

Codex Committee on Food Labelling

(39th Session)

Quebec City, Canada

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**European Union comments on Circular Letter 2010/19-FL
"Request for comments and information at Step 3 on the
proposed draft Recommendations for the Labelling of Foods and
Food Ingredients obtained through Certain Techniques of Genetic
Modification/Genetic Engineering"**

The European Union and its 27 Member States (EUMS) appreciate the opportunity to comment on Circular Letter 2010/19-FL.

The EUMS welcome the fact that CCFL has supported continued work on the important issue of GM labelling, an issue which is a matter of concern or which raises questions for most consumers all over the world. That is undoubtedly a very good reason to devote Codex time and resources to this issue, even if consensus is difficult to obtain.

The EUMS believe it is useful at this stage to recall the exact mandate given by the 19th Session of the Codex Alimentarius Commission in 1991 (ALINORM 91/40 para.90): The Codex Alimentarius Commission *"noted that while consumers would benefit from "modern" food biotechnology, some consumers felt that this technology would pose certain problems. For example, individual consumers might, on ethical or other grounds, not wish to buy foods derived from "modern" biotechnology. The Commission requested the Codex Committee on Food Labelling to provide guidance on how the fact that a food was derived from "modern" biotechnologies could be made known to the consumers."*

The text which was developed by the Working Group in Ghana on the basis of the Background Paper developed by the United States, Canada and Nigeria, represents a good starting point for the discussion.

Before detailing our comments on the text itself and as requested by paragraph 160 of the report from last session of CCFL, the EUMS would like to clearly state what are their objectives and their underlying rationales:

The **first objective** is that Codex should acknowledge that several approaches for GM labelling are conceivable, from total absence of labelling to full labelling. This was a clear

outcome of the working group which took place in Oslo in February 2007 where 6 approaches¹ were identified:

1. Mandatory GM labelling as such of all foods derived from or containing ingredients derived from organisms produced using gene technology (food consisting of, containing or produced from GMOs);
2. Mandatory GM labelling as such of GM foods and food ingredients where novel DNA and/or protein are present in the final food;
3. Mandatory GM labelling as such of GM food where it is significantly different from its conventional counterpart and where GM labelling is required in addition to the significant change;
4. Mandatory labelling of GM foods where it is significantly different from its conventional counterpart and where only the significant difference is labelled, but not the method of production;
5. Voluntary labelling (Voluntary labelling guidelines for foods that are or are not products of genetic engineering);
6. No special labelling requirements for bioengineered foods as a class of foods.

All these approaches aim at addressing consumers' needs and in some instances food producers willingness to provide information which may vary across the world and there are valuable arguments behind each of this approach. Every Codex member should be in a position to choose one of these approaches according to its policy and to the needs of its consumers. Informing the consumers about the nature of the food is totally in line with one of the two basic objectives of Codex which is to "ensure fair practices in the food trade".

The **second objective** is to give guidance to developing countries. This request was repeated at many occasions during the recent plenary sessions of CCFL. Several approaches are currently implemented all over the world in various countries. Many countries, including developing countries, have on-going reflections on the approach to follow and would welcome general guidance by Codex. This is really the basic mission of Codex: give guidance to its members. This guidance should take the form of an official Codex text; this essential task cannot indeed be delegated to another body or its content cannot be relegated in a "non-paper" or a background paper. Such guidance would define a general framework with the view to progress in the harmonization of requirements applied to foods and in doing so to facilitate international trade.

The **third objective** is to clarify that GM labelling is not directly linked to safety as such. Every food on the market has to be safe and Codex has developed guidance for the safety assessment of GM foods. Labelling is for consumer information to allow him/her to make informed choices (in line with the 2nd objective of Codex: ensure fair practices in the food trade).

