



JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX COMMITTEE ON FOOD LABELLING

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REPORT OF THE VIRTUAL WORKING GROUP ON GUIDELINES ON THE APPLICATION OF FOOD LABELLING PROVISIONS IN EMERGENCIES

*Prepared by the Virtual Working Group Chair (the United States of America (USA))***Agenda Item 7: Guidelines on application of food labelling provisions in emergencies****Introduction**

A virtual working group (VWG) was convened before the 49th session of the Codex Committee on Food Labelling (CCFL49) and chaired by the USA to discuss agenda item 7 on the draft guidelines on the application of food labelling provisions in emergencies (Step 4). The VWG was conducted in English, Spanish, and French.

The aim of this session was to gain a consensus on items within scope of this discussion, including whether the document achieves suitable balance between remaining high level and providing adequate guidance to competent authorities; document structure and organization; and other issues.

The VWG Chair introduced the programme for the working group and provided background documentation (Agenda Paper 7 CX/FL 26/49/7, Comments in reply to CL 2026/09-FL in CX/FL 26/49/7 Add.1).

The VWG Chair provided a high-level summary of the development of the agenda item since CCFL48, including two rounds of consultation as part of the Electronic Working Group (EWG) that took place after CCFL49.

Discussion and recommendations on the draft guidelines on application of food labelling provisions in emergencies**Section 1 – Purpose**

“1. The purpose of these guidelines is to support **a safe and adequate food supply** during emergencies, by providing principles and general decision-making criteria. These guidelines can be used for the consideration and flexible application of food labelling requirements in emergencies that cause significant supply chain disruptions. They ensure that the food labelling flexibilities applied by competent authorities in such emergencies are temporary, justified, proportionate, and risk-based to maintain food safety and fair practices in food trade in uncertain situations.”

Discussion: The VWG expressed general agreement that the Purpose section remain mostly unchanged. Some Members discussed the need to remove references to “flexible global trade” and elevate the phrase “safe and adequate food supply”. The VWG generally agreed to these changes as capturing a critical element of this work. Some Observers noted the need for a reference to “nutrition” in the text as important to populations experiencing emergencies, but some Members had concerns with including such a reference. The VWG Chair noted that nothing in the current text precludes competent authorities from considering nutritional issues when evaluating flexibilities.

Recommendation: It is recommended that the Committee accept the addition of “a safe and adequate food supply” as sufficient to describe the Purpose of this work.

Section 2 - Scope

“2.1 These guidelines apply to the flexible application of one or more food labelling requirements by competent authorities in emergencies to maintain a safe and adequate food supply without misleading the consumer or compromising food safety (hereafter referred to as “flexibilities”). **[This guideline shall not be used by entities other than the competent authorities to [grant/implement] regulatory flexibility.]**”

Discussion: The VWG discussed if the guideline was sufficiently clear that only competent authorities may grant or implement a food labelling flexibility in times of emergency. Some Members pointed to the multiple

instances in the text that referred to the action of competent authorities, and the VWG Chair clarified that the text was directed to competent authorities. Other Members expressed concerns that more explicit language was needed in the scope section to exclude entities other than competent authorities to use the guideline as a basis for advancing such flexibilities. Bracketed text was added to scope section 2.1 to facilitate consideration of this issue. Some Members noted that this addition may be redundant and unnecessary.

Recommendation: It is recommended that the Committee consider the bracketed text in section 2.1 at CCFL49 during the plenary session, considering the VWG Chair's clarification that the guideline as a whole is directed toward the action of competent authorities.

Section 2 – other changes

A few small changes to the text were agreed by the VWG to clarify the focus on competent authorities, namely in sections 2.1.2 and 2.1.3. There was consensus in the VWG to incorporate an addition to 2.1.4 to prevent misuse of the guidelines to facilitate improper disposal of foods.

Section 3. General Considerations for Food Labelling Flexibilities in Emergencies

“3.1.9 Consider leveraging technology-based approaches (CXG 105-2024, Guidelines on the use of technology to provide food information in food labelling) ~~for other alternative means of making food information available to enhance the availability of food information~~ to all appropriate stakeholders (i.e. FBOs, countries, consumers, and competent authorities).”

Discussion: The VWG discussed the additional clause following reference to the *Guidelines on the use of technology to provide food information in food labelling* (CXG 105-2024). One Member questioned the inclusion of “other alternative means of making food information available to enhance the availability of food information”. Another Member stated that this language was intended to reflect that there may be alternative means of communicating food information beyond technology, such as accompanying documents or signage. The Chair noted that the provisions of CXG 105-2024 would apply in the context of this guideline as well. It was suggested to strike “to enhance the availability of food information” at this was redundant.

