



**Joint FAO/WHO Food Standards Programme
Codex Committee on Food Labelling
41st Session
Charlottetown, Prince Edward Island, Canada, 14-17 May 2013**

**Discussion paper on issues related to Date Marking
(Prepared by New Zealand)**

1. Introduction

1. At the 40th session of the CCFL (2012) New Zealand presented a conference room document (CRD 5) outlining a number of issues and limitations with the current Codex date marking provisions. Most of the issues identified had been raised at a workshop of the Pacific Island Countries (PICs) belonging to the North America and the South West (NASWP) grouping of Codex¹. New Zealand agreed to take these forward into the wider Codex arena. The Committee agreed that New Zealand would prepare a discussion paper for the 41st session of CCFL outlining potential issues with the current Codex Guidelines focusing on the definitions relevant to date marking and section 4.7 and a proposal for new work on date marking (**Attachment 1**).
2. Currently provisions for date marking are addressed in the *General Standard for the Labelling of Prepackaged Foods*. The intention of this proposal is to review only the definitions in this standard relevant to date marking and section 4.7 Date marking and storage instructions. It is not the intention of this proposal to review the entirety of the *General Standard for the Labelling of Prepackaged Foods*.

2. Background

1. At a FAO/WHO sponsored workshop held in Tonga in September 2010 in conjunction with the 11th session of the Coordinating Committee for North America and the South West Pacific (CCNASWP), date marking of prepackaged foods was identified as a particular concern in the Pacific. While this issue has been raised by PICs it is a Global issue affecting many countries. As such the CCNASWP agreed to a proposal from New Zealand to facilitate consideration of a harmonized approach to date marking in the region through the development of a paper for consideration at the next session of the CCFL in 2012.
2. To progress this work New Zealand developed a Conference Room Document (CRD 5) which was presented to CCFL 40. The CRD outlined the issues raised by the PICs and the Codex texts which may require review to address these issues. Many of the date marking issues had been identified as a particular concern in the Pacific because of the dependence of the region on food imports. In particular some pre-packaged food products for sale in Pacific countries were not or inadequately date marked, or the date mark present was not relevant to the product due to freezing. This could lead to quality and safety issues and also result in unnecessary wastage of food products.
3. The Committee agreed that New Zealand would prepare a discussion paper outlining potential issues with the current Codex Guidelines (focusing on the definitions relevant to date marking and section 4.7) and a proposal for new work on date marking for consideration at the next session. One delegation noted that the work should be limited to marketability of products and quality attributes consistent with the current Codex guidelines.

¹ The Pacific Island countries belonging the NASWP region are Cook Islands, Fiji, Kiribati, Federated States of Micronesia, Republic of Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga and Vanuatu

3. Scope of review

1. The particular Codex guidelines to be addressed include *The General Standard for the Labelling of Pre-packaged Foods (Codex Stan 1-1985)*:
 - a. 2. *Definitions relevant to date marking*
 - b. 4.7 *Date marking and storage instructions*
2. Some preliminary analysis has identified that a number of Codex texts, predominantly individual commodity standards, have both general and more specific references to date marking. These Codex texts are listed in **Attachment 2**. These issues will need to be addressed once the general provisions on date marking in the *General Standard for the Labelling of Prepackaged Food* are agreed, but do not form part of this proposal for work.

4. Description

1. Most Country authorities use the Codex *General Standard for the Labelling of Prepackaged Foods, hereafter referred to as 'the Standard,'* to guide national labelling requirements, including requirements for date marking of foods. Despite this, globally there are a number of different systems for date marking and different terminologies are used on pack (see **Attachment 3**). This can create confusion for consumers, industry and regulators particularly in countries that do not have national regulations for date marking and where importation of food is significant.
2. The problems created by this proliferation of date marks were highlighted by Pacific Island Countries (PICs) at an FAO/WHO sponsored workshop held in Tonga in conjunction with the 11th Session of the FAO/WHO Coordinating Committee for North America and the South West Pacific (CCNASWP) meeting in Tonga in 2010.
3. The majority of PICs either have relatively new or no national regulation for date marking. The PICs are also mostly net importers of prepackaged food. As a result the PICs are concerned that prepackaged food products imported for sale in their countries are either not date marked, inadequately date marked or the date mark present is not relevant to the product due to the nature of the product.. The consequences of this are:
 - Food safety may be compromised
 - Food quality may be less than ideal
 - There may be non-compliant food products for sale
 - Foods may be removed from sale unnecessarily
4. In order to illustrate some of these issues examples have been provided of different date marks found on packaged foods in a number of different countries (see Attachment 3 for examples). Some products have no date marking at all (which is an enforcement issue for the countries involved).

