



JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX COMMITTEE ON FOOD ADDITIVES

Fifty-First Session

DISCUSSION PAPER ON THE DEVELOPMENT OF WORDING FOR AN ALTERNATIVE TO NOTE 161 RELATING TO THE USE OF SWEETENERS

(Comments of Brazil, Canada, European Union, Ghana, Russian Federation, Senegal, CCC and ICBA)

Brazil

Brazil supports the proposals.

Canada

Canada congratulates the USA and the EU on their cooperative efforts to put forward a proposal that we believe will allow the Committee to progress with the work on sweeteners, and can be used as a basis to address other provisions held in the Step process due to concerns about the application of Note 161.

Recommendation 1:

Canada is supportive of the development of an alternative Note to Note 161 that clarifies the reasons Note 161 was originally added to the proposed provisions. We support any Note that is agreed on by consensus of the Committee in order to advance the provisions that have been held in the Step process.

However, Canada has one minor area of concern with the Notes ('Note A' and 'Note B') as set out in recommendation 1.

We are of the opinion that the text "Some Codex Members allow the use of additives with sweetener function in **all foods within this Food Category** while others..." (emphasis added) is too binary and rigid, in that it suggests that Members either fully allow sweeteners in all foods within the food category, or apply the "ERONAS" condition. Canada therefore believes that this text is inaccurate. For example, Canada would not allow sweeteners in certain standardized foods (e.g., standardized cocoa products), even though we may allow them in unstandardized sweetened analogues. Similarly in the GSFA, certain standardized foods may not allow sweeteners, exemplified by use of the XS Notes (see the proposals in Appendix 2 for FCs 05.1.3, 05.1.4, 05.2, 05.2.2, and 12.5). The text appears to contradict the GSFA provisions.

Given this, Canada recommends that the Committee consider a slight revision to the Note to read to the effect of, "*Some Codex Members allow **the general** use of additives with sweetener function in **all**-foods within this Food Category while others limit additives with sweetener function to those foods with significant energy reduction or no added sugars.*"

Recommendations 2 – 5:

Canada is supportive of the recommendations as written.

European Union

The EU would like to thank the United States for the co-chairing of this work as well as all members of the EWG for their contributions to the discussion paper on the development of wording for an alternative to Note 161 relating to the use of sweeteners (CX/FA 19/51/10).

The European Union (EU) would like to submit the following comments.

Recommendation 1

The EU supports, as a general approach, the replacement of Note 161 by the proposed alternative Notes A and B in food categories contained in Lists T, U and Y in CX/FA 15/47/13.

The alternative notes capture the EU's approach on the use of sweeteners. In the EU, use of sweeteners is considered as technologically justified and having an advantage only if it is used for replacing sugars for the production of energy-reduced food, non-cariogenic food or food with no added sugars; or replacing sugars where this permits an increase in the shelf-life of the food; or producing food intended for particular nutritional uses.

As regards use of substances as flavour enhancers the EU establishes specific lower levels for certain uses in certain food categories. In cases where there is no specific lower level laid down, substances can be used as flavour enhancers at appropriate lower levels, but the applicable restrictions (e.g. only energy-reduced or with no added sugar) for those provisions primarily authorised for sweetening have to be respected.

Recommendation 2

The EU has the following additional comments on the adopted provisions:

Alitame (INS 956)

This sweetener is not currently authorised for use in the EU. Considering the low ADI established for this sweetener by JECFA of 0–1 mg/kg bw allocated by the Committee at its forty-sixth meeting (1999) and retained at subsequent meetings (2002) the levels and range of categories should be examined closely. In relation to the dietary intake of this additive, JECFA in their report of 2002¹ stated, inter alia, the following:

"No data on the dietary intake of alitame were available at the previous meetings of the Committee. At its present meeting, the Committee compared the maximum levels of alitame listed in the Codex draft with the theoretical maximum level calculated by the budget method. On the assumption that alitame is used in all foods, the theoretical maximum level of alitame, based on the current ADI, was calculated to be 40 mg/kg. The maximum levels in the GSFA are up to 300 mg/kg in a wide range of foods and beverages, with no limit in 'other sugars and syrups' or in table-top sweeteners. Detailed assessments of the intake of alitame when used in foods were therefore required."

It should be pointed out that national assessments were provided showing exceedance of the ADI at the 95th percentile (148% or 140% respectively). JECFA noted that those estimates are based on data from only two countries and that further work is required to refine the intake estimates with recent data from other countries.

