

## **CODEX NUTRITION COMMITTEE: SUPPLEMENT GUIDELINES FINAL**

by Josef Hasslberger

The Codex Alimentarius Nutrition Committee sitting in a week-long conclave here in Bonn, formerly the capital of Germany, has concluded its deliberations of proposed international Guidelines for Vitamin and Mineral Supplements. The delegates ironed out remaining differences and agreed to call the proposal a finished product, to be referred to the Codex Alimentarius Commission, the executive body which has to give its final approval, probably by early July 2005. This decision ends a tedious decade-long marathon of what at times looked like a tug-of-war between countries supporting wide use of supplements for health and others much more cautious over the implications of having to import expensive nutrient-rich products, while their populations do not even have sufficient, let alone nutritious, foods.

### **Nutrition Committee of Codex in session**

Industry representatives are satisfied with the results. "We did not get all we wanted, but we can work with these guidelines" was one comment heard in the corridors of the meeting's forum from a US industry representative who attended. Instead of severe dosage limitations - the original idea was to apply the minimal Recommended Daily Amounts or RDAs - it was agreed in last year's meeting to base possible dosage limitations on scientific risk analysis.

Nutrients are quite different from toxic chemicals, the first substances evaluated in this way. But work is underway to adapt the risk analysis principles to nutrients, which are vital parts of the diet, rather than contaminants. This is a separate project under the Codex Nutrition Committee, a year-round work group chaired by the Australian delegation, which will continue work in this coming year. There is also a work group charged with looking at nutrient reference values, which are the RDA amounts we find as percentages on food labels, such as - "this product contains 150 % of the recommended daily amount of vitamin K".

Consumers do look at such indications and if supplements are to promote optimal health, the figures must be right. There is a great opportunity here for those who believe nutritional products are the solution to our current health crisis. The science of nutritional intervention for health now has a chance to enter the mainstream and leave its mark on the official health advice provided to consumers.

The supplement Guidelines, as agreed by the Committee provide - at least for now - merely a statement of general principles. They do not mandate anything specific about either the sources of vitamins and minerals that can be used in the formulation of such products, nor do they restrict dosages, other than saying that future limits must be based on an analysis of the risks yet to be performed.

It appears that, apart from protesting against potentially restrictive Codex Guidelines for supplements, opposition may have to shift gears and bring the fight to the scientific arena. Energies might be well spent in providing scientific documentation attesting to the extremely low risk inherent in supplement use as well as to the efficacy of nutrients in prevention and health.

### **Standard or Guidelines?**

Codex Alimentarius is in the business of crafting international standards, guidelines and related documents to facilitate cross-border trade in foods and protect the health of consumers. Countries may decide whether to apply such rules or not. Traditionally, guidelines were thought to be less binding than food standards, but independent research shows that this distinction has become eroded over time. The difference may now be more semantic than real.

In 1995, Codex Alimentarius and the then newly formed World Trade Organization agreed that WTO would use the documents elaborated by Codex as reference texts in the resolution of trade disputes. So while formerly, implementation of Codex documents was voluntary, this is no longer the case. As Suzan Walter of the American Holistic Health Association points out in an open letter distributed to delegates before this year's meeting, "all texts provided by Codex to WTO, no matter what they are labeled, can be used as mandatory international trade regulations to be applied to every nation."

There seems to be little awareness of this changed situation as yet. Some countries have expressly reserved their right to not apply the future Guidelines on Supplements because they classify those products as medicines - but there might be a snag. Regulating supplements under medicines law may not exempt Canada, Australia, Mexico and some other Latin American nations from an eventual challenge to their laws under international trade agreements. Even for the United States, where politicians openly state that they do not intend to follow externally imposed regulations, a future trade dispute might bring an unexpected moment of truth.

The World Trade Organization appears set to make no distinction, but until there is an actual case, no one knows for sure - a real quandary because international law now seems to flow out of the relatively anonymous deliberations of health officials attending Codex meetings. For the most part, those officials have no national mandate that could bind their country, nor do they seem to be aware that their decisions may change national laws by-passing any parliamentary checks and balances. Under the WTO, trade sanctions are the tool to force compliance.

### **Some more history**

Work on these Supplement Guidelines was first proposed by the German delegation to the Codex Nutrition Committee in 1990. For several years, work progressed slowly but the agenda was kept alive by the Germans. At the time this was widely looked upon as a somewhat strange attempt to regulate supplements, coming as it did from a country that practically has no history of use of these products.

At the same time, Germany also introduced the idea of a European Food Supplements Directive. That effort was shelved for some years, after a first round of consultations showed that the field was much too difficult and contentious to regulate by directive. A few years later however - after Codex work on supplements had progressed - work re-started on the Food Supplements directive. This renewed effort was largely driven by the UK and Germany and as it happened, the European directive made it to the finishing line two years before the Codex guidelines.

The European food supplements directive may seem restrictive - indeed it has been challenged before the European Court of Justice over its prohibition of products that do not meet strict formulation criteria.

In shaping the Codex "consensus" on supplements, it appears that the EU directive provided a blueprint, a fact that was perhaps not given sufficient importance by non-European delegations. In the numerous meetings that led to the current text, corners were cut and at times, the German chairman Rolf Grossklaus and the representative of the European Union, Basil Mathioudakis, have been more or less openly accused of bending the rules.

Working in concert, the Germany/EU team seems to have acted to blunt initiatives of the developing countries as well as the English-speaking world, even excluding views of some delegations not strictly in agreement with what now appears to have been a pre-set agenda. The result - a text for the Codex Supplements Guidelines that reads remarkably similar to the European Food Directive. Unfortunately no transcripts of these meetings exist, the report prepared by the Codex Secretariat does not include details of proposals and comments or show how some interventions are "left by the wayside".

One example of apparent rule-bending: The Codex text does not expressly state what its purpose is, although

in a recent meeting of the general rules committee, such a statement of purpose was named as one of the essential elements of all standards and related texts. Challenged by both South Africa and Tanzania on this point, the German Chairman Grossklaus glossed over the problem because re-opening the fundamental discussion of what is to be regulated and how might have given a completely different result than what has been "inherited" from previous meetings. After all, work has been going for years and science as well as public perception do change...

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