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**Agenda item 4(c)**

**CX/FL 10/38/8**

## **JOINT FAO/WHO FOOD STANDARDS PROGRAMME**

### **CODEX COMMITTEE ON FOOD LABELLING THIRTY-EIGHTH SESSION QUEBEC CITY, CANADA, MAY 3 - 7, 2010**

#### **PROPOSED DRAFT CRITERIA AND PRINCIPLES FOR LEGIBILITY OF NUTRITION LABELLING**

(Prepared by an Electronic Working Group chaired by the United States of America with the assistance of: Argentina, Australia, Canada, Chile, Cuba, European Commission, France, Germany, Indonesia, Ireland, Japan, Korea, Malaysia, Mexico, Netherlands, New Zealand, Norway, Poland, Saint Vincent and the Grenadines, South Africa, Spain, Switzerland, Thailand, International Chewing Gum Association, International Council of Beverages Associations, International Dairy Federation, International Frozen Food Association, International Organization of Vine and Wine, World Sugar Research Organisation)

#### **I. BACKGROUND**

1. At the 36<sup>th</sup> session of the Codex Committee on Food Labelling (CCFL), the Committee, taking into consideration the recommendations in the WHO Global Strategy on Diet, Physical Activity and Health, agreed to undertake new work on proposed amendments to the Guidelines on Nutrition Labelling regarding the list of nutrients and the legibility and readability of information (para. 46, ALINORM 08/31/22).
2. At the 37<sup>th</sup> session of CCFL, the Committee considered the conclusions of electronic and physical working groups with respect to proposed draft criteria/principles for legibility and readability of nutrition labels. Following a discussion of proposed provisions, the Committee agreed to return the Proposed Draft Criteria/Principles for Legibility of Nutrition Labels to Step 3 for comments and further consideration by the next session of the Committee (para. 71, ALINORM 09/32/22).
3. In addition, the Committee agreed to establish an electronic Working Group (eWG), open to all members and observers, working in English only and led by the United States of America with the following terms of reference: (1) To further develop the Proposed Draft Recommended Principles and Criteria for the Legibility of Nutrition Labelling in Appendix III of ALINORM 09/32/22; and (2) To consider comments received from countries in response to CL 2009/15-FL and redraft the text in Appendix III for reconsideration by the Committee at the 38<sup>th</sup> session. The Committee also noted that, in accordance with the project document in Appendix VIII of ALINORM 08/31/22, universal symbols or simplified labelling are not a part of the scope or mandate of the work of the electronic working group (para. 70, ALINORM 09/32/22).

4. In August, 2009, the United States invited all CCFL members to participate in the eWG on legibility of nutrition labelling. Twenty-three countries, one member organization, and six observers expressed interest in participating in this eWG. In October, 2009, the U.S. sent a reminder to all eWG members to respond to CL 2009/15-FL given that a key part of the work of the eWG is to consider comments in response to the CL to redraft the text in Appendix III of ALINORM 09/32/22.
5. A total of fourteen responses to the CL were received. Ten countries (Australia, Brazil, Columbia, Costa Rica, India, Malaysia, Mexico, New Zealand, Norway, and the United States), the European Union, and three observers (the International Chewing Gum Association, International Council of Beverages Associations, and the International Dairy Federation) provided comments in response to the CL.
6. Taking the CL responses into account, a draft discussion paper was prepared along with a proposed redrafted version of the text in Appendix III of ALINORM 09/32/22. The draft discussion paper was distributed in December 2009 for comments from eWG members on the proposed redrafted principles and criteria.
7. A total of twelve comments were received in response to the draft discussion paper. Ten countries (Australia, Canada, Indonesia, Japan, Korea, Malaysia, Mexico, New Zealand, Norway, and Thailand), the European Union, and one observer (the International Dairy Federation) provided comments in response to the draft discussion paper and proposed redrafted text.
8. This final discussion paper containing the redrafted principles and criteria was prepared taking into account all comments received from eWG members. A discussion of comments received and redrafting of the principles and criteria for legibility of nutrition labelling that were considered by eWG members are presented below.
9. A complete summary of CL responses, compilation of eWG members' responses to the draft discussion paper, list of eWG participants, and final timeline for completion of work were shared with eWG members as separate attachments to this final discussion paper.

