

# Highlights of Journey to Rome Codex Meetings 2005

Written by the National Health Federation

Category: Codex

Published: July 2005

Diane Miller, Legal and Public Policy Director for National Health Freedom Coalition (NHFC) and Marylu Miller Peterson, Board Member of National Health Freedom Action (NHFA) attended the 28th Session of the Codex Alimentarius Commission in Rome Italy July 4-9, 2005.

## July 3rd (Day before the Session begins):

### **1. Hotel 47 US Meeting:**

Diane and Marylu attended a meeting of the US Delegation to Codex, held at Hotel 47 Rome. The official US Delegate is Mr. Ed Scarborough, Director of the US Codex Office in Washington DC. Mr. Scarborough is responsible for delivering the US position on all issues to the Codex Commission. The US has one vote at the session however votes are rarely taken because the Commission works in a consensus-building model. The US has a delegation of people that accompany Scarborough to the meeting. However US laws dictate that the US cannot have more than 10 members on a US delegation to a foreign body. Since there are many people from almost 20 government agencies and also persons from the public sector that want to be part of the delegation 20-30 additional people are appointed to be US delegates in a consulting status. Attorney James Turner was a consulting member of the US delegation this year. A special note: this year, one of the long-standing members of the US official delegation from the Codex Office itself, Karen Huleback, Sc.D, was elected as Vice Chair of the full Codex Alimentarius Commission during the full session.

### **2. Codex Commission Executive Report:**

At the Hotel 47 US meeting, Mr. Scarborough went over a report from the Executive Committee of the full Codex Commission. The Ex. Committee had just met in Rome the prior week and developed their recommendations for the agenda and priorities for the upcoming Codex full Session. Scarborough used their report to give an overview of the issues to come and the US position on them. There were about 40 US persons at this meeting including a small number of health freedom advocates and reporters.

### **3. US point person for vitamin and mineral issues:**

Since Codex covers such a broad array of topics on food trade, Mr. Scarborough appointed various delegate members to be the point person on various issues. The person appointed to the Vitamin and Mineral issue was Catherine W. Carnevale,

V.M.D., Director, Office of US International and Constituent Operations. After the meeting we introduced ourselves and set up a meeting with her for the next day.

### **July 4th (First Day of Six-Day Session):**

#### **1. Preliminary meeting with Catherine Carnevale:**

A morning meeting with Catherine Carnevale let us understand that she had been a key drafter and policy contributor to the Sanitary and Phytosanitary Measures Agreement (SPS) of the World Trade Organization along with attorneys. The SPS agreement has drawn much attention from the health freedom activists because of its reference to the Codex Alimentarius International Standards. Catherine gave us the history of the way in which the FDA got involved in this process and agreed to meet with us later to answer our questions about the application of the SPS Agreement.

#### **2. Codex Agenda:**

The full Codex Commission Session began. The agenda contained five days of intense agenda items including such things as;

Reports of the FAO/WHO Regional Coordinating Committees  
Amendments to the Procedural Manual  
Approving Draft Standards at the Final Step 8  
Adoption of Draft Standards at the preliminary Step 5  
Withdrawal of existing Codex Standards  
Proposals for the Elaboration of New Standards  
Financial and Budgetary Matters  
Strategic Planning  
Policy and General Matters such as:

Relations between Codex Com and other International Organizations

#### **3. Adoption of Vitamin and Mineral International Guidelines:**

Much to many health freedom activists' surprise the adoption of draft standards at Step 8 was on the first day's agenda. That meant that the Vitamin and Mineral Draft Guidelines would be reviewed and possibly adopted along with many other guidelines. This in fact happened and the following is my press release from the adoption of the guidelines:

#### **4. Press Release #1:**

Press Release - National Health Freedom Coalition: Codex Full Commission adopts Codex Guidelines for Vitamin and Mineral Food Supplements in final form July 4, 2005, Rome Italy. by Diane Miller JD

Minutes ago the full Commission of Codex Alimentarius adopted in final form, the Codex Guidelines for Vitamin and Mineral Food Supplements. This adoption is the Step 8 adoption, the final stage of adoption for the international Codex guidelines. The Codex Vitamin and Mineral Food Supplements guidelines are now official and no longer in draft form.

The Commission, attended by over 85 of the 171 Codex countries, adopted the guidelines by consensus method. There was brief discussion before adoption taking in comments from a small number of countries and two NGOs.

