



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

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REQUIREMENTS ON MANDATORY NUTRITION LABELLING

Report of the Electronic Working Group

At Step 3

Governments and international organizations in Observer status with the Codex Alimentarius Commission wishing to submit comments on the proposal in paragraph 39 are invited to do so **no later than 20 April 2012** to:

Codex Contact Point for Canada, Food, Directorate, Health Canada, 251 Sir Frederick Banting Driveway, Ottawa, ON K1A 0K9, Canada, Fax : +1.613.941.3537, E-mail: Codex_Canada@hc-sc.gc.ca

with a copy to the

Secretariat, Codex Alimentarius Commission, Joint FAO/WHO Food Standards Programme, Viale delle Terme di Caracalla, 00153 Rome, Italy, Fax No + 39.06.5705.4593; E-mail: codex@fao.org

INTRODUCTION/BACKGROUND

1. In September 2006, FAO/WHO released for comment their Draft Action Plan for Implementation of The Global Strategy on Diet, Physical Activity and Health (CL 2006/44-C). In this document FAO/WHO propose a number of actions under the heading of 'Labelling to allow consumers to be better informed about the benefits and contents of foods'. The proposed action of relevance to this electronic working group (eWG) is as follows:

It is proposed that Subsection 3.1 [of the *Guidelines on Nutrition Labelling*] be amended to require that the Nutrient declaration be mandatory on the labels of all pre-packaged foods.

2. During the Codex Committee on Food Labelling (CCFL) consideration of the WHO draft Implementation Plan for the Global Strategy at the 35th CCFL (2007), members considered whether Section 3.1 of the *Guidelines on Nutrition Labelling* (CAC/GL 2 – 1985) (the *Guidelines*) should be amended to require mandatory nutrition labelling (refer para 26-33 Alinorm 07/30/22). At the 35th CCFL it was agreed that a physical working group be held prior to the 36th CCFL (2008) to evaluate which revisions were needed and the matter of mandatory nutrition labelling was part of that discussion.
3. The outcome of the 36th CCFL was the development of a Project Document to direct work in respect of possible amendments to Sections 3.1 and 3.2 of the *Guidelines*. The first task was to revise the *Guidelines* and examine the list of nutrients that are always declared on a mandatory or voluntary basis in light of the recommendations in the WHO Global Strategy on Diet, Physical Activity and Health. The second task was to consider requirements for mandatory nutrition labelling.

4. CCFL was also asked to prepare a Discussion Paper outlining issues and concerns raised during the discussions on mandatory nutrition labelling, taking into consideration the experiences of member countries. This process was duly undertaken such that the Discussion Paper was completed in 2010 (Alinorm 10/33/22 45 Appendix III. Refer Annex 1).
5. Following completion of the first task identified above, i.e. determination of the list of nutrients to be declared, the 39th CCFL (2011) agreed to commence work on consideration of the requirements for mandatory nutrition labelling and established an eWG to develop proposed amendments to the *Guidelines* regarding the requirements for mandatory nutrition labelling for circulation at Step 3 and consideration at the next session (i.e. 40th CCFL) (REP 11/FL, para 70). It was further agreed that the Discussion Paper endorsed by the 38th CCFL (2010) (ALINORM 10/33/22, Appendix 111) be taken into account in this process.

Terms of reference

6. The terms of reference for this work are **Part A(b)** (provided below) of the 2008 Project Document (Alinorm 08/31/22 Appendix VIII) for the proposal for new work on Implementation of The WHO Global Strategy on Diet, Physical Activity and Health (WHO, 2004).

Part A - Undertake a revision of Section 3.2 and a review of Section 3.1 on the *Guidelines on Nutrition Labelling* using a phased approach. Part A comprised two sections, namely:

(a) The Committee will undertake work to revise the *Guidelines on Nutrition Labelling* and will examine the list of nutrients that are always declared on a mandatory or voluntary basis in light of the recommendations in the WHO Global Strategy on Diet, Physical Activity and Health.

(b) Once a revised list of nutrients has been identified, consideration of the requirements for mandatory nutrition labelling, will be undertaken, including consideration of appropriate nutrients and products and taking into account the issues raised in the Discussion Paper and the flexibility needed to address the issues surrounding the implementation of mandatory nutrition labelling.

7. As noted earlier, the Discussion Paper referred to in **(b)** above was that prepared for the 38th CCFL (ALINORM 10/33/22, Appendix III) and titled 'Issues Related to Mandatory Nutrition Labelling'.

Scope

8. The *Guidelines* contain in **Section 3.1 – Nutrient Declaration**, the requirements for nutrient declaration on the label of a food. Subsection 3.1.1 identifies the use of nutrition claims as a trigger for declaration of the List of Nutrients identified under Section 3.2 – Listing of Nutrients. Subsection 3.1.2 then identifies that nutrient declaration should be voluntary for all other foods – i.e. in the absence of a nutrition claim.

3.1.1 Nutrient declaration should be mandatory for foods for which nutrition claims, as defined in Section 2.4, are made.

3.1.2 Nutrient declaration should be voluntary for all other foods.

9. The eWG was to consider whether Subsection 3.1.2 should remain as it currently stands, or whether the *Guidelines* should be amended such that nutrient declaration is mandatory for all other foods. For clarity, we note that 'all other foods' refers to all foods other than those for which a nutrition claim has been made.