The EUMS also want to make very clear that they do not have the intention nor the objective to impose GM labelling to the rest of the world. The European policy regarding GM labelling was designed to address the needs expressed by the European consumers who want to decide

¹ Approach 7 : "Labelling requirements under development" is by definition a temporary status.

themselves whether or not they want to eat GM foods and make informed choices. This policy is widely supported by European citizens. It is also administered in a non-discriminatory manner and applies equally to domestic production and imports.

Appendix X of ALINORM 10/33/22:

**PROPOSED DRAFT RECOMMENDATIONS FOR THE LABELLING OF FOODS
AND FOOD INGREDIENTS OBTAINED THROUGH CERTAIN TECHNIQUES OF
GENETIC MODIFICATION/GENETIC ENGINEERING**

(At Step 3 of the Procedure)

~~*[Chapeau version 1: The purpose of this document is only to recall and assemble in a single document some important elements of guidance from Codex texts, which are relevant for the labelling of foods derived from modern biotechnology. It also recognizes that each country can adopt different approaches regarding labelling of foods derived from modern biotechnology **and that food labelling is the primary means of communications between the seller on the one hand and the purchaser and consumer on the other.** This document is not intended to suggest or imply that foods derived from modern biotechnology are necessarily different from other foods simply due to their method of production.]*~~

Comment: The EUMS are in favour of a version close to the "Chapeau 2 as amended by Brazil" which states the essential message in a short text:

Chapeau 2 as amended by Brazil (discussed in May 2010):

“The purpose of this document is to recall and assemble in a single document some important elements of guidance from Codex texts which are relevant for the labelling of foods obtained by GM/GE techniques. It also recognizes that each country can adopt different approaches regarding labelling of foods obtained by GM/GE techniques and that food labelling is the primary means of communications between the seller on the one hand and the purchaser and consumer on the other.”

The EUMS cannot accept the last sentence of chapeaus 1 and 2. Codex established a specific Taskforce on Foods Derived from Biotechnology and produced a series of texts addressing risk analysis and safety assessment of these foods since, for consumers, there is a difference between GM and conventional foods just as there is a difference between organic/non organic, irradiated/non irradiated, halal/non halal foods and that Codex members may wish to inform their consumers about this difference to address their expressed needs. In addition, the fact that Codex established a specific Taskforce on Foods derived from Modern Biotechnology and produced a series of texts addressing risk analysis and safety assessment of these foods clearly demonstrates that the use of modern biotechnology is specific and deserves specific approaches in terms of risk analysis.

~~*[Chapeau version 2: Acknowledging that different approaches regarding labelling of foods derived from modern biotechnology are available, the purpose of this document is only to recall and assemble in a single document some important elements of guidance from existing Codex texts, which are relevant for the labelling of foods derived from modern biotechnology. This document is not intended to suggest or imply that foods derived from modern biotechnology are necessarily different from other foods simply due to their method of production.]*~~

[Text as annexed to report of the 36th Session of the CCFL:

1. The following Codex standards and related texts contain provisions applicable to the labelling of food products and may be applied to foods obtained by GM/GE:]

- The Codex General Standard for the Labelling of Prepackaged Foods, (Codex Stan 1-1985)
- The Codex General Guidelines on Claims (CAC/GL 1-1979)
- The Codex Guidelines for Use of Nutrition and Health Claims (CAC/GL 23-1997)
- Principles for Risk Analysis of Foods Derived from Modern Biotechnology (CAC/GL 44-2003);
- Guidelines for the Conduct of Food Safety Assessments of Foods Derived from Recombinant-DNA plants (CAC/GL 45-2003)
- Guidelines for the Conduct of Food Safety Assessments of Foods Derived from Recombinant-DNA microorganisms (CAC/GL 46-2003)
- Guideline for the Conduct of Food Safety Assessment of Foods derived from Recombinant-DNA Animals (CAC/GL 68-2008)
- Working Principles for Risk Analysis for Food Safety for Application by Governments (CAC/GL 62-2007)
- The Codex Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods (CAC/GL 32-1999)

Comment: Within the framework of Codex, the voluntary labelling of organically produced foods already refers to GM material by stating that all materials and/or the products produced from genetically engineered/modified organisms are not compatible with the principles of organic production.

