

codex alimentarius commission



FOOD AND AGRICULTURE
ORGANIZATION
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Agenda Item 4 (e)

**CX/MMP 02/10-part 1
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JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX COMMITTEE ON MILK AND MILK PRODUCTS

Fifth Session

Wellington, New Zealand, 8-12 April 2002

PROPOSED REVISED STANDARD FOR PRODUCTS IN WHICH MILK COMPONENTS ARE SUBSTITUTED BY NON-MILK COMPONENTS

COMMENTS SUBMITTED IN RESPONSE TO CL 2001/16-MMP

(Prepared by Malaysia)

Comments were received from Argentina, Canada, Czech Republic, Denmark, the European Community (EC)*, France, Germany, India*, Malaysia, Netherlands, Norway, Singapore, Spain, Switzerland*, Thailand, and the United States of America.

An asterisk (*) indicates comments received after 31 October 2001 and therefore not considered by the Drafting Group.

A dash (-) indicates that data were not available.

3. DATA ON PRODUCTION, CONSUMPTION AND TRADE

The following comments apply to all three products.

Argentina	Our country does not produce, consume, import or export these types of products.
Canada	Indications are that all three of these products do not exist and are not sold in Canada. They are not imported to nor produced in Canada.
Czech Republic	None.
Denmark	Data which are specific to the three products in question cannot be obtained from our statistics. The products belong to CN-codes 19019091 or 19019099 which both cover other foods as well.
EC*	-
France	No statistics available on production, consumption, imports and exports, given the very low levels of production. No changes have been noted over the last few years.
India*	Nil.
Norway	Products covered by the proposed Draft Codex Standards are not being manufactured domestically; neither do we hold any data on consumption of and trade in such imports.
United States	The United States has limited production of skimmed evaporated milk and sweetened condensed skimmed milk to which vegetable fat has been added to simulate the full fat version of these standardized products, and we are not aware of any production of skimmed milk powder with added vegetable fat. Because of the very limited production, the United States government does not compile domestic production or consumption information for these products. Similarly, international trade data concerning the volume of these products is also not available. Trade data for these products may be contained in any one of three Chapter Headings (19, 21 & 22) in the Harmonized Commodity Description and Coding System. Since specific harmonized codes for these products do not exist, specific trade information is combined with data for other food products. It is impossible to separate information for these products and provide accurate international trade data.

Comments specific to each product are listed below under the relevant product heading.

3a. Proposed Draft Standard For Sweetened Condensed Skimmed Milk with Vegetable Fat / Proposed Draft Standard for Sweetened Condensed Filled Milk

Country	Production (MT)		Consumption (MT)		Import (MT)		Export (MT)	
	1998	1999	1998	1999	1998	1999	1998	1999
Germany	10000	10000	1000	1000	-	-	9000	9000
Malaysia	83671	87151	78284	85967	4128	9501	11515	10685
Netherlands	No production, import nor export is known.							
Singapore	4996	10378	-	-	17086	17525	10620	9304
Spain	-	-	-	-	-	-	-	-
Switzerland*	-	-	-	-	Not reported		Not reported	
Thailand	102468	100604	100134	98277	-	-	2334	2327

3b. Proposed Draft Standard for Evaporated Skimmed Milk with Vegetable Fat / Proposed Draft Standard for Evaporated Filled Milk

Country	Production (MT)		Consumption (MT)		Import (MT)		Export (MT)	
	1998	1999	1998	1999	1998	1999	1998	1999
Denmark	Powder products are imported to our country in minor amounts and marketed as “coffee whiteners”.							
Germany	1000	1000	500	500	-	-	500	500
Malaysia	31348	28102	21100	17401	1243	3072	11491	13773
Netherlands	Evaporated skimmed milk with vegetable fat is produced in the Netherlands, both for the home market (coffee creamer) and for export. Figures on production and export are not available							
Singapore	21870	21870	-	-	8446	9667	15817	22854
Spain	-	-	-	-	-	-	-	-
Switzerland*	66.499	-	-	-	Not reported		Not reported	
Thailand	38318	39429	17272	18004	-	-	21046	21425

3c. Proposed Draft Standard for Skimmed Milk Powder with Vegetable Fat / Proposed Draft Standard for Filled Milk Powder