ELECTRONIC WORKING GROUP CONSULTATION

10. As lead of the eWG, Australia issued a letter of invitation in July 2011 to Members and Observers of the CCFL to register their interest. Thirty-three CCFL member governments including the EU, and three international non-government organizations (INGOs) registered their interest in participating. These registrants were sent the First Consultation Paper (1st Paper). Australia received sixteen submissions in response to this paper, and these submitters were the recipients of the Second

Consultation Paper (2nd Paper), to which Australia received fifteen responses. The list of submitters to the 1st Paper is provided at Annex 2; submitters to the 2nd Paper are identified in Annex 4.

First consultation paper

11. The 1st Paper proposed 'higher level' and 'lower level' principles to guide our thinking and provide a basis on which to consider the four options proposed for amendment (or not) to the *Guidelines*.

These options were:

Option 1a. No change to 3.1.2

Option 1b. **For all other foods, national authorities should consider whether the nutrient declaration should be voluntary or mandatory taking into account the local circumstances** ~~for all other foods.~~

Option 2a. Nutrient declaration should be **mandatory** ~~voluntary~~ for all other foods.

Option 2b. Nutrient declaration should be **mandatory** ~~voluntary~~ for all other foods, subject to an amended list of nutrients (Paragraph 3.2.1.2).

12. The options as given above represent:

1a. The status quo, i.e. no change to current circumstances. This means that nutrient declaration would remain voluntary for all other foods.

1b. This proposal, as originally raised in the related conference room document for the 39th CCFL (refer CX/FL 11/39/CRD-34), effectively retains the current voluntary status, but clarifies that national authorities may give consideration to mandatory labelling, basing their decision on their national circumstances.

2a. This represents the substantive change from voluntary to mandatory nutrition labelling for 'all other foods' and retaining the list of nutrients provided in Paragraph 3.2.1.2.

2b. This represents the substantive change from voluntary to mandatory nutrition labelling for 'all other foods' with a modified list of nutrients (from those in Paragraph 3.2.1.2).

13. Responses to the 1st Paper varied but overall indicated there was in-principle support for the introduction of mandatory nutrition labelling, qualified however, by the need for a pragmatic approach in the face of limited national capability for some countries. It was also suggested by some respondents that the market place should have a predominance of packaged versus unpackaged foods for such labelling requirements to be adopted.

Discussion

14. On the basis of these considerations Option 1b was seen as the most favoured option. A summary of respondents preferred options is provided at Annex 3. Included in the preferred option was reference to taking into account local/ national circumstances.

15. A further matter discussed by respondents was the need for guidance material to assist countries considering implementing mandatory nutrition labelling, including consideration of foods that may be exempted and food businesses that may require special consideration based on capability issues. The Discussion Paper on mandatory nutrition labelling was raised as being potentially useful for this purpose, linked to the *Guidelines* either by a footnote, or placed as an annex.

16. By way of example, an annex has recently been developed by the Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU) which contains Principles for Nutrient Reference Values for Vitamins and Minerals. As a suggestion, a similar annex could be developed as a 'home' for ancillary text for governments that support Codex guidelines, and the Discussion paper (Appendix III of ALINORM 10/33/22) could be placed in this annex.

17. Through the eWG it was also suggested that the lower level principles raised in the 1st Paper, with some suggested amendments, could form the basis of a set of statements addressing 'National Considerations'; these would be taken into account when implementing mandatory nutrition labelling.
18. In addition to the above, Australia noted a further issue potentially requiring consideration. This relates to the nutrients that should be declared for mandatory nutrition labelling. This matter arose within the context of Options 2a and 2b, which referred respectively to the list of nutrients (for declaration) in Paragraph 3.2.1.2 of the *Guidelines* as being 'retained' or 'modified'. These two options had been posed because of the wording in the Part A(b) of the Project Document, which says "...including consideration of appropriate nutrients". Australia wanted to ensure there was a common understanding amongst eWG members (and later CCFL) as to exactly which nutrients would be implicated, should mandatory nutrition labelling be recommended.
19. Through responses to the 1st Paper, Australia confirmed it was not clear to all parties as to whether the list of nutrients agreed by the 38th CCFL (2011)¹, and now approved by the Codex Alimentarius Commission for inclusion in Paragraph 3.2.1.2 of the *Guidelines* (Rep11/CAC 34, paragraphs 73-78), would be the same list for mandatory nutrition labelling when applied to 'all other foods'. Whereas some respondents were quite clear that the 2011 agreed list would be the same, others were of the view that a different list could be considered. Australia therefore felt it was important to explore this matter further in the (2nd Paper), in order to progress with a clear understanding.

Second Consultation Paper

20. Working from Option 1b as the preferred option, the 2nd paper presented two further options (as 4a and 4b) for consideration, both based on Option 1b, but differing insofar as Subsection 3.1.2 only is amended, or Subsection 3.1.2 is amended such that Subsections 3.1.1 and 3.1.2 are combined.

These were presented as :

(4a) 3.1.2 Nutrient declaration should be ~~voluntary~~ mandatory for all other foods, **where supported by national circumstances.**

(4b) 3.1.1 Nutrient declaration should be mandatory for foods for which nutrition claims, as defined in Section 2.4, are made, **and for all other foods where supported by national circumstances.**

21. In order to formulate our report to the 40th session of the CCFL, the 2nd Paper requested comment on the following:
 1. Agreement to recommend to CCFL one of two proposed amendments to paragraph 3.1.2 of the *Guidelines*.
 2. Agreement to seek clarification from CCFL on the status of 'the List of Nutrients to be declared' under Paragraph 3.1.2.2 of the *Guidelines*, with respect to their application to 'all other foods'.
 3. Agreement to ask CCFL to consider possible use of the statements presented in the 2nd Paper as 'National Considerations'.
 4. Agreement to ask CCFL to consider the provision of guidance material to support national authorities contemplating mandatory nutrition labelling.

