

codex alimentarius commission



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AGENDA ITEM NO. 8

CX/FL 08/36/11

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JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX COMMITTEE ON FOOD LABELLING THIRTY-SIXTH SESSION

OTTAWA, CANADA, APRIL 28 - MAY 2, 2008

Discussion Paper on Modified Standardized Name of the Food for Foods with Modifications from a Compositional Standard for the Purpose of Nutrition Claims

(Prepared by an electronic working group chaired by Canada with the assistance of Argentina, Australia, Dominican Republic, France, Germany, Japan, Malaysia, Mexico, Peru, Philippines, Sweden, Switzerland, Thailand, United Kingdom, United States of America, European Commission, Confederation of the Food and Drink Industries of the EU, International Council of Beverages Association, International Dairy Federation, International Federation of Agricultural Producers)

Introduction

In support of the objectives of the Global Strategy on Diet, Physical Activity and Health (the Global Strategy), the purpose of this discussion paper is to explore the principles and conditions for use of a nutritionally modified standardized name for those foods similar to, but at the same time different from, foods that meet a standard of identity.

The Global Strategy encourages initiatives by the food industry to introduce innovative, healthy, and nutritious foods and to provide clear consistent labelling that is truthful and helps consumers make informed and healthy choices. Consistent with the Global Strategy, there is an increasing interest in healthier food choices. More and more, foods are being

formulated with nutritional modifications while maintaining the essential characteristics, such as taste, texture, and physical properties of the standardized food, and, frequently, using the standardized name, which is the name established for a food in a Codex standard, with modifications relevant to the specific nutritional changes. The inclusion of the standardized name of the food provides consumers with useful information with respect to product characteristics, qualities, and functions, while the modification to the name of the food advises them of the deviation from the standard. Reduced fat margarine or sugar free jams are examples of foods where there have been modifications to the food and thus, deviation from the standard, for the purpose of a nutrition claim. Nutrition claims include nutrient content claims and comparative claims.

While not all standardized foods require a modification from the standard in order to make a nutrition claim, some foods do. The paper focuses on those foods that will fall outside the standard due to changes made in their formulation to meet the requirements of a particular nutrition claim.

This discussion paper provides background information, definitions for relevant terms, and a summary of survey results relating to the international context of the issue. It also explores the principles and conditions for naming a nutritionally modified standardized food using the name of the standardized food as a reference in a modified name. Finally, the paper provides recommendations for next steps, for consideration by the Codex Committee on Food Labelling.

Background:

At the 34th Session of the Codex Committee on Food Labelling (CCFL), Canada presented the document, *Discussion Paper on Modified Standardized Common Names*, on the naming of foods that are like or similar to a standardized food and that use the standardized name of the food as part of a modified name. This document considered the paper on misleading labelling, *Discussion Paper on Misleading Food Labels*, presented by the United States at the 30th session of CCFL which focused on types of truthful but misleading labelling and how consumers can be misled by the use of confusing language, symbols, or images on packages. The 34th session of CCFL agreed to focus the scope of the work on foods with standards of identity that have been formulated with nutrition modifications to meet specific nutrition claims.

At the 35th session of CCFL, a revised paper, *Modified Standard Common Names and Nutrition Variances*, was presented and discussed. This paper linked the name of the food for a nutritionally modified standardized food to the Global Strategy. The *Draft Action Plan for Implementation of the Global Strategy on Diet, Physical Activity and Health* was also discussed at that session (CL 2006/44-CAC). This paper included a proposed action to permit the use of names established in a standard to be used in conjunction with either a comparative claim or a nutrition claim on the label of a modified standardized food provided that the claims comply with requirements set out in the Codex Guidelines for Use of Nutrition and Health Claims. The Committee agreed to establish an electronic working group (e-wg), led by Canada, to develop principles on the use of modified names of foods for the purpose of nutritional variation, taking into account the comments made at the meeting¹.

¹ Alinorm 07/30/22, paras. 141-144.

