

# CODEX ALIMENTARIUS COMMISSION



Food and Agriculture  
Organization of the  
United Nations



World Health  
Organization

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## JOINT FAO/WHO FOOD STANDARDS PROGRAMME

### CODEX COMMITTEE ON FOOD ADDITIVES

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#### REVISED PROPOSAL FOR REVISION OF FOOD CATEGORY 01.1 "MILK AND DAIRY-BASED DRINKS" AND ITS SUB-CATEGORIES TAKING INTO ACCOUNT COMMENTS MADE IN THE ADD1 DOCUMENT FOR CONSIDERATION BY THE PLENARY

(Prepared by New Zealand)

#### INTRODUCTION

The GSFA Food Category System (FCS) is designed to allocate food additive provisions to foods. It is not intended to be used to define or name groups of foods or specific foods or to be used for labelling purposes.

The FCS is arranged in a hierarchical system of fourteen "parent" categories representing the major classes of foods sold internationally, one of which covers dairy products, part of which has been reviewed to allow for the correct placement of fluid milk products.

It is important that the FCS covers all foods of interest to CCFA so that provisions for food additives that are technologically justified can be assigned to categories of foods or specific foods. This can be done at the level of the parent category or in a subcategory of food, which can be split into further subcategories as needed.

The FCS parent categories and any subcategories have a food category title and a descriptor to provide guidance on the types of foods covered. It is important to ensure that food category names and descriptors of higher levels of the FCS are wide enough in their scope so that foods as described in any subcategories are not excluded.

A food category title is intended to name a category but does not need to name all the foods or subcategories that fall under it. The descriptor is intended to provide detail of the foods covered, often by providing examples of foods that are included or excluded. Higher levels of the FCS are also specified by food category or subcategory titles and their descriptors that appear under them. Therefore, it should not be necessary to repeat all foods at lower levels of the FCS in the titles and descriptors of higher levels as they will be automatically included due to the hierarchical structure. However, as noted above the name and descriptor of the higher level will need to be wide enough to include the more specific foods below it.

For example buttermilk appears at the lower level and is automatically included in the food category above it without being needed to be specifically named in the title or descriptor. Buttermilk is included under the broader title (fluid milk) which in turn fits under the parent title dairy products. Care must be taken when naming specific foods in higher levels so as not to exclude foods that are not mentioned. Therefore it is preferable that the wording of higher levels is kept as simple and general as possible.

Where foods are covered by a Codex Commodity standard, it may be necessary to clarify its place in a category. Often there are links or overlaps between some categories that need to be clarified by wording in food category titles or their descriptors. For example. The title for "fluid milks" excludes products of food category 01.2, which makes it clear that fermented milks not included under fluid milk.

#### DETAILS OF PROPOSED REVISIONS TO THE FOOD CATEGORY SYSTEM

The revised proposal includes new or amended proposals that take into account comments in CX/FA 16/48/12 Add.1 and 2. Relevant text from the report of the eWG C/X 16/48/12 is included in this CRD with ***new text shaded in grey and written in italics.***

The paragraph numbers correspond to the numbers of the paragraphs from the original agenda paper (CX/FA 16/48/12).

To avoid confusing current and proposed food category titles, new or altered titles have added clarifying text in [square brackets]. For example, the proposed food category 01.1.3 Buttermilk (plain) is referred to as 01.1.3 Buttermilk (plain) [renumbered - currently 01.1.1.2]. The text in these square brackets can then be deleted when the work is completed.

Proposed deletions are shown in ~~strike through~~ and additions are in **bold** font. Further proposed revisions based on comments in the Add.1 and 2 document are shown in *italics and shaded in grey*. Square brackets within food category titles or descriptors are to indicate text that requires a decision to include or delete.

The intention is to work through the changes proposed in the boxes in the order they appear below, noting relevant explanations and comments as written below each box. An explanation of the changes has been included to help with discussion and is not part of the proposed revisions.

## FOOD CATEGORY SYSTEM

### PART I: Food Category Titles

01.0 Dairy products and analogues, excluding products of food category 02.0

01.1 Fluid milk **[and milk] products** (plain), ~~excluding products of food category 01.2; and dairy-based drinks~~ **and flavoured fluid milk.**

01.1.1 Milk and buttermilk (plain)

01.1.1.1 Milk (plain)

01.1.1.2 Buttermilk (plain)

01.1.2 ~~— Dairy-based drinks, flavoured and/or fermented (e.g. chocolate milk, cocoa, eggnog, drinking yoghurt, whey-based drinks)~~

