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NOTE

From: General Secretariat of the Council
To: Council

Subject: Conclusions on front-of-pack nutrition labelling, nutrient profiles and origin labelling
- *Approval*

Introduction

1. On 20 May 2020, the Commission announced in its Communication '*A Farm to Fork Strategy - for a fair, healthy and environmentally-friendly food system*'¹ that it will propose, at the end of 2021 and 2022, harmonised mandatory front-of-pack nutrition labelling, set-up nutrient profiles to restrict the promotion of foods high in fat, sugars and salt, and consider to propose the extension of mandatory origin or provenance indications to certain products.

Work in the Council and its Preparatory Bodies

2. In that context, the German Presidency submitted to delegations a questionnaire on the development of an EU-wide harmonised front-of-pack nutrition label, as well as two series of questions on the setting-up of nutrient profiles and the extension of the mandatory indication of origin or provenance, and organised two informal videoconferences of the members of the Working Party on Foodstuffs (Labelling) on these topics on 11 and 16 September 2020.

¹ 8280/20.

3. As a follow-up to the above questionnaires and exchanges, the German Presidency organised an in-depth discussion on front-of-pack nutrition labelling, nutrient profiles and origin labelling at a food directors' conference on 12 and 13 October 2020.
4. On the basis of the outcome of the questionnaires and discussions during the informal videoconferences and the conference, the Presidency submitted on 6 November 2020 draft Council conclusions, which were discussed at the informal videoconferences of the members of the Working Party on Foodstuffs (Attachés) of 10, 20 and 26 November 2020.
5. At its meeting on 4 December 2020, the Permanent Representatives Committee had an exchange of views on the draft Council conclusions. The Presidency took note of the diverging views expressed on several issues and indicated that it would prepare a revised version of the text which would be brought to the Council for further consideration and approval.

Outstanding issues

6. Most of the outstanding issues concern the front-of-pack nutrition labelling. The most contentious were the aspects and criteria to be considered by the Commission when preparing its proposal for a harmonised front-of-pack nutrition labelling scheme and carrying out the related impact assessment.
7. Delegations were in particular divided into those being favourable of a mandatory, colour coded front-of-pack nutrition labelling scheme evaluating the nutritional value of a food as a whole and which could be grasped at a glance by all consumers, and those advocating for a voluntary, non colour coded, non discriminatory labelling scheme merely describing a foodstuff's energy and nutrient contents by repeating in other forms of expression and presentation the mandatory nutritional declaration on the back of pack.

8. Another important issue related to the need for specific conditions of application or exemptions for certain products. Several delegations advocated for the exemption of food categories such as Protected Designations of Origin, Protected Geographical Indications, Traditional Specialities Guaranteed or single ingredient products, whereas others insisted on having only a limited number of science based exemptions.
9. Delegations had furthermore different views on whether the nutrient profiles, which the Commission intends to set-up to restrict the promotion of foods high in fat, sugars and salt, should also be used as a basis for front-of-pack nutrition labelling.
10. Finally, delegations were divided on the aspects that the Commission should take into account when carrying out its impact assessment on the extension to other products of the mandatory indication of origin or provenance. Several delegations were of the view that the text sounded too negative on the possible consequences of such an extension.
11. Changes with respect to the previous version of the text (doc. 13348/20) have been marked with **bold and underlined** for additions and ~~striketrough and underlined~~ for deletions.

Conclusion

12. In view of the above, the Council is invited to:
 - solve the above remaining outstanding issues, and
 - approve the draft Council conclusions in annex to this note as revised at its meeting on 15 December 2020.

**Draft Council conclusions on front-of-pack nutrition labelling,
nutrient profiles and origin labelling**

THE COUNCIL OF THE EUROPEAN UNION

RECALLING existing provisions in EU legislation on front-of-pack nutrition labelling, nutrient profiles and origin labelling, in particular those in Regulation (EU) No 1169/2011 on the provision of food information to consumers¹ and Regulation (EC) No 1924/2006 on nutrition and health claims made on foods²;

RECALLING the report from the Commission regarding the use of additional forms of expression and presentation of the nutrition declaration³ and the Commission evaluation of the Regulation (EC) No 1924/2006 on nutrition and health claims made on foods with regard to nutrient profiles⁴;

RECALLING the Council Conclusions of 19 October 2020 on the Farm to Fork Strategy⁵ (hereinafter 'the F2F Strategy') where it:

¹ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18–63).

