



## Report of the U.S. Delegate, 37th Session of the Codex Committee on Food Labelling (CCFL)

The 37th Session of the CCFL was held in Calgary, Canada from May 4-8, 2009. The Session was chaired by Mr. Paul Mayers, Associate Vice-President, Policy and Programs Branch, Canadian Food Inspection Agency. It was attended by 201 delegates representing 63 member countries, one member organization, and 24 international organizations. The United States Delegation was headed by Dr. Barbara Schneeman of the U.S. Food and Drug Administration, with support provided by Dr. Heejong Latimer (alternate U.S. Delegate) of the USDA Food Safety and Inspection Service, 11 government advisors, and 5 non-government advisors.

The United States is particularly pleased that the Committee made significant progress at this Session on new work related to the implementation of the WHO Global Strategy on Diet, Physical Activity and Health (Global Strategy).

Specifically, the Committee:

- Agreed to continue the new work initiated at the 36th Session in response to the Global Strategy on proposed amendments to the *Codex Guidelines on Nutrition Labelling* with respect to: 1) expanding the list of nutrients that are always declared on a voluntary or mandatory basis; 2) finalize the discussion paper on issues related to mandatory nutrition labelling; 3) developing general principles and criteria for the legibility of nutrient declaration; and 4) developing actions in relation to the labelling of ingredients identified in the Global Strategy. Proposed draft amendments on items 1 and 3 above were retained at Step 3 for comments and further consideration at the next Session. Three electronic working groups (eWG) will further consider relevant issues, including issues associated with the declaration of sodium/salt in nutrition labelling, proposed draft amendments on legibility of nutrient declaration, and proposed actions relevant to certain food ingredients. The United States will be a member of these eWGs and will continue to chair the eWG on legibility of nutrient declaration.
- Decided that Codex Commodity Committees and FAO/WHO Coordinating Committees should be invited to provide advice, in particular concerning the relevance and implications to their work of horizontal guidance or related texts from the CCFL on modified standardized common names for the purpose of nutrition claims.
- After significant discussion with a continuation of the expression of divergent views, agreed to continue work on the labelling of foods derived from modern biotechnology. Agreed to retain the Proposed Draft Recommendations at Step 3 and, additionally, to retain the draft Definitions at Step 7 for further discussion at the next CCFL Session.

- Decided, with respect to the *Codex Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods*:
  - To advance to Step 5 of the Accelerated Procedure for adoption by the Commission the amendment to Table 2 of Annex 2 re: the use of Rotenone.
  - To return other possible uses of ethylene to Step 6 for comments on the justification of these uses against the criteria in Section 5.1 of the Guidelines.
  - After considering a proposal by the United States for a more structured approach for periodic review of the Guidelines, agreed that the United States would develop a discussion paper which would more clearly define the process for consideration by the Committee at its next Session.
- Considered several editorial amendments to Codex texts on food labelling and forwarded to the Commission for adoption, as appropriate.
- Endorsed the labelling provisions of various Codex Standards.
- Agreed to include a proposal to align the labelling texts with the revised Codex Class Names of technological functions in the Secretariat document on editorial amendments to Codex standards and related texts to be presented to the Commission.
- Agreed to invite OIML to redraft the discussion paper re: declaration of net quantity of contents for consideration at the next CCFL Session.

A full report of the meeting, ALINORM 09/32/22, can be found on the web site of the Codex Alimentarius Commission: [www.codexalimentarius.net](http://www.codexalimentarius.net). The following is a brief summary of the Committee's substantive discussion on the various agenda items.

### **Implementation of the WHO Global Strategy on Diet, Physical Activity and Health (Agenda Items 4a, 4b, 4c, and 4d)**

At the 36th (2008) Session of the CCFL, the Committee had agreed to establish four electronic working groups to prepare discussion papers and relevant proposed amendments to address items related to the implementation of the Global Strategy. The Committee also agreed to hold a physical working group immediately prior to the 37th Session to further consider the discussion papers and relevant proposed amendments. The physical working group co-chaired by New Zealand, Norway, and the United States was held on May 2, 2008. The physical working group considered the following items, which were further discussed during the Plenary:

- Agenda item 4a: Discussion paper and proposed amendments to the Guidelines on Nutrition Labelling concerning the list of nutrients that should always be declared;
- Agenda item 4b: Discussion paper on issues related to mandatory nutrition labelling;

- Agenda item 4c: Discussion paper and proposed draft criteria/principles for legibility and readability of nutrition labels; and
- Agenda item 4d: Discussion paper on labelling provisions dealing with food ingredients identified in the Global Strategy.

