

CODEx ALIMENTARIUS COMMISSION



Food and Agriculture
Organization of the
United Nations



World Health
Organization

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Agenda Item 5

CX/CF 22/15/5-Add.1

April 2022

ORIGINAL LANGUAGE ONLY

JOINT FAO/WHO FOOD STANDARDS PROGRAMME CODEx COMMITTEE ON CONTAMINANTS IN FOODS

15th Session

Virtual

9-13 and 24 May 2022

MAXIMUM LEVEL FOR CADMIUM IN COCOA POWDER (100% Total cocoa solids on a dry matter basis) (At Step 4)

Comments in reply to CL 2022/14-CF

*Comments of Canada, Chile, Ecuador, Egypt, European Union (EU), Iraq, Kenya, Peru,
Syrian Arab Republic, Tonga, Uganda, United States of America (USA),
African Union (AU),*

FoodDrinkEurope, Institute of Food Technologists (IFT) and International Confectionery Association (ICA)

Background

1. This document compiles comments received through the Codex Online Commenting System (OCS) in response to CL 2022/14-CF¹ issued in March 2022. Under the OCS, comments are compiled in the following order: general comments are listed first, followed by comments on specific sections.

Explanatory notes on the Annex

2. The comments submitted through the OCS are hereby attached in the **Annex** and are presented in table format.

¹ Codex circular letter, including CL 2021/87-CF, are available on the Codex webpage/Circular Letters: <http://www.fao.org/fao-who-codexalimentarius/resources/circular-letters/en/> or on the dedicated Codex webpage/CCCF/Circular Letters: <http://www.fao.org/fao-who-codexalimentarius/committees/committee/related-circular-letters/en/?committee=CCCF>

Annex**GENERAL AND SPECIFIC COMMENTS**

COMMENT	MEMBER/ OBSERVER				
<p>Canada supports a global compromise that would allow for reasonable rejection rates, both worldwide and in the Latin America and Caribbean region. We would be supportive of an ML of 3.0 mg/kg (rejection rates of approximately 2% and 5% for worldwide and LAC scenarios, respectively) as it is consistent with a target rejection rate of up to 5% for all regions considered. These MLs, based on GEMS/Food occurrence data, also appear to maintain the concept of proportionality between the MLs for chocolates with different cocoa solid contents.</p>	Canada				
<p>Chile agradece la oportunidad de presentar observaciones sobre los niveles máximos de cadmio en cacao en polvo (100% de sólidos de cacao totales en base seca).</p> <p>Al respecto, Chile quisiera recordar que efectivamente el último informe del JECFA referido a la presencia de Cadmio en productos derivados del cacao, resalta que, no hay aumento del riesgo a partir del consumo de estos productos, y por tanto, considerando los principios del Codex Alimentarius, que deben propender a proteger tanto la inocuidad alimentaria, como el comercio justo, y tomando en cuenta que la inocuidad estaría asegurada, de acuerdo a lo indicado por JECFA, es que Chile se inclina a apoyar el nivel máximo de 3 ppm.</p>	Chile				
<p>En respuesta a la Carta Circular CL 2022/14-CF, Ecuador agradece al Presidente y Copresidente del Grupo de Trabajo por Medios Electrónicos - Gte por preparar y presentar el Anteproyecto de Niveles Máximos para el cadmio en el cacao en polvo y deseamos manifestar lo siguiente:</p> <p>Considerando las conclusiones presentadas en los párrafos 16 a 19 del documento CX/CF 22/15/5, Ecuador considera que dado los niveles propuestos protegen la salud del consumidor debe seleccionarse la opción que logre la armonización de comercio internacional y que genere la menor tasa de rechazo. Se apoya la adopción de un nivel de 3 mg/kg para esta categoría.</p>	Ecuador				
<p>Egypt appreciates the work and efforts done by the EWG in drafting of this circulated document; and in this regard, Egypt adopts the following limits:</p> <table border="0" data-bbox="138 948 1888 1043"> <tr> <td data-bbox="138 948 1153 978">Commodity / Product Name</td> <td data-bbox="1153 948 1888 978">Maximum Level (ML) (mg/kg)</td> </tr> <tr> <td data-bbox="138 978 1153 1043">Cocoa powder sold to the final consumer or as an ingredient in sweetened cocoa powder sold to the final consumer (drinking chocolate)</td> <td data-bbox="1153 978 1888 1043">0.60</td> </tr> </table>	Commodity / Product Name	Maximum Level (ML) (mg/kg)	Cocoa powder sold to the final consumer or as an ingredient in sweetened cocoa powder sold to the final consumer (drinking chocolate)	0.60	Egypt
Commodity / Product Name	Maximum Level (ML) (mg/kg)				
Cocoa powder sold to the final consumer or as an ingredient in sweetened cocoa powder sold to the final consumer (drinking chocolate)	0.60				
<p>The European Union (EU) welcomes the work on the development of maximum levels (MLs) for cadmium in chocolates and cocoa-derived products by the Electronic Working Group chaired by Ecuador and co-chaired by Ghana.</p> <p>2.0 <u>3.0</u> 6</p> <p>Because in the EU for many consumers the tolerable weekly intake (TWI) is exceeded and because cocoa products are an important contributor to the exposure, the EU considers it important to establish a strict MLs for these products, in order to ensure a high level of human health protection for all consumer groups and especially for the more vulnerable young consumers.</p> <p>Therefore, the EU would like to express its reservation as regards the proposed MLs of 2.0-3.0 mg/kg for cocoa powder (100% total cocoa solids on a dry matter basis) as sold for final consumption. The EU is of the opinion that a stricter ML of 0.60 mg/kg is needed, to ensure a sufficient protection of all European consumers, in particular children. As an alternative, as cocoa powder is a commodity, which is of less significance for international trade, the EU could agree not to set a Codex ML for cocoa powder.</p>	EU				