A summary of responses is provided at Annex 4.

Discussion

Preferred option

22. The eWG was asked if they agreed with either of two options presented, both of which had the same intent however, differed editorially insofar as the second option amended all of Section 3.1, to

¹ The list that was approved for Paragraph 3.2.1.2 of the GNL is protein, available carbohydrate (i.e. excluding dietary fibre), fat, saturated fat, sodium and total sugars; and energy as per clause 3.2.1.1.

combine Subsections 3.1.1 and 3.1.2 in order to streamline the text. From responses received, there was no clear consensus as to which approach to take however, there were a number of comments regarding improved clarity when the Subsections were separate. We have therefore left the two Subsections separately as 3.1.1 and 3.1.2.

23. Further important discussion was on the need for inclusion of the words 'where supported by national circumstances'. These words were included following the first round of consultation where the principle was clearly supported. However through the second round there were a number of views that, whilst the principle is upheld, it does not need to be explicitly articulated in this guideline as it is inherently the case for all codex guidelines. Australia sees this as a valid point, and in interests of simplifying text as far as possible, has deleted the words from the recommendation presented here (refer paragraph 39). We recognise that, in effect, this takes the recommended option back to being that presented in the first paper as Option 2a. CCFL may wish to consider whether it wishes to have the words 'where supported by national circumstances' explicitly included or not.

List of Nutrients to be declared

24. As noted earlier, Australia raised the matter of nutrients to be declared in response to an evident lack of clarity amongst eWG members (and presumably therefore also amongst CCFL members) as to whether the List of Nutrients agreed by the 38th CCFL (2011) and now approved by the Codex Alimentarius Commission for inclusion in Paragraph 3.2.1.2, would be the same list for mandatory nutrition labelling when applied to 'all other foods'.
25. Responses to the 2nd Paper have confirmed this was important to clarify. Most eWG members were quite clear the same list was intended and a number noted the undesirability of re-opening this debate. However, it is noteworthy that a number again raised the possibility of a shorter list being used, at least initially i.e. as a transitional arrangement, where mandatory nutrition labelling (i.e. in the absence of a claim) is applied. We note any such transitional approaches could be implemented at national discretion however, Australia raises this matter for CCFL's information, and suggests it may be worthwhile clarifying in the report of the plenary the status of the list of nutrients as applied to mandatory nutrition labelling for 'all other foods'.

National considerations

26. The lower level principles raised in the first paper were amended and re- presented in the 2nd Paper as 'National Considerations'. This was done in the context of what may need to be considered, after national circumstances have been taken into account in the decision to implement nutrition labelling, We appreciate the links between national considerations and circumstances, but also note here, the inherent confusion in language that may have arisen in using these two terms, including the way in which they were presented in the 1st Paper.
27. Along with some minor amendments, subsequent views varied as to whether these statements were necessary for inclusion, in some way in the Guidelines. One submitter also noted considerations should not be limited to the statements as articulated (e.g. in the 2nd Paper).
28. We provide here the statements that were developed as 'National Considerations' for the Committee's deliberation as to if, and if so where, these statements may be usefully incorporated. They could remain separate, or they (or some) could potentially be incorporated into the guidance material discussed below, noting there is some crossover.

- Nutrition labelling should support, and be supported by, public health initiatives and consumer education programs.
- Nutrition labelling should be presented in a way that facilitates its understanding and use by consumers in the market of sale, to serve as a basis for making healthier food choices.
- Certain foods should be exempted on the basis of nutritional and public health irrelevance, dietary insignificance, the capacity of the local food businesses to implement nutrition labelling, and/or practicalities of labelling processes as appropriate to national circumstances.
- A transition period should be provided to facilitate implementation by industry and governments.

Guidance material

29. It was broadly supported that the Discussion Paper on Mandatory Nutrition Labelling considered at the 38th CCFL (refer Appendix 111 (2010) (ALINORM 10/33/22) (refer Annex 1) could be used for the purpose of providing guidance during a government's deliberations as to whether mandatory nutrition labelling should be adopted. Subject to any decision regarding amendment to the *Guidelines*, Australia asks CCFL to consider whether they'd like the Discussion Paper to be referred to and if so, how? For example, this could be by way of a footnote, or as an Annex to the *Guidelines*.
30. Further to the above, in our earlier discussions around principles, an additional matter raised was the concept of applying mandatory nutrition labelling only when the pre-packaged food supply exceeded that of unpackaged foods. This may be an important consideration for many countries, although it would need to be considered in more detail as to what is meant by 'packaged' foods and how they are measured.
31. Behind this sits also the question of whether mandatory nutrition labelling is applied only to packaged, or also to unpackaged foods. We raise this here as something that may be part of the preliminary considerations of any country contemplating the introduction of mandatory nutrition labelling, along with other issues raised in Annex 1. Due to time limitations this matter has not been fully explored by this eWG. CCFL may wish to consider this aspect further as part of any future work on this topic.

Further matters – 'health claims'; TBT

32. Raised by one respondent was the point that it is not only nutrition claims, but also health claims that trigger nutrient declaration. This matter is not directly within the mandate of this working group, however, as a logical edit to Subsection 3.1.1, the report of this eWG may provide an opportune platform on which to raise this as a suggested edit to Section 3.1. The amendment as suggested is provided below:

3.1 Application of nutrient declaration

3.1.1 Nutrient declaration should be mandatory for foods for which nutrition claims, as defined in Section 2.4, **[and health claims, as defined in Section 2.2 of Codex *Guidelines for use of nutrition and health claims*]** are made.

