

European Union Comments

CODEX COMMITTEE ON NUTRITION AND FOODS FOR SPECIAL

DIETARY USES

Fortieth Session

Berlin, Germany

26 – 30 November 2018

Agenda item 4b

Review of the Standard for Follow-Up Formula (CODEX STAN 156-1987) at Step 3

(CX/NFSDU 18/40/5)

European Union competence

European Union vote

This document provides specific comments on each recommendation made by the eWG Chairs in document CX/NFSDU 18/40/5

SCOPE: FOLLOW-UP FORMULA FOR OLDER INFANTS (6-12 MONTHS)

Recommendation 1 (Scope-section 1.1)

The EU agrees with the proposed text.

Recommendation 2 (Scope-section 1.2)

The EU can accept the Chairs` proposal that Section 1.2 of the Scope for follow-up formula for older infants be expanded to reference the labelling and analytical requirements within the Standards.

Recommendation 3 (Scope-section 1.3)

The EU agrees with the Chairs` recommendation.

As noted on previous occasions, the EU strongly supports the use of "**shall**" in the text in order to ensure consistency with the terminology used in the labelling section of the Standard.

SCOPE: [Name of product] FOR YOUNG CHILDREN (12-36 MONTHS)

Recommendation 4 (Scope-section 1.1)

The EU agrees with the proposed text.

Recommendation 5 (Scope-section 1.2)

The EU can accept the Chairs` proposal that Section 1.2 of the Scope for [Name of Product] for young children be expanded to reference the labelling and analytical requirements within the Standards.

Recommendation 6 (Scope-section 1.3)

The EU agrees with the Chairs` recommendation.

As noted on previous occasions, the EU strongly supports the use of "**shall**" in the text in order to ensure consistency with the terminology used in the labelling section of the Standard.

PRODUCT DEFINITIONS

Recommendation 7 (Definition for Follow-Up Formula for older infants- section 2.1.1)

As noted in the contribution to the 2018 eWG, the EU does not support the inclusion of the text "**as a substitute for breast milk**" taking into account the different views on what a breast-milk substitute is. It must be acknowledged that it is difficult to anticipate how Follow-Up Formula is consumed, namely whether it will replace, or integrate breast milk in the diet of infants and young children.

The EU would therefore support the following definition:

[Follow-up formula for older infants means a product, **especially** manufactured for use **as a substitute for breast-milk**, as a liquid part of a progressively diversified diet for older infants when complementary feeding is introduced.]

Recommendation 8 (Definition for Follow-Up Formula for young children)

The EU strongly supports the Chairs` proposal to remove the reference to breast-milk substitutes from the definition, taking into account that different views exist on what a breast milk substitute is. It must be acknowledged that it is difficult to anticipate how Follow-Up Formula is consumed, namely whether it will replace, or integrate breast milk in the diet of infants and young children. The whole issue is even more complicated for [Name of Product] for young children, taking into account that after one year of life, cow's milk consumption is also recommended in the diet and the product can also replace/integrate cow's milk consumption.

The EU does not support the inclusion of the text "**in order to contribute to the nutritional needs of young children**" taking into account that Follow-up formula for older infants and [Name of product] for young children can be considered as conceptually similar (i.e. they are liquid elements in the diversified diet of older infants and young children.) and that this element is not present in the definition of Follow-Up Formula for older infants.

The EU would therefore support the following definition:

[Name of product] for young children means a product ~~especially~~ ~~[formulated and]~~ manufactured for use ~~[as a breast-milk substitute]~~, as a liquid part of the ~~[progressively]~~ {diversified} diet of young children ~~[in order to contribute to the nutritional needs of young children]~~ ~~[when nutrient intakes may not be adequate to meet nutritional requirements]~~.

LABELLING: FOLLOW-UP FORMULA FOR OLDER INFANTS (6-12 MONTHS)

Recommendation 9 (Labelling-introductory paragraph-section 9)

The EU agrees with the Chairs` recommendation.

As noted previously, the text in square brackets is already covered by the referenced Guidelines for Use of Nutrition and Health Claims and it is therefore redundant.

Recommendation 10 (Additional Labelling Requirements-section 9.6)

The EU, in general, agrees with the recommendation proposed by the Chairs which aims at ensuring that the labelling of Follow-Up Formula for older infants does not discourage breastfeeding. This principle is also reflected in a number of provisions of EU legislation as for example in Article 10 of Regulation (EU) No 609/2013, Article 6(6) of delegated Regulation (EU) 2016/127) which apply to follow-on formula and are very similar (if not identical in certain cases) to those listed in Article 9.6 of the Infant Formula Standard.

In addition, with respect to section 9.6.2.4., the EU would support retaining the text "**that makes a comparison to breast-milk**" in the provision to make it clear that any comparison with breast-milk should not be allowed:

9.6.2.4 undermine or discourage breastfeeding, **that makes a comparison to breast-milk**, or suggests that the product is ~~nearly~~ equivalent to or superior to breast-milk.

With respect to section 9.6.4, The EU disagrees with the proposed deletion of the text in square brackets. The EU is of the view that it is essential to ensure that products for older infants and products for young children are clearly distinguishable. The best way to achieve this is by including in the Standard a provision clearly specifying how that should be ensured, therefore specific references to the text, images, colours used should be kept in the provision.

LABELLING: [Name of product] FOR YOUNG CHILDREN (12-36 MONTHS)

Recommendation 11 (Labelling-introductory paragraph-section 9)

The EU agrees with the Chairs` recommendation.

