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⁽¹⁾ Text with EEA relevance

III

(Preparatory acts)

COUNCIL

POSITION (EU) No 7/2011 OF THE COUNCIL AT FIRST READING

with a view to the adoption of a Regulation of the European Parliament and of the Council on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 and repealing Directives 87/250/EEC, 90/496/EEC, 1999/10/EC, 2000/13/EC, 2002/67/EC, 2008/5/EC and Regulation (EC) No 608/2004

Adopted by the Council on 21 February 2011

(Text with EEA relevance)

(2011/C 102 E/01)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

(1) Article 169 of the Treaty on the Functioning of the European Union (TFEU) provides that the Union is to contribute to the attainment of a high level of consumer protection by the measures it adopts pursuant to Article 114 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 the food they consume. Consumers' choices can be influenced by, inter alia, health, economic, environmental, social and ethical considerations.

(4) According to 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 safety ⁽³⁾ 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 market ⁽⁴⁾ 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) 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 foodstuffs ⁽⁵⁾. 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 foodstuffs ⁽⁶⁾ lays down rules on the content and presentation of nutrition information on

⁽¹⁾ OJ C 77, 31.3.2009, p. 81.

⁽²⁾ Position of the European Parliament of 16 June 2010 (not yet published in the Official Journal) and Position of the Council at first reading of 21 February 2011. Position of the European Parliament of ... (not yet published in the Official Journal) and decision of the Council of ...

⁽³⁾ OJ L 31, 1.2.2002, p. 1.

⁽⁴⁾ OJ L 149, 11.6.2005, p. 22.

⁽⁵⁾ OJ L 109, 6.5.2000, p. 29.

⁽⁶⁾ OJ L 276, 6.10.1990, p. 40.

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.

- (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 of 30 May 2007 on a Strategy for Europe on Nutrition, Overweight and Obesity related health issues (the 'Commission White Paper') noted that nutrition labelling is an important tool to inform consumers about the composition of foods and help them make an informed choice. The Commission Communication of 13 March 2007 entitled 'EU consumer policy strategy 2007-2013 — Empowering consumers, enhancing welfare, effectively protecting them' underlined that allowing consumers to make an 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 industry and reduces the administrative burden.
- (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 consumer ⁽¹⁾, 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 foodstuffs ⁽²⁾, Commission Directive 2002/67/EC of 18 July 2002 on the labelling of foodstuffs containing quinine, and of foodstuffs

containing caffeine ⁽³⁾, 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 esters ⁽⁴⁾ and Commission Directive 2008/5/EC of 30 January 2008 concerning the compulsory indication on the labelling of certain foodstuffs of particulars other than those provided for in Directive 2000/13/EC of the European Parliament and of the Council ⁽⁵⁾.

- (13) It is necessary to set common definitions, principles, requirements and procedures so as to form a clear framework and a common basis for 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.
- (15) 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 charity events, or local community fairs and meetings, should not fall within 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 of 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. With this aim, food business operators should facilitate the accessibility of that information to the visually impaired.
- (18) In order to enable food information law to adapt to consumers' changing needs for information, any considerations about the need for mandatory food information should also take account of the widely

⁽¹⁾ OJ L 113, 30.4.1987, p. 57.

⁽²⁾ OJ L 69, 16.3.1999, p. 22.

⁽³⁾ OJ L 191, 19.7.2002, p. 20.

⁽⁴⁾ OJ L 97, 1.4.2004, p. 44.

⁽⁵⁾ OJ L 27, 31.1.2008, p. 12.

demonstrated interest of 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.
- (20) Food information law should prohibit the use of information that would mislead the consumer in particular as to the characteristics of the food, food effects or properties, 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. That clarification should be in accordance with the responsibilities regarding the consumer referred to in Article 17 of Regulation (EC) No 178/2002.
- (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 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* in respect of 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 enable certain particulars to be made available 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 therein, certain ingredients or other substances or products (such as processing aids) 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 or products which may cause allergies or intolerances 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 in order to assist consumers in making better-informed food and dietary choices. Studies show that legibility is an important element in maximising the possibility for labelled information to influence its audience and that

small print size is one of the main causes of consumer dissatisfaction with food labels. However, a comprehensive approach should be developed in order to take into account all aspects related to legibility.

- (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 providing consumers with food information that is necessary to make an informed choice, information should also be provided on the ingredients of alcoholic mixed beverages.
- (28) It is also important to provide consumers with information on the other alcoholic beverages. Specific 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) ⁽¹⁾ lays down rules that ensure that consumers are protected and properly informed. Therefore, it is appropriate to exempt wine at this stage from the obligation to list ingredients and to provide for a nutrition declaration. Similarly, consumer protection in relation to certain alcoholic beverages is ensured through 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 ⁽²⁾ and through Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks ⁽³⁾. Therefore, the same exemption should apply to the beverages covered by those two Regulations.
- (29) It is necessary to treat in the same way beverages comparable to wine, aromatised wines, aromatised wine-based drinks, aromatised wine-product cocktails and spirit drinks, and to ensure the application of the same food information law requirements to those beverages. Therefore, the exemption from the obligation to list the ingredients and to provide for a nutrition declaration should also apply to beverages containing more than 1,2 % by volume of alcohol obtained from fermentation of fruit or vegetables, mead and all types of beer.

⁽¹⁾ OJ L 299, 16.11.2007, p. 1.

⁽²⁾ OJ L 149, 14.6.1991, p. 1.

⁽³⁾ OJ L 39, 13.2.2008, p. 16.

- (30) However, the Commission should produce a report within 5 years of the entry into force of this Regulation on whether some categories of beverages should be exempted, in particular, from providing the information on the energy value, and stating the reasons justifying possible exemptions, taking into account the need to ensure coherence with other relevant Union policies. The Commission may also propose, if necessary, specific requirements in the context of this Regulation.
- (31) 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 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 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.
- (32) In some cases, food business operators may want to indicate the origin of a food on a voluntary basis to draw consumers' attention to the qualities of their product. Such indications should also comply with harmonised criteria.
- (33) The indication of origin is currently mandatory for beef and beef products⁽¹⁾ in the Union following the bovine spongiform encephalopathy crisis and it has created consumer expectations. The impact assessment of the Commission confirms that the origin of meat appears to be consumers' prime concern. There are other meats widely consumed in the Union, such as swine, sheep, goats and poultry. It is therefore appropriate to impose a mandatory declaration of origin for those products. The specific origin requirements could differ from one type of meat to another according to the characteristics of the animal species. It is appropriate to provide for the establishment through implementing rules of mandatory requirements that could vary from one type of meat to another taking into account the principle of proportionality and the administrative burden for food business operators and enforcement authorities.
- (34) Mandatory origin provisions have been developed on the basis of vertical approaches for instance for honey⁽²⁾, fruits and vegetables⁽³⁾, fish⁽⁴⁾, beef and beef products⁽⁵⁾ and olive oil⁽⁶⁾. There is a need to explore the possibility to extend mandatory origin labelling for other foodstuffs. It is therefore appropriate to request the Commission to prepare reports covering the following foodstuffs: types of meat other than beef, swine, sheep, goat and poultry meat; milk; milk used as an ingredient in dairy products; meat used as an ingredient; unprocessed foods; single-ingredient products; and ingredients that represent more than 50 % of a food. Milk being one of the products for which an indication of origin is considered of particular interest, the Commission report on this product should be made available as soon as possible. Based on the conclusions of such reports, the Commission may submit proposals to modify the relevant Union provisions or may take new initiatives, where appropriate, on a sectoral basis.
- (35) The 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 Code⁽⁷⁾ 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 Code⁽⁸⁾. Determination of the country of origin of foods will be based on those rules, which are well known to food business operators and administrations and should ease their implementation.
- (36) The nutrition declaration for 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.
- (37) The Commission White Paper highlighted certain nutritional elements of importance to public health such as saturated fat, sugars or sodium. Therefore, it is appropriate that the requirements on the mandatory provision of nutrition information should take into account such elements.

⁽¹⁾ Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000 establishing a system for the identification and registration of bovine animals and regarding the labelling of beef and beef products (OJ L 204, 11.8.2000, p. 1).

⁽²⁾ Council Directive 2001/110/EC of 20 December 2001 relating to honey (OJ L 10, 12.1.2002, p. 47).

⁽³⁾ Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules of Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector (OJ L 350, 31.12.2007, p. 1).

⁽⁴⁾ Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products (OJ L 17, 21.1.2000, p. 22).

⁽⁵⁾ Regulation (EC) No 1760/2000.

⁽⁶⁾ Commission Regulation (EC) No 1019/2002 of 13 June 2002 on marketing standards for olive oil (OJ L 155, 14.6.2002, p. 27).

⁽⁷⁾ OJ L 302, 19.10.1992, p. 1.

⁽⁸⁾ OJ L 253, 11.10.1993, p. 1.

- (38) Since one of the objectives pursued by this Regulation is to provide a basis to the final consumer for making informed choices, it is important to ensure in this respect that the final consumer easily understands the information provided on the labelling. Therefore it is appropriate to use on the labelling the term 'salt' instead of the corresponding term of the nutrient 'sodium'.
- (39) 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.
- (40) In the interest of consistency and coherence of Union law 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 foods⁽¹⁾.
- (41) To avoid unnecessary burdens on 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 a nutrition declaration, unless the obligation to provide such information is provided for under other Union rules.
- (42) 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 nutrition information provided should be simple and easily understood. To have the nutrition information partly on the 'front of pack' and partly the 'back of pack' might confuse 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 on the 'front of pack'. A free choice as to the information that could be repeated might confuse consumers. Therefore it is necessary to clarify which information may be repeated to ensure that consumers can readily see the essential nutrition information when purchasing foods.
- (43) In order to encourage food business operators to provide on a voluntary basis the information contained in the nutrition declaration for foods like alcoholic beverages and non-prepacked foods that may be exempted from the nutrition declaration, the possibility should be given to only declare limited elements of the nutrition declaration. It is nevertheless appropriate to clearly establish the information that may be provided on a voluntary basis in order to avoid misleading the consumer by the free choice of the food business operator.
- (44) There have been recent developments in the expression of the nutrition declaration, other than per 100 g/100 ml/portion, or in its presentation, through the use of graphical forms or symbols, by some Member States and organisations in the food sector. Such additional forms of expression and presentation may help consumers to better understand the nutrition declaration. However, there is insufficient evidence across all the Union on how the average consumer understands and uses the alternative forms of expression or presentation of the information. Therefore, it is appropriate to allow for different forms of expression and presentation to be developed on the basis of criteria established in this Regulation and to invite the Commission to prepare a report regarding the use of those forms of expression and presentation, their effect on the internal market and the advisability of further harmonisation.
- (45) In order to assist the Commission in producing this report, Member States should provide the Commission with the relevant information on the use of additional forms of expression and presentation of the nutrition declaration on the market in their territory. In order to do so, Member States should be empowered to request food business operators placing on the market in their territory foods bearing additional forms of expression or presentation to notify national authorities of the use of such additional forms and of the relevant justifications regarding the fulfilment of the requirements set out in this Regulation.
- (46) It is desirable to ensure a certain level of consistency in the development of additional forms of expression and presentation of the nutrition declaration. It is therefore appropriate 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 in such exchanges.
- (47) The declaration in the same field of vision 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 should not be treated as a group of individual claims.
- (48) 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.

⁽¹⁾ OJ L 404, 30.12.2006, p. 9.

