

CAPE TOWN CAPERS

The Codex Committee on Nutrition and Foods for Special Dietary Uses Meets in Cape Town, South Africa

By Scott C. Tips, General Counsel, NHF

This year, the Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNSFDU) took place in Cape Town, South Africa, from November 3-7, 2008, at the Southern Sun Cape Sun Hotel; and the National Health Federation (NHF) sent its voice – the only voice – for health freedom there to insert a note of reason as hundreds of bureaucrats with little, if any, love of liberty sketched out global food guidelines that will impact billions of human beings.

The Food-Supplements Guidelines

Back in November 2004, when the CCNSFDU adopted its Guidelines for Vitamin and Mineral Food Supplements, which were then rubber-stamped in haste by the Codex Alimentarius Commission in Rome some nine months later, it only created a framework and not a complete document that could be adopted and used. (*See http://www.codexalimentarius.net/download/standards/10206/cxg_055e.pdf.*) The framework now has to be filled in through the use of risk assessment to determine the Maximum Upper Permitted Levels (MUPLs) for the various vitamin-and-mineral food supplements that are subject to these Guidelines. And the CCNSFDU has decided to create a policy document of the risk-assessment *principles* that will be applied towards that process of setting the MUPLs.

That is why, even though the NHF *bitterly* opposed the creation of the Codex Food-Supplements Guidelines for both principled and pragmatic natural-health reasons, the process has now arrived at that stage where great damage could be done to human nutrition if the risk-assessment principles adopted at these latter-stage meetings were to follow the one-dimensional, one-size-fits-all approaches suggested by certain member-country delegations. That is also why the NHF is seeking to minimize the enormous harm that could still be inflicted on all of us by proposing and pushing sensible risk-assessment principles as a viable alternative.

The Various Agenda Items

Back to this year's meeting, this Codex Committee had before it various issues that it has been tackling over

the years. The main agenda items of interest to NHF were: (1) the Draft Nutritional Risk Analysis Principles and Guidelines for Application to the Work of the CCNFSDU; (2) the Proposed Draft Annex re Recommendations on the Scientific Basis of Health Claims; and (3) the Proposed Draft Additional or Revised Nutrient Reference Values for Labelling Purposes in the Codex Guidelines on Nutrition Labelling. When those issues arose for discussion by the Committee, the NHF was the most vocal International Non-Governmental Organization (INGO) to speak out on them.

Unfortunately, Chairman Rolf Grossklaus showed a near-maniacal desire to race these agenda items to completion. In fact, once the Committee worked its way clear of the controversial Guidelines for the Use of Nutrition Claims for Dietary Fiber, which took up much of the Committee's time, it was virtually all downhill from that point on. Most of the country-member delegations were of the same mind as the Chairman and posed no obstacle to his rapid progress.

Agenda Item 5: Risk Analysis

The Agenda item concerning the Draft Nutritional Risk Analysis Principles and Guidelines for Application to the Work of the CCNFSDU dealt with one of the key parts of the Vitamin and Mineral Food Guidelines approved by the Commission back in the Summer of 2005. It was quickly advanced to completion by the Committee so that the Codex Alimentarius Commission (the CCNFSDU's parent body) could adopt it at Step 8.

Along the way, however, the biggest battle was over the definitions set forth in those Guidelines, with some country delegations proposing sensible updates to the three-year-old definitions established by the FAO workshop that had established most of them. The Chairman and most of the delegations thought that the definitions were untouchable because they had come out of FAO. The NHF supported the suggestions of Canada and some others to update the definitions with sensible changes.

In arguing in support of those changes, I argued that the Committee should not be bound to follow the three-year-old definitions set forth by a simple report from a technical workshop hosted by FAO. It's not the Bible or the Koran. It should not be set in stone. When the Chairman refused to budge, it became even more evident to me than before that one of the major problems with the entire Codex process is that it will create a huge edifice of standards and guidelines based upon yesterday's news. Then, it will become, as it was at this Committee meeting, impossible to change the edifice to match advancing human knowledge. In essence, Codex will still be debating gas lighting standards while cold fusion is powering the planet. How many people will die because of outmoded standards?"

Agenda Item 6: Health Claims

Similarly, the Draft Annex re Recommendations on the Scientific Basis of Health Claims was leap-frogged ahead and approved by CCNFSDU for the Codex Commission to adopt at Step 5/8, despite the objections of Australia and the NHF that they be held over for another year and further consideration. The UK delegate's suggestion that at least the redrafted language be provided to the delegates for review prior to approval was reluctantly accepted by the Chairman, but only resulted in a slight delay in the Committee's approval.

