



## Report of the United States Delegate to the 42<sup>nd</sup> Session of the Codex Alimentarius Commission

July 8-12, 2019

Geneva, Switzerland

The 42<sup>nd</sup> Session of the Codex Alimentarius Commission (CAC42) met in Geneva, Switzerland, July 8-12, 2019. The Commission is the governing body of the joint World Health Organization (WHO) and UN Food and Agriculture Organization (FAO) international food standards program, and is recognized in international trade agreements as the international standards setting organization for food safety.

Delegates from 99 member countries and 1 member organization (the European Union/EU) attended the session, as well as observers from 58 intergovernmental and nongovernmental organizations. The United States was represented by Ted McKinney, USDA Under Secretary for Trade and Foreign Agricultural Affairs; Mary Frances Lowe, U.S. Manager for Codex Alimentarius; and 10 additional governmental and 8 non-governmental advisors.

CAC42 was successful in adopting hundreds of new and revised international food safety and quality standards and approving significant new work, as recommended by its subsidiary committees, and took actions consistent with U.S. positions and objectives on major issues. The Commission also adopted a new Strategic Plan for 2020-2025, as recommended by the Codex Executive Committee (CCEXEC). Although plenary discussions were generally on point, in a few instances, delegations questioned the scientific conclusions of the Joint FAO/WHO Expert Committee on Food Additives (JECFA) and raised technical issues more appropriately discussed in the relevant committees, which led to the return of one food additive provision and one maximum level for contaminants to the originating committees for further consideration.

Of particular note, the United States was pleased that the Commission endorsed the CCEXEC recommendation to establish a sub-committee of CCEXEC to develop practical guidance on the application of the *Statements of Principle Concerning the Role of Science in the Codex Decision-Making Process*, while not reopening them. The work of this sub-committee will “operationalize” the *Statements of Principle*, providing guidance to Codex committees on basing decisions on science, consistent with the principles of the *Codex Procedural Manual*.

### **HIGHLIGHTS:**

The Commission:

- Generally endorsed the recommendations of the 77<sup>th</sup> Session of the Codex Executive Committee (CCEXEC77, July 1-5, 2019), including the adoption of the new Codex Strategic

Plan (2020-2025) and the establishment of two CCEXEC sub-committees: (1) to develop the activities and implementation workplan for the new Strategic Plan, and (2) to develop practical guidance for Codex subsidiary bodies and chairpersons on the application of the *Statements of Principle on the Role of Science in Codex Decision-Making*.

- Adopted 154 new and revised food additive provisions, including provisions with an alternative to Note 161 (“subject to the national legislation of the importing country”) that better reflects both the principles in the *Codex Procedural Manual* and the Preamble to the *General Standard for Food Additives (GSFA)*. Disagreement on the use of this note had stymied progress on a number of provisions until a solution was proposed by a working group of the Codex Committee on Food Additives (CCFA) led by the United States and the European Union, and endorsed by CCFA at its 51<sup>st</sup> Session (CCFA51, 2019). In response to an intervention from Tanzania, the Commission clarified that Section 3.2 of the Preamble to the GSFA continued to apply to all provisions adopted into the GSFA.
- Returned the draft food additive provision for the use of trisodium citrate in Food Category (FC) 01.1.1 (Fluid milks, plain) to CCFA for further consideration.
- Adopted over 320 new and revised maximum residue limits (MRLs) for pesticides in food and feed, as recommended by the Codex Committee on Pesticide Residues (CCPR).
- Adopted revised maximum levels (MLs) for lead in wines and edible offal, completing a multi-year program of work led by the United States in the Codex Committee on Contaminants in Foods (CCCF).
- Returned the proposed draft ML of 0.3mg/kg for cadmium in chocolates containing or declaring <30% total cocoa solids on a dry matter basis for further consideration by CCCF.
- Adopted guidelines for rapid risk analysis of contaminants in foods for which there is no established regulatory level or framework, generally based on a threshold of toxicological concern (TTC) approach with a cutoff value of 1µg/kg. Cuba expressed concern about the ability of developing countries to implement the guidelines and recorded a reservation(CCCF).
- Adopted a Code of Practice (COP) for the Reduction of 3-monochloropropane-1,2-diol esters (3-MCPDEs) and glycidyl esters (GE) in Refined Oils and Food Products made with Refined Oils. This COP addresses concerns raised by JECFA that formula-fed infants can exceed the provisional maximum tolerable daily intake (PMTDI) for 3-MCPDE and the margins of exposure (MOE) for GE for infants, children, and adults may be a health concern. The United States proposed and led the work.

