



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 3 June 2010

10658/10

LIMITE

**DENLEG 55
AGRI 214
CODEC 522**

**Interinstitutional File:
2008/0028 (COD)**

NOTE

from : General Secretariat of the Council
to : Delegations

No. Cion prop. : 6172/08 DENLEG 10 SAN 25 CONSUM 18 CODEC 162
No. prev. doc. : 7020/10 DENLEG 29 CODEC 164

Subject : Proposal for a Regulation of the European Parliament and of the Council on the
provision of food information to consumers

The Working Party on Foodstuffs has examined the above proposal at several meetings. The present note and its Annex reflect the outcome of the debates.

The Austrian, Danish, Italian and Polish delegations and the Commission maintain general scrutiny reservations. The Danish and United Kingdom delegations maintain Parliamentary scrutiny reservations.

In the annexed text, the positions of the delegations are summed up in the footnotes. The additions to the Commission proposal (6172/08) are inserted in **bold**, while the deletions are indicated by ~~strikethrough~~. The text added with reference to document 7020/10 is indicated in **bold underlined** while deletions are in ~~**bold-strikethrough**~~.

**Proposal for a Regulation of the European Parliament and of the Council
on the provision of food information to consumers
(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty **on the Functioning of the European Union** ~~establishing the European Community~~, and in particular Article **114** ~~95~~ thereof,

Having regard to the proposal from the **European** Commission¹;

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with the ~~procedure laid down in Article 294 251 of the Treaty~~ **ordinary legislative procedure**³,

Whereas:

- (1) Article **169** ~~153~~ of the Treaty provides that the **Community Union** is to contribute to the attainment of a high level of consumer protection by the measures it adopts pursuant to Article **114** ~~95~~ thereof.
- (2) The free movement of safe and wholesome food is an essential aspect of the internal market and contributes significantly to the health and well-being of citizens, and to their social and economic interests.
- (3) In order to achieve a high level of health protection for consumers and to guarantee their right to information, it should be ensured that consumers are appropriately informed as regards food they consume. Consumers choices can be influenced by, *inter alia*, health, economic, environmental, social and ethical considerations.

¹ OJ C xxx, xx.xx.xxxx. p. xx.

² OJ C xxx, xx.xx.xxxx. p. xx.

³ ~~Opinion~~ **Position** of the European Parliament of, position of the Council
~~Common Position~~ of

- (4) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety⁴ provides that it is a general principle of food law to provide a basis for consumers to make informed choices in relation to food they consume and to prevent any practices that may mislead the consumer.
- (5) Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market⁵ covers certain aspects of the provision of information to consumers specifically to prevent misleading actions and omissions of information. The general principles on unfair commercial practices should be complemented by specific rules concerning the provision of food information to consumers.
- (6) **Community Union** rules on food labelling applicable to all foods are laid down in Directive 2000/13/EC of the European Parliament and of the Council of 20 March 2000 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs⁶. The majority of the provisions laid down in that Directive date back to 1978 and should therefore be updated.
- (7) Council Directive 90/496/EEC of 24 September 1990 on nutrition labelling for foodstuffs⁷ lays down rules on the content and presentation of nutrition information on prepacked foods. **According to those rules,** the inclusion of nutrition information is voluntary unless a nutrition related claim is made concerning the food. The majority of the provisions laid down in that Directive date back to 1990 and should therefore be updated.

⁴ OJ L 31, 1.2.2002, p. 1. ~~Regulation as last amended by Commission Regulation (EC) No 575/2006 (OJ L 100, 8.4.2006, p. 3).~~

⁵ OJ L 149, 11.6.2005, p. 22.

⁶ OJ L 109, 6.5.2000, p. 29. ~~Directive as last amended by Commission Directive 2006/142/EC (OJ L 368, 23.12.2006, p. 110).~~

⁷ OJ L 276, 6.10.1990, p. 40. ~~Directive as last amended by Commission Directive (OJ L 333, 20.12.2003, p. 51.).~~

- (8) The general labelling requirements are complemented by a number of provisions applicable to all foods in particular circumstances or to certain categories of foods. In addition, there are a number of specific rules which are applicable to specific foods.
- (9) While the original objectives and the core components of the current labelling legislation are still valid, it is necessary to streamline it in order to ensure easier compliance and greater clarity for stakeholders and to modernise it in order to take account of new developments in the field of food information.
- (10) There is public interest in the relationship between diet and health and in the choice of an appropriate diet to suit individual needs. The Commission White Paper on a Strategy **of 30 May 2007** for Europe on Nutrition, Overweight and Obesity related health issues⁸ noted that nutrition labelling is an important tool to inform consumers about the composition of the foods and help them make an informed choice. The EU consumer policy strategy 2007-2013 underlined that allowing consumers to make informed choice is essential both to effective competition and consumer welfare. Knowledge of the basic principles of nutrition and appropriate nutrition information on foods would contribute significantly towards enabling the consumer to make such an informed choice.
- (11) In order to enhance legal certainty and ensure rationality and consistency of enforcement, it is appropriate to repeal Directives 90/496/EEC and 2000/13/EC and to replace them by a single Regulation which ensures certainty for both consumers and the industry and reduces the administrative burden.

⁸ ~~9838/07 [COM(2007) 279].~~

- (12) For the sake of clarity, it is appropriate to repeal and include in this Regulation other horizontal acts, namely Commission Directive 87/250/EEC of 15 April 1987 on the indication of alcoholic strength by volume in the labelling of alcoholic beverages for sale to the ultimate consumer⁹, Commission Directive 94/54/EC of 18 November 1994 concerning the compulsory indication on the labelling of certain foodstuffs of particulars other than those provided for in Council Directive 79/112/EEC¹⁰, Commission Directive 1999/10/EC of 8 March 1999 providing for derogations from the provisions of Article 7 of Council Directive 79/112/EEC as regards the labelling of foodstuffs¹¹, Commission Directive 2002/67/EC of 18 July 2002 on the labelling of foodstuffs containing quinine, and of foodstuffs containing caffeine¹², Commission Regulation (EC) No 608/2004 of 31 March 2004 concerning the labelling of foods and food ingredients with added phytosterols, phytosterol esters, phytostanols and/or phytostanol esters¹³ and Commission Directive 2004/77/EC of 29 April 2004 amending Directive 94/54/EC as regards the labelling of certain foods containing glycyrrhizinic acid and its ammonium salt¹⁴.
- (13) It is necessary to set common definitions, principles, requirements and procedures so as to form a clear framework and a common basis for ~~Community~~ Union and national measures governing food information.
- (14) In order to follow a comprehensive and evolutionary approach to the information provided to consumers relating to food they consume, there should be a broad definition of food information law covering rules of a general and specific nature as well as a broad definition of food information covering information provided also by other means than the label.

⁹ OJ L 113, 30.4.1987, p. 57.

¹⁰ OJ L 300, 23.11.1994, p. 14. ~~Directive as last amended by Directive 2004/77/EC (OJ L 162, 30.4.2004, p. 76).~~

¹¹ OJ L 69, 16.3.1999, p. 22.

¹² OJ L 191, 19.7.2002, p. 20.

¹³ OJ L 97, 1.4.2004, p. 44.

¹⁴ OJ L 162, 30.4.2004, p. 76.

- (15) Community **Union** rules should apply only to undertakings, the concept of which implies a certain continuity of activities and a certain degree of organisation. Operations such as the occasional handling, serving and selling of food by private persons at events such as charities, or local community fairs and meetings are not covered by the scope of this regulation.
- (16) Food information law should provide sufficient flexibility to be able to keep up to date with new information requirements from consumers and ensure a balance between the protection of the internal market and the differences in the perception of consumers in the Member States.
- (17) The prime consideration for requiring mandatory food information should be to enable consumers to identify and make appropriate use of a food and to make choices that suit their individual dietary needs.¹⁵
- (17a) Irregular and frequent updating of food information requirements may impose considerable administrative burdens on food business, especially small and medium sized enterprises; it is therefore appropriate to provide for a system of no more than biannual updating of, and for transitional periods regarding those requirements, from which derogations should be permitted in cases of urgency.**
- (18) In order to enable food information law to adapt to changing consumers' needs for information, any considerations about the need for mandatory food information should also take account of the widely demonstrated interest from the majority of consumers in the disclosure of certain information.
- (19) New mandatory food information requirements should however only be established if and where necessary, in accordance with the principles of subsidiarity, proportionality and sustainability.

¹⁵ FR/ES: proposed adding: *"With this aim, operators should facilitate the accessibility of their information to the visually impaired"*.

- (20) The rules on food information should prohibit the use of information that would mislead the consumer or attribute medicinal properties to foods. To be effective, this prohibition should also apply to the advertising and presentation of foods.
- (21) In order to prevent a fragmentation of the rules concerning the responsibility of food business operators with respect to food information it is appropriate to clarify the responsibilities of food business operators in this area.
- (22) A list should be drawn up of all mandatory information which should in principle be provided for all foods intended for the final consumer and the mass caterers. That list should maintain the information that is already required under existing legislation given that it is generally considered as a valuable acquis for consumer information.
- (23) In order to take account of changes and developments in the field of food information, provisions should be made to empower the Commission to amend the list of mandatory information by adding or removing particulars and for enabling the availability of certain particulars through alternative means. Consultation with stakeholders should facilitate timely and well targeted changes of food information requirements.
- (24) When used in the production of foods and still present, certain ingredients or other substances are the cause of allergies or intolerances in consumers, and some of those allergies or intolerances constitute a danger to the health of those concerned. It is important that information on the presence of food additives, processing aids and other substances with allergenic effect should be given to enable consumers suffering from a food allergy or intolerance to make informed and safe choices.
- (25) Food labels should be clear and understandable to assist consumers wanting to make better-informed food and dietary choices. Studies show that legibility is an important element in maximising the possibility that labelled information can influence its audience and that the small print size is one of the main causes of consumer dissatisfaction with food labels.

- (26) In order to ensure the provision of food information, it is necessary to consider all ways of supplying food to consumers, including selling food by means of distance communication. Although it is clear that any food supplied through distant selling should meet the same information requirements as food sold in shops, it is necessary to clarify that in such cases the relevant mandatory food information should also be available before the purchase is concluded.
- (27) With a view to provide consumers with food information that is necessary to make an informed choice, alcoholic mixed beverages should also provide information on their ingredients.

(28) It is also important to provide consumers with information on the other alcoholic beverages. Specific ~~Community~~ **Union** rules already exist on the labelling of wine. Council Regulation (EC) No **1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)**¹⁶ ~~1493/1999 of 17 May 1999 on the common organisation of the market in wine,~~¹⁷ provides an exhaustive set of technical standards which fully cover all oenological practices, manufacturing methods and means of presentation and labelling of wines, thus ensuring that all stages in the chain are covered and **lays down rules that ensure** that consumers are protected and properly informed. ~~In particular, this legislation describes in a precise and exhaustive manner the substances likely to be used in the production process, together with the conditions for their use via a positive list of oenological practices and treatments; any practice not included in this list is prohibited.~~ Therefore, it is appropriate to exempt wine at this stage from the obligation to list the ingredients and to provide for a nutrition declaration. As regards **the alcoholic products covered by Council Regulation (EEC) No 1601/91 of 10 June 1991 laying down general rules on the definition, description and presentation of aromatized wines, aromatized wine-based drinks and aromatized wine-product cocktails**¹⁸, similar beverages containing more than 1,2% by volume of alcohol obtained from fermentation of fruits or vegetables, mead, all type of, beer and ~~spirits~~ **spirit drinks** as defined in Article 2(1) of Regulation (EC) No. **110/2008**~~[...]~~ of **15 January 2008** ~~[...]~~ of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks **and repealing Council Regulation (EEC) No 1576/89**¹⁹, and in order to ensure a consistent approach and coherence with the conditions established for wine, the same kind of exemptions shall apply. However, the Commission will produce a report ~~after~~ **within** five years of the entry into force of this Regulation and may propose, if necessary, specific requirements in the context of this Regulation.

¹⁶ OJ L 155, 13.6.2008, p. 28.

¹⁷ OJ L 179, 14.7.1999, p. 1.

¹⁸ OJ L 149, 14.6.1991, p. 1.

¹⁹ OJ L 39~~[...]~~, 13.2.2008~~[...]~~, p.16~~[...]~~.

- (29) The indication of the country of origin or of the place of provenance of a food should be provided whenever its absence is likely to mislead consumers as to the true country of origin or place of provenance of that product. In other cases, the provision of the indication of country of origin or place of provenance is left to the appreciation of food business operators. In all cases, the indication of country of origin or place of provenance should be provided in a manner which does not deceive the consumer and on the basis of clearly defined criteria which ensure a level playing field for the industry and improve consumers' understanding of the information related to the country of origin or place of provenance of a food. Such criteria should not apply to indications related to the name or address of the food business operator.
- (30) In some cases, food business operators may want to indicate that the origin of a food is the European **Community Union** to draw the consumers' attention to the qualities of their product and to the European Union's production standards. Such indications should also comply with harmonised criteria.
- (31) The European **Community Union**'s non-preferential rules of origin are laid down in Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code²⁰ and its implementing provisions in Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code²¹. Determination of the country of origin of foods will be based on these rules, which are well known to trade operators and administrations and should ease its implementation.
- (32) The nutrition declaration on a food concerns information on the presence of energy and certain nutrients in foods. The mandatory provision of nutrition information should assist action in the area of nutrition education for the public and support informed food choice.

²⁰ OJ L 302, 19.10.1993, p. 1. ~~Regulation as last amended by Council Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).~~

²¹ OJ L 253, 11.10.1993, p. 1. ~~Regulation as last amended by Commission Regulation (EC) No 883/2005 (OJ L 148, 11.6.2005, p. 5).~~

- (33) The Commission White Paper on a Strategy for Europe on Nutrition, Overweight and Obesity related health issues highlighted certain nutritional elements of importance to public health. Therefore, it is appropriate that the requirements on the mandatory provision of nutrition information should take into account such elements.
- (34) In general, consumers are not aware of the potential contribution of alcoholic beverages to their overall diet. Therefore, it is appropriate to ensure that information on the nutrient content of in particular mixed alcoholic beverages is provided.
- (35) In the interest of consistency and coherence of ~~Community~~ Union law ~~legislation~~ the voluntary inclusion of nutrition or health claims on food labels should be in accordance with the Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods²².
- (36) To avoid unnecessary burdens on the industry, it is appropriate to exempt certain categories of foods that are unprocessed or for which nutrition information is not a determining factor for consumer choice from the mandatory inclusion of nutrition declaration, unless the obligation to provide such information is provided under other ~~Community legislation~~ Union rules.

²² OJ L 404, 30.12.2006, p. 9. ~~Regulation as amended by Regulation (EC) No 109/2008 of the European Parliament and of the Council of 15 January 2008 amending Regulation (EC) No 1924/2006 on nutrition and health claims made on foods (OJ L 39, 13.2.2008, p. 14).~~

- (37) To appeal to the average consumer and to serve the informative purpose for which it is introduced, and given the current level of knowledge on the subject of nutrition, the information provided should be simple and easily understood. Research has indicated that consumers find the information in the principal field of view or 'front of pack' is useful when making purchasing decisions. **To have the nutrition information partly on front of pack and partly back of pack might confuse the consumers.** Therefore, **the nutrition declaration should be in the same field of vision. In addition, on a voluntary basis, some of the information may be repeated for example 'front of pack'. A free choice as to the information that could be repeated might confuse the consumers. Therefore it is necessary to clarify which information may be repeated 'front of pack'** to ensure that consumers can readily see the essential nutrition information when purchasing foods; such information should be in the principal field of view of the label.
- (38) Recent developments in the expression of the nutrition declaration, other than per 100g/100ml/portion, by some Member States and organisations in the food sector suggest that consumers like such schemes as they can help them make informed choices quickly. However, there is not evidence across all the **Community Union** on how the average consumer understands and uses the alternative expression of the information. Therefore, it is appropriate to allow for different schemes to be developed and to allow research on consumer understanding in different Member States to continue so that, if appropriate, harmonised schemes may be introduced.
- (39) The declaration in the principal field of view of the amounts of nutritional elements and comparative indicators in an easily recognisable form to enable an assessment of the nutritional properties of a food should be considered in its entirety as part of the nutrition declaration and not be treated as a group of individual claims²³.

²³ Alternative wording suggested by UK: "*The declaration ~~in the principal field of view~~ of the amounts of nutritional elements and comparative indicators, **such as the terms "high", "medium" and "low" or the use of colour coding**, in an easily recognisable form to enable an assessment of the nutritional properties of a food should be considered in its entirety as ~~part~~ **of the nutrition declaration** information and not be treated as a group of individual claims."* (see DS 633/09).

- (40) Experience shows that in many cases voluntary food information is provided to the detriment of the clarity of the mandatory food information. Therefore, criteria should be provided to help food business operators and enforcement authorities to strike a balance between the provision of mandatory and voluntary food information.
- (41) Member States should retain the right, depending on local practical conditions and circumstances, to lay down rules in respect of the provision of information concerning non-prepacked foods. Although in such cases the consumer demand for other information is limited, information on potential allergens is considered very important. Evidence suggests that most food allergy incidents can be traced back to non-prepacked food. Therefore such information should always be provided to the consumer.
- (42) **As regards the matters specifically harmonised by this Regulation, Member States should not be able to adopt national provisions unless authorised by Community Union law. This Regulation does not prevent Member States from adopting national provisions concerning matters not specifically harmonised herein.** ~~Member States should not be able to adopt provisions other than those laid down in this Regulation in the field it harmonises, unless specifically indicated in it.~~
- (43) Food information rules should be able to adapt to a rapidly changing social, economic and technological environment.
- (44) In respect of certain aspects of food information that give rise to the development of innovative and modern commercial practices, it is necessary to allow sufficient experiments and consumer research and to provide solid evidence about the best systems. Therefore, in such cases Community Union food information law should restrict itself to setting out the mandatory essential requirements determining the level of consumer protection and information and leave flexibility for the fulfilment of such requirements, in a manner that is compatible with the internal market provisions.