5. Issues

1. Inconsistency of information being provided:

Where a date mark is present it is not always clear what information is being imparted. Some date marks provide just a date without the corresponding descriptive part of the date mark (e.g. 'best-before' or 'Packed-on' or 'Use -by') for example "25 APR 2013". The current requirement in the Standard (Section 4.7) is that the 'date of minimum durability' shall be declared. 'Date of minimum durability' (or 'best before') is defined and includes a comment that "*the food may still be perfectly satisfactory*". Other definitions for alternate date marks are provided by the Standard such as the 'Use-by' date, which includes the statement "*After this date the food should not be regarded as marketable.*" Without the full date mark (both date and descriptor) it is not possible to determine whether the product should be discarded (as it should no longer be considered marketable) or whether it may still be perfectly satisfactory. Two situations arise directly from this, either food which should be discarded is not, this could result in consumers being sold food of lesser quality or worse potentially unsafe food, or perfectly marketable and safe food is discarded unnecessarily leading potentially to food security issues.

2. Variation in Descriptors:

Where a descriptor is used a number of different terms are being used for example “best before”, “use-by”, “packed on”, “sell-by”, “enjoy by”, “display until”, “production date”, “expiry date”, “guaranteed fresh until” and abbreviations such as “UB” “EXP” “DU”. Where a number of different date marks are used there needs to be a clear understanding what each means in terms of the quality and marketability of the product. Some countries define different date marks for different uses. Where additional descriptors are used these must be truthful but do not take the place of the mandatory date mark.

3. Food quality versus food safety:

Currently some countries use date marking for food safety reasons as well and quality reasons while others use date marks solely to indicate period of optimum quality. Where date marking is used for both quality and safety reasons within a country, different terms may be used for each purpose and these terms may be subject to differing requirements accordingly.

Codex guidelines currently require the declaration of “date of minimum durability (best before)” on most foods. However definitions are provided for a range of date marks with seemingly different purposes. Current text does not indicate when these additional date marks should or might be used. Clarification of definitions and text within the Standard to indicate this may help to standardise the date marking used globally and thus prevent confusion for manufacturers, suppliers, regulators and consumers alike.

6. Definitions related to date marking:

The definitions for “Date of Manufacture” and “Date of Packaging” are clearly articulated and were not identified as problematic by the PICs. The “sell-by-Date”, “Date of minimum durability” (“best before”) and the “Use-by Date” however are seen as problematic and should be reviewed.

The “Date of minimum durability” (“best before”) and the “Use-by Date” are respectively the date that signifies the end of the period a product will *retain any specific qualities for which...claims have been made*, and, *after which the product probably will not have the quality attributes normally expected by consumers*. A product past its “Date of minimum durability” (“best before”) *may still be perfectly satisfactory* however a food past its “Use-by Date” *should not be regarded as marketable*. This suggests a difference is intended between foods labelled with a “Date of minimum durability” (“best before”) and those labelled with a “Use-by Date”. The Standard does not, however, clearly articulate what this intended difference might be or when to use each date mark.

The “Sell-by-Date” means *the last date of offer for sale after which there remains a reasonable storage period in the home*. This definition does not mention loss of quality and does not quantify a *reasonable storage period*.

7. Text of section 4.7 – Date marking and storage instructions

Section 4.7.1 states that *If not otherwise determined in an individual Codex standard,... the “Date of minimum durability” (“best before”) shall be declared*.

There is no indication in the Standard of when (other than *when determined in an individual Codex standard*) the other date marks defined in the Standard (e.g. “Use-by Date” and “Sell-by-Date”) should be used.

Section 4.7.1 (iii) outlines the use of “Best before...” on foods. Should an additional clause be added outlining the use of “Use-by” and “Sell-by-Date”?

Clause 4.7.1 (v) states that *...the month may be indicated by letters in those countries where such use will not confuse the consumer*. It is recommended that the review of text described in this proposal for new work looks at whether this is appropriate, or whether the required form of declaration for the month should be letters, given that both day and month can currently be depicted by numbers and the order of day and month is not specified and can differ between countries. For example “Best before 07/12/2013” could mean “Best before 12th July 2013” or “Best before 7th December 2013”. To remove ambiguity the month could be required to be in letters, or the order of the date could be specified.