The 35th session of CCFL recommended that the working group consider the following when developing principles on the use of nutritionally modified names of foods:

- the work should ensure that consumers are not misled about the nature of the food;
- it should support other work being done by Codex on the implementation of the Global Strategy;
- the e-wg should evaluate how wide-spread the problem is among Codex members;
- the scope should be limited to those claims identified in the Guidelines for Use of Nutrition and Health Claims; and
- it may not be possible to use nutritionally modified standardized names for all products.

An invitation to participate in the e-wg was sent to all Codex Members and 15 member countries, the European Commission, and four non-governmental organizations indicated their interest to participate (the list of participants is included in Annex 1).

Definitions

The following definitions are provided to ensure a common understanding of the terminology used in this document:

Name of the food – as defined in 4.1 of the Codex General Standard for the Labelling of Prepackaged Foods (GSLPF) (Codex Stan 1-1985 (Rev. 1-1991)).

Standardized name of the food – the name of the food as prescribed or established in a Codex or national standard of identity, as per 4.1.1.1 and 4.1.1.2 of the GSLPF.

Standardized food – a food with a compositional standard of identity such as in a Codex standard.

Modified standardized name of the food – this term refers to the descriptive name of a food that does not have a standard of identity, a name established in a Codex standard, or a name prescribed by national legislation but that includes a standardized food's name as a reference, in the name of the food, with an appropriate nutrition claim modifier(s) that is consistent with the Codex Guidelines for Use of Nutrition and Health Claims (CGUNHC) (CAC/GL 23-1997, Rev. 1-2004) and that does not mislead or confuse the consumer (refer to section 3. of the GSLPF for general principles related to truthful labelling, and 4.1.1.3 and 4.1.2 of the GSLPF for descriptive names of foods).

For example, “Reduced fat chocolate” does not meet the minimum prescribed fat content for chocolate (18%) however, its name includes as a reference the name of a standardized food (“chocolate”) with a nutrition claim modifier to indicate how it is different from chocolate (which requires a minimum of 18% cocoa butter content in total cocoa solids).

Nutritional variance – sufficient variation in one or more nutrients to make a nutrition claim, as identified in the CGUNHC.

Nutritionally modified food – a food that has been intentionally formulated to alter one or more nutrient levels in order to meet the conditions of a recognized nutrition claim in the CGUNHC.

Examples in Existing Codex Texts

While an exhaustive review of existing texts has not been conducted, two examples of how modified standardized names of foods are addressed in Codex standards are chocolate and milk and milk products. The latter relates specifically to nutritional variance.

The Codex Standard for Chocolate and Chocolate Products (Codex Stan 87-1981, Rev.-2003) allows for the addition of vegetable fats other than cocoa butter and sweeteners other than sugars, which modify the composition of a specific chocolate or chocolate product. The labelling section of the standard provides guidance on how to qualify the name of the chocolate that has been modified, whereby the use of vegetable fats or sweeteners other than cocoa butter and sugar, respectively, must be indicated on the label in association with the name of the product, such as “X Chocolate with sweeteners”. The resulting nutritional variance in the composition of the chocolate may be such that a nutrition claim can be achieved and included in the name of the food: “Sugar free milk chocolate with sweeteners”.

The Codex General Standard for the Use of Dairy Terms (GSUDT), Codex Stan 206-1999, provides a framework on modifications from a standard, and the subsequent labelling requirements, in subsection 4.3.3:

4.3.3 Products that are modified through the addition and/or withdrawal of milk constituents may be named with the name of the relevant milk product in association with a clear description of the modification to which the milk product has been subjected provided that the essential product characteristics are maintained and that the limits of such compositional modifications shall be detailed in the standards concerned as appropriate.