- (49) 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 information on potential allergens should always be provided to the consumer.
- (50) As regards the matters specifically harmonised by this Regulation, Member States should not be able to adopt national provisions unless authorised by Union law. This Regulation should not prevent Member States from adopting national provisions concerning matters not specifically harmonised herein.
- (51) Food information rules should be able to adapt to a rapidly changing social, economic and technological environment.
- (52) 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 ⁽¹⁾.
- (53) 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 foods ⁽²⁾ should be updated to take this Regulation into account. Regulations (EC) No 1924/2006 and (EC) No 1925/2006 should therefore be amended accordingly.
- (54) Irregular and frequent updating of food information requirements may impose considerable administrative burdens on food businesses, especially small and medium-sized enterprises. It is therefore appropriate to ensure that measures that may be adopted by the Commission in exercising the powers conferred by this Regulation apply on the same day in any calendar year following an appropriate transitional period. Derogations from this principle should be permitted in cases of urgency where the purpose of the measures concerned is the protection of human health.
- (55) In order to enable food business operators to adapt the labelling of their products to the new requirements introduced by this Regulation, it is important to provide for appropriate transitional periods for the application of this Regulation.
- (56) Given the substantial changes in the requirements related to nutrition labelling introduced by this Regulation, in particular changes in relation to the content of the nutrition declaration, it is appropriate to authorise food business operators to anticipate the application of this Regulation.
- (57) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States and can therefore be better achieved at Union level, the 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.
- (58) The Commission should be empowered to adopt delegated acts in accordance with Article 290 TFEU in respect of, inter alia, the availability of certain mandatory particulars by means other than on the package or on the label, the list of foods not required to bear a list of ingredients, the re-examination of the list of substances or products causing allergies or intolerances, or the list of nutrients that may be declared on a voluntary basis. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
- (59) In order to ensure uniform conditions for implementing this Regulation, the Commission should be empowered to adopt implementing rules in relation to, inter alia, the modalities of expression of one or more particulars by means of pictograms or symbols instead of words or numbers, the contrast between the print and the background, the manner of indicating the date of minimum durability, the manner of indicating the country of origin or place of provenance for meat, the precision of the declared values for the nutrition declaration, or the expression per portion or per consumption unit of the nutrition declaration. In accordance with Article 291 TFEU, rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers shall be laid down in advance by a regulation adopted in accordance with the ordinary legislative procedure. Pending the adoption of that new regulation, Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽³⁾ continues to apply, with the exception of the regulatory procedure with scrutiny, which is not applicable.

⁽¹⁾ OJ L 165, 30.4.2004, p. 1.

⁽²⁾ OJ L 404, 30.12.2006, p. 26.

⁽³⁾ OJ L 184, 17.7.1999, p. 23.

HAVE ADOPTED THIS REGULATION:

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 shall apply to food business operators at all stages of the food chain, where their activities 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.

4. This Regulation shall apply without prejudice to labelling requirements provided for in specific 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 points (1), (2), (3), (7), (8) and (18) of Article 3 of Regulation (EC) No 178/2002;
- (b) the definitions 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 foodstuffs ⁽¹⁾;
- (c) 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 enzymes ⁽²⁾;

⁽¹⁾ OJ L 139, 30.4.2004, p. 1.

⁽²⁾ OJ L 354, 31.12.2008, p. 7.

(d) the definitions of 'food additive', 'processing aid' and 'carrier' in points (a) and (b) of Article 3(2) of, and in point 5 of Annex I to, Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives ⁽³⁾;

(e) the definition of 'flavouring' in point (a) of 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 ⁽⁴⁾;

(f) the definitions of 'meat' and 'mechanically separated meat' in points 1.1 and 1.14 of Annex I to Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin ⁽⁵⁾;

(g) the definition of 'means of distance communication' in point (4) of 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 ⁽⁶⁾;

(h) the definition of 'advertising' in point (a) of Article 2 of Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising ⁽⁷⁾;

(i) the definition of 'engineered nanomaterials' in point (c) of Article 3(2) of Regulation (EU) No .../2011 of the European Parliament and of the Council of ... on novel foods ^(*) ⁽⁸⁾.

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;
- (b) 'food information law' means the Union provisions governing the food information, and in particular labelling, including rules of a general nature applicable to all foods in particular circumstances or to certain categories of foods and rules which apply only to specific foods;
- (c) 'mandatory food information' means the particulars that are required to be provided to the final consumer by Union provisions;

⁽³⁾ OJ L 354, 31.12.2008, p. 16.

⁽⁴⁾ OJ L 354, 31.12.2008, p. 34.

⁽⁵⁾ OJ L 139, 30.4.2004, p. 55.

⁽⁶⁾ OJ L 144, 4.6.1997, p. 19.

⁽⁷⁾ OJ L 376, 27.12.2006, p. 21.

^(*) Doc. 2008/0002 (COD).

⁽⁸⁾ OJ L ...

- (d) 'mass caterer' means any establishment (including a vehicle or a fixed or mobile stall), such as restaurants, canteens, schools and hospitals, where, in the course of 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 or product, 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 Regulation (EEC) No 2913/92;
- (h) 'compound ingredient' means 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 the packaging or 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;
- (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 that information without needing to turn the package back and forth;
- (l) 'legal name' means the name of a food prescribed in the Union provisions applicable to it or, in the absence of such 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 by consumers in the Member State in which that food is sold, without that name needing further explanation;
- (n) 'descriptive name' means a name providing a description of the food, and if necessary of its use, which is sufficiently clear to enable consumers to know its true nature and distinguish it from other products with which it might be confused;
- (o) 'primary ingredient' means an ingredient or ingredients of a food that represent more than 50 % of that food or which are usually associated with the name of the food by the consumer and for which in most cases a quantitative indication is required;
- (p) 'date of minimum durability of a food' means the date until which the food retains its specific properties when properly stored;
- (q) 'nutrient' means protein, carbohydrate, fat, fibre, sodium, vitamins and minerals listed in Annex XIII to this Regulation, and substances which belong to or are components of one of those categories.
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 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 Union the free movement of legally produced and marketed food, 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 transitional 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 transitional 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 and to enable consumers to make informed choices, 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.

*Article 5***Consultation of the European Food Safety Authority**

Any Union measure in the field of food information law which is likely to have an effect on public health shall be adopted after consultation of the European Food Safety Authority (the 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, 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;
- (d) by suggesting in the description or pictorial representations the presence of a particular food or an ingredient, while in reality a component naturally present or an ingredient normally used in that food has been substituted with a different component or a different ingredient.

2. Food information shall be accurate, clear, and easy to understand for the consumer.

3. Subject to derogations provided for by Union law 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.

4. 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 8***Responsibilities**

1. The food business operator responsible for the food information shall be the operator under whose name or business name the food is marketed or, if that operator is not established in the Union, the importer into the Union market.

2. The food business operator responsible for the food information shall ensure the presence and accuracy of the food information in accordance with the applicable food information law and requirements of relevant national provisions.

3. Food business operators which do not affect food information shall not supply food which they know or presume, on the basis of the information in their possession as professionals, to be non-compliant with the applicable food information law and requirements of relevant national provisions.

4. 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 the possibilities for the final consumer to make informed choices. Food business operators are responsible for any changes they make to food information accompanying a food.

5. Without prejudice to paragraphs 2 to 4, food business operators, within the businesses under their control, shall ensure compliance with the requirements of food information law and relevant national provisions which are relevant to their activities and shall verify that such requirements are met.

6. Food business operators, within the businesses under their control, shall ensure that information relating to non-prepacked food intended for the final consumer or for supply to mass caterers shall be transmitted to the food business operator receiving the food in order to enable, where appropriate, the provision of mandatory food information to the final consumer.

7. In the following cases, food business operators, within the businesses under their control, shall ensure that the mandatory particulars required pursuant to Articles 9 and 10 shall appear on the prepackaging or on a label attached thereto, 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.

Notwithstanding the first subparagraph, 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 presented for marketing.

8. Food business operators that supply to other food business operators food not intended for the final consumer or to mass caterers shall ensure that those other food business operators are provided with sufficient information to enable them, where appropriate, to meet their obligations under paragraph 2.

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 or processing aid listed in Annex II or derived from a substance or product listed in Annex II causing allergies or intolerances 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 durability 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 food business operator referred to in Article 8(1);
- (i) the country of origin or place of provenance where provided for in Article 25;
- (j) instructions for use where it would be 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 declaration.

2. The particulars referred to in paragraph 1 shall be indicated with words and numbers. They may alternatively be expressed by means of pictograms or symbols instead of words or numbers where the Commission has adopted implementing measures under paragraph 3, and in accordance with such implementing measures.

3. The Commission may, in accordance with the regulatory procedure referred to in Article 46(2), adopt detailed rules on the modalities of expression of one or more particulars by means of pictograms or symbols instead of words or numbers taking into account evidence of uniform consumer understanding.

Article 10

Additional mandatory particulars for specific types or categories of foods

1. In addition to the particulars listed in Article 9(1), additional mandatory particulars for specific types or categories of foods are laid down in Annex III.

2. In order to ensure consumer information with respect to specific types or categories of foods and to take account of technical progress, scientific developments, the protection of consumers' health or the safe use of a food, the Commission may amend Annex III by means of delegated acts, in accordance with Article 49 and subject to the conditions laid down in Articles 50, 51 and 52.

Article 11

Weights and measures

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

Article 12

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. In order to ensure that the consumer may benefit from other means of provision of mandatory food information better adapted for certain mandatory particulars, the Commission may provide for rules, by means of delegated acts, in accordance with Article 49 and subject to the conditions laid down in Articles 50 and 51, on the availability of certain mandatory particulars by means other than on the package or on the label.

4. In the case of non-prepacked food, the provisions of Article 42 shall apply.

Article 13

Presentation of mandatory particulars

1. Without prejudice to the rules adopted pursuant to Article 42(2), 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.

2. Without prejudice to specific Union provisions applicable to particular foods as regards 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 using a font size where the x-height, as defined in Annex IV, is equal to or greater than 1,2 mm. The mandatory particulars shall be presented in such a way as to ensure a significant contrast between the print and the background.

3. In case of packaging or containers the largest surface of which has an area of less than 60 cm², the x-height of the font size referred to in paragraph 2 shall be equal to or greater than 0,9 mm.

4. For the purpose of ensuring a uniform implementation of paragraph 2 of this Article, the Commission may, in accordance with the regulatory procedure referred to in Article 46(2), adopt detailed rules on contrast between the print and the background.

5. For the purpose of achieving the objectives of this Regulation, the Commission shall establish, by means of delegated acts, in accordance with Article 49 and subject to the conditions laid down in Articles 50 and 51, criteria on legibility additional to those specified under paragraph 2 of this Article.

For the same purpose as referred to in the first subparagraph, the Commission may, by means of delegated acts in accordance with Article 49 and subject to the conditions laid down in Articles 50 and 51, extend the requirements under paragraph 6 of this Article to additional mandatory particulars for specific types or categories of foods.

6. The particulars listed in points (a), (e), (f) and (k) of Article 9(1) shall appear in the same field of vision.

7. Paragraph 6 of this Article shall not apply in the cases specified in Article 16(1) and (2).

Article 14

Distance selling

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:

(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 the food business operator charging consumers supplementary costs;

(b) all mandatory particulars shall be available at the moment of delivery.

2. In the case of non-prepacked foods offered for sale by means of distance communication, the particulars required pursuant to Article 42 shall be made available in accordance with paragraph 1 of this Article.

3. Point (a) of paragraph 1 shall not apply to foods offered for sale by means of automatic vending machines or automated commercial premises.

Article 15

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 Union.

3. Paragraphs 1 and 2 shall not preclude the particulars from being indicated in several languages.

Article 16

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 (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 Union provisions requiring a mandatory nutrition declaration, the declaration referred to in point (l) of Article 9(1) shall not be mandatory for the foods listed in Annex V.