## **II. DISCUSSION OF COMMENTS AND REDRAFTED PRINCIPLES AND CRITERIA FOR LEGIBILITY OF NUTRITION LABELLING**

10. **General comments** – One comment noted the inconsistent use of the term “national authorities” versus “competent authorities” in the text in Appendix III of ALINORM 09/32/22 and recommended that any one of these terms should be used consistently throughout the text.
11. At the 62<sup>nd</sup> session of the Executive Committee of the Codex Alimentarius Commission, the Committee noted the inconsistent use of the terms “national competent authority” and “competent national authority” or other versions and similar discussions in CCFL and recommended that CCFL and CCFNSDU harmonize the different terms to read “competent authority” (paragraph 63 of ALINORM 09/32/3). In light of this recommendation of the Executive Committee, the term “competent authorities” is used consistently throughout the text in the redrafted text.
12. **Provisions 1-4** – Appendix III of ALINORM 09/32/22 presents two Options with respect to the general principles for legibility of nutrition labelling. At the 37<sup>th</sup> CCFL session, the Committee could not reach consensus on how these principles should be expressed and agreed that both options would be retained for comments and further consideration.
13. A majority of comments in response to the CL supported Option Two stating that this option avoids repetition and the need for updating if the principles in section 8 of the General Standard are revised. Some others, however, supported Option One stating that the principles in section 8 of the General Standard were adapted for specific application to nutrition labelling and that incorporating the full text of the General Standard principles will provide easier reference for users. Two comments noted that the legibility principles outlined in section 8.1 of the General Standard should also apply when a

supplementary label is used in accordance with section 8.2, which one of these comments expressed is particularly important when there is more than one official language in a country for labelling purposes. It should be noted that all comments supported the intent of these two Options, i.e., to apply the identified principles from the General Standard to nutrition labelling.

14. In the redrafted text, it is recommended that Option Two should be retained and the square brackets removed. Additional text to retain the last phrase from Option One is inserted in square brackets for further consideration by the Committee.
15. **Provision 5** – A number of comments supported the flexibility offered by this provision and some offered suggestions for improving the text. A few comments expressed concern that the flexibility in this provision that allows for alternative approaches to be identified at the national level based on their consumer needs may result in non-compliance with the other provisions of this section such as tabular format, order, font, and numerical presentation. In this context, these comments recommended the use of the term “additional” in place of “alternative” in the second sentence of this provision. Some comments to the draft discussion paper did not object to the insertion of the term “additional” while others recommended its use in place of the term “alternative” and, therefore, both terms are retained in square brackets in the redrafted text. One comment recommended deletion of the entire second sentence of this provision.
16. In the redrafted text, the provision is retained with the phrase “additional or alternative” in square brackets for further discussion at the plenary. Other minor edits as suggested by eWG members are inserted.
17. **Provision 6** – Appendix III of ALINORM 09/32/22 presents two Options with respect to the format of presentation of nutrition labelling. At the 37<sup>th</sup> CCFL session, the Committee discussed both options but could not reach consensus and, therefore, agreed to retain both options for further consideration.
18. Some comments supported Option One stating this option provides sufficient flexibility for consideration of additional elements of presentation to enhance legibility. In contrast, other comments supported Option Two stating that this option provides more flexibility at the national level and allows for aspects other than legibility (such as prominence) to be considered as a presentation element. One observer objected to both Options stating that the format for expressing nutrient content should be left to national discretion to accommodate the unique characteristics of language and presentation.
19. A majority of comments did not object to the text that is common to both Options, i.e., that nutrient content should be declared in a numerical, tabular format and that where there is insufficient space for a tabular format, nutrient declaration may be presented in a linear format. It should also be noted that general flexibility with respect to presentation of nutrition labelling is already incorporated within provision 5 and would apply to formats and/or formatting elements.
20. In the redrafted text, it is recommended that the text that is common to both Options should be retained and the square brackets removed.
21. **Provision 7** – A majority of comments supported this provision with respect to the order of nutrient declaration. One comment recommended that energy, fat, carbohydrate, and protein should be in the stated fixed order and countries should have the flexibility to set the order for other nutrients as needed. One comment expressed the need for flexibility and stated that the order of nutrients is not an element that adds value in terms of information to the consumer and may create unnecessary restrictions for trade.
22. In the redrafted text, it is recommended that this provision should be retained as is and the square brackets removed.