As noted previously, the text in square brackets is already covered by the referenced Guidelines for Use of Nutrition and Health Claims and it is therefore redundant.

Recommendation 12 (Name of the Product-section 9.1)

The EU agrees with the Chairs` recommendation which ensures consistency with the similar text agreed for follow-up formula for older infants.

Recommendation 13 (List of ingredients-section 9.2)

With respect to section 9.2.1, the EU agrees with the Chairs` recommendation which ensures consistency with the similar text agreed for follow-up formula for older infants.

With respect to section 9.2.2, the EU can agree with the Chairs` proposal to slightly rephrase the provision in line with that found in the Infant Formula Standard provided that provision 9.2.2 for follow-up formula for older infants is also changed accordingly, in order to ensure consistency.

Recommendation 14 (Declaration of Nutritive Value-section 9.3)

The EU agrees with the Chairs` proposal to include the text "*as well as*" and delete "*or*" in section 9.3. As noted in the contribution to the eWG, leaving the choice between the two alternatives to operators could create confusion when comparing products.

With respect to provision c) The EU does not support the proposal to add the words "**per serving size**", as this would in any case be allowed under certain conditions established in the Guidelines on Nutrition labelling (CAC/GL 2-1985), which apply anyway to (name of the product) for young children. The Follow-Up Formula Standard should only include requirements that are different from, or better specify, general principles included in horizontal CODEX texts that apply anyway to the product.

Recommendation 15 (Date Marking and Storage Instructions-section 9.4)

The EU agrees with the recommendation which ensures consistency with the same provisions agreed for Follow-Up Formula for older infants in CCNFSDU39.

Recommendation 16 (Information for use-section 9.5)

The EU agrees with the proposed text for Section 9.5 which ensures consistency with the same provision proposed for Follow-Up Formula for older infants.

As noted in the contribution to the eWG, the EU is of the opinion that "information for use" provisions should not be more stringent for [Name of Product] for young children than what is proposed for Follow-Up Formula for older infants, or infant formula, taking into account that young children have increasingly diversified diets and that the Codex General Standard for the labelling of prepackaged foods (STAN 1-1985) applies anyway to [Name of Product] for young children.

Recommendation 17 (Additional labelling requirements-section 9.6)

The EU agrees, in general, with the recommendation proposed by the Chair which aims at ensuring that the labelling of Follow-Up Formula for young children does not discourage breastfeeding but at the same time it allows for some level of flexibility at national/regional level. The EU remains of the view that [Name of Product] for young children has a different role in the diet than Follow-Up Formula for older infants which must be taken into account when laying down Standards for the product.

As regards section 9.6.1 the EU welcomes the inclusion of the text "**including pictures of feeding bottles**". Such graphics could lead to confusing this product with infant formula or follow-up formula, particular a high risk for illiterate consumers that may rely more on pictures than on text. In addition, in the EU a number of Member States recommend to not feed young children any more with bottles with teats. This ensures that young children are not delayed in the development of typical oral motor skills for this age.

However the EU disagrees with the proposed deletion of the text in square brackets in section 9.6.2. The EU is of the view that it is essential to ensure that products for older infants and products for young children are clearly distinguishable. The best way to achieve this is by including in the Standard a provision clearly specifying how that should be ensured, therefore specific references to the text, images, colours used should be kept in the provision.

PRODUCT NAMES

Recommendation 18 (Name of product for young children)

The EU does not support the term "formulated" in the name as it is very similar to "formula" and caregivers may therefore be misled as to the appropriate age group of consumers for this product.

Consumers may purchase products checking the product name and information on the front-of the pack and may be confused by the product names "infant formula", "Follow-up Formula for Older Infants" and "formulated drink for young children". The EU would like to note that consumers, in particular from lower socio-economic groups, may have difficulty in distinguishing age groups and products mentioned such as "infant", "older infant" and "young child" and "formula", "follow-up formula" and "formulated drink". Therefore, the EU considers that to avoid any misunderstanding, the word "formulated" should be deleted, so that the product name would read: "**Drink for young children**" or, as another alternative, "**Young child drink**".

STRUCTURE OF THE STANDARDS

Recommendation 19 (Structure of the standard)

As noted in the contribution to the 2018 eWG, the EU has a preference for the option proposing one standard with two parts, over the other option of two separate standards.

While it is obvious that the role in the diet of infants and young children of Follow-up Formula for older infants and [Name of Product] for Young Children changes with time, as diets progressively diversify (i.e. the product's relative contribution to energy and nutrient requirements decreases with time) such products are conceptually similar (i.e. they are liquid elements in the diversified diet of older infants and young children). The EU is of the view that one standard could sufficiently accommodate the different role of the products in the diet of infants and young children by having two separate parts in it. In addition, this option would be consistent with the approach taken in the Infant Formula Standard and would also be in line with what was agreed by the Committee in 2016, as detailed in the background.

The EU considers that different standards for products for older infants and young children would give excessive recognition to [Name of Product] for young children. As the European Food Safety Authority noted in 2013, these products are one of the means to increase intakes of certain nutrients at risk of inadequacy for some young children, but have no unique role and cannot be considered as a necessity to satisfy the nutritional requirements of young children when compared to other foods that may be included in their normal diet. The EU does therefore not consider it necessary to have two separate standards for Follow-up Formula for older infants and [Name of Product] for Young Children.