4. Without prejudice to other Union provisions requiring a list of ingredients or a mandatory nutrition declaration, the particulars referred to in points (b) and (l) of Article 9(1) shall not be mandatory for:

(a) wines covered by Annex XIb to Regulation (EC) No 1234/2007;

(b) products covered by Regulation (EEC) No 1601/91;

(c) beverages similar to those mentioned under points (a) and (b) of this paragraph, containing more than 1,2 % by volume of alcohol obtained from fermentation of fruits or vegetables;

(d) mead;

(e) all types of beer; and

(f) spirit drinks, as defined in Article 2(1) of Regulation (EC) No 110/2008.

By ... (*), the Commission shall produce a report concerning the application of Article 18 and Article 29(1) to the products referred to in this paragraph, and addressing whether some categories of beverages should be exempted, in particular, from the requirement to provide the information on the energy value, and the reasons justifying possible exemptions, taking into account the need to ensure coherence with other relevant Union policies.

The Commission may accompany this report by a legislative proposal determining the rules for a list of ingredients or a mandatory nutrition declaration for those products.

SECTION 2

Detailed provisions on mandatory particulars

Article 17

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.

2. 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.

3. In exceptional cases, the name of the food in the Member State of production shall not be used in the Member State of marketing when the food which it designates in the Member State of production is so different, as regards its composition or manufacture, from the food known under that name in the Member State of marketing that paragraph 2 is not sufficient to ensure, in the Member State of marketing, correct information for consumers.

4. The name of the food shall not be replaced with a name protected as intellectual property, brand name or fancy name.

(*) Five years from the entry into force of this Regulation.

5. Specific provisions on the name of the food and particulars that shall accompany it are laid down in Annex VI.

Article 18

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 17 and in Annex VI.

3. All ingredients present in the form of engineered nano-materials shall be clearly indicated in the list of ingredients. The names of such ingredients shall be followed by the word 'nano' in brackets.

4. Technical rules for applying paragraphs 1 and 2 of this Article are laid down in Annex VII.

Article 19

Omission of the list of ingredients

1. 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) foods consisting of a single ingredient, where:
 - (i) the name of the food is identical to the ingredient name; or
 - (ii) the name of the food enables the nature of the ingredient to be clearly identified.

2. In order to take into account the relevance for the consumer of a list of ingredients for specific types or categories of foods, the Commission may, in exceptional cases, by means of delegated acts, in accordance with Article 49 and subject to the conditions laid down in Articles 50 and 51, supplement

paragraph 1 of this Article, provided that omissions do not result in the final consumer or mass caterers being inadequately informed.

Article 20

Omission of constituents of food from the list of ingredients

Without prejudice to Article 21, 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; or
 - (ii) which are used as processing aids;
- (c) carriers and substances which are not food additives but are used in the same way and with the same purpose as carriers, and which are used in the quantities strictly necessary;
- (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.

Article 21

Labelling of certain substances or products causing allergies or intolerances

1. Without prejudice to the rules adopted pursuant to Article 42(2), the particulars referred to in point (c) of Article 9(1) shall be indicated in the list of ingredients in accordance with the rules laid down in Article 18(1), with a clear reference to the name of the substance or product as listed in Annex II.

In the absence of a list of ingredients, the indication of the particulars referred to in point (c) of Article 9(1) shall comprise the word 'contains' followed by the name of the substance or product as listed in Annex II.

Where several ingredients or processing aids of a food originate from a single substance or product listed in Annex II, the labelling shall make it clear for each ingredient or processing aid concerned.

The indication of the particulars referred to in point (c) of Article 9(1) shall not be required in cases where the name of the food clearly refers to the substance or product concerned.

2. In order to ensure better information for the consumer and to take account of the most recent scientific progress and technical knowledge, the Commission shall systematically re-examine and, where necessary, update the list in Annex II by means of delegated acts, in accordance with Article 49 and subject to the conditions laid down in Articles 50, 51 and 52.

Article 22

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 the ingredient or category of ingredients concerned:

- (a) appears in the name of the food or is usually associated with that name by the consumer;
- (b) is emphasised on the labelling in words, pictures or graphics; or
- (c) 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. 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 VIII.

Article 23

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 in the case of liquid products;
- (b) in units of mass in the case of other products.

2. In order to ensure a better understanding by the consumer of the food information on the labelling, the Commission may

establish for certain specified foods, by means of delegated acts, in accordance with Article 49 and subject to the conditions laid down in Articles 50 and 51, a manner for the expression of the net quantity other than the one laid down in paragraph 1 of this Article.

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 IX.

Article 24

Minimum durability date and 'use by' date

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. After the 'use by' date a food shall be deemed to be unsafe in accordance with Article 14(2) to (5) of Regulation (EC) No 178/2002.

2. The appropriate date shall be expressed in accordance with Annex X.

3. In order to ensure a uniform application of the manner of indicating the date of minimum durability referred to in point 1(c) of Annex X, the Commission may adopt, in accordance with the regulatory procedure referred to in Article 46(2), implementing rules in this regard.

Article 25

Country of origin or place of provenance

1. This Article shall apply without prejudice to labelling requirements provided for in specific Union provisions, in particular Council Regulation (EC) No 509/2006 of 20 March 2006 on agricultural products and foodstuffs as traditional specialties guaranteed⁽¹⁾ 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⁽²⁾.

2. Indication of the country of origin or place of provenance shall be mandatory:

- (a) where failure to indicate this might mislead the consumer 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;
- (b) for meat falling within the Combined Nomenclature (CN) codes listed in Annex XI. The application of this point shall be subject to adoption of implementing rules referred to in paragraph 6.

⁽¹⁾ OJ L 93, 31.3.2006, p. 1.

⁽²⁾ OJ L 93, 31.3.2006, p. 12.

3. Where the country of origin or the place of provenance of a food is given and where it is not the same as that of its primary ingredient:

- (a) the country of origin or place of provenance of the primary ingredient in question shall also be given; or
- (b) the country of origin or place of provenance of the primary ingredient shall be indicated as being different to that of the food.

The application of this paragraph shall be subject to adoption of the implementing rules referred to in paragraph 6.

4. Within 5 years from the date of application of point (b) of paragraph 2, the Commission shall submit a report to the European Parliament and the Council to evaluate the mandatory indication of the country of origin or place of provenance for products referred to in that point.

5. By ... (*), the Commission shall submit reports to the European Parliament and the Council regarding the mandatory indication of the country of origin or place of provenance for:

- (a) types of meat other than beef and those referred to in point (b) of paragraph 2;
- (b) milk;
- (c) milk used as an ingredient in dairy products;
- (d) meat used as an ingredient;
- (e) unprocessed foods;
- (f) single ingredient products;
- (g) ingredients that represent more than 50 % of a food.

Those reports shall take into account the need for the consumer to be informed, the feasibility of providing the mandatory indication referred to in the first subparagraph and an analysis of the costs and benefits of the introduction of such measures, including the legal impact on the internal market and the impact on international trade.

The Commission may accompany those reports with proposals to modify the relevant Union provisions.

6. By ... (**), the Commission shall adopt, in accordance with the regulatory procedure referred to in Article 46(2), implementing rules concerning the application of point (b) of paragraph 2 of this Article and the application of paragraph 3 of this Article.

(*) Three years from the entry into force of this Regulation.

(**) Two years from the entry into force of this Regulation.

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 of the food.
2. The Commission may, in accordance with the regulatory procedure referred to in Article 46(2), adopt detailed rules concerning the implementation of paragraph 1 of this Article for certain foods.

Article 27

Alcoholic strength

1. The rules concerning indication of the alcoholic strength by volume shall, in the case of products classified in CN code 2204, be those laid down in the specific Union 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 XII.

SECTION 3

Nutrition declaration

Article 28

Relationship with other legislation

1. 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 supplements ⁽¹⁾;
 - (b) Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters ⁽²⁾.

2. This Section shall apply without prejudice to Directive 2009/39/EC of the European Parliament and of the Council of 6 May 2009 on foodstuffs intended for particular nutritional uses ⁽³⁾ and specific Directives as referred to in Article 4(1) of that Directive.

Article 29

Content

1. The mandatory nutrition declaration shall include the following:
 - (a) energy value; and
 - (b) the amounts of fat, saturates, carbohydrate, sugars, protein and salt.

⁽¹⁾ OJ L 183, 12.7.2002, p. 51.

⁽²⁾ OJ L 164, 26.6.2009, p. 45.

⁽³⁾ OJ L 124, 20.5.2009, p. 21.

Where appropriate, a statement indicating that the salt content is exclusively due to the presence of naturally occurring sodium may appear in close proximity to the nutrition declaration.

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

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

3. Where the labelling of a prepacked food provides the mandatory nutrition declaration referred to in paragraph 1, the information on energy value and the amounts of fat, saturates, sugars, and salt may be repeated thereon.

4. By way of derogation from Article 35(1), where the labelling of the products referred to in Article 16(4) provides a nutrition declaration, the content of the declaration may be limited to the energy value only.

5. Without prejudice to Article 42 and by way of derogation from Article 35(1), where the labelling of the products referred to in Article 42(1) provides a nutrition declaration, the content of that declaration may be limited only to:

- (a) the energy value; or
- (b) the energy value and the amounts of fat, saturates, sugars, and salt.

6. In order to take account of the relevance of particulars referred to in paragraphs 2 to 5 of this Article for the information of consumers, the Commission may, by means of delegated acts, in accordance with Article 49 and subject to the conditions laid down in Articles 50 and 51, amend the lists in paragraphs 2 to 5 of this Article, by adding or removing particulars.

Article 30

Calculation

1. The energy value shall be calculated using the conversion factors listed in Annex XIV.

2. The Commission may adopt, by means of delegated acts, in accordance with Article 49 and subject to the conditions laid down in Articles 50 and 51, conversion factors for the vitamins and minerals referred to in point 1 of Part A of Annex XIII, in order to calculate more precisely the content of such vitamins

and minerals in foods. Those conversion factors shall be added to Annex XIV.

3. The energy value and the amounts of nutrients referred to in Article 29(1) to (5) shall be those of the food as sold.

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 values shall, according to the individual case, be average values based on:

- (a) the manufacturer's analysis of the food;
- (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 Commission may, in accordance with the regulatory procedure referred to in Article 46(2), adopt detailed rules for the uniform implementation of this paragraph 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.

Article 31

Expression per 100 g or per 100 ml

1. The energy value and the amount of nutrients referred to in Article 29(1) to (5) shall be expressed using the measurement units listed in Annex XV.

2. The energy value and the amount of nutrients referred to in Article 29(1) to (5) shall be expressed per 100 g or per 100 ml.

3. 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 XIII in relation to per 100 g or per 100 ml.

4. In addition to the form of expression referred to in paragraph 2 of this Article, the energy value and the amounts of nutrients referred to in Article 29(1), (3), (4) and (5) may be expressed, as appropriate, as a percentage of the reference intakes set out in Part B of Annex XIII in relation to per 100 g or per 100 ml.

Article 32

Expression on a per portion basis or per consumption unit

1. In the following cases, the energy value and the amounts of nutrients referred to in Article 29(1) to (5) may be expressed per portion 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 form of expression per 100 g or per 100 ml referred to in Article 31(2);
- (b) in addition to the form of expression per 100 g or per 100 ml referred to in Article 31(3) regarding the amounts of vitamins and minerals;
- (c) in addition to or instead of the form of expression per 100 g or per 100 ml referred to in Article 31(4).

2. By way of derogation from Article 31(2), in the cases referred to in Article 29(3), (4) and (5) the energy value and the amount of nutrients and/or the percentage of the reference intakes set out in Part B of Annex XIII may be expressed on the basis of per portion or per consumption unit alone.

3. The portion or unit used shall be indicated in close proximity to the nutrition declaration.

4. In order to ensure the uniform implementation of the expression of the nutrition declaration per portion or per unit of consumption and to provide for a uniform basis of comparison for the consumer, the Commission may, taking into account actual consumption behaviour of consumers as well as dietary recommendations, adopt rules on the expression per portion or per consumption unit for specific categories of foods, in accordance with the regulatory procedure referred to in Article 46(2).

