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**Report Name:** China Notifies Draft Measures on Supervision and Management of Food Labeling

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**Report Highlights:**

On September 23, 2020, China notified revised draft Measures on Supervision and Management of Food Labeling to the World Trade Organization as G/TBT/N/CHN 1401.Add.1. A previous draft of the measures was released by the State Administration for Market Regulation (SAMR) for public comment on November 20, 2019 and notified to the World Trade Organization on December 12, 2019 as G/TBT/N/CHN 1401. SAMR released the currently notified draft (G/TBT/N/CHN 1401.Add.1) for domestic comment on July 27, 2020. Compared to the previous draft, the revised draft modifies the product scope with the addition of special foods and food additives, as well as adding a chapter on special foods. The measures are intended to apply to both imported and domestically produced products. China has not announced a comment deadline, a point of contact for submission of comments, nor a proposed date of entry into force for the measures. This report contains an unofficial translation of the revised draft measures.

## **General Information**

### **BEGIN TRANSLATION**

## **The Measures on Supervision and Management of Food Labeling**

### **(Draft for Comments)**

#### **Chapter I General Provisions**

**Article 1** To regulate food labeling, strengthen oversight of food labeling, protect the legal rights of consumers and food producers and operators, these Measures are formulated in accordance with the Food Safety Law of the People's Republic of China and its implementing regulations.

**Article 2** These Measures apply to labeling of foods produced and distributed within the People's Republic of China (including special foods, food additives), and the oversight of food labeling.

**Article 3** Food labeling mentioned in these Measures is the generic term for characters, symbols, numbers, patterns and other descriptions stuck to, printed on, marked on, or attached to food or its packages to identify and describe basic information, characteristics or properties of foods. Food labeling includes food labels and instructions.

**Article 4** The State Administration for Market Regulation (SAMR) provides guidance for supervision and management of food labeling nationwide.

Local market regulation departments above county level are responsible for supervision and management of food labeling in their own administrative regions.

#### **Chapter II Basic Requirements on Food Labeling**

**Article 5** Food or its package shall be labeled, except foods that are exempted from labeling pursuant to laws and regulations.

Food labeling shall be clear, obvious, long-lasting and easy to distinguish and identify.

**Article 6** Food labeling shall be labeled on the food package of the minimum sales units.

Where the labeling content of the foods in separate packages cannot be distinctly identified through the outer package of sales units, (the labeling content) shall be labeled on the packages of each sales units, separately. Where the labelling content of separately packaged foods can be identified through the outer packages of sales units, such content does not need to be labeled on the packages of sales units repeatedly.

**Article 7** The color of characters and logos of food labeling shall show obvious contrast with the background color.

Production date and quality guarantee date shall be conspicuously marked; such content could be printed on the package surface of white color; production date and quality guarantee date could be labelled using

laser-induced thermal etching, the characters shall be clear. The characters of production date and quality guarantee date shall not be less than 3 millimeters in height.

**Article 8** Characters used for food labeling shall be standard Chinese characters.

Language of the Chinese minority nations, Chinese phonetic alphabet or foreign languages may be used for food labeling at the same time (together with standard Chinese characters), but the font size of the used foreign languages shall not be larger than the corresponding Chinese characters.

**Article 9** The units of measurement used for food labeling shall be the legal units of measurement.

**Article 10** The characters in the compulsory labeling content of food labeling shall not be less than 1.8 millimeters in height.

Where the maximum surface area of a food or its package is less than 20 square centimeters, it can only label food name, name and address of the producer, net content, production date and quality guarantee date.

**Article 11** Imported food shall have Chinese labeling; the Chinese labelling shall be directly affixed to, printed on or marked on the minimum sales packages of the food; it is not allowed to re-affix Chinese labeling on top of the labelling in foreign language.

**Article 12** Where there are no provisions by laws, regulations and food safety standards, food labeling shall not use characters or patterns to express, imply, or emphasize the product is suitable for special groups of people, such as infants, children, the aged and pregnant women.