- Adopted the proposed draft revised Scope, Description, and Labelling provisions for the *Standard for Follow-up Formula for Older Infants* at Step 5 (allowing for another round of comments and consideration by the Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU), as endorsed and amended by CCFL, noting that CCFL did not endorse the provision prohibiting “cross promotion.”
- Adopted a provision for moisture content in the *Standard for Quinoa* and returned the issue of grain size for further consideration by the Codex Committee on Cereals, Pulses and Legumes. (CCCPL) CCCPL is chaired by the United States and is working by correspondence.
- Approved new work as recommended by committees, including work on development of guidelines for the control of Shiga toxin-producing *Escherichia coli* (STEC) in beef meat, leafy greens, raw milk and cheese produced from raw milk, and sprouts (Codex Committee on Food Hygiene/CCFH); and draft guidance on internet sales/e-commerce and revised allergen labeling provisions (Codex Committee on Food Labelling/CCFL).
- Approved the recommendations of the Chair of the Codex Committee on Processed Fruits and Vegetables (CCPFV) to continue its work by correspondence and assess the appropriateness of a physical meeting in 2020. Richard Boyd, USDA Agricultural Marketing Service, chairs CCPFV.
- Discontinued work on a standard for “non-centrifuged dehydrated sugar cane juice/panela” and adjourned the Committee on Sugars *sine die*.
- Discontinued work by CCNFSDU on developing nutrient reference values/non-communicable diseases (NRV-NCD) for EPA and DHA long chain omega-3 fatty acids due to lack of scientific evidence to support NRV/NCD values.
- In response to a proposal from the International Organization of Vine and Wine (OIV), concluded that existing mechanisms for collaboration with international intergovernmental observer organizations were adequate and did not warrant review or the development of additional arrangements.
- Re-elected the current Chair and Vice Chairs of the CAC and re-elected the United States to the Codex Executive Committee, by acclamation.

The official report of the session and related documents can be found on the Codex Alimentarius website at: [www.fao.org/fao-who-codexalimentarius/meetings/detail/en/?meeting=CAC&session=42](http://www.fao.org/fao-who-codexalimentarius/meetings/detail/en/?meeting=CAC&session=42)

## **MEETING SUMMARY**

Following is a summary of the Commission's discussions on matters that were debated in some detail during the plenary sessions or not highlighted above.

### **STATEMENTS OF PRINCIPLE CONCERNING THE ROLE OF SCIENCE IN CODEX DECISION-MAKING**

While CAC42 endorsed the recommendation of CCEXEC77 to establish a sub-committee of the CCEXEC on the application of the Statements of Principle without reopening them, the EU (led by Finland at this session) expressed concerns about the inclusivity of the process. They raised a similar issue during CCEXEC77 as to how the EU could contribute to the work undertaken by a CCEXEC sub-committee. The Representative of the Legal Office of WHO indicated that this could be done through the Regional Coordinator of Europe.

The EU further attempted to modify the Terms of Reference for the sub-committee to specify the Codex Committee on General Principles (CCGP) as an additional forum for discussion on operationalizing the *Statements of Principle*. The EU maintained that CCGP would enable better discussion around this topic and wanted the outcomes of the discussion in the CCGP Report.

Many countries, including the United States, opposed this suggestion and reminded the Commission that CAC41 (July, 2018) – after much deliberation – explicitly decided *not* to refer this issue to CCGP and instead assigned the work to CCEXEC. CCEXEC77 reviewed the analysis presented by the Secretariat and selected the most viable and inclusive option to progress the issue. The United States and others also noted that this was the same process used for the Strategic Plan.

After interventions by over 30 member countries, the Commission stressed that while the lead for this work should be with CCEXEC and its sub-committee, it was desirable to reinforce transparency and the possibility for all members to give input through: (1) making the documents distributed by the sub-committee via the online forum accessible to all members; (2) holding informal discussions on the issue in the margins of appropriate meetings, e.g., Regional Coordinating Committees (RCCs) and CCGP; (3) issuing circular letters (CLs) to request comments from all members in advance of CCEXEC78 (February 2020) and CCEXEC79 (June 2020); and (4) ensuring the timely distribution of documents in all languages where relevant.

### **CODEX STRATEGIC PLAN 2020-2025**

CAC42 adopted the new Strategic Plan 2020-2025 as proposed by CCEXEC77. The next step will be the development of a more specific workplan and activities, which will be a major focus at upcoming RCC meetings. There was broad support for the inclusiveness and transparency of the process used by CCEXEC to develop the plan. Delegations noted that, while not all suggestions were incorporated, the plan represented a finely balanced compromise that could be accepted by all as a blueprint for the coming years. In particular, the United States had advocated adding "science-based" to the core values listed in the plan (collaboration, inclusiveness, consensus-building, and transparency). In discussions at both CCEXEC and CAC,

there was a strong emphasis on the need to ensure that science remained central to the Codex standard setting process. This is reflected in the Strategic Plan's Mission Statement and throughout the plan as adopted.