Article 33

Presentation

1. The particulars referred to in Article 29(1) and (2) shall be included in the same field of vision. They shall be presented together in a clear format and, where appropriate, in the order of presentation provided for in Annex XV.

2. The particulars referred to in Article 29(1) and (2) 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. The particulars referred to in Article 29(3) may be presented together:

- (a) in a field of vision different from the one referred to in paragraph 1 of this Article; and
- (b) in a format different from that specified in paragraph 2 of this Article.

4. The particulars referred to in Article 29(4) and (5) may be presented in a format different from that specified in paragraph 2 of this Article.

5. In cases where the energy value or the amount of nutrient(s) in a product is negligible, the 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.

In order to ensure the uniform implementation of this paragraph, the Commission may, in accordance with the regulatory procedure referred to in Article 46(2), adopt rules regarding the energy value and amounts of nutrients referred to in Article 29(1) to (5) which can be regarded as negligible.

6. In order to ensure a uniform application of the manner of presenting the nutrition declaration under the formats referred to in paragraphs 1 to 4 of this Article, the Commission may adopt, in accordance with regulatory procedure referred to in Article 46(2), implementing rules in this regard.

Article 34

Additional forms of expression and presentation

1. In addition to the forms of expression referred to in Article 31(2) and (4) and Article 32 and to the presentation referred to in Article 33(2), the energy value and the amount of nutrients referred to in Article 29(1) to (5) may be given by other forms of expression and/or presented using graphical forms or symbols in addition to words or numbers provided that the following requirements are met:

- (a) they do not mislead the consumer as referred to in Article 7;
- (b) they aim to facilitate consumer understanding of the contribution or importance of the food to the energy and nutrient content of a diet;
- (c) they are supported by evidence of understanding of such forms of expression or presentation by the average consumer; and
- (d) in the case of other forms of expression, they are based, either on harmonised reference intakes, or in their absence, on generally accepted scientific advice on intakes for energy or nutrients.

2. Member States may recommend to food business operators the use of one or more additional forms of expression or presentation of the nutrition declaration that they consider as best fulfilling the requirements laid down in points (a) to (d) of paragraph 1. Member States shall provide the Commission with the details of such additional forms of expression and presentation.

3. Member States shall ensure an appropriate monitoring of additional forms of expression or presentation of the nutrition declaration that are present on the market in their territory.

To facilitate the monitoring of the use of such additional forms of expression or presentation, Member States may require food business operators placing on the market in their territory foods bearing such information to notify the competent authority of the use of an additional form of expression or presentation and to provide them with the relevant justifications regarding the fulfilment of the requirements laid down in points (a) to (d) of paragraph 1. In such cases, information on the discontinuation of the use of such additional forms of expression or presentation may also be required.

4. The Commission shall facilitate and organise the exchange of information between Member States, itself and stakeholders on matters relating to the use of any additional forms of expression or presentation of the nutrition declaration.

5. By ...(*), in the light of the experience gained, the Commission shall submit a report to the European Parliament and the Council on the use of additional forms of expression and presentation, on their effect on the internal market and on the advisability of further harmonisation of those forms of expression and presentation. For this purpose, Member States shall provide the Commission with relevant information concerning the use of such additional forms of expression or presentation on the market in their territory. The Commission may accompany this report with proposals to modify the relevant Union provisions.

6. In order to ensure the uniform application of this Article, the Commission shall, in accordance with the regulatory procedure referred to in Article 46(2), adopt detailed rules concerning the implementation of paragraphs 1, 3 and 4 of this Article.

CHAPTER V

VOLUNTARY FOOD INFORMATION

Article 35

Applicable requirements

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

2. Food information provided on a voluntary basis shall meet the following requirements:

- (a) it shall not mislead the consumer, as referred to in Article 7;
- (b) it shall not be ambiguous or confusing for the consumer;
- (c) it shall, where appropriate, be based on the relevant scientific data.

(*) Eight years from the entry into force of this Regulation.

3. The Commission may adopt, in accordance with regulatory procedure referred to in Article 46(2), implementing rules on the application of the requirements referred to in paragraph 2 of this Article for voluntary food information on the possible and unintentional presence in food of substances or products causing allergies or intolerances.

4. In order to ensure that consumers are appropriately informed, where voluntary food information is provided by food business operators on a divergent basis which might mislead or confuse the consumer, the Commission may, by means of delegated acts, in accordance with Article 49 and subject to the conditions laid down in Articles 50 and 51, provide for additional cases of provision of voluntary food information to the one referred to in paragraph 3 of this Article.

Article 36

Presentation

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

CHAPTER VI

NATIONAL MEASURES

Article 37

National measures

1. As regards the matters specifically harmonised by this Regulation, Member States may not adopt nor maintain national measures unless authorised by Union law. Those national measures shall not give rise to obstacles to free movement of goods.

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.

Article 38

National measures 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 43, adopt measures requiring additional mandatory particulars for specific types or categories of foods, justified on grounds of at least one of the following:

- (a) the protection of public health;
- (b) the protection of consumers;
- (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 provenance. When notifying such measures to the Commission, Member States shall provide evidence that the majority of consumers attach significant value to the provision of that information.

Article 39

Milk and milk products

Member States may adopt measures derogating from Articles 9(1) and 10(1) 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.

Article 40

Alcoholic beverages

Member States may, pending the adoption of the Union provisions referred to in Article 16(4), maintain national measures as regards the listing of ingredients in the case of beverages containing more than 1,2 % by volume of alcohol.

Article 41

Expression of the net quantity

In the absence of Union provisions referred to in Article 23(2) concerning the expression of net quantity for specified foods in a different manner to that provided for in Article 23(1), Member States may maintain national measures adopted before ... (*).

By ... (**), Member States shall inform the Commission about such measures. The Commission shall bring them to the attention of the other Member States.

Article 42

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:

(*) Date of entry into force of this Regulation.

(**) Three years after the entry into force of this Regulation.

(a) the provision of the particulars specified in point (c) of Article 9(1) is mandatory;

(b) the provision of other particulars referred to in Articles 9 and 10 is not mandatory unless Member States adopt measures requiring the provision of some or all of those particulars or elements of those particulars.

2. Member States may adopt measures concerning the means through which the particulars or elements of those particulars specified in paragraph 1 are to be made available and, where appropriate, their form of expression and presentation.

3. Member States shall communicate to the Commission the text of the measures referred to in point (b) of paragraph 1 and in paragraph 2 without delay.

Article 43

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 which deems it necessary to adopt new food information legislation may take the envisaged measures only 3 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, and before the expiry of the period referred to in paragraph 3 of this Article, the Commission shall initiate the regulatory procedure provided for in Article 46(2) in order to determine whether the envisaged measures may be implemented subject, if necessary, to the appropriate modifications.

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 regulations and of rules on Information Society services ⁽¹⁾ shall not apply to the measures falling within the notification procedure specified in this Article.

⁽¹⁾ OJ L 204, 21.7.1998, p. 37.

CHAPTER VII

IMPLEMENTING, AMENDING AND FINAL PROVISIONS*Article 44***Amendments to the Annexes**

In order to take into account technical progress, scientific developments, consumers' health, or consumers' need for information, and subject to the provisions of Articles 10(2) and 21(2) relating to the amendments to Annexes II and III, the Commission may, by means of delegated acts in accordance with Article 49 and subject to the conditions laid down in Articles 50 and 51, amend the Annexes to this Regulation.

*Article 45***Transitional period for and date of application of implementing measures or delegated acts**

1. Without prejudice to paragraph 2 of this Article, in exercising the powers conferred by this Regulation to adopt measures in accordance with the regulatory procedure referred to in Article 46(2) or by means of delegated acts in accordance with Articles 49 to 52 the Commission shall:

(a) establish an appropriate transitional period for application of the new measures, during which foods bearing labels not complying with the new measures may be placed on the market and after which stocks of such foods that have been placed on the market before the end of the transitional period may continue to be sold until exhausted; and

(b) ensure that those measures apply as from 1 April in any calendar year.

2. Paragraph 1 shall not apply in cases of urgency where the purpose of the measures referred to in that paragraph is the protection of human health.

*Article 46***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 3 months.

*Article 47***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:

'Nutrition labelling of products on which a nutrition and/or health claim is made shall be mandatory, with the exception of generic advertising. The information to be provided shall consist of that specified in Article 29(1) of Regulation (EU) No .../2011 of the European Parliament and the Council of ... 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 (EU) No .../2011 the amount of that nutrient shall be declared in accordance with Articles 30 to 33 of that Regulation.

The amount(s) of the substance(s) to which a nutrition or health claim relates that does not appear in the nutrition labelling shall be stated in the same field of vision as the nutrition labelling and be expressed in accordance with Articles 30, 31 and 32 of Regulation (EU) No .../2011. The units of measurement used to express the amount of the substance shall be appropriate for the individual substances concerned.

(*) OJ L ...'

*Article 48***Amendments to Regulation (EC) No 1925/2006**

Paragraph 3 of Article 7 of Regulation (EC) No 1925/2006 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 (EU) No .../2011 of the European Parliament and the Council of ... on the provision of food information to consumers (*) and of the total amounts present of the vitamins and minerals when added to the food.

(*) OJ L ...'

*Article 49***Exercise of the delegation**

1. The power to adopt the delegated acts referred to in Articles 10(2), 12(3), 13(5), 19(2), 21(2), 23(2), 29(6), 30(2), 35(4) and Article 44 shall be conferred on the Commission for a period of 5 years following ... (*). The Commission shall draw up a report in respect of the delegated power not later than 6 months before the end of the 5-year period. The delegation of power shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 50.

2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

(*) Date of entry into force of this Regulation.

3. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 50 and 51.

4. Where, in the case of the emergence of a new serious risk to human health, imperative grounds of urgency so require, the procedure provided for in Article 52 shall apply to delegated acts adopted pursuant to Articles 10(2) and 21(2).

Article 50

Revocation of the delegation

1. The power to adopt the delegated acts referred to in Articles 10(2), 12(3), 13(5), 19(2), 21(2), 23(2), 29(6), 30(2), 35(4) and Article 44 may be revoked at any time by the European Parliament or the Council.

2. The institution which has commenced an internal procedure for deciding whether to revoke the delegations of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated power which could be subject to revocation and possible reasons for a revocation.

3. The decision of revocation shall put to an end the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

Article 51

Objections to delegated acts

1. The European Parliament or the Council may object to a delegated act within a period of 2 months from the date of notification.

At the initiative of the European Parliament or the Council that period shall be extended by 2 months.

2. If, on expiry of the period referred to in paragraph 1, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the *Official Journal of the European Union* and shall enter into force on the date stated therein.

The delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If either the European Parliament or the Council objects to a delegated act within the period referred to in paragraph 1, it

shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

Article 52

Urgency procedure

1. Delegated acts adopted pursuant to this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 3.

2. The notification of a delegated act adopted pursuant to this Article to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

3. The European Parliament or the Council may object to a delegated act adopted pursuant to this Article in accordance with the procedure referred to in Article 51. In such a case, the act shall cease to apply. The institution which objects to such a delegated act shall state its reasons therefore.

Article 53

Repeal

1. Directives 87/250/EEC, 90/496/EEC, 1999/10/EC, 2000/13/EC, 2002/67/EC, 2008/5/EC and Regulation (EC) No 608/2004 are repealed as from ... (*).

2. References to the repealed acts shall be construed as references to this Regulation.

Article 54

Transitional measures

1. Foods placed on the market or labelled prior to ... (**) which do not comply with the requirements of this Regulation may be marketed until the stocks of the foods are exhausted.