² Regulation (EC) No 1924/2006 of the European Parliament and of the Council of 20 December 2006 on nutrition and health claims made on foods (OJ L 404, 30.12.2006, p. 9-25).

³ Report from the Commission to the European Parliament and the Council regarding the use of additional forms of expression and presentation of the nutrition declaration, 20.5.2020, COM(2020) 207 final.

⁴ Commission Staff Working Document, on the evaluation of the Regulation (EC) No 1924/2006 on nutrition and health claims made on foods with regard to nutrient profiles and health claims made on plants and their preparations and of the general regulatory framework for their use in foods, 20.5.2020, SWD(2020) 95 final.

⁵ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - A Farm to Fork Strategy for a fair, healthy and environment-friendly food system, 20.5.2020, COM(2020) 381 final.

- a) **WELCOMES** the fact that the Commission is seeking a harmonised science-based front-of-pack nutrition labelling scheme, taking into account existing national experience,
- b) **SUPPORTS** the Commission in its commitment to facilitating a healthier and sustainable diet. **STRESSES** the importance of promoting the reformulation of foods in line with guidelines on a healthy and sustainable diet (e.g. for salt, sugar and saturated fat). **CONSIDERS WITH INTEREST** the resumption of discussions with a view to setting-up nutrient profiles to restrict the use of nutrition or health claims regarding foods high in fat, sugar or salt, in accordance with Regulation (EC) No 1924/2006 on nutrition and health claims,
- c) **WELCOMES** the Commission's initiative in seeking improved labelling of origin or provenance for certain products and **EMPHASISES** the need for an impact assessment, including, for instance, the benefits for consumers and producers and the impact on the single market, of a harmonised approach to mandatory declarations of origin or provenance;

RECALLING exchanges at the "Agriculture and Fisheries" Council meetings of 16 and 17 December 2019⁶, 27 January 2020⁷, 20 July 2020⁸ and 21 September 2020⁹ and the informal discussions on front-of-pack nutrition labelling, nutrient profiles and origin labelling at the food directors' conference organised by the Presidency on 12 and 13 October 2020;

RECALLING the ongoing discussions at international level on these issues within the Codex Alimentarius Commission and its subsidiary bodies¹⁰;

⁶ 15189/19.

⁷ 5556/20.

⁸ 9824/20 + ADD1.

⁹ 11006/1/20 REV1 + 11006/20 ADD1.

¹⁰ Codex Committee on Food Labelling (CCFL) and Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU).

A. FRONT-OF-PACK NUTRITION LABELLING

I. Objectives of Front-of-Pack Nutrition Labelling (FOPNL)

- (1) **WELCOMES** the Commission's announcement to present a proposal for a harmonised FOPNL to enable consumers to make healthier choices, given the increasing overweight and obesity, and nutrition-related non-communicable diseases such as diabetes mellitus type 2, cardiovascular diseases and cancer.
- (2) **POINTS OUT** that various international organisations (e.g. WHO¹¹, OECD¹²) also regard the use of FOPNL as an important measure to prevent these diseases by improving the population's dietary habits.
- (3) **CONSIDERS** FOPNL as a tool to facilitate food choices for healthier and more balanced diets.
- (4) **TAKES THE VIEW** that FOPNL can also encourage food business operators to reformulate their products, where feasible, towards improved nutritional value.
- (5) **POINTS OUT** the need for overall consistency between FOPNL and common dietary guidelines taking into account national specificities, bearing in mind that FOPNL and dietary guidelines are separate instruments which pursue related public health objectives, and that they should therefore be considered as being complementary.