Australia requested adding the word "only" in Section 1.3 between the words "apply" and "in". The sentence would then read "These guidelines apply only in those jurisdictions where products defined in 2.1 are regulated as foods."

Australia's comments were followed by request from Venezuela and Spain to clarify the Spanish translation.

Venezuela was followed by China. China stated that every government in making decisions about vitamins and minerals should take into account the dietary limitations of their own countries, that governments can select vitamins and minerals according to the customs and habits of their country. China also pointed out that there should be definitions of the sources of vitamins.

Columbia spoke up and commented that Vitamins and Minerals are intended for deficiencies and are recommended for health reasons and said that there has to be no exaggerated use of minerals.

Egypt commented and offered a clarification saying that vitamin and minerals can be considered if daily needs are not being met.

After the countries were heard, the Chairman recognized NGOs (Non-Governmental Organizations). National Health Federation (NHF) a worldwide consumer organization with NGO status at Codex was recognized to speak. Attorney Scott Tips of NHF stood and requested the guidelines not be adopted but rather be sent back to committee for 3 important reasons. 1) According to Codex rules a "purpose" statement must be part of all guidelines adopted and the Vitamin and Mineral guidelines did not contain a purpose. Secondly, the guidelines did not define vitamin and mineral and therefore it is unclear as to what is being regulated. And lastly, he pointed out that the Chinese comments were substantive and according to Codex rules on page 27 of the procedural manual, a substantive amendment request should be addressed at the committee level. His comments were heard.

The NGO IADSA was then recognized. IADSA stressed the fact that the draft guidelines should be adopted because they had been worked on in committee for near 10 years and that valuable consensus had been reached in the Bonn Germany committee meeting and the guidelines should now be passed.

After all comments, the Chair, consulted with counsel to assess whether the addition of the word "only" would change the meaning of the sentence. After learning that it would not he consulted with Australia and Australia repeated their request for amendment. The Chair recommended adoption of the amendment and there was no dissent. Then the Chair recommended the guidelines be adopted at Stage 8 in their final form and that China submit their substantive amendment requests to the committee at their next meeting. There was no further comment or dissent from any country and the guidelines were adopted.

## **5. Some other Guidelines that were adopted:**

A number of other trade standards were adopted at the final stage for example:

Code of Practice for Fish and Fishery Products

Principles of Electronic Certification

Code of Hygienic Practice for Meat

Code of Practice to Minimize and Contain Antimicrobial Resistance

## **6. Codex larger agenda and procedural manual amendments:**

The work and agenda of Codex Alimentarius is very broad and is based on specific rules in a Procedural Manual. Risk assessment is a fundamental principle of the work of Codex and is implemented in many arenas and requires complex relationships with international and national expert bodies. Amendments to the Procedural Manual are very fundamental to the way that Codex carries out its work. This first day of the Codex session, there were very detailed discussions about the proposed and significant amendments to the Procedural Manual. To review a summary of these discussions you can read the final report of the week, written up and adopted by all countries. It is available in many languages on the Codex website and is entitled: "Report of the Joint FAO/WHO Food Standards Programme, Codex Alimentarius Commission, Twenty-eighth Session."

### **July 5th, (Second Day of Six Day Session):**

#### **1. Shift beginning from focus on trade to focus on health.**

Peter Helgason from FOFI (Friends of Freedom International) and Diane wrote a second press release because they wanted to give readers a perspective of the change in energy and climate of health freedom in this 2005 session. Networking with the many country delegates in informal settings revealed that people around the world are recognizing the health crisis of drug-based societies and asking important questions about true health. Countries are beginning to voice their questions and concerns about the health impact of their trade decisions.

#### **2. Health Freedom Presence Increasing:**

Last year in Geneva Switzerland where the Draft Vitamin and Mineral Guidelines were passed out of Step 5 and back to the Committee for work on final adoption, there were no health freedom leaders present except NHFC, and the discussions were less than five minutes from country delegates. In comparison, this year there were 16 health freedom leaders present representing over 10 health freedom organizations. Notably, NHF (National Health Federation) was present with a five-person delegation and since they have Observer Status at the Codex meetings they could make comments on the floor of the discussion. NHF spoke up at key moments on behalf of the consumer perspective. Other health freedom organizations are now preparing to apply for Observer Status at Codex to present even more consumer choice issues at Codex. Our press release was designed to reflect the growing participation of health freedom leaders in the international discussions:

### **3. Press Release #2:**

Rome, July 5th, almost noon: Freedom Is Breaking Out in the Hearts, if not in the Minds, of member nations of the Codex Alimentarius Commission.