- (45) In order to ensure that more detailed food information requirements are designed and established in a dialectic manner and emerge from best practices, there should be flexible mechanisms at **Community Union** and national level based on open and transparent public consultation and sustained interaction between a wide range of representative stakeholders. Such mechanism may result in the development of national non-binding schemes on the basis of solid consumer research and wide stakeholder consultation. There should be mechanisms for consumers to be able to identify foods labelled in compliance with the national scheme such as through an identification number or symbol.
- (46) In order to ensure a level of consistency in the results achieved in the different Member States, it is necessary to promote the constant exchange and sharing of best practices and experience between Member States and with the Commission and promote the participation of stakeholders to such exchanges.
- (47) Member States should carry out official controls in order to enforce compliance with this Regulation in accordance with Regulation (EC) No 882/2004 **of the European Parliament and of the Council of 29 April 2004 on Official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules**²⁴.
- (48) References to Directive 90/496/EEC in Regulation (EC) No 1924/2006 and in Regulation (EC) No 1925/2006 of the European Parliament and of the Council of 20 December 2006 on the addition of vitamins and minerals and of certain other substances to foods²⁵ should be updated to take this Regulation into account. Regulations (EC) No 1924/2006 and (EC) No 1925/2006 should therefore be amended accordingly.
- (49) In order to enable interested parties, especially small and medium-sized enterprises, to provide nutrition information on their products, the application of the measures to make nutrition information mandatory should be introduced gradually through extended transition periods with an additional transition period provided for micro-businesses.

²⁴ **OJ L 165, 30.4.2004, p. 1.**

²⁵ OJ L 404, 30.12.2006, p. 26.

- (50) Since the objectives of the actions to be taken cannot be sufficiently achieved by the Member States and can therefore be better achieved at **Community Union** level, the **Community Union** may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (51) With the aim of simplifying and accelerating the procedure, the Commission should be entrusted with the task of adopting implementing measures of a technical nature.
- (52) The measures necessary for the implementing of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission²⁶.
- (53) Power should be conferred on the Commission in particular to amend and update the Annexes to this Regulation. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation, and to supplement this Regulation by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (54) On grounds of urgency it is necessary to apply the urgency procedure provided for in Article 5a(6) of Decision 1999/468/EC for the adoption of amendments to Annexes II and III of this Regulation,

HAVE ADOPTED THIS REGULATION:

²⁶ OJ L 184, 17.7.1999, p. 23. ~~Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).~~

CHAPTER I GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation provides the basis for the assurance of a high level of consumer protection in relation to food information, taking into account the differences in the perception of consumers and their information needs whilst ensuring the smooth functioning of the internal market.
2. This Regulation establishes the general principles, requirements and responsibilities governing food information, and in particular food labelling. It lays down the means to guarantee the right of consumers to information and procedures for the provision of food information, taking into account the need to provide sufficient flexibility to respond to future developments and new information requirements.
3. This Regulation applies to all stages of the food chain, where the activities of food businesses concern the provision of food information to consumers.

It shall apply to all foods intended for the final consumer, including foods delivered by mass caterers and foods intended for supply to mass caterers.²⁷

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²⁷ CZ: the scope of the Regulation should not cover non-prepacked foods delivered by mass caterers as they are not subject to internal trade within the European Union.

²⁸ NL/LV/CZ/DE/UK/HU/MT: wish to insert here the following paragraph: "*It shall not apply to food sold by private persons in the context of occasional activities such as charities, local community fairs or meetings, and not as part of an undertaking that would imply a certain continuity of activities and a certain degree of organisation.*".

SE: proposed the following wording to make it clear that private persons or persons that from time to time sell food in small scale are excluded: "*This Regulation applies **to food business operators at all stages of the food chain, where their activities of food businesses concern the provision of food information to consumers.***"

4. This Regulation shall apply without prejudice to labelling requirements provided in specific ~~Community legislation~~ **Union provisions** applicable to particular foods.

Article 2

Definitions

1. For the purposes of this Regulation the following definitions shall apply:
- (a) the definitions of ‘food’, ‘food law’, ‘food business’, ‘food business operator’, ‘retail’, ‘placing on the market’ and ‘final consumer’ in Article 2 and in Article 3(1), (2), (3), (7), (8) and (18) of Regulation (EC) No 178/2002;
 - (b) the definition of ‘processing’, ‘unprocessed products’ and ‘processed products’ in **points** (m), (n) and (o) of Article 2(1) of Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs²⁹;
 - (ba) the definition of ‘food enzyme’ in point (a) of Article 3(2) of Regulation (EC) No 1332/2008 of the European Parliament and of the Council of 16 December 2008 on food enzymes³⁰ and amending Council Directive 83/417/EEC, Council Regulation (EC) No 1493/1999, Directive 2000/13/EC, Council Directive 2001/112/EC and Regulation (EC) No 258/97;**
 - (c) the definitions of ‘food additives’ and ‘processing aids’ in **points (a) and (b) of Article 1(2) and in footnote 1 of Council Directive 89/107/EEC of 21 December 1988 on the approximation of the laws of the Member States concerning food additives authorised for use in foods intended for human consumption** **3(2) of Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives**³¹;

²⁹ OJ L 139, 30.4.2004, p. 1.

³⁰ **OJ L 354, 31.12.2008, p. 7.**

³¹ ~~OJ L 40, 11.2.1989, p. 27.~~ **OJ L 354, 31.12. 2008, p. 16.**

- (d) the definition of ‘flavouring’ in **point** (a) Article 3(2) of **Regulation (EC) No 1334/2008 of the European Parliament and of the Council of 16 December 2008 on flavourings and certain food ingredients with flavourings properties for use in and on foods and amending Council Regulation (EEC) No 1601/91, Regulation (EC) No 2232/96 and (EC) No 110/2008 and Directive 2000/13/EC Council Directive 88/388/EEC of 22 June 1988 on the approximation of the laws of the Member States relating to flavourings for use in foodstuffs and to source materials for their production**³²;
- (e) the definitions of ‘meat’ and ‘mechanically separated meat’ in points 1.1 and 1.14 of Annex I to Regulation (EC) No 853/2004;
- (f) the definitions of ‘~~claim~~’, ‘nutrient’, ‘~~other substance~~’, ‘~~nutrition claim~~’ and ‘~~health claim~~’ in **point** (2) of Article 2 (1) to (5) (2) of Regulation (EC) No 1924/2006;
- (g) **the definition of means of distance communication in Article 2 of Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts**³³.

2. The following definitions shall also apply:

- (a) ‘food information’ means information concerning a food and made available to the final consumer by means of a label, other accompanying material, or any other means including modern technology tools or verbal communication. ~~It does not cover commercial communications as defined by Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market~~³⁴;
- (b) ‘food information law’ means the **Community Union** provisions governing the food information, and in particular labelling, including rules of a general nature applicable to all foods or to specified foods and rules which apply only to specific foods;

³² ~~OJ L 184, 15.7.1988, p. 61.~~ **OJ L 354, 31.12. 2008, p. 34.**

³³ OJ L 144, 4.6.1997, p. 19.

³⁴ OJ L 178, 17.7.2000, p. 1.

- (c) 'mandatory food information' means the particulars that are required to be provided to the final consumer by ~~Community legislation~~ **Union provisions**;
- (d) 'mass caterers' means any establishment (including a vehicle or a fixed or mobile stall), such as restaurants, canteens, schools and hospitals, where, in the course of a business, food is prepared for delivery to the final consumer and is ready for consumption without further preparation;
- (e) 'prepacked food' means any single item for presentation as such to the final consumer and to mass caterers, consisting of a food and the packaging into which it was put before being offered for sale, whether such packaging encloses the food completely or only partially, but in any case in such a way that the contents cannot be altered without opening or changing the packaging;
- (f) 'ingredient' means any substance, including **flavourings**, food additives and food enzymes, and any constituent of a compound ingredient, used in the manufacture or preparation of a food and still present in the finished product, even if in an altered form; residues shall not be considered as ingredients;
- (g) 'place of provenance' means any place where a food is indicated to come from, and that is not the 'country of origin' as determined in accordance with Articles 23 to 26 of Council Regulation (EEC) No 2913/92;
- (h) 'compound ingredient' is an ingredient that is itself the product of more than one ingredient;
- (i) 'label' means any tag, brand, mark, pictorial or other descriptive matter written, printed, stencilled, marked, embossed or impressed on, or attached to the³⁵ container of food;
- (j) 'labelling' means any words, particulars, trade marks, brand name, pictorial matter or symbol relating to a food and placed on any packaging, document, notice, label, ring or collar accompanying or referring to such food;

³⁵ PL: suggested inserting "*packaging or*".

- (k) ‘field of vision’ means all the surfaces of a package that can be read from a single viewing point, permitting rapid and easy access to labelling information by allowing consumers to read this information without needing to turn the package back and forth,³⁶
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- (l) ‘legal name’ means the name of a food prescribed in the **Community Union** provisions applicable to it or, in the absence of such **Community Union** provisions, the name provided for in the laws, regulations and administrative provisions applicable in the Member State in which the food is sold to the final consumer or to mass caterers;
- (m) ‘customary name’ means a name which is accepted as the name of the food without it needing further explanation by consumers in the Member State in which it is sold;
- (n) ‘descriptive name’ means a name providing a description of the food, and if necessary of its use, which is sufficiently clear to enable the consumers to know its true nature and distinguish it from other products with which it might be confused;
- (o) ‘primary ingredient(s)’ means the ~~significant and/or characterising ingredients of a food~~;
- ~~(p) ‘significant ingredient(s)’ means the ingredient of a food that represents more than 50% of this food;~~
- ~~(q) ‘characterising ingredient(s)’³⁸ means any ingredient of a food or which is usually associated with the name of the food by the consumer and for which in most cases a quantitative indication is required;~~

³⁶ LT: would like to replace "*field of vision*" with "*same field of vision*".

³⁷ SK: wishes moving here the definition of "*principal field of vision*" (*means the field of vision that is most likely to be displayed or visible under normal or customary conditions of sale or use*) now in Annex I.

³⁸ IT: would like to recuperate this definition taking into account Article 23 and the Codex Alimentarius.

- (r) ‘essential requirements’ means the requirements whereby the level of consumer protection and food information is determined with respect to a given issue and which are laid down in a **Community Union** act which allows for the development of national schemes referred to in Article **44 35a**³⁹;
- (s) ‘date of minimum durability of a food’ means the date until which the food retains its specific properties when properly stored;⁴⁰
- (sa) **“use by” date’ means the date from the end of which a food shall be deemed to be unsafe in accordance with Article 14 of Regulation 178/2002.**⁴¹,
- (t) ‘best practices’ means standards, schemes, initiatives, or any other activities endorsed by competent authorities that have been shown through experience and research to be the most effective for the majority of consumers and are considered as models for others to follow.

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³⁹ ES/BG: to be deleted if national schemes will be deleted.

⁴⁰ UK: suggested deleting this definition.

⁴¹ DE: reservation. SE/AT/FR: scrutiny reservations.

⁴² SK/CZ: proposed a new definition: *"'net quantity' means quantity (weight or volume) of foodstuff without packaging, expressed in respective units."*

PT: proposed a new definition: *"'Pre-packed for direct sale' means any single item, consisting of a food and its packaging, whether such packaging encloses the food completely or only partially, whether food is packaged on the establishment of the retailer or in other premises of the same operator, before its presentation as such for sale to the final consumer."*

LV/PT/CY/IT: proposed a new definition: *"Distance selling" means any sale system without the simultaneous physical presence of the supplier and the consumer, using one or more means of distance communication up to and including the moment at which the sale is concluded and the food is delivery to the consumer, guaranteeing the conditions of packing, transport, storage conditions and hygiene.*

BG: proposed the following new definitions: *"Package" means the complete product of the packaging operation consisting of the packaging and its contents.*

"Packaging" means the material used for partial or total wrapping of the food and as a result the food is ready to be offered for sale to the consumer as a unit.

3. For the purposes of this Regulation the country of origin of a food shall refer to the origin of a food as determined in accordance with Articles 23 to 26 of Council Regulation (EEC) No 2913/92.
4. The specific definitions set out in Annex I shall also apply.

CHAPTER II

GENERAL PRINCIPLES ON FOOD INFORMATION

Article 3

General objectives

1. The provision of food information shall pursue a high level of protection of consumers' health and interests by providing a basis for final consumers to make informed choices and to make safe use of food, with particular regard to health, economic, environmental, social and ethical considerations.
2. Food information law shall aim to achieve in the ~~Community~~ **Union** the free movement of food legally produced and marketed, taking into account, where appropriate, the need to protect the legitimate interests of producers and to promote the production of quality products.
3. When food information law establishes new requirements, consideration shall be given to the need for a transitory period after the entry into force of the new requirements, during which foods bearing labels not complying with the new requirements can be placed on the market and for stocks of such foods that have been placed on the market before the end of the transitory period to continue to be sold until exhausted.

Article 4

Principles governing mandatory food information

1. Where mandatory food information is required by food information law, it shall concern information that falls, in particular, into one of the following categories:

- (a) information on the identity and composition, properties or other characteristics of the food;
 - (b) information on the protection of consumers' health and the safe use of a food. In particular, it shall concern information on:
 - (i) compositional attributes that may be harmful to the health of certain groups of consumers;
 - (ii) durability, storage and safe use;
 - (iii) the health impact, including the risks and consequences related to harmful and hazardous consumption of a food;
 - (c) information on nutritional characteristics so as to enable consumers, including those with special dietary requirements, to make informed choices.
2. When considering the need for mandatory food information, account shall be taken of a widespread need on the part of the majority of consumers for certain information to which they attach significant value or of any generally accepted benefits to the consumer to enable them to make informed choices.

Article 5

Consultation of the Authority

Any food information law measures likely to have an effect on public health shall be adopted after consultation of the European Food Safety Authority.

CHAPTER III
GENERAL FOOD INFORMATION REQUIREMENTS
AND RESPONSIBILITIES OF FOOD BUSINESS OPERATORS

Article 6

Basic requirement

Any food intended for supply to the final consumer or to mass caterers shall be accompanied by food information in accordance with this Regulation.

Article 7

Fair information practices

1. Food information shall not be misleading to a material degree⁴³, particularly:
 - (a) as to the characteristics of the food and, in particular, as to its nature, identity, properties, composition, quantity, durability, country of origin or place of provenance, method of manufacture or production;
 - (b) by attributing to the food effects or properties which it does not possess;
 - (c) by suggesting that the food possesses special characteristics when in fact all similar foods possess such characteristics.
2. Food information shall be accurate, clear, and easy to understand for the consumer.
3. Subject to derogations provided for by Community legislation applicable to natural mineral waters and foods for particular nutritional uses, food information shall not attribute to any food the property of preventing, treating or curing a human disease, nor refer to such properties.

⁴³ Cion: even if it is not reflected in all official languages, wishes to keep the deleted phrase in the text in order to try to limit the possibilities for the consumers to say they have been misled.

4. The prohibition referred to in Paragraphs 1, 2 and 3 shall also apply to:
- (a) advertising;
 - (b) the presentation of foods in particular their shape, appearance or packaging, the packaging materials used, the way in which they are arranged and the setting in which they are displayed.

Article 8⁴⁴

Responsibilities

- ~~1. Without prejudice to paragraphs 3 and 4, food business operators, within the businesses under their control, shall ensure compliance with the requirements of food information law which are relevant to their activities and shall verify that such requirements are met.~~
2. Food business operators, within the businesses under their control, shall not modify the information accompanying a food if such modification would mislead the final consumer or otherwise reduce the level of consumer protection **and their possibilities to make informed choices.** ~~, particularly with regard to health.~~

⁴⁴ If paragraphs 1 to 4 of Article 8 were deleted, only Article 17 of Regulation 178/2002 (general food law) would be applicable. PL/DE/FI/AT/DK/HU/EE/SK/CZ support this possibility.
FR, with the support of NL/PT/MT, proposed, as an alternative, the following wording:
"1. Without prejudice to paragraphs 3 and 4, food business operators, within the business under their control, shall ensure compliance with requirements of food information law which are relevant to their activities and shall verify that such requirements are met.
2. Food business operators, within the businesses under their control, shall not modify the information accompanying a food if such modification would mislead the final consumer or otherwise reduce the level of consumer protection, particularly with regard to health.
*3. Food business operators, placing on the market for the first time a food intended for supply to the final consumer or mass caterer shall ensure, **within the limits of their respective activities**, the presence and accuracy of the food information in accordance with the applicable food information law.*
4. Food business operators responsible for retail or distribution activities which do not affect food information shall act with due care to ensure, within the limit of their respective activities, the presence of the applicable food information requirements, in particular by not supplying foods which they know or presume to be non-compliant, on the basis of the information in their possession as professionals.(...)"
BG: scrutiny reservation.

