



U.S. Delegate's Report, 39th Session, Codex Committee on Food Labelling

The 39th Session of the Codex Committee on Food Labelling (CCFL) was held in Quebec City, Quebec, Canada, from May 9-13, 2011. The Session was chaired by Mr. Paul Mayers, Canadian Food Inspection Agency. It was attended by 247 delegates representing 60 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 and alternate U.S. Delegate, Mr. Jeff Canavan of the USDA Food Safety and Inspection Service.

The United States is pleased with significant progress made at this Session on work associated with the WHO Global Strategy on Diet, Physical Activity and Health, in particular, the expansion of the list of nutrients that are always declared to include saturated fat, total sugars, and sodium. The United States is also pleased that the Committee completed work on the labelling of foods derived from modern biotechnology after almost 20 years of consideration and debate on this subject.

Specifically, the Committee accomplished the following:

With respect to the items related to the Global Strategy, agreed to:

- Include sodium and not salt (but with a footnote to allow salt declaration) in the expanded list of nutrients that are always declared on a voluntary or mandatory basis (in the previous session saturated fat and total sugars were added to this list) and advance the list to Step 8 for adoption by the Codex Alimentarius Commission;
- New work (including establishing an electronic working group (eWG)) to develop text in the *Guidelines for Use of Nutrition and Health Claims* for non-addition claims for sugars and salt, consider adding additional language for comparative claims in paragraphs 6.3 and 6.4 of the *Guideline*, and develop claims and conditions for use related to trans-fatty acids;
- New work (including establishing an eWG) to develop amendments to the *Guidelines on Nutrition Labelling* regarding the requirements for mandatory nutrition labelling; and
- Advance a proposed definition of nutrient reference values (NRVs) for adoption at Step 5 by the Commission.

The United States will be a member of both eWGs mentioned above.

- Agreed to establish an eWG to prepare an inventory of existing Codex texts related to modified standardized common names. The United States will be a member of this eWG.



- Regarding the labelling of foods derived from modern biotechnology, agreed to:
- Advance a compilation document of Codex texts relevant to the labelling of foods derived from modern biotechnology and agreed that the document would be advanced to the Commission as a stand-alone document for adoption at Steps 5/8; and
- Discontinue work related to the draft amended Definitions at Step 6 and simply make a reference to the *Principles for the Risk Analysis of Foods Derived From Modern Biotechnology* in a footnote to the title.
- With respect to the Codex Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods:

The Committee considered a number of agenda items related to the Codex Organic Foods Guidelines.

The Committee agreed to:

- Continue a structured approach for the review of substances to be included in the Guidelines as permitted for the production of organic foods. The approach involves an initial submittal to the Committee of a proposal along with data substantiating that the substance meets the criteria of the Guideline. The proposal would be reviewed by an electronic working group as necessary, and considered for final review/approval (or disapproval) at the subsequent Session of CCFL based on the recommendations provided by the working group. The United States agreed to chair the electronic working group for the next year.
- New work, based on the past years, electronic working group considerations, to include spinosad, copper octanoate, potassium bicarbonate, and certain uses of ethylene as new substances for inclusion in the Guidelines.
- Have the electronic working group consider additional information to be submitted for the use of ethylene for sprout inhibition of potatoes and onions, and the use of ethylene for ripening of certain fruits, since there was not consensus by members at the Session.
- Due to a limited number of responses on a paper () on the inclusion of organic aquaculture in the Guidelines, reconsider and recirculate the paper prior to revision. A revised proposal will be distributed in October for consideration and discussion at the next Session of CCFL.
- Not to undertake work on including provisions for exchange of information when suspecting fraud concerning organic products in the Guidelines, given that the *Codex Guidelines for the Exchange of Information between Countries on Rejections of Imported Foods* already contain sufficient guidance that applies to all foods, including organic foods.
- Reviewed and endorsed labelling provisions for the following Codex commodity standards: desiccated coconut, certain mushrooms, canned bamboo shoots, tree



- tomatoes, fish sauce, chili peppers, chili sauce (a regional standard), cilantro coyote (a regional standard), and lucuma (a regional standard).
- Requested the opinion of the Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU) on revising the definition of trans-fatty acid.

A full report of the meeting, REP11/FL, can be found on the website of the Codex Alimentarius Commission: 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)

On agenda item 4a, concerning the list of nutrients that are always declared on a voluntary or mandatory basis, the Committee had previously agreed to add saturated fat and total sugars to the list of nutrients on the label that already includes energy value, the amounts of protein, available carbohydrate, and fat. The Committee had previously agreed that the list was to be footnoted with regard to trans-fatty acids. In the last Session, the revised section 3.2 had advanced to Step 5.

