資料８－（３）

CODEX COMMITTEE ON FOOD LABELLING

REPORT OF THE MEETING OF THE CHAIRPERSON'S ADVISORY WORKING GROUP ON OPTIONS TO ENHANCE THE MANAGEMENT OF THE AGENDA ITEMS ON THE LABELLING OF FOODS OBTAINED THROUGH CERTAIN TECHNIQUES OF GENETIC MODIFICATION/GENETIC ENGINEERING

Calgary, Alberta
Canada
28th – 30th October 2003

Introduction

1. The 31st Session of the Codex Committee on Food Labelling agreed to a proposal from the Chairperson to establish a Working Group, hosted by Canada, to develop options for the management of the agenda items pertaining to the labeling of foods obtained through certain techniques of genetic modification/genetic engineering[1]. In response to this decision, the Canadian Secretariat circulated a letter to all members of the Commission and observer organizations soliciting proposals for ways to manage this issue.

2. The Working Group convened in Calgary, Alberta, October 28th – 30th, 2003 to consider the options submitted in response to the request for proposals. The Working Group consisted of 37 representatives from 18 member countries. The full list of participants is attached as Appendix I to this report.

Consideration of Proposals

3. A discussion paper (Appendix II) was prepared by the Canadian CCFL Secretariat and circulated to the Working Group members in advance of the meeting. The paper contained a summary of three options received in response to the call for proposals; one submitted by an Observer organization and the other two by a member country. Submissions received from two Observer organizations after the discussion paper was finalized were also made available to the Working Group (Appendices III and IV).

4. Although there were three options contained in the discussion paper, the Chair encouraged members to offer additional proposals. It was pointed out that all options should be considered, including dropping the item from the CCFL agenda or parking it for a period of time until global opinion is at the point to permit achievement of consensus. Another possibility would be to maintain the *status quo* and continue discussions at the Committee. The Chair indicated, nevertheless, that approaches to advance the issue should be the focus of the Working Group's considerations. The Chair also reminded the Working Group that their mandate was to consider management options and not to develop new text or revise existing text.

5. In considering the discussion paper, a number of underlaying issues were identified by various members of the Working Group, including:

- the need to be consistent with labelling text already adopted by Codex,
- priority should be given to protecting the consumer with respect to health and safety concerns and/or misleading information,
- labelling is about consumer information and, in many cases, not related to health and safety,

[1] ALINORM 03/22A, Report of the 31st Session of the Codex Committee on Food Labelling, 28th April – 2nd May 2003, Ottawa, Canada, paragraphs 69-74.

- regional differences should be taken into consideration with regard to what consumers need to know or are interested in,
- consideration respecting "when" and "how" to label,
- the mandate given to the CCFL by the Commission,
- WTO implications need to be taken into consideration but should not impede the work of Codex.

6. Members of the Working Group expressed the view that the CCFL should continue to consider this item and retain it on the agenda.

7. It was recognized that labelling for health and safety reasons was linked to science-based risk assessment. The Working Group also noted that certain other considerations could be science-based, yet not necessarily related to health and safety, such as composition and intended use.

8. The proposal to split the document along "health and safety" considerations was examined by the Working Group as this was considered by some members as a possible option to progress the agenda item. Some members expressed the view that the health and safety aspects of labelling were already adequately addressed in the *Codex General Standard for the Labelling of Prepackaged Foods*, making a specific reference to sections 4.2.2 and 4.2.1.4 (allergenicity). Several members indicated that many countries can implement a pre-market approval process for foods obtained through certain techniques of genetic modification/genetic engineering and expressed the view that "unsafe" products would be precluded from the marketplace. They, therefore, questioned the validity of splitting the document along "health and safety" lines as proposed. They felt that labelling in most cases was not about health and safety but about providing other information to consumers to permit them to make informed choices.

9. Several members expressed the view that they did not favour splitting the document. Brazil shared this opinion but also indicated it would consider that approach as a possible means to achieve consensus on a way to progress this issue. However, should the document be split, it was important that both parts receive the same treatment and be advanced concurrently. Several members indicated that the split proposed by Canada was not really based on "health and safety" considerations but would more appropriately be referred to as product related characteristics.

10. There were aspects of labelling which the Working Group agreed should be considered as mandatory. These were identified as necessary to address health and safety concerns or changes in composition or intended use. Several members of the Working Group referenced Section 4.1.2 of the *Codex General Standard for the Labelling of Prepackaged Foods*, which highlighted the need to avoid misleading or confusing the consumer. It was further noted that other aspects of labelling were related to information, which the consumer considered to be important (e.g. method of production). It was recognized that there were regional differences in what consumers considered important and hence guidance needed to take these differences into account.

11. The Chair noted there was no consensus on splitting the document, but there appeared to be considerable interest in maintaining a single document, which contained mandatory elements, and other provisions, which were considered to be optional. The challenge was to determine how to address these optional elements, the application of which reflects regional differences. A number of members supported the suggestion to elaborate this single document by following the format of the *Codex General Standard for the Labelling of Prepackaged Foods*, as in this published document both mandatory and optional elements were already included.

12. It was noted that labelling provisions for foods obtained through certain techniques of genetic modification/genetic engineering, which do not address health and safety concerns, or changes in composition or intended use, such as labelling to indicate method of production, could be written in a way to facilitate a consistent approach. Therefore, it was suggested that the development of principles in this area should be given consideration, as these types of issues will reoccur. However, the Working Group did not discuss it further as a possible option.

13. Although the Working Group reached consensus on inclusion of a mandatory component, and while agreeing "optional" elements could also be included, concerns were expressed regarding how the term "optional" might be interpreted by a WTO panel, especially regarding disputes under the TBT Agreement. There were divergent views in the Working Group on how to address these concerns. Some members expressed the view that interpreting "optional" advice directed to governments as a requirement to implement may be contrary to the decisions taken at the 26th Session of the Codex Alimentarius Commission regarding the Codex mandate[2]. It was the view of some members that if these concerns were taken to the extreme, the work of Codex could be impeded.

14. The Working Group considered inclusion of a footnote or lead-in statement as a means to explain the "optional" elements as a way to accommodate regional differences in information the consumer considered important. The Working Group formed a drafting group to prepare sample text to facilitate their consideration of this approach. No final conclusions were drawn either on the text or its use but in the interest of transparency, this text is included in Appendix V.

15. The Working Group briefly discussed the "Definition of Terms" section of the draft guideline. It was noted that the Committee appeared to be close to a consensus on the definitions. It was suggested that consensus could be facilitated if there was a clear delineation of definitions for the purpose of interpreting the guidelines and definitions with respect to what was placed on the label.

[2] ALINORM 03/41, Report of the 26th Session of the Codex Alimentarius Commission, paragraph 117.

Conclusions and Recommendations

16. The Working Group acknowledged the importance of the exchange of views and recognized that there were a variety of options with respect to managing work on this agenda item. The Working Group:

- # Expressed the view that CCFL should continue to consider this item and retain it on its agenda.
- # Expressed considerable interest in maintaining a single document with a mandatory component and other provisions which would be considered optional. The Working Group took note of the suggestion made to use the format of the *Codex General Standard for the Labelling of Prepackaged Foods.* (See paragraph 11).

17. Noting the concerns related to possible interpretations by a WTO Dispute Panel regarding "optional" elements of Codex texts, and the impact of these concerns on the work of Codex in general, it was suggested that the CCFL may consider it useful to bring this matter to the attention of the Commission and request the Commission seek an opinion from FAO, WHO and the WTO.