The United States supported the Committee's consideration of the above discussion papers and proposed amendments as appropriate within the context of Codex mandate and priorities and in coordination with the Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU).

*On agenda item 4 a*, the United States noted that the list of nutrients considered by the eWG and the physical working group was only those nutrients related to the Global Strategy and, therefore, was not a complete list of nutrients that is based on a consideration of all nutrients of public health significance. For example, nutrients of concern in under-nourished populations were not considered within the scope of this work. In this respect, the United States indicated that CCFL may consider recommending that countries review, based on appropriate criteria, the need for including additional nutrients for mandatory declaration at the national level, including nutrients of importance for both under- and over-nutrition. The United States also supported revising section 3.2.1 of the Codex Guidelines on Nutrition Labelling to expand the list of nutrients that are always declared where nutrient declaration is applied to include energy value, protein, available carbohydrate, fat, saturated fat, trans fatty acids, sodium, total sugars, dietary fiber, and cholesterol. However, recognizing that flexibility is needed to take into account the public health significance of a nutrient and practical issues associated with the declaration of the nutrient at the national level, the United States supported maintaining the flexibility provided in existing section 3.2.1.4 of the Codex Guidelines on Nutrition Labelling. With respect to NRVs, the U.S. noted the ongoing work of CCNFSDU and suggested that CCNFSDU may consider additional nutrients with priority given to nutrients that are identified to be among the list of mandatory nutrients. There was reasonable support within the Committee to include saturated fat, total sugars, and sodium within the list of nutrients that are always declared. The Committee decided that further consideration should be given to the declaration of sodium/salt in nutrition labelling through an electronic working group, chaired by New Zealand. Nutrients that are still under discussion and retained in square brackets are added sugars, trans fatty acids, and dietary fiber. The Committee decided that cholesterol should not be added to the list of nutrients that are always declared. The Committee agreed to return the Proposed Draft Revision of the Guidelines on Nutrition Labelling as amended to Step 3 for further consideration at the next Session of CCFL.

*On agenda item 4b*, the United States elaborated on its experience with the implementation of mandatory nutrition labelling and noted the need for exemptions and special labelling provisions under certain circumstances and considering labelling

constraints and other practical issues. The U.S. also stated that cost/benefit analyses conducted in the U.S. clearly demonstrate the considerable benefits of this approach in terms of public health. The United States supported by several delegations noted the usefulness of this paper in that it highlighted a number of practical issues that should be considered in the implementations of nutrition labelling systems. The Committee agreed that the Delegation of Australia would revise and finalize the discussion paper for further review at the next Session and consideration for possible publication as an appendix to the report for availability as a tool to national governments.

*On agenda item 4c*, with respect to criteria for presentation of nutrient declaration, the United States supported the development of general criteria or principles at the international level to ensure legibility of nutrition information but recommended that any specific criteria developed by CCFL should incorporate sufficient flexibility to permit national governments to determine the appropriate presentation of nutrient information based on the needs of their consumers. The physical working group and the Plenary discussion focused on the proposed principles and criteria and there was general agreement on the application of certain provisions of Section 8 of the *Codex General Standard for the Labelling of Prepackaged Foods* (GSLPF) to nutrition labelling. There was also discussion on how to incorporate specific presentation elements such as format, order/grouping of nutrients, and font size into Codex guidance. The Committee agreed to continue further refinement of the provisions through an electronic working group, chaired by the United States. The Committee also agreed to return the Proposed Draft Criteria/Principles for the Legibility of Nutrition Labels to Step 3 for comments and further consideration at the next Session of CCFL.