Remaining for discussion at the 2011 Session was the issue of sodium, and in particular whether the declaration should be "sodium" or "salt." The United States supported retaining sodium and deleting salt. The United States noted the many comments from the eWG report for Recommendations on the Declaration of Sodium (Salt) prepared by New Zealand supported declaring sodium because it is the scientifically correct term, and declaring salt in the list of nutrients that are always declared could be misleading to the consumer. The United States, suggested a way of moving this work forward by removing the square brackets around sodium and allowing for salt declaration in alternate text or other means. This proposition was supported by many other delegations who also noted that the appropriate term to declare the content of this nutrient in nutrition labelling is "sodium" and that the term "salt" should be used to declare the ingredient salt in ingredient labelling. Many delegations expressed the opinion that the term "salt" may be confusing if declared in the nutrition labelling (an example: milk could show that it contains "salt" when no salt had been added).

The Chair noted the strong consensus within the Committee to include sodium because it is the nutrient of public health concern and as a compromise, suggested deleting salt and inserting as a footnote to sodium: "national authorities may decide to express the total amount in salt equivalents as "salt.." The Committee agreed to this proposal and, given the significant progress made at this Session and the agreement reached on all nutrients, the Committee forwarded the revised section 3.2 to the Commission for adoption at Step 8.

On agenda item 4b regarding the discussion paper on additional conditions for nutrient content claims and comparative claims that was prepared by the eWG chaired by Canada, the Committee held a physical working group (pWG) in which the United States participated prior to the Session. CCFL, at its last Session, agreed to consider new entries to the Table of Conditions for Nutrient Content in the *Guidelines for Use of Nutrition and Health Claims* for the non-addition of sugars and the non-addition of salt/sodium. The report of the pWG presented several actions to be considered by the Committee.

Non-addition of Sugars and Salt

After significant discussion, both with respect to the non-addition of sugars and the non-addition of salt, the pWG and Committee agreed that claims for these items should be developed on the basis of several principles.

For the non-addition of sugars, the principles were: a) no sugars of any type have been added to the food; b) the food contains no ingredients that contain sugars as an ingredient; c) the food contains no ingredients containing sugars that functionally substitute for added sugars; d) the sugars content of the food itself has not been increased above the amount contributed by the ingredients by some other means; e) the food that it resembles and for which it substitutes normally contains added sugars; and, f) additional conditions and/or disclaimer statements may be used with these claims to assist consumer understanding of the claims within countries.

For the non-addition of sodium salts the principles were: a) the food contains no added sodium salts; b) the food contains no ingredients that contain added sodium salts; c) the food contains no ingredients that contain sodium salts that functionally substitute for added salt; d) the food that it resembles and for which it substitutes normally contains added sodium salts; and, e) additional conditions and/or disclaimer statements may be used with these claims to assist consumer understanding of the claims within countries.

The United States fully supported the work for the non-addition of sugars but raised concerns about proceeding with work on the non-addition of sodium salts given the title of the claim. The United States noted that this is essentially a non-addition of sodium claim (as the above principles are written) and that guidance for such claims already exists in section 8.6 of the *Guidelines for Use of Nutrition and Health Claims*. The United States noted the potential for confusion from this claim and a claim for the non-addition of salt (the ingredient) could be supported with the use of disclaimers or additional conditions rather than preventing the use of all sources of sodium. The Committee agreed that the claims were for the non-addition of salt as an ingredient, but most delegations supported the principles that limited the use of all sodium salts for use of the claim. It was noted that in some countries the word "salt" might be used where in fact the conditions relate to the sodium content of the food.



The United States supported the proposed text for the use of the term "salt-free" as long as the conditions for sodium free were met. The Committee supported the proposed text of this principle and agreed to request advice from CCNFSDU for these non-addition claims. Work will continue in the eWG to be led by Canada. The United States will continue to participate in this eWG.

Title of the Table of Conditions for Nutrient Contents

The Committee agreed to amend the title of the table in section 8.6 of the *Guidelines for Use of Nutrition and Health Claims* to "*Table of Conditions for Nutrient Content Claims.*" The United States supported this action and also noted that if the non-addition claims are added, then those claims should be added in a different section as text and not in the table. If in the alternative, the claims were added to the table, then the name of the table would need to reflect that these are ingredient claims and not nutrient claims. The Committee also agreed to move the table in section 8.6 to section 5 (Nutrient Content Claims) for continuity and forward the amendment to the Commission for approval.