3. Food business operators placing on the **European Union** market ~~for the first time~~ a food intended for supply to the final consumer or mass caterer shall ensure, **within the limits of their respective activities**, the presence and accuracy of the food information in accordance with the applicable food information law.
4. Food business operators responsible for retail or distribution activities which do not affect food information, within the limits of their respective activities, shall ~~act with due care, to ensure the presence of the applicable food information requirements, in particular by~~ not supplying foods which they know or **shall** presume ~~to be non-compliant~~, on the basis of the information in their possession as professionals, **does not comply with the labelling legal requirements**.
5. Food business operators within the business under their control shall ensure that information relating to ~~non-prepacked~~⁴⁵ food shall be transmitted to the operator receiving the food in order to enable, where appropriate, the provision of the mandatory food information **specified in points (a) to (e), (f) (g) and (i) of Article 9(1)** to the final consumer.
6. In the following cases, food business operators, within the businesses under their control shall ensure that the mandatory particulars required under Articles 9 and 10 shall appear on the **prepackaging or on a label attached thereto** ~~external packaging in which the food is presented for marketing~~, or on the commercial documents referring to the foods where it can be guaranteed that such documents either accompany the food to which they refer or were sent before or at the same time as delivery:
 - (a) where prepacked food is intended for the final consumer but marketed at a stage prior to sale to the final consumer and where sale to a mass caterer is not involved at that stage;
 - (b) where prepacked food is intended for supply to mass caterers for preparation, processing, splitting or cutting up.

⁴⁵ UK/DE/SE/CZ: wish to keep "non prepacked".

Notwithstanding **the first** subparagraph ~~1~~, food business operators shall ensure that the particulars referred to in **points** (a), (f), (g) and (h) of Article 9(1) also appear on the external packaging in which the **prepacked foods** are ~~food~~ is presented for marketing.

CHAPTER IV MANDATORY FOOD INFORMATION

SECTION 1 CONTENT AND PRESENTATION

Article 9

List of mandatory particulars

1. In accordance with Articles 10 to 34 and subject to the exceptions contained in this Chapter, indication of the following particulars shall be mandatory.
 - (a) the name of the food;
 - (b) the list of ingredients;
 - (c) any ~~ingredient~~ **substance** listed in Annex II causing allergies or intolerances, and any substance derived therefrom, **used in the manufacture or preparation of a food and still present in the finished product, even if in an altered form;**
 - (d) the quantity of certain ingredients or categories of ingredients;
 - (e) the net quantity of the food;
 - (f) the date of minimum durability⁴⁶ or the 'use by' date;
 - (g) any special storage conditions **and/or** conditions of use;
 - (h) the name or business name and address of ~~the manufacturer or packager, or of a seller,~~ **at least, a food business operator** established within the ~~Community~~ **European Union** **carrying out any of the activities related to any stage of production, processing and distribution of food;**⁴⁷;

⁴⁶ IE/UK: wishes to replace "date of minimum durability" with "best before". RO: opposed.

⁴⁷ UK/DK/DE/RO/LV/PL/SE: do not see the need to ensure that at least one of the identified persons is established in the EU.

- (i) the country of origin or place of provenance⁴⁸ where failure to indicate this might mislead the consumer to a material degree as to the true country of origin or place of provenance of the food, in particular if the information accompanying the food or the label as a whole would otherwise imply that the food has a different country of origin or place of provenance; in such cases the indication shall be in accordance with the rules laid down in Article 35d(2)(3) and (3)(4) and those established in accordance with Article 35d(4)(5);^{49 50}

⁴⁸ SK/CZ/HU/IT/EE/AT/LT/CY/LV/EL/FR: the declaration of origin should be mandatory for all non-processed products. EL: it should be mandatory for single ingredient foods. MT: it should be mandatory for all kind of meat. IT (political reservation) it should be mandatory for poultry. In response to IT, the Cion clarified that the proposal permits that MS establish specific labelling rules for certain kind of foodstuff under certain conditions.

LT/FR proposed to add a new letter:

(ia) *"for non processed food, the country of origin or place of provenance; before [the first day of the month 2 years after the entry into force] the Commission establishes the conditions of application of the indication of the country of origin or place of provenance. Those measures designed to amend non essential elements of this Regulation by supplementing it shall be decided in accordance with the procedure referred to in Article 49(3)."*

LT/FR consider 2 years a reasonable transitory period for the business operators to adapt to the new rules.

RO/ES/DK/BG/SE/DE/BE/PL/UK/NL: are against the requirement of origin for all non-processed foods.

⁴⁹ AT/SK/EL: the declaration of origin should also be mandatory for processed foods (for instance cheese), at least concerning the primary ingredient (for instance milk).

IE: suggested to reword this sub-paragraph as follows:

"(i) the country of origin or place of provenance for all kinds of meat and for meat products with over 70% meat content. The indication on the country of origin or place of provenance may be given as a single place only where animals have been born, reared and slaughtered in the same country or place. In other cases, information on each of the different places of birth, rearing and slaughter shall be given.

For all other products, the country of origin or place of provenance where failure to indicate this might mislead the consumer to a material degree as to the true country of origin or place of provenance of the food, in particular if the information accompanying the food or the label as a whole would otherwise imply that the food has a different country of origin or place of provenance; in such cases the indication shall be in accordance with the rules laid down in Article 35d(2) and (3) and those established in accordance with Article 35d(4);"

BE: wishes keeping the version of Directive 2000/13/EC.

ES: reservation. This issue is linked with the definition of primary ingredient and with the criteria in Art. 35d.

⁵⁰ UK: asked what constituted an indication of origin, in terms of recipe names (jambon de Paris) and claims like 'packed-in' for example. It was recognised that there is a need for further explanation on the way to indicate the geographic origin of the product.

- (j) instructions for use when it would be ~~impossible~~ **difficult** to make appropriate use of the food in the absence of such instructions;
- (k) with respect to beverages containing more than 1,2 % by volume of alcohol, the actual alcoholic strength by volume;
- (l) a nutrition declaration⁵¹.

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2. The particulars referred to in paragraph 1 shall be indicated with words and numbers unless the consumers are informed, as regards one or more particulars, by other forms of expression established by implementing measures adopted by the Commission. Those measures designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted, in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).
3. ~~The Commission may amend the list of mandatory particulars laid down in paragraph 1. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).~~

Article 10

Additional mandatory particulars for specific types or categories of food

1. In addition to the particulars listed in Article 9(1) additional mandatory particulars for specific types or categories of food are laid down in Annex III.
2. The Commission may amend Annex III. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted, in accordance with the regulatory procedure with scrutiny referred to in Article 49(4).

⁵¹ CZ: to accept the mandatory character of the nutrition declaration, CZ must know where the operators can get the analytical data they need to give the information to the consumers, issue that is linked to the system of control and to the levels of tolerance not yet harmonised at European level. See footnote on Article 30(4).

⁵² DK: would add the date of production.

Article 11

Derogations from the requirement for mandatory particulars

For specific types or categories of foods, the Commission may provide for derogations, in exceptional cases, from the requirements laid down in **points** (b) and (f) of Article 9(1), provided that such derogations do not result in the final consumer and mass caterers being inadequately informed. Those measures designed to amend the non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).

Article 12

Weights and measures

Article 9 shall be without prejudice to more specific ~~Community Union~~ provisions regarding weights and measures.

Article 13

Availability and placement of mandatory food information

1. Mandatory food information shall be available and shall be easily accessible, in accordance with this Regulation for all foods.
2. In the case of prepacked food, mandatory food information shall appear **directly** on the package or on a label attached thereto.
3. The availability of certain mandatory particulars by means other than on the package or on the label may be established by the Commission provided the general principles and requirements laid down in Chapter II of this Regulation are met. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted, in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).
4. In the case of non-prepacked food, the provisions of Article 41 shall apply.

Article 14

Presentation of mandatory particulars

0. **Without prejudice to the rules adopted under Article 41(1a), mandatory food information shall be marked in a conspicuous place in such a way as to be easily visible, clearly legible and, where appropriate, indelible. It shall not in any way be hidden, obscured, detracted from or interrupted by any other written or pictorial matter or any other intervening material.**
1. Without prejudice to specific ~~Community legislation~~ **Union provisions** applicable to particular foods as regards to the requirements referred to in **points** (a) to (k) of Article 9(1), when appearing on the package or on the label attached thereto, the mandatory particulars listed in Article 9(1) shall be printed on the package or on the label in characters ~~of~~ **using** a font size ~~of at least 3 mm~~ **where the x-height, as defined in Annex IIIa, is equal to or greater than 1.2 mm**⁵³. ~~and~~ They shall be presented in a way so as to ensure a significant contrast between the print and background.
2. The particulars listed in **points** (a), (e), **(f)** and (k) of Article 9(1) shall appear in the same⁵⁴ field of vision.
3. **The Commission shall make available guidance for criteria on legibility.** Detailed rules concerning the presentation of mandatory particulars, **including, if necessary, additional criteria on legibility additional to those specified in paragraph 1**, and the extension of the requirements referred to in paragraph 2 to the additional mandatory particulars for specific categories or types of food referred to in Articles 10 and 38 may be adopted by the Commission. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).
4. **In case of packaging or containers the largest surface of which has an area of less than 60 cm², the minimum font size referred to in paragraph 1 is not applicable.**⁵⁵

⁵³ BE: reservation on any mandatory dimension because of the 3 official languages.

⁵⁴ SK/EL: the name of the food (Article 9(1)(a)) should appear in the "principal" field of vision.

The minimum font size referred to in paragraph 1 shall not apply in case of packaging or containers the largest surface of which has an area of less than 10 cm².

5. Paragraph 2 shall not apply in the case of foods specified in Article 17(1) and (2).
6. ~~Mandatory food information shall be marked in a conspicuous place in such a way as to be easily visible, clearly legible and, where appropriate, indelible. It shall not in any way be hidden, obscured, detracted from or interrupted by any other written or pictorial matter or any other intervening material.~~

Article 15

Distance selling⁵⁶

1. Without prejudice to the information requirements laid down in Article 9, in the case of **prepacked** foods offered for sale by means of distance communication as defined in Article 2 of Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts:
 - (a) **mandatory food information, except the particulars provided in point (f) of Article 9(1) shall be available before the purchase is concluded and shall appear on the material supporting the distance selling or be provided through other appropriate means clearly identified by the food business operator. When other appropriate means are used, the mandatory food information shall be provided without supplementary costs from the food business operator;**
 - (b) **all mandatory particulars shall be available at the moment of delivery.**
- ~~(a) mandatory food information shall be available before the purchase is concluded and shall appear on the material supporting the distance selling or be provided through other appropriate means;~~
- ~~(b) the particulars provided in Article 9(1) points (d), (f), (g), (h) and (k) shall be mandatory only at the moment of delivery.~~

⁵⁵ NL/AT/RO/CZ/ES/IT/FR/DE/UK: scrutiny reservations.

⁵⁶ MT: would change the title to "*Food sold at distance*".

2. **In the case of non-prepacked foods offered for sale by means of distance communication, the particulars required under Article 41 shall be made available according to paragraph 1 of this Article.**

Article 16

Language requirements

1. Without prejudice to Article 9(2), mandatory food information shall appear in a language easily understood by the consumers of the Member States where a food is marketed.
2. Within their own territory, the Member States in which a food is marketed may stipulate that the particulars shall be given in one or more languages from among the official languages of the Community.
3. Paragraphs 1 and 2 shall not preclude the particulars from being indicated in several languages.

Article 17

Omission of certain mandatory particulars

1. In the case of glass bottles intended for reuse which are indelibly marked and which therefore bear no label, ring or collar only the particulars listed in **points** (a), (c), (e), (f) and (l) of Article 9(1) shall be mandatory.
2. In the case of packaging or containers the largest surface of which has an area of less than 10 cm² only the particulars listed in **points** of (a), (c), (e) and (f) of Article 9(1) shall be mandatory on the package or on the label. The particulars referred to in **point** (b) of Article 9(1) shall be provided through other means or shall be **made** available at the request of the consumer.
3. Without prejudice to other ~~Community legislation~~ **Union provisions** requiring mandatory nutrition declaration, the declaration referred to in **point** (l) of Article 9 (1) shall not be mandatory for the foods listed in Annex IV.

4. Without prejudice to other Community legislation requiring a list of ingredients or a mandatory nutrition declaration, the particulars referred to in Articles 9(1)(b) and (l) shall not be mandatory for wines covered by Annex XI b of Council Regulation (EC) No 1234/2007, for products covered by Council Regulation (EEC) No 1601/91, for similar beverages containing more than 1,2% by volume of alcohol obtained from fermentation of fruits or vegetables, for mead, for all types of beer and for spirit drinks as defined in Article 2(1) of Regulation (EC) No. 110/2008. The Commission shall produce a report within [five years of the entry into force of this Regulation] concerning the application of Articles 19 and 29(1) to the products referred to in this paragraph and may accompany this report by specific measures determining the rules for a list of ingredients or a mandatory nutrition declaration for those products. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).^{57 58}

⁵⁷ AT/DE/CZ/SE/NL: scrutiny reservation on the transfer to this Article of the exemptions previously stated in Articles 20 and 29.

⁵⁸ LT/SE/DK/SK: this paragraph could be deleted.

EE/SI/NL/BE/SE/UK/FI/DK/CY suggested a large definition: "*Beverages containing more than 1,2 % by volume of alcohol need only to indicate the energy value*", exempting all kind of alcoholic beverages. ES/SE/DK/LT/FR: against. FR: on the one hand because FR do not want to exempt mixed drinks (to protect the young generations); on the other hand, because FR agrees with an exemption as proposed by the Cion (no indication of energy).

IT: alcoholic beverages should be defined as beverages containing more than 1,2 % by volume of alcohol.

LT: reservation; only beverages already regulated at EU level should be exempted (ex: wines, spirits, but not beers).

AT/HU: scrutiny reservations.

SECTION 2
DETAILED PROVISIONS ON MANDATORY PARTICULARS

Article 18

Name of the food

1. The name of the food shall be its legal name. In the absence of such name, the name of the food shall be its customary name, or, if there is no customary name or the customary name is not used, a descriptive name of the food shall be provided.
 - 1a. The use in the Member State of marketing of the name of the food under which the product is legally manufactured and marketed in the Member State of production shall be allowed. However, where the application of the other provisions of this Regulation, in particular those set out in Article 9, would not enable consumers in the Member State of marketing to know the true nature of the food and to distinguish it from foods with which they could confuse it, the name of the food shall be accompanied by other descriptive information which shall appear in proximity to the name of the food.**
 - 1b. In exceptional cases, the name of the food of the Member State of production shall not be used in the Member State of marketing when the food which it designates is so different, as regards its composition or manufacture, from the food known under that name that the provisions of paragraph 1a are not sufficient to ensure, in the Member State of marketing, correct information for purchaser.**
 - 1c. No name protected as intellectual property, brand name or fancy name may be substituted for the name of the food.**
2. Specific provisions on ~~the use of~~ the name of the food and particulars that shall accompany it are laid down in Annex V.

Article 19

List of ingredients

1. The list of ingredients shall be headed or preceded by a suitable heading which consists of or includes the word 'ingredients'. It shall include all the ingredients of the food, in descending order of weight, as recorded at the time of their use in the manufacture of the food.
2. Ingredients shall be designated by their specific name, where applicable, in accordance with the rules laid down in Article 18 and in Annex V.
3. Technical rules for applying paragraphs 1 and 2 are laid down in Annex VI.

Article 20

Omission of the list of ingredients

The following foods shall not be required to bear a list of ingredients:

- (a) fresh fruit and vegetables, including potatoes, which have not been peeled, cut or similarly treated;
- (b) carbonated water, the description of which indicates that it has been carbonated;
- (c) fermentation vinegars derived exclusively from a single basic product, provided that no other ingredient has been added;
- (d) cheese, butter, fermented milk and cream, to which no ingredient has been added other than lactic products, enzymes and micro-organism cultures essential to manufacture, or in the case of cheese other than fresh cheese and processed cheese the salt needed for its manufacture;

~~(e) wines as defined in covered by Annex XI b of Council Regulation (EC) No 1234/2007 1493/1999, products covered by Council Regulation (EEC) No 1601/91, similar beverages containing more than 1,2% by volume of alcohol obtained from fermentation of fruits or vegetables, mead, all types of beer and spirits spirit drinks as defined in Article 2(1) of Regulation (EC) No 110/2008 [...] of [...] of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89. The Commission shall produce a report after within [five years of the entry into force of this Regulation] concerning the application of Article 19 on these products and may accompany this report by specific measures determining the rules for labelling ingredients. Those measures designed to amend non-essential elements of this Regulation, by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3);~~

(f) foods consisting of a single ingredient, where:

- (i) the name of the food is identical with the ingredient name; or
- (ii) the name of the food enables the nature of the ingredient to be clearly identified.

Article 21

Omission of constituents of food from the list of ingredients

The following constituents of a food shall not be required to be included in the list of ingredients:

- (a) the constituents of an ingredient which have been temporarily separated during the manufacturing process and later reintroduced but not in excess of their original proportions;

- (b) food additives and **food** enzymes:
- (i) whose presence in a given food is solely due to the fact that they were contained in one or more ingredients of that food, **in accordance with the carry-over principle referred to in points (a) and (b) of Article 18(1) of Regulation (EC) No 1333/2008**, provided that they serve no technological function in the finished product; or⁵⁹
 - (ii) which are used as processing aids;
- (c) substances used in the quantities strictly necessary as ~~solvents~~ **carriers** or media for nutritional substances, food additives, **food enzymes** or flavouring;
- (d) substances which are not food additives but are used in the same way and with the same purpose as processing aids and are still present in the finished product, even if in an altered form;
- (e) water:
- (i) where the water is used during the manufacturing process solely for the reconstitution of an ingredient used in concentrated or dehydrated form; or
 - (ii) in the case of a liquid medium which is not normally consumed.

