

CODEX ALIMENTARIUS COMMISSION



Food and Agriculture
Organization of the
United Nations



World Health
Organization

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Agenda Items 2, 5, 6, 7, 8, 10 & 11

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JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX COMMITTEE ON FOOD LABELLING

Forty-fifth Session

Ottawa, Canada, 13-17 May 2019

COMMENTS FROM SOUTH AFRICA

Agenda item 2: Matters referred to the Committee by the CAC and other Codex Subsidiary Bodies

(a) Claim for “free” of *trans*-fatty acids

- South Africa support the proposal that other possibilities of dealing with the *trans*-fat challenges should be explored, and therefore supports and welcome the decision of the Committee for Canada to prepare a discussion paper on different risk management possibilities.
- However, developing a condition for a *trans*-fat free claim will also serve as a strategy to address or combat non-communicable diseases, which are associated with a too high intake of certain saturated and *trans*-fatty acid. It will also assist in protecting consumers' health, providing consumers with a clear understanding and allow them to make informed choices. South Africa has already published Regulations in industrially produced *trans*-fat in 2011 which includes a condition for *trans*-fat free claim of not more than 1 gram *trans*-fat per 100 g fat/oil in end products.

(b) Nutrition profiles

- South Africa supports CCFL to develop a guidance document on commonly agreed upon principles only, for a Nutrient Profiling Model, although recognise that the WHO already came up a comprehensive Guidance manual. In 2010 to 2012 the WHO model was tested in South Africa for the purpose of health and nutrition claims as part of the WHO's intent to test the proposed model in various regions of the World.
- However, countries which are already involved in the development of nutrient profiling model for various purpose e.g. health and nutrition claims or front-of-pack nutritional labelling linked to foods that may not be advertised/marketed to children, should be allowed to continue with their evidence based scientific projects, either completed or which are currently in process.

(c) Food integrity and food authenticity

- South Africa is also concerned about food fraud, food integrity and food authenticity issues and will support an initiative to find effective solutions to deal with these issues.
- The development of guidance on issues relating to food integrity, food fraud and food authenticity will indirectly assist in-
- protecting consumers health;
- reducing the risk of fraud and consumer deception; and
- ensuring a fair trade practices.

(d) Code of Practice on Food Allergen Management for Food Business Operators: precautionary allergen labelling (Committee on Food Hygiene (CCFH50))

- South Africa would support more guidance on principles and criteria/conditions for situations where a precautionary allergen statement would be acceptable/essential on a label. South Africa acknowledges the potentials risk of cross contamination and related issues and is therefore not in favour of allowing precautionary statements, without having the company complying with certain conditions first, such as having and implementing an Allergen Control Policy. Neither should precautionary labelling be utilised to circumvent the implementation of Good Manufacturing Practices.

An effective Allergen Control Policy is essential in order to retain the precautionary allergen statement's maximum effectiveness when communicating allergen information to the public.

- Acknowledging that precautionary allergen labelling may be helpful in communicating allergen risks and providing more guidance on allergen management to consumers to make informed choices when purchasing food products, it will also assist in ensuring air trade because currently there is no guidance in Codex documents yet to harmonise precaution allergen labelling, a fact which is exploited in many cases.

(e) Definition for bio-fortification (Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU40))

- South Africa supports the proposed definition of bio-fortification at step 4. South Africa is of the opinion that the definition would be useful for countries responsible for developing food legislations and policies, since biofortification is currently used to increase the nutrient content of certain foods.
- South Africa have already proposed specific labelling provisions for biofortified foods/ingredients in new draft amendment to their existing Regulations Relating to the Labelling and Advertising of Foodstuffs which have not yet been published as a legal document. They are as follows:
 - South Africa proposed to deal with biofortification as a claim, specifically a specified type of comparative claim;
 - The claim must include the word “biofortified”;
 - In the case of where fortification is done through biofortification, the percentage increase of the particular nutrient in the single ingredient agricultural food crop or produce (e.g., eggs), compared to the conventional crop or produce and must be clearly and prominently indicated on the label in a mandatory statement to the effect that “The (percentage) higher level of (name of specific nutrient)” is the result of (statement explaining the source/method of the higher nutrient content).
 - The percentage must be significant (at least 10 to 15%) in the case of a claim, but where the claim is not permitted and the percentage is less than 10 to 15%, it may be indicated in the nutritional information table only.
- The definition should be placed in at least the Codex General Principles for the Addition of Essential Nutrients to Foods and the Codex Guidelines for Use of Health and Nutrition claims.