### **Chapter III Content of Food Labeling**

**Article 13** Content of food labeling shall be faithful, accurate, easy to understand, scientific and compliant.

**Article 14** Food labeling should label name of the food.

Food name should identify the true property of the food, and comply with the following requirements:

(I) Where there are provisions on food names specified in national food safety standards, local food safety standards or other food standards, names specified in relevant standards shall be adopted.

(II) Where there are no provisions on food names in national food safety standards, local food safety standards or other food standards, the common names or the generally used names that will not cause misunderstanding by consumers shall be used.

(III) Where “newly created name,” “novel name,” “transliteration name,” “brand name,” “regional slang name,” or “trademark name” that may easily cause misunderstanding of the food’s property, the name specified in item (I) and (II) of this article, or the name that reflects the food’s real property shall be labelled with the same font size right next to the labelled names.

(IV) For foods produced by physically mixing two or more kinds of food materials, and the materials cannot be distinguished by appearance, the product name shall reflect the food's mixture property; the product could be named using one or two main materials.

(V) For food which is made from plants-source materials that imitates animal-source foods, such words as "imitated," "man-made," or "vegetarian" shall be put before the name, and label the name that reflects the real property of the food;

(VI) Words or phrases reflecting food's real properties, physical status, production method or flavor may be added before or after the food name.

**Article 15** Food labeling should indicate the production date and quality guarantee date of foods, and the following requirements shall be met:

(I) Food production date and quality guarantee date shall be indicated in the order of year, month and date; use the four-digit number or the last two digits for the year; symbols including space, oblique line, or hyphen may be used to separate the year, month and date; if there is no separation symbol between the year, month and date, and the month or date is a one-digit number, add "0" before the figure;

(II) Where the food's quality guaranteed time is less than 72 hours, the food production date and the quality guarantee date should be labeled to hours, using the 24-hour system for the marking;

(III) The quality guarantee date may be indicated as "best eat/drink before \*\*\*\* year \*\* month \*\* date" or "quality guarantee date expires on \*\*\*\* year \*\*month\*\*date";

(IV) For an individual food with multiple layers of packages, the date of food-contact packaging should be marked as the date of production on its outer package;

(V) Where there are multiple packages of foods in one food package, the production date is the date the outer package is completed. The quality guarantee date (on the outer package) should be the quality guarantee date of the single packaged food that will first arrive; or mark the individual foods' production dates and the quality guarantee dates, respectively;

(VI) For foods that are repackaged, the production date and quality guarantee date should be labelled; or label the repacking date as the production date, and label the quality guarantee date of the repacked food as the quality guarantee date;

(VII) Alcoholic beverages with 10% or higher alcohol content, sugars in solid form, non-iodized salt, and MSG do not need to label quality guarantee date.

**Article 16** Food labeling should indicate the producer's name, address and contact information. The producer's name and address shall be the name and address of the producer which have been registered according to law who could be held accountable for food quality and safety liabilities. The contact information shall be truthful and effective.

For imported food, the place of origin, the names of importer in China or the agents address and contact information shall be indicated.

Food labeling only labels name and address of the producer that produces the product, or only label the address and contact information of the group company.

In one of following circumstances, labeling shall follow the following provisions:

- (I) For a company or its subsidiary which independently undertakes legal responsibilities, the company's or its subsidiary's name and address shall be indicated respectively;
- (II) For a company's subsidiary or production base which cannot independently undertake legal responsibilities, the name and the address of the company, its subsidiary or production base shall be indicated respectively.
- (III) For repacked food, the name and address of the repacking entity shall be indicated;
- (IV) Where food is produced by an entrusted entity, the names and addresses of the entrusting party and the entrusted party shall be indicated at the same time.

**Article 17** Food labeling should label the ingredients or the list of ingredients.

Various ingredients in the list of ingredients shall be indicated in descending order according to the ingoing volume (in terms of weight) into food; the ingredients with ingoing volume less than 2% of the total ingredients may not be listed in the descending order.

The food additives in the list of ingredients should be labeled with their specific names; while marking the (food additives') function category names, such as edulcorates, preservatives, colorants, emulsifiers and thickeners, the food additives' specific names shall be indicated after the function category names.