01.1.1 Fluid milk (plain) **[and fluid milk products (plain)]** [currently 01.1.1.1]

01.1.2 Other fluid milks (plain) [new subcategory]

01.1.3 **Fluid** Buttermilk (plain) [renumbered - currently 01.1.1.2]

01.1.4 Flavoured fluid milk **[and milk] products** ~~Dairy-based drinks, flavoured and/or fermented (e.g. chocolate milk, cocoa, eggnog, drinking yoghurt, whey-based drinks)~~ [renumbered - currently 01.1.2]

### PART II: Food Category Titles and Descriptors

01.0 Dairy products and analogues, excluding products of food category 02.0

Includes all types of dairy products that are derived from the milk of any milking animal (e.g. cow, sheep, goat, buffalo). In this category, a “plain” product is one that is not flavoured **meaning that it has no added flavouring, nor contains** other non-dairy ingredients **that intentionally impart flavour, [but may include other food additives or other non-dairy ingredients]** ~~nor is mixed with other non-dairy ingredients, unless permitted by relevant standards.~~ Analogues are products in which milk fat has been partially or wholly replaced by vegetable fats or oils.

16. Explanation: Several eWG members noted that the revision Food category 01.0 is not within the scope of the eWG. Others understood the scope of the eWG would include revision of Food Category 01.0 as described in CX/FA 15/47/12 and that the revision of its title and/or descriptor could be proposed as consequential changes resulting from the revision of the titles and/or descriptors of its sub-categories.

17. The words “that impart flavour” make it clear that food additives that do not impart flavour may be added to plain products.

#### **Revisions based on Add.1 and 2 comments:**

##### **Add the word “intentionally”**

*Explanation: Brazil noted that some ingredients added to a plain product such as omega-3 or vitamins may also impart flavour, but that flavour is not intentional.*

##### **Add words “or other non-dairy ingredients”**

*Explanation: IDF noted that products may contain other non-dairy ingredient that do not impart flavour*

18. The eWG report noted, that the wording “nor is mixed with other non-dairy ingredients unless permitted by relevant standards” may be interpreted to exclude all food additives in “plain” products covered under food category 01.0 but not subject to a Codex standard. Therefore, these words should be deleted, as the use of some food additives are technologically justified in many of the plain products covered under food category 01.0 that are not subject to a Codex standard. In addition, the only Codex standard that applies to the products covered by the parent food category 01.0 is the *Standard for Fermented Milks* (CODEX STAN 243-2003), which does not allow flavourings or foods that impart flavour in plain products that are included under this standard. This also supports the deletion of the phrase “unless permitted by relevant standards.”

The EU favours retaining the existing title and descriptor of the parent food category 01.0 without change. This would mean retaining the words proposed to be deleted (nor is mixed with other non-dairy ingredients, unless permitted by relevant standards).

Comment: Relevant standards would include the GSFA and any Codex commodity standards which would allow any permitted food additives to be used. This means that while food additives may be provided for, but other ingredients used in some plain products are not included. For, example non-dairy fats in recombined milks and nutrients in fortified milks. Therefore it is proposed to keep the eWG proposal to delete the words to ensure all foods in the subcategories can be covered under the parent category. As a compromise the amount of new wording may be reduced, by deleting the words in the square brackets [but may include other food additives or other non-dairy ingredients] as they provide clarification only.

#### The scope of analogues

IDF proposed to broaden the scope of analogues to allow also milk protein to be replaced by other protein.

Comment: This appears to be outside the scope of this work and would affect all subcategories that refer to analogues including cream and milk powders. Food additive permissions needed for milk analogue drinks (for example rice milk, soy milk) may not align with the corresponding milk or milk product.

#### 01.1 Fluid milk ~~[and milk] products plain, and flavoured fluid milk, excluding products of food category 01.2; and dairy-based drinks~~

Includes all plain and flavoured fluid milks based on skim, part-skim, low-fat and whole milk, excluding plain fermented products and plain renneted milk products of food category 01.2. Plain Fluid milks are “milk products” as defined in CODEX STAN 206-1999, are obtained by the processing of milk, and may contain food additives and other ingredients functionally necessary for processing.<sup>1</sup> Raw milk (“milk” as defined in CODEX STAN 206-1999) shall not contain any food additives.

#### Raw milk

19. Explanation: Raw milk is included in this category but is excluded from containing any food additives. Raw milk is fluid milk obtained from milking animals (e.g., cows, sheep, goats, buffalo) without either addition to it or extraction from it, intended for consumption as liquid milk or for further processing. This product corresponds to the Codex definition of “milk.”<sup>2</sup> However, all products in food category 01.1 are further processed, and may include food additives.