⁵⁹ EL/LU/CY proposed, in alternative: "*whose presence in a given food is solely due to the fact that they were contained in one or more ingredients of that food, provided that they **no longer** serve no technological function in the **manufacture, processing, preparation, treatment, packaging, transport or storage of the finished product; or**" (see DS 496/09).*

Labelling of certain substances causing allergies or intolerances

1. **Without prejudice to the rules adopted under Article 41(1a), any ingredient listed in Annex II or any substance originating from an ingredient listed in that Annex, subject to the exceptions thereof provided for in that Annex, the particulars referred to in point (c) of Article 9(1) shall be indicated on the label in the list of ingredients in accordance with the rules laid down in Article 19(1), with a precise reference to the name of the ingredient substance listed in Annex II.**

In the absence of a list of ingredients, this indication shall comprise the word "contains" followed by the name of the substance listed in Annex II.

That indication shall not be required in cases where:

- (a) — the name of the food clearly refers to the ~~ingredient~~ **substance** concerned; ~~or~~
- (b) — the ~~ingredient listed in Annex II from which a substance originates is already included in the list of ingredients.~~⁶⁰

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2. The list in Annex II shall be systematically re-examined and, where necessary, updated by the Commission on the basis of the most recent scientific and technical knowledge.

Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(4).

⁶⁰ AT/FR/DE: scrutiny reservation.

⁶¹ BG/UK: proposed a new paragraph:

“(c) Dairy products sold under the names ‘cheese, butter, cream and yoghurt’ do not need to make reference to milk. Cereals containing gluten should be listed using the name of the cereal.” (see DS 555/09).

PL/HU: wish that this list would be a closed list.

Cion/SE: consider that this question should rather be resolved through guidelines adapted to the different commercial structures of the MS.

3. Where necessary, technical guidelines may be issued for the interpretation of the list in Annex II, in accordance with the procedure referred to in Article 49(2).

Article 23

Quantitative indication of ingredients

1. The indication of the quantity of an ingredient or category of ingredients used in the manufacture or preparation of a food shall be required where:
 - (a) the ingredient or category of ingredients concerned appears in the name of the food or is usually associated with that name by the consumer; or
 - (b) the ingredient or category of ingredients concerned is emphasised on the labelling in words, pictures or graphics; or
 - (c) the ingredient or category of ingredients concerned is essential to characterise a food and to distinguish it from products with which it might be confused because of its name or appearance.
2. The Commission may amend paragraph 1 by adding other cases. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).
3. Technical rules for applying paragraph 1, including specific cases where the quantitative indication shall not be required in respect of certain ingredients, are laid down in Annex VII.

Article 24

Net Quantity

1. The net quantity of a food shall be expressed, using litres, centilitres, millilitres, kilograms or grams, as appropriate:
 - (a) in units of **volume liquid** in the case of liquids;
 - (b) in units of mass in the case of other products.⁶²
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2. The expression of the net quantity for certain specified foods in a different manner than the one described in paragraph 1 may be established by the Commission. Those measures designed to amend the non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).
3. Technical rules for applying paragraph 1, including specific cases where the indication of the net quantity shall not be required, are laid down in Annex VIII.

Article 25⁶⁴

Minimum durability date and ‘use by’ date⁶⁵

1. In the case of foods which, from a microbiological point of view, are highly perishable and are therefore likely after a short period to constitute an immediate danger to human health, the date of minimum durability shall be replaced by the ‘use by’ date.

⁶² FI: in the case of semi-liquid products there should be a possibility of choice of the unit of expression.

PL/DE/BE/BG: proposed the following alternative wording (DS 1093/08):

*"(a) in units of **volume (liquid)** in the case of liquids **products**;*

*(b) in units of mass in the case of ~~other~~ **solid** products;*

(c) in units of mass or volume (liquid) in the case of semi liquid or viscose products."

HU: scrutiny reservation. UK: against.

⁶³ UK: suggested the following new paragraph (DS 977/08):

"1a. Where the indication of a certain type of quantity (e.g. nominal quantity, minimum quantity, average quantity) is required by Community provisions or, where there are none, by national provisions, this quantity shall be regarded as the net quantity for the purposes of this Directive."

⁶⁴ MT/UK: suggested the alternative wording mentioned in DS 457/09.

⁶⁵ MT/IE/NL/UK: this title should be changed.

2. The appropriate date shall be expressed in accordance with Annex IX.
3. The manner of indicating the date of minimum durability referred to in point 1c of Annex IX may be specified in accordance with the procedure referred to in Article 49(2).

Article 26

Instructions for use

1. The instructions for use of a food shall be indicated in such a way as to enable appropriate use to be made thereof.
2. The Commission may lay down rules as regards the way in which those instructions shall be indicated in the case of certain foods. Those measures designed to amend non-essential elements of this Regulation, by supplementing it shall be adopted, in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).

Article 27

Alcoholic strength

1. The rules concerning indication of the alcoholic strength by volume shall, in the case of products classified in **Combined Nomenclature ('CN') code 2204**, ~~under the Common Customs Tariff headings 22.04 and 22.05~~, be those laid down in the specific Community provisions applicable to such products.
2. The actual alcoholic strength by volume of beverages containing more than 1,2 % by volume of alcohol other than those referred to in paragraph 1 shall be indicated in accordance with Annex X.

SECTION 3
NUTRITION DECLARATION

Article 28

Relation with other legislation

1. The provisions of this Section shall not apply to foods within the scope of the following legislation:
 - (a) Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements⁶⁶;
 - (b) ~~Council Directive 80/777/EEC of 15 July 1980~~ **Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009** on the approximation of the laws of the Member States relating to the exploitation and marketing of natural mineral waters⁶⁷.

2. The provisions of this Section **shall** apply without prejudice to ~~Council Directive 89/398/EEC of 3 May 1989~~ **Directive 2009/39/EC of the European Parliament and of the Council of 6 May 2009** on the approximation of the laws of the Member States relating to foodstuffs intended for particular nutritional uses⁶⁸ and specific Directives as referred to in Article 4(1) of that Directive.

⁶⁶ OJ L 183, 12.7.2002, p. 51.

⁶⁷ ~~OJ L 229, 30.8.1980, p. 1~~ **OJ L 164, 26.6.2009, p. 45.**

⁶⁸ ~~OJ L 186, 30.6.1989, p. 27~~ **OJ L 124, 20.5.2009, p.21.**

Article 29

Content

1. The **mandatory** nutrition declaration shall include the following (~~hereinafter referred to as "mandatory nutrition declaration"~~):
- (a) energy value **and**
 - (b) the amounts of fat, saturates, carbohydrates, ~~with specific reference to sugars~~, **protein**⁶⁹ and salt^{70 71}.

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~~1a. Without prejudice to other Community legislation requiring mandatory nutrition declaration, this paragraph 1 shall not apply to wines covered by Annex XI b of as defined in Council Regulation (EC) No 1234/2007 1493/1999, to products covered by Council Regulation (EEC) No 1601/91, to similar beverages containing more than 1,2% by volume of alcohol obtained from fermentation of fruits or vegetables, to mead, to all types of beer and spirits to spirit drinks as defined in Article 2(1) of Regulation (EC) No. [...] of [...] 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89.~~

⁶⁹ CZ/DE/FR/Cion: opposed to the addition of a new nutrient to a list that it is already too long and that does not give an essential information to the consumer's health.

⁷⁰ IT: prefers sodium instead of salt.

⁷¹ NL: asked to come back to the order of Directive 90/496/EEC (proteins, carbohydrate, fat, fibre, sodium, vitamins and minerals). Cion: changed the order as a way to put fat in first place, raising the attention of the consumer for the more important nutrient.

⁷² IE/ES: would like to add trans fats. IE: trans fats increase the risk of cardiovascular diseases BE/FR/FI/NL/DK/AT: opposed.

1b. ~~The Commission shall produce a report after within [five years of the entry into force of this Regulation] concerning the application of paragraph 1 to the products referred to in paragraph 1a, Article 19 on these products and may accompany this report by specific measures determining the rules for a mandatory nutrition declaration for those these products. Those measures designed to amend non-essential elements of this Regulation, by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).~~

2. The **content of the mandatory** nutrition declaration **referred to in paragraph 1** may ~~also~~ **include be supplemented with** the amounts of one or more of the following:

- (a) trans fats;
- (b) mono-unsaturates;
- (c) polyunsaturates;
- (d) polyols;
- (e) starch;
- (f) fibre;
- (g) ~~protein~~;
- (h) any of the minerals or vitamins listed in point 1 of Part A of Annex XI, and present in significant amounts as defined in point 2 of Part A of Annex XI.

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⁷⁴2a. When the labelling of a prepacked food provides the mandatory nutrition declaration referred to in paragraph 1, the following food information may be repeated thereon:

(a) energy value⁷⁵; or

(b) energy value and the amounts of fat, saturates, sugars, and salt⁷⁶.

⁷³ FR: would like to add sodium.

DE/ES/MT: would like to insert cholesterol.

⁷⁴ DE/ES/IT/RO/MT/AT/PT/BE/DK/FI/CY/NL: scrutiny reservations.

EL: reservation; it does not matches with the rest of the text.

⁷⁵ IE/UK: suggested deleting (2a)(a); when nutrition information is voluntarily provided (e.g. on the front of pack), in order not to mislead the consumer, it should include an adequate number of nutrients relevant to public health priorities to provide an overall assessment of the nutritional content and not just energy..

⁷⁶ MT/IT/BE: the other elements must be added to the list with the possibility for the operator to inform on them on a voluntary basis.

DK: on the contrary, wishes restricting the list.

2b. By way of derogation from Article 35(1), when the labelling of the products referred to in Article 17(4) provides a nutrition declaration, the content of the declaration may be limited only to the energy value.

2c. By way of derogation from Article 35(1), when the labelling of the products referred to in Article 41(1) provides a nutrition declaration, the content of this declaration may be limited only to:

(a) the energy value; or

(b) the energy value and the amounts of fat, saturates, sugars, and salt.⁷⁷

~~3. The declaration of the amount of substances which belong to or are components of one of the categories of nutrients referred to in paragraph 2 shall be required where a nutrition and/or health claim is made.~~

4. The lists in paragraphs 1 ~~and to 2c~~ may be amended by the Commission. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted, in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).

Article 30

Calculation

1. The ~~amount of~~ energy value shall be calculated using the conversion factors in Annex XII.
2. Conversion factors for the vitamins and minerals mentioned in point 1 of Part A of Annex XI, in order to calculate more precisely their content in foods, may be set and included in Annex XII by the Commission. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).
3. The ~~amounts of~~ energy value and the amounts of nutrients referred to in Article 29(1) ~~and to (2c)~~ shall be those of the food as sold.

⁷⁷ RO/DE/ES/DK/CZ/ES/IT/AT/MT/PT/BE: scrutiny reservations.

Where appropriate, the information may relate to the food after preparation, provided that sufficiently detailed preparation instructions are given and the information relates to the food as prepared for consumption.

4. The declared values⁷⁸ shall, according to the individual case, be average values based on:
 - (a) the manufacturer's analysis of the food; or
 - (b) a calculation from the known or actual average values of the ingredients used; or
 - (c) a calculation from generally established and accepted data.

The rules for implementing the declaration of energy and nutrients with regard to the precision of the declared values such as the differences between the declared values and those established in the course of official checks may be decided upon in accordance with the procedure laid down in Article 49(2).

Article 31

Forms of Expression per 100g or per 100 ml

1. The ~~amount of~~ energy value and **the amount of** nutrients or their components referred to in Article 29(1) ~~and to (2c)~~ shall be expressed using the measurement units listed in ~~Part A of~~ Annex XIII.
2. The ~~amount of~~ energy value and **the amount of** nutrients **or their components** referred to in ~~paragraph 1 Article 29(1) and to (2c)~~ shall be expressed per 100 g or per 100 ml ~~or, subject to Article 32(2) and (3), per portion.~~
- 2a. **When provided, the declaration on vitamins and minerals shall, in addition to the form of expression referred to in paragraph 2, be expressed as a percentage of the reference intakes set out in point 1 of Part A of Annex XI in relation to per 100 g or per 100 ml.**

⁷⁸ CZ: linked with its reservation on the mandatory character of the nutrition declaration, has doubts on how should be calculated the obligatory value and the tolerances.

3. **In addition to the form of expression referred to in paragraph 2, the energy value and the amounts of nutrients or their components referred to in Article 29(1), (2a), (2b) and (2c) mandatory ~~nutrition declaration~~ shall ~~may~~ be expressed, as appropriate, as a percentage of the reference intakes set out in Part B of Annex XI in relation to per 100 g or per 100 ml ~~or per portion~~. ~~When provided, the declaration on vitamins and minerals shall also be expressed as a percentage of the reference intakes set out in point 1 of Part A of Annex XI.~~**
4. ~~The declaration of polyols and/or starch and the declaration of type of fatty acids, other than the mandatory declaration of saturates referred to in Article 29(1)(b), shall be presented in accordance with Annex XIII Part B.~~

Article 32

Expression on a per portion basis or per consumption unit

1. ~~In addition to the nutrition declaration per 100g or per 100ml referred to in Article 31(2), the information may be expressed per portion as quantified on the label, provided that the number of portions contained in the package is stated.~~

In the following cases, the energy value and the amounts of nutrients or their components referred to in Article 29(1) to (2c) ~~information~~ may be expressed per portion⁷⁹ and/or per consumption unit, easily recognisable by the consumer, provided that the portion or the unit used is quantified on the label and that the number of portions or units contained in the package is stated;

- (a) **in addition to the nutrition declaration per 100 g or per 100 ml referred to in Article 31(2),**
- (b) **in addition to the declaration on vitamins and minerals per 100 g or per 100 ml referred to in Article 31(2a).**
- (c) **in addition to or instead of the nutrition declaration per 100 g or per 100 ml referred to in Article 31(3),**

⁷⁹ ES/DK: the portions need to be defined by guidelines.

- 1a. **In the cases referred to in Article 29(2a), (2b) and (2c) the energy value and the amount of nutrients and/or the percentage of the reference intakes set out in Part B of Annex XI may be expressed on the basis of per portion⁸⁰ or per consumption unit alone.**
- 1b. **The portion or unit used shall be indicated in close proximity to the nutrition declaration.**
- [2. ~~The nutrition declaration may be expressed on a per portion basis alone if the food is prepacked as an individual portion.⁸¹~~]
3. ~~The expression on a per portion or per consumption unit basis alone for specific categories of foods presented in packages containing multiple portions of the food, that have not been prepacked as individual portions, shall may be established by the Commission on the basis of sound scientific evidence and research on consumption behaviour of consumers. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted, in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).~~

Taking into account consumption patterns and dietary guidelines, the Commission may adopt rules on the expression per portion or per consumption unit for specific categories of foods in accordance with the procedure laid down in Article 49.⁸²

⁸⁰ CZ: scrutiny reservation on the expression per portion.

Cion/DK: accept portion only if guidelines indicates the measure of the portion.

⁸¹ IT/PT/SK/UK/LU/HU/BE/CY/DE/IE/BG: agree with the Cion proposal; the consumer is interested in the values of what he eats. BE/HU/DE: should read "... if the food is prepacked and *sold* as an individual portion.". EL/FR: scrutiny reservations.

⁸² CZ/DE/ES/MT: scrutiny reservations. DE/NL: prefer guidelines, a more flexible and adequate instrument to regulate technical aspects.

Article 33

Additional forms of expression

1. In addition to the forms of expression referred to in Article 31(2) and (3), the ~~nutrition declaration~~ **energy value and the amount of nutrients or their components referred to in Article 29(1) to (2c)** may be given by other forms of expression⁸³ provided that the following essential requirements are met:
 - (a) the form of expression aims to facilitate consumer understanding of the contribution or importance of the food to the energy and nutrient content of a diet; and
 - (b) it is based either on harmonised reference intakes, or in their absence, on generally accepted scientific advice on intakes for energy or nutrients; and
 - (c) it is supported by evidence of understanding of and use of the presentation of the information by the average consumer.
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2. Such additional forms of expression referred to in paragraph 1 shall be identified under a ~~national~~ **an additional voluntary** scheme referred to in Article 44 **35a**.

⁸³ BE/DK/IT/ES/LU/EL: against different forms of expression on a voluntary basis; wish an harmonised system. FR: would accept other forms of expression as long as they are subject to harmonised criteria.

RO: scrutiny reservation.

UK: Considers that we are not prepared for an harmonised scheme; UK has a national scheme without the problems that the other delegations seem to fear.

Cion: to foresee the existence of voluntary national schemes is a way of controlling them.

⁸⁴ UK: would add paragraph 1a: "*Additional forms of expression referred to in 33 (1) may contain comparative indicators that help consumers assess the nutritional content of the food and interpret the levels of energy and fat, saturated fat, salt and sugar presented either individually or collectively. These indicators shall not be subject to the nutrient profiles to be established under Article 4(1) of Regulation (EC) No 1924/2006 on nutrition and health claims made on food when they are part of a composite form of expression or presentation approved by a Member State.*" FR/SE: against.