The recently adopted revision of the Codex Standard for Cheddar Cheese (Codex Stan C-263) provides an example of compositional modifications that may be made, in accordance with the GSUDT. The cheddar cheese standard defines a minimum fat dry matter (FDM) limit of 22%, and a reference range of 48%-60% FDM. A product that falls outside the reference range of 48%-60%, but above the 22% minimum FDM, may use the name “cheddar cheese” with qualifiers, such as “reduced fat”. Products containing less than the minimum 22% FDM cannot use “cheddar cheese” in the name of the food. The labelling section provides further guidance, in section 7.1, stating that appropriate qualification describing the modification made or the fat content, as part of the name or in a prominent position in the same field of vision, is required. Identified suitable qualifiers include those found in the Codex General Standard for Cheese (Codex Stan A-6- 1978, Rev. 1-1999) (for example: high fat, full fat, medium fat, skim) or a nutrition claim in accordance with the Guidelines for the Use of Nutrition and Health Claims (CAC/GL 23-1997, Rev. 1-2004).

International Context

A survey of e-wg members was conducted in order to explore how widespread the practice of using modified standardized names is among Codex members, to identify possible limits in

scope for this type of descriptive naming format (in other words, the circumstances where a food with a nutritional variance cannot use a nutritionally modified standardized name of the food), and to develop principles and conditions for the use of truthful and not misleading modified standardized names that describe the nutritional change.

Only qualitative information was available with respect to prevalence in the various national marketplaces. Generally, most respondents observed that it was somewhat or very common to find modified standardized names of the food, except where it was not permitted. The types of foods with nutritionally modified names were wide ranging and included snack foods, flavoured drinks, juice drinks, meats and poultry, jams, dairy products, cereal and bakery products, and margarine. The types of nutritional variance identified were related to protein, fat, sugar, micronutrients (such as vitamins), and moisture content. Examples of nutritionally modified standardized names (the reference standardized food's name is underlined) include fat free milk, fat reduced cheddar cheese, light sour cream, orange juice with vitamin C and calcium added, no added sugar chocolate with sweeteners, margarine with vitamin A, ground beef and vegetable protein (different protein source).

The legislative framework for most, but not all, of the countries that responded to the survey appeared to be flexible enough to allow for the standardized name of the food to be used as a reference in a descriptive name of the food, with appropriate modifiers, provided it was not misleading to the consumer. Some countries provided conditions that must be met in order to name a food in this manner and these are included in the conditions outlined later in the paper. There were no clear limits identified for the scope of this type of descriptive naming format, although some countries expressed a general concern over the practice of using modified standardized names to describe a food.

With respect to conditions and principles, all respondents agreed that consumers should not be misled through the representation of products, including by the name, type height, and font, with respect to the composition of the food, and that only foods meeting the standard can carry the prescribed (unmodified) standardized name for the food. As well, there was general recognition and support for the development of healthy choices for consumers and for the Global Strategy.

Some participants commented on the importance of standards in meeting consumers' expectations with respect to the composition and integrity of the food and indicated that, for those reasons, the name of the food should not be included in a descriptive name indicating the nutrition modification of a food which no longer meets the standard. Instead, the standards themselves should be amended, or a new name should be found for the food (for example: using "fruit spread" for a jam-like product with less than the required amount of sugar, instead of "reduced-sugar jam"). One respondent suggested that a reference to the standardized food in terms of its use or function would be acceptable. It was also noted that allowing the inclusion of a standardized name for foods that were different than the standard was not fair to those who respected the standards.

Other participants noted the importance of horizontal labelling information such as the name of the food, ingredients list, nutrition labelling, and percentage labelling of characterizing ingredients for consumer information and prohibitions on false and misleading information for consumer protection. One participant was of the view that the compositional standards may hamper the development of healthier alternatives. It was also noted that not all product compositions would have to fall outside the requirements of a standard in order to make a

nutrition claim. Factors that influence this include the degree of nutritional variance in order to make a claim, the specific mandatory ingredients required by the standard, and if there are prescribed minimum or maximum nutrient levels that must be achieved (such as minimum milk fat levels in cheese).