23. **Provision 8** – With respect to the provision on font, a few comments supported the consideration of a minimum font size whereas some others did not. One comment suggested that the provision on minimum font size should be moved to the General Standard to ensure legibility of all labelling information and not simply nutrition labelling. Some comments either disagreed with prescribing a minimum font size or suggested that the specific circumstances of minimum font size or the appropriate minimum font size itself should be determined by national authorities. Two other comments suggested that additional features related to font, such as the use of a single non-decorative font, bold letters, and upper and lower case letters, should be considered, while one other comment expressed concern that such a text may be overly prescriptive.
24. Nearly all of the comments supported maintaining a significant contrast between text and background as an element of presentation. One comment asked for clarification on what is meant by “significant contrast” and how this provision relates to section 8.1.2 of the General Standard. Two comments suggested changes to the term “visible” in relation to this provision. In addition, two comments noted that minimum font size and contrast between text and background are distinctly separate issues and should be considered independently.
25. In the redrafted text, it is recommended that the text related to font size and significant contrast should be considered as separate provisions. The text on minimum font size is revised to clarify that a minimum font size for the presentation of nutrient content should be considered by competent authorities, as necessary to ensure the legibility of nutrition labelling. Three additional features related to font are inserted in square brackets for further consideration by the Committee. The text on significant contrast is retained with minor edits and a replacement of the term “visible” with “legible”.
26. **Provision 9** – At the 37<sup>th</sup> CCFL session, the Committee agreed to delete this provision as it was captured within section 8.2 of the General Standard, which is referenced in the proposed provisions 1-4. Comments supported the deletion of this provision on language of nutrient declaration and noted that its intent is already covered under the proposed general provisions in 1-4. In the redrafted text, this provision remains deleted.
27. **Provision 10** – Nearly all of the comments supported retaining this provision on numerical presentation of nutrient content. One comment suggested consideration to limit the use of abbreviations that appear in nutrition labelling. One observer, while agreeing with the general principle on numerical presentation, asked that modifications be made to allow flexibility in national practices in the following areas: energy value (could be expressed as calories, kilocalories or kilojoules) (reference: 3.4.2 of the Guidelines on Nutrition Labelling); sodium (could be expressed as milligrams or grams), and sodium (always declared as the nutrient and not as the ingredient). In the redrafted text, this provision remains as is.
28. **Provisions 11 and 12** – Comments supported the need for special provisions for nutrition labelling on small-sized packages provided no nutrition or health claims are made in the labelling of these packages. In this context, comments supported both provisions with some suggestions for improving the text. While some countries asked for specific guidance from CCFL on what constitutes a small package, others proposed specific sizes to be considered as “small packages.” Two other comments suggested that the definition of small packages could be left to be determined by competent authorities if there is no consensus in the Committee.
29. However, comments also noted that these provisions should be considered in light of CCFL’s ongoing work related to the list of nutrients that are always declared. It was also pointed out that provision 11 applies only when nutrition labelling is mandatory and, in this context, exemptions for small sized packages and other special provisions (for example, refillable glass bottles and products with minimal or no nutritional value) should be considered in light of CCFL’s work related to mandatory nutrition labelling. Therefore, some comments noted that both of these provisions should

remain in square brackets for further consideration by the Committee. Two other comments questioned whether these issues are within the scope of this eWG on legibility of nutrition labelling and recommended the deletion of these provisions from the redrafted text.