¹¹ World Health Organization, Health Evidence Network synthesis report 61, 2018.

¹² Organisation for Economic Co-operation and Development, The Heavy Burden of Obesity, 2019.

II. Harmonisation of Front-of-Pack Nutrition Labelling (FOPNL)

- (6) **CONSIDERS** the introduction of a harmonised FOPNL scheme at EU level useful as it would help consumers to make informed and healthy food choices and food business operators to rationalise their costs, avoid any restriction to the free movement of goods and be advantageous in terms of monitoring and controls by the competent authorities.
- (7) **ACKNOWLEDGES** at the same time that voluntary FOPNL schemes, which have been endorsed by the competent authorities and notified to the Commission, are already well established in some Member States, and **TAKES THE VIEW** that the possibility to let these Member States continue to recommend their use in addition to a harmonised EU FOPNL scheme should be considered in the Commission's impact assessment.
- (8) **CALLS UPON** the Commission to take ~~the following criteria~~ into account in its **legislative** proposal for a harmonised FOPNL scheme **that**:

~~The~~ **the** scheme should **be**:

- a) **be** science and evidence based, **not leading to unjustified distinctions between foodstuffs and not misleading the consumer as to their nutritional value and impact on health,**
- b) **be** developed in consultation with the relevant stakeholder groups (competent authorities, food business operators, consumer and health protection organisations, scientific community, etc.),
- c) **be** easily visible and understandable and unambiguous for all consumer groups, and not presuppose any in-depth nutritional knowledge from the consumer, so as to effectively address social inequalities in health,
- d) **be** transparent for the public by offering the possibility to find all necessary information regarding the data and the methodology used for the FOPNL,

- e) **be** technically feasible, in particular for small and medium-sized enterprises, considering also administrative burdens,
- f) **be** easily verifiable by competent authorities,
- g) **be** overall consistent with common dietary guidelines taking into account national specificities, and complementary to these guidelines;

~~(9)~~ **and REQUESTS** the Commission to base ~~the its legislative~~ proposal on an evidence and science-based *ex-ante* impact assessment, ~~which assesses in particular whether a harmonised FOPNL scheme should:~~

- ~~a) evaluate or merely describe a foodstuff's energy and nutrient content and, in the former case, evaluate the nutritional value of a foodstuff as a whole or of the different nutrients individually,~~
- ~~b) be color-coded or not,~~
- ~~e) be voluntary or mandatory,~~

and to explore where relevant the necessity to apply specific conditions to and exemptions for certain food categories **or foodstuffs** such as **those covered by** Protected Designations of Origin, Protected Geographical Indications, **or** Traditional Specialities Guaranteed, **as well as** ~~and~~ single ingredient products.

~~(9)~~ **UNDERLINES** the importance of consumer information and education campaigns accompanying the introduction and use of the harmonised FOPNL scheme in the Member States in order to ensure correct consumer understanding and **CALLS UPON** the Commission to ensure their appropriate funding.

- (1011) **STRESSES** the need for appropriate measures to support food business operators to implement the harmonised FOPNL scheme and **ASKS** that special attention be paid to small and medium-sized enterprises in this regard.
- (1112) **CONSIDERS** that, once introduced, in order to determine and assess its effects *inter alia* on consumer behaviour, the harmonised FOPNL scheme should be subject to monitoring according to a harmonised methodology and to evaluation.

B. SETTING-UP OF NUTRIENT PROFILES

- (1213) **CONSIDERS** the use of nutrient profiles, as foreseen in Regulation (EC) No 1924/2006 on nutrition and health claims made on foods, as an appropriate instrument to avoid that nutrition and health claims mask the overall nutritional status of a food product and thus mislead consumers when they are trying to make healthy choices in the context of a balanced diet.
- (1314) **AGREES** with the Commission that the specific objective pursued by the setting of nutrient profiles is still pertinent and necessary to meet the objective of the Regulation (EC) No 1924/2006 on nutrition and health claims, which is a high level of consumer protection.¹³
- (1415) **WELCOMES** the Commission's intention to resume the complex discussions to set-up nutrient profiles as part of the F2F Strategy and, if possible, to carry out this work in parallel with the development of a harmonised FOPNL scheme.
- (1516) **UNDERLINES** the importance to apply nutrient profiles to the widest possible range of foods while exemptions should be evidence-based.