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<p>The EU is of the opinion that the ALARA principle should be applied on data, which were obtained from crops on which good practices were applied. Therefore, the EU wishes to highlight the importance of finalising as soon as possible the draft Code of practice for the prevention and reduction of cadmium contamination in cocoa beans, currently under discussion, in order to enable its implementation without any further delay. The focus needs to be on the implementation of good practices, which will lead to the reduction of cadmium contamination in cocoa beans and their products and will help achieve levels that ensure a high level of human health protection, in particular of children, a vulnerable group of the population.</p>	
<p>Agree with proposal</p>	Iraq
<p><u>Comment:</u> Kenya thanks the Chair of the EWG Ecuador for the work done in preparing the proposal for members to consider.</p> <p>Kenya had supported to have an ML of 3.0 mg/kg 100% total cocoa solids on a dry matter basis. Based on information provided by JECFA and that the proposal would be trade facilitative without having adverse health effects. In this regard, while it is noted that some countries supported this, Kenya would request JECFA to provide a detailed analysis of the proposal of 2-3mg/kg based on wider available data and a wider data set that can be a basis for decision making.</p> <p><u>Rationale:</u> From the conclusions of paragraphs 16- 19 of REP21/CF it was not clear how the values of 2-3mg/Kg were arrived at.</p>	Kenya
<p>El Perú desea agradecer a Ecuador y Ghana por el trabajo realizado respecto a la determinación de niveles máximos de cadmio en el cacao en polvo (100 % del total de sólidos de cacao sobre la base de materia seca).</p> <p>En esta ocasión, el Perú apoya los NM de 3,0 mg/kg propuestos para la categoría del cacao en polvo (100 % del total de sólidos de cacao sobre la base de materia seca) listo para el consumo tal como se muestra en el Apéndice I, así como apoya el avance del NM para su adopción final por parte de la CAC en su 45.º período de sesiones (2022).</p>	Peru
<p>0,6</p>	Syrian Arabic Republic
<p>Since January 1st 2019, the EU has restricted cocoa powder products with Cadmium level greater than 0.06 mg/kg.</p>	Tonga
<p>Uganda has a reservation on the proposed limits as it is generating data on MLs for Cadmium in 100% total cocoa solids on a dry matter basis.</p>	Uganda
<ul style="list-style-type: none"> • The United States considers the proposed ML range of 2.0-3.0 mg/kg, based on GEMS data review, may be too high in comparison to established MLs of 0.7 mg/kg, 0.8 mg/kg, and 0.9 mg/kg for chocolates containing or declaring ≥30% to <50%, ≥50% to <70%, and ≥70% total cocoa solids on a dry matter basis. • CCCF13 (2019) agreed that the EWG should consider MLs for cadmium in cocoa powder using both GEMS data and proportionality to established MLs. CCCF13 did not conclude that proportionality should be based on non-fat cocoa solids only. • CCCF14 (2021) noted a technical comment on non-fat cocoa solids and proportionality in REP14, but did not change the EWG’s terms of reference. • The EWG did not provide a proportional analysis in the current document (CX/CF 22/15/5), stating that if “certain questions [related to the proportionality approach and the non-fat component of cocoa powder had] been accounted for, the MLs proposed under this scenario would align with those under the GEMS/Food data scenario.” 	USA