8 Recommendation

It is recommended that the Committee agree to initiate a review of the date marking provisions in the Codex General Standard for labelling of prepackaged foods as proposed in this paper and submit the attached Project document for CAC approval.

PROJECT DOCUMENT

Prepared by New Zealand

1. PURPOSE AND SCOPE OF THE NEW WORK

Globally there are a number of different systems for date marking of food and a range of different terminologies are used on pack. This can create confusion for consumers, industry and regulators particularly in countries that do not have national regulations for date marking and where importation of food is significant. It has been suggested that current Codex guidelines do not provide adequate guidance on date marking with definitions being identified as being ambiguous and no clear guidance how and when to use of the date marks that are defined. This proposal seeks to review the definitions relevant to date marking and text in section 4.7 of *The General Standard for the Labelling of Pre-packaged Foods (Codex Stan 1-1985)*. This proposal does not seek to review the whole of *The General Standard for the Labelling of Pre-packaged Foods (Codex Stan 1-1985)*

2. RELEVANCE AND TIMELINESS

Date marking has been identified as a significant concern in a number of developing countries that are highly reliant on food imports.

3. MAIN ASPECTS TO BE COVERED

The particular Codex guidelines to be addressed include *The General Standard for the Labelling of Pre-packaged Foods (Codex Stan 1-1985)*:

2. *Definitions*

4.7 *Date marking and storage instructions*

4. ASSESSMENT AGAINST THE CRITERIA FOR THE ESTABLISHMENT OF NEW WORK PRIORITIES

Criteria

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.

Consumer protection –it appears that the current provisions are resulting in a plethora of different date marks that are used for different purposes in different countries. Consumers, as the end users of the products, may be misled as to the original intent of the date mark – even more so if product has been frozen during transit to market.

Fair practices in food trade – potential “dumping” of short shelf life foods on developing countries. This could be both a food quality and food safety issue.

Food Security - food wastage through throwing out food that is past date mark but may still be safe to eat– e.g. best before dates. This has significant economic implications for retailers and consumers and also a potential area of confusion for regulators regarding compliance – e.g. should the product be allowed to be sold after date mark expires?

Criteria applicable to general subjects

(a) *Diversification of national legislations and apparent resultant or potential impediments to international trade*

The huge range in date marks that are used globally is problematic and causing confusion in international trade. Examples of the range of date marks seen globally are provided in Attachment 3

(b) *Scope of work and establishment of priorities between the various sections of the work.*

It is proposed that a review of the standard focuses on the definitions and section 4.7 as well as ensuring consistency of use and reference across Codex standards.

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

Codex is the relevant international organization responsible for developing international standards in this area and we are not aware of any other international organization working in this area

(d) *Amenability of the subject of the proposal to standardization*

Many countries are looking to Codex for clear and unambiguous guidance on date marking. The purpose of the new work proposal is the review and clarification of existing text to ensure it provides a clear set of international definitions and guidelines on date marking for global application

(e) *Consideration of the global magnitude of the problem or issue*

Although the proposal for new work is based on the comments and feedback from the members of the NASWP region, the comments and experience of countries in other regions of the world would suggest that the problems with date marking extend beyond particular regions and are of global relevance and interest.

5. RELEVANCE TO CODEX STRATEGIC OBJECTIVES

The proposed work is in line with the Commission's mandate for the development of international standards, guidelines and other recommendations for protecting the health of consumers and ensuring fair practices in food trade. The new work proposal will contribute to advancing Strategic Goals 1 and 5 as described below.

Goal 1: Promoting sound regulatory frameworks

Clarification of the texts relating to date marking in *The General Standard for the Labelling of Prepackaged Foods (Codex Stan 1-1985)* including the use of different descriptors for date marking, would assist harmonisation of date marking globally without the need to be overly prescriptive, thereby reflecting global variations. If definitions for the different terms for date marking and their intended use were unambiguous this could cater for different uses and purposes of date marking globally while ensuring where the same term is used the meaning is clear.

Goal 5: Promoting maximum and effective participation of members

Date marking was raised as a significant issue by Pacific Island Countries (PICs) at an FAO/WHO sponsored workshop held in Tonga in September 2010 in conjunction with the 11th session of the Coordinating Committee for North America and the South West Pacific (CCNASWP). New Zealand agreed to assist PICs in this area and as part of this to raise the issue at CCFL. New Zealand has engaged with PICs in the development of this proposal and will continue to encourage and facilitate their involvement in this work should it be approved.