Article 34

Presentation

1. The particulars referred to **in Article 29(1) and (2)** ~~Article 31(2) related to the mandatory nutrition declaration~~ shall be included in the principal⁸⁵ same field of vision. They shall be presented, ~~where appropriate, together in a clear format in the following order: energy, fat, saturates, carbohydrates with specific reference to sugars, and salt~~ **and, as appropriate, in the order of presentation provided in Annex XIII.**
2. The **particulars referred to in Article 29(1) and (2) nutrition declaration** in relation to the nutrients referred to in Article 29(2) shall appear together in one place and, as appropriate, in the order of presentation provided in Part C of Annex XIII.

~~When this nutrition declaration does not appear in the principal field of vision, it shall be presented, if space permits, in tabular format with the numbers aligned. Where space does not permit, the declaration shall appear in linear format.~~

- ~~3. If the mandatory nutrition declaration appears together with the declaration on nutrients referred to in Article 29(2), the order of presentation of the energy and nutrients included in the declaration shall be, as appropriate, in the order provided in Part C of Annex XIII.~~

863a The particulars referred to in Article 29(2a) may be presented:

- (a) in a different field of vision from the one referred o in paragraph 1, and**
- (b) in a different format from that specified in paragraph 2.**

873b The particulars referred to in Article 29(2b) and (2c) may be presented in a different format from that specified in paragraph 2.

⁸⁵ SK: supports "principal".

⁸⁶ MT: considers the text unclear.

⁸⁷ MT: considers the text unclear.

DE: in case of non-prepacked food, how does this provision applies?

4. In cases where the ~~amount of~~ energy value or the amount of nutrient(s) in a product is negligible⁸⁸, the ~~nutrition declaration information~~ on those elements may be replaced by a statement such as ‘Contains negligible amounts of ...’ **and shall be indicated** in close proximity to the nutrition declaration when present.
5. Graphical forms or symbols for the presentation of the nutrition declaration may be used under **an additional voluntary** ~~a national~~ scheme referred to in Article 44-**35a** provided the following essential requirements are met:
 - (a) such forms of presentation shall not mislead the consumer; and
 - (b) there shall be evidence of understanding of such forms of presentation by the average consumer.

5a The nutrition information referred to in Article 31(2a), 31(3) and 32(1a) may also be given in a graphical format.⁸⁹

6. Rules relating to other aspects of presentation of nutrition declaration, other than those referred to in paragraph 5, may be established by the Commission. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).

Article 34a

Additional nutrition declaration

1. ~~In addition to the mandatory nutrition declaration provided for in Article 29(1), additional nutrition declarations may be provided.~~

⁸⁸ DE/LT/LV/HU: scrutiny reservations on the definition of "negligible" proposed by the Presidency (see DS 1042/10).

⁸⁹ BE/CZ/IT/DE/IE/Cion: scrutiny reservations.

2. ~~The additional nutrition declarations shall be limited to~~
 - ~~(a) the amount of energy, or~~
 - ~~(b) the amount of energy and the following:~~
 - ~~— fat,~~
 - ~~— saturates,~~
 - ~~— sugars, and~~
 - ~~— salt.~~

3. ~~Notwithstanding the forms of expression provided for in Article 31(2) and Article 33(1), additional nutrition declarations may be expressed per portion or per consumption unit alone, provided that the portion or the unit used is quantified and that the number of portions or units contained in the package is stated. The portion or unit used shall be indicated in close proximity to the declaration.~~

4. ~~The additional nutrition declarations may be presented:~~
 - ~~(a) in a different field of vision from the mandatory nutrition declaration, and~~
 - ~~(b) in a different format from that specified in Article 34(1) and (2).~~

CHAPTER V VOLUNTARY FOOD INFORMATION

Article 35

Applicable requirements

1. Where food information **referred to in Articles 9 and 10** covered by this Regulation is provided on a voluntary basis, such information shall comply with the relevant specific requirements laid down in **Sections 2 and 3 of Chapter IV** of this Regulation.

2. ~~Without prejudice to labelling in accordance with specific Community legislation, paragraphs 3 and 4 shall apply where the country of origin or the place of provenance of a food is voluntarily indicated to inform consumers that a food originates or comes from the European Community or a given country or place.~~

- ~~3. Where the country of origin or the place of provenance of the food is not the same as the one of its primary ingredient(s), the country of origin or place of provenance of those ingredient(s) shall also be given~~
- ~~4. For meat, other than beef and veal, the indication on the country of origin or place of provenance may be given as a single place only where animals have been born, reared and slaughtered in the same country or place. In other cases information on each of the different places of birth, rearing and slaughter shall be given.~~
- ~~5. Implementing rules concerning the application of paragraph 3 shall be established by the Commission. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).~~
6. Implementing rules concerning the conditions and criteria of use of particulars voluntarily provided may be established by the Commission. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).

Article 35a⁹⁰

Additional voluntary schemes

- 1. Additional voluntary schemes may be developed by a Member State on its own initiative or at the request of a stakeholder. It shall consist of exclusively non-binding rules, such as recommendations, guidance, standards or any other non-binding rules aimed at ensuring the application of the following provisions and in compliance with the essential requirements set out therein:**
- (a) Article 33(2), relating to additional forms of expression of the nutrition declaration;**
- (b) Article 34(5), relating to the presentation of the nutrition declaration.**

⁹⁰ FR/DE/PT/DK/RO/BE/ES/CZ/AT/LV/EL: scrutiny reservations.
MT/IT: reservations. IT: a national schema should be applicable only at national level.

2. **The implementation of additional voluntary schemes on other provisions of food information law, in addition to those listed in paragraph 1, and the relevant essential requirements may be established by the Commission. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).**
3. **Additional voluntary schemes shall be in compliance with the general principles and requirements laid down in Chapter II and III of this Regulation, and:**
 - (a) **as a result of sound consumer research; and**
 - (b) **following extensive consultation with a wide range of stakeholders drawing on best practices.**
4. **Additional voluntary schemes shall include appropriate mechanisms to allow consumers to identify foods that are labelled in compliance with this additional voluntary scheme, to monitor the level of compliance with the scheme and to assess its impact.**
5. **Only additional voluntary schemes endorsed⁹¹ by a Member State may be used. Stakeholders having developed a proposal for an additional voluntary scheme that they wish to have endorsed shall present it together with relevant documentation to a Member State for endorsement.**
6. **A Member State shall circulate⁹² a proposed additional voluntary scheme together with its documentation to the Commission and all other Member States for comments during a period of three months. The Member State circulating the proposal shall take comments received into account as far as possible before endorsing the scheme.**
7. **Member States shall provide the Commission with the details of endorsed additional voluntary scheme, including an identifier for foods that are labelled in compliance with the scheme. The Commission shall make those details available to the public, in particular through a dedicated page on the Internet.**

⁹¹ DE: would prefer a system where it would be enough for the schemes to comply with the criteria with no need for the endorsement. (DS 694/09).

⁹² UK: suggested to reword the beginning of the sentence: "***Where a Member State is minded to endorse a proposal, presented under paragraph (5) it shall circulate (...)***" in order to make clear that any MS proposing a scheme would have undertaken an analysis of the merits of the scheme and would be supportive of it.

8. **The Commission shall encourage and organise the exchange of information between Member States and with itself on matters relating to the adoption and implementation of endorsed additional voluntary schemes. It shall encourage the participation of stakeholders to such exchange, in particular through the Advisory Group on the Food Chain Animal and Plant Health set up by Commission Decision 2004/613/EC of 6 August 2004 concerning the creation of an advisory group on the food chain and animal and plant health.**
9. **The application of endorsed additional voluntary schemes shall not give rise to obstacles to the free movement of products.**

Article 35b

Community measures

1. **If the Commission considers that an endorsed additional voluntary scheme is not in compliance with the provisions of this Regulation, it may adopt a decision, after having informed the Committee referred to in Article 49(1), requesting a Member State to repeal or amend the scheme.**
2. **The Commission may adopt implementing measures relating to the provisions referred to in Article 35c (1) and (3). Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).**

Article 35c

Voluntary nutrition declaration

- ~~1. Notwithstanding Article 35(1), in the case of products referred to in Article 41(1), voluntary nutrition declarations may be limited to~~
 - ~~(a) the amount of energy, or~~
 - ~~(b) the amount of energy and the following:~~
 - ~~— fat,~~
 - ~~— saturates,~~

~~— sugars, and~~

~~— salt.~~

2. Notwithstanding Article 35(1), in the case of products referred to in Article 29(1a), voluntary nutrition declarations may be limited to the amount of energy alone.
3. Voluntary nutrition declarations in accordance with paragraphs 1 and 2 may be presented in a different format from that specified in Article 34(2)⁹³.
4. Voluntary nutrition declarations in accordance with paragraph 2 may be expressed per portion or per consumption unit alone, provided that the portion or the unit used is quantified and that the number of portions or units contained in the package is stated. The portion or unit used shall be indicated in close proximity to the declaration.

Article 35d⁹⁴

Country of origin or place of provenance

1. Without prejudice to labelling in accordance with specific Community legislation, in particular, Council Regulation (EC) No 509/2006 of 20 March 2006 on agricultural products and foodstuffs as traditional specialities guaranteed and Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs, paragraphs 2 and 3 shall apply where the country of origin or the place of provenance of a food is voluntarily indicated to inform consumers that a food originates or comes from the European Community or a given country or place.
2. Where the country of origin or the place of provenance of the food is not the same as the one of its primary ingredient(s), the country of origin or place of provenance of those ingredient(s) shall also be given.⁹⁵

⁹³ ES/DK/LV: required that it would be expressed per 100 g or 100 ml also.

⁹⁴ BE/MT/IT: scrutiny reservation.

BE/RO: prefer the rules of Directive 2000/13/EC regarding the country of origin.

⁹⁵ NL/FI/DE/UK: reservation; the origin of the ingredients may change according to the prices. It might be too difficult to indicate it in a systematic way.

3. For meat, other than beef and veal, the indication on the country of origin or place of provenance may be given as a single place only where animals have been born, reared and slaughtered in the same country or place. In other cases information on each of the different places of birth, rearing and slaughter shall be given.⁹⁶

~~For the purposes of this Article, the definitions of ‘meat’ in points 1.1 of Annex I to Regulation (EC) No 853/2004 shall apply.~~

4. Implementing rules concerning the application of paragraph 2 shall be established by the Commission. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).

Article 36

Presentation

Voluntary information shall not be displayed to the detriment of the space available for mandatory information.

CHAPTER VI
NATIONAL PROVISIONS

Article 37⁹⁷

*Non-harmonised national rules**Principle*

1. As regards the matters specifically harmonised by this Regulation, Member States may not adopt national provisions unless authorised by Community law.
2. Without prejudice to Article 38, Member States may adopt national measures concerning matters not specifically harmonised by this Regulation provided that they do not prohibit, impede or restrict the free movement of goods that are in conformity with this Regulation.

⁹⁶ UK: scrutiny reservation.

⁹⁷ RO: scrutiny reservation.

~~Member States may only adopt provisions in the field of food information where this is provided for by this Regulation.~~

Article 38

National provisions on additional mandatory particulars

1. In addition to the mandatory particulars referred to in Article 9(1) and in Article 10, Member States may, in accordance with the procedure laid down in Article 42, require additional mandatory particulars for specific types or categories of foods, justified on grounds of **at least one of the following reasons**:
 - (a) the protection of public health;
 - (b) the protection of consumers⁹⁸;
 - (c) the prevention of fraud;
 - (d) the protection of industrial and commercial property rights, indications of provenance, registered designations of origin and the prevention of unfair competition.

2. By means of paragraph 1, Member States may introduce measures concerning the mandatory indication of the country of origin or place of provenance of foods only where there is a proven link between certain qualities of the food and its origin or provenance⁹⁹. When notifying such measures to the Commission, Member States shall provide evidence that the majority of consumers attach significant value to the provision of this information.

Article 39

Milk and milk products

Member States may adopt measures derogating from Article 9(1) and Article 10(21) in the case of milk and milk products presented in glass bottles intended for reuse.

They shall communicate to the Commission the text of those measures without delay.

⁹⁸ UK: proposed adding: "*by enabling them to make informed choices*".

⁹⁹ IE/AT/PT: would delete "*only where there is a proven link between certain qualities of the food and its origin or provenance*". IT: would delete "*only*". NL asked what should be understood by "*proven link*".

Article 40
Alcoholic beverages

Member States may, pending the adoption of the Community provisions referred to in Article 20(e), maintain national rules as regard the listing of ingredients in the case of beverages containing more than 1,2 % by volume of alcohol.

Article 41¹⁰⁰
National measures for non-prepacked food

1. **Where** foods are offered for sale to the final consumer or to mass caterers without prepackaging, or where foods are packed on the sales premises at the consumer's request or prepacked for direct sale, ~~the Member States may adopt detailed rules concerning the manner in which the particulars specified in Articles 9 and 10 are to be shown.~~
 - a) **the provision of the particulars specified in Article 9(1)(c) is obligatory;**
 - b) **the provision of other particulars referred to in Articles 9 and 10 is not obligatory unless Member States adopt rules requiring the provision of some or all of those particulars.**

[Rules adopted by Member States shall ensure that the particulars to be provided by food business operators for non-prepacked food provide for sufficient information to the consumer or mass caterers.]

- 1a. **Member States may adopt rules concerning the manner in which the particulars specified in paragraph 1 are to be made available.**

¹⁰⁰ Cion: reservation concerning the reversal of the basic principle for the establishment of national rules that goes against equality in the Community. Suggested to give a limit date to the Member States for the adoption of the rules.
EL/LT: prefer Cion's proposal.

2. ~~Member States may decide not to require the provision of some of the particulars referred to in paragraph 1, other than those referred to in Article 9(1) (c), provided that the consumer or mass caterer still receives sufficient information.~~
3. Member States shall communicate to the Commission the text of the measures referred to in paragraphs 1(b) and 2 1a without delay.

Article 42

Notification procedure

1. When reference is made to this Article, the Member State which deems it necessary to adopt new food information legislation, shall notify in advance the Commission and the other Member States of the measures envisaged and give the reasons justifying them.
2. The Commission shall consult the Standing Committee on the Food Chain and Animal Health set up by Article 58(1) of Regulation (EC) No 178/2002 if it considers such consultation to be useful or if a Member State so requests.
3. The Member State concerned may take the envisaged measures only three months after the notification referred to in paragraph 1, provided that it has not received a negative opinion from the Commission.
4. If the Commission's opinion is negative, it shall initiate the procedure referred to in Article 49(2) before the expiry of that three-month period in order to determine whether the envisaged measures may be implemented. The Commission may require certain amendments to be made to the envisaged measures. The Member State concerned may take the envisaged measures only after the Commission has adopted its final decision.
5. Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations¹⁰¹ shall not apply to the measures falling within the notification procedure specified in paragraphs 1 to 4.

¹⁰¹ OJ L 204, 21.7.1998, p. 37.

Article 43
Detailed rules

Detailed rules for the application of this Chapter may be adopted by the Commission. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the procedure referred to in Article 49(2).

~~CHAPTER VII~~
~~DEVELOPMENT OF NATIONAL SCHEMES~~

Article 44
National Schemes

- ~~1.— Member States may adopt, recommend or otherwise endorse national schemes consisting of exclusively non-binding rules, such as recommendations, guidance, standards or any other non-binding rules, (hereinafter referred to as the ‘national schemes’) aimed at ensuring the application of the following provisions and in compliance with the essential requirements set out therein:~~
 - ~~(a) Article 33(2), relating to additional forms of expression of the nutritional declaration;~~
 - ~~(b) Article 34(5), relating to the presentation of the nutrition declaration.~~

- ~~2.— The implementation by national schemes of other provisions of food information law, in addition to those listed in paragraph 1, and the relevant essential requirements may be established by the Commission. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).~~

- ~~3.— National schemes may be developed by Member States on their own initiative or at the request of stakeholders in compliance with the general principles and requirements laid down in Chapter II and III of this Regulation, and:~~
 - ~~(a) as a result of sound consumer research; and~~

~~(b) following extensive consultation with a wide range of stakeholders drawing on best practices.~~

~~4. National schemes shall include appropriate mechanisms to allow consumers to identify foods that are labelled in compliance with national schemes, to monitor the level of compliance with the scheme and to assess its impact.~~

~~5. Member States shall provide the Commission with the details of the national schemes referred to in paragraph 1, including an identifier for foods that are labelled in compliance with that national scheme. The Commission shall make those details available to the public, in particular through a dedicated page on the Internet.~~

~~6. The Commission shall encourage and organise the exchange of information between Member States and with itself on matters relating to the adoption and implementation of the national schemes. It shall encourage the participation of stakeholders to such exchange, in particular through the Advisory Group on the Food Chain Animal and Plant Health set up by Commission Decision 2004/613/EC of 6 August 2004 concerning the creation of an advisory group on the food chain and animal and plant health¹⁰².~~

~~7. The Commission, after consulting with Member States, may adopt Guidelines concerning the application of this Article.~~

Article 45

Presumption of conformity

~~1. Any food information provided in conformity with a national scheme shall be presumed to comply with the essential requirements referred to in Article 44(1) and (2).~~

~~2. The application of national schemes shall not give rise to obstacles to the free movement of products.~~

¹⁰² OJ L 275, 25.8.2004, p. 17.