20. An alternative view is that including raw milk in this food category is not appropriate. As raw milk is not internationally traded, there is no need to include raw milk within the GSFA. If so raw milk would need to be excluded to make it clear that these food categories do not include “milk” as defined in CODEX STAN 206-1999.

21. Many eWG members noted that the GSFA should allow the inclusion of all food under a food category, including raw milk in this case. Therefore, even if not internationally traded in large amounts, raw milk should be included, but it should be explicitly stated that no food additives are allowed in raw milk, as defined in CODEX STAN 206-1999.

22. As noted earlier in the paper, fluid milk is marketed internationally as milk and not as a milk product.

#### Revisions based on Add.1 and 2 comments:

<sup>1</sup> General Standard for the Use of Dairy Terms (CODEX STAN 206-1999), Section 2.2.

<sup>2</sup> General Standard for the Use of Dairy Terms (CODEX STAN 206-1999), Sections 2.1 and 4.2.1.

**“fluid milk”**

*Explanation: The EU noted that the word “fluid” in the food category titles should be used consistently, and suggested fluid could be removed from the titles or to add the word “fluid” to food category 01.1.3 Buttermilk (plain).*

*Comment: The term fluid milk makes it clear that the food categories cover liquid milk and not other milk products. Therefore, it is proposed to add the word “fluid” to buttermilk to be consistent with the other titles.*

*IDF suggested to remove the references to “plain” and “flavoured” in the title as they are covered in the subcategory titles. This improves clarity.*

*Comment: Both plain and flavoured milk products are included within the scope of fluid milks so it appears to be unnecessary to add these the title. The deletions allow the title to be simplified to “fluid milk products”. Note that the inclusion of plain and flavoured products is indicated in the titles and descriptors of the subcategories that appear under 01.1. Fluid milks themselves may be included under the broad title “fluid milk products” noting the definition of milk product under CODEX STAN 206-1999.*

*IDF also suggested to insert “fluid milk products” in the title to show that this food category consists of many types of milk products rather than just milk which may be taken to mean no food additives or added vitamins and minerals*

*Brazil proposed to add the words “**buttermilk and other milk-based [fluid] beverages**” to the title and the descriptor as these are covered under “milks”. However, this is one of many types of products that are covered and clearly part of this parent food category by being a category named below it.*

*As noted by the USA, food category 01.1 includes both flavoured and plain fluid milks so the word “plain” as shown above in the descriptor can be deleted. Furthermore the USA notes that Codex STAN 206-1999 includes both plain and flavoured products as milk products.*

**01.1.1 Fluid milk (plain) ~~[and fluid milk products (plain)]~~ [currently 01.1.1.1]**

**Plain fluid milk obtained from milking animals (e.g., cows, sheep, goats, buffalo). ~~Milk is usually heat-treated by~~ that has been processed. Includes pasteurized, ultra-high temperature (UHT) treated, sterilized, homogenized, or fat ~~and/or protein~~ adjusted milk. Includes, but is not limited to, skim, part-skim, low-fat and whole milk.**

*Explanation*

23. It is proposed to replace the term ‘heat-treated’ with ‘processed’, because while fluid milk can be heat-treated, it can also undergo other processes such as microfiltration.

24. The descriptor lists skim, part-skim, low-fat, and whole milk to make it clear that this food category includes these foods, as did the original descriptor for food category 01.1.1.1. Some eWG members noted that the terms are commonly used internationally and are recognised by consumers and should be retained in the descriptor as examples.

25. It must be recognized that this food category will require some food additives, which are necessary for stabilization of UHT or sterilized fluid milks. The restriction of certain food additives to specific products included under this food category can be made clear through the attachment of a note to the specific provision for that food additive.

*All flavoured fluid milk and milk products come under food category 01.1.4*

**Revisions based on Add.1 and 2 comments:**

*IDF suggested to insert “fluid milk products (plain)” in the title to show that this Food Category consists of many types of milk products rather than just milk which may be taken to mean no food additives or added vitamins and minerals.*

Brazil, EU, USA proposed to maintain the words **“Includes skim, part-skim, low-fat and whole milk”** in the descriptor because they are used internationally and are and recognized by consumers, and to help with the interpretation of adjustment of fat and protein. Therefore it is proposed to include the text but to add the words **“but not limited to”**, to make it clear that these are examples..

**[and /or protein adjusted milk]**

The EU questioned whether protein adjusted milk should be removed and placed under the proposed new food category 01.1.2. Unlike fat adjusted milks, any protein adjusted milks may be better categorised as **“other fluid milks or fluid milk products”**.