### **STANDARDS PROPOSED FOR FINAL ADOPTION (at Step 8 or 5/8)**

All committee recommendations were adopted, except for the following:

- CCFA: Provision for trisodium citrate in FC 01.1.1 (Fluid milks, (plain))

CAC42 agreed to return the draft food-additive provision for the use of trisodium citrate in FC 01.1.1 (Fluid milks, plain) to CCFA for further consideration, and adopted the provision for use in FC 01.1.2 (other milks, a category established to cover fortified milk products with additives), with the function of emulsifier and stabilizer.

Several African delegations expressed concern about the technological justification for trisodium citrate (or other additives) in milks and questioned whether the use of this food additive would pose risks to infants and children. The Representative of FAO clarified that the safety of trisodium citrate had been confirmed by JECFA, and that the additive would not pose risks to infants and children. Costa Rica recorded a reservation to the decision to adopt the provision for FC 01.1.2.

- CCCPL: Standard for Quinoa

CAC42 agreed to adopt the provision for moisture content and return the section on grain size for further consideration by CCCPL, which will conduct its work by correspondence. As CCCPL host country, the United States noted that that countries supporting the inclusion of provisions on grain size had not been able to agree on the content of those provisions, and that other CCCPL standards did not include grain size.

CAC42 agreed that:

- The *Standard for Quinoa* would be published with a note to indicate that the section on grain size was to be developed; and
- If consensus could not be reached at CAC43, the section on grain size would be removed.

- CCCF: Proposed draft ML for cadmium in chocolates containing or declaring <30% total cocoa solids on a dry matter basis

CCCF13 (2019) had reached consensus on an ML of 0.3 mg/kg. At CAC42, however, there was significant division of opinion between delegations from Africa, who noted that they could achieve much lower levels of cadmium, and delegations from Latin America and the Caribbean, who advocated final adoption of the MLs recommended by CCCF13. Ghana and Ecuador were especially vocal in the debate.

The Representative from FAO, representing the JECFA Secretariat, explained that JECFA had concluded that the risk from dietary exposure to cadmium in chocolates was insignificant; other sources of cadmium in the diet were much higher.

The EU cited an assessment from the European Food Safety Agency as the basis for their reservation. The United States pointed out that JECFA was the appropriate risk assessment body for Codex and that, in the absence of risk concerns, MLs should be established to accommodate growing conditions in all producing areas. (Cadmium is unavoidably present in soils. The levels vary by region, and are higher in some parts of Latin America and the Caribbean than in Africa.) CAC Chair Guilherme da Costa proposed adoption of the ML as recommended by CCCF, noting the reservations of countries who were opposed to adoption.

CCFH Chair Emilio Esteban (USDA Food Safety and Inspection Service) chaired an informal evening session to explore the issue further and reach consensus on a way forward. Based on the outcome of the informal session, CAC42 subsequently adopted the ML at Step 5, for further discussion by CCCF at its next session. The Commission further concluded that:

- Discussion would be limited to the ML of 0.3mg/kg for chocolates containing or declaring <30% total cocoa solids on a dry matter basis;
- The concept of proportionality with respect to MLs previously adopted should be maintained; and
- If new additional information provided does not justify a change to the proposed ML, CCCF14 (2020) “will recommend the adoption of the ML of 0.3 mg/kg by CAC at its next session.”

CAC42 further confirmed that upon such recommendation by CCCF14 that CAC43 “shall adopt the ML without further discussion.”

While no Commission decision can bind future sessions, this was a clear message that CCCF14 and CAC43 conclusions should be based on science and the independent, international expert scientific advice provided by JECFA. Benin, the EU, Norway, and Switzerland expressed reservations to the last conclusion, noting that “CAC42 could not dictate the outcome” of CAC43 discussions.

#### **STANDARDS PROPOSED FOR ADOPTION AT STEP 5 (ALLOWING FOR FURTHER COMMENT AND CONSIDERATION BY CODEX COMMITTEES)**

The following standards were adopted at Step 5 for further consideration in the relevant committees:

- Draft principles and guidelines for the assessment and use of voluntary Third-Party Assurance (vTPA) Programmes (Codex Committee on Food Inspection and Certification Systems/CCFICS)

- Proposed Draft Code of Practice on Food Allergen Management for Food Business Operators (CCFH)
- Review of the *Standard on Follow-up Formula* (CXS 156-19 87): Proposed draft Scope, Descriptions, and Labelling for follow-up formula for older infants (CCNFSDU), as amended and endorsed by CCFL. CAC noted that CCFL had not endorsed the labelling provision prohibiting “cross promotion,” which required further discussion in CCNFSDU.
- Proposed draft *Standard for Dried Oregano* and *Standard for Saffron* (Codex Committee on Spices and Culinary Herbs/CCSCH)