Article 46

Community measures

1. — ~~If the Commission considers that a national scheme is not in compliance with the provisions of this Regulation, it may adopt a decision, after having informed the Committee referred to in Article 49(1), requesting a Member State to repeal or amend that national scheme.~~

2. — ~~The Commission may adopt implementing measures relating to the provisions referred to in Article 44(1) and (2). Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).~~

Article 47

Implementing rules

~~Detailed rules for the application of this Chapter may be adopted by the Commission. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the procedure referred to in Article 49(2).~~

CHAPTER VIII

IMPLEMENTING, AMENDING AND FINAL PROVISIONS

Article 48

Technical adaptations

Subject to the provisions relating to the amendments to Annexes II and III referred to in Article 10(2) and Article 22(2), the Annexes may be amended by the Commission. Those measures designed to amend non-essential elements of this Regulation by supplementing it shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 49(3).

Article 48a
Transitory period

1. **Without prejudice to paragraph 2, in exercising the implementing powers conferred on it by this Regulation the Commission shall:**
 - (a) **establish an appropriate transitional period after the entry into force of the new requirements, during which foods bearing labels not complying with the new requirements may be placed on the market and during which stocks of such foods that have been placed on the market before the end of the transitory period may continue to be sold until exhausted; and**
 - (b) **ensure that those powers are not exercised more than twice per year.**¹⁰³
2. **Paragraph 1(b) shall not apply in cases of urgency, in particular where the purpose of the implementing measure concerned is the protection of human health.**

Article 48b
Transitory period for additional voluntary schemes

An additional voluntary scheme already in use when this Regulation enters into force may continue to be used provided that it is in compliance with 35a(3) until [two years after this regulation has entered into force].

Member States shall allow foodstuffs labelled, in accordance with an additional voluntary scheme in compliance with 35a(3) already in use when this Regulation enters into force, before [two years after this regulation has entered into force] to be marketed until stocks are exhausted.]

¹⁰³ Instead of "*twice per year*", UK/BG proposed to replace this paragraph with: "*(b) ensure that when measures are adopted in accordance with Article 49 they apply as from [either 1st April or 1st October] in any calendar year*". NL/HU/PL/BE/ES would like to limit the updates to one per year.

Cion: reservation: Member States have to establish transitory period according to the general principles, there is no need for such a provision.

Article 49
Committee

1. The Commission shall be assisted by the Standing Committee on the Food Chain and Animal Health.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
4. Where reference is made to this paragraph, Article 5a(1), (2), (4) and (6), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Amendments to Regulation (EC) No 1924/2006

The first and second paragraphs of Article 7 of Regulation (EC) No 1924/2006 are replaced by the following:

~~“The obligation and the modalities for providing information pursuant to [Chapter IV, Section 3 of Regulation (EC) No. ... of the European Parliament and of the Council]* where~~
Nutrition labelling of products on which a nutrition and/or health claim is made shall be **mandatory**¹⁰⁴ ~~apply *mutatis mutandis*,~~ with the exception of generic advertising. **The information to be provided shall consist of that specified in Article 29(1) of [Regulation (EC) No. ... of the European Parliament and the Council on the provision of food information to consumers]*. Where a nutrition and/or health claim is made for a nutrient referred to in Article 29(2) of [Regulation (EC) No. ...]* the amount of that nutrient shall be declared in accordance with Articles 30 to 34 of [Regulation (EC) No. ...]^{105 106}**

~~In addition, and as the case may be, †The amount(s) of the substance(s) to which a nutrition or health claim relates that does not appear in the nutrition labelling shall also be stated in the same field of vision as the nutrition labelling declaration and be expressed in accordance with Articles 30 to 32 of [Regulation (EC) No ...]. The units of measurement used to express the amount of the substance shall be appropriate for the individual substances concerned.~~

* OJ L ..., dd/mm/yyyy, p. ...”.

¹⁰⁴ BE: reservation; considers that, even in case of claims, some exemptions are still justified (e.g. water, salt).

¹⁰⁵ BE: would like to add "*in the nutrition declaration in accordance with Articles 30 and 32*".

¹⁰⁶ DK: would add: "*Where a nutrition and/or health claim is made regarding a constituent of a nutrient mentioned in Article 29(2), it shall be mandatory to declare the relevant nutrient mentioned in Article 29(2).*"

Article 51

Amendments to Regulation (EC) No 1925/2006

1. Paragraph 6 of Article 6 of Regulation (EC) 1925/2006 is replaced by the following:

“6. The addition of a vitamin or a mineral to a food shall result in the presence of that vitamin or mineral in the food in at least a significant amount where this is defined according to [point 2 of Part A of Annex XI of Regulation (EC) No ...]*. **Measures determining** the minimum amounts, including any lower amounts, by derogation from the significant amounts mentioned above, for specific foods or categories of foods **and designed to amend non-essential elements of this regulation by supplementing it** shall be adopted in accordance with the **regulatory procedure with scrutiny** referred to in Article 14(3) **of this Regulation**.

* OJ L ...,dd/mm/yyyy, p. ...”.

2. In Article 7 of Regulation (EC) 1925/2006 paragraph 3 is replaced by the following:

“3. Nutrition labelling of products to which vitamins and minerals have been added and which are covered by this Regulation shall be compulsory. The information to be provided shall consist of that specified in Article 29(1) of [Regulation (EC) No ...] and of the total amounts present of the vitamins and minerals when added to the food.”

Article 52

Repeal

1. Directives 2000/13/EC¹⁰⁷, 87/250/EC, 94/54/EC, 1999/10/EC, 2002/67/EC, 2004/77/EC and Regulation (EC) No 608/2004 are repealed with effect from the date of the entry into force of this Regulation.
2. Directive 90/496/EEC is repealed from [5 years after the entry into force].
3. References to the repealed acts shall be construed as references to this Regulation.

Article 52a

Transitional measures

Foods placed on the market or labelled prior to the date of application of this Regulation which do not comply with its requirements may be marketed until the stocks of the foods are exhausted.¹⁰⁸

¹⁰⁷ UK: the Articles of Directive 2000/13/EC to be repealed should be reviewed at the end of the examination of the proposal, because some of them might have to stay in force for some time after the entry into force of this Regulation.

¹⁰⁸ Cion: reservation.

Article 53

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 14(1) shall apply from [*the first day of the month 3¹⁰⁹ years after the entry into force*].

Articles 29 to 34~~a~~ shall apply from [*the first day of the month 5 years after the entry into force*] ~~except in the case of foods labelled by food business operators with, on the date of entry into force, less than 10 employees and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million where they shall apply~~ [*the first day of the month 5 years after the entry into force*].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament

The President

For the Council

The President

¹⁰⁹ MT: would like to have also 5 years for Article 14(1).

SPECIFIC DEFINITIONS

As referred to in Article 2(4)

1. 'nutrition declaration' or 'nutrition labelling' means information consisting of:
 - (a) energy value; or
 - (b) energy value and one or more of the following nutrients **and their specifically mentioned components**:
 - fat (**saturates, trans fat, mono-unsaturates, polyunsaturates**),
 - carbohydrate (**sugars, polyols, starch**),
 - salt,
 - fibre,
 - protein,
 - **any of the** minerals or vitamins listed in Annex XI, Part A; point 1 and present in significant amounts as defined in Annex XI, Part A; point 2.
2. 'fat' means total lipids, and includes phospholipids;
3. 'saturates' means fatty acids without double bond;
4. 'trans fat' means fatty acids with at least one non-conjugated (namely interrupted by at least one methylene group) carbon-carbon double bond in the trans configuration;
5. 'mono-unsaturates' means fatty acids with one cis double bond;
6. 'polyunsaturates' means fatty acids with **2 or more** cis, cis-methylene interrupted double bonds;
7. 'carbohydrate' means any carbohydrate which is metabolized in man, and includes polyols;
8. 'sugars' means all monosaccharides and disaccharides present in food, but excludes polyols¹¹⁰;
9. 'polyols' means alcohols containing more than two hydroxyl groups;
10. 'protein' means the protein content calculated using the formula: protein = total Kjeldahl nitrogen $\times 6,25$ ¹¹¹;

¹¹⁰ PT/RO/DE/BE: adding: "*isolmatuloses and D-tagatose*".

¹¹¹ FR/BG: proposed adding "*for proteins of dairy products: 6,38 and for proteins of soy products: 5,71*". SK: proposed adding "*for proteins of fish: 2,65*". Cion/DK: do not accept other calculation factors.

11. 'salt' means the salt content calculated using the formula: salt = sodium × 2,5;
- 11a. **'fibre' means carbohydrate polymers with three or more monomeric units, which are neither digested nor absorbed in the human small intestine and belong to the following categories:**
- **edible carbohydrate polymers naturally occurring in the food as consumed;**
 - **edible carbohydrate polymers which have been obtained from food raw material by physical, enzymatic or chemical means and which have a beneficial physiological effect demonstrated by generally accepted scientific evidence;**
 - **edible synthetic carbohydrate polymers which have a beneficial physiological effect demonstrated by generally accepted scientific evidence' ;**
12. 'average value' means the value which best represents the amount of the nutrient which a given food contains, and reflects allowances for seasonal variability, patterns of consumption and other factors which may cause the actual value to vary;
- ~~13. 'principal field of vision' means the field of vision that is most likely to be displayed or visible under normal or customary conditions of sale or use.~~

INGREDIENTS SUBSTANCES CAUSING ALLERGIES OR INTOLERANCES

1. Cereals containing gluten (namely wheat, rye, barley, oats, spelt, kamut or their hybridised strains) and products thereof, except:
 - (a) wheat based glucose syrups including dextrose¹¹²;
 - (b) wheat based maltodextrins¹¹²;
 - (c) glucose syrups based on barley;
 - (d) cereals used for making alcoholic distillates including ethyl alcohol of agricultural origin..
2. Crustaceans and products thereof.
3. Eggs and products thereof.
4. Fish and products thereof, except:
 - (a) fish gelatine used as carrier for vitamin or carotenoid preparations;
 - (b) fish gelatine or Isinglass used as fining agent in beer and wine.
5. Peanuts and products thereof.
6. Soybeans and products thereof, except:
 - (a) fully refined soybean oil and fat¹¹²;
 - (b) natural mixed tocopherols (E306), natural D-alpha tocopherol, natural D-alpha tocopherol acetate, natural D-alpha tocopherol succinate from soybean sources;
 - (c) vegetable oils derived phytosterols and phytosterol esters from soybean sources;
 - (d) plant stanol ester produced from vegetable oil sterols from soybean sources.
7. Milk and products thereof (including lactose), except:
 - (a) whey used for making alcoholic distillates including ethyl alcohol of agricultural origin.;
 - (b) lactitol.

¹¹² And the products thereof, in so far as the process that they have undergone is not likely to increase the level of allergenicity assessed by the Authority for the relevant product from which they originated.

8. Nuts, namely almonds (*Amygdalus communis L.*), hazelnuts (*Corylus avellana*), walnuts (*Juglans regia*), cashews (*Anacardium occidentale*), pecan nuts (*Carya illinoensis (Wangenh.) K. Koch*), Brazil nuts (*Bertholletia excelsa*), pistachio nuts (*Pistacia vera*), macadamia nuts and Queensland nuts (*Macadamia ternifolia*), and products thereof, except:
 - (a) nuts used for making alcoholic distillates including ethyl alcohol of agricultural origin.
9. Celery and products thereof.
10. Mustard and products thereof.
11. Sesame seeds and products thereof.
12. Sulphur dioxide and sulphites at concentrations of more than 10 mg/kg or 10 mg/litre in the terms of the total ~~expressed as~~ SO₂ is to be calculated for products as proposed ready for consumption or as reconstituted according to the instructions of the manufacturers
13. Lupin and products thereof.
14. Molluscs and products thereof.

**FOODS FOR WHICH THE LABELLING MUST INCLUDE ONE OR MORE
ADDITIONAL PARTICULARS**

| TYPE OR CATEGORY OF FOOD | PARTICULARS |
|--|---|
| 1. FOODS PACKAGED IN CERTAIN GASES | |
| 1.1 Foods whose durability has been extended by means of packaging gases authorised pursuant to Council Directive 89/107/EEC Regulation (EC) No 1333/2008 | ‘Packaged in a protective atmosphere’ |
| 2. FOODS CONTAINING SWEETENERS | |
| ¹¹³ 2.1 Foods containing a sweetener or sweeteners authorised pursuant to Directive 89/107/EEC Regulation (EC) No 1333/2008 | ‘with sweetener(s)’ this statement shall accompany the name of the food. |
| ¹¹⁴ 2.2 Foods containing both an added sugar or sugars and a sweetener or sweeteners authorised pursuant to Directive 89/107/EEC Regulation (EC) No 1333/2008 | ‘with sugar(s) and sweetener(s)’ this statement shall accompany the name of the food. |
| 2.3 Foods containing aspartame ¹¹⁵ authorised pursuant to Directive 89/107/EEC Regulation (EC) No 1333/2008 | ‘contains a source of phenylalanine’ |
| 2.4 Foods containing more than 10 % added polyols authorised pursuant to Directive 89/107/EEC Regulation (EC) No 1333/2008 | ‘excessive consumption may produce laxative effects’ |

¹¹⁶

¹¹³ CY/UK/DE/FI: wish deleting this row as it corresponds to a double labelling.

¹¹⁴ CY/UK/DE/FI: wish deleting this row as it corresponds to a double labelling.

¹¹⁵ DE: should be written "aspartame/aspartame-acesulfame salt" (cf: Article 23 (3) (b) of Regulation 1333/2008).

¹¹⁶ ES: when sweeteners have sugar as a media, sugar is not declared, therefore it is proposed:

| Type or category of foodstuff | Indications |
|---|--|
| 2.5 Table-top sweeteners intended for the final consumer containing sugars as media | “with sugar(s)”, that will accompany the name of the foodstuff |

| 3. FOODS CONTAINING GLYCYRRHIZINIC ACID OR ITS AMMONIUM SALT | |
|---|--|
| 3.1 Confectionery or beverages containing glycyrrhizinic acid or its ammonium salt due to the addition of the substance(s) as such or the liquorice plant <i>Glycyrrhiza glabra</i> , at concentration of 100 mg/kg or 10 mg/l or above. | ‘contains liquorice’ shall be added immediately after the list of ingredients, unless the term “liquorice” is already included in the list of ingredients or in the name of the food. In absence of a list of ingredients, the statement shall accompany the name of the food. |
| 3.2 Confectionary containing glycyrrhizinic acid or its ammonium salt due to the addition of the substance(s) as such or the liquorice plant <i>Glycyrrhiza glabra</i> at concentrations of 4 g/kg or above. | ‘contains liquorice - people suffering from hypertension should avoid excessive consumption’ shall be added immediately after the list of ingredients. In absence of list of ingredients, the statement shall accompany the name of the food. |
| 3.3 Beverages containing glycyrrhizinic acid or its ammonium salt due to the addition of the substance(s) as such or the liquorice plant <i>Glycyrrhiza glabra</i> at concentrations of 50 mg/l or above, or of 300 mg/l or above in the case of beverages containing more than 1,2 % by volume of alcohol ¹¹⁷ . | ‘contains liquorice - people suffering from hypertension should avoid excessive consumption’ shall be added immediately after the list of ingredients. In absence of list of ingredients, the statement shall accompany the name of the food. |
| 4. BEVERAGES WITH HIGH CAFFEINE CONTENT¹¹⁸ | |
| 4.1 Beverages, with the exception of those based on coffee, tea or coffee or tea extract where the name of the food includes the term “coffee” or “tea”, which: <ul style="list-style-type: none"> – are intended for consumption without modification and contain caffeine, from whatever source, in a proportion in excess of 150 mg/l, or – are in concentrated or dried form and after reconstitution contain caffeine, from whatever source, in a proportion in excess of 150 mg/l | ‘High caffeine content’ in the same field of vision as the name of the beverage, followed by a reference in brackets and in accordance with Article 14(5) of this Regulation to the caffeine content expressed in mg/100 ml. |

¹¹⁷ The level shall apply to the products as proposed ready for consumption or as reconstituted according to the instructions of the manufacturers.

¹¹⁸ DK/SK/LU/PL/DE/MT: Should EFSA be asked for an opinion that takes account of the development in the market for beverages with high caffeine content? Should the current warning labelling be reconsidered and possibly expanded to include for example a specific warning directed at children, at pregnant women or directed at the combination with alcohol?

| | |
|---|---|
| 5. FOODS WITH ADDED PHYTOSTEROLS, PHYTOSTEROL ESTERS, PHYTOSTANOLS OR PHYTOSTANOL ESTERS | |
| 5.1 Foods or food ingredients with added phytosterols, phytosterol esters, phytostanols or phytostanol esters | <ul style="list-style-type: none"> (1) ‘with added plant sterols’ or ‘with added plant stanols’ in the same field of vision as the name of the food; (2) the amount of added phytosterols, phytosterol esters, phytostanols or phytostanol esters content (expressed in % or as g of free plant sterols/plant stanols per 100 g or 100 ml of the food) shall be stated in the list of ingredients; (3) a statement that the food is intended exclusively for people who want to lower their blood cholesterol level; (4) a statement that patients on cholesterol lowering medication should only consume the product under medical supervision; (5) an easily visible statement that the food may not be nutritionally appropriate for pregnant or breastfeeding women and children under the age of five years; (6) advice that the food is to be used as part of a balanced and varied diet, including regular consumption of fruit and vegetables to help maintain carotenoid levels; (7) in the same field of vision as the statement required under point 3) above, a statement that the consumption of more than 3 g/day of added plant sterols/plant stanols should be avoided; (8) a definition of a portion of the food or food ingredient concerned (preferably in g or ml) with the amount of the plant sterol/plant stanol that each portion contains. |

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¹¹⁹ HU/NL/PL/AT/HU/RO/DE/DK: suggested the addition of the following new point:

| | |
|--|-------------------|
| 5. Surface treatment of fruits and vegetables | |
| Fruits and vegetables that have reviewed post-harvest surface treatment by use of additives or pesticides. | “Surface treated” |

LV/ES/SE: opposed.

