

CODEX ALIMENTARIUS COMMISSION



Food and Agriculture
Organization of the
United Nations



World Health
Organization

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Agenda Item 5

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ORIGINAL LANGUAGE ONLY

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

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PROPOSED DRAFT GUIDANCE FOR THE LABELLING OF NON-RETAIL CONTAINERS

Replies to CL 2019/13-FL

Comments of European Union, Ghana, Malaysia, Nigeria

EUROPEAN UNION

*Mixed Competence
European Union Vote*

The European Union and its Member States (EUMS) would like to thank India, Costa Rica and the United States of America for updating the proposed draft guidance on the basis of the outcome of the eWG.

Section IV, point 8.a) i)

1. Comments on Appendix I: PROPOSED DRAFT GUIDANCE FOR THE LABELLING OF NON RETAIL CONTAINERS OF FOODS

1.1. Section 3

EUMS do not support either of the new proposed definitions for “Non-retail container” as both of them are incomplete in terms of all possible scenarios of food in non-retail containers not covered by the definition in option 1 or of food covered by the definition in option 2.

However, given the difficulties to express all of the possible scenarios in both options, the EUMS are of the opinion that the definition proposed in July 2017 at the 44th Session of CCFL in document CX/FL 17/44/6 should be taken back with some slight adaptation. The terms ‘of same kind’ should be deleted as different kinds of foods can be present in the same non-retail container.

The EUMS therefore propose the following definition:

“Non-retail container” means any container³ that is not intended to be offered for direct sale to the consumer³. The food³ in such containers is ~~of same kind~~, prepackaged³ or not, and intended for further business operations or processing activities.

1.2. Section 5.5.

The EUMS consider that the obligation to apply an identification statement on non-retail containers or any other mark that clearly identifies that this is a non-retail container is not necessary, as non-retail containers are easily distinguishable from those that are intended for retail.

In addition, the EUMS note that this would not always reflect the situation in practice. There are a number of situations where foods are packed in non-retail containers which are also used in supermarkets such as discount supermarkets to present the foods contained therein for retail (e.g. canned, bottled, food in tetrapack containers). Having a statement or any other mark on such containers identifying them as a non-retail container might be very confusing for consumers.

The EUMS therefore consider that an identification statement or any other mark should not be imposed on non-retail containers.

1.3. Section 5.7

The EUMS note that the current text of the guidance allows an identification mark to replace the information on the label except the name of the product, and the statement that it is a non-retail container under certain conditions.

The EUMS would like to ensure consistency with other relevant standards such as the standard on Jams, Jellies and Marmalades (CODEX STAN 296-2009) and the General Standard for Cheese (CODEX STAN 283-1978) where the identification mark only replaces the name and address of the business as well as the lot identification.

In addition, the EUMS consider that allowing the identification mark to replace information such as net contents and date marking which is essential information for businesses might prevent to attain one of the objectives of this guidance which is to provide direct information on labels of non-retail containers and promote fair trade practices.

Consequently, the EUMS propose to amend the text in the following way:

[Notwithstanding the above in the present Section on the Mandatory Information Requirements on Label, an identification mark may replace the lot identification and the name and address of the manufacturer, packer, distributor, importer, exporter or vendor ~~the information on the label except the name of the product (Section 5.1), and the Statement/mark used for identification of a non-retail container (Section 5.5), provided that such mark is clearly identifiable with the accompanying documents or other means of information exchange where all such information shall be provided. Provided also that any special conditions for the storage of the food shall be declared on the label in cases where they are required to support the integrity of the food.~~]

1.4. Section 6.1

The EUMS are of the view that all the information necessary to meet the mandatory labelling requirements, if not provided on the label of the non-retail container or on the label of the food contained in the non-retail container, shall be provided in the accompanying documents or through appropriate means in order to ensure that a complete set of mandatory information is available in one place.

Consequently, the EUMS propose to amend the text in the following way:

6.1 ~~All the information necessary to meet mandatory labelling requirements⁴ for prepackaged foods~~ The following additional mandatory information, if not provided on the label of the non-retail container or on the label of the food contained in the non-retail container, shall be provided in the accompanying documents or through other appropriate means (e.g. electronically between food businesses), provided such documents or information is effectively traceable to the food in non-retail container.:

- ~~Information necessary to meet mandatory labelling requirements⁴ for prepackaged foods in which the food from the non-retail container will be used or packaged.~~
- ~~[In cases where an identification mark is used on the label, all the information replaced by the identification mark on label should be included in the accompanying documents or shared through other means.]~~
- ~~In cases where a non-retail container contains multiple types of foods, the above details shall be provided for each food contained in the non-retail container.~~

Section IV, point 8.b)

The EUMS consider that the guidance for the labelling of non-retail containers should be designated as a 'Guideline'.

Section IV, point 8. c)

The EUMS note that non-retail containers of food additives are already excluded from the scope of the proposed draft guidance. The EUMS propose to follow the same approach for commodities having specific provisions on the labelling of non-retail containers.

The EUMS consider that the Codex Alimentarius Commission Procedural Manual has to be aligned to the provisions of this guidance once adopted.

GHANA

As an addition to the General Standard on Labelling, Ghana supports that, the guidance is designated as a Guideline.

Section 3. Definition of Terms:

Ghana supports option 2 and the removal of the square brackets;

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

Rationale:

There is no ambiguity in this definition and therefore provides clarity to users of the Guideline.

Section 5.7

Ghana wishes to seek clarification of the types of marks as indicated in sections 5.5 and 5.7.

MALAYSIA

Malaysia thanks India for preparing this paper.

Specific Comment

1) Section 3 : Definition of terms

Malaysia agrees with option 2 which is provides more clarity and comprehensive.

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

2) Section 5 – Para 5.7

Malaysia proposes to delete para 5.7 as all the information in section 5 are the minimum requirement that should be made mandatory on the label of a non-retail containers.

Proposed Text :

~~[Notwithstanding the above in the present Section on the Mandatory Information Requirements on Label, an identification mark may replace the information on the label except the name of the product (Section 5.1), and the Statement/mark used for identification of a non-retail container (Section 5.5), provided such mark is clearly identifiable with the accompanying documents or other means of information exchange where all such information shall be provided.~~

~~Provided also that any special conditions for the storage of the food shall be declared on the label in cases where they are required to support the integrity of the food.]~~

NIGERIA

Nigeria appreciates the work done by the electronic Working Group (eWG) led by India, Costa Rica and the United States of America.

- 1. Nigeria supports that the guidance should be designated as ‘Guideline’ instead of “standard” as used in the Guidance for the labelling of non-retail containers of foods.***

Rationale: The guideline is intended to guide food business operators on transactions and not directly for control of quality and safety of consumers.

5. MANDATORY INFORMATION REQUIREMENTS ON LABEL:

5.7 [Notwithstanding the above in the present Section on the Mandatory Information Requirements on Label, an identification mark may replace the information on the label except the name of the product (Section 5.1), and the Statement/mark used for identification of a non-retail container (Section 5.5), provided such mark is clearly identifiable with the accompanying documents or other means of information exchange where all such information shall be provided.

Nigeria agrees that the square bracket be removed and the statement be retained.