

codex alimentarius commission



FOOD AND AGRICULTURE
ORGANIZATION
OF THE UNITED NATIONS

WORLD
HEALTH
ORGANIZATION



JOINT OFFICE: Viale delle Terme di Caracalla 00153 ROME Tel: 39 06 57051 www.codexalimentarius.net Email: codex@fao.org Facsimile: 39 06 5705 4593

ALINORM 09/32/22

JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX ALIMENTARIUS COMMISSION

Thirty-second Session
Rome, Italy, 29 June – 4 July 2009

REPORT OF THE THIRTY-SEVENTH SESSION OF THE CODEX COMMITTEE ON FOOD LABELLING

Calgary, Canada, 4 – 8 May 2009

Note: This document incorporates Circular Letter CL 2009/15-FL

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CX 5/15

CL 2009/15-FL
May 2009

TO: Codex Contact Points;
Interested International Organizations

FROM: Secretary, Codex Alimentarius Commission, Joint FAO/WHO Food Standards Programme,
FAO, 00153 Rome, Italy, fax: +39.06.5705.4593 or e-mail: Codex@fao.org

SUBJECT: **Distribution of the Report of the 37th Session of the Codex Committee on Food Labelling (ALINORM 09/32/22)**

A. MATTERS FOR ADOPTION BY THE 32nd SESSION OF THE CODEX ALIMENTARIUS COMMISSION

Proposed Draft Guidelines at Step 5A

1. Draft Amendment to the Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods: Annex 2 (conditions for use of rotenone) (para. 86, Appendix V)

Governments wishing to propose amendments or comments on the above documents should do so in writing in conformity with the Guide to the Consideration of Standards at Step 8 (see Procedural Manual of the Codex Alimentarius Commission) to the Secretary, Codex Alimentarius Commission, Joint FAO/WHO Food Standards Programme, at the above address **before 15 June 2009**.

B. REQUEST FOR COMMENTS AND INFORMATION

Draft Guidelines at Step 6 of the Procedure

2. Draft Amendment to the Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods: Annex 1 (inclusion of ethylene for other products) (para. 81, Appendix IV)

Proposed Draft Recommendations at Step 3 of the Procedure

3. Proposed Draft Revised Guidelines on Nutrition Labelling (Section 3.2 Listing of Nutrients) (para. 43, Appendix II)
 - *Trans-fatty acids*: Background information on the WHO Scientific Update on trans fatty acids can be found in the European Journal of Clinical Nutrition (2009) 63 (<http://www.nature.com/ejcn/journal/v63/n2s/index.html>). The WHO Scientific Update considered new evidence on the health consequences that have emerged on trans fatty acids since the last Joint FAO/WHO Expert Consultation on Fats and Oils in Human Nutrition held in 1993 (FAO, 1994)
 - *Dietary fibre*: Comments should focus on the rationale for the retention or removal of dietary fibre (para.40).
4. Proposed Draft Recommended Principles and Criteria for Legibility of Nutrition Labelling (para. 71, Appendix III)
5. Proposed Draft Recommendations for the Labelling of Foods and Food Ingredients Obtained through Certain Techniques of Genetic Modification/Genetic Engineering (para. 105, Appendix VII).

Governments and international organizations wishing to submit comments on points 4 and 5 above should do so in writing to the Secretary, Codex Alimentarius Commission, at the above address, with a copy to Mr. Ron B. Burke, Codex Contact Point for Canada, Food Directorate, Health Canada, 200 Tunney's Pasture Driveway, Bldg. No. 7, Room 2395, Tunney's Pasture, Ottawa K1A 0L2, Canada, Fax No. +1.613.941.3537, E-mail: codex_canada@hc-sc.gc.ca, **before 15 November 2009**.

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SUMMARY AND CONCLUSIONS

The summary and conclusions of the 37th Session of the Codex Committee on Food Labelling are as follows:

Matters for adoption by the 31st Session of the Codex Alimentarius Commission:

The Committee:

- advanced to Step 5A the Draft Amendment to the *Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods*: Table 2 of Annex 2 (conditions for use of rotenone) (para. 86, Appendix V); and
- forwarded for adoption editorial amendments to the *General Standard for the Labelling of and Claims for Prepackaged Foods for Special Dietary Uses* (CODEX STAN 146-1985) and to the *Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods* (CAC/GL 32-1999) (paras 107 - 121).

Other Matters of Interest to the Commission

The Committee:

- endorsed the labelling provisions in several Draft Standards, thereby allowing their adoption by the Commission (paras 11-12);
- returned to Step 3 the Proposed draft Revised *Guidelines on Nutrition Labelling* (Section 3.2 Listing of Nutrients) and the Proposed Draft Recommended Principles and Criteria for Legibility of Nutrition Labelling (para. 43, Appendix II and para. 71, Appendix III);
- returned to Step 6 the Draft Amendment to the *Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods*: Annex 1 (inclusion of ethylene for other products) (para. 81, Appendix IV);
- retained at Step 7 the Draft Amendment to the *General Standard for the Labelling of Prepackaged Foods* (Draft Recommendations for the Labelling of Foods Obtained through Certain Techniques of Genetic Modification/Genetic Engineering): Definitions (para. 91, Appendix VI) and returned to Step 3 the Proposed Draft Recommendations for the Labelling of Food and Food Ingredients Obtained through Certain Techniques of Genetic Modification/Genetic Engineering (para. 105, Appendix VII).

Matters referred to the Committee on Nutrition and Foods for Special Dietary Uses

The Committee agreed to request CCNFSDU to consider the following:

- inclusion of saturated fat and sodium in relation to nutrient reference values for nutrients associated with risk of non-communicable diseases;
- establishment of claims for use for labelling relating to salt, trans-fatty acids and added sugars;
- development of principles for countries to evaluate criteria 1 “the ability of nutrition labelling to address public health issues” when addressing balancing national and global health issues.

INTRODUCTION

- 1) The Codex Committee on Food Labelling held its Thirty-seventh Session in Calgary, Canada from 4 May to 8 May 2009, at the kind invitation of the Government of Canada. The Session was chaired by Mr Paul Mayers, Associate Vice-President, Programs, Policy and Programs Branch, Canadian Food Inspection Agency. The session was attended by 201 delegates representing 63 Member Countries, one Member Organization (European Community (EC)), and 24 international organizations. A complete list of participants is attached as Appendix I to this report.

Division of Competence

- 2) The Committee noted the division of competence between the European Community and its Member States, according to paragraph 5, Rule II of the Rules of Procedure of the Codex Alimentarius Commission, as presented in CRD 11.

ADOPTION OF THE AGENDA (Agenda Item 1)¹

- 3) The Committee agreed to change the order of items on the agenda in order to allow delegations to study the report of the physical working group on item 4 that had been held prior to the session and following a proposal of Canada to discuss Item 9 in conjunction with item 4. The new order of discussion was: Item 1, 2, 3, 5(a), 5(b), 7, 4(a), 4(b), 4(c), 4(d), 9, 6, 8, 10.
- 4) The Committee agreed to discuss the following issues under Item 10 if time allowed:
- Inclusion of spinosad, potassium bicarbonate and copper octanoate in Annex II, Table 2 of the *Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods* (proposed by the European Community in CRD 20);
 - Exchange of information between competent authorities when suspecting fraud concerning organic products (proposed by the European Community in CRD 20);
 - Misleading naming of energy drinks (proposed by Nigeria in CRD 19); and
 - Establishment of a process for the periodic review of the *Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Food* in line with the process outlined in Section 8.1 of the *Guidelines* (proposed by the United States of America in CRD 23).
- 5) The Committee adopted the Provisional Agenda as the Agenda for the Session with the amendments noted above.

MATTERS REFERRED BY THE CODEX ALIMENTARIUS COMMISSION AND OTHER CODEX COMMITTEES (Agenda Item 2)²

- 6) The Committee noted the information presented in document CX/CF 09/37/2 and in particular, commented and/or made decisions as follows:

Definition of Fibre

- 7) The Committee noted that the Committee on Nutrition and Foods for Special Dietary Uses had agreed to forward to the 32nd session of the Commission for adoption the draft table (provisions on dietary fibre) including the definition of dietary fibre. The Observer of the IDF informed the Committee of a proposal to amend the footnote of the proposed definition as presented in CRD 16. The Committee noted that the information on the proposed definition for dietary fibre was for information purposes only and that comments on the definition should be made to the Commission which would be considering its adoption.

¹ CX/FL 09/37/1, CRD 11 (Annotated Agenda and division of competence between the European Community and its Member States)

² CX/FL 09/37/2, CRD 16 (comments of IDF), CRD 18 (possible amendments to GSLPF prepared by Codex Secretariat)

Revision of Codex Class Names and International Numbering Systems (CAC/GL 36-1989)

8) The Committee noted 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 in section 2 which was different from the technological functions listed in the *General Standard for the Labelling of Prepackaged Foods* (CODEX STAN 1-1985) and considered the need for the alignment of the two texts.

9) The Committee considered the proposal for amendment as outlined by the Secretariat in CRD 18 and whether the alignment was editorial or substantive in nature. Several delegations were in favour of alignment of the texts as an editorial amendment and mentioned the need of the General Standard to be harmonized with GL 36-1989. Several other delegations stated that they would like to study the amendments further and proposed to proceed through the normal procedure for new work and further consideration by the next session of the Committee.

10) After clarification that the final authority to determine whether an amendment was of an editorial or substantive nature lay with the Commission, the Committee agreed that the proposal to align the text could be included in the Secretariat document on editorial amendments to Codex standards and related texts that would be presented to the Commission which would allow all delegations to further study the implications of the amendment.

CONSIDERATION OF LABELLING PROVISIONS IN DRAFT CODEX STANDARDS (Agenda Item 3)³**FAO/WHO Coordinating Committee for Asia**

Proposed Regional Standard for Fermented Soybean Paste (at Step 5/8)

Proposed Regional Standard for Edible Sago Flour (at Step 5)

11) The Committee endorsed the labelling provisions as proposed.

Committee on Processed Fruits and Vegetables

Draft Codex Standard for Jams, Jellies and Marmalades (at Step 8)

Draft Codex Standard for Certain Canned Vegetables (General Provisions (at Step 8)

Proposed Draft Annexes Specific to Certain Canned Vegetables (Draft Codex Standard for 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 (at Step 5/8)

12) The Committee endorsed the labelling provisions as proposed.

IMPLEMENTATION OF THE WHO GLOBAL STRATEGY ON DIET, PHYSICAL ACTIVITY AND HEALTH**PROPOSED DRAFT REVISION OF THE GUIDELINES ON NUTRITION LABELLING (CAC/GL 2-1985) CONCERNING THE LIST OF NUTRIENTS THAT ARE ALWAYS DECLARED ON A VOLUNTARY OR MANDATORY BASIS (Agenda Item 4a)⁴**

13) The Delegation of New Zealand as co-chair of the physical working group on the implementation of the WHO Global Strategy presented the key findings of the physical working group on the revision of the Guidelines on Nutrition Labelling concerning the list of nutrients that should always be declared. The working group had considered the criteria used to identify nutrients for inclusion in the list (para 5 of CRD 25): ability to address public health issues; ability to assist in

³ CX/CF 09/37/3

⁴ CX/FL 09/37/4, CX/FL 09/37/4-Add.1 (information note on food composition in relation to nutrition labelling prepared by FAO), CX/FL 09/37/4-Add.2 (comments of Benin, Brazil, Canada, Costa Rica, Mexico, EFLA, IBFAN, IDF, WSRO), CRD 3 (comments of India, Republic of Korea, Malaysia, Norway, Philippines, Thailand, Turkey, CEFS, CIAA, ILCA), CRD 15 (comments of Indonesia), CRD 21 (WHO statement), CRD 22 (comments of Kenya), CRD 25 (report of the physical working group on amendments to the GSLPF relative to the implementation of the WHO Global Strategy on Diet, Physical Activity and Health)

informing consumers to make healthy choices and practicability and enforceability of labelling. The main recommendations were that energy value, protein, fat and available carbohydrates be retained, that cholesterol not be added, that saturated fat be added, but that there was no consensus on sugars (whether total or added sugars) and trans-fatty acids and that although there was general agreement that sodium should be declared, that the terminology used to communicate this to the consumer needed further consideration, and that dietary fibre be further discussed (paras 7 – 29 of CRD 25).

General remarks

14) The Delegation of Malaysia noted that CRD 25 did not get full approval of all members of the physical working group. They noted that adding to the current nutrient list could lead to consumer confusion, and that scientific data were still being gathered on some nutrients and therefore did not support the inclusion of saturated fats, sugars, dietary fibre, trans-fatty acids and sodium in the list.

Several delegations noted that items 4a, b and c were interrelated and should be discussed in parallel and that in particular the issues of cost as highlighted in the Discussion Paper on Issues Related to Mandatory Nutrition Labelling (Agenda Item 4b) was relevant to this discussion. In addition, other practical issues such as methods of analysis and consumer understanding and use of information needed to be discussed. A too extensive list could overwhelm consumers and lead to saturation of information therefore the number of nutrients in the list should be limited. They proposed that the Committee consider prioritizing nutrients for inclusion in the list and develop a core list of nutrients always to be declared together with a supplementary list of nutrients that might be declared under certain circumstances especially as not all nutrients had the same importance in all regions. One Observer expressed the view that less information could diminish consumer understanding and limit possibilities for consumer education.

15) It was clarified that the electronic working group had considered the issues raised above. One delegation felt that costs might be less of an issue in this context as the mandatory labelling only applied when a claim was being made and companies could evaluate the cost/benefit of making that claim. They noted the importance of the work being linked to the work of the CCNFSU for better understanding of the relevance of different nutrients but that this should not delay the work in the CCFL.

16) Some delegations expressed the view that the primary basis for inclusion of nutrients on the list was their importance from a public health perspective, that consumer understanding needed to be improved through consumer education programmes and supported by appropriate consumer research and that the list was a minimum list while other nutrients could be considered at the national level.

17) The Committee generally agreed to the criteria used by the working group as in para 5 of CRD 25 and decided to additionally take into account cost/benefit and the linkages between global and national public health priorities.

18) The Committee considered the recommendations as presented in Appendix I of CRD 25 individually.

Protein, available carbohydrates and fat

19) Several delegations noted that although they agreed with the declaration of protein and available carbohydrates, these were not a priority in all countries and that this could be addressed by developing a core and supplementary list. Other delegations indicated the usefulness of information on energy values, protein and fat and that information on available carbohydrates was of particular interest to certain populations such as diabetics. The Committee therefore agreed to retain these nutrients in the list.

Saturated fat

20) One Delegation expressed the view that saturated fat declaration should not be mandatory as it might be in conflict with paragraph 3.4.7 of the Guidelines on Nutrition Labelling and could be confusing to consumers as not all saturated fats had the same physiological effect and appropriate risk assessment should be carried out before making saturated fat mandatory.

21) Other delegations noted that saturated fat was important from a public health perspective which was highlighted in the WHO Global Strategy on Diet Physical Activity and Health supported scientifically by WHO Technical Report 916 on Diet, Nutrition and the Prevention of Chronic Diseases. It was mentioned that it met all criteria used and that labelling was supplementary to other activities such as consumer education.

22) The Committee agreed to add saturated fat to the list.

Trans-fatty acids

23) Several delegations while acknowledging the public health significance of trans-fatty acids did not agree with their inclusion since this was not a nutrient of concern in their respective countries and that measures had been taken to reduce the use of trans-fatty acids by manufacturers and reduced intake by consumers. They preferred to leave the flexibility to national governments to include trans-fatty acids on nutrition labels.

24) Several other delegations and observers were of the opinion that trans-fatty acids fulfilled all the criteria for inclusion and that it was important to have both trans-fatty acids and saturated fats declared to ensure that manufacturers did not substitute one nutrient with the other. Several observers highlighted the importance of information on trans-fatty acids for women during pregnancy and lactation because trans-fatty acid consumption could reduce the consumption of essential fatty acids by lactating mothers and subsequently compromise the growth development of infants.

25) The Committee noted the information by WHO⁵ that the scientific background papers and the outcomes of the WHO Scientific Update on Health Consequences of Trans-Fatty Acids would become available on 11 May 2009 in the European Journal of Clinical Nutrition (Volume 63, supplement 2) and the WHO proposal that the Committee consider a footnote to paragraph 3.2.1.4 to indicate that countries whose diets exceed 1% of total energy from trans-fatty acids should consider the declaration of trans-fatty acids in nutrition labelling.

26) Taking into account the information provided by the WHO, the Committee agreed to retain trans-fatty acids in square brackets. Further comments regarding inclusion of TFAs would be requested through a circular letter, which will also include information from the WHO scientific update.

Sodium (salt)

27) Many delegations and one observer while recognizing the public health significance of sodium stated that this term was not well understood by consumers and proposed to use the term salt for declaration on the label. They reiterated the importance of nutrient labelling to assist consumers to make informed choices and the need to use terminology that was easily understood.

28) Many other delegations and observers expressed the view that sodium should be included in the list since the public health goal in the Global Strategy was to reduce sodium intake, the term was correct from a scientific and analytical perspective, was used in national legislation and that consumer education was key in assisting consumers to make informed choices. These delegations further indicated the need to differentiate between nutrient labelling and ingredient labelling and that salt should more appropriately be listed as an ingredient.

29) Several delegations, while supporting use of the term salt as it was better understood by consumers, proposed the retention of both terms in square brackets for further consideration. It was further indicated that consideration could be given to the provision of a conversion factor to convert sodium to salt and the use of a salt equivalent.

30) The Committee noted that there was consensus on the importance of the nutrient sodium/salt and that it should be included in the list but due to the diversity of views on which term to use, the Committee agreed to retain sodium/salt in square brackets and to establish an electronic working group led by the Delegation of New Zealand working in English only and open to all members and observers with the following terms of reference:

⁵ CRD 21

- 1) Consider issues associated with the declaration of sodium/salt on nutrition labelling, taking into account the experiences of member countries and observers and the criteria developed for nutrients that should always be declared.
- 2) Consider different approaches to declare sodium/salt on food labelling to assist in the implementation of the Global Strategy on Diet, Physical Activity and Health and in consumer choice of foods lower in sodium/salt.
- 3) Make recommendations to the 38th session of the CCFL on the findings of the Working Group.