Comparative Claims

The pWG suggested revising sections 6.3 and 6.4. The United States supported revising the text to make the conditions clearer for comparative claims for "reduced/lower," "light", and "more." The eWG will continue work in this area.

Trans-Fatty Acids

Despite the lengthy debate and lack of consensus at the last Session to include trans-fatty acids in the list of nutrients always declared, many delegations expressed interest to develop nutrient content claims for trans-fatty acids. The United States supported this work provided that the scope is a more clearly defined and more limited. The United States noted a "low" claim would be outside the scope of the work since there is no reference value for trans-fatty acids. The Committee agreed to also include this work in the eWG and further agreed that any conditions of use of the claim developed by CCFL would be sent to CCNFSDU for consultation.

In summary, for agenda item 4b, to progress all of the above, an electronic working group was established with the following Terms of Reference: 1) develop proposed text for inclusion in the Codex Guidelines for Use of Nutrition and Health Claims for the non-addition of sugars and salt consistent with the principles; 2) review paragraphs 6.2 and 6.4 of the *Guidelines for Use of Nutrition and Health Claims* regarding certain claims relating to "reduced/lower," "light," and "more"; and, 3) develop claims and conditions for use related to trans-fatty acids.

On agenda item 4c regarding the consideration of the use of standardized symbols to represent the ingredients identified in the Global Strategy, the Committee recognized that no additional information had been submitted to justify new work in this area and that the Committee would not take up this agenda item at the next Session of CCFL.

On agenda item 4d regarding the discussion paper prepared by Australia for the previous Session, on issues related to mandatory nutrition labelling, the United States, supported by several delegations, noted the usefulness of the paper in that it highlighted a number of practical issues that should be considered in the implementation of nutrition labelling systems. The United States has consistently supported mandatory nutrition labelling of foods and elaborated on its experience with a mandatory labelling system. The Committee agreed to establish an eWG, to be led by Australia, to develop proposed amendments to the *Guidelines on Nutrition Labelling*. The Committee also agreed that the discussion paper prepared for the last session would be taken into account in the process. The United States will participate in this eWG.

Draft definition for nutrient reference values (NRVs) (Agenda Item 7)

At its last Session, the Committee agreed to seek country comments on CCNFSDU.s proposed definition for NRVs. The delegation of Canada prepared a document with two options for a definition. The United States, supported by many other delegations, favored the first option which gave a more descriptive definition. The United States noted the importance of including the text "conditions for certain nutrient content claims" and referencing the general principles for establishing NRVs, while many delegations wanted the shortest text possible. Therefore, as a compromise, the Chair suggested that the definition could contain a footnote which could be added at a later stage that would refer to the annexes on the principles for establishing NRVs. The Committee agreed to the following proposed definition:

"Nutrient Reference Values (NRVs) are a set of numerical values that are based on scientific data and established for purposes of nutrition labelling and relevant claims. NRVs are based on levels of nutrients associated with nutrient requirements, or with the reduction in the risk of diet-related non-communicable diseases."

The definition will be referred to CCNFSDU for comments which will be considered at the next Session of CCFL.

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

The Delegation of Canada introduced the subject and noted previous discussions on this agenda item. The Codex Secretariat noted that several Codex Commodity Committees had been invited to provide advice concerning the relevance and

implications of this work and responded that there was no need for horizontal guidance in this area.

The United States supported work on this item because of its direct relevance to the implementation of the Global Strategy, and the development of horizontal guidelines could help protect standardized foods and allow for nutrient content claims. Many delegations were opposed to new work due to concern with the potential for consumer confusion resulting from the modification of names of standardized products, which are well-known and understood. There was no consensus to take up new work; however, the Committee agreed that an electronic working group, co-chaired by Canada and Hungary, could compile Codex texts with the following terms of reference: "the eWG would note the work already carried out on this issue and prepare an inventory of existing Codex texts related to modified standardized common names that could serve to inform Codex members wishing to promote healthier food options." This work will take into consideration the papers developed by the previous working groups.

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 4) (Agenda Item 6b)

The Committee considered both the labelling guidelines text as circulated for comment following the last (2010) session of CCFL at Step 4, and the outcomes of a facilitated discussion held in Brussels subsequent to the 2010 Session, and the definitions text, currently held at Step 7.