The list of ingredients of the repacked food shall indicate the repackaged food's original ingredients.

**Article 18** For labeling of foods in packages of fixed quantities, the net content shall be marked, and its specification shall be indicated according to relevant provisions. For foods containing both solid and liquid materials, in addition to indicating the net content, the leachate (solid materials) content shall be indicated as well.

Net content shall be placed on the same display side where the product name is placed. Net content shall be marked following provisions in the Measures on Supervision and Management of Measurement of Quantitative Packaged Commodity.

**Article 19** Food labeling should provide the number of the product standard adopted in food production.

The number of product standard refers to the code, the serial number and the standard issuance year of national food safety standards, local food safety standards, corporate food safety standards, national food

standards, food industry standards, food association/group standards or food corporate standards that are adopted in food production.

To label product standard number, it could only indicate the product standard's code and serial number.

Imported foods may not label the number of the adopted product standard.

**Article 20** Food labeling should indicate the storage conditions. Should the storage condition has requirements for temperature, it shall indicate storage in normal temperature, cold storage or frozen storage. Should the storage condition indicates cold storage or frozen storage, it shall indicate the specific temperature range thereof.

Should the storage condition has other requirements on humidity or illumination, such requirements shall be specified.

**Article 21** Food labelling should label the food production licensing number. For repacked foods, the production licensing number of the packaging facility shall be labeled; for foods produced on the commission basis, the production licensing number of the commissioned entity shall be indicated.

Imported foods do not need to label food production licensing number.

**Article 22** For main and complementary foods for infants, young children and other special groups, their labels should indicate the main nutrients and their contents pursuant to the items and the order provided by relevant national food safety standards.

**Article 23** For food labeling that contains warning marks, warning words or matters needing attention, such items shall be labeled following provisions in food safety-related laws, regulations, rules, and food safety standards, etc.

**Article 24** Food additives should have labeling, instruction and package. Labeling and instructions of food additives should follow provisions of these Measures to label food additive's name, specification, net content, production date, ingredients or list of ingredients, producer's name, address and contact information, quality guarantee date, number of the product standard, storage conditions, and production licensing number. At the same time, the scope of use, amount of use and use methods for food additive shall be labeled; the text of "food additive" shall be clearly labeled in an obvious position in the main display side of labels.

Where labeling has covered all content of the instructions, the instructions do not need to be attached separately.

**Article 25** Production and trading of genetically modified foods should conspicuously mark the text "Genetically Modified" in the food labelling.

**Article 26** Producing irradiated foods, the foods shall be labeled according to requirements by national food safety standards, label the text "Processed with Irradiation", of label with globally used irradiation logo.

If food raw materials have been processed with irradiation, the corresponding raw material shall be labeled with “Processed with Irradiation” in the ingredients table.

**Article 27** Salt added iodine should label the text “iodized” in the main display side of the food package, and indicate the iodine content; non-iodized salt shall be labeled “non-iodized”.

**Article 28** Liquid milk produced from reconstituted milk materials shall label the text “Reconstituted Milk” right next to the product name, and faithfully indicate, in the product ingredients, the raw materials contained in the reconstituted milk and their percentages. The text “Reconstituted Milk” in the labelling shall be conspicuous; its font size shall not be smaller than that of the product name.

**Article 29** Selling bulk foods, the food operator should label the food name, production date or product lot number, quality guarantee date, and the producer’s name, address and contact information on the container or outer packages of the bulk foods.

**Article 30** Selling edible agricultural products, the food operators should label such information in obvious position on the product package or in the venue: name of the edible agricultural product, place of production or origin, and supplier’s name, etc. Using food additives (such as preservers and preservatives) in packaging, fresh-keeping and storage, the edible agricultural products shall mark name of the used food additives.

It is encouraged to mark the harvest date or the packaging date, the storage condition and the best consumption period in conspicuous spot on the package of the edible agricultural product or in the sales venue.

**Article 31** Food producers are encouraged to mark reminding languages on product labeling, such as low oil, low salt, low sugar, or sugar free.