¹²⁰ SK/UK/LV/NL/PL/AT/BE: Suggested the introduction of the following new point 6:

| | |
|--|-------------|
| 6. Foods that have been frozen and are sold defrosted | |
| 6.1 Foods that have been frozen before sale and which are sold defrosted | ‘Defrosted’ |

UK: should be introduced in Annex V.

10658/10

Annex III to the ANNEX

DG I

PM/ng

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LIMITE EN

DEFINITION OF x-HEIGHT

x - HEIGHT



**FOODS WHICH ARE EXEMPTED FROM THE REQUIREMENT FOR THE
MANDATORY NUTRITION DECLARATION¹²¹**

- unprocessed products that comprise a single ingredient or category of ingredients;
- processed products which the only processing they have been subjected to is ~~smoking or~~ maturing and that comprise a single ingredient or category of ingredients;
- waters intended for human consumption, including those where the only added ingredients are carbon dioxide and/or flavourings;
- a herb, a spice or mixtures thereof¹²²;
- salt and salt substitutes
- ¹²³
- products covered by Directive 1999/4/EC of the European Parliament and of the Council of 22 February 1999 relating to coffee extracts and chicory extracts¹²⁴, whole or milled coffee beans and whole or milled decaffeinated coffee beans;
- herbal infusion, tea, decaffeinated tea, instant or soluble tea or tea extract, decaffeinated instant or soluble tea or tea extract, which do not contain added ingredients,¹²⁵
- fermented vinegars and substitutes for vinegar, including those where the only added ingredients are flavourings;
- flavourings;
- food additives;
- processing aids;
- food enzymes;
- gelatine;
- jam setting compounds;
- yeast;
- **chewing-gums**;

¹²¹ DK: scrutiny reservation.

¹²² AT: would add seasonings.

¹²³ AT: would add sugar. FR would add sugar and flour. DE: would add table top sweeteners.

¹²⁴ OJ L 66, 13.3.1999, p. 26.

¹²⁵ UK: other flavourings (e.g. dry oranges) which do not modify the nutritional value of the tea.

- food in packaging or containers the largest surface of which has an area of less than 25¹²⁶ cm²;
- ~~— food sold by private persons in the context of occasional activities, and not as part of an undertaking that would imply a certain continuity of activities and a certain degree of organisation;~~
- food directly supplied by the manufacturer of small quantities¹²⁷ of products [to the final consumer or to local retail establishments directly supplying the final consumer];
- [food in inner package not designed for sale without the outer package (nutrition information shall be provided on the outer package unless it belongs to the categories of foods that are exempted under this Annex)]¹²⁸.

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¹²⁶ DE: scrutiny reservation on 25 cm². PT: proposed 50 cm². BE: packages < 25 cm² = total exemption; 25 cm² < packages < 50cm² = information on energy; packages > 50cm² = complete information.

¹²⁷ PT: proposed: "*less than 5 ml or 5 g*".

¹²⁸ SE/BE: this is a general rule applicable to labelling, this paragraph could be deleted. FR: operators raise many doubts about it. It is more clear if we keep it written.

¹²⁹ PT: suggested the addition of:

- Foodstuffs with a negligible amount of energy per portion;
- Foodstuffs in seasonal, luxury, gift, fantasy or assortment packages;
- ~~– Glass bottles with indelible marking.~~

NAME OF THE FOOD AND SPECIFIC ACCOMPANYING PARTICULARS

~~PART A – NAME OF THE FOOD~~

- ~~1. The use in the Member State of marketing of the name of the food under which the product is legally manufactured and marketed in the Member State of production shall be allowed. However, where the application of the other provisions of this Regulation, in particular those set out in Article 9, would not enable consumers in the Member State of marketing to know the true nature of the food and to distinguish it from foods with which they could confuse it, the name of the food shall be accompanied by other descriptive information which shall appear in proximity to the name of the food.~~
- ~~2. In exceptional cases, the name of the food of the Member State of production shall not be used in the Member State of marketing when the food which it designates is so different, as regards its composition or manufacture, from the food known under that name that the provisions of point 1 are not sufficient to ensure, in the Member State of marketing, correct information for purchaser.~~
- ~~3. No name protected as intellectual property, brand name or fancy name may be substituted for the name of the food.~~

PART B – MANDATORY PARTICULARS ACCOMPANYING THE NAME OF THE FOOD

1. The name of the food shall include or be accompanied by particulars as to the physical condition of the food or the specific treatment which it has undergone (for example, powdered, freeze-dried, deep-frozen, quick-frozen¹³⁰, **defrosted**, concentrated, smoked) in all cases where omission of such information could mislead the purchaser.
2. Foods treated with ionising radiation shall bear one of the following indications: ‘irradiated’ or ‘treated with ionising radiation’, **and other indications as stated in Directive 1999/2/CE.**

¹³⁰ SE/IT/EL: "deep frozen" and "quick frozen" mean the same thing when translated. One of the terms should be deleted or could perhaps be replaced by a different term. IT: prefers "quick frozen".

**PART C – SPECIFIC REQUIREMENTS CONCERNING THE DESIGNATION OF
‘MINCED MEAT’**

1. Composition criteria checked on the basis of a daily average:

| | Fat content | Connective tissue¹³¹: meat protein ratio |
|----------------------------------|--------------------|--|
| — lean minced meat | ≤ 7 % | ≤ 12 ¹³² |
| — minced pure beef | ≤ 20 % | ≤ 15 |
| — minced meat containing pigmeat | ≤ 30 % | ≤ 18 |
| — minced meat of other species | ≤ 25 % | ≤ 15 |

2. By way of derogation from the requirements laid down in Chapter IV of Section V of Annex III to Regulation (EC) No 853/2004, the following words shall appear on the labelling:

- ‘percentage of fat under...’,
- ‘connective tissue: meat protein ratio under...’.

3. The Member States may allow the placing on their national market of minced meat which does not comply with the criteria laid down in point 1 of this Part under a national mark that cannot be confused with the marks provided for in Article 5(1) of Regulation (EC) No 853/2004.

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¹³¹ SE/FI: it is difficult to understand by consumers (no need to indicate it on the label).
FI: however it is important information; it could perhaps be indicated by other means.

¹³² SK/BE: the indicated values correspond to "%".

¹³³ SK/NL/AT/LU/DE: would like to add a new D:
Part D – Name of the food for foodstuffs that give the impression of being another foodstuff.

| No. | Deviation in terms of the type, characteristics and composition | Name of the food |
|-----|--|-------------------|
| 1. | As compared with cheese, milk fat is either partly or completely replaced by vegetable fat | Cheese substitute |
| 2. | As compared with ham, ham substitute consists of chopped up ingredients with considerably reduced meat content | Ham substitute |

FR/IT/BE: to solve the problem, it is an error to use the name of the real product in the label of the "false" product.

INDICATION AND DESIGNATION OF INGREDIENTS
PART A – SPECIFIC PROVISIONS CONCERNING THE INDICATION OF
INGREDIENTS BY DESCENDING ORDER OF WEIGHT

| Category of ingredient | Provision concerning indication by weight |
|--|---|
| 1. Added water and volatile products | Shall be listed in order of their weight in the finished product. The amount of water added as an ingredient in a food shall be calculated by deducting from the total amount of the finished product the total amount of the other ingredients used. This amount shall not be required to be taken into consideration if it does not exceed 5 % by weight of the finished product ¹³⁴ . |
| 2. Ingredients used in concentrated or dehydrated form and reconstituted at the time of manufacture | May be listed in order of weight as recorded before their concentration or dehydration. |
| 3. Ingredients used in concentrated or dehydrated foods, which are intended to be reconstituted by the addition of water | May be listed in order of proportion in the reconstituted product provided that the list of ingredients is accompanied by an expression, such as ‘ingredients of the reconstituted product’, or ‘ingredients of the ready-to-use product’. |
| 4. Fruit, vegetables or mushrooms, none of which significantly predominates in terms of weight and which are used in proportions that are likely to vary, used in a mixture as ingredients of a food | May be grouped together in the list of ingredients under the designation ‘fruit’, ‘vegetables’ or ‘mushrooms’ followed by the phrase ‘in varying proportions’, immediately followed by a list of the fruit, vegetables or mushrooms present. In such cases, the mixture shall be included in the list of ingredients in accordance with Article 19 (1), on the basis of the total weight of the fruit, vegetables or mushrooms present. |
| 5. Mixtures of spices or herbs, where none significantly predominates in proportion by weight | May be listed in different order provided that that list of ingredients is accompanied by an expression such as ‘in variable proportion’. |
| 6. Ingredients constituting less than 2 % of the finished product | May be listed in a different order after the other ingredients. |

¹³⁴ FR: Add: “*This derogation does not apply to non-processed food*”.

| | |
|--|--|
| <p>7. Ingredients, other than allergens, which are similar or mutually substitutable, likely to be used in the manufacture or preparation of a food without altering its composition, its nature or its perceived value, and in so far as they constitute less than 2 % of the finished product</p> | <p>May be referred to in the list of ingredients by means of the phrase ‘contains ... and/or ...’, where at least one of no more than two ingredients is present in the finished product. This provision shall not apply to food additives or to ingredients listed in Part C of this Annex.</p> |
|--|--|

PART B – DESIGNATION OF CERTAIN INGREDIENTS BY THE NAME OF A CATEGORY RATHER THAN A SPECIFIC NAME

Ingredients which belong to one of the categories of foods listed below and are constituents of another food shall only be required to be named by the designation of that category.

| Definition of category of food | Designation |
|---|---|
| <p>1. Refined oils other than olive oil¹³⁵</p> | <p>‘Oil’, together with</p> <ul style="list-style-type: none"> – either the adjective ‘vegetable’ or ‘animal’, as appropriate, or – an indication of their specific vegetable or animal origin <p>The adjective fully or partly ‘hydrogenated’, as appropriated, must accompany the indication of a hydrogenated¹³⁶ oil unless the amount of saturates and trans fats are included in the nutrition declaration</p> |
| <p>2. Refined fats</p> | <p>‘Fat’, together with</p> <ul style="list-style-type: none"> – either the adjective ‘vegetable’ or ‘animal’, as appropriate, or – an indication of their specific vegetable or animal origin <p>The adjective fully or partly hydrogenated, as appropriated, must accompany the indication of a hydrogenated¹³⁷ fat unless the amount of saturates and trans fats are included in the nutrition declaration</p> |

¹³⁵ ES: delete the possibility of not indicating the origin of oil (same proposal for fats).

¹³⁶ HU: scrutiny reservation.

¹³⁷ HU: scrutiny reservation.

| | | |
|-----|---|---|
| 3. | Mixtures of flour obtained from two or more cereal species | 'Flour', followed by a list of the cereals from which it has been obtained, in descending order by weight |
| 4. | Starches, and starches modified by physical means or by enzymes | 'Starch' |
| 5. | All species of fish where the fish constitutes an ingredient of another food and provided that the name and presentation of such food does not refer to a specific species of fish | 'Fish' |
| 6. | All types of cheese where the cheese or mixture of cheeses constitutes an ingredient of another food and provided that the name and presentation of such food does not refer to a specific type of cheese | 'Cheese' |
| 7. | All spices not exceeding 2 % by weight of the food | 'Spice(s)' or 'mixed spices' |
| 8. | All herbs or parts of herbs not exceeding 2 % by weight of the food | 'Herb(s)' or 'mixed herbs' |
| 9. | All types of gum preparations used in the manufacture of gum base for chewing gum | 'Gum base' |
| 10. | All types of crumbed baked cereal products | 'Crumbs' or 'rusks' as appropriate |
| 11. | All types of sucrose | 'Sugar' |
| 12. | Anhydrous dextrose or dextrose monohydrate | 'Dextrose' |
| 13. | Glucose syrup and anhydrous glucose syrup | 'Glucose syrup' |
| 14. | All types of milk protein (caseins, caseinates and whey proteins) and mixtures thereof | 'Milk proteins' |
| 15. | Press, expeller or refined cocoa butter | 'Cocoa butter' |
| 16. | All types of wine as defined in as covered by Annex XI b of-Council Regulation (EC) No <u>1493/1999-1234/2007</u> | 'Wine' |

| <p>17. Skeletal muscles¹³⁸ of mammalian and bird species recognised as fit for human consumption with naturally included or adherent tissue, where the total fat and connective tissue content does not exceed the values indicated below and where the meat constitutes an ingredient of another food. The products covered by the definition of ‘mechanically separated meat’ are excluded from this definition.</p> <p>Maximum fat and connective tissue contents for ingredients designated by the term ‘... meat’</p> <table border="1" data-bbox="145 607 898 943"> <thead> <tr> <th data-bbox="145 607 539 651"><i>Species</i></th> <th data-bbox="547 607 715 651"><i>Fat (%)</i></th> <th data-bbox="722 607 898 719"><i>Connective tissue¹⁴⁰ (%)</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="145 730 539 864">Mammals (other than rabbits and porcines) and mixtures of species with mammals predominating</td> <td data-bbox="547 730 715 763">25</td> <td data-bbox="722 730 898 763">25</td> </tr> <tr> <td data-bbox="145 875 539 909">Porcines</td> <td data-bbox="547 875 715 909">30</td> <td data-bbox="722 875 898 909">25</td> </tr> <tr> <td data-bbox="145 920 539 943">Birds and rabbits</td> <td data-bbox="547 920 715 943">15</td> <td data-bbox="722 920 898 943">10</td> </tr> </tbody> </table> | <i>Species</i> | <i>Fat (%)</i> | <i>Connective tissue¹⁴⁰ (%)</i> | Mammals (other than rabbits and porcines) and mixtures of species with mammals predominating | 25 | 25 | Porcines | 30 | 25 | Birds and rabbits | 15 | 10 | <p>‘... meat’ and the name(s)¹³⁹ of the animal species from which it comes</p> |
|--|--|--|--|--|----|----|----------|----|----|-------------------|----|----|---|
| <i>Species</i> | <i>Fat (%)</i> | <i>Connective tissue¹⁴⁰ (%)</i> | | | | | | | | | | | |
| Mammals (other than rabbits and porcines) and mixtures of species with mammals predominating | 25 | 25 | | | | | | | | | | | |
| Porcines | 30 | 25 | | | | | | | | | | | |
| Birds and rabbits | 15 | 10 | | | | | | | | | | | |
| <p>If these maximum limits are exceeded, but all other criteria for the definition of ‘meat’ are satisfied, the ‘... meat’ content must be adjusted downwards accordingly and the list of ingredients must mention, in addition to the term ‘... meat’, the presence of fat and/or connective tissue.</p> | | | | | | | | | | | | | |
| <p>18. All types of products covered by the definition of ‘mechanically separated meat’.</p> | <p>‘mechanically separated meat’ and the name(s) (°) of the animal species from which it comes¹⁴¹</p> | | | | | | | | | | | | |

¹³⁸ The diaphragm and the masseters are part of the skeletal muscles, while the heart, tongue, the muscles of the head (other than the masseters), the muscles of the carpus, the tarsus and the tail are excluded.

¹³⁹ For labelling in English, this designation may be replaced by the generic name of the ingredient for the animal species concerned.

¹⁴⁰ The connective tissue content is calculated on the basis of the ratio between collagen content and meat protein content. The collagen content means the hydroxyproline content multiplied by a factor of 8.

¹⁴¹ FR: definitions of MSM and meat should be found in the Hygiene regulation (Regulation No 853/2004). Labelling should only follow those definitions.

PART C – DESIGNATION OF CERTAIN INGREDIENTS BY THE NAME OF THEIR CATEGORY FOLLOWED BY THEIR SPECIFIC NAME OR E NUMBER

Food additives and enzymes other than those specified in Article 21(b) belonging to one of the categories listed in this Part must be designated by the name of that category, followed by their specific name or, if appropriate, E number. If an ingredient belongs to more than one of the categories, the category appropriate to the principal function in the case of the food in question shall be indicated. ~~However, the designation ‘modified starch’ must always be accompanied by the indication of its specific vegetable origin, when that ingredient may contain gluten.~~¹⁴²

| |
|----------------------------------|
| Acid |
| Acidity regulator |
| Anti-caking agent |
| Anti-foaming agent |
| Antioxidant |
| Bulking agent |
| Colour |
| Emulsifier |
| Emulsifying salts ¹⁴³ |
| Firming agent |
| Flavour enhancer |
| Flour treatment agent |
| Foaming agents |
| Gelling agent |
| Glazing agent |
| Humectant |
| Modified starch ¹⁴⁴ |
| Preservative |
| Propellent gas |
| Raising agent |
| Sequestrants agents |
| Stabiliser |
| Sweetener |
| Thickener |

¹⁴² DE/MT: scrutiny reservations.

¹⁴³ Only for processed cheeses and products based on processed cheeses.

¹⁴⁴ The specific name or E number shall not be required to be indicated.