Taking into account the JECFA's assessment the EU is of the view that the provisions for alitame should be removed from the GSFA or a detailed exposure assessment should be carried out by JECFA that the Committee can determine appropriate MLs to ensure that the intake of alitame from all its uses does not exceed its ADI.

Saccharins (INS954(i)-(iv))

The EU would like to express its concern on the maximum use levels for saccharins in food categories 14.1.4.1, 14.1.4.2 and 14.1.4.3 (300 mg/kg). According to the GSFA Guidelines for the development of the MLs (i.e. Annex A to the GSFA) and by using the scenario 10 (the additive could be accepted for use in all beverages) the GSFA ML shall be below 25 mg/kg. Even according to Guideline 14 (i.e. levels above FL x ADI x 80 should only be accepted for products where calculation of potential intake will show that exceeding the ADI is unlikely, e.g. in strong alcoholic beverages) the calculated ML is 200 mg/kg.

The EU suggests 80 mg/kg as the appropriate and safe ML. To the EU's knowledge such ML is sufficient to address the technological need taking into account the common practice of using combinations of sweeteners. In addition, such ML would be aligned with the ML in category 01.1.4 'Flavoured fluid milk drinks'.

Acesulfame potassium (INS 950)

The EU would like to express its concern on the maximum use levels for acesulfame potassium in food categories 14.1.4 and 14.1.5 (600 mg/kg). According to the GSFA Guidelines for the development of the MLs and by using the Guideline 10 the GSFA ML shall be below 75 mg/kg. The level calculated by Guidelines 13 and 14 equals the GSFA ML of 600 mg/kg. However, such ML is acceptable only for limited daily consumption only (not exceeding an eighth of the assumed maximum total intake of beverage).

The EU suggests 350 mg/kg as the appropriate and safe ML. To the EU's knowledge such ML is sufficient to address the technological need. In addition, such ML would be aligned with the ML in category 01.1.4 'Flavoured fluid milk drinks'.

Category 07.1 'Bread and ordinary bakery wares and mixes'

The EU does not support the use of sweeteners in this food category. In the EU's view sweeteners are not technologically justified for use in bread and ordinary baker wares. In addition, the EU expresses potential exposure concerns from the use of sweeteners in such a staple food which might very significantly increase the overall exposure.

For the above reasons the EU suggests revoking the provisions for sweeteners in the category 07.1

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https://apps.who.int/iris/bitstream/handle/10665/42601/WHO_TRS_913.pdf;jsessionid=B949B006D4466AE8CD65D0E528E879D4?sequence=1

Categories 12.2.2 'Seasonings and condiments' and 12.3 'Vinegars'

The EU does not support the use of sweeteners in category 12.2.2 and 12.3. In the EU's view the use of sweeteners in those food categories is not technologically justified and could mislead the consumer. For the above reasons the EU suggests revoking the provisions for sweeteners in the category 07.1.

Recommendation 3

The EU supports this Recommendation.

Recommendation 4

The EU supports this Recommendation.

Recommendation 5

The EU supports reconvening the EWG to continue working on the provisions in Lists V, W, X and Z.

Ghana

Position: We do not support any of the proposed options.

Rationale: The recommendations as drafted, do not offer solution to the problems associated with note 161. In particular, they may be interpreted differently by Codex Members and thus introducing ambiguity in the regulation of food additives.

Russian Federation

The Russian Federation and the countries of the Eurasian Economic Union established provisions for additives with both sweetener and flavour enhancer functions. However sweeteners should be used in foods with significant energy reduction or no added sugars. THE RUSSIAN FEDERATION agrees with EWG that this limitation may not apply to the appropriate use as a flavour enhancer. Consider necessary to develop additional criteria on the use of sweeteners in flavour enhancer functions.

Senegal

Contexte : Le CCFA50 a établi un GTE avec le mandat de développer une formulation pour une alternative à la note 161 relative à l'emploi des édulcorants conformes à la section 3.2 du Préambule de la NGAA. Ainsi qu'à la Déclaration de principes dans le Manuel de Procédure afin d'aborder les préoccupations des Membres du Codex exigeant une réduction importante en énergie ou des aliments sans sucres ajoutés lorsque des édulcorants ont été utilisés et que ces Membres du Codex réclament de la flexibilité dans l'emploi des édulcorants; et l'objet d'un accord sur la formulation d'une alternative, la révision de CXFA 15/47/13 en particulier les recommandations 1 à 6 dans le contexte des dispositions en attente et adoptées.

