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codex alimentarius commission



FOOD AND AGRICULTURE
ORGANIZATION
OF THE UNITED NATIONS

WORLD
HEALTH
ORGANIZATION



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Agenda Item 6

ORIGINAL LANGUAGE ONLY

JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX ALIMENTARIUS COMMISSION

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

COMMENTS ON PROPOSED DRAFT STANDARDS AND RELATED TEXTS SUBMITTED AT STEP 5

(Comments submitted as before 3 June 2009)

CODEX COMMITTEE ON FATS AND OILS COMITÉ DU CODEX SUR LES GRAISSES ET HUILES COMITÉ DEL CODEX SOBRE GRASAS Y ACEITES

Proposed Draft Amendment to the Code of Practice for the Storage and Transport of Edible fats and Oils in Bulk: Proposed Draft Criteria to Assess the Acceptability of Substances for Inclusion in a List of Acceptable Previous Cargoes at Step 5 (ALINORM 09/32/17, APPENDIX III)

Comments of Malaysia and the United States of America

MALAYSIA

Malaysia supports the Draft Criteria to Assess the Acceptability of Substances for the Inclusion in the List of Acceptable Previous Cargoes of the Proposed Draft Amendment to the Code of Practice for the Storage and Transport of Edible Fats and Oils in Bulk be adopted at Step 5 by the 32nd Session of Codex Alimentarius Commission.

UNITED STATES OF AMERICA

While the United States does not oppose advancing the Proposed Draft Amendment at Step 5 to the Code of Practice for the Storage and Transport of Edible Fats and Oils in bulk, we believe, that the Codex Committee on Fats and Oils (CCFO) needs to look very carefully at these criteria to ensure they are not more restrictive than necessary to protect consumer health.

Thus, the United States' support for the adoption of the proposed draft criteria to assess the acceptability of substances for inclusion in a list of acceptable previous cargoes, is contingent on the following circumstances. First, the proposed criteria should be designated as an important *consideration* to be used by competent food safety authorities when assessing the food safety of immediate previous cargoes to the transport of edible oils and fats, and should not be used by CCFO to develop lists of acceptable previous cargoes. We believe that the proposed draft criteria along with the current Codex List of Banned Immediate Previous Cargoes (Appendix 3 of the Code of Practice (CAC/RCP 36)) will be adequate to meet the dual mission of Codex: to protect consumer health and promote fair practices in the food trade.

The second condition is the discontinuation of work on the two Lists of Acceptable Previous Cargo at Steps 3 and 6. The United States believes that if the criteria are meaningful, there is no need for a list. Only if the criteria were ineffective, would there be a need to develop a list. In such a case the United States would

support strengthening the criteria, rather than compiling lists. We believe that the practical and procedural considerations that we discuss below offer strong support for this request.

Practical Concerns:

The United States continues to have substantial concerns regarding the practicalities of Codex establishing and maintaining a list of acceptable previous cargoes for the bulk transport of edible fats and oils because of the following:

First, there is no mechanism within the Joint FAO/WHO Food Standards Programme that allows for the list to be created and maintained based on the risk analysis principles established by Codex.

Second, interpretation of the risk assessment output (ADI/TDI) by JECFA for application to a list of acceptable previous cargoes is problematic. When considering applying the risk assessment output (e.g., ADIs) intended for specific conditions of the substance (e.g., as a food additive, flavoring, pesticide etc.) to another situation (e.g., previous cargoes), risk managers must very carefully consider the risk assessment. For example, the type and breadth of studies that allow a risk assessor to establish an ADI/TDI for a food additive versus a contaminant or pesticide are very different due to variables that are unique to each situation. These include--in addition to toxicological studies of various types unique to the substance the source of the substance--its persistence in the food, the effects of processing and handling, and dietary exposure. Moreover, the nature of the risk assessment out must be considered. For example, an ADI is an estimate of chronic/lifetime risk and is not applied to substances that present an acute risk under the conditions of use. Thus, while criterion 2 ($ADI/TDI > 0.1 \text{ mg/kg bw/d}$) is useful guidance to competent national authorities, it is not appropriate for establishing a positive list of acceptable previous cargoes by the Codex Alimentarius.

