

# codex alimentarius commission E



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Agenda Item 3

CX/MMP 10/9/3  
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## JOINT FAO/WHO FOOD STANDARDS PROGRAMME CODEX COMMITTEE ON MILK AND MILK PRODUCTS

Ninth Session

Auckland, New Zealand, 1-5 February 2010

### DRAFT AMENDMENT TO THE CODEX STANDARD FOR FERMENTED MILKS (CODEX STAN 243-2003) PERTAINING TO DRINKS BASED ON FERMENTED MILK

#### Comments at Step 6

(submitted by Argentina, Costa Rica, Cuba, Dominican Republic, Greece, Guatemala, India, Indonesia, Japan, Lao PDR, Malaysia, Mexico, New Zealand, Paraguay, Philippines, Singapore, Thailand, United States and Uruguay)

#### Argentina

Argentina appreciates the opportunity to provide these comments.

#### 2.4 Fermented Milk Drinks

1. We suggest that the minimum content of dairy ingredients be set at 51% in order to ensure that dairy ingredients are the key components in accordance with the *General Standard for the Use of Dairy Terms (CODEX STAN 206-1999)* and that the minimum content of 40% be established for fermented milk addition.

The following wording is suggested: “*Drinks Based on Fermented Milk are composite milk products, as defined in Section 2.3 of the Codex General Standard for the Use of Dairy Terms (CODEX STAN 206-1999), obtained by mixing Fermented Milk as described in Section 2.1 with potable water, with or without the addition of other ingredients such as whey, other non-dairy ingredients, and flavourings. Drinks Based on Fermented Milk contain a minimum of 50 % (m/m) dairy components and of 40 % (m/m) fermented milk.*”

We agree with the other sections of the proposed draft Amendment.

#### Costa Rica

Costa Rica is grateful for the opportunity to provide comments on the proposed amendment to the Codex standard for fermented milks.

**It supports** including “drinks based on fermented milk” in the Codex Standard STAN 243- 2003 of the Fermented Milk Codex.

Costa Rica does not agree with the suggested 40% under the name “*Drinks Based on Fermented Milk*” and proposes the following alternatives to be used as the case may be:

- 1- For the name “Drink based on fermented milk” the fermented milk content must be equal to or more than 50%.
- 2- When this percentage is less than 50% and more than or equal to 25%, it is suggested using the name “Drink with fermented milk”.

#### Cuba

Cuba requests that the square brackets be removed from the description at the end of sub-paragraph 2.4, accepting the wording as it would be after removing the said square brackets.

Cuba also requests that in sub-paragraph 3.3, all the criteria assessed therein for drinks based on fermented milk be grouped in the table of composition.

### **Dominican Republic**

After extending cordial greetings, we would like to advise the decision we have taken in the Milk and Milk Product Subcommittee concerning the Definition in point 2.4 of drinks based on fermented milk in section 2.3 of the General Codex Standard for the Use of Dairy Terms (Codex Stan 206-1999) obtained by mixing Fermented Milk, as described in Section 2.1, with potable water, with or without the addition of other non-dairy ingredients, and flavourings. Drinks Based on Fermented Milk contain a minimum of [40%] (m/m) fermented milk.

At the 31st Meeting of the Codex Committee, this Document confirms on page 118 the progress of this document and we would not like to see it stalled at Step 7, as has happened to other documents.

For this reason, we support Mexico's proposal to advance to Step 7, that the definition of Drinks Based on Fermented Milk be inserted in this new category in the Fermented Milk Standard (a horizontal standard that includes all products made in the same way), that is, that the square brackets around 40% be removed and so accept this category in the aforementioned Document.

### **Greece**

Greece remains with its position that in order for the fermented milk drinks to be included in the Fermented Milks Standard, and to be considered and marketed as a dairy product, should have at least 50% dairy ingredients in it.