¹³ Commission Staff Working Document on the evaluation of the Regulation (EC) No 1924/2006 on nutrition and health claims made on foods with regard to nutrient profiles and health claims made on plants and their preparations and of the general regulatory framework for their use in foods. 20.5.2020, SWD(2020) 95 final.

- (~~1617~~) **UNDERLINES** the importance of basing the proposal on nutrient profiles on science and evidence and a thorough impact assessment, and **CALLS UPON** the Commission to examine the impact of different nutrient profiling models and the need for exemptions.
- (~~1718~~) **INVITES** the Commission to examine in its impact assessment whether the development of one nutrient profiling model is sufficient to ensure coherency and to facilitate consumer understanding, its applicability for food business operators and its enforcement by competent authorities, or whether several nutrient profiling models are needed.

C. ORIGIN LABELLING

- (~~1819~~) **RECALLS** that mandatory origin labelling provisions already exist at EU level for several products such as fishery and aquaculture products, fresh, chilled and frozen meat (beef, swine, sheep, goat and poultry), eggs, honey, olive oil, fresh fruits and vegetables and wine.¹⁴

¹⁴ Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1–21). Regulation (EC) No 1760/2000 on labelling of beef and beef products (OJ L 204, 11.8.2000, p. 1). Commission Implementing Regulation (EU) No 1337/2013 on fresh, chilled and frozen meat of swine, sheep, goats and poultry. (OJ L 335, 14.12.2013, p. 19). Commission Regulation (EC) No 589/2008 of 23 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007 as regards marketing standards for eggs (OJ L 163, 24.6.2008, p. 6–23). Directive 2001/110/EC of 20 December 2001 relating to honey (OJ L 10, 12.1.2002, p. 47–52). Commission Implementing Regulation (EU) No 29/2012 of 13 January 2012 on marketing standards for olive oil (OJ L 12, 14.1.2012, p. 14–21). Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors (OJ L 157, 15.6.2011, p. 1–163). Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671–854).

- (~~1920~~) **STRESSES** the importance of the labelling of the origin or provenance of food for consumers and many producers alike.
- (~~2021~~) **EMPHASISES** that the labelling of the origin or provenance of food should:
- a) not result in trade barriers within the internal market;
 - b) be in compliance with international obligations;
 - c) be clear and easily understandable to avoid misleading consumers;
 - d) be easily verifiable and traceable.
- (~~2122~~) **POINTS OUT** that, in the case of an extension of the mandatory indication of origin or provenance to other products, harmonised rules at EU level are preferable to national measures.
- (~~2223~~) **UNDERLINES** the need of assessing the costs and benefits, including their sustainability aspects, of an extension of the mandatory indication of origin or provenance to other products and therefore **WELCOMES** the Commission's decision to carry out an impact assessment.
- (~~2324~~) **INVITES** the Commission to take into account in this impact assessment both, Member States' evaluations on their national measures for certain food products and ingredients as well as in particular the following aspects:
- a) the impact on the single market, among others the impact on supplier relationships and raw material procurement,
 - b) consumer benefits, price aspects, **and** the associated consumer **behaviour and** willingness to pay ~~and actual consumer behaviour~~,
 - c) environmental and social impacts.

(2425) **POINTS OUT** that, in the case of an extension of the mandatory indication of origin or provenance to certain products, milk, milk used as an ingredient in dairy products, meat and meat used as an ingredient are seen as first priorities.

(2526) **REFERS** to Member States' calls at the Agriculture and Fisheries Council to revise the Council Directive 2001/110/EC relating to honey with the aim to specify the countries of origin of the honey used in honey blends, and **CALLS UPON** the Commission to start work on a legislative proposal to amend the Directive accordingly.
