



division of Mars, Incorporated  
800 High Street, Hackettstown, NJ 07840 Telephone 908-852-1000

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FSIS Docket Room  
United States Department of Agriculture  
Food Safety and Inspection Service  
Room 102  
Cotton Annex  
300 12<sup>th</sup> Street, SW  
Washington, DC 20250-3700

01-026N  
01-026N-2  
Steven W. Rizk

Re: Codex-Draft Standards for Cocoa and Chocolate Products  
Docket 01-026N  
Comments of M&M/Mars on Proposed Draft Standard  
at Step 5 (CL200/46-CPC, ALNORM 01/14, Appendix V)

Dear Sir or Madam:

For consideration by United States Government representatives, M&M/Mars submits these comments on the proposed Standard for Chocolate and Chocolate Products, to be considered by the Codex Committee on Cocoa Products and Chocolate. As you know, the next meeting of the Committee will take place at Fribourg, Switzerland, October 3 – 5, 2001.

M&M/Mars, a Division of Mars, Incorporated, is a major producer and distributor of chocolate products in the United States as well as throughout the world. M&M/Mars is a member of the Chocolate Manufacturers Association (CMA) and supports the CMA comments relating to this draft standard.

M&M/Mars has previously submitted comments to the U.S. Government on this standard and we rely on those comments at this time. Suffice it to say, M&M/Mars has long believed that food standards, including FDA standards of identity, should not be used as an attempt to mandate

subjective, cultural or recipe preferences disguised as quality factors. Consistent with this view, the Company also strongly believes that standards should not stand in the way of technological innovation that could benefit consumers.

Accordingly, as discussed more fully below, M&M/Mars strongly supports the use in chocolate of:

- Up to 5% vegetable fat;
- Other edible foodstuffs; and
- A wide range of sweeteners.

M&M/Mars fully supports the current draft Codex Standards on the above three points.

Additionally, while the Company strongly believes that, other than a complete ingredient listing, no further labeling should be required when any of the ingredients identified above are used in chocolate, in the spirit of international harmonization, M&M/Mars also supports the proposed Codex labeling provisions as to these ingredients.

### **The Use of up to 5% Vegetable Fat in Chocolate Should be Allowed (Section 2.1)**

M&M/Mars agrees with the Codex proposal to allow for the **optional (i.e., not mandatory,)** addition of up to 5% vegetable fat to chocolate. Technological advances are making available a range of specialty vegetable fats, producing a variety of improved properties when used in chocolate which has well known temperature sensitivity. Because of wide-ranging climatic and storage conditions, the eating qualities of chocolate containing certain vegetable fats will result in superior products being offered to consumers. Additionally, consumers are interested in food choices that are lower in fat and calories. Some of these specialty vegetable fats will have lower caloric density than cocoa butter, and thus will offer significant potential

benefits to consumers by providing wider choice without compromising taste, texture, or quality. Thus, the change in the standard will **enable** a broader range of products to be made available to the consumer.

The inclusion of vegetable fats in chocolate confectionery also poses no health or safety concerns. In addition, allowance of vegetable fat limited to 5% in chocolate products will not pose a barrier to trade because vegetable fat **will be** an optional, not mandatory, ingredient under the Codex draft standard. Chocolate products containing no vegetable fat will still comply with the standard, and therefore may **continue to** be freely marketed as chocolate.

Optional use of vegetable fat in chocolate is also consistent with standards, such as the European Union (fifteen member countries) Chocolate Standard, (Directive 2000/36/EC), provisions in Switzerland and Japan, and the proposed standards in Australia and Mexico, to name just a few. These regulatory provisions provide clear evidence of consumer acceptance of vegetable fat in chocolate on a broad international level.

With regard to labeling, as indicated above, M&M/Mars believes that no other additional labeling of vegetable fat, except in the ingredient list, is **necessary or** appropriate. However, we support the current Codex proposal which leaves such additional labeling requirements up to each individual country.

### **Other Edible Foodstuffs Should be Permitted in Chocolate (Section 2.1)**

The draft Codex standard authorizes the use of other edible foodstuffs, excluding added flour and starch, and animal fats other than milk fat, for use in the manufacture of chocolate. Use of other edible foodstuffs is limited to 40% of the total weight of the finished product.

M&M/Mars supports this proposal. There are a variety of wholesome ingredients, such as peanuts, tree nuts, cereals, *and* grains-which may be used to make high quality chocolate products. These products are already sold throughout the world with great consumer acceptance. Thus, the Codex standard appropriately encompasses these types of products and should be supported.

M&M/Mars strongly opposes any additional attempt to define “other edible foodstuffs.” The proposal already contains a “negative list” excluding flour, starch, and animal fats other than milk fat. Any “positive list” will unnecessarily restrict industry and consumer choice without any concomitant benefit. In addition, such a list would clearly stand in the way of technological innovation and consumer choice. In sum, except for the excluded ingredients, any safe and suitable foodstuff should be permitted.

#### **A Wide Range of Nutritive and Non Nutritive Sweeteners Should be Permitted (Sections 2.1 and 3.4)**

M&M/Mars supports the current Codex proposal to permit a wide range of sweeteners. The flexibility to use sugar alcohols and intense sweeteners is important to allow the development of “no sugar added” and reduced calorie products. Additionally, these sweeteners would also encourage the development of safe high quality products for those on carbohydrate restricted diets. We note that the use of such sweeteners (and polydextrose) in chocolate is also consistent with 21 CFR § 130.10 and thus authorized under U.S. standards.

#### **M&M/Mars Position on Labeling (Section 6)**

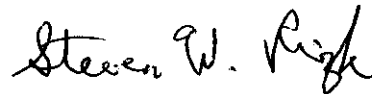
M&M/Mars supports the complete label disclosure, in the statement of ingredients, of all ingredients in chocolate. The draft Codex standard now proposes that reference should be made

on the label in association with the name or representation of the chocolate if it contains vegetable fat, sweeteners that totally replace sugar, or specified levels of edible foodstuffs. Such declarations would be pejorative and could suggest to uninformed consumers that the product is inferior to other milk chocolate products. These types of label statements would also place undue emphasis on ingredients that do not adversely affect - and may well be improving - the quality, taste or texture of the product. Accordingly, such label statements would be deceptive and misleading to consumers about the quality of the product and would serve no health or safety purpose. Consumers will be sufficiently informed if the presence of all safe and suitable ingredients and additives are declared in the ingredient list. However, the Company believes it is important for the Committee and Commission to complete work on this standard. For this reason, and because we support international harmonization, we support the proposed Codex labeling provisions.

\* \* \*

We appreciate this opportunity to comment on the above mentioned issues.

Sincerely yours,



Steven W. Rizk, Ph.D.  
Manager  
Scientific & Regulatory Affairs

cc: Mr. Charles W. Cooper