

**U.S. Delegate's Report to the
46th Session of the Codex Committee on Food Labelling (CCFL)
September 27 – October 1 and 7, 2021
Virtual**

Introduction

The 46th Session of the Codex Committee on Food Labelling (CCFL46) convened virtually September 27 - October 1, 2021 and adopted its report on October 7, 2021. The session was chaired by Ms. Kathy Twardek of the Canadian Food Inspection Agency. The session was attended by delegates from 95 member countries, one member organization (the European Union/EU), and 47 observer organizations, including the United Nations Food and Agriculture Organization (FAO) and the World Health Organization (WHO).

Dr. Douglas Balentine (U.S. Food and Drug Administration, Center for Food Safety and Applied Nutrition) led the U.S. delegation, assisted by alternate delegate Bryce Carson (U.S. Department of Agriculture, Food Safety and Inspection Service) and six government and six nongovernment advisors. Overall, the session was successful and the United States achieved its major objectives for the meeting.

Highlights

- CCFL46 endorsed the labeling provisions in the revised draft *Standard for Follow Up Formula* (FUF) for older infants (Section 9.6.5) and the drink/product for young children, as well as the labeling provisions in the draft Standard for Ready-to-Use Therapeutic Foods (RUTF), as forwarded by the Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU)
- CCFL46 agreed to send the draft Standard for Labelling of Non-Retail Containers (NRC) to the 44th Session of the Codex Alimentarius Commission (CAC44, 2021) for final adoption at Step 8
- CCFL46 agreed to forward the proposed draft Guidelines on Front-of-Pack Nutrition Labeling (FOPNL) to CAC44 for final adoption at Step 5/8
- Finally, CCFL46 had robust discussions on several other agenda items (i.e., the Proposed Draft Guidelines on Internet Sales/E-commerce, Food Allergen Labeling, and Innovation - Use of Technology in Food Labeling) and agreed to initiate electronic Working Groups (EWGs) to work on these issues during the upcoming intersessional period

Meeting Summary

The following paragraphs summarize issues of interest to the United States in more detail, by Agenda Item. The official CCFL46 meeting report and related documents from the session are posted on the Codex Alimentarius website at: <https://www.fao.org/fao-who-codexalimentarius/meetings/detail/it/?meeting=CCFL&session=46>.

Agenda Item 3: Matters of Interest from FAO and WHO

The representative from the FAO discussed the work of FAO/WHO to provide scientific advice to support CCFL's work on allergen labeling. The FAO representative noted that two meetings of the experts had been held to provide scientific advice on priority allergens and thresholds, and that a final meeting on precautionary allergen labeling was planned for October 2021. The representative of the FAO further

clarified that final reports from all three meetings would be issued by end of 2022. Finally, FAO commented on its involvement in the United Nations Food Systems Summit (September 2021) and expressed interest in participating in the following four coalitions: 1) Zero Hunger, 2) Healthy Diets from Sustainable Food Systems, 3) Food is Never Waste, and 4) School Meals.

The representatives from the WHO discussed their efforts on elimination of industrial trans fatty acids by 2023 and their publication of global sodium benchmarks for food categories. The WHO representatives noted the work of WHO to support the Nutrition for Growth Summit to be hosted by Japan in December 2021. During the Nutrition for Growth Summit, the WHO will host several side events focusing on nutrition issues associated with non-communicable diseases (NCDs), reformulation, complementary feeding, and breast-feeding science and recommendations. Finally, the WHO noted its work to develop a Global Alcohol Action Plan to reduce health risks from inappropriate alcohol consumption. The Global Alcohol Action Plan is expected to include recommendations for labeling and warning statements and will be considered for adoption during the WHO Executive Board meeting in January 2022.

Agenda Item 4: Consideration of Labeling Provisions in Codex Standards (Endorsement)

The Codex Secretariat noted that provisions related to labeling of NRC (Agenda Item 5) would be reviewed once the work of CCFL46 was finalized and adopted by the CAC.

CCFL46 endorsed the labeling provisions in the Regional Standards from the FAO/WHO Regional Coordinating Committee for Africa (CAFRICA) for *Fermented Cooked Cassava-Based Products* and *Fresh Leaves of Gnetum spp.*, and the draft Regional Standard for Dried Meats. It also endorsed the labeling provisions for the *Regional Standard for Mixed Zaatar* from the FAO/WHO Coordinating Committee for the Near East (CCNE).