Country	Production (MT)		Consumption (MT)		Import (MT)		Export (MT)	
	1998	1999	1998	1999	1998	1999	1998	1999
Germany	15000	20000	1000	1000	1000	1000	13000	18000
Malaysia	3016	3887	1883	4019	75	174	1208	48
Netherlands	These products are produced in several forms and for several purposes. On the home market, for instance, as coffee whitener and toppings, for export as a base for dissolving in water to a similar product as milk. Production and export figures are not available.							
Singapore	0	0	-	-	21027	19567	3510	4596
Spain ¹	-	-	-	-	-	-	-	-
Switzerland*	720	720	-	-	Not reported		Not reported	
Thailand	12000	12000	-	-	-	-	12000	12000

¹ According to the way the question is written, the required information refers only to “Skimmed Milk Powder with Vegetable Fat” with an absolute minimum fat content of 26% m/m. We would like to know what the reason is for the omission of “Partially Skimmed Milk Powder with Vegetable Fat,” which was also described in Codex document CX/MMP-00/4 (fat content between 1.5% and 26% m/m).

4. CURRENT PRODUCT NAMES AND NATIONAL LEGISLATION

4a. National legislation specifying the name of each product

Country	Sweetened Condensed Filled Milk			Evaporated Filled Milk			Filled Milk Powder		
	Y/ N	Specific name	National legislation	Y/ N	Specific name	National legislation	Y/ N	Specific name	National legislation
Argentina	To date, there exists no national legislation in force specifying the name of these foods.								
Canada	Canada does not have national legislation in force specifying the name for these foods. They would be considered <u>unstandardized products</u> . However, the Food and Drugs Act (national legislation) specifies under Section 5.(1): “No person shall label, package, treat, process, sell or advertise any food in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety.” Currently, the majority of provinces within Canada regulate and restrict the use of dairy names for products in which milk components are substituted by non-milk components.								
Czech Republic	None. These products are not allowed for labelling as milk products, according to Food Law Nr. 110/1997.								
Denmark	Y	See below ²	See below ²	Y	See below ²	See below ²	Y	“Other fat containing food”	Regulation no. 902 of 29.11.1993, & 23b.
France	Yes. Names given to milk and milk products are not allowed to be used for these products and in particular the term “Filled Milk”. Any use of the word milk is not permitted. EEC regulation 1898/97, 2 July 1997, on the protection of dairy names. Transcription of the European Regulations on tinned milks (Law of 9 March 1978).								
Germany	N	-	-	N	-	-	N	-	-
India*	Nil.								

² General rules apply as follows:

- Foods must not be sold under any circumstances that may mislead the consumer with regard to its origin, production and/or manufacturing method, nature, its physical state, composition, characteristics or attributes (Danish food Act (Act no. 471 of 1 July, 1998).
- The term ‘milk’ and those terms used for the designation of milk products may not be used in combination with one or more other words, as milkfat has been replaced by non-milk constituents (EU Regulation 1898/87, Article 2.3).
- However, this does not apply to designations of products the exact nature of which is well known due to traditional usage and/or when used in descriptive designations (EU Regulation 1898/87 Article 3.2 – traditional names recognized in Denmark are listed in Decision no. 88/566/EEC of 28 October, 1988).
- Descriptive designations may only comprise the basic raw materials used (EU Regulation 1898/87, Article 3.2).
- Common names may be used if in accordance with the above (i.e. no reference to milk and milk products in the designation and labelling).

Country	Sweetened Condensed Filled Milk			Evaporated Filled Milk			Filled Milk Powder		
	Y/ N	Specific name	National legislation	Y/ N	Specific name	National legislation	Y/ N	Specific name	National legislation
Malaysia	Y	Sweetened condensed filled milk or condensed filled milk	Food Regulations 1985 (Regulation 99)	Y	Unsweetened evaporated filled milk or Evaporated filled milk	Food Regulations 1985 (Regulation 98)	Y	Filled Milk Powder	Food Regulations 1985 (Regulation 97A)
Netherlands	In the Dutch legislation no designations have been foreseen for these type of products. The general rules apply to designate on basis of the true nature and composition, for instance “skimmed milk powder with vegetable fat”.								
Norway	Since nationally unlegislated, such products have no specific names.								
Singapore	N	-	-	N	-	-	N	-	-
Spain	N	-	-	N	-	-	N	-	-
Switzerland*	N	-	-	N	-	-	N	-	-
Thailand	Y	Sweetened condensed filled milk	The Ministry of Public Health Notification No. 26 B.E. 2522(1979) Re: Cow’s Milk	Y	Evaporated filled milk	The Ministry of Public Health Notification No. 26 B.E. 2522(1979) Re: Cow’s Milk	Y	Filled Milk Powder	The Ministry of Public Health Notification No. 26 B.E. 2522(1979) Re: Cow’s Milk
United States	Y	Sweetened Condensed Skimmed Milk With Vegetable Fat	Code of Federal Regulations, Title 21, Part 101 Food Labeling Code of Federal Regulations, Title 21, Part 102.5	Y	Evaporated Skimmed Milk With Vegetable Fat	Code of Federal Regulations, Title 21, Part 101 Food Labeling Code of Federal Regulations, Title 21, Part 102.5	Y	Skimmed Milk Powder With Vegetable Fat	Code of Federal Regulations, Title 21, Part 101 Food Labeling Code of Federal Regulations, Title 21, Part 102.5