Total sugars/added sugars

31) Several delegations and observers expressed their preference for the inclusion of total sugars as opposed to added sugars noting that the body did not differentiate between the two physiologically; it was difficult to differentiate between intrinsic and extrinsic sugars analytically which could create difficulties for enforcement; that its declaration was important for certain populations such as diabetics; and that added sugars could be addressed through other means such as inclusion in ingredients lists.

32) Several other delegations and one observer noted that the WHO Global Strategy recommended limiting intake of free sugars. They proposed to retain both in square brackets for further consideration, while others proposed to include total sugars in the list, while retaining added sugars in square brackets for further consideration based on their interpretation of the statement of WHO as contained in CRD 21. One member and several observers noted that the declaration would assist consumers to make food choices that would result in the reduction of the intake of foods high in extrinsic or added sugars.

33) One delegation pointed out the need for a common definition of added sugar that would cover all kinds of ingredients added for sweetening purposes.

34) It was pointed out that other means of verification of compliance other than analytical methods could be used such as internal control-systems by producers in combination with inspections.

35) The Committee noted the following information provided by the WHO in an email: “WHO recognizes that total sugars is the only practical way of labelling the sugars content of food since added sugars cannot be distinguished analytically from intrinsic sugars. If the Committee wants to include both total sugars and added sugars, that’s fine although not sure of the benefits. But if they are debating to choose either total sugars or added sugars, it should be total sugars.”

36) In view of the lack of consensus and the range of views, the Committee agreed to remove the square brackets around total sugars and to retain the square brackets around added sugars for further consideration.

Dietary fibre

37) Several delegations opposed the inclusion of dietary fibre since it was not a nutrient identified in the Global Strategy and methods of analysis were still under consideration in CCNFSDU and were of the opinion that it should more appropriately be left to national legislation.

38) Other delegations proposed the retention of dietary fibre in square brackets noting its importance to health and the need for consumers to make better food choices.

39) Several delegations noted that this issue could be addressed by their earlier proposal to have a core and supplementary list of nutrients and proposed to retain dietary fibre in square brackets until a decision was taken on this matter.

40) Noting the discussion, the Committee agreed to retain dietary fibre in square brackets and to request comments on the rationale for the retention or removal of dietary fibre for further consideration at the next session.

Cholesterol

41) The Committee agreed with the conclusions of the working group that cholesterol should not be added to the list.

Matters to be referred to the CCNFSDU

42) The Committee agreed to refer to the CCNFSDU the following requests for consideration:

- Inclusion of saturated fat and sodium in relation to nutrient reference values for nutrients associated with risk of non-communicable diseases;
- Establishment of claims for use for labelling relating to salt, trans-fatty acids and added sugars;
- Development of principles for countries to evaluate criteria 1 “the ability of nutrition labelling to address public health issues” when addressing balancing national and global health issues.

Status of Proposed Draft Revision of the Guidelines on Nutrition Labelling (CAC/GL 2-1985) Concerning the List of Nutrients that are always Declared on a Voluntary or Mandatory Basis

43) The Committee agreed to return the Proposed Draft Revision of the Guidelines on Nutrition Labelling concerning the list of nutrients that are always declared on a voluntary or mandatory basis as amended to Step 3 for comments and further consideration by the next session of the Committee (Appendix II).

Discussion Paper on Issues Related to Mandatory Nutrition Labelling (Agenda item 4(b))⁶

44) The delegation of Australia informed the Committee on the outcome of the physical working group on issues related to mandatory nutrition labelling. The purpose of the work had been to inform the work being undertaken under Agenda items 4(a) and 4(c). The working group did not make any recommendations as to which type of labelling to be followed but rather had identified the issues that should be considered when deciding on mandatory/voluntary nutrition labelling: costs and benefits, application of mandatory nutrition labelling, implementation and support mechanisms, compliance and enforcement and international trade considerations.

45) Several delegations were of the opinion that the issue of mandatory nutrition labelling could be discussed together with the concept of having a core list of nutrients that are always to be labelled and a supplementary list of nutrients that could be labelled.

46) Some delegations stated that flexibility should be left to member states on how to implement the various rules taking into account consumer understanding and the problems of small and medium size enterprises.

47) Several delegations felt that use of the valuable results of the working group could be made through an expanded advisory paper prepared by FAO/WHO to assist countries that are considering nutrition labelling.

48) The Representative of the FAO said that FAO currently supported many capacity building projects and had developed tools on many issues related to Codex work and work on assisting countries considering nutrition labelling could be considered.

Conclusion

49) The Committee agreed that the report identified a number of practical issues that might be of interest to any governments that are considering mandatory or voluntary nutrition labelling in order to address issues related to the implementation of the Global Strategy on Diet, Physical Activity and Health and agreed that the delegation of Australia would revise and finalize the discussion paper based

⁶ CX/FL 09/37/5, CX/FL 09/37/5-Add.1 (comments of Canada, Costa Rica and IADSA), CRD 12 (comments of India, Malaysia, Thailand, Turkey and CIAA), CRD 10 (comments of Mali), CRD 15 (comments of Indonesia) and CRD 22 (comments of Kenya)

on comments made at the session and present it to the 38th Session of the Committee for review and possible publication as an appendix to the report so that it could be widely available to serve as a tool for governments.

IMPLEMENTATION OF THE WHO GLOBAL STRATEGY ON DIET, PHYSICAL ACTIVITY AND HEALTH

PROPOSED DRAFT CRITERIA/PRINCIPLES FOR LEGIBILITY AND READABILITY OF NUTRITION LABELS. (Agenda Item 4(c)⁷)

50) The Delegation of the United States, as co-chair of the physical working group on the implementation of the WHO Global Strategy on Diet, Physical Activity and Health, presented the key findings of the working group concerning criteria and principles for legibility and readability of nutrition labels. The delegation informed the Committee that the conclusions of the working group could be found in paragraphs 40 – 55 and Appendix III of CRD25. It was further noted that there was insufficient time to consider all the items under “Other Provisions for Consideration” and that these were identified in paragraph 54 of CRD 25.

Title

51) The Committee agreed to the working group’s recommendation to refer only to “legibility”, noting that “readability” is subjective and dependent on consumer understanding and consumer education measures.

General Principles

52) Some delegations, noting the applicability to nutrition labelling of Sections 8.1.1, 8.1.2 8.1.3 and 8.2 of the General Standard for the Labelling of Prepackaged Foods (GSLPF), favoured editing these sections for insertion into Section 3.4 of the Guidelines on Nutrition Labelling.

53) Other delegations, while agreeing that those sections were applicable, were of the view it would be preferable to cross reference them instead of incorporating an edited version in Section 3.4. They noted that should the text in those sections be revised at some future time it would necessitate a revision of the nutrition provisions as well.

54) The Committee noted that while there was general agreement on the principles there was no consensus on how they should be expressed. The Committee agreed that both options would be retained and circulated for comments and further consideration at its next session.

Specific Elements of Presentation

Paragraph 5

55) The Committee agreed to retain paragraph 5.

Paragraph 6 (Format)

56) Regarding paragraph 6, some delegations favoured the removal of the square brackets around [other formats], noting the need for flexibility at the national level for consideration of other formats that could be an acceptable and effective means of communication or enhancing prominence.

57) Other delegations preferred a revision of the paragraph to focus on “formatting elements” to enhance legibility to facilitate consistency in how the information would be presented.

58) Two versions of a revised text were discussed by the Committee but no consensus was reached. The Committee agreed to retain both options in square brackets for further consideration.

⁷ CX/FL 09/37/6, CX/FL 09/37/6-Add.1 (Comments from Australia, Brazil, Canada, Costa Rica, Mexico), CRD 6 (Comments from India, Korea, Malaysia, Philippines, Thailand, Turkey, CIAA), CRD 10 (Comments from Mali), CRD 15 (Comments from Indonesia), CRD17 (Comments from Ghana), CRD 19 (Comments from Nigeria), CRD 22 (Comments from Kenya), CRD 25 (Report of the Physical Working Group)

Paragraph 7 (Order)

59) The Committee agreed that discussion on this item would be deferred until after the list of nutrients was finalized.

Paragraph 8 (Font)

60) A number of delegations were of the view that a minimum font size was important but felt that it was not practical to apply it consistently across all food products due to different package sizes and types of products. They felt that the establishment of a minimum font size should be left to national authorities. One delegation commented with respect to font size that based on the review undertaken by their national Codex Committee on the subject matter they had reached the conclusion that 1mm was an adequate size and offered to provide the supporting material to the CCFL. One observer proposed that rather than the term “font-size” the “x-height” should be used.

61) The Committee agreed to retain this paragraph with an amendment in the first sentence to remove the reference to consistency across all food products.

Paragraph 9 (language)

62) The Committee agreed with the conclusion of the physical working group that this item could be deleted as it was captured within Section 8.2.

Paragraph 10 (Numerical declaration)

63) The Committee agreed that the text as written in Section 3.4.1 to 3.4.5 of the Guidelines on Nutrition Labelling should be retained until the list of nutrients was finalised and that the issue of rounding should be left to national authorities.

Exemptions and Special Provisions*Paragraph 11*

64) It was noted that this provision was relevant when nutrition labelling was mandatory. Some delegations suggested that where small packs are exempted, the nutrient declaration should be required on any larger packages containing the smaller units.

65) The Committee agreed to retain paragraph 11 in square brackets and to amend the second sentence to insert “printable” between “largest” and “surface”.

Paragraph 12

66) It was noted that this provision was relevant when nutrition labelling was mandatory. The Committee decided that this paragraph would be retained in square brackets pending the outcome of work relative to the listing of nutrients.

Other provisions for consideration

67) The Committee discussed the first bullet listed under paragraph 54 of CRD 25. Some delegations expressed the view that this was an important element for legibility while other delegations noted that since the list of nutrients still had not been finalized inclusion of this provision was premature.

68) Some delegations noted that the intent of this provision was to prevent the nutrient declaration from being cluttered with other, nonessential information. The Secretariat explained that according to the definitions for “nutrient declaration” in Sections 2.3 and 2.5 of the Guidelines for Nutrition Labelling, only nutrients may be included in the nutrient declaration. The Committee therefore agreed that the bullet was not necessary and decided to delete it.

69) The Committee did not have sufficient time to discuss the remaining bullets listed under paragraph 54 and agreed they would be retained in square brackets and circulated for comments and further consideration.

70) The Committee agreed to establish an electronic Working Group, open to all members and observers, working in English only and led by the United States of America with the following terms

of reference: to further develop the Proposed Draft Recommended Principles and Criteria for the Legibility of Nutrition Labelling in Appendix III of ALINORM 09/32/22. To consider comments received from countries in response to CL 2009/15-FL and redraft the text in Appendix III for reconsideration by the Committee at the 38th session. In accordance with the project document in Appendix VIII of ALINORM 08/31/22, universal symbols or simplified labelling are not a part of the scope or mandate of the work of the electronic working group.

Status of the Proposed Draft Criteria/Principles for Legibility of Nutrition Labels

71) The Committee agreed to return the Proposed Draft Criteria/Principles for Legibility of Nutrition Labels as amended to Step 3 for comments and further consideration by the next session of the Committee (Appendix III).

IMPLEMENTATION OF THE WHO GLOBAL STRATEGY ON DIET, PHYSICAL ACTIVITY AND HEALTH

DISCUSSION PAPER ON LABELLING PROVISIONS DEALING WITH THE FOOD INGREDIENTS IDENTIFIED IN THE GLOBAL STRATEGY ON DIET, PHYSICAL ACTIVITY AND HEALTH (Agenda Item 4d)⁸

72) The Delegation of Norway as the co-chair of the physical working group and chair of the electronic working group on the discussion paper on labelling provisions dealing with the food ingredients identified in the Global Strategy on Diet, Physical Activity and Health informed the Committee that the working group could not complete its work, but that a preliminary report (CRD 1) had been presented to the physical working group. It was reported that Norway had asked the physical working group for support for the continuation of the work. The group had noted that a number of proposed actions in CRD 1 were outside the scope of the terms of reference of the electronic working group and there was a need to more clearly specify the terms of reference of this working group should it be reconvened.

73) The Delegation further expressed the view that following discussions, in particular on salt and added sugars under Agenda Item 4(a) it was important for the electronic working group to continue and complete its work and asked the Committee to consider this proposal.

74) There was general agreement for the electronic working group to be reconvened and that it should focus its work on the ingredients listed in the Global Strategy (i.e. fruits and vegetables and legumes, whole grains and nuts, and free/added sugars and salt (sodium)) and to develop actions in relation to the labelling of these ingredients.

75) The Committee therefore agreed to reconvene the electronic Working Group, co-chaired by Norway and Canada, working in English only and open to all members and observers with the following terms of reference:

76) Considering the food ingredients identified in paragraph 22 of the Global Strategy on Diet, Physical Activity and Health, i.e., fruits and vegetables and legumes, whole grains and nuts, and free/added sugars and salt (sodium), the electronic working group will:

- review and revise the list of proposed actions in CRD 1 in order to focus on those ingredients identified in the Global Strategy as mentioned above;
- identify paragraphs in existing Codex texts on food labelling under which food ingredients identified in the Global Strategy can be addressed; and
- prepare a discussion paper for consideration by the 38th session of the CCFL.

⁸ CX/FL 09/37/7-Add.1 (comments of IBFAN), CRD 1 (Preliminary report from the Electronic Working Group on Discussion Paper on Labelling Provisions Dealing with the Food Ingredients Identified in the Global Strategy on Diet, Physical Activity and Health), CRD 4 (comments of Malaysia and ILCA), CRD 14 (comments of CIAA), CRD 25 (report of the Physical Working Group on Amendments to the GSLPF Relative to the Implementation of the WHO Global Strategy on Diet, Physical Activity and Health)

GUIDELINES FOR THE PRODUCTION, PROCESSING, LABELLING AND MARKETING OF ORGANICALLY PRODUCED FOODS (Agenda Item 5)

Annex I: Inclusion of ethylene for other products (Agenda Item 5a)⁹

77) The Committee recalled that its last session had agreed to advance to Step 8 the addition of ethylene for kiwi fruit and bananas (which had then been adopted by the 31st Session of the Commission), but to return other possible uses of ethylene to Step 6 for further consideration by this session.

78) Several other uses of ethylene were proposed:

- Ripening of tropical fruits applying the same justification as had been given for kiwis and bananas;
- Degreening of citrus fruit in case that this was part of a strategy to prevent fruit fly damage;
- Sprouting inhibitor for onions and potatoes; and
- Inducing flowering in pineapples to allow growers to produce marketable size in sufficient quantity from the same field at the same time (this use could not be included in paragraph 82 of the Guideline, but rather in Table 2, section IV “other”).

79) Several delegations opposed the extension to other fruits and uses as no new justification had been presented to the Committee against the criteria in section 5.1 of the *Guidelines*.

80) The Committee recognized the broader interest in the application of ethylene but noted that more scientific justification was needed against the criteria in section 5.1 of the *Guidelines* and invited delegations to provide justification to the next session for consideration by the Committee.

Status of the Proposed Draft Amendment: Addition of Ethylene

81) The Committee agreed 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 for the Production, Processing, Labelling and Marketing of Organically Produced Foods* and consideration by the next session of the Committee (Appendix IV).

Annex 2: Deletion of Rotenone (Agenda Item 5b)¹⁰

82) The Committee recalled that in the project document that had been approved by the 31st Session of the Commission the options were either the deletion of rotenone from Table 2 of Annex 2 of the *Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods* or restricting its use to prevent flowing into waterways.

83) Some delegations supported the deletion of rotenone citing its toxicity to fish, its negative impact on the environment and that alternatives were available for use as pesticides. It was also pointed out that the list was indicative to provide guidance and that each country could evaluate whether to use rotenone or not depending on its circumstances.

84) Several delegations supported the retention of rotenone, but with restricted use and pointed out alternatives to rotenone were not in all areas effective or available. Some delegations said that rotenone was extensively used in many countries without significant adverse environmental or public health impacts and that it was not persistent in the environment, degraded easily and was a product derived from tropical plants whose cultivation provides income.

⁹ CL 2008/11-FL, ALINORM 08/31/22, Appendix III, CX/FL 09/37/8 (comments of the European Community, Japan and the United States), CX/09/37/8-Add.1 (comments of Brazil and Canada), CRD 7 (comments of India, Philippines and Thailand), CRD 10 (comments of Mali), CRD 15 (comments of Indonesia)

¹⁰ CL 2008/27-FL, CX/FL 09/37/9 (comments of Argentina, Australia, Iran, Japan, Kenya, Mexico, Philippines, Thailand, United States of America, International Federation of Organic Agriculture Movements (IFOAM), CX/FL 09/37/9-Add.1 (comments of Brazil and Canada), CRD 10 (comments of Mali), CRD 13 (comments of India), CRD 15 (comments of Indonesia)

85) The Committee agreed to retain rotenone in Table 2 of Annex 2 but with restricted use and agreed to amend Table 2 of Annex 2, Conditions for Use to read “the substance should be used in such a way as to prevent its flowing into waterways”.

Status of Annex 2: Deletion of Rotenone

86) The Committee agreed to advance to Step 5A of the accelerated procedure for adoption by the 32nd session of the Commission the amendment to Table 2 of Annex 2, Conditions for Use of the Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods (Appendix V).

Periodic Review of the Guidelines

87) The Committee noted that a more structured approach for periodic review of the guidelines was needed and agreed to consider a proposal by the Delegation of the United States as presented in CRD 23 under Agenda Item 10 “Other business”.

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 FOODS: DEFINITIONS (at Step 7) (Agenda Item 6a)¹¹

88) Several delegations proposed discontinuation of the work on the definitions noting that they were linked to a paper that was no longer under discussion.

89) Several other delegations clarified that the definitions were an amendment for inclusion in the *General Standard for the Labelling of Prepackaged Foods* (CODEX STAN 1-1985) because 4.2.2 of the General Standard made reference to food or food ingredients obtained through biotechnology without defining this term. They proposed the definition be advanced to Step 8 for adoption.

90) The Delegation of Japan proposed two amendments. One is the first definition to read “food and food ingredients obtained through biotechnology” means food and food ingredients....” to be consistent with the GSLPF. To modify the third definition by stopping the sentence after the words modern biotechnology. The Committee however did not give consideration to this proposal, but agreed that it could be considered at the next session and to retain the draft amendment at Step 7.

