

codex alimentarius commission



FOOD AND AGRICULTURE
ORGANIZATION
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Agenda Item 2

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JOINT FAO/WHO FOOD STANDARDS PROGRAMME CODEX COMMITTEE ON MILK AND MILK PRODUCTS

Sixth Session

Auckland, New Zealand, 26 – 30 April 2004

**MATTERS REFERRED AND/OR OF INTEREST TO THE COMMITTEE ARISING FROM THE CODEX
ALIMENTARIUS COMMISSION AND OTHER CODEX COMMITTEES**

FERMENTED MILK DRINKS

Comments from: Indonesia, Mexico and IDF

INDONESIA

Regarding the sixth Session of the Codex Committee on Milk and Milk Product (CCMMP) which will be held in Auckland, New Zealand, 26 - 30 April 2004, we would like to remain CCMMP that in the 26th Session of CAC “The Commission noted that the Committee on Milk and Milk Products in undertaking work on fermented milk drinks, would need to decide whether this should be taken up as an addition to the current standard or as a new standard” (Alinorm 03/41 para 141).

Since Indonesia concerns in undertaking work on fermented milk drinks, Indonesia would like to propose that the Committee should be taken up the standard as a new standard. Therefore, Indonesia wishes this matter to be discussed in a specific agenda item in the sixth Session of CCMMP meeting.

MEXICO

PETITION OF THE MEXICAN DELEGATION ON THE CHECKED PROJECT STANDARD FOR FERMENTED MILK

The Delegation of Mexico wishes to congratulate Committee on the Codex on the Milk and the Milk Products, for the work accomplished to obtain the adoption of the Standard for Milk Fermented by the Commission of the Codex Alimentarius (CAC), during its meeting of 2003.

We followed with much interest the meeting of the last year by the CAC where the Standard for Fermented Milk was adopted, however, such standard was not containing reference some with respect to the milk product category Fermented Milk Drink (FMD). The FMD run the risk of suffer enormous impact of a legislative void at international level, which would carry to trade barriers.

The Mexican delegation took an active role at last year’s CAC meeting 2003, in addition to supporting the adoption of the Standard for Fermented Milk suggested also a solution to the problem of accommodating the needs of the product category Fermented Milk Drink within the Standard for Fermented Milk, that is to

say, through the incorporation of a new subcategory Fermented Milk Drinks in the Standard for Fermented Milk.

Also, in preparation of the documents to present in the meeting of this year of the CCMMP and taking issue with the paragraphs 98 and 141 of the Report of the meeting of 2003 of the CAC, those which indicate:

Paragrafo 98: In addition, the Commission recommended that the Codex Committee on Milk and Milk Products consider new work on Fermented Milk Drinks (see also para 141.)

Paragrafo 141: Commission noted that the Committee on Milk and Milk Products in undertaking work on fermented milk drinks, would need to decide whether this should be taken up as an addition to the current standard or as a new standard.

The Delegation of Mexico does not want to block the accomplished progress to date, if not exactly the opposite, according to the needs of the category Fermented Drink Milk, expresses its preference by the option that consists of:

The incorporation of the subcategory Fermented Milk Drink in the Standard for Fermented Milk.

We request kindly, that this letter be available of way anticipated for all those that participate in the meeting of this year of the CCMMP, well through the Codex mailing system and/or making the paper available on the Codex web. We would also appreciate it being available at the session in the form of a Conference Room Document.

The Delegation of Mexico, would thank also, the efforts of this Committee so that the consideration of a new work in relationship to the Fermented Milk Drinks could be treated as a point specify within the work agenda of the CCMMP.

IDF

1. Background

At the 26th Session of the Codex Alimentarius Commission (July 2003), the revised draft Standard for Fermented Milks was adopted at Step 8, as proposed by the CCMMP, with some minor editorial changes. The Commission also recommended that “the CCMMP consider new work on Fermented milk drinks” (Codex ALINORM 03/41, para. 98) and specifically noted that “the CCMMP in undertaking work on Fermented milk drinks would need to decide whether this should be taken up as an addition to the current Standard or as a new Standard” (Codex ALINORM 03/41, para. 141).