*On agenda item 4d*, the Delegation of Norway informed the Committee that the electronic working group chaired by Norway could not complete its work, but that a preliminary report was available for review. The United States along with several other delegations noted that a number of proposed actions in the preliminary report were outside the scope of the terms of reference of the electronic working group and that there was a need to focus the work on ingredients identified in the Global Strategy. After some discussion, the Committee agreed to reconvene the electronic working group, co-chaired by Norway and Canada, to complete its work focusing on ingredients listed in the Global Strategy (i.e., fruits, vegetables, legumes, whole grains, nuts, free sugars, and salt) and to develop actions in relation to the labelling of these ingredients.

### **Discussion Paper on Modified Standardized Common Names (Agenda Item 9)**

The Delegation of Canada introduced the revised discussion paper and project document, based on discussions of the electronic working group, on the issue of naming of standardized foods that are modified to qualify for Codex-defined nutrition claims. Following previous discussions, the electronic working group described the scope of the work and its effect on other Codex standards and identified certain general



principles or conditions for the use of modified names of standardized foods that undergo nutritional modifications.

The United States along with other delegations supported continuation of work on this item noting its direct relevance to the implementation of the Global Strategy and the need for horizontal guidance from CCFL to ensure consistency in the use of nutrition claims in the naming of modified standardized foods. It was also stated that food standards should not impede the development of healthier formulations of a food and that the development of horizontal guidelines would facilitate product reformulation and appropriate naming of nutritionally modified standardized foods.

Some other delegations, however, were concerned about the impact of this work on existing commodity standards and stated that nutritional modification of standardized foods would need to be addressed on a case-by-case basis, not through the development of horizontal principles by CCFL. To address these concerns and be better informed about the impact of CCFL work in this area on commodity standards, the Committee decided to invite Codex commodity committees and FAO/WHO regional coordinating committees to provide advice on this subject, particularly the relevance and implications to their work of horizontal guidance from CCFL on modified standardized common names for the purpose of nutrition claims. It was also decided that further detailed discussion this agenda item would be deferred until the 39th Session given the meeting schedule of relevant committees and that at the 38th Session consideration would be given to the terms of reference of an electronic working group to further develop the discussion paper taking into account the advice of relevant committees.

**Labelling of Foods and Food Ingredients Obtained through Certain Techniques of Genetic Modification/Genetic Engineering. Draft Amendment to the General Standard for the Labelling of Prepackaged Food: Definitions (at Step 7) (Agenda Item 6a); and Proposed Draft Recommendations for the Labelling of Foods and Food Ingredients Obtained through Certain Techniques of Genetic Modification/Genetic Engineering (at Step 3) (Agenda Item 6b)**

The Committee considered both the new labelling guidelines text agreed to at the last (2008) Session of CCFL currently at Step 3 and the definitions, currently held at Step 7.

The Committee held a general discussion on the labelling guidelines text. As in prior discussions, divergent views were expressed on the need for guidance. Several Delegations, including the United States, indicated that the work should be discontinued as there was little prospect of reaching consensus after almost 20 years of discussion on the subject and that Codex should devote its valuable time to more pressing issues of public health importance such as the implementation of the Global Strategy. Moreover, that existing Codex texts provided sufficient guidance for the labelling of

foods generally, which includes foods derived from modern biotechnology. Many other Delegations were of the opposite view, indicating the need to progress work on the subject, particularly in order to provide specific guidance to developing countries on approaches for the labelling of foods derived from modern biotechnology and to allow for consumer choice through mandatory labelling of these foods.

Noting initially that there was significant support to continue work, the Committee proceeded to discuss the proposed draft labelling guidelines text, specifically the two alternate introductory or chapeau statements preceding the actual guidance text. Views both in favor of, and opposed to, the two chapeaus were expressed. The Committee considered removing both chapeau statements and worked on alternative introductory language with several delegations making proposals for texts. However, no consensus could be reached on any specific language.