Status of the Draft Amendment to the General Standard for the Labelling of Prepackaged Foods: Definitions

91) The Committee agreed to retain the Draft Amendment at Step 7 (Appendix VI).

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)¹²

92) The Committee recalled the decision of its last session to replace the text of the Proposed Draft Guidelines (ALINORM 04/27/22, Appendix VI) with Appendix III of CX/FL 08/37/8, *Proposed draft Recommendations for the Labelling of Foods and Food Ingredients Obtained through Certain Techniques of Genetic Modification / Genetic Engineering* and to circulate it at Step 3 for comments and consideration by this session of the Committee. It further recalled that the Draft Amendment to the *General Standard for the Labelling of Prepackaged Foods: Definitions* had been held at Step 7 pending further discussion on the proposed draft recommendations.

¹¹ ALINORM 08/31/22, Appendix VI, CRD 2 (comments of ILCA), CX/FL 09/37/10-Add.2 (comments of Canada)

¹² CL 2008/11-FL, ALINORM 08/31/22, Appendix VII, CL 2007/38-FL, CX/FL 09/37/10 (comments of Australia, Brazil, Colombia, European Community, Japan, Mexico, New Zealand, Norway, United States of America, ICGMA), CX/FL 09/37/10-Add.1 (comments of IBFAN), CRD.2 (India, Republic of Korea, Malaysia, Philippines, CI, IFT ILCA), CRD.10 (comments from Mali), CRD.15 (comments from Indonesia), CRD.17 (comments from Ghana), CRD.19 (comments from Nigeria) and CRD.22 (Kenya).

General remarks

93) Some delegations and some observers, were of the opinion that work on this issue should be discontinued noting that the matter had been discussed for almost two decades without consensus, that there was very little prospect of consensus in the future and considerable financial and human resources had been dedicated to this work over the years which could be better used to address more pressing health issues such as the implementation of the Global Strategy on Diet, Physical Activity and Health currently under discussion in the Committee. One delegation recalled that the first priority of Codex was protection of consumer health and food safety as asserted by the 25th Session of the Commission¹³. One delegation mentioned that Codex texts already gave sufficient guidance for the labelling of GM/GE foods and that identifying the method of production claims such as those related to GE should be a market driven decision of the private sector.– One delegation noted that it was not clear that there is agreement within the committee on the nature of the work to be undertaken.

94) One delegation mentioned that governments were sovereign to adopt labelling provisions that they deem necessary to provide information to the consumer within the framework of their respective legislation and that therefore there was no reason for Codex to be involved in establishing specific provisions on this subject matter.]

95) Many other delegations and several observers expressed the view that some progress had been made over time and emphasized that especially many developing countries looked to Codex for guidance on approaches for the labelling of GM/GE foods and that the proposed draft recommendations could prove useful in this respect. One Observer recalled that Codex had a dual mandate to not only protect the health of consumers but also to ensure fair practices in the food trade and thus a failure to label GM/GE foods could in itself be considered misleading. Several delegations and observers expressed the need for mandatory labelling to allow consumer choice, noting that GM/GE foods were a sensitive issue for consumers in their respective countries and therefore stressed the importance of continuing this work. In addition many delegations and several observers expressed their view that one of the main conclusions of the work already carried out by several working groups was that several approaches for labelling of GM/GE foods were possible. One delegation indicated that their population preferred foods derived from GM/GE techniques because they were cheaper but while this was the case the consumers would still prefer the choice of being informed if the foods were derived from GM/GE techniques and therefore could not see the rationale for the discontinuation of this work.

96) In view of the large support to continue work, the Committee proceeded to discuss the proposed draft recommendations.

Chapeau 1 and 2

97) The Committee considered the two options for the chapeau as presented in ALINORM 08/31/22, Appendix VII as “chapeau 1” and “chapeau 2”. As in the written comments there was no consensus on either of the chapeaux in the plenary discussion. Different delegations proposed amendments to one or the other chapeau, which received varying degrees of support but no consensus could be reached on any of the versions proposed.

98) In view of the lack of consensus, the Committee considered a proposal by the Chairperson to delete the chapeau and to start the document with paragraph 1.

99) There was no agreement to the text as it stood without the chapeau and several proposals were made to amend the first part of paragraph 1 to include that:

- (1) any information or pictorial device may be displayed on labels of foods obtained from GM/GE techniques provided that these are not in conflict with Codex standards and guidelines (text adapted from the optional labelling provisions in CODEX STAN 107-1981); and

¹³ ALINORM 03/25/5, para. 15

(2) to indicate that foods derived from GM/GE were not in any way different or less safe due to their method of production provided that they had undergone safety assessments consistent with relevant Codex guidelines.

100) However, no agreement could be reached on the text with these amendments.

101) In view of the lack of consensus, the Committee considered a proposal by the Chairperson to hold the work in abeyance for a minimum of three sessions until more experience had been gained on labelling of GM/GE foods by member states and to allow for bilateral and multilateral exchanges and further discussion on this matter on an informal basis.

102) Many delegations and several observers did not support this proposal, reiterating their view that progress had been made, and that only a few members were not in agreement with the work done to date, and that the document could serve as a useful basis for further discussion and would provide useful guidance to developing countries in particular. Several delegations and observers underlined that suspension of the work on such an important labelling issue recognised by the majority of the consumers of the world would undermine the credibility of the Committee and require attention in other fora such as the regional coordinating committees.

103) Other delegations, while acknowledging the needs of developing countries but noting that not all developing countries supported continuation of work on this issue, supported the view that a pause could possibly allow common ground to develop among members to progress on the work in the future and that in the meantime the Committee could concentrate its efforts on the work to facilitate the implementation of the Global Strategy on Diet, Physical Activity and Health.

104) Noting the lack of support for the proposal, the Committee therefore agreed to retain the two original chapeau proposals, in addition to several of the proposals to amend them and the proposal for paragraph 1 as amended for comments at Step 3 and further consideration by the next session of the Committee.^{or}

Status of the Proposed Draft Recommendations for the Labelling of Foods and Food Ingredients Obtained through Certain Techniques of Genetic Modification / Genetic Engineering

105) The Committee agreed to circulate the Proposed Draft Recommendations at Step 3 for comments and consideration at the next session (Appendix VII).

EDITORIAL AMENDMENTS TO CODEX TEXTS ON FOOD LABELLING (Agenda Item 7)¹⁴

106) Document CX/FL 09/37/11 had been prepared by the Codex Secretariat to seek the Committee's agreement on a number of editorial amendments to Codex texts on food labelling for possible transmission to the Commission for adoption. The Committee discussed each proposal in the document and took decisions as below.

General Standard for the Labelling of and Claims for Prepackaged Foods for Special Dietary Uses (CODEX STAN 146-1985)

107) *Section 4.3.1:* The Committee agreed to replace the words "The declaration of nutrition information on the label..." with "Nutrition labelling..." (English and Spanish versions only).

General Guidelines on Claims (CAC/GL 1-1979)

108) *Section 3.4(a):* The Committee did not agree to delete reference to the CCNFSDU because this could be seen as broadening the scope of the paragraph but agreed to clarify the text as follows: "(a) in accordance with the provisions of Codex standards or guidelines for foods as developed by the ~~under jurisdiction of the~~ Codex Committee on Nutrition and Foods for Special Dietary Uses and follow the principles set forth in these guidelines."

109) *Section 4.2:* The Committee did not agree to delete the word "healthful" which could be used as a misleading claim as to hygienic practice.

Guidelines on Nutrition Labelling (CAC/GL 2-1985)

¹⁴ CX/FL 09/37/11

110) *Purpose of the guidelines*: The Committee agreed to amend in the last sentence the words “nutritional claims are” to read “nutrition claim is” (English and French versions only).

111) *Section 2.3*: The Committee agreed to amend the words “Nutrition declaration” to read “Nutrient declaration” (English and Spanish versions only).

112) *Section 3.2.6.2*: The Committee agreed to replace the words “national authority having jurisdiction” with “competent authority” on the understanding that for the purposes of the Committee on Food Labelling the term “competent authority” means “the official government agency having jurisdiction” as defined in Section 2.2 of CAC/GL 32-1999.

113) *Section 3.2.7*: The Committee agreed to correct the reference “3.2.7” to read “3.2.6” (English and French versions only).

114) *Footnote 4*: The Committee agreed to delete the words “Proposed addition to Section 3.2.7 (Calculation of Nutrients) of the Codex Guidelines on Nutrition Labelling:”

115) *Footnote 5*: The Committee agreed to correct the reference “3.2.4.1” to read “3.2.6.1”.

116) *Section 5*: The Committee agreed to delete this section as it was directed mainly to the Committee itself and all Codex texts were kept under review by the Commission.

Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods (CAC/GL 32-1999)

117) Additionally to the amendments presented in the working document, the Committee agreed to delete Section 8 of CAC/GL 32-1999 as it contained advice to the Committee itself on how to organize the work to update the Guidelines.

118) The Secretariat clarified that the provisions in section 8 did not exempt any proposals to amend the annexes to the guidelines from following the normal Codex procedure for new work and did also not prevent any member from making proposals for the updating of the Guidelines at any time.

119) The Secretariat indicated that based upon the previous publications of the organic guidelines that they can be considered complete and that section 8 indicates the original intent for a periodic review.

Conclusions

120) The editorial amendments agreed above by the Committee will be forwarded by the Secretariat to the 32nd Session of the Codex Alimentarius Commission for adoption.

121) The Committee also agreed to transmit to the Commission the view of the Committee that the term “competent authority” should be defined Codex wide in the Procedural Manual.

DISCUSSION PAPER ON THE NEED TO AMEND THE GENERAL STANDARD FOR THE LABELLING OF PREPACKAGED FOODS (CODEX STAN 1-1985) IN LINE WITH OIML RECOMMENDATIONS REGARDING THE DECLARATION OF THE QUANTITY OF PRODUCT IN PREPACKAGES. (Agenda Item 8)¹⁵

122) The representative from the International Organization of Legal Metrology (OIML) introduced the discussion paper that contained proposals for the alignment of Codex texts with those developed by OIML. The representative thanked members for the comments it had received and noted that the comments identified some implications for national legislation that OIML had not taken into consideration. The representative indicated that he would like to have the opportunity to revise the discussion paper in light of the comments received.

¹⁵ CX/FL 09/37/12; CX/FL 09/37/12-Add.1 (Comments from Canada), CX/FL 09/37/12 CRD 8 (Comments from Philippines and Turkey), CX/FL 09/37/12 CRD 9 (Communication from the OIML), CX/FL 09/37/12 CRD 10 (Comments from Mali), CX/FL 09/37/12 CRD 15 (Comments from Indonesia); CX/FL 09/37/12 CRD 19 (Comments from Nigeria), CX/FL 09/37/12 CRD 22 (Comments from Kenya), CX/FL 09/37/12 CRD 24 (Comments from Thailand).

123) Some delegations questioned the need to support further work while other delegations expressed the view that a revised paper might be helpful in clarifying what impact OIML's proposals would have on Codex texts.

124) The Committee agreed to invite the representative of OIML to redraft the discussion paper for consideration at its next session while noting that no commitment was being made to undertake new work.

DISCUSSION PAPER ON MODIFIED STANDARDIZED COMMON NAMES (Agenda Item 9)¹⁶

125) The delegation of Canada introduced the discussion paper and recalled that the Global Strategy on Diet, Physical Activity and Health had encouraged the food industry to develop innovative foods supporting its implementation. The delegation also recalled that the Draft Action Plan for Implementation of the Global Strategy on Diet, Physical Activity and Health had contained a proposed action that the Codex General Standard for the Labelling of Prepackaged Foods be amended to permit the use of the names established in a standard to be used in conjunction with either a comparative claim or a nutrient content claim on the label of a modified standardized food, provided that the claims comply with requirements set out in the Codex Guidelines for Use of Nutrition and Health Claims.” (CL 2006/44-CAC, para 82).

126) Following previous discussion papers and discussions in the Committee, the electronic working group under the leadership of Canada considered in a discussion paper what would be entailed in the scope of the work if it was undertaken and what would be the effect on other Codex standards, while keeping in mind that it was important that the identity of the product be kept. As in previous sessions the Committee was divided on this issue.

127) Many delegations and some observers, while sharing the objective of the document, did not support continuation of this work. The following points were made supporting this position:

- There are other means to inform consumers than to modify standardized names.
- Modification of standardized names can only be applied to a limited number of products and most of these already have relevant provisions e.g. milk products.
- Modification of a standardized name could confuse consumers and would be unfair because consumers expect certain essential characteristics and quality of a product with a standardized name.
- Modification of standardized names could be better dealt with in the commodity standards and any issues of consistency could be dealt with through the endorsement process.
- There are too many variations in products as to be able to define this at the horizontal level and it would also be difficult to deal with modified names in different languages;
- How can it be controlled that “the basic identity” of the modified food is the same?
- There should be evidence given that use of modified standardized names would have a positive effect on public health.
- It would be better to replace existing products with newer more healthily formulated products.
- Modified products may need more food additives (e.g. sugar reduced jams) and be of lower quality and lack beneficial characteristics that the consumer may expect (e.g. reduced fat chocolate).

128) One delegation wondered how this issue was related to food fortification. They suggested that this topic should be discussed in the CCNFSDU.

¹⁶ CX/FL 09/37/13, CX/FL 09/37/13-Add.1 (comments of Canada and IBFAN); CRD 5 (comments of India, Turkey and ILCA); CRD 10 (comments of Mali) and CRD 19 (comments of Nigeria).

129) Many other delegations and some observers supported continuation of this work. The following points were made in support of this position:

- The issue is relevant to the implementation of the Global Strategy on Diet, Physical Activity and Health.
- Products with modified names are already on the market and rules are needed to protect the consumers from unfair practices.
- Horizontal guidance from CCFL is necessary to ensure consistency in the use of claims in naming.
- The possibility to use modified standardized names can motivate the industry to reformulate foods.
- There may be special rules necessary for foods for children and young infants but dealing with this in a horizontal committee would be more efficient.
- The work would give guidance to commodity committees on how to address the issue consistently.

Conclusion

130) The Committee recognized that there was a diversity of views on whether or not the CCFL should provide horizontal guidance on the use of modified standardized common names for the purpose of nutrition claims in the context of the implementation of the Global Strategy on Diet Physical Activity and Health and, therefore, it was not reasonable to either completely discontinue discussing the issue nor to request starting new work at the present time.

131) In order to be better informed for a further analysis of this issue, the Committee 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.

132) It was mentioned that it could be useful if national delegates to the CCFL would consult with their counterparts in commodity committees to discuss the topic.

133) Because of the meeting schedule of the relevant Committees, further detailed discussion on this issue would be deferred until its 39th session. At the 38th Session consideration would be given to the terms of reference of an electronic working group to further develop a discussion paper taking into account the advice of relevant Codex Committees and further advice from Codex members and observers.

134) The Committee agreed that the discussion on modified standardized common names will remain on the CCFL agenda as a separate item since it is still in the stage of a discussion paper and not new work.

OTHER BUSINESS, FUTURE WORK AND DATE AND PLACE OF THE NEXT SESSION

(Agenda Item 10)¹⁷

Establishment of a process for the periodic review of the *Guidelines For The Production, Processing, Labelling And Marketing Of Organically Produced Food* in line with the process outlined in Section 8.1 of the *Guidelines*

135) The Committee considered the proposal by the Delegation of the United States of America as presented in CRD 23 for a more structured approach to the review of the Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Food in particular modification of the lists in Annex 2.

¹⁷ CRD 23 (proposal from the United States of America), CRD 20 (proposal from the European Community), CRD 19 (proposal from Nigeria)

136) Some delegations agreed in principle with the need for a structured approach, but expressed the concern with the proposed four-year period for review, noting that this would make the process too slow and inefficient. It was further noted that there might be constant need for minor revisions and that proposals for revisions or amendments could run in parallel with the process of developing a structured approach. According to Codex procedures any member could at any time put forward such proposals. Some delegations noted that timing was not critical as annex 2 contains indicative lists.

137) The Committee agreed that the Delegation of the United States of America would develop a discussion paper, which would more clearly define the process for consideration by the Committee at its next session.

Inclusion of spinosad, potassium bicarbonate and copper octanoate in Annex II, Table 2 of the Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods

138) The Committee considered the proposal presented by the Delegation of the European Community regarding the inclusion of above-mentioned three substances in Annex II, Table 2 of the Guidelines (CRD 20).

139) The Committee noted that more justification against the criteria in Section 5.1 of the *Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods* was needed to agree new work and interested delegations could prepare a new proposal on this issue for the next session if they so wished.

Exchange of information between competent authorities when suspecting fraud concerning organic products

140) The Committee considered the proposal by the Delegation of the European Community as presented in CRD20.

141) One delegation expressed the view that such work should more appropriately be dealt with in the Committee on Food Import and Export Certification Systems (CCFICS).

142) Other delegations welcomed this proposal for new work and were of the opinion that CCFL would be the appropriate committee to undertake such work.

143) The Codex Secretariat clarified that current procedures placed no impediment for CCFL to discuss the possibility to undertake such work and prepare a project document. The Executive Committee through the critical review process and consequently the Commission would then decide which subsidiary body should undertake the new work.

144) The Committee agreed that the Delegation of the European Community would prepare a discussion paper on issues related to the exchange of information between competent authorities when suspecting fraud concerning organic products and the scope of possible new work for consideration by the next session of the Committee.

Misleading naming of energy drinks

145) The Delegation of Nigeria, referring to CRD 19, explained that the name of some energy drinks which contain stimulants such as caffeine, guarana, etc. but were low in energy was misleading and even harmful to consumers and proposed that the Committee consider new work to better describe and name these products.

146) One delegation reminded the Committee that a discussion on energy drinks had already been held in the CCFL and the CCNFSDU and that the CCNFSDU had concluded, in 2001, that there was no need for work in this regard. One observer noted that since this decision, new developments in the science of energy drinks had occurred and they were prepared to assist Nigeria in the preparation of a discussion paper. Some other delegations supported the proposal of Nigeria for new work.