Proposed Principles and Conditions for Modified Standardized Names for Nutritionally Modified Foods:

Proposed principles and conditions to guide the naming of foods that include the standardized name with modifications are representative of the e-wg's comments and are compiled below for consideration by the 36th session of CCFL.

As previously mentioned the main principle is that the name of the food, and all representations, be truthful and not false or misleading with respect to the true composition of the food. This is an existing general principle of the GSLPF, section 3. The labelling should be transparent and sufficiently descriptive and normally be specific and not generic, which is consistent with GSLPF section 4.1 and 4.2.1. The General Guidelines on Claims (GGC) (CAC/GL 1-1979 (Rev.1-1991) must also be respected. To that end, the following are the specific conditions that were identified by the e-wg for a food using a specific standardized name as a reference in its name:

- a) the basic identity and essential characteristics, such as taste, texture, and physical properties, of the reference standardized food must be maintained;
- b) the nutritionally modified food must contain the required essential ingredients of the reference standardized food, although those that contribute directly to achieving a particular nutrition claim may be present in a lower amount (such as raw ingredients with a high fat content) or not at all (such as no sugar in a sugar-free product);
- c) there can be no substitution of the main ingredient that characterizes the food (for example: dairy fat cannot be replaced by vegetable fat in a lower fat sour cream);
- d) any modifications in the ingredients must be limited to those required to achieve the nutritional variance; one suggestion for consideration by the Committee is that any ingredients added that are not permitted by the standard should be identified specifically in the list of ingredients;
- e) the nutritional variance must meet the conditions for nutrition claims set out in Codex standards and guidelines;
- f) it must be clearly stated on the label how the food diverges from the standard (for example: the acceptable nutrition claim), as part of the name of the food, with consideration to equal prominence of the information within the name of the food (type height, font, colour, etc) (see GGC 5.1(vi)(c));
- g) a product nutritionally modified from the standard food product should not be labelled as a substitute for the standardized product, such as "XYZ substitute" or "substitute for XYZ" (see GSLPF 3.2);
- h) the general provision in the GSLPF (which has not been developed but would be the result of work) should not take precedence over those Codex standards where there are specific requirements established for the use of modified standardized names, such as is the case in the GSUDT;
- i) where applicable, the nutritionally modified food should perform at least one of the principal functions of the standardized food and consideration should be given to an

indication if performance features, such as baking or spreading, are significantly different; and

It is also suggested that the Committee consider a condition for nutritional equivalence of the modified food to the standardized food, except with respect to the nutrient that is the subject of the nutritional modification.

When these conditions are not met a new name of the food that describes the product is required, instead of applying a nutritionally modified standardized common name. Alternatively, a new standard can be created for the food, or it can be included in an existing standard by amending the standard.

Recommendations and Next Steps

The working group supports the principles of the Global Strategy and the provision of healthy options for consumers. It recommends that the Committee consider the discussion paper, including the principles and conditions, as a basis for discussion concerning the development of horizontal labelling guidelines for the use of descriptive modified standardized name of the food for foods with modifications from a compositional standard of identity for the purpose of making a nutrition claim as new work. A project document (Annex II) is attached for CCFL's consideration should there be support to initiate new work in this area.

Should the Committee agree to recommend this as new work, it is proposed that the amendment be either included in or presented following, section 4.1 (The Name of the Food), in the GSLPF. The text would include the principles and conditions outlined above. It is also suggested any proposed draft amendments be circulated to other Codex committees, including commodity committees, for comment during their development.

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PROJECT DOCUMENT**Development of Horizontal Labelling Guidelines for the use of Modified Standardized Name of the Food for Foods with Modifications from a Compositional Standard for the Purpose of Nutrition Claims****Purpose and scope of the proposed work**

To provide further guidance and develop horizontal labelling guidelines based on current Codex principles for the use of descriptive modified standardized names for foods that have been modified from the standard for the purpose of nutrition claims (specifically nutrient content claims and comparative claims) consistent with the Codex Guidelines for Use of Nutrition and Health Claims (CAC/GL 23-1997, Rev. 1-2004). The proposed work supports the objects of the Global Strategy on Diet, Physical Activity, and Health (the Global Strategy) and was identified as a proposed action in the Draft Action Plan for Implementation of the Global Strategy on Diet, Physical Activity and Health, as distributed in CL 2006/44-CAC. The aim is to ensure that consumers are not misled about the nature of the food to be consistent with other work being done by Global Strategy.

