

# codex alimentarius commission

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FOOD AND AGRICULTURE  
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**Agenda Item 2**

**CX/MMP 10/9/2**  
November 2009

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

**Ninth Session  
Auckland, New Zealand, 1-5 February 2010**

### **MATTERS REFERRED BY THE CODEX ALIMENTARIUS COMMISSION AND OTHER CODEX COMMITTEES AND TASK FORCES**

#### **PART .1 - MATTERS ARISING FROM THE CODEX ALIMENTARIUS**

##### **A. Matters for information**

##### **General Decisions**

*Amendments to the Procedural Manual: "Format for Codex Commodity Standards" and "Relations between Commodity Committees and General Subject Committees"<sup>1</sup>*

1. The 31<sup>st</sup> Session of the Commission adopted the amendments to the "Format for the Codex Commodity Standards" and to the "Relations between Commodity Committees and General Subject Committees". The amendments to these sections have been included in the 18<sup>th</sup> Edition of the Procedural Manual.
2. The Committee is invited to take into account these amendments, in particular in sections on food additives and contaminants, when considering the proposed Layout for Codex Standards on Fresh Fruits and Vegetables under Agenda Item 5(a).

*Amendments Codex Standard and related Texts: Amendments to the section on contaminants of certain commodity standards<sup>2</sup>*

3. The 62<sup>nd</sup> Session of the Executive Committee agreed that standards for products of plant origin should not make reference to veterinary drugs and agreed to recommend to the Commission to remove the reference to "veterinary drugs" in the contaminants section of Codex standards for processed fruits and vegetables and the draft Standards for Jams, Jellies and Marmalades and Certain Canned Vegetables proposed for final adoption by the Commission.
4. The 32<sup>nd</sup> Session of the Commission endorsed this recommendation and agreed that the Secretariat would replace the provisions for contaminants (including pesticides) with the standardized provision as set out in the Procedural Manual for consistency throughout Codex standards and refer the matter to the committee concerned when specific technical issues arose that required more than editorial changes to the section on contaminants.

#### **Decisions of the 31<sup>st</sup> Session of the Codex Alimentarius Commission concerning the work of the Committee on Milk and Milk Products**

##### ***Draft and proposed draft Standards***

5. The Commission adopted: the draft Model Export Certificate for Milk and Milk Products at Step 8; the maximum levels for annatto extracts in Codex standards for milk and milk products, including consequential

<sup>1</sup> ALINORM 08/31/REP, paras 13-18

<sup>2</sup> ALINORM 09/32/3, para. 71; ALINORM 09/32/REP, para. 112

changes to the provision for beta-carotene (vegetable) and the food additives listing of the *Standard for Fermented Milks* (CODEX STAN 243-2003), as endorsed by the Codex Committee on Food Additives.<sup>3</sup>

6. The Commission adopted the proposed draft amendment to the List of Additives of the *Standard for Creams and Prepared Creams* (CODEX STAN 288-1976) as proposed by the 8<sup>th</sup> Session of the Committee on Milk and Milk Products and endorsed the recommendation of the 61<sup>st</sup> Session of the Executive Committee to include the provision for diacetyltartaric and fatty esters of glycerol (INS 472e), which had been inadvertently omitted, in the list of additives.<sup>4</sup>

7. The Commission adopted the proposed draft Amendment to the *Codex Standard for Fermented Milks* (CODEX STAN 243-2003), Pertaining to Drinks Based on Fermented Milk at Step 5 and advanced it to Step 6, as proposed by the 8<sup>th</sup> Session of the Committee on Milk and Milk Products. It requested those Members that had made comments on the description (i.e. minimum content of dairy ingredients), composition and other aspects of the proposed draft, to forward their comments to the Committee for further consideration.<sup>5</sup>

#### **A. Matters for action**

#### **Decisions of the 32<sup>nd</sup> Session of the Codex Alimentarius Commission concerning the work of the Committee on Milk and Milk Products**

##### ***References to voluntary application of provisions<sup>6</sup>***

8. The Commission noted that the Committee on General Principles had agreed that all Codex texts, including standards and their annexes, were covered by the definition of “international standard” contained in the WTO/TBT Agreement. The Commission further noted that the Executive Committee did not reach consensus on deleting the statement on voluntary application but recommended that it should be considered on a case by case basis by the relevant subsidiary body including the possibility to transfer the provisions in the annex to the body of the standard.

