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**CODEX COMMITTEE ON FOOD LABELLING
Thirty-eighth Session**

European Union comments on the

**Proposed Draft Recommendations for the Labelling of Foods and Food
Ingredients Obtained through
Certain Techniques of Genetic Modification/Genetic Engineering**

Comments at Step 3

(CL 2009/15-FL - Part B - Point 5)

The European Union and its 27 Member States (EUMS) are pleased to submit their comments on Part B, item 5 of Codex Circular Letter CL 2009/15-FL "Proposed Draft Recommendations for the Labelling of Foods and Food Ingredients Obtained through Certain Techniques of Genetic Modification/Genetic Engineering".

The EUMS strongly believe that Codex should issue recommendations on the labelling of GM foods. This guidance would in particular be extremely useful for developing countries as was largely expressed during the previous sessions of CCFL and also during the two specific working group meetings which took place in Oslo (February 2007) and Accra (January 2008).

The EUMS are of the opinion that the text elaborated by the Working Group in Ghana is a good starting point to achieve the elaboration of such a guidance document. The objective of this text is to gather in a single document overarching horizontal principles which have to be respected by any country wishing to put in place a legislative framework on GM labelling, while recognising that various approaches are conceivable. It is essential that this text be an official Codex document with appropriate legal relevance in the international context.

While maintaining their view on the necessity of providing consumers with a clear information on the nature of products containing, consisting or produced from GMOs, the EUMS are pleased to announce the starting, in June 2009, of an evaluation of the existing legislative framework on GM food and feed.

The evaluation has been launched five years after the entry into force of Regulation (EC) 1829/2003 on GM food and feed and will be conducted by an external contractor to ensure a wide range of view and an impartial collection of data. Through surveys, interviews and case studies the exercise will cover all the 27 Member States as well as the major stakeholders (biotech providers, importers and traders, food and feed industry, NGOs).

The scope of this evaluation covers the major aspects of the legislative framework. One of the pillars of the evaluators' work will thus be the existing labelling regime and its possible evolution in the near future.

The launching of this exercise shows - once again - the need for some Codex guidance to steer the approach of Codex members on such an important issue.

The EUMS will be happy to provide the details of this exercise in the CCFL meeting of May 2010 and to keep Codex members immediately informed of the outcome of this evaluation whose results are due in by June 2010. The EUMS are committed to formally submit the evaluation report to the Codex Secretariat as soon as available and to present the results and follow up of the exercise to the CCFL meeting immediately following the conclusion of the exercise.

Chapeau of the document: the EUMS support Chapeau 2 as amended by Brazil because it states clearly the purpose of the document and underlines the principle of various possible approaches.

**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 1:

~~“Food labelling is the primary means of communications between the seller on the one hand and the purchaser and consumer on the other. Labelling of a food is considered only after the food has undergone appropriate safety assessments to deem it safe for human consumption. For additional assurance on safe and appropriate use of food, food labelling can be employed to provide consumers with essential information. It is recognized that consumers’ expressed needs may vary in different regions of the world. These differences might lead to various levels of approaches regarding labelling of foods obtained by GM/GE modifications. 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.”}~~

Or

{Chapeau 2:

~~“The purpose of this document is to recall and assemble in a single document some important elements from Codex texts which are relevant for the labelling of foods obtained by GM/GE techniques.”}~~**or**

{Chapeau 2 as amended by the USA:

~~“The purpose of this document is to recall and assemble in a single document some important elements from Codex LABELLING AND OTHER texts which are relevant for the labelling of foods obtained by GM/GE techniques AS THEY ARE FOR ALL FOODS. THIS DOCUMENT IS NOT INTENDED TO SUGGEST OR IMPLY THAT GM/GE FOODS ARE IN ANY WAY DIFFERENT FROM OTHER FOODS SIMPLY DUE TO THEIR METHOD OF PRODUCTION.”}~~**or**

{Chapeau 2 as amended by Brazil:

~~“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.”] / or

~~[Amendment to the first sentence of paragraph 1 as developed during the 37th Session of the CCFL as alternative to chapeau 1 and 2:~~

~~“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 techniques. Any information or pictorial device may be displayed on labels of foods obtained from GM/GE techniques provided that these are not in conflict with Codex standards and guidelines.~~

~~This document is not intended to suggest or imply that food obtained from GM/GE techniques are in any way different or less safe from other foods simply due to their method of production provided that they have undergone safety assessment according to the guidance of the Codex Alimentarius Commission.”]~~

[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
- Working Principles for Risk Analysis for Food Safety for Application by Governments

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.”

3. Labelling of a food is 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 are available to Member Countries for this purpose¹.

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 . . .”.

¹ 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).

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 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.

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.

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.

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.

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“]