



JOINT FAO/WHO FOOD STANDARDS PROGRAMME

CODEX COMMITTEE ON FATS AND OILS

Twenty-fourth Session

Melaka, Malaysia, 9 – 13 February 2015

REFERENCE TO ACCEPTANCE / VOLUNTARY APPLICATION IN CODEX STANDARDS

(Comments in reply to CL 2011/2-FO Part B)

BACKGROUND

1. This item has been included in the Agenda of CCFA24 as the Committee at its last meeting did not consider this matter due to time constraints (REP13/FO para. 130).
2. This document presents the information compiled in CX/FO 13/23/11 and in CRD 7, 9 and 16¹ in reply to CL 2011/2-FO Part B.

Replies to CL 2011/2-FO Part B of Australia, Brazil, Canada, Chile, Costa Rica and European Union

AUSTRALIA

Australia wishes to provide the following comments with regard to CL 2011/2-FO Part B.

1. Request for Comments and information Reference to acceptance voluntary application in Codex

Australia prefers the second alternative statement over the first for inclusion in all standards for fats and oils.

These quality and composition factors are supplementary information to the essential composition and quality factors of the standard. A product which meets the essential quality and composition factors but does not meet these supplementary factors is deemed to conform to the standard

During the plenary session Australia suggested that the first alternative statement may be interpreted to mean that if a product does not meet the supplementary factors that it may still conform to the standard even if it does not meet the essential quality and composition factors. Australia does not believe that this is appropriate. The second alternative statement does not have this loophole. However, we suggest that the second alternative statement be amended to read as follows:

*These quality and composition factors are supplementary information to the essential composition and quality factors of the standard. A product which meets the essential quality and composition factors but does not meet these supplementary factors ~~is deemed~~ **may still be considered** to conform to the ~~be in~~ **conformance with the** standard.*

Australia suggests this alteration to the second alternative statement because Australia does not believe that the words *deemed to conform* are appropriate in a Codex Standard.

2. Request for comments on the integration of provisions currently in Table 3 (desmethylsterols) and Table 4 (tocopherols and tocotrienols) of the Appendix in the Standard for Named Vegetable Oils into the main body of the standard for further consideration at the next session (paras 13 – 14).

Australia considers that there may be benefit in considering placement of Table 3 (desmethylsterols) and Table 4 (tocopherols and tocotrienols) currently in the Appendix of the Standard for Named Vegetable Oils into the main body of the standard. Australia suggests that each table should be reviewed individually and the benefits of placing them within the standard or leaving them within the Appendix be discussed within the

¹ Information in CRDs is presented in original language.

Committee. Bringing the tables forward into the Standard would make the criteria within these tables part of the essential quality and composition, rather than supplementary to the essential quality and composition. An increase in prescription may not be warranted and may introduce trade restrictions, however further work would need to be conducted by the Committee to determine this. Australia suggests that a review of the criteria within each table be undertaken to determine if including these criteria within the main body of the standard is likely to cause any trade implications.

BRAZIL

General Comments

1. The alternative statements for inclusion in all standards for fats and oils

In regard to the request for comments on the alternative statements for inclusion in all standards for fats and oils, which were proposed for CCFO in the last meeting, Brazil would like to remember that this matter has been discussed by another committees.

In the 14th CCGP (April/1999), the Committee agreed that the development of a set of preambular statements explaining the intent of the different types of Codex texts was unnecessary, in the view that all Codex texts, including standards and their annexes, were covered by the TBT definition of "standard", and that distinctions based on Acceptance (under the Codex Procedures) were not relevant in the framework of WTO.

This discussion went on and in the 22st CCGP (April/2005) the Secretariat introduced the document prepared according to the decision of the 21st Session of the Commission to consider all the amendments to the Procedural Manual that would result from the abolition of the acceptance procedure.

In the 31st Session of the Commission (July/2008), it was observed that some Codex commodity standards contained statement related to the abolished "acceptance" provisions. So, the Commission agreed to the recommendation of the Executive Committee to invite the Codex Secretariat to draw up a list of all standards containing text related to the abolished "acceptance" provisions for submission to Committee on General Principles for advice on how to deal with this issue in a consistent and horizontal way.

Then, in the 32nd CCEXEC (June/2009), the Committee noted a number of Codex standards incorporate annexes that carry two type of statements on the status of such annexes which relate to their acceptance by member governments and/or voluntary application by commercial partners. Nonetheless, the Secretariat informed the Committee that, after the abolishment of the acceptance procedure by the Commission, the reference to the acceptance procedure in such annexes had become obsolete and consideration should be given to their removal from the annexes. The Secretariat also informed the Committee that, in relation to the status of Codex texts within the framework of the WTO TBT Agreement, the CCGP had agreed that all Codex texts, including standards and their annexes, were covered by the TBT definition of "standard".