The IDF has considered this recommendation further and submit information with regard to the nature of these products and a brief analysis of the various options available should the CCMMP choose to respond to the CAC recommendation. Given the specific focus of the CAC recommendation and the precise drafting required for the successful adoption of the recently-finalized Standard for Fermented Milks, the options identified herein are presented solely for the consideration of the CCMMP on the issue of Fermented Milk Drinks and have been specifically developed so as to preclude revision of the existing provisions of the Standard for Fermented Milks.

2. Consideration of the Codex criteria for the establishment of work priorities

Information that is needed to consider compliance with the above Codex criteria is provided below.

2.1 Volume of production and sale

Estimated worldwide volume of sales of products that would fall under this category is approx 700,000 tonnes (2001), whereas estimated worldwide export trade volume amounts to approx. 15,000 tonnes.

2.2 Market potential

Fermented milk drinks are milk products that are not explicitly covered by the current Codex Standard For Fermented Milks. Though of minor importance at the outset of the drafting of the Standard they have increased considerably in trade significance in recent years. Fermented milk drinks are currently produced, consumed and traded in many Codex-member countries, such as, Australia, Brazil, Brunei, China, Indonesia, Japan, Korea, Malaysia, Mexico, Philippines, Singapore, United States and many European countries. Trade volumes are expected to increase in the future in line with growing consumption patterns as demands are expected to increase, especially in developing countries.

2.3 Potential impediments to trade

Fermented milk drinks are legislated in several countries, which are also members of Codex, however their legal status varies between them, which is indicated in Table 1 below. In addition there are a number of countries where Fermented milk drinks are not legally defined, which is also the case in Codex Alimentarius.

Table 1 Overview of legal status of Fermented milk drinks in some markets

Legal category/term established	Country (examples)
Dairy Category of Lactic Acid Bacteria Drink:	Japan
Dairy Product or Dairy Category of Fermented Milk Drink:	Korea, Taiwan, Mexico, Singapore, US
Lactic Acid Bacteria Milk Drinks as sub Category of Fermented Milks:	China
No specific legal terms specified:	Australia, Netherlands, UK, Germany

This lack of clarification of the status of Fermented milk drinks in relation to the Codex Standard for Fermented Milks could potentially hamper commercial transactions and fair international trade. It also mitigates against consumers being able to differentiate between products of different compositions due to a lack of clear definitions and denominations that reflect the characteristics of the products. Codex Standards are the mechanism of choice to provide a common international framework for Fermented milk drinks.

3. Options available for addressing Fermented milk drinks

IDF has looked into the options identified at the recent Codex meeting in Rome as well as other possible options to resolve the Fermented milk drinks issue. Five potential options, with varying levels of feasibility, have been identified by the IDF for consideration, as follows:

- 1) Establishing a separate text (e.g. annex to the Standard) that provides the conditions for the use of the term “fermented milk” in descriptive designations and relevant labelling provisions,
- 2) Establishing a separate Standard for the products concerned,
- 3) Removal of the composite milk product category within the current Standard.
- 4) Development of principles for the use of product names reserved by Codex commodity Standards in the descriptive designation of other milk products, for insertion into the existing GSUDT, and
- 5) Developing an addition (insertion of new category) within the existing Standard for Fermented Milks.

Advantages and disadvantages of each option are provided below in order to facilitate the decision process:

Option 1 – An annex to the Fermented Milk Standard specifying the conditions for the use of the term “fermented milk” in descriptive designations and relevant labelling provisions

Fermented milk drinks fall into various legal categories through-out the world (Table 1) and are known variously by consumers as Fermented milks, Lactic acid bacteria milk drinks, Fermented milk smoothies or Fermented milk drinks. One approach to the resolution of the Fermented milk drinks issue would be to adopt a labelling approach similar to an option identified by the 5th Session of the CCMMP for “cheese specialities”. This could be accommodated within the Standard by several means e.g. in an annex of the current Standard. This option would provide conditions for the use of the term “fermented milk” in descriptive designations, and could recognize the existence of denominations like “Fermented milk drink” or “X Drinks” where, for example, X could be the name of cultures used in the Fermented milk drinks. It would also allow the different names that consumers are familiar with in different parts of the world to be maintained. This option could also avoid problems linked to the use of the word ‘drink’ within the body of the Standard.

