



**MEXICO - DRAFT AMENDMENT TO MEXICAN OFFICIAL STANDARD
NOM-051-SCFI/SSA1-2010: GENERAL SPECIFICATIONS FOR
THE LABELLING OF PRE-PACKED FOOD AND
NON-ALCOHOLIC BEVERAGES**

STATEMENT BY THE EUROPEAN UNION TO THE COMMITTEE ON TECHNICAL BARRIERS TO TRADE
26 – 27 FEBRUARY 2020

The following communication, dated 2 March 2020, is being circulated at the request of the delegation of the European Union.

1. The European Union would like to thank Mexico for the opportunity to send written comments on the notification [G/TBT/N/MEX/178/Add.9](#) Draft Amendment to Mexican Official Standard NOM-051-SCFI/SSA1-2010: General specifications for the labelling of pre-packed food and non-alcoholic beverages.
2. The European Union would like to summarise its concerns expressed in the written comments.
3. According to its section 1, the notified draft aims to establish the commercial and health information that must be contained in the labelling of the prepacked domestic or foreign products marketed on the national territory, as well as to determine the characteristics of such information and to establish a system of front-of-pack labelling for the general population, in order to inform the consumers clearly and truthfully of the content of critical nutrients presenting health risks in excessive consumption.
4. The definition of "dietary fibre" mentioning "three or more monomeric units" is not fully in line with the definition in section 2 of the Codex Guidelines on Nutrition Labelling mentioning "ten or more monomeric units". Therefore, the EU proposes to bring the definition in line with the Codex guidelines.
5. Furthermore, section 4 of the notified draft provides specific requirements concerning the indication of sugars in the list of ingredients. These requirements do not provide the same flexibility as set out in the Codex General Standard for the Labelling of Prepackaged Foods (CXS 1-1985). The sugar content is also indicated in the mandatory nutrition declaration required by the notified draft. The EU would suggest that Mexico maintains the flexibility provided for in the Codex standard to list the ingredients in descending order of weight, without introducing further specific requirements for the indication of sugars in the list of ingredients.
6. The notified draft also provides that substitute products must add the statement "SUBSTITUTE PRODUCT" to the upper left of the main surface of the label.
7. In the EU, a different approach has been taken to ensure that the consumers are properly informed, while at the same time leaving a certain flexibility for the operators. Regulation (EU) No 1169/2011 on the provision of food information to consumers¹ requires that "In the case of foods

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1576075844891&uri=CELEX:02011R1169-20180101>

in which a component or ingredient that consumers expect to be normally used or naturally present has been substituted with a different component or ingredient, the labelling shall bear – in addition to the list of ingredients – a clear indication of the component or the ingredient that has been used for the partial or whole substitution: (a) in close proximity to the name of the product; and (b) using a font size which has an x-height of at least 75 % of the x-height of the name of the product and which is not smaller than the minimum font size required in Article 13(2) of this Regulation."

8. The EU would like to ask Mexico to align the nutrients to be declared to the Codex Guidelines on Nutrition Labelling. The Codex guidelines does not foresee the mandatory declaration of added sugars, trans fat and dietary fibre.

9. With regard to the proposed mandatory requirement to indicate the added sugars content on the label, and the proposed definition of "added sugars", the EU would like to invite Mexico to provide clarification regarding the rationale for this mandatory requirement and for choosing this definition.

10. With regard to the proposed mandatory requirement to indicate the trans fat content on the label, please be informed that the EU does not impose such indication in the nutrition declaration. Instead, establishing a legal upper limit for the content of industrial trans fat in food appears to be the most effective measure in terms of public health and consumer protection. Therefore, in the EU, Commission Regulation (EU) 2019/649 lays down maximum limits for the content of trans fat in food. The content of trans fat, other than trans fat naturally occurring in fat of animal origin, in food intended for the final consumer and food intended for supply to retail, shall not exceed 2 grams per 100 grams of fat.

11. The notified draft sets out a mandatory front-of-pack nutrition labelling system indicating that the products are in "Excess" of certain nutrients for prepacked foods whose content of energy, sugars, saturated fats, trans fats and sodium exceed certain parameters. The EU recognises the importance of the close relationship between diet and health and acknowledges that providing the most important elements of the nutrition information front-of-pack can be a useful tool for consumers to assist them to see the essential nutrition information when purchasing foods.

12. Notwithstanding this, the EU has taken a different approach to empower consumers to make informed choices when adopting Regulation (EU) No 1169/2011 on the provision of food information to consumers, which came fully into application at the end of 2016. This Regulation imposes an obligation to provide nutrition information. However, its placing on the front-of-pack is not prescribed. In order not to confuse consumers, Regulation (EU) No 1169/2011 clarifies which particulars of the nutrition declaration may be repeated on the front-of-pack (on a voluntary basis), either the energy value alone or the energy value together with the amounts of fat, saturates, sugars and the sodium content expressed as salt.

13. Regulation (EU) No 1169/2011 notes the recent developments through the use of graphical forms or symbols and acknowledges that such additional forms of expression and presentation may help consumers to better understand the nutrition declaration and allows for different forms to be developed on the basis of criteria established in the Regulation itself. Among these criteria are the requirements that the additional forms are based on sound and scientifically valid consumer research and do not mislead the consumer; that they aim to facilitate consumer understanding of the contribution or importance of the food to the energy and nutrient content of a diet; that they are supported by scientifically valid evidence of understanding of such forms of expression or presentation by the average consumer; and that they are objective and non-discriminatory.

14. The EU considers that individual warnings such as "Excess calories", "Excess sugars", "Excess saturated fats", "Excess trans fats" and "Excess sodium" do not reflect the objective of front-of-pack nutrition labelling as described in Section 5 of the Codex Guidelines on Nutrition Labelling, i.e. "to increase the consumer's understanding of the nutritional value of their food and to assist in interpreting the nutrient declaration". Indeed, such individual warnings do not allow the consumer to understand the complete nutritional status of the food product, but only to draw the consumer's attention to (a) single nutrient(s) in high quantity.

15. In this context, the EU would like to recall Article 2.2 of the TBT Agreement, which states that: "Members shall ensure that technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. For this purpose,

technical regulations shall not be more trade restrictive than necessary to fulfil a legitimate objective, taking account of the risks non-fulfilment would create".

16. The EU would also like to recall Article 2.4 of the TBT Agreement which states that, "where technical regulations are required and relevant international standards exist or their completion is imminent, Members shall use them, or the relevant parts of them, as a basis for their technical regulations".

17. While it is the EU's understanding that the proposed measure would apply without difference to domestic and foreign producers, the impact will be particularly strong for foreign operators, which would have to adjust their production and labelling practices to comply with the draft resolution.

18. At the 44th session of the Codex Committee on Food Labelling (CCFL44) of October 2017, the Committee agreed to start new work to develop guidelines on the use of front-of-pack nutrition labelling. Work is ongoing under the leadership of Costa Rica and New Zealand. The EU considers that it would be more appropriate for Mexico to await the outcome of further discussions in Codex before considering the mandatory front-of-pack nutrition labelling model proposed in the notified draft.