Comment: While fat can be adjusted to produce a wide range of milk products shown in the examples, protein adjustment could done to standardize levels protein levels to account for seasonal variation in milk, while not altering the casein to whey ratio. This is subject to national legislation and does not need to be included in the FCS.

Nicaragua proposed to add the words **“without altering the condition of plain fluid milk”**. The intent of these words is not clear since processing (eg pasteurization) will cause some changes to milk in this food category.

**01.1.2 Other [fluid] milks (plain) [proposed as new subcategory]**

Includes all plain fluid milk, excluding products of food categories 01.1.1 (Fluid milk (plain)), 01.1.3 (Buttermilk (plain)), and 01.2 (Fermented and renneted milk products (plain)). Includes, **but is not limited to**, plain recombinated fluid milks, plain reconstituted fluid milks, **plain composite fluid milk**, non-flavoured vitamin and mineral fortified fluid milks, and lactose reduced milk ~~products plain-milk-product-with-modified-organoleptic-properties~~**[and plain milk-based beverages]**.

*Explanation:*

26. The new food category 01.1.2 specifically excludes the plain products under food category 01.2, plain fluid milk defined in food category 01.1.1, and buttermilk (0.1.1.3). This category should include plain milk-derived products. “Plain milk product with modified organoleptic properties” may be deleted as it can only refer to modified texture, mouth feel, thickness or similar, and not to aroma, taste, flavour as these are plain products. There may be a need to clarify the meaning of “milk-based”.

27. Note that products in food category 01.2 are already excluded in this category by the exclusion under the higher food category, 01.1.

28. There was general agreement within the eWG that lactose reduced milk could be placed into food category 01.1.2 (Other fluid Milk (plain)) rather than in food category 13.3 (Dietetic foods intended for special medical purposes (excluding products of food category 13.1)). Some eWG members noted that lactose reduced milk is generally consumed by individuals with lactose tolerance issues and therefore should be placed in food category 13.3.

29. Placing lactose reduced milk in food category 01.1.2 is preferred because its main and characterizing ingredient is “milk”, and therefore, it would not be appropriate to move it to food category 13.3. Lactose reduced milk falls under the definition of “milk product” as listed in CODEX STAN 206-1999, paragraph 2.2: “Milk product is a product obtained by any processing of milk, which may contain food additives and other ingredients functionally necessary for the processing”. Even if lactose reduced milk is intended for individuals with lactose intolerance, it is more widely used by the general population as a strict equivalent to milk. Also, the food additives which might be used or needed in lactose-reduced milk would be similar to those that might be used or needed in the other products covered under this food category and likely to be very different from those food additives which might be used or needed in food category 13.3. Also lactose reduced milks are not intended for consumption only under medical supervision as specified in the descriptor of the food category 13.3.

**Revisions based on Add.1 and 2 comments:**

The USA proposed to add the words **“plain composite fluid milk to include all of the product terms from CODEX STAN 206-1999. This point was also noted by Indonesia.**

Argentina and Nicaragua proposed to delete the word **“products”** after the words **“lactose reduced milk”**.

**and plain milk-based beverages**

It has been noted that it may be unclear what products are covered by the term “plain milk-based beverages” and whether this wording is needed. Paragraph 18 of the eWG report noted that there may be a need to clarify the meaning of “milk-based”.

Comment: Care is needed to avoid excluding products that fall within in this food category. The words “**Includes, but is not limited to,**” may provide enough scope to cover products without using the term milk-based under this category. However, it is proposed to remove the word “based” to simply state “**plain milk beverages**”.

All flavoured fluid milk and milk products come under food category 01.1.4.

#### **01.1.3 Fluid** Buttermilk (plain) **[renumbered - currently 01.1.1.2]**

Buttermilk is the nearly milkfat-free fluid remaining from the butter-making process (i.e., the churning fermented or non-fermented milk and cream). Buttermilk is also produced by fermentation of fluid skim milk, either by spontaneous souring by the action of lactic acid-forming or aroma-forming bacteria, or by inoculation of heated milk with pure bacterial cultures (cultured buttermilk). Buttermilk may be pasteurized or sterilized.

The EU has proposed the word “fluid” in the title for consistency with other food category titles containing the word “fluid”

#### **01.1.4 Flavoured fluid milk [and milk] products, Dairy-based drinks, flavoured and/or fermented (e.g. chocolate milk, cocoa, eggnog, drinking yoghurt, whey-based drinks) [renumbered - currently 01.1.2]**

Includes all mixes and ready-to-drink fermented or not fermented flavoured and aromatized milk-based fluid beverages with flavourings and food ingredients that **intentionally impart flavour, including flavoured drinks based on fermented milk**, excluding mixes for cocoa (cocoa-sugar mixtures, category 05.1.1). Examples, **include but are not limited to**, hot chocolate, chocolate malt drinks, strawberry-flavoured yoghurt drink, lactic acid bacteria drinks, and lassi (liquid obtained by whipping curd from the lactic acid fermentation of milk, and mixing with sugar or **synthetic intense** sweetener).