The Chairperson, in view of the continuation of expression of widely divergent views, proposed pausing work on the subject for three (3) Sessions to gain more experience and develop more common ground among countries in the labelling of modern biotechnology-derived foods and to allow for bilateral and multilateral exchanges on this matter on an informal basis. While several Delegations supported this approach, many other Delegations, opposed the pause, some strongly so. Ultimately, the Committee agreed to continue work and held the labelling guidelines document at Step 3 for circulation to countries for comment and consideration by the next Session of CCFL. All introductory chapeaux statements (the original two plus those developed during plenary discussion) were retained for further discussion.

Regarding the definitions, several delegations proposed discontinuing work on them, noting that they related to the earlier guidance text on which work was discontinued at the 36th Session. Other Delegations proposed their adoption at Step 8, indicating that the definitions, while related to the earlier guidance, also related to the provisions for the labelling of foods obtained through biotechnology relating to allergens that currently appears in Section 4.2.2 of the *Codex General Standard for the Labelling of Prepackaged Foods* (GSLPF). Japan proposed certain modifications to the definition for "food and food ingredients obtained through certain techniques of genetic modification/genetic engineering" and "genetic modification/genetic engineering organism" to make the definitions consistent with the use of the term "biotechnology" in Section 4.2.2.

The Committee, while generally accepting Japan's proposal, did not agree to make the change as the more general discussion on the labelling guidelines was still continuing. The Committee agreed to retain the definitions at Step 7, noting that the proposal to align the definitions with the currently existing term "biotechnology" in the GSLPF could be considered at the next Session.

## **Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods (Agenda Items 5a and 5b)**

### **Inclusion of Ethylene for Other Products in Annex 1**

Several delegations, along with the United States, expressed concern that no new justification was presented against the criteria in section 5.1 of the *Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods* (Guidelines) for the extension of ethylene to other fruits and uses. Other delegations expressed the view that ethylene could be used for other purposes including ripening of tropical fruits, degreening of citrus fruit, sprouting inhibitor for onions and potatoes, and inducement of flowering in pineapples. After further discussion, the Committee agreed that more scientific justification was needed to further consider these other uses of ethylene. The Committee decided to return other possible uses of ethylene to Step 6 for comments and invited delegations to provide justification against criteria in Section 5.1 of the Guidelines for consideration at the next Session.

### **Deletion of Rotenone from Annex 2**

The Committee recalled that at the 36th Session of CCFL the Delegation of Japan had presented a proposal for new work and a project document concerning the deletion of rotenone as an insecticide from Table 2 of Annex 2, which was approved by the 31st Session of the Commission. Some delegations supported the deletion of rotenone because of its toxicity to fish. However, other delegations supported the retention of rotenone and pointed out that restricting its use to preventing it from flowing into waterways was sufficient to manage this risk. Following further discussion, the Committee agreed to retain rotenone in Table 2 of Annex 2 but with restricted use and agreed to amend the use provision to read "the substance should be used in such a way as to prevent its flowing into waterways". The Committee also agreed to advance this amendment to Step 5 of the Accelerated Procedure for adoption by the Commission.

### **Proposed New Work for Inclusion of New Substances in the Guidelines**

The Delegation of the European Commission proposed new work to include the following substances into Table 2 of Annex II of the *Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods*: spinosad, potassium bicarbonate and copper octanoate. The Committee noted that more justification against the criteria in Section 5.1 of the Guidelines was needed and indicated that interested delegations could prepare a new proposal on the inclusion of these substances for the next Session of CCFL, taking into account the need for more justification.

### **Proposed New Work Relating to Fraud Concerning Organic Proposals**

The Delegation of the European Community proposed new work on the need to develop guidance relating to the exchange of information between competent authorities when

suspecting fraud concerning organic products. While some delegations noted the appropriateness of such work, it was noted that there was existing Codex guidance on the exchange of information on food control issues already existed as developed by the Codex Committee on Food Import and Export Inspection and Certification Systems and that the proposal should be dealt with by CCFICS. The Committee agreed that the Delegation of the European Community would prepare a Discussion Paper on issues relating to the exchange of information between competent authorities when suspecting fraud concerning organic products and the scope of possible new work, for consideration by CCFL at its next Session.

### **Periodic Review of the Guidelines**

The United States presented a proposal in a Conference Room Document for a more structured approach to the review of the Guidelines consistent with Section 8, periodic review of the Guidelines. After some discussion, the Committee agreed that the United States would develop a discussion paper which would more clearly define the process for consideration by the Committee at its next Session.