9. The Commission endorsed the recommendation of the Executive Committee to refer this matter to the relevant active committees, i.e. Committees on Fats and Oils and Milk and Milk Products.

10. The table below lists the milk and milk products standards which contain Annexes with voluntary application statements.

CODEX STAN 290-1995	Standard for Edible Casein Products
CODEX STAN 280-1973	Standard for Milkfat Products
CODEX STAN 207-1999	Standard for Milk Powders and Cream Powder
CODEX STAN 262-2007	Standard for Mozzarella
CODEX STAN 263-1966	Standard for Cheddar
CODEX STAN 265-1966	Standard for Edam
CODEX STAN 266-1966	Standard for Gouda
CODEX STAN 269-1967	Standard for Emmental
CODEX STAN 271-1968	Standard for Saint-Paulin
CODEX STAN 272-1968	Standard for Provolone
CODEX STAN 274-1969	Standard for Coulommiers
CODEX STAN 276-1973	Standard for Camembert
CODEX STAN 277-1973	Standard for Brie

<sup>3</sup> ALINORM 08/31/REP, para 21 and Appendix VII

<sup>4</sup> ALINORM 08/31/REP, para. 49 and Appendix VII

<sup>5</sup> ALINORM 08/31/REP, para. 68 and Appendix VIII

<sup>6</sup> ALINORM 09/32/REP, paras 92-95

11. The Committee **is invited** to consider the following options for recommendation to the 33<sup>rd</sup> Session of the Commission:

Option 1 - To delete the annexes.

Option 2 - To retain the provisions in the annexes under a heading such as “Other Provisions” or “Optional Provisions”, or as a section within the main standard under the heading “Optional Provisions”, as in some standards mentioned above and delete the statement of voluntary application: e.g. “*The information/text below is intended for voluntary application by commercial partners and not for application by governments*”.

Option 3 - To include the provisions in the annexes in Section 3 “Essential Composition and Quality Factors” of the standards.

***Proposed draft Generic Model Official Certificate (Annex to the Guidelines for Design, Production, Issuance and Use of Generic Official Certificates (CAC/GL 38-2001))***<sup>7</sup>

12. In view of the adoption of the Proposed Draft Generic Model Official Certificate, the Commission agreed to request the Committees on Fish and Fishery Products and on Milk and Milk Products to revise respectively the *Model Certificate for Fish and Fishery Products* (CAC/GL 48-2004) and the *Model Export Certificate for Milk and Milk Products* (CAC/GL 67-2008) to ensure consistency with the Generic Model Official Certificate.

13. The Committee **will consider** this matter under Agenda Item 6c.

## **PART .2 - MATTERS ARISING FROM THE EXECUTIVE COMMITTEE**

### **Matter for information**

**Decisions of the 62<sup>nd</sup> Session of the Executive Committee (Rome, Italy, June 2009) the work of the Committee on Milk and Milk Products**

#### ***Monitoring on progress of standards development***<sup>8</sup>

14. The Executive Committee noted that the delay in the progress on the proposed draft Standard for Processed Cheese was due to some controversial issues on the scope and composition requirements, which had not been solved at a recently held working group. Some members expressed the view that the development of this standard had always been problematic and that there may be no need to proceed with work on processed cheese. The Executive Committee encouraged the Committee on Milk and Milk Products to finalise the standard and recommended to discontinue work if no agreement could be reached at the next session of the CCMMP.

15. The Executive Committee also noted that, as the remaining item of work (at Step 6) was not controversial and should be finalised in 2010, the CCMMP had nearly completed its work.

## **PART 3: MATTERS ARISING FROM OTHER COMMITTEES**

### **Matters for action**

#### **Committee on Food Additives (CCFA)**

#### ***Inconsistencies on the names of food additives in standards for milk and milk products***<sup>9</sup>

16. The 40<sup>th</sup> CCFA (Beijing, China, 21-25 April 2008) noted that there were a number of inconsistencies in the names of additives with INS nomenclature, and therefore requested the Secretariat to review all provisions to make them consistent with INS nomenclature.

