acids per 100 g (or 100 ml for beverages)	less than 1.5 g saturated fatty acids per 100 g (0.75 g per 100 ml for beverages), or the food provides less than 10% of energy		
New Zealand* and Australia (proposed)	no detectable trans-fatty acids	the food contains no more saturated fatty acids than (a) 0.75 g per 100 ml of liquid food; or (b) 1.5 g per 100 g of solid food;		food contains as a proportion of the total fatty acid content, no more than 28% saturated fatty acids
Singapore (guidelines)	not contain more than 0.5 g trans-fatty acids per 100 g of product.			

*Despite indicating that they are considering claims, New Zealand indicated that they do not support claims for trans-fatty acids in the Codex context.

39. Mercosur countries are in the process of harmonizing requirements and propose to introduce requirements for “free of trans-fatty acids” claims.

Conditions for “free of trans-fatty acids” claims - the food must:

- contain 0.1 grams of trans-fatty acids or less per serving; and
- meet the conditions for low in saturated fatty acids.

Conditions for “low in saturated fatty acids” claims – the food must:

- contain 1.5 g or less of saturated and trans-fatty acids combined per 100g/ml if the food is a prepackaged meal or per serving size (if serving size is 30 g/ml or less then per 50 g)
- the food must meet the conditions for free of trans-fatty acids
- the food provides 10% or less energy from saturated fatty acids.

40. Canada was the first country to introduce mandatory listing of trans-fatty acids as part of the nutrition information table. Additionally, criteria were introduced for trans-fatty acid claims – specifically “free of” and “reduced/lower in” claims.

Conditions for “free of trans-fatty acids” claims, the food -

- contains less than 0.2 g of trans-fatty acids per (i) reference amount and serving of stated size, or (ii) serving of stated size, if the food is a prepackaged meal; and
- meets the conditions set out in column 2 of the subject "low in saturated fatty acids"

Conditions for “low in saturated fatty acids” claims

- The food contains 2 g or less of saturated fatty acids and trans-fatty acids combined per (a) reference amount and serving of stated size; or (b) 100 g, if the food is a prepackaged meal.
- The food provides 15% or less energy from the sum of saturated fatty acids and trans-fatty acids.

41. Japan has just introduced new *Guidelines for the Voluntary Labelling of Trans-fatty Acids* that provide for the use of

Conditions for “free of trans-fatty acids” claims - the food must:

- contains less than 0.3 g of trans-fatty acids per 100 g (or 100 ml for beverages); and
- contains less than 1.5 g saturated fatty acids per 100 g (0.75 g per 100 ml for beverages), or the food provides less than 10% of energy from saturated fatty acids

42. New Zealand and Australia are considering introducing conditions for claims for free of trans-fatty acids as follows.

Conditions for “free of trans-fatty acids” claims:

- the food contains no more saturated fatty acids than
 - 0.75 g per 100 ml of liquid food; or
 - 1.5 g per 100 g of solid food; and
- The food contains as a proportion of the total fatty acid content, no more than 28% saturated fatty acids; and
- The food contains no detectable trans-fatty acids.

43. Singapore has an administrative guideline in place which allows for the use of free of trans-fatty acid claims.

Condition for “free of trans-fatty acids” claim:

- The food must not contain more than 0.5 g trans-fatty acids per 100 g of product.

44. The U.S. currently only has provisions in place for amount claims. A product may bear the statement “0 g trans fat” if the product contains 0.5 g or less of trans-fatty acids per serving. The US is currently in the process of evaluating whether additional claims on the trans-fatty acid content of foods should be allowed.

45. Three further member countries indicated interest or non-objections in pursuing discussions on adding claims for trans-fatty acids. In relation to “free of trans-fatty acids” claims, Thailand suggested that there be a requirement to add the directional statement from the WHO to the effect “that individuals should not consume trans-fatty acids at levels more than 1% of their total energy intake”

Low in Trans-Fatty Acids Claim

46. New Zealand indicated that New Zealand and Australia are considering a claim for “low in saturated and trans-fatty acids” in combination only, and not trans-fatty acids alone. The proposed drafting is:

Low in saturated and trans-fatty acids

The food contains no more saturated and trans-fatty acids than:

- 0.75 g per 100 ml for liquid food; or
- 1.5 g per 100 g

47. Some other member countries indicated that they did not support work on “low in trans-fatty acids” claims as they felt that this would be misleading to consumers.

48. The EU indicated that they considered it unnecessary for new entries referring to either low or absence of trans-fatty acids and that this could be considered by member countries at the national level if there was a need due to the food composition in the country or the focus of national public health messages. New Zealand also indicated it did not support work in this area.