147) The Committee agreed that a discussion paper prepared by Nigeria with the support of IACFO would be considered at the next session.

Date and Place of the Next Session

148) The Committee was informed that its next session would be held in Quebec City during the first week of May 2010, the final arrangements to be determined between the host country and Codex Secretariat.

SUMMARY STATUS OF WORK

Subject Matter	Step	Action by	Document Reference in ALINORM 09/32/22
Proposed Draft Amendment to the Guidelines for Organically Produced Foods (rotenone)	5A	Governments 32 nd CAC	para. 87 Appendix V
Draft Amendment to the Guidelines for Organically Produced Foods (Ethylene for other uses)	6	Governments 38 th CCFL	para. 81 Appendix IV
Draft Amendment to the General Standard: Definitions	7	38 th CCFL	para. 91 Appendix VI
Proposed Draft Revised Guidelines on Nutrition Labelling (Section 3.2 Listing of Nutrients)	3	Governments 38 th CCFL	para. 43 Appendix II
Proposed Draft Recommended Principles and criteria for Legibility of Nutrition Labelling	3	Governments 38 th CCFL	para. 71 Appendix III
Proposed Draft Recommendations for the Labelling of Foods obtained through certain techniques of GM/GE	3	Governments 38 th CCFL	para. 105 Appendix VII

APPENDIX I

LIST OF PARTICIPANTS
LISTES DES PARTICIPANTS
LISTA DE PARTICIPANTES

Chairperson/
Président/
Presidente:

Mr. Paul Mayers
Associate Vice President, Programs
Canadian Food Inspection Agency
1400 Merivale Road
Tower 1, 4th Floor, Room 104
Ottawa, ON K1A 0Y9, CANADA
Tel.: (613) 773-5747
E-mail: paul.mayers@inspection.gc.ca

ARGENTINA
ARGENTINE

Dra. Andrea Calzetta-Resio
(Jefe de delegación)
Supervisor Técnico de Aprobación de Productos
Alimenticios
Servicio Nacional de Sanidad y Calidad Agroalimentaria
(SENASA)
Av. Paseo Colón 439 piso 1 frente
Ciudad Autónoma de Buenos Aires
ARGENTINA
Tel.: +54 11 41215087
E-mail: acalzet@senasa.gov.ar

Dra. Alicia Esperanza Menéndez
Jefe de Departamento Legislación y Normatización
Instituto Nacional de Alimentos (INAL)
Administración de Medicamentos Alimentos y
Tecnología Médica
Ministerio de Salud
Estados Unidos 25 C.A.B.A., ARGENTINA
Tel.: +54 11 4340 0800, ext. 3518
Fax: +54 11 4340 0800, ext. 3518
E-mail : amenende@anmat.gov.ar

Lic. Maria Cristina López
Legislación y Alimentos Funcionales – Centro de
Cereales y Oleaginosas
Instituto Nacional de Tecnología Industrial
Colectora Gral Paz 5441
San Martin, Provincia de Buenos Aires 1650
ARGENTINA
Tel.: +54 11 47535743
Fax: +54 11 47535743
E-mail: kitty@inti.gob.ar

AUSTRALIA
AUSTRALIE

Ms. Kylie Jonasson
(Head of Delegation)
Assistant Secretary, Research, Regulation and Food Branch
Department of Health and Ageing
GPO Box 9848
Canberra ACT 2601, AUSTRALIA
Tel.: +61 2 6289 1770
Fax: +61 2 6289 8060
E-mail: kylie.jonasson@health.gov.au

Ms. Jane Allen
Manager, Labelling
Food Standards Australia New Zealand
55 Blackall St., Barton
Canberra BC 2600, AUSTRALIA
Tel.: +61 2 6271 2678
Fax: +61 2 6271 2222
E-mail: jane.allen@foodstandards.gov.au

Ms. Usha Sriram-Prasad
Manager, Food Regulation and Safety
Australian Government Department of Agriculture,
Fisheries and Forestry
GPO Box 858
Canberra ACT 2601, AUSTRALIA
Tel.: +61 2 6272 3547
Fax: +61 2 6272 5697
E-mail: usha.sp@daff.gov.au

AUSTRIA
AUTRICHE

Dr. Gertraud Fischinger
(Head of Delegation)
Federal Ministry of Health
Radetzkystraße. 2
A-1030 Vienna, AUSTRIA
Tel.: +43 1 71100-4771
Fax: +43 1 7134404-2318
E-mail: gertraud.fischinger@bmg.gv.at

BARBADOS
BARBADE

Mr. Fabian Scott
(Head of Delegation)
Chief Technical Officer
Barbados National Standards Institution
Culloden Road
St. Michael, BARBADOS BB14001
Tel.: +246 426 3870
Fax: +246 436 1495
E-mail: office@bnsi.com.bb

BELGIUM
BELGIQUE
BÉLGICA

Mr. Jean Pottier
(Head of Delegation)
Regulatory Expert – Food Labelling and Nutrition/Health
Claims
Department of Public Health, Safety of the Food Chain and
Environment
Place Victor Horta, 40 bte 10
Brussels 1060, BELGIUM
Tel.: +32 (2) 524 73 62
Fax: +32 (2) 524 73 99
E-mail: jean.pottier@health.fgov.be

BOTSWANA

Dr. Kerapetse Sehularo
(Head of Delegation)
Deputy Director Veterinary Services
Department of Veterinary Services
Ministry of Agriculture
Private Bag 12
Lobatse, BOTSWANA
Tel.: +267 5330243 / 71258440
Fax: +267 5333 255
E-mail: ksehularo@gov.bw
E-mail: ksehularo@lycos.com

BRAZIL
BRÉSIL
BRASIL

Mrs. Juliana Ribeiro Alexandre
(Head of Delegation)
Federal Inspector
Ministry of Agriculture, Livestock and Food Supply
Esplanada dos Ministérios
Bloco D, Anexo A, Sala 452
70.043-900 Brasília - DF, BRAZIL
Tel.: +55 61 3218 2320
Fax: +55 61 3218 3075
E-mail: juliana.alexandre@agricultura.gov.br

Mr. Emiliano Alves Dos Santos Junior
Federal Inspector
Ministry of Agriculture, Livestock and Food Supply
Esplanada dos Ministérios
Bloco D, Anexo A, Sala 439
70.043-900 Brasília - DF, BRAZIL
Tel.: +55 61 3218 2683
Fax: +55 61 3218 2727
E-mail: emiliano.santos@agricultura.gov.br

Ms. Mariana Carvalho Pinheiro
Technical Advisor
Ministry of Health of Brazil
SEPN 511 Bloco C Edifício Bittar IV, 4º Andar - Asa Norte
70,750-043 Brasília, Distrito Federal, BRAZIL
Tel.: +55 61 3448 8311
Fax: +55 61 3448 8228
E-mail: mariana.pinheiro@saude.gov.br

BULGARIA, REPUBLIC OF
BULGARIE, RÉPUBLIQUE DE
BULGARIA, REPÚBLICA DE

Ms. Sylvia Zdravkova Bakardjieva
(Head of Delegation)
Legal Adviser, National Codex Contact Point
Ministry of Agriculture and Food
55 Hristo Botev Blvd.
Sofia 1050, REPUBLIC OF BULGARIA
Tel.: +359 2 985 11 847
E-mail: sbakardjieva@mzh.government.bg

CAMEROON
CAMEROUN
CAMERÚN

Mme. NDE NINGO Grace
(Chef de délégation)
Chief of Service for Quality Control of Foods
Department of Health Promotion
Sub-Department of Food and Nutrition
Ministry of Public Health
Yaoundé, CAMEROUN
Tel: +237 769 31 86
E-mail: gningo@hotmail.com

CANADA
CANADÁ

Ms. Johanne Beaulieu
(Head of Delegation)
Director, Consumer Protection Division
Canadian Food Inspection Agency
1400 Merivale Road, Room T2-6-150
Ottawa, ON K1A 0Y9, CANADA
Tel.: (613) 773-5487
Fax: (613) 773-5603
E-mail: johanne.beaulieu@inspection.gc.ca

Mr. Karl Dupuis
Deputy Director
Technical Trade Policy Division
Agriculture and Agri-Food Canada
1305 Baseline Road T5-3-144
Ottawa, ON K1A 0C5, CANADA
Tel.: (613) 773-1632
Fax: (613) 773-1616
E-mail: karl.dupuis@agr.gc.ca

Dr. Mary L'Abbé
Director, Bureau of Nutritional Sciences
Health Canada
251 Promenade Sir Frederick Banting Driveway (2203B)
Ottawa, ON K1A 0K9, CANADA
Tel.: (613) 948-8476
Fax: (613) 948-8470
E-mail: mary_labbe@hc-sc.gc.ca

Ms. Lydia Dumais
Section Head, Bureau of Nutritional Sciences
Health Canada
251 Promenade Sir Frederick Banting Driveway (2203E)
Ottawa, ON K1A 0K9, CANADA
Tel.: (613) 954-0632
Fax: (613) 941-6636
E-mail: lydia_dumais@hc-sc.gc.ca

Ms. Barbara Buchanan
Regulatory Policy Officer
Health Canada
251 Sir Frederick Banting Driveway
Ottawa, ON K1A 0K9, CANADA
Tel.: (613) 957-3411
Fax: (613) 946-4590
E-mail: barbara_buchanan@hc-sc.gc.ca

Ms. Kathy Twardek
Acting National Manager, Consumer Protection Division
Canadian Food Inspection Agency
1400 Merivale Road, Room T2-6-141
Ottawa, ON K1A 0Y9, CANADA
Tel.: (613) 773-5489
Fax: (613) 773-5603
E-mail: kathy.twardek@inspection.gc.ca

Ms. Charmaine Kuran
National Manager, Consumer Protection Division
Canadian Food Inspection Agency
1400 Merivale Road, Room T2-6C
Ottawa, ON K1A 0Y9, CANADA
Tel.: (613) 773-5497
Fax: (613) 773-5603
E-mail: charmaine.kuran@inspection.gc.ca

Ms. Callie Stewart
Deputy Director, Technical Barriers and Regulations
Foreign Affairs and International Trade Canada
125 Sussex Drive
Ottawa, ON K1A 0G2, CANADA
Tel.: (613) 944-8998
Fax: (613) 943-0346
E-mail: callie.stewart@international.gc.ca

Ms. Jennifer Jamieson
Trade Policy Analyst
Technical Trade Policy Division
Agriculture and Agri-Food Canada
1305 Baseline Road T5-3-144
Ottawa, ON K1A 0C5, CANADA
Tel.: (613) 773-1635
Fax: (613) 773-1616
E-mail: jennifer.jamieson@agr.gc.ca

Mr. Vasken Khabayan
Counsel, Trade Law Bureau
Foreign Affairs and International Trade Canada /
Department of Justice
125 Sussex Drive
Ottawa, ON K1A 0G2, CANADA
Tel.: (613) 995-7447
Fax: (613) 944-0983
E-mail: vasken.khabayan@international.gc.ca

Non-Governmental Observer

Ms. Margherita Marcone
Assistant Director, Policy and Law
Dairy Farmers of Canada
21 Florence Street
Ottawa, ON K2P 0W6, CANADA
Tel.: (613) 236-9997
Fax: (613) 236-0905
E-mail: margherita.marcone@dfc-plc.ca
E-mail: roxanne.potvin@dfc-plc.ca

CHILE CHILI

Ms. Luisa Kipreos García
(Jefe de Delegación)
Asesor Profesional del Departamento de Alimentos y
Subsecretaría de Salud Pública
Ministerio de Salud
Mac Iver 549-8° Piso
8320064 Santiago, CHILE
Tel.: +56 2 5740393
Fax: +56 2 6649150
E-mail: lkipreos@minsal.cl

**CHINA, PEOPLE'S REPUBLIC OF
CHINE
CHINA**

Liu Ming
(Head of Delegation)
Officer
Bureau of Food Safety Coordination and Health Supervision
MOH
1, Nanlu, Xizhimenwai
100044 Beijing, P.R. CHINA
Tel.: +86 10 68792986
Fax: +86 10 68792408
E-mail: liumingmoh@hotmail.com

Li Qiang
Engineer
China National Institute of Standardization
No. 4 Zhi Chun Road, Hai Dian District
100088 Beijing, P.R. CHINA
Tel.: +86 10 58811643
Fax: +86 10 58811643
E-mail: liqiang@cnis.gov.cn

Zhulihua
Practical Researcher
National Institute of Nutrition and Food Safety
China CDC
No. 7, Panjiayuan Nanli, Chaoyang District
100021 Beijing, P.R. CHINA
Tel.: +86 10 87776914
E-mail: zhulihua2011@yahoo.com.cn

Wu Yajun
Assistant Researcher
Chinese Academy of Inspection and Quarantine
No. A3, Gaobeidian North Street
Chaoyang District
100123 Beijing, P.R. CHINA
Tel.: +86 10 85773355-2188
Fax: +86 10 85774634
E-mail: wuyajun_bj@yahoo.com.cn

Li Xiaoyu
Associate Professor
National Center for Health Inspection and Supervision
No. 32 Jiaodaokou, Beisantiao, Dongcheng District
100007 Beijing, P.R. CHINA
Tel.: +86 10 64047878-2139
Fax: +86 10 64047878-2152
E-mail: xyL74@yahoo.com

Zhang Xiaoli
Director of Department
Research Center for Standards and Technical Regulations,
AQSIQ
No. 9, Madiandonglu, Haidian District
Beijing 100088, P.R. CHINA
Tel.: +86 10 82262401
Fax: +86 10 82260614
E-mail: zhangxl@aqsiq.gov.cn

COSTA RICA

Jorge Arturo Jara Aguilar
(Jefe de Delegación)
I Vice Presidente
Cámara Costarricense Industria Alimentaria, CACIA
Del cementerio principal de Guadalupe 300 Este
200 Sur y 25 Noreste
Apto 7097 1000 San José, COSTA RICA
Tel.: +506 22 99 3423
Fax: +506 22 99 3263
E-mail: jjara@la.ko.com

CUBA

Mrs. Gwendolyne Spech Abreu
(Head of Delegation)
Especialista, Dirección de Exportaciones
Ministerio de Comercio Exterior y la Inversión
Extranjera
Infanta No 16 esquina 23, Vedado, Plaza de la
Revolución
Ciudad de La Habana 10400, CUBA
Tel.: +537 835 74 29
Fax: +537 835 74 27
E-mail: gwendolyne.spech@mincex.cu

**CZECH REPUBLIC
RÉPUBLIQUE TCHÈQUE
REPÚBLICA CHECA**

Mr. Jindřich Fialka
(Head of Delegation)
Director of Food Production and Legislation Department
Ministry of Agriculture, Czech Republic
Těšnov 17, Prague 117 05, CZECH REPUBLIC
Tel: +420 221 812 465
Fax: +420 222 314 117
E-mail: jindrich.fialka@seznam.cz

Mr. Martin Štěpánek
Deputy Director, Food Production Department
Ministry of Agriculture
Těšnov 17, Prague 117 05, CZECH REPUBLIC
Tel: +420 221 812 838
Fax: +420 222 314 117
E-mail: martin.stepanek@mze.cz

Mr. Petr Čejka
Foodstuffs Attaché
Ministry of Foreign Affairs
Loretánské Nám. 101/5
Prague 118 00, CZECH REPUBLIC
Tel: +320 221 39 428
Fax: +320 221 39 184
E-mail: petr_cejka@mze.cz

Ms. Eva Příbylová
Head of Unit
Department of Public Health Protection
Ministry of Health
Palackého nám. 4
128 01 Praha 2, CZECH REPUBLIC
Tel.: +420 224 972 188
Fax: +420 224 972 105
E-mail: eva.pribylova@mzcr.cz

Mr. Antonio Ataz
Administrator
General Secretariat of the Council of the European Union
(EU) - The Czech Presidency
Rue de la Loi 175
Brussels 1048, BELGIUM
Tel.: +32 2 281 4964
Fax: +32 2 281 6198
E-mail: antonio.ataz@consilium.europa.eu

DENMARK
DANEMARK
DINAMARCA

Ms. Pernille Madsen
(Head of Delegation)
Head of Section
Danish Veterinary and Food Administration
Mørkhøj Bygade 19
Søborg 2860, DENMARK
Tel.: +45 3395 6154
Fax: +45 3395 6001
E-mail: plum@fvst.dk

Ms. Anette Flensburg
Head of Section
Division for Nutrition
Ministry of Food, Agriculture and Food
Danish Veterinary and Food Administration
Mørkhøj Bygade 19
Søborg 2860, DENMARK
Tel.: +45 33 95 60 00
Fax: +45 33 95 60 01
E-mail: anfl@fvst.dk

Ms. Linda Jensen
Chief Adviser, Food Scientist
Danish Meat Association
Axeltorv 3
DK-1609 Copenhagen V, DENMARK
Tel.: +45 3373 2568
Fax: +45 3393 1023
E-mail: LMJ@danishmeat.dk

EUROPEAN COMMUNITY (MEMBER ORGANIZATION)
COMMUNAUTÉ EUROPÉENNE (ORGANISATION MEMBRE)
COMUNIDAD EUROPEA (ORGANIZACIÓN MIEMBRO)

Dr. Jérôme Lepeintre
(Head of Delegation)
Chef d'Unité f.f.
Direction Generale de la Santé et des Consommateurs
European Commission
Rue Froissart 101 (02/62)
B-1049 Brussels, BELGIUM
Tel.: +32 2 2993701
Fax: +32 2 2998566
E-mail: jerome.lepeintre@ec.europa.eu

Ms. Helen Lee
Administrator
European Commission
Office B232 8/48
B-1049 Brussels, BELGIUM
Tel.: +322 2998668
E-mail: helen.lee@ec.europa.eu

Mr. Basil Mathioudakis
Head of Unit
European Commission
Office F101 8/82
B-1049 Brussels, BELGIUM
Tel.: +32 2 2959182
Fax: +32 2 2951735
E-mail: basil.mathioudakis@ec.europa.eu

Mr. Marco Valletta
Policy Officer
DG SANCO
European Commission
Rue Belliaro 232
B-1049 Brussels, BELGIUM
Tel.: +32 2 2959854
Fax: +32 2 2956043
E-mail: marco.valletta@ec.europa.eu