4b. Common names and relevant legislation

Country	Sweetened Condensed Filled Milk		Evaporated Filled Milk		Filled Milk Powder	
	Specific name	National legislation	Specific name	National legislation	Specific name	National legislation
Argentina	Food products made from sweetened condensed skimmed milk with vegetable fat	To date, there exists no national legislation in force specifying the name of these foods.	Food products made from evaporated skimmed milk with vegetable fat.	To date, there exists no national legislation in force specifying the name of these foods.	Food products made from skimmed milk powder with vegetable fat.	To date, there exists no national legislation in force specifying the name of these foods.
Canada	<p>In addition to complying with Section 5.(1) of the Food and Drugs Act mentioned above, Canada refers to a “Guide to Food Labelling and Advertising” which addresses standardized and <u>unstandardized food products</u>. This guide states that the common name of a standardized food should not be applied to any other food, unless it meets the provisions set for that particular food. However, a modified common name can be used to describe a food that does not meet the standard, if certain other conditions are met.</p> <p>Canada would not permit any of the three products utilizing the term “Filled Milk” since this name is not considered meaningful to the consumer. If the product names “...with Vegetable Fat” were used, since there is an implied fat claim, additional information of some kind of fat content would be required. This name would also trigger nutritional labelling of fat.</p> <p>Canada also has a policy on the nutrient fortification of foods. Non-fortified foods are allowed if they are not represented as substitutes for milk. Since these products are represented as substitutes for milk they would require fortification in Canada.</p>					
Czech Republic	<p>None. Products are not allowed for labelling as milk products.</p> <p>Food Law Nr. 110/1997, Decrees of Ministry for Agriculture Nr. 328/1997, Nr. 347/1999.</p>					
Denmark	-	-	“Coffee whitener” “Beverage whitener”	“Beverage whitener” is a food category in the Danish Positive List of permitted food additives, April 2000.	“Coffee whitener” “Beverage whitener”	“Beverage whitener” is a food category in the Danish Positive List of permitted food additives, April 2000.
France	<p>Names used for milk and dairy products cannot be used. In France the name should be used for products in powder form: “Powdered food prepared from dairy ingredients and vegetable fat” or “Blend of...dairy ingredients and vegetable fat in powder form. The same principle applies to concentrated products.</p> <p>EEC Regulation 1898/97, 2 July 1997, on the protection of dairy names. Transcription of the European Regulations on the labelling of food products 200/13 of 20 March 2000.</p>					
Germany	Description of its true nature	EU Regulation 1898/87	Description of its true nature	EU Regulation 1898/87	Description of its true nature	EU Regulation 1898/87
India*	Nil.					
Netherlands	In the Dutch legislation, no designations have been foreseen for these type of products. The general rules apply to designate on basis of the true nature and composition, for instance “skimmed milk powder with vegetable fat”.					
Norway	Since nationally unlegislated, such products have no specific names.					

Country	Sweetened Condensed Filled Milk		Evaporated Filled Milk		Filled Milk Powder	
	Specific name	National legislation	Specific name	National legislation	Specific name	National legislation
Singapore	a) Sweetened condensed milk b) Skimmed or separated milk or defatted milk c) Filled milk	a) Food Regulations no. 100 b) Food Regulations no. 103 c) Food Regulations no. 104	a) Evaporated Milk b) Skimmed or separated or defatted milk c) Filled milk	a) Food Regulations no. 99 b) Food Regulations no. 103 c) Food Regulations no. 104	a) Skimmed or separated or defatted milk b) Filled milk	a) Food Regulations no. 103 b) Food Regulations no. 104
Spain	-	EEC Regulation No. 1888/1887 of the Council of 2.7.87 – Article 3, Section 2, 2 nd paragraph	-	EEC Regulation No. 1888/87 of the Council of 2.7.87 – Article 3, Section 2, 2 nd paragraph	Skimmed milk powder with vegetable fat	EU Regulation No. 1888/87 of the Council of 2.7.87 – Article 3, Section 2, 2 nd paragraph
Switzerland*	In the specific denomination products must be described. The declaration of ingredients is mandatory.					

