

Baby Milk Action/IBFAN Briefing paper on Codex Alimentarius

What is Codex?

The Codex Alimentarius Commission is an extremely important body which has relevance for many international campaigns, for example, fair trade, GM, sovereignty, labelling, protection of indigenous foods, sustainability and climate change. However, few people know of its existence or understand what it really does or how it works in practice. One thing is certain - the food industry never ignores Codex and dominates its meetings.

Codex is a joint United Nations body created in 1963 by the **World Health Organisation (WHO)** and the **Food and Agriculture Organisation (FAO)** to develop food standards, guidelines and codes of practice under the Joint FAO/WHO Food Standards Programme. The establishment of the World Trade Organisation (WTO) in 1995 gave Codex a new status and importance. WTO is mandated to refer to Codex Standards in trade disputes so inevitably government use Codex as a basis for legislation. (see www.wto.org/english/thewto_e/thewto_e.htm).

The stated purpose of Codex is to protect the health of the consumers and to ensure fair trade practices in the food trade. However these dual objectives are often incompatible, mainly because industry interprets them in a very narrow way: ‘*consumer protection*’ is seen only as improving food safety and the quality of processed packaged foods, while ‘*fair trade*’ is interpreted as **the facilitation of trade**. The critically important health and nutrition issues and the wider aspects of fair trade are often ignored, along with the impact of free trade on indigenous foods, food security, sustainability and practices such as breastfeeding. These concerns are often viewed by industry and industry-friendly governments as irrelevant ‘political’ issues, making it difficult to raise them effectively. Codex is used by the powerful industrial nations to promote international trade of processed packaged foods generally.

Unless NGOs pay attention and take an active role in the Codex standard- setting process, industrialized countries, together with industry lobbyists and associations, have the freedom to use it to protect their market and export interests at the expense of consumer, public health and social justice interests. Considerations of southern, developing countries, where the majority of the world’s population resides are for the most part poorly represented in this process compared to industrialized countries. The Codex Trust Fund (see below) is an attempt to address this imbalance.

This is how the Codex website booklet “*Understanding the Codex Alimentarius*” describes itself:

“ The Codex Alimentarius, or the food code, has become the global reference point for consumers, food producers and processors, national food control agencies and the international food trade. The code has had an enormous impact on the thinking of food producers and processors as well as on the awareness of the end users – the consumers. Its influence extends to every continent, and its contribution to the protection of public health and fair practices in the food trade is immeasurable... .The Codex Alimentarius has relevance to the international food trade. With respect to the ever-increasing global market, in particular, the advantages of having universally uniform food standards for the protection of consumers are self-evident. It is not surprising, therefore, that the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) and the Agreement on Technical Barriers to Trade (TBT Agreement)

both encourage the international harmonization of food standards. Products of the Uruguay Round of multinational trade negotiations, these Agreements cite international standards, guidelines and recommendations as the preferred measures for facilitating international trade in food. As such, Codex standards have become the benchmarks against which national food measures and regulations are evaluated within the legal parameters of the World Trade Organization (WTO) Agreements.”

ftp://ftp.fao.org/codex/Publications/understanding/Understanding_EN.pdf

IBFAN's role in Codex

IBFAN first worked on Codex issues in 1987, but developed a more focused strategic approach in 1995 when the 1981 Codex standard on infant formula started to be revised. Part funded by the Dutch Government and the EU – IBFAN brought participants from developing countries to the CCFNSDU meetings in Germany and worked alongside and within NGO networks such as Consumers International, the International Association of Consumer Food Organisations (IACFO), the International Lactation Consultants Association (ILCA) and the European Network of Childbirth Associations (ENCA). The aim was to support developing countries in their efforts to bring the Codex standards into line with the *International Code and Resolutions* which are adopted at the World Health Assembly – the world's highest health Policy setting body.