Foods placed on the market or labelled prior to ... (***) which do not comply with the requirement laid down in point (l) of Article 9(1) may be marketed until the stocks of the foods are exhausted.

2. Between ... (**) and ... (***), where the nutrition declaration is provided on a voluntary basis, it shall comply with Articles 29 to 34.

3. By way of derogation from Directive 90/496/EEC, from Article 7 of Regulation (EC) No 1924/2006 and from Article 7(3) of Regulation (EC) No 1925/2006, foods labelled in accordance with Articles 29 to 34 of this Regulation may be placed on the market before ... (**).

(*) Three years after the entry into force of this Regulation.

(**) The first day of the month 3 years after the entry into force of this Regulation.

(***) The first day of the month 5 years after the entry into force of this Regulation.

*Article 55***Entry into force and date of application**

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

It shall apply from ... (*), with the exception of point (l) of Article 9(1), which shall apply from ... (**).

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

Done at ...,

For the European Parliament
The President

...

For the Council
The President

...

(*) The first day of the month 3 years after the entry into force of this Regulation.

(**) The first day of the month 5 years after the entry into force of this Regulation.

ANNEX I

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 fats, monounsaturates, polyunsaturates),
 - carbohydrate (sugars, polyols, starch),
 - salt,
 - fibre,
 - protein,
 - any of the vitamins or minerals listed in point 1 of Part A of Annex XIII, and present in significant amounts as defined in point 2 of Part A of Annex XIII;
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. 'monounsaturates' means fatty acids with one cis double bond;
6. 'polyunsaturates' means fatty acids with two or more cis, cis-methylene interrupted double bonds;
7. 'carbohydrate' means any carbohydrate which is metabolised by humans, and includes polyols;
8. 'sugars' means all monosaccharides and disaccharides present in food, but excludes polyols;
9. 'polyols' means alcohols containing more than two hydroxyl groups;
10. 'protein' means the protein content calculated using the formula:
$$\text{protein} = \text{total Kjeldahl nitrogen} \times 6,25;$$
11. 'salt' means the salt equivalent content calculated using the formula: $\text{salt} = \text{sodium} \times 2,5;$
12. '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;
13. '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.

ANNEX II

SUBSTANCES OR PRODUCTS 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 dextrose ⁽¹⁾;
 - (b) wheat based maltodextrins ⁽¹⁾;
 - (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 fat ⁽¹⁾;
 - (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.
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 or Queensland nuts (*Macadamia ternifolia*), and products thereof, except for 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.

⁽¹⁾ 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.

12. Sulphur dioxide and sulphites at concentrations of more than 10 mg/kg or 10 mg/litre in terms of the total SO₂ which are 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.
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ANNEX III

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 Regulation (EC) No 1333/2008.	'packaged in a protective atmosphere'.
2. Foods containing sweeteners	
2.1 Foods containing a sweetener or sweeteners authorised pursuant to Regulation (EC) No 1333/2008.	'with sweetener(s)' this statement shall accompany the name of the food.
2.2 Foods containing both an added sugar or sugars and a sweetener or sweeteners authorised pursuant to 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/aspartame-acesulfame salt authorised pursuant to Regulation (EC) No 1333/2008.	'contains a source of phenylalanine'.
2.4 Foods containing more than 10 % added polyols authorised pursuant to Regulation (EC) No 1333/2008.	'excessive consumption may produce laxative effects'.
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 the 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 the absence of a 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 ⁽¹⁾ .	'contains liquorice — people suffering from hypertension should avoid excessive consumption' shall be added immediately after the list of ingredients. In the absence of a list of ingredients, the statement shall accompany the name of the food.
4. Beverages with high caffeine content or foods with added caffeine	
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. Not recommended for children or pregnant women' in the same field of vision as the name of the beverage, followed by a reference in brackets and in accordance with Article 13(1) of this Regulation to the caffeine content expressed in mg per 100 ml.

Type or category of food	Particulars
4.2 Foods other than those mentioned under point 4.1, where caffeine is added with a nutritional or physiological purpose.	'Added caffeine. Not recommended for children or pregnant women' in the same field of vision as the name of the product, followed by a reference in brackets and in accordance with Article 13(1) of this Regulation to the caffeine content expressed in mg per 100 g/ml. In the case of food supplements, the caffeine content shall be expressed per portion as recommended for daily consumption on the labelling.

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	<ol 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 breast-feeding women and children under the age of 5 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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(¹) The level shall apply to the products as proposed ready for consumption or as reconstituted according to the instructions of the manufacturers.

ANNEX IV

DEFINITION OF x-HEIGHT

x - Height**Legend**

1	Ascender line
2	Cap line
3	Mean line
4	Baseline
5	Descender line
6	x-height
7	Font size

ANNEX V

FOODS WHICH ARE EXEMPTED FROM THE REQUIREMENT OF THE MANDATORY NUTRITION DECLARATION

1. Unprocessed products that comprise a single ingredient or category of ingredients.
2. Processed products which the only processing they have been subjected to is maturing and that comprise a single ingredient or category of ingredients.
3. Waters intended for human consumption, including those where the only added ingredients are carbon dioxide and/or flavourings.
4. A herb, a spice or mixtures thereof.
5. Salt and salt substitutes.
6. Table top sweeteners.
7. 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 extracts ⁽¹⁾, whole or milled coffee beans and whole or milled decaffeinated coffee beans.
8. Herbal and fruit infusions, tea, decaffeinated tea, instant or soluble tea or tea extract, decaffeinated instant or soluble tea or tea extract, which do not contain other added ingredients than flavourings which do not modify the nutritional value of the tea.
9. Fermented vinegars and substitutes for vinegar, including those where the only added ingredients are flavourings.
10. Flavourings.
11. Food additives.
12. Processing aids.
13. Food enzymes.
14. Gelatine.
15. Jam setting compounds.
16. Yeast.
17. Chewing-gums.
18. Food in packaging or containers the largest surface of which has an area of less than 25 cm².
19. Food directly supplied by the manufacturer of small quantities of products to the final consumer or to local retail establishments directly supplying the final consumer.

⁽¹⁾ OJ L 66, 13.3.1999, p. 26.

ANNEX VI

NAME OF THE FOOD AND SPECIFIC ACCOMPANYING PARTICULARS

PART A — 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, quick-frozen, concentrated, smoked) in all cases where omission of such information could mislead the purchaser.

2. In the case of foods that have been frozen before sale and which are sold defrosted, the name of the food shall be accompanied by the designation 'defrosted'.

3. 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/EC of the European Parliament and of the Council of 22 February 1999 on the approximation of the laws of the Member States concerning foods and food ingredients treated with ionising radiation ⁽¹⁾.

4. In the case of foods in which a component or ingredient that consumers expect to be normally used or naturally present has been substituted with a different component or ingredient, the labelling shall bear – in addition to the list of ingredients – a clear indication of the component or the ingredient that has been used for the partial or whole substitution.

PART B — SPECIFIC REQUIREMENTS CONCERNING THE DESIGNATION OF 'MINCED MEAT'

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

	Fat content	Collagen/meat protein ratio ⁽¹⁾
— lean minced meat,	≤ 7 %	≤ 12 %
— minced pure beef,	≤ 20 %	≤ 15 %
— minced meat containing pigmeat,	≤ 30 %	≤ 18 %
— minced meat of other species.	≤ 25 %	≤ 15 %

⁽¹⁾ The collagen/meat protein ratio is expressed as the percentage of collagen in meat protein. The collagen content means the hydroxyproline content multiplied by a factor of 8.

2. In addition to the requirements laid down in Chapter IV of Section V of Annex III to Regulation (EC) No 853/2004, the following expressions shall appear on the labelling:

— 'percentage of fat content ≤ ... %',

— 'collagen/meat protein ratio ≤ ... %'.

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.

⁽¹⁾ OJ L 66, 13.3.1999, p. 16.

ANNEX VII

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. This derogation does not apply to unprocessed food.
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 18(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.
7. Ingredients, 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.	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, and to substances or products listed in Annex II causing allergies or intolerances.

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

Without prejudice to Article 21, ingredients which belong to one of the categories of foods listed below and are constituents of another food may be designated by the name of that category rather than the specific name.

Definition of category of food	Designation
1. Refined oils other than olive oil.	<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.

Definition of category of food	Designation
	The adjective fully or partly hydrogenated, as appropriate, must accompany the indication of a hydrogenated oil unless the amount of saturates and trans fats are included in the nutrition declaration.
2. Refined fats.	<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 appropriate, must accompany the indication of a hydrogenated fat unless the amount of saturates and trans fats are included in the nutrition declaration.</p>
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 covered by Annex XIb to Regulation (EC) No 1234/2007.	'Wine'.

Definition of category of food			Designation
17. Skeletal muscles ⁽¹⁾ 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. Maximum fat and connective tissue contents for ingredients designated by the term ‘... meat’.			‘... meat’ and the name(s) ⁽²⁾ of the animal species from which it comes.
Species	Fat content	Collagen / meat protein ratio ⁽³⁾	
— Mammals (other than rabbits and porcines) and mixtures of species with mammals predominating,	25 %	25 %	
— Porcines,	30 %	25 %	
— Birds and rabbits.	15 %	10 %	
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. The products covered by the definition of ‘mechanically separated meat’ are excluded from this definition.			‘mechanically separated meat’ and the name(s) ⁽²⁾ of the animal species from which it comes.
18. All types of products covered by the definition of ‘mechanically separated meat’.			

⁽¹⁾ 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.

⁽²⁾ For labelling in English, this designation may be replaced by the generic name of the ingredient for the animal species concerned.

⁽³⁾ The collagen/meat protein ratio is expressed as the percentage of collagen in meat protein. The collagen content means the hydroxy-proline content multiplied by a factor of 8.

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

Without prejudice to Article 21, food additives and food enzymes other than those specified in point (b) of Article 20 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.

Acid	Emulsifying salts ⁽¹⁾
Acidity regulator	Firming agent
Anti-caking agent	Flavour enhancer
Anti-foaming agent	Flour treatment agent
Antioxidant	Foaming agents
Bulking agent	Gelling agent
Colour	Glazing agent
Emulsifier	Humectant

⁽¹⁾ Only for processed cheeses and products based on processed cheeses.

Modified starch ⁽¹⁾	Sequestrant
Preservative	Stabiliser
Propellant gas	Sweetener
Raising agent	Thickener

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 point (b) of Article 3(2) of Regulation (EC) No 1334/2008 and/or flavouring preparations as defined in point (d) of Article 3(2) of that 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. Without prejudice to Article 21, the list of ingredients for compound ingredients shall not be compulsory:
 - (a) where the composition of the compound ingredient is defined in current Union provisions, 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 points (a) to (d) of Article 20;
 - (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 points (a) to (d) of Article 20; or
 - (c) where the compound ingredient is a food for which a list of ingredients is not required under Union provisions.

⁽¹⁾ The specific name or E number shall not be required to be indicated.

ANNEX VIII

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 IX;
 - (ii) the quantities of which must already appear on the labelling under Union provisions;
 - (iii) which is used in small quantities for the purposes of flavouring; or
 - (iv) which, while appearing in the name of the food, 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;
 - (b) where specific Union 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 VII.
 2. Points (a) and (b) of Article 22(1) 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 to 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
 - (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.
 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.
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ANNEX IX

NET QUANTITY DECLARATION

1. The net quantity declaration 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;
 - (b) the net quantity of which is less than 5 g or 5 ml; however, this provision shall not apply to spices and herbs; or
 - (c) normally sold by number, provided that the number of items can clearly be seen and easily counted from the outside or, if not, is indicated on the labelling.
2. Where the indication of a certain type of quantity (such as the nominal quantity, minimum quantity, average quantity) is required by Union 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.
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.

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.

ANNEX X

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 form.

