

26/09/2008

**European Community comments on**

**Codex Circular Letter CL 2008/11-FL (Part B- Point 5):**

**Proposed Draft Recommendations for the Labelling of Foods and Food  
Ingredients Obtained through Certain Techniques of GM/GE**

**At Step 3**

*European Community Competence*

*European Community Vote*

The European Community (EC) strongly believes that Codex must issue recommendations on the labelling of GM foods. This guidance in particular would be extremely useful for developing countries as was largely expressed during the last session of CCFL and during the two latest working groups (Oslo-February 2007 and Accra-January 2008).

The EC is of the opinion that the text elaborated by the Working Group in Ghana is a good starting point. 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 envisageable. It is essential that this text be an official Codex document with appropriate legal relevance in the international context.

The EC wishes to suggest amendments to the proposed text as detailed in the Annex of this paper.

## ANNEX: Outcome of the WG meeting

### Title of the document: Principles/Guidance for the Labelling of Foods and Food Ingredients obtained through certain Techniques of Genetic Modification/Genetic Engineering (GM/GE)

#### 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.”*

#### 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.”*~~

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

- The Codex General Standard for the Labelling of Prepackaged Foods, (Codex Stan 1-1985 (Rev. 1-1991))
- The Codex General Guidelines on Claims (CAC/GL 1-1979, Rev. 1-1991)
- The Codex Guidelines for Use of Nutrition and Health Claims (CAC/GL 23-1997, Rev. 1-2004)
- 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

- ~~Statements of Principle Concerning the Role of Science in the Codex Decision Making Process and the Extent to Which Other Factors are Taken into Account (Codex Procedural Manual).~~

2. Codex labelling and other texts ~~apply~~ can be applied to foods sold in unpackaged/~~in~~ 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 purpose (add references).
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 **of the General Standard for the Labelling of Prepackaged Foods** 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).

~~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 . . .”~~

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** ~~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. **Differences in consumer's views on GMOs in different countries mean that different requirements may be needed to avoid misleading or confusing the consumer.**
7. ~~When the physical, chemical or functional characteristics of a food are significantly altered through any means (production or processing), 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.~~
8. 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.

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

## 10. General Standard for the Labelling of Prepackaged Foods

~~Section 3.1~~

~~Section 3.2~~

~~Section 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

~~Section 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.~~

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

~~Section 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.~~

~~Section 3.3 Prohibited Claims—Claims which cannot be substantiated.~~

~~Section 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.~~

~~Section 4.1 Potentially Misleading Claims—Meaningless claims including incomplete comparatives and superlatives.~~

~~Section 5.1 Conditional Claims—Terms such as “natural,” “pure,” “fresh,” “home made,” (iii) “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.~~

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

~~Section 5.1 Conditional Claims—Claims which highlight the absence or non-addition of (vi) 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.~~

Codex labelling texts apply to representation used to provide information to enable consumer choice about the food they purchase and/or include several provisions which can be applied to determine the appropriateness of labelling when used as a means to satisfy consumers' demand for certain information about the food they purchase and/or when used by marketers to indicate that a food meets certain consumer preferences.

Any representations made on the label or in the labelling of GM/GE foods should be consistent with the Codex GSLPF and the Codex general guidelines on claims.

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

<b><u>Section</u></b>	<b><u>Mandatory Labelling Provisions</u></b>
<b><i><u>General Standard for the Labelling of Prepackaged Foods</u></i></b>	
<u>3.1</u>	<u>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.</u>
<u>3.2</u>	<u>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.</u>
<u>4.1.1</u>	<u>The name [of the food] shall indicate the true nature of the food and normally be specific and not generic.</u>
<u>4.1.2</u>	<u>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.</u>
<u>4.2.2</u>	<u>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.</u>  <u>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.</u>
<b><u>Section</u></b>	<b><u>Voluntary Labelling Provisions</u></b>
<b><i><u>General Standard for the Labelling of Prepackaged Foods</u></i></b>	
<u>7.1</u>	<u>Optional labelling – Any information or pictorial device written, printed, or graphic matter may be displayed in labelling provided that it is not in</u>

	<u>conflict with the mandatory requirements of this standard and those relating to claims and deception given in section 3 – General Principles.</u>
<b><u>General Guidelines on Claims</u></b>	
<u>1.2</u>	<u>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.</u>
<u>1.3</u>	<u>The person marketing the food should be able to justify the claims made.</u>
<u>2</u>	<u>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.</u>
<u>3.3</u>	<u>Prohibited claims – Claims which cannot be substantiated.</u>
<u>3.5</u>	<u>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.</u>
<u>4.1</u>	<u>Potentially misleading claims – Meaningless claims including incomplete comparatives and superlatives.</u>
<u>5.1(iii)</u>	<u>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.</u>
<u>5.1(v)</u>	<u>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.</u>
<u>5.1 (vi)</u>	<u>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:</u>  <u>(b) is one which consumers would normally expect to find in the food;</u>  <u>(d) is one whose presence or addition is permitted in the food.</u>
<b><u>Guidelines for Use of Nutrition and Health Claims</u></b>	