This strategy safeguards the sovereign right of nations to bring in and keep controls which they consider necessary to protect infant and young child health and sustainable development. Even though WHO is a parent body of Codex, the reality is that if IBFAN or other NGOs are not present - the WHA decisions are hardly mentioned. The International Code and WHA Resolutions are more comprehensive, detailed and protective of health than Codex. The baby food industry has always pushed Codex, as has institutions such as the World Bank and Structural Adjustment Programmes which call for liberalisation of trade rules, the lowering of barriers to trade and free markets. Health Ministries are also pressured by their own Ministries of Trade or from other governments.

EU Member countries, and those wishing to join the EU, are under a particular pressure to harmonise their laws with EU Directives and not to challenge the EU Commission (which often favours industry). Norway – not a member of the EU – is typically the only European country to show concern for the impact of the policies on developing countries.

After a long struggle, the infant formula and baby food standards were finally passed in 2007 – not perfect – but greatly improved. This means that WTO process, including Codex, could now become a very effective tool for consumer protection in this area. Already South Africa is using the Codex Infant Formula Standard to fight for the right to ban health claims on baby foods. And the strong legislation that exists in India, Georgia and Ghana for example is now less likely to be challenged. Because the standards refer to the World Health Assembly resolutions countries will not have to waste valuable resources providing scientific proof to a WTO panel that their laws are necessary on health grounds - the World Health Assembly has already passed a Resolution establishing this. Similarly countries should be able to ban the import of follow-on milks (milks for older babies which companies aggressively promote) because there is a 1996 WHA Resolution which already states that these milks are not necessary.

Codex Committees attended by IBFAN

Meetings are annual, apart from General Principles which takes place twice a year.

- Food + Nutrition for special dietary uses (CCFNSDU) This usually takes place in Germany but in 2008 will take place in South Africa.
- General Principles (CCGP) There the general rules how Codex works are defined. A draft Code of ethics is under review IBFAN has managed to include International Code and resolutions.
- Food Labelling (CCFL) This takes place in Canada in May and issues such as country of origin, GM labeling and health claims come up.
- Food additives + contaminants (CCFAC) This takes place in NL or in developing country chosen by NL in March
- Codex Committee on Food Hygiene (CCFH) usually takes places in the US and is critically important for IBFAN addressing issues such as Enterobacter sakazakii contamination.
- Codex Alimentarius Commission (CAC) This takes place in Rome or Geneva. CAC is the body that oversees all Codex work and Standards are moved here for approval at Step 5 and Step 8.

Details of all the meetings are on this Codex link: <http://www.codexalimentarius.net/current.asp>

Other areas of interest.

Codex Trust Fund

Codex established a Trust Fund in 2003 with the aim of redressing the imbalance in participation from developing countries. IBFAN and IACFO successfully lobbied for the Trust Fund to be publicly funded with no food industry donations. We can help to ensure that this principle is adhered to in future years.

Codex Guidelines on Health Claims:

Health and Nutrition Claims are highly promotional of processed packaged foods and undermine indigenous foods and breastfeeding. At the Codex Committee on Food Labelling (CCFL) which is held in Canada in May, IBFAN and IACFO succeeded in getting a ban on health and nutrition claims on all foods for infants and young children unless such claims are specified in national legislation or other Codex Standards.

Industry/NGO Participation of Codex

NGOs IBFAN has been granted NGO observer status with Codex and also attends under the name of IACFO (International Association of Consumer Food Organisations) and is permitted to make interventions during the meetings.

The Codex Commission (CAC) encourages national delegations to include consumers and sometimes IBFAN and CI are members of national delegations. Only the head of a delegation is allowed to speak.

Food Industry Representatives attend Codex in many capacities: as consultants on national delegations or as NGOs in their own right. We call them BINGOs (Business Interest NGOs). Their names can be misleading – for example Monsanto is present as the **Council for responsible Nutrition (CRN)**!

Industry delegates can outnumber government delegates and can even lead delegations . At the Thai meeting in Nov 2006 there were over 100 food industry delegates, half of them on Government

delegations (nine of the 11-member Chinese delegation were industry, one of the two Belgian, one of the 2 for Switzerland and 2 of the 3 for the Netherlands were from industry) and half as The UK and Canada set a good example with delegations that were industry free.