**Article 32** Food labeling shall not label the following contents:

- (I) Expressing, suggesting or involving functions for disease prevention or treatment;
- (II) Non-health food expressing or suggesting health functions;
- (III) Describing or introducing foods in a fraudulent or misleading way;
- (IV) The product instruction could not be verified;
- (V) Use “not adding”, “0 adding”, “not containing” or similar texts to emphasize the substances not contained or not used in foods;
- (VI) Using “Not containing GMO”, “Non-GMO” or similar text to introduce foods that do not use genetically modified food materials;
- (VII) Using a food name and descriptions that violate moral ethics or generally accepted rules;
- (VIII) Using name of a registered drug as food name;

(IX) Using text such as “specially supplied for”, “specially made”, “for special need of”, “produced under the supervision of” to introduce a food;

(X) Content prohibited by laws, regulations and food safety standards.

**Article 33** The following illegal acts of food labeling are forbidden:

(I) Counterfeiting or falsely label production date and quality guarantee date;

(II) Counterfeiting or falsely use other producers’ name and address;

(III) Counterfeiting, falsely using or altering production licensing number or the registration/record filing number of special foods;

(IV) Other acts forbidden by laws and (or) regulations.

#### **Chapter IV Special Requirement for Labeling of Special Foods**

**Article 34** Labeling and instructions of special foods, including health food, formula foods for special medical purposes and infant formula foods, shall comply with provisions in relevant laws, regulations, national foods standards and product registration and record filing; involving registration certificate or the record filing documents, such content shall be consistent with the label and instructions of special foods that are published by the market regulation departments of provincial and above level. The instructions and labeling of special foods shall be listed in corresponding content; where labels have covered all content of the instructions, the instructions do not need to be attached separately.

**Article 35** Labeling of health foods shall include product name, raw and auxiliary materials, functional ingredients or representative ingredients and their content, suitable groups, unsuitable groups, health functions, dosage and method of use, product specification and net content, storage method, date of production and shelf life, matters needing attention, the number of the corporate standard of the health food, producers’ name, address and contact information, the number of the food production licensing, number of the complaint or service telephone, service hours, as well as the health food logo, registration number or record filing number of the health food, area for warning words and the warning words.

**Article 36** Labeling of health foods shall comply with the following special provisions; lacking special provisions, such labelling shall comply with the general requirements for food labelling:

(I) The health food logo, product name and registration number or the record filing number shall be labeled on the easy to notice side (herein after called the “main display side”) of the health food package (containers);

(II) Product name shall be labelled as the name used for registration or record filing, with the same font, color and size;

(III) Raw materials and auxiliary materials shall be listed in the same content and order as stated in the registration or record filing;



- (IV) The unsuitable groups and matters needing attention shall be conspicuously labelled;
- (V) Functional ingredients or representative ingredients and their content, are labelled in every 100g, 100mL, or the minimum preparation unit;
- (VI) Product specification and net content shall be labelled on the main display side, which shall be parallel with the bottom line of the main display side; the product specification is the weight or volume of the minimum preparation unit, and the net content is the weight, volume or quantity of the minimum preparation units of the product contained in a sales package;
- (VII) The storage condition shall be labeled as in the content of the registration or record filing document;
- (VIII) Matters needing attention include but are not limited to the statement “This product cannot substitute drugs”;
- (IX) The font and font size of the telephone number of the complaint or service line shall be the same with that of the health functions;
- (X) The trademark other than product name shall be labelled at the corner or edge of the package; area of a single character (of the trademark) shall not exceed 1/2 of the size of the product name;
- (XI) Where the maximum surface area of a health food package is less than 20 square centimeters, the labelling shall contain at least the following items: the health food logo, product name, registration number or record filing number, specification and net content, shelf life, matters needing attention, storage conditions, producer name, production licensing number, production date, and warning words; for packages not to be sold separately, at least the product name, specifications, production date and producer name shall be indicated on the package;
- (XII) Shelf life of health food should be labeled as “the shelf life expires on \*\*\*\* year \*\* month \*\* date”; the date labeling should not be affixed, reprinted, or modified; if the date is labelled as “see xxx (place) of the package”, the specific place where the labeling locates should be accurately provide; the year, month and date could be separated following provisions in Article 15 of these Measures.