However, in the case of foods:

- which will not keep for more than 3 months, an indication of the day and the month shall be sufficient,
- which will keep for more than 3 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 Union 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 code 2206 00 obtained from grapes or grape musts,
- beverages containing 10 % or more by volume of alcohol,
- 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.

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

- (a) it shall be preceded by the words 'use by ...';
- (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.

ANNEX XI

TYPES OF MEAT FOR WHICH THE INDICATION OF THE COUNTRY OF ORIGIN OR PLACE OF PROVENANCE IS MANDATORY

CN codes (Combined Nomenclature 2010)	Description
0203	Meat of swine, fresh, chilled or frozen
0204	Meat of sheep or goats, fresh, chilled or frozen
ex 0207	Meat of the poultry of heading 0105, fresh, chilled or frozen

ANNEX XII

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 may be preceded by the word 'alcohol' or the abbreviation 'alc'.

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 falling within CN code 2206 00 obtained from grapes.	0,5 % vol.
2. Beers having an alcoholic strength exceeding 5,5 % vol.; sparkling beverages 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.

ANNEX XIII

REFERENCE INTAKES

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

1. Vitamins and minerals which may be declared and their nutrient reference values (NRVs)

Vitamin A (µg)	800	Chloride (mg)	800
Vitamin D (µg)	5	Calcium (mg)	800
Vitamin E (mg)	12	Phosphorus (mg)	700
Vitamin K (µg)	75	Magnesium (mg)	375
Vitamin C (mg)	80	Iron (mg)	14
Thiamin (mg)	1,1	Zinc (mg)	10
Riboflavin (mg)	1,4	Copper (mg)	1
Niacin (mg)	16	Manganese (mg)	2
Vitamin B6 (mg)	1,4	Fluoride (mg)	3,5
Folic acid (µg)	200	Selenium(µg)	55
Vitamin B12 (µg)	2,5	Chromium (µg)	40
Biotin (µg)	50	Molybdenum (µg)	50
Pantothenic acid (mg)	6	Iodine (µg)	150
Potassium (mg)	2 000		

2. Significant amount of vitamins and minerals

As a rule, the following values should be taken into consideration in deciding what constitutes a significant amount:

- 15 % of the nutrient reference values specified in point 1 supplied by 100 g or 100 ml in the case of products other than beverages,
- 7,5 % of the nutrient reference values specified in point 1 supplied by 100 ml in the case of beverages, or
- 15 % of the nutrient reference values specified in point 1 per portion if the package contains only a single portion.

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

Energy or nutrient	Reference intake
Energy	8 400 kJ (2 000 kcal)
Total fat	70 g
Saturates	20 g
Carbohydrate	260 g
Sugars	90 g
Salt	6 g

ANNEX XIV

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
salatrim	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

ANNEX XV

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
— monounsaturates	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 XIII

STATEMENT OF THE COUNCIL'S REASONS

I. INTRODUCTION

1. On 1 February 2008, on the basis of Article 95 of the Treaty establishing the European Community (Article 114 of the Treaty on the Functioning of the European Union — the Treaty), the European Commission submitted a proposal for a Regulation of the European Parliament and of the Council on the provision of food information to consumers ⁽¹⁾. The ordinary legislative procedure is applicable.
2. Acting in accordance with Article 294(3) of the Treaty, the European Parliament adopted its position at first reading ⁽²⁾ on 16 June 2010, approving 247 amendments to the original Commission proposal.

In accordance with Article 114(1) of the Treaty, the Economic and Social Committee delivered its opinion on 18 September 2008 ⁽³⁾.

3. In accordance with Article 294(5) of the Treaty, the Council adopted its position at first reading by qualified majority on 21 February 2011.

II. OBJECTIVE

1. The main objective of the draft Regulation on the provision of food information to consumers is to update and rationalise European Union legislative provisions applicable to food labelling and, in particular, to nutrition labelling. The draft Regulation merges into a single Regulation different pieces of legislation, such as Directives 2000/13/EC ⁽⁴⁾ and 90/496/EEC ⁽⁵⁾ while introducing a major innovation: the nutrition declaration should become mandatory.
2. The aim of the draft Regulation is to pursue a high level of protection of consumers' health and interests by providing the means for final consumers to make informed choices and safe use of food, taking into account the differences in the perception of consumers and their information needs.
3. The draft Regulation further aims at ensuring the smooth functioning of the internal market, achieving the free movement within the Union 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.

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

(A) *The Commission's proposal*

In its first reading position, the Council introduced a number of changes to the Commission proposal, in particular regarding:

- (a) **the scope of the draft Regulation** (Article 1(3)): the Council specified explicitly that the draft Regulation applies to the activities of the food business operators. This covers amendments 6, 39 (5th part) and 305 (in part);
- (b) **imitation food** (Article 7(1)(d) and Annex VI): the Council introduced provisions aimed at preventing that food information would mislead the consumer by suggesting the presence of a particular food or of an ingredient although in reality the food is a food in which a component naturally present or an ingredient normally used has been substituted with a different component or a different ingredient. Furthermore, the Council requires the labelling of the component or ingredient used for the substitution. This covers the spirit of amendments 77, 78 and 230, with one exception: the Council considers that the clear indication of the component or ingredient used for the substitution in addition to the name of the food gives to the consumers the relevant information;

⁽¹⁾ 6172/08.

⁽²⁾ 10972/10 (P7_TA(2010)0222).

⁽³⁾ OJ C 77, 31.3.2009, p. 81.

⁽⁴⁾ 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 foodstuffs (OJ L 109, 6.5.2000, p. 29).

⁽⁵⁾ Council Directive 90/496/EEC of 24 September 1990 on nutrition labelling for foodstuffs (OJ L 276, 6.10.1990, p. 40).

- (c) **the name on the label** (Article 9(1)(h)): the Council clarified that it is mandatory to mention on the labelling the name and address of the food business operator responsible for the food information; additional names and addresses might be included on a voluntary basis in order to identify other food business operators involved in the food production process;
- (d) **distance selling** (Article 14): it is required that for prepacked food, all the mandatory food information, except the date of minimum durability or 'use by date', must be provided before the conclusion of the purchase; anyway, all mandatory particulars must be provided at the moment of delivery; amendments 20, 118 and 119 are therefore covered;
- (e) **alcoholic beverages** (Article 16(4)): the Council set out in further detail the objectives of the report on the exemption of the alcoholic beverages that shall be submitted by the Commission within 5 years of the entry into force of the draft Regulation;
- (f) **country of origin or place of provenance** (Article 25): labelling of the country of origin or place of provenance is mandatory:
 - (a) where the absence of any indication might mislead the consumer;
 - (b) for swine, sheep, goat and poultry meat, in addition to products for which it is already compulsory by virtue of vertical legislation, a report should be submitted by the Commission within 5 years from the date of application of the mandatory labelling.

For other products (other types of meat, milk, milk used as an ingredient in dairy products; meat used as an ingredient; unprocessed foods; ingredients that represent more than 50 % of a food), the Commission is required to submit a report within 3 years of the entry into force of the Regulation to evaluate the feasibility, cost-benefit analysis including the legal aspects regarding the internal market and the consequences for international trade of the indication of the country of origin or place of provenance for these products. The Council further requires an indication of the origin of the primary ingredient if it is not the same as the origin of the food product (or at least an indication that the origins are not the same);

- (g) **nutrition declaration** (Articles 29, 33): the elements of the mandatory nutrition declaration are energy, fat, saturates, carbohydrates, sugars, protein and salt; they may be voluntarily supplemented by the element defined in Article 29(2); all these elements should be presented in the same field of vision (front of pack or elsewhere). Furthermore, part of the information may be repeated in any field of vision (front of pack or elsewhere). This is in line with amendment 298;
- (h) **expression 'per 100 g or per 100 ml'** (Articles 31, 32): in the Council's position, the expression per 100 g or per 100 ml, which allows comparison between similar products, is obligatory in all cases. The expression 'per portion' is permitted in addition to the expression above. This covers amendment 32 (1st part);
- (i) **non-prepacked foods** (Article 42): as a principle, for non-prepacked foods, only the information on allergens is mandatory. However, Member States may, at national level, establish that other particulars listed in Article 9 or Annex III are mandatory. They also can determine the means and forms under which the information is to be made available. This is in line with amendments 7, 34, 37, 39 (4th part), 93, 127, 136, 184 (1st part), 185, 220;
- (j) **additional forms of expression or presentation** (Article 34): in line with the amendments of the European Parliament, the Council also deleted the Chapter of the Commission proposal on 'national schemes'. However, the intention of the Council was to allow the use by food business operators of additional forms of expression or presentation, subject to the respect of legal requirements. The Council settled a minimum frame at European Union level for additional forms of expression or presentation. This is in line with amendments 59, 155, 156, 170 (3rd part) and 301;

- (k) **alignment with the Treaty**: the legal basis has been aligned with the Treaty; moreover, the terminology has been adapted and new rules concerning the powers given to the Commission to implement the Regulation have been inserted in the text. This is in line with the European Parliament's amendments 82, 105, 138, 188, 329, 330, 331, 333, 336, 337, 340 (in part), 346, 347, 348, 349;
- (l) **transitional measures for implementing measures or delegated acts** (Article 45): the draft Regulation establishes that measures adopted by the Commission shall include transitional period to allow for the exhaustion of stocks of the labelled food; this covers, in principle, amendment 69;
- (m) **the application of the draft Regulation** (Article 55): the draft Regulation shall apply 3 years after its entry into force except in what concerns Articles 29 to 34, which shall apply 5 years after the entry into force; however, the application of the rules concerning the nutrition declaration may be anticipated: on a voluntary basis, food business operator may apply Articles 29 to 34 3 years after the entry into force of the Regulation (Article 54(3)).

(B) The European Parliament's amendments

(a) The amendments incorporated

The Council incorporated 75 of the European Parliament's amendments in its Position.

The Council adopted the following amendments in full:

59, 301 (deletion of the chapter on national schemes), 57, 58 (simplification of the definition of 'primary ingredient'), 76 (material degree), 82 (alignment with the Lisbon Treaty), 83 (misleading practices), 103 (competence to change the list of particulars), 149 (simplification), 184 (1st part), 185 (non-prepacked foods), 217 (foods exempted from the nutrition declaration), 243 (list of vitamins), 105, 138, 188, 329, 330, 331, 333, 336, 337, 346, 347, 348, 349 (implementing powers and delegated acts).

The following amendments were partially accepted:

17, 332, 340 (implementing powers and delegated acts) 88, 89 (responsibility), 118, 119 (distance selling), 155 (forms of expression or presentation), 300 (national schemes), 322 (Annex I).

The following amendments were accepted in principle:

6, 305 (in part) (scope of the Regulation), 7, 34, 37, 39 (4th and 5th parts), 93, 127, 136, 285 (non-prepacked food), 14, 84, 86, 326 (responsibility), 20, 118, 119 (distance selling), 31 (same field of vision), 32 (1st part) (expression of quantities), 40 (foods from third countries), 69 (transitional measures), 77, 78, 230 (imitation food), 130 (nanos), 134 (enzymes), 156, 160, 165 (forms of expression or presentation), 170 (1st part) (voluntary information), 170 (3rd part) (additional forms of expression or presentation), 178 (free movement of goods), 194 (entry into force of Articles 29 to 34), 202, 203, 204, 245, 255 (Annexes), 298 (repetition of the nutrition declaration).

(b) Amendments already covered by the Commission's Proposal

There is a number of amendments that the Council did not expressly integrate in its text for considering that they were already covered by the Commission proposal in parts not changed by the Council. However, the Council agrees with the principles behind amendments 71, 72, 142 (in part). (categories of information), 98, 99 (storage conditions), 114, 122 (language requirements), 115, 265, 276, 293 (misleading the consumer), 116, 224 (in part) (legibility), 209 (fruits and vegetables), 211 (mineral waters), 215, 216 (additives).