33. There was also comment received from an INGO member of the eWG that neither proposed amendment to the *Guidelines* was acceptable, on the basis either would constitute a trade barrier. We raise this in the event that CCFL may wish to take it into account in its deliberations.

CONCLUSIONS

34. On the basis of work done by this eWG, and noting there were mixed views, there is in-principle support for the introduction of mandatory nutrition labelling. The importance of and need to consider national circumstances was also highlighted.

35. The eWG uncovered differing views and some confusion regarding the status of the 'List of Nutrients' that would be declared under a mandatory regime, and would like to take this opportunity to clarify that we understand that the same list as determined at the 39th CCFL for Paragraph 3.1.2.2 of the *Guidelines* is intended. Comments were however also noted, that some members consider a shorter list may be more appropriate at least as a transitional stage.
36. It was concluded however, that consideration should be given to some form of supporting guidance material for governments contemplating implementing mandatory nutrition labelling, and the Discussion Paper 'Issues related to Mandatory Nutrition Labelling' developed for the 38th CCFL is proposed for this purpose, with the possible inclusion of further text around the status of the 'packaged' food supply.
37. There were mixed views regarding the need to explicitly include reference to statements of 'National Considerations'.
38. As a potential editorial amendment, the inclusion of reference to 'health claims' in subsection 3.1.1 of the *Guidelines* was raised; the work of this eWG may provide an opportune time to address this matter.

Recommendation

39. On behalf of the eWG, Australia puts to CCFL an amended Subsection 3.1.2 for consideration, subject to the Discussion Points raised below. The amended Section to read:

3.1 Application of nutrient declaration

- 3.1.1 Nutrient declaration should be mandatory for foods for which nutrition claims, as defined in Section 2.4.
- 3.1.2 Nutrient declaration should be ~~voluntary~~ **mandatory** for all other foods.

Discussion points

40. A number of discussion points have arisen from the processes of this eWG. We summarise these here for CCFL's consideration.
 - Whether the words 'where supported by national circumstances' should be included in the *Guidelines* in Subsection 3.1.2.
 - Whether there is a need for supporting guidance material to assist those countries contemplating mandatory nutrition labelling, especially relating to foods that may be exempted from mandatory labelling and food business that may be given additional consideration based on limited capability for implementing such labelling; and support for use of the Discussion Paper 'Issues Related to Mandatory Nutrition Labelling' for this purpose.
 - Whether the statements developed as 'National Considerations' are a useful adjunct to the proposed amendments to the *Guidelines*, and if so, should be used in some way.
 - Whether the matter of packaged versus unpackaged foods in the context of mandatory nutrition labelling should be further explored.
 - Whether the Committee wishes to consider an editorial amendment to Subsection 3.1.1 to include reference to 'health claims'.
 - Finally, whether CCFL wishes to progress the proposed amendment to the *Guidelines* at this point in time.
41. Australia would like to thank all members of the eWG for their assistance with this work.

ANNEX 1

ALINORM 10/33/22
APPENDIX III**ISSUES RELATED TO MANDATORY NUTRITION LABELLING****PREAMBLE**

This document has been prepared by the Codex Committee on Food Labelling for use as a tool by governments in considering the implementation of mandatory nutrition labelling for pre-packaged foods at the national level. This refers to nutrition labelling that would be applied to virtually all pre-packaged foods in the absence of a nutrition claim.

INTRODUCTION

1. The decision to implement mandatory nutrition labelling needs careful consideration in the context of the relevance of the information to populations in different countries, and of implications for international trade. The level of consumer awareness or consumer understanding and use of food labels varies among countries and regions. To be an effective tool for public health promotion, consumers need to be adequately informed by the information on the label and educated as to its use in making dietary choices. Nutrition labelling requirements should ideally be accompanied by consumer education campaigns and the ability of nations to undertake such educational efforts needs to be considered.

2. The introduction of mandatory nutrition labelling on pre-packaged foods is a way to provide information to consumers and has the potential to lead to public health improvements. Consumers can use nutrition labels to compare and choose between food products and plan their diets.

3. The introduction of mandatory nutrition labelling may encourage manufacturers to reformulate products to improve their nutritional quality, thus increasing the availability of healthier products in the marketplace. While the move from voluntary to mandatory nutrition labelling can involve additional cost to government and industry, cost has not been identified as a major issue by those countries that have implemented mandatory nutrition labelling.

4. In exploring the possibility of adopting mandatory nutrition labelling, consideration should be given to the development of appropriate education resources for consumers; support for industry; and allowing for the possibility of exemptions e.g. on the basis of business size; type and/or size of outlet; food characteristics (eg plain tea and coffee, unflavoured/unsweetened water, herbs and spices); or type and/or size and shape of packaging.

5. Both those nutrients associated with either an increased or decreased risk of non-communicable diseases should also be considered for mandatory labelling.

6. Issues of importance that may require further consideration when discussing implementation of mandatory nutrition labelling, include (but may not be limited to) the following:

- i. costs and benefits associated with the introduction of mandatory nutrition labelling;
- ii. particular needs of the country ;
- iii. the role that mandatory nutrition labelling could potentially play in supporting public health initiatives; and
- iv. the foods that mandatory nutrition labelling may not apply to;
- v. practical issues related to implementation, application, compliance and enforcement such as resource and technical considerations, infrastructure and communication; and
- vi. implications for trade. ALINORM 10/33/22 46

1. COSTS AND BENEFITS

The introduction of mandatory nutrition labelling has potential costs and benefits.