Question : Autre libellé de la note 161, tel qu'il figure dans les recommandations 1 à 5 présentées par les coprésidents dans le document CX / FA 19/51/10.

Position : le Sénégal, après examen des recommandations formulées par le GTE comme solutions de rechange à la note 161 et n'appuie aucune des options proposées.

Justification : Les recommandations telles qu'elles sont rédigées n'offrent pas de solution aux problèmes liés à la note 161. Elles peuvent en particulier être interprétées de différentes manières par les membres du Codex, ce qui crée une ambiguïté dans la réglementation des additifs alimentaires.

CCC

CCC Recommendation: The Calorie Control Council (CCC) recommends that CCFA support all five recommendations outlined in CX/FA 19/51/10.

Background:

CCFA50 agreed to establish an electronic Working Group (eWG), to be co-chaired by the European Union and the United States, to develop wording for an alternative to Note 161 relating to the use of sweeteners consistent with Section 3.2 of the Preamble to the GSFA and the Statement of Principles in the Procedural Manual. This alternative note would address concerns of those Codex Members requiring significant energy reduction or foods with no added sugars when sweeteners were used as well allow for those Codex Members requiring flexibility in the use of sweeteners.

In response to the eWG's first Circular Letter (CL), CCC supported alternative language that took into consideration that some Codex Members have different limitations regarding the use of sweeteners while others do not. However, CCC also supported the eWG addressing the need to minimize misinterpretation of the note at national and regional levels once any proposed language is adopted.

In response to the eWG's second CL, CCC supported the horizontal replacement of Note 161 in all provisions for sweeteners (both adopted and in the Step process) in the Food Categories contained in Lists T, U, V, and

W (with the exception of FCs 01.1.2, 05.3 and 04.1.2) of the 2014 UK paper. Additionally, CCC indicated support for the language of the revised footnote which reads as follow: *“Some Codex Members allow the sweetener use of this additive in all foods within this Food Category while others limit the sweetener use to those foods with significant energy reduction or no added sugars”*.

CCC Position: CCC is well aware and greatly appreciative of the efforts made to get to the recommendations that are now outlined in CX/FA 19/51/10. CCC believes that the recommendations in CX/FA 19/51/10 take into consideration many, if not all, of the concerns that have been raised following the two CLs leading up to CCFA51. Thanks to the hard work of the eWG co-chairs, as well as efforts that have been made in previous years to address concerns with the current language in Note 161, this is a compromise that represents the best solution to a complicated issue and CCC supports all recommendations put forth by the US and EU.

About CCC

The Calorie Control Council (CCC) is an international association representing the low- and reduced-calorie food and beverage industry. CCC represents manufacturers, suppliers and end users of more than two dozen alternative sweeteners, fibers and other low-calorie dietary ingredients, including stevia. CCC believes that public health will benefit from a better understanding of the importance of reducing calorie intake and increasing caloric expenditure as an essential part of a healthy lifestyle.

ICBA

ICBA represents the interests of the worldwide non-alcoholic beverage industry. ICBA members include national and regional beverage associations and international beverage companies that operate in more than 200 countries and territories and produce, distribute and sell a variety of non-alcoholic sparkling (carbonated) and still (non-carbonated) beverages including soft drinks, sports drinks, energy drinks, bottled waters, flavored and/or enhanced waters, ready-to-drink teas and coffees, 100% fruit or vegetable juices, nectars and juice drinks, and dairy-based beverages.

The International Council of Beverages Associations (ICBA) commends both the U.S. and the European Commission delegations for taking on the herculean task in the Summer 2018 electronic working group of trying to find a workable solution to the Note 161 matter. As a result, CCFA now has an outstanding document that carefully reconstructs in a systematic way how a multitude of options were vetted and identifies the remaining options that could conceivably serve as a possible resolution. We need to recognize that, while this is a compromise and may not be viewed as optimal or even ideal by many, it is the best possible workable solution to what at times seemed as an insurmountable hurdle. In the past, numerous delegations (who led a variety of electronic working groups over the years) attempted to tackle this quagmire, and unfortunately fell short which did not afford the Committee the opportunity to move forward. This worldwide collaborative effort is a true testament to the spirit of Codex. ICBA is pleased to lend its support to ALL recommendations put forth in CX/FA 19/51/10.