6. RELATION BETWEEN THE PROPOSAL AND OTHER EXISTING CODEX DOCUMENTS

The Date marking texts provided in the Codex *General Standard for the Labelling of Prepackaged Foods, (the Standard)* and proposed for review are applicable horizontally across all prepackaged foods.

7. REQUIREMENT FOR AND AVAILABILITY OF EXPERT SCIENTIFIC ADVICE

If the review looks at the purpose of the alternate definitions given in the Standard it may be necessary to engage food science and or microbiology expertise. Possibly the CCFH may need involvement.

8. NEED FOR TECHNICAL INPUT TO THE STANDARD FROM EXTERNAL BODIES

None identified at this stage. There will be opportunity to consult with relevant bodies if necessary throughout the process.

9. Proposed Timeline:

May 2013	Endorsement of new work proposal by CCFL
July 2013	Approval of new work by CAC
July 2013	Establishment of electronic working group to develop draft discussion document and draft revised standard
May 2014	Consideration of draft revised standard at step 2 by CCFL and advancement to step 3
May 2015	Consideration of draft standard and further work with technical experts by CCFL and eWG
May 2015	Consideration of draft standard by CCFL and advancement to step 5
July 2015	CAC adoption of draft standard at step 5
May 2016	Discussion of draft standard by CCFL and advancement to step 8
July 2016	CAC adoption of draft standard at step 8

DATE MARKING REFERENCES IN CODEX TEXTS

MILK AND MILK PRODUCTS

All products

Section 4.7.1 of the *General Standard for the Labelling of Prepackaged Foods* (CODEX STAN 1-1985) applies

Labelling of non-retail containers – date marking can be on the container or in accompanying documents

CODEX GENERAL STANDARD FOR CHEESE (CODEX STAN 283-1978)

7.3 Date marking

Notwithstanding the provisions of Section 4.7.1 of the *General Standard for the Labelling of Prepackaged Foods* (CODEX STAN 1-1985), the date of minimum durability need not be declared in the labelling of firm, hard and extra hard cheese which are not mould/soft-ripened and not intended to be purchased as such by the final consumer: in such cases the date of manufacture shall be declared.

CODEX STANDARD FOR CREAM AND PREPARED CREAMS (CODEX STAN 288-1976)

2.4.5 Fermented cream is the milk product obtained by fermentation of cream, reconstituted cream or recombined cream, by the action of suitable micro-organisms, that results in reduction of pH with or without coagulation. Where the content of (a) specific microorganism(s) is(are) indicated, directly or indirectly, in the labelling or otherwise indicated by content claims in connection with sale, these shall be present, viable, active and abundant in the product to the date of minimum durability. If the product is heat-treated after fermentation the requirement for viable micro-organisms does not apply.

Model Export Certificate for Milk and Milk Products

A date code can be used as a means to identify the food and facilitate traceability

Date of manufacture or date of minimum durability may need to be declared if required by the importing country. (Some importing countries insisted that this should be included in the certificate to avoid dumping of expired products. It is not included in the Generic Model Export Certificate.)

FATS AND OILS

All products

Section 4.7.1 of the *General Standard for the Labelling of Prepackaged Foods* (CODEX STAN 1-1985) applies

Labelling of non-retail containers – date marking can be on the container or in accompanying documents

Fresh Fruits and Vegetables

All products

Codex Stan 1 applies – but fresh fruits and vegetables are exempted from a declaration of the date of minimum durability

Labelling of non-retail containers – date marking is not required

PROCESSED MEATS

CODEX STANDARD FOR CORNED BEEF (CODEX STAN 88-1981)

7.2 Date Marking and Storage Instructions

For canned corned beef which is a shelf-stable product the date of minimum durability shall be indicated by the year.

7.3 Labelling of Non-Retail Containers

Information, as appropriate needed for labelling of retail containers is given either on the non-retail container or in accompanying documents except that the name of the food, date marking and storage instructions, lot identification and the name and address of the manufacturer or packer shall appear on the non-retail container.

CODEX STANDARD FOR LUNCHEON MEAT (CODEX STAN 89-1981)**7.3 Date Marking and Storage Instructions**

7.3.1 For shelf-stable products the date of minimum durability shall be declared by the year.

7.3.2 For products which are not shelf-stable i.e. which may be expected not to keep for at least 18 months in normal conditions of storage and sale, and which are packaged in a container ready for offer to the consumer or for catering purposes, the date of minimum durability shall be declared by day, month and year.