#### Explanation

31. This food category contains only products with added flavouring or ingredients or foods that provide flavour and includes flavoured and fermented products. Plain fermented products are included under food category 01.2.

#### **Revisions based on Add.1 and 2 comments:**

IDF proposed adding the words “plain drinks based on fermented milk” in the descriptors of food category 01.2.1 and subcategory 01.2.1.1 covering plain fermented milks for clarity

Brazil proposed to add the words “and other milk-based fluid beverages” in the title to cover products that may not be covered by the words “Flavoured fluid milk” alone. However, this point may be satisfied by adding the word “**products**” as proposed by IDF and is included in square brackets above.

The words in the descriptor “including flavoured drinks based on fermented milk (CODEX STAN243-2003)” were proposed by Malaysia, Mexico and Indonesia to clarify that these products fall under this food category. It proposed not to include reference to CODEX STAN243-2003 as this could limit the scope to fermented milks covered.

#### **Flavoured milk drink mixes**

As noted by the USA, IDF and others, **mixes** need to continue to be included in the GSFA food category system. The current food category 01.1.2, which is intended to be replaced by this category, includes both mixes and ready-to drink products. The USA noted the different technological needs of mixes can be addressed with the note “for use in mixes only”. Alternatively IDF has proposed to place mixes under Category 01.5 Milk powders....(plain).

Comment: Moving the mixes to another food category that covers drink mixes or powder products means that there will be similar food additive needs. For example, anticaking agents that are not needed in a fluid milk category. However, moving to another food category has impacts on the scope and wording. This work therefore is likely to require further discussion that is considered outside the scope of the present work.

#### **Alternative option to retain current title proposed by the EU**

**(Use of term “dairy based drinks” and not “flavoured fluid milks” in the title)**

The EU proposed to retain the current title “Dairy-based drinks, flavoured and or fermented (eg chocolate milk, cocoa, eggnog, drinking yoghurt, whey-based drinks)”. The concern is that the title “flavoured fluid milks” does not improve clarity of what is covered by the category, and could have consequences for the categorization of Drinks Based on Fermented Milks (i.e. products in the international trade). Ecuador was also in favour of keeping the title Dairy-based drink.

Comment: There was concern within in the eWG that the term “dairy based” was not defined and that removing it avoids having to clarify this further. The proposed title “Flavoured fluid milk [and milk] products” covers the range products required and uses wording that is consistent with the other proposed food categories having “fluid” or “fluid milk” in their titles. The word “dairy” is not specifically needed as the parent category 01.0 clearly defines all subcategories under it, including food category 01.1.4, as covering dairy products.

**CONSEQUENTIAL CHANGES TO THE TITLES AND/OR DESCRIPTORS OF CERTAIN FOOD CATEGORIES BASED ON THE ABOVE REVISED PROPOSAL**

Note that some of the consequential changes which appear in CX/FA 16/48/12 may need to be revised to include the decisions of the Committee on the food category titles and descriptors.

**Other comments from the Add.1 and 2 documents:**

Japan, USA and IDF proposed the correction for plain drinks based on fermented milks to be specified under FOOD CATEGORY 1.2 and its subcategories.

**PART V: Consequential changes to the GSFA Annex C**

**CROSS-REFERENCE OF CODEX STANDISED FOODS WITH THE FOOD CATEGORY SYSTEM USED FOR ELABORATION OF THE GSFA**

Standard No	Codex Standard Title	Food Cat. No.
243-2003	Fermented milks (drinks based on fermented milk, <del>plain or</del> flavoured, heat treated or not heat treated)	01.1.2 <b>01.1.4</b>
<b>243-2003</b>	<b>Fermented milks (drinks based on fermented milk (plain))</b>	<b>01.2.1</b>
<b>243-2003</b>	<b>Fermented milks (drinks based on fermented milk (plain, not heat treated))</b>	<b>01.2.1.1</b>
<b>243-2003</b>	<b>Fermented milks (drinks based on fermented milk, (plain, heat treated))</b>	<b>01.2.1.2</b>

**Wording in the Spanish version**

Nicaragua proposed to use words “aromatizante y saborizante” in the Spanish version to better reflect the meaning of flavouring in English which covers both taste and aroma.