Recommendation: It is recommended that the Committee consider the bracketed text and deletion in section 3.1.9 at CCFL49 during the plenary session, in light of the VWG's discussion that the text in brackets is intended to reflect non-technology-based means of making food information available when necessary and permitted.

“3.1.11 Consider and mitigate~~/address/do not introduce~~ any specific risks for particular~~/vulnerable~~ populations within the country where the food will be consumed (e.g. infants, young children, persons with special dietary needs).”

Discussion: The VWG discussed the possibility of including reference to the need for competent authorities to consider risks to particular or vulnerable populations when reviewing and authorizing a proposed flexibility. One Member expressed general support for the inclusion of this section. Some Observers sought more detailed language and a longer list of examples of types of vulnerable populations. The VWG considered the most appropriate language to ensure particular or vulnerable populations are accounted for in competent authorities' analysis of proposed flexibilities. This discussion included the most effective action for competent authorities to assess specific risks, and how populations should be characterized (e.g. particular, vulnerable, or both).

Recommendation: It is recommended that the Committee consider the bracketed text and word choices in section 3.1.11 at CCFL49 during the plenary session. The intent of this section is to reference explicitly the need for competent authorities to consider particular or vulnerable populations in their assessment of proposed flexibilities.

3.2 Implementing and Monitoring Authorized Flexibilities

“3.2.1 When an FBO implements an authorized flexibility during an emergency, competent authorities should:

3.2.2 [Consult with any countries to which products subject to the flexibility may be exported to ensure the importing country's agreement to the authorized flexibility before exporting any such products to the importing country.]”

Discussion: The VWG extensively discussed section 3.2.2, with regard to the need for exporting countries to ensure agreement from the importing country of any product with a labelling flexibility. The VWG Chair noted the importance of this concept from the beginning of this work and the strong agreement among Members on its inclusion, subject to consensus on wording. Some Members stated that the language may be too prescriptive in stating that competent authorities “should consult with any countries to which products subject to the flexibility may be exported.” One Member stated that from their experience, food business operators themselves may at times seek flexibilities from the importing country in times of emergencies. Some Members

replied that in general, the agreement to a flexibility by an importing country would be a competent authority-to-competent authority interaction.

Recommendation: It is recommended that the committee consider the bracketed text in section 3.2.2 at CCFL49 during the plenary session. Specifically, the Committee is invited to consider how prescriptive or conditional the tone of the section should be, noting both the importance of notifying and securing agreement from importing countries in times of emergency, and also the need for competent authorities to act within their authority in context-specific situations. It is also noted that this concept of agreement from the importing country of any flexibility applied to product destined for export has been and remains a critical feature of this work.

Section 3 – other changes

There was agreement in the VWG not to include bracketed text in the former section 3.1.2 (now struck-out section 3.1.1) that had been incorporated for consideration following the Circular Letter. Several Members felt this text was not necessary as the intent of the section was already covered by other parts of the text.

In section 3.1.2, a Member suggested an addition to ensure transparency was captured and to simplify the draft text. It was agreed to incorporate the concept of fostering transparent communication in the existing text instead of adding a new sentence.

Changes in 3.1.3 were agreed in the VWG to align the section with the terminology regarding food allergens in the *General standard for the labelling of prepackaged foods* (CXS 1-1985), and in response to a Member highlighting that the word ‘hypersensitivity’ was no longer used in Codex. It was also highlighted that these changes covered the later examples of allergen and gluten labelling and the VWG therefore agreed to delete those examples in parentheses.

In 3.1.10 it was agreed to add a reference to the section 4 (general principles) of the *General standard for the labelling of non-retail containers of foods* (CXS 346-2021) to clarify that the provision applied to both texts that are referenced. There was some discussion regarding “would not compromised adherence to”, with an observer suggesting that it be replaced with “duly consider”; however some Members did not agree with the replacement and the VWG to the edit “would adhere to” for clarity and succinctness.

Numbering: In consideration of several comments received during the VWG and in response to the Circular Letter, the VWG chair has adjusted the numbering of the draft text, such that sections 4 and 5 are now sections 3.2 and 3.3, respectively.

Additional Issues:

Stakeholder communication/consultation: Multiple Observers expressed a need for more explicit and detailed text on the stakeholder communication and consultation mechanisms. The VWG Chair suggested that these Observers consider developing proposed text for consideration by the committee, noting that additional language on “clear and transparent” communication with stakeholders was added in the VWG meeting (Sec. 3.1.2).

Spanish/English Translation: One Member noted that there may be an issue with the Spanish translation in Section 3.1.1, which used stronger language than the English version. (*deben* was used instead of *deberían*, to translate the term, “should”). The VWG Chair noted that they would work with the Member to ensure an accurate Spanish translation for plenary.