Comparative Claims for Trans-Fatty Acids

49. Canada allows for claims with respect to reduced or lower trans-fatty acids.

Reduced in Trans-Fatty Acids – this claim is specifically for foods that have been reformulated from their original version (similar reference food)

- The food is processed, formulated, reformulated or otherwise modified, without increasing the content of saturated fatty acids, so that it contains at least 25% less trans-fatty acids (a) per reference amount of the food, than the reference amount of a similar reference food; or (b) per 100 g, than 100 g of a similar reference food, if the food is a prepackaged meal.

- The similar reference food does not meet the conditions set out in column 2 of the subject "low in saturated fatty acids"

Lower in Trans-Fatty Acids – this claim allows the manufacturer to compare their product to another similar product, but not necessarily their original formulation.

- The food contains at least 25% less trans-fatty acids and the content of saturated fatty acids is not higher (a) per reference amount of the food, than the reference amount of a reference food of the same food group; or (b) per 100 g, than 100 g of a reference food of the same food group, if the food is a prepackaged meal.
- The reference food of the same food group does not meet the conditions set out in column 2 of the subject "low in saturated fatty acids"

50. The EU does not have specific provisions for comparative claims for trans-fatty acids, however a reduction in trans-fatty acids can be claimed if the conditions for “reduced” or “light” are met.

51. Japan also indicated that they now have guidelines in place for the voluntary labelling of trans-fatty acids, however, did not provide details on the compositional requirements for the claim.

52. New Zealand indicated that the New Zealand/Australia proposal would require a food to be reduced by at least 25% less trans-fatty acids than the same quantity of reference food and that the food contains no more saturated fatty acids relative to the same quantity of reference food.

53. The US is currently in the process of evaluating whether additional claims on the trans-fatty acid content of foods should be allowed.

54. One member country indicated that they did not support comparative claims for trans-fatty acids as they felt that this would be misleading to consumers.

Support to Pursue Work on Trans-Fatty Acids

55. An observer recalled that there was no consensus at the 38th session to start new work on claims on the absence of trans-fatty acids, however, it was agreed that this would be reconsidered in light of the outcome of the working groups at the following session (para 109 ALINORM 10/33/22). The member also indicated that due to regional differences in intakes of trans-fatty acids, they did not support developing claims on the absence of trans-fatty acids in foods. They further indicated that if claims were developed they should only be made in relation to industrially produced trans-fatty acids.

56. Not all member countries that responded to the discussion paper circulated to the eWG were in support of CCFL starting new work on claims in relation to trans-fatty acids. Non-support was primarily expressed by countries that feel that trans-fatty acids (partially hydrogenated vegetable oils) intakes are not a public health concern within their jurisdictions or that the mean population intakes of trans-fatty acids in their countries are less than 1% of daily energy intake. The general feeling among non-supporters was that the issue of nutrient content claims for trans-fatty acids should be left to national authorities of countries who do have higher levels of trans-fatty acids in their food supply or who consider this to be a public health concern. One eWG member, who was not against progressing work on the topic, indicated that this topic might be best dealt with through the use of a footnote similar to what is being proposed for nutrients to always be declared.

57. Amongst the eWG members that support work on trans-fatty acid claims, there appears to be general support for “free of trans-fatty acids” claims and potentially support for refining the conditions for comparative claims for trans-fatty acids. It appears that members are supportive of including supporting conditions for claims on trans-fatty acids that limit both the trans and saturated fatty acid levels in foods for which the claims are being made. This is due to the health impacts of these two fatty acids on cardiovascular disease.

58. At a minimum, the Committee may wish to consider adding conditions for “reduced in saturated fatty acids” and “low in saturated fatty acids” claims such that manufacturers do not seek to replace saturated fatty acid sources with trans-fatty acid sources. If the Committee wishes to further pursue work on this and trans-fatty acid claims, the following text is proposed as a starting point for discussion.

59. Comparative Claims

New 6.4 For comparative claims with respect to saturated fatty acids such as “reduced in” or “lower in” or other similar claims with the same meaning to consumers, the food should be reduced by at least 25% in saturated fatty acids compared to the reference food without increasing the trans-fatty acid content of the food.

New 6.5 For comparative claims with respect to trans-fatty acids such as “reduced in” or “lower in” or other similar claims with the same meaning to consumers, the food should be reduced by at least 25% in trans-fatty acids compared to the reference food without increasing the saturated fat content of the food. The reference food should not meet the conditions for “low in saturated fatty acids”.

Subsequent sections to be renumbered.

Free of Trans-Fatty Acids Claims

Proposed Text to be Considered for Addition to the Table of conditions for nutrient contents*

Component	Claim	Conditions (not more than)
Saturated Fat	Low	- 1.5 g saturated and trans-fatty acids per 100 g (solids) - 0.75 g saturated and trans-fatty acids per 100 ml (liquids) - and 10% of energy
	Free	- 0.1 g per 100 g (solids) - 0.1 g per 100 ml (liquids) - and meets the conditions for free of trans-fatty acids listed in this table
Trans Fat	Free	- X g of trans fat per 100 g (solids) - Y g of trans fat per 100 ml (liquids) - and meets the conditions for low in saturated fatty acids listed in this table.