Additionally, Brazil observes that the annex or appendix contain important parameters related to authenticity and quality of fat and oils, such as, acid value, peroxide value, refractive index, sterols tocopherols and tocotrienols. Therefore, statements appearing in the annexes of Codex standards, which reference to acceptance/voluntary application as proposed by CCFO, could invalidate the application of parameters provided in the appendices of the standards for fats and oils, which is used to determine the authenticity and quality of the product.

In conclusion, Brazil suggests removing the current text "This text is intended for voluntary application by commercial partners and not for application by governments." from the annexes or appendices of Codex standards of fat and oils (CODEX STAN 19-1981, CODEX STAN 210-1999 and CODEX STAN 211-1999). In addition, Brazil suggests eliminating the text "The Appendix to this Standard is intended for voluntary application by commercial partners and not for application by governments." that is present in the following standards: CODEX STAN 19-1981, CODEX STAN 33-1981, CODEX STAN 210-1999 and CODEX STAN 211-1999.

2. The provisions currently in Table 3 and Table 4 of the Appendix in the CODEX STAN 210-1999

In relation to the request for comments on the integration of provisions currently in Table 3 (desmethylsterols) and Table 4 (tocopherols and tocotrienols) of the Appendix into the main body of the Standard for Named Vegetable Oils, Brazil understands that not only the provisions in Table 3 and Table 4 of the Appendix in the Codex Stan 210-1999, but also other provisions in the appendices of CODEX STAN 19-1981, CODEX STAN 210-1999 and CODEX STAN 211-1999, such as acid value, peroxide value, refractive index, iodine value etc are important parameters used to determine the authenticity and quality of fats and oils.

Considering that either the body and the appendix of standard have the same status as Text Codex and that

they are covered by the TBT definition of “standard”, Brazil suggests that the provisions provided in the appendices of the standards for fats and oils should be retained in appendices without any text referencing this provisions to acceptance voluntary application.

Furthermore, Brazil identified that some provisions in the appendices are inconsistent with the scope of the standard that applies to edible oils, as the tables 2, 3 and 4 define limits for crude vegetable oils which in some cases are not edible. Additionally, it should be noted that the parameters ranges are very wide suggesting that the values listed in the tables refers to refined and crude oils, although the title indicates that the limits defined are for crude oil.

We understand that the discussion on the current provisions in the appendix demonstrates the need to update these provisions as soon as possible.

Specific Comments

Brazil suggests removing the current text “This text is intended for voluntary application by commercial partners and not for application by governments.” from the beginning of the annexes or appendices of the following Codex standards of fat and oils: CODEX STAN 19-1981, CODEX STAN 210-1999 and CODEX STAN 211-1999.

Brazil also suggests excluding the text “The Appendix to this Standard is intended for voluntary application by commercial partners and not for application by governments.” from the following standards: CODEX STAN 19-1981, CODEX STAN 33-1981, CODEX STAN 210-1999 and CODEX STAN 211-1999.

In addition, Brazil understands that it is not necessary to integrate the provisions currently in the appendices into the main body of the standards, because the body and the appendix of the standard have the same status as text Codex.

CANADA

Canada supports retaining the appendices in the standards, specifically Codex Stan 19, 33, 210, and 211; moving those parameters that are critical for determining oil identity and authenticity from the appendix in Codex STAN 33 and 210 into the main body of the standard; deleting the current text that reads: “The Appendix to this Standard contains provision which are intended for voluntary application by commercial partners and not for application by governments”; and replacing the statement.

The verification of identity and authenticity of fats and oils is complex and the more information collected, the more accurate the assessment. The appendices contain composition and quality factors such as sterol levels and tocopherols that are characteristic to the fat or oil and are not found elsewhere in the standards. Canada strongly supports the movement of the following information from the appendix to the main body of the standard as they are essential composition and quality factors:

Codex STAN 33 Olive Oils and Olive Pomace Oils:

a) 2.1 Saturated fatty acids at the 2-position in the triglyceride (sum of palmitic and stearic acids).

Codex STAN 210 Named Vegetable Oils:

a) Table 3, Levels of desmethylsterols in crude vegetable oils from authentic samples as a percentage of total sterols

b) Table 4, Levels of tocopherols and tocotrienols in crude vegetable oils from authentic samples

The Committee could then take the opportunity to review these provisions and update as necessary.

With respect to the alternative statements to replace the current statement on the voluntary application in the annexes of all applicable standards for fats and oils, Canada can support the following statement, provided essential composition and quality factors are moved into the body of the standard:

These quality and composition factors are supplementary to the essential composition and quality factors of the standard. A product that does not meet these supplementary factors may still be considered to conform to the standard.