CCFL46 also endorsed the labeling provisions in the draft Regional Standard for Fermented Noni Fruit Juice and the *Regional Standard for Kava Products for Use as a Beverage When Mixed with Water*, from the FAO/WHO Regional Coordinating Committee for North America and the South West Pacific (CCNASWP). Germany intervened, speaking on behalf of the European Union Member States (EUMS), to note a concern that the provision allowing optional labeling of kava products to state that they are “not intended for medicinal purposes” might suggest to some consumers that the products have health benefits.

CCFL46 also endorsed the labeling provisions in *the Standards for Kiwifruit, Garlic, Ware Potatoes, and Yam* developed by the Codex Committee on Fresh Fruits and Vegetables (CCFFV).

The Committee considered several issues related to the labeling provisions in the proposed draft revised Standard for FUF and the proposed draft Standard for RUTF, as referred from CCNFSDU:

First, CCFL46 considered the labeling provisions (Section 9.6.5) of the proposed draft revised *Standard for FUF* for older infants (aged 6-12 months, Section A of the proposed draft revised standard). Thailand suggested that endorsement of the labeling provisions should be postponed until the entire text of the revised draft standard was agreed to by CCNFSDU and forwarded to the CAC for adoption, and the labeling provisions referred to CCFL for endorsement. The Codex Secretariat commented that all texts in the proposed draft revised Standard for FUF that have been agreed to by the Committee are being held at Step 7 (agreed, but not forwarded to the CAC for final adoption), pending completion of all

remaining sections of the standard, and that CCNFSDU planned to submit the entire standard to the Commission for final adoption at one time. An observer, the International Special Dietary Foods Industries (ISDI), suggested a modification to the text in Section 9.6.5 to replace “images of products” with “pictures of containers.” This intervention was not supported by Committee members. Two observers, the International Baby Food Action Network (IBFAN) and the International Lactation Consultant Association (ILCA), expressed concern about “cross promotion” and confusion between products, but Committee members and the Chair remained silent, indicating that they did not wish to reopen debate on this issue, which had been discussed at length in previous sessions, resulting in a request from CCFL45 (2019) that CCNFSDU reconsider the sentence that had previously referred to “cross promotion.” CCFL46 endorsed Section 9.6.5 of the labeling provision for follow up formula for older infants as revised and referred by CCNFSDU.

Second, the Committee considered the labeling provisions from the proposed revised draft *Standard for FUF* related to labeling of the drink/product for young children (aged 12-36 months, Section B of the proposed revised draft standard). Participants discussed the product names in Section 9, specifically if the intention was to name the product “Drink for Young Children” as such, or if the name should be revised to “Drink/Product for Young Children” to align with the draft product definition for drink/product for young children with added nutrients. The EU expressed the view that the names were agreed to by CCNFSDU at its 41st session (CCNFSDU41; November 2019) and should not be changed. New Zealand, Chair of the CCNFSDU FUF EWG, was of the view that leaving out the term “product” was an unintentional omission. Nigeria, Uganda, Argentina, and Australia also supported the addition of the term “product.” Others commented that “nutrients” should be deleted from the product name. Chile expressed a view that it was unclear whether ingredients, vitamins, and minerals should be individually listed in the ingredient declaration, and New Zealand, as Chair of the CCNFSDU FUF EWG, clarified that they would be listed. Argentina expressed concern that Section 9.6.5 was not sufficiently clear and lacked specificity for auditing, and ultimately registered a reservation to endorsement of this provision. The United States noted that Sections 4.1 and 4.2 would apply and provide further guidance in support of the labeling sections in respect to ingredient declarations and naming of products, which was acknowledged by the CCFL Chair. CCFL46 endorsed the labeling section in the proposed revised draft standard for drink/product for young children as referred from CCNFSDU, noting that CCNFSDU will finalize the product name options.

Lastly, CCFL46 considered the labeling text for RUTF, for which participants expressed general support. Two observer organizations, the European Network of Childbirth Associations (ENCA) and IBFAN, expressed concerns that nutrition and health claims might be placed on labels. The Codex Secretariat clarified again that the guideline was intended for products used for management of severe acute malnutrition (SAM) in children and not products for general sale to consumers. The issue of reference to the Codex *Guidelines for Use of Nutrition and Health Claims* (CXG 23-1997) could be further considered by CCNFSDU. CCFL endorsed the labeling provisions and noted that CCNFSDU could consider any need to reference the *Guidelines for Use of Nutrition and Health Claims* (CXG 23-1997).