Recommendations for plenary

The VWG invites CCFL49 to:

- Consider the updated draft guidelines provided in Appendix I;
- Consider if the text is ready for advancement in the Codex step process;
- If needed, consider re-establishing the electronic working group to continue to develop the draft guidelines.

APPENDIX I

DRAFT GUIDELINES ON THE APPLICATION OF FOOD LABELLING PROVISIONS IN EMERGENCIES

Edits from the VWG are bolded and underlined.

Purpose

The purpose of these guidelines is to support **a safe and adequate food supply** during emergencies, by providing principles and general decision-making criteria. These guidelines can be used for the consideration and flexible application of food labelling requirements in emergencies that cause significant supply chain disruptions. They ensure that the food labelling flexibilities applied by competent authorities in such emergencies are temporary, justified, proportionate, and risk-based to maintain food safety and fair practices in food trade in uncertain situations.

Scope

2.1 These guidelines apply to the flexible application of one or more food labelling requirements by competent authorities in emergencies to maintain a safe and adequate food supply without misleading the consumer or compromising food safety (hereafter referred to as “flexibilities”). **[This guideline shall not be used by entities other than the competent authorities to [grant/implement] regulatory flexibility.]**

2.1.2 For the purpose of these guidelines, an emergency means an exceptional and temporary event **as identified by the competent authorities** that causes significant disruption to the international, regional, national, or local food supply chain, in whole or in part. Emergencies and consequent supply chain disruptions or food shortages may occur due to scenarios including human pandemics, animal or plant disease outbreaks, environmental or natural disasters, disruption of critical infrastructure, war and humanitarian crises, drought, or other similar scenarios.

2.1.3 For the purpose of these guidelines, flexibilities are an agreement **by the competent authorities** to allow specific, risk-based, non-compliance with certain labelling provisions implemented during an emergency to the extent and for the periods strictly necessary to facilitate a safe and adequate food supply, and to support stabilization of supply chains, without compromising food safety or misleading the consumer, ~~as determined by competent authorities~~. Flexibilities may include considerations such as changes to labelling formats, labelling of ingredient substitutions that do not compromise food safety, managed depletion of existing labelling stocks, or language requirements for labelling elements that do not present food safety risk among other flexibilities as determined by competent authorities.

2.1.4 For the purpose of these guidelines, food labelling flexibilities are not intended as a means to reduce production costs, mitigate commercial trade pressures, **facilitate improper disposal**, or gain economic advantage to address non-emergency production or market-driven considerations.

2.2 These guidelines apply to both prepackaged foods (CXS 1-1985) and non-retail containers of food (CXS 346-2021). The terms “label” and “labelling” as used in these guidelines are defined in CXS 1-1985.

2.3 These guidelines are intended to facilitate the proposal, review, implementation and monitoring, and conclusion of flexibilities during and after emergencies.

2.4 These guidelines are applicable to domestic commerce **and** food in trade, subject to the agreement of the importing country.

General Considerations for Food Labelling Flexibilities in Emergencies

During an emergency, when a competent authority becomes aware of a need or proposal for a flexibility, the following guidelines apply.

3.1 Reviewing and Authorizing a Flexibility

When reviewing a proposed flexibility and/or authorizing a flexibility during an emergency, competent authorities should:

3.1.1 Ensure, as determined prior to the emergency if possible, they have sufficient authority to grant flexibilities during an emergency;

~~[3.1.1 Assess requests for flexibility in labelling requirements received from exporting competent authorities, where the proposed flexibility has been assessed by the exporting country competent authority as consistent with these guidelines.]~~

3.1.2 Apply a risk-based approach for reviewing or authorizing requests for flexibilities during an emergency, considering any stakeholder responsibilities, procedures to be followed, and communication with consumers and all relevant stakeholders and **foster a clearly and transparent** ~~communication~~ **to** all relevant stakeholders **regarding** the application of such an approach;

3.1.3 Ensure that the proposed flexibility will not compromise food safety (e.g. safety-related instructions for use) nor introduce health risks such as **allergenic foods and related food allergens or ingredients that are known to cause hypersensitivity** that are not addressed by appropriate labeling (~~e.g. allergen labeling and gluten labeling~~), and that the proposed flexibility is not misused to introduce the use of an unapproved or unsafe food or ingredient;

3.1.4 Verify that the proposed flexibility will substantially assist in mitigating the effects of the emergency on the availability of a safe and adequate food supply in the country or region in which the food is traded **and** consumed, and that existing food labelling provisions, though effective under normal conditions, would now compromise or otherwise significantly negatively impact the availability of a safe and adequate food supply;

3.1.5 Base review of the proposed flexibility on an assessment of the food safety and consumer health risks triggered by the implementation of the flexibilities relative to the emergency using all relevant, available information, evaluating any alternatives to the proposed flexibility, and confirming that the flexibility does not lead to undue competitive advantage to one or more Food Business Operators (FBOs) over others.