1.1 Costs

Costs associated with implementation of mandatory nutrition labelling may include but are not limited to:

(a) *Costs to consumers*

- increased food prices, as costs incurred by industry may be passed on to consumers; and
- too much information on a label, which may impact on consumers' ability to absorb and evaluate other information, such as information related to ingredients and safe handling.

(b) *Costs to Government*

- building the capacity of laboratories and training the personnel required for monitoring and surveillance of compliance with nutrition labelling;
- development of official guidelines on nutrition labelling to the food industry and consumers in order to facilitate the implementation and the use of nutrition labelling;
- development of official databases on nutrient composition of foods to support small and medium businesses to implement nutrition labelling; and
- development of nutrition education materials and programmes for consumers and industry explaining the new requirements.

(c) *Costs to industry*

- administrative costs, which are costs of interpreting the regulation and deciding on an appropriate action in response to the regulation;
- costs of testing and/or use of databases to determine the nutrient content;
- printing costs, the costs of changing the printing plates or other printing mechanism; and
- inventory costs, the value of the labels in inventory that cannot be used due to the new regulation.

1.2 Benefits

Benefits associated with the introduction of mandatory nutrition labelling may include but are not limited to:

(a) *Benefits to consumers*

Consumers could see some benefits immediately and directly while others would become apparent overtime.

The benefits include:

- wider access to nutrition information;
- the opportunity to make consistent comparisons between food products and across categories;
- information on labels may potentially influence behaviour and lead to flow-on public health benefits, thereby serving as a link between the consumer, nutrition education and public health outcomes;
- the potential to lower health-care costs to the individual and society over time, due to reductions in diet related preventable non-communicable diseases; and
- increased focus on nutritional quality thereby increasing availability of products that contribute to a healthy and balanced diet in the marketplace.

(b) *Benefits to government*

- supporting initiatives for populations to make food choices that contribute to healthy and balanced diets; and
- potential for savings in public health costs in the treatment of chronic non-communicable diseases related to diet.

(c) *Benefits to industry*

- improved consumer confidence associated with greater disclosure of nutrition information; and
- the provision of nutrition information so that consumers are able to select products based on ready comparison between products and across food categories. ALINORM 10/33/22 47

2. IMPLEMENTATION

2.1 There are a range of issues surrounding implementation that may be faced by businesses:

- a possible lack of technical capacity and resources required for determining the nutritional values to be declared; and
- small and medium sized enterprises may bear proportionally greater costs than larger enterprises.

2.2 To assist in this respect there are a variety of possible exemptions that could be applied to mandatory nutrition labelling, including:

- certain unpackaged food;
- perishable cooked food ready for direct consumption which is packaged on retail premises in response to demand by a purchaser;
- small packages, packages that have shapes such that a label cannot be affixed or refillable bottles. In such cases, nutrition information could be provided by alternate means such as a telephone number, hang tags, address or website;
- foods that contain negligible amounts of all of the nutrients required to be declared under the mandatory nutrition labelling requirements. Examples of such foods could include coffee beans, tea leaves, plain unsweetened instant coffee and tea, unsweetened/unflavoured water, condiments, flavour extracts, and food colours. If this exemption were to apply, it would first be necessary to determine a definition of 'a negligible amount' of a nutrient;
- exempting declaration of those nutrients that could be declared as zero;
- foods that do not contribute significantly to dietary intake of the population of the country in question (the implementation of this option would first require a definition of 'significant'); and
- exemptions based on business size and type of outlet.

2.3 A number of potential technical difficulties associated with the introduction of mandatory nutrition labelling include:

- availability of suitable laboratory facilities, equipment and staff training to check for nutrition labelling compliance and accuracy;
- the cost, accuracy and repeatability of alternate methods of analysis;
- variability in nutrient levels due to geographic source and seasonal fluctuation of ingredients;
- development of official databases on nutrient composition of foods to facilitate determination of nutrition information by manufacturers allowing for appropriate tolerance values (these would need to be defined) to account for the inherent variability in amounts of nutrients and the variability in laboratory analysis;
- determining an adequate transition period for the implementation of mandatory nutrition labelling;
- determining those products which must carry mandatory nutrition labelling, and
- linking to nutrition education programmes and education materials for consumers.

2.4 *Support Mechanisms*

A range of issues surrounding the implementation of mandatory nutrition labelling and mechanisms for supporting its introduction are discussed in Section 2.2 above. Some of the resource and technical considerations identified in Section 2.3 may be addressed or significantly reduced through provision of appropriate support mechanisms, such as:

- nutrient calculation software or similar online tools;
- food composition databases;
- allowing a long (e.g. 2 year or 3 -5 years for products with a long shelf life) period for phasing-in before enforcement takes place, for example regulatory authorities could provide transition periods or temporary relief under certain circumstances for businesses to use existing label inventory and prepare new labels to conform to the nutrition labelling requirements;
- allowing alternate means of deriving nutrient values, e.g. manufacturer's analysis or by calculation from database values of the ingredients used; ALINORM 10/33/22 48

- government and businesses access to the necessary infrastructure. One such consideration might be development of IT infrastructure (including internet based systems) through government and industry partnerships;

2.5 In order to facilitate labelling implementation consideration should be given to communications strategies that might include but are not limited to:

- consumer education campaigns, ideally supported by consumer research; and
- involvement of relevant stakeholders (industry, consumers, medical community, academia, and state and local authorities)
- use of supplementary information and/or alternative equivalent information.