Greece has a steady request for clear harmonized marketing standards for dairy products that has been raised also during the last Council of Ministers dealing with the crisis in the milk sector. The establishment of such standards is not an issue of a legal interpretation of the term "essential" in EC Regulation 1234/2007, Annex XII, II, 3. There is still the issue that **'no part takes or is intended to take the place of any milk constituent'**. Water is a milk constituent and the addition of potable water for the production of a fermented milk drink is a replacement.

If the EC would like to have a harmonised community position on this issue then the discussions and the preparations for a draft Council Regulation for yogurt and related products should not have been stopped. The interpretation of the same provision was different at that time.

Greece requests for the respect of its position and disagrees with the draft common position letter, stating that the European Community and its Member States (ECMS) "fully" support the finalisation of the amendment to the Standard for Fermented Milks to cover Drinks Based on Fermented Milk (DBFM) with dairy ingredient's content less than 50%. The statement that a number of products marketed as fermented milk drinks are not covered by the existing standard is in contradiction with the very existence of standards that should be respected and not be revised every time the industry introduces a new product on the market and wants to sell it to the consumer as a dairy product. A new standard should deal with new products which should have new designations.

Additionally, we agree with the German comments on the procedure applied regarding the coordination of the EC position.

### **Guatemala**

Guatemala is in favour of removing the square brackets from the definition in sub-paragraph 2.4 of Appendix IV of Alinorm 08/31/1, as quoted below, and approves 40% (m/m) as the minimum fermented milk content for drinks based on fermented milk.

#### **2.4 DRINKS BASED ON FERMENTED MILK**

*Drinks Based on Fermented Milk are composite milk products, as defined in Section 2.3 of the Codex General Standard for the Use of Dairy Terms (CODEX STAN 206-1999), obtained by mixing Fermented Milk as described in Section 2.1 with potable water, with or without the addition of other ingredients such as whey, other non-dairy ingredients, and flavourings. Drinks Based on Fermented Milk contain a minimum of [40] % (m/m) fermented milk.*

We have no further comments regarding the remainder of the document.

### **India**

At its next meeting in 2010, the Codex Committee on Milk and Milk Products (CCMMP) will consider the adoption at Step 8 of the draft Amendment to the Codex Standard for Fermented Milks pertaining to Drinks based on Fermented Milk (DBFM).

Following the adoption at Step 5 by the Codex Alimentarius Commission, the Codex Secretariat distributed last year a Circular letter (CL 2008/23-MMP) to all Codex members and observers requesting comments on the draft Amendment by 30 September, 2009 that will be considered at the 2010 CCMMP meeting.

While the 2008 CCMMP meeting reached consensus to resolve most of the issues on the draft Amendment in relation to the description, the labeling and other sections throughout the text, it agreed to keep the minimum content of [40%] fermented milk in square brackets due to the concerns raised by few countries (seven), even though the majority of countries were in support of adopting the 40%.

In order to facilitate the discussion at the 2010 CCMMP Session on the [40%] and further the progress of the work through the Codex Step Procedure, the CCMMP agreed to establish a Physical Working Group, under the leadership of Indonesia, to consider the document along with comments submitted at Step 6. The Working Group, open to all delegations and observers, will meet immediately prior to the 2010 Session of the CCMMP.

In view of the 2010 CCMMP Session, it would be desirable that the Physical Working Group and following this, the whole CCMMP agreed on adopting the minimum of 40% fermented milk.

A first step in this direction is to provide supporting written comments to the CCMMP Secretariat on the 40% threshold by 30 September, as requested by the Codex Secretariat and the CCMMP in their Circular letter CL 2008/23-MMP of July 2008.

The current wording of the draft Amendment with a reference to the minimum content of 40% fermented milk concurs with the outcome of the 2007. Review of the International Dairy Federation (IDF), which concluded that more than a hundred drinkable fermented milk products, not covered by the Standard, exist in the market worldwide, and that the vast majority have a milk protein content with a lower limit of 1.1% and an upper limit of 1.3% (equivalent to a lower limit of 40% and an upper limit of 50% fermented milk).