CCFL46 considered the labeling provisions from the Codex Committee on Processed Fruits and Vegetables (CCPFV) for dried fruits. Germany raised a concern that the use of added flavors would need consideration by the Codex Committee on Food Additives (CCFA), however the Codex Secretariat clarified that these were optional ingredients and not additives so input from CCFA was not necessary. Canada raised a concern about use of the term “natural” in Annex C for dried raisins, and the Committee agreed to amend the text to reference the Codex *General Guidelines on Claims* (CXG 1-1979) to assure that the use of the term “natural” was consistent with these guidelines. CCFL46 endorsed the labeling

sections in the *Regional Standard for Gochujang*, *Regional Standard for Chili Sauce*, the *Standard for Mango Chutney*, the *General Standard for Canned Mixed Fruits* (and its annexes) and the labeling provisions in the *General Standard for Dried Fruits* (and annexes) as developed by CCPFV.

CCFL46 endorsed the labeling provisions in the CCSC Draft Standards for Dried Oregano; Dried Roots, Rhizomes and Bulbs--Dried or Dehydrated Ginger; Dried Floral Parts--Cloves; Dried Basil; and Dried Seeds--Nutmeg. The EU expressed the view that country of harvest should be mandatory rather than optional, but this view was not supported by the Committee and the provisions were endorsed as proposed.

Agenda Item 5: Draft Guidance for the Labeling of Non-Retail Containers (NRCs)

CCFL46 debated whether the NRC text should be considered a “standard” or a “guideline.” Input from the Codex Secretariat indicated that the Committee had flexibility as there was not clear Codex guidance on whether the text should be a “standard” or a “guideline.” The view of the Codex Secretariat was that the draft text was written in a form more typical of a standard rather than a guideline. CCFL46 agreed to consider the text on NRCs as a standard.

The Committee then discussed the general principles for labeling of NRCs. The main point of discussion was whether the principles should be expressed as “should” or “shall” statements. The EU advocated for the use of “shall.” The United States stated that the term appropriate for each of the principles should be discussed and agreed to individually; a decision should not be applied to all principles without consideration of each individually. Most of the Committee supported using the term “shall” in several of the principles and the text was modified to reflect that decision.

Of particular concern to the United States was the introduction of the term “food transport unit” in Section 7.1 to align with the Codex *Code of Hygienic Practice for the Transport of Food in Bulk and Semi-Packed Foods* (CXC 47-2001). The United States noted the change and recommended including the definition of “bulk” as part of the footnote to the title of Section 7.1. The Committee agreed to add the term.

The NRC Standard will require consequential amendments to the *Codex Procedural Manual (PM)* as well as to Codex commodity standards, many which have provisions for the labeling of NRCs.

CCFL46 agreed to send the draft NRC Standard for final adoption at Step 8 and the consequential amendments to the *PM* for adoption by CAC44 (2021). The Committee also forwarded a recommendation that CAC44 request that Codex commodity committees review the labeling provisions in commodity standards for NRC, taking into account the new standard.

Agenda Item 6: Proposed Draft Guidelines on Front-of-Pack Nutrition Labeling (FOPNL)

CCFL46 discussed the scope of the proposed guidelines, particularly with respect to exclusions, which had been updated as recommended by the virtual working group that met September 21-22, 2021. The Russian Federation asked that the exclusions list be expanded beyond the Codex categories to include single component foods/commodities such as oils, cheese, and butter; however the Committee agreed to retain the scope as proposed since exemptions for single component foods at the national level were already covered. The Russian Federation registered a reservation on the scope.

The definition section of the guideline was the subject of robust discussion. Several Latin American countries, particularly Chile, Mexico, and Ecuador, proposed and supported the addition of text to reflect that FOPNL could be mandatory or voluntary. The EU supported these interventions, while the Russian Federation objected. CCFL46 then discussed if this aspect should be part of the FOPNL definition or a principle. The Committee Chair concluded that there was consensus to maintain the text as part of definition and to include “in line with national legislation.” The final definition section was amended to state that “FOPNL can be voluntary or mandatory in line with national legislation.” The Russian Federation registered a reservation.

The definition of FOPNL as proposed excluded nutrition and health claims. The EU noted that many FOPNL systems could be considered as nutrition and health claims and expressed the view that the exclusion should be deleted. The United States supported eliminating the exclusion. The WHO representative noted that the WHO’s analysis of FOPNL systems found that most or all FOPNL systems could be considered as including nutrition and health claims. CCFL46 agreed to delete the exclusion. The Russian Federation registered a reservation.