30. In the redrafted text, both of these provisions are retained as they are in square brackets. However, it is recommended that the Committee recognize that these issues go beyond the scope of simply legibility of nutrition labelling and further consider these provisions in the context of CCFL's ongoing work related to mandatory nutrition labelling and the list of nutrients that are always declared and other broader issues related to nutrition labelling.
31. **Bullet point 1** – At the 37<sup>th</sup> CCFL session, the Committee agreed that this provision was not necessary given existing sections 2.3 and 2.5 of the Guidelines on Nutrition Labelling and, therefore, decided to delete it. Some comments supported the deletion of this provision. However, two comments suggested that this provision may need to be reconsidered to ensure that nutrition information is not cluttered. In the redrafted text, this provision remains deleted, as preferred by most comments.
32. **Bullet point 2** - Overall, comments supported the intent of this provision. However, a majority of comments questioned the need for inclusion of this provision in this text, particularly given that it is an existing provision in section 3.2.7 of the Guidelines on Nutrition Labelling. They stated that the need for repeating it is unclear. Therefore, these comments suggested deleting this provision. In the redrafted text, this provision is recommended for deletion.
33. **Bullet point 3** – Overall, comments supported further consideration of this provision on declaration of insignificant amounts of nutrients. Some noted that an amount of nutrient that would be considered “insignificant” needs to be clarified. Others commented that this provision may need to be considered in a context other than principles of legibility of nutrition labelling. A majority of comments, however, expressed concern with the last phrase within this provision which could result in a complete exemption from nutrition labelling when a nutrient is present in an insignificant amount.
34. eWG members considered a proposed redrafted version of this provision in the draft discussion paper. A majority of comments supported the revisions to delete the last phrase on exemption from nutrition labelling and to clarify the intent of the proposed provision that “insignificant” is determined by competent authorities at the national level. However, comments also reiterated that this provision is not related to the legibility of nutrition labelling and, therefore, outside of the scope of this work. These comments did not disagree with the value and utility of this provision but recommended considering it further in the context of other broader issues related to nutrition labelling.
35. In the redrafted text, this provision is recommended for deletion as it is outside of the scope of legibility of nutrition labelling. However, it is also recommended that this provision be further considered by CCFL in the context of other broader issues related to nutrition labelling.
36. **Bullet point 4** – Overall, comments supported further consideration of this provision. However, one comment questioned whether this provision fits within the context of legibility of nutrition labelling and whether it should be considered as part of the Guidelines on Nutrition Labelling itself. Some comments that supported the provision expressed preference for the word “should” rather than “may” while two other comments did not support this provision and stated that nutrient content should be based on the food as sold. One of these comments suggested that such details of nutrition labelling should be left to national authorities.
37. Two other comments asked the Committee to consider foods such as milk powder which may be used in different ways such as in dried form as an ingredient or reconstituted with water for direct consumption as a beverage. One of these comments recommended the use of the term “may” rather than “should” in the first sentence of the provision. This issue may be reviewed further as the

Committee considers this provision. It may also need to be clarified that the scope of this provision relates to those foods that “should” be reconstituted or drained before consumption, as recommended by directions on the label.

38. eWG members further considered whether this provision and related issues about presentation of nutrition information on foods that should or may be reconstituted or drained prior to consumption is relevant to the work of this eWG on legibility of nutrition labelling. eWG members also reflected on whether this issue should be referred for consideration by the Committee in the context of other broader issues related to nutrition labelling.
39. While not disagreeing with the importance of this provision to ensure that nutrition information is provided in a manner that is meaningful to consumers, many comments noted that this provision is not related to the legibility of nutrition labelling and is outside of the scope of this work. These comments recommended the Committee’s consideration of this provision in the context of other broader issues related to nutrition labelling.
40. In the redrafted text, this provision is recommended for deletion as it is outside of the scope of legibility of nutrition labelling. However, it is also recommended that this issue be further considered by CCFL in the context of other broader issues related to nutrition labelling.
41. **Bullet point 5** – A majority of comments questioned the need for and appropriateness of this provision. Some noted that it does not fit within the principles of legibility of nutrition labelling while others stated that such details of nutrition labelling requirements are best left to the determination of national authorities. In the redrafted text, this provision is recommended for deletion.
42. **Bullet point 6** – A majority of comments questioned the need for and appropriateness of this provision within the principles of legibility of nutrition labelling. Again, this issue may be more appropriately considered by the Committee in the context of other broader issues related to nutrition labelling. In the redrafted text, this provision is recommended for deletion.
43. **Bullet point 7** – A majority of comments questioned the need for and appropriateness of this provision given existing principles in the General Standard. In the redrafted text, this provision is recommended for deletion.
44. **Placement of Proposed Draft Recommended Principles** – The placement of the proposed principles for legibility of nutrition labelling was not discussed at the 37<sup>th</sup> CCFL session. eWG members considered the appropriate placement of the redrafted text and whether it should be placed as a new section within the Guidelines on Nutrition Labelling. Based on comments from eWG members, it is recommended that the redrafted text be placed within the Guidelines on Nutrition Labelling as a new section titled “Legibility of Nutrition Labelling” following existing section 3 on Nutrient Declaration and prior to section 4 on Supplementary Nutrition Information.