2. Codex labelling and other texts **also** apply to foods sold in unpackaged/non-retail containers including those foods obtained through GM-GE techniques and sold in such manner. Labelling means “any written, printed or graphic matter that is present on the label, accompanies the food, or is displayed near the food, including that for the purpose of promoting its sale or disposal.”

Comment: Codex labelling and other texts apply to both pre-packaged foods and foods sold in unpackaged/non retail containers depending on their specific scope.

3. Labelling of a food **is intended to provide essential information to the consumer is and placing on the market should only be** considered ~~only~~ after the food has undergone appropriate assessments to deem it safe for human consumption. Codex has adopted several

texts, which address the safety aspects of GM/GE foods, and which are available to Codex Members Countries for this purpose².

Comment: GM labelling is not directly linked to safety as such. Every food on the market has to be safe and Codex has developed complete guidance for the risk assessment of GM foods. Labelling is for consumer information to allow him/her to make informed choices (in line with the 2nd objective of Codex: ensure fair practices in the food trade).

3bis. The Principles for the Risk Analysis of Foods Derived from Modern Biotechnology (CAC/GL 44-2003) state that risk management measures related to foods derived from modern biotechnology "may include, as appropriate, food labelling conditions for marketing approvals and post-market monitoring" (para.19).

Comment: Food labelling requirements may be part of risk management measures. It is at the level of risk management carried out at national level that consumers' needs may be addressed.

4. The Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants (CAC/GL 45-2003) states that the “transfer of genes from commonly allergenic foods . . . should be avoided unless it is documented that the transferred gene does not code for an allergen . . .”.

5. The presence in any food or food ingredients obtained through biotechnology of an allergen transferred from any of the products listed in section 4.2.1.4 shall be declared. When it is not possible to provide adequate information on the presence of an allergen through labelling, the food containing the allergen should not be marketed (section 4.2.2, GSLPF).

6. When the physical, chemical, or functional characteristics of a food are significantly altered through any means (production or processing), the labelling of such food **should** be appropriately modified from its traditional labelling to ensure that the food is described or presented in a manner that is truthful and not misleading and not likely to create an erroneous impression regarding its character in any respect. The traditional name of such food may need to be changed or qualified with additional words or phrases to describe the true nature of the food and to avoid misleading or confusing the consumer.

Comment: Paragraph 6 could be moved above paragraph 4 as it is of a more general nature than allergens. The structure would thus be: 1 alterations of all nature, 2 transfer of allergen as specific alteration for which precise rules already exist, 3 claims, 4: information regarding GM/GE origin.

7. In cases where GM/GE modifications result in a claim related to the nutritional properties of the food, the claim language should be consistent with the Guidelines for Use of Nutrition and Health Claims.

8. The provisions in existing Codex texts can be applied to labelling statements related to GM/GE foods.

² 2 Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants (CAC/GL 45-2003); Guideline for the Conduct of Food Safety Assessment of Foods Produced Using Recombinant-DNA Microorganisms (CAC/GL 46-2003).

9. Codex labelling texts apply to representation used to provide information to enable consumer choice about the food they purchase and/or when used by marketers to indicate that a food meets certain consumer preferences. It can be decided to label food products as GM/GE foods when the products (or at least one ingredient) are obtained through certain techniques of genetic modification/genetic engineering, irrespectively of changes in the final product. In the case of pre-packaged products consisting of, containing or produced with, GMOs, the list of ingredients could indicate e.g. "genetically modified" or "produced from genetically modified [name of the organism]". In the case of products without packaging, these words could be clearly displayed in close proximity to the product (such as a note on the food store shelf).

Comment: Several approaches are possible depending on the Codex Members' policy. The objective of these additions is to give an example on how GM labelling could materialise.

