

# International commitment of participating countries of Nutri-Score

## – General agreement & governance structure –

*January 2021*

The participating countries of Nutri-Score having regard the following considerations:

1. Nutrition is a major determinant of health. Good nutrition at all stages of life contributes to the maintenance of good health. Conversely, inadequate nutrition, in the sense that it deviates from the food-based dietary guidelines defined by scientific experts, is a risk factor for chronic diseases (obesity, cardiovascular disease, type 2 diabetes, cancer) or undernutrition. A balance between a healthy diet and being physically active is essential from a public health perspective.
2. In order to achieve a high level of health protection for consumers and to guarantee their right for information, consumers should be appropriately informed with regard to the nutritional value of the food they consume. Effective information on the food label that does not mislead consumers is important to help and assist consumers to make their food choices, preferably towards a healthier choice. A front-of-pack logo can help consumers to make a healthier choice at a glance, especially since back-of-pack nutritional information has been shown to be difficult for consumers to understand.
3. The Nutri-Score is a valuable tool that can help consumers to make healthy choices, within an integrated framework of national nutritional policies and actions. The algorithm underlying the Nutri-Score acts in synergy and complementarity with dietary guidelines, health literacy actions through multiple communication channels and recommendations to promote behavioral changes. In addition to behavioral change, Nutri-Score has a potential to further stimulate product reformulation by food business operators.
4. Evidence from research conducted in several countries shows Nutri-Score is currently the best-performing scheme in both aiding consumers to compare the nutritional value of foods across a range of products and to make healthier purchasing choices<sup>1</sup>.
5. Nutri-Score helps consumers to make a healthier choice within a food group and across similar (e.g. consumed with same purpose or during the same meal) food groups. It is applied with a five colour-/letter- system (dark green to dark orange, A to E), where A (dark green) is considered as better nutritional option and E (dark orange) as worse nutritional option. The score is based on a calculation of 'positive' nutrients and ingredients and of 'negative' nutrients and ingredients. The outcome of the scoring system results in a colour/letter score that food business operators apply on the front of pack of their products.
6. The participating countries from the EU and the European region have regulated the legal authorisation for Nutri-Score in their respective national laws, in line with applicable EU-regulations. These legal provisions are notified to the European Commission when relevant.

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<sup>1</sup> Julia C, Hercberg S, World Health Organization. Regional Office for Europe. Development of a new front-of-pack nutrition label in France: the five-colour Nutri-Score. *Public Health Panor.* 2017;03(04):712-25.

Egnell M, Talati Z, Hercberg S, Pettigrew S, Julia C. Objective Understanding of Front-of-Package Nutrition Labels: An International Comparative Experimental Study across 12 Countries. *Nutrients.* 18 oct 2018;10(10):1542.

Talati Z, Egnell M, Hercberg S, Julia C, Pettigrew S. Food Choice Under Five Front-of-Package Nutrition Label Conditions: An Experimental Study Across 12 Countries. *Am J Public Health.* 2019;109(12):1770-5.

7. Santé Publique France has registered the Nutri-Score as a trademark at the European level with the European Union Intellectual Property Office (EUIPO). The right to regulate the use of Nutri-Score for "Countries officially engaged in Nutri-Score" (COEN) will be granted by Santé Publique France or any joint-ownership organization that will be its succeeding rightsholder (together, the Successor). The right to use the Nutri-Score for business operators is given through the Nutri-Score Conditions of use granted by COEN.
8. COEN take part in the organisation and decision making process of Nutri-Score, including but not limited to, the Conditions of use evolution, registration and alignment of the questions and answers of food business operators, consumers and other relevant stakeholders, via the committees that coordinate the transnational implementation of Nutri-Score, which are a Steering committee and a Scientific committee, as described below.

The coordination established under the above committee's mandates warrants that all COEN have equal decision rights and the decisions of the Steering committee are binding to the trademark owner, provided that this is not contrary to European Union and trademark law and does not affect his liability.

In order to best achieve joint decision making and coordinated implementation of Nutri-Score, the COEN shall confer together to transfer the trademark rights from Santé Publique France to its Successor in accordance with section e below.

9. Work performed by the above committees will help the COEN coordinate their contribution to ongoing discussions on front-of-pack labelling in the EU and beyond, and in the Codex Committee on Food Labelling.
10. Work performed by the above committees will aim at making participation of food business operators in Nutri-Score easily accessible, at facilitating the practical implementation of Nutri-Score (e.g. registration, implementation, questions and answers), with as little administrative burden as possible and according to procedural agreements as laid down in the Conditions of use.
11. Enforcement of the application of Nutri-Score by food business operators is part of an effective operational system. Each country regulates this enforcement at national level in respect with the Conditions of use.

The COEN agree to participate in Nutri-Score and work together according to the following principles and agreements.