### III. RECOMMENDATIONS

45. Overall, eWG members were supportive of the work to develop principles and criteria for the legibility of nutrition labelling. The text in Appendix III of ALINORM 09/32/22 is redrafted taking into account all comments received in response to CL 2009/15-FL and to the draft discussion paper that contained a proposed redrafted version of the text.
46. It is recommended that the 38<sup>th</sup> Session of CCFL further consider the redrafted text on principles and criteria for legibility of nutrition labelling, which is presented in Annex I of this discussion paper. The eWG also recommends the placement of these principles and criteria as a new renumbered section 4 titled “Legibility of Nutrition Labelling” in the Codex Guidelines on Nutrition Labelling.
47. Finally, the eWG recommends that CCFL further consider the provisions on (a) nutrition labelling of small packages (provisions 11 and 12); (b) declaration of insignificant amounts of nutrients (bullet

point 3); and (c) presentation of nutrient content where foods are reconstituted or drained before consumption (bullet point 4), in the context of other broader issues related to nutrition labelling. We ask the Committee to refer these provisions to be considered under the umbrella of ongoing work on the list of nutrients that are always declared and issues related to mandatory nutrition labelling.

48. The United States thanks eWG members and other countries that provided comments to the CL for their input into this work. The U.S. looks forward to further discussion of this agenda item at the plenary session.

## ANNEX I

**REDRAFTED TEXT ON PRINCIPLES AND CRITERIA FOR LEGIBILITY OF NUTRITION LABELLING**

The following is a redraft of the text in Appendix III of ALINORM 09/32/22 taking into account all comments that were received both in response to CL 2009/15-FL and in response to the draft discussion paper that contained a proposed redrafted version of the text. **In the redrafted text, all proposed additions are underlined and all proposed deletions are in strike-out format.** The redrafted provisions are renumbered accordingly.

**PROPOSED DRAFT RECOMMENDED PRINCIPLES AND CRITERIA FOR LEGIBILITY OF NUTRITION LABELLING**

## GENERAL PRINCIPLES

~~Option One~~

~~(1) Nutrition labelling shall be applied in such a manner that it will not become separated from the container.~~

~~(2) Nutrition labelling shall be clear, prominent, indelible, and readily legible by the consumer under normal conditions of purchase and use.~~

~~(3) Where the container is covered by a wrapper, the wrapper shall carry the nutrition labelling or the existing nutrition labelling on the inner container shall either be readily legible through the outer wrapper or not be obscured by the outer wrapper.~~

~~(4) Consistent with Section 8.2 of the General Standard for the Labelling of Prepackaged Foods, if the language on the original label is not in accordance with national legislation, a supplementary label containing the nutrient declaration in the required language may be used instead of relabelling. In the case of either relabelling or a supplementary label, the information provided must be in accordance with national legislation and should accurately reflect that in the original label. Principles 1, 2 and 3 above should be applied to any supplementary nutrition labels.]~~

## Option Two

~~(1) [In the case of nutrition labelling whether applied on a mandatory or voluntary basis, the principles of Sections 8.1.1, 8.1.2, 8.1.3 and 8.2 of the Codex GSLPF General Standard for the Labelling of Prepackaged Foods (CODEX STAN 1-1985) should be applied.] [Sections 8.1.1, 8.1.2 and 8.1.3 should be applied to any supplementary nutrition labels.]~~

~~SPECIFIC ELEMENTS~~ FEATURES OF PRESENTATION

~~(2)~~ ~~(5)~~ These recommendations related to specific ~~elements~~ features of presentation are intended to ~~facilitate and enhance~~ the legibility of nutrition labelling. However, ~~national~~ competent authorities may determine any [additional or alternative] means of ~~nutrition~~ presentation of nutrition information taking into account approaches and practical issues at the national level and based on the needs of their consumers.