6b. Discussion on the labelling guidelines text At the 2010 session of the Committee, CCFL agreed to establish a facilitated discussion to establish grounds for facilitating consensus at the next Session. The discussion resulted in a series of options, all of which used a similar approach, where there would be references to existing Codex texts which provide guidance on the labelling of all foods, including biotech foods, and had identical proposals for the title, purpose, and a "considerations" statement. The difficulty in reaching consensus lay primarily with the "considerations" statement which reflected the different approaches taken by countries with respect to the labelling of foods derived from biotechnology.

At this Session of CCFL, the Committee made a concerted effort to try to reach consensus on the biotech labelling matter. By focusing on the document developed from the facilitated session, the Committee reached agreement on the title of the



document, which simply indicated that it was a compilation of Codex texts relevant to the labelling of foods derived from modern biotechnology, avoiding the use of the term "guidance" which the United States and other delegations opposed. The Committee also reached consensus on the purpose statement which states, "only to recall and assemble in a single document some important elements of guidance from Codex texts, which are relevant to labelling of foods derived from modern biotechnology."

After significant discussion on the "Considerations" Section, the Committee agreed on a consensus text, as follows:

"Different approaches regarding the labelling of foods derived from modern biotechnology are used. Any approach implemented by Codex members should be consistent with already adopted Codex provisions. This document is not intended to suggest or imply that foods derived from modern biotechnology are necessarily different from other foods simply due to their method of production."

This wording avoided the issue of "acknowledging" any specific approach, focused on the need for labelling that was consistent with existing Codex labelling guidance, and clearly stated that biotech foods are not to be treated different from other foods. With these changes to the "Considerations" section, consensus on the document was reached.

The balance of the document, a listing of applicable Codex labelling and safety assessment texts, was modified slightly by adding a Codex document relating to the use of the term Halal and by some reordering of the listed documents. The Committee agreed that the document would be a stand-alone document. The United States, supported by other delegations, indicated that it should more appropriately be annexed to the *General Guidelines on Claims*. The Committee forwarded the final compilation text for adoption by the Commission at Steps 5/8.

6a. Discussion on the Definitions

Some delegations proposed including a footnote in section 4.2.2 to the definitions while other delegations, including the United States, supported discontinuing work since the definitions were linked to the earlier CCFL paper on biotech labelling, work that had been discontinued. The Committee agreed to a proposal from the Chair and supported by others, to add a footnote to the title of the new compilation document to reference the *Codex Principles for the Risk Analysis of Foods Derived from Modern Biotechnology*, which contains a definition for foods derived from modern biotechnology. This would allow the Committee to discontinue work on the definitions document. Approval of the Chair's proposal resolved difficulty both with definitions that were a holdover from earlier draft texts on which work had been discontinued and with the appropriate placement of a currently accepted definition for foods derived from modern biotechnology.



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

Produced Foods (Agenda Item 5)

5(a). Annex 1: Inclusion of ethylene for the ripening of fruit (at Step 7)

At the 38th Session, the Committee had established a working group, led by the delegation of Ghana, with the terms of reference to develop a justification regarding the use of ethylene for the ripening of fruit, and that this justification could be differentiated by fruit categories.

The report of the electronic working group proposed expanding the use of ethylene for ripening of all climacteric fruit. (Climacteric fruits produce ethylene after harvest and are able to ripen after being picked. Examples include bananas, papayas, apples, tomatoes, and avocados.)

There was not consensus on the use of ethylene for ripening all climacteric fruit. Some members, including the United States, suggested expanding the use to tropical fruits, rather than all climacteric fruits. Other delegations indicated that the use of ethylene should be limited to fruits provided there is sufficient justification for its use. Despite an intra-session working group to resolve this issue, no consensus could be reached as to which fruits or fruit categories should be included.

After some discussion, the Committee agreed that further consideration of ethylene for the ripening of fruit should be reviewed using the structured reviewed approach established at the last Session (see below). As Chair of the working group, the United States expressed reservations about the potential number of proposals and their impact on the working group's workload, and requested that the working group have the flexibility to prioritize proposals if needed.

The Committee agreed to hold the extension of uses of ethylene for ripening of other fruit at Step 7 for consideration at the next Session of the Committee.

5(b). Justification against the criteria in section 5.1 regarding the use of ethylene for degreening of citrus fruit, induction of flowering in pineapples and sprout inhibition in potatoes and onion.

Structured Review Process

At the 38th (2010) Session, the Committee agreed to the concept of a structured approach for the future review of substances to be added to the Guidelines. The Committee supported an approach outlined in CX/FL 10/38/11-CRD.15 that involves a



two-year time frame, with an initial submittal to the Committee of a proposal along with data substantiating that the substance meets the criteria of the Guidelines, a review of an electronic working group, and a final review/approval (or disapproval) at the next following Session of CCFL based on the recommendations provided by the working group.