By Peter Helgason of Friends of Freedom International (FOFI) and Diane Miller of FOFI and National Health Freedom Coalition (NHFC).

Despite yesterday's set-back at Codex, health freedom leaders from around the world on-site in Rome at the 28th Codex annual meeting are witnessing a change in consciousness regarding the invaluable contribution and vital role of nutrition in the prevention and treatment of disease world-wide. According to multiple governmental national member sources who wish to remain anonymous, the agendas of the trans-national corporations are becoming increasingly clear. Nations are saying "we're here to represent our people, not publicly traded companies corporate profits". "We are not interested in investing 25% GDP in treating nutritionally deficient induced diseases, we would rather invest 5% GDP in maintaining healthy diets for our populations."

Many national delegates say they are frustrated by what they perceive as the undue influence of big money on the political classes in their nations.

Many developing country delegates don't wish to repeat the mistakes of the West and are interested in developing food security and having vibrant local economies that reflect the needs of their cultures and customs. Having a ready supply of cheap GMO grain crops is of little benefit if the local enterprises are destroyed and local food producers are wiped out by cheap imports. (typically dumped by subsidy-induced surpluses of the west).

Citizens of the world are urgently called to spread health freedom concepts locally in any way that they can and work together to financially support the health freedom leaders to ensure their presence at the table of these very significant global discussions. On-sight in Rome are Friends of Freedom International (FOFI [www.friendsoffreedominternational.com](http://www.friendsoffreedominternational.com)), Friends of Freedom Canada (FOF [www.friendsoffreedom.com](http://www.friendsoffreedom.com)), National Health Freedom Coalition (NHFC

www.nationalhealthfreedom.org), National Health Federation (NHF), Dr. Rath Health Foundation USA (www.drrathhealthfoundation.org), Civil Health Rights Denmark (www.mayday-info.dk), Health Supreme (www.newmediaexplorer.org/sepp), Law Loft (www.lawloft.com), Citizens for Health (CFH www.citizens.org) and a number of other health advocacy organizations from around the world.

#### **4. Second day agenda budgetary comments from World Health Organization:**

Among the many agenda items throughout the day WHO commented on the agenda item regarding budget. FAO and WHO provide funds for the working of Codex. Although FAO covers the majority of the budget of Codex, WHO last year increased their support significantly. This year Codex discussed how to get more funds for scientific expert advice from WHO. WHO's response was harsh saying that WHO has a large organization addressing world health and only 2% of their general operating budget has to do with food safety. To put it into perspective the WHO official said that at the WHO's latest World Health Assembly, only one question came up about Codex. WHO official said that if Codex wanted more money from WHO they should go back to their own countries and request that the individual countries approach WHO as a member of WHO and the World Health Assembly (WHO's governing body). I got the impression that WHO considers themselves the leader on health issues and that they do not plan to increase their general operating budget for food safety but that they are open to obtaining special funds for special requests from member countries.

#### **5. Meeting of Health Freedom Leaders:**

After the Codex daily session a meeting of 16 health freedom leaders from six countries and 10 organizations met to discuss how to proceed and shared their concerns.

**a. Codex is Comprehensive Food Safety in Trade:** It was noted at the beginning that Codex is a large trade organization and vitamin and minerals is a small part of that process. In order to impact the implementation of vitamin and mineral guidelines Codex in its broader sense has to be understood and worked with.

**b. Codex is vulnerable legally, financially, and politically:** Leaders brainstormed and came up with a list of vulnerabilities of Codex. It could be argued that:

**i. Codex has no basis of jurisdiction** because upper limits of vitamins and minerals is not a food safety issue.

**ii. One can expect a large mis-use of appropriated funds** because a lot of money will now be funneled into risk assessment and setting upper limits of substances that do not pose a risk or safety issue.

**iii. Arbitrary application of risk assessment is being applied,** for example, the work on soy sauce has been abandoned because it does not pose a health risk.

**iv. There appears to be an inconsistent application of the Procedural Manual**, for example, they were willing to ignore the rules regarding the vitamin and mineral guidelines regarding purpose, yet during the session rules were quoted when it suited a situation.