~~(6) [Option One Format: Nutrient content should be declared in a numerical, tabular format. Consideration may be given to other formatting elements to enhance legibility. Where there is insufficient space for a tabular format, nutrient declaration may be presented in a linear format.]~~

~~{Option Two Format: Nutrient content should be declared in a numerical, tabular format. Consideration may be given to other formats that enhance prominence. Where there is insufficient space for a tabular format, nutrient declaration may be presented in a linear format.}~~

(3) Format – Nutrient content should be declared in a numerical, tabular format. Where there is insufficient space for a tabular format, nutrient declaration may be presented in a linear format.

~~(4) (7) {Order – (i)-Nutrients should be declared in a specific order developed by competent authorities and should be consistent across food products.}~~

(5) (8) Font – A minimum font type size should be considered, as needed, by competent authorities to ensure the legibility of nutrition labelling. [A single, standard font that is not decorative should be used. Competent authorities should consider a mix of upper and lower case letters and bolding of the title and names of nutrients.]

(6) Contrast – A significant contrast should be maintained between the text and background so as to be that the nutrition information is clearly visible legible.

~~(9) Language – The language of nutrient declaration should be according to national legislation in the country of sale. See also (4) above.~~

(7) (40) Numerical Presentation – The numerical presentation of nutrient content should be in accordance with the provisions of Section 3.4 of the Guidelines on Nutrition Labelling (CAC/GL 2 - 1985).

#### EXEMPTIONS AND SPECIAL PROVISIONS

~~[(8) (11) Small packages may be exempt from nutrient declaration, provided no nutrition or health claim is made in the labelling of that food. Small packages are defined as packages with a largest printable surface of less than XX cm<sup>2</sup> (TO BE DETERMINED)].~~

[(9) (12) To accommodate nutrition labelling of small packages, national competent authorities may also consider the declaration of a shortened, minimum set of key nutrients.]

#### ~~{OTHER PROVISIONS FOR CONSIDERATION~~

~~• The contents of only those nutrients that are listed in section 7(i) may be declared within the nutrition table. Other substances or ingredients should not be declared within the nutrition table.~~

~~• In the case where a product is subject to labelling requirements of a Codex Standard, the provisions for nutrient declaration set out in that Standard should take precedence.~~

~~• Where the amount is considered to be insignificant, there should be a possibility to declare the value as “0” or “traces” or as defined at the national level or to exempt from nutrition labelling.~~

~~(RECOMMEND FURTHER CONSIDERATION OF THIS PROVISION IN THE CONTEXT OF BROADER ISSUES RELATED TO NUTRITION LABELLING.)~~

~~• Where a food should be reconstituted with water before consumption, nutrient content [should/may] relate to the proportion of the food as so reconstituted. Similarly, where the food is labeled with directions that it should be drained before consumption, the label [should/may] indicate that nutrient content relates to the drained food.~~

~~(RECOMMEND FURTHER CONSIDERATION OF THIS PROVISION IN THE CONTEXT OF BROADER ISSUES RELATED TO NUTRITION LABELLING.)~~

~~• With respect to small packages, consideration may be given to allowing the label to provide a website or phone number where consumers can obtain the nutrition information, or requiring that nutrition information be provided on or in connection with the display of the food or provided to the purchaser upon request.~~

- ~~• Alternative means of presentation of nutrition information may be considered for refillable glass containers.~~
- ~~• Packages with shapes such that a label cannot be affixed may provide nutrition labelling through the use of tags, provided the tags are affixed for the life of the product and do not easily fall off or separate from the container.~~