The Health Claims recommendations are a multi-page list of what claims for foods would be considered scientifically legitimate and therefore permissible. The NHF has always felt that all truthful and non-misleading claims should be permitted for foods and dietary supplements. That, however, has always been too radical a concept of freedom for the bureaucrat-heavy Codex Committee. So, once again, the fight here is not about general freedom of speech but over making sure the shackles on freedom of speech are as loose as possible.

Over the objection of NHF, the Institute for Food Technology (IFT), Egypt, and some other delegations, the Committee removed the requirement that Codex identify "the criteria for substantiation for the different types of claims." NHF and IFT both thought it important to retain this wording in order that persons and companies submitting dossiers for approval of health claims would know what basis was being used by the regulators for accepting or rejecting health claims. Otherwise, arbitrary criteria would or could be used to thwart legitimate health claims. The European Community disagreed, so the language was removed.

Other language proved to be even more controversial. The Council for Responsible Nutrition (CRN) and the

International Alliance for Dietary/Food Supplement Associations (IADSA) claimed a "victory" because of the deletion of the word "clinical" from the requirement that health claims be supported by clinical studies. Section 3.2.2(b) of the Health Claims Annex does seemingly provide support for their claim ("Some health claims, such as those involving a relationship between a food category and a health effect, may be substantiated based on observational evidence such as epidemiological studies. Such studies should provide a consistent body of evidence from a number of well-designed studies. Evidence-based dietary guidelines and authoritative statements prepared or endorsed by a competent authoritative body and meeting the same high scientific standards may also be used.")

Unfortunately, CRN's and IADSA's claim of victory is much overstated as other wording in the text is clearly not favorable for avoiding the "Golden Rule" (double-blind, placebo-controlled human clinical trials) that they claim was jettisoned. For example, Section 3.2.1 of the Health Claims Annex states, among other things, "Human observational studies are not generally sufficient per se to substantiate a health claim but where relevant they may contribute to the totality of evidence."

Moreover, additional wording in the text states that "studies [supporting a claim] should be excluded from further review and not included in the relevant scientific data if they do not use appropriate measurements for the food or food constituent and health effect, have major design flaws, or are not applicable to the targeted population for a health claim." Of course, it does not take a rocket scientist to realize that government bureaucrats will define "appropriate," "major design flaws," and "applicability" in ways that will exclude perfectly good studies that support nutritional health claims they find offensive.

Speaking for the NHF on another issue, I argued to the Committee that any review of the available systematic data should take into account not just balanced diets but 'special diets required for a specific disease or condition.' The Chairman agreed that that was a useful addition and the language was included until the U.S. delegate, Barbara Schneeman, objected to the language as "not appropriate." The NHF argued back that this language was even more appropriate than the "balanced diet" wording as these were for people with special needs. The Committee then puttered around considering what NHF had just said until the French delegate proposed some alternate, weaker language that was ultimately accepted and saved some semblance of what NHF had proposed. But once again Dr. Schneeman had worked against American interests because she had forgotten that U.S. law itself uses the wording proposed by the NHF!

Agenda Item 7: NRVs

There was some discussion among the Committee members about Proposed Draft Additional or Revised Nutrient Reference Values for Labelling Purposes in the Codex Guidelines on Nutrition Labelling. In the end, however, not much was accomplished and the Committee agreed to return the General Principles for Establishing NRVs of Vitamins and Minerals for General Population *back* to Step 2/3 for redrafting by an Electronic Working Group.

The meeting ended on Friday, the 7th, with the reading of the draft Report. Next year's CCNFSDU meeting will take place in Germany during the first week of November. The actual location in Germany was not announced.

All in all the meeting revealed that the Chairman's goal of pushing agenda items along as quickly as possible has been successful. Yet, amidst the health-freedom carnage, the NHF made significant contacts with Codex delegates and with South African health-freedom activists that will prove invaluable in the near future. HFN

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Patriotism isn't the same as nationalism. The former is a healthy love and respect for your country, but the latter is blind, total, and unrestricted support for any and all legislation, policies, or activities of a nation. Nationalism is the extreme, whereas patriotism is the goal, because good patriots know when to challenge their political leaders, laws, and policies when they become unjust or immoral.

—Rev. John Triglio Jr. and Rev. Kenneth Brighenti, *Catholicism for Dummies* [2003]

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