In the total, 92 amendments of the European Parliament are in accordance at least with the spirit of the Position of the Council.

(c) **Amendments not accepted**

The Council did not accept the following amendments:

(1) *Objective of the draft Regulation*

The essential objectives of the draft Regulation are set out in recitals 1, 2 and 3 of the Council's position. The additions to recital 2 in amendment 1 were considered unnecessary.

Article 1(1) of the Commission proposal defines the objective of the Regulation; it would be inadequate to delete it. Amendment 38 was therefore rejected.

The Council considered the objective of the draft Regulation to be correctly expressed in Article 3(1) of the Council's position. No need was seen for a wording change, thus amendment 66 was not accepted.

The draft Regulation aims essentially to protect consumers, but there is no consumer protection without food production; it is therefore in the interest of consumers that the producer's interests as well as the quality of the products should also be taken into consideration. Amendment 68 was therefore rejected.

(2) *Education and information campaigns*

Amendments 4 and 5 introduce references in the recitals of this European Union draft Regulation to education and information campaigns, which however are national level instruments; furthermore, there is nothing corresponding to these recitals in the provisions of the legal text. These amendments were rejected.

(3) *Misleading the consumer*

The prohibition of the attribution of medicinal properties to foods in recital 20 of the Council's position was more important to the Council than the content of the European Parliament's version. Amendment 12 therefore was rejected.

Special dietary requirements: the prohibition provided for by the European Parliament in its amendment 81 is already covered by Directive 2009/39/EC ⁽¹⁾ on foodstuffs intended for particular nutritional uses.

(4) *Nutrition or health claims*

Nutrition and health claims are regulated by Regulation (EC) No 1924/2006 ⁽²⁾ on nutrition and health claims made for foods. Any overlapping between the present draft Regulation and the nutrition and health claims Regulation should be avoided. Thus, the reference introduced in the recital by amendment 13 was considered to be inappropriate.

Emphasis on the absence or reduced quantity of a nutrient might be in a grey zone of frontier between an information and a claim; any overlapping between the present draft Regulation and the Regulation (EC) No 1924/2006 should be avoided. Amendments 79, 80 were rejected.

(5) *New technologies*

Amendment 16 introduces a new recital describing alternative ways for consumers to obtain information from sources other than food labels such as internet. The recital is purely descriptive and there is no corresponding reference in the body of the text.

(6) *Allergens*

Concerning substances causing allergies, amendment 18 introduces in a recital a requirement (to indicate the traces of the substance) for which there is no corresponding reference in the body of the text.

⁽¹⁾ Directive 2009/39/EC of the European Parliament and of the Council of 6 May 2009 on foodstuffs intended for particular nutritional uses (OJ L 124, 20.5.2009, p. 21).

⁽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).

According to amendment 135, the potential for allergy or intolerance should be immediately recognisable from references to allergens in the list of ingredients. The Council considers that an indication of the name of the product that might cause allergy or intolerance is sufficiently clear information for the consumer.

(7) *Public health policy*

A recital in a European Union Regulation does not seem an appropriate context in which to indicate to Member States how to conduct their public health policy, which is a national competence; amendment 26 was therefore rejected.

(8) *National legislation*

Article 37 of the Council position stipulates that national measures may not give rise to obstacles to free movement of goods. Amendment 35 is thus superfluous.

(9) *Definitions*

- The Council considers that the definition of food information law is essential in the context of the draft Regulation and should not be deleted; amendment 44 was rejected.
- The definition of mandatory food information clarifies the meaning of the legal text and should not be deleted; amendment 45 was rejected.
- The definition of prepacked food proposed by the Commission, referring to the packaging and specifying that the food is put into the packaging before being offered for sale, is more complete and precise than the version proposed by amendment 47; this amendment was rejected.
- The definition of 'non-prepacked food' is superfluous and would be counterproductive as 'non-prepacked food' is all the food that is not prepacked and there is a definition of prepacked food; moreover providing a definition of non-prepacked food would open up the possibility of there being a food that was neither packed nor non-packed and this would inevitably lead to legal uncertainty; amendment 48 was therefore rejected.
- The concept of handcrafted food product is not used in the Council's position; the definition is therefore superfluous; amendment 292 was rejected.
- In the definition of 'ingredient', the sentence 'residues shall not be considered as ingredients' adds clarity and certainty; it should not be deleted; amendment 49 was rejected.
- The definition of 'field of vision' in the Commission's proposal was considered more precise; amendment 52 was rejected.
- For reasons of legal clarity and certainty, the Council preferred to maintain the Commission's proposal for a definition of 'legal name' in the legal text and therefore rejected amendments 54 and 129.
- The Council simplified the definition of 'primary ingredient', deleting the definitions of significant and characterising ingredients, but maintained the definition of primary ingredient in the legal text as is it used in one of the provisions; amendment 56 was rejected.
- The Council considers the concept of 'single-ingredient product' clear enough with no need for a definition; amendment 350 was not accepted.
- The Council opted not to include in the text a definition of 'imitation food', in order to avoid the risk of excluding from a definition cases that could be seen as 'food imitation' and should be covered by the same regime; amendment 63 was not accepted.

(10) *Non-prepacked foods*

The Council maintained non-prepacked foods within the scope of the draft Regulation, covered by Article 41. As a consequence, amendments 39 (2nd and 3rd parts), 109 were rejected.

By principle, no information is required to non-prepacked foods except for allergens. Non-prepacked foods usually do not cross borders. It is therefore logical to give to Member States the competence to require, at national level, the provision of further information in accordance to their national dietary considerations and public health priorities. Therefore amendments 6, 184 (2nd part) were rejected.

(11) *Date of manufacture*

The Council discussed 'date of manufacture' in general. This would be supplementary information to be provided by the food business operator, representing an extra burden on business operators. Therefore, before requiring it, its need and utility have to be considered carefully. For that reason, amendments 62, 97, 140 were rejected.

(12) *Origin of the food*

To avoid misleading the consumer is one of the principles underlying the rules on origin in the Council's position. The provision deleted by amendment 172 of the European Parliament aims to avoid misleading consumer. Consequently amendments 172 and also 173 were rejected.

The European Parliament proposed amendments requiring immediate declaration of origin for foods such as meat, dairy products, fresh fruits and vegetables, other single-ingredient products and meat and fish when used as ingredients in processed foods. In the Council's position, indication of the country of origin or place of provenance is also required for swine, sheep, goat and poultry meat. However, for other products (other types of meat, milk, milk used as an ingredient in dairy products; meat used as an ingredient; unprocessed foods; ingredients that represent more than 50 % of a food), the Council provided for a prior Commission report to attest the feasibility of the indication of origin. For that reason, the Council could not accept amendments 101, 309, 328.

Amendment 24 was rejected as the European Union as a reference for the provenance of the food did not seem to be a question to be dealt with at the Regulation level. It rather would be one of the elements to be evaluated by the Commission's reports and, if necessary, subsequently be established by implementing measures.

Concerning amendment 50, the Council preferred to keep the broader scope of the definition of 'place of provenance' provided for in the Commission's proposal. This amendment was rejected.

Regarding amendment 177, the Council had no intention of restricting the concept of 'provenance'.

The Council maintained the possibility for Member States to adopt national measures concerning the mandatory indication of the country of origin or place of provenance of foods where there is a proven link between certain qualities of the food and its origin or provenance, to protect the quality of the local food. Amendment 179 had to be rejected.

(13) *Alcoholic beverages*

The Council exempted specifically defined alcoholic beverages from bearing both the list of ingredients and the nutrition declaration in their entirety. However, pending a Commission report within 5 years to review the situation, information can be provided voluntarily, and in particular concerning the nutrition declaration, energy values might be given alone for these exempted beverages. However, energy is not compulsorily required in the Council's position. Amendment 28 was thus rejected.

The Council intentionally did not exempt beverages where alcohol is mixed with soft drinks (commonly called 'alcopops'), mainly consumed by young people in large quantities. By consequence, the Council could not accept amendments 145, 294, 339. The European Parliament exempted alcopops, but on the other hand called in a recital for stricter labelling requirements for them. The Council considers that the application of the common requirements provides enough information on these beverages. Amendment 21 was rejected.

As a rule, alcoholic beverages are exempted from bearing the list of ingredients. However, if different provisions were applicable at national level there is no reason not to maintain them. The Council could not accept amendment 181.

(14) *Legibility*

For the Council, one of the essential elements of legibility is the mandatory font size, completed with contrast and additional criteria to be defined by the Commission through delegated acts. Therefore the Council established the size of letters at 1,2 mm (x-height) for a text to be considered legible while the European Parliament refers to a subjective criterion (optical aids). In amendments 19, 113 and 334, the European Parliament did not explicitly consider any measurable criterion for determining legibility, which was not acceptable to the Council.

The European Parliament establishes a closed list of additional criteria while the Council left the list open for consideration by the Commission. The Council cannot accept amendment 53.

Amendment 67 introduces a generic provision with vague concepts the compliance of which would be impossible to verify.

Given the general requirement on font size in the Council's position, amendment 111 requiring a font size for specific foods becomes pointless.

The Council considered it necessary to give powers to the Commission to adopt detailed rules on contrast between the print and the background given the very technical nature of this provision. The Council could not therefore accept amendment 112.

Concerning amendment 117, if the burden on the environment would be a criterion for the legislator to bear in mind in order to limit the mandatory information required, it should not be directly applicable to food business operators. The latter, shall provide mandatory information, legibly and not taking into consideration the increase in the size of the packing material or the increase of the burden on the environment. Amendment 10 was also rejected, as it suggests in a recital that the burden on the environment would be a criterion for establishing new mandatory information, but this does not correspond to the provision in the body of the text.

(15) *Categories of information*

The Council considered important to inform consumers by means of labelling of the risks to health resulting from eating or drinking in excess, after the use by date, etc.; amendment 73, which deletes that possibility, was rejected.

(16) *Mandatory particulars*

Criteria to establish mandatory information: in line with the Commission proposal, the Council considers that the need of consumers for information is the determinant criterion to make information mandatory. Amendment 75 was rejected.

- Ingredients: the reference to the Annex introduced by amendment 94 is not necessary and might cause problems if this Regulation is modified or if relevant provisions are adopted by a different item of legislation.
- Quantity: it is clear that 'net quantity' means the quantity of the food when it is placed into the package; there is no need for further explanation; amendment 95 was rejected.

- Quantity of liquids: amendment 139 introduces a reference to a legal act that did not seem essential to the clarity of the text.
- Weights and measures (Article 11): in amendment 106, the European Parliament introduces the reference to one specific piece of legislation that must be complied with; this single reference might give the impression that all other legislation falls outside the scope of Article 11, which would be an incorrect message.
- Placement: the European Parliament eliminated the option of putting the information on a label attached to the package; the Council was in favour of flexibility and retained that option; amendment 107 was rejected.

(17) *List of ingredients — nutrition declaration*

Exemptions from the nutrition declaration: with amendment 30, the European Parliament introduced in a recital a further example of circumstances in which a food is exempted from the nutrition declaration. The Council did not feel the need to repeat in the recital the cases of exemption mentioned in Annex V.

For the Council, the mandatory elements of the mandatory nutrition declaration should be energy, fat, saturates, carbohydrates, sugars, protein and salt. The Council therefore could not accept amendments 144, 152, 319.

Nor can the Council agree with amendment 146 (1st part); the Council considers the information on cholesterol useless and misleading to the consumer because the cholesterol consumed has no direct relationship to the levels of cholesterol in the human body.

The Council considers that if the list of vitamins is incomplete, it is Annex XIII that must be completed. Amendment 146 (2nd part) was not acceptable.