17. The Committee **will consider** this matter under Agenda Item 6b.

<sup>7</sup> ALINORM 09/32/REP, para. 195

<sup>8</sup> ALINORM 09/32/3 paras 42-43

<sup>9</sup> ALINORM 09/32/3 para. 34

***Endorsement of food additive provisions in standards for milk and milk products<sup>10</sup>***Codex standards for milk and milk products: maximum levels for annatto extracts, including consequential changes to the provisions for carotene, beta- (vegetable)

18. The 40<sup>th</sup> CCFA endorsed the provisions for annatto extracts, including consequential changes to the provisions for carotene, beta-(vegetable), as proposed by the Eighth Session of the CCMMP.

List of food additives of the Standard for Fermented Milk (CODEX STAN 243-2003), including food additives provisions for Drinks Based on Fermented Milk

19. The 40<sup>th</sup> CCFA endorsed all provisions as proposed by the 8th session of the CCMMP, with the exception of lycopene.

20. The Committee agreed to request clarification from the CCMMP as to the type of lycopene on which were based the maximum levels for lycopenes in the *Standard for Fermented Milks* as well as the technical justification for these levels (para. 47).

21. The Committee is **invited** to consider the above request.

Proposed draft amendment to the list of food additives for the Codex Standard for Creams and Prepared Creams (CODEX STAN A-9-1976)

22. The 40<sup>th</sup> CCFA endorsed all provisions as proposed by the 8th session of the CCMMP, with some amendment to delete the text “For use only in whipped creams (including creams packed under pressure)” from the title of the functional class following ‘Propellant’; and agreed to endorse the provision for diacetyltartaric and fatty acid esters of glycerol (INS 472e) at a maximum level of 5000 mg/kg as a stabilizer/thickener, pending a final decision on the inclusion of this additive by the 31st Session of the Commission.

**Committee on Methods of Analysis and Sampling (CCMAS)**Endorsement<sup>11</sup>

23. The 29<sup>th</sup> CCMAS (Budapest, Hungary, 10-14 March 2008) endorsed and updated the status of several methods of analysis in Codex standards as proposed by the 8<sup>th</sup> CCMMP. In addition, the Committee made the following decisions.

Determination of natamycin<sup>12</sup>

24. The CCMAS noted that two methods had been proposed for the determination of natamycin and agreed to request the CCMMP to clarify which of the two methods should be used as the reference method.

25. The Committee **is invited** to consider this request under Agenda Item 6(a).

Peroxide value<sup>13</sup>

26. The CCMAS noting that the method for determination of peroxide value in milk fat was an empirical method, agreed to endorse this method as a Type I method rather than Type III as proposed.

Conformity assessment in the presence of significant measurement error<sup>14</sup>

27. The 30<sup>th</sup> CCMAS (Balatonalmádi, Hungary, 9-13 March 2009) considered the question concerning conformity assessment in the presence of significant measurement error in conjunction with the general approach to uncertainty of sampling. The CCMAS noted a general view that there was a need for the development of specific provisions not only for a certain category of foods but for all types of foods and to further work on this matter. The CCMAS also noted that this work was not intended to amend the General Guidelines on Sampling at this stage

<sup>10</sup> ALINORM 09/31/12 paras 35-55 and Appendix III

<sup>11</sup> ALINORM 08/31/23, paras 58-61 and Appendix III

<sup>12</sup> ALINORM 08/31/23, para. 59

<sup>13</sup> ALINORM 08/31/23, para. 61

<sup>14</sup> ALINORM 09/32/23, paras 133-135

**Committee on Food Labelling (CCFL)*****Modified standardized common names<sup>15</sup>***

28. The 37<sup>th</sup> CCFL considered a discussion paper on modified standardized names. The CCFL recognized that there was a diversity of views on whether or not the CCFL should provide horizontal guidance on the use of modified standardized common names for the purpose of nutrition claims in the context of the implementation of the Global Strategy on Diet Physical Activity and Health and, therefore, it was not reasonable to either completely discontinue discussing the issue nor to request starting new work at the present time.