5. OTHER COMMENTS

Country	Remarks
Argentina	<p>Comments arising from the reading of the document presented, as well as of the background material, by the delegations concerned with the approval of the standard in question during the 4th Session of the CCMMP en Wellington.</p> <p>1st – During the aforementioned meeting of the Codex Committee, our delegation was in agreement with the countries proposing the development of this standard in [view of] the crisis being experienced in high energy, low cost foods to cover their deficits.[Spanish text ungrammatical]</p> <p>We also agreed that the proposed products could meet these nutritional specifications. However, we strongly maintained our position that since an essential ingredient had been replaced by another, non-dairy ingredient, <u>the foods in question should not be classified as Milk Products</u>.</p> <p>2nd – Our delegation proposed to the Committee that the products could be classified under their generic name.</p> <ul style="list-style-type: none"> • “Food Products made with Sweetened Condensed Skimmed Milk with Vegetable Fat” • “Food Products made with Evaporated Skimmed Milk with Vegetable Fat” • “Food Products made with Skimmed Milk Powder with Vegetable Fat” <p>These names maintain the spirit of the product to be sold and will not be misleading or confusing to the normal users of whole milk products.</p> <p>3rd – The General Standard for the Use of Dairy Terms (ALINORM 99/11 – Appendix 11) indicates in point 2.1 that milk is the normal mammary secretion of milking animals obtained from one or more milkings without either addition to it or extraction from it, intended for consumption as liquid milk or for further processing. Moreover, point 4.2.1 indicates that only a food complying with the definition in Section 2.1 may be named “milk”. In addition, point 4.2.2 states that milk which is modified in composition by the addition and/or removal of milk constituents may be identified with a name using the term “milk”, provided that a clear description of the modification to which the milk has been subjected is given in close proximity to the name. Point 4.2.3 states that notwithstanding the provisions of Section 4.2.2, milk which is adjusted for fat and/or protein content and which is intended for direct consumption may also be named “milk”, provided that:</p> <ul style="list-style-type: none"> - It is sold only where such adjustments are permitted in the country of retail sale. - The minimum and maximum limits of fat and/or protein content (as the case may be) of the adjusted milk are specified in the legislation of the country of retail sale. In this case, the protein content shall be within the limits of natural variation of that country.
Czech Republic	<p>In Czech Republic the production of Condensed Milk, Evaporated Milk and Milk Powder is in compliance with Codex-Standards A-4-1971, Rev.1999, A-3-1971, Rev.1999 and Codex-Stand 207-1999 accepting Codex General Standard for the Use of Dairy Terms-Codex Stan 206-1999 (see Definitions 2.2).</p> <p>Milk products are not allowed with substitution of milk fat with vegetable fat. The proposed labelling would be misleading or confusing to the consumer.</p>
Denmark	<p>In summary, the products under consideration can be designated</p> <ol style="list-style-type: none"> (i) either by descriptive designations using the names of the basic ingredients – such as the tentative names identified by the 4th CCMMP, (ii) or by the common names as established in Denmark. <p><i>The term “filled”:</i></p> <p>The term “filled...milk...” is not allowed as it is not in compliance with EU Regulation 1898/87, Article 2.3 and 3.2, Decision no. 88/566/EEC of 28 October 1988.</p>
EC*	<p>The European Community considers that the intended standard seems to be in conflict with the existing Codex standards.</p> <p>The suggested standard contradicts in our view the Codex General Standard for the Use of Dairy Terms (Codex Standard 206-1999). The European Community would like to refer in particular to sections 4.6.3 and 4.6.4 of this Standard where it is notably stated:</p>