Every Member Country has a Codex focal point which organises the country's participation and consultation process prior to Codex meetings. At one time, the Focal Point for Poland was Nestlé! The addresses are in the Procedural Manual.

The 8 stage process

Codex Standards are developed through 8 stages – They are typically not referred to the Commission until they reach Step 5. They are finalised at Step 8. However, if there is a trade dispute in the meantime the draft standard – at whatever stage it has reached – is used as the bench mark.

See: http://www.ibfan.org/site2005/Pages/article.php?art_id=436&iui=1

Lessons learned and what we need to do

- It is hugely advantageous if an NGO belongs to an international network which can share and submit written comments to national governments. Industry does this all the time. Even if delegations cannot attend the meetings (the best option) they can still send in written comments which can be used as evidence of support. However, being present in person is the most important thing.
- Evidence must be presented in a scientific way in written submissions and this can be used to good effect in oral interventions and to inform friendly delegations. Industry offers advice and services to governments all the time (eg Nestle as the Codex Focal Points in Poland. NGOs must ensure their concerns are known and understood, while exposing the extent of industry influence.
- Read the Codex Procedural Manual. Codex has been evaluated in the last two years and the new recommendations can be used to improve transparency and consensus building.

URGENT UPCOMING ISSUES

RUTFs – CCFNSDU, South Africa, 3rd-7th Nov 08
Contamination issues, 1-5 December, Guatemala,
(we need surveys on use of follow-on milks and spillover)

References to Codex made by the World Health Assembly

WHA RESOLUTION 34.22 of 21 May 1981

4. REQUESTS the FAO/WHO Codex Alimentarius Commission to give full consideration, within the framework of its operational mandate, to action it might take to improve the quality standards of infant foods, and to support and promote the implementation of the International Code;

International Code of Marketing of Breastmilk Substitutes (1981)

10.2 Food products within the scope of this Code should, when sold or otherwise distributed, meet applicable standards recommended by the Codex Alimentarius Commission and also the Codex Code of Hygienic Practice for Foods for Infants and Children.

"Infant formula" means a breastmilk substitute formulated industrially in accordance with applicable Codex Alimentarius standards,

WHA Resolution 58.32 May 2005

Taking into account resolution WHA56.23 on the joint FAO/WHO evaluation of the work of the Codex Alimentarius Commission, which endorsed WHO's increased direct involvement in the Commission and requested the Director-General to strengthen WHO's role in complementing the work of the Commission with other relevant WHO activities in the areas of food safety and nutrition,

2. REQUESTS the Codex Alimentarius Commission:

1) to continue to give full consideration, when elaborating standards, guidelines and recommendations, to those resolutions of the Health Assembly that are relevant in the framework of its operational mandate; with special attention to issues mandated in Health Assembly resolutions

2) to establish standards, guidelines and recommendations on foods for infants and young children formulated in a manner that ensures the development of safe and appropriately labelled products that meet their known nutritional and safety needs, thus reflecting WHO policy, in particular the WHO Global Strategy for infant and young child feeding and the International Code of Marketing of Breast-milk Substitutes and other relevant resolutions of the Health Assembly;

WHA RESOLUTION 34.22 of 21 May 1981

4. REQUESTS the FAO/WHO Codex Alimentarius Commission to give full consideration, within the framework of its operational mandate, to action it might take to improve the quality standards of infant foods, and to support and promote the implementation of the International Code;

International Code of Marketing of breastmilk Substitutes (1981)

10.2 Food products within the scope of this Code should, when sold or otherwise distributed, meet applicable standards recommended by the Codex Alimentarius Commission and also the Codex Code of Hygienic Practice for Foods for Infants and Children.