While this option might be considered to be easy to progress, it may take considerable time and resources in practice since it would go beyond focusing on Fermented milk drinks alone. However, the major disadvantage of this approach is that it might not ensure sufficient technical or legal certainty for the fermented milk drinks category as it would not outline a specification for Fermented milk drinks. Thus, it might not facilitate fair international trade to the extent desired nor sufficiently enhance consumer understanding.

Option 2 - A new Codex Standard for FERMENTED MILK DRINKS

This approach would have the advantage that a narrow specification for Fermented milk drinks could be provided which, in turn, could facilitate free trade and allow consumers to make choices based on a clear understanding of the products.

However, this option may prove difficult and may take considerable effort and time. In addition, the resultant document should avoid impact on the recently adopted Fermented Milk Standard, a fact that would require detailed study before embarking on this route as many products that fit into the current Codex Standard on Fermented Milks could also potentially comply with the ‘new Fermented milk drinks Standard’. Such duplication would not be considered satisfactory from a legal perspective. It is also questionable if a mere oversight should be corrected by a completely new Standard when it can perhaps be accommodated in an existing Standard.

Option 3 - Removal of the composite product category from the current Standard

Given the long duration leading to adoption of the current Standard it is unlikely that many would be willing to re-move the basis for the composite product category within the existing Standard as it is such a central aspect of the Standard.

Option 4 - Development of an addition to the Codex General Standard for the Use of Dairy Terms

A composite milk product, as defined in Section 2.3 of the Codex GSUDT (CODEX STAN 206-1999), ‘is a product of which the milk, milk products or milk constituents are an essential part in terms of quantity in the final product, as consumed provided that the constituents not derived from milk are not intended to take the place in part or in whole of any milk constituent’

The text relating to the GSUDT applies horizontally to all milk products and thus any changes would affect all milk products. Changes to the appropriate Codex Standard, namely Codex Standard for Fermented Milks, would likely address the Fermented milk drinks issue more adequately because of the requirements to address several elements dealt with in the Codex Standard.

Though this option may be relatively easy to embark on, some hesitation to change the GSUDT should be envisaged. It could be questionable whether amending the GSUDT would be proportional to the task. In addition, it would not provide a clear specification for Fermented milk drinks nor would it improve consumer understanding. If this option is pursued, it is essential that it be handled separately as an isolated section for insertion within the existing Standard 206.

Option 5 – Addition of a new product category in the current Standard

This option could prove to be a relatively time and resource efficient route forward and may be relatively easy to progress. Though not without drafting complications, it has a key advantage that it would not necessarily trigger changes in the existing scope of the Standard. It would also define Fermented milk drinks within a narrow specification and distinguish between Fermented milk drinks- Composite fermented milk drinks with a minimum of 40% (w/w) milk ingredients- and Flavoured fermented milks with a higher minimum milk ingredient content. Yet, both categories could be accommodated without altering the scope of the Standard. Such attributes would enhance current consumer understanding and facilitate trade. In order to illustrate this option, the necessary addition and minimal consequential changes in other relevant parts of the Standard are given in the attachment. This potential solution of an addition could be designed to avoid reopening the Standard and should be feasible to elaborate. If the CCMMP were to decide on this option, the attachment could serve as a template for the document entering the Codex Step procedure. On the other hand, acknowledging that the CAC has indicated that “the CCMMP in undertaking work on Fermented milk drinks would need to decide whether this should be taken up as an addition to the current Standard or as a new Standard’ (ALINORM 03/41, para.141), the text found in the attachment could also possibly serve to assist the development of a new Standard or other text should the CCMMP desire to pursue another course of action.

This option provides a potential means to facilitate a rapid and efficient resolution to the Fermented milk drinks issue. It addresses the associated compositional issues and recognises the characteristics of Fermented milk drinks that were not discussed earlier in the process. Potential nomenclature problems are circumvented by this proposal, specifically it avoids potential problems with drinking/drinkable Flavoured fermented milks by leaving the naming of the product to the labelling section. It is a feasible route that would provide legal clarity for the Fermented milk drinks category. The principal concern with this approach would appear to be that appropriate formulation of the text should ensure that derogation of the Standard would be avoided. Setting a minimum dairy ingredient content (40% w/w) for Composite fermented milk drinks ensures that these products comply with Section 2.3 of GSUDT which defines Composite milk products.