Ms. Ersilia Moliterno
EC Official (Assistant)
Directorate General for Agriculture and Rural Development
European Commission
Rue de la Loi 200
B-1049 Brussels, BELGIUM
Tel.: +32 2 296 13 49
Fax: +32 2 292 16 72
E-mail: consiglia.moliterno@ec.europa.eu

FRANCE
FRANCIA

M. Emmanuel Large
(Chef de délégation)
Direction Générale de la Concurrence, de la
Consommation et de la Répression de Fraudes
Ministère de l'Économie, de l'Industrie et de l'Emploi,
Bureau C3 – Télédéc 051
59, boulevard Vincent Auriol
75703 Paris Cedex 13, FRANCE
Tel.: +33 1 44 97 32 24
Fax: +33 1 44 97 32 30
E-mail: emmanuel-chrys.large@dgcrcf.finances.gouv.fr

Mme Murielle Clemente
Chargée de mission sur les questions liées à la
réglementation de la nutrition
Ministère de la santé et des sports
Direction générale de la santé
14, avenue Duquesne
75350 Paris 07 SP, FRANCE
Tel.: +33 1 40 56 43 32
Fax: +33 1 40 56 54 12
E-mail: murielle.clemente@sante.gouv.fr

GERMANY
ALLEMAGNE
ALEMANIA

Mr. Gerhard Bialonski
(Head of Delegation)
Head of Unit
Federal Ministry of Food, Agriculture and Consumer
Protection
Rochusstrasse 1, D-53639 Bonn, GERMANY
Tel.: +49 228 529 4651
Fax: +49 228 529 4947
E-mail: 314@bmelv.bund.de

Ms. Angelika Mrohs
Managing Director
BLL (German Federation for Food Law and Food
Science)
Godesberger Allee 142-148
D-53175 Bonn, GERMANY
Tel.: +49 228 81993 133
Fax: +49 228 81993 233
E-mail: amrohs@bll.de

Ms. Marie Dubitsky
Managing Director
Maria Dubitsky Consulting
Andreas-Kasperbauer Str. 13
Haar 85540, GERMANY
Tel.: +49 89 6804131
Fax: +49 89 46148492
E-mail: marie@dubitsky.de

Dr. Susanne Kettler
EUR-SRA Manager EU Affairs
Coca-Cola Europe
Chaussée de Mons 1424
B-1070 Brussels, BELGIUM
Tel.: +32 471 989045
Fax: +32 2 559 23 78
E-mail: skettler@eur.ko.com

GHANA

Ms. Maria Lovelace-Johnson
Head, Food Safety Management Unit
Food and Drugs Board (FDB)
P.O. Box CT 2783
Cantonments, Accra, GHANA
Tel.: +233 21 21 233200
Fax: +233 21 22 9794
E-mail: maljohnson@fdbghana.gov.gh

GREECE
GRÈCE
GRECIA

Mr. Raikos V. Athanasios
(Head of Delegation)
Officer / Directorate III, Evaluation and Approval
Ministry of Rural Development and Food
Hellenic Food Authority (EFET)
124 Kifissias Av. & Iatridou 2 St.
11526 Athens, GREECE
Tel.: +30 210 6971533
Fax: +30 210 6971560
E-mail: araikos@efet.gr

Mr. Kontolaimos Vasileios
Legal Advisor
Greek Ministry of Rural Development and Food
29 Acharnon Street
10439 Athens, GREECE
Tel.: +30 210 8254621
Fax: +30 210 8250307
E-mail: cohalka@otenet.gr

GUATEMALA

Ms. Ana Gabriela Maroquin Pazos
(Jefe de Delegación)
Coordinadora Codex Alimentarius
Ministerio de Agricultura, Ganadería y Alimentación
7a. Avenida 12-90 zona 13, Edificio Infoagro,
Segundo Nivel, oficina 4
01013 GUATEMALA
Tel.: (502) 2413 7466
Fax: (502) 2413 7454
E-mail: codexguatemala@yahoo.com
E-mail: apazos@maga.gob.gt

GUINEA-BISSAU
GUINÉE-BISSAU
GUINEA-BISSAU

José Mora N'Sum-ne
(Chef de délégation)
Responsable d'information et Communication du Comité
National du Codex Alimentarius de la Guinée-Bissau
Ministère de l'Agriculture et Développement Rural/
Centre du documentation et diffusion agricole
MADR /CDEDA – Rue Ex-QG/Bissau
B.P.-71-Bissau, GUINÉE-BISSAU
Tel. : (245) 664 91 45
Fax: (245) 322 10 19
E-mail: nsumne@hotmail.com

GUYANA

Dr. Chatterpaul Ramcharran
(Head of Delegation)
Executive Director
Guyana National Bureau of Standards
Flat 15, Exhibition Complex Sophia
Georgetown, GUYANA
Tel.: +592 219 0063
Fax: +592 219 0070
E-mail: cramcharran@gnbs.info
E-mail: gnbs@networksgy.com

HAITI
HAÏTI
HAITÍ

Mme Roberta Jean-Baptiste
(Head of Delegation)
Assistant-Directeur
Ministère du Commerce et de l'Industrie
8, rue Légitime
HT6112 Port-au-Prince, HAITI
Tel.: +509 22221919
Fax: +509 22238402
E-mail: dcqpc_mci@yahoo.fr

HUNGARY
HONGRIE
HUNGRÍA

Attila Tóth
Agricultural Attaché
Embassy of Hungary to the U.S.A.
3910 Shoemaker Street, NW
Washington, DC 20008, U.S.A.
Tel.: (202) 363-3228
Fax: (202) 966-8135
E-mail: totha@kum.hu

INDIA
INDE

Mr. A.K. Goswami
Consul
Consulate General of India
325 Howe Street
Vancouver, B.C. V6C 1Z7, CANADA
Tel.: (604) 681-0003
Fax: (604) 682-2471
E-mail: indiahoc@telus.net

INDONESIA
INDONÉSIE

Ms. Tetty Helfery Sihombing
(Head of Delegation)
Director of Food Products Standardization
National Agency for Drug and Food Control
Jl. Percetakan Negara No. 23 Jakarta Pusat
Jakarta 10560, INDONESIA
Tel.: +62 21 42875584
Fax: +62 21 42875780
E-mail: tettyhelfery@yahoo.com

Mr. Edinur
Head of Sub-Directorate of Processed Food Standardization
Directorate of Food Products Standardization
National Agency for Drug and Food Control
Jl. Percetakan Negara No. 23 Jakarta Pusat
Jakarta 10560, INDONESIA
Tel.: +62 21 42875584
Fax: +62 21 42875780
E-mail: subdit_spo@yahoo.com

Ms. Nasirah Bahaudin
Director of Rational Use of Medicine
Ministry of Health
Jl HR Rasuna Said, Blok X5 No 4-9
Jakarta 12950, INDONESIA
Tel.: +62 21 5214873
Fax: +62 21 5214873
E-mail: n_bahaudin@yahoo.com

Dr. Ina Hernawati
Director of Community Nutrition
Directorate General of Public Health
Ministry of Health
Jl HR Rasuna Said, Blok X5 No 4-9
Jakarta 12950, INDONESIA
Tel.: +62 21 5203883
Fax: +62 21 5210176
E-mail: hernawati_ina@yahoo.com

Mr. Suradi
Head of Sub-Directorate Industrial Joint Venture and
Investment Promotion
Directorate General of Agricultural Based and Chemical
Industry
Ministry of Industry
Jl. Gatot Subroto Kav. 52-53 Jakarta
Jakarta 12950, INDONESIA
Tel.: +62 21 5252236
Fax: +62 21 5252236
E-mail: irsuradi@yahoo.co.id

Mr. Agus Sutopo
Head of Section Standardization and Technology
Directorate General of Agricultural Based and Chemical
Industry
Ministry of Industry
Jl. Gatot Subroto Kav. 52-53 Jakarta
Jakarta 12950, INDONESIA
Tel.: +62 21 5252236
Fax: +62 21 5252236
E-mail: agussutopo@gmail.com

Mr. Akhyar Rais
Head of Quality Control Export Commodity Division
Ministry of Trade
Jl. Raya Bogor KM. 26 Ciracas
Jakarta 13740, INDONESIA
Tel.: +62 21 8710321-323
Fax: +62 21 8710478
E-mail: akhyar_rais@yahoo.com

Mr. Yogo Dwiantoro
Staff, Directorate of Supervision and Quality Control
Ministry of Trade
Jl. Raya Bogor KM. 26 Ciracas
Jakarta 13740, INDONESIA
Tel.: +62 21 8710321
Fax: +62 21 8710478
E-mail: yogo_1802@yahoo.com

Singgih Yuwono
Consul for Information, Social and Cultural Affairs
Consulate General of the Republic of Indonesia
1630 Alberni Street
Vancouver, B.C. V6G 1A6, CANADA
Tel.: (604) 682-8855
Fax: (604) 662-8396
E-mail: singgih@indonesiavancouver.org

IRELAND**IRLANDE****IRLANDA**

Ms. Paula Barry Walsh
(Head of Delegation)
Senior Superintending Veterinary Officer
Department of Agriculture, Fisheries and Food
Agriculture House, Kildare Street
Dublin 2, IRELAND
Tel.: +353 1 6072648
Fax: +353 1 6789733
E-mail: paula.barrywalsh@agriculture.gov.ie

Dr. Mary A.T. Flynn
Chief Specialist, Public Health Nutrition
Food Safety Authority of Ireland
Abbey Court, Lower Abbey Street
Dublin 1, IRELAND
Tel.: +353 1 8171346
Fax: +353 1 8171246
E-mail: mflynn@fsai.ie

ITALY**ITALIE****ITALIA**

Dr. Ciro Impagnatiello
Ministero delle Politiche Agricole Alimentari e Forestali
Via XX Settembre 20
00187 Rome, ITALY
Tel.: +39 06 4665 6046
Fax: +39 06 4880 273
E-mail: c.impagnatiello@politicheagricole.gov.it

Dr. Roberto Copparoni
Ministero del lavoro, della Salute e delle Politiche Sociali
Via Giorgio Ribotta, 5
00144 Rome, ITALY
Tel.: +39 06 5994 6697
Fax: +39 06 5994 6119
E-mail: r.copparoni@sanita.it

Dr. Luca Ragolini
Vice-Director, Italian Association of Biscuits,
Cake, Chocolate, Confectionery and Ice-cream
Industries (A.I.D.I.)
Via Rhodesia, 2
00144 Rome, ITALY
Tel.: +39 06 8091071
Fax: +39 06 8073186
E-mail: aidi@aidi-assodolce.it

Dr. Massimo Liotta
Food Regulatory Affairs – Area Manager
FERRERO
C/o Ferrero S.P.A., Piazzale Pietro Ferrero, 1
12051 Alba (CN), ITALY
Tel.: +39 0173 313050
Fax: +39 0173 313977
E-mail: massimo.liotta@ferrero.com

JAMAICA
JAMAÏQUE
JAMAICA

Ms. Jennifer Aquart
(Head of Delegation)
Team Leader – Inspectorate Division
Bureau of Standards Jamaica
6 Winchester Road
Kingston 10, JAMAICA, West Indies
Tel.: +876 926 3140-5
Fax: +876 929 4736
E-mail: jaquart@bsj.org.jm

JAPAN
JAPON
JAPÓN

Dr. Chieko IKEDA
Director, Office of International Food Safety
Policy Planning and Communication Division
Department of Food Safety
Ministry of Health, Labour and Welfare
1-2-1, Kasumigaseki, Chiyoda-ku
Tokyo 100-8916, JAPAN
Tel.: +81 3 3595 2326
Fax: +81 3 3503 7965
E-mail: codexj@mhlw.go.jp

Ms. Reiko SENSUI
Section Chief
Office of Health Policy on Newly Developed Foods
Standards and Education Division
Department of Food Safety
Ministry of Health, Labour and Welfare
1-2-1, Kasumigaseki, Chiyoda-ku
Tokyo 100-8916, JAPAN
Tel.: +81 3 3595 2327
Fax: +81 3 3501 4867
E-mail: codexj@mhlw.go.jp

Dr. Hiroshi YOSHIKURA
Adviser, Department of Food Safety
Pharmaceutical and Food Safety Bureau
Ministry of Health, Labour and Welfare
1-2-1, Kasumigaseki, Chiyoda-ku
Tokyo 100-8916, JAPAN
Tel.: +81 3 3595 2326
Fax: +81 3 3503 7965
E-mail: codexj@mhlw.go.jp

Dr. Soichi KOIKE
Associate Professor
Department of Planning Information and Management
The University of Tokyo Hospital
7-3-1 Hongo, Bunkyo-ku
Tokyo 113-8655, JAPAN
Tel.: +81 3 5800 8716
Fax: +81 3 5800 8765
E-mail: codexj@mhlw.go.jp

KENYA

Mrs. Alice Akoth Okelo Onyango
(Head of Delegation)
Manager, Codex Contact Point
Kenya Bureau of Standards Organization
P.O. Box 54974, Popo Road (off Mombasa Rd.)
Nairobi 00200, KENYA
Tel.: +254 20 605490
Fax: +254 20 609660
E-mail: info@kebs.org
E-mail: akothe@kebs.org

Ms. Alice Wangechi Mithamo
Quality Assurance Officer
Kenya Bureau of Standards
P.O. Box 54794, Popo Rd. (off Mombasa Rd.)
Nairobi 00200, KENYA
Tel.: +254 20 605490 / 605506
Fax: +254 20 609660
E-mail: mithamoa@kebs.org
E-mail: amithamo@yahoo.com

KOREA, REPUBLIC OF
CORÉE, RÉPUBLIQUE DE
COREA, REPÚBLICA DE

Sol Kim
(Head of Delegation)
Deputy Director
Korea Food and Drug Administration
#194 Tongil-ro Eunpyung-gu
122-704 Seoul, REPUBLIC OF KOREA
Tel.: +82 2 380 1332
Fax: +82 2 358 2157
E-mail: kims1228@kfda.go.kr

Eun Jeong Kim
Senior Researcher
Korea Food and Drug Administration
#194 Tongil-ro Eunpyung-gu
122-704 Seoul, REPUBLIC OF KOREA
Tel.: +82 2 380 1726
Fax: +82 2 388 6396
E-mail: ejleon@kfda.go.kr

Seong Hee Kim
Assistant Director
Korea Food and Drug Administration
#194 Tongil-ro Eunpyung-gu
122-704 Seoul, REPUBLIC OF KOREA
Tel.: +82 2 380 1543
Fax: +82 2 388 6396
E-mail: bobo@kfda.go.kr

Yun-Jeong LEE
Researcher
National Academy of Agricultural Science
Division of Organic Farming Technology 249 Seodundong,
Gwonseongu,
441-707 Suwon, REPUBLIC OF KOREA
Tel.: +82 31 290 0552
Fax: +82 31 290 0507
E-mail: yjlee@rda.go.kr

Young-Jin CHOI
Deputy Director
Mifaff, National Veterinary Research and Quarantine
Service
480, Anyang 6-dong, Manan-gu, Anyang-city, Gyeonggi-do
430-824, REPUBLIC OF KOREA
Tel.: +82 31 467 1962
Fax: +82 31 467 1974
E-mail: choiyj@nvrqs.go.kr

Jaeho HA
Principal Researcher
Korea Food Research Institute
516 Baekhyeon, Bundang
463-746 Seongnam, REPUBLIC OF KOREA
Tel.: +82 31 780 9127
Fax: +82 31 780 9280
E-mail: jhkfri@kfri.re.kr

Seongweon JEONG
Principal Researcher
Korea Food Research Institute
516 Baekhyeon, Bundang
463-746 Seongnam, REPUBLIC OF KOREA
Tel.: +82 31 780 9158
Fax: +82 31 780 9333
E-mail: donow@kfri.re.kr

**KYRGYZ REPUBLIC
KIRGHIZISTAN
KIRGUISTÁN**

Mr. Patidin Atahanov
Director
National Institute for Standards and Metrology of the
Kyrgyz Republic "Kyrgyzstandard"
197, Panfilov Street
720040 Bishkek, KYRGYZ REPUBLIC
Tel.: +996 (312) 62-68-70
Fax: +996 (312) 66-13-67
E-mail: nism@nism.gov.kg

**LAO, DEMOCRATIC PEOPLE'S REPUBLIC
LAO, RÉPUBLIQUE DÉMOCRATIQUE
POPULAIRE
LAO, REPÚBLICA DEMOCRÁTICA POPULAR**

Mrs. Sivilay Naphayvong
Director of Food Control Division
Food and Drug Department
Ministry of Health
Simuang Road, PO Box 6551
Vientiane, LAO PDR
Tel.: +856 21 214014
Fax: +856 21 214015
E-mail: drug@laotel.com
E-mail: psivilay@yahoo.com

LESOTHO

Palesa Lesoli
Regional Food and Nutrition Coordinating Officer
Food and Nutrition Coordinating Office
Private Bag A78
Maseru 100, LESOTHO
Tel.: +266 22323716
Fax: +266 22322179
E-mail: plesoli@rediffmail.com

**MALAYSIA
MALAISIE
MALASIA**

Dr. Tangavelu Thiagarajan
Science Attaché
Embassy of Malaysia
3516 International Ct.NW
Washington, DC 20008, U.S.A.
Tel.: (202) 572-9719
Fax: (202) 572-9783
E-mail: sciencemalaysia@aol.com

**MALI
MALÍ**

Adama SANGARE
(Chef de délégation)
Chef de la Division
Coordination des Activités des Services de Contrôle
Agence Nationale de la Sécurité Sanitaire des Aliments
Ministère de la Santé
Centre Commercial, rue 305 Quartier du fleuve
BPE: 2362 Bamako, MALI
Tel.: +223 20 22 07 54 / +223 76466240
E-mail: asangare53@yahoo.fr

Mahmoud Abdoul CAMARA
Secrétaire Service Central de Liaison du Codex pour le Mali
Agence Nationale de la Sécurité Sanitaire des Aliments
Ministère de la Santé
Centre Commercial, rue 305 Quartier du fleuve
BPE: 2362 Bamako, MALI
Tel.: +223 20 22 07 54 / +223 79293458
E-mail: camara27@hotmail.com