Third, in most cases the substances considered for inclusion in the list of acceptable previous cargoes do not meet Criterion 2 and thus must be addressed on a case by-case basis; however, the Code contains no science-based criteria to guide Codex in deciding whether a substance is acceptable as a previous cargo or not. This undermines Codex's credibility as the science-based, international standard-setting organization that the World Trade Organization relies on for setting the benchmark for food safety and international trade. Furthermore, the absence of clear scientific criteria could potentially result in Codex establishing a list of acceptable previous cargoes that is more restrictive than necessary to protect consumer health. In contrast, Criterion 2, when used in conjunction with the list of banned cargoes, provides useful guidance for competent authorities to consider when evaluating the safety of immediate previous cargoes of edible fats and oils.

Fourth, the existence of a Codex list that cannot be updated on a timely basis to reflect changing trends in the edible oils and fats marketplace would be inadequate for both national governments and industry, as it would rapidly become "stagnant", and potentially hazardous if new data confirmed a serious health risk associated with a previous cargo on such an acceptable list. A "stagnant" list would not further the mission of Codex to protect consumer health and to promote fair trade practices and has the potential to adversely effect consumer health by limiting consumers' access to otherwise safe edible fats and oils.

Procedural Concerns:

Currently, two International Non-Governmental Organizations--NIOP and FOSFA--have well-established procedures and health criteria for the development of a list of acceptable previous cargoes. These lists have been in existence for the last 20 years, and oil exporting and importing countries have relied on them to prevent contamination of the fats and oils during transport. Thus, we believe that continuation of work on these two lists contradicts (c) in the Criteria for Work Priorities which cautions against beginning work that is "already undertaken by other international organizations in this field and/or suggested by the relevant international inter government body(ies)." ¹

Furthermore, the CCFO has been working on development of the lists for the last 20 years and has not reached any consensus regarding the incorporation of substances in the list. In its 58th session , the Executive Committee proposed that the Commission endorse the following criterion for conducting the critical review process: "When an item has been considered for several sessions without any progress and there is no

¹ 17th Edition Procedural Manual, Section II, Guidelines for the Establishment of Work Priorities, © Criteria Applicable to General Subjects, p. 66.

prospect of reaching consensus, the Executive Committee could propose suspension of work at a particular Step in the Elaboration Procedure for a specified period of time or discontinuation of work, or corrective action to be taken to achieve progress, fully taking into consideration the information provided by the subsidiary body concerned.”²

Thus, in the absence of science-based risk assessments targeted specifically to the safety of immediate previous cargoes for edible fats and oils, and procedures for establishing and maintaining a list of acceptable previous cargoes, the United States proposes that the Codex Alimentarius Commission instruct the CCFO to stop work on the elaboration of such a “positive” list. We recommend the Commission instruct CCFO to limit its work on the Code of Practice for the storage and Transport of Edible Fats and Oils in Bulk to revising safety criteria for acceptable previous cargoes. In our view, such criteria along with the already adopted banned list of previous cargoes are sufficient to meet the purposes of Codex to protect consumer health and to promote fair practices in the food trade.

Proposed Draft Amendment to the Standard for Named Vegetable Oil: *Inclusion of Palm Kernel Olein and Palm Kernel Stearin at Step 5 (ALINORM 09/32/17, APPENDIX IV)*

Comments of Brazil and Malaysia

BRAZIL

Brazil asks for clarification for the proposed level of 7mg/kg of iron for palm kernel stearin and the statement of para. 84 of ALINORM 09/32/17: “because the fractionation of palm kernel oil results in a higher level of iron in palm kernel stearin”. Brazil would like to clarify why the fractionation process results in higher level of iron in palm kernel stearin, since this process, theoretically would remove iron from the product (heating, cooling, filtration).

MALAYSIA

Malaysia supports the amendment to the Standard for Named Vegetable Oil: Inclusion of Palm Kernel Olein and Palm Kernel Stearin be adopted at Step 5 by the 32nd Session of Codex Alimentarius Commission.

² Report of the Fifty-Eighth Session of the Executive Committee of the Codex Alimentarius Commission, paragraph 47, page 8.