3.1.6 Ensure that records related to the proposed flexibility be maintained as needed;

3.1.7 Confirm with all relevant stakeholders the expected timeframe that the proposed flexibility will be necessary, ensuring that the flexibility is effective only for the period in which significant negative impacts from the emergency are experienced, and that the proposed flexibility is tailored to proportionally address significant negative impacts resulting from the emergency;

3.1.8 When considering proposed flexibilities across commodities, apply consistent principles in the application of flexibilities based on the impacts of the emergency on the availability of a safe and adequate food supply.

3.1.9 Consider leveraging technology-based approaches (CXG 105-2024, Guidelines on the use of technology to provide food information in food labelling) ~~for other alternative means of making food information available to enhance the availability of food information~~ to all appropriate stakeholders (i.e. FBOs, countries, consumers, and competent authorities).

3.1.10 Ensure that the proposed flexibility would ~~not compromise~~ adherence to Sections 3.1 and 3.2 of the *General standard on the labelling of prepackaged foods* (CXS 1-1985) **and Section 4 of the General standard for the labelling of non-retail containers of foods (CXS 346-2021)**.

3.1.11 Consider and mitigate ~~address/do not introduce~~ any specific risks for particular ~~vulnerable~~ populations within the country where the food will be consumed (e.g. infants, young children, persons with special dietary needs).

3.2 Implementing and Monitoring Authorized Flexibilities

3.2.1 When an FBO implements an authorized flexibility during an emergency, competent authorities should:

3.2.2 ~~Consult with any countries to which products subject to the flexibility may be exported to ensure the importing country's agreement to the authorized flexibility before exporting any such products to the importing country.~~

3.2.3 Monitor implementation of the flexibility, as supported by records kept by the FBO and the competent authority intended to document implementation of the flexibility and enable traceability¹ when possible in the emergency situation, and;

3.2.4 Notify, in a timely manner using all effective means, the authorized flexibility including any uses of technology, to FBOs, countries, and the public, leveraging **as appropriate** international networks such as the International Food Safety Authorities Network (INFOSAN) and other relevant international bodies **as appropriate**.

3.3 Concluding Implementation of Authorized Flexibilities

3.3.1 When concluding use of an authorized flexibility, competent authorities should:

3.3.2 Notify FBOs, countries, and the public that time-limited flexibilities offered during the emergency are no longer in effect.

3.3.3 Ensure the FBO demonstrates the cessation of the flexibility as determined by the competent authority, considering also how products produced during the emergency that remain available for sale after the emergency is over will be addressed (i.e. stock in trade).

¹ See the *Principles for traceability/product tracing as a tool within a food inspection and certification system* (CXG 60-2006)

3.3.4 ~~Where possible, e~~**E**valuate the results of any flexibilities provided during the period of the emergency in consultation with relevant stakeholders and adapt, where necessary, the country's relevant emergency plan(s) accordingly to promote resilience in future emergencies.

APPENDIX II

LIST OF PARTICIPANTS

Chair

Mr. Bryce Carson
United States of America

Members:

Argentina
Australia
Botswana
Brazil
Chile
Cote D'Ivoire
Cabo Verde
Canada
Colombia
Costa Rica
Cyprus
EU
Finland
France
The Gambia
Germany
Ghana
Haiti
India
Jamaica
Japan
Kenya
Madagascar
Morocco
New Zealand
Nigeria
Norway
Panama
Peru
Philippines
Poland
Republic of Korea
Sierra Leone
Singapore
South Africa
Spain

Sweden
Thailand
Uganda
United Kingdom of Great Britain and Northern Ireland
United States of America
Uruguay

Observers:

African Union
Alianza Latinoamericana de Asociaciones de la Industria de Alimentos y Bebidas
European Federation of Allergy and Airways Diseases Patients' Associations
European Network of Childbirth Associations
Food Industry Asia
FoodDrinkEurope
Inter-American Institute for Cooperation on Agriculture
International Baby Food Action Network
International Chewing Gum Association
International Confectionary Association
International Council of Beverages Associations
International Council of Grocery Manufacturers Associations
International Fruit and Vegetable Association
International Special Dietary Foods Industries
Safe Supply of Affordable Food Everywhere
World Food Programme

Other:

WHO
FAO
Codex Secretariat
CCFL Secretariat
CCFL Chairperson