3. COMPLIANCE AND ENFORCEMENT

3.1 Codex members have identified a variety of compliance and enforcement mechanisms currently operating or being considered in the future, these are summarised below:

- the specific requirements and penalties for non-compliance are gazetted and administered by the competent authorities, and surveillance and enforcement activities undertaken to ensure compliance;
- monitoring of compliance is conducted by local food inspectors through inspection of food traded and by official public laboratories.

3.2 Compliance and enforcement issues that may impact on the introduction of mandatory nutrition labelling include:

- the capacity and infrastructure of industry and regulatory authorities;
- access to analytical testing and/or reliable, validated databases for determining nutrient content (availability and validity of methods);
- variability in analytical methods and the use of different laboratories may lead to differing results;
- permitted variability from declared value (accounting for inherent analytical variability and variations within good manufacturing practices); and
- costs to public and private sectors for compliance, monitoring and enforcement including follow-up corrective actions.

4. INTERNATIONAL AND TRADE CONSIDERATIONS

4.1 The introduction of mandatory nutrition labelling on a global scale, and the level of alignment with national nutrition labelling requirements, may have implications for global food trade. Considerations include, but are not limited to:

- the possible impact on existing trading alliances or trading blocks, for example the regulation of mandatory nutrition labelling being harmonized in some instances would facilitate the trade in food within the alliance; and
- the standards and guidelines available from the Codex Alimentarius Commission.

ANNEX 2

**ELECTRONIC WORKING GROUP ON MANDATORY NUTRITION LABELLING
LIST OF SUBMITTERS**

Australia
Brazil
Canada
CEFS
Chile
Costa Rica
Ethiopia
EU
Food Drink Europe
Japan
Malaysia
Mexico
New Zealand
Peru
Singapore
Uruguay
USA
WSRO

ANNEX 3

RESPONDENTS' COMMENTS ON PREFERRED OPTIONS – FIRST CONSULTATION PAPER**Brazil**

Brazil strongly supported Option 2a from the view that it would guarantee consumers access to relevant nutrition information for making healthier food choices. However also considering local and regional circumstances, Brazil would support the Option 1b.

Canada

Canada supported Option 2a, from the point of view that the intent is to assess the readiness of Codex for adoption of mandatory nutrition labeling. From this viewpoint however, they also note some countries may not have adequate infrastructure under which to do this.

Costa Rica

Costa Rica considered that Options 2a and 2b best conform to the principles identified however, supported Option 1b over these due to its taking into account national capacities, whilst still providing consumer information.

Ethiopia

Ethiopia's comments were that they agree with the proposed document, providing the following two questions are answered and finalized for implementation. Namely, (i) which nutrients would be appropriate [for mandatory nutrition declaration] at the international level taking into account regional dietary patterns, and (ii) what other factors should be taken into account in developing the list of nutrients, including the rationale for including or excluding certain nutrients. Ethiopia also suggests the Committee consider nutrients that may be important on the basis of newly emerging research findings.

European Union

The EU provided a further option to those suggested in the 1st Paper as a mandatory provision in codex text. The EU noted the primary intent is to encourage member countries to adopt mandatory nutrition labeling, in line with the request from WHO however, EU members recognize the need for consideration by local authorities of local circumstances with respect to social, environmental and economic impacts. This includes taking account of certain foods or businesses that may need to be exempt from the obligation. The EU also noted the possible role of the Issues Paper on Mandatory Nutrition Labeling as a framework for countries considering this step. The suggested amendment from the EU for Subsection 3.1.2 is:

"National authorities are encouraged to adopt the principle of a mandatory nutrition declaration for all other foods, taking into account the local circumstances. The document entitled "Issues related to mandatory nutrition labelling" (Appendix III of Alinorm 10/33/22) outlines the factors that national authorities may wish to take into account when considering the introduction of a mandatory nutrition declaration for foods that do not bear a nutrition claim."

The EU concluded by saying the above approach would encourage Governments to actively consider mandatory nutrition labeling, whilst leaving some flexibility regarding the obligation, and foods to which it might apply, by taking into account local circumstances.

Japan

Japan provided their considered views and identified their preferred Option as 1b. However, they further noted, whilst the content of their comments won't change, their preferred option might change based on results of research and current study of this subject in Japan.

Mexico

Mexico identified their preferred option as Option 2b, but in so doing, requested clarification as to what was meant by the associated text saying: “subject to an amended list of nutrients”; wanting to know if this was making reference to future modifications to paragraph 3.2.1.2 of the GNL.

Norway

Norway supported Option 1b. They see this as a way of providing information to consumers and potentially leading to public health improvements. They also noted the importance of considering the needs of local populations with respect to relevant information, adequate education and of any international trade implications. Also noting due to potential regional differences there will be differing impacts and effects. Other potential benefits were also raised however, Norway clarified that they consider such labeling worldwide would be too extensive at the time being given the necessary infrastructure requirements and potential burden for many countries.

New Zealand

New Zealand supported a mandatory approach to nutrition labeling as this is the approach that supports global harmonization, in line with item 4 of Article 40 of the Global Strategy which states: “Consumers require accurate, standardized and comprehensible information on the content of food items in order to make healthy food choices”. However in acknowledging the difficulties some countries may have in meeting requirements, Option 2b was seen as a potential way of ‘easing’ into the ultimate goal.