Questions on Trans and Saturated Fatty Acids Claims

12. Do the pWG members feel that it would be beneficial for the Committee to consider adding specific conditions regarding trans-fatty acids to the existing claims for saturated fatty acids listed in the Guidelines – both for comparative claims and for “free” and “low” claims (beyond the current footnote in the Table to the Guidelines)? If so, are there suggestions for these conditions that could be considered by both CCFL and CCNFSDU?
13. Is there support for the pWG to bring forward a proposal for new work to add claims specific to trans-fatty acids to the Committee?
14. If there is support for a proposal for new work, is the proposed text sufficient for a starting point for discussion or are there other elements which also need to be considered or which should not be included?

Appendix I

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Appendix II – Project Document (Source: Appendix V, ALINORM 10/33/22)**PROJECT DOCUMENT
PROPOSAL FOR THE ESTABLISHMENT OF CLAIMS FOR
SUGARS, SALT/SODIUM AND TRANS-FATTY ACIDS****Purpose and Scope of the Proposed Revised Standard**

The purpose of the proposed work is to include in the Table of conditions for nutrient contents in the Guidelines on Use of Nutrition and Health Claims (CAC/GL 23-1997) new claims concerning sugars, salt/sodium and trans-fatty acids.

Its Relevance and Timeliness

According to the World Health Organization's Global Strategy on Diet, Physical Activity and Health (GS DPAH), non-communicable diseases are a large contributor to population mortality and the global burden of disease. Diets high in certain fatty acids, sugars and salt are associated with increased risk of noncommunicable diseases.

At the 37th session of the CCFL, an electronic working group was established to develop a discussion document on ways of addressing labelling text in relation to the ingredients identified in the Global Strategy, including added sugars and salt/sodium. Discussion of the suggested actions in this paper at the 38th session resulted in the agreement to propose new work on claims related to the non-addition of sugars and/or salt/sodium and explicit comparative claims for sugars and/or salt/sodium. The discussion document CX/FL 10/38/9 included proposed text related to these types of claims.

Additionally, in Matters Referred to the 38th session of the CCFL, the Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU) also requested that CCFL identify the claims related to salt/sodium, trans-fatty acids and sugars for which conditions should be established, as well as to provide additional information on the types of claims for which CCFL wishes CCNFSDU to establish criteria, the purpose of the claims and CCFL's priorities for the development of criteria for the claims.

The Main Aspects to be Covered

It is proposed that new entries to the Table of conditions for nutrient contents in the Guidelines for Use of Nutrition and Health Claims (CAC/GL 23-1997) be entered for the non addition of sugars and salt/sodium and that additional conditions of use be established for comparative claims for sugars and salt/sodium content.

Additionally, the heading of the Table of conditions for nutrient contents will be reviewed and consideration will be given for adding nutrient content claims in relation to trans-fatty acids.

Assessment Against the Criteria for the Establishment of Work Priorities

The proposal is consistent with the criteria as follows:

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 proposed claims should support consumers in making informed food choices to support the selection of an overall healthy diet. In addition, the establishment of conditions for claims ensures a level playing field for the food industry by setting consistent criteria for the use of the claims which had been identified as an issue by developing countries at the 38th session.

Relevance to the Codex Strategic Objectives

This work is relevant to Goal 1 of the Codex Strategic plan 2008-2013 – promoting sound regulatory frameworks. This work is to review and develop Codex standards and related texts for food labelling and nutrition, taking into account scientific and technological developments and the WHO Global Strategy on Diet, Physical Activity and Health, to ensure that they: emphasize a horizontal approach and the need to maintain inclusiveness, and address food labelling and nutrition so as to avoid being overly prescriptive and not more trade restrictive than necessary, while respecting the basic objectives of the CAC, taking into

consideration the technical and economic implications for all members as well as the special needs of developing countries including infrastructure, resources and technical and legal capabilities.

Information on the Relation between the Proposal and Other Existing Codex Documents

The proposal is to amend the Guidelines for Use of Nutrition and Health Claims. It does not affect other existing Codex documents.

Identification of any Requirement for and Availability of Expert Scientific Advice

The development of these claims and their conditions will require review and expertise from the Codex Committee on Nutrition and Foods for Special Dietary Uses.

Identification of any Need for Technical Input to the Standard from External Bodies so that this Can be Planned For

None identified.

The Proposed Time-Line

It is proposed that the work in 2010 with a proposed date for adoption at Step 5 in 2012 and adoption by the Commission in 2014.