This market reality led Codex member countries to initiate the work to accommodate this category of products and this was particularly acknowledged by the majority of countries present during the last CCMMP meeting in 2008 when the adoption of the minimum of 40% fermented milk was actively supported in line with the outcome of the IDF Review.

Section 2.3 of the General Standard for the Use of Dairy Terms states that “composite milk product is a product of which the milk, milk products or milk constituents are an essential part (no percentage specified) in terms of quantity in the final product, as consumed provided that the constituents not derived from milk are not intended to take the place in part or in whole of any milk constituent.”

DBFM are traditional products, obtained by an optimized production process in which milk is the essential core ingredient. The non-milk constituents do not take the place of any milk constituent and therefore “fermented milk” is the essential element in these products. The non-dairy constituents add additional characteristics to the product, such as palatability, drink ability, flavoring and sweetness.

The inclusion of this category of products would allow that DBFM are defined within a narrow specification and distinguished from Flavored Fermented Milks, the only category of composite milk products included in the Standard at this moment. This would avoid that countries could incorrectly consider DBFM to have to comply with any of the categories currently included in the Standard.

By accommodating the DBFM category of drinkable products in the Codex Standard for Fermented Milks would contribute to the further development, growth and innovation of this category, better consumer understanding, and fair trade in this type of products.

It is felt that the above clarifies the need and logic for the requirement of 40% of Fermented milk to get included in the final amendment.

#### **Indonesia**

Indonesia supports the removal of square bracket in section 2.4 of Appendix IV of ALINORM 08/31/11 (i.e. Drinks Based on Fermented Milk contain a minimum of 40% (m/m) fermented milk) and we are of the view that the Proposed Draft Amendment to the Standard for Fermented Milks Pertaining to Drinks Based on Fermented Milk should be forwarded to the 33rd Session of the Commission for adoption at Step 8.

#### **Japan**

Japan proposes a minimum content of 40 % fermented milk in Fermented Milk Drink products therefore suggests the removal of the square brackets in Section 2.4 in order to include such products in the Standard (CODEX STAN 243 – 2003).

The objective of the work on the amendment to the Codex Standard for Fermented Milks pertaining to Drinks Based on Fermented Milk (DBFM) is to include in the scope the “yoghurt drinks” which contain less than 50% dairy ingredients.

The survey conducted by IDF on DBFM indicates that more than hundred DBFM products widely marketed are not covered by the standard. The vast majority of them have a milk protein content 1.1-1.3% which is approximately equivalent to 40-50% fermented milk. (CX/MMP 08/8/4)

#### **Lao People's Democratic Republic**

Codex Contact Point of Lao PDR with consultation of the National Codex Committee members is given appreciation to the leading countries in development of the above draft standard and we are in position of support the minimum content of 40% of fermented Milk should be included in this drafted standard.

#### **Malaysia**

Malaysia supports the draft Amendment to the Codex *Standard for Fermented Milks* (CODEX STAN 243-2003) pertaining to Drinks Based on Fermented Milk (ALINORM 08/31/11, para.48 and Appendix IV) advanced to Step 6 by the 31st Session of the Codex Alimentarius Commission.

Malaysia is of the view that the proposed minimum content of fermented milk is to be agreed by the 9th Session of the Codex Committee on Milk and Milk Products and to be adopted at Step 8 by the 33rd Session of the Codex Alimentarius Commission in 2010.

#### **Mexico**

Mexico thanks the New Zealand Secretary of the Codex Committee on Milk and Milk Products for the opportunity to submit the following comments:

Given there has been a proposal to include all fermented milks and their products in a Codex Standard since 2001 through to today, which document proposed and supported by Mexico was agreed on in 2003, we request that the missing products be included, these being **Drinks Based on Fermented Milk**, being the name agreed upon by the Codex Committee on Milk and Milk Products at its February 2008 Session (**ALINORM 08/31/11**).

It is important to mention the various aspects, such as composition and identity, among others that have already been discussed and agreed upon, additionally given that the FIL-IDF report concluded that the vast majority of drinkable fermented milks identified by the study, now identified as drinks based on fermented milk, more than 100 products, contain between 40 and 50% fermented milk (a minimum of 1.1% and a maximum of 1.3% milk protein).