Peru

Peru supported Option 2b on the basis that nutrition labeling supports public health initiatives, and that a “short list of nutrients” could help better understanding of nutrition labeling by consumers. They also suggested different forms of presentation be reviewed in order to avoid unnecessary trading blocks.

Singapore

Singapore suggested Options 2a and 2b be combined, while retaining the list of nutrients currently provided under Subsection 3.2.1 of the GNL. Australia sees it to be essentially the same as Option 2a, and therefore has interpreted this to be their preferred option. Suggestions were given as to possible exemptions, and the point made that imported foods should not be treated differently from domestic foods. Clear guidelines defining “dietary insignificance” should also be provided.

Uruguay

Uruguay supported Option 2b on the basis that they have it in their own legislation and their experience has shown it is possible to label for all other foods.

United States

The preferred option of the United States (US) was Option 2a as being most consistent with stated objectives regarding the benefits of nutrition labeling. It was seen that this provides nutrition information to facilitate comparative and healthier choices potentially leading to better diets. If CCFL were to choose this option, the US suggested the Committee could consider combining Sections 3.1.1 and 3.1.2 (of the GNL), and developing specific guidance on the factors to consider mandatory nutrition labeling. The US also discussed Option 1b, noting it is not their first preference, but if CCFL were to proceed down this path they could support this, and suggest CCFL may wish to consider guidance to governments around what is meant by national (or local) circumstances as well as acceptable exemptions.

World Sugar Research Organization (WSRO)

The WSRO considered Option 1a most clearly fulfills all the principles delineated in the discussion paper and therefore supported continuation of the status quo. They were also of the view that all other options present insurmountable difficulties in application.

Other INGOs

Responses were also provided by **Food Drink EU** and the **International Association of Consumer Food Organizations**. Neither response specifically commented on the principles or options however, information was provided regarding the introduction of the new EU Food Information for Consumers legislation, and the status of mandatory nutrition labeling in various countries.

ANNEX 4

SUMMARY OF COLLATED COMMENTS TO THE SECOND CONSULTATION PAPER

Question 1. Do you agree that the application of the list of nutrients in paragraph 3.1.2.2 to mandatory nutrition labelling for ‘all other foods’ requires clarification? And if so, should the eWG trigger this process through our report to the 40th CCFL.

Comments

Australia – agree to clarify, and that list should be the same

Brazil - agree to clarify. Note criteria same if mandatory or voluntary

Canada - does not believe that the mandate of the eWG was to reopen discussion of the nutrients to always be declared, as this was already settled at the 39th session. Thus Canada feels that option 2b is not a viable option. Wording was clear, but if others disagree happy to seek clarity

Chile – agree to clarify

Costa Rica – agree to clarify

EU – consider same list is intended and would not wish to reopen the debate. Would like clarity on whether at national level a shorter list for declaration could be used

Japan – agree to clarify

Malaysia – agree to clarify. Think the mandatory declaration should initially only be energy, available carbohydrate, protein and fat, then use a phased approach to increase the list. Also note the current 7 nutrients for declaration may not be relevant to all foods, or all countries

Mexico – agree to clarify

NZ - thinks same list is intended but agree to clarify. For countries where this may be difficult, suggest allowing a transition period

Uruguay – agree to clarify, noting different viewpoints probably exist

US - thinks same list is intended and that answers to the 2nd Paper will clarify this

CEFS – consider there is no need to clarify as the words in Subsection 3.2.1 “where nutrient declaration is applied” are already clear

FDE – consider no need to clarify, and that the same list must be used for consistency, understanding and harmonisation

WSRO – Agree to clarify. Consider a longer list would be illogical therefore question whether a shorter list should be used.

Question 2. Do you agree with one of the recommendations presented in 4a or 4b?

Comments

Australia – 4a, based on a combination of 1b and 2a

Brazil – 4b

Canada – supported option 2a and supported the move from voluntary to mandatory nutrition labelling within the Codex framework in support of the Global Strategy. Is of the opinion that the reference to “national circumstances” within the proposed text of 3.1.1 is not needed as this is already recognized inherently in all Codex provisions. Also suggest adopting a principle around ‘implementing mandatory nutrition labelling when packaged foods exceed unpackaged’. Suggest Section 3.1. could include reference to principles in Annex x. Provide suggested edit: **3.1 Application of nutrient declaration** Nutrient declaration should be mandatory for all foods and should be implemented in accordance with the principles in Annex x.

3.1.1 Nutrient declaration should be mandatory for foods for which nutrition claims, as defined in Section 2.4, are made.

3.1.2 Nutrient declaration should be voluntary for all other foods.

Chile - 4b, and would like clarity on what is meant by ‘insignificant diet’

Costa Rica – 4b

EU – 4a, because the two separate statements clearer than when combined as in 4b

Japan – 4b

Malaysia – 4a, with an amendment to include: “... for the four core nutrients namely energy, available carbohydrate, protein and fat...”

Mexico – 4b, but question need the include the words “...‘where supported by national circumstances” as this concept is inherent in Codex

NZ – 4a as being clearer. Also suggest rewording Subsection 3.1.2 as follows: 3.1.2 Nutrient declaration should be voluntary **mandatory** for all other **packaged** foods **that require labelling, except where supported by national circumstances do not support this.**

Uruguay – 4b

US – 4b (although preferred the language given as option 2a in the 1st Paper). Suggested edit: 3.1.1 “Nutrient declaration should be mandatory for foods for which nutrition **and health claims** are made.” **Where feasible and relevant to a country’s food supply (e.g., with regard to availability of pre-packaged foods), it should be mandatory for all other foods.** Alternatively, any additional Guidance Material developed could provide more specific information.