The Committee continued with a discussion of several of the principles for FOPNL.

- **Principle 2: FOPNL should be applied to the food in a manner consistent with the corresponding nutrient declaration for that food.**

There was discussion about the need to adding text that FOPNL should be applied based on the needs of specific population groups. The Committee did not agree to changes and clarified that this concept was already accounted for by Principle 3. An observer, IBFAN, expressed concern that FOPNL would be used to promote ultra-processed baby foods. Principle 2 was agreed by CCFL46 as proposed by the EWG.

- **Principle 3: FOPNL should align with evidence-based national or regional dietary guidance or, in its absence, health and nutrition policies. Consideration should be given to the nutrients and/or the food groups of which are discouraged and/or encouraged by these documents.**

An observer, the Institute of Food Technologists (IFT), proposed that the principle indicate that FOPNL should take into account the overall nutritional profile of a product and that “encouraged by” be deleted in the draft text. However, the Committee Chair and New Zealand, as Chair of the EWG indicated that the alignment with evidence-based or regional dietary guidelines already accommodated the need to take into account the overall nutritional profile of the food and called for FOPNL to be based on scientific evidence. The EU suggested that the concepts of “objective and non-discriminatory” be included in a FOPNL Principle. In response, New Zealand suggested that these concepts be considered within Principle 3, which led to further discussion on the concepts of “objective” and “non-discriminatory.” Both the United States and the WHO commented that FOPNL were, by their very nature, discriminatory based on nutritional composition. The United States supported the inclusion of the term “objective” in the text and proposed additional text to the end of Principle 3 stating that FOPNL should be “applied equitably to all foods.” Unfortunately, no support was vocalized for the U.S. proposal and New Zealand asked that the text recommended by the United States be removed. The Committee Chair also concluded that there was no general support for the addition of “objective,” and removed

the U.S.-recommended text, retaining Principle 3 as originally proposed. The EU registered a reservation to Principle 3.2 as the concepts of “objective and non-discriminatory” had not been incorporated. The IFT observer expressed particular concern that both objective and non-discriminatory were important concepts to FOPNL. In their view, the discussion had been prematurely ended before the Committee reached consensus.

- **Principle 4: FOPNL should present information in a way that is easy to understand and use by consumers in the country or region of implementation and the format of the FOPNL should be supported by scientifically valid consumer research.**

This Principle was accepted by the Committee. Chile noted that the Spanish translation did not accurately capture the intent of the principle and offered to provide an amended version of the Spanish translation that reflected the English text.

- **Principle 5: FOPNL should be clearly visible on the [front of the] package/packaging at the point of purchase under normal conditions.**

The United States questioned the text in square brackets and suggested that the term, “principal display panel” would be more appropriate. The Committee agreed to delete the text in square brackets.

- **Principles 9 and 10** were discussed and agreed to with minor editorial changes.

CCFL46 agreed that the guideline should be an annex to the *Codex Guidelines on Nutrition Labeling* (CXG 2-1985) and that a footnote should be added to Section 5 of CXG 2-1985 to reference the annex.

CCNFSDU41 (2019) had requested information from CCFL on how CCNFSDU’s potential work on nutrient profiles might support CCFL’s work on FOPNL. CCFL46 agreed to respond to CCNFSDU that CCFL’s work on FOPNL was not dependent on CCNFSDU’s work on nutrient profiles. The United States expressed concern that this approach was not fully responsive to the request from CCNFSDU41.

CCFL46 agreed to forward the proposed draft Guidelines on FOPNL to CAC44 for final adoption at Step 5/8.

Agenda Item 7: Proposed Draft Guidelines on Internet Sales/E-commerce

The discussions during CCFL46 demonstrated general support for the work, but lack of alignment on scope and key terminology. There was general agreement that the text would be supplementary to the *Codex General Standard for the Labelling of Prepackaged Foods (GSLPF)* (CXS 1-1985) as an annex. However, both Thailand and Canada raised concerns about alignment of any new text with existing texts and the need for flexibility.

There was considerable discussion around the scope of the text and definitions, but these discussions did not lead to consensus or agreement. The Russian Federation suggested using the World Trade Organization’s (WTO) working definition of “e-commerce,” but others felt it was too broad for the work

of CCFL. The United States suggested simplification, proposing “The sale or purchase of goods through electronic or virtual means.”