There was support for continuing the structured review approach using the review template and two-year timeline for consideration of substances for inclusion in Annex 2 through the electronic working group. The delegation of Australia proposed to refine the approach by making the template clearer in terms of process and suggested as a model for review the process used by the Codex Committee on Food Hygiene. The delegation agreed to prepare a specific proposal in this regard, which would be considered by the electronic working group.

The Committee agreed to continue using the structured approach and electronic working group and to discuss refining the process. The United States agreed to continue to chair the eWG for the next year.

The Committee agreed, based on the past year's electronic working group considerations, to include spinosad, copper octanoate, potassium bicarbonate and certain uses of ethylene as new substances for inclusion in the Guidelines as discussed below. The Committee agreed to submit a project document to the Commission for approval of new work on the following:

Potassium Bicarbonate

The Committee agreed that potassium bicarbonate should be added to Annex 2, Table 2, without specific conditions for use.

Spinosad

The Committee agreed that spinosad should be added to Annex 2, Table 2, with the condition that it should only be used when measures are taken to minimize the risk to parasitoids and to minimize the risk of development of resistance.

Copper Octanoate

The Committee agreed that copper octanoate should be added to Annex 2, Table 2. The Committee agreed to include it within the existing list of copper materials in Table 2, with the conditions for use that apply to other copper materials listed in Table 2.

Ethylene for degreening of citrus for fruit fly prevention and flowering agent in pineapple

The Committee agreed that ethylene should be allowed for degreening of citrus for fruit fly prevention and as a flowering agent in pineapple. The Committee agreed to recommend that these listings be placed in Annex 2, Table 2, under "Other."

Ethylene for sprout inhibition for potatoes and onions

The electronic working group did not make a final recommendation on the use of ethylene as a sprouting inhibitor for potatoes and onions, as there was no consensus on whether the proposal sufficiently addressed why alternative practices and materials could not be used.

Therefore the Committee agreed to have the electronic working group review additional data supporting the use of ethylene as a sprouting inhibitor for potatoes and onion. The European Union agreed to submit this additional data.

5(c). Organic aquaculture - Comments at Step 3.

The Committee considered a paper for inclusion of organic aquaculture in the Guidelines. The Committee considered the Proposed Draft Revision section by section. Members indicated differences of opinions on the allowance of closed recirculation systems. Members also noted that a definition of seaweed should be included, and that the proposal did not include sections for transport and slaughtering. The Committee agreed to re-circulate the Proposed Draft Revision at Step 3 for comments until July 31, 2011. The European Union, as the lead for drafting the document, would revise the proposal by the end of October taking into account the comments received. The revised version would be circulated for comments at Step 3 to be discussed at Step 4 at the next session of the Committee.

Discussion paper on exchange of information between competent authorities when suspecting fraud concerning organic products including replies to CL 2010/20-FL (Agenda Item 10)

At the 38th Session (2010), the European Union introduced a discussion paper on an improved mechanism for the exchange of information between competent authorities when suspecting fraud concerning organic products. The discussion paper proposed that the Committee should (1) recommend that FAO set up and maintain a list of all Competent Authorities as referred to in section 6.2 of the Guidelines; (2) amend the text of the Guidelines to add reference to all relevant Codex Committee on Food Import and Export Certification Systems (CCFICS) texts; and (3) add new guidance to the Guidelines on the exchange of information between competent authorities. The Committee agreed that the European Union would prepare a revised discussion paper on the basis of comments received for consideration at the 39th Session.



At this Session, there was not consensus on continuing work on the document. The Committee noted that the *Codex Guidelines for the Exchange of Information between Countries on Rejections of Imported Foods* already contains sufficient guidance and applies to all foods, including organic foods. Other delegations mentioned that in several countries inspection was carried out by certifying bodies and not by government competent authorities.

The Committee agreed not to undertake work on including provisions for fraud in the Guidelines.

Proposed new work on the review of the definition for trans-fatty acids (Agenda Item 11)

The Committee considered a proposal to take up new work to review the definition of trans-fatty acids. The United States noted that CCFNSDU had the scientific expertise to review the definition, and the Committee agreed to request an opinion from CCFNSDU on revising the definition.

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 Committee noted the lack of a discussion paper from the International Organization of Legal Metrology (OIML) and that the Committee would not take up this agenda item at the next Session of CCFL but could take it up as future work should a paper become available.

Date and Place of the Next Session of CCFL

The 40th Session will be held from May 14-18, 2012, in Ottawa, Canada.