MAURITANIA
MAURITANIE
MAURITANIA

Prof. LO BAIDY BOUBOU
(Head of Delegation)
Directeur
Institut National de Recherches en Santé Publique
Ministère de la Santé
BP 695
Nouakchott, MAURITANIE
Tel.: +222 5253134 / +222 5292645
Fax : +222 5253134
E-mail: baidylo@yahoo.fr

MICRONESIA, FEDERATED STATES OF
MICRONÉSIE, ÉTATS FÉDÉRÉS DE
MICRONESIA, ESTADOS FEDERADOS DE

Mr. Moses E. Pretrick
Environmental Health Coordinator (Codex Contact Point)
FSM Department of Health and Social Affairs
P.O. Box PS-70
Palikir, Pohnpei FM 96941
FEDERATED STATES OF MICRONESIA
Tel.: +691 320 8300
Fax: +691 320 8460
E-mail: mpretrick@fsmhealth.fm

MOROCCO
MAROC
MARRUECOS

Mr. Saâd Benchakroune
(Head of Delegation)
Directeur Général de l'Etablissement Autonome de
Contrôle et de Coordination des Exportations
72, rue Mohamed Smiha
20000 Casablanca, MAROC
Tel.: +212 22306198
Fax: +212 22308085
E-mail: dg@eacce.org.ma

Mme Nadia Maata
Chef de service alimentaire II au laboratoire officiel
d'Analyses et de Recherches chimiques de Casablanca
25, Rue Nichakra Rachel
Casablanca, MAROC
Tel.: (212) 522302196/98
Fax: (212) 522301972
E-mail: n_maata@menara.ma
E-mail: loarc@casanet.net.ma

NETHERLANDS
PAYS-BAS
PAISES BAJOS

Ms. Lianne Kersbergen
(Head of Delegation)
Policy Officer
Ministry of Agriculture, Nature and Food Quality
P.O. Box 20401, Bezuidenhoutseweg 73
2500 EK The Hague, THE NETHERLANDS
Tel.: +31 70 378 4154
Fax: +31 70 378 6158
E-mail: m.c.kersbergen@minlnv.nl

NEW ZEALAND
NOUVELLE-ZÉLANDE
NUEVA ZELANDIA

Ms. Jenny Reid
(Head of Delegation)
Assistant Director
New Zealand Food Safety Authority
P.O. Box 2835
Wellington, NEW ZEALAND
Tel.: +64 4 894 2582
Fax: +64 4 894 2583
E-mail: jenny.reid@nzfsa.govt.nz

Ms. Margaret Brooker
Programme Manager, Labelling
New Zealand Food Safety Authority
P.O. Box 2835
Wellington, NEW ZEALAND
Tel.: +64 4 894 2596
Fax: +64 4 894 2583
E-mail: margaret.brooker@nzfsa.govt.nz

NICARAGUA

Mr. Salvador Guerrero Gutiérrez
Dirección Normalización y Metrología Analista
Ministerio de Fomento, Industria y Comercio (MIFIC)
Contigro al hotel Metrocentro km 3½ Carretera Masaya,
NICARAGUA
Tel.: +505 267 4551, ext. 1258
Fax: +505 267 4551, ext. 1229
E-mail: codex@mific.gob.ni
E-mail: sguerrero@mific.gob.ni

NIGERIA
NIGÉRIA
NIGERIA

Prof. (Mrs.) Ogbadu Lucy Jumeyi
Director, National Biotechnology Development Agency
(NABDA)
16 Dunukofa Street, Area 11
Garki, Abuja, NIGERIA
Tel.: +234 8035908282 / +2348029640496
Fax: +234 93145472
E-mail: lujego@yahoo.com

Mrs. Orieji Gladys Orji
Chief Regulatory Officer
Establishment Inspection Directorate
National Agency for Food and Drug Administration and
Control (NAFDAC)
Central Laboratory Complex, Oshodi-Isolo Expressway
Oshodi, Lagos, NIGERIA
Tel.: +234 8033390541
E-mail: oriejigorji@yahoo.com

Mr. Christopher Chukwunweike Ofuani
Deputy Director
Food Registration Division
Registration and Regulatory Affairs Directorate
National Agency for Food and Drug Administration and
Control (NAFDAC)
Plot 2032, Olusegun Obasanjo Way, Wuse
Zone 7, Abuja,
Oshodi, Lagos, NIGERIA
Tel.: +234 8033068185
E-mail: chrisofuani@yahoo.com

Mr. Fred Nduka Chiazor
Scientific and Regulatory Affairs Manager
Coca-Cola Nigeria Ltd. / Association of Food and
Beverage Tobacco Employers
16 Gerrard Road
Ikoyi, Lagos, NIGERIA
Tel.: +234 1 2709238
Fax: +234 1 2709241
E-mail: fchiazor@afr.ko.com

NORWAY
NORVÈGE
NORUEGA

Mrs. Merethe Steen
(Head of Delegation)
Head of Section for Consumer Affairs
The Norwegian Food Safety Authority
P.O. Box 383
N-2381 Brumunddal, NORWAY
Tel.: +47 23 21 65 53
Fax: +47 23 21 68 01
E-mail: merethe.steen@mattilsynet.no

Mrs. Vigdis Veum Moellersen
Senior Adviser, Section for General Legislation and
International Affairs
The Norwegian Food Safety Authority
P.O. Box 383
N-2381 Brumunddal, NORWAY
Tel.: +47 23 21 66 69
Fax: +47 23 21 68 01
E-mail: visvm@mattilsynet.no

Mr. Paul Aitkenhead
Quality Manager Mills DA
NHO/Federation of Norwegian Food and Drink Industry
c/o Mills DA
P.O. Box 4644 SOF
N-0506 Oslo, NORWAY
Tel.: +47 22 80 86 00
Cel . +47 90 52 46 07
E-mail: paul.aitkenhead@mills.no

PANAMA
PANAMÁ

Ing. Aracelis Arosemena de Vergara
(Jefe de Delegación)
Supervisor
Departamento de Protección de Alimentos (DEPA)
Ministerio de Salud
Ancón, Edificio 253
Panamá 0816-Zona 06812, PANAMÁ
Tel.: +507 512 9180
Fax: +507 512 9114
E-mail: diversosminsa@yahoo.com

PAPUA NEW GUINEA
PAPOUASIE-NOUVELLE-GUINÉE
PAPUA NUEVA GUINEA

Mr. Francis Daink
Deputy Secretary
Department of Agriculture and Livestock
P.O. Box 2033, Port Moresby
PAPUA NEW GUINEA
Tel.: +675 321 2271
Fax: +675 321 5519
E-mail: dainkf@global.net.pg

PHILIPPINES
FILIPINAS

Ms. Charina May Talavera Tandas
(Head of Delegation)
Food Drug Regulation Officer III
Bureau of Food and Drugs
Department of Health
Civic Drive Filinvest Corporate City, Alabang
Muntinlupa City 1770, PHILIPPINES
Tel.: +632 8094390, Local 8112
Fax: +632 8070751
E-mail: cttandas@bfad.gov.ph
E-mail: charimay@mailcity.com

Ms. Daisy E. Tañafranca
Supervising Science Research Specialist
Department of Science and Technology
DOST Compound, General Santos Avenue
Bicutan, Taguig 1631, PHILIPPINES
Tel.: +632 8377530
Fax: +632 8377530
E-mail: desquivel105@yahoo.com

Dr. Elias E. Escueta
Director, Vice-President
Philippine Chamber of Food Manufacturers, Inc.
Unit 1216, Cityland 10, Tower 2
6817 Ayala Avenue
Makati City, PHILIPPINES
Tel.: +632 8498272
Fax: +632 8498289
E-mail: eescueta@apac.ko.com

POLAND
POLOGNE
POLONIA

Ms. Joanna Markowska
(Head of Delegation)
Senior Specialist
Ministry of Agriculture and Rural Development
Wspólna 30
00-930 Warsaw, POLAND
Tel.: +48 22 623 22 69
Fax: +48 22 623 24 54
E-mail: joanna.markowska@minrol.gov.pl

RWANDA

S.E. Edda Mukabagwiza
Ambassadeur
Ambassade de la République du Rwanda
121, prom. Sherwood
Ottawa, ON K1Y 3V1, CANADA
Tel.: (613) 569-5420
Fax: (613) 569-5421
E-mail: generalinfo@ambarwaottawa.ca

SAINT LUCIA
SAINTE-LUCIE
SANTA LUCÍA

Mr. Fulgence St. Prix
Standards Officer
Saint Lucia Bureau of Standards (SLBS)
Bisee Industrial Estate
P.O. Box 5412
Castries, SAINT LUCIA
Tel.: +758 453 0049
Fax: +758 452 3561
E-mail: f.stprix@slbs.org

SAMOA

Ms. Iulia Petelo
(Head of Delegation)
Codex Contact Point for Samoa
Assistant Chief Executive Officer
Fair Trading and Codex Division
Ministry of Commerce, Industry & Labour
P.O. Box 862, Level IV ACC House
Apia, SAMOA
Tel: +685 20441
Fax: +685 20443
E-mail: codex.samoa@mcil.gov.ws
E-mail: iulia.petelo@mcil.gov.ws

SOLOMON ISLANDS
SALOMON, ÎLES
SALOMÓN, ISLAS

Mr. Geoffrey Dan Hou'ua
(Head of Delegation)
Chief Inspector – Consumer Affairs
Consumer Affairs & Price Control Division
Ministry of Commerce, Industries, Labour and Immigration
P.O. Box G26
Honiara, SOLOMON ISLANDS
Tel.: +677 22856 / 56101
Fax: +677 25084
E-mail: gdhouua@yahoo.com

SPAIN
ESPAGNE
ESPAÑA

D^a Almudena Rollán Gordo
(Jefe de Delegación)
Jefe de Sección, Servicio de Riesgos Nutricionales
Agencia española de la seguridad alimentaria y nutrición
Ministerio de Sanidad y Consumo
c/ Alacalá, 56
28071 Madrid, ESPAÑA
Tel.: +34 91 33 80 710
Fax: +34 91 33 80 169
E-mail: arrollan@msc.es

SUDAN
SOUDAN
SUDÁN

Mrs. Ibtihag Bor Eltom Elmustafa
(Head of Delegation)
Chief Chemist
Sudanese Standards and Metrology Organization
P.O. Box 13573
Khartoum, SUDAN
Tel: +249915388777
Fax: + 249183774852
E-mail: ibtihagbur@hotmail.com

Miss Samia Elzibair Taha Elzibair
Chemist
Sudanese Standards and Metrology Organization
Baladia Street, P.O. Box 13573
Khartoum, SUDAN
Tel.: +249 912253356
Fax: +249 183774852
E-mail: samiaelzibair@yahoo.com

SWEDEN
SUÈDE
SUECIA

Mrs. Kerstin Jansson
(Head of Delegation)
Deputy Director
Ministry of Agriculture
Fredsgatan 8
SE-10333 Stockholm, SWEDEN
Tel.: +46 8 405 11 68
Fax: +46 8 20 64 96
E-mail: kerstin.jansson@agriculture.ministry.se

Mrs. Birgitta Lund
Principal Administrative Officer
National Food Administration
Box 622
SE-75126 Uppsala, SWEDEN
Tel.: +46 18 17 56 76
Fax: +46 18 10 58 48
E-mail: bilu@slv.se

SWITZERLAND
SUISSE
SUIZA

Mrs. Elisabeth Nellen-Regli
(Head of Delegation)
Food Safety Division
Consumer Protection Directorate
Swiss Federal Office of Public Health
CH-3003 Bern, SWITZERLAND
Tel.: +41 31 322 95 60
Fax: +41 31 322 95 74
E-mail: elisabeth.nellen@bag.admin.ch

Dr. Le Chevanton Landry
Global Regulatory Manager
DSM Nutritional Products Ltd.
P.O. Box 2676
Bldg. 241/923
CH-4002 Basel, SWITZERLAND
Tel.: +41 61 815 8441
E-mail: landry.lechevanton@dsm.com

Dr. Philippe Pittet
Assistant Vice President
Division of Regulatory Affairs and Scientific Affairs
Nestec Ltd.
Avenue Nestlé 55
CH-1800 Vevey, SWITZERLAND
Tel.: +41 21 924 42 64
Fax: +41 21 924 45 47
E-mail: philippe.pittet@nestle.com

TURKEY
TURQUIE
TURQUÍA

Mrs. Fulya ARICAN ÖZNUR
(Head of Delegation)
Food Engineer
General Directorate of Protection and Control
Ministry of Agriculture and Rural Affairs
Tarım ve Köyişleri Bakanlığı, Koruma ve Kontrol Genel
Müdürlüğü, Akay Caddesi No. 3 Bakanlıklar
Ankara 06100, TURKEY
Tel.: +90 312 417 41 76
Fax: +90 312 425 44 16
E-mail: fulyao@kkgm.gov.tr

Dr. Teo Chumburidze
Scientific and Regulatory Affairs Director
Coca-Cola Eurasia and Africa Group
35 Fahrettin Kerim Gökay Cadesi, Altunizade
Istanbul 34662, TURKEY
Tel.: +90 216 556 2204
Fax: +90 216 327 1454
E-mail: thchumburidze@eur.ko.com

UNITED KINGDOM
ROYAUME-UNI
REINO UNIDO

Mr. Stephen Pugh
(Head of Delegation)
Head of Food Information and Marketing Terms Branch
Food Standards Agency
Room 6C, Aviation House, 125 Kingsway, Holborn
London WC2B 6NH, UNITED KINGDOM
Tel.: +44 (0) 20 7276 8088
Fax: +44 (0) 20 7276 8193
E-mail: stephen.pugh@foodstandards.gsi.gov.uk

Miss Claire Boville
Head of Promotions, Nutrition Labelling and Dietetic Foods
Unit
The Food Standards Agency
Room 6C, Aviation House, 125 Kingsway
London WC2B 6NH, UNITED KINGDOM
Tel.: +44 (0) 20 7276 8168
Fax: +44 (0) 20 7276 8193
E-mail: claire.boville@foodstandards.gsi.gov.uk

**UNITED STATES OF AMERICA
ETATS-UNIS D'AMÉRIQUE
ESTADOS UNIDOS DE AMÉRICA**

Dr. Barbara Schneeman
(Head of Delegation)
Director, Office of Nutrition, Labeling and Dietary
Supplements
Center for Food Safety and Applied Nutrition
U.S. Food and Drug Administration
5100 Paint Branch Parkway
College Park, MD 20740, U.S.A.
Tel.: (301) 436-2373
Fax: (301) 436-2639
E-mail: barbara.schneeman@fda.hhs.gov

Dr. Heejeong Latimer
(Alternate Delegate)
Risk Analyst
Food Safety and Inspection Service
U.S. Department of Agriculture
1400 Independence Ave. SW
Washington, DC 20250, U.S.A.
Tel.: (202) 690-0823
Fax: (202) 690-6337
E-mail: heejeong.latimer@fsis.usda.gov

Government Advisors

Mr. Jack Bobo
Senior Advisor for Biotechnology
U.S. Department of State
2201 C Street NW
Washington, DC 20520, U.S.A.
Tel.: (202) 647-1647
E-mail: boboja@state.gov

Ms. Melissa Clarkson
Director, Agricultural Affairs
Office of the U.S. Trade Representative
600 17th St. NW
Washington, DC 20508, U.S.A.
Tel.: (202) 395-9629
E-mail: melissa_clarkson@ustr.eop.gov

Ms. Krista Dickson
International Trade Specialist
Office of Science and Technical Affairs
Foreign Agriculture Service
U.S. Department of Agriculture
1400 Independence Ave. SW
Mail Stop 1015, Room 5935
Washington, DC 20250-0237, U.S.A.
Tel.: (202) 690-1341
Fax: (202) 690-0677
E-mail : krista.dickson@fas.usda.gov

Ms. Barbara McNiff
Senior International Issues Analyst
Food Safety and Inspection Service
U.S. Department of Agriculture
1400 Independence Ave. SW
Washington, DC 20250, U.S.A.
Tel.: (202) 690-4719
Fax: (202) 720-3157
E-mail: barbara.mcniff@fsis.usda.gov

Mr. Jonathan Melvin
Accreditation Manager
Accreditation, Auditing and Training Branch
National Organic Program
Agricultural Marketing Service
U.S. Department of Agriculture
1400 Independence Ave. SW
Room 4008, South, Stop 0268
Washington, DC 20250, U.S.A.
Tel.: (202) 720-3252
Fax: (202) 205-7808
E-mail: jonathan.melvin@usda.gov

Ms. Farah Naim
International Trade Specialist
Office of Scientific and Technical Affairs
New Technology and Production Methods Division
Foreign Agricultural Service
U.S. Department of Agriculture
1400 Independence Ave. SW
Room 5949-S (mail stop 1013)
Washington, DC 20250, U.S.A.
Tel.: (202) 690-3335
Fax: (202) 690-3316
E-mail: farah.naim@fas.usda.gov

Dr. Ritu Nalubola
Food Technologist
Office of Nutrition, Labeling and Dietary Supplements
Centre for Food Safety and Applied Nutrition
U.S. Food and Drug Administration (HFS-820)
5100 Paint Branch Parkway
College Park, MD 20740, U.S.A.
Tel.: (301) 436-1432
Fax: (301) 436-2636
E-mail: ritu.nalubola@fda.hhs.gov

Mr. Bryan O'Byrne
International Trade Specialist
U.S. Department of Commerce
14th and Constitution Ave. NW
Washington, DC 20230, U.S.A.
Tel.: (202) 482-0705
E-mail: bryan_obyrne@ita.doc.gov

Dr. Robert Post
Acting Executive Director
Centre for Nutrition Policy and Promotion
U.S. Department of Agriculture
3101 Park Center Dr., Room 1034
Alexandria, VA 22302
Tel.: (703) 305-7600
Fax: (703) 305-3300
E-mail: robert.post@cnpp.usda.gov

Dr. Michael Wehr
Codex Program Coordinator
Centre for Food Safety and Applied Nutrition
U.S. Food and Drug Administration
5100 Paint Branch Parkway, Room 4A-019
College Park, MD 20740, U.S.A.
Tel.: (301) 436-1724
Fax: (301) 436-2618
E-mail: michael.wehr@fda.hhs.gov