The Committee began discussion of the general principles, but little consensus was reached. However, the Committee did agree to include the concept of nutritional properties and that nutritional information should be “provided by [the] food business operation.” Several delegations supported including information on a period of minimum durability, but there was no agreement on how to address the issue as a practical matter.

The Committee agreed that the work was not ready to advance in the step process and that an EWG, chaired by the United Kingdom and co-chaired by Chile, Ghana, India, and Japan, working in English and Spanish, would continue work on the text.

Agenda Item 8: Food Allergen Labeling

The FAO informed the Committee that the requested scientific advice from FAO/WHO to inform the update of the allergen labeling sections of the GSLPF and guidance on precautionary allergen labeling (PAL) had progressed but that recommendations had not been finalized for consideration by the Committee. FAO noted that three reports from the expert scientific consultations were expected to be finalized by October 2022.

There was general agreement that good progress had been made toward updating the GSLPF. There was discussion on definitions and how to best deal with non-protein allergens and substances which cause “intolerances” rather than “allergies.” There was general agreement that the reports from the FAO/WHO expert consultations would be needed to firm up definitions and the scope of the text.

There was also general agreement on the importance of making allergen information clear, in consumer-relevant terms, and displaying it in a consistent place on the labels of packaged foods. However, differences in national and regional legislation made it difficult to align allergen disclosure format and label placement. Some delegations (including the United States and Canada) supported “contains” statements, while other delegations (particularly the EU) supported inclusion of consistent terminology to identify allergens in the ingredient declaration text, as opposed to “contains” statements.

There was only brief discussion of PAL, since further development of the text would not be possible until the report of the FAO/WHO expert consultation was finalized. An observer, IFT, requested that the Committee also consider conditions for “free from” claims as part of its work, however this may be beyond the scope of the Terms of Reference for this work.

The Committee agreed to continue its work by re-establishing the EWG, chaired by Australia and co-chaired by the United Kingdom and the United States, working in English.

Agenda Item 9: Discussion Paper on Innovation - Use of Technology in Food Labeling

Following an introduction from Canada of the discussion paper and project document, the Committee noted the linkage to work on e-commerce.

The Committee supported taking up new work on innovation and the use of technology in food labeling. An observer, ENCA, indicated a view that legal controls for privacy, particularly for baby foods be included; however, the Codex Secretariat made clear that privacy was out of scope as the focus was on labeling.

The Committee agreed to establish an EWG, chaired by Canada and working in English only, to prepare a draft text for discussion at CCFL47.

Agenda Item 10: Discussion Paper on Labeling of Alcoholic Beverages

The Chair indicated that a new discussion paper was not prepared for CCFL46 due to challenges associated with COVID-19. The Russian Federation summarized responses to Circular Letter (CL) 2019/86 indicating that there was common ground for continued consideration by the Committee. WHO stated that there was a public health basis for keeping the work on the agenda of CCFL. The Russian Federation, European Union, and India, with assistance from WHO and the European Alcohol Policy Alliance (EURO CARE), agreed to prepare a discussion paper for consideration by CCFL47.

Agenda Item 11: Discussion Paper on the Labelling of Foods in Joint Presentation and Multipack Formats

There was a general lack of support for taking up multipack labelling at this time, but it was agreed to keep the topic on the list of potential work for future consideration by CCFL. Colombia agreed to prepare a discussion paper for CCFL47 to better clarify the gaps in the GSLPF. Many Committee members felt that the existing text was sufficient.

Agenda Item 12: Future Work and Direction of CCFL

The United Kingdom summarized the input received in response to CL 2020/08, which requested ideas for future work by CCFL. After discussion of the various proposals, the Committee agreed to consider discussion papers at the next session on Trans Fatty Acids (Canada), Sustainability Claims (New Zealand and the EU), and Food Labelling Exemptions in Emergencies (United States). The Committee also agreed that New Zealand would update the discussion paper on new work proposals based on a forthcoming CL to be issued by the Codex Secretariat requesting members and observers to provide suggestions for new work.

Agenda Item 13: Approach and Criteria for Evaluation and Prioritization of Work of CCFL

The Canadian Secretariat of CCFL introduced the agenda item and summarized the input received in response to CL 2020/09. Due to time limitations, discussion of the responses to the CL was postponed to CCFL47.

Agenda Item 15: Date and Place of the Next Session

The date and time of the next session was not confirmed. Tentatively, CCFAL 47 will be scheduled in approximately 18 months, subject to agreement by the Codex Secretariat and the host country (Canada).