

March 4, 2011

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Secretariat, Codex Alimentarius Commission
Joint FAO/WHO Food Standards Programme
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RE: Request for comments on Appendix 3 of the Chairperson's Report on the November 15-16, 2010 Facilitated Work Session of the Codex Committee on Food Labeling on the topic of the Labeling of Foods and Food Ingredients Obtained through Certain Techniques of Genetic Modification/Genetic Engineering (CX/FL 11/39/13)

Dear Codex Contact Point and Secretariat:

The Biotechnology Industry Organization (BIO) is the world's largest biotechnology organization, providing advocacy, business development and communication services for more than 1,100 members worldwide. Corporate members range from entrepreneurial companies developing their first products to Fortune 100 multinationals. We also represent state and regional biotechnology associations, service providers to the industry, and academic centers. BIO members are involved in the research and development of innovative healthcare, agricultural, industrial and environmental biotechnology. Many BIO members use biotechnology to improve the agronomic, nutritional, and other properties of plants and animals for food, feed, fiber and bioenergy.

BIO appreciates the opportunity to comment on the above-referenced document, specifically to provide comments on the options as outlined in Appendix 3 of the Report on the Facilitated Work Session (CX/FL 11/39/13) of the Codex Committee on Food Labeling (CCFL). We also include comments on those aspects of the Chairperson's report that relate to language or debate characterized in Appendix 3.

BIO delegations have consistently participated in the work of the CCFL as the debate on the labeling of food produced using modern biotechnology has continued, even though the need and rationale for conducting the work have not been clearly articulated. Given the uncertain need and questionable rationale for the work, difficulty in moving the dialogue and debate beyond discussion of the scope and purpose/objective of the work might have been expected. To date, no progress in developing guidance or language appropriate to such labeling has been made in the many and varied fora in which dialogue and



debate have occurred. The CCFL has not progressed past development of a Step 3 document in over 10 years.

We applaud the Chair of the CCFL in his efforts to convene a facilitated work session to explore objectives and rationale for the work among different delegations, and we appreciate the opportunity to have been included in the debate. The facilitated work session convened in November 2010 did not serve to resolve the fundamental differences that have existed within the CCFL over the course of the near-twenty years of debate. The essential differences that have divided CCFL on this issue continue to divide the group coming out of the facilitated work session.

In the Chairperson's report, it was noted that it was not possible to agree on a revised title for text, and three options for such were provided for further consideration [CX/FL 11/39/13 (Appendix 3)]. The Chair reported that since full consensus was not achieved, the three options will be presented to CCFL for consideration at its 39th Session. We question whether the *Considerations* text in Appendix 3 reflects the very same lack of full consensus among delegations. Specifically, considerable discussion occurred about the need to acknowledge (or not) that different approaches to such labeling exist; however, there was no consensus as to such acknowledgement. Some delegations stated they could not accept the first phrase, "Acknowledging that different approaches regarding labeling of foods derived from modern biotechnology are used." Others clearly stated they could not accept the removal of the same phrase.

However, all three options listed in Appendix 3 contain the identical *Considerations* language, none of which is bracketed, giving readers the impression that all delegations accept that language as written. Point 13 of the Chairperson's report does nothing to correct that misconception. Delegations did not agree on this language; agreement to consider this language at the next CCFL meeting did exist. Therefore, we suggest that the text of the *Considerations* statement be placed in brackets.

Recalling the purpose of the text, "is only to recall and assemble in a single document some important elements of guidance from Codex texts, ***which are relevant to labeling of foods derived from modern biotechnology*** (emphasis added)," we believe that reference to Codex texts not specific to labeling should be removed from the listing. We specifically recommend removal of named standards and guidelines from the listing of existing Codex texts that have no relation to labeling or claims. Therefore, each of the options in Appendix 3 should contain only the first three references to existing Codex texts in the bulleted lists:

- . The Codex General Standard for the Labeling of Prepackaged Foods (Codex Stan 1-1985);
- . The Codex General Guidelines on Claims (CAC/GL 1-1979); and
- . The Codex Guidelines for Use of Nutrition and Health Claims (CAC/GL 23-1997).

BIO continues to maintain its historic position on this work in CCFL. We believe that such work should be discontinued, because existing Codex text adequately covers labeling and claims for food, feed and food ingredients, including foods derived from modern biotechnology. The General Standard for the Labeling of Prepackaged Foods [Codex Stan 1-1985 (Rev. 1- 1991)] applies to labeling of all prepackaged foods to be offered as such to the consumer. Terms within the Standard are defined, provisions for sharing of information detailed, and elements required for protection of consumer health and fair trade in foods elaborated. There is no fundamental difference in food, feed or food ingredients

derived through the use of biotechnology from foods in the marketplace globally. Existing Codex standards, including the Codex Guidelines for Use of Nutrition and Health Claims [CAC/GL 23-1997 (Rev. 1-2004)] provide specific guidance for provision of information on food labels, as well as specific considerations when some type of nutrition or health claim is to be made by a food manufacturer, including both mandatory and voluntary elements.

BIO continues to support those delegations that believe it is an inappropriate use of CCFL resources to continue work in this area when existing Codex text is appropriate for such labeling considerations. This is especially true in these times of shrinking budgets and staffing constraints in governments and international organizations. BIO strongly urges CCFL to discontinue work on this topic so that limited resources may be conserved and put to better use.

We appreciate the opportunity to provide these comments and very much look forward to active participation in the discussions during the 39th Session of CCFL in May 2011.

Sincerely,

A handwritten signature in cursive script that reads "Adrienne Massey".

Adrienne Massey, Ph.D.
BIO, Managing Director, Science and Regulatory Affairs
Food and Agriculture

cc: Dr. Karen Stuck, Manager US Codex Office