To continue with the work on including these products in the Codex STAN 243-2003 standard, our country again requests **the removal of the square brackets from the definition** (ALINORM 08/31/11 Appendix IV 2.4 DRINKS BASED ON FERMENTED MILK), that is, **40%**, according to the aforementioned document.

#### **New Zealand**

New Zealand wishes to support the proposed draft amendment to the standard for Fermented Milks pertaining to Drinks Based on Fermented Milk (ALINORM 08/31/11 Appendix IV).

Drinks based on Fermented Milk are composite milk products and New Zealand supports that they contain a minimum of 40 % (m/m) fermented milk.

#### **Paraguay**

##### **2.4 DRINKS BASED ON FERMENTED MILK:**

We support the proposal by Argentina and the reasons given.

The National Codex Committee on Milk and Milk Products considers that 51% be set as the **minimum** for milk ingredients in order to guarantee the milk content is the product's majority component, in accordance with (CODEX STAN 206-1999 Section 2.3), and also suggests setting a minimum milk protein content in the end product of 1.6% (approximately 50% of the total protein content of full-cream milk).

#### **Philippines**

The Philippines recognizes the efforts of the Physical Working Group on Fermented Milk Pertaining to Drinks Based on Fermented Milk under the good leadership of Dr. Winarno from Indonesia. The Philippines has observed a significant and steady progress towards the eventual adoption of the standard.

##### **Under Appendix IV, 2.4 Drinks Based on Fermented Milk:**

The Philippines appreciates the opportunity to reiterate its support on the removal of the square brackets containing the minimum content of 40% fermented milk, thus, retaining "40% (m/m) fermented milk" phrase. This has been justified by the IDF who was tasked by the CCMMP to do the survey, wherein majority of the products surveyed had a protein

content corresponding to 40-50% fermented milk. Moreover, most fermented milk drinks that are traded have a minimum of 40% fermented milk content.

### **Singapore**

Singapore supports the removal of square bracket in section 2.4 of Appendix IV of ALINORM 08/31/11 (i.e. Drinks Based on Fermented Milk contain a minimum of 40% (m/m) fermented milk).

### **Thailand**

1. We support the addition of the Proposed Draft Amendment to the Standard for Fermented Milks, Pertaining to Drinks based on Fermented Milks to be the sub-category 2.4 in the Codex Standard for Fermented Milks (CODEX STAN 243-2003) because the other requirements are corresponding to the existing standard.

2. Section Food Additives: in the table of the application of food additives, we propose an allowance of the application of the packaging gases in the plain fermented milks and drinks based on fermented milk as they are used in the processing of this type of product.

### **United States of America**

The U.S. supports the proposed draft amendment to the standard for Fermented Milks pertaining to Drinks based on Fermented Milk (Alinorm 08/31/11 Appendix IV).

The U.S. supports that drinks based on Fermented Milk contain a minimum of 40 % fermented milk.

### **Uruguay**

Uruguay agrees with replacing the minimum “milk ingredient” content with a “fermented milk” minimum content. It is suggested making the change in Alinorm 80/31/11, because there is no analytical method available to determine “dairy ingredients”, so the question arises as to how the minimum fermented milk content is to be checked.

In Section 2.4 (Drinks Based on Fermented Milk), we still maintain the position that “Drinks based on fermented milk have a minimum fermented milk content of **50%**.”

We maintain that the minimum content has to be 50% in order to comply with the relevant definition of compound milk products, as specified in the *General Standard for the Use of Dairy Terms* (CODEX STAN 206-1999).

In Section 3.2 (Permitted Ingredients) we agree on the addition of other suitable and harmless microorganisms, but that this point be clarified with a **list of accepted microorganisms**; we do not agree that it remain so open. It is lactic acid bacteria that must contribute to the characteristics of the finished product.

We would like to reiterate the need make a clear distinction between fermented milks and drinks based on fermented milk, in order to avoid any confusion for the consumer.