PART D – DESIGNATION OF FLAVOURINGS IN THE LIST OF INGREDIENTS

1. Flavourings shall be designated either by the word ‘flavouring(s)’ or by a more specific name or description of the flavouring.
2. Quinine and/or caffeine used as a flavouring in the production or preparation of a food shall be mentioned by name in the list of ingredients immediately after the term ‘flavouring(s)’.
3. The word ‘natural’ or any other word having substantially the same meaning may be used only for flavourings in which the flavouring component contains exclusively flavouring substances as defined in Article ~~13~~(2)(b)(i) of ~~Directive 88/388/EEC~~ **Regulation (EC) No 1334/2008** and/or flavouring preparations as defined in Article ~~13~~(2)(e)(d) of that ~~Directive~~ **Regulation**.
4. If the name of the flavouring contains a reference to the vegetable or animal nature or origin of the incorporated substances, the word ‘natural’ or any other word having substantially the same meaning may not be used unless the flavouring component has been isolated by appropriate physical processes, enzymatic or microbiological processes or traditional food-preparation processes solely or almost solely from the food or the flavouring source concerned.

PART E – DESIGNATION OF COMPOUND INGREDIENTS

1. A compound ingredient may be included in the list of ingredients, under its own designation in so far as this is laid down by law or established by custom, in terms of its overall weight, and immediately followed by a list of its ingredients.
2. The list of ingredients for compound ingredients shall not be compulsory:
 - (a) where the composition of the compound ingredient is defined in current Community legislation, and in so far as the compound ingredient constitutes less than 2 % of the finished product; however, this provision shall not apply to food additives, subject to the provisions of Article 21 (a) to (d); or
 - (b) for compound ingredients consisting of mixtures of spices and/or herbs that constitute less than 2 % of the finished product, with the exception of food additives, subject to the provisions of Article 21 (a) to (d); or
 - (c) where the compound ingredient is a food for which a list of ingredients is not required under Community legislation.

QUANTITATIVE INDICATION OF INGREDIENTS

1. The quantitative indication shall not be required:
 - (a) in respect of an ingredient or category of ingredients:
 - (i) the drained net weight of which is indicated in accordance with point 5 of Annex VIII; or
 - (ii) the quantities of which are already mandatory on the labelling under Community provisions; or
 - (iii) which is used in small quantities for the purposes of flavouring; or
 - (iv) which, while appearing in the name of the food¹⁴⁵, is not such as to govern the choice of the consumer in the country of marketing because the variation in quantity is not essential to characterise the food or does not distinguish it from similar foods; or
 - (b) where specific Community provisions stipulate precisely the quantity of an ingredient or of a category of ingredients without providing for the indication thereof on the labelling; or
 - (c) in the cases referred to in points 4 and 5 of Part A of Annex VI.
2. Article 23(1) (a) and (b) shall not apply in the case of:
 - (a) any ingredient or category of ingredients covered by the indication 'with sweetener(s)' or 'with sugar(s) and sweetener(s)' if that indication accompanies the name of the food, pursuant Annex III; or
 - (b) any added vitamin and mineral if that substance is subject to a nutrition declaration.
3. The indication of quantity of an ingredient or category of ingredients shall:
 - (a) be expressed as a percentage, which shall correspond to the quantity of the ingredient or ingredients at the time of its/their use; and

¹⁴⁵ PL: the expression "name of the food" should be replaced by "label" or "labelling".

- (b) appear either in or immediately next to the name of the food or in the list of ingredients in connection with the ingredient or category of ingredients in question.¹⁴⁶
4. By way of derogation from point 3,
- (a) where foods have lost moisture following heat treatment or other treatment, the quantity shall be expressed as a percentage which shall correspond to the quantity of the ingredient(s) used, related to the finished product, unless that quantity or the total quantity of all the ingredients indicated on the labelling exceeds 100 %, in which case the quantity shall be indicated on the basis of the weight of the ingredient(s) used to prepare 100 g of finished product;
 - (b) the quantity of volatile ingredients shall be indicated on the basis of their proportion by weight in the finished product;
 - (c) the quantity of ingredients used in concentrated or dehydrated form and reconstituted during manufacture may be indicated on the basis of their proportion by weight as recorded before their concentration or dehydration;
 - (d) in the case of concentrated or dehydrated foods which are intended to be reconstituted by the addition of water, the quantity of the ingredients may be indicated on the basis of their proportion by weight in the reconstituted product.

¹⁴⁶ FR: in order to reduce the risk of confusion, the quantitative indication of ingredients should systematically be in or immediately next to the name of the food; therefore suggests: “(b) appear either in or immediately next to the name of the food ~~or in the list of ingredients in connection with the ingredient or category of ingredients in question~~”

NET QUANTITY DECLARATION

1. The net quantity shall not be mandatory in the case of foods:
 - (a) which are subject to considerable losses in their volume or mass and which are sold by number or weighed in the presence of the purchaser; or
 - (b) the net quantity of which is less than 5 g or 5 ml; however, this provision shall not apply to spices and herbs.
2. Where the indication of a certain type of quantity (such as the nominal quantity, minimum quantity, average quantity) is required by Community provisions or, where there are none, by national provisions, this quantity shall be regarded as the net quantity for the purposes of this Regulation.
3. Where a prepacked item consists of two or more individual prepacked items containing the same quantity of the same product, the net quantity shall be indicated by mentioning the net quantity contained in each individual package and the total number of such packages. The indication of those particulars shall not, however, be mandatory where the total number of individual packages can be clearly seen and easily counted from the outside and where at least one indication of the net quantity contained in each individual package can be clearly seen from the outside.
4. Where a prepacked item consists of two or more individual packages which are not regarded as units of sale, the net quantity shall be given by indicating the total net quantity and the total number of individual packages.¹⁴⁷

¹⁴⁷ *PL: suggested " Where a prepacked item consists of two or more individually ~~packages~~ **prepacked or not prepacked portions/items** which are not regarded as units of sale, the net quantity shall be given by indicating the total net quantity and the total number of ~~individual packages~~ **portions/items.**"*

5. Where a solid food is presented in a liquid medium, the drained net weight of the food shall also be indicated. **Where the food has been glazed, the declared net weight of the food shall be exclusive of the glaze.** ¹⁴⁸

For the purposes of this point, 'liquid medium' shall mean the following products, possibly in mixtures and also where frozen or quick-frozen, provided that the liquid is merely an adjunct to the essential elements of that preparation and is thus not a decisive factor for the purchase: water, aqueous solutions of salts, brine, aqueous solutions of food acids, vinegar, aqueous solutions of sugars, aqueous solutions of other sweetening substances, fruit or vegetable juices in the case of fruit or vegetables.

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¹⁴⁸ MT/DK/UK/DE: scrutiny reservation.

¹⁴⁹ BE: would like to add:

"In the case of foodstuffs normally sold by number, Member States need not require indication of the net quantity provided that the number of items can clearly be seen and easily counted from the outside or, if not, is indicated on the labelling.

Without prejudice to the notification provided for in Article 24, Member States shall inform the Commission and the other Member States of any measure taken pursuant to this paragraph".

UK: would like to add:

"It shall not be compulsory to indicate the net quantity in the case of foodstuffs:

(a) which are subject to considerable losses in their volume or mass and which are sold by number or weighed in the presence of the purchaser;

(b) the net quantity of which is less than 5 g or 5 ml; however, this provision shall not apply to spices and herbs."

DATE OF MINIMUM DURABILITY AND 'USE BY' DATE

1. The date of minimum durability shall be indicated as follows:
 - (a) The date shall be preceded by the words:
 - ‘Best before ...’ when the date includes an indication of the day,
 - ‘Best before end ...’ in other cases.
 - (b) The words referred to in point (a) shall be accompanied by:
 - either the date itself, or
 - a reference to where the date is given on the labelling.If need be, these particulars shall be followed by a description of the storage conditions which must be observed if the product is to keep for the specified period.
 - (c) The date shall consist of the day, **the month and possibly, the year, in that order and in uncoded chronological form.**

However, in the case of foods:

 - which will not keep for more than three months, an indication of the day and the month shall be sufficient,
 - which will keep for more than three months but not more than 18 months, an indication of the month and year shall be sufficient,
 - which will keep for more than 18 months, an indication of the year shall be sufficient.
 - (d) Subject to Community provisions imposing other types of date indication, an indication of the date of minimum durability shall not be required for:
 - fresh fruit and vegetables, including potatoes, which have not been peeled, cut or similarly treated; this derogation shall not apply to sprouting seeds and similar products such as legume sprouts,

- wines, liqueur wines, sparkling wines, aromatised wines, and similar products obtained from fruits other than grapes, and beverages falling within CN codes ~~2206 00 22060091, 22060093 and 22060099~~ and **manufactured obtained** from grapes or grape musts,
- beverages containing 10 % or more by volume of alcohol,
- soft drinks, fruit juices, fruit nectars and alcoholic beverages containing more than 1,2 % by volume of alcohol in individual containers of more than five litres, intended for supply to mass caterers,¹⁵⁰
- bakers' or pastry cooks' wares which, given the nature of their content, are normally consumed within 24 hours of their manufacture,
- vinegar,
- cooking salt,
- solid sugar,
- confectionery products consisting almost solely of flavoured and/or coloured sugars,
- chewing gums and similar chewing products,
- ~~individual portions of ice-cream.~~¹⁵¹

2. The 'use by' date shall be indicated as follows:

(a) It shall be preceded by the words 'use by ...'¹⁵²;

(b) The words in point (a) shall be accompanied by:

- either the date itself, or
- a reference to where the date is given on the labelling.

Those particulars shall be followed by a description of the storage conditions which must be observed.

(c) The date shall consist of the day, the month and, possibly, the year, in that order and in uncoded form.

¹⁵⁰ HU/SK/CY: suggested deleting this hyphen.

¹⁵¹ IT/NL: would like to exempt "*individual portions of ice-cream*".

¹⁵² UK: this expression should be completed: 'or use by the end of ...'.

ALCOHOLIC STRENGTH

The actual alcoholic strength by volume of beverages containing more than 1,2 % by volume of alcohol shall be indicated by a figure to not more than one decimal place. It shall be followed by the symbol ‘% vol.’ and may¹⁵³ be preceded by the word ‘alcohol’ [or the abbreviation ‘alc’]¹⁵⁴.

The alcoholic strength shall be determined at 20°C.

Positive and negative allowed tolerances in respect of the indication of the alcoholic strength by volume and expressed in absolute values shall be as listed in the following table. They shall apply without prejudice to the tolerances deriving from the method of analysis used for determining the alcoholic strength.

| Description of beverage | Positive or negative tolerance |
|---|--------------------------------|
| 1. Beers of CN code 2203 00 having an alcoholic strength not exceeding 5,5 % vol.; still beverages classified under subheading 22.07 B II of the Common Customs Tariff and made falling within CN code 2206 00 obtained from grapes | 0,5 % vol. |
| 2. Beers having an alcoholic strength exceeding 5,5 % vol.; sparkling beverages [classified under subheading 22.07 B I of the Common Customs Tariff] and made falling within CN code 2206 00 obtained from grapes,; ciders, perries, fruit wines and the like, obtained from fruits other than grapes, whether or not semi-sparkling or sparkling; mead | 1 % vol. |
| 3. Beverages containing macerated fruit or parts of plants; | 1,5 % vol. |
| 4. Any other beverages containing more than 1,2 % by volume of alcohol | 0,3 % vol. |

¹⁵³ NL: to be replaced with "*shall*".

¹⁵⁴ NL: the abbreviation is not clear enough.

REFERENCE INTAKES

PART A – REFERENCE INTAKES FOR VITAMINS AND MINERALS (ADULTS)

1. Vitamins and minerals which may be declared and their nutriment reference value (NRV)

| | | | |
|-----------------|-----|-----------------------|------|
| Vitamin A (µg) | 800 | Vitamin B12 (µg) | 1 |
| Vitamin D (µg) | 5 | Biotin (mg) | 0,15 |
| Vitamin E (mg) | 10 | Pantothenic acid (mg) | 6 |
| Vitamin C (mg) | 60 | Calcium (mg) | 800 |
| Thiamin (mg) | 1,4 | Phosphorus (mg) | 800 |
| Riboflavin (mg) | 1,6 | Iron (mg) | 14 |
| Niacin (mg) | 18 | Magnesium (mg) | 300 |
| Vitamin B6 (mg) | 2 | Zinc (mg) | 15 |
| Folacin (µg) | 200 | Iodine (µg) | 150 |

| | | | |
|------------------------------|------------|------------------------|-------------|
| Vitamin A (µg) | 800 | Potassium (mg) | 2000 |
| Vitamin D (µg) | 5 | Chloride (mg) | 800 |
| Vitamin E (mg) | 12 | Calcium (mg) | 800 |
| Vitamin K (µg) | 75 | Phosphorus (mg) | 700 |
| Vitamin C (mg) | 80 | Magnesium (mg) | 375 |
| Thiamin (mg) | 1,1 | Iron (mg) | 14 |
| Riboflavin (mg) | 1,4 | Zinc (mg) | 10 |
| Niacin (mg) | 16 | Copper (mg) | 1 |
| Vitamin B6 (mg) | 1,4 | Manganese (mg) | 2 |
| Folic acid (µg) | 200 | Fluoride (mg) | 3,5 |
| Vitamin B12 (µg) | 2,5 | Selenium(µg) | 55 |
| Biotin (µg) | 50 | Chromium (µg) | 40 |
| Pantothenic acid (mg) | 6 | Molybdenum (µg) | 50 |
| | | Iodine (µg) | 150 |

2. Significant amount of vitamins and minerals

As a rule, 15 %¹⁵⁵ of the recommended allowance specified in point 1 supplied by 100 g or 100 ml or per package if the package contains only a single portion should be taken into consideration in deciding what constitutes a significant amount.

PART B – REFERENCE INTAKES FOR ENERGY AND SELECTED NUTRIENTS OTHER THAN VITAMINS AND MINERALS (ADULTS)

| Energy or nutrient ¹⁵⁶ | Reference Intake |
|-----------------------------------|----------------------|
| Energy | 8400 kJ (2000 kcal) |
| Total fat | 70 g |
| Saturates | 20 g |
| Carbohydrate | 230 260 g |
| Sugars | 90 g |
| Salt | 6 g |

¹⁵⁵ FR/FI/IT/UK/ES/SE/DE/HU/EE/NL/BE/DK could support:
- 15% of NRV (nutrients reference value) by 100 g for solids;
- 7,5% of NRV by 100 ml for liquids.

FR/BE would replace "liquids" with "beverages".

HU/BE/NL could also accept the expression per portion. BE: in that case, the % must be expressed with reference to the portion.

¹⁵⁶ CY: would like to add proteins.

CONVERSION FACTORS

CONVERSION FACTORS FOR THE CALCULATION OF ENERGY

The energy value to be declared shall be calculated using the following conversion factors:

| | |
|---------------------------------|--------------------------|
| — carbohydrate (except polyols) | 4 kcal/g —17 kJ/g |
| — polyols | 2,4 kcal/g —10 kJ/g |
| — protein | 4 kcal/g —17 kJ/g |
| — fat | 9 kcal/g —37 kJ/g |
| — salatrims | 6 kcal/g — 25 kJ/g |
| — alcohol (ethanol) | 7 kcal/g —29 kJ/g |
| — organic acid | 3 kcal/g — 13 kJ/g |
| — fibre | 2 kcal/g – 8 kJ/g |
| — erythritol | 0 kcal/g – 0 kJ/g |

EXPRESSION AND PRESENTATION OF NUTRITION DECLARATION

The units of measurement to be used in the nutrition declaration for energy (kilojoules (kJ) and kilocalories (kcal)) and mass (grams (g), milligrams (mg), and micrograms (µg)) and the order of presentation of the information, as appropriate, shall be the following:

| | |
|------------------------------|---|
| energy | kJ and kcal |
| fat | g |
| of which | |
| — saturates | g |
| — trans fats | g |
| — mono-unsaturates | g |
| — polyunsaturates | g |
| carbohydrate | g |
| of which | |
| — sugars | g |
| — polyols | g |
| — starch | g |
| fibre | g |
| protein | g |
| salt | g |
| vitamins and minerals | the units specified in point 1 of Part A of Annex XI |

~~Part A— Expression of the nutrition declaration~~

~~The units to be used in the nutrition declaration shall be the following:~~

| | |
|------------------------------------|---|
| — energy | kJ and kcal |
| — fat | grams (g) |
| — carbohydrate | |
| — fibre | |
| — protein | |
| — salt | |
| — vitamins and minerals | the units specified in point 1 of Part A of Annex XI |
| — other substances | units as appropriate for the individual substances concerned |

~~PART B — ORDER OF PRESENTATION OF NUTRITION DECLARATION ON
COMPONENTS OF CARBOHYDRATE AND FAT~~

~~1. — Where polyols and/or starch are declared, this declaration shall be included in the following order:~~

| | |
|--------------|---|
| carbohydrate | g |
| of which: | |
| — sugars | g |
| — polyols | g |
| — starch | g |

~~2. — Where the amount and/or type of fatty acid is declared, this declaration shall be included in the following order:~~

| | |
|--------------------|---|
| fat | g |
| of which: | |
| — saturates | g |
| — trans fats | g |
| — mono-unsaturates | g |
| — polyunsaturates | g |

~~PART C — ORDER OF PRESENTATION OF ENERGY AND NUTRIENTS APPEARING IN A
NUTRITION DECLARATION~~

The order of presentation of the information on the energy and nutrients, as appropriate, shall be the following:

| | |
|-----------------------|---|
| energy | kJ and kcal |
| fat | g |
| —— of which | |
| — saturates | g |
| — trans fats | g |
| — mono-unsaturates | g |
| — polyunsaturates | g |
| carbohydrate | g |
| —— of which | |
| — sugars | g |
| — polyols | g |
| — starch | g |
| fibre | g |
| protein | g |
| salt | g |
| vitamins and minerals | the units specified in point 1 of Part A of Annex XI |