**c. The Codex Working Group on Risk Assessment** that has been put together could present an opportunity for the health freedom advocates to put comments and data in that reflects the science that supports the health freedom movement, the lack of need for upper limits or risk assessment on vitamins and minerals, and the benefits of vitamins and minerals to health.

**d. Difference between American/Canadian constitutional concepts** were pointed out where in America and Canada a person/individual is considered to have inalienable rights (and in health issues for example the right to self-medicate and make decisions is supreme) whereas Europe views the government as the “grantor” of rights and this could have an impact on whether we can be successful at teaching the DSHEA concepts and model in other countries.

**e. Developing nations are being encouraged by Codex to adopt Codex guidelines** as their internal domestic national laws of their countries. Health freedom advocates now have an opportunity to provide other countries with DSHEA type of model legislation and distribute it to other countries and teach countries the health freedom and consumer choice concepts which can be successfully implemented in their domestic laws.

## **July 6th, (Third Day of Six Day Session)**

### **1. Parmesan Cheese Day.**

The lengthy Codex agenda included one topic that has historically caused great conflict within the Codex community. It is that of Parmesan Cheese. The Delegation of the European Community and a number of other countries opposed the development of a Codex Standard for Parmesan Cheese, saying that the name “parmesan” should not be considered as a generic term because of it’s regional Italian history and because of intellectual property rights issues. Other countries wanted to go ahead saying that the Codex Criteria for Establishing New Work Priorities had been met. Agreement was not reached once again. However, there was an important moment in the discussion when one country demanded a vote thus creating a stir to this body that works on the consensus model. The issues was so heated it was held overnight and set for the next day so that people could think through whether they wanted to set such an important precedent as taking a vote. The following day it was decided not to take a vote. Clearly the body did not want to start taking votes on all of their issues.

### **2. Attorney James Turner implemented a meeting of health freedom leaders with Catherine Carnevale**

To discuss the SPS Agreement of the WTO. Catherine was very knowledgeable and provided a good history of the drafting of the SPS Agreement as well as the history of the TBT Agreement in the Uruguay Round. One note was that the original TBT Agreement before the WTO was formed and did not deal at all with health issues. She clarified that she was not an attorney and could not provide an official interpretation. However, informally discussing the language of the SPS Agreement with her in its various sections was very helpful. There was also a delegate from another North American country there as well who provided his perspective regarding whether the SPS Agreement applied to Vitamins and Minerals and his thinking was that a challenge would not come forward under the SPS Agreement but rather under the TBT Agreement. The high level technical nature of this conversation was very helpful and it was apparent that more meetings of this caliber would be beneficial to the health freedom community.

### **3. Assembling the many health freedom organizations doing important work:**

As I communicated with various leaders during the week, it became apparent to me that we were benefiting from having time to discuss issues and strategies yet keep our own work goals, projects, and autonomy. My thought was that we could create an Assembly of our own where all avid health freedom organizations could meet together and pass health freedom and health resolutions and honor each others work. I started to draft a description of such an assembly in my notes.

#### **July 7th, (Fourth Day of Six Day Session)**

##### **1. World Health Freedom Assembly/World Health Choice Assembly:**

This fourth day Codex discussed it's relationships with other international organizations. Also this day I discussed with other health freedom leaders the topic of relationship between health freedom organizations themselves and the need for an assembly and resolutions of our own. I wrote out a plan for an Assembly and shared it with leaders. Some of the key elements I proposed were:

- a.** A Declaration of Health Freedom or a Declaration of Health Choice and Diversity signed by all members. (Many organizations including NHFC already have their own declarations prepared)
- b.** An Assembly's legal status, meeting plans, host location, and organization protocols.
- c.** Work objectives such as:
  - i.** Hold ongoing General Assemblies.
  - ii.** Engage in strategic planning to advance health freedom.
  - iii.** Pass health freedom Resolutions of the Assembly for public use.

iv. Prepare presentations and proposals for submission to local, national countries, and world bodies to advance the principles of health freedom and create and implement projects to advance health freedom.

v. Provide a speakers bureau for the public good.

d. Criteria for attending an Assembly.

I was keenly aware that we need leadership at the international level in order to be an integral part of the international community and policy setting deliberations. I look forward to our first World Health Freedom Assembly.