Conclusion

The primary objective of this paper is to provide options that are workable and in compliance with the recommendation of the CAC while noting that the adopted text of the Standard is safeguarded in principal. Many criteria can be used to screen or to determine the most appropriate option to use to progress this issue. To facilitate evaluation, the five options identified above have been compared to the most salient criteria:

- foster fair trade if implemented
- enhance consumer understanding for the product category
- improve consumer information
- not necessitate altering the scope of the Standard
- provide narrow specification for Fermented milk drinks
- have a minor impact on other Standards
- not require considerable time and resources
- be relatively easy to progress

The resulting evaluation is shown in Table 2.

TABLE 2: OVERVIEW OF THE OPTIONS IN RELATION TO SELECTED CRITERIA:

Criterion: Option:	Foster fair trade	Enhance consumer understanding	Improve consumer information	Impact on scope of the Standard for fermented milk	In principal to provide a narrow specification for the Fermented milk drinks category	Impact on other Standards	Time and resources	Relatively easy to progress
1: Annex to Standard	No	Some	Yes	None/Limited	No	None	Some	Yes
2: Separate Standard	Yes	Yes	Yes	Could conflict	Yes	Could conflict	Considerable	No
3: Removal of composite fermented milks from Standard	No	No	No	Yes	No	No	Minimal	No
4: Addition to GSUDT	Possibly	Some	Yes	None/Add clarity	No	Yes	Some	Yes
5: Additional category in Standard	Yes	Yes	Yes	None	Yes	None	Some	Yes

**AMENDMENTS TO THE STANDARD FOR FERMENTED MILKS NECESSARY TO ACCOMMODATE FOR
FERMENTED MILK DRINKS**

Principal change to the Standard:

Section 2 - Descriptions

New category to be inserted, as follows:

“2.4 [COMPOSITE] FERMENTED MILK DRINKS

[Composite] Fermented Milk Drinks are composite milk products, as defined in Section 2.3 of the Codex General Standard for the Use of Dairy Terms (CODEX STAN 206-1999), obtained by mixing Fermented Milk, non-dairy ingredients, and/or flavours and water. [Composite] Fermented Milk Drinks contain a [minimum] of 40% (w/w) dairy ingredients. The non-dairy ingredients and/or flavours and water can be mixed in prior to/or after fermentation.“

Consequential changes to other parts of the Standard:

3.1 Raw ingredients

The second indent to be extended with a reference to the new category (addition underlined):

- “Potable water for the use in reconstitution and recombination, and in products covered by Section 2.4”

3.2 Permitted ingredients

The fourth indent to be extended with a reference to the new category (addition underlined):

- "Gelatine and starch in:
 - Fermented milks heat treated after fermentation
 - Flavoured fermented milks, [Composite] Fermented Milk Drinks, and
 - Plain fermented milks if permitted by national legislation in the country of sale to the final consumer,
 provided that they are added in amounts.....etc.”

3.3 Composition

In text beneath existing table (first paragraph), reference to composite fermented milk drinks to be inserted (insertion underlined):

“In Flavoured fermented milks and [Composite] Fermented Milk drinks the above criteria apply to the Fermented Milk part.etc.”

4 Additives

In the table “Flavoured” to be replaced by “Flavoured and [Composite] Fermented Milk Drinks”

7.1 Name of the food

In section 7.1.3. add text that address the naming of other composite fermented milk drinks (addition underlined):

Other Composite Fermented Milks shall be designated by descriptive terms that are not misleading or confusing to the consumer, in accordance with section 4.1.1.3 of the General Standard for the Labelling of Prepackaged Foods (CODEX STAN 1-1985, Rev. 1-1991, Codex Alimentarius, Volume 1A). Products covered by this Standard may be qualified by terms that refer to the viscosity of the product, such as “drink” or “drinkable”, provided that they comply with applicable sections of the Standard and that their use is not misleading or confusing to the consumer.