Mr. William Busis
Associate General Counsel
Office of the United States Trade Representative
600 17th Street, NW
Washington, DC 20508, U.S.A.
Tel.: (202) 395-3150
E-mail: wbusis@ustr.gov

Non-Government Advisors

Ms. Regina Hildwine
Senior Director
Science Policy, Labeling and Standards
Grocery Manufacturers Association
1350 I Street NW, Suite 300
Washington, DC 20008, U.S.A.
Tel.: (202) 639-5926
Fax: (202) 639-5991
E-mail: rhildwine@gmaonline.org

Ms. Wanda Kelker
Scientific and Regulatory Affairs Director
The Coca Cola Company
One Coca-Cola Plaza
Atlanta, GA 30313, U.S.A.
Tel.: (404) 676-6968
Fax: (404) 598-6968
E-mail: wkelker@na.ko.com

Mr. Mark S. Roberts
Corporate Manager, Regulatory Affairs
Hormel Foods Corporation
1 Hormel Place
Austin, MN 55912
Tel.: (507) 437-5342
Fax: (507) 437-5135
E-mail: msroberts@hormel.com

Ms. Jane Earley
Senior Partner
Earley & White Consulting Group, LLC
1737 King Street, Suite 330
Alexandria, VA 22314, U.S.A.
Tel.: (703) 739-9090, ext. 121
Fax: (703) 739-9098
E-mail: jearley@eandwconsulting.com

Ms. Marsha Echols
Washington Counsel
National Association for the Specialty Food Trade, Inc.
3286 M Street, NW
Washington, DC 20007 U.S.A.
Tel.: (202) 625-1451
E-mail: mechols@earthlink.net

VANUATU

Mr. Joe Pakoa Lui
Industrial Development Officer
Department of Trade and Industry
PM Bag 9030
Rue Montfort
Port Vila, VANUATU
Tel.: +678 22770
Fax: +678 25640
E-mail: jpakoa@vanuatu.gov.vu

VIETNAM

VIET NAM
Vu Ngoc Quynh
(Head of Delegation)
Secretary General, Office Director
Vietnam National Codex Committee
70 Tran Hung Dao St.
Hanoi, VIETNAM
Tel.: +84 4 39426605
Fax: +84 4 38222520
E-mail: vnquynhcodex@tcvn.gov.vn

INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS / ORGANISATIONS NON GOUVERNEMENTALES INTERNATIONALES / ORGANIZACIONES INTERNACIONALES NO GUBERNAMENTALES

BIOTECHNOLOGY INDUSTRY ORGANIZATION (BIO)

Mr. Michael Wach
(Head of Delegation)
Managing Director, Science and Regulatory Affairs
Food and Agriculture Department
Biotechnology Industry Organization
1201 Maryland Ave. SW, Suite 900
Washington, DC 20024, U.S.A.
Tel.: (202) 962-6645
Fax: (202) 488-6301
E-mail: mwach@bio.org

Dr. Janet E. Collins
Corporate Regulatory Affairs
DuPont
601 Pennsylvania Ave., Suite 325 N
Washington, D.C. 20004, U.S.A.
Tel.: (202) 728-3622
Fax: (202) 728-3649
E-mail: janet.e.collins@usa.dupont.com

**COMITÉ EUROPÉEN DES FABRICANTS DE
SUCRE (CEFS) / EUROPEAN COMMITTEE OF
SUGAR PRODUCERS**

Ms. Camille Perrin
Scientific and Regulatory Affairs Manager
CEFS (Comité Européen des Fabricants de Sucre)
182 avenue de Tervuren
1150 Brussels, BELGIUM
Tel.: +32 2 762 07 60
Fax: +32 2 771 00 26
E-mail: camille.perrin@cefs.org

**CONFEDERATION OF THE FOOD AND
DRINK INDUSTRIES OF THE EU/
CONFÉDÉRATION DES INDUSTRIES
AGRO-ALIMENTAIRES DE L'UE (CIAA)**

Ms. Elena Cogalniceanu
Manager, Consumer Information, Diet and Health
Department
43 Avenue des Arts
B-1040 Brussels, BELGIUM
Tel.: +32 2 514 11 11
Fax: +32 2 511 29 05
E-mail: e.cogalniceanu@ciao.be

**CONSUMERS INTERNATIONAL (CI) /
ORGANISATION INTERNATIONALE DES
UNIONS DE CONSOMMATEURS**

Dr. Michael Hansen
Senior Scientist
Consumers Union
101 Truman Avenue
Yonkers, NY 10703-1057, U.S.A.
Tel.: (914) 378-2452
Fax: (914) 378-2908
E-mail: hansmi@consumer.org

CROPLIFE INTERNATIONAL

Ms. Lucyna K. Kurtyka
Global Lead, International Organizations
Monsanto Company
1300 I St., NW, Suite 450 East
Washington, DC 20005, U.S.A.
Tel.: (202) 383-2846
Fax: (202) 789-1748
E-mail: lucyna.k.kurtyka@monsanto.com

**EUROPEAN FOOD LAW ASSOCIATION (EFLA) /
ASSOCIATION EUROPÉENNE POUR LE DROIT
DE L'ALIMENTATION (AEDA)**

Mr. Matias Cortes
Member, EFLA / AEDA
Rue de l'Association 50
1000 Brussels, BELGIUM
Tel.: +32 2 218 14 70
Fax: +32 2 219 73 42
E-mail: secretariat@efla-aeda.org

Mr. Xavier Lavigne
Member, EFLA / AEDA
Rue de l'Association 50
1000 Brussels, BELGIUM
Tel.: +32 2 218 14 70
Fax: +32 2 219 73 42
E-mail: secretariat@efla-aeda.org

Mrs. Daniela Muchna
Member, EFLA / AEDA
Rue de l'Association 50
1000 Brussels, BELGIUM
Tel.: +32 2 218 14 70
Fax: +32 2 219 73 42
E-mail: secretariat@efla-aeda.org

**EuSalt - EUROPEAN SALT PRODUCERS'
ASSOCIATION**

Wouter LOX
Managing Director
EuSalt – European Salt Producers' Association
Avenue de l'Yser 4
1040 Brussels, BELGIUM
Tel.: +32 2 737 10 90
Fax: +32 2 737 10 99
E-mail: info@eusalt.com

**49th PARALLEL BIOTECHNOLOGY
CONSORTIUM (49P)**

Professor Philip L. Bereano
(Head of Delegation)
Professor Emeritus
Department of Human Centered Design & Engineering
Box 352315, Sieg Hall
University of Washington
Seattle, Washington 98195, U.S.A.
Tel.: (206) 543-9037
Fax: (206) 543-8858
E-mail: pbereano@u.washington.edu

INSTITUTE OF FOOD TECHNOLOGISTS (IFT)

Mr. Robert V. Conover
Director, Kikkoman Foods, Inc.
P.O. Box 69
Walworth, WI 53184, U.S.A.
Tel: (262) 275-1651
E-mail: rconover@kikkoman.com

Ms. Gloria Brooks-Ray
Advisor, Codex and International Regulatory Affairs
Exponent, Inc.
P.O. Box 97
Mountain Lakes, NJ 07046, U.S.A.
Tel: (973) 334-4652
E-mail: gbrooksrays@exponent.com

**INTERNATIONAL ASSOCIATION OF
CONSUMER FOOD ORGANIZATIONS (IACFO)**

Mr. Bill Jeffery
(Head of Delegation)
National Coordinator
Centre for Science in the Public Interest
Suite 2701, CTTC Building
1125 Colonel By Drive
Ottawa, ON K1S 5R1, CANADA
Tel.: (613) 244-7337
Fax: (613) 244-1559
E-mail: jefferyb@istar.ca

**INTERNATIONAL BABY FOOD ACTION
NETWORK (IBFAN)**

Ms. Elisabeth Sterken
Director, INFAC Canada
6 Trinity Square
Toronto, ON M5G 1B1, CANADA
Tel.: (416) 595-9819
Fax: (416) 591-9355
E-mail: esterken@infactcanada.ca

**INTERNATIONAL CHEWING GUM
ASSOCIATION (ICGA)**

Mr. Richard F. Mann
Counsel
International Chewing Gum Association
c/o Keller and Heckman LLP
Avenue Louise 523
B-1050 Brussels, BELGIUM
Tel.: (202) 434-4229
Fax: (202) 434-4646
E-mail: mann@khlaw.com

**INTERNATIONAL COUNCIL OF BEVERAGES
ASSOCIATIONS (ICBA)**

Ms. Helen Falco
(Head of Delegation)
Advisor, International Council of Beverages Associations
(ICBA)
c/o American Beverage Association
1101 Sixteenth Street, NW
Washington, DC 20036, U.S.A.
Tel.: (202) 463-6750
Fax: (202) 659-5349
E-mail: hefalco@na.ko.com

**INTERNATIONAL COUNCIL OF GROCERY
MANUFACTURERS ASSOCIATIONS
(ICGMA)/CONSEIL INTERNATIONAL DES
ASSOCIATIONS DE FABRICANTS DE PRODUITS
D'ÉPICERIE / CONSEJO INTERNACIONAL DE
ASOCIACIONES DE FABRICANTES DE
COMESTIBLES**

Ms. Phyllis Tanaka
Vice-President, Scientific and Regulatory Affairs – Food
Policy
Food and Consumer Products of Canada
885 Don Mills Road, Suite 301
Toronto, ON M3C 1V9
Tel.: (416) 510-8024, ext. 2246
Fax: (416) 510-8043
E-mail: phyllist@fcpc.ca

Ms. Peggy Rochette
Sr. Director, International Affairs
Grocery Manufacturers Association
1350 I Street NW
Washington, DC 20005, U.S.A.
Tel.: (202) 639-5921
Fax: (202) 639-5991
E-mail: Prochette@gmaonline.org

Ms. Carmita Young
Regulatory Specialist
International Council of Grocery Manufacturers
Association
25 Sheppard Avenue West
North York, ON M2N 6S8, CANADA
Tel.: (416) 218-3030, ext. 4688
Fax: (416) 218-2701
E-mail: carmita.young@ca.nestle.com

Mr. Martin Slayne
Director, International Food Safety and Nutrition
PepsiCo International
7701 Legacy Drive
Plano, Texas 75024, U.S.A.
Tel.: (972) 334-4832
Fax: (972) 334-6271
E-mail: martin.slayne@intl.pepsico.com

**INTERNATIONAL DAIRY FEDERATION (IDF) /
FÉDÉRATION INTERNATIONALE DE LAITERIE
/FEDERACIÓN INTERNACIONAL DE LECHERÍA**

Ms. Cary Frye
(Head of Delegation)
Vice President of Regulatory Affairs
International Dairy Foods Association (IDFA)
1250 H Street, NW, Suite 900
Washington, DC 20005, U.S.A.
Tel.: (202) 220-3543
Fax: (202) 331-7820
E-mail: cfrye@idfa.org

Ms. Isabelle Neiderer
Director of Nutrition
Dairy Farmers of Canada
1801 McGill College Avenue, Suite 700
Montreal, Quebec H3E 2N4, CANADA
Tel.: (514) 284-1092
Fax: (514) 284-0449
E-mail: isabelle.neiderer@dfc-plc.ca

Ms. Sandra Tuijelaars
Nutrition Officer
International Dairy Federation
80 Boulevard A. Reyers
1030 Brussels, BELGIUM
Tel.: +32 2 706 86 50
Fax: +32 2 733 04 13
E-mail: stuijelaars@fil-idf.org

**INTERNATIONAL FEDERATION OF FRUIT
JUICE PRODUCERS (IFU) /
FÉDÉRATION INTERNATIONALE DES
PRODUCTEURS DE JUS DE FRUITS /
FEDERACIÓN INTERNACIONAL DE LOS
PRODUCTORES DE JUGOS DE FRUTAS**

Mr. Jan Hermans
International Federation of Fruit Juice Producers (IFU)
23, Boulevard des Capucines
75002 Paris, FRANCE
Tel.: +33 1 47 42 82 80
Fax: +33 1 47 42 82 81
E-mail: ifu@ifu-fruitjuice.com
E-mail: jan.hermans@aijn.org

**INTERNATIONAL FROZEN FOOD
ASSOCIATION (IFFA)**

Mr. John T. Allan
Manager of Regulatory and International Affairs
International Frozen Food Association (IFFA)
2000 Corporate Ridge, Suite 1000
McLean, Virginia 22102, U.S.A.
Tel.: (703) 821-0770
Fax: (703) 821-1350
E-mail: jallan@affi.com

**INTERNATIONAL GLUTAMATE TECHNICAL
COMMITTEE (IGTC) /
COMITÉ INTERNATIONAL TECHNIQUE DE
L'ACIDE GLUTAMIQUE (IGTC)**

Dr. Robert Bursey
President, Ajinomoto Corporate Services, LLC.
1120 Connecticut Avenue, NW, Suite 1010
Washington, DC 20036-3953, U.S.A.
Tel.: (202) 457-0284
Fax: (202) 457-0107
E-mail: burseyb@ajiusa.com

**INTERNATIONAL LACTATION CONSULTANTS
ASSOCIATION (ILCA)**

Ms. Jennifer Peddlesden
(Head of Delegation)
Codex Liaison, International Lactation Consultants
Association (ILCA)
2501 Aerial Center Parkway
Suite 103
Morrisville, N.C. 27560, U.S.A.
Tel.: (919) 861-5577
Fax : (919) 459-2075
E-mail : jpeddles@telus.net
E-mail : jim@ilca.org

**INTERNATIONAL LIFE SCIENCES INSTITUTE
(ILSI)**

Mr. Hiroaki Hamano
Executive Director, ILSI Japan
Kojimachi R/K Building
2-6-7, Kojimachi, Chiyoda-ku
Tokyo 102-0083, JAPAN
Tel.: +81 3 5215 3535
Fax: +81 3 5215 3537
E-mail: hhamano@ilsijapan.org

Mr. Shuji Iwata
Director, ILSI Japan
Kojimachi RK Building
2-6-7, Kojimachi, Chiyoda-ku
Tokyo 102-0083, JAPAN
Tel.: +81 3 5215 3535
Fax: +81 3 5215 3537
E-mail: shu-iwata@ilsijapan.org

**INTERNATIONAL ORGANIZATION OF LEGAL
METROLOGY / ORGANISATION
INTERNATIONALE DE MÉTROLOGIE LÉGALE
(OIML)**

Mr. Willem Kool
(Head of Delegation)
Assistant Director
International Organization of Legal Metrology (OIML)
BIML
11, rue Turgot
Paris 75009, FRANCE
Tel.: +33 1 48 78 57 82
Fax: +33 1 42 82 17 27
E-mail: willem.kool@oiml.org

**INTERNATIONAL SPECIAL DIETARY
INDUSTRIES (ISDI)**

Dr. Isabelle Caelen
(Chef de délégation)
Spécialiste en Affaires Réglementaires
International Special Dietary Industries (ISDI)
194 Rue de Rivoli
Paris 75001, France
Tel. : +33 (0) 1 53 45 87 87
Fax: +33 (0) 1 53 45 87 80
E-mail: andree.bonner@isdifederation.org

NATIONAL HEALTH FEDERATION (NHF)

Mr. Scott C. Tips
(Head of Delegation)
President
National Health Federation
P.O. Box 688
Monrovia, CA 91017, U.S.A.
Tel.: (626) 357-2181
Fax: (626) 303-0642
E-mail: sct@thenhf.com

**WORLD SUGAR RESEARCH ORGANISATION
(WSRO)**

Dr. Jenny Gusba
Director, Nutrition and Scientific Affairs
Canadian Sugar Institute
10 Bay Street, Suite 620
Toronto, Ontario M5J 2R8, CANADA
Tel.: (416) 368-8091
Fax: (416) 368-6426
E-mail: jgusba@sugar.ca

Dr. Charles W. Baker
Executive Vice-President & Chief Science Officer
The Sugar Association
1300 L. Street, NW, Suite 1001
Washington, DC 20005-4263, U.S.A.
Tel.: (202) 785-5014
Fax: (202) 785-5019
E-mail: cbaker@sugar.org

**JOINT FAO/WHO SECRETARIAT
SECRÉTARIAT MIXTE FAO/OMS
SECRETARIADO CONJUNTO FAO/OMS**

Mr. Tom Heilandt
Senior Food Standards Officer
Joint FAO/WHO Food Standards Programme
Viale delle Terme di Caracalla
00153 Rome, ITALY
Tel.: +39 06 570 54384
Fax: +39 06 570 54593
E-mail: tom.heilandt@fao.org

Ms. Verna Carolissen
Food Standards Officer
Joint FAO/WHO Food Standards Programme
Viale delle Terme di Caracalla
00153 Rome, ITALY
Tel.: +39 06 570 55629
Fax: +39 06 570 54593
E-mail: verna.carolissen@fao.org

Mr. Ym Shik, Lee
Food Standards Officer
Joint FAO/WHO Food Standards Programme
Viale delle Terme di Caracalla
00153 Rome, ITALY
Tel.: +39 06 570 55854
Fax: +39 06 570 54593
E-mail: ymshik.lee@fao.org

**FAO PERSONNEL
PERSONNEL DE LA FAO
PERSONAL DE LA FAO**

Ms. Janice Albert
Nutrition Officer
Nutrition and Consumer Protection Division
Food and Agriculture Organization (FAO)
Viale delle Terme di Caracalla
00100 Rome, ITALY
Tel.: +39 06 570 53552
Fax: +39 06 570 54593
E-mail: Janice.Albert@fao.org

**CANADIAN SECRETARIAT
SECRÉTARIAT CANADIEN
SECRETARIADO CANADIENSE**

Mr. Ron Burke
Head, Codex Contact Point for Canada
Food Directorate
Health Canada
Room 2395, 200 Tunney's Pasture Driveway (0702C1)
Ottawa, ON K1A 0L2, CANADA
Tel.: (613) 957-1748
Fax: (613) 941-3537
E-mail: ronald_burke@hc-sc.gc.ca

Mr. Allan McCarville
Senior Advisor, Codex
Food Directorate
Health Canada
Room 2394, 200 Tunney's Pasture Driveway (0702C1)
Ottawa, ON K1A 0L2, CANADA
Tel.: (613) 957-0189
Fax: (613) 941-3537
E-mail: allan_mccarville@hc-sc.gc.ca

Mr. Bertrand Gagnon
Deputy Director – Codex and Food Safety Coordination
Multilateral Relations Division
Canadian Food Inspection Agency
1400 Merivale Road
Tower 1, 5th Floor, Room 339
Ottawa, ON K1A 0Y9, CANADA
Tel.: (613) 773-6092
Fax: (613) 773-6088
E-mail: bertrand.gagnon@inspection.gc.ca

Ms. Amélie Morin Vega
International Senior Policy Analyst
Multilateral Relations Division
Canadian Food Inspection Agency
1400 Merivale Road
Tower 1, 5th Floor, Room 337
Ottawa, ON K1A 0Y9, CANADA
Tel.: (613) 773-6018
Fax: (613) 773-5693
E-mail: amelie.morin@inspection.gc.ca

Mrs. Santina Scalzo
Manager, Codex Program Services
Food Directorate
Health Canada
Room 2392, 200 Tunney's Pasture Driveway (0702C1)
Ottawa, ON K1A 0L2, CANADA
Tel.: (613) 957-1749
Fax: (613) 941-3537
E-mail: santina_scalzo@hc-sc.gc.ca

Ms. Soad Sabbagh
Conference and Process Coordinator
Codex Program Services
Food Directorate
Health Canada
Room 2391, 200 Tunney's Pasture Driveway (0702C1)
Ottawa, ON K1A 0L2, CANADA
Tel.: (613) 952-7354
Fax: (613) 941-3537
E-mail: codex_canada@hc-sc.gc.ca

APPENDIX II

**Proposed Draft Revised Guidelines on Nutrition Labelling
(Section 3.2 Listing of Nutrients)
(At Step 3 of the Procedure)**

3.2 Listing of Nutrients

3.2.1 Where nutrient declaration is applied, the declaration of the following should be mandatory:

3.2.1.1 Energy value; and

3.2.1.2 The amounts of protein, available carbohydrate (i.e. dietary carbohydrate excluding dietary fibre), fat, saturated fat, [trans-fatty acids], [sodium/salt], total sugars, [added sugars], and [dietary fibre];

3.2.1.3 The amount of any other nutrient for which a nutrition or health claim is made; and

3.2.1.4 The amount of any other nutrient considered to be relevant for maintaining a good nutritional status, as required by national legislation or national dietary guidelines.