## **2. World Health Organization presented Lim 6 –**

“Implementation of the WHO Global Strategy on Diet, Physical Activity, and Health: Action that Could be Taken by Codex” (CAC/28 LIM/6):

**In 2004 the World Health Organization’s governing body (World Health Assembly - WHA) passed a WHA Resolution 57.17** endorsing a Global Strategy diet, physical activity, and health, to reduce morbidity and mortality due to non-communicable disease. *“It reflects an international public health initiative intended to guide the development of an enabling environment for sustainable actions at individual, community, national, and global levels that, when taken together, will lead to reduced disease and death rates related to unhealthy diet and physical inactivity. Long-term health and the development or prevention of chronic diseases in consumers, including obesity, heart disease, cancer and diabetes, are in part determined by nutrition and dietary choices.”* (CAC/28 LIM/6, 2005, page 2)

**WHO now is calling upon Codex** to consider “evidence-based action” it might take to improve the health standards of foods consistent with the Global strategy. The two committees that WHO appealed to were the Codex Committee on Food Labeling, and the Codex Committee on Nutrition and Foods for Special Dietary Uses. WHO recognized that careful deliberation about the nature of the specific actions potentially appropriate for either committee is needed before conclusions can be drawn.

**The Codex Commission, after feedback from nations, agreed to ask the WHO,** in cooperation with FAO, to produce a more focused document for consideration by the two Committees, including specific proposals for new work. Then the Commission agreed that it would consider proposals put forward by these two Committees for new work at its next session.

**The US comments on this initiative** are summarized in the Commission report as follows: “224. The Delegation of the United States expressed the view that this question should be approached carefully in view of the multi-factorial nature of non-communicable diseases, including life-long dietary patterns, that several recommendations of the Global Strategy should be implemented at the national level, such as consumer education, but were not within the mandate of Codex, and that Codex

work on nutrition and labeling issues should proceed within its terms of reference.”  
(Draft Alinorm 05/28/41 Codex Commission Draft Report July 9, 2005.)

**International Farmers Association NGO delegate** spoke up and protested that putting money into such a health initiative was not proper given that the Global Strategy is geared towards people who are over-nourished as opposed to the millions of people in the world who are dying of hunger and starvation and are nutrient deprived. This NGO delegate would not quit speaking when his time was up and they asked him to stop five times and then asked a clerk to take the microphone from him.

### **3. In addition to the Global Strategy, WHO announced**

A change in their International Health Regulations in May 2005, that will go into effect June 2007. I plan to do more research on this issue because of the significance of the changes. My understanding is that the IHR previously addressed the detection and public health emergencies relating to three specific diseases (yellow fever, cholera, etc.) However this law has been broadened to cover public health emergencies of international concern irrespective of the origin or source. There is an obligation for WHO country members to set up systems to handle emergencies. Given my previous work in the state of Minnesota on drafting a health freedom amendment to the bioterrorism laws and public health emergency powers act, I was quite concerned. No mention was made of citizen rights in this conversation of public health emergency. In Minnesota we passed an amendment that says that we retain our rights to refuse treatments in the case of a public health emergency however with probable cause of risk of public harm a person could still be quarantined. It is imperative that we have representation at the tables when such global law and policy is being mandated.

### **4. And finally WHO requested that Codex give full recognition**

And consideration to any World Health Resolution that is relevant to Codex work when Codex is drafting guidelines. Also that Codex report to the Assembly about Codex activities regarding health.

#### **July 8th, (Fifth Day of Six-Day Session)**

Codex Commission did not meet but their administrative team spent the day drafting the Report in six languages.

#### **July 9th (Sixth and Final Day of Session)**

Codex Commission went through the Draft Report 239 paragraphs, paragraph by paragraph, and took feedback from country members and finalized the report for publication. The meeting then adopted their new Chairman, Dr. Claude J.S. Moshia of the United Republic of Tanzania.

### **Summary and Conclusions:**

The health freedom movement needs a presence at all tables where policies and laws are being discussed that impact consumer options in health. The local, state, national, federal, and now international arenas are all equally important. International law and forums are extremely complex and costly to participate in. However we must find a way to participate and protect and promote the concept of empowered consumers making informed decisions. We must protect individuals' access to the substances, practices, customs, and resources that individuals desire in their path to wellness. I would at this time recommend a funded team of health freedom activists to be commissioned to work at the international level to promote our interests in true health. I would also recommend that the health freedom community itself develop its own Assembly to promote solidarity and strategy.