The Council requires that the content of the mandatory nutrition declaration should appear in the same field of vision of the package — front or other view. This will ensure that the consumer has immediate access to complete information, not merely to the negative or positive qualities of the food. Furthermore, the Council would permit specific parts of the information to be repeated anywhere on the package voluntarily. The Council therefore could not accept amendments 161, 313.

Presentation of the energy content: in the Council's view, the consumer should as far as possible receive maximum information concerning the food at first glance. The consumer should not receive partial and distorted information on the food. The Council therefore did not subscribe to the idea of highlighting information on one element to the detriment of others and rejected amendments 158, 159, 162.

The additional wording required by amendment 151 is not rigorous and anyway requires an educational campaign to be put into context. On the other hand, if the educational campaign is correctly implemented there will be no need for such lengthy wording on every label.

Information provided on a voluntary basis: the Council considers that even where provided on a voluntary basis, the information should respect the legal requirements of Sections 2 and 3 of Chapter IV of the Regulation. The Council could not therefore accept the deletion of Article 35(1) and rejected amendment 169. Amendment 170 (2nd part), is difficult to implement and had to be rejected by the Council: who would be responsible for making the information available to the public?

Indelibly marked glass bottles intended for reuse: the Council considered that the nutrition requirements are essential. Amendments 124 and 223 were rejected.

Concerning the definition of small packages in relation to the mandatory particulars required, the Council did not accept amendment 125 and stayed in line with the Commission: the Council defines a small package as a package the largest surface of which has an area of less than 10 cm² and requires less information than the European Parliament.

Concerning the definition of small packages exempted from the requirement of the mandatory nutrition declaration, the Council kept to the Commission proposal: a small package is a package the largest surface of which has an area of less than 25 cm² and not even energy values are required for these packages. Amendment 219 was rejected.

Calculation of energy and nutrient values: according to amendment 340 (1st part), the declared values should be determined at the end of the minimum durability period. The Council did not see any reason to specify such a period of time.

(18) Labelling requirements in specific legislation

The European Parliament introduced amendments requiring the Commission to publish a list with the labelling requirements provided for in specific European Union legislation applicable to particular foods. Taking into account the fact that there are databases available to the public (e.g. on the internet) giving the legislation in force, the Council considers that to draw up such a list, which would need to be constantly updated to be useful, would be an unnecessary additional burden. The Council could not accept amendments 15, 41.

In amendment 42, the European Parliament asked the Commission to confirm that the specific requirements comply with this draft Regulation. The Council can recognise the value of such a confirmation, but since a budgetary commitment is not provided for in this draft Regulation with this aim, this piece of legislation is not the right place to impose an additional burden on the Commission. The Council could not accept amendment 42.

(19) The name on the label

For the Council, the person identified on the label should be the person responsible for the food information. The Council considered the question of space on the labels and therefore could not accept amendment 100 and its lists of persons to identify.

(20) Expression 'per portion'

The European Parliament requires the expression 'per portion' of the nutrition declaration in addition to the expression per 100 g or per 100 ml (amendment 313) and therefore deleted Article 32(1) of the Commission proposal where the expression per portion was admitted as a mere possibility (amendment 153). The Council permits the expression 'per portion', to complement the expression per 100 g or per 100 ml, the only form of expression that allows comparison between the products. Both amendments were rejected.

(21) Additional forms of expression and presentation

The Council authorises the use by food business operators of additional forms of expression or presentation and considers amendments 11, 102 too restrictive.

The Council could not accept the deletion of paragraphs (1) to (3) of Article 34 of the Commission proposal on the forms of presentation and thus rejected amendment 316.

(22) Derogations for micro-companies

The majority of the food business operators placing their products on the European market are small and medium enterprises. If micro-companies are exempted from the obligations provided for in the draft Regulation, it would mean that a significant proportion of the products on the EU market will be exempted from providing essential information. The Council could not accept amendments 104 and 221.

(23) Implementing powers and delegated acts

The European Parliament and the Council have divergent opinions on the delegation of the legislative powers to the Commission in particular concerning Article 13(3) (amendment 108); Articles 26(2) and 30(4) (amendments 338 and 341 (2nd part)); Article 29(4) (amendment 146, (3rd part)); Article 35(6) (amendment 174).

(24) *Vegetarianism*

Regarding amendment 175, it seemed premature to insert in a legal text two concepts that are not defined at EU or international level and in relation to which there is too much uncertainty. The Council rejected this amendment.

(25) *Date of minimum durability and use-by date*

The European Parliament proposed a definition of 'use-by' date (Article 2). Instead of introducing a definition, the Council preferred to retain the explanation in Article 24(1). Amendment 61 was rejected.

In the list of mandatory particulars (Article 9), the explanation introduced in amendment 96 concerning the 'use-by' date is sufficiently covered by Article 25. The amendment was rejected.

The European Parliament opted to transfer, with minor changes, the text of the content of Annex IX to the body of the draft Regulation. The Council did not see any advantage in terms of clarity of the text in following that line. Amendments 141, 241 were considered superfluous and therefore not accepted.

(26) *Stakeholders consulted in the context of the national measures notification procedure*

The European Parliament provided for a formal notification procedure for all stakeholders in accordance with Directive 98/34/EC. The Council, in line with the Commission proposal, considers that any decision on the need to consult the stakeholders should be taken on a case-by-case basis and in an informal way. Amendments 186 and 187 were rejected.

(27) *Annexes*

- *Isomaltulose and D-tagatose*: the European Food Safety Authority has not yet delivered its opinion on these two products; it seemed to the Council premature to anticipate the scientific results by already including the products in the text — amendment 197 was rejected.
- *Milk protein*: the formula provided for in the Commission proposal gives an average value of the protein content for all products; if a different formula is provided for each specific case the calculation would become too complex and difficult. The Council kept to the Commission proposal and rejected amendment 198.
- *Culinary gold leaf*: definition unnecessary as the concept is not used in the Council's position. Amendment 199 was not accepted.
- *Front of the package*: definition unnecessary as the concept is not used in the Council's position. Amendment 200 was not accepted.
- *Meat products from special slaughter*: the Council did not intend to adopt a specific labelling for this meat. Amendment 205 was not accepted.
- *Sweeteners*: the Council did not require that the name of the food appears in the principal field of vision; furthermore, the Council did not consider it essential to label sweeteners in the principal field of vision. Amendment 317 was rejected.
- *Phenylalanine* is the scientifically correct term for the substance that can cause adverse health problems in people. The Council did not see any reason to replace the term used and set out in Regulation (EC) No. 1333/2008. Amendment 206 was rejected.
- *Labelling of additives*: additives are already included in the list of ingredients; the requirement in amendment 275 would result in double labelling.
- *Beef and pork proteins used in the production of chicken products*: although the information might be of high importance, especially for people with a diet determined by religious considerations, the Council considered that as beef and pork should be identified in the list of ingredients, there is no need for a double labelling; amendment 207 was rejected.

- Seasonings: the concept of seasonings is so broad and so vague that it could for instance include sauces for salads, which the Council does not wish to exempt from bearing the mandatory nutrition declaration; amendment 212 was rejected.
- Sugars, novel sugars and varieties of flour: the Council considered that these products should provide the relevant food information; amendments 213 and 214 were rejected.
- Gift packaging, mixed multi-packs, assortments would most probably contain food with the usual nutrients in relation to which the consumer must be informed; confectionery and sugar and chocolate figurines should not be exempted for the same reason that sugar and chocolate are not exempted; amendment 218 was rejected.
- Food of less than 5 g/ml: according to the Council's position, for prepacked food, it is generally covered by indent 18; for non-prepacked food, it should be regulated by the Member States; amendment 222 was rejected.
- Refrozen, defrosted: the two terms are added to what is merely a list of examples; they do not need to be stated to be considered included in the list; the addition is irrelevant; amendment 225 was not accepted.
- Different animal origin or water indicated with the name of the food: the indication of such ingredients in the list of ingredients is mandatory; to further indicate them with the name of the food would result in double labelling which would not simplify or clarify the readability of the labels and would be an extra burden for food business operators with no relevant advantage for the consumer; amendments 226, 227, 228 were rejected.
- Sausage casings: artificial casings must be labelled in accordance to Article 9(1)(j) of the Council's position; natural casings are typically the field of voluntary information: both casings are safe and it would be unfair to penalise one form of casing over another as collagen casings are also from natural sources; producers who want to promote the casings from intestinal tract or even toed ungulates can do so voluntarily; amendment 229 was rejected.
- Preparations of spices and herbs: if this concept is a synonym of mixtures, it is superfluous; if it means a preparation of spices and herbs with the addition of other ingredients, its place is not in this row of this table. Amendment 231 was rejected.
- Oil/fat origin: the Council had noted that more detailed information than the animal/vegetal origin of the oil/fat would represent further costs for food business operators and would not be justified considering the strengthening of the nutritional information. Amendment 263, 279 were rejected.
- Hydrogenated: if the information already exists through other sources, there is no need to repeat it. The Council maintained the Commission version and rejected amendment 232.
- Starches: all types of starches are covered by the Council's position; the Council did not see any advantage in further specifying the sub-types of starches; this amendment is pointless 234 and was rejected.
- Food colouring: this is a general category that might include different types of ingredients; it is preferable to specify the ingredients and not include them in a global category which would reduce the information to consumers; amendment 235 was rejected.

- Mechanically separated meat: the Council retained a concept that encompasses both processes of mechanical separation of meat taking into account that once the processes have been carried out it is impossible to distinguish between them. When the Council took its decision, the Communication from the Commission to the European Parliament and the Council on the future necessity and use of mechanically separated meat in the European Union, including the information policy towards consumers ⁽¹⁾ was not yet available. The Council did not accept amendment 236.
- Enzymes and cellulose extract: are both not functional categories that have not their place in the list of Annex V to the Council's Position; the labelling of enzymes is regulated by Regulation (EC) No 1332/2008 ⁽²⁾; cellulose extract when used in food as an additive, regulated by Regulation (EC) No 1333/2008 ⁽³⁾; therefore amendments 237 and 307 are rejected.
- Sold by number or weighed: normally food sold in the presence of the purchaser would be non-prepacked food, but not necessarily; there is no advantage in a possible restriction of the scope of this provision; amendment 238 was rejected.
- Other exemptions: the provision is superfluous; amendment 239 was rejected.
- Reference intakes: it is clear from the context that the values of the reference intakes are 'per day'; the amendment is unnecessary. Amendment 242 was rejected.
- Information in kJ: the legal units of measurement which must be used for expressing quantities of energy are established by Directive 80/181/EEC; Point 1.2.3 of the Annex establishes that the quantity of energy should be expressed in Joules; therefore, the expression of the energy in kJ in food labelling is a legal obligation; amendments 246, 248 were rejected.

A number of amendments are not reflected in the Council's position because they are deemed unnecessary and/or in conflict with it. In particular:

Amendments 2, 3, 8, 9, 27, 29, 43, 46, 55, 60, 70, 92, 123, 126, 132, 133, 137, 143, 168, 201, 208, 299 were rejected due to their essentially linguistic nature or to the absence of any substantial change in the meaning of the text.

IV. CONCLUSION

The Council believes that its position at first reading represents a fair balance between the achievement of a high level of protection of consumers' health and interests and the need to protect the legitimate interests of producers, to promote the production of quality products, while guarantying the free movement of goods.

The Council looks forward to constructive discussions with the European Parliament at second reading with a view to early adoption of the Regulation.

⁽¹⁾ 17547/10.

⁽²⁾ Regulation (EC) No 1332/2008 of the European Parliament and of the Council of 16 December 2008 on food enzymes (OJ L 354, 31.12.2008, p. 7).

⁽³⁾ Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives (OJ L 354, 31.12.2008, p. 16).

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