The scope of the work would be limited to an amendment to the *General Standard for the Labelling of Prepackaged Foods*, Codex Stan 1-1985 (Rev. 1-1999), Section 4.1 (the Name of the Food) to provide conditions for the use of modified standardized names for foods with modifications from a compositional standard for the purpose of nutrition claims.

Relevance and timeliness

There are currently numerous developments in the area of intentional modification of foods to enhance their nutritional attributes. The Global Strategy encourages initiatives by the food industry to introduce innovative, healthy, and nutritious foods and to provide clear consistent labelling that is truthful and helps consumers make informed and healthy choices. Consistent with the Global Strategy, there is an increasing interest in healthier food choices. More and more, foods are being formulated with nutritional modifications while maintaining the essential characteristics, such as taste, texture, and physical properties of the standardized food, and, frequently, including the standardized name in the name of the food.

The main aspect to be covered

It is proposed that the new work would include development of horizontal labelling guidelines for the use of descriptive modified names for nutritionally modified standardized food through an amendment to Section 4.1 (The Name of the Food) in the *Codex General Standard for the Labelling of Prepackaged Foods*, to add a new subsection that provides the conditions for using a modified standardized name on a food that has been nutritionally modified from the standard for the purpose of making a nutrition claim.

Assessment against the criteria applicable to general subjects as contained in the *Criteria for the establishment of work priorities*.

The proposal is consistent with:

General Criterion

Consumer protection from the point of view of health, food safety, ensuring fair practices in the food trade and taking into account the identified needs of developing countries.

The proposed new work will provide additional guidance to countries when dealing with the naming of nutritionally modified standardized foods to ensure fair practices in the food trade.

Criteria applicable to general subjects

a. Diversification of national legislations and apparent resultant or potential impediments to international trade.

This new work will provide guidance to countries when developing their own labelling approach to address such products. When applied internationally, this new proposed work may assist in providing a harmonized approach.

c. Work already undertaken by other international organizations in this field and/or suggested by the relevant international intergovernmental body(ies).

There is no other international organization that has undertaken international standard setting activities for food labelling and in particular the development of horizontal labelling guidelines for descriptive modified standardized names for foods with modifications from a standard for the purpose of nutrition claims.

Relevance to Codex Strategic Objectives

This proposal is consistent with the following strategic goals presented in the Codex Alimentarius Commission Strategic Plan 2008-2013:

- Promoting Sound Regulatory Framework;
- Strengthening Codex Work-Management Capabilities
- Promoting Maximum and Effective Participation of Members

Information on the relation between the proposal and other existing Codex documents

The proposed work will not duplicate existing Codex documents, but rather complements and enhances the *Codex General Standard for the Labelling of Pre-packaged Foods* so the standard address new innovative products.

There will be a need to ensure consistency and links, as appropriate, with other Codex standards, such as the General Standard for the Use of Dairy Terms and with other work being undertaken by Codex on the implementation of the Global Strategy.

Identification of any requirements for and availability of expert scientific advice

There may be a need to consult other relevant Codex Committees (e.g. Codex Committee on Nutrition and Foods for Special Dietary Uses, other commodity committees).

Identification of any need for technical input to the standard from external bodies that this can be planned for

Coordination with FAO and WHO may be required, as appropriate.

The proposed timeline for completion of the new work, including the start date, the proposed end date for adoption at Step 5 and the proposed date for adoption by the Commission;

It is expected that the proposed work will be at:

Step 5: 2009/2010

Step 8: 2011