**Article 37** The area for warning words of health foods shall locate on the main display side of the minimum sales package; the area should take no less than 20% of the side where it is located. The warning words shall be printed in boldface and include the following content: health food is not medicine, it cannot replace medicine to treat diseases.

When the surface area of the main display side is larger than or equal to 100 square centimeters, height of the font shall not be less than 6.0 millimeters. When the surface area of the main display side is less than 100 square centimeters, the minimum font height varies in the equal proportion according to the above provisions, but the characters shall not be less than 1.8 millimeters in height.

**Article 38** The health food logo should be the patterns specified by the State Administration for Market Regulation; the logo shall be labeled on the top left side of the main display side in the proportion, and shall be distinct and easy to identify. When the surface area of the main display side is larger than 100 square centimeters, the maximum width of the health food logo shall not be less than 2 centimeters. When the surface area of the main display side is less than or equal to 100 square centimeters, the maximum width of the health food logo shall not be less than 1 centimeter. The registration number or record filing number shall be labeled below the health food logo, connected to the health food logo, and easy to distinguish.

**Article 39** The main display side of the labeling of formula foods for special medical purposes foods shall label product name, net weight (specification), product category, registration number, suitable group, and (the text) “Please follow guidance of doctors or clinical dietitian in using”.

Labeling and instruction of formula foods for special medical purposes shall not have function claims for the nutrients in the product.

**Article 40** The main display side of the labeling of formula powder for infants and young children shall label product name, net weight (specification), and registration number; it can have pictures that comply with requirements, and can label the registered trademark at the corner of the main display side.

The product name is composed of the commodity name and the common name; each product shall have only one product name. Formula powder for infants and young children of the same product series that suit infants and young children of different months (of age), the commodity names shall be the same or identical. Calculated by the area of single characters, the total area of the commodity name’s characters shall not exceed 1/2 of the total area of the characters used in the common name; font size of the commodity name shall be smaller than that of the common name. The common name shall be conspicuous, obvious, and the common name shall not be labeled separately.

Using a registered trademark other than the commodity name, its area (calculated by the rectangle method) shall not exceed 1/4 of the total area of the characters of the common name; the area shall be smaller than that of the commodity name, and shall not be used together with (connected to) product name.

**Article 41** The formula powder for infants and young children of 0-6 months shall not have content claim and function claim. The formula powder for infants and young children older than 6 months shall not have content claim and function claim for the necessary ingredients; its optional ingredients could have content claim and function claim that are permitted by the national food safety standard, in form of characters on the non-main display side.

**Article 42** Labeling and instruction of formula powder for infant and young children that claim origin/source of raw milk or raw material formula powder, the specific origin and original country shall be faithfully labelled. Should the product name indicate animal-source (of the milk), the animal source of the milk materials, such as raw milk, milk powder and whey (protein) powder, shall be faithfully labelled in the list of ingredients.

For raw materials of dairy products that have more than two animal sources, the percentages of various animal-origin materials shall be labelled. Using edible vegetable oil, the specific variety names of the edible vegetable oil shall be labeled in descending order of the ingoing volume. Using base powder as raw material to produce formula powder for infant and young children, (the text) “base powder” shall be labeled in the list of ingredients, and the original ingredients of the base powder shall be labeled in brackets in descending order in terms of the ingoing volume.

## **Chapter V Supervision and Management**

**Article 43** Local market regulation departments shall inspect food labeling in accordance with provisions of these measures; the inspection shall be conducted with emphasis on the following content:

- (I) Labeling of food name, date of product and quality guarantee date;
- (II) Labeling of food name and list of ingredients, and the consistency of the labeled information;
- (III) The main and complementary foods for infants and other special groups, labeling of the main nutrients and their contents;
- (IV) Labeling and instructions of special foods are standardized and complete, and consistency with the labelling and instructions for registered or record filing.
- (V) The cases specified in Article 32 and 33 of this document.