COMMENT	MEMBER/ OBSERVER
<ul style="list-style-type: none"> The United States believes the proportional approach still should be considered and notes that even if “it was necessary to double a proposed ML,” as suggested in CF15_05, para. 7, a corresponding ML for cocoa powder could be 1.8 mg/kg based on the next lowest ML of 0.9 mg/kg for chocolate containing ≥70% total cocoa solids. At CCCF14, the United States did not object to the ML range of 1.3-1.5 mg/kg based on the proportionality approach, given MLs of 0.8 mg/kg and 0.9 mg/kg for chocolates containing or declaring ≥50% to <70% and ≥70% total cocoa solids on a dry matter basis. The proposed note/remark for the GSCTFF should be modified to state: “The ML applies to 100% cocoa powder. The ML does not apply to cocoa powder-based drink mixes that contain other ingredients, such as milk powder and sugar.” The term “Product sold for final consumption” is confusing because cocoa powder is used as an ingredient and not consumed directly. 	
<p><u>Comment:</u> African Union does not support an ML of 2.0 - 3.0 for cadmium in cocoa powder (100% total cocoa solids on dry matter basis) read for consumption. AU can, however, support an ML of 1.3mg/kg based on the proportionality approach.</p> <p><u>Rationale:</u> Much as the AU appreciates the ALARA (As Low as Reasonably Acceptable) approach (GSCTFF, CODEX STAN 193-1995) which gives a 95% cut-off point with a 5% rejection rate): for setting MLs, it is difficult to consider the current proposed MLs bearing in mind the proportionality approach which the AU has appreciated and based earlier recommendations on especially as the MLs are expressed on a “total cocoa solids on a dry matter basis”.</p> <p>To date, maximum levels of 0.3mg/kg, 0.7mg/kg, 0.8mg/kg, and 0.9 mg/kg have been set and adopted by CAC41(2018) and CAC44 (2021) for four categories of chocolates containing: <30%; ≥30% to <50%; ≥ 50% to < 70%; ≥ 70% total cocoa solids on a dry matter basis respectively. The current MLs of 2.0 – 3.0mg/kg being proposed by the EWG do not tally with the earlier derived MLs based on the proportionality approach.</p>	AU
<p>FoodDrinkEurope thanks the electronic working group (EWG) chaired by Ecuador and co-chaired by Ghana, and the working group members, for the opportunity to provide comments on the document CL 2022/14-CF (March 2022).</p> <p>We support the proposed ML of 2.0 mg/kg - 3.0 mg/kg to be established for the category ‘Cocoa powder (100% total cocoa solids on a dry matter basis) ready for consumption.</p> <p>We thank the Committee for taking this point into account and look forward to further discussion at the CCCF15 session.</p>	FoodDrinkEurope
<p>Our position remains to continue to support measures that respond to science-based risk assessment, following the scientific risk assessment by JECFA, and the risk management principle that maximum levels, when necessary, should be globally reasonably achievable, following the principle of ALARA and based on sufficient global data.</p> <p>We agree with the JECFA secretariat that there is no health benefit gained from putting up an ML on any cocoa containing products, and that therefore the focus of these MLs is on trade harmonization. There is no public health justification in this case to set a ML that is disproportionate to the occurrence data or the science-based low risk to consumer health.</p> <p>ICA appreciates the EWG efforts of conducting detailed analysis of the GEMS/Food data (Appendix II), and we support the conclusion stated in Appendix I, that an ML of 2.0 mg/kg - 3.0 mg/kg be established for the category ‘Cocoa powder (100% total cocoa solids on a dry matter basis) ready for consumption.</p> <p>We also support the decision of the EWG (paragraph 18 of discussion paper) to eliminate the Scenario 2 Proportional Approach discussed in previous drafts and instead go forward with one proposal based on the results of the analysis of the GEMS/Food data with the new data available.</p>	ICA

COMMENT	MEMBER/ OBSERVER
<p>We continue to believe that setting an ML that is too low for cocoa powder with 100% total cocoa solids ready for consumption would impact the cocoa supply with economic challenges in significant cocoa producing regions of the world where geological factors contribute to the natural presence of cadmium. Measures need to carefully balance the practicalities and implications to provide uniform standards that are globally feasible and will help achieve fairness in international trade.</p>	
<p>The IFT strongly supports the proposed maximum level range of 2.0-3.0 mg/kg for cadmium in cocoa powder, 100% total cocoa solids on a dry matter basis, based on the scientific global data shared on this item over several years and the low risk concluded in the JECFA global risk assessments. Taking into account the achievability challenges in major growing regions, we see no science-based justification for a lower level. Lower levels would offer no further meaningful health benefit based on the JECFA risk-assessment and would otherwise cause significant rejection and food waste challenges in many growing regions, particularly where cadmium is present naturally in soils due to regional geology.</p> <p>Regarding the proportional approach taken for chocolate categories, where maximum levels have already been set, those categories include significant cocoa fat / cocoa butter components in the dry cocoa solids, in addition to cocoa powder. Cadmium is present only in the non-fat component, the cocoa powder. Therefore, if the proportional approach is to apply to 100% cocoa powder, it needs to be based on comparing the non-fat dry solids only, which is roughly double compared with chocolate. Use of the proportional calculation for cadmium in 100% cocoa powder falls within the range of 2.6-3.0 mg/kg, double the range of 1.3-1.5 mg/kg that was considered as an option by some delegations at the 2021 CCCF14 session. Therefore, the proposed range of 2.0-3.0 mg/kg follows the proportional approach, in addition to reflecting the achievability challenges demonstrated by the global data.</p> <p>The Code of Practice for reducing cadmium in cocoa, for discussion under agenda item 7, will help towards further best practices and scope for long-term mitigation options, and possible review of achievable maximum levels in the future. However, at this time, the achievability data demonstrates the proposed maximum levels are realistic, meet the ALARA principle, and are based on low risk as determined by JECFA.</p>	IFT