



CHILE – FOOD HEALTH REGULATIONS

STATEMENT BY MEXICO TO THE COMMITTEE ON TECHNICAL BARRIERS TO TRADE AT ITS MEETING OF 18-19 MARCH 2015

The following communication, dated 8 May 2015, is being circulated at the request of the delegation of Mexico.

1. Mexico once again presents its trade concern with regard to the proposed amendment to the Food Health Regulations, Supreme Decree No. 977/96, issued by Chile and notified to WTO Members in document G/TBT/N/CHL/282. This concern was first expressed in the Committee in March 2013 and has been reiterated at several Committee meetings since then.

- a. The Food Health Regulations contain provisions on the nutritional composition of food and on food advertising (including labelling), in accordance with Law No. 20.606, with the aim of informing the public of the energy, sugar, sodium and saturated fat content of the foods they consume.
- b. It should first be noted that, although the statute establishing the amendment to the Food Health Regulations (Law No. 20.606) has technical regulation characteristics as provided for in Annex 1 to the TBT Agreement, it is considered that the Chilean Government has failed to comply with the transparency obligation set forth in Article 2.9 of the Agreement, and this prevented Mexico from being able to issue comments for consideration in the course of its preparation.
- c. However, the amendment to the Food Health Regulations provides that "it shall be compulsory to highlight the nutritional characteristics of any type of food or food product when its energy, sodium, total sugar or saturated fat content is not the same as in natural form and exceeds the value established in table No. 1 of this Article". The table in question sets forth limits on the energy, sodium, sugar and saturated fat content of foods. Foods that exceed the established limits shall highlight the nutritional characteristics by means of the descriptive stamp "EXCESS", followed by: "SATURATED FATS", "SODIUM", "SUGAR" or "CALORIES".
- d. Mexico considers that Chile may be contravening principles of the TBT Agreement, specifically the need to base technical regulations on international standards, as stipulated in Article 2.4 of the TBT Agreement, since these provisions are not based on the General Guidelines on Claims of the Codex Alimentarius (CAC/GL 1-1979, point 3.5).
- e. It should be mentioned that Mexico considers that every food possesses inherent nutritional characteristics, for which reason no food can be characterized as "good" or "bad" in relation to its nutritional content, so that the provisions of the amendment to the Regulations, specifically the provision relating to the label "EXCESS", could arouse fear in consumers by leading them to assume that non-transmissible diseases such as obesity are caused by the consumption of specific foods.

- f. The regulation also provides for limits on the energy, sodium, total sugar and saturated fat content of solid and liquid foods. Mexico considers that this provision has no technical or scientific basis, as there is no national or international precedent for distinguishing between solid and liquid foods or using such a distinction to delimit their nutritional content.
- g. In the light of the principle of proportionality set forth in Article 2.2 of the TBT Agreement, Mexico requests Chile to provide information in support of this provision of the technical regulation.
- h. The proposed amendment to the Food Health Regulations provides that "foods or food products whose nutritional composition comprises energy, sodium, sugars or saturated fats in amounts higher than those specified in table No. 1 of Article 120 of the Regulations (referred to above), may not be advertised in the media or channels of communication targeting minors aged under 14 [...]." This prohibition on advertising does not apply to foods containing energy, sugars, sodium, or saturated fats in a natural form, consistent with the Dietary Guidelines of the Ministry of Health".
- i. In this connection, Mexico would like to see the scientific or technical evidence justifying this prohibition on advertising to minors aged under 14 as well as the exception established for products whose energy, sugar, sodium or saturated fat content is in a natural form.

2. Accordingly, Mexico respectfully requests Chile:

- a. To submit to public consultation the provisions that have given rise to the amendments to the Food Health Regulations.
 - b. To harmonize the requirements set forth in the regulations with the General Guidelines on Claims of the Codex Alimentarius (CAC/GL 1-1979, point 3.5).
 - c. To provide an explanation of the scientific and technical evidence supporting the use of labels bearing the term "EXCESS" in the light of the legitimate objective pursued by the amendment to the Food Health Regulations.
 - d. To modify the classification of foods on the basis of a distinction between liquid and solid foods and, in accordance with international parameters, to classify foods according to the category to which they belong.
 - e. To provide information in support of the prohibition on advertising certain foods to minors aged under 14 and to clarify and, if necessary, eliminate the exemption for foods whose energy, sugar, sodium or saturated fat content is in natural form, having regard to the provisions of the amendment to the regulations.
 - f. To consider extending from 6 to 18 months the date of entry into force of the amendments to the regulations.
 - g. To take into account and respond to the formal comments made by the Government of Mexico on the final text of the regulation in question, as transmitted to the Chilean Government through its enquiry point on 22 October of this year.
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