7.3.3 For products which are not shelf-stable and which are packaged in containers not sold directly to the consumer or for catering purposes, adequate storage and distribution instructions shall be declared.

7.4 Labelling of Non-Retail Containers

Information, as appropriate needed for the labelling of retail containers is given either on the non-retail containers or in accompanying documents except that the name of the food, date marking and storage instructions, lot identification and the name and address of the manufacturer or packer shall appear on the non-retail container.

However, lot identification, and the name and address of the manufacturer or packer may be replaced by an identification mark provided that such mark is clearly identifiable with the accompanying documents.

CODEX STANDARD FOR COOKED CURED HAM (CODEX STAN 96-1981)**7.2 Date Marking and Storage Instructions**

7.2.1 For shelf-stable products the date of minimum durability shall be declared by the year.

7.2.2 For products which are not shelf-stable, i.e. which may be expected not to keep for at least 18 months in normal conditions of storage and sale, and which are packaged in a container ready for offer to the consumer or for catering purposes, the date of minimum durability shall be declared by day, month and year.

7.2.3 For products which are not shelf-stable and which are packaged in containers not sold directly to the consumer or for catering purposes, adequate storage and distribution instructions shall be declared.

7.3 Labelling of Non-Retail Containers

Information, as appropriate needed for labelling of retail containers is given either on the non-retail containers or in accompanying documents except that the name of the food, date marking and storage instructions, lot identification and the name and address of the manufacturer or packer shall appear on the non-retail container.

CODEX STANDARD FOR COOKED CURED PORK SHOULDER (CODEX STAN 97-1981)**7.2 Date Marking and Storage Instructions**

7.2.1 For shelf-stable products the date of minimum durability shall be declared by the year.

7.2.2 For cooked Cured Pork Shoulders which are not shelf-stable, i.e. which may be expected not to keep for at least 18 months in normal conditions of storage and sale, and which are packaged in a container ready for offer to the consumer or for catering purposes, the date of minimum durability shall be declared by day, month and year.

7.2.3 For products which are not shelf-stable and which are packaged in containers not sold directly to the consumer or for catering purposes, adequate storage and distribution instructions shall be declared.

7.3 Labelling of Non-Retail Containers

Information, as appropriate needed for labelling of retail containers is given either on the non-container or in accompanying documents except that the name of the food, date marking and storage instructions, lot identification and the name and address of the manufacturer or packer shall appear on the non-retail container.

CODEX STANDARD FOR COOKED CURED CHOPPED MEAT (CODEX STAN 98-1981)**7.3 Date Marking and Storage Instructions**

7.3.1 For shelf-stable products the date of minimum durability shall be declared by the year.

7.3.2 For products which are not shelf-stable, i.e. which may be expected not to keep for at least 18 months in normal conditions of storage and sale, and which are packaged in a container ready for offer to the consumer or for catering purposes, the date of minimum durability shall be declared by day, month and year.

7.3.3 For products which are not shelf-stable and which are packaged in containers not sold directly to the consumer or for catering purposes, adequate storage and distribution instructions shall be declared.

7.4 Labelling of Non-Retail Containers

Information as appropriate needed for labelling of retail containers is given either on the non-retail container or in accompanying documents except that the name of the food, date marking and storage instructions, lot identification and the name and address of the manufacturer or packer shall appear on the non-retail container.

NUTRITION AND FOODS FOR SPECIAL DIETARY USES**STANDARD FOR INFANT FORMULA AND FORMULAS FOR SPECIAL MEDICAL PURPOSES INTENDED FOR INFANTS (CODEX STAN 72 – 1981)****9.4 Date Marking and Storage Instructions**

9.4.1 The date of minimum durability (preceded by the words "best before") shall be declared by the day, month and year in uncoded numerical sequence except that for products with a shelf-life of more than three months, the month and year will suffice. The month may be indicated by letters in those countries where such use will not confuse the consumer. In the case of products requiring a declaration of month and year only, and the shelf-life of the product is valid to the end of a given year, the expression "end (stated year)" may be used as an alternative.

9.4.2 In addition to the date, any special conditions for the storage of the food shall be indicated if the validity of the date depends thereon. Where practicable, storage instructions shall be in close proximity to the date marking.

CODEX STANDARD FOR FORMULA FOODS FOR USE IN VERY LOW ENERGY DIETS FOR WEIGHT REDUCTION (CODEX STAN 203-1995)**9.4 Date Marking**

The date of minimum durability shall be declared in accordance with Section 4.7.1 of the General Standard.

Examples of Date Marks