CEFS – nil response

FDE – 4a

WSRO – considers that both options are trade barriers. Need to retain as voluntary only

Question 3. Do you agree that we should raise the issue of ‘National Considerations’ identified above under 5a, in the report of this eWG to the 40th CCFL?

Comments

Australia – Agrees but recommends ‘National circumstances’ rather than ‘national considerations’ be defined if the amendments to Section 3.1 are agreed. Notes that the national considerations listed in Section 3b are relevant when implementing mandatory nutrition labelling, rather than for use in determining whether mandatory nutrition labelling is feasible. Suggest a better starting point may be the last two dot points in the higher level principles now named Principles for Mandatory Nutrition Labelling on page 5 of the paper.

Brazil – agree, footnote for ‘national circumstances’ would be adequate

Canada – do not agree, this is inherently in Codex. Would support text in Annex, including the principle suggested re packaged versus unpackaged foods.

Chile - agree

Costa Rica - agree

EU – do not agree, Codex texts are voluntary and it is for the member countries to decide whether and how they wish to apply them.

Japan – yes, noting matters to be considered are not limited to those raised as national considerations

Malaysia – no objection

Mexico – no, there is no need for ‘where supported by national circumstances’ as it is inherent in Codex

NZ – agrees, the topic should be discussed at 40th CCFL. However suggest recommended elements for the determination of “National Circumstances” be included in the report.

Uruguay - agree

US – agree, and suggest the term “General Considerations” be used instead of “National Considerations” with an introductory sentence to explain that they are for consideration by national authorities.

CEFS – nil response

FDE - agree

WSRO – agree, to ensure all countries are aware of the dangers of implementing nutrition labelling without adequate enforcement capacity.

Question 4. Do you agree with the statements positioned as ‘National Considerations’ (refer Section 3b) as a starting point, noting further consideration may be given to the actual wording

Australia –The Principles for Mandatory Labelling or higher level principles that refer to infrastructure, legislation and cost and benefit may be a better place to start when determining if mandatory nutrition labelling is feasible for a nation.

Brazil – agree, but suggest Appendix III of ALINORM 10/33/22 be used for this purpose

Canada – refer answers to Q 2 and 3

Chile - agree

Costa Rica - agree

EU – do not agree

Japan - agree

Malaysia – no objection

Mexico – do not agree

NZ – agree and suggest proposing draft ‘National Considerations’ in the report. Infrastructure, capability and specific public health needs of the country will also need to be articulated in guidance.

Uruguay - agree

US – no objection. Suggest simplify wording of the 3rd dot point, for example: Certain foods should be exempted on the basis of nutritional and dietary insignificance, the capacity of the local food businesses....”

CEFS – nil response

FDE – agree, and suggest editing the 2nd dot point as follows: “Nutrition labelling should be presented in a way that facilitates its understanding and use by consumers in the market of sale, ~~to serve as a basis for making healthier food choices~~” (deletion of this part, which is not needed in this particular paragraph).

WSRO – agree, but suggest emphasis in the first of these principles be reversed. Public health initiatives and consumer education must be evidence based and consistent with the nutrient labelling. Labelling can support these initiatives only if they are as soundly evidence-based as the labelling agreed by Codex.

Question 5. Do you agree that we should raise the issue of ‘Guidance Material’ identified under 5b, in the report of this eWG to the 40th CCFL?

Comments

Australia – agree, and note that Appendix III of ALINORM 10/33/22 may fit this purpose

Brazil - agree

Canada – agree, and suggest that placing it in an Annex to the Guidelines could be explored. Support Appendix III of ALINORM 10/33/22 being used as guidance material as a starting point for the development of guidance to be placed in an Annex to the Guidelines, but it would require further work before it could be included. Recommend the guidance material include both the “Principles for Mandatory Nutrition Labelling” and the “National Considerations”

Chile - agree

Costa Rica - agree

EU - The EU does not consider that it is necessary to transpose the principles outlined in the issues paper into an annex to the Codex Guidelines on Nutrition Labelling. However, if considered useful, a cross reference to the Appendix III of ALINORM 10/33/22 could be made through a footnote as it provides a useful overview.

Japan - agree

Malaysia – do not object

Mexico – considers it is unnecessary to develop further material as there are already documents that provide reference and information that could be considered by the countries when they establish nutritional labelling.

NZ - New Zealand recalls from discussions at the 39th CCFL that the FAO are gathering information from countries which apply mandatory labelling, which would be posted on the FAO nutrition labelling website for convenience of interested parties. FAO is also developing capacity building tools for this. (Rep FL/11 para 67-68) This work was delayed in 2011 but is continuing in 2012. New Zealand suggests this work by FAO may provide the ‘Guidance Material’ needed by countries and that further ‘Guidance Material’ in Codex texts may not be necessary.

Uruguay - agree

US - agree

CEFS – nil response

FDE – do not see it as a priority

WSRO - Agree that these issues need to be raised but suggest that there is overlap between the issues in 5a and 5b making the separation of these two Sections unhelpful. CCFL should not recommend that countries take any action that fundamentally violates Codex principles of fair and free inter-country trade. The eWG seems to be moving towards a two speed world on food trade, in which the developed world will exclude products from less well-developed countries on the grounds that they are “insufficiently labelled” with regard to nutrient composition