29. In order to be better informed for a further analysis of this issue, the Committee decided that Codex Commodity Committees and FAO/WHO Coordinating Committees should be invited to provide advice, in particular concerning the relevance and implications to their work of horizontal guidance or related texts from the CCFL on modified standardized common names for the purpose of nutrition claims.

30. The Committee **is invited** to consider if the issue of modified standard names for the purpose of nutrition claims in standards for milk and milk products can be adequately addressed by the specific labelling provisions in the standards or if this matter could benefit from horizontal guidance developed by CCFL.

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<sup>15</sup> ALINORM 09/32/22, paras 125-134

## Annex 1

## Extracts of document ALINORM 09/32/8 “Amendments to Codex standards and related texts”

**PART I: EDITORIAL AMENDMENTS TO ADOPTED CODEX STANDARDS AND RELATED TEXTS****1. Reference to acceptance in annexes****1.1 Background**

The Commission abolished the acceptance procedure at its 28<sup>th</sup> Session (2005), as proposed by the 22<sup>nd</sup> Session of the Committee on General Principles; consequential amendments were made immediately to some standards and related texts. However, the reference to acceptance in the annexes was not considered at that time.

The 31<sup>st</sup> Session of the Commission considered the changes proposed by the Secretariat as consequential amendments to various standards to ensure consistency throughout Codex standards. Among these amendments, it was proposed to review the statement appearing in several standards and referring to the abolished acceptance procedure.

The Commission noted the discussion in the Executive Committee on potential problems associated with giving differing definitions of applicability to different segments of the same Codex standard: the World Trade Organization (WTO) was unlikely to make a distinction in these terms between different parts of a single Codex standard.

The Commission agreed to the recommendation of the Executive Committee to invite the Codex Secretariat to draw up a list of all standards containing the text mentioned above, or a similar text (see 1.2 below), for submission to the 25<sup>th</sup> Session of the Committee on General Principles for advice on how to deal with this issue in a consistent and horizontal way.<sup>16</sup>

The 25<sup>th</sup> Session of the Committee on General Principles did not discuss the question in detail due to the late availability of the document and agreed that the topic should be included in the present document for further consideration by the Commission, in particular with regard to the proposed deletion of provisions relating to acceptance of Codex standards.<sup>17</sup>

**1.2 Standards including a statement concerning the status of an annex**

**Statement on acceptance:** “The Annex to this standard contains provisions which are not intended to be applied within the meaning of the acceptance provisions of Section 4.A (I) (b) of the General Principles of the Codex Alimentarius.”

**Statement on voluntary application:** “This text is intended for voluntary application by commercial partners and not for application by governments.”

Standard	Statement on acceptance	Statement on voluntary application
All standards for cereals, pulses and legumes adopted in 1995 <sup>18</sup>	Standard	-
Standard for Named Animal Fats CODEX STAN 211-1999	-	Standard
Edible Fats and Oils not Covered by Individual Standards CODEX STAN 19-1981	-	Standard
Standard for Named Vegetable Oils CODEX STAN 210-1999	-	Standard
Standard for Olive Oils and Olive-Pomace Oils CODEX STAN 33-1981	-	Standard
Standard for Honey CODEX STAN 12-1981	-	Standard and Annex
Standards for Sugars CODEX STAN 212-1999	Standard	Annex

<sup>16</sup> CX/GP 09/25/11/7

<sup>17</sup> ALINORM 09/32/33, paras 104 - 106

<sup>18</sup> The statement, together with other references to the acceptance procedure, was inadvertently deleted in the preparation of the recent special publication on Cereals, Pulses and Legumes. Depending on the decisions taken on the matter, this error will be corrected in future editions of that publication and on the Codex website.