## **PROPOSALS FOR NEW WORK**

In addition to the recommended priority lists for review by the FAO/WHO expert scientific advisory panels, CAC42 approved the following proposals for new work recommended by Codex committees:

- Guidelines for Shiga toxin-producing *Escherichia coli* (STEC) (CCFH)
- Guidance on internet sales/e-commerce (CCFL)
- Allergen labelling (CCFL)

## **CODEX TRUST FUND**

The current Codex Trust Fund (CTF) focuses on in-country capacity building for more effective participation in Codex. This year, the Trust Fund Administrator (Catherine Mulholland, WHO) noted that the CTF was now providing support to 27 countries whose applications had been accepted for support in the first three funding rounds. She reminded countries that the Round 4 Call for Applications would open on August 15 and close on November 30 and called attention to the information, experience, advice and tips that had been shared between panelists and participants in the interactive side event on CTF.

The Administrator also acknowledged an offer from Senegal to help other countries which may wish to benefit from CTF support and noted the offer of the United States to support the CTF in further developing the metrics to measure its impact.

In a side meeting of CTF donor countries, the Administrator acknowledged that, to date, the limiting factor in approving applications for funding was the quality of applications and not the availability of funds. She expects this to change as a result of technical assistance to countries aimed at improving applications for CTF assistance.

## **FAO/WHO SCIENTIFIC SUPPORT TO CODEX**

Considering the discussion paper on sustainable funding (authored by the EU, with the United States and other countries as co-sponsors), many delegations urged WHO and FAO to increase their efforts to ensure sufficient and sustainable funding for the joint WHO/FAO scientific advice program from the respective regular budgets of the two organizations. It was again noted (in accordance with Rule X.3 in the *Codex Procedural Manual*) that the Directors-General

of WHO and FAO should bring the recommendations of the CAC to the attention of their respective governing bodies. While the FAO governing bodies did address the issue, it does not appear that the matter was raised in WHO. Further discussion indicated that the both WHO and FAO could have done more.

Member countries stressed the importance of scientific advice to Codex work. FAO and WHO strongly urged member countries to speak with their representatives in the governing bodies to highlight the importance of food safety and Codex work.

## **ELECTIONS**

CAC42 re-elected the current officers by acclamation: Mr. Guilherme Antonio da Costa of Brazil as Chair and Purwiyato Hariyadi of Indonesia, Mariam Eid of Lebanon, and Steve Wearne of the United Kingdom as vice chairs.

The Commission elected/re-elected the following members of the Executive Committee on a geographical basis for the period from the end of the current Session (42<sup>nd</sup>) to the end of the second succeeding regular Session of the Commission (CAC44, currently scheduled for 2021):

- Africa: Tanzania (elected)
- Asia: Japan (elected)
- Europe: Germany (elected)
- Latin America and the Caribbean: Uruguay (elected)
- Near East: Egypt (re-elected)
- North America: United States of America (re-elected)
- South-West Pacific: Australia (re-elected)

## **OTHER BUSINESS**

- **Special relationship between OIV and Codex**

In response to a proposal from the International Organization of Vine and Wine (OIV, Conference Room Document/CRD10), CAC42 concluded that existing mechanisms for collaboration with international intergovernmental observer organizations were adequate and did not warrant review or the development of additional arrangements. The United States noted that Codex has 188 Members, while OIV has 47.

- **Importance of Codex standards for the promotion of public health and the achievement of the Sustainable Development Goals (SDGs)**

Saudi Arabia stressed the importance of Codex standards for the promotion of public health and achievement of the Sustainable Development Goals (SDGs), as outlined in CRD31.

- **Support for the use of basic methacrylate copolymer (BMC) in food fortification programs**

The delegation of Senegal invited the Commission to support the inclusion of basic methacrylate copolymer (BMC) in the *General Standard for Food Additives* (GSFA), noting that this substance was used in food fortification programs to prevent malnutrition and improve public health in developing countries.

The Codex Secretariat noted that BMC, which is used as a glazing agent and carrier, had been discussed at the 51<sup>st</sup> Session of the Codex Committee on Food Additives (CCFA51, 2019) and was currently at Step 3, which involves solicitation of comments from member countries and interested international organizations. The Secretariat further clarified that the pertinent food additive provisions would be considered at the Commission at the appropriate time.

#### **NEXT SESSION**

The next session of the Codex Alimentarius Commission (CAC43) will take place in approximately one year's time, in Rome, Italy, and will be preceded by a session of the Codex Executive Committee (CCEXEC79).