**Article 44** Local market regulation departments, finding situations as provided in Article 33 of these Measures in food labelling in their supervision and inspections, shall seize or detain the food and food additives illegally produced or sold.

**Article 45** Local market regulation departments, finding food labeling has problems or flaws that do not affect food safety nor could they mislead consumers in their supervision and inspections, shall instruct the food producers and operators to make corrections within specified period; for those who refuse to make corrections, administrative sanctions shall be imposed.

Foods that are recalled for problematic or flaw labeling, the food producer could correct the labeling by affixing label or adding corrected label; however, the production date and the quality guarantee date shall not be altered.

**Article 46** For foods displayed or sold through the Internet, introduction of food quality and safety-related content and the labelling pictures shall be consistent with the labelling content of the food actually sold, with exception of the content that dynamically changes, such as production date and the quality guarantee date.

Provider of the third-party on-line food trading platforms shall reinforce management of the introductions and food labelling pictures of foods displayed and sold on-line.

## Chapter VI Legal Liabilities

**Article 47** Food producers and operators falsely label production date and quality guarantee date, or falsely label foods and food additives that have passed the quality guarantee date will be punished pursuant to provisions in Article 124 of the Food Safety Law.

**Article 48** Where food producers and operators fall under one of following circumstances, local market regulation departments above county level shall impose punishment according to Article 125.1 of the Food Safety Law.

- (I) Uses characters or patterns which are false, exaggerated or easy to mislead consumers in food labeling;
- (II) Take drug name as food name (excluding the substances that are traditionally used as both foods and Chinese herbal medicine, or nutrition fortification substances, and substances named after the raw materials, or health foods that were registered or approved before the food product), or mention functions of disease prevention and treatment in food labeling;
- (III) Label health food name for common foods, or common foods claim health functions;
- (IV) Common foods label the name of formula foods for special medical purpose, or common foods claim to have clinical effect of formula foods for special medical purposes;
- (V) Falsely label the list of ingredients and other compulsory labelling contents;
- (VI) Using food additives that shall be labelled according to relevant provisions but are not, or the labelling of food additives does not comply with relevant laws, regulations and food safety standards;
- (VII) Food labeling does not comply with provisions in these Measures, and such incompliance does not fall under the scope of minor flaws;
- (VIII) Imported foods do not have Chinese labelling;
- (IX) The health functions claimed on health food labeling are inconsistent with the registration or record filing, or the claims involve functions of disease prevention and treatment.

**Article 49** Where food producers and operators counterfeit or alter food labeling or instructions, local market regulation departments above county level shall confiscate the illegally produced or sold food and the illegal gains thereof, impose a penalty of 10,000 yuan to 30,000 yuan; where the acts constitute a crime, criminal liabilities shall be ascertained.

**Article 50** Where there are acts in violation of Article 25, Article 32 and Article 42 of these Measures, penalties shall be imposed according to Article 125.1 of the Food Safety Law by local market regulation departments above county level.

**Article 51** Where there are acts in violation of Article 5 to Article 24, Article 26 to Article 29, and Article 30.1 of these Measures, penalties shall be imposed according to Article 125.2 of the Food Safety Law by local market regulation departments above county level.

**Article 52** Where there are acts in violation of Article 46 of these Measures that food producers, operators, or the provider of the third-party on-line food trading platforms fail to fulfill their obligations related to food labelling, warnings will be issued by local market regulation departments above county level, along with instructions for correction; for those who refuse to make corrections, the local market regulation departments above county level will impose a penalty of 10,000 yuan to 30,000 yuan.

## **Chapter VII Supplementary Provisions**

**Article 53** These measures are interpreted by the State Administration for Market Regulation.

**Article 54** The Measures come into force on XXXX (year) XX (month) xx (date). The Administrative Provisions on Food Labeling published by the former General Administration of Supervision, Inspection and Quarantine (AQSIQ) and the Provisions for Labelling of Health Foods issued by the former Ministry of Health are abolished at the same time.

**END TRANSLATION**

### **Attachments:**

No Attachments.