10. Any representations made on the label or in the labelling of GM/GE foods should be consistent with the GSLPF (Codex Stan 1-1985) and the General Guidelines on Claims (CAC/GL 1-1979).

Table 1. Provisions in existing Codex labelling texts that apply to the labelling of GM/GE foods

Section Mandatory Labelling Provisions

General Standard for the Labelling of Prepackaged Foods

- 3.1 Prepackaged food shall not be described or presented on any label or in any labelling in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character in any respect.
- 3.2 Prepackaged food shall not be described or presented on any label or in any labelling by words, pictorial or other devices which refer to or are suggestive either directly or indirectly, of any other product with which such food might be confused, or in such a manner as to lead the purchaser or consumer to suppose that the food is connected with such other product.
- 4.1.1 The name [of the food] shall indicate the true nature of the food and normally be specific and not generic.
- 4.1.2 There shall appear on the label either in conjunction with, or in close proximity to, the name of the food, such additional words or phrases as necessary to avoid misleading or confusing the consumer in regard to the true nature and physical condition of the food including but not limited to the type of packaging medium, style, and the condition or type of treatment it has undergone; for example, dried, concentrated, reconstituted, smoked.
- 4.2.2 The presence in any food or food ingredients obtained through biotechnology of an allergen transferred from any of the products listed in section 4.2.1.4 shall be declared.

When it is not possible to provide adequate information on the presence of an allergen through labelling, the food containing the allergen should not be marketed.

Principles for Risk Analysis of Foods Derived from Modern Biotechnology

Para. 19 **Risk management measures may include, as appropriate, food labelling conditions for marketing approvals and post-market monitoring.**

Section Voluntary Labelling Provisions

General Standard for the Labelling of Prepackaged Foods

7.1 Optional labelling – Any information or pictorial device written, printed, or graphic matter may be displayed in labelling provided that it is not in conflict with the mandatory requirements of this standard and those relating to claims and deception given in section 3 – General Principles.

General Guidelines on Claims

1.2 The principle on which the guidelines are based is that no food should be described or presented in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character in any respect.

1.3 The person marketing the food should be able to justify the claims made.

2 Definition – For the purpose of these guidelines, a claim is any representation which states, suggests, or implies that a food has particular characteristics relating to its origin, nutritional properties, nature, production, processing, composition or any other quality.

3.3 Prohibited claims – Claims which cannot be substantiated.

3.5 Prohibited claims – Claims which could give rise to doubt about the safety of similar food or which could arouse or exploit fear in the consumer.

4.1 Potentially misleading claims – Meaningless claims including incomplete comparatives and superlatives.

5.1(iii) Conditional claims – Terms such as “natural,” “pure,” “fresh,” “home made,” “organically grown,” and “biologically grown” when they are used, should be in accordance with the national practices in the country where the food is sold. The use of these terms should be consistent with the prohibitions set out in Section 3.

5.1(v) Conditional claims – Claims that a food has special characteristics when all such foods have the same characteristics, if this fact is apparent in the claim.

5.1 (vi) Conditional claims – Claims which highlight the absence or non-addition of particular substances to food may be used provided that they are not misleading and provided that the substance:

(b) is one which consumers would normally expect to find in the food;

(d) is one whose presence or addition is permitted in the food.

Guidelines for Use of Nutrition and Health Claims]

Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods

1.5 **All materials and/or the products produced from genetically engineered/modified organisms (GEO/GMO) are not compatible with the principles of organic production (either the growing, manufacturing, or processing) and therefore are not accepted under these guidelines.**

2.2 **The following provisional definition is provided for genetically/modified organisms. Genetically engineered/modified organisms, and products thereof, are produced through techniques in which the genetic material has been altered in a way that does not occur naturally by mating and/or natural recombination. Techniques of**

genetic engineering/modification include, but are not limited to: recombinant DNA, cell fusion, micro and macro injection, encapsulation, gene deletion and doubling. Genetically engineered organisms will not include organisms resulting from techniques such as conjugation, transduction and hybridization.