For the purpose of this general agreement, "COEN" means: the countries which have officially entered into a notification procedure with the European Commission or for countries outside the EU, which have enacted the relevant regulation in accordance with their national law.

a. COEN agree to:

- respect the purpose and the core principles of Nutri-Score, as recalled in the above consideration.
- respect the implementation of Nutri-Score as laid down in the Conditions of use.
- work together on the Nutri-Score system to make it functions smoothly and efficiently across the countries.
- collaborate via the committees (Steering committee, Scientific committee), where decisions are taken and which collectively form the international governance structure.
- participate in good faith in the decision making process of the Steering committee and the Scientific committee. The decision process and subsequent voting procedure are defined below in each committee.
- Set, if deemed appropriate, an international registration platform, where food business operators can register/apply for Nutri-Score.
- prepare and publish official documents in all COEN-languages, such as the Conditions of use and the questions and answers. Whenever changes are made, all language versions must be republished at the same time.
- organise in the COEN a national information office, in order to deal with implementation issues on a national basis. This serves as a contact point for food business operators in their national language.
- collaborate on all other implementation issues dealt with the national offices.
- establish a coordination mechanism to collect Questions from business operators and write Answers, establish and update the Q&A collective database. The Steering committee can take support on an informal technical group to prepare answers to update de Q&A.
- organise enforcement activities at national level.
- monitor the use, rollout of the logo in the respective countries.

b. The Steering committee:

- consists of a maximum of two representatives designated by each COEN within the national authorities and/or agencies responsible for the implementation of Nutri-Score.
- governs the overall development and implementation of the Nutri-Score system.
- holds regular meetings, which frequency depends on the need/current topics.
- Designates a president and vice-president at its first meeting and for a two year period, and organize its rotation for subsequent two years period.
- Takes decisions by consensus among representatives of COEN, or exceptionally by vote if consensus cannot be reached. In case of vote, decisions will be taken by a majority of two-third (2/3) of the vote cast. Each country has got one vote.
- takes decision on the designation of proposed members for the Scientific committee.
- takes decision on the proposals of the Scientific committee and on any other issues related to the implementation of Nutri-Score, including but not limited to:
  - o proposals for the adjustment of the algorithm underlying Nutri-Score, while respecting its core principles.
  - o the general communication message and communication strategy of Nutri-Score to be dealt with an ad'hoc group by the Steering committee
  - o agreements to be made on further international implementation, such as the setting up of an international registration platform, if appropriate, for food

business operators in the COEN and the further development of the Questions and Answers.

- Update of the Conditions of use.
- shares and aligns activities that are done in the participating countries, e.g. enforcement activities, monitoring of use, rollout of Nutri-Score and the effectiveness of Nutri-Score in terms of consumer understanding and consumer behavior.
- the Steering committee may only reject a proposal of the Scientific committee, on the basis of compelling arguments. In this case the Steering committee may ask further substantiation and explanation of the Scientific committee. The minutes of the meeting will reflect decision making and will be made publicly available.
- Upon decision of the Steering committee, observer status may be granted to countries, having started the process or wishing to engage into the adoption of the Nutri-Score system, so as to allow these countries to get acquainted with the coordination mechanism set between the COEN, before they join officially.

c. The Scientific committee:

The Scientific committee is established by the COEN, so as to offer independent advice on potential update of the current algorithm of Nutri-Score and the scientific underpinning of the effects of Nutri-Score in the context of consumer behaviour. The work of Scientific committee must ensure that the core principles of Nutri-Score are preserved. Its mandate, attached as Annex 1 to the present General Agreement, has been formally approved by the Steering Committee during its first meeting.

d. Alignment of implementation & registration in COEN:

- The COEN agree to implement the Nutri-Score via national portals/offices that are open to help and facilitate the implementation by food business operators in their country.
- National implementation in each COEN is under the responsibility of that country; likewise for the enforcement activities.
- COEN monitor the use, rollout of Nutri-Score periodically and report the results via an agreed format to the Steering Committee.

e. Transition phase towards a sustained organisation:

It is expected that the transition phase will last until end 2021. During the transition phase, each COEN will bear its own costs and the organisation of the Steering committee meetings will be a joint endeavor. The transition phase will also aim at transferring any and all intellectual property rights on the Nutri-Score from Santé Publique France to its potential Successor, preferably a nonprofit international association established under Belgian Law or as another Legal form (like for example a European Economic Interest Grouping).

During the transition phase, the Steering committee will work with a pragmatic step-wise approach to establish a sustainable coordination process across countries. The purpose is to maintain the overall process and rules as simple, transparent and straightforward as possible.

In particular the Steering committee will confer together of setting an international registration platform with online assistance, where food business operators can register, independently of their country of origin. It would be entrusted with the harmonized management of the Q&A in a transparent way.

The following elements will be assessed:

- Setting up of the international platform and transfer its ownership to the Successor. The Nutri-Score trademark would be transferred among the assets of the Successor, so as to be jointly owned.

- The costs needed to cover the registration platform development and maintenance, the transnational technical support to retailers and food producers (e.g. formulating answers for new questions that haven't been addressed yet, updating the Q&A), which also include the costs of preparation and revision of official documents in all languages of the COEN. For clarification purposes, the cost would not cover activities, such as the participation and activities related to the international governance (participation to meetings of the Steering committee, Scientific committee for example), the enforcement, communication campaigns/education, national offices functioning, and the like, that are to be paid by each countries.
- Contractual instruments to be implemented between the Successor and the national regulators of the COEN, depending on each COEN's implementation of the Nutri-Score in consideration of articles 35 to 37 of the EU Regulation no.1169/2011 of 25 October 2011, in order to ensure the exclusive status of each COEN's regulator on its territory.

f. Effective date

This general agreement will enter into full force and effect at the date of its adoption by the COEN during the first Steering committee meeting.