Standard for Edible Casein Products CODEX STAN 290-1995	Standard	Annex
Standard for Milkfat Products CODEX STAN 280-1973	Standard	Annex
Standard for Milk Powders and Cream Powder CODEX STAN 207-1999	-	Annex
Standard for Mozzarella CODEX STAN 262-2007	-	Annex
Standard for Cheddar CODEX STAN 263-1966	-	Annex
Standard for Edam CODEX STAN 265-1966	-	Annex
Standard for Gouda CODEX STAN 266-1966	-	Annex
Standard for Emmental CODEX STAN 269-1967	-	Annex
Standard for Saint-Paulin CODEX STAN 271-1968	-	Annex
Standard for Provolone CODEX STAN 272-1968	-	Annex
Standard for Coulommiers CODEX STAN 274-1969	-	Annex
Standard for Camembert CODEX STAN 276-1973	-	Annex
Standard for Brie CODEX STAN 277-1973	-	Annex

### ***1.3 Status of annexes in Codex standards – general aspects***

The inclusion of a statement which confers a different status on an annex was discussed between 1994 and 1999 in the context of specific standards in some commodity committees and from a general point of view in the Committee on General Principles, the Executive Committee and the Commission. This discussion was held in relation to the consideration of the acceptance procedure and the status of Codex texts under the WTO Agreements. The acceptance procedure was discussed from the point of view of both the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS) and the Technical Barriers to Trade (TBT) Agreement, while the status of annexes was discussed in relation to the TBT Agreement only, since the annexes concerned quality provisions.

Under the item on “Review of the Status of Codex Texts under the WTO Agreement”, the 22<sup>nd</sup> Session of the Commission (1997) agreed on several recommendations concerning the elaboration of Codex texts and their relevance under the WTO Agreements; in particular, the following:

“In view of the confusion created by the use of the term “advisory” and as the term cannot be defined satisfactorily and the SPS and TBT Agreements do not appear to distinguish between mandatory and advisory texts, its use within the Codex framework should be discouraged, as well as the use of the term ‘mandatory’.”

The Committee on General Principles agreed 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 (ALINORM 99/33A, paras 58-61).

### ***1.4 The present situation***

The situation has evolved significantly since the discussions in this area began. Considerable experience has been gained in the application of the WTO SPS and TBT Agreements and in the development and use of Codex standards in the context of the WTO Agreements. Following the clarification provided by the TBT Committee (and its recognition by the Committee on General Principles) that all Codex texts were covered by the definition of “standard” under the TBT Agreement, making reference within a standard to the different status of any section of that standard may not be appropriate in the present context.

Codex texts are intended for application by governments; they are of a voluntary nature and there are no provisions in the Procedure allowing Codex Committees or the Commission to decide by whom or how standards will be used once they are adopted.

Following the discussion on acceptance and the status of Codex texts, a large number of commodity standards were revised and provisions of various individual standards were integrated into more general standards, without the inclusion of an annex or specific statement in the large majority of cases. The two different statements in the standards or annexes represent an exception to the general approach followed for Codex standards and currently appears only in a limited number of standards (see 1.2).

The format used for the large majority of commodity standards does not appear to have created any particular difficulty or barrier to trade. Similarly, the provisions included in the “voluntary annexes” of the

standards mentioned above have not created specific problems, nor has the statement been considered in relation to trade disputes.

As the acceptance procedure was abolished and most references were consequently deleted throughout Codex (as agreed by the 28<sup>th</sup> Session of the Commission), deleting the reference to acceptance from the statement in the relevant standards (cereals, sugars and casein products) would be consistent with the approach taken for other such provisions.

### ***1.5 Discussion of annexes in Commodity Committees***

A list of those standards that include a statement concerning annexes is presented in the Appendix and the background to each specific case is presented below.

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#### ***1.5.4 Committee on Milk and Milk Products (CCMMP)***

Two standards for milk and milk products contain the statement on acceptance in the standard and the statement on voluntary application in the annex. A number of other texts – mainly individual cheese standards – contain the statement for voluntary application by commercial partners in their appendixes. When revising the individual cheese standards, no specific decision was taken by the CCMMP on the annexes. However, when developing a Standard on Whey Powders, the 5th CCMMP “noted that the optional quality factors contained in the Appendix to the Standard were not relevant to the mandate of the Codex Alimentarius Commission and therefore, deleted the Appendix in its entirety. This decision also resulted in the deletion of the introductory paragraph to the Standard in regard to the voluntary nature of these provisions” (ALINORM 03/11 para. 73).