CHILE

Chile choose

These quality and composition factors are supplementary information to the essential composition and quality factors of the standard. A product which meets the essential quality and composition factors but does not meet these supplementary factors is deemed to conform to the standard

In relation to the other issue, Chile does not have a defined position.

COSTA RICA

Costa Rica appreciates the opportunity to make its comments to the acceptance / voluntary implementation of Codex standards and believes that the second option is better to be understood, that is:

These quality and composition factors are supplementary information to the essential composition and quality factors of the standard. A product which meets the essential quality and composition factors but does not meet these supplementary factors is deemed to conform to the standard

Costa Rica also reviewed the text and the tables in the annexes on the integration of the existing provisions in Table 3 (Desmethylsterols) and Table 4 (tocopherols and tocotrienols) of the Appendix to the Standard and sees no objection to the inclusion of these tables in the text of the standard.

EUROPEAN UNION

The European Union and its Member States (EUMS) would like to support the second alternative statement proposed for inclusion in the Annexes to Codex fats and oil standards, with a small editorial amendment (deletion of a comma between the word essential and composition):

“These quality and composition factors are supplementary information to the essential~~,~~ composition and quality factors of the standard. A product which meets the essential quality and composition factors but does not meet these supplementary factors is deemed to conform to the standard.”

The EUMS are in favour of integrating table 3 (desmethylsterols), point 1.7 (acid value) and point 1.8 (peroxide value) in the body of the standard. The desmethylsterols composition is important to detect oils adulteration when acid and peroxide values are important to characterise oils oxidation and deterioration.

Comments of Thailand (CCFO24/CRD 7)

In response to CL 2011/2-FO, Thailand respectfully submits the following comments on the Reference to acceptance / voluntary application in Codex Standards.

1. Request for comments on the reference to acceptance / voluntary application in Codex Standard

Thailand considers that the appendix to the standards should contain supplementary information to the essential composition and quality factors of the standard. Therefore, we supports inserting of the statement on the voluntary application in the appendices of all fat and oils standards as this introductory paragraph will address the purpose and original objective of the appendices.

With regard to the alternative statements, we prefer the second alternative statement for inclusion in all standards for fats and oils since it provide more clarity on the purpose of the appendices.

2. Request for comments on the intergration of Table 3 (desmethylstersols) and Table 4 (tocopherols and tocotrienols) of the Appendix in the Standard for Named Vegetable Oils into the main body of the standard.

Thailand believes that not only the information in Table 3 (desmethylstersols) and Table 4 (tocopherols and tocotrienols) but also most of the information in current appendices contain supplementary information and not essential information to the standards.

Moving these two tables to the main body of the standard without careful review may create trade restriction than trade facilitation. However, if the committee believes it is necessary to review the appendices, we are of the view that full evaluation, section-by- section should be conducted. This has to be done by creating an electronic working group and start a new work on the review.

Comments of Mali (CCFO24/CRD 9)

Le Mali est favorable à inclusion de la 2^{ème} option de la déclaration dans toutes les normes sur les graisses et les huiles : « Ces facteurs de qualité et de composition sont des informations qui complètent les facteurs essentiels de composition et de qualité de la norme. Un produit conforme aux facteurs essentiels de qualité et de composition mais non conforme à ces facteurs complémentaires est jugé conforme à la norme ».

Comments of Malaysia (CCFO24/CRD 16)

Inclusion/amendment to the statements in the Appendix I for all standards for fats and oils

Malaysia supports the second option statement for inclusion in all standards for fats and oils,

“These quality and composition factors are supplementary to the essential composition and quality factors of

the standard. A product which meets the essential quality and composition factors but does not meet these supplementary factors is deemed to conform to the standard.”

Malaysia feels that this statement adequately captures the purpose and intention of this supplementary information when these oils and fats standards were adopted. This supplementary information serves as useful guidance and reference in addition to the essential composition and quality factors which were never meant to be in the main body of the standards when they were adopted.

Comments on the integration of provisions currently in Table 3 (desmethysterols) and Table 4 (tocopherols and tocotrienols) of the Appendix into the main body of the standard

In response to the proposal on the integration of provisions currently in Table 3 (desmethylsterols) and Table 4 (tocopherols and tocotrienols) of the Appendix in the Standard for Named Vegetable Oils into the main body, Malaysia proposes that both Table 3 (desmethylsterols) and Table 4 (tocopherols and tocotrienols) be retained in the Appendix, in view of that :

- a. the initial intention of both tables at the time of adoption were to serve as a supplementary to the essential quality and composition.
- b. a comprehensive revision of the values in both tables for all fats and oils included in the Codex Standard for Named Vegetable Oils will have to be undertaken to avoid any serious negative trade implications, recognizing that some of these provisions may no longer be relevant or representative of current data as a result of evolving production practices.