"Infant formula" means a breastmilk substitute formulated industrially in accordance with applicable Codex Alimentarius standards,

WHA Resolution 58.32 May 2005

Taking into account resolution **References to Codex made by the World Health Assembly** [23](#) *WHA56.23* on the joint FAO/WHO evaluation of the work of the Codex Alimentarius Commission, which endorsed WHO's increased direct involvement in the Commission and requested the Director-General to strengthen WHO's role in complementing the work of the Commission with other relevant WHO activities in the areas of food safety and nutrition

2. REQUESTS the Codex Alimentarius Commission: 1) to continue to give full consideration, when elaborating standards, guidelines and recommendations, to those resolutions of the Health Assembly that are relevant in the framework of its operational mandate; with special attention to issues mandated in Health Assembly resolutions, 2) to establish standards, guidelines and recommendations on foods for infants and young children formulated in a manner that ensures the development of safe and appropriately labelled products that meet their known nutritional and safety needs, thus reflecting WHO policy, in particular the WHO Global Strategy for infant and young child feeding and the International Code of Marketing of Breast-milk Substitutes and other relevant resolutions of the Health Assembly;

Some IBFAN achievements at Codex

- We got ONE standard for infant formula (the industry fought hard for TWO)
- We got the International Code, the 2001 Resolution and the Global Strategy included in both sub-standards (Weaker language for special medical formulas)
- We got a requirement that Follow-on milks and specialised milks are labelled differently to standard infant formula.
- Labels must say that the products should be used only on the advice of an “independent health worker.”
- We got strong wording regarding claims: “...*the Codex Guidelines on Nutrition Labelling (CAC/GL 2-1985) and the Guidelines for Use of Nutrition and Health Claims apply to infant formula and formula for special medical purposes for infants. These requirements include a prohibition on the use of nutrition and health claims for foods for infants and young children except where specifically provided for in relevant Codex Standards or national legislation.*”
- **The section on labeling has been slightly improved (but still does not refer explicitly to the fact that powdered formula is not sterile and may contain pathogens):**

9.5 Information for Use

9.5.1 Products in liquid form may be used either directly or in the case of concentrated liquid products, must be prepared with water that is safe or has been rendered safe by previous boiling before feeding, according to directions for use. Products in powder form should be reconstituted with water that is safe or has been rendered safe by previous boiling for preparation. Adequate directions for the appropriate preparation and handling should be in accordance with Good Hygienic Practice.

9.5.2 Adequate directions for the appropriate preparations and use of the product, including its storage and disposal after preparation, i.e. that formula remaining after feeding should be discarded, shall appear on the label and in any accompanying leaflet.

Some IBFAN achievements: the Codex Standard for Processed *cereal-based foods for infants and Young Children standard (CODEX STAN 074-1981, REV. 1-2006)*

- The Standard refers, in its opening paragraphs, to the feeding young children in accordance with the Global Strategy for Infant and Young Child Feeding and World Health Assembly Resolution WHA54.2 (2001). This means that the products should not be marketed in ways that undermine breastfeeding.
- We got 6 months for age of introduction of cereals. The labelling requirements state:
8.6.4 The label shall indicate clearly from which age the product is recommended for use. This age shall not be less than six months for any product. In addition, the label shall include a statement indicating that the decision when precisely to begin complementary feeding, including any exception to six months of age, should be made in consultation with a health worker, based on the individual infant’s specific growth and development needs. Additional requirements in this respect may be made

in accordance with the legislation of the country in which the product is sold.

- We got spoon feeding texture (no cereals in bottle)

Some weaknesses:

- The standard now allows governments to ban nutrition claims (so protecting breastfeeding and indigenous foods) without facing challenges of Technical Barriers to Trade. Section 8.1.1 now reads: *“Taking into account paragraph 1.4 of the Guidelines for Use of Nutrition and Health Claims, nutrition claims **may** be permitted under national legislation for the foods that are the subject of the standard provided that they have been demonstrated in rigorous studies with adequate scientific standards.”*
- The new proposals for medical foods do not follow all labelling provisions of the Code.
- There is no mention of the risks of soy formulae.
- There is no requirement for a warning that the product is not sterile and may contain pathogens.

For more information contact:

Patti Rundall, Baby Milk Action, UK. prundall@babymilkaction.org

Elisabeth Sterken, INFACT Canada. esterken@infactcanada.ca

Maryse Arendt, Initiativ Liewensufank, Luxembourg. marendt@liewensufank.lu