### **Consideration of Editorial Amendments to Codex Texts (Agenda item 7)**

The Codex Secretariat prepared a document seeking the Committee's agreement on a number of editorial amendments to certain texts on food labelling. The Committee agreed to make several editorial amendments to the labelling texts, including the *General Guidelines on Claims* and the *Guidelines on Nutrition Labelling*.

Additionally, with respect to the amendments to the *Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods* (CAC/GL 32-1999), the Secretariat suggested to delete Section 8 of the Guidelines. The Secretariat explained that this provision contained advice to the Committee itself on how to organize the work to update the guidelines and such provisions were not needed as procedures for bringing new work to the Committee already existed. While this deletion was accepted without objection at the time, it was noted that the original intent of this language was to establish a periodic review procedure in relation to the Guidelines and the tables in Annex 2. The Secretariat additionally included in the draft report the deletion of text in section 5.3 of the Guidelines which refers to section 8. The United States pointed out that this deletion had not been discussed at the Committee and its inclusion in the report was inappropriate. They also pointed out that the deletion of section 8 might have been made in haste, and that the deletion might have been more than editorial in nature.

### **Consideration of Labelling Provisions in Draft Codex Standards (Agenda Item 3)**

The Committee endorsed the labelling provisions in the:



- Proposed Regional Standard for Fermented Soybean Paste;
- Proposed Regional Standard for Edible Sago Flour;
- Draft Codex Standard for Jams, Jellies and Marmalade;
- Draft Codex Standard for Certain Canned Vegetables (General Provisions); and
- Proposed Draft Annexes Specific to Certain Canned Vegetables (Annex I Asparagus, Annex IV Green Peas, Annex V Heart of Palms-Palmito, Annex VI Mature Processed Peas, Annex VII Sweet Corn).

### **Matters Referred by the Codex Alimentarius Commission and Other Codex Committees - Revision of Codex Class Names and International Numbering Systems (CAC/GL 36-1989) (Agenda Item 2)**

The Committee recognized that the 31st Session of the Commission had adopted a revision of the Codex Class Names and International Numbering System including a revised list of technological functions, which was now different from the technological functions listed in the GSLPF and, therefore, considered the need for the alignment of the two texts.

The Delegation of the United States, supported by several delegations, expressed the need for the GSLPF to be harmonized with the revised list in the Codex Class Names and favored the alignment as an editorial amendment. Several other delegations stated the need to study the amendments further. After clarification from the Secretariat, the Committee agreed that the proposal to align the GSLPF could be included in the Secretariat document on editorial amendments (Agenda item 7) to be presented to the Commission, which would allow additional time for those countries that wished to study the amendments further.

### **Discussion Paper on the Need to Amend the General Standard for the Labelling of Prepackaged Foods in Line with OIML Recommendations regarding the Declaration of the Quantity of Product in Prepackages (Agenda Item 8)**

The representative from the International Organization of Legal Metrology (OIML) introduced the discussion paper that contained proposals for the alignment of certain provisions within Codex texts with those developed by OIML. There was little discussion on this agenda item as the representative indicated that he would like to have the opportunity to revise the discussion paper in light of comments received. The Committee agreed to invite OIML to redraft the discussion paper for consideration at the next Session of CCFL.

### **Misleading Naming of Energy Drinks**

The Delegation of Nigeria proposed new work to better describe and name certain energy drinks which contain stimulants such as caffeine and guarana, but were low in



energy, as they were misleading and potentially harmful to consumers. It was noted that a discussion on energy drinks had previously been held in CCFL and CCNFSDU and that the CCNFSDU in 2001 had concluded that there was no need for new work. Some delegations supported the proposal from Nigeria, noting that since the CCNFSDU decision, new developments in the science of energy drinks had occurred. The Committee agreed that Nigeria, with the support of IACFO, would prepare a Discussion Paper for consideration by the Committee at its next session.

#### **Date and Place of the Next Session of CCFL**

The 38th Session will be held during the first week of May 2010, in Quebec City, Canada.