APPENDIX III

**PROPOSED DRAFT RECOMMENDED PRINCIPLES AND CRITERIA FOR LEGIBILITY OF
NUTRITION LABELLING
(At Step 3 of the procedure)**

GENERAL PRINCIPLES[Option One]

- (1) Nutrition labelling shall be applied in such a manner that it will not become separated from the container.
- (2) Nutrition labelling shall be clear, prominent, indelible, and readily legible by the consumer under normal conditions of purchase and use.
- (3) Where the container is covered by a wrapper, the wrapper shall carry the nutrition labelling or the existing nutrition labelling on the inner container shall either be readily legible through the outer wrapper or not be obscured by the outer wrapper.
- (4) Consistent with Section 8.2 of the General Standard for the Labelling of Prepackaged Foods, if the language on the original label is not in accordance with national legislation, a supplementary label containing the nutrient declaration in the required language may be used instead of relabelling. In the case of either relabeling or a supplementary label, the information provided must be in accordance with national legislation and should accurately reflect that in the original label. Principles 1, 2 and 3 above should be applied to any supplementary nutrition labels.]

Option Two

[In the case of nutrition labelling whether applied on a mandatory or voluntary basis, the principles of Sections 8.1.1, 8.1.2, 8.1.3 and 8.2 of the Codex GSLPF should be applied.]

SPECIFIC ELEMENTS OF PRESENTATION

- (5) These recommendations related to specific elements of presentation are intended to facilitate and enhance the legibility of nutrition labelling. However, national authorities may determine any alternative means of nutrition presentation taking into account approaches and practical issues at the national level and based on the needs of their consumers.
- (6) [Option One]
Format: Nutrient content should be declared in a numerical, tabular format. Consideration may be given to other formatting elements to enhance legibility. Where there is insufficient space for a tabular format, nutrient declaration may be presented in a linear format.]

[Option Two]
Format: Nutrient content should be declared in a numerical, tabular format. Consideration may be given to other formats that enhance prominence. Where there is insufficient space for a tabular format, nutrient declaration may be presented in a linear format.]
- (7) [Order –

- (i) Nutrients should be declared in a specific order developed by competent authorities and should be consistent across food products.]
- (8) Font – A minimum font type size should be considered. A significant contrast should be maintained between the text and background so as to be clearly visible.
- (9) ~~Language – The language of nutrient declaration should be according to national legislation in the country of sale. See also (4) above.~~
- (10) Numerical Presentation

The numerical presentation of nutrient content should be in accordance with the provisions of Section 3.4 of the Guidelines on Nutrition Labelling (CAC/GL 2 - 1985).

EXEMPTIONS AND SPECIAL PROVISIONS

- [(11) Small packages may be exempt from nutrient declaration, provided no nutrition or health claim is made in the labelling of that food. Small packages are defined as packages with a largest printable surface of less than XX cm² (TO BE DETERMINED)].
- [(12) To accommodate nutrition labelling of small packages, national authorities may also consider the declaration of a shortened, minimum set of key nutrients.]

[OTHER PROVISIONS FOR CONSIDERATION]

- ~~The contents of only those nutrients that are listed in section 7(i) may be declared within the nutrition table. Other substances or ingredients should not be declared within the nutrition table.~~
- In the case where a product is subject to labelling requirements of a Codex Standard, the provisions for nutrient declaration set out in that Standard should take precedence.
- Where the amount is considered to be insignificant, there should be a possibility to declare the value as “0” or “traces” or “as defined at the national level” or to exempt from nutrition labelling.
- Where a food should be reconstituted with water before consumption, nutrient content [should/may] relate to the proportion of the food as so reconstituted. Similarly, where the food is labeled with directions that it should be drained before consumption, the label [should/may] indicate that nutrient content relates to the drained food.
- With respect to small packages, consideration may be given to allowing the label to provide a website or phone number where consumers can obtain the nutrition information, or requiring that nutrition information be provided on or in connection with the display of the food or provided to the purchaser upon request.
- Alternative means of presentation of nutrition information may be considered for refillable glass containers.
- Packages with shapes such that a label cannot be affixed may provide nutrition labelling through the use of tags, provided the tags are affixed for the life of the product and do not easily fall off or separate from the container.]

APPENDIX IV

**DRAFT AMENDMENT TO THE GUIDELINES FOR THE PRODUCTION, PROCESSING,
LABELLING AND MARKETING OF ORGANICALLY PRODUCED FOODS (N10-2006):
(ETHYLENE)
(At Step 6 of the Procedure)**

Annex 1 - Principles of Organic Production**C. HANDLING, STORAGE, TRANSPORTATION, PROCESSING AND PACKAGING**

82. The integrity of the organic product must be maintained throughout the processing phase. This is achieved by the use of techniques appropriate to the specifics of the ingredients with careful processing methods limiting refining and the use of additives and processing aids. Ionizing radiation should not be used on organic products for the purpose of pest control, food preservation, elimination of pathogens or sanitation.

Ethylene may be used for ripening of kiwi fruit, bananas, other products to be determined.

APPENDIX V

**PROPOSED AMENDMENT TO THE GUIDELINES FOR THE PRODUCTION, PROCESSING,
LABELLING AND MARKETING OF ORGANICALLY PRODUCED FOODS:
TABLE 2 OF ANNEX II (ROTENONE)**

(At Step 5A of the Procedure)

ANNEX II: PERMITTED SUBSTANCES FOR THE PRODUCTION OF ORGANIC FOODS

TABLE 2:
SUBSTANCES FOR PLANT PEST AND DISEASE CONTROL

Substance	Description; compositional requirements; conditions for use
1. PLANT AND ANIMAL	
Preparations of Rotenone from <i>Derris elliptica</i> , <i>Lonchocarpus</i> , <i>Thephrosia</i> spp,	Need recognized by the certification body or authority. <u>The substance should be used in such a way as to prevent its flowing into waterways</u>

APPENDIX VI

**DRAFT AMENDMENT TO THE GENERAL STANDARD FOR THE LABELLING OF
PREPACKAGED FOODS - DEFINITIONS
(At Step 7 of the Procedure)**

SECTION 2. DEFINITION OF TERMS¹

For the purpose of the General Standard:

“Food and food ingredients obtained through certain techniques of genetic modification / genetic engineering” means food and food ingredients composed of or containing genetically modified / engineered organisms obtained through modern biotechnology, or food and food ingredients produced from, but not containing genetically modified / engineered organisms obtained through modern biotechnology.

“Organism” means any biological entity capable of replication, reproduction or of transferring genetic material.

“Genetically modified / engineered organism” means an organism in which the genetic material has been changed through modern biotechnology in a way that does not occur naturally by multiplication and/or natural recombination.

“Modern biotechnology” means the application of:

- a. In vitro nucleic acid techniques², including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles, or
- b. Fusion of cells³ beyond the taxonomic family,

that overcome natural physiological, reproductive or recombination barriers and that are not techniques used in traditional breeding and selection

¹ The terminology used in this section on definitions should not determine the terminology which is appropriate for use on food labels

² These include but are not limited to: recombinant DNA techniques that use vector systems and techniques involving the direct introduction into the organism of hereditary materials prepared outside the organism such as micro-injection, macro-injection, chemoporation, electroporation, micro-encapsulation and liposome fusion

³ Fusion of cells (including protoplast fusion) or hybridization techniques that overcome natural physiological, reproductive, or recombination barriers, where the donor cells/protoplasts do not fall within the same taxonomic family

APPENDIX VII

**PROPOSED DRAFT RECOMMENDATIONS FOR THE LABELLING OF FOODS AND FOOD
INGREDIENTS OBTAINED THROUGH CERTAIN TECHNIQUES OF GENETIC
MODIFICATION/GENETIC ENGINEERING**

(At Step 3 of the Procedure)

[Chapeau 1:

“Food labelling is the primary means of communications between the seller on the one hand and the purchaser and consumer on the other. Labelling of a food is considered only after the food has undergone appropriate safety assessments to deem it safe for human consumption. For additional assurance on safe and appropriate use of food, food labelling can be employed to provide consumers with essential information. It is recognized that consumers’ expressed needs may vary in different regions of the world. These differences might lead to various levels of approaches regarding labelling of foods obtained by GM/GE modifications.

The purpose of this document is to recall and assemble in a single document some important elements of guidance from Codex texts, which are relevant for the labelling of foods obtained by GM/GE techniques.”] / or

[Chapeau 2:

“The purpose of this document is to recall and assemble in a single document some important elements from Codex texts which are relevant for the labelling of foods obtained by GM/GE techniques.”] / or

[Chapeau 2 as amended by the USA:

“The purpose of this document is to recall and assemble in a single document some important elements from Codex LABELLING AND OTHER texts which are relevant for ~~the labelling of~~ foods obtained by GM/GE techniques AS THEY ARE FOR ALL FOODS. THIS DOCUMENT IS NOT INTENDED TO SUGGEST OR IMPLY THAT GM/GE FOODS ARE IN ANY WAY DIFFERENT FROM OTHER FOODS SIMPLY DUE TO THEIR METHOD OF PRODUCTION.”] / or

[Chapeau 2 as amended by Brazil:

“The purpose of this document is to recall and assemble in a single document some important elements of guidance from Codex texts which are relevant for the labelling of foods obtained by GM/GE techniques. It also recognizes that each country can adopt different approaches regarding labelling of foods obtained by GM/GE techniques and that food labelling is the primary means of communications between the seller on the one hand and the purchaser and consumer on the other.”] / or

[Amendment to the first sentence of paragraph 1 as developed during the 37th Session of the CCFL as alternative to chapeau 1 and 2:

“1. The following Codex standards and related texts contain provisions applicable to the labelling of food products and may be applied to foods obtained by GM/GE techniques.

Any information or pictorial device may be displayed on labels of foods obtained from GM/GE techniques provided that these are not in conflict with Codex standards and guidelines.

This document is not intended to suggest or imply that food obtained from GM/GE techniques are in any way different or less safe from other foods simply due to their method of production provided that they have undergone safety assessment according to the guidance of the Codex Alimentarius Commission.”]

[Text as annexed to report of the 36th Session of the CCFL:

“1. The following Codex standards and related texts contain provisions applicable to the labelling of food products and may be applied to foods obtained by GM/GE:]

- The Codex General Standard for the Labelling of Prepackaged Foods, (Codex Stan 1-1985)
 - The Codex General Guidelines on Claims (CAC/GL 1-1979)
 - The Codex Guidelines for Use of Nutrition and Health Claims (CAC/GL 23-1997)
 - Principles for Risk Analysis of Foods Derived from Modern Biotechnology (CAC/GL 44-2003);
 - Guidelines for the Conduct of Food Safety Assessments of Foods Derived from Recombinant-DNA plants (CAC/GL 45-2003)
 - Guidelines for the Conduct of Food Safety Assessments of Foods Derived from Recombinant-DNA microorganisms
 - Working Principles for Risk Analysis for Food Safety for Application by Governments
- 2 Codex labelling and other texts apply to foods sold in unpackaged/non-retail containers including those foods obtained through GM-GE techniques and sold in such manner. Labelling means “any written, printed or graphic matter that is present on the label, accompanies the food, or is displayed near the food, including that for the purpose of promoting its sale or disposal.”
3. Labelling of a food is considered only after the food has undergone appropriate assessments to deem it safe for human consumption. Codex has adopted several texts which address the safety aspects of GM/GE foods and are available to Member Countries for this purpose¹.
4. The Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants (CAC/GL 45-2003) states that the “transfer of genes from commonly allergenic foods . . . should be avoided unless it is documented that the transferred gene does not code for an allergen . . .”.
5. The presence in any food or food ingredients obtained through biotechnology of an allergen transferred from any of the products listed in section 4.2.1.4 shall be declared. When it is not possible to provide adequate information on the presence of an allergen through labelling, the food containing the allergen should not be marketed (section 4.2.2, GSLPF).
6. When the physical, chemical, or functional characteristics of a food are significantly altered through any means (production or processing), the labelling of such food be appropriately modified from its traditional labelling to ensure that the food is described or presented in a manner that is truthful and not misleading and not likely to create an erroneous impression regarding its character in any respect. The traditional name of such food may need to be changed or qualified with additional words or phrases to describe the true nature of the food and to avoid misleading or confusing the consumer.
7. In cases where GM/GE modifications result in a claim related to the nutritional properties of the food, the claim language should be consistent with the Guidelines for Use of Nutrition and Health Claims.
8. The provisions in existing Codex texts can be applied to labelling statements related to GM/GE foods.
9. Codex labelling texts apply to representation used to provide information to enable consumer choice about the food they purchase and/or when used by marketers to indicate that a food meets certain consumer preferences.
10. Any representations made on the label or in the labelling of GM/GE foods should be consistent with the GSLPF (Codex Stan 1-1985) and the General Guidelines on Claims (CAC/GL 1-1979).

Table 1. Provisions in existing Codex labelling texts that apply to the labeling of GM/GE foods

Section	Mandatory Labelling Provisions
<i>General Standard for the Labelling of Prepackaged Foods</i>	
3.1	Prepackaged food shall not be described or presented on any label or in any labelling in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character in any respect.

¹ Guideline for the Conduct of Food Safety Assessment of Foods Derived from Recombinant-DNA Plants (CAC/GL 45-2003); Guideline for the Conduct of Food Safety Assessment of Foods Produced Using Recombinant-DNA Microorganisms (CAC/GL 46-2003).

- 3.2 Prepackaged food shall not be described or presented on any label or in any labelling by words, pictorial or other devices which refer to or are suggestive either directly or indirectly, of any other product with which such food might be confused, or in such a manner as to lead the purchaser or consumer to suppose that the food is connected with such other product.
- 4.1.1 The name [of the food] shall indicate the true nature of the food and normally be specific and not generic.
- 4.1.2 There shall appear on the label either in conjunction with, or in close proximity to, the name of the food, such additional words or phrases as necessary to avoid misleading or confusing the consumer in regard to the true nature and physical condition of the food including but not limited to the type of packaging medium, style, and the condition or type of treatment it has undergone; for example, dried, concentrated, reconstituted, smoked.
- 4.2.2 The presence in any food or food ingredients obtained through biotechnology of an allergen transferred from any of the products listed in section 4.2.1.4 shall be declared.

When it is not possible to provide adequate information on the presence of an allergen through labelling, the food containing the allergen should not be marketed.

Section Voluntary Labelling Provisions***General Standard for the Labelling of Prepackaged Foods***

- 7.1 Optional labelling – Any information or pictorial device written, printed, or graphic matter may be displayed in labelling provided that it is not in conflict with the mandatory requirements of this standard and those relating to claims and deception given in section 3 – General Principles.

General Guidelines on Claims

- 1.2 The principle on which the guidelines are based is that no food should be described or presented in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character in any respect.
- 1.3 The person marketing the food should be able to justify the claims made.
- 2 Definition – For the purpose of these guidelines, a claim is any representation which states, suggests, or implies that a food has particular characteristics relating to its origin, nutritional properties, nature, production, processing, composition or any other quality.
- 3.3 Prohibited claims – Claims which cannot be substantiated.
- 3.5 Prohibited claims – Claims which could give rise to doubt about the safety of similar food or which could arouse or exploit fear in the consumer.
- 4.1 Potentially misleading claims – Meaningless claims including incomplete comparatives and superlatives.
- 5.1(iii) Conditional claims – Terms such as “natural,” “pure,” “fresh,” “home made,” “organically grown,” and “biologically grown” when they are used, should be in accordance with the national practices in the country where the food is sold. The use of these terms should be consistent with the prohibitions set out in Section 3.
- 5.1(v) Conditional claims – Claims that a food has special characteristics when all such foods have the same characteristics, if this fact is apparent in the claim.
- 5.1 (vi) Conditional claims – Claims which highlight the absence or non-addition of particular substances to food may be used provided that they are not misleading and provided that the substance:
- (b) is one which consumers would normally expect to find in the food;
 - (d) is one whose presence or addition is permitted in the food.

Guidelines for Use of Nutrition and Health Claims

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