Country	Remarks
	<p><i>“If the final product is intended to substitute milk, a milk product or composite milk product, dairy terms shall not be used”.</i></p> <p>However, the European Community understands that this “substituted” product is traditionally sold in many countries and that the exact nature of the product is clear for consumers of these countries. That is not the case in Europe where the term “filled milk” is not clear and could be misleading to consumers.</p> <p>Therefore, while the European Community would have preferred regional standards for ‘substituted products’, we can accept world-wide standards for these products provided that they ensure the name of the products and other labelling provisions comply with the legislation in the country of retail sale.</p>
France	<p>The French authorities believe it is not appropriate to draw up a standard for products in which the dairy components have been replaced by non-dairy products, because these products are substitute dairy products.</p> <p>Indeed adopting a standard of this type would contradict the provisions of the Codex General Standard for the use of dairy terms (Codex 206-1999).</p> <p>Paragraphs 4.6.3 and following of standard 206-1000 state that dairy names cannot be used in any form whatsoever to refer to products which are substitute dairy products. In order to avoid causing confusion to the consumer as to the exact nature and composition of such products, it is essential that their name does not include any terminology reserved for dairy products.</p>
Germany	<p>Under Article 2, Council Regulation (EEC) No 1898 of 2 July 1987 on the protection of designations used in the marketing of milk and milk products, the term “milk” may not be used in connection with the products listed above.</p>
Malaysia	<p>Other products are commercially available in the market, e.g. evaporated creamer and sweetened creamer which are considered as food not elsewhere standardized under the Food Regulation 1985.</p>
Norway	<p>The Codex General Standard for the Use of Dairy Terms (206-1999), having established principles for the use of dairy terms to prevent misleading labelling and marketing of “imitation” products, seeks to ensure the correct use of established dairy terms and labelling of milk products.</p> <p>According to this standard, products in which milk components are substituted by non-milk components, so-called “filled milk products”. Cannot use the term “milk” in their designation.</p> <p>The Norwegian Food Control Authority is of the opinion that the proposed standards for “filled milk products” will serve to undermine the intention of the General Standard for the Use of Dairy Terms; thus we do not support the elaboration of such standards.</p>
Spain	<p>Point 1 states that the CCMMP agreed that, while awaiting a decision, they would ask the Executive Committee (CCEXE) to approve, in the 47th meeting, the development of worldwide Codex standards for “Evaporated Skimmed Milk with Vegetable Fat”, “Skimmed Condensed Milk with Vegetable Fat” and “Skimmed Milk Powder with Vegetable Fat” as a new project, <u>with the understanding that the titles of the standards would be the object of a later deliberation during their development.</u></p> <p>Although we understand the observation referred to, given the importance of the matter we felt it advisable to bring it to the forefront so that it may be considered. Given that the milkfat substitution may be partial or total, the descriptive names proposed could fail to correspond to the true nature of the product, since in the case of partial substitution, instead of speaking of “Skimmed Milk...” we would have to speak of “Partially Skimmed Milk...”</p>
Thailand	<p>Thailand also has Thai Industrial Standard for Filled Milk products. [Filled Milk: Code No.: TIS 190-2519(1976)].</p> <p>Defines the product prepared from either cow’s milk, powdered milk, condensed milk, recombined milk or their combination, with the addition of vegetable oil or fat. Allow vitamins and/or mineral salts as ingredient. Classifies the product into 3 styles, i.e. pasteurized or sterilized filled milk, unsweetened condensed filled milk and sweetened condensed filled milk. Specifies requirement for raw materials, colour, flavour, fat</p>

Country	Remarks
	<p>content, bacteria, vitamins. Includes packaging, labelling, sampling and criteria for conformity analysis.</p> <p>Note: The current specific name classified on the labelling of the products which are widely used in Thailand:</p> <ol style="list-style-type: none"> 1. Proposed Draft Standard for Sweetened Condensed Skimmed Milk with Vegetable Fat <ul style="list-style-type: none"> • Sweetened Condensed Filled Milk Palm Oil Formula • Sweetened Condensed Skimmed Milk with Palm Oil and Milk Fat Formula • Sweetened Condensed Skimmed Milk with Palm Oil Formula 2. Proposed Draft Standard for Evaporated Skimmed Milk with Vegetable Fat <ul style="list-style-type: none"> • Unsweetened Condensed Skimmed Milk with Palm Oil Formula or Evaporated Filled Milk • Unsweetened Evaporated milk with Palm Oil Formula • Unsweetened Condensed Filled Milk 3. Proposed Draft Standard for Skimmed Milk Powder with Vegetable Fat <ul style="list-style-type: none"> • Filled Milk Powder • Flavoured Milk Powder Under the Ministry of Public Health Notification No.35 Re: Flavoured Milk • Other Milk Products Under the Ministry of Public Health Notification No.35 Re: Other Milk Products
United States	The term “filled” is not allowed in naming these products in the United States. We feel this term would be misleading to consumers.