

Baby Milk Action/IBFAN Briefing paper on Codex Alimentarius Updated April 2012

see: www.codexalimentarius.org/

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](http://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, it has only started to be more active in Codex in recent years. 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 the WTO process, including Codex, can be used as a tool for consumer protection in this area. 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. Following the adoption of these standards the Philippines was able to ban health claims and South Africa and others are following suit. The strong legislation that already exists in India, Georgia and Ghana is now less likely to be challenged.

The Codex Nutrition meetings (CCNFSDU) are now discussing fortified foods for babies and IBFAN is working to ensure that the World Health Assembly resolutions are not overlooked. At the November 2011 meeting the US and the EU opposed the inclusion of references to the WHA Resolutions, WHO clarified that it was indeed appropriate to cite them: *“While the WHA Resolutions are not legally binding under the constitution – it doesn't mean that the Resolutions are just paper and devoid of effect. [They] constitute the international practice and a consensus language that is also used in other international fora, for instance they are used customarily in [WTO](#) litigations.”*

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.

Relevant Codex Committees

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

- **NUTRITION AND FOODS FOR SPECIAL DIETARY USES (CCNFSDU)** This usually takes place in Germany – which hosts the Secretariat. CCNFSDU was held in Thailand (2006), South Africa (2008) and Chile (2010) – but Germany still controls everything and has for years provided a biased industry-friendly chair, Prof Grossklaus. The new Chair, Dr Pia Noble is a little fairer but we shall see..... The 2012 CCNFSDU is in Germany again, the first week in December.
- **GENERAL PRINCIPLES (CCGP)** A draft Code of Ethics is under review IBFAN managed to get a reference to the International Code and resolutions included.
- **FOOD LABELLING (CCFL)** This takes place in Canada in May. CCFL addresses issues such as country of origin, GM labeling, health and nutrition claims, nutrient labeling. The next CCFL meeting in Ottawa, Canada, 15 - 18 May 2012 will address Implementation of the WHO Global Strategy on Diet, Physical Activity and Health and nutrient labelling.
- **FOOD ADDITIVES and CONTAMINANTS (CCFAC)** This takes place in NL or in developing country chosen by NL in March
- **FOOD HYGIENE (CCFH)** usually takes places in the US, 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.

Codex meeting are open to the public – so it should be possible to attend while waiting for accreditation. Details of all the meetings are on this Codex link: www.codexalimentarius.org/
So too are all the reports which also include contact details for participants.

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 need 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 into the Guidelines - however a weakening clause was introduced by the EU Commission: *“unless such claims are specified in national legislation or other Codex Standards.”* NB: The Health Claims Guidelines are up for revision in CCFL in May 2012.

Industry/NGO Participation of Codex

NGOs: are allowed to make interventions during the meetings at the invitation of the chair – generally after Member States. IBFAN has been granted NGO observer status with Codex and also attends under the name of IACFO (International Association of Consumer Food Organisations

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.

It is important to send in written submissions ahead of meetings and to attend Electronic Working Groups, and pre meetings.

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). The UK and Canada set a good example with delegations that were industry free. In 2011 40% of the 268 delegates were food industry, with 59 attending as members of Business Interest NGOs (BINGOS) and 49 included on government delegations – some even heading these delegations. For example, the Mexican delegation, which made many industry-friendly interventions, was 100% industry, with US baby food companies **Mead Johnson** and **Abbott** alongside **Kelloggs** and **Coca Cola**. **Germany** hosted the meeting and 12 of its 15 delegates were industry, including baby food giants, **Milupa (Danone)** and **Nestlé**, alongside **Coca Cola**, **Kraft**, **Merk**, and others

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 benchmark.

Lessons learned and what we need to do

- It is advantageous if an NGO belongs to an international network that 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.
- Written submissions should be supported by as much evidence as possible. 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. NGOs must ensure their concerns are known and understood, while exposing the extent of industry influence.
- Read the Codex Procedural Manual. The new recommendations in the evaluation of Codex can be used to improve transparency and consensus building.

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