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Mr. Charles W. Cooper
Director, International Activities Staff
Center for Food Safety and Applied Nutrition
Food and Drug Administration
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Stanley M. Tarka, Jr.

COOCT19 11:14:37
STANLEY M. TARKA, JR.

Re: Codex-Proposed Standards for Cocoa and Chocolate Products

Dear Mr. Cooper:

Hershey Foods Corporation appreciates the opportunity to provide its comments on the most recent draft Codex standards for Cocoa and Chocolate Products (ALINORM 99/14, Appendices II, III, IV and V). By way of this letter, I would also like to confirm my interest in participating in this year's meeting of the Codex Committee on Cocoa Products and Chocolate as part of the U.S. Delegation.

Hershey is the largest producer of chocolate and confectionery products in North America, with worldwide distribution of its chocolate products. Our continued success and that of the chocolate industry is directly related to the ability to meet consumer expectations and needs, and to maintain consumer confidence and trust in chocolate products generally. Thus, we strongly believe that Codex standards for chocolate products should be simplified to provide greater opportunity for product innovation, and should also reflect the essential and defining characteristics of source and quality that are inherent in the minds of consumers. Our comments follow:

1. Comments on Draft Standards for Cocoa Butters (Appendix II); Cocoa (Cacao) Mass, (Cocoa/Chocolate Liquor) and Cocoa Cake, for use in the Manufacture of Cocoa and Chocolate Products (Appendix III); and Cocoa Powders (Cocoas) and Dry Cocoa-Sugar Mixtures (Appendix IV).

Hershey would like to confirm and reiterate its support for the August, 2000 comments submitted by the Chocolate Manufacturers Association (CMA) relating to these proposed standards.

2. Comments on Draft Standards for Chocolate and Chocolate Products (Appendix V).

Hershey would like to confirm and reiterate its support for the August 2000 comments submitted by the CMA relating to this proposed standard. In addition to the CMA comments, we would like to offer the following comments on matters which were left for individual member comment.

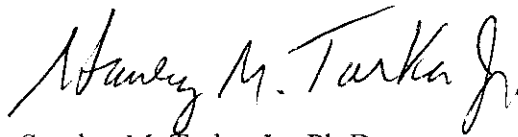
- a. Vegetable Fats – Hershey remains strongly opposed to the addition of non-cacao vegetable fats in any quantity to standardized chocolate products as currently proposed in brackets in Section 2.1. If vegetable fats other than cocoa butter are added to chocolate, then the label of such product should be required to clearly and conspicuously distinguish such product from standardized chocolate, similar to the approach taken in the current U.S. Standards (Sweet Chocolate and Vegetable Fat Coating; Milk Chocolate and Vegetable Fat Coating). We also believe that Section 2.1 of the proposed standard needs to be further clarified with respect to the definition of edible foodstuffs. The first paragraph of Section 2.1 (currently not bracketed) would suggest that it is permissible to add vegetable fats to chocolate in amounts up to 40% of the total weight of the finished product. The bracketed language would serve only to limit vegetable fat addition to 5%. We believe that this is an inadvertent error and that brackets should also be included around the last two sentences of the first paragraph of Section 2.1.
- b. Other Edible Foodstuffs – Hershey strongly opposes the addition of “Other Edible Foodstuffs” to standardized chocolate products as is currently proposed in Sections 2.1 and 6.1.2, unless “edible foodstuffs” are limited to inclusions (e.g. nuts, rice, dried fruit, etc). As written, Section 2.1 of the draft standard would provide excessive latitude in the kinds of ingredients that would be permitted in standardized chocolate. That portion of Section 2.1 and Section 6.1.2 relating to other edible foodstuffs should be deleted from the standards or rewritten in a manner to ensure that the essential characteristics of quality and source of chocolate are maintained. In the event Section 2.1 remains as proposed, we would recommend that Section 6.1.2 be revised to delete the five percent (5%) threshold for labeling and that reference to the added foodstuff be required in the product identity whenever other edible foodstuffs are added to the product.
- c. Sweeteners and Bulking Agents – Hershey remains strongly opposed to the addition of high intensity sweeteners and polyols (Section 3.4) and bulking agents (Section 3.8) to standardized chocolate. If such sweeteners and bulking agents are used in chocolate products, then the label of such product should be required to clearly and conspicuously distinguish such product from standardized chocolate. Sweeteners under Section 3.4

should be limited to those that provide essential characteristics of quality and source inherent in chocolate products, i.e., nutritive carbohydrate sweeteners, as currently defined in U.S. regulation.

- d. Milk Solids - The Minimum Milk Solids requirements found throughout the draft standard and in the proposed Table should be clarified (by footnote) to restore the requirement that non-fat milk solids be in their natural proportions. We are concerned that the intent of this proposal is to allow unlimited amounts of whey and/or lactose in milk chocolate and that these dairy components could be used as a substitute for milk and used to fulfill minimum milk solids requirements. Requiring that non-fat milk solids be present in their natural proportion is essential to maintaining the defining characteristics of chocolate products which contain milk, preventing consumer fraud, ensuring nutritional value, and is also consistent with the requirements of the U.S. Standards.

Thank you again for the opportunity to submit our comments on this matter which is of the utmost importance to Hershey and the entire U.S. Chocolate industry. I look forward to meeting and working with you again as a participant with the U.S. Delegation at the upcoming Codex meeting.

Respectfully submitted,



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