

**U.S. Proposal**

**NAFTA: Annex on Prepackaged Food and Non-Alcoholic Beverages**

**January 24, 2018**

**Derived From:**

Classification Authorization of August 1, 2017, by USTR Chief of Staff Jamieson Greer, Per Executive Order 13256, Section 1.4(b)

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**DRAFT NAFTA ANNEX  
PREPACKAGED FOOD AND NON-ALCOHOLIC BEVERAGES**

1. For the purposes of this Annex:

**Prepackaged food** means any food, whether processed, semi-processed, or raw, which is intended for human consumption and is packaged or made up in advance by the food processor or food manufacturer in a container, ready for offer to the consumer; and

**Non-alcoholic beverage** means any drink containing less than 0.5% alcohol by volume packaged or made up in advance by the food processor or food manufacturer in a container, ready for offer to the consumer.

2. The Annex applies to the development, adoption and application of laws, regulations, and standards at the central level of government that are related to prepackaged foods or non-alcoholic beverages. This Annex does not apply to law, regulations, or standards related to dietary supplements, or raw meat or fish.

This Annex does not apply to technical specifications prepared by a government body for production or consumption requirements of that body, which are covered by Chapter XX (Government Procurement).

3. Upon entry into force of this Agreement, each Party shall make available on a freely accessible website the following information with respect to each of its regulatory authorities at its central level of government that have responsibility for implementing and enforcing laws, regulations and standards related to prepackaged foods or non-alcoholic beverages:
  - a. A description of each authority, including the authority's specific responsibilities; and
  - b. A point of contact within each authority

Each Party shall promptly notify the other Parties of any material changes to this information.

4. Each party is encouraged to consider relevant proposed or final regulations or standards related to prepackaged food or non-alcoholic beverages of the other Parties when developing a regulation or standard. Where appropriate, efforts should be made to harmonize regulations or standards related to prepackaged foods or non-alcoholic beverages.
5. When deciding whether to regulate prepackaged food or non-alcoholic beverages, each Party shall consider, as appropriate, whether voluntary measures or private sector initiatives are sufficient or appropriate to meet the Party's legitimate objective or achieve the Party's appropriate level of protection.
6. Each Party shall take into account publicly available relevant scientific and technical evidence (including evidence from studies conducted

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7. Recognizing the detrimental impact that unnecessary administrative certificates have on international trade, the Parties shall not require administrative certificates for imports of prepackaged food or non-alcoholic beverages unless necessary to protect human, animal, or plant life or health, or necessary to achieve a Party's legitimate objective.
8. Each Party shall adopt and maintain laws and regulations that require any prepackaged food or non-alcoholic label be accurate, truthful, and not misleading to the consumer. (1)
9. If a Party adopts or maintains regulations regarding the labeling of nutrient content information, including front-of-pack nutrient content warnings, the Party shall:
  - a) base its regulations on international standards developed by the Codex Alimentarius Commission (Codex) to the extent that use of these international standards would be effective and appropriate to fulfill the Party's legitimate objectives or achieve the Party's appropriate level of protection;
  - b) take into account other relevant scientific or technical guidance developed by Codex;
  - c) limit the requirements to those that provide that nutrient content information is conveyed to the public in a manner that enables the public to readily observe and comprehend the information, and to understand the relative significance of the information in the context of a total daily diet;
  - d) ensure that requirements are not more trade restrictive than is necessary to fulfill a Party's legitimate objective or achieve the Party's appropriate level of protection;
  - e) allow for the use of positive nutrition content claims, where appropriate;
  - f) not require front of pack nutrient content warnings that are symbols, if the symbols are misleading to consumers, for example, because their shape or color inappropriately denotes that a hazard exists from consumption of the food or non-alcoholic beverages; and
  - g) avoid unjustifiable encumbrances to trademarks and trade dress;

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(1) For greater certainty, a Party may require that aspects of prepackaged food and non-alcoholic beverages labels be standardized to provide consumers information in a consistent format.

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10. In considering the effective and compliance dates for regulations, each Party shall endeavor to provide for the depletion of products already entered into commerce and the use of existing labeling stock when feasible and appropriate.
11. The Committee on Agricultural Trade set forth in Article [X.XX] shall provide a forum for the Parties to:
  - a) monitor and promote cooperation on the implementation and administration of this Annex, and other related issues as agreed to by the Parties;
  - b) consult on matters and positions relevant to trade in prepackaged foods and non-alcoholic beverages for the meetings of the Codex and other international organizations; and
  - c) enhance the mutual understanding of each Party's regulations regarding the labeling of prepackaged foods and non-alcoholic beverages and proposals to revise those regulations.