Agenda item 5: Proposed draft guidance for the labelling of non-retail containers (request for comments)

- South Africa supports the recommendation that information presented on the label of a non-retail container /bulk stock container should be the essential minimum” – we propose at least-
 - Name of the product;
 - name and address of the manufacturer;
 - special storage conditions;
 - allergen information;
 - batch code; and
 - an appropriate date marking. The remaining information must be appropriately exchanged through accompanying trade documents that is easily traceable to the food in a non-retail container.
- In cases where a foodstuff, which is ordinarily sold in retail as individual units but in wholesale as multiple units per container, and label information becomes obscured and inaccessible to consumers as a result of the external packaging of the container in which it is transported and offered for sale, irrespective of whether clear shrink wrap is used or not, the following minimum labelling information must appear on the bulk or multi pack as and where it is most effective and practical for the brand owner and packaging type used:

- (a) Name of the product;
- (b) name and address of the manufacturer;
- (c) special storage conditions;

- (d) allergen information;
- (e) batch code; and
- (f) an appropriate date marking.
- The definitions for “food business”, Non-retail container” et cetera should be amended to fit this new Guideline.
- South Africa supports the document as Codex Guidelines and not a Standard.

Agenda item 6: Proposed draft guidelines on front-of-pack nutrition labelling (for comments at Step 3 through CL 2019/14/OCS-FL)

South Africa is seriously concerned about the following aspects of the abovementioned document under Agenda item 6:

- The draft guidelines fail to mention or address public health considerations. Codex’s dual mandate includes protecting the public health and ensuring fair international trade practices. In the current draft guidelines trade considerations heavily outweigh public health concerns. For example, the document fails to reference the burdens of non-communicable diseases (NCDs), despite robust evidence supporting FOPNL’s potential role in reducing the burden of these diseases. Moreover, many sections of the draft guidelines focus on trade harmonization without any discussion of public health considerations. For instance, the document queries whether FOPNL should be mandatory or voluntary, including consideration of trade impacts particularly for mandatory implementation. The impact on public health is not considered, despite there being clear evidence that mandatory FOPNL are much more effective than voluntary policies.
- South Africa is strongly committed to the fact that not only should National governments lead FOPNL development, but should in fact be government’s responsibility and mandate to guard and protect public health. Although National governments should play central role in the development of FOPNL this should be in collaboration with relevant stakeholders, including academia and public health associations. Governments should first of all collaborate in this process with academia and public health associations. Other interested parties such as consumers would obviously be consulted as part of the scientific research for instance to test the logo’s on how consumers would understand the logo. The food industry with obvious vested interests, should be consulted for information, clarification and scientific substantiation purposes later on in the development process.
- It is alarming that the Codex process has failed to reference parallel work by the WHO to develop guidance on FOPNL, yet the WHO’s work on FOPNL have been excluded from the draft guidelines. It is essential that Codex and WHO’s documents support and reference each other, and for WHO’s work in this area to be duly recognized.
- The Second Discussion Paper had asked whether “isolated graphics or isolated textual indicators,” including warning labels such as “high in sugar,” should be considered FOPNL. This issue remains unresolved in the draft guidelines.
- Mandatory FOPNL systems are already used by numerous countries, including Chile, Israel, Peru and Uruguay, and are being developed in other countries at the moment as well. Increasingly, evidence is showing that they are the most effective method of communicating nutrition information to a broad range of consumers.
- CCFL cannot develop an effective and successfully FOPNL guidelines document without strong emphasis on:
 - FOPNL being used as an effective, easily recognised warning to consumers in terms of reducing the risks of public health, specifically non-communicable diseases, especially since several studies show that many consumers find the nutritional information table too “difficult” to understand.
 - FOPNL should not be applicable to Food for Special Medical Purposes and Infant formulas up to 6 Months only. Foods and formula intended for children van 12 months up should NOT be excluded, since many of these foods contain significant quantities of sugar and salt, both of which are associated with increased burdens of NCDs.
 - The sole purpose of defining criteria for “high in” in terms of sugar saturated fat and Sodium (or salt) should be for warning consumers of potential danger of increasing risks for one or more non-communicable diseases. It should not be used against those Governments that are working on reducing NCDs as an argument for trade disputes in any way.

- Development of any FOPNL system should be evidence-based through a reputable scientific study for the sole intention of warning consumers about foods that are too high in sugars, salt and saturated fatty acids.

Agenda item 7: Discussion paper on internet sales / e-commerce

- South Africa proposes that any food sold via internet/e-commerce should contain all (and only) the mandatory labelling required by the General Standard for Labelling of Pre-packaged Foods and should be made available free of charge on the same internet webpage where the food is offered for sale.
- All mandatory labelling information, including the date indicating shelf-life and the lot number, are to be provided at the time of delivery of the goods.
- These requirements do not apply to foodstuffs proposed for sale by means of vending machines.
- The development of a supplementary text that provides clear guidance on the labelling of foods sold by internet/e-commerce, would assist in providing a harmonised approach on the labelling of foods sold by the internet; protecting consumer health, avoid misleading consumers, enabling consumers and businesses to make informed choices, and facilitating trade.
- The issue of how traceability would be dealt with should be considered and included in the text.
- Contact information, especially physical addresses, existing telephone numbers and any means to contact the seller or manufacturer in writing should be easily available on the company web-page selling food via e-commerce.
- South African Food Labelling Regulations also include the advertisement of foodstuffs, meaning that all mandatory information required to be appearing on the physical label must be clearly provided before the conclusion of the purchase on the internet. The definition of “advertise” is in the Act that governs all Foodstuffs in South Africa, except liquor products and is quoted below:

““**advertisement**” in relation to any foodstuff, means any written, pictorial, visual or other descriptive matter or verbal statement, communication, representation or reference—

(a) appearing in a newspaper or other publication; or

(b) distributed to members of the public; or

(c) brought to the notice of members of the public in any manner, and which is intended to promote the **sale** or encourage the use of such foodstuff, and “advertise” has a corresponding meaning;”

Agenda item 8: Allergen labelling (discussion paper)

- South Africa supports new work to review the provisions for the declaration of foods and ingredients known to cause hypersensitivity (allergen labelling).
- The list of cereals should explicitly exclude those cereals that do not contain gluten as well as pseudo-cereals (non-grasses, such as buckwheat, quinoa) rice et cetera.
- In the case of lupin and lupin-derived ingredients sold as such or as part of a foodstuff, South Africa wants to propose the following statement to appear on the label: “Allergenicity: Peanut-allergic individuals are at high risk to react to lupin present in this product.”
- South Africa specifically supports the inclusion of a warning statement on goats milk, namely: “Allergenicity: Cow’s milk allergic individuals are at high risk to react to goat’s milk.”
- South Africa supports the need for more guidance on the principles and criteria/conditions for situations where a precautionary allergen statement would be acceptable/essential on a label. South Africa acknowledges the potential risk of cross contamination and related issues and is therefore not in favour of allowing precautionary statements without having the company complying with certain conditions first, such as having and implementing an Allergen Control Policy. Neither should precautionary labelling be utilised to circumvent the implementation of Good Manufacturing Practices. An effective Allergen Control Policy is essential in order to retain the precautionary allergen statement’s maximum effectiveness when communicating allergen information to the public.
- Acknowledging that precautionary allergen labelling may be helpful in communicating allergen risks and providing more guidance on allergen management to consumers to make informed choices when purchasing food products, it will also assist in ensuring air trade because currently there is no guidance

in Codex documents yet to harmonised precaution allergen labelling, a fact which is exploited in many cases.

- Criteria for 'free from' allergen labelling, such as 'wheat free' or 'dairy free' would be welcomed.
- South Africa recommends that the following information be included in the revised document: Ingredients derived from common allergens are exempted from the requirement to indicate appropriate allergen labelling:
 - (a) Cereals containing gluten:
 - (i) Wheat based glucose syrups including dextrose;
 - (ii) wheat based maltodextrins;
 - (iii) glucose syrups based on barley;
 - (iv) cereals used for making alcoholic distillates including ethyl alcohol of agricultural origin;
 - (b) Fish and products thereof:
 - (i) Fish gelatine used as carrier for vitamin or carotenoid preparations;
 - (ii) fish gelatine or Isinglass used as fining agent in beer and wine.
 - (c) Soybeans and products thereof:
 - (i) Fully refined soybean oil and fat;
 - (ii) natural mixed tocopherols (INS306), natural D-alpha tocopherol, natural D-alpha tocopherol acetate, and natural D-alpha tocopherol succinate from soybean sources;
 - (iii) vegetable oils derived phytosterols and phytosterol esters from soybean sources;
 - (iv) plantstanol ester produced from vegetable oil sterols from soybean sources;.
 - (d) Milk and products thereof (including lactose):
 - (i) whey used for making alcoholic distillates including ethyl alcohol of agricultural origin;
 - (ii) lactitol;
 - (e) Nuts used for making alcoholic distillates including ethyl alcohol of agricultural origin.

Agenda item 10: Labelling of alcoholic beverages (discussion paper)

- South Africa South Africa questions the relevance of the labelling of alcoholic beverages as part of Codex Mandate (CCFL). Notwithstanding and acknowledging the fact that some of the alcoholic beverages make reference to fruit flavourings which are used as additives, while some have ingredients which are common allergens. Some of this work are already been considered by international organizations such as OIV. As part of the Codex Observers, the OIV should maybe be afforded and opportunity to present the work they have done in relation to the labelling of alcoholic beverages.

Agenda item 11: Discussion paper on criteria for the definition of 'high in' nutritional descriptors for fats, sugars and sodium

- The sole purpose of defining criteria for "high in" in terms of sugar, saturated fat and Sodium (or salt) should be for warning consumers of potential danger of increasing risks for one or more non-communicable diseases (NCDs). The appropriate tool for that would be the FOPNL. Developing claims for "high in" for sugars, salt, energy, certain saturated fats and *trans*-fat are the nutrients the WHO strategies identified as the nutrients that increase/contribute to non-communicable diseases. Therefore, the privilege of making a nutrient content claim for any of these nutrients in a positive sense does not serve the purpose of and is in direct opposition to all the strategies developed globally to reduce NCDs.

- South Africa do not support the development of the claim "high in" for sugars, salt, energy, certain saturated fats and *trans*-fat. Claims usually is indicative of something positive. "High in" of any of these nutrients and energy is contradictory to the WHO strategies to reduce NCDs and